



Communities on Course

Land Use

Plan Commission Public Hearings: A Citizen's Guide

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Whether for retirement, a child's college education, or an upcoming vacation, planning for the future requires some time and energy. For a community, one of the ways to plan for the future is to make good decisions about how land is used and the ways in which our communities will grow.

In most Indiana communities the local plan commission has this responsibility, and an important component of the planning process is the involvement of local citizens. The public hearing is one way for citizens to become involved in land use and community planning decisions.

If you have never attended a public hearing, any impressions you have of them may have been shaped by local media coverage of hearings that have gotten "out of hand." In some communities, public hearings could even be described as frustrating "gripe sessions" or perfunctory legal hoops that must be jumped through rather than vibrant examples of citizen democracy.

Perhaps the phrase "public listening" better describes what ideally should take place at a public hearing: all parties—commission members, petitioners, opponents, proponents—together listening to one another, weighing all the options, and arriving at and supporting decisions that promote the overall common good of the public.

Sound idealistic? Sure, but the public hearing is democracy at work, and the very nature of democracy is rooted in idealism. Just as two persons, no matter how good their friendship, can always strive for a better relationship, we, too should strive for better expressions of the democratic ideal. It is possible that at times, no amount of public discussion, no matter how well reasoned, will change opinions and votes, but is the alternative—no public discussion—a better approach?

This publication is intended as a guide for citizens interested in participating in this unique democratic exercise—the plan commission public hearing. Drawing principles from planning and communication, it briefly outlines who's who in the planning process, the planning and zoning issues for which public hearings are legally mandated, a typical public hearing agenda, and guidelines for making effective presentations.

Who's Who in the Planning Process

Before discussing the three major players in the planning process, a little bit of history may help to provide a backdrop for current-day planning practices. The legal history of planning in Indiana goes back to 1947, when enabling legislation was passed that gave local communities the authority to

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establish plan commissions to guide and direct development in their jurisdictions. This was called the “Advisory Plan Law.” Additional laws were passed in 1957 (Area Planning Law) and 1981 (Metropolitan Planning Law).

The current Indiana laws for planning and zoning are organized under Indiana Code 36-7-4. There are 12 different series under this code (*The Community Planning Handbook*, 1993). These statutes describe three public bodies that are the main actors in the planning process. These are the legislative body, the plan commission, and the board of zoning appeals.

The Legislative Body

The legislative body may be a city council, town council, or board of county commissioners. For instance, consider the fictional example of Hoosier County. The legislative body in Hoosier County would be the Hoosier County Board of Commissioners. In Hoosier City, the legislative body would be the Hoosier City Council. If there were also a town in Hoosier County called “Hoosierville,” the legislative body might be the Hoosierville Town Council. These are the legislative bodies responsible for setting the planning process in motion.

The Plan Commission

Most Indiana cities, towns, and counties have a group of citizens that help carry out responsibilities related to how land is used in their community. This group, the plan commission, is the unit of local government with authority for developing comprehensive planning and zoning. Cities, towns, and counties may each have plan commissions.

Again using Hoosier County as an example, there may be multiple plan commissions operating within the geographic area of Hoosier County. Hoosier City may have a plan commission that is responsible for planning and

zoning only in Hoosier City. Other towns within the county may also have their own plan commissions. There is also likely to be an advisory plan commission for the areas of Hoosier County that are not part of a city or town with its own plan commission. In other cases, there may be an area plan commission that is a cooperative venture of a county and at least one municipality.

It is important to understand that the plan commission is an advisory board. Primarily, it is an advisor to the legislative body (city or town council, board of county commissioners.) Plans and proposals from individuals and groups such as businesspeople, developers, manufacturers, private citizens, and governmental units come first to the plan commission.

An important function of the plan commission is the development of the comprehensive plan, sometimes called the “master plan.” A comprehensive plan is a document, or series of documents, prepared by the plan commission, that establishes policies for the future development of the community.

In its role as an advisory body, the plan commission recommends the comprehensive plan to the legislative body. The plan commission also makes recommendations to the legislative body regarding zoning and subdivision control ordinances (*The Community Planning Handbook*, 1993). The commission is a decision-making body for subdivisions of land.

Board of Zoning Appeals

Any community that has adopted zoning ordinances also has a board of zoning appeals. This quasi-judicial body provides a “safety-valve” through which landowners can seek relief from strict application of a zoning ordinance. The primary function of this board is to give greater assurance that zoning is fair and equitable, that it is properly interpreted,

and that it does not cause excessive hardship (*The Community Planning Handbook*, 1993). The Board of Zoning Appeals acts as “gatekeeper” or guardian of the ordinances.

Participating in the Public Hearing

Participating in government can be as simple as voting at each election. For citizens interested in taking their participation a step further and becoming involved in the day-to-day process of local government, plan commissions provide such opportunities. There are several ways for local citizens to participate in the activities of the plan commission.

Finding Out About the Plan Commission

The first step is to find out when your plan commission has its regular meetings and on what special projects (e.g., updating the comprehensive plan) it might be working. The local newspaper is a great source of information. Local newspapers usually cover the activities of the plan commission and often include the dates, time, and places for upcoming meetings. Although a listing for “plan commission” might not be found in your local phone book, a call to one of the offices of your county, city, or town should get you pointed in the right direction for finding out about your local plan commission’s meeting schedule.

Another source of information is the Internet. An increasing number of communities have on-line community calendars that list community meetings. If you do not know if your community has a community network, visit the web site of the *Indiana Community Network Association* at <<http://www.icna.net>>. They maintain a list of Indiana community networks. Many of these networks maintain on-line calendars.

Indiana’s Open Door Law

The plan commission meetings are open to the public, as are the meetings of most public agencies, although this has not always been the case. While some communities have a long legacy of public accessibility and citizen involvement, there are other communities with a history of closed-door decision-making. In 1977, when Indiana’s Open Door Law was passed, all public agency meetings at which “official actions” were taken became legally open to the public.

According to the Open Door Law, a “meeting” is a gathering of a majority of the governing body of a public agency for the purpose of taking official action upon business (IC 5-14-1.5.1). “Official action,” according to the Open Door Law, means to receive information, deliberate, make recommendations, establish policy, make decisions, or take final action.

The Open Door Law lists four types of gatherings that are not considered “meetings.” A meeting does not include (1) any social or chance gathering not intended to avoid the requirements of the Open Door Law; (2) any on-site inspection of a project or program; (3) traveling to and attending meetings of organizations devoted to the betterment of government; or (4) a caucus (Indiana Attorney General Modisett, 1997).

Plan Commission Decisions Requiring Public Hearings

In a public meeting of the plan commission, the public may attend and observe, but not necessarily participate. The public hearing, on the other hand, is the mechanism for the public to provide comment. The express purpose of a plan commission public hearing is to receive written and oral testimony on specific matters (Allor, 1984). Some plan commissions allow the public to comment on any agenda item at any time during a meeting; others allow comment only during formal public hearings (Bergman, 1998).

The Open Door law uses the term “official actions” to describe the decisions for which a public hearing is required. Table 1 lists the specific official actions, as outlined in the Indiana Code for which plan commission public hearings are required.

The Public Hearing Agenda

Plan commissions may differ in the way in which their agendas are organized. The following is an example of a basic public hearing agenda.

1. Chair calls the hearing to order.
2. Secretary or plan director presents the application.
3. Plan director presents staff report.
4. The petitioner (individual proposing a project, zoning change request, etc.) or representative presents facts and arguments in support of a case.
5. Comments from organized groups,

- committees, or individuals regarding the merits of the case are heard.
6. Comments from organized groups, committees, or individuals in opposition of the case are heard.
7. Rebuttal by the petitioner is heard.
8. Chair may ask questions of the petitioner, supporters, and or opposition.
9. Chair closes the public hearing portion of the meeting.
10. Members discuss the petition.
11. Chair calls for a motion
12. Members vote.

These steps are repeated for each petition before the commission. Items five (5) and six (6) are the opportunities for the general public to comment about the proposal. The following section outlines an effective way for members of the public to organize and present comments during a public hearing.

Table 1. Official Actions of the Plan Commission Requiring Public Hearings in Indiana

Section	Official Action
IC 36-7-4-205, 507, 508	Comprehensive plan
IC 36-7-4-602	Adoption of initial zoning ordinances or replacement zoning ordinances
IC 36-7-4-604	Certifying proposals to the legislative body
IC 36-7-4-607, 608	Zoning ordinances
	Modification to or termination of plan commitments
IC 36-7-4-1311, 1326	Impact fees.
IC 36-7-4-1404	Development plans for zoning districts
C 36-7-4-1511	Modifications to Planned Unit Development (PUD) district ordinances.

Guidelines for Making an Effective Presentation

Whether a citizen wishes to speak out in favor of or in opposition to a proposed plan, there are several guidelines to help make a presentation most effective. This section outlines suggestions for steps to take before the public hearing and during the public hearing.

Before the Public Hearing

Once you have determined that a public hearing agenda item is something about which you would like to comment, there are several things to think about, including some logistical considerations and how you intend to organize your comments. It is also a good idea to determine if others will be addressing the same issues. If so, you may want to coordinate your presentation before the hearing to avoid duplication.

If you have a question about an item on the agenda, you may want to contact the plan commission staff before the hearing. Knowing the answers to some of your questions prior to the hearing may help you prepare your comments. You may also want to check to see what time constraints will be imposed. Some plan commissions operate with pre-set time limits for petitioners and members of the public. Other commissions wait and set time limits when they know how many people wish to comment.

If you intend to use handouts or a long document, you may consider making your materials available to the plan commission staff several days before the hearing. If you plan to use slides or overhead visuals, you should let the staff know this in advance, too. Some plan commissions may have projectors and other audio-visual equipment that they will let you use. This may not always be the case, however, so it is a good idea to check so that you can supply this equipment yourself if needed.

Just as when a teacher prepares a lesson, a dignitary gets ready for a speech, and a salesperson prepares a sales pitch, there is a certain amount of work that precedes an effective public hearing presentation. Preparing for a public hearing includes five steps: (1) remember what your audience wants, expects, and needs; (2) clearly define your main ideas; (3) organize your thoughts; (4) choose appropriate style and language; and (5) make sure you are familiar with the subject matter. Follow these steps, and your presentation will be more effective.

1. Remember what your audience wants, expects, and needs.

Although the plan commission is not a judicial body, their job is to weigh evidence in a manner similar to that of a judge. Ideally, the plan commission considers all the relevant information to make the best possible decision. Thus, it is important to understand that what the members of the plan commission need to hear are FACTS.

Decisions about land use can be emotional, and the various parties involved can have strong opinions. The plan commission public hearing, however, is not the appropriate venue for comments based solely on emotion and opinion. It is also important to understand that you don't have to hire a consultant to obtain facts.

When concerned about the increased traffic that a new development might bring, for instance, it is tempting to make comments like, "there are already 18-wheelers going down that road at all hours of the night!" It would be more effective to provide specific dates and times. For example, a statement like, "early last Thursday morning, trucks drove by at 1:17am, 3:30am, and again at 4:03." This kind of comment may not be based on an official traffic impact study, but it will likely have greater impact than the previous statement. Being aware of what your audience—the plan commission members—needs to hear is the first step in getting prepared.

2. Clearly define your main ideas.

Another fundamental step in making a presentation at a public hearing is to define the main points you want to communicate. Before you can tell someone else your ideas, you must first make sure they are clearly defined in your own mind.

For example, suppose that at the next plan commission meeting a proposal will be considered to convert an abandoned railway into a new pedestrian and bicycle path. For the person in favor of such a proposal, the main ideas may be to communicate that such a project is (1) consistent with the community's comprehensive plan and (2) would be an important amenity for the community. If these are the two main ideas, all other comments should support these two important points.

3. Organize your thoughts.

Once you clearly define the main ideas, considering the arrangement and structure of the ideas is the next step. You should decide the best way to order the comments. One strategy is to use a chronological order, so that comments are arranged by units of time. Another option is to use a problem-solution order, where a discussion of a problem is followed by a suggested solution. These are just two examples. It is likely that you can think of other ways to organize your thoughts. Any number of ways can be effective.

4. Choose appropriate style and language.

If you think about it, there are several different types of style and language we use in various situations. A teacher, stand-up comic, minister, and lawyer each comes before a group of people and speaks. Yet each situation is very different. Speaking at a plan commission public hearing also requires an appropriate use of presentation style and language. Each plan commission will differ

in its level of formality. It is probably better to err on the side of being too formal than too casual.

5. Make sure you are familiar with the subject matter.

Although you don't have to be an expert, you should be familiar with what you are talking about. If one of your main points is that a proposal is in opposition to the recommendations in the comprehensive plan, it is a good idea to know what the plan says and to have a copy with you to which you can refer.

6. Practice.

The last bit of preparation advice is to practice. Even if you are not particularly anxious about your presentation, it is a good idea to go over your remarks three times: first, alone, perhaps in front of a mirror; another time in front of a supportive, but uninvolved listener; and, finally, in front of two or three friends (Holcombe and Stein, 1983).

During the Public Hearing

It is also important to register as a speaker. If you do not see a sign-in sheet, ask someone how and where you register. There are certain principles of behavior that should be followed in the public hearing. Be sure to arrive a few minutes before the scheduled starting time of the meeting. The Indiana Planning Association (Bergman, 1998) provides the following guidelines for plan commission meeting and public hearing conduct.

- 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, smirking, rolling of eyes, giggling, etc.)
- No side conversations or whispering
- No personal attacks
- No threats
- No applause

These may seem like rules for a junior high class, but following these simple rules of decorum can help to keep the hearing on track and from getting out of hand.

There is a chance that someone else at the meeting will speak at the public hearing and express some or all of the same concerns that you intend to raise. If this happens, don't be worried that they have "stolen your thunder." Rather than repeating things that have previously been said, a better strategy is to state your agreement with the preceding comments and only present any new information that might be relevant.

For instance, if Ms. Smith has spoken before you and covered all of the same points you had wanted to make, it would be a good strategy, when it is your turn to speak, to say something to the Chair like, "I want to let you know that I share Ms. Smith's concerns/support about the proposed project." As tempting as it may be to repeat the same information in your own words, in the long run, your case will be helped by registering your agreement and keeping the meeting from being redundant or going on too long. If you are in agreement with the previous presentation but have some additional information to add, you should state your agreement and then give the additional information.

Conclusion

Thoughtful preparation and a skillful presentation are no guarantee, of course, that you will be happy with the plan commission's decision. But do not let a decision with which you disagree discourage you from continued participation. If you continually find yourself in disagreement with land use and community planning decisions, there are some other steps you can take (*Indiana Land: Get Informed, Get Involved*, 1997).

- Find out if others share your ideas by talking with your neighbors. Urge them to get involved.
- Be aware of local development patterns, and think about their long-term impact on your community.
- Attend other meetings that include land use, growth, and planning on their agendas.
- Research what other communities are doing.
- Focus on solutions rather than problems.
- Talk to elected officials, and share your ideas.

There is tremendous value in thinking about what your community could be like some day and finding others who share your vision. The best way to take control of a community's future is to realize that the decisions we make today will affect us tomorrow. Broad-based citizen participation in land use and community planning is one step to make sure that the future we get is the future we want.

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Additional Resources*

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