

## IN THE ZONE

### Current Trends in Land Use Law

#### Running Efficient, Effective (and Shorter) Meetings

By: [Gregory W. Jones](#)

Plan commissioners have a tough job. In most towns, these goodhearted volunteers agree to serve as a way to give back to the community. Some commissioners start with only a loose understanding of land use, zoning, or how local government works. Many commissioners know even less.

Armed with little more than a civic-minded desire to contribute, commissioners are commonly (and rightfully so) surprised when they are thrust into heated disagreements over controversial development proposals. Things get less comfortable when the shouting objectors include lifelong friends, neighbors, and even family members. It's relatively common to hear commissioners question (off the record, of course) why they agreed to serve, or how good intentions resulted in "lost invitations" to the annual block party.

Many of these awkward situations are avoidable, and nearly all of them can be attributed to a lack of plan commission support. Mandatory plan commissioner training hasn't taken root in America, and municipalities and local planning agencies can only do so much with limited resources. There's an undeniable need for plan commission professional development help.

Until funding or legislative resources become available, commissioners are forced to learn by doing. That includes spending more personal time educating themselves on how to run focused, effective public meetings.

There's not enough room in this edition to discuss every tool a commissioner needs to run a good meeting. Instead, this article focuses on one of the most important aspects of meeting stewardship: remaining focused on the appropriate standard of review. Perhaps more than any other skill, a commission's ability to understand and apply the appropriate standards can make (or break) a meeting, a commission, and, in many cases, the public's confidence.

So, what standards must a commissioner consider? Your local zoning code provides guidance. Each zoning code contains objective standards that commissioners must evaluate and apply to the facts presented during a meeting. Despite all of the arguments, emotional appeals, and personal testimonials baked into most (if not all) public meetings, at the end of the meeting, a plan commission really only has one job. It must make a recommendation indicating whether a proposal meets the applicable standard of review. That's it.

These objective criteria bring transparency, order, and a degree of predictability to a commission's proceedings. This is important. Hewing closely to the publicly-available review

standards not only makes for a more focused meeting, but it can promote confidence in the commission's proceedings and, on a broader level, local government. Even if an applicant or resident disagrees with the commission's recommendation, they can still respect the process if they understand the factors the commission considered.

Each zoning approval request generally comes with different review standards. Zoning variances require commissioners to consider whether a unique, land-based hardship exists, if approving a variance will alter the neighborhood's essential character, and whether a variance is consistent with the community's master plan.

Commissions reviewing conditional use (sometimes called special use) requests consider whether a proposed use will harm neighboring property values or negatively impact the neighbors' use and enjoyment of their property.

There are different standards when considering a rezoning request, including the trend of development in the area, whether the property historically has been underutilized, and if rezoning a property promotes the public health, safety, and welfare.

And then there are planned developments. It's common for communities to have 5, 10, or 15 different standards that commissions must consider when reviewing a planned development proposal.

All of this may seem overwhelming, and that's a perfectly reasonable reaction. But the goal is not to confuse or intimidate. Rather, the standards are designed to provide commissioners with a rational structure to guide public meetings.

So what's a commissioner to do? Click [HERE](#) to continue reading Greg's article.

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### **APA-CMS: Planning Law Session - "Bar Exam: The Trilogy"**

Join the [American Planning Association - Chicago Metro Section](#), and Ancel Glink attorneys [David Silverman](#), [Dan Bolin](#), and [Christy Michaelson](#) in a Mardi Gras celebration of planning law! They will review recent cases involving regulatory takings, signs, religious institutions, and many more hot topics!

Tuesday, February 27, 2018  
3:30-5pm  
Haymarket Brewery & Pub  
737 W Randolph St., Chicago  
Register [HERE](#)

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### **Cases to Know**

[Luce v. Town of Campbell](#). The Seventh Circuit upheld a town's ban on signs, flags, and banners on highway overpasses because the ban was a time, place, and manner restriction on speech, serving a significant government interest in reducing the incidence of sudden braking on highways due to distracting signs and banners.

[Cohen v. Chicago Park District](#). The Illinois Supreme Court effectively eliminated the absolute immunity provided to public bodies for urban and suburban bicycle/pedestrian paths under Section 3-107 of the Illinois Tort Immunity Act. Instead, the Court granted the Park District limited immunity as afforded under Section 3-106 of the Act. Section 3-106 contains an

exception for willful and wanton conduct.

[LMP Services Inc v. City of Chicago](#). The Illinois Appellate Court concluded that two provisions of the City's food truck ordinance (a prohibition on food trucks parking within 200 feet of restaurants and a requirement that all food trucks have GPS devices) are constitutional.

[The Housing Authority of the County of Lake v. The Lake County Zoning Board of Appeals](#). The Illinois Appellate Court found that a Housing Authority was not required to obtain a conditional use permit in order to lease a property to a private entity for transitional housing because the use was a "government use" in furtherance of the Authority's statutory goals.

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### Legislation to Love or Loathe

[House Bill 4203](#). Proposes to limit the time period a lawsuit challenging the contiguity of an annexed property can be brought. Currently, there is no time limit on filing suit, and this bill would require the suit to be filed within 10 years from the adoption of the ordinance annexing the property to the municipality.

[House Bill 4531](#). Proposes to change existing law that allows a developer to pick the form of security it must post to guarantee the completion of public improvements related to development. If passed, the bill would allow the municipality or county to choose the form and amount of security, meaning that a municipality could require that a letter of credit be posted rather than a surety bond.

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