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# Planning and Zoning in South Carolina

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## Session Outline

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




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Key Players and Roles

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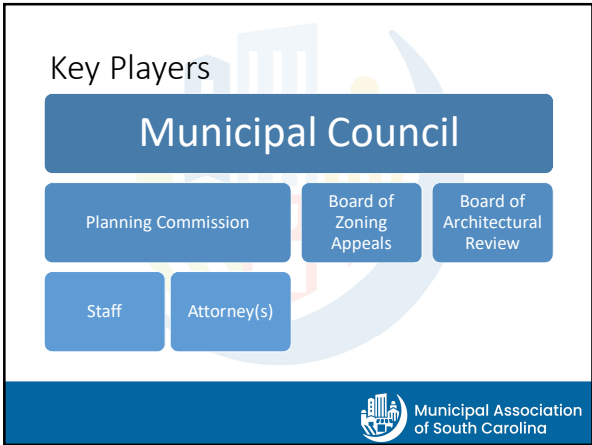
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Key Players

Municipal Council

Planning Commission    Board of Zoning Appeals    Board of Architectural Review

Staff    Attorney(s)

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Planning Commission

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

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### Planning Commission

- **Membership:** 5 to 12 members
- **Terms of Office:** Staggered, established by Council
- **No Dual Offices:** May not hold another public office, may not hold elected office
- Simple majority of the members must be present to have a **quorum**
- Organized to keep records of **minutes, hearings, resolutions**




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### Board of Zoning Appeals

- **Quasi-Judicial Body** that does not report to council
- Appointed by **Council**
- 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




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### Board of Zoning Appeals

- **Membership:** 3 to 9 members
- **Terms of Office:** 3 to 5 years, staggered, established by Council
- **No Dual Offices:** May not hold another public office, may not serve on the Planning Commission, may not be employed by city
- Simple majority of the members must be present to have a **quorum**
- Keep records of **minutes, hearings, resolutions**
- **INDEPENDENT** decision-making body appointed by Council




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### Board of Zoning Appeals

#### Appeals of Staff Decisions:

- Resolves disputes over **administrative decisions or interpretations** made in application of the zoning ordinance
- Decisions based on facts; the only question: "Is the decision of the Zoning Administrator **consistent** with the provisions in the Zoning or Land Development Ordinance?"
- Should **NOT** judge if policies adopted are wise, good, or beneficial




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### 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
- **Cannot** allow use not permitted by zoning ordinance or expand existing non-conforming use




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### 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**




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### Board of Zoning Appeals

- Procedures follow a **quasi-judicial process**
- Decisions must be based on **facts of case and applicable law** (findings of fact and conclusions of law)
- Members **cannot** accept evidence outside of the input process adopted in the Zoning Ordinance
- Board decisions may be further **appealed to Circuit Court**; there is no review by Council
- Must keep an **accurate record**; the circuit court will decide based on the transcripts and order of the Board.




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### Board of Architectural Review

- If the Zoning Ordinance “makes specific provision for the preservation and protection of **historic and architecturally valuable** districts and neighborhoods or **significant or natural scenic areas**, or protects or provides, or both, for the **unique, special, or desired character** of a defined district, corridor, or development area or any combination of it,” the municipality may establish a Board of Architectural Review
- Appointed by Council
- Advisory capacity; reviews applications as necessary and holds public meetings to make final determination on applications




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### Board of Architectural Review

- **Membership:** Not more than 10 members
- **Appointment and qualifications:** Consideration given for professional expertise and specialized knowledge
- Has **administrative** and **quasi-judicial** authority
- **Reviews applications** and oversees **appeals** related to architecture guideline administration
- Decisions can be appealed to **Circuit Court**; there is a provision for rehearing prior to appeal




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## Board of Architectural Review

- Architectural Design Guidelines
  - Intended to recognize and preserve the **unique** character and integrity of **special** areas
  - A **visual definition** of the architectural building requirements
- Reviews **design plans** within each district with respect to design guidelines
  - Subjective in nature, but needs to be as **objective** as possible
  - **Consistent** framework for submitting and evaluating proposed development




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## Municipal 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**
- **Appoints** Planning Commission, Board of Zoning Appeals, and Board of Architectural Review




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## Planning Staff

### Roles and Responsibilities

- **Administers** zoning and land development ordinances adopted by Council
- Provides **information** to the public
- Serves as staff to **one or more** of the relevant bodies (but consider **conflicts**)
  - Council
  - Planning Commission
  - Board of Zoning Appeals
  - Board of Architectural Review




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## Attorney(s)

### Roles and Responsibilities

- **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(s) is an important part of **avoiding legal mistakes** in your work
- May consider separate attorneys for different bodies to avoid **conflicts**




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## Planning Tools




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## Planning Tools

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




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# Comprehensive Plan



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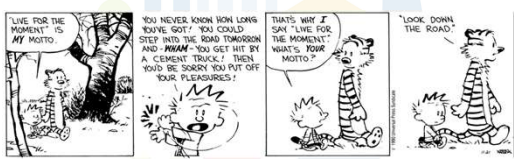
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## What is the purpose of planning?



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## What is land use 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 include **goals, objectives, laws, policies, and actions**



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## Objectives of a Comprehensive Plan

-  Identify and communicate the County's **collective vision and goals** for the future
-  Provide a **blueprint for future land use decisions**
-  Serve as the **basis** for land use codes, zoning, subdivisions, etc.
-  **Illustrate concepts** through combination of data, text, and maps
-  Provide a menu of **implementation strategies** and ways to measure success




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## State Law on Comprehensive Plan

- SC Code § 6-29-720(B) provides that the zoning "regulations must be made **in accordance with the comprehensive plan** for the jurisdiction"
- Currently, there are **ten elements** to the comprehensive plan
- A local jurisdiction cannot adopt zoning regulations until it has prepared "at least the **land use element** of the comprehensive plan"
- A local jurisdiction cannot adopt land development regulations until it has prepared "at least the **community facilities element, the housing element, and the priority investment element** of the comprehensive plan"




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## State Law on Comprehensive Plan

- State Comprehensive Planning Enabling Act requires that a **comprehensive planning process take place every 10 years**, to include:
  - **Inventory** of existing conditions
  - **Assessment** of ten required elements
  - Statements of **needs, goals, and objectives**
  - **Implementation strategies** and **time frames**
- Adopted plans must be **reevaluated** for potential changes in conditions as needed; at least **every 5 years**




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### Comprehensive Plan Elements

Population	Housing	Cultural Resources	Natural Resources
Community Facilities	Transportation	Economic Development	Resiliency
Land Use (FLUM)	Priority Investments		

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### Questions for the Planning Process

- Does it promote the **health, safety, welfare, and 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**?

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### 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 council**
- The governing body must hold a **public hearing** with at least 30 days notice in a general circulation newspaper.
- The local governing body may **adopt** the plan or element through **two readings by ordinance**.

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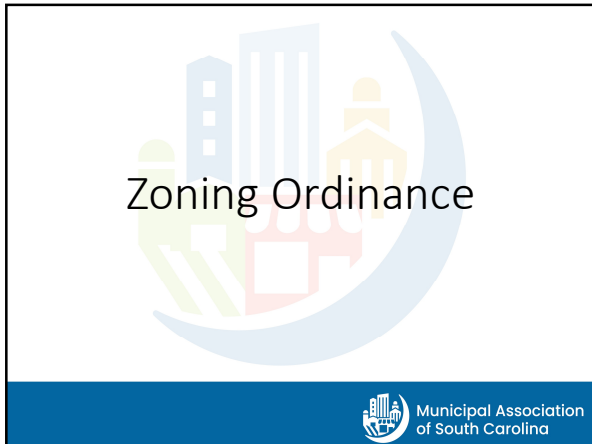
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# Zoning Ordinance

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## 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 multiple uses through **overlay districts, mixed use zoning, and planned development districts**
- Guided by the **Comprehensive Plan**

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## Zoning Ordinance

- Developed by **Planning Commission**
- Adopted by **Council**
- Enforced by **Zoning Administrator**
- **Appeals** of staff action, **variances**, and **special exceptions** are handled by the Board of Zoning Appeals
- Major elements are the **MAP** (which assigns property to zoning districts) and the **TEXT** (which provides the regulations within each district)

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## Zoning Ordinance Text

The **zoning ordinance text** can address:

- **Permitted** uses, **conditional** uses, and **special exceptions** by zoning district
- Setbacks
- Buffers
- Parking
- Signs
- Landscape requirements
- Design standards
- Etc.




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## Adoption or Amendment of Zoning Ordinance

- A **public hearing** is required before enacting or amending any zoning regulation or zoning map; either the **governing body** or the **planning commission** may conduct the hearing
- The government must provide **public notice** in a newspaper (at least 15 days prior to the hearing, unless the local ordinance requires more time), by posting the property (for rezonings), and by mail (if the local government maintains a list of groups requesting notice of zoning proceedings)
- Planning commission must **review and make a recommendation**
- Council must act on the **proposed ordinance or amendment** by ordinance; can either **accept** or **reject** PC recommendation, but not **vary** it




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## Land Development Regulations




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### 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




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### Land Development Regulations

Ensures proper installation of infrastructure addressing the following:

- Land disturbance
- Utilities (including water and sewer)
- Erosion and sedimentation
- Bonding requirements
- Public dedications
- Stormwater and drainage




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### Development Review Process

- Ordinance includes a specific procedure for submission and approval or disapproval
- Approval authority may be 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 (cash, escrow, or bond)
- Appeal from Planning Commission to Circuit Court




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## Public Input

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## Public Hearings

Public Notice:

- 15 days for zoning, variances, and appeals
- 30 days for comprehensive plan and individual elements, as well as for land development regulations

Tips:

- Keep good minutes and records
- FOIA notice and agenda requirements
- Sign-in sheets
- Consistent application of time limits (per speaker and/or total hearing)
- Rules of decorum

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## Effective Public Input

- Local newspaper advertisements are the traditional method (and are still required)
- Today many cities use other, additional platforms:
  - Website
  - Social media
  - Community meetings (neighborhood, civic, and business groups)
  - Informal roundtables
  - Press releases
  - PEG channels
  - Newsletters
  - Utility bill inserts

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## Effective Public Input

Some municipalities provide an opportunity for public comment during regular meetings

Suggested rules and procedures

- One speaker at a time
- Time limits (total hearing and per speaker)
- Keep discussion on track
- Limit number of times a person may speak
- Have speaker come to front and provide name and address



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## Questions



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