



# How to Develop Findings of Fact



**MICHIGAN ECONOMIC  
DEVELOPMENT CORPORATION**

## *What you will learn:*

*When fact finding occurs*

*What are facts*

*The different types of review standards and why they are important*

An applicant presents his case or project. The commission asks questions. The public weighs in. Now it's time to make a decision.

Deliberation is the process a commission uses to reach a decision. Deliberation typically involves fact-finding and discussion before a motion is made. In other words, it's talking through, as a group, the formal application, considering what you heard during the public meeting, and summarizing the facts of the case before you. Before the commission starts this process, the Chair should announce that the commission is closing public discussion.

The purpose of the deliberation is to review pertinent facts from all of the information presented. It is the responsibility of the planning commission to identify the relevant ordinances, provisions, and reiterate them for the record. They need to be discussed and included in the minutes. Important sources of facts include the application, ordinance requirements, physical characteristics of the site and adjacent parcels, staff and agency reports, and public comment.

Following a logical decision-making process--a consistent procedure--is one of the most effective ways to avoid legal challenges to decisions.

To guide your deliberation, it's helpful to understand the three types of review standards:

- **Data Submission Requirements.** These are often included in an ordinance as "required information" for applications. *Examples:* property description, location of structures within 100 feet
- **Non Discretionary Standards.** Nondiscretionary standards are the rules typically associated with an ordinance. They are not

## What the Law Says:

### The Michigan Zoning Enabling Act:

#### Site Plans

A decision rejecting, approving, or conditionally approving a site plan shall be based upon requirements and standards contained in the zoning ordinance, other statutorily authorized and properly adopted local unit of government planning documents, other applicable ordinances, and state and federal statutes.

#### Special Land Uses

The body or official designated to review and approve special land uses may deny, approve, or approve with conditions a request for special land use approval. The decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed.

A request for approval of a land use or activity shall be approved if the request is in compliance with the standards stated in the zoning ordinance, the conditions imposed under the zoning ordinance, other applicable ordinances, and state and federal statutes.

subject to interpretation. *Examples:* size of parking spaces, required setbacks, permitted uses.

- **Discretionary Standards.** Most often associated with special land uses, but sometimes with other approvals. These require interpretation on the part of the approving body. *Examples:* preserve native landscaping, or the site encourages pedestrian activity

While nondiscretionary standards do not depend upon the type of approval sought, discretionary standards often do. Your community's zoning ordinance will have standards for each type of case; whether it's a site plan, special land use, rezoning or variance. These standards should be used as a basis for deliberation—to determine if the case measures up and should be approved.

It is not enough to deny an application because of a vague notion that the use is not a "good idea", or that it will "harm the neighborhood". The record must show sufficient facts to back up the findings made according to the ordinance standards. For example, if traffic is a concern, describe those concerns as precisely and factually as possible.

If a decision is challenged, the significance of using the ordinance's standards becomes clear. A well-supported decision provides the rationale needed to build a solid legal foundation for the decision.

As you deliberate consider each of the standards and ask yourself if the application before you meets all standards. If not, could a change to the project help it meet that standard? Could the change be included as a condition? See Tear Sheet on Conditions.

As the commission works through its deliberation and comes to some consensus on the case, it's helpful to take notes so that when the time comes to make a motion, you will have the necessary information and don't need to rely on memory.

The discussion should proceed long enough for someone to feel confident to propose a complete motion that embodies most of the important findings.

This tear sheet was developed by the Michigan Association of Planning (MAP) for the Michigan Economic Development Corporation (MEDC). The Michigan Association of Planning is a 501 c 3 organization, dedicated to promoting sound community planning that benefits the residents of Michigan. MAP was established in 1945 to achieve a desired quality of life through comprehensive community planning that includes opportunities for a variety of lifestyles and housing, employment, commercial activities, and cultural and recreational amenities.

