



**Planning & Development Division**  
*Planning & Economic Development Department*

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Brownbag Work Session of the Planning Commission  
Wednesday, November 4, 2020 - 12:00 p.m. – 1:00 p.m.  
**To view the meeting, visit <http://www.duluthmn.gov/live-meeting>**

1. Call to Order and Roll Call
2. Discussion  
-Handout: Taking the Mystery Out of Findings of Fact
3. Adjournment  
Regular Planning Commission Meeting of Tuesday, November 10, 2020, at 5:00 pm

NOTICE: The Duluth Planning Commission will be holding its November 4, 2020 Special Meeting by other electronic means pursuant to Minnesota Statutes Section 13D.021 in response to the COVID-19 emergency. Some members of the Commission will be participating through video conference. Due to the COVID-19 emergency and the closure of City facilities, public comment will not be taken in person. However, members of the public can monitor the meeting and provide public comment on agenda items through WebEx Events. Visit <https://duluthmn.gov/live-meeting> to access the meeting. The public is also encouraged to submit written comment to [planning@duluthmn.gov](mailto:planning@duluthmn.gov) prior to the meeting. Please include "Planning Commission Agenda" in the subject line, and include your name and address and the agenda item you are speaking to. Please note that all public comment is considered Public Data. The public is also encouraged to watch the meeting by tuning into Public Access Television, Channel 180.

# Taking the Mystery Out of Findings of Fact

*“Findings of fact” (a city’s written explanation of a decision) are a crucial part of land use decisions, and acting without a clue can be treacherous. Take the mystery out of findings of fact by exploring the what, why, and how of findings facts to make defensible decisions.*

**RELEVANT LINKS:**

## **I. Use of findings of fact**

Working with municipal land use regulations can be difficult for both city officials and residents. Sometimes decisions need to be made that are controversial, and no matter what the result, someone will be unhappy. Trying to figure out the best result in the midst of heated discussions can be a headache.

But no matter what the result, an important part of the process is developing and adopting written “findings of fact” that explain the decision. Carefully and thoughtfully developing written findings can help solve a contentious problem. It forces officials to focus their inquiry on the relevant considerations. And it produces a record that makes it easier for a court to uphold the decision if challenged.

## **II. What are findings?**

“Findings of fact” is a common term used to refer to a city’s written explanation of a land use decision. The term originates from the courts, where judges often explain their determinations by issuing documents entitled “Findings of Fact and Conclusions of Law.” They recite the relevant facts and then make conclusions by applying those facts to relevant legal criteria.

Like courts, cities sometimes need to apply facts to law to make a decision. In administering land use ordinances, the city is often tasked with determining the facts associated with a particular request and then applying those facts to the legal standards. This process is called “quasi-judicial”, and city authority is limited to applying the rules in place to the facts presented. If the facts indicate an applicant meets the relevant legal standards, then they may be entitled to the approval. Typical land use approvals for which a city may need to find facts include requests for condition or interim use permits, zoning variances, and a subdivision or plat approval.

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

## RELEVANT LINKS:

[Minn. Stat. § 15.99.](#)

[Sample Findings of Fact,](#)  
City of Grant and others.

If a city is sued over a land use decision, courts will review the record for a sufficient statement of the reasons given by the city for granting or denying the request. In the case of a denial of an application relating to zoning, Minnesota's 60-day rule requires the reasons for a denial be put in writing. Even when an application is approved, written findings explaining the decision are advisable. Findings should provide a court with everything needed to uphold the decision.

### III. How to make findings

Creating findings of fact can be relatively straightforward if a city follows some basic guidelines.

#### A. Apply facts to law

Findings of fact should explain to the reader how and why the city reached its decision. The document should identify the relevant legal criteria such as statutory standards or code provisions, explain the relevant facts relating to the particular application, and then apply those facts to the legal criteria.

#### B. Show your work

Like a math exam in school, it is important to be complete and to "show your work." Showing your work can be more important than reaching a particular result. Explaining the method of reasoning followed by the city in judging an application helps ensure the city is on the right track. If a reader can tell how you reached your result, without having to guess, you have showed your work. But if the reader is left guessing, then the city may be on shaky ground.

#### C. Look up the law

Before setting out to find facts, a little investigation is needed. A crucial early step is to identify the relevant legal standards. For example, applications for conditional use permits are subject to standards that should be spelled out in city ordinance. Determine exactly what ordinance standards apply. Reference and quote the relevant standards in your findings.

#### D. Provide relevant facts

Findings of fact should state all of the relevant facts the city considered in making its decision. A fact is relevant if it proves or disproves that the application meets the legal standards. For instance, if an applicant is seeking a conditional use permit where the effect of traffic on adjacent properties is an ordinance standard, then the city should look for facts related to traffic impacts. It is important to address each and every relevant legal standard by describing relevant facts.

## RELEVANT LINKS:

*Minnetonka Congregation of Jehovah's Witnesses, Inc. v. Svee*, 226 N.W.2d 306 (Minn. 1975).

### **E. Stay on track**

Sometimes issues arise that don't relate to the legal standards. If city officials start to discuss and debate the facts of the application without limiting themselves to the relevant legal standards, a lot of time and energy can be wasted on issues that don't lead to a solution. Arguments about irrelevant facts can easily lead the city astray. Don't include irrelevant facts in your findings.

### **F. Beware opposition**

Neighborhood opposition is perhaps the most challenging issue to deal with when considering the merits of a particular land use request. Case law holds that the opinions of neighbors should not be the sole basis for a particular city action. While residents can bring to light helpful information that relates to the legal standards, opposition alone is never a legally relevant finding.

### **G. Don't parrot**

Findings must adequately describe the reasoning for a decision. Ambiguous, conclusory or boiler plate language does not usually provide a sufficient explanation of the decision's rationale. Merely restating or "parroting" the legal standard is not enough. It is important to state the legal criteria. But more needs to be done to explain why the standard is or is not met.

### **H. Just because**

One of the simplest techniques to ensure findings sufficiently connect the decision to legal standards is to use the word "because." Read each statement carefully before completing the finding. What you write after the word "because" in each finding must support the statement that introduces the finding. A similar approach is to phrase the standard as question, and then provide a detailed answer.

### **I. Don't assume**

Don't assume the reader knows about your city or has any background about the decisions. Present a complete picture, by telling the whole story. Written findings should be clear to someone unfamiliar with the matter. A person who knows nothing about your city or subject property should be able to read the findings and know what decision was made and why.

## RELEVANT LINKS:

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### **J. Presentation matters**

Presentation can be important if you want to be taken seriously. So check your spelling, use correct grammar, avoid pronouns, and don't try to be funny. If you take the care to present well, it reinforces the idea that the city knows what it is doing and acted for good sound reasons.

### **K. Get help**

Sometimes a city might find itself in over its head, and it can be important to seek guidance. Be sure you understand the statements in your findings. For example, if you do not know what the comprehensive plan provides, do not try to complete a finding regarding the comprehensive plan until you learn what it states. Consult a planner or the city attorney or contact the League.

### **L. Conclude**

Written findings should identify the relevant legal criteria such as statutory standards or code provisions, explain the relevant facts relating to the particular application, and then apply those facts to the legal criteria to reach a conclusion. Sometimes more than one conclusion is possible. If the city takes care to develop thoughtful findings of fact that relate to the relevant legal standards, then there should be no mystery as to why the city reached the decision it did.