

**STATE OF TENNESSEE**  
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August 15, 2008

Opinion No. 08-135

Vote of Municipal Planning Commission to Approve or Disapprove a Plat

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**QUESTION**

Under Tenn. Code Ann. § 13-4-304, a municipal planning commission has authority to approve or disapprove a plat. Is the approval required by a majority of the planning commission members present or by a majority of the entire membership of the planning commission?

**OPINION**

Approval is required only by a majority of the planning commission members present and voting, so long as a quorum is present.

**ANALYSIS**

This opinion addresses what proportion of the members of a municipal planning commission must vote to approve or disapprove a plat under Tenn. Code Ann. § 13-4-304. Under Tenn. Code Ann. § 13-4-101, the chief legislative body of a municipality may establish a municipal planning commission, with not less than five and not more than ten members, the exact number to be determined by the legislative body. Under Tenn. Code Ann. § 13-4-202, the planning commission may adopt a municipal master plan by a resolution carried by the “affirmative votes of not less than a majority of *all* the members of the commission.” (Emphasis added). Under Tenn. Code Ann. § 13-4-302, once the planning commission adopts a master plan, a plat of a subdivision of land within the city must be approved by the planning commission before it may be filed or recorded. Where the plat divides a tract into no more than two lots, the approval may be endorsed in writing on the plat by the secretary of the commission or another designee of the commission without the approval of the commission, provided certain conditions are met. A municipal planning commission may adopt subdivision regulations under Tenn. Code Ann. § 13-4-303. Tenn. Code Ann. § 13-4-304 describes the procedure on submission of plats to the planning commission. This statute provides in relevant part:

- (a) The commission shall approve or disapprove a plat within thirty-five (35) days after initial consideration of the plat by the commission; otherwise, the plat shall be deemed approved and a certificate to that effect shall be issued by the commission on demand. The applicant for the commission’s approval may waive the time

requirement set in this subsection (a) and consent to an extension or extensions of the applicable time period.

(b) The ground of disapproval of any plat shall be stated upon the records of the commission.

(c) Any plat submitted to the commission shall contain the name and address of a person to whom notice of hearing shall be sent; and no plat shall be acted upon by the commission without affording a hearing thereon, notice of the time and place of which shall be sent by mail to such address not less than five (5) days before the date fixed for such hearing.

Tenn. Code Ann. § 13-4-304(a)--(c).

The statute does not specify the number of board members who must vote to approve or disapprove a plat. A quorum generally consists of a simple majority of a collective body. In the absence of a statutory provision to the contrary, the common law provides that a majority of such a quorum is empowered to act for the body. 2 Am.Jur.2d *Administrative Law* § 82 (2008). If a quorum is present, only a majority of the votes actually cast is necessary for approval. *State ex rel. Doyle v. Torrence*, 203 Tenn. 175, 179, 310 S.W.2d 425 (Tenn. 1958); Op. Tenn. Att’y Gen. 98-113 (June 22, 1998). Further, Tenn. Code Ann. § 13-4-302 explicitly requires a majority of the membership of the commission to approve adoption of a municipal master plan, while Tenn. Code Ann. § 13-4-304 governing the approval of plats contains no such requirement. For these reasons, we conclude that, if a quorum of the commission is present, a majority of the members present and voting is sufficient to approve or disapprove a plat.

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