

**PLAN COMMISSION/ZONING BOARD OF APPEALS**  
**VILLAGE OF BURR RIDGE**  
**MINUTES FOR REGULAR MEETING OF JUNE 7, 2021**

**I. ROLL CALL**

The Regular Meeting of the Plan Commission/Zoning Board of Appeals was called to order at 7:00 p.m. at the Burr Ridge Village Hall, 7660 County Line Road, Burr Ridge, Illinois by Chairman Trzupek.

Chairman Trzupek read aloud the following statement:

“As Chairman of the Village of Burr Ridge Plan Commission and Zoning Board of Appeals, I am advising you that I hereby declare that conducting an in-person meeting of the Burr Ridge Plan Commission/Zoning Board of Appeals on June 7, 2021 is neither practical nor prudent due to Governor Pritzker’s May 29, 2020 Declaration of a State of Emergency caused by the COVID-19 pandemic.”

**ROLL CALL** was noted as follows:

**PRESENT:** 7 – Broline, Petrich, Irwin, Stratis, Farrell, Parella, and Trzupek

**ABSENT:** 1 – Hoch

Village Planner Joe Arcus and Village Planner Doug Pollock were also present. Trustees Franzese and Smith were also present.

**II. APPROVAL OF PRIOR MEETING MINUTES**

A **MOTION** was made by Commissioner Irwin and **SECONDED** by Commissioner Broline to approve the minutes of the May 17, 2021 Plan Commission meeting.

**ROLL CALL VOTE** was as follows:

**AYES:** 7 – Irwin, Broline, Parella, Petrich, Farrell, Stratis and Trzupek

**NAYS:** 0 – None

**MOTION CARRIED** by a vote of 7-0.

**III. PUBLIC HEARINGS**

Chairman Trzupek conducted the swearing in of all those wishing to speak during the public hearings on the agenda for the meeting.

**Z-01-2021: 312 Burr Ridge Parkway (Andrews/Rovito); Special Uses, Variation, and Findings of Fact; continued from May 3, 2021**

Chairman Trzupsek asked for a summary of the petition. Mr. Pollock said that the petition includes a special use for a restaurant serving alcohol, a special use for outdoor dining, and a variation for reduced parking. The application materials include the application submitted by Ms. Sandy Andrews and Mr. Filippo Rovito, a statement by the ownership of County Line Square shopping center in support of the project, a business and bar plan, and the revised findings of fact. Mr. Pollock said that all materials were discussed at the previous meeting.

Chairman Trzupsek asked the petitioner if there were any materials that needed to be revised before the discussion. Ms. Andrews clarified that no materials need to be revised.

Chairman Trzupsek asked for public comments.

Mr. Neal Smith, 550 Warrenville Road, Suite 460, Lisle, IL, said he represented a coalition of residents including the Ambriance! Homeowners Association and other residents and businesses of Burr Ridge. Mr. Smith said that parking is a chronically bad situation at the County Line Square. He said the petitioner has not supplied sufficient information about the proposal's parking requirement. He said the agreement between Mr. Rovito and PACE has been utilized to justify parking variances in the past. Mr. Smith alleged that PACE's chief executive at the time may not have been authorized to enter into the agreement and the agreement may not be valid. Mr. Smith addressed the large tent in the parking lot at Capri Ristorante. He read the definition of hardship used for variations in the BRZO. He said that the current proposal does not meet the code for outdoor dining. He addressed the hours of operations and how several commissioners and residents were concerned about the hours of operations in the proposal.

Commissioner Irwin asked Mr. Smith if he was aware of a law or regulation governing PACE that prevents the chief executive from entering into an agreement like the subject agreement. Mr. Smith responded that he asked PACE in a FOIA and received no response. Commissioner Irwin asked Mr. Smith to clarify that he did not have a law or regulation showing PACE's board did not grant the chief executive the authority. Mr. Smith stated that he has received no rule, law, or regulation from PACE that shows that he has the authority to enter into an agreement. Commissioner Irwin asked Mr. Smith for the statute that requires the board to grant the chief executive that power. Mr. Smith responded that the board is the legally existing corporate authority for PACE. Commissioner Irwin stated that the presidents of companies enter into agreements all the time. Mr. Smith responded that corporate boards and shareholders authorize them to do that. Mr. Smith said the executive director of PACE could have been granted the authority to enter into agreements by his board, but he had not received that authorization. Commissioner Irwin stated that it would be unusual for the law to be framed that the executive director cannot enter into a binding agreement. Mr. Smith responded that the PACE board has the authority. He claimed to have not seen any documentation that the PACE board grants the executive director to enter into an agreement.

Chairman Trzupsek asked if Mr. Smith has seen documentation that the executive director can enter into an agreement or cannot enter into an agreement. Mr. Smith responded that it would legally be very unusual for documents to say he cannot enter into an agreement, but there always has to be authority that he can because the underlying law says the board has that authority and the board must devolve that authority. Chairman Trzupsek asked if Mr. Smith had seen the agreement that the Board formally did devolve the authority. Mr. Smith responded that he has not.

Commissioner Irwin asked what law says the executive director cannot enter into agreements without the board's consent or devolved authority. He asks for the statute. Mr. Smith responded that laws are not written negatively and that he can send Commissioner Irwin the statute. He said that executive directors often have that authority, but he searched for the documentation that the PACE board devolved that authority and could not find it.

Mike Mallen of Mallen and Associates, 105 Christina Circle, Wheaton, IL, said he represents several homeowners and existing businesses at County Line Square. He said the revised petition does not meet the standards set forth in the Burr Ridge Zoning Ordinance. He said the standard for parking variation does not sufficiently address the hardship for parking, the standard for reasonable return, the conditions at 312 Burr Ridge Parkway are no different from other shopping centers, and is for financial gain and is not unique to the property. He alleged that the owner of 312 Burr Ridge Parkway does not address his parking issue and the hardship is not caused by the Zoning Ordinance. He said the continued granting of parking variations and allowing restaurants with alcohol will alter the essential character of County Line Square and the Village of Burr Ridge. He said the granting of the variation will be detrimental to the public welfare and safety of adjoining residents and this was demonstrated by the concerns and written objection letters from adjacent homeowners and his clients. He said the proposed restaurant and variations will increase congestion and endanger the safety of customers. He said the petitioner has not provided sufficient materials on parking. He said the proposed variation is inconsistent with the comprehensive plan. He said the tent in the parking lot aggravates the parking issue. He said the special use for serving alcohol and outdoor dining does not meet the standards in the Zoning Ordinance.

Mark Thoma, 7515 Drew, asked staff to clarify the number of parking spaces needed. Mr. Pollock clarified that the previous tenant required 10 spaces and the proposed restaurant requires 38 spaces. The outdoor dining requires 10 spaces. Mr. Thoma said he is concerned about the parking. He said that through previous petitions the parking at County Line Road Square has been reduced by 56 spaces, most recently at Patti's Sunrise Café. He said there is no part of the parking management plan that addresses overflow parking. He said he does not frequent the County Line Square because of convenience due to parking issues especially in winter. He said there are six vacant units in the shopping center and that once these spaces are filled the parking at the center would be at overflow capacity.

Zach Mottl, resident of Burr Ridge, said that there are 70 letters of opposition to the proposal. Mr. Mottl said that the space is already built out without permits. He said he is unsure what the facility is and that it is a tavern not a restaurant. He said the facility will serve primarily drinks and very little food.

Patricia Forkin, 305 Ambriance Drive, is a member of the Ambriance! Board. Ms. Forkin presented ten petitions against the project from residents in the Ambriance! subdivision. She said that their major concerns are the parking and hours of operation. She said she would be in favor of a better parking situation.

Alice Krampits, 7515 Drew Ave, said there is not enough parking and is a problem at the County Line Square. Ms. Krampits said the shopping center was designed for retail as well as restaurants

and there was not enough parking included for new businesses. She said that if a business changes hours or a new business wants to come that the Plan Commission would have to say no.

Ellen Raymond, a resident of Burr Ridge, asked Commissioner Irwin if he was a lawyer. Commissioner Irwin responded that he is a lawyer. Ms. Raymond said that 70ILCS.3615 the Regional Transportation Authority Act established the Regional Transportation Authority as the financial and oversight body for PACE. She said the Act gives the authority to the PACE board to devolve authority to a chief executive. She said that public property cannot be given for private use and cited a recent case with the LaGrange Park District. Chairman Trzupek asked if there was nothing showing the local executive of PACE had the authority to sign the agreement. Ms. Raymond agreed. She introduced the Village of Burr Ridge Planning and Zoning workshop outline from January 9, 2019. She asked if when granting a variance staff will review a later parking plan.

Chairman Trzupek clarified that staff does not make recommendations and instead submits reports. Mr. Pollock responded that in previous petitions the parking management plan was to have valet parking and to park cars elsewhere. Chairman Trzupek said that staff may recommend conditions for the Commission to consider and that one of those conditions may be a parking management plan subject to staff review and approval.

Ms. Raymond asked if there were any changes to the current parking plan. Chairman Trzupek said there was not a new parking plan. Ms. Raymond said that it is the duty of the Plan Commission to be a deliberative decision making group to assess compliance with the impacts of zoning. She said the Commissioners cannot determine the impact without knowing the parking plan. Mr. Pollock responded that the Plan Commission gives staff very specific direction. He said that he is confident a positive vote on this plan will include specific direction concerning parking. Ms. Raymond asked if the Plan Commission can limit hours of operation. Chairman Trzupek responded that they can condition the hours of operation as part of a recommendation. Ms. Raymond asked to make conditions part of the public record especially in regards to live entertainment. Chairman Trzupek responded that the plan does not include live entertainment. Ms. Raymond reiterated previous comments concerning the definition of hardship. Chairman Trzupek agreed. Ms. Raymond said that the petitioner called the facility an upscale lounge and that tavern might be a better definition than a restaurant.

Robert Ivanelli, a non-resident, said that the parking requirement and approval process is excessive. He suggested that people utilize a ride-hailing app to get to the restaurant. He said there is not a parking problem at the restaurant.

Paul Jepsen, owner of Kirsten's Danish Bakery, said he has operated a business in the County Line Square shopping center since 1989. He said there is not a parking problem in the shopping center. Chairman Trzupek agreed.

Dr. Nikki Bektashi, resident of Ambriance!, said that she was misquoted in a newspaper about being in opposition to the proposal. Dr. Bektashi is in support of the proposal, even if it is a lounge.

Several audience members, including Mr. Rovito and Ms. Andrews, objected to the taking of videos concurrently to public testimony and while public comment that was being given. Chairman Trzupek reminded the audience that the Plan Commission is a public meeting, that photographs

are allowed, and to address the Plan Commissioners instead of members of the public in the audience.

Ms. Andrews said the PACE letter was written for Capri Ristorante and not Are We Live, and that it should not be considered in this proposal.

Mr. Smith said that in the last meeting he asked the owner that the owner of the County Line Square shopping center come to the Plan Commission meeting. He said that the parking situation at County Line Square was the origin of the issue and he must resolve it.

John Garber, representing the owner of County Line Square, said that parking seemed to be the issue during this conversation. He said that parking does not affect the Ambriance! Subdivision. He said that the property's ownership supports the project.

Commissioner Irwin asked that Mr. Garber apply for a parking PUD for the County Line Square shopping center. Mr. Garber said that he may engage that at a different time. He said he was at the Plan Commission meeting in support of the project. He said the ownership does not believe that parking is a problem. Chairman Trzupsek reiterated this sentiment.

Filipo Rovito, an applicant, apologized for an earlier interruption. He said that Are We Live is not a nightclub and is a high-end lounge for people to have a cocktail or have a little food. He said that in his sixteen years of business there has not been a parking problem. He said when the tent comes down there will be more parking. He said his business starts after 5:30 PM after other businesses close.

Chairman Trzupsek asked staff if the restaurant serving alcohol special use is still appropriate given Mr. Rovito's comment that Are We Live Is a high-end lounge. Mr. Pollock stated that as long as the facility serves food, has a kitchen, and provides food service up until an hour before closing they are consistent with the definition of a restaurant.

Commissioner Irwin asked how long Capri has used the PACE lot for overflow parking. Mr. Rovito said the agreement has been in place since 2015 and is supported by a letter. Commissioner Irwin asked if the use of the lot has ever been an issue in the past six years. Mr. Rovito said that there has not been a problem.

Commissioner Stratis said the PACE agreement is a non-binding license agreement, not a contract, and revocable for any reason, and does not solve the parking problem. He said every transportation agency to his knowledge allows for administrative and ministerial acts by their executive officers and their staff, and that this should not be an issue. He asked staff to clarify why external doors are important in outdoor dining. Mr. Pollock said that it is a liquor control issue. Commissioner Stratis asked if adding a second door would be cost-prohibitive or difficult. Ms. Andrews said that it is not cost-prohibitive. She said their system and design for outdoor dining allows for liquor control because of a gate. Commissioner Stratis asked if Are We Live is owned by Capri Ristorante and how this could affect the PACE license agreement. Ms. Andrews responded that Are We Live and Capri Ristorante are separate entities. Commissioner Stratis said that the closest house to Capri or Are We Live in Ambriance is 470 feet away and separated by a building. He said he does not believe this is a problem in regards to outdoor dining. He said that petitioners have brought up

declining property values due to the project, and that he has not seen a broker's opinion of value or assessor statement regarding property values. He said he does not consider that a plausible claim without real supporting evidence. He said that it is common for a standing committee to delegate to staff administrative activity and that adding conditions to work with staff is appropriate and not uncommon. He said he is not comfortable with closing at 2 AM on Friday and Saturday. He said that he likes Capri Ristorante and believes the problem is with County Line Square ownership. He said that he believes that owner needs to find a solution and take an active interest in solving the problem. He said the County Line Square shopping center needs a Planned Unit Development. He said he does not identify a hardship concerning parking in the application.

Commissioner Farrell said she seconded Commissioner Stratis' views. She does not believe the proposal will be detrimental to property values and the small plate proposal is unique and interesting. She asked staff for clarification concerning the compliance of the outdoor dining area and identified the second or farther, separated outdoor dining area as a concern. Mr. Pollock responded that the Plan Commission is authorized to decide if the proposal meets the idea or spirit of the Code. He said the second outdoor dining area does not meet the specific letter of the law. He said the Commission may approve both, neither, or only one of the proposed outdoor dining areas. Commissioner Farrell said that the outdoor dining area was unusual because servers and patrons must use the same door to enter or leave the restaurant. She said she is concerned patrons sitting in the outdoor dining area until 2 AM, and she supports a limit in the hours of operation in the outdoor dining area. She said she struggles with the parking and is happy to see ownership present in the meeting. She said she believes it is best managed as a PUD concerning parking. She said the least parking is available from 4 PM to 7 PM when the County Line Square shopping center is over capacity. She recognized that the available parking is on the west end of the shopping center when the proposed restaurant is open and the need to shuttle vehicles back and forth. She said that she struggles with the hardship and that it should be the ownership's responsibility. She stated she agrees with Commissioner Hoch's point from the May 7, 2021 hearing that the tent needs to come down to open parking and that using valet parking should be necessary as part of a parking management plan.

Commissioner Broline said that the codified standards are not measured and that the parking spaces are in the County Line Square. He said that 58 spaces appear to be released for use and available for the proposed restaurant. Commissioner Broline asked staff how the referenced parking table is set up. Mr. Pollock responded that the table is based on parking requirements based on business licenses and land use. Commissioner Broline said that he has installed large-scale noise abatement and attenuation systems. He said that in the five noise complaints objected the occurrences have been investigated and immediately addressed. He said that there should be no issue having a restaurant there.

Commissioner Petrich stated that he does not agree with the outdoor dining area as is, and the Plan Commission should adhere to the Code. He indicated that the outdoor dining should meet the regulations for having an entry into the outdoor dining only from a doorway from the interior of the restaurant. He suggested that the cost of some modifications to the exterior wall and doors to meet those requirements is not prohibitive if the petitioner desires to extend the outdoor dining area. Commissioner Petrich indicated that the proposed hours of operation exceeded other restaurants in the area, including Capri Restaurant's closing hours of 11pm on weekends. Mr.

Rovito, the petitioner responded that their published weekend 11pm time is when they close the kitchen, but they have the bar open as late as 2am but it is not advertised. Commissioner Petrich also indicated that the outdoor dining hours should be no later than 10pm on weekends, and earlier during the week as the Village Center residents live just across the street from the proposed outdoor dining location. He clarified that while the Zoning Regulations may permit restaurants with liquor to be open as late as 2am on weekends, those hours do not apply to outdoor dining as those hours of operation are to be as specifically approved by the Village (VIII.A.5.i), hence the suggested earlier hours. He supported Commissioner Irwin's suggestion to have the property owner submit a PUD to clarify parking requirements for tenants. He thought that the parking situation could especially become an issue if the approved Johnny Cab facility exceeds their proposed seating as the capacity in the former Fred Astaire studio and outdoor dining area can greatly exceed the proposed seating.

Commissioner Irwin reiterated with the previous comments from other Commissioners and that he specifically agreed with points regarding hours of operations and outdoor dining. He said that he does not believe there is a parking problem at County Line Square shopping center. He said that he thinks the Village does not have a parking problem and that the Village has a perceived parking problem. He stated that he wants to condition that the property owner submits, in good faith, a PUD plan within a certain amount of time.

Chairman Trzupsek said that the Board of Trustees intends to keep the tent program in place for a time during the summer. He said they must consider the long-term parking requirements and agrees that the Commission should condition that the tent be taken down. He said that the proposed outdoor dining does not meet the standards and asked Mr. Pollock if any approved outdoor dining has a similar layout. Mr. Pollock responded that there is not, to his knowledge, such outdoor dining approved.

Chairman Trzupsek said that he does not agree with the door layout and a separated outdoor dining area. He said that he agrees with limitations on the hours of operations. He said that the restaurant does not meet the standard parking requirement, but if the Commission considers it based on the table and individual uses by time then the proposal does meet the parking requirement. He said there are only three hours from 4 PM to 7 PM that the east side of the shopping center does not meet what is available. He said that the hardship may be the strict adherence to the parking requirements in the Burr Ridge Zoning Ordinance. He agrees that the Commission should condition that parking is approved based on a PUD plan or other option. He disagrees that the Commission should continue to allow further parking variances.

Chairman Trzupsek said that there would be three motions: one special use for a restaurant serving alcohol, one special use for outdoor dining, and one variation for a parking reduction.

Commissioner Parella reiterated the previous comments by other Commissioners. She does not support hours of operations past midnight. She said that she supports holding County Line Square shopping center ownership accountable for the parking issue. She said that there was no parking issue on the west side of the shopping center, but would be on the east side if the restaurant were to open. She said the tent should come down soon because Illinois is fully reopening on June 11, 2021 and that the Commission should ask Mr. Rovito to take the tent down.

A **MOTION** was made by Commissioner Irwin and **SECONDED** by Commissioner Broline to close the public hearing for Z-01-2021.

**ROLL CALL VOTE** was as follows:

**AYES:** 7 – Irwin, Broline, Farrell, Stratis, Parella, Petrich, Trzupek  
**NAYS:** 0 – None

**MOTION CARRIED** by a vote of 7-0.

A **MOTION** was made by Commissioner Stratis and **SECONDED** by Commissioner Irwin to recommend that the Board of Trustees approve the special use for a restaurant serving alcohol as part of Z-01-2021 subject to the following conditions:

1. The special use shall be limited to Filippo Rovito and shall be null and void should Filippo Rovito no longer have ownership interest in the restaurant consisting of approximately 2,500 square feet commonly known as 312 Burr Ridge Parkway.
2. Activity in the indoor restaurant area shall cease and all patrons shall vacate the premises no later than midnight on any given day.

**ROLL CALL VOTE** was as follows:

**AYES:** 7 – Stratis, Irwin, Broline, Farrell, Parella, Petrich, Trzupek  
**NAYS:** 0 – None

**MOTION CARRIED** by a vote of 7-0.

A **MOTION** was made by Commissioner Stratis and **SECONDED** by Commissioner Irwin to recommend that the Board of Trustees approve the special use for outdoor dining Z-01-2021 subject to the following conditions:

1. Activity in the outdoor dining area shall cease and all patrons shall vacate the premises no later than midnight on any given day.
2. The outdoor dining area shall comply with the Burr Ridge Municipal Code and Burr Ridge Zoning Ordinance in respect to ingress and egress as well as liquor control.
3. The outdoor dining plan and any remaining details be approved by staff.

**ROLL CALL VOTE** was as follows:

**AYES:** 6 – Irwin, Broline, Farrell, Stratis, Parella, Trzupek  
**NAYS:** 1 – Petrich

**MOTION CARRIED** by a vote of 6-1.

Chairman Trzupek asked if Commissioner Petrich would like to clarify his Nay vote. Commissioner Petrich said that he voted Nay as a Midnight closing for outdoor dining the entire week from Sunday through Saturday is excessive. This was in particular due to the residents'

concerns, and also to the proximity of the Village Center residences facing the proposed restaurant across Burr Ridge Parkway.

A **MOTION** was made by Commissioner Irwin and **SECONDED** by Commissioner Petrich to recommend that the Board of Trustees approve the variance for reduced parking as part of Z-01-2021 subject to the following conditions:

1. The County Line Square ownership apply for a PUD on the property within 30 days of the Plan Commission's recommendation.
2. The applicant and ownership remove the tent in the exterior vicinity of Capri Ristorante prior to the opening of the business known as Are We Live at 312 Burr Ridge Parkway.
3. The submission of a parking management plan subject to staff approval that includes:
  - a. A commitment to provide valet parking off-site, behind the building, or at the west end of the shopping center.
  - b. The reservation of four (4) parking spaces for valet parking that does not interfere with any drive aisles or fire lanes.
  - c. A commitment that employees be required to park off-site or behind the shopping center.

**ROLL CALL VOTE** of the Plan Commission was as follows:

**AYES:** 6 – Irwin, Petrich, Stratis, Broline, Farrell, Trzupek

**NAYS:** 0 – None

**MOTION CARRIED** by a vote of 6-0.

#### **IV. CORRESPONDENCE**

#### **V. OTHER PETITIONS**

#### **VI. PUBLIC COMMENT**

There were no further public comments.

#### **VII. FUTURE MEETINGS**

Mr. Pollock said that there were two hearings scheduled for June 21, 2021.

#### **VII. ADJOURNMENT**

A **MOTION** was made by Commissioner Stratis and **SECONDED** by Commissioner Irwin to adjourn the meeting at 9:15 pm.

**ROLL CALL VOTE** was as follows:

**AYES:** 7 – Stratis, Irwin, Petrich, Farrell, Broline, Parella, and Trzupek

**NAYS:** 0 – None

**MOTION CARRIED** by a vote of 7-0.

**Respectfully Submitted:** \_\_\_\_\_  
Joe Arcus, Planner