

**Village of Burr Ridge
Planning and Zoning Workshop
January 9, 2019; 6:30 PM
Burr Ridge Police Community Room**



Agenda

- I. Roll Call
- II. Welcome and Introductions
- III. The Role of the Plan Commission
- IV. The Legal Environment
- V. The Comprehensive Plan
- VI. The Zoning Ordinance
- VII. Findings of Fact
- VIII. Questions and Answers
- IX. Adjournment



The Role of the Plan Commission

- Advise the Board of Trustees
- Prepare for Meetings
- Attend Meetings
- Participate at Meetings
- Represent Plan Commission at Board of Trustees Meetings
- Plan Commission Rules of Procedure
- Burr Ridge Public Hearing Process



The Role of the Plan Commission

Primary role of the Plan Commission is to advise the Village Board of Trustees regarding matters related to the Zoning Ordinance, Subdivision Ordinance, and Sign Ordinance including:

- To hear and consider public testimony regarding requests for zoning, subdivision, and sign approvals;
- To deliberate as a decision making group to assess compliance with and the impacts of zoning, subdivision, and sign approval requests;
- To reach a consensus and forward recommendations from the Plan Commission to the Board of Trustees



The Role of the Plan Commission

- **Preparing for a Meeting**
 - Agenda Packets and Staff Reports
 - Site Visits
 - Review Relevant Zoning Regulations
 - Contact staff with Questions Before the Meeting
- **Attendance at Meetings**
 - Regular Attendance is critical to success of Plan Commission
 - Notify staff as soon as possible regarding an upcoming absence



The Role of the Plan Commission

- **Participation at a Meeting**

- Treat everyone with respect and civility - you are representing the entire Village government
- Listen to Staff and Petitioner's Presentation
- Listen to Fellow Commissioner's Questions and Comments
- Questions should be Focused on Determining Compliance with Findings of Fact; Questions that are not about Findings of Fact should be asked outside of the public hearing (e.g. ask staff before or after the meeting); For example:
 - Questions Regarding Potential Tax Revenues from a business or development generally do not substantiate the findings of fact
 - Matters related to the personal circumstances of individuals petitioning for zoning approval generally do not substantiate the findings of fact



The Role of the Plan Commission

- **Participation at a Meeting, continued**
 - Recommendations should be based strictly on the standards described in the relevant ordinance and on information that has been made part of the public hearing record.
 - If a vote to recommend approval is contingent on a specific condition, that condition should be incorporated into the findings and/or conditions of the recommendation.
- **Discussions Outside of Meetings**
 - All information given to the Plan Commission is public information and may be shared to others (it is also posted on the web site)
 - Be cautious about offering opinions on pending matters prior to the public hearing – do not pre-judge before hearing testimony.



The Role of the Plan Commission

Representing Plan Commission at Board of Trustees Meetings

- Annual meeting calendar designates one Plan Commissioner to attend each Board of Trustees meetings.
- The designated Plan Commissioner attends the Board of Trustees and responds to inquires from the Board of Trustees relative to any and all Plan Commission recommendations and considerations.
- The Representative shall strive to represent the majority and minority opinions and findings of the Plan Commission as was portrayed at the various public meetings of the Plan Commission.
- The Representative shall avoid expressing personal opinions to the Board of Trustees except as may be determined appropriate in the context of expressing the Commission's majority and minority opinions and findings.



PC Rules of Procedure and By-Laws

Rules and procedures for the Plan Commission

- Chairperson and Vice Chairperson Duties
- Board of Trustees Representatives
- Agendas
- Filing procedures
- Legal Notices
- Quorum
- Public Participation
- Public Hearing Procedures
- Motions and Voting Procedures
- Continuances



Public Hearing Process - Staff

- Pre-Application Review: Prior to submittal of Petition for Public Hearing, petitioner must review request with Village staff.
- Submittal of Petition: At least 28 days prior to the hearing.
- Public Hearing Notices: Required by law at least 15 days prior to the public hearing. Prepared and distributed by Village staff.
- Staff Summary and Report: Thursday before the public hearing.
- Plan Commission Public Hearing and Recommendation
- Recommendation Letter to the Board of Trustees: Friday before the Village Board meeting; prepared by staff.
- Board of Trustees Meeting and Consideration: 1 week after public hearing
- Board of Trustees Final Action (Adoption of Ordinance): 2 weeks after first Board of Trustees meeting



The Legal Environment

- **Enabling Law**
- **Case Law**
- **Open Meetings Act (OMA)**
- **Freedom of Information Act (FOIA)**
- **Plan Commission Rules of Procedure**
- **Burr Ridge Public Hearing Process**
- **Conflicts of Interest**



The Legal Environment – Enabling Law

- One of the most significant powers and responsibilities of a municipality.
- The various sources of the Village’s zoning authority, include the following:
 - Village’s Police Powers - In Village of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926), the United States Supreme Court first recognized the authority of local governments to regulate the use of land through zoning ordinances as a valid exercise of a municipality’s police power.
- What did Illinois General Assembly do about zoning?
 - Division 13 of the Illinois Municipal Code (65 ILCS 5/11-13-1)
 - Village Zoning Code



The Legal Environment – Enabling Law

Zoning Entities Under Illinois Law: Plan Commissions and Zoning Board of Appeals are given certain powers and/or duties under the Illinois Municipal Code.

- The plan commission is authorized to prepare and recommend comprehensive zoning plan (for present and future development/redevelopment) to the corporate authorities;
- Plan Commissions and Zoning Boards of Appeal are also empowered to perform certain duties with respect to the administration of the Village’s Zoning Ordinance, including holding hearings on petitions involving special use permits, variations, map amendments, text amendments and planned unit developments.

Zoning Entities Under Burr Ridge Law: Members of the Plan Commission are also members of the Zoning Board of Appeals. Concurrent meetings, concurrent members, but there are differences in voting procedures and function.



The Legal Environment – Enabling Law

Statutory Zoning Powers Under Illinois Law: Section 11-13-1 of the Illinois Municipal Code provides broad regulatory and zoning authority to municipalities, including the following powers:

- Regulate and limit the height and bulk of buildings to be erected;
- Establish, regulate and limit the building or set-back lines on or along any street, traffic-way, drive, parkway or storm or floodwater runoff channel or basin;
- Regulate and limit the intensity of the use of lot areas, and to regulate and determine the area of open spaces, within and surrounding such buildings;



The Legal Environment – Enabling Law

Statutory Zoning Powers Under Illinois Law, continued:

- Classify, regulate and restrict the location of trades and industries and the location of buildings determined for specific industrial, business, residential, and other uses;
- Divide the entire municipality into districts of such numbers, shape, area, and of such different classes (according to use of land and buildings, height and bulk of buildings, intensity of the use of lot area, area of open spaces, or other classification) as may be deemed best suited to carry out the purposes of a particular zoning ordinance; and
- Prohibit uses, buildings, or structures incompatible with the character of such districts.



The Legal Environment – Case Law

Presumption of Validity of Municipal Zoning Ordinances:

- Municipal zoning ordinances are presumptively valid – LaSalle National Bank v. County of Cook, 12 Ill.2d 40 (1957).
- A zoning ordinance will be held to be an unconstitutional exercise of police power only upon a showing that the ordinance bears no substantial relation to the general welfare (is arbitrary and unreasonable).
- When determining the validity of a zoning ordinance, courts consider six (6) factors, called the LaSalle Factors



The Legal Environment – Case Law

The LaSalle Factors, continued:

- The existing uses and zoning of nearby property;
- The suitability of the subject property for the zoned purposes;
- The length of time the property has been vacant as zoned considered in the context of land development in the area in the vicinity of the subject property.
- The extent to which property values are diminished by the particular zoning restriction;
- The extent to which the destruction of property values of plaintiff promotes the health, safety, morals or general welfare of the public;
- The relative gain to the public as compared to the hardship imposed upon the individual property owner.



The Legal Environment – Case Law

Additional Factors to be considered beyond LaSalle: The Illinois Supreme Court identified in *Sinclair Pipe Line Co. v. Village of Richton Park*, 19 Ill. 2d 370 (1960), three (3) additional factors that may be taken into consideration in determining the validity of a zoning ordinance:

- Whether a comprehensive government zoning plan for land use and development exists;
- Whether the zoning ordinance is in harmony with the comprehensive government zoning plan;
- Evidence or lack of evidence of community need for proposed use.



The Legal Environment – Open Meetings Act

The State of Illinois Open Meetings Act applies to all meetings of public bodies and provides requirements for said meetings that are intended to ensure open and public conduct of government business.

- Definition of Meeting: "...any gathering, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business..."
- Majority of a Quorum: 3 members of a 7 member body
- All public meetings as defined by the OMA, must be provided with a public notice and posting of an agenda at least 48 hours in advance of the meeting.
- The public must be allowed to attend said meeting and minutes of actions taken at the meeting must be prepared.



The Legal Environment – Open Meetings Act

Open Meetings Act – Frequently Asked Questions:

- Can a board (involving a majority of a quorum) get together socially before or after its meeting?
 - *Yes, provided that there is not intent to discuss Village business*
- When are we holding an “electronic” meeting?
 - *The same general rules apply whether communication is in person or electronic - discussion of Village business with a majority of a quorum, even if by email or text, constitutes a meeting and requires legal notice.*
- Should I disable the “Reply All” function in my email?
 - *When responding to emails that have been sent to a majority of a quorum, you should reply to Village staff only and ask staff to forward to the rest of the group any questions or comments you may want to share. Village staff may have a one-way communication with any number of members of a public body without invoking the requirements of the Open Meetings Act.*



The Legal Environment – Open Meetings Act

Open Meetings Act – Frequently Asked Questions, continued:

- Can municipality require audience member:
 - To provide name and address? *May be requested but cannot be required as a precondition of participation.*
 - To provide their affiliation or business? *May be requested but cannot be required as a precondition to participation.*
 - To provide prior notice that they wish to speak or the content of their comment? *No, but may request sign up at meeting.*
 - To limit comments to agenda items or matters germane to the agenda? *Yes, but broad discretion should be given if person believes it is relevant.*
 - Limit audience member to one comment per meeting or topic? *May limit participation to one time per topic.*
 - Limit comments to 5 minutes? *Yes, a time limit may be imposed.*
 - To be civil and polite? *Yes, reasonable rules of behavior at public meetings are essential to the conduct of business and should be enforced at all times.*
 - Regulate or impose conditions without rules? *A public body will always be on firmer ground when enforcing pre-established rules.*



The Legal Environment – Freedom of Information Act

Freedom of Information Act (FOIA); Information in recorded form created by or for, used, received or controlled and within the possession of a public body are generally “public records.” In order to be considered a public record, the record or document must (1) pertain to the transaction of “public business” and (2) must either be prepared by, prepared for, used by, received by, possessed by, or controlled by the “public body.”

- An email message transmitted through the internet server of the public body has been received by the public body, and would constitute a public record if it pertains to public business. Email messages produced on one’s personal computer may constitute public records depending on their content.
- With very limited exceptions, all public records covered by FOIA are required to be made available to the public upon written request.



The Legal Environment – Conflicts of Interest

There are two kinds of conflicts of interest:

- Statutory conflicts of interest:
 - A statutory conflict of interest usually involves a direct contractual interest between a conflicted individual and the municipality. Violations of the statutory provisions relative to conflicts of interest carry criminal penalties, so it is important to take the appropriate course of action.
- Common Law Conflicts of Interest:
 - More frequent are common law conflicts of interest. Such conflicts do not rise to the level of statutory conflicts, but instead are the result of an individual having a personal interest in a matter such that he or she cannot render a fair and impartial decision.



The Legal Environment – Conflicts of Interest

Illinois Municipal Code – Statutory Conflicts of Interest: Two restrictions on municipal officers:

- Cannot be directly or indirectly financially interested in any contract, work, or business of the municipality or in the sale of any article whenever the expense, price, or consideration of the contract, work, business, or sale is paid either from the treasury or by an assessment levied by statute or ordinance; and
- Cannot be directly or indirectly interested in the purchase of any property that (i) belongs to the municipality, (ii) is sold for taxes or assessments.



The Legal Environment – Conflicts of Interest

Illinois Municipal Code:

The conflicts of interest law(s) do not prohibit a person serving on a municipal advisory panel or commission or non-governing board or commission from having an interest in a contract, work, or business of the municipality *unless the municipal officer's duties include evaluating, recommending, approving or voting to recommend or approve the contract, work or business.*



The Legal Environment – Conflicts of Interest

Examples of Conflicts of Interest:

- Commissioner is employee of bank. Bank is providing financing to developer. Developer seeking approval of PUD.
- Commissioner is employee of bank. Bank is seeking to buy property, for approval of a PUD and to enter into contract with the Village for a sales tax rebate and TIF reimbursements for the PUD.



The Comprehensive Plan

- **Community Vision**
- **Land Use Plan**
- **Plan Recommendations**
- **Amendments**



The Comprehensive Plan – Community Vision

COMMUNITY VISION: A plan should begin with a clear vision of what it hopes to accomplish. In the case of the Burr Ridge Comprehensive Plan, that future is described in the following statement.

Burr Ridge is a high quality suburban community with low density neighborhoods characterized by distinctive homes in natural wooded settings. Our Village accommodates residents who seek a sense of privacy in a tranquil environment. We desire to enhance the Village's physical beauty, keeping Burr Ridge a very special place.

PLAN RECOMMENDATIONS: The Comprehensive Plan further identifies goals and objectives intended to help achieve this vision.

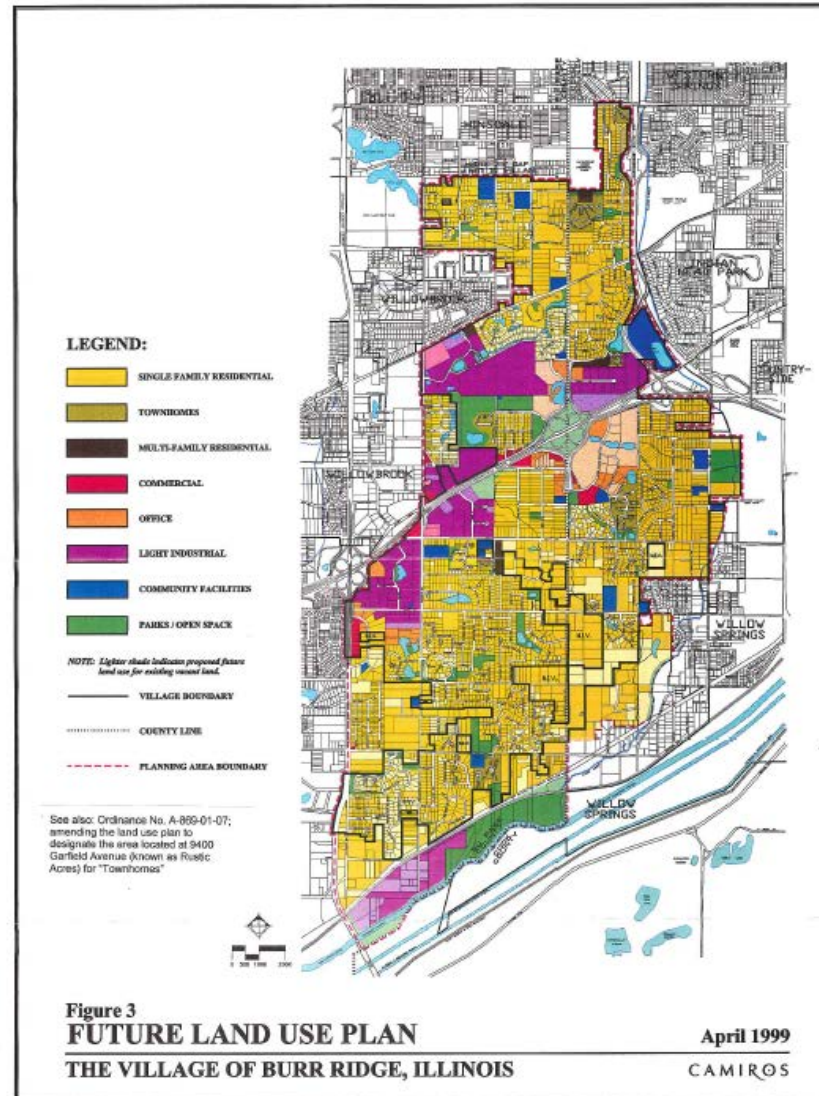


The Comprehensive Plan – Plan Recommendations

1999 Land Use Plan:

Designates preferred land use category for each property in Burr Ridge and within adjacent unincorporated areas

- Single-Family Residential
- Townhomes
- Multiple Family Residential
- Commercial
- Office
- Light Industrial
- Community Facilities
- Parks/Open Space



The Comprehensive Plan – Plan Recommendations

- **Residential:** ...maintain, preserve and create additional wooded areas and other natural features... future residential developments should be encouraged to have lot sizes of 30,000 square feet or larger.
- **Commercial and Industrial:** ...existing industrial parks and commercial developments should be maintained and enhanced to appropriate standards to sustain a strong tax base for the Village.
- **Other recommendations regarding open space, community design, sub-areas, streets and sidewalks, community facilities...**



The Comprehensive Plan – Amendments

- **2003: German Church Road Sub-Area Plan**
- **2005: Burr Ridge Corporate Park / Downtown Burr Ridge Sub-Area Plan**
- **2005: Street System Designations**
- **2007: Land Use Amendment for Rustic Acres Property**



The Zoning Ordinance

- **Requests for Zoning Approvals:**
 - **Map Amendments (rezoning)**
 - **Text Amendments**
 - **Special Uses**
 - **Planned Unit Development**
 - **Variations**
 - **Plan Approvals**
 - **Appeals**
- **Conditional Approvals**
- **Findings of Fact**



The Zoning Ordinance – Map Amendments

Changes the underlying zoning of one or more properties.

- Requires legal notices and public hearing
- Specific to designated properties; not to the Owner or Developer
- May not be approved with conditions, e.g. cannot be approved subject to a specific site plan
- If approved, the permitted uses, special uses and bulk regulations of the district will regulate future development



The Zoning Ordinance – Text Amendments

Modifies the text of the Zoning Ordinance.

- Requires legal notices and public hearing; however, notices are not to property owners
- Not specific to any one property; for example:
 - Adding a permitted or special use to a district
 - Changing the regulations for accessory structures
- Conditions are not applicable as all terms and conditions are incorporated into the text of the amendment



The Zoning Ordinance – Special Uses

Special Use Defined: Uses of an unusual nature that may create unique problems with respect to their impacts on neighboring properties or public facilities

- Each zoning district has its own unique list of permitted and special uses
- Special Uses require legal notices and public hearing
- Specific to designated property and runs with the land unless the approval is explicitly limited to a specified land or business owner
- May be approved with conditions provided conditions mitigate impacts of the special use



The Zoning Ordinance – Planned Unit Developments (PUD)

PUD Defined: A PUD creates a unique set of zoning regulations for a development that does not fit into any existing zoning district but is in the public interest and provides benefit to the community.

- Requires legal notices and public hearing
- Specific to designated properties
- Always approved with conditions, i.e. specification of permitted uses, of a specific site plan/plat, of infrastructure requirements, etc.
- KEY: Assessing/balancing developer request for zoning relief with degree of public benefit



The Zoning Ordinance - Variations

A property owner or authorized agent may request a variation from certain bulk regulation standards of the Zoning Ordinance.

- Requires legal notices and public hearing
- Specific to designated properties; not to the Owner or Developer
- May be approved with conditions provided conditions mitigate impacts of the variation



The Zoning Ordinance - Appeals

An appeal of the staff's interpretation of the Zoning Ordinance.

- Does not require legal notices or a public hearing
- Not specific to any property or person
- Plan Commission (ZBA) makes final decision (does not go to Village Board)



The Zoning Ordinance – Plan Approvals

New buildings and building additions in non-residential districts require plan review by the Plan Commission and approval by the Board of Trustees.

- Requires legal notices and a public hearing
- Specific to a property and plan; plan approvals include site plan, landscaping plan, and architectural building elevations
- Typically are concurrent with other zoning reviews (e.g. special use approval)



The Zoning Ordinance – Conditional Approvals

For special uses and variations where conditions may be imposed:

- Conditions are only enforceable if they are made part of the record – included in a motion and a final Ordinance approved by the Village Board.
- Conditions must have a “rational nexus” to the request being made; i.e. they must contribute toward mitigating impacts and establishing compliance with the findings of fact



The Zoning Ordinance - Findings of Fact

- Illinois State Law requires that all zoning decisions be based only on prescribed standards (a.k.a. Findings of Fact);
- Local Zoning Ordinances, based on guidelines from statutory and case law, prescribes specific standards for zoning decisions.
- Reliance on factors outside of the prescribed standards may be used to overturn a zoning decision.
- A court reviewing a decision will look at comments that indicate intent – such as comments about the use not fitting in, the type of people the use will attract, etc., when determining if the action was arbitrary.
 - Ensures consistent and fair application of the code to all properties
 - Adherence to the findings protects Village from legal liabilities



The Zoning Ordinance - Findings of Fact

Amendments:

- Existing uses of property within the general area of the property in question.
- The zoning classification(s) of property within the general area of the property in question.
- The suitability of the property in question to the uses permitted under the existing zoning classification.
- The trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place in its present zoning classification; and
- The impact upon the objectives of the Official Comprehensive Plan of the Village of Burr Ridge, as amended.



The Zoning Ordinance - Findings of Fact

Special Uses:

- The use meets a public necessity or otherwise provides a service or opportunity that is not otherwise available within the Village and is of benefit to the Village and its residents.
- The establishment, maintenance, or operation of the special use will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare.
- The special use will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood in which it is to be located.
- The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.



The Zoning Ordinance - Findings of Fact

Special Uses, continued:

- Adequate utilities, access roads, drainage and/or necessary facilities have been or will be provided.
- Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- The proposed special use is not contrary to the objectives of the Official Comprehensive Plan of the Village of Burr Ridge as amended.
- The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified pursuant to the recommendations of the Plan Commission or, if applicable, the Zoning Board of Appeals.



The Zoning Ordinance - Findings of Fact

Variations:

- Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
- The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the zoning district in which it is located.
- The conditions upon which an application for a variation is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification.



The Zoning Ordinance - Findings of Fact

Variations, continued:

- The purpose of the variation is not based primarily upon a desire to increase financial gain.
- The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property.



The Zoning Ordinance - Findings of Fact

Variations, continued:

- The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
- The granting of the variation will not alter the essential character of the neighborhood or locality.
- The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
- The proposed variation is consistent with the official Comprehensive Plan of the Village of Burr Ridge and other development codes of the Village.



Planning and Zoning Workshop - Closing Remarks, Questions, and Answers

