

COUNCIL WORKSHOP ITEM

ITEM: **FILE NO. 1095 - ORDINANCE AMENDMENT TO CHAPTER 28 OF THE MUNICIPAL CODE, ZONING ORDINANCE** – Amend the powers and duties of the Zoning Commission, the Plan Commission and the Zoning Board of Appeals in accordance with Chapter 2 of the Municipal Code

DATE: August 5, 2003

PREPARED BY: Joseph Skach, AIA, AICP, NCARB
Director, Planning and Community Development

PURPOSE: To consider approval of an Ordinance authorizing the amendments to the Zoning Ordinance as proposed by Staff

DISCUSSION:

At their July 1, 2003 meeting, the Plan Commission conducted its public hearing regarding the proposed amendments in this case. The purpose of the proposed amendments is to revise certain sections of the Zoning Ordinance to be consistent with recently approved amendments to Chapter 2 of the Municipal Code, Administration, Article IV, Boards and Commissions regarding the powers and duties of the Zoning Commission, the Plan Commission and the Zoning Board of Appeals.

As outlined in the attached minutes of the Plan Commission's Public Hearing, the Commission unanimously recommended approval of the proposed amendments in this case.

ATTACHMENT:

1. Draft Minutes Dated July 1, 2003
2. Memo to Plan Commission Members Dated June 26, 2003
3. Draft Ordinance prepared by Legal Department

RECOMMENDATION:

Chairman Jirik asked if there were any further questions or comments. Hearing none, Chairman Jirik called for the motion.

MOTION: WITH RESPECT TO FILE NO. 1094 – LOT RECONFIGURATION, MRS. REYNOLDS MOVED THAT THE PLAN COMMISSION GRANT THE REQUESTED LOT RECONFIGURATION AS THE AS THE EXISTING LOT WIDTH NET NON-CONFORMITY OF THE 4713 ROSLYN ROAD PARCEL WILL NOT BE INCREASED AND AS THE RESULTING REMAINDER WOULD EXCEED BOTH THE MINIMUM LOT AREA AND MINIMUM LOT DEPTH REQUIREMENTS AS PRESCRIBED BY SECTION 20-301 OF THE SUBDIVISION CONTROL ORDINANCE. THE PLAN COMMISSION GAVE DUE CONSIDERATION TO THE SIZE AND CONFIGURATION OF THE RESULTING 4721 ROSLYN ROAD PARCEL GIVEN THE FACT THAT THE PARCEL IS OTHERWISE CONFORMING TO ALL OF THE APPLICABLE STANDARDS FOR A FLAG LOT AND THAT THE RESULT OF THE PROPOSED CONVEYANCE OF A 60 FOOT BY 205 FOOT SECTION OF LAND FROM THE NEIGHBORING PARCEL WILL HAVE THE RESULT OF WIDENING THE "FLAG" PORTION OF THE LOT FROM 120 FEET TO 180 FEET AND WILL INCREASE THE OVERALL AREA OF THE FLAG LOT BY 12,300 SQUARE FEET TO 40,934.8 SQUARE FEET. MR. MATEJCZYK SECONDED THE MOTION.

Chairman Jirik asked if there were any questions, comments or discussion regarding the motion. There was no response. Chairman Jirik asked for the roll call.

ROLL CALL:

AYE: Mrs. Reynolds, Mr. Matejczyk, Mr. Kahlke, Mr. Nicholaou, Mr. Stark, Mr. Waechtler, Chairman Jirik

NAY: None

The motion passed unanimously.

Chairman Jirik advised the petitioner that he will be hearing from Staff within a few weeks.



PUBLIC HEARING: FILE NO. 1095 - ORDINANCE AMENDMENT TO CHAPTER 28 OF THE MUNICIPAL CODE, ZONING ORDINANCE – Amend the powers and duties of the Zoning Commission, the Plan Commission and the Zoning Board of Appeals in accordance with Chapter 2 of the Municipal Code

Chairman Jirik noted that the Plan Commission will be making a recommendation to the Village Council with regard to this petition.

Joseph Skach, Director of Planning and Community Development, said the legal notices of the public hearing for this evening's petitions were published in the Downers Grove Reporter, on Friday, June 13, 2003.

Mr. Skach said the Village Manager asked Staff to act as petitioner in this request for a text amendment which amends the powers and duties of the Zoning Commission, the Plan Commission and the Zoning Board of Appeals in accordance with Chapter 2 of the Municipal Code.

Mr. Skach noted the nature of this proposed amendment is administrative and procedural. The sole purpose is to amend certain sections of Chapter 28 of the Municipal Code so that it will be consistent with recent amendments to Chapter 2 of the Municipal Code regarding the powers and duties of the three regulatory land use bodies; the Zoning Commission, the Plan Commission and the Zoning Board of Appeals.

At their June 17, 2003 meeting, the Village Council adopted amendments to Chapter 2 of the Municipal Code which reduced the existing regulatory land use bodies from three to two. The Zoning Commission was decommissioned, and its responsibilities were delegated to the Plan Commission.

Mr. Skach explained the new structure is designed to facilitate two types of consideration of petitions:

The Plan Commission is charged to oversee, administer and shepherd the Comprehensive Plan and how subsequent development happens under that Plan. The Plan Commission will be the appropriate body to review particular types of petitions under the auspices of the Comprehensive Plan. The Plan Commission will be able to consider under a single petition various types of petitions whether they be planned developments in conjunction with special uses or in conjunction with certain and specific variations yet hear each request individually. Mr. Skach stated this will offer the Village increased control. As the Plan Commission has been having strategic planning discussions regarding specific areas within the Comprehensive Plan. There will be a currency of the Commission as to what the issues are and what are the desired outcomes.

Mr. Skach indicated the new procedure precludes, barring some very unusual circumstance, the petitioner having to go to more than one land use body. He commented this will help to streamline the process and make it more efficient. With respect to the Zoning Board of Appeals, Mr. Skach explained the Board will continue to shepherd a very critical and important function in the Village; that is, to focus on and address variations to the Zoning Ordinance. Mr. Skach stated the Zoning Board of Appeals will also hear appeals of determinations and interpretations of the Zoning Ordinance made by the Director of Planning and Community Development. Mr. Skach advised that every effort will be made to keep each Commission current on each other's activities so that both are aware of what is happening with regard to trends and types of decisions.

Mr. Skach concluded that the Planning & Community Development Staff recommends that the Plan Commission forward a positive recommendation to the Village Council regarding amending certain sections of Chapter 28 of the Municipal Code, Zoning Ordinance, to be consistent with Chapter 2 of the Municipal Code, Administration, Article IV, Boards and Commissions.

Chairman Jirik noted that there was no one present in the audience. He closed the public participation portion of the public hearing.

Chairman Jirik asked if there were any questions or comments from the Plan Commission members.

Mr. Nicholaou stated in reviewing the Staff report he noted that there was some expectation from the Village Council that the Plan Commission would become more involved in planning. He asked who would be establishing the format for this. He recalled that the Plan Commission members indicated their desire to become more involved in the planning process long before this proposed change. He asked if Staff had a format in mind that will direct the Commissioners to start doing this kind of planning.

In response to Mr. Nicholaou's first question, Mr. Skach responded that Chapter 28 of the Municipal Code-Zoning Ordinance will be the context for the Commission's powers and duties. Directly following that in Chapter 28 is the shepherding of the Comprehensive Plan. Mr. Skach pointed out that the Plan Commission is currently doing that now with its joint discussions with the Strategic Planning Subcommittee of the Economic Development Commission. Mr. Skach noted that site planning is done by petitioners. Mr. Skach clarified that the Plan Commission would not be involved in site planning as opposed to planning in the broader sense. He pointed out that neighborhood plans were developed after discussions of what types of developments could happen in certain areas. There is history and precedent for that within the Village.

Mr. Nicholaou asked whether the planning would be done in a public forum or in closed session. Mr. Skach indicated the Plan Commission would not undertake discussion in a closed forum. The Village Council has that option under very specific procedural rules.

Mr. Nicholaou stated with the additional duties proposed for the Plan Commission, it will be imperative to have more and frequent communication with the Village Council. Mr. Skach commented after the preliminary land use recommendations from the joint commissions are presented to the Council, there may be further discussions with the Council in a Workshop session.

Mr. Waechtler asked if in the future the Plan Commission may find it necessary to have workshop sessions. Mr. Skach responded that the Plan Commission has the flexibility to meet with other groups in a workshop format to talk about specific areas. He again cited the neighborhood plans as one example.

Chairman Jirik commented that this will be an exciting opportunity to engage in new endeavors that will utilize the expertise, knowledge and background of the Plan Commission members. Chairman Jirik expressed confidence that the appropriate forums will be defined in order to maximize the value of what is being asked of the Plan Commission members by the Village Council. The Plan Commission will now have the opportunity to do more than just hear petitions. He agreed with Mr. Nicholaou's comment regarding the necessity for good feedback from the Village Council so that the Plan Commission understands the Council's expectations.

Chairman Jirik asked if there were any other comments or questions. There were none.

Chairman Jirik reminded the Plan Commission members that any motion made should be in the form of a recommendation. Chairman Jirik then asked for a motion.

MOTION: WITH RESPECT TO FILE NO. 1095, MR. NICHOLAOU MOVED THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL THAT THE COUNCIL AMEND CERTAIN PROVISIONS OF THE MUNICIPAL CODE RELATING TO THE ZONING COMMISSION, ZONING BOARD OF APPEALS AND PLAN COMMISSION AS PROPOSED BY THE LEGAL STAFF. MR KAHLKE SECONDED THE MOTION.

Chairman Jirik asked if there were any questions or comments regarding the motion. There were none.

ROLL CALL:

AYE: Mr. Nicholaou, Mr. Kahlke, Mr. Matejczyk, Mrs. Reynolds, Mr. Stark, Mr. Waechtler, Chairman Jirik

NAY None

The motion passed unanimously.

Chairman Jirik closed the Public Hearing on File No. 1095.

PUBLIC HEARING: FILE NO. 1096 - ORDINANCE AMENDMENT TO CHAPTER 28 OF THE MUNICIPAL CODE, ZONING ORDINANCE – Amend Section 28-1802(b). Authorized variations, yards

Chairman Jirik noted the Village is the petitioner and asked Staff to make its presentation.

Mr. Skach explained that this amendment request proposes to amend the provisions of Section 28-1802 of the Zoning Ordinance, *Authorized Variations*, allowing owners or petitioners of properties in non-residential zoning districts to request variations from current required yard requirements.

**VILLAGE OF DOWNERS GROVE
DEPARTMENTAL CORRESPONDENCE**

TO: Plan Commission Members

FROM: Amanda G. Browne, Planner *Amanda*
Joseph Skach, AIA, AICP, NCARB, Director *JS*
Department of Planning and Community Development

DATE: June 26, 2003

RE: **File 1095, an Ordinance amending to Chapter 28 of the Municipal Code, Zoning Ordinance, amending the powers and duties of the Zoning Commission, the Plan Commission and the Zoning Board of Appeals in accordance with Chapter 2 of the Municipal Code.**

The purpose of this proposed amendment is to revise certain sections of the Zoning Ordinance to be consistent with Chapter 2 of the Municipal Code, Administration, Article IV, Boards and Commissions, regarding the powers and duties of the Zoning Commission, the Plan Commission and the Zoning Board of Appeals.

At their June 17, 2003 meeting, the Village Council adopted amendments to Chapter 2 of the Municipal Code (Cover Memo and Ordinance 4518, attached), decommissioning the Village's Zoning Commission and reassigning its powers and duties to the Plan Commission. The Zoning Commission was the appointed body charged with conducting public hearings and making recommendations to the Village Council with respect to proposed text changes to Chapter 28 of the Municipal Code, the Zoning Ordinance.

The powers and duties of the Zoning Board of Appeals and of the Plan Commission would generally be as follows:

The Zoning Board of Appeals will continue to make final determinations regarding requests for variations from the Zoning Ordinance that are not associated with any other zoning action (e.g. rezoning, special use or planned development petitions); and final determinations regarding appeals of determinations and interpretations of the Zoning Ordinance made by the Director of Planning and Community Development.

The Plan Commission will consider all aspects of other types of petitions including requests for variations associated with a particular petition other than those under the purview of the Zoning Board of Appeals as noted above. The Plan Commission will now also consider petitions regarding requests for rezoning, special uses, and Zoning Ordinance amendments.

Prior to the Council's action of decommissioning the Zoning Commission, petitioners often faced having to appear before more than one of the three land use regulatory bodies prior to appearing before the Village Council which would then consider the recommendations of each body regarding the same petition/project but various particular aspects of that petition. Also, depending on the type of project, an appearance may have been needed before all three bodies with commensurate appearances before the Village Council. Further, variations would each have to be considered as a separate petition.

Consequently, given expected increases in zoning process activity in a community of the size and desirability of the Village located along a well established growth corridor, necessity will dictate that the Village be able to respond not only to all petitions in a easily comprehensible, relatively predictable, reasonable, and efficient manner, but also to distinguish between types of petitions allowing less complex types of petitions to move through an abbreviated but still appropriately focused review process under the auspices of more narrow interpretation of the zoning code (e.g., requests for variations not requiring other zoning process action; Zoning Board of Appeals), and those petitions requiring other zoning action, in which a potential request for variation is a component of a petition broader in nature (e.g., Planned Development, Special Use, Subdivision, Rezoning, etc.). These broader-impact petitions then, necessarily, benefit from an appropriately comprehensive review under the auspices of the land use regulatory body that is responsible for the Village's Comprehensive Plan and commensurate zoning decisions along with review of other comprehensive issues such as parking/traffic, site/neighborhood, building bulk, infrastructure, and aesthetic impacts. These petitions may also require variations from the zoning or subdivision ordinance in order to obtain a building permit; however, these variations would be considered by the same body, the Plan Commission, and then forwarded on to the Village Council for final consideration.

Staff Recommendation:

Planning Staff recommends that the Plan Commission forward a positive recommendation regarding amending certain sections of Chapter 28 of the Municipal Code, Zoning Ordinance, to be consistent with Chapter 2 of the Municipal Code, Administration, Article IV, Boards and Commissions, per the Village Council's approval.

Attachments

Cc: Zoning Board of Appeals
Economic Development Commission
Riccardo Ginex, Village Manager
Enza Petrarca, Village Attorney
Kenneth Rathje, Director of Planning Services
Steven Rockwell, Director of Economic Development

COUNCIL WORKSHOP ITEM

ITEM:

An Ordinance Amending Provisions of the Downers Grove Municipal Code Relating to the Zoning Commission, Zoning Board of Appeals and Plan Commission

DATE:

June 2, 2003

PREPARED BY:

Enza Petrarca, Village Attorney

PURPOSE:

To abolish the Zoning Commission and reassign the duties and functions of the Plan Commission and Zoning Board of Appeals

DISCUSSION:

The following ordinance is an effort to streamline the zoning process. The elimination of the Zoning Commission and the reassignment of some of the duties and function of the Plan Commission and the Zoning Board of Appeals will decrease the length of time for a petition to be heard and increase the efficiency of the entire zoning process. Pursuant to the proposed ordinance, the Plan Commission could hear a petition for a PUD, a text amendment and a special use for a single parcel of land. Under the present ordinance, the Plan Commission would have heard the PUD, the Zoning Commission would have heard the text amendment, and the Zoning Board of Appeals would have heard the special use. The proposed ordinance will eliminate the need for a petitioner to appear before three separate bodies, and instead only require one appearance before the Plan Commission.

This ordinance will abolish the Zoning Commission and reassign its duties and functions to the Plan Commission. The major function of the Zoning Commission was to consider text amendments to the zoning ordinance. This task has now been assigned to the Plan Commission. Also, amendments to zoning classifications and applications for special uses were previously considered by the Zoning Board of Appeals, pursuant to the proposed ordinance, they will now be a function of the Plan Commission. The Plan Commission's new powers and duties include the duty to: i) hear, consider and recommend to the Village Council matters dealing with amendments to the Zoning Ordinance, including map amendments, zoning classifications and text amendments; ii) hear, consider and recommend to the Village Council matters dealing with the granting of special uses; iii) designate, subject to final consideration and approval of the Village Council, land suitable for annexation to the Village and the recommended zoning classification for such land upon annexation; and, iv) initiate, study and make recommendations regarding matters dealing with the planning of the community.

After the adoption of this ordinance, the Plan Commission will hold a public hearing to address the technical changes that need to be made to the Zoning Ordinance (Chapter 28) in order for it to be consistent with this ordinance. Once the public hearing is held, the ordinance will come before Council for approval.

ATTACHMENT:

An Ordinance Amending Provisions of the Downers Grove Municipal Code and Zoning Ordinance Relating the Zoning Commission, Zoning Board of Appeals and Plan Commission

RECOMMENDATION:

Place on June 10, 2003 Workshop Agenda.

2\word\memo03\mangr\zoning

ORDINANCE NO. 4518

**AN ORDINANCE AMENDING PROVISIONS OF THE DOWNERS GROVE
MUNICIPAL CODE RELATING TO THE
ZONING COMMISSION, ZONING BOARD OF APPEALS AND PLAN COMMISSION**

BE IT ORDAINED by the Council of the Village of Downers Grove, in DuPage County, Illinois,
as follows: (Additions are indicated by shading; deletions by ~~strikeout~~.)

SECTION 1. That the Downers Grove Municipal Code is hereby amended as follows:

2-53. Appointment of members to boards and commissions.

(a) Members of the following boards and commissions shall be appointed by the Village Council as provided herein:

Library Board of Trustees - all members as provided by law.

(b) Members of the following boards and commissions shall be appointed by the Mayor as provided herein:

Police Pension Board - two members, with balance as provided by statute.

(c) Members of the following boards and commissions shall be appointed, and the chairperson designated, by the Mayor, subject to confirmation by the Village Council:

Plan Commission

Zoning Commission

Zoning Board of Appeals

Human Service Commission

Community Maintenance Board

Board of Fire and Police Commissioners

Community Grants Commission

Tourism & Events Commission

Economic Development Commission

Stormwater and Flood Plain Oversight Committee

Electrical Commission

Parking and Traffic Commission

Liquor Commission

Technology Commission

(d) Members of the following boards and commissions shall be appointed, and the chairperson designated, by the Village Manager:

Design Review Committee

(e) Members of the following boards and commissions shall be appointed, and the chairperson designated, by the Village Manager, subject to confirmation by the Village Council:

Building Board of Appeals

(f) Each member of a board or commission, including the chairman, shall hold office until the expiration of the term for which such member was appointed or until such time as a successor has been

appointed or qualified, unless prior to such time such member resigns his position or is removed from it by the appointing official.

(g) Vacancies on any board or commission shall be filled as soon as possible for the unexpired term of the member whose place has become vacant.

(h) Each member of a board or commission shall be a resident of the Village unless otherwise specifically provided.

(i) Only duly appointed members may vote on any matter before any board or commission. (Ord. No. 3266, § 34; Ord. No. 3294, § 1.)

2-54. Created; composition; terms of office.

A Plan Commission is hereby created for the Village, which The Plan eCommission shall be organized as follows:

(a) Nine voting members shall be appointed for staggered terms of three years each.

(b) Three additional members may be nominated for appointment and confirmation as follows:

(1) One such member may be nominated by resolution of the Board of Commissioners of the Downers Grove Park District, and a copy of such a resolution, duly certified by the secretary of such board, shall be filed with the Village Clerk;

(2) One such member may be nominated by resolution of the Board of Trustees of the Downers Grove Sanitary District, and a copy of such resolution, duly certified by the Clerk of such board shall be filed with the Village Clerk; and

(3) One such member may be nominated by joint action of the Board of School District No. 58 and the Board of School District No. 99, and copies of the resolutions of each of such school boards, duly certified by the respective secretaries of such boards, shall be filed with the Village Clerk.

Each member of the pPlan eCommission appointed and confirmed under the provisions of this paragraph (b) shall not be entitled to vote, shall not be counted in determining whether a quorum of the pPlan eCommission is present at any meeting and shall not have a designated term in office, but shall serve from time to time until such member has resigned or been removed by resolution of the board or boards which made the nomination of such member, and until his or her successor has been appointed and qualified.

(c) In addition to the appointed members, the mMayor shall be an ex officio member of the pPlan eCommission, but shall not be entitled to vote and shall not be counted in determining whether a quorum of the pPlan eCommission is present at any meeting. (Ord. No. 118, § 1; Ord. No. 415, § 1; Ord. No. 1015, § 1; Ord. No. 1575, § 1; Ord. No. 2174, §§ 1, 2; Ord. No. 3266, § 34.)

2-55. Powers and duties.

The Plan Commission shall have the following powers and duties:

(a) To prepare and recommend to the corporate authorities a comprehensive plan for the present and future development or redevelopment of the municipality Village. Such The plan may be adopted in whole or in separate geographical or functional parts, each of which, when adopted, shall be the official comprehensive plan, or part thereof, of that municipality the Village. This The plan may include reasonable requirements with reference to for the streets, alleys, public grounds, and other improvements hereinafter specified. The plan, as recommended by the Plan Commission and as thereafter adopted in any municipality in this state, may be made applicable, by the terms thereof, to land situated within the corporate limits and contiguous territory not more than one and one-half miles beyond the corporate limits and not included in any municipality. Such The plan shall may establish reasonable standards of design for subdivisions and for resubdivisions of unimproved land and of areas subject to redevelopment in respect to public improvements; shall may establish reasonable requirements governing the location, width, course, and surfacing of public streets and highways, alleys, ways for public utilities and service facilities, curbs, gutters, sidewalks, street lights, parks, playgrounds, school grounds, size of lots to be used for residential purposes, storm water drainage, water supply and distribution, sanitary sewers, and sewage

collection and treatment; and such plan may also may designate land suitable for annexation to the municipality Village and the recommended land use for such land upon annexation. Such The plan shall be advisory except as to such parts thereof as have been implemented by ordinances duly enacted by the Village Council. All requirements for public hearing, filing of notice of adoption with the county recorder of deeds, and the filing of such plan and ordinances with the Village Clerk shall be complied with as provided by law.

(b) To recommend to the Village Council from time to time such changes or specific improvements in the comprehensive plan as the Plan eCommission may deem necessary.

~~(c) To exercise all other powers provided for in Division 12 of Article 11 of the Illinois Municipal Code, together with all acts amendatory thereof or supplemental thereto; except as they may have been amended by the Village Council.~~

~~(d) To review plats of subdivision and to consider and recommend to the Village Council approval or disapproval thereof; to consider or recommend any variations to the Village Council from the requirements of Chapter 20 of this Code.~~

~~(c) To initiate, study and make recommendations regarding matters dealing with the planning of the community.~~

~~(d) To exercise such other powers germane to the above powers as may be conferred by the Village Council.~~

~~(e) To recommend, subject to consideration and approval by the Village Council, reasonable standards of design for subdivisions and for resubdivisions of unimproved land and of areas subject to redevelopment in respect to public improvements.~~

~~(ef) To review preliminary and final plans for planned developments pursuant to the requirements of of the Zoning Ordinance of the Village and to consider and recommend approval or disapproval of such plans to the Village Council, including any specific conditions of any recommended approval.~~

~~(fg) To consider and approve certain conveyances of land which that do not require a subdivision plat, pursuant to Section 20-600 and Section 20-601 of this Code.~~

~~(gh) To consider and make recommendations to the Village Council concerning any request for a waiver or variancevariation of any requirement of Section 19-14(b) for construction of public improvements as a condition of obtaining a permit for access across a parkway to Village right-of-way.~~

~~(i) To hear, consider and recommend to the Village Council matters dealing with amendments to the Zoning Ordinance.~~

~~(j) To hear, consider and recommend to the Village Council matters dealing with the granting of special uses.~~

~~(k) Notwithstanding the provisions of Section 2-59(a) of this Code, to hear and decide on an application for any variation from the terms of the Downers Grove Zoning Ordinance and/or the Downers Grove Subdivision Ordinance, subject to their terms, but only when such application is filed in conjunction with an application as part of a planned development, an amendment to the Zoning Ordinance, or a special use otherwise requiring a public hearing before the Plan Commission.~~

~~(l) To designate, subject to consideration and approval of the Village Council, land suitable for annexation to the Village and the recommended zoning classification for such land upon annexation.~~

~~(m) Any additional powers granted by the Illinois Municipal Code (65 ILCS 5/11-12-1, et seq.). (Ord. No. 972, § 1; Ord. No. 2641, § 1; Ord. No. 3266, § 34.)~~

~~2-55DIV. Division 3. Zoning Commission Reserved.~~

~~2-56. Created; composition; terms of office Reserved.~~

~~A zoning commission is hereby created for the village, which commission shall be organized as follows:~~

~~(a) Seven members shall be appointed for staggered terms of four years each.~~

~~(b) One member of the zoning commission, appointed pursuant to paragraph (a) hereof, shall be a member of the zoning board of appeals and one member shall be a member of the plan commission. (Ord. No. 1622, § 2; Ord. No. 3266, § 34.)~~

2-57. Powers and duties Reserved.

~~The zoning commission shall have and exercise all the powers provided for in the applicable provisions of the Illinois Statutes, as amended from time to time, and shall, without limitation, have the following powers and duties:~~

~~(a) To conduct public hearings respecting any proposed amendment to the text of the Downers Grove Zoning Ordinance (but not amendments to the zoning map referred to therein) in accordance with the applicable provisions of article XVI thereof, and to submit written findings and recommendations to the village council setting forth its conclusions and recommendations respecting such proposed amendment, or recommending alternatives thereto.~~

~~(b) To conduct such other meetings and public hearings as it may deem necessary or appropriate to investigate such other inquiries, studies or other matters as the village council may from time to time refer to the zoning commission. (Ord. No. 1622, § 2; Ord. No. 2261, § 21; Ord. No. 2641, § 2; Ord. No. 3266, § 34.)~~

2-58. Created; composition; terms of office.

A Zoning Board of Appeals is hereby created for the Village, which board shall consist of seven members appointed for staggered terms of ~~five~~^{three} years each. (Ord. No. 2641, § 3; Ord. No. 3266, § 34.)

2-59. Powers and duties.

The Zoning Board of Appeals shall have the following powers and duties:

~~(a) Except as provided in Section 2-55(i) of this Code, to~~ hear and decide on applications for any variation from the terms of the Downers Grove Zoning Ordinance subject to its provisions.

~~(b) To hear, and decide appeals, from and to make modifications from~~ any order, requirement, decision, or determination made by the zoning enforcement officer ~~Director responsible for the enforcement of the Zoning Ordinance.~~

~~(c) To hold public hearings and offer recommendations to the Village Council on matters pertaining to applications for amendments to zoning classifications and applications for conditional uses.~~

~~(d) To hear and decide on all matters referred to it or upon which it is required to pass under the Downers Grove Zoning Ordinance.~~

~~(e) To exercise such other powers germane to the above powers as may be conferred by the Village Council. (Ord. No. 2641, § 3; Ord. No. 3266, § 34.)~~

SECTION 2. That any reference to the Zoning Commission, Plan Commission or Zoning Board of Appeals including, but not limited to, definitions, policies, procedures or duties contained in the Downers Grove Zoning Ordinance (Chapter 28) which conflict with the provisions of this ordinance are hereby superseded by the adoption of this ordinance.

SECTION 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. That this Ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Bi Kajush
Mayor

Passed: June 17, 2003

Published: June 18, 2003

Attest: Agathe M
Village Clerk

MISC[zoncom]



A news release from

Village of Downers Grove

Civic Center
801 Burlington Avenue
Downers Grove, IL 60515-4776
Phone: 630/434-5500
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Released by: Douglas Kozlowski
Dept.: Public Information Office
Phone: 434-5550
Date: June 18, 2003
Approved by:

Village Council Reduces Number of Land Use Bodies

At the June 17, 2003 Council Meeting, the Mayor and Council voted unanimously to streamline the zoning process by eliminating the Zoning Commission and reassigning its responsibilities to the Plan Commission. The Zoning Board of Appeals will continue to handle requests for variations not requiring any other zoning action.

Prior to this Council action, there were three land use regulatory bodies: the Zoning Commission, Zoning Board of Appeals and Plan Commission. Petitioners faced the likely possibility of having to appear before more than one of these bodies before going to the Village Council, which would then consider the recommendations of each body for the same project.

Village Attorney Enza Petrarca stated that under the new ordinance the Plan Commission will hear all aspects of petitions before they are forwarded to the Council for final consideration. "This ordinance will streamline the zoning process and eliminate the need for a petitioner to appear before more than one separate body," Ms. Petrarca said. The ZBA process will also facilitate more expeditious consideration of petitions requiring only variations

and with the ZBA being the final authority, this will give petitioners decisions more quickly.

The Plan Commissions new responsibilities will include:

- Initiating and making recommendations regarding planning of the community to include the comprehensive plan and the site specific petitions for consistency with the plan including planned developments, subdivisions, special uses and rezoning.
- Making recommendations to the Village Council on matters dealing with any amendments to the Zoning Ordinance.
- Recommending to the Village Council land suitable for annexation.

The Zoning Board of Appeals will continue to consider applications for variations under the Zoning Ordinance and to hear and decide appeals from decisions and orders of the Director responsible for enforcing the Zoning Ordinance.

This change is being implemented as part of an on-going effort by Village Manager Rick Ginex to improve efficiency at Village Hall. It follows the recent consolidation of the Planning, Redevelopment and Economic Development functions into the Planning and Community Development Department. The reorganization occurred as a result of the Village Council's request for the Village Manager to assess and reorganize the developmental and planning functions of the Village.

###

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE

BE IT ORDAINED by the Council of the Village of Downers Grove, in DuPage County, Illinois, as follows: (Additions are indicated by shading; deletions by ~~strikeout~~.)

SECTION 1. That Chapter 28 of the Downers Grove Municipal Code is hereby amended as follows:

28-201. Definitions.

For the purposes of this Zoning Ordinance, the following words and phrases shall have the meanings respectively ascribed to them as follows:

* * *

~~Board.~~ The Zoning Board of Appeals.

* * *

~~Zoning Board of Appeals.~~ The Downers Grove Zoning Board of Appeals.

~~Zoning Commission.~~ The Zoning Commission created under and pursuant to the provisions of Chapter 2 of this Code.

* * *

28-303. Appeal From Decision of Director.

(a) The ~~Zoning Board of Appeals~~ shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Director in the enforcement of this Zoning Ordinance. This includes, but is not limited to interpretative rulings of this Zoning Ordinance and petition submittal requirements.

(b) Review may be initiated by any person aggrieved within thirty (30) days of the an order, requirement, decision, or determination of the Director by filing an appeal. The Director shall forthwith transmit to the ~~Zoning Board of Appeals~~ all the papers constituting the record upon which the action appealed from was taken.

(c) An appeal stays all proceedings in furtherance of the action appealed from, unless the Director certifies to the ~~Zoning Board of Appeals~~ that by reason of facts stated in the certificate a stay would, in the Director's opinion, cause imminent peril to life or property. In this event, the proceedings shall not be stayed other than by an order of the Board on due cause being shown.

(b) Within sixty (60) days of receipt of a complete appeal petition, the ~~Zoning Board of Appeals~~ shall commence a public hearing to be held as provided in Section 28-307. Notice of time and place of the public hearing on such appeal shall be given to the petitioner and any known objectors in a manner determined by the Director. Within thirty-five (35) days after conclusion of the public hearing, the ~~Zoning Board of Appeals~~ shall render a decision. The ~~Zoning Board of Appeals~~ may reverse, or affirm wholly or in part, or may modify any order, requirement, decision, or determination appealed from, and may

make such order or finding as it deems warranted. To this end, the ~~Zoning Board of Appeals~~ shall have the powers of the Director from whom the appeal is taken.

28-304. Petitions.

(a) Except as otherwise specifically provided herein, petitions under this Zoning Ordinance shall be filed with the Director. Each petition shall be in a form as prescribed by the Director and shall include such submittals, material and information as may be required by the Director to establish that the petition meets the standards and requirements of this Zoning Ordinance, including, but are not limited to, the following:

(1) A list of the names and addresses of the following:

- (i) all owners of record of the property which is the subject of such petition; and,
- (ii) all persons to whom the latest general real estate tax bills were sent for all property situated within two hundred and fifty (250) feet of the subject property; and,
- (iii) any homeowners, condominium or similar association of which the subject property is a member.

(2) Information and materials as may be required by the Director to establish that the petition meets the standards and requirements of this Zoning Ordinance. This includes, but is not limited to any maps, plats, surveys, engineering documents, environmental reports, traffic studies, and other materials and information as required by rules established by the Director.

(3) Payment of required fees.

(b) Such petition shall be considered complete upon submittal of all information and documents required, and payment of the any applicable fee.

(c) A petition may be amended at any time before final action upon such terms and conditions as the Director (if amended before any required hearing), the ~~Zoning Board of Appeals~~ or ~~Zoning Commission~~ or Plan Commission (if amended before final action by such body), or the Village Council, may direct. Such terms and conditions may include, but are not limited to, requiring republication of the notice, rehearing of the petition and/or tolling any time limits for Village action as otherwise mandated herein.

28-308. Time Periods.

Any time limit specified in this Zoning Ordinance for any decision or action by the Director, the ~~Zoning Board of Appeals~~, ~~the Zoning Commission~~, the Plan Commission or the Village Council may be extended or tolled by the joint agreement of the petitioner and the Director. In the event a decision or action by the Director, the ~~Zoning Board of Appeals~~, ~~the Zoning Commission~~, the Plan Commission or the Village Council is not rendered within the time period specified, and the petitioner has not agreed to an extension or tolling of such time limit, the petition shall be deemed to be denied.

28-802. O-R-M District - Special uses.

The following uses are allowed in the O-R-M Office-Research-Manufacturing District as special uses:

- (a) Aircraft landing areas.
- (b) Automobile service stations. (See Section 28-1018.)
- (c) Drive-in banking facilities.
- (d) Planned developments. (See Article XVI.)
- (e) Railroad and motor freight terminal, railroad switching facilities.
- (f) Recycling collection facilities. (See Section 28-1007.)
- (g) Vocational and trade schools
- (h) Any other proposed business, manufacturing, assembling, servicing or processing activity, if the ~~Board~~ ~~Plan Commission~~ finds:

(1) Such proposed activity is of the same general character as the uses permitted in Section 28-802;

(2) It is reasonably anticipated that such proposed activity will be in compliance with the environmental standards set forth in Article XX. The BoardPlan Commission may in its discretion require that there be furnished favorable certification by a registered professional engineer approved by the BoardPlan Commission covering any one or more of such environmental standards; and

(3) Such proposed activity will be in compliance with all applicable provisions of this Zoning Ordinance.

28-906. M-2 District - Special Uses.

The following uses are allowed in the M-2 Restricted Manufacturing District as special uses:

- (a) Aircraft landing areas.
- (b) Cartage and express facilities including motor freight terminals.
- (c) Contractor or construction shops and offices.
- (d) Medical and dental clinics.
- (e) Public utilities and services.
- (f) Planned developments. (See Article XVI.)
- (g) Recycling collection facilities. (See Section 28-1007.)
- (h) Vocational and trade schools.
- (i) Any other proposed business, manufacturing, assembling, servicing or processing activity, if

the BoardPlan Commission finds that:

(1) Such proposed activity is of the same general character as uses permitted in Section 28-906;

(2) Such proposed activity will be in compliance with the environmental standards in Article XX. For such purpose, the BoardPlan Commission may in its discretion require that there be furnished a favorable certification by a registered professional engineer approved by the BoardPlan Commission covering any one or more of such performance standards; and

(3) Such proposed activity will be in compliance with all applicable provisions of this Article.

(j) Accessory uses, incidental to the principal use listed above.

(k) Self-storage facilities, including mini-warehouses. (See Section 28-1010.)

28-1018. Automobile Service Station.

An automobile service station shall be subject to the following conditions:

* * *

(q) *Traffic flow study.* The Zoning Board of AppealsPlan Commission, the Village Engineer or the Village Council may order a traffic survey of any proposed location by a qualified traffic engineer. The traffic engineer will then submit a report of findings and recommendations to the BoardPlan Commission as to any possible traffic hazard from traffic flow or from the topography of the proposed location of the automobile service station. Due consideration shall be given by the BoardPlan Commission to the report, if any, submitted by the traffic engineer.

* * *

28-1020. Churches.

(a) Where permitted as a special use, and except as provided herein, churches shall be constructed, maintained and operated in conformance with applicable zoning regulations. Provided, and except as otherwise expressly set forth in this Zoning Code, the Lot and Bulk regulations set forth in

Article XI may be modified in the event, but only to the extent that, the Council determines that strict compliance substantially burdens the exercise of religion. Provided, no modification shall be permitted to the extent that the Council determines that application of the burden (i) is in furtherance of a compelling governmental interest and (ii) is the least restrictive means of furthering that compelling governmental interest.

(b) In the event such a substantial burden is claimed, the applicant for a church special use shall submit materials and evidence as to the following:

(1) Describe the alleged burden in detail, including why such burden is of such a substantial nature so as to justify modification of the zoning regulations.

(2) Describe efforts employed by the applicant to avoid or reduce the burden.

(3) Describe the minimal modification requested to avoid or reduce the burden.

(4) Describe any adverse impacts of the requested modification on the area involved and efforts to reduce such impact.

(5) Such other items as the applicant may deem relevant or as requested by the Director, the ~~Board~~ ~~Plan Commission~~ or the Council related to the alleged burden or requested modification.

(c) In the event it is determined that there is a substantial burden, and that the regulation at issue is not in furtherance of a compelling governmental interest or is not the least restrictive means of furthering that compelling governmental interest, the ~~Board~~ ~~Plan Commission~~ may recommend and the Council may authorize modification of the Lot and Bulk provisions of Article XI, subject to the following:

(1) The modification shall be the minimal adjustment needed so that the regulation no longer substantially burdens the exercise of religion. Provided, the regulation shall not be modified to the extent that it is in furtherance of a compelling governmental interest and is also the least restrictive means of furthering that compelling governmental interest.

(2) The modification shall be permitted only to the extent that and for the period of time that, the structure is used for a church. A covenant shall be recorded with the Office of the DuPage County Recorder of Deeds, in a form acceptable to Village Attorney, providing that the modification will be brought into compliance with the affected regulation in the event the property ceases to be used as a church. The Village shall have the right to refuse to issue, or to revoke an occupancy permit for the structure in the event it is not used as a church unless and until such compliance is achieved.

(3) Such conditions and restrictions may be imposed as appropriate to mitigate any adverse impact of the modification.

28-1307. Telecommunications Towers.

* * *

(b) *Permit required.* A permit shall be required for the construction or installation of any telecommunications tower as provided herein. The Village encourages the users of telecommunications towers to submit a single application for approval of multiple telecommunications tower sites. Permit applications shall be filed with, and in a form as prescribed by, the Director, and shall be considered complete upon the determination of the Director that all required fees, information and documents have been submitted. An application be amended at any time before final action upon such terms and conditions as the Director (if amended before any required hearing), the Zoning Board of Appeals or ~~Plan Commission~~ (if amended before final action by such body), or the Village Council, may direct. Such terms and conditions may include, but are not limited to, requiring re-notice or rehearing of the petition and/or tolling any time limits for Village action as otherwise mandated herein. Permit requests for approval of multiple sites shall be given priority in the review process. The permit application shall include such submittals, material and information as may be required by the Director to establish that the request meets the standards and requirements of this Section. This may include, but is not limited to, the following:

(1) An inventory of the applicant's existing telecommunications towers, antennas, or sites approved for telecommunications towers or antennas, that are either within the corporate limits of the Village or within 1.5 miles of the Village corporate limits. This inventory shall include such information as the Director may direct, including but not limited to specific information about the location, telecommunications tower height, and design of each telecommunications tower. The Director may share such information with other persons seeking to locate a telecommunications tower or antenna within the jurisdiction of the Village. Provided, the Director is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

(2) A scaled site plan clearly indicating the location, type and telecommunications tower height of the proposed telecommunications tower and/or antenna, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), zoning classification of the site and all properties within the applicable separation distances set forth in this Section, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed telecommunications tower and any other structures, topography, parking, and other information deemed by the Director to be necessary to assess compliance with this section.

(3) Legal description of the parent tract and leased parcel (if applicable).

(4) The setback distance between the proposed telecommunications tower and the nearest residentially zoned properties.

(5) The separation distance from other telecommunications towers described in the inventory of existing sites submitted pursuant to this Section shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing telecommunications tower(s) and the owner/operator of the existing telecommunications tower(s), if known.

(6) A landscape plan showing specific landscape materials.

(7) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

(8) A description of compliance with this Section and all applicable federal, state or local laws.

(9) A notarized statement by the applicant as to whether construction of the telecommunications tower will accommodate collocation of additional antennas for future users.

(10) Identification of the entities providing the backhaul network for the telecommunications tower(s) described in the application and other cellular sites owned or operated by the applicant in the Village.

(11) A description of the availability and suitability of the use of existing telecommunications towers, other structures, or alternative technology, not requiring the construction or use of a new telecommunications tower.

(12) A description of the feasible location(s) of future telecommunications towers or antennas within the Village of Downers Grove based upon existing physical, engineering, technological or geographical limitations in the event the proposed telecommunications tower is erected.

(13) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

(14) Payment of required fees.

* * *

28-1401. Control of off-site parking facilities.

Where required parking facilities are provided on land other than the zoning lot on which the structure or use served by such facilities is located, they shall be, and shall remain in the same possession or ownership as the zoning lot occupied by the structure or use to which the parking facilities are accessory. No such off-site parking facilities shall be authorized and no building permit shall be issued where the plans call for parking facilities other than on the same zoning lot, until and unless the Zoning Board of Appeals or the Plan Commission have reviewed the plans and heard the owner and made

findings that the common ownership or possession of the zoning lot and the size of the parking facilities are reasonably certain to continue and that the off-site parking facilities will be maintained at all times during the life of the proposed use or structure.

28-1404. Location of parking spaces.

The location of off-street parking spaces in relation to the use served shall be as prescribed hereinafter. All distances specified shall be walking distances between such parking spaces and a main entrance to the use served.

(a) *Front yards.* Off-street parking spaces may not be located in any required front yards, except as follows:

(1) Off-street parking spaces accessory to a single-family residence may be located in any driveway that is improved with an appropriate surface material approved by the Village Engineer.

(2) Off-street parking spaces accessory to any church that was in existence prior to April 19, 1965, or prior to the time when the provisions of this Ordinance became applicable thereto, may be located in the required front yard, but not within five (5) feet of the front lot line, only to the extent necessary to provide the number of parking spaces that would have been required for such church under the provisions of Section 28-1410 if such provisions had been applicable thereto at the time of construction or occupancy of such church.

(3) Off-street parking spaces for properties in the M-1, Light Manufacturing Zoning District that are located on the west side of Thatcher Road and also abut the Illinois State Tollway right-of-way may be located in the required front yard but not less than five (5) feet from the front property line, provided that such spaces are located in a parking lot that is improved with an appropriate surface material approved by the Village Engineer.

(b) *Residence districts.* Parking spaces accessory to dwellings shall be located on the same zoning lot as the use served. Spaces accessory to uses other than dwellings may be located on a lot adjacent to, or directly across a street or alley from, the lot occupied by the use served, but in no case at a distance in excess of three hundred (300) feet from the parking spaces to the main entrance to the use served.

(c) *Business and manufacturing districts.* All required parking spaces shall be within one thousand (1,000) feet of the main entrance to the use served, except for spaces accessory to dwelling units, which shall be within three hundred (300) feet of the entrance to the dwelling. One quarter of all required spaces shall be within three hundred (300) feet of the main entrance to the use served. The remaining required spaces must be within one thousand (1,000) feet of the main entrance to the use served provided that businesses which dispense alcoholic beverages for consumption on the premises may not have parking facilities across an arterial street (designated as such a street on the Downers Grove Future Land Use Map) from the business. However, no parking spaces accessory to a use in a business or manufacturing district shall be located in a residence district unless authorized by the Board of Planning and Zoning as a special use.

28-1410. Number of off-street parking and off-street loading spaces required.

* * *

(c) Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided collectively is not less than the sum of the separate requirements for each such use and provided that all regulations governing location of accessory parking spaces in relation to the use served are adhered to. Further, no parking space or portion thereof shall serve as a required space for more than one use unless otherwise authorized by the

(d) When two (2) or more uses are located on the same zoning lot or within the same building, parking spaces equal in number to the sum of the separate requirements for each such use shall be provided. No parking spaces or portion thereof shall serve as a required space for more than one use

unless otherwise authorized by the ~~Board~~ ~~Plan Commission~~ as a special use in accordance with this Zoning Ordinance.

(e) For uses not listed in the foregoing schedule of parking requirements, parking spaces shall be provided on the same basis as required for the most similar listed use, or as determined by the ~~Zoning Board of Appeals or Plan Commission~~, and off-street loading spaces shall be provided in adequate number and size to serve such use as determined by the Board.

(f) The Concentrated Business District is exempt from the provisions of this section ~~Zoning Board of Appeals or Plan Commission~~ as a variation in accordance with this Zoning Ordinance.

* * *

28-1502. General requirements.

All signs shall comply with the following requirements unless otherwise provided:

* * *

(1) No sign that is affixed to a structure shall project more than twelve (12) inches into a required setback or required yard or such further distance as may be approved as a variation by the ~~Zoning Board of Appeals~~ ~~Plan Commission~~ pursuant to this Zoning Ordinance on the basis of considerations of safety to pedestrian and vehicular traffic.

* * *

28-1523. Modifications and variations by the Zoning Board of Appeals.

The Zoning Board of Appeals or ~~Plan Commission~~, upon petition made pursuant to Article ~~XII~~ of this Zoning Ordinance, and after a public hearing on such petition, may vary, or otherwise modify, the petition of any provision of this Article to any particular case when, in the opinion of such ~~Board or Commission~~, the literal enforcement thereof would do manifest injustice or would be contrary to the spirit and purpose of this Article or the public interest. The decision of the ~~Zoning Board of Appeals or Plan Commission~~ shall specify the nature of the variation or other modification, the conditions upon which it is made, if any, and the facts or other reasons supporting the action taken.

28-1700SEC. Text Amendments to the Zoning Ordinance.

(a) A petition to amend the text of this Zoning Ordinance may be initiated by any person, including any Village government office, department, board or commission, or Village resident. The petition shall be filed with the Director and shall include such documents, reports, maps and other information as may be required by the Director pursuant to ~~s~~Sections 28-300 and 28-304. This petition, including such other documents as may be appropriate, shall be transmitted by the Director to the ~~Zoning Plan~~ Commission, along with the Director's analysis and recommendation, if any.

(b) Within ninety (90) days of receipt of a complete petition, the ~~Zoning Plan~~ Commission shall commence a public hearing. Within forty-five (45) days after conclusion of the public hearing, the ~~Zoning Plan~~ Commission shall recommend approval or disapproval of all, or any portion of the petition and may condition such recommendation on such revisions to the proposed text change as the ~~Zoning Plan~~ Commission determines appropriate or necessary to protect the public health safety and welfare, and/or ensure that the text change will conform to the spirit and intent of this Zoning Ordinance.

(c) Within ninety (90) days of receipt of the findings and recommendations of the ~~Zoning Plan~~ Commission, the Village Council shall approve, approve as modified, or deny the petition, or any part thereof. The Village Council may approve or disapprove all, or any portion of the petition, including any modifications thereto, and may condition any approval on restrictions and requirements as the Village Council determines appropriate or necessary to ensure that the petition, as approved, will conform to the provisions of this Zoning Ordinance. A violation of such conditions shall be deemed a violation of this Zoning Ordinance. In the alternative, the Village Council may remand the petition, in whole or in part, back to the ~~Zoning Plan~~ Commission if the Village Council determines that it is necessary or appropriate to provide a fair and complete consideration of the petition because there is a material and significant

change in conditions since the Zoning Plan Commission hearing, or there is new or additional information which is material to the petition and which was not reasonably available at the time of the Zoning Plan Commission hearing. The Village Council will specify the reasons and scope of such remand and further proceedings before the Zoning Plan Commission will be limited to such items. The Zoning Plan Commission will conduct such further proceedings as may be appropriate and re-present the petition, with appropriate recommendations, to the Village Council within sixty (60) days of referral. Thereafter, the Village Council shall render a final decision within sixty (60) days of such re-presentation.

28-1701. Amendment to Zoning Classification.

(a) A petition to amend the zoning map to change the zoning classification of any parcel of property may be initiated by the Director or the owner of the land which is described in the petition. The petition shall be filed with the Director and shall include such documents, reports, maps and other information as may be required by the Director pursuant to sSections 28-300 and 28-304. This petition, including such other documents as may be appropriate, shall be transmitted by the Director to the Zoning Board of Appeals or Plan Commission, along with the Director's analysis and recommendation, if any.

(b) Within ninety (90) days of receipt of a complete petition notice shall be given and the Zoning Board of Appeals or Plan Commission shall commence a public hearing. Within forty-five (45) days after conclusion of the public hearing, the Zoning Board of Appeals or Plan Commission shall transmit to the Owner and the Village Council its recommendations regarding the petition. The Zoning Board of Appeals or Plan Commission may recommend approval or disapproval of all, or any portion of the petition, including any modifications thereto.

(c) Within ninety (90) days of receipt of the findings and recommendations of the Zoning Board of Appeals or Plan Commission, the Village Council shall approve, approve as modified, or deny the petition, or any part thereof. The Village Council may approve or disapprove all, or any portion of the petition, including any modifications thereto. A violation of such conditions shall be deemed a violation of this Zoning Ordinance. In the alternative, the Village Council may remand the petition, in whole or in part, back to the Zoning Board of Appeals or Plan Commission if the Village Council determines that it is necessary or appropriate to provide a fair and complete consideration of the petition because there is a material and significant change in conditions since the Zoning Board of Appeals or Plan Commission hearing, or there is new or additional information which is material to the petition and which was not reasonably available at the time of the Zoning Board of Appeals or Plan Commission hearing. The Village Council will specify the reasons and scope of such remand and further proceedings before the Zoning Board of Appeals or Plan Commission will be limited to such items. The Zoning Board of Appeals or Plan Commission will conduct such further proceedings as may be appropriate and re-present the petition, with appropriate recommendations, to the Village Council within sixty (60) days of referral. Thereafter, the Village Council shall render a final decision within sixty (60) days of such re-presentation.

(d) No rezoning petition will be accepted for processing prior to one year after the date that similar petition concerning the same property was turned down.

28-1800SEC. General Provisions.

(a) The Zoning Board of Appeals or Plan Commission may authorize, in specific cases, such variance from the terms of this Zoning Ordinance as will not be contrary to the public interest and welfare where, because of special conditions a literal enforcement of the provisions of this Zoning Ordinance would result in unnecessary hardship. Variations without being associated with any other type of zoning action shall be presented to the Zoning Board of Appeals. Variations associated with other type of zoning action shall be presented to the Plan Commission.

(b) Under no circumstances shall the Zoning Board of Appeals or Plan Commission grant a variation to allow a use not permissible under the terms of this Zoning Ordinance in the district involved, or any use expressly or by implication prohibited.

(c) The decision of the Zoning Board of Appeals or Plan Commission shall specify the nature of the variation or other modification, the conditions upon which it is made, if any, and the facts or other reasons which support the action taken.

28-1801. Procedures.

(a) A petition for a variation may be initiated by the Director or the owner of the land which is described in the petition. The petition shall be filed with the Director and shall include such documents, reports, maps and other information as may be required by the Director pursuant to Sections 28-300 and 28-304. This petition, including such other documents as may be appropriate, shall be transmitted by the Director to the Zoning Board of Appeals or Plan Commission, along with the Director's analysis and recommendation, if any.

(b) Within ninety (90) days of receipt of a complete petition, the Zoning Board of Appeals or Plan Commission shall commence a public hearing. Within forty-five (45) days after conclusion of the public hearing, the Zoning Board of Appeals or Plan Commission shall grant or deny the petition for such variation, in whole or in part. The Zoning Board of Appeals or Plan Commission may impose such condition and restrictions as the Board determines appropriate or necessary to protect the public health safety and welfare, and/or ensure that the petition, as approved, will conform to the provisions of this Zoning Ordinance. A violation of such conditions shall be deemed a violation of this Zoning Ordinance. Each decision of the Zoning Board of Appeals or Plan Commission shall be set forth in writing and shall include specific findings of fact.

28-1802. Authorized variations.

Variations from the regulations of this Zoning Ordinance may be granted in the following instances only, and then only to the extent necessary:

(a) To permit the extension of a district to include an entire lot where the boundary line of the district divides a lot of record on. Provided, such extension shall not to exceed an additional one hundred (100) feet of street frontage nor increase the area of the district by twenty thousand (20,000) square feet.

(b) To permit any yard of less dimension than required by the applicable regulations not to exceed fifty percent (50%) reduction.

(c) To permit any structure to exceed the height limitations imposed by the applicable regulations, not to exceed a ten percent (10%) increase.

(d) To permit the use of a lot less in width or area by not more than twenty percent (20%) of the lot width or area required by this Zoning Ordinance.

(e) To reduce the applicable off-street parking or loading facilities required by not more than two (2) parking spaces nor one (1) loading berth or twenty percent (20%) of the required number, whichever is greater.

(f) To reduce the minimum lot area required per dwelling unit not more than ten percent (10%).

(g) To increase by not more than twenty-five percent (25%) the maximum distance that required parking spaces are permitted to be located from the use served.

(h) To permit the same off-street parking facilities to qualify as a required facility for two or more uses, provided the substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week.

(i) To permit temporary buildings and uses for periods greater than sixty (60) days but not more than two (2) years in undeveloped sections of the Village, and for periods greater than sixty (60) days but not more than six (6) months in developed sections.

(j) To permit a limited increase in the number of employees permitted in processing activities in the business districts, but only when such increase will not adversely affect the character of the establishment, will not be detrimental to or affect the character of surrounding residential development and will not increase traffic or parking congestion.

(k) Notwithstanding the standards of Section 28-1803, to allow the required screening for parking spaces to be discontinuous to the extent that no more than twenty-five percent (25%) of the perimeter is unscreened in instances where it is in the interest of public safety to permit observation of parking areas.

(l) Notwithstanding the standards of Section 28-1803, to permit variations of any provision of Section 28-1301, if, in the opinion of the Zoning Board of Appeals or Plan Commission, a literal enforcement thereof would do manifest injustice or would be contrary to the spirit and purpose of such provisions regulating fences, or to the public interest.

(m) Notwithstanding the standards of Section 28-1803, to permit the location of detached private garages in the portion of the front yard in excess of the required setback in any particular case in which the enforcement of the requirement that accessory buildings be located in side or rear yards would do manifest injustice or would be contrary to the spirit and purpose of this Zoning Ordinance or to the public interest, and in which case a site plan and architectural drawings show compatibility of the proposal with the surrounding area.

(n) To permit a fifty percent (50%) reduction in the yard dimensions required by this Zoning Ordinance in those cases when fifty percent (50%) of the building, based on a current appraisal of the market value, has been damaged by fire, explosion, act of God, or the public enemy; provided that, the amount of nonconformity existing prior to said calamity shall not increase.

(o) Notwithstanding the provisions of Section 28-1803, the Zoning Board of Appeals or Plan Commission may vary any provision of Article XV, Signs, in any particular case in which the literal enforcement thereof would do manifest injustice or would be contrary to the spirit and purpose of Article XV or the public interest.

(p) Notwithstanding the standards of Section 28-1803, to permit variations of any provision of Section 28-1003 regarding Group Homes, if, in the opinion of the Zoning Board of Appeals or Plan Commission, a literal enforcement thereof would do manifest injustice or would be contrary to the spirit and purpose of such provisions regulating group homes or to the public interest.

(q) Notwithstanding the provisions of Section 28-1803, the Zoning Board of Appeals or Plan Commission may vary the provisions of , Sections 28-1405 and 28-1406, size of parking spaces and design of off-street parking areas, in an amount not to exceed ten percent (10%) of any requirement established therein in any case in which the following conditions can be met:

(1) The required size of spaces is not necessary or appropriate due to the nature of the use which the parking serves, including such considerations as the degree to which there is turnover of parked vehicles as a result of the use, and the necessity to provide space for loading and unloading of goods, as in a retail use;

(2) The owner for the variation can provide for snow removal in such manner that plowed snow can be stored elsewhere on the property than within the parking spaces themselves.

(3) The reduction in the required size of spaces or aisles will not create a hazardous condition for the movement of vehicles within the parking area. A partial variation to allow for a certain percentage of space for compact vehicles may be, but is not necessarily, a part of the conditions of the variation.

(r) Notwithstanding the provisions of Section 28-1803, the Zoning Board of Appeals or Plan Commission may authorize variations as provided in this section from the height, separation and setback requirements of Article IXa for an antenna or telecommunications tower where no reasonable alternative is available and strict enforcement of the provision would prevent, from a technical perspective, the reasonable and necessary use of the facility for telecommunications services; or where, because of unique circumstances, such as but not limited to the location of the property, the potential for collocation and the proximity and nature of surrounding uses, the proposed variation and telecommunications tower will promote the goals of collocation and minimal impact on residential areas. The variations which may be granted under this section are as follows:

(1) To modify by not more than 5% the maximum height, separation or setback for an antenna or telecommunications tower located within a residential district. (R-1, R-2, R-3, R-4, R-5, R-5A, R-6)

(2) To modify by not more than 10% the maximum height, separation or setback for an antenna or telecommunications tower located within a business district. (B-1, B-2 B-3)

(3) To modify by not more than 20% the maximum height, separation or setback for an antenna or telecommunications tower located within an office or manufacturing district. (O-R, O-R-M, M1, M2)

(s) To permit the waiver or reduction of any provision of Section 28-1106 regarding open space and landscaped greenspace requirements. Provided, any variation shall be conditioned upon the owner, to the extent practical, providing alternative landscaped greenspace on the property of a quality and quantity, as determined by the Zoning Board of Appeals or Plan Commission, necessary to reduce or eliminate the impact of the variance granted.

28-1803. Standards for granting a variation.

(a) A variation shall be permitted only if the Zoning Board of Appeals or Plan Commission finds that it is in harmony with the general provisions and interest of this Zoning Ordinance and that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the provisions of this Zoning Ordinance. In its consideration of the standards of practical difficulties or particular hardships, the Zoning Board of Appeals or Plan Commission shall require evidence that:

(1) The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located.

(2) The plight of the owner is due to unique circumstances.

(3) The variation, if granted, will not alter the essential character of the locality.

(b) For the purpose of supplementing the above requirements, the Zoning Board of Appeals or Plan Commission, in making the determination whether there are practical difficulties or particular hardships, shall also take into consideration the extent to which the following facts, favorable to the owner, have been established by the evidence:

(1) That the particular physical surroundings, shape, or topographical conditions of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.

(2) That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification.

(3) That the alleged difficulty or hardship has not resulted from the actions of the owner.

(4) That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fires, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

(5) That the proposed variation will not alter the land use characteristics of the district.

(6) That the granting of the variation requested will not confer on the owner any special privilege that is denied by this Zoning Ordinance to other lands or structures in the same district.

28-1900SEC. General Provisions.

(a) The principal objective of this Zoning Ordinance is to provide for an orderly arrangement of compatible building and land uses, and for the proper location of all types of uses required in the social and economic welfare of the Village. To accomplish this objective, each type and kind of use is classified as permitted in one or more of the various districts established by this Ordinance. However, in addition to those uses specifically classified and permitted in each district, there are certain additional uses which it may be necessary to allow because of their unusual characteristics or the service they provide the public.

These special uses require particular consideration as to their proper location in relation to adjacent established or intended uses, or to the planned development of the community.

(b) The Village Council shall have authority, after having received the recommendations of the ~~Zoning Board of Appeals~~ ~~Plan Commission~~ as set forth herein to permit the special uses of land or structures, or both, listed in the district regulations, if the Council finds that the proposed locations and establishment of any such use will be desirable or necessary to the public convenience or welfare and will be harmonious and compatible with other uses adjacent to and in the vicinity of the selected site, or sites, and will not cause undue congestion in the public streets. The Village Council shall also have the authority, after having received the findings and recommendations of the ~~Board~~ ~~Plan Commission~~ as to the matters referred to in subsections 28-1902 (i) and (ii) to permit, by ordinance, special uses of land or structures in any district or location for public or public utility purposes which it deems reasonably necessary for public convenience and welfare.

(c) The Village Council shall also have the authority, after having received the recommendations of the Plan Commission, to permit conditional uses in the nature of Planned Developments, as set forth in Article VII.

(d) Any use formerly classified as a "conditional use" under the preceding version of this Zoning Ordinance or Zoning Ordinance shall be deemed to be a special use.

28-1901. Procedures.

(a) A petition for a special use may be initiated by the Director or the owner of the land which is described in the petition. The petition shall be filed with the Director and shall include such documents, reports, maps and other information as may be required by the Director pursuant to sections 28-300 and 28-304. This petition, including such other documents as may be appropriate, shall be transmitted by the Director to the ~~Board~~ ~~Plan Commission~~, along with the Director's analysis and recommendation, if any.

(b) Within ninety (90) days of receipt of a complete petition, the ~~Board~~ ~~Plan Commission~~ shall commence a public hearing. Within forty-five (45) days after conclusion of the public hearing, the ~~Board~~ ~~Plan Commission~~ shall transmit to the Village Council their recommendations regarding such proposed special use. The ~~Board~~ ~~Plan Commission~~ may recommend approval or disapproval of all, or any portion of the petition, including any modifications thereto, and may condition such recommendation on restrictions and requirements as the ~~Board~~ ~~Plan Commission~~ determines appropriate or necessary to protect the public health safety and welfare, and/or ensure that the petition, as approved, will conform to the provisions of this Zoning Ordinance.

(c) Within ninety (90) days of receipt of the findings and recommendations of the ~~Board~~ ~~Plan Commission~~, the Village Council shall approve, approve as modified, or deny the petition, or any part thereof. The Village Council may approve or disapprove all, or any portion of the petition, including any modifications thereto, and may condition any approval on restrictions and requirements as the Village Council determines appropriate or necessary to ensure that the petition, as approved, will conform to the provisions of this Zoning Ordinance. A violation of such conditions shall be deemed a violation of this Zoning Ordinance. In the alternative, the Village Council may remand the petition, in whole or in part, back to the ~~Board~~ ~~Plan Commission~~ if the Village Council determines that it is necessary or appropriate to provide a fair and complete consideration of the petition because there is a material and significant change in conditions since the ~~Board~~ ~~Plan Commission~~ hearing, or there is new or additional information which is material to the petition and which was not reasonably available at the time of the ~~Board~~ ~~Plan Commission~~ hearing. The Village Council will specify the reasons and scope of such remand and further proceedings before the ~~Board~~ ~~Plan Commission~~ will be limited to such items. The ~~Board~~ ~~Plan Commission~~ will conduct such further proceedings as may be appropriate and re-present the petition, with appropriate recommendations, to the Village Council within sixty (60) days of referral. Thereafter, the Village Council shall render a final decision within sixty (60) days of such re-presentation.

28-1902. Standards for Approval.

The Village Council may authorize a special use by ordinance provided the evidence presented is such as to establish the following:

(i) That the proposed use at that particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community.

(ii) That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, or general welfare of persons residing or working in the vicinity or injurious to property values or improvements in the vicinity.

(iii) That the proposed use will comply with the regulations specified in this Zoning Ordinance for the district in which the proposed use is to be located or will comply with any variation(s) authorized pursuant to Section 28-1302.

(iv) That it is one of the special uses specifically listed for the district in which it is to be located.

SECTION 2. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Mayor

Passed:

Published:

Attest: _____
Village Clerk

[zoning]