



**AGENDA FOR SPECIAL JOINT MEETING
VILLAGE OF TINLEY PARK
ZONING BOARD OF APPEALS AND
PLAN COMMISSION
April 21, 2016 – 7:30 P.M.
KALLSEN CENTER
Village Hall – 16250 S. Oak Park Avenue**

Special Meeting Called to Order

Roll Call Taken

Communications

Item #1

**PRESENTATION ON ROLES, PROCEDURES, PRINCIPLES AND
RELATED ISSUES TO ZONING BOARD OF APPEALS AND PLAN
COMMISSION**

Consider receiving training from the Village Attorney on roles, procedures, principles, and issues related to the Zoning Board of Appeals and Plan Commission. No actions will be taken as a result of this agenda item.

Adjourn Meeting

ORDER OF PUBLIC HEARING

- a. Opening of public hearing
- b. Swearing in Petitioner, Objectors and Interested Persons
- c. Confirmation of notices being published and mailed in accordance with State law and Village Code/Zoning Ordinance requirements
- d. Petitioner presentation
 - i. Cross examination
 - ii. Questions by Public Body
- e. Objectors presentation(s)
 - i. Cross examination
 - ii. Questions by Public Body
 - iii. Rebuttal
- f. Interested Persons presentation(s)
 - i. Cross examination
 - ii. Questions by Public Body
 - iii. Rebuttal
- h. Petitioner Rebuttal (if any)
- i. Village staff presentation
 - i. Cross examination
 - ii. Questions by Public Body
 - iii. Rebuttal
- k. Final questions by Public Body
- l. Closing remarks by Petitioner, Objectors, Interested Persons, and Village staff
- m. Close or continuation of public hearing

PUBLIC HEARING REMINDERS

- All public hearings of a Public Body are meetings as defined by the Illinois Open Meetings Act (5 ILCS 120/1 et seq.).
- Prior to the commencement of the public hearing, the Chair will determine whether there are any Objectors or other Interested Persons and if an attorney represents any Objector, group of Objectors or Interested Persons.
- All individuals desiring to participate in the public hearing process shall sign in/register with Village staff prior to the public hearing.
- All individuals desiring to participate in the public hearing process must participate in a swearing of an oath.
- The Chair may impose reasonable limitations on evidence or testimony presented by persons and parties, such as barring repetitious, irrelevant or immaterial testimony.
- The Chair may take such actions as are required to maintain an orderly and civil hearing.

VILLAGE OF TINLEY PARK ZONING BOARD OF APPEALS

RULES AND PROCEDURES FOR LAND USE AND VARIATION PUBLIC HEARINGS

The purpose of the following Rules and Procedures is to guide the Zoning Board of Appeals in the conduct of public hearings related to variations and appeals. These Rules and Procedures were crafted in light of the Illinois Supreme Court decision issued in the case of *Klaeren v. Village of Lisle, 202 Ill.2d 164, 781 N.E.2d 223 (2002)*. In *Klaeren*, the Illinois Supreme Court determined that special use public hearings must be conducted in a manner that meets the minimum due process rights of the applicant and other interested parties. The public hearing must, therefore, include the right of notice of the public hearing, the right to cross-examination and the right to present witnesses and other evidence. See Ill. 65 ILCS 5/11-13-25.

A. DEFINITIONS

For purposes of interpreting these Rules and Procedures, the following definitions apply:

“Board” means the Village of Tinley Park Zoning Board of Appeals.

“Petitioner” means any person who has filed an application for a variance or an appeal of a decision made by the Zoning Administrator and his or her attorney or consultant.

“Objector” means any person who desires to object to a filed application and his or her attorney or consultant.

“Interested Person” includes but is not limited to: Village residents, Village staff, members of the public and any attorney or consultant appearing on behalf of the Village, Village residents or members of the public.

B. RULES AND PROCEDURES

The following Rules and Procedures shall apply to all land use public hearings:

1. Notice requirements for a public hearing for zoning and land use matters are found in the Illinois Municipal Code (65 ILCS 5/11-13-1 et seq.) and in the Tinley Park Zoning Ordinance. It is the responsibility of the Petitioner to ensure that any required notice is given in a timely manner, consistent with statutory and ordinance requirements. However, Village staff normally provides required notices to any petitioner as part of the application process.
2. All public hearings of the Zoning Board of Appeals are meetings as defined by the Illinois Open Meetings Act (5 ILCS 120/1 et seq.). The Illinois Open Meetings Act must be adhered to in all instances. A verbatim record of all closed meetings of the Zoning Board of Appeals must be kept in the form of an audio or video recording. Under these Rules and Procedures, the Board shall make verbatim audiotape recordings of its closed

session meetings. No final action (or final vote) may be taken on any matter in a closed session (5 ILCS 120/2 (e)).

3. All individuals desiring to participate in the public hearing process shall register at the Clerk's Office during normal business hours or immediately prior to the commencement of the public hearing with the Village staff liaison, or his/her designee, or during the public hearing, provided that they do not disturb the proceedings.
4. At a public hearing, a Petitioner, Objector or other Interested Persons may appear on his or her own behalf or may be represented by an attorney.
5. Prior to the commencement of the public hearing, the Chair will determine whether there are any Objectors or other Interested Persons and if an attorney represents any Objector, group of Objectors or Interested Persons. The Chair will also determine whether any parties have evidence or testimony to be admitted. The Chair may make prefatory comments indicating the order of presentation, the ability to ask questions and to present testimony. The Chair will also explain that during the time for questioning witnesses, testimony should not be given by the person asking questions.
6. Unless the Chair decides to alter the order of presentation, the general order of presentation will be as follows:
 - a. Opening of public hearing
 - b. Swearing in Petitioner, Objectors and Interested Persons
 - c. Confirmation of notices being published and mailed in accordance with State law and Village Code/Zoning Ordinance requirements
 - d. Petitioner presentation
 - i. Cross examination
 - ii. Questions by Zoning Board of Appeals
 - e. Objectors presentation(s)
 - i. Cross examination
 - ii. Questions by Zoning Board of Appeals
 - iii. Rebuttal
 - f. Interested Persons presentation(s)
 - i. Cross examination
 - ii. Questions by Zoning Board of Appeals
 - iii. Rebuttal
 - h. Petitioner Rebuttal (if any)
 - i. Village staff presentation
 - i. Cross examination
 - ii. Questions by Zoning Board of Appeals
 - iii. Rebuttal
 - k. Final questions by Zoning Board of Appeals
 - l. Closing remarks by Petitioner, Objectors, Interested Persons, and Village staff
 - m. Close or continuation of public hearing
7. The Chair may impose reasonable limitations on evidence or testimony presented by persons and parties, such as barring repetitious, irrelevant or immaterial testimony. The

Zoning Board of Appeals shall not be bound by strict rules of evidence; however, irrelevant, immaterial or unduly repetitious evidence shall not be admissible. The Chair shall rule on all questions related to the admissibility of evidence, which ruling may be overruled by a majority of at least a quorum of the Board.

8. The Chair may take such actions as are required to maintain an orderly and civil hearing.
9. All public hearings must have a record of proceedings. Any Petitioner, Objector or Interested Person may arrange for the public hearing to be transcribed by a certified court reporter at their own expense. In certain cases, Planning Staff may determine that a court reporter is necessary and will arrange to have one present at the expense of the Village. Other public hearings may be recorded by use of a tape recorder. Care should be made to ensure the tape recorder is functioning and will be audible to a person seeking to understand the proceedings.
10. Since the Petitioner has the burden of proof, the Petitioner should present his or her evidence and witnesses first. All persons offering testimony at a hearing shall testify under oath. An attorney shall be sworn if he or she offers testimony but not if he or she is questioning witnesses, summarizing testimony of witnesses, or addressing the Zoning Board of Appeals.
11. All exhibits shall be clearly and distinctly marked by the person offering the exhibit into the record and the exhibit number or letter shall be identified when the exhibit is used at or referred to during the public hearing.
12. After each witness has testified, Objectors and Interested Persons will have the right to ask questions or cross-examine the witness. There is no time limit placed upon cross examination, but if a question has already been asked by some person, the Chair may refuse to allow a second person to ask the same question. Questions must be relevant and material to the public hearing proceeding. The examination of a witness shall not be used by the questioner to offer testimony or evidence of the questioner.
13. After all Objectors or Interested Persons have asked questions, the members of the Zoning Board of Appeals may ask questions of each witness.
14. After all Petitioner witnesses have testified and all evidence for the Petitioner has been presented, members of the Objectors or Interested Persons may testify or present evidence. There is no time limit on the presentation by members of the public. The Petitioner and other members of the general public may cross-examine any witness of Objectors or Interested Persons who testifies.
15. After the conclusion of the Objector or Interested Persons testimony, the Petitioner may offer rebuttal witnesses or evidence.
16. Then Village staff may make a presentation or report. Staff presenting a report will be subject to cross-examination by the Petitioner or Objector or other Interested Persons.

17. All individuals testifying or participating shall identify themselves (and their current place of residence) for the record, either orally or in writing, and indicate if an attorney represents them. Any person participating, other than the Petitioner, shall be referred to in these Rules as an Objector or Interested Person.
18. The Petitioner, Objectors and Interested Persons may be given the opportunity to make closing remarks. The Chair may place a time limit on such remarks so long as the limits apply equally to each party.
19. If a hearing needs to be continued to another date in order for a full presentation by all parties, then it may be continued to a date and time selected by the Zoning Board of Appeals and approved by a motion of the Board.
20. At the conclusion of the public hearing, the Zoning Board of Appeals may deliberate its decision on the evidence presented. During deliberations, members of the Board may question any person present regarding his her previous testimony. At the end of the public hearing the Board must either 1.) close the public hearing, 2.) continue the hearing to a specific date, time and location by a motion, or 3.) continue the hearing indefinitely by motion (which will require a legal public notice before reconsideration).
21. If a vote is required to be taken on a petition, the Zoning Board of Appeals must vote prior to the close of the public hearing.
22. A written decision shall be prepared which shall include findings of fact and the Zoning Board of Appeals' recommendation or decision based upon the record. An ordinance approving or denying the application may be a sufficient written decision if it contains appropriate findings of fact concerning the relevant standards to be applied by the Board.

C. DECISIONS AND FINDINGS OF FACT

1. Findings of Fact

To recommend approval of the grant of zoning relief, findings should be issued which state that evidence at the public hearing showed that the required standards were met. *For example, a finding that no objectors from the neighborhood appeared to testify and neither staff nor members of the Zoning Board of Appeals provided comments indicating adverse affects on the neighbors would support a petitioner's introduction of evidence that the proposed use or relief sought will not adversely affect the neighbors.* However, the burden is on the petitioner to supply the evidence upon which the findings are based.

2. Recommendation

- a. A recommendation to the Board of Trustees to approve the petitioner's request should state that based on the evidence provided at the public hearing, the Zoning Board of Appeals has made certain findings of fact that show that the standards have been met.
- b. If the recommendation is to deny, the Zoning Board of Appeals must state that the evidence provided at the public hearing was insufficient to make findings of fact that one or more of the standards were met.

- c. Attached to the recommendation should be those findings which uphold any of the standards, those findings which are contrary to the standards, and a listing of those standards for which no evidence was presented.
- d. In regards to any such variation in the requirements regarding fences, pools, decks, and sheds shall be final and such power has been vested in the Zoning Board of Appeals by the Zoning Ordinance (Sec.X.E.3.d); provided, however, if the affected property owner or any nearby property owners who are affected by the decision, object to the decision of the Zoning Board of Appeals, any such interested property owner may appeal the decision of the Zoning Board of Appeals to the Village Board for final decision.
- e. In all other matters, the Zoning Board of Appeals may recommend, such recommendations being advisory only and not binding to the Village Board, and the Village Board may stipulate such conditions, guarantees and restrictions, in regard to the granting of a variation or appeal as are deemed necessary for the protection of the public interest and to secure compliance with other applicable Code requirements.

3. Appeals

Pursuant to 65 ILCS 5/11-13-25, any appeal of a final land use decision (by either the Zoning Board of Appeals or the Village Board) goes to the circuit court and must be filed within ninety (90) days of the decision.

**VILLAGE OF TINLEY PARK
SPECIAL JOINT MEETING OF THE PLAN
COMMISSION AND ZONING BOARD OF APPEALS**

APRIL 21, 2016

**PRESENTATION:
PLAN COMMISSION & ZONING BOARD OF APPEALS
– ROLES, PROCEDURES, PRINCIPLES AND RELATED
ISSUES**

**Presented by
Michael A. Marrs**



**KLEIN, THORPE AND JENKINS, LTD.
20 North Wacker Drive, Suite 1660
Chicago, Illinois 60606
(312) 984-6400
(312) 984-6444**

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- II. **Rules, Procedures, Responsibilities, Findings and Motions**
- III. **Summary of Open Meetings Act**
- IV. **Conflicts Of Interest**

I. ZONING LAW: SOME BASIC PRINCIPLES, COMMON ISSUES AND TYPES OF ZONING RELIEF

A. Zoning Authority

1. Zoning authority is derived from the Illinois Municipal Code (65 ILCS 5/11-13-1) and the Village's police powers as a home rule community; and
2. The Tinley Park Zoning Ordinance

B. Special Uses

1. What is a special use? The Village is divided into Zoning Districts, as outlined in the Zoning Ordinance, and in the Village's Official Zoning Map. For each type of Zoning District, the Zoning Ordinance sets forth a list of permitted uses (i.e. single family home in a Single-Family Residence District). Generally, no zoning relief is necessary where the use of property is in compliance with the list of permitted uses for the type of Zoning District the property lies within. The Zoning Ordinance also includes a list of Special Uses for each type of Zoning District (i.e. Daycare Center in a R-6 Medium Density Residential District). These Special Uses are only allowed in a Zoning District where the Board of Trustees, upon recommendation from the Plan Commission following a public hearing, have found the proposed use to be compatible with the neighborhood and have granted a special use permit at the request of the property owner or other interested party. In deciding whether to grant a Special Use, the Board of Trustees and Plan Commission consider various standards, including the effect of the proposed Special Use on neighboring properties, and its effect on the general public health, safety, morals, comfort and welfare.
2. Authority: Special uses are specifically authorized by state enabling legislation set forth at 65 ILCS 5/11-13-1.1.
3. Purpose: The special use technique allows municipalities to provide for uses that may be appropriate in a particular zoning district but which may require special regulation because of unique or unusual impacts. Placing such uses in the "special use" category allows the municipality to examine the uses on an individual basis and, after review under the standards set forth in the zoning ordinance, impose reasonable restrictions that make them more compatible for the zoning district in which they are located. Significantly, however, the special use technique cannot be used to prohibit otherwise lawful uses. See e.g., *Cosmopolitan Nat'l Bank v. Village of Niles*, 118 Ill.App.3d 87, 454 N.E.2d 703 (1st Dist. 1983) (holding that a denial of a fast-food restaurant's special use request was

unreasonable but recognizing the authority to impose reasonable conditions on said approval).

4. Standards For Special Use Permit: In addition to the traditional zoning factors mentioned below in Section D.3., and consistent with the statutory intent and purpose of special uses, the Tinley Park Zoning Ordinance sets forth additional criteria to be considered, balanced and analyzed. These factors are set out in Section X, J, 5 of the Zoning Ordinance. Pursuant to X,J.5, no special use permit may be granted unless there are facts showing:
 - a. That 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;
 - b. That the Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
 - c. That the establishment of the Special Use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;
 - d. That adequate utilities, access roads, drainage, and/or other necessary facilities have been or are being provided;
 - e. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
 - f. That 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 by the Village Board pursuant to the recommendation of the Plan Commission. The Village Board shall impose such conditions and restrictions upon the premises benefited by a Special Use Permit as may be necessary to ensure compliance with the above standards, to reduce or minimize the effect of such permit upon other properties in the neighborhood, and to better carry out the general intent of this Ordinance. Failure to comply with such conditions or restrictions shall constitute a violation of this Ordinance.
 - g. The extent to which the Special Use contributes directly or indirectly to the economic development of the community as a whole.

C. Variations

1. Authority: the legislation that enables and regulates variations (in municipalities of less than 500,000 population) is found at 65 ILCS 5/11-13-5.
2. What is it?: A variance is defined as a modification of the literal provisions of the Zoning Ordinance allowing a proponent to do something which would normally be in violation of the Zoning Ordinance.
3. Purpose: variations allow municipalities to provide relief to property owners from the strict application of a zoning ordinance when strict compliance presents a “practical difficulty” or “particular hardship.” 65 ILCS 5/11-13-5. Inasmuch as a variance is a license to violate the Zoning Ordinance, variations should be relatively difficult to obtain and should only be granted if a proponent has demonstrated to the Zoning Board of Appeals (the “ZBA”) or Plan Commission (the “PC”), as the case may be, that the proponent meets the requirements of the Zoning Ordinance and the appropriate legal standards. If the proponent meets the required legal standards, the Board should grant the variation or recommend approval of the variation. In granting a variation, the Board must ensure that the spirit of the Zoning Ordinance is observed, public safety is secured and substantial justice done.
4. Who hears: Typically, variations are under the jurisdiction of the ZBA. Under the Village’s Zoning Ordinance, however, the PC, as opposed to the ZBA, has the authority to hear a variation request if it is part of a request for rezoning and/or the granting of a special use permit (including a PUD).
5. What constitutes a “practical difficulty” or “unnecessary hardship?”
 - a. Cannot be self-created. Goslin v. Zoning Board of Appeals of City of Park Ridge, 40 Ill.App.3d 40, 351 N.E.2d 299 (1st Dist 1976);
 - b. Must be more than a showing that the property would be worth more if a variation was granted.

In Goslin, the Court held that no hardship was presented where an owner purchased property fully aware of the applicable zoning restrictions (e.g., minimum frontage, lot size, yard requirements) and knew that these restrictions would preclude the owner’s plans for the property, notwithstanding the fact that the purchase price reflected said plans for the property.

6. Standards in Zoning Ordinance: The standards for variations are set forth in Section X,G,4 of the Zoning Ordinance.

Proof is required in each specific case that:

- a. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the district in which it is located.
 - b. The plight of the owner is due to unique circumstances;
 - c. The variation, if granted, will not alter the essential character of the neighborhood.
 - d. In addition, the PC or ZBA, in making its determination whether there are practical difficulties or particular hardships, must take into consideration the extent to which the following facts favorable to the applicant have been established by the evidence:
 - i. The particular physical surroundings, shape, or topographical condition 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;
 - ii. The conditions upon which the petition for a variation is based would not be applicable, generally, to other property within the same zoning classification;
 - iii. The purpose of the variation is not based exclusively upon a desire to make more money out of the property;
 - iv. The alleged difficulty or hardship has not been created by the owner of the property, or by a previous owner;
 - v. 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;
 - vi. 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 fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
7. Findings of Fact: required, specifying reasons for granting variation. It is not sufficient to reiterate standards in ordinance.

8. Reasonable Conditions: Reasonable conditions related to the variation that is granted may be placed on the approval.
9. Effect of granting variances: Variations run with the land and are not personal to the owner and, therefore, if the ownership to property changes, the variation by law goes with the land. The conditions imposed with respect to the variation would also run with the land and apply to any subsequent owner.
10. Authorized Variations: The PC or ZBA recommends whether to grant or deny a variation in most instances and in those instances, the Village Board makes the final decision. However, a concurring vote of four (4) trustees (or the President and 3 trustees) is necessary to reverse the recommendation of the PC or ZBA. The Zoning Ordinance does give the PC or ZBA limited final decision making power (e.g., increase in gross area of a sign, etc.) in some cases.

D. Map Amendments Rezoning Property or Text Amendments amending the Village's Zoning Ordinance

1. **Map Amendment** – A property owner or other interested party may request that property be rezoned, also known as a map amendment. Such changes are called Map Amendments because they result in an actual change to the Village's official Zoning Map. An owner of a large apartment building who wishes to convert the building to a hotel, for instance, may petition to have the property rezoned to a Zoning District designation that allows hotels if the current Zoning District designation for the property does not allow hotels as either permitted or special uses. Final approval for such amendments comes from the Board of Trustees upon recommendation from the Plan Commission.
2. **Text Amendment** - A text amendment is a change to the actual text of the Zoning Ordinance. Such changes may be the result of a perceived need for a change by the Plan Commission or Board of Trustees, such as amending the Zoning Ordinance to reflect types of property uses that did not exist in the past, such as regulation of the placement of solar panels or wind turbines on property, or new uses such as adult day care centers (for the elderly), or may be the result of a request from a particular property owner or owners, such as amending the Code to allow chickens in residential districts.
3. Both map and text amendments are matters of legislative discretion that are not controlled by any one standard. However, in making its recommendation and decision, the Plan Commission and Village Board

should be guided by certain standards. Standards commonly considered by municipalities include the following:

Standards for Zoning Amendments

Standards	Map Amendments	Text Amendments
The existing uses and zoning of nearby property	X	
The extent to which property values of the subject property are diminished by the existing zoning	X	
The extent to which the proposed amendment promotes the public health, safety, comfort, convenience and general welfare of the village	X	X
The relative gain to the public, as compared to the hardship imposed upon the applicant	X	X
The suitability of the property for the purposes for which it is presently zoned, i.e., the feasibility of developing the property in question for one or more of the uses permitted under the existing zoning classification	X	
The length of time that the property in question has been vacant, as presently zoned, considered in the context of development in the area where the property is located	X	
The evidence, or lack of evidence, of community need for the use proposed by the applicant	X	
The consistency of the proposed amendment with village plans	X	X
The consistency of the proposed amendment with the intent and general regulations of this zoning ordinance		X
Whether the proposed amendment corrects an error or omission, adds clarification to existing requirements, or reflects a change in policy		X
That the proposed amendment will benefit the residents of the village as a whole, and not just the applicant, property owner(s),	X	X

Standards	Map Amendments	Text Amendments
neighbors of any property under consideration, or other special interest groups, and the extent to which the proposed use would be in the public interest and would not serve solely the interest of the applicant		
Whether the proposed amendment provides a more workable way to achieve the intent and purposes of this zoning ordinance and the village plans		X
The extent to which the proposed amendment creates nonconformities	X	X
The trend of development, if any, in the general area of the property in question	X	
Whether adequate public facilities are available including, but not limited to, schools, parks, police and fire protection, roads, sanitary sewers, storm sewers, and water lines, or are reasonably capable of being provided prior to the development of the uses, which would be permitted on the subject property if the amendment were adopted	X	
The extent to which the proposed amendment is consistent with the overall structure and organization of this zoning ordinance		X

4. Many of the standards above came from LaSalle Nat'l Bank of Chicago v. County of Cook, 12 Ill.2d 40, 145 N.E.2d 65 (Ill. 1957) and Sinclair Pipe Line Co. v. Village of Richton Park, 19 Ill.2d 370, 167 N.E.2d 406 (Ill. 1960).

A zoning analysis under the LaSalle factors must be done on a case-by-case basis. Although no one factor is dispositive, the existing land uses and zoning surrounding the subject property is of "paramount importance." Glenview State Bank v. Village of Deerfield, 213 Ill.App.3d 747, 572 N.E.2d 399 (2d Dist. 1991).

E. Prohibiting Uses Via Zoning

1. Generally: while there is statutory authority under which municipalities may prohibit certain enumerated uses (see list below), the general rule regarding blanket use prohibitions prevails -- municipalities do not have the power to wholly restrict, via zoning ordinances, lawful businesses from their boundaries. People ex rel. Trust Co. of Chicago v. Village of Skokie, 97 N.E.2d 310, 408 Ill. 397 (Ill. 1951). On the contrary “[m]ost zoning ordinances undertake to provide space for all lawful uses within the territory of the municipality, seeking to separate incompatible uses rather than to exclude those uses which are regarded as troublesome.” Anderson’s American Law of Zoning § 9.16 (1996). Illinois courts have held that blanket prohibitions of uses are clearly arbitrary and unconstitutional where the prohibited use is not per se inimical to public health, safety or welfare. Hazel Wilson Hotel Corp. v. City of Chicago, 308 N.E.2d 372, 17 Ill.App.3d 415 (1st Dist. 1974).
2. Restricting other uses: short of blanket prohibitions, municipal authority to restrict land uses via zoning districts is addressed in 65 ILCS 5/11-13-1(4) and 5/11-13-1(7), which provide that municipalities shall have the power “to classify, regulate and restrict the location of trades and industries and the location of buildings designed for specified industrial, business, residential, and other uses . . . to prohibit uses, buildings, or structures incompatible with the character of such districts.”

F. Some Specific Issues in Zoning

Issue: How important is traffic as a consideration in zoning cases -- i.e., is a zoning denial based on the fact that a proposed use will increase traffic congestion valid?

Analysis: Traffic safety is a factor municipalities may consider since it is related to public safety. However, courts have generally not considered traffic to be significant as a basis for denying property owners a particular use which will increase traffic congestion on adjacent roads. See, e.g., Furling v. County of Sangamon, 126 Ill.App.3d 851, 467 N.E.2d 646 (4th Dist. 1984) (holding that “[w]hile traffic is a factor in zoning cases, ordinarily, it is accorded little weight because it is a problem in most areas and is constantly getting worse.”) Moreover, courts will closely examine whether a community can, rather than denying a property owner’s use, require improvements to the surrounding roadways that will address the traffic impacts.

Issue: What consideration is given to a developer's costs (e.g., loss in property value realized by the zoning denial) in review of a zoning decision?

Analysis: An analysis under the LaSalle factors involves an examination of the amount which a zoning ordinance (or, a decision not to rezone) decreases property values relative to the degree to which public goals are furthered. However, the fact that the subject property is worth less than if it was rezoned, although relevant, is not dispositive as to the ordinance's validity. Grobman v. City of Des Plaines, 59 Ill.2d 588, 322 N.E.2d 443 (Ill. 1975).

Thus, loss in property value alone is not significant; rather, only when the public welfare does not require the zoning restriction (and resulting loss) does the loss in value become significant. LaSalle at 40, 45 N.E.2d at 69.

Issue: What is contract zoning or rezoning and is it OK?

Analysis: Definition: conditional rezonings involve the imposition of conditions or requirements on the property owner that are not contained in the ordinance, as a contingency of the rezoning.

Traditionally, courts have disfavored conditional rezonings and invalidated them on their face.

In more recent cases, however, courts have stated that conditional rezonings are not per se invalid but must be closely scrutinized under the LaSalle analysis. Courts have been concerned that municipalities not surrender their governmental authority to determine sound land use, or improperly try to control the use of land. Nolan v. City of Taylorville, 95 Ill.App.3d 1099, 420 N.E.2d 1037 (5th Dist. 1981).

The problems associated with conditional rezonings are not applicable to special uses, zoning variations and annexation agreements since specific statutory authority exists for the imposition of conditions in these types of approvals.

Issue: What is spot zoning and is it OK?

Analysis: Spot zoning is a change in zoning applied only to relatively small area inconsistent with surrounding zoning and uses and comprehensive plan. It should be avoided where it serves only the interests and purposes of the owner of the rezoned land.

II. Rules, Procedures, Responsibilities, Findings and Motions

A. Rules & Procedures – See separate handout of adopted rules provided by staff.

B. Responsibilities of a Plan Commissioner or ZBA Member

1. Attendance at every meeting. – a Plan Commissioner or ZBA member represents a segment of the community, which is not represented if you are absent.
2. Study the Zoning Ordinance – Detailed knowledge is not necessary, but an understanding of major provisions, procedures, goals, policies and objectives is important.
3. Meeting preparation – Familiarize yourself with the agenda and issues to be confronted. Prepare specific questions.
4. Tour the community and visit the site – the Village should be routinely toured. Familiarity will help you judge the impact of a development or request for zoning relief on the community. Even if you know the neighborhood of a specific site proposal, you should personally observe site conditions and surrounding land uses. The petitioner/developer may not always present the full picture.
5. Prepare questions and personal opinions – an informed opinion is essential, based on staff reports, personal site visit and evidence/testimony presented at public hearings. **Remember – reasonable people may and often do disagree.** You must strive to be open-minded and treat the petitioner, objectors, and fellow Plan Commissioners or ZBA members with tact, courtesy and understanding. What is best for the community and not your personal agenda is what is important.
6. Training and more training – avail yourself of opportunities to learn as much as possible about planning and zoning and your role as a Plan Commissioner or ZBA member.
7. Avoid Conflicts of Interest – even though as a Plan Commissioner or ZBA member you are not called upon to vote on a contract with the Village, your advisory position may run you afoul of the Illinois Corrupt Practices Act if you have a financial interest in a development involving a contract with the Village. Violation of the Act is a Class 4 felony. There also may exist a common law conflict requiring disclosure of interest and abstention from voting on your part.

C. Decisions and Findings of Fact

1. Findings of Fact: To recommend approval of the grant of zoning relief, findings should be issued which state that evidence at the public hearing showed that the required standards were met. For example, a finding that no objectors from the neighborhood appeared to testify and neither staff nor members of the Plan Commission provided comments indicating adverse affects on the neighbors would support a petitioner's introduction of evidence that the proposed use or relief sought will not adversely affect the neighbors. However, the burden is on the petitioner to supply the evidence upon which the findings are based.
2. Recommendation:
 - a. A recommendation to the Board of Trustees to approve the petitioner's request should state that based on the evidence provided at the public hearing, the Plan Commission or ZBA has made certain findings of fact that show that the standards have been met.
 - b. If the recommendation is to deny, the Plan Commission or ZBA must state that the evidence provided at the public hearing was insufficient to make findings of fact that one or more of the standards were met, or, if applicable, that the facts at the hearing showed affirmatively that one or more of the standards were not met.
 - c. Attached to the recommendation should be those findings which uphold any of the standards, those findings which are contrary to the standards, and a listing of those standards for which no evidence was presented.
 - d. The Plan Commission or ZBA may recommend, such recommendations being advisory only and not binding to the Village Board, and the Village Board may stipulate such conditions, guarantees and restrictions, in regard to the establishment, location, construction, maintenance, and operation of the special use as are deemed necessary for the protection of the public interest and to secure compliance with the special use standards and the other applicable Code requirements.
3. Appeals: Pursuant to 65 ILCS 5/11-13-25, any appeal of a final land use decision (by either the Board or the Village Board) goes to the circuit court and must be filed within ninety (90) days of the decision.

Major lesson: Where you want the factual determination to be upheld,

First, make specific findings, e.g., “we find that, although there is competing evidence, our conclusion is that...”

Second, make sure the findings are supported by statements and evidence presented at the hearing. If the evidence is not clear enough, ask additional questions.

Third, make sure that the evidence and statements you rely upon are on the record, i.e., make sure the statements are in the minutes and the documents are included in the file for the particular case.

D. Legal Issues

Court will not rely upon the Board’s determination on questions of law.

Where the record demonstrates that a particular interpretation of an ambiguous provision in the ordinance represents the long established interpretation of the PC or ZBA particularly where it has become the general understanding of the community, the Court should defer to the PC or ZBA and accord great weight to its particular interpretation. Therefore, if a particular interpretation fits this description, make this fact known as part of the minutes for the case.

E. Rehearing and Reconsideration

Unless the Zoning Ordinance provides for it, there is no right to grant a rehearing or reconsideration in a given case. There must be a change of circumstances or the passage of time or a different request.

SAMPLE MOTIONS

MOTION TO APPROVE

I move to approve the petition in Case No. _____, requesting (describe relief being sought), based upon the following:

FACTS

1. (In this section, list the specific facts which apply to the property.)
- 2.
- 3.

FINDINGS

The applicant has met all the standards contained in Section X,G,4 of the Zoning Ordinance as follows:

Here set forth the specific standards and the facts/evidence supporting the granting of the requested relief.

You should also list any unique circumstances of the property. Those unique circumstances may include such things as exceptional narrowness, shallowness, irregular shape, topography, vegetation, wetlands, woodlands, streams, location of existing utilities, etc.

You can also include the specific history of the property (such as how long it has remained undeveloped, proximity to transportation of various types, etc.)

MOTION TO DENY

I move to deny the petition in Case No. _____, requesting (describe land use relief being sought) based upon the following:

FACTS

1. (In this section, list the specific facts which apply to the property).
- 2.
- 3.
- 4.
- 5.

FINDINGS

Here review each standard set forth in the Ordinance or in case law and set forth the facts/evidence or lack thereof for each which the PC or ZBA relies on for its decision (do not merely reiterate the standard).

EXAMPLES

The property CAN be reasonably used for the purposes permitted in the zoning district because . . .

The requested use would alter the essential character of the area by

The claimed hardship was self-created. (Include a specific statement supporting that finding).

III. Summary of the Open Meetings Act As It Applies to the Plan Commission/Zoning Board of Appeals

The Plan Commission or Zoning Board of Appeals is a "public body," subject to the Open Meetings Act. The Act makes it public policy that (a) public bodies shall act and deliberate openly, (b) citizens shall be given advance notice of, and the right to attend, all meetings and (c) the citizen's right to know shall be protected.

In addition to stating a general public policy on meetings of public bodies, the Open Meetings Act:

1. States that meetings of public bodies, such as the Plan Commission or Zoning Board of Appeals must be open to the public; makes exceptions for certain specified matters which may be discussed in closed session;
2. Requires that meetings shall be at specified times and places convenient to the public;
3. Prohibits public meetings, other than those regularly scheduled, on legal holidays;
4. Requires notice of all meetings to be given to (a) the general public and (b) certain news media;
5. Requires preparation of a schedule of regular meetings. Requires publication of a change in regular meeting dates;
6. Requires preparation of minutes of all open and closed meetings; and
7. Provides both civil and criminal remedies for violations.

A. What the Act Covers

1. **Bodies covered** – The Open Meetings Act applies to all meetings of public bodies (except, interestingly enough, the General Assembly). Public bodies as defined in the Act include all legislative, executive, administrative or advisory bodies of villages.
2. **Gatherings covered** – The Open Meetings Act defines a meeting as “. . . any gathering of a majority of a quorum of the members of a public body held for the purpose of discussing public business.”

For a seven-member Plan Commission or Zoning Board of Appeals, four members constitute a quorum and three represent a majority of a quorum. Therefore, a discussion of public business among three members of a

seven-member Plan Commission or Zoning Board of Appeals is covered by the Act, while such a discussion between two members is not.

3. **Discussion of public business** – Although the Act does not define “public business,” one can assume the term refers to business of the particular public body.

The definition of meeting also requires that the gathering of a majority of a quorum be held for the *purpose* of discussing public business. Unless the gathering is open to the public and all requirements of the Act are met, including notice and minutes, the public officials involved are in violation of the Act. It is not necessary that public officials meet at their official meeting place in order to have a meeting under the Act. Also, if public officials gather together at a social event with the intent of evading the Act, they will be in violation of the Act.

4. **Meetings** – The Open Meetings Act requires all public meetings to be held at specified times and places which are convenient and open to the public.

In addition, no meeting is to be held on a legal holiday unless a public body’s regular meeting day falls on such a holiday. The Act does not define legal holidays or the source of such days. However, a list of “legal holidays” is set out in the Bank Holiday Act.

B. Notice Requirements

The notice provisions of the Open Meetings Act establish somewhat different requirements for different types of meetings. These include regular, special and reconvened meetings.

1. **Regular meetings** – The Open Meetings Act requires each public body to give public notice of its schedule of dates, times and places for regular meetings at the beginning of each calendar or fiscal year and to make the schedule generally available. If the schedule so established represents a change from the original schedule, then public notice must be published. Any change in the regular meeting schedule requires special public notice.

In addition, an agenda of each regular meeting must be prepared and posted at both the principal office of the public body and at the location where the meeting will be held. The agenda must be posted at least 48 hours in advance of the meeting.

2. **Rescheduled Meetings** – Public Notice of a rescheduled regular meeting must be given at least 48 hours beforehand, and the notice must include the agenda for the meeting. No newspaper publication is required.
3. **Special Meetings** – Public notice of special meetings, except a meeting held in the event of a bona fide emergency, must be given at least 48 hours before such special meeting, and the notice must include the agenda for the special meeting.
4. **Emergency Meetings** – Notice of a special meeting held in an emergency must be given as soon as practicable, but in any event prior to holding of the meeting, to any news medium which has filed an annual request for notice under the provisions of the Act.
5. **Reconvened Meetings** – When a Plan Commission or Zoning Board finds its volume of business too great to finish at one meeting, it can opt to adjourn and reconvene at a later date.

Public notice of a reconvened meeting must be given at least 48 hours beforehand, and the notice must include the agenda. However, public notice is not required if the meeting is to reconvene within 24 hours, or if the date, time and place of the meeting are announced at the original meeting, and there is no change in the agenda.

The minutes of the original meeting should show the action taken by the public body adjourning to a definite date, time and place.

C. Methods of Public Notice

1. **Special, emergency, rescheduled or reconvened meetings** – Public notice is accomplished by posting a copy of the notice at the main office of the Public Body, or if there is none, then at the building in which the meeting is to be held. Also, the Public Body must supply copies of the notices of all of its meetings to any news medium that has filed an annual request for such service.
2. **Change in regular meeting schedule** – If the Public Body makes a change in its regular meeting dates (for example, a change from holding its regular meeting on the third Tuesday of each month to the first Wednesday of each month), it must give a least 10 days' notice of such change by publishing a notice in a newspaper of general circulation in the Village. Notice of a change in meeting dates must also be posted at the principal office of the Public Body or at the place of the meetings and must be supplied to those news media which have filed annual requests.

3. **Agenda Requirements** – Action items should be listed on the agenda. Non action items can be added to the agenda during the course of a meeting but the officials should only deliberate and discuss the items, unless an emergency situation arises which requires action on a matter that is not listed in the agenda. See Rice v. Bd. of Trustees of Adams County, 326 Ill.App.3d 1120 (4th Dist. 2002). The officials may ratify the matter at their next meeting (by having it properly listed as an action item and voting to ratify the prior approval) if there is the potential that the action is going to be challenged.

Action and non actions items cannot be added to the agenda of a special meeting. Only items listed on the agenda can be considered or acted upon at a special meeting.

The requirement of a regular meeting agenda shall not preclude the consideration of items not specifically set forth in the agenda.

If a "public body" has a website that the "full-time staff" of the public body maintains, **the agendas for any regular meetings must be posted on the website**. Agendas must remain posted until the regular meeting is concluded.

A notice of all meetings of the governing body must also post on the website, if again, it is maintained by the full-time staff of the public body. Any notice of a regular meeting must be maintained on the website until the regular meeting is concluded. Any notice of an annual schedule of meetings shall remain posted on the website until a new notice of the schedule of regular meetings is approved.

D. Recording of Meetings

Under the Open Meetings Act, any person may record the proceedings at any public meeting by tape, film, or other means. The Act allows public bodies to prescribe reasonable rules governing the right to record.

E. Closed Meetings

Although the public policy stated in the Open Meetings Act is to have meetings conducted openly, there are several statutory exceptions.

The exceptions authorize or allow, but do not require, closed meetings to discuss a subject covered by an exception. No final action is allowed in closed meetings.

Because a Plan Commission or Zoning Board of Appeals will rarely, if ever, have a need or reason to adjourn to Executive Session, we will not list the various exceptions here.

F. Electronic Attendance

Electronic attendance of members of a Public Body at a meeting is authorized under certain limited circumstances.

Electronic attendance is authorized where:

1. the official is ill or disabled;
2. the official is unable to physically attend because of employment or official business of the Public Body; or
3. the official has a family or other emergency.

Electronic attendance is only allowed where a quorum of members is physically present at the meeting site.

G. Minutes

All public bodies, including committees and commissions, must keep written minutes of all their meetings, whether open or closed. The Open Meetings Act prescribes the following minimum requirements for such minutes:

1. the date, time and place of the meeting;
2. the members recorded as either present or absent; and
3. a summary of the discussion on all matters proposed, deliberated or decided, and a record of any votes taken.

H. Public Inspection

The minutes of open meetings must be made available for public inspection within seven days after the Board has approved them, usually at the next meeting of the Board.

If a municipality has a website which is maintained by its full-time staff, **the minutes of any regular meeting of the public body that is open to the public must be posted on the website within seven (7) days of the approval of the minutes by the public body. Such minutes shall remain posted on the website for at least sixty (60) days after they are initially posted.**

I. Enforcement – the Effect of Non-compliance

Individuals who violate the Open Meetings Act may be tried in criminal court. Conviction is a Class C misdemeanor, which is punishable by a \$500 fine and/or 30 days in jail.

Options for civil action to enforce the Act are also set forth in the Act.

IV. Conflicts Of Interest

In order to best serve the interests of the community, Plan Commission and ZBA members must be cognizant and act appropriately in light of any conflict of interest which may be perceived as influencing their decision.

Members have a duty to act in all cases, except those where there is a conflict of interest.

Typical kinds of conflicts of interest:

1. Financial interests. Financial interests could include:
 - a. A Board member owning, leasing or having an interest in property which is the subject of the Board's consideration.
 - b. A Board member owning, leasing or having an ownership interest in a parcel of property whose value could be affected (either positively or adversely) by a decision in the case under consideration.
 - c. A Board member being employed by a property owner, lender or contractor for the project under consideration.
 - d. A Board member being employed by a planning, engineering, law firm or other consultant which may be representing the proponent.
2. Personal interests. Personal interests could include:
 - a. A Board member being a relative of a proponent or an opponent to the case under consideration.
 - b. A Board member being a close friend or having a long-standing personal relationship with a proponent of and/or an opponent to the case under consideration.
3. Association/organization interests. Association/organization interests could be:
 - a. A Board member who also is a member of the Board of Directors of an association or organization which could constitute a conflict of interest. An example of this could be where a member of the Zoning Board of Appeals is on the Board of Directors of a proponent requesting a variance or seeking approval from the Board. Another example could be where a Board member is on the Board of Directors of a subdivision association endorsing or opposing the request of a proponent.

There are two kinds of conflicts of interest: statutory conflicts of interest and common law conflicts of interest.

A statutory conflict of interest usually involves a direct contractual interest between a conflicted individual and the municipality. Where you believe this type of conflict may exist, the Village Attorney should be consulted to determine the nature of the conflict and the appropriate course of action. Violations of the statutory provisions relative to conflicts of interest carry criminal penalties, so it is important to take the appropriate course of action.

More common are “common law” conflicts of interest. Such conflicts don’t rise to the level of statutory conflicts, but instead are the result of an individual having such a personal interest in a matter that he or she cannot render a fair and impartial decision.

Anytime a Plan Commission or Board of Appeals’ member believes he/she cannot act impartially with respect to a request, he/she should advise the Commission or Board of the same, disclose it publicly, and refrain from acting on the request.

Procedure for addressing common law conflicts of interest:

1. A member with a potential conflict of interest should publicly disclose the conflict to the satisfaction of the full membership of the Commission or Board, so that the same becomes part of the official public record prior to any action and/or deliberation on the matter.
2. A member abstaining due to a common law conflict of interest should not participate in the discussion of that item.
3. A motion should be made and approved by the Commission or Board to excuse the member.

AICP Code of Ethics and Professional Conduct

Adopted March 19, 2005

Effective June 1, 2005

Revised October 3, 2009

The Executive Director of APA/AICP is the Ethics Officer as referenced in the following.

We, professional planners, who are members of the American Institute of Certified Planners, subscribe to our Institute's Code of Ethics and Professional Conduct. Our Code is divided into four sections:

Section A contains a statement of aspirational principles that constitute the ideals to which we are committed. We shall strive to act in accordance with our stated principles. However, an allegation that we failed to achieve our aspirational principles cannot be the subject of a misconduct charge or be a cause for disciplinary action.

Section B contains rules of conduct to which we are held accountable. If we violate any of these rules, we can be the object of a charge of misconduct and shall have the responsibility of responding to and cooperating with the investigation and enforcement procedures. If we are found to be blameworthy by the AICP Ethics Committee, we shall be subject to the imposition of sanctions that may include loss of our certification.

Section C contains the procedural provisions of the Code. It (1) describes the way that one may obtain either a formal or informal advisory ruling, and (2) details how a charge of misconduct can be filed, and how charges are investigated, prosecuted, and adjudicated.

Section D contains procedural provisions that govern situations in which a planner is convicted of a serious crime.

The principles to which we subscribe in Sections A and B of the Code derive from the special responsibility of our profession to serve the public interest with compassion for the welfare of all people and, as professionals, to our obligation to act with high integrity.

As the basic values of society can come into competition with each other, so can the aspirational principles we espouse under this Code. An ethical judgment often requires a conscientious balancing, based on the facts and context of a particular situation and on the precepts of the entire Code.

As Certified Planners, all of us are also members of the American Planning Association and share in the goal of building better, more inclusive communities. We want the public to be aware of the principles by which we practice our profession in the quest of that goal. We sincerely hope that the public will respect the commitments we make to our employers and clients, our fellow professionals, and all other persons whose interests we affect.

A: Principles to Which We Aspire

1. Our Overall Responsibility to the Public

Our primary obligation is to serve the public interest and we, therefore, owe our allegiance to a conscientiously attained concept of the public interest that is formulated through continuous and open debate. We shall achieve high standards of professional integrity, proficiency, and knowledge. To comply with our obligation to the public, we aspire to the following principles:

- a) We shall always be conscious of the rights of others.
- b) We shall have special concern for the long-range consequences of present actions.
- c) We shall pay special attention to the interrelatedness of decisions.

- d) We shall provide timely, adequate, clear, and accurate information on planning issues to all affected persons and to governmental decision makers.
- e) We shall give people the opportunity to have a meaningful impact on the development of plans and programs that may affect them. Participation should be broad enough to include those who lack formal organization or influence.
- f) We shall seek social justice by working to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of the disadvantaged and to promote racial and economic integration. We shall urge the alteration of policies, institutions, and decisions that oppose such needs.
- g) We shall promote excellence of design and endeavor to conserve and preserve the integrity and heritage of the natural and built environment.
- h) We shall deal fairly with all participants in the planning process. Those of us who are public officials or employees shall also deal evenhandedly with all planning process participants.

2. Our Responsibility to Our Clients and Employers

We owe diligent, creative, and competent performance of the work we do in pursuit of our client or employer's interest. Such performance, however, shall always be consistent with our faithful service to the public interest.

- a) We shall exercise independent professional judgment on behalf of our clients and employers.
- b) We shall accept the decisions of our client or employer concerning the objectives and nature of the professional services we perform unless the course of action is illegal or plainly inconsistent with our primary obligation to the public interest.
- c) We shall avoid a conflict of interest or even the appearance of a conflict of interest in accepting assignments from clients or employers.

3. Our Responsibility to Our Profession and Colleagues

We shall contribute to the development of, and respect for, our profession by improving knowledge and techniques, making work relevant to solutions of community problems, and increasing public understanding of planning activities.

- a) We shall protect and enhance the integrity of our profession.
- b) We shall educate the public about planning issues and their relevance to our everyday lives.
- c) We shall describe and comment on the work and views of other professionals in a fair and professional manner.
- d) We shall share the results of experience and research that contribute to the body of planning knowledge.
- e) We shall examine the applicability of planning theories, methods, research and practice and standards to the facts and analysis of each particular situation and shall not accept the applicability of a customary solution without first establishing its appropriateness to the situation.
- f) We shall contribute time and resources to the professional development of students, interns, beginning professionals, and other colleagues.
- g) We shall increase the opportunities for members of underrepresented groups to become professional planners and help them advance in the profession.
- h) We shall continue to enhance our professional education and training.
- i) We shall systematically and critically analyze ethical issues in the practice of planning.

j) We shall contribute time and effort to groups lacking in adequate planning resources and to voluntary professional activities.

B: Our Rules of Conduct

We adhere to the following Rules of Conduct, and we understand that our Institute will enforce compliance with them. If we fail to adhere to these Rules, we could receive sanctions, the ultimate being the loss of our certification:

1. We shall not deliberately or with reckless indifference fail to provide adequate, timely, clear and accurate information on planning issues.
2. We shall not accept an assignment from a client or employer when the services to be performed involve conduct that we know to be illegal or in violation of these rules.
3. We shall not accept an assignment from a client or employer to publicly advocate a position on a planning issue that is indistinguishably adverse to a position we publicly advocated for a previous client or employer within the past three years unless (1) we determine in good faith after consultation with other qualified professionals that our change of position will not cause present detriment to our previous client or employer, and (2) we make full written disclosure of the conflict to our current client or employer and receive written permission to proceed with the assignment.
4. We shall not, as salaried employees, undertake other employment in planning or a related profession, whether or not for pay, without having made full written disclosure to the employer who furnishes our salary and having received subsequent written permission to undertake additional employment, unless our employer has a written policy which expressly dispenses with a need to obtain such consent.
5. We shall not, as public officials or employees, accept from anyone other than our public employer any compensation, commission, rebate, or other advantage that may be perceived as related to our public office or employment.
6. We shall not perform work on a project for a client or employer if, in addition to the agreed upon compensation from our client or employer, there is a possibility for direct personal or financial gain to us, our family members, or persons living in our household, unless our client or employer, after full written disclosure from us, consents in writing to the arrangement.
7. We shall not use to our personal advantage, nor that of a subsequent client or employer, information gained in a professional relationship that the client or employer has requested be held inviolate or that we should recognize as confidential because its disclosure could result in embarrassment or other detriment to the client or employer. Nor shall we disclose such confidential information except when (1) required by process of law, or (2) required to prevent a clear violation of law, or (3) required to prevent a substantial injury to the public. Disclosure pursuant to (2) and (3) shall not be made until after we have verified the facts and issues involved and, when practicable, exhausted efforts to obtain reconsideration of the matter and have sought separate opinions on the issue from other qualified professionals employed by our client or employer.
8. We shall not, as public officials or employees, engage in private communications with planning process participants if the discussions relate to a matter over which we have authority to make a binding, final determination if such private communications are prohibited by law or by agency rules, procedures, or custom.
9. We shall not engage in private discussions with decision makers in the planning process in any manner prohibited by law or by agency rules, procedures, or custom.
10. We shall neither deliberately, nor with reckless indifference, misrepresent the qualifications, views and findings of other professionals.
 1. We shall not solicit prospective clients or employment through use of false or misleading claims, harassment, or duress.

12. We shall not misstate our education, experience, training, or any other facts which are relevant to our professional qualifications.
13. We shall not sell, or offer to sell, services by stating or implying an ability to influence decisions by improper means.
14. We shall not use the power of any office to seek or obtain a special advantage that is not a matter of public knowledge or is not in the public interest.
15. We shall not accept work beyond our professional competence unless the client or employer understands and agrees that such work will be performed by another professional competent to perform the work and acceptable to the client or employer.
16. We shall not accept work for a fee, or pro bono, that we know cannot be performed with the promptness required by the prospective client, or that is required by the circumstances of the assignment.
17. We shall not use the product of others' efforts to seek professional recognition or acclaim intended for producers of original work.
18. We shall not direct or coerce other professionals to make analyses or reach findings not supported by available evidence.
19. We shall not fail to disclose the interests of our client or employer when participating in the planning process. Nor shall we participate in an effort to conceal the true interests of our client or employer.
20. We shall not unlawfully discriminate against another person.
21. We shall not withhold cooperation or information from the AICP Ethics Officer or the AICP Ethics Committee if a charge of ethical misconduct has been filed against us.
22. We shall not retaliate or threaten retaliation against a person who has filed a charge of ethical misconduct against us or another planner, or who is cooperating in the Ethics Officer's investigation of an ethics charge.
23. We shall not use the threat of filing an ethics charge in order to gain, or attempt to gain, an advantage in dealings with another planner.
24. We shall not file a frivolous charge of ethical misconduct against another planner.
25. We shall neither deliberately, nor with reckless indifference, commit any wrongful act, whether or not specified in the Rules of Conduct, that reflects adversely on our professional fitness.
26. We shall not fail to immediately notify the Ethics Officer by both receipted Certified and Regular First Class Mail if we are convicted of a "serious crime" as defined in Section D of the Code; nor immediately following such conviction shall we represent ourselves as Certified Planners or Members of AICP until our membership is reinstated by the AICP Ethics Committee pursuant to the procedures in Section D of the Code.

Please click on the link below to access the **Zoning Ordinance**, and **Section XII 2011 Legacy Code**:

<http://www.tinleypark.org/DocumentCenter/View/1680>