



## MEETING AGENDA

*Due to the ongoing public health emergency related to COVID-19 and consistent with Governor Pritzker's most recent emergency declaration, various Executive Orders entered by the Governor, and the recent amendments made to the Open Meetings Act in Public Act 101-640, the Village President has determined that an in-person meeting is not practical or prudent at this time, and this meeting will therefore be conducted electronically via Zoom.*

*Public comments are welcome on any topic related to the business of the Zoning Board of Appeals when received by email or in writing by the Village Clerk prior to 4:30 p.m. on the day of the meeting. Emailed comments may be sent to Village Clerk Christine Bruton at [cbruton@villageofhinsdale.org](mailto:cbruton@villageofhinsdale.org). Written comments may be submitted to the attention of the Village Clerk at 19 E. Chicago Avenue, Hinsdale, Illinois 60521. While emailed or written comments are encouraged, public comment may also be made by following the Zoom instructions below:*

Join Zoom Meeting:

<http://bitly.bz/gEgvL>

Meeting ID: 844 4565 6005

Passcode: 479617

Dial in: 1 312 626 6799

**ZONING BOARD OF APPEALS  
WEDNESDAY, JANUARY 19, 2022  
6:30 P.M.**

**This meeting will be conducted electronically. A live audio stream of the meeting will be available to the public via Channel 6 or on the Village website**  
*(Tentative & Subject to Change)*

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF MINUTES**
  - a) December 15, 2021
- 4. APPROVAL OF FINAL DECISIONS OR FINDINGS OF FACT**
  - a) V-08-21, 5515 and 5517 South Elm Street
  - b) V-09-21, 332 and 328 North Oak Street
- 5. RECEIPT OF APPEARANCES**
- 6. RECEIPT OF REQUESTS, MOTIONS, PLEADINGS, OR REQUESTS TO MAKE PUBLIC COMMENT OF A GENERAL NATURE**
- 7. PRE-HEARING AND AGENDA SETTING**
- 8. PUBLIC HEARING**



## MEETING AGENDA

### 9. NEW BUSINESS

- a) Discussion of Zoning Code

### 10. OLD BUSINESS

### 11. ADJOURNMENT

The Village of Hinsdale is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of the meeting or the facilities, are requested to contact the ADA Coordinator Brad Bloom at 630-789-7007 or by TDD at **630-789-7022** promptly to allow the Village of Hinsdale to make reasonable accommodations for those persons.

[www.villageofhinsdale.org](http://www.villageofhinsdale.org)

VILLAGE OF HINSDALE  
ZONING BOARD OF APPEALS  
MINUTES OF THE MEETING  
December 15, 2021

1. CALL TO ORDER

Chairman Bob Neiman called the regularly scheduled meeting of the Zoning Board of Appeals to order on Wednesday, December 15, 2021 at 6:30 p.m. in Memorial Hall of the Memorial Building, 19 E. Chicago Avenue, Hinsdale, Illinois.

2. ROLL CALL

**Present:** Chairman Bob Neiman, Members Gary Moberly, Joseph Alesia (*present electronically*), Tom Murphy, Keith Giltner, Leslie Lee (*present electronically*), and John Podliska

**Absent:** None

**Also Present:** Director of Community Development/Building Commissioner Robb McGinnis and Village Clerk Christine Bruton

3. APPROVAL OF MINUTES

a) November 17, 2021

There being no changes or corrections to the draft minutes, Member Giltner moved to approve the draft minutes of November 17, 2021, as presented. Member Podliska seconded the motion.

**AYES:** Members Moberly, Alesia, Giltner, Murphy, Lee, Podliska and Chairman Neiman

**NAYS:** None

**ABSTAIN:** None

**ABSENT:** None

Motion carried.

4. APPROVAL OF FINAL DECISIONS OR FINDINGS OF FACT

a) V-07-21, 31 Blaine Street

There being no changes or corrections to the draft Final Decision, Member Podliska moved to approve the Final Decision for V-07-21, 31 Blaine Street, as presented. Member Giltner seconded the motion.

**AYES:** Members Moberly, Alesia, Giltner, Murphy, Lee, Podliska and Chairman Neiman

**NAYS:** None

**ABSTAIN:** None

**ABSENT:** None

Motion carried.

1  
2 **5. RECEIPT OF APPEARANCES**

3 The Court Reporter administered the Oath to all persons intending to speak at  
4 the public hearings.

5  
6 **6. RECEIPT OF REQUESTS, MOTIONS, PLEADINGS, OR REQUESTS TO MAKE**  
7 **PUBLIC COMMENT OF A GENERAL NATURE – None**  
8

9 **7. PRE-HEARING AND AGENDA SETTING – None**  
10

11 **8. PUBLIC HEARING**

12 **a) V-09-21, 332 and 328 North Oak Street** *(Item taken out of order)*

13 *(A transcript of the following proceedings is on file with the Village Clerk.)*

14 Chairman Neiman called the public hearing to order. Mr. Eric Johnson,  
15 architect for the applicants, addressed the Board to request a variation to  
16 combine two adjacent lots, resulting in one property with a 112' foot front yard.  
17 They intend to keep their existing home, but add an addition extending to the  
18 north of the property.

19 Mr. Blake Geoffrion, property owner, addressed the Board stating he has  
20 spoken to his neighbors to make sure they have no issues. His neighbor to the  
21 south provided a written statement, which Mr. Geoffrion read, indicating support  
22 for the proposed variation. He also read the written statement from the  
23 neighbor to the north that also indicates support of the zoning variation.

24 Mr. Johnson reviewed the approving criteria for the Board. He believes that  
25 over the years Hinsdale setbacks have become more stringent. However, in  
26 this case, even though the one side yard will be only about 6' feet, there will be  
27 more room on the other side of the lot for this addition. The addition will not  
28 look out of place. The owners purchased the two lots in good faith that they  
29 could do something interesting. The combination of the two lots would enhance  
30 the neighborhood, and provide living space for the owners that is more in  
31 keeping with Hinsdale standards. The owners are not interested in any special  
32 treatment for what they are planning to do; they just want the ability to build an  
33 addition to accommodate their growing family. This variation will not be  
34 detrimental to the public welfare or injurious to the enjoyment, use,  
35 development or value of property currently permitted in the vicinity, nor will it  
36 impair an adequate supply of light and air in the vicinity, nor increase  
37 congestion in the public streets or tax public utilities. There is no other remedy  
38 that will allow the existing structure to remain.

39  
40 Member Podliska moved to **close the public hearing for V-09-21, 332 and**  
41 **328 North Oak Street.** Member Giltner seconded the motion.  
42

43 **AYES:** Members Moberly, Alesia, Giltner, Murphy, Lee, Podliska and Chairman  
44 Neiman

45 **NAYS:** None

46 **ABSTAIN:** None

47 **ABSENT:** None

Motion carried.

## DELIBERATIONS

Member Podliska began deliberations stating he would be in favor of granting the variance. It accomplishes the purpose of larger lot size, and is the kind of development the code encourages to expand the size of lots in the Village. The idea that in order to meet the side yard code requirements they would have to tear down the existing home to move it 12' feet from the lot line is unreasonable. All other Board members concur.

Member Murphy moved to **approve the variation known as V-09-21, 332 and 328 North Oak Street**. Member Giltner seconded the motion.

**AYES:** Members Moberly, Alesia, Giltner, Murphy, Lee, Podliska and Chairman Neiman

**NAYS:** None

**ABSTAIN:** None

**ABSENT:** None

Motion carried.

### **b) V-08-21, 5515 and 5517 South Elm Street**

*(A transcript of the following proceedings is on file with the Village Clerk.)*

Chairman Neiman called the public hearing to order. Mr. Matthew Klein, attorney representing Alan and Joan Berger, introduced himself stating that the applicant is not trying to add something to a house, and are not trying to build something on a lot that is too small. They own a lot that is grossly in excess of the district requirement. The Village interprets there are two existing lots of record, each of which substantially exceed all of the required parameters of the district, except for lot width. However, the lot width of each lot is 60' feet as are all the other lots on the block.

Mr. Alan Berger addressed the Board stating he owns the two lots he purchased in 1971 in hopes of creating a better future for his children. At that time, the properties were located in unincorporated Downers Grove Township. He described the rural nature of the area at that time. They lived in the two-story house built in the 1920's on the north lot. He noted that they have paid real estate taxes on two lots for 50 years. In the late 1970's, Hinsdale annexed the area south of 55<sup>th</sup> Street. When his father passed away in 2009, he and his wife bought and moved to a ranch style home to care for his invalid mother. His son occupied the house on Elm Street until 2015, when the house was demolished. The two lots were cleared so that each could have a single-family residence built on them as was consistent with the vast majority of the properties in the area. He said he is not asking for special treatment in this matter, just equitable treatment.

Mr. Klein explained that the R-2 Zoning District requires 15,000' square foot

lots and a 70' foot lot width. The two lots on Elm are 60' feet wide, but exceed the required R-2 lot square footage and are 296' feet in length. These were legal nonconforming lots of record under the prior ordinance from the 1960's. He referenced the study conducted by Camiros, a planning consultant hired when the Village was considering rewriting the zoning code that indicates there are more nonconforming lots in this district than conforming lots, which in their opinion indicates the current regulations should be reevaluated. On the east side of Elm Street, there are 18 lots that are 60' x 296' feet, identical to these lots. Mr. Klein believes there are two purposes of the zoning ordinance; to preserve the existing scale of development in the Village and to protect justifiable reliance on existing established land use patterns. Homes have been rebuilt on the nonconforming lots of record, but his clients were caught because there had been an additional garage on the southern lot. This was legal at the time of annexation, and until 1981 under the prior zoning ordinance. His client is in a unique situation because had there been no garage, the Village would allow two homes to be built.

Mr. Klein reviewed the standards for variation, beginning with the uniqueness of these properties because the two lots in question constitute one of the largest lots in the Village at 37,800' square feet, and if divided they are still larger than most in the area. Homes on other nonconforming lots of record in this district can be rebuilt, many of which are on smaller lots than these two.

This is not self-created. The lots were created in the 1920's, they were permitted after the annexation, and they were permitted when purchased in the 1970's. It was only after 1981 that the Village determined that the removal of the garage on the southern lot would not be sufficient to restore these two independent legal nonconforming lots of record. There is no information on why there was a second garage on the southern lot.

No special privilege would result in the granting of the variance as the two resulting lots would be identical to the development of almost every other property on the east side of Elm.

As far as code plan and purpose, he believes the variation to allow the two lots would be consistent with the zoning code and planning permitted for other nonconforming lots in the Village.

The character of the area is set by the existing homes in the area, two homes on these properties is consistent with the trend of development in the area, with no negative impact as a result.

Mr. Podliska confirmed that there was a structure on the other nonconforming lots and the new ordinance was designed to protect those homeowners should their house be burned down, for example, they could rebuild. However, the Bergers are free to build on the lot, but they are asking for an exception because there was no house on the southern lot. He pointed out that the Village is trying to make lots larger, and there is a mechanism to do so.

Mr. Klein believes the ability to reuse each of those properties is a matter of right in the code. The combination of the two lots into one gigantic lot creates a property that is out of character for that area, the development of each of these two lots individually is more in character with the neighborhood than developing the lot as one large lot. He noted that Mr. Berger has received

1 offers for the lots individually if he can separate them, but there is no interest  
2 in one very large lot with one house. The inability to designate these as two  
3 separate lots is a significant detriment to the Bergers. Mr. Berger added that  
4 he bought the two properties with the anticipation that at some point he could  
5 build two houses, one for himself and for one of his children.

6 Mr. Klein illustrated several other homes in the area on lots equal to or smaller  
7 than the proposed lots. Member Podliska asked if any of these homes were  
8 the result of a variance as being requested. Mr. Klein did not think so, but still  
9 asserts that the important consideration is the existing lot size in the area and  
10 that the Village anticipates and deems it reasonable for a new house to be built  
11 on a 15,000' square foot lot in this zoning district. Mr. Podliska believes the  
12 Village is not advocating it, they are allowing it, but would prefer larger lots.  
13 Mr. Klein does not think it is realistic that in the foreseeable future that many of  
14 these lots will be combined. It does happen when a lot is vacant from time to  
15 time. This is the platting that the Village inherited, that goes back to the 1920's,  
16 and was appropriate under the zoning code until 1981. Member Podliska  
17 reiterated the Village's intent to increase the lot sizes in Hinsdale. Discussion  
18 followed to clarify the width of other lots in the area.

19 **Mr. Casy Zubek of 5526 S. Elm Street** stated he sees no problem with the  
20 variation requested. Every house is the same on this block, and a large house  
21 will not match. He thinks the Board should help Mr. Berger.

22 **Mr. Nirav Thakkar of 5830 S. Washington Street** explained he was one of the  
23 people that offered to purchase the property if it is two separate lots. He is  
24 concerned that if someone bought the lots as one, they would build a basketball  
25 court or some such separate structure that would be like a sore thumb for the  
26 neighborhood. He believes it would be better to be uniform and have two  
27 houses on the street that are like all the others. He had hoped that one of his  
28 brothers that is moving to town could build on one of the lots, and find a second  
29 owner for the second lot.

30  
31 Member Podliska moved to close the Public Hearing for **V-08-21, 5515 and**  
32 **5517 South Elm Street**. Member Giltner seconded the motion.

33  
34 **AYES:** Members Moberly, Alesia, Giltner, Murphy, Lee, Podliska and Chairman  
35 Neiman

36 **NAYS:** None

37 **ABSTAIN:** None

38 **ABSENT:** None

39  
40 Motion carried.

## 41 42 DELIBERATIONS

43  
44 Member Podliska began deliberations expressing concern that this may be special  
45 privilege and that there are lots of record that are determined that way because of  
46 code changes that would have required larger lots, once a building on a property was  
47 destroyed. Legal nonconforming lots was a concept by which the homes were

1 protected that already existed when the new zoning code went into effect. It was a  
2 way to protect homeowners so they would not lose the value of the improvement they  
3 had on the property. This is not the circumstance with this petitioner. They are asking  
4 for a variance to allow them to take advantage of the protection of a legal  
5 nonconforming use that was there for a purpose that does not exist here. He can  
6 build on this property; he does not need to be protected. There are other large  
7 properties in Hinsdale, so it does not follow that building one home on these two lots  
8 would be atypical to the rest of the community.

9 Chairman Neiman thought the Bergers made a good point in their explanation of why  
10 they were being denied substantial rights when they noted the zoning code and  
11 planning purposes of the Village will allow a new home to be built on a nearby R-3 lot  
12 of smaller size.

13 Member Murphy agreed with Chairman Neiman, however, Member Podliska reiterated  
14 that it is not about the size of the lots, the difference is there was no residential  
15 structure on the second lot.

16 Member Moberly stated he agrees with both the pros and the cons. He spoke with  
17 the neighbor at 5519, who would be most closely affected, and they are not opposed  
18 to the variance. Member Moberly stated he does not like granting variations that  
19 increase density, but he is struck by all of the 60' foot wide lots on Elm. They do not  
20 look shoehorned onto the lots. He referenced other similar cases before the ZBA. In  
21 one case, the house would have been crammed onto a lot, and in another, there were  
22 legitimate safety issues, as well as a large variation percentage of the overall lot size.  
23 These lots are so large even as subdivided; they are still 17,500' square feet. There  
24 would still be conformity with the neighbors. However, there is the density, and that  
25 financial considerations not part of an approval. The other remedy is one house.  
26 Weighing the pros and cons, the most important thing to him is that almost every other  
27 house on Elm is 60' by 296'.

28 Finally, he noted that this is a recommendation to the Board of Trustees, and the final  
29 decision is theirs.

30 Director of Community Development Robb McGinnis explained the concern is if we  
31 throw out the definition of zoning lot we ultimately risk more houses on more lots just  
32 because they meet the width, depth or lot area restrictions under Section 10-105.

33 Member Murphy does not feel it is precedential to have two more lots that look just  
34 like the rest of the block.

35 Chairman Neiman remarked that there is a legal argument against this variance and  
36 an equitable argument for it.

37 Member Giltner said he does not disagree with the argument Member Podliska makes,  
38 but is persuaded by the equity in the sense of consistency in the area, and two homes  
39 would not change the character of the area.

40 Member Murphy added he would feel differently if there were neighbors complaining,  
41 but there are not, and he would be in favor of granting the variance.

42 Discussion followed regarding the previous request before the Board to subdivide the  
43 former Hinsdale Animal Hospital property into three parcels, which the ZBA denied.

44 Member Lee agrees and is sympathetic to the request. Two homes on these  
45 nonconforming lots would be in keeping with the neighborhood. She expressed some  
46 concern about precedence.

47 Member Alesia agreed this variation supports the conformity of the neighborhood.

Chairman Neiman asked Mr. McGinnis to confirm what precedential value, if any, the ZBA vote on this variation would have. Mr. McGinnis explained that legal opinion states there is some importance placed on precedent in the case of an appeal, however, with variation requests, they each stand on their own merit.

Chairman Neiman stated given the fact this is a recommendation to the Village Board, there is no precedence, and there are no neighbor objections, he is more comfortable with taking equitable considerations into effect.

Member Murphy moved to **recommend the Village Board of Trustees approve the variation request of V-08-21, 5515 and 5517 South Elm Street.** Member Giltner seconded the motion.

**AYES:** Members Moberly, Alesia, Giltner, Murphy, Lee and Chairman Neiman

**NAYS:** Member Podliska

**ABSTAIN:** None

**ABSENT:** None

Motion carried.

**9. NEW BUSINESS – None**

**10. OLD BUSINESS – None**

**11. ADJOURNMENT**

With no further business before the Zoning Board of Appeals, Member Murphy made a motion to **adjourn the Zoning Board of Appeals of November 17, 2021.** Member Giltner seconded the motion.

**AYES:** Members Moberly, Alesia, Giltner, Murphy, Lee, Podliska and Chairman Neiman

**NAYS:** None

**ABSTAIN:** None

**ABSENT:** None

Motion carried.

Chairman Neiman declared the meeting adjourned at 8:02 p.m.

\_\_\_\_\_  
Christine M. Bruton

Approved: \_\_\_\_\_

**FINDINGS OF FACT AND RECOMMENDATION OF THE  
VILLAGE OF HINSDALE ZONING BOARD OF APPEALS TO  
THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES**

**ZONING CASE NO:** V-08-21

**PETITIONER:** Alan Berger

**APPLICATION:** For a Variation from the minimum lot width requirements set forth in Section 3-110(C)(3) of the Zoning Code of the Village of Hinsdale ("Zoning Code") in order to create two (2) zoning lots.

**MEETING HELD:** A Public Hearing was held on Wednesday, December 15, 2021, in Memorial Hall, in the Memorial Building, 19 East Chicago Avenue, Hinsdale, Illinois, pursuant to a notice published in The Hinsdalean on November 25, 2021.

**PROPERTY:** The subject property is commonly known as 5515 and 5517 South Elm Street, Hinsdale, Illinois (the "Property").

**SUMMARY OF REQUEST:** The Village of Hinsdale has received a request from Alan Berger, owner of the Property (the "Applicant") for variations from the lot width requirements set forth in Section 3-110(C)(3) of the Zoning Code in order to create two buildable (2) zoning lots. The Property is made up of two underlying lots of record located in the Village of Hinsdale's R-3 Single Family Residential Zoning District: Lot 42, which has a PIN of 09-13-206-008, and Lot 43, which has a PIN of 09-13-206-007 (the "underlying lots"). Both underlying lots are nonconforming lots of record in that they are 60 feet wide, instead of 70 feet wide as required for lots in the R-3 Zoning District. The Applicant seeks a 10 foot reduction in the required lot width for each of the two (2) existing non-conforming lots of record that comprise the Property (the "Requested Variations"), in order to allow the construction of a residence on each of the underlying lots.

**BACKGROUND:** The Applicant had previously filed a request for a zoning interpretation with the Village asserting that the two (2) underlying lots of record met the definition of legal non-conforming lots of record in the Zoning Code, which would allow him as of right to develop the underlying lots with two (2) separate residences. Based on the records available, the Village Manager determined that because there had in the past been existing precode structures (residence on the north lot, garage on the south lot), neither of the underlying lots were "vacant on June 1, 1988" as is required by the definition for legal, non-conforming lots of record in the Village's Zoning Code. While the precode structures that had been on both the underlying lots were subsequently demolished, they were both eligible to be rebuilt pursuant to the Zoning Code, and neither underlying lot met the definition of a legal, nonconforming lot of record. The Village Manager determined in response to the Applicant's interpretation request that

the Property as a whole had been used in the past as a single zoning lot in that the underlying lots were held in common ownership and had hosted a single principal building and its accessory structures. Once a lot or collection of lots of record are used as a single zoning lot, they may not thereafter be divided and broken out as multiple lots as of right.

The Applicant subsequently filed the application for the Requested Variations at issue here. On December 15<sup>th</sup>, 2021, following the conclusion of the public hearing on this matter, the ZBA recommended approval of the Requested Variations on a vote of six (6) in favor and one (1) opposed, and directed the preparation of this Findings and Recommendation.

The Board of Trustees, upon a recommendation from the Zoning Board of Appeals of the Village of Hinsdale ("ZBA"), has final authority over the Requested Variations.

**PUBLIC HEARING:** At the public hearing on the Requested Variations, Owner's attorney, Matthew Klein appeared on behalf of the Applicant. Alan Berger, the Applicant spoke as well.

Mr. Klein noted at the public hearing that there are two existing underlying lots of record at the Property, each of which substantially exceeds all of the bulk regulation requirements of the R-3 Zoning District, except for lot width. The 60 foot width of the underlying lots are the same as every other lot on the block.

Mr. Berger testified that he and his wife purchased the two underlying lots that comprise the Property in 1971. The area was unincorporated at the time. They raised their family in the existing house that had been on the north lot. In 2015, they demolished the existing house on the north lot with the intent to build new single-family residences on both the underlying lots.

Mr. Klein reviewed the lot dimensions. The R-3 Zoning District requires 15,000 square foot lots, with a 70-foot width. Each of the two underlying lots are 17,600 square feet, but only 60 feet wide. He noted that under the Village's zoning standards, more than half of the residential lots in the Village are nonconforming. In the R-3 Zoning District, more than 76% of the lots are nonconforming. On the east side of Elm Street, there are 18 lots that are 60 feet by 296 feet. Mr. Klein cited two key purposes of the Zoning Code: preserving existing scale development in the Village, and protecting justifiable reliance on existing established land use patterns. He noted that despite the Zoning Code bulk requirements of 70 foot width and 15,000 square foot size in the R-3 Zoning District, the existing pattern is reuse of existing lots that do not meet those requirements due to the Code's provisions on nonconforming lots of record and precode structures. He noted that the issue here is there was an existing garage on the northern underlying lot with the residence, as well as, at one time, a garage on the southern underlying lot without a residence. Under the Village's current zoning ordinance, the existence of the garage on the southern underlying lot at one time that served the residence on the northern underlying lot results in the two lots

being treated as a single lot for zoning purposes, with the result that a variation is needed to utilize them as two separate buildable lots.

Mr. Klein further noted that combined, the lots result in 237% of the required square footage under the Zoning Code, and 450% the size of lots located in this area of the Village. Nearby lots that are not nearly as large can host a new home, yet despite the Applicant's combined lots being 450% of the size of those nearby lots, they cannot be broken into two lots each hosting a residence without a variation. This, in Mr. Klein's opinion, makes the Applicant's situation unique. He noted that granting the variation would not result in a special privilege, as the development of the resulting lots would be identical to every other lot on the east side of Elm Street, as well as the development of the 2/3rds of the lots that are nonconforming in the R-3 Zoning District. By his count, 91 of the 155 lots in the area are nonconforming, yet these would be the only two that could not be redeveloped with a new home on each of the two individual lots. He reviewed the other standards as well, and asserted that granting the variation and the resulting development would be consistent with the plans of the Village, the character of the area, with the trend of development in the area, and would not negatively impact surrounding properties.

Member Podliska questioned the premise of Mr. Klein's argument in favor of the Requested Variations, noting that the purpose of the non-conforming use and pre-code structure provisions of the Zoning Code were to ensure that someone could rebuild their existing home on a nonconforming lot. He questioned whether that rationale applied here, where the Applicant could already rebuild a single residence on his existing Property without any zoning relief, but was instead seeking variations in order to treat the Property as two separate buildable lots in order to build a second residence.

Mr. Klein responded that the Requested Variations were driven by the fact that the one "gigantic" lot created by the combination of the two underlying lots comprising the Property was out of character for the area. He suggested that the development of each of the two lots individually was more in character with the neighborhood than developing the lot as one large one. He noted that new houses built in this area are nice and very large but are on 60 foot lots. His client has had a number of offers for the two lots individually, but no interest from buyers who would like to keep it as a large lot with one residence on it.

Mr. Berger noted that he had bought the two lots comprising the Property with the anticipation that he would be able to, at some point, build two houses on there. He stated he is not asking for special treatment, just equal treatment as compared to all his neighbors on Elm and Oak who have the ability to build on 60 foot lots. Member Podliska asked whether any of those new homes in the neighborhood were the result of variations. Mr. Klein responded that he was not aware of any similar variations. Mr. Klein asserted, however, that the more important point was that the Village had, through its Zoning Code provisions allowing homes to be rebuilt on 60 foot lots, deemed it reasonable for a new house to go on such lots. Member Podliska and Mr. Klein engaged in further back and forth on the intent of the Zoning Code provisions. Mr. Klein concluded by noting that in his opinion, he and his client had provided evidence the standards had been met.

Finally, it was clarified that the reason the Village had considered it to be a single lot in need of variations was because there had been a garage on the south lot at one time that served the north lot, meaning the south lot had not been "vacant" and that a single zoning lot had been created.

Casey Zubek, owner of 5526 South Elm, across the street from the Property, testified that he did not see an issue with granting the Requested Variations. He noted that every house on the block was situated on lots that were the same as requested here. He did not think a single larger house on the Property would be appropriate for the neighborhood.

Nirav Thakkar of 5830 South Washington Street testified that he was one of the people who had offered to purchase the Applicant's land, but only under the contingency that it is two separate buildable lots. He thinks that if someone built a single large house on the Property, with a basketball court or some other separate structure, that it would stick out. He favors granting the Requested Variations in order to have two houses on lots the same size as every other house on the east side of Elm.

There being no further questions or members of the public wishing to speak on the application, the Public Hearing was closed.

Members then discussed the Requested Variations. Member Podliska expressed concern that granting the Requested Variations may amount to a special privilege. He noted that while the Zoning Code includes provisions to protect the value of existing homes on lots that became non-conforming with the adoption of the Zoning Code, that was not the situation here. Here, the Applicant is able to build on his existing Property. Other Members disagreed, noting that there were equity issues in that houses could be built on lots throughout the neighborhood on nonconforming lots the same size or smaller than the two lots comprising the Property, and found the Code was treating the Applicant differently merely because there had once been a garage on the south lot. A majority of Members agreed that the standards for variations set forth in 11-503(F) of the Hinsdale Zoning Code had been met. A motion to approve the Requested Variation was made by Member Murphy and seconded by Member Giltner.

**AYES:** Members Moberly, Alesia, Giltner, Murphy, Lee, Chairman Neiman

**NAYS:** Member Podliska

**ABSTAIN:** None

**ABSENT:** None

**FINDINGS:** The following are the Findings of the ZBA relative to the Requested Variation:

1. *General Standard: Carrying out the strict letter of the provisions of the Zoning Code would create a particular hardship or a practical difficulty, based on satisfaction of the standards below:*

2. *Unique Physical Condition: The Subject Property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject property that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.* The Property consists of two underlying lots of record which are identical or substantially similar in size to the majority of other lots on the block and in the immediate neighborhood on which individual residences are situated, yet the Applicant, unlike the other owners, is not permitted to utilize the two underlying lots for two residences.

3. *Not Self-Created: The unique physical condition is not the result of any action or inaction of the owner, or of the owner's predecessors in title and known to the owner prior to acquisition of the subject property, and existed at the time of the enactment of the provisions from which a variation is sought or was created by natural forces or was the result of governmental action, other than the adoption of the Zoning Code, for which no compensation was paid.* The underlying lots were platted in 1920 well before the current Zoning Code was implemented, and the need for the Requested Variations is not self-created, but is instead the result of the fact that a number of years ago, a separate garage was located on the otherwise vacant south lot. The ZBA finds this standard to have been met.

4. *Denied Substantial Rights: The carrying out of the strict letter of the provisions from which a variation is sought would deprive the owner of the subject property of substantial rights commonly enjoyed by owners of other lots subject to the same provision.* The Property consists of two underlying lots of record which are identical or substantially similar in size to the majority of other lots on the block and in the immediate neighborhood on which individual residences are situated. Members noted that houses could be built on lots throughout the neighborhood on nonconforming lots the same size or smaller than the two underlying lots comprising the Property, and found the Zoning Code was treating the Applicant differently and denying him substantial rights merely because there had once been a garage on the south lot. The majority of the ZBA finds this standard to have been met. Member Podliska disagreed, finding that the Applicant had not been denied substantial rights in that he already had the right to construct a single residence on his existing Property, the same as any other owner in the neighborhood.

5. *Not Merely Special Privilege: The alleged hardship or difficulty is not merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely*

*an inability to make more money from the use of the subject property; provided, however, that where the standards herein set out exist, the existence of an economic hardship shall not be a prerequisite to the grant of an authorized variation.* The majority of Members found this standard to have been met, based again on the fact that houses could be built on lots throughout the neighborhood on nonconforming lots the same size or smaller than the two underlying lots comprising the Property. Member Podliska noted that owners of other properties of the same size as the underlying lots could rebuild on their non-conforming lots based on Zoning Code provisions that protected their value in their existing homes, and that that rationale did not apply to the Applicant, who already has a right to rebuild a single residence on the Property. He found that granting the Requested Variation then amounted to a special privilege.

*6. Code And Plan Purposes: The variation would not result in a use or development of the subject property that would not be in harmony with the general and specific purposes for which the Zoning Code and the provision from which a variation is sought were enacted or the general purpose and intent of the official comprehensive plan.* The majority of the ZBA found the Requested Variation was consistent with the purposes of the Zoning Code. Member Podliska noted that the intent of the Zoning Code was to move towards larger conforming lots over time, and that allowing two residences on the two underlying nonconforming lots was contrary to that purpose.

*7. Essential Character Of The Area: The variation would not result in a use or development on the subject property that:*

*(a) would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity; or (b) would materially impair an adequate supply of light and air to the properties and improvements in the vicinity; or (c) would substantially increase congestion in the public streets due to traffic or parking; or (d) would unduly increase the danger of flood or fire; or (e) would unduly tax public utilities and facilities in the area; or (f) would endanger the public health or safety.*

The ZBA finds that the Requested Variations will not alter the essential character of the area. The underlying lots on which two residences could be created if the Requested Variations were granted are identical or substantially similar in size to most other lots on the block and in the immediate neighborhood. No area residents appeared to express opposition to the Requested Variations, and two residents appeared in support of granting the Requested Variations. The Requested Variations would maintain the character of the neighborhood and would not endanger the public health or safety.

*8. No Other Remedy: There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject property.* A majority of the ZBA finds this standard to have been met.

## **RECOMMENDATION:**

**Based on the Findings set forth above, the ZBA, by a vote of six (6) in favor and one (1) opposed, recommends to the President and Board of Trustees that the following Requested Variations relative to the Property located in the R-3 Single-Family Residential Zoning District at 5515-5517 South Elm Street, be GRANTED:**

- Variations from the lot width requirements set forth in Section 3-110(C)(3) of the Zoning Code in order to create two (2) zoning lots, each of which is 60 feet wide, instead of the 70 foot width required by the Zoning Code.

Signed: \_\_\_\_\_  
Robert Neiman, Chair  
Zoning Board of Appeals  
Village of Hinsdale

Date: \_\_\_\_\_

# **FINAL DECISION**

## **VILLAGE OF HINSDALE ZONING BOARD OF APPEALS PETITION FOR VARIATION**

**Zoning Calendar:** V-09-21

**Petitioner:** David J. Knecht, Dave Knecht Commercial, LLC

**Meeting held:** Public Hearing was held on Wednesday, December 15, 2021 at 6:30 p.m. in Memorial Hall, in the Memorial Building, 19 East Chicago Avenue, Hinsdale, Illinois, pursuant to a notice published in The Hinsdalean on November 25, 2021.

**Premises Affected:** Subject Property is commonly known as 332 and 328 N. Oak Street, Hinsdale, Illinois and is legally described as:

### **Permanent Index Numbers 09-01-408-020**

LOT 111 IN THOS. S. COUSIN'S SUBDIVISION, BEING A SUBDIVISION IN THE NORTH ½ OF THE SOUTHEAST ¼ OF SECTION 1, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 12, 1924 AS DOCUMENT 176286, IN DUPAGE COUNTY, ILLINOIS

### **Permanent Index Numbers 09-01-408-019**

LOT 110 IN THOS. S. COUSIN'S SUBDIVISION, BEING A SUBDIVISION IN THE NORTH ½ OF THE SOUTHEAST ¼ OF SECTION 1, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 12, 1924 AS DOCUMENT 176286, IN DUPAGE COUNTY, ILLINOIS

**Subject:** In this application for variation, the applicant requests relief from the Interior Side Yard Setback set forth in section 3-110(D)(2)(b)(i) of the Code in order to consolidate the lot they currently own at 328 N. Oak Street with the property they own next door at 332 N. Oak Street. The specific request is for 6.35' of relief.

The applicant in this case is planning improvements that necessitate consolidation once the house at 332 is demolished. Because the width of the 328 property will increase with the consolidation, the required side yard setbacks increase as well. Although the house is not moving on the 328 lot, the minimum side yard requirement would go to 12.2' based on the increase lot width.

**Facts:** This property is located in the R-4 Single family Residential District in the Village of Hinsdale and is located on the west side of Oak Street between Hampton and Hickory. Upon consolidation, the property will have a frontage of approximately 112', an average depth of approximately 130', and a total square footage of approximately 14,560. The maximum FAR is approximately 4,694 square feet; the maximum allowable building coverage is 25% or approximately 3,640 square feet, and the maximum lot coverage is 50% or 7,280 square feet.

**Action of the Board:** Members discussed the request and agreed that the standards for variation set forth in 11-503 (F) of the Hinsdale Zoning Code had been met and recommended approval. A motion to approve the request was made by Member Murphy and seconded by Member Giltner.

**AYES:** Members Moberly, Alesia, Giltner, Murphy, Lee, Podliska, Chairman Neiman

**NAYS:** None

**ABSTAIN:** None

**ABSENT:** None

THE HINSDALE ZONING BOARD OF APPEALS

\_\_\_\_\_  
Chairman Robert Neiman

Filed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, with the office of the Building Commissioner.



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## MEMORANDUM

**DATE:** December 22, 2021

**TO:** Chairman Neiman and the Zoning Board of Appeals

**CC:** Kathleen A. Gargano, Village Manager

**FROM:** Robert McGinnis, Community Development Director/Building Commissioner  
Bethany Salmon, Village Planner

**RE:** Areas of Concern with our Zoning Code

There have been several occasions where the Zoning Board of Appeals (ZBA) has had to weigh in on issues of interpretation tied back to the Zoning Code. Most recently, with a variation request brought forward over whether a lot the same size as any other lot on the block could be sold off and built on based on a definition that many would argue is unclear. Comments made by the attorney on this particular case regarding our Zoning Code, work that a planning consultant had done on it that were never brought forward, and other decisions the ZBA has had to contend with in the past, led to a request to have staff identify issues and concerns with the Zoning Code that the ZBA might be able to discuss and offer an opinion on.

Issues and recommended areas for reorganization were previously identified in the Technical Review Report completed in March 2009 by Camiros, the planning consultant hired by the Village to re-write the Village's Zoning Code. The Technical Review Report is attached for review. This document was used in conjunction with the drafted reorganized and revised Zoning Code completed by Camiros.

The Zoning Code could benefit from various updates to make it more user-friendly and easy to apply, such as through clarifying language and incorporating illustrations, tables, and graphics. Specific code sections on landscaping, parking, screening, lighting, signage, and design standards could be strengthened to ensure development is held to a high standard and that the character of Hinsdale is preserved.

Additionally, land use designations within each zoning district are based on the Standard Industrial Classification Manual (SIC) adopted in 1987 and are outdated, not easily defined, overlap and conflict, or don't take into account modern land uses. There are also several issues with code regulations in regard to bulk regulations, subdivisions, and non-conforming lots and structures in the Village.

Staff requests feedback from the ZBA on any items that may need to be addressed in the Zoning Code, previous issues noted in the Technical Review Report completed in March 2009 by Camiros, and if staff should proceed with a further analysis of potential code updates.

**VILLAGE OF HINSDALE, ILLINOIS:  
ZONING CODE REORGANIZATION  
&  
TECHNICAL REVIEW**

**TECHNICAL REVIEW REPORT**

**Prepared by  
Camiros, Ltd.  
March 23, 2009**

## TABLE OF CONTENTS

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INTRODUCTION .....	i
ARTICLE 1: TITLE, PURPOSE AND INTENT .....	1
ARTICLE 2: CODE ADMINISTRATION .....	2
ARTICLE 3: APPLICATION PROCEDURES .....	3
ARTICLE 4: DEVELOPMENT APPLICATIONS AND APPROVALS .....	4
ARTICLE 5: PLANNED DEVELOPMENTS .....	8
ARTICLE 6: ZONING DISTRICTS .....	15
ARTICLE 7: SINGLE-FAMILY RESIDENTIAL DISTRICTS .....	16
ARTICLE 8: MULTIPLE-FAMILY RESIDENTIAL DISTRICTS .....	23
ARTICLE 9: BUSINESS DISTRICTS .....	26
ARTICLE 10: OFFICE DISTRICTS .....	29
GENERIC USE APPROACH .....	32
ARTICLE 11: SPECIAL PURPOSE DISTRICTS .....	34
ARTICLE 12: OVERLAY DISTRICTS .....	36
ARTICLE 13: USE STANDARDS .....	37
ARTICLE 14: SITE DEVELOPMENT STANDARDS .....	39
ARTICLE 15: SIGNS .....	42
ARTICLE 16: OFF-STREET PARKING AND LOADING .....	47
ARTICLE 17: LANDSCAPING AND SCREENING .....	51
ARTICLE 18: NONCONFORMITIES .....	54
APPENDIX A: ZONING SECTIONS TO BE MOVED TO VILLAGE CODE	
APPENDIX B: ZONING PRACTICE ARTICLE	

# INTRODUCTION

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This Technical Review Report supplements the reorganized Zoning Code. It goes into greater detail on a number of issues identified in the notes of the reorganized Code document. It also highlights broader issues in some topic areas that are not included in the reorganized Code.

While this reorganization and report goes into detail about the current Code, there are numerous issues that will not be discovered until undertaking the more substantive overall revision process, including elements of “testing” existing development controls and proposed development controls for their viability. This Code reorganization clarifies existing provisions, but does not “fix” larger issues in the current Code, such as preservation of the B-2 District character, the implementation of the Ogden Avenue Plan through zoning controls, addressing the excessive amount of nonconformities in the residential districts, and updating the use structure.

## Code Reorganization Principles

The Code reorganization was based on the following principles:

- I. ***The Code should make use of numerous cross-references in order to ensure that a user can identify all applicable regulations.*** In determining whether a particular action is or is not allowed, the nature of a zoning code makes it necessary to refer to a number of different articles or sections. For example, in determining whether a particular house could be built on a certain lot, one might start by looking at a zoning map to find the zoning district, then look at the district regulations to determine if the use is permitted and that the bulk and size of the house conforms with the bulk requirements, and then look at definitions to make sure that the design of the house is consistent with the definitions of building height, yard, etc. The need to review multiple sections is unavoidable. However, the process is greatly streamlined by the logical organization of the individual articles, and then liberal use of cross-references to help the user find related provisions. In addition, cross-references may cite other parts of the larger Village Code to identify all applicable regulations for both users and administrators.
- II. ***Maintain internal consistency in terminology and “voice.”*** The integrity of land use regulations hinges on the internal consistency of the various details. Consistent terminology should be used throughout the various provisions. As a simple example, early in the revision process the decision should be made whether to use the term setback or yard, rather than using them interchangeably when it can be avoided. In addition, because different authors have written different sections of and amendments to the Code, it is an amalgam of different “voices,” which reflect the background of authors – attorneys, planners, board or commission members, engineers, etc. This reorganization addressed some of this issue, but an overall rewrite would eliminate this type of inconsistency altogether.
- III. ***The Code should follow a logical system of compartmentalization.*** The Code should follow a consistent, structured pattern from beginning to end. A way to improve the organizational structure and, in turn, its ease of use, would be to employ a system of compartmentalization. This is a technique whereby items of information are grouped together by regulatory categories and purpose. In addition, compartmentalizing substantially reduces, if not eliminates the need for, a general provisions section, such as the one found within the Article 9 of the current Zoning Code, which contains provisions for signs, parking, temporary uses, accessory structures, landscaping, etc. Once regulations are grouped with similar regulations into their respective articles, lengthy

articles with unrelated information, which users oftentimes find daunting and frustrating, are eliminated.

**IV. *The Code would benefit from greater use of tables, which would make it more user-friendly.***

The reorganized Code shows the benefit of the use of tables and matrices. For example, zoning district use tables summarize and more clearly present information regarding permitted and special uses. Bulk and setback tables have been “cleaned up” for each district for easier navigation. Tables can be used to summarize requirements for other development regulations, such as in a single permitted encroachments table, rather than as footnotes for certain bulk requirements.

There are two additional principles that would be followed in the larger revision process, which are:

**I. *The Code would benefit from greater use of illustrations, which would make it more user-friendly.*** We recommend that a zoning code supplement its requirements with as many illustrations and photographs as possible, for a variety of definitions and regulations. The inclusion of illustrations will more effectively communicate information to users. For example, certain concepts and terms that would benefit from illustration include: types of signs; sign regulations; location of yards; view obstruction restrictions; and landscaping requirements. (Graphics are not limited to the examples cited.) Illustrations were not created for the reorganized Code.

**II. *The Code should include an extensive definitions section, to eliminate all conflicts and inconsistencies.*** The reorganized Code contains a review of the current definitions section and offers comment and minor revisions. However, an updated definitions section is only possible once the final provisions are in place.

A major issue is that all use definitions reference an external document, which is the out-of-date Standard Industrial Classifications Manual from 1987. By defining all terms within one article, there is no risk of redefining terms differently throughout the Code and creating inconsistencies and conflicts. All definitions should be evaluated and updated for clarity, where necessary, and checked for any internal conflicts between the Zoning Code and other municipal ordinances. Many times, terms such as recreational vehicle or nuisance, are defined one way within the zoning code and another way within a different section of the Village Code. Key terms that are undefined must be included.

Finally, definitions should also be revised to ensure that they exclusively *define* terms, rather than regulate. For example, the definition for “Gross Floor Area” within the Zoning Code included provisions for how to calculate the GFA. This type of calculation was moved to a different article within the Code with other measurement methodologies.

### ***Additional Notes on Code Reorganization***

- *Strikethroughs indicate eliminated language, and underling indicates new language.*
- *The majority of corrections of typos, references, capitalization and punctuation are not indicated.*
- *The majority of grammatical or clarification changes are not indicated. Any of these types of changes do not effect content.*
- *All language that refers to expired amortization periods or grace periods has been eliminated (shown as strikethough).*
- *Throughout the reorganized Code, when provisions refer to a required "yard," that term has been changed to "setback."*
- *All references to the "Board of Trustees" have been changed to "Village Board."*
- *All references to "Village Manager" have been changed to "Zoning Administrator."*
- *Recommendations have been made for certain sections of the current Code to be moved to the Village Code, such as Comprehensive Plan language. These sections have been removed from the reorganized Code and are contained in this Technical Review Report.*

## ARTICLE 1: TITLE, PURPOSE & INTENT

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This Article introduces the Code. It includes the overall purpose and intent, its application to land and buildings within Hinsdale, and the transition rules upon adoption of an updated Code or any amendments to the Code. This Article consolidates the provisions of the following: §1-101, §1-102, §12-101, §12-102, §12-103, §12-104, §12-105, §12-106, §12-107, §12-201, §12-202, §12-203 and §12-204.

### Key Issues

- No changes have been made to the language of the purpose statement within the current Code, which can be found in Section 1.3 of this reorganization. No changes are recommended.
- Language regarding the creation of nonconformities has been added for clarification.
- Most codes allow permitted uses that become special uses to continue as special uses, and therefore any change is subject to the special use permit process. In the current Code, special uses require a certificate of occupancy as soon as the switch from permitted to special use occurs. For those who do not secure the certificate, the use or structure then becomes nonconforming. This practice seems onerous and penalizes property owners who have complied with the previous Code. This standard can be revised to allow the special use to be considered a lawful special use and any changes would only require amendment of the special use permit.
- In the severability provisions, any court decrees are required to be marked on the zoning map. We have kept the current language but this requirement is not recommended. The zoning map should speak only to the zoning districts and should not be used for record-keeping.

## ARTICLE 2: CODE ADMINISTRATION

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This Article is a listing of the powers of the Village Board, Plan Commission, Zoning Board of Appeals and Zoning Administrator. The purpose of this Article is to make it easy to identify the responsibilities of each body. While the majority of language in Sections 2.1 through 2.3 is new, the powers are the same as those within the current Code. The language for the Zoning Administrator (Village Manager) is from Section 11-101 of the current Code.

### Key Issues

- Even though the current Code does not include the Village Board, their powers, as related to the Zoning Code, should be listed so that the user is aware of who is the final approval authority.
- It is more appropriate to rename the Village Manager as the Zoning Administrator, since the Village Manager has responsibilities beyond those of the Zoning Code.
- The current Code provisions for the membership and conduct of the Plan Commission and Zoning Board of Appeals are included in this Technical Review Report as an appendix, though they remain in the reorganized Code. The recommendation is to move these administrative provisions into the Village Code. These provisions should be able to be easily changed, rather than going through a code amendment procedure.

## ARTICLE 3: APPLICATION PROCEDURES

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This Article contains the rules for processing the various applications and approvals. As a separate section, Article 3 becomes a manageable size and allows for easier reference and revision to application requirements. These administrative procedures have been grouped into the following three sections:

- Filing of applications
- Notice requirements
- Public hearing procedures

These are the provisions of: §11-101, §11-301, §11-302 and §11-303.

### Key Issues

- The addition of a completeness statement to the application provisions would protect the Village from timeline/deadline conflicts. This prevents an applicant from being able to take advantage of timelines without having a complete application. Usually, this type of provision gives the Zoning Administrator 15 days to notify the applicant of any deficiencies in the application and stops the process until the deficiencies are remedied. Such a provision has been added to the reorganized Code.
- The current provisions require review and comment by various commissions and departments to which the application is referred. It is our understanding that this is not typically part of the process. However, we understand that it is staff that reviews applications and provides comment. This section should be revised to reflect that.
- Regarding continuances, Illinois statute allows the body conducting the hearing to re-open the public hearing so long as the date of continuance is announced (i.e., the Village would not have to re-notice). This provision in the reorganized Code has been rewritten to reflect that.
- Requirements for the extension of time for eminent domain proceedings have been removed from the reorganized Code, as they are not zoning matters. These items are more appropriate in the Village Code. The appendix of this document contains those provisions.

## ARTICLE 4: DEVELOPMENT APPLICATIONS & APPROVALS

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The following sections have been consolidated into Article 4 of the reorganized Code: §11-601, §11-503, §11-602, §11-604, §11-605, §11-606, §11-607, §11-401, §11-501, §11-502, §11-701, §11-702, §11-703 and §11-704. The following applications and approvals are located within this Article:

- Text and Map Amendment
- Variation
- Special Use Permit
- Site Plan Review
- Design Review Permit
- Exterior Appearance Review Approval
- Sign Permit
- Certificate of Zoning Compliance
- Interpretation
- Appeals
- Enforcement

To the degree possible, the following structure was used for each application:

- Purpose
- Applicability
- Authority
- Procedure and Timelines
- Findings of Fact/Standards

To further distinguish between the different applications and clarify the various approval processes in this Article, “process flowcharts” should be included in an appendix to take an applicant through the process step-by-step – from submitting the initial application to a final decision by the appropriate body. Also an application summary table would be helpful in outlining timelines, recommending and approval bodies, notice requirements and results of board/commission inaction.

### Key Issues

- Code and Map Amendment: The Code’s current standards regarding amendments do reflect the standards of Illinois case law, termed the “LaSalle factors.” Typically, these standards are organized to address those applicable to map amendments and those applicable to text amendments. For ease of use, the reorganized Code has shown these in table format.
- Variation: Because the purpose of a variation is to respond to hardships that run with the land, many communities do not place limits upon the types of variations that can be granted. Hinsdale’s Code currently limits the types of variations that can be granted. Certain permissions are also questionable. For example, variations related to eminent domain should not be included within the Code, restrictions on the maximum height that a wireless antenna can be increased by variance are not in line with federal requirements (antennas can be limited in height with the stipulation that they may exceed that height if needed to transmit signal, which must be proved by studies; this may exceed the 15% allowed by Code), and the increase in maximum floor area for detached garages in certain residential districts does not function as a variation but as a special exception. This is a key policy issue that can be considered by the Village based upon experiences with the variation procedure and the types of applications seen. If the limits on what

- can be varied are maintained, these should be continually evaluated against any changes to the setback and bulk requirements.
- Variation: The standards for decision can be simplified as described below. However, the current requirements are common in Illinois zoning ordinances.
    1. No variation from the provisions of this Code shall be granted unless the Zoning Board of Appeals makes specific written findings of fact based directly on the standards and conditions imposed by this section. These standards are as follows:
      - a. The strict application of the terms of this Zoning Code will result in undue hardship.
      - b. The plight of the owner is due to unique circumstances.
      - c. The variation, if granted, will not alter the essential character of the locality.
    2. The Zoning Board of Appeals, in making its findings of fact, may inquire into the following evidentiary issues, as well as any others deemed appropriate:
      - a. The particular physical surroundings, shape or topographical conditions of the specific property impose a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
      - b. The alleged difficulty or hardship has not been created by any person presently having a proprietary interest in the property in question nor by any person in privity with the person having a proprietary interest.
      - c. The granting of the variation will not be detrimental to the public welfare in the neighborhood in which the property is located.
      - d. The proposed variation will not impair an adequate supply of light and air to adjacent property, substantially increase congestion in the public streets, increase the danger of fire, endanger the public safety or impair property values within the neighborhood.
      - e. The proposed variation is consistent with the spirit and intent of this Code and the adopted Comprehensive Plan.
      - f. The value of the property in question will be substantially reduced if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located.
  - Site Plan Review: The current Code only includes standards for denial. Site plan review should have standards that look at the different site elements for compliance (i.e., positive standards). Proposed standards that would guide site plan reviewers in the different site elements have been included in the reorganized Code; these standards are generally accepted site plan review criteria. Again, they are not required design elements, but rather guidelines for those aspects that need to be considered. The standards for denial have also been maintained in the Code; only those standards that have been positively addressed in the standards for approval have been stricken from the standards for denial.
  - Site Plan Review: The types of development applications have been simplified to reflect current Village practice. The following are subject to site plan review: special use permits, development or redevelopment of non-residential, multi-family and townhouse structures, large residential

recreation facilities that exceed 1,500 square feet (basketball backboards excluded), and personal wireless services antenna, with or without an antenna support structure.

- Design Review Permit: It is not clear in what circumstances the design review permit applies. The proposed clarification states that a design review permit is required as part of a building permit in the Historical Gateway Design Review Overlay District, which would include interior remodeling. Should remodeling that is entirely in the *interior* be exempt from such requirement? Currently, design review would apply to single-family residential as well, which can be considered onerous due to the inherent subjectivity of determining whether the architecture of a single-family home is considered “good or bad.” The creation of design guidelines for single-family homes, especially when the character of homes is varied as it is in Hinsdale, can also be exceedingly difficult.

Throughout the review process, the architecture of single-family homes did not present itself as an issue. It is, however, an established practice by communities to require site plan review and/or design review of multi-family and non-residential development. Because there are fewer applications for these types of developments and because they are of significant size and impact, design review of these structures is recommended.

- Design Review Permit: An issue with the design review permit is that no set standards are included. The only standards for review consist of general statements that address “quality of design” and “visual compatibility,” but there are no specific criteria. The section also states that design manuals or guidelines *may* be available, but this is not a requirement. In order to ensure that developments subject to design review permit approval are, in fact, of “high quality” and “visually compatible,” more specific standards are required, even if those are located in a separate document (which should be referenced here). The exterior appearance review then references the same standards used for the design review permit, which creates the same issues regarding specificity.
- Exterior Appearance Review Permit: It is implied that exterior appearance review is conducted in concert with site plan review. Is this accurate? When does exterior appearance review apply? Proposed language in the reorganized Code states that such review is required for all building permits except single-family dwellings.
- Design Review Permit & Exterior Appearance Review Permit: Because design review and exterior appearance review use the same general standards, these should be enhanced for specificity. The standards that apply specifically to the Historical Gateway Design Review Overlay District could be consolidated into that district.
- Consolidation of Design Review Permit, Exterior Appearance Review Permit & Site Plan Review: Design review, exterior appearance review and site plan review cover the same ground. It would be beneficial to streamline this process and consolidate the site plan review application, the design review application and the exterior appearance review application into one application (typically, site plan review is used for this purpose), since all require Plan Commission recommendation and Village Board approval. By consolidating these processes, conflicting approvals and additional revisions can be avoided. The specific standards used, which would likely be enhanced, for the Historical Gateway Design Review Overlay District would be integrated into that district's standards. Standards used for exterior appearance review should be enhanced to address the character of development and ensure preservation of Hinsdale's character and can be consolidated within the site plan review process.

- Certificate of Zoning Compliance: Language regarding relation to other applications is not necessary because a certificate is required before a building permit. In addition, language regarding when the certificate applies is confusing. Since a certificate is issued to confirm compliance with the Code, language can be simplified to require certificate approval before any building permit or certificate of occupancy is issued.

However, as a matter of administration, zoning review is conducted as part of building permit review and approval. The requirement for a Certificate of Zoning Compliance is redundant and creates an additional and unnecessary application. If the Certificate of Zoning Compliance is retained, it is recommended that those actions that do not have zoning implications, such as interior remodeling or basic repairs to existing structures (which would be defined within the Code), be exempted from the certificate.

- Interpretations: Because interpretations are not subject to “approve or deny” decisions, it is inappropriate to “deny” an application with no response from the Village Manager. This type of provision is not applicable.
- Certificate of Occupancy, Official Comprehensive Plan and Official Map: The following three sections should to be incorporated into the larger Village Code. This is a more appropriate location for these sections as they do not deal directly with land use regulations: certificate of occupancy, Official Comprehensive Plan and Official Map. In particular, it is inappropriate to keep Comprehensive Plan requirements within the Zoning Code.

Finally, plans that have been adopted by the Village, which would be considered components of the Comprehensive Plan should be referenced as well:

1. Adopted summary of Hinsdale 2025 Strategic Plan
2. Adopted Ogden Avenue Corridor Plan
3. Findings/report of the Central Business District-Northtown-Parking Task Force, once the review and adoption process is complete

## ARTICLE 5: PLANNED DEVELOPMENTS

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Planned development (PD) requirements are currently found in Section 11-603 of the Code. The PD regulations should be kept in a separate article because they are a different type of application than other land use applications in Article 4, and because of the length of these provisions.

### Key Issues – Part 1

The following key issues refer to the current provisions. These observations served as a starting point in the Task Force discussions on the revision of the planned development process. There are a series of key issues that refer to the revised PD provisions drafted with the Task Force.

- There are currently regulations contained within the definition for planned development (in Article 12). This definition should be revised to state what a planned development is. A typical definition is as follows:

A development guided by a total integrated design plan in which one (1) or more of the zoning or subdivision regulations, other than use regulations, may be waived or varied to allow flexibility and creativity in site and building design and location, in accordance with general guidelines that accrue benefits to the Village and the public interest.

- The current purpose statement does not address the complete intent of a planned development. The Zoning Task Force, in review of other communities' ordinances, have cited the Wilmette example as a purpose statement that better describes the what a PD is intended to achieve. Wilmette's purpose statement is provided below:

A "Planned Unit Development" is a special use that is granted at the discretion of the Village Board. It is the intention of the Village that approval of a Planned Unit Development will be granted only where departure from otherwise applicable requirements of the Zoning Ordinance would be consistent with and justified by the benefits accruing to the Village and the public interest, generally, as a result of the Planned Unit Development.

The purposes of the Planned Unit Development special use are:

- (a) To allow flexibility in design;
- (b) To facilitate an efficient arrangement of buildings, traffic and circulation systems, land uses and utilities;
- (c) To preserve open space, existing landscape features and amenities to the extent possible and to utilize such features in a harmonious manner;
- (d) To provide for usable and suitably located public and common facilities;
- (e) To strive for compatible architectural styles, building forms and building relationships, both within the Planned Unit Development and with the surrounding neighborhood;
- (f) To insure a high quality of design and construction of developments; and,
- (g) To provide village officials with adequate assurance that the project will retain the character envisioned at the time of approval.

This purpose statement can be merged with the current purpose statement and further tailored to describe Hinsdale's specific intent with planned developments.

- These requirements for planned developments are eligibility standards, including requirements for site design and minimum design standards. These should be reorganized into a separate section renamed "Minimum Requirements" because a PD is required to meet these, rather than their use for evaluation of the benefit of a PD. Additional approval standards that supplement the special use findings of fact, such as the appropriateness of the development in the particular location and additional benefits to the community from the development, should be added to the Code. For example, some of these standards could be:
  - A planned development shall not substantially diminish the market value of surrounding properties, and it shall cause no substantial impairment of the use of those properties.
  - Planned developments shall not adversely affect the natural environment of the community as a whole. Natural assets and features, such as existing trees and native vegetation, shall be protected and preserved to the greatest extent practical.
  - The site shall be accessible to public streets that are adequate to carry the traffic that will be generated by the proposed development. The streets and driveways within the proposed development shall be adequate to serve the uses within the development. The applicant shall be responsible for the cost and installation of additional traffic controls and regulating devices that are required.
  - All proposed streets, alleys and driveways shall be adequate to serve the residents, occupants, visitors or other anticipated traffic. The planned development may be designed to discourage outside through traffic from traversing the development. Access points to public streets, and the location of private streets, alleys and driveways shall be subject to the approval of the Planning and Zoning Commission when granting the special use.
  - The pedestrian circulation system and its related walkways shall be separate of pedestrian and vehicular movement and provide for maximum pedestrian safety.

The current Code does not contain these types of standards. It is recommended that these, in addition to other appropriate standards, be added so that Code users, the Village and residents are aware that PD are more than just exceptions to requirements; the standards should be used as a way to evaluate the innovation and quality of a proposed PD.

- If common open space is a required element, then further clarification is required as to what qualifies as common open space. Additional provisions should also include what the minimum percentage of common open space is, whether there are instances where certain developments may be exempt from common open space requirements, etc.

Also, considering that Hinsdale is a built-out community, a common open space requirement may be unnecessary and may actually hinder development. Common open space is typically used as a requirement for a large-scale residential planned development. Hinsdale's current Code requires it for any type of development, which would be inappropriate for commercial development. In some commercial redevelopment PD, a requirement for common open space can, in fact, hurt the quality of the development. For example, it can disrupt the appearance of a desired streetwall or create "dead space" within a development.

- The requirement that PD must consist of two or more buildings is taken from the definitions. This is an atypical recommendation and is more consistent with single-family detached residential developments. Often, especially in built-out communities, a PD will be a single building – a commercial structure that has multiple tenants would be a single structure, a townhouse development, a multi-family building, etc. This limitation restricts the type of PD that the Village

can allow. Often, these larger scale developments are the type that warrant innovation and sensitivity and are ideal for PD. This allows the Village to negotiate their design so that the building design and site layout of these structures are sensitive to the surrounding environment and character of Hinsdale.

- The Code does not require any amenities or public benefits in exchange for the flexibility offered through the PD process. It is important to remember that, because of its inherent flexibility, the PD process can be used as a surrogate for the variation process. When a property owner does not want to meet existing district requirements, they often request a PD where they do not have to demonstrate a hardship or practical difficulty, as would be required under a variation. Therefore, it is key to limit the types of exceptions that may be sought under the process and to list which amenities are required to qualify for such exceptions so that petitioners cannot circumvent basic zoning district requirements without providing measured benefits to the Village. An example of some of the design characteristics and amenities that can be considered in determining whether an exception should be granted include:
  - Additional landscaping, buffering or screening within or around the perimeter of the planned development
  - Location and screening of parking facilities, including the provision of underground or depressed parking areas that incorporate additional landscaping above what is required by the Code
  - Reduced impervious surface throughout the development
  - Neo-traditional design characteristics including, but not limited to, mixed-use development, and circulation systems that utilize traffic-calming techniques
  - Community amenities, including plazas, malls, formal gardens, public art, and pedestrian and transit facilities
  - Preservation of natural features
  - Open space and recreational amenities beyond basic requirements
  - Age-restricted housing or ADA accessible units above the required number

It is impossible to cite all types of public amenities or benefits that can result from a PD in the Code, though it should provide a comprehensive list to guide users. The public benefits that result from a PD can be both tangible (open space, semi-pervious surfaces, etc.) and intangible. In some cases, the development itself can be considered a benefit to the community. For example, in communities where age-restricted housing is at a premium, an age-restricted development – or a development that reserves some units for those types of tenants – can be considered a public benefit to the community.

The importance of requiring a public benefit or amenity cannot be underemphasized, especially because PD require flexibility in the application of zoning regulations. For example, in the City of Park Ridge, the ordinance contains a section that explains how exemptions are granted. This is included below:

#### **5.4 EXCEPTIONS FROM DISTRICT REGULATIONS**

- A. The Planning and Zoning Commission may recommend and the the City Council may grant exceptions to the district bulk regulations where a planned development is located. The planned development is subject to the underlying district regulations unless such exception is granted. Exceptions from district regulations may be granted for planned developments with respect to height, density, bulk regulations and setbacks, off street parking and loading, landscaping and screening and signage, if the City Council finds that allowing such exceptions:

1. Enhances the overall merit of the planned development.
  2. Promotes the objectives of both the City and the development.
  3. Enhances the quality of the design of the structures and the site plan.
  4. Enables the development to offer environmental and pedestrian amenities.
  5. Will not cause such an adverse impact on neighboring properties so as to outweigh the benefits of the development.
  6. Is compatible with the land use policies of the City's Comprehensive Plan.
  7. Provides a public benefit to the City, as described in Paragraph C below.
- B.** The planned development is subject to the underlying district use regulations unless the Planning and Zoning Commission recommends and the the City Council permits uses other than those allowed within the district when it is determined by the City Council to be desirable in achieving the objectives of the planned development. However, there must be clear evidence that such uses: 1) are desirable and appropriate with respect to the primary purpose of the development; and 2) are not of such a nature, or so located, as to exercise a detrimental influence on the development or the surrounding neighborhood.
- C.** The underlying zoning district requirements shall apply, unless an exception is granted by ordinance as part of the approved special use. Exceptions to district regulations may be granted where it is determined that such modifications shall not negatively affect the value and enjoyment of surrounding property, the provision of municipal services, or the flow of traffic. To be granted such exceptions, the planned development applicant must demonstrate superior design and enhanced amenities. In no case shall an exception to district regulations within a planned development be granted unless the applicant demonstrates a substantial benefit to the City. Design characteristics and amenities to be considered in this determination shall include, but are not limited to the following:
1. Landscaping, buffering or screening within or around the perimeter of the planned development that is in addition to the minimum required by this Ordinance.
  2. The provision of underground parking, and additional landscaping and screening of parking lots and structures in addition to the minimum required by this Ordinance.
  3. Reduced use of impervious surface materials, including cluster development and use of semi-pervious materials such as grass-crete.
  4. Design characteristics including, but not limited to, mixed-use development, circulation systems that utilize alleys or traffic-calming techniques, and a pedestrian-oriented environment.
  5. Use of sustainable design and green architecture such as: green roofs and other energy efficient design concepts; water conservation; environmental sensitivity; new building technologies; Leadership in Energy and Environmental Design (LEED) techniques; and xeriscaping (water conservation landscaping).

6. Community amenities including plazas, malls, formal gardens, places to congregate, outdoor seating, public art, and pedestrian and transit facilities.
  7. Preservation of environmental features.
  8. Preservation of historic features.
  9. Open space and recreational amenities that are available to the public such as:
    - a. Swimming pools
    - b. Tennis courts
    - c. Recreational open space accessory buildings
    - d. Jogging trails and fitness courses
    - e. Playgrounds
    - f. Natural water features, wetlands and conservation areas
    - g. Detention areas which are accessible to occupants or the public via nature trails, boardwalks, and/or perimeter walkways, but only if they are designed as natural water features and are landscaped with native vegetation
  10. Additional public infrastructure improvements in addition to the minimum required by the planned development, such as new or repaved streets, installation of gutters and sewers, and traffic control devices to improve traffic flow.
  11. An affordable housing set-aside of twenty percent (20%) or more of all units as either rental or for-sale, according to the U. S. Department of Housing and Urban Development (HUD) guidelines.
  12. A senior housing set-aside, either rental or for-sale.
  13. Provision of accessible dwelling units with accessible features beyond what is required by the Americans with Disabilities Act (ADA) or any other applicable codes.
- In the Zoning Task Force meetings, it has been recommended that the Code clearly state that applications for a rezoning and a special use be processed separately, with separate public hearings. We agree with this recommendation and such language should be added to the Code.
  - A larger question to be addressed is the current process in place for approving planned developments in the Village. It is not typical to require the concept plan (Development Concept Plan) to undergo a public hearing and “bind the applicant.” A concept plan is typically used as a starting point of discussions between the applicant and staff to guide the development in accordance with the Village policies; occasionally, some communities will include informal concept plan reviews with the Plan Commission, but no public hearing or notice is required. The intent of a concept plan is to introduce the proposed development and make changes when there has not been significant money invested in the drafting of the plans. Many times the concept plan is considered optional because it is for the applicant’s benefit. If additional public input is desired, neighborhood meetings on the concept can be included to present the proposal to the community before it proceeds through the formal process.

The Plan Commission and Village Board usually only take formal action on the special use application at the preliminary plan stage (Detailed Plan). At this second stage, public hearings are conducted and full submittals of the planned development application are required. This is typically where special use approval is granted or denied. Currently, the Village requires two public hearings, which can be onerous both for the applicant in terms of cost and time, and for the Village in terms of scheduling and noticing public hearings.

The final plan (Final Plan) stage should be more administrative in nature. This is similar to Hinsdale's process whereby the Village Manager approves the Final Plan if it is in conformance with the Detailed Plan.

## Key Issues – Part 2

The following key issues refer to the revised PD provisions drafted with the Task Force.

- Based upon discussions with the Zoning Task Force, the following approval steps are recommended for planned developments:
  1. Required pre-application meeting with Village staff
  2. Concept Plan
    - a. Review by Plan Commission
    - b. Public meeting with neighborhood ("neighborhood meeting")
    - c. Review by Zoning and Public Safety Committee of Village Board
  3. Preliminary Plan (public hearing on planned development application and special use permit)
    - a. Review and public hearing by Plan Commission
    - b. Approval or denial by Village Board based on Plan Commission recommendation
  4. Final Plan
    - a. Review of final plan by Zoning Administrator
    - b. Approval or denial by Village Board based on the recommendation
- The permitted types of planned developments were reconsidered. Lifestyle housing and auto dealerships are not addressed as planned developments, but rather as special uses with appropriate use standards. The combination of use standards specifically geared toward these uses and allowing them as special uses provides the same level of control as PD.
- The requirement that PD must consist of two or more buildings is an atypical recommendation and is more consistent with single-family detached residential developments. Therefore it has been eliminated from this revision. Often, especially in built-out communities, a PD will be a single building – a commercial structure that has multiple tenants would be a single structure, a townhouse development, a multi-family building, etc. This limitation restricts the type of PD that the Village can allow. Often, these larger scale developments are the type that warrant innovation and sensitivity and are ideal for PD. This allows the Village to negotiate their design so that the building design and site layout of these structures are sensitive to the surrounding environment and character of Hinsdale.
- The need for public land (i.e., parks) is typically indicated in a comprehensive plan or, in some cases, an open space plan. The Zoning Code would not contain policy regarding the need for open space. The Village does not have specific open space policies articulated in an adopted document. Therefore, this standard was revised to allow the Village discretion to

require open space when appropriate, removing references to plan policies.

- Considering that Hinsdale is a built-out community, a common open space requirement is unnecessary and may actually hinder development. Common open space is typically used as a requirement for a large-scale residential planned development. Hinsdale's current Code requires it for any type of development, which would be inappropriate for commercial development. In some commercial redevelopment PD, a requirement for common open space can, in fact, hurt the quality of the development. For example, it can disrupt the appearance of a desired streetwall or create "dead space" within a development. Therefore this has been revised to require common open space for multi-building residential uses and large office parks.

## ARTICLE 6: ZONING DISTRICTS

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This Article is the standard code language that introduces the zoning districts and the Official Zoning Map. This is Article 2 of the current Code.

### Key Issues

- Section 2.2, which lists which zoning districts are more less or restrictive in relation to each other, is an older zoning technique that has fallen out of practice. In a traditional Euclidean zoning code, uses between districts are permitted cumulatively. For example, the R-2 District will allow all permitted and special uses within the R-1 District, plus some additional uses. The R-3 District will allow all permitted and special uses within the R-2 District, plus more additional uses. In older codes, this pattern will continue through the commercial districts as well, which is where you see that single-family homes are permitted in business districts. This is where the terminology of more or less restrictive comes from – an R-1 District is the most restrictive because it permits the least number of uses. The highest multi-family district, such as an R-5 District, would be the least restrictive because it permits the greatest number of uses. Because the current Code is not organized in such a fashion, the use of terms such as more or less restrictive with rankings are not applicable. This section is unnecessary and does not enhance the general understanding of the nature of the zoning districts.
- Section 2.3 requires court decrees to be shown on the map. As stated earlier, the zoning map should not show parcels subject to court decrees. The zoning map should only show districts. It is important to remember that the zoning map is officially part of the Code and so any changes require a map amendment.
- Section 2.4 automatically designates annexed land as the R-1 District. Typically, this “automatic district” is a single-family district. In the current Code, annexed land is assigned to the R-1 District designation. It is our understanding that most lots are assigned to the R-2 District designation (the smaller lot single-family district) in practice. Therefore the automatic designation should be revised to that of the R-2 District to codify current practice. Language can be simplified to read as follows:

Any territory annexed into the Village shall automatically, upon annexation, be classified as R-2 Single-Family Residential District and subject to the requirements of the R-2 Single-Family Residential District, unless another zoning district designation is provided for in the annexation agreement or until the territory is rezoned.

## ARTICLE 7: SINGLE-FAMILY RESIDENTIAL DISTRICTS

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These are the current provisions of Article 3. The following district regulations are located in this Article:

- R-1 Single-Family Residential District
- R-2 Single-Family Residential District
- R-3 Single-Family Residential District
- R-4 Single-Family Residential District

Most information within this Article has been organized into table format, particularly use, and bulk and setback requirements.

### Key Issues

- Nonconforming Lots: The most significant issue related to single-family residential zoning in the Village is the large number of nonconforming lots, which indicates that the current requirements are not working. According to a staff survey, an analysis of conformity to minimum lot area resulted in the following number of nonconforming lots:
  - R-1 District: 83% Nonconforming
  - R-2 District: 76% Nonconforming
  - R-3 District: 36% Nonconforming
  - R-4 District: 63% Nonconforming

These exceptionally high numbers of nonconforming lots indicates that current regulations must be re-evaluated, as they result in more nonconformities than conformities. In addition, the nonconformities article (Article 10) contains an extensive list of bulk regulations for nonconforming lots in each of the above districts, essentially creating another set of districts. Even with the second set of regulations, there are still lots in the R-1, R-2, R-3 and R-4 Districts that may not conform to the nonconforming requirements – creating nonconforming nonconformities. Further, because the analysis focused only on lot area, there may be additional lots that are nonconforming in terms of lot width, which may increase these percentages.

Because of this situation, there are steps the Village can take to eliminate the excessively high number of nonconforming lots and address the established single-family residential development pattern:

1. The existing bulk controls for the single-family districts should be re-evaluated to determine which modifications would reduce the number of nonconforming properties.
2. Additional single-family districts, based in part on the nonconforming lot yard and bulk regulations, may be necessary to create districts of conforming lots.
3. The Zoning Map should be analyzed to determine if residential zoning districts are properly mapped.

Nonetheless, property owners have still been allowed to build a single-family dwelling on these lots if they are a nonconforming lot of record, which the Code does not explicitly state but has been Village practice. This should be stated explicitly in the Code.

A key “next step” to resolve this issue will be a GIS analysis with data from DuPage and Cook Counties to catalogue current lot sizes in Hinsdale and determine the current lot area dimensions within single-family districts.

- Purpose Statements: Individual purpose statements for each of the four single-family districts should be added to the Article, in addition the overall purpose of the single-family districts.
- Uses: Though the single-family districts are intended to be limited to single-family dwellings only, there are a number of uses that must be permitted, according to federal and/or state regulations, such as community residences for those with mental or physical disabilities and day care homes. In the reorganized Code, the term “community residence” would replace the term “transitional service facility” used by the current Code.
- Lot Area Per Dwelling Unit: The “lot area per dwelling unit” requirement has been stricken because it is redundant. In single-family districts, this is the same as minimum lot area.
- Lot Width: The current measurement of lot width is confusing because it requires measurement along the front setback line. Because the front setback line is determined through a series of averaging provisions, compliance with lot width could potentially vary for even one lot. Irregular lots would be impacted most, as averaging could make what was thought to be an existing conforming lot nonconforming depending on where the front setback line falls based on neighboring lots. On regular lots, this requires calculation of the front setback line each time to determine compliance, even if the lots are a “typical rectangle.” One way to simplify this measurement and create a more consistently applied lot width measurement is to measure lot width along the front lot line.
- Building Height & Elevation: The measurement methodologies for building height and elevation require clarification. Our understanding is that “building height” is measured from average existing grade to the mean (between the eaves and the peak of the roof). “Building elevation” is measured, generally, from one foot above the visible lowest point of the foundation of the proposed grade. These should be explicitly stated within the Code and supplemented with illustrations.

One alternative that could simplify the measurement of elevation is to measure building elevation at six inches above the lowest proposed grade at the foundation to the ridge. This would eliminate additional calculations of where the lowest point of the foundation is visible and would set a clearer standard of how to measure elevation. The six inch dimension is derived from the building codes and common engineering and architectural practices. The building codes state that wood siding, sheathing and wall framing have a clearance of less than six inches from the ground be protected from decay and common engineering/architectural practice is to keep the top of foundation a minimum of six inches above grade so to avoid breeching the foundation with landscape materials that can cause water infiltration and other impacts.

- Building Height: The types of appurtenances that are permitted should be clearly described and limits placed on their overall height. The Code regulates some architectural features – turrets and cupolas are excluded so long as their diameter is no more than nine feet – but is silent on other elements such as dormers.
- Building Height & Building Elevation: Another confusing aspect of maximum height restrictions is that the regulations are based on increases in side yard size – building height and elevation increases are permitted with increased side yards. It seems to be the intent of the provisions to

permit taller buildings on wider lots because there will be, by default, larger side yards. With refinement of side yard provisions, this could be simplified to link maximum height and elevation to lot width to better reflect the intent.

- Floor Area Ratio: Floor area ratio (FAR) as a regulatory tool, and its method of calculation, is not an appropriate mechanism for regulating bulk and scale. Communities have found that FAR is not an effective tool for regulating bulk, as it does not limit overall building volume, which is what it is designed to do. In fact, this regulatory tool was devised to control the bulk and height of skyscrapers in an urban environment, rather than to control bulk in a low density residential environment.

Calculation of FAR is difficult because the calculation of floor area is done inside the building and has virtually no impact on the outside of the structure. By manipulating what is designated as a “floor” to be measured, whether via the height of ceilings or the use of half-stories, structures can end up in either violation or compliance without any changes to the exterior of the structure. Zoning is intended to regulate the exterior of structures, not the interior. In addition, determining what is included or excluded in FAR calculations is confusing. There is a definition that defines FAR for single-family residential uses, and then a footnote in the bulk tables that allows a bonus for detached garages.

It is our recommendation that the Village eliminate FAR in the single-family residential districts. As a regulatory tool, it does not effectively control building volume.

- Front & Corner Side Setback: The bulk regulations appear to require a straightforward 35 foot front and/or corner side setback, however, based on the various footnotes this is rarely, if ever, the case. A series of averaging provisions come into effect when 50% or more *or* 50% or less of the lots on a block are developed – meaning that the averaging provision is *always* required. The 35 foot setback appears to be unnecessary, except as part of the averaging requirements for blocks with less than 50% of the lots developed, but with at least four developed lots, or if a large tract of undeveloped land not within an existing block is developed, such as the Sedgwick. Based on existing boundaries and because the Village is built out, the 35 foot setback effectively does not apply.

The front setback averaging requirements in the residential districts are complex and cumbersome. Front setback averaging is usually required where there is a desire to recognize variability. Even in that case, averaging results in front setback “creep” over time – eventually all homes will approach the average. In Hinsdale, many homes maintain a consistent setback along the block, making the use of an averaging provision ineffective because there is no variability to preserve within a blockface.

The current front and corner side setback provisions are grouped together in the reorganized code to reflect the current code. Front and corner side setback requirements should be drafted separately to address the unique configurations of corner lots in the Village. To that end, specific provisions for reverse corner side setbacks will be needed as well.

- Front Setback: Calculation of the front setback can be onerous for homeowners, particularly of existing structures. As new homes are constructed on the block, the required front setback can change for existing homes. If a homeowner wished to make renovations to an existing structure or, for example, add a front porch to an existing home, they are required to calculate the front setback and, by Code, that requires them to survey the entire block.

There are a number of alternatives the Village can evaluate to determine front setback:

1. The averaging provision could be changed to require the average setback for a reduced number of neighboring homes, rather than the entire blockface. For example, two homes on either side of a lot could be averaged. This maintains the general setback of the block without having to calculate the front setback of all homes. This would be particularly useful for Hinsdale where variability is seen less along the same block, but rather between different blocks.
  2. A firm minimum front setback dimension can be set by the Code, which would eliminate the averaging provision altogether.
  3. Options 1 and 2, above, could be combined to require either the average of the neighboring homes or a set minimum dimension, whichever is greater. (The minimum dimension would be determined through a survey of sample blocks in the Village.) This would allow for blocks that have an established greater setback to maintain that character via averaging, while simplifying the front setback measurement for homes on a significant number of lots throughout the Village.
- Interior Side Setback: The calculation of the required interior side setback is confusing. The requirement states that a minimum dimension is required (10 feet in the R-1 and R-2 Districts and 8 feet in the R-3 and R-4 Districts) unless a larger dimension is calculation via the following formula: for lots 50 feet or more in width, 6 feet plus 10% of the difference between the lot width and 50 feet. Because the minimum lot width in the R-1 District is 125 feet, 100 feet in the R-2 District, and 70 feet for interior lots and 80 feet for corner lots in the R-3 and R-4 Districts, the minimum dimensions (10 feet and 8 feet) do not apply. In fact, for substandard lots, the required interior side setback is set by the nonconforming lot provisions. Because bulk regulations should be written for conforming lots, the minimum dimension should be eliminated for the exclusive use of the formula.
  - Interior Side Setback: The intent of the complicated formula for interior side setbacks is not clear. Typically, interior side setbacks are established as a percentage of lot width – many communities use 10% of lot width for each side setback – and so that setbacks increase proportionately with lot width.

In addition to the minimum individual interior side setback requirement, there is also a minimum *total* interior side setback for interior lots, which is 30% of lot width for lots up to and including 125 feet in width (for lots larger than 125 feet, the requirement is 30% of lot width plus 35% of the difference between 125 feet and the lot size). This is a large total interior side setback requirement, which questions the validity of the current individual interior side setback requirement. When the *individual* interior side setbacks are totaled, the total interior side setback required is between 21% and 23% of lot width. The 30% requirement for total interior side increases the total setback area required by 7% or more above the individual interior side setbacks. Two examples illustrate this finding.

1. A lot with a 100 foot lot width is required to provide an interior side setback on each side of 11 feet based on the interior side setback formula. However, the *total* minimum required means that the total interior side setback must equal 30 feet. Therefore the lot requires that each interior side setback be a minimum of 11 feet but an additional 8 feet of interior side setback must be provided, whether added to one of the interior side setbacks or distributed between them.

Combined Total of Individual Interior Side Setbacks: 22% of lot width  
 Required Minimum of Total Interior Side Setback: 30% of lot width  
 Additional Interior Side Setback Required to Meet Minimum Total: 8% of lot width

2. A lot with a 140 foot lot width is required to provide an interior side setback on each side of 15 feet based on the interior side setback formula. However, the *total* minimum required means that the total interior side setback must equal 42.75 feet. Therefore the lot requires that each interior side setback be a minimum of 15 feet but an additional 12.75 feet of interior side setback must be provided, whether added to one of the interior side setbacks or distributed between them.

Combined Total of Individual Interior Side Setbacks: 21% of lot width  
 Required Minimum of Total Interior Side Setback: 31% of lot width  
 Additional Interior Side Setback Required to Meet Minimum Total: 10% of lot width

This indicates a need to re-evaluate requirements to determine if an increase in the individual interior side setbacks is needed if greater space is desired between buildings.

The formulas for interior side setbacks, both individual setbacks and total amount, are complicated and do not convey the intent of the controls. Because of current regulations, in particular the total requirement of 30% or more, a home could be constructed on a lot at the minimum interior side setback line close to neighbors with a large (required) interior side yard on the other side.

One type of formula used by some communities takes into consideration minimum spacing between buildings, guaranteed by a set dimension, supplemented by a total setback requirement to allow for some flexibility in application. For example, such a provision would read: "Each interior side setback shall be a minimum of \_\_\_ feet, but total combined interior side setbacks shall be \_\_\_% of lot width."

The reason for creating straightforward calculations for interior side setbacks, as well as other requirements, is to minimize the amount of interpretation for Code administration. This ensures consistent application of these provisions throughout the life of the Code, both for Code users and administrators.

- Interior Side Setback: Because interior side setbacks are calculated based on lot width, which is measured at the front setback line, there are additional complications that may result for more irregular lots. Calculation of interior side setbacks would be more predictable with lot width measurement at the front lot line.
- Irregular Lots: There are a number of irregular single-family zoning lots within the Village, in particular within the Woodlands area where there are numerous curvilinear streets. As the bulk regulations are revisited and the methodologies for measurement are analyzed and clarified, specific types of measurement are required to deal with irregular lots. For example, within the Woodlands, the Village may want to evaluate the way similar lots in the Village of Riverside, Illinois are measured for different regulations, like lots width, lot area, rear yards, etc.

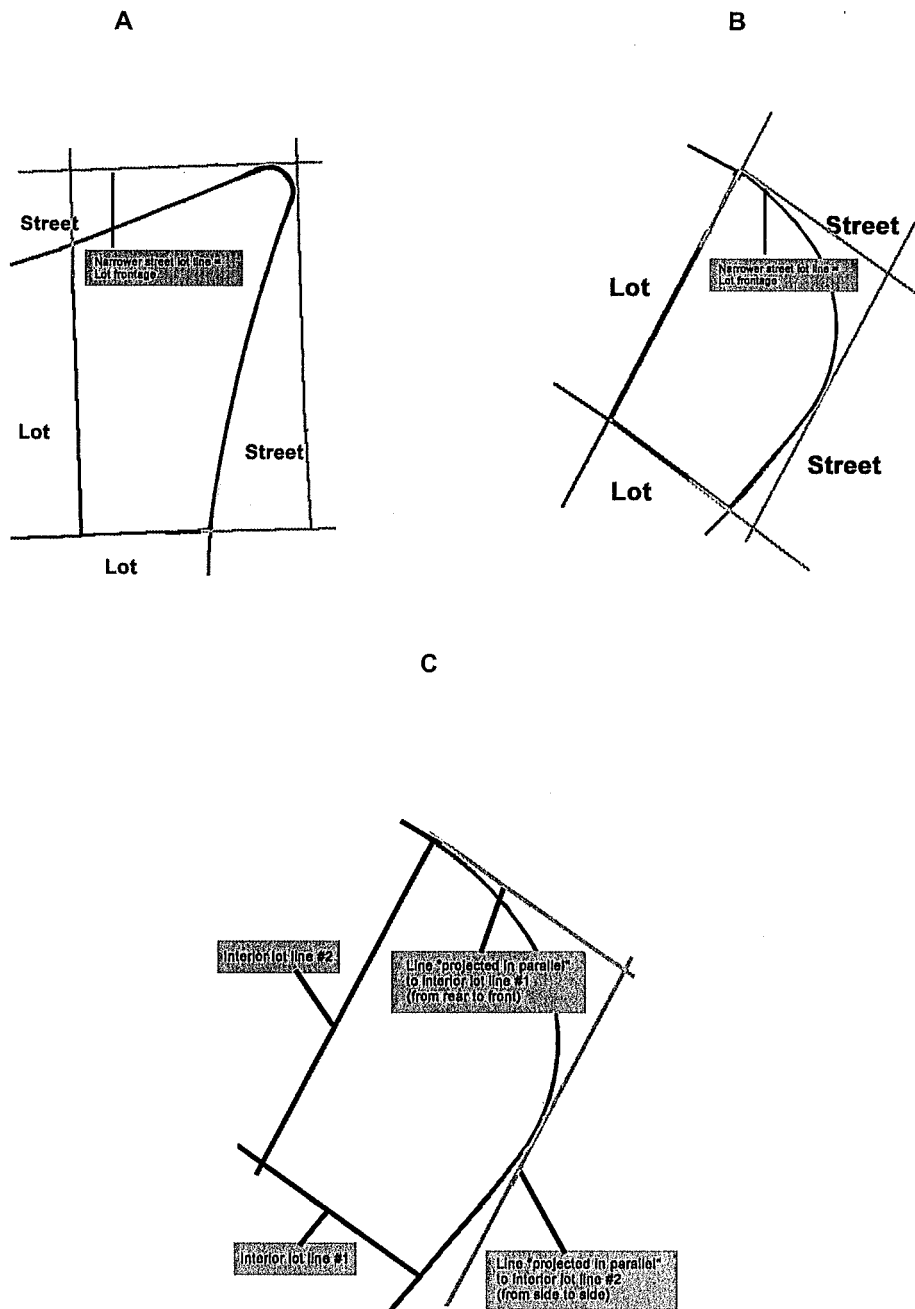
For example, because of the numerous irregular lots in Riverside, including many that have curved street frontages, special calculations were created for measuring lot width, called lot frontage in the ordinance, in order to minimize the number of lots that would be considered nonconforming by conventional measurement. Such dimension is calculated as follows:

**EXAMPLE: VILLAGE OF RIVERSIDE**

**Lot Frontage:**

1. For lots with two (2) "Side Lot Lines," "Lot Frontage" shall be that uninterrupted linear or curvilinear extent of a lot line measured along the street right-of-way from the intersection of one "Side Lot Line" to the intersection of the other "Side Lot Line."
2. For lots with one (1) "Side Lot Line," where the "Street Lot Line" is generally curved along the intersection of two streets, "Lot Frontage" shall be measured tangentially along the narrower street lot line according to the following method:
  - A. Each interior lot line shall be projected in parallel until it is tangent to the outermost point of the "Street Lot Line" in that direction, as shown in Figure 14. The term "projected in parallel" shall mean establishing a line that is parallel to the interior lot line, as indicated in Figure 14, diagram C.
  - B. Measured from the point of intersection of the two projected lines to the perpendicular intersection of the interior lot line, the narrower of the two (2) projected lines shall be considered to contain the narrower "Street Lot Line." The length of this projected line shall be considered to be the "Lot Frontage" dimension.

FIGURE 14: LOT FRONTAGE



\* By projecting the interior lot lines in parallel to the outermost point (from the rear lot line to the front, and from the side lot line to the side), the intent is to create a parallelogram to determine which dimension is more narrow and constitutes the dimension for lot frontage.

## ARTICLE 8: MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

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These are the current provisions of Article 4. The following district regulations are located in this Article:

R-5 Multiple-Family Residential District  
R-6 Multiple-Family Residential District

Most information within this Article has been organized into table format, particularly use and bulk and setback requirements.

### Key Issues

- It is our understanding that the R-5 and R-6 Districts were created to address multi-family developments constructed in the unincorporated county and annexed into the Village. Therefore, the standards for these districts were based upon what was on the ground in these areas at the time of annexation or the standards from county zoning, rather than upon a vision on how multi-family areas should develop. This is evidenced by the statements within both the “Purpose” and “Mapping Restrictions” sections of Article 4. The purpose of the R-5 and the R-6 District should reflect the nature of the district and the intensity of the uses within each. References to annexation and prior county zoning are unnecessary; it would be better to use language such as “the districts are accommodating established areas of multi-family housing.”

Because the regulations for both the R-5 and R-6 Districts were crafted for existing multi-family areas developed under county zoning, the yard and bulk regulations do not speak to the type of multi-family the Village would like to see or take into account the needs of modern development. They essentially attempt to mimic county development. Because the housing stock in these areas is getting older, the potential for redevelopment has increased and the Code update presents the Village with the opportunity to better define any new multi-family development that may occur in the future.

- The current districts and the lifestyle housing provisions of the planned development section do not provide an appropriate transitional district between single-family residential areas and commercial areas. A typical approach for many communities is to include a townhouse district that is sensitive to the character of adjacent single-family residential areas yet provides the appropriate buffer from the commercial development. The creation of such a district, with appropriate bulk controls and a set of clear design standards, can ensure that new development matches Hinsdale’s character and that it is of a high quality. The standards would address the full range of design elements, including aspects like basic site layout (a limit on how many townhouses could be attached, locations of garages and driveways, etc.) permitted and prohibited building materials, landscaping requirements, scale and massing, relation to surrounding development, and façade articulation. Design standards can be used to ensure that development match the character of Hinsdale, such as the rowhouses at Chicago and Clay.

Because Hinsdale is primarily a single-family detached residential Village, there are limited places where such a district would be appropriate. Townhouse development would be viable only in certain areas, such as close to downtown where a transition from commercial to single-family residential is appropriate and a small increase in density over detached single-family may result in some additional foot traffic. This type of district would provide a more appropriate transition in form than the use of the O-1 District or other low intensity professional office use. Another

example of an appropriate area is the redevelopment of existing multi-family development. A townhouse district can also provide additional housing options for members of the community, similar in intent to the lifestyle housing use. It is recommended that the current R-5 District be revised as such a district.

- Purpose: The “Mapping Restrictions” section should be eliminated because it is legally suspect and potentially violates the Fair Housing Act. No zoning district should be created that cannot be mapped, as language for the R-6 District states. An applicant should be able to apply for any zoning district anywhere within the municipality. This does not mean that the Village Board is obligated to approve such a request, but the applicant is entitled to apply for it.
- Uses: The primary uses within the multi-family districts are multi-family dwellings and senior citizen housing. This should be updated to reflect the modern range of senior care – independent living facilities, assisted living facilities and nursing homes. “Transitional service facility” has been updated with the term “community residence.”
- Uses: Both the R-5 and R-6 Districts permit single-family and two-family dwellings. The Village may want to revisit this permission and determine whether or not the potential to redevelop existing multi-family areas as single-family is desirable. The established multi-family areas are valuable to the Village for a number of reasons. They diversify the type of housing stock available within Hinsdale and offer opportunities for affordable housing, which is required by the Illinois Affordable Housing Planning and Appeal Act (10% of housing stock). These areas are already established as home to multi-family uses; their continued use as multi-family is already accepted by the community, as opposed to rezoning additional areas for multi-family use. A way to ensure continued use of these areas as multi-family is to remove single-family and two-family uses from the permitted use list.
- Minimum Lot Area: The Code update offers Hinsdale the chance to reevaluate current permitted densities in the R-5 and R-6 Districts. The townhouse densities are very low, almost comparable to a single-family detached dwelling. Because of their compact design, townhouses are usually permitted with a lot area less than the 7,500sf per dwelling unit allowed in the existing Code.

There are, however, a number of impacts that result from an increase in permitted multi-family density. Currently buildings in the R-5 District are limited to 30 feet and 50 feet in R-6 District, which make design of a higher density building difficult. The Code would have to increase permitted building height for multi-family dwellings. With more dwelling units, parking becomes an issue as more cars need to be accommodated. Many communities also resist increased density because of how these “bigger” buildings are perceived. A code that carefully addresses all the different site elements (placement on the lot, landscaping, setback from the right-of-way, etc.) and building design can off-set many of these concerns. It may be necessary to include new multi-family design guidelines to ensure that these developments are in keeping with the character of Hinsdale.

- Building Height: The current building height restriction in the R-5 District is low. The R-5 District only allows a two-story building, while the single-family residential districts are permitted three-story buildings. Both the single-family districts and the R-5 District are limited to a building height of 30 feet. In the R-6 District, the limit is four-stories and 50 feet, which is able to accommodate higher density development but may create nonconformities. For example, the Spinning Wheel Tower exceeds the district’s maximum building height.

There is also a distinction in townhouse developments from multi-family, multi-story developments. A specific set of building height restrictions should be crafted for townhouse developments, which should be similar to single-family developments.

- Building Coverage: The building coverage restriction for the R-5 and R-6 Districts is the same as single-family districts for interior lots (25%) and slightly larger for corner lots (35%). Multi-family development is typically higher – such as 60% and more – depending on permitted densities.
- Floor Area Ratio: The FAR within the R-5 and R-6 District is low. However, any recommended change to the FAR standard cannot be given until height and density standards are confirmed. Currently, the type of multi-family development permitted in the districts is not very dense and very limited in height. If the standards are revised to better address multi-family development, which may be larger in scale, the use of FAR may be unnecessary. If it is maintained, multi-story multi-family and townhouse developments would most likely require different FAR standards, as would lower density residential such as single-family if still permitted within the districts. For example, in the R-6 District, single-family dwellings are currently allowed a 0.60 FAR!
- Front Setback: The current front setback requirements are very large for multi-family development (a 35 to 40 foot front yard, dependent on the building height). Typically, the front setback is reduced for multi-family development to bring buildings closer to the street. This relates to the appearance of the building from the street.

In the Village's case, multi-family buildings are required to be set back far from the front property line, which, depending on lot depth, could create difficulties in accommodating rear parking areas or access to rear-loaded garages, which is the preferred parking design. Also, the setback area is not landscaped the way a single-family dwelling would be. It is usually maintained as lawn, which is not necessarily visually appealing. Townhouse developments also have smaller front yards, though there is usually more landscaping at the front of units, but again, a smaller front setback helps to ensure rear yard parking areas, rather than parking in the front of units whether via attached front-loaded garages or surface parking areas in the front.

## ARTICLE 9: BUSINESS DISTRICTS

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These are the current provisions of Article 5. The following district regulations are located in this Article:

- B-1 Community Business District
- B-2 Central Business District
- B-3 General Business District

Most information within this Article has been organized into table format, particularly use and bulk and setback requirements.

### Key Issues

- Uses: The use structure within the Business Districts is outdated. Please see the discussion on the generic use approach located after the discussion of Article 10 of this Report.
- Purpose: The Village currently has three business districts that address the different scale of commercial uses present in the community. The B-1 District is a general commercial district allowing for different types of commercial configurations from a shopping center (Grant Square) to corner commercial establishments (gas station). The B-2 District is Hinsdale's historic Central Business District. The final district, the B-3 District, is the high intensity, auto-oriented commercial, including uses along busy arterials like Ogden Avenue and the Hinsdale Oasis on the Tri-State Tollway. The Article's purpose statements for each of these districts should be refined to better reflect the character of each, so that users of the Code understand what type of development (scale, intensity and use) is permitted within each. This is important for business districts because, many times, the uses are not all that different between districts but the scale, character and intensity of use are.
- Lot Size: The current bulk requirements require a minimum lot area, lot width and lot depth within each of the commercial districts. Many communities do not require these minimums in many commercial districts because lot sizes vary between different types of commercial users within each. In the B-3 District, a significant amount of parking is required so lots must be larger to accommodate parking areas. In the B-2 District, infill will be the primary type of development, so new development will take advantage of any sites available, which could be hampered by nonconforming development sites. A bigger concern is the current minimum lot sizes in the historic B-2 District. Even though they are not very large, they may make current structures nonconforming. Eliminating minimum lot size requirements for certain districts could encourage development of older or vacant parcels and prevent the creation of nonconformities.

On the other side, the use of a minimum lot size can be used to encourage assembly of larger parcels. For example, in the B-3 District, which is intended to draw users from outside Hinsdale, a larger minimum lot size can be considered. Conversely, within the B-2 District, even though the requirements are for relatively small lot sizes (2,500sf), the Village may want to eliminate these altogether to avoid any nonconformities.

- Lot Coverage and Building Coverage: The lot coverage and building coverage requirements can be eliminated because their controls are minimal. Essentially, lot coverage requirements permit 90% coverage in the B-1 and B-3 Districts and 100% in the B-2 District; building coverage in the B-2 District is 80%. The setback requirements are the controlling element on the site and so the additional layer of control is unnecessary. Commercial districts typically do not include these

controls because of the intensity of commercial development. Eliminating these would also eliminate specific provisions included within Footnote 13 for nonconforming uses and elevators within the B-2 District.

- Floor Area Ratio: When analyzing the other bulk regulations, the use of FAR should also be assessed. Because the regulations on commercial development are restrictive, it is assumed that the predominant controlling factors are height and setbacks; FAR may only complicate design. This is because FAR was developed for significantly taller buildings than those permitted within any of the business districts.
- Building Coverage & FAR Exemptions for Existing Structures: Certain exemptions are in place for existing buildings (of a certain date, which must be specified) that seem to grandfather-in larger structures indefinitely. This is a questionable. For the building coverage grandfathering, because the requirements are quite large, the effects may be less significant; however a grandfathered FAR may be more significant.
- Building Height: Building heights within the districts are restrictive, with 30 feet and two stories allowed in the B-1 and B-3 Districts, and 35 feet and three stories in the B-2 District. Because of these low heights, the FAR regulations may be unnecessary. However, one concern with current height regulations is that a building height increase of 20% is permitted in the B-2 District if a development shows “exceptional architectural merit.” It also appears to apply to architectural features and not the building height generally. This is a very vague standard and one that should be explicitly described or eliminated. One way is to specify permissible exemptions by creating a specific list of appurtenances that would qualify.
- Setback/Yard: A key clarification for this Article is the use of both a yard and a setback requirement, which are identical numbers. Modern ordinances use only one term and restriction.
- Front Setback: Requiring front setbacks within commercial districts forces buildings further away from the street and makes access to parking areas at the rear of the building more difficult. In the B-1 and B-3 Districts there is a front setback requirement of 25 feet. This requirement should be analyzed to see if it encourages front yard parking, particularly in the B-1 District where sites are smaller and development more constrained.

There is also the question of a 100 foot setback from the centerline of Ogden Avenue in the B-1 and B-3 Districts. This type of requirement is typically used like an easement for right-of-way expansion. If it is part of right-of-way concerns, there is an issue as to why it only applies to the business and office districts and not to the other districts along Ogden Avenue. If the intent is aesthetic, then that should be clarified and supplemented with some landscaping standards along this area. It is unclear why this provision is included here and should be supplemented with a purpose statement.

- Rear Setback: There are also rear setback requirements in all three districts, including the B-2 District. This may contradict the building coverage regulations, which allow for almost the entire lot to be developed. In areas like the B-2 District, where there is almost no on-site parking – the Central Business District is primarily served by on-street public parking – there is no need for a required rear yard, where parking could be directed.

- Design Controls: The character of the B-2 District is firmly established. However, the Code is silent on the design of new structures within the district. This increases the likelihood of out of character development and a break in the established design fabric of downtown. One way to preserve the character of downtown is to include elements of form-based coding in the B-2 District. Camiros has worked on a number of hybrid codes – more traditional zoning codes that incorporated form-based elements (design standards) into specific districts to control the appearance of new development. Such a hybrid code would be ideal for Hinsdale’s Central Business District because it would work to preserve what is there. The Code would document those architectural features that define the B-2 District, allowing them by-right without having to create a series of exceptions in the Code or hear numerous variance requests just to match existing development.

It is recommended that form-based coding be used in the B-2 District.

*Accompanying this Report as Appendix B is a copy of the American Planning Association’s publication “Zoning Practice” article authored by Arista Strungys of Camiros, which explains the process and principals of hybrid coding.*

## ARTICLE 10: OFFICE DISTRICTS

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These are the current provisions of Article 6. The following district regulations are located in this Article:

- O-1 Specialty Office District
- O-2 Limited Office District
- O-3 General Office District

Most information within this Article has been organized into table format, particularly use and bulk and setback requirements.

### Key Issues

- Like the business districts, the office districts should be specifically tailored to their intended purposes, both in terms of yard, bulk and use regulations and their purpose statements. It is clear that the Village has planned for three types of office uses – the O-1 District is intended adjacent to and of a similar character as single-family residential uses, the O-2 District accommodates more general office users located primarily along main roadways, and the O-3 District is for larger-scale office park-type development. Therefore regulations should be reviewed and refined to address these three types of intensities.
- Purpose: As was the case in the multi-family districts, the Code specifically states where the O-3 District can be mapped and says that no other areas may be mapped as such. This is a suspect regulation. An applicant should be able to apply for a zoning district anywhere within the Village, though the Board does not have to approve such request. It is understandable that the Village would like to limit the application of the O-3 District but this should be done through land use requirements. One control is to require a large minimum lot size, so that a significant amount of land must be assembled in order to construct an office park development. A second is to require location off a main arterial roadway because of the amount of traffic, both employee and client, that can potentially be generated by such a use. This would effectively limit the potential locations of the O-3 District without causing legal issues.
- Uses: The use structure within the Office Districts is outdated. Please see the discussion on the generic use approach located after the discussion of this Article in this Report.
- Uses: Because of the character of the O-1 District, residential dwellings are permitted (limited to two-family dwellings). The Village may also want to consider allowing office use-only live/work dwellings within the O-1 District to allow for offices that are also a dwelling for the tenant.
- O-1 Design Standards: There are general design standards for the O-1 District to ensure that the conversion of an existing structure or new construction will be residential in appearance. The design standards should be more detailed and explicit, and should include photographic examples of existing structures in the district that meet the requirements so that the intent is clear. It may also be appropriate to include basic design standards for each of the office districts in order to ensure quality design.
- O-1 Yard and Bulk Standards: In terms of the yard and bulk standards, the O-1 District should match single-family residential yard and bulk standards as closely as possible, especially if the desire is to continue the appearance of a single-family structure. To this end, the following bulk standards should be evaluated for compliance:

- The O-1 District has the same setbacks as required in the single-family districts. However, as described in the residential districts technical memorandum, the required setbacks for the residential districts rarely, if ever, apply. In order to ensure compatibility with neighboring residential, the same requirements for single-family districts should apply to the O-1 District.
  - Because the O-1 District is intended to match the residential districts, lot area and lot width should match with those of the adjacent single-family districts. As the lot sizes of residential districts are analyzed and potentially revised, the O-1 District should be included in this analysis as well.
  - The residential districts maintain a sliding scale FAR based upon lot size (under 10,000sf, above 10,000sf, and above 20,000sf). The O-1 District uses a straight 0.40 FAR. Similarly, there is a sliding scale building height based on side yard size, and the O-1 District uses a straight 30 foot maximum. These should be analyzed for compatibility. Because of these varying standards, it is possible that the O-1 District could result in development out of scale compared to that of its immediate neighbors. If a new method of volume control is implemented for the residential districts, it should also be applied to the O-1 District.
  - The O-1 District has a slightly higher building coverage (35%) than the residential districts (25%). This should be evaluated for compatibility, as a higher lot coverage and higher FAR may allow for out of scale development. There is also a rather high lot coverage restriction in the O-1 District as well (80%). If the intent is to allow for parking on-site within an office district, there should be additional standards to control the arrangement of that parking and the amount of paved surface/required open space.
- Lot Size: Because the O-3 District is intended to be the most intensive of the office districts, it is not clear why the lot area and lot depth of the O-3 District is less than that of the O-2 District, which is intended to accommodate general office uses throughout the Village. In order to limit the location of the O-3 District to those areas appropriate for this type of land use, an increase in the minimum lot size required for the O-3 District coupled with access from major arterials, such as York Road and Ogden Avenue can restrict its zoning. It would also create a progression of office districts from least intense to most intense.
  - Setbacks: A significant issue with the setbacks and yards within the office districts is the reason for each setback and how the various provisions apply. These existing provisions create a number of issues and conflicts:
    - There are both yard and setback requirements. This is confusing and the Code should only speak to either minimum required yards or minimum setbacks.
    - There are special setbacks from Ogden Avenue, York Road and the Cook County Forest Preserve. However these are only established for the O-2 and O-3 Districts. Because a code cannot restrict where a zoning district can be applied, if these setbacks are desired in these particular areas, they should be applied to all districts.
    - Again, the intent of the larger setbacks from Ogden Avenue, York Road and the Cook County Forest Preserve are not clear. For Ogden Avenue and York Road, the assumption is that taller buildings should be setback further from the street. This may be better established with a building height setback plane, similar to that described for the residential districts above.
    - In the O-3 District, the front and rear yard and setback requirements are not the same. To prevent confusion, only one type of provision should apply.

- Lot Coverage & FAR: Building coverage standards for the O-2 District can be eliminated because the required yard standards create open space on the site. The lot coverage maximum of 80% is closely aligned with the yard standards, which are a more appropriate control for a general office district. The O-3 District requires a lot of open space, created both by the 50% maximum lot coverage and the significant yard requirements along York Road and Ogden Avenue (which is where the Code indicates the O-3 District should be mapped). This desire for open space as part of development of large office areas should be supplemented by landscaping requirements. Building foundation landscaping and on-lot landscaping tree planting requirements would create visual interest on the site, screen areas from public view and promote species diversity. Often, when only lot coverage and yard requirements are in place for large office developments, the remainder of the lot is planted as lawn. Landscaping requirements would ensure a more interesting appearance.

## GENERIC USE APPROACH

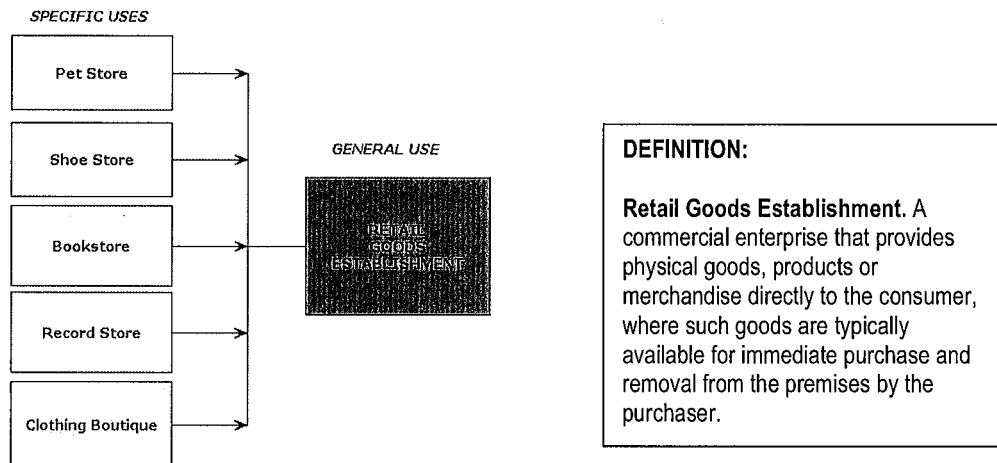
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Based upon discussions with the staff and review of the current Code, the lengthy lists of uses need to be updated and condensed to utilize “generic” uses. Currently the Standard Industry Classification Manual from 1987 is used to describe permitted and special uses in all zoning districts, but has particular impact on business and office districts which have the most uses listed. The SIC Manual is not a planning document, but rather used for industry classifications and created by the US Department of Labor. By utilizing the manual, the Village allows the Labor Department and industry to control its uses, whereas the Village should really own and control its uses. In addition, because the Code has not been comprehensively revised and because the referenced manual is from 1987, some of the uses are relatively obsolete or inappropriate for their districts.

Modern zoning practice has moved toward a “generic” use approach. This technique has two main benefits. First, it eliminates the need for extensive and detailed lists, and the permitted and special use sections of the Code become shorter and easier to use. Secondly, the generic use approach provides staff with greater flexibility to review and permit those uses that may be desirable for the community, but not specifically listed, within the broad context of a generic use definition.

We recommend that a generic use approach be used for Hinsdale’s Code; this concept is illustrated below. A generic approach to the listing of uses is established by combining all, or most uses, into broader terms. For example, the use “personal services establishment” can replace barber shops, beauty parlors, shoe repair shops, and tailors. By converting to the generic use approach, the use “personal services establishment,” in addition to replacing these specific uses, can then permit additional similar uses such as pet grooming establishments, dry cleaners and nail salons.

Utilizing this approach could go a long way toward improving the Village’s use regulations. Another advantage to the generic use approach is that the Village would have the ability to exclude less desirable uses, such as currency exchanges or tattoo parlors, right within the use definition. Finally, generic uses have the advantage of being broad enough to include a wide range of uses, eliminating the need for amendments as new uses emerge. All uses would be defined and included in the definitions section of the updated Code.



Implementing the generic use, as opposed to the SIC Manual-based specific use approach, will go a long way toward reducing the length of the use lists for each district. Another technique that makes the Code more user-friendly is replacing the use lists with tables that summarize use information for residential, commercial and special purpose districts in the zoning district sections. The benefit to including use tables within the zoning district sections, is that pages and pages of requirements can often be captured on a single page, which saves time and, in turn, the resources of all Code users. Below is a sample use table.

SAMPLE USE MATRIX				
P=Permitted Use S=Special Use				
USES	R-1	R-2	R-3	R-4
Church/Place of Worship	S	S	S	S
Community Residence, Large	S	S	P	P
Community Residence, Small	P	P	P	P
Convent, Monastery and Seminary	S	S	S	P
Day Care Home	P	P	P	P
Dwelling, Single-Family Detached	P	P	P	P
Dwelling, Two Family		P	P	P
Dwelling, Townhouse			P	P
Dwelling, Multiple-Family				P
Home Occupation	P	P	P	P
Library	S	S	P	P
Outdoor Recreation	S	S	S	S
Parks and Playgrounds	P	P	P	P
School, Public or Private, Elementary or Secondary	P	P	P	P
Senior Housing, Assisted and Independent	P	P	P	P
Utility and Public Service Uses	S	S	S	S

If there are restrictions on location, use tables can also clarify where each use is allowed to locate. For example, the use lists indicate that office uses are not permitted on the ground floor of the B-2 District (Central Business District). The way that it is currently written within the Code is confusing and can be easily missed by a user. The table would clarify when and where it is permissible for these uses to locate on the ground floor. An example of such organization is shown here:

USES	B-1	B-2	B-3
Office, On the Ground Floor	P		P
Office, Above the Ground Floor	P	P	P

## ARTICLE 11: SPECIAL PURPOSE DISTRICTS

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These are the current provisions of Article 11. The following district regulations are located in this Article:

HS Health Services District  
 OS Open Space District  
 IB Institutional Buildings District

Most information within this Article has been organized into table format, particularly use and bulk and setback requirements.

### *Key Issues*

- HS District – Minimum Lot Size: The current Health Services District, which applies to the Adventist Hinsdale Hospital, has minimum lot area and dimensions that appear to indicate a minimum district size. These need to be clarified to reflect their application. The current minimum lot area is 40,000 square feet, or approximately one acre. There are certain uses permitted within the Health Services District aside from the hospital itself, including eating places, florists and newsstands (however, all must be located within a building where 80% of the floor area is devoted to a health services use). These district area standards can be perceived to apply to any permitted or special use. These uses, in particular because they are in the hospital or within the hospital campus, should not require a minimum lot size. It would appear more appropriate that 40,000 square feet (one acre) is a minimum district size. The bulk standards for this district should be revisited for review of practical application.
- HS District – Change Approval Process: One of the reasons many communities adopt a hospital district is that the hospital, as a user is frequently undergoing changes on the site – both inside buildings and external renovations and additions. By tailoring a development approval process to a hospital district specifically, a more effective administrative process can be created that benefits both the hospital and the Village. A streamlined approval process for simple permitted changes allows the hospital to make needed alterations without undergoing a lengthy approval process, while changes that have a significant impact both within the district itself and upon the surrounding area should be subject to a more detailed approval process. Specific approval criteria, geared toward the impacts of a large-scale hospital campus, are included in these provisions so that areas of concern will be codified in the Code and adequately addressed during the review process.
- HS District – Elimination: To streamline the Code, the hospital use can be transferred to the Institutional Buildings District, with the regulations on development and permitted uses included as use standards.
- OS District – Minimum Lot Size: It is not typical within an Open Space District to include minimum lot width and lot area standards for passive recreation areas and playgrounds. While these square footages are relatively small, if the intent is to accommodate all open space, then maximum flexibility should be built into the Code to accommodate small recreation areas like tot lots and playgrounds.

- OS District – Uses: The use lists within the open space district should be refined to reflect the nature of an open space district as well as the existing non-open space uses within the district as it is mapped.
- IB District – Uses: To complicate matters, parks, libraries and other uses from the Open Space District are also permitted within the Institutional Buildings District. Special purpose districts are intended to address very specific uses, which are exclusive to such special districts. By allowing uses across special purpose districts, the intent becomes diluted, confusing and contradictory. For example, libraries are permitted in the OS District with a minimum lot area of 40,000 square feet but 50,000 square feet are required in the IB District. The IB District should be revised to reflect intended institutional uses – public buildings, schools, libraries, etc. Again, there is the potential to streamline the Code by eliminating the Health Services District and adding the hospital use to this district.
- IB District – Uses: It is unclear, within the Institutional Buildings District, whether places of worship are permitted or not. There are height exceptions for churches and minarets within the district, but no specific mention of places of worship. If they are included within membership organizations, or as part of a similar use permitted within the district, this should be clarified in order to avoid conflict with the federal Religious Land Use and Institutionalized Persons Act (RLUIPA). RLUIPA is a federal statute that provides legal protection for the exercise of religious freedoms, in particular from infringement of local government land use regulations. RLUIPA prohibits local government from implementing land use regulations that impose a “substantial burden” on religious exercise unless that local government can prove that the regulations further “a compelling government interest” and are the “least restrictive means” of doing such. Zoning codes must be sensitive not to violate RLUIPA when setting regulations on places of worship. Within the context of land use regulations, RLUIPA requires that religious land uses be treated in the same manner as secular (non-religious) land uses. Zoning codes that exclude religious uses are vulnerable to a RLUIPA-based lawsuit, especially if similar uses (non-religious places of assembly – clubs and lodges, community centers, etc.) are allowed. In addition, zoning codes with special processes placed on religious land uses will also be vulnerable. Because of the assembly-type places permitted within the Institutional Buildings District, it is recommended that places of worship be permitted and that explicitly stated within the Code.
- IB District – Uses: There are specific standards (bulk and setback) for residences in the IB District, which are neither a permitted or special use in the district and therefore prohibited. If there are residential uses within the IB District they should be rezoned (and no new residences zoned as the IB District). The intent of a special purpose district is to narrowly address a specific type of development; if that is prohibited within the district, it should neither be mapped or addressed within the standards. After a mapping verification, these provisions should be eliminated.
- IB District – Nonconforming/Historic Structures: There are a number of provisions within the IB District that address historic structures (Section 11.3.C.3 of the reorganized Code) and nonconforming structures in terms of FAR (Section 11.3.D of the reorganized Code). The intent of these provisions is not clear. If there are certain historic structures within the district, they should be specifically addressed or protected through the historic preservation ordinance. The provisions of Section 11.3.C.3 seem specifically tailored to one structure/use. In terms of nonconformities, it is confusing as to why FAR bonuses are allowed for older, larger buildings (subject to limited conditions). If a number of structures are nonconforming in terms of FAR, that bulk requirement should be revised.

## ARTICLE 12: OVERLAY DISTRICTS

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These are the current provisions of Article 12. The following district regulations are located in this Article:

### DR Design Review Overlay District

The potential for additional overlay districts has been discussed by the Zoning Task Force. The recent adoption of the Ogden Avenue Plan should be implemented through an overlay district.

### *Key Issues*

- The DR Design Review Overlay District has been renamed the DR Historical Gateway Design Review Overlay District to reflect the purpose of the district – design sensitivity to the gateway area shared between Hinsdale and Oak Brook. The purpose statement and location criteria need to be revised to reflect the agreement between the communities on the design of this area. As noted in the design review permit section of the administrative chapter, design standards should be integrated into district as well.

## ARTICLE 13: USE STANDARDS

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By consolidating all use standards within one article, they can be referenced by section number within use tables for each district, rather than repeating large segments of text. This is the article that would consolidate all the personal wireless service provisions and other existing use standards, such as those for senior citizen housing found in the current Article 4. The personal wireless service provisions should also be reviewed for compliance with federal regulations.

### *Key Issues*

- Once the uses within the districts are confirmed, it is anticipated that there will be numerous new use standards included in order to control the impacts of uses. The current list of use standards is very limited.
- Community Residence: The term “transitional treatment facility” has been replaced with the more modern terminology of “community residence.”
- Lifestyle Housing: “Lifestyle housing” is not a zoning term, but rather a marketing term; zoning must refer to land uses and structure types. There is also reference made to “condominiums” within the lifestyle housing provisions. Condominiums are not a form of development, but rather one of ownership. A zoning code cannot control ownership or occupancy, as is done by this section. “Lifestyle housing” as a use should be eliminated from the Code and a new use for mixed-use development, including age-restricted housing, should be created. The inclusion of comprehensive bulk and design standards can ensure high quality development of this type of structure. This type of housing should be treated as use rather than a type of planned development.
- Motor Vehicle Dealership Expansion: This use should not be treated as planned development. Specific standards can be crafted for the expansion of auto dealerships to address the impacts and desired outcomes.
- Senior Housing: The full range of senior housing should be addressed within an updated Code. This includes independent living facilities, assisted living facilities and nursing homes. Each should have appropriate use standards. Further, these types of senior housing, because of the Fair Housing Act, should be permitted within the multi-family districts and within any other districts that allow multi-family housing by-right.
- Personal Wireless: The Code makes a distinction between “stealth design” antennas (ones that are fully shielded from view) versus new construction. Generally, these are distinguished in terms of stealth design being permitted and new construction being a special use. Therefore, we have created the category of “stealth design” and divided the standards here and created two separate uses within the Code’s use tables. Also, there is no height limitation on towers except in the OS and IB Districts. Should the OS and IB District standards be applicable to all districts or are separate standards needed? A complete review of these regulations should be done as part of the Code update to ensure that they meet all standards of the federal Telecommunications Act of 1996 and properly address the community’s aesthetic concerns.

- Telecommunications Equipment Facility: These are distinguished in the O-2 District only. Why they are separate from the personal wireless provisions is confusing. Again, a more thorough review of these provisions is necessary to ensure compliance and that the proper type of control is in place.
- Personal Wireless/Telecommunications Equipment: There are three approaches that can be taken to this use. With any approach, standards must include design, height, landscaping, colocation of antenna, and removal of abandoned structures standards
  1. Allow some facilities to be located as permitted uses as stealth design (currently in place, though not the terminology used). Wireless antennas are permitted to locate or collocate on existing support structures (penthouses, utility poles, steeples, existing towers). New cell towers or non-stealth wireless antennas are allowed as special uses only after stealth design is proved infeasible.
  2. Permit wireless antennas and cell towers in certain Village locations as permitted uses, while allowing them as special uses in other parts of the Village. (Not Recommended)
  3. All cell towers and wireless antennas as special use with a prioritization scheme. This designates certain areas of the Village as more appropriate for this use and those must be discounted before moving down the list. This approach can list specific sites – it does not have to use established districts.
- Townhouse: Typically, there are additional design and site development standards included for townhouses and multi-family dwellings, which include spacing requirements, restrictions on blank walls facing the street, required open space, etc. It is unclear why there is a current limitation on attached units. This should be reconsidered.

## ARTICLE 14: SITE DEVELOPMENT STANDARDS

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This Article covers a variety of on-site improvements other than the principal building on a zoning lot. It is divided into four sections:

1. General On-Site Improvement Regulations. This section consolidates various standards found throughout the Code, including standards such as view obstruction, how to measure gross floor area, etc. Many of these regulations are currently contained within definitions that describe how to calculate a bulk dimension and should be moved here. These provisions are found throughout the current Code.
2. Accessory Structures and Uses. This is Section 9-101 of the Current Code as well as the home occupation provisions of Section 9-102. Additional accessory structure provisions are also found in the footnotes of bulk tables for the districts. Typical accessory structures include, for example, detached garages, sheds, satellite dish antennas.
3. Permitted Encroachments. These standards are typically found as footnotes for bulk regulations and called “specified structures and uses in required yards” in the current Code. Conventional zoning terminology is to call these “permitted encroachments.” These are best compiled as a table that details which structures are permitted encroachments into required yards.
4. Temporary Uses. This section compiles the full range of temporary use provisions that are found in the current Section 9-103.
5. Environmental Performance Standards. These standards are taken from the office district provisions and made applicable throughout all zoning districts, allowing the Village the power to enforce against nuisances.

### *Key Issues*

- Exterior Lighting: There are limited exterior lighting controls, for example that lighting fixtures cannot exceed 15 feet in height when part of a residential recreation facility. Comprehensive lighting standards for on-site exterior lighting are recommended in order to prevent light trespass off property lines and to eliminate nuisance situations. The Code can be updated to include a full range of exterior lighting standards, including the design and intensity of building-mounted lighting and light poles in residential and non-residential districts, neon tubing, and illumination of signs, buildings and canopies. Tailored light standards are needed for certain uses, such as gas stations, parks and auto dealerships, where excessive lighting can be a safety and aesthetic issue. (These standards do not address lighting in the right-of-way, which is not controlled by zoning.)

Many of the “best practice” standards on appropriate exterior lighting are based on information gathered, and model ordinance standards created, by the International Dark-Sky Association, a non-profit organization that seeks to minimize light pollution and conserve energy. These standards provide a preliminary basis for exterior lighting regulations, but can be adjusted as needed to be easily administered and to match the expertise of the Village.

- Accessory Structures & Uses: The accessory structure section of the existing Code is very limited in scope. Only accessory storage structures (excluding garages), residential recreational facilities, amateur radio facilities and home occupations are regulated. What needs to be clearly defined and regulated within these provisions is what is considered an accessory structure, and what limitation applies to each in terms of size/dimension, height and location. In addition, the current general controls on accessory structures in the district regulations are not tailored to the variety of structures than can occur in a community.

Common accessory structures regulated by zoning codes include the following:

- Accessibility Ramps
- Amateur (HAM) Radio Equipment
- Arbors or Trellises
- Awnings & Canopies (non-sign)
- Balconies
- Bay Windows
- Chimneys
- Compost Piles
- Decks
- Dog Houses/Dog Runs
- Eaves
- Electrical Generators
- Exterior Stairwells
- Fences
- Fire Escapes
- Firewood Storage & Trash Receptacles
- Flagpoles
- Garages, Detached
- Gazebos
- Home Occupations
- Mechanical Equipment, Ground-Mounted
- Ornamental Lighting, Lamp Posts, & Permanently Anchored Lawn Furniture & Decorations
- Outdoor Fireplaces
- Patios
- Playground & Recreational Equipment
- Porches, Unenclosed
- Porches, Enclosed
- Retaining Walls
- Satellite Dish Antennas
- Private Sidewalks/Walkways
- Sills, belt course, cornices & ornamental features of a principal building
- Sheds & Private Greenhouses
- Steps & Stoops, Open
- Swimming Pools/Hot Tubs
- Tennis Courts
- Terraces
- Water Features & Man-Made Ponds
- Window Escape Wells or Light Wells

This variety of structures is regulated both by general standards and specific standards, including through the use of a permitted encroachments table (see paragraph below).

- Permitted Encroachments: Many of the above accessory structures are regulated simply through a permitted encroachments table, where the location – in relation to the required yards – is restricted. In the current Code, these standards are found as footnotes in yard and bulk regulations and called “specified structures and uses in required yards.” Conventional zoning terminology is to call these “permitted encroachments.” The table includes simple accessory structures, such as window air conditioning units, regulated strictly by their encroachment into a required yard. Other rows reference additional accessory structure standards, detailed in an earlier part of the

same chapter. Combining these two forms of regulation (specific requirements for certain accessory structures and only permitted encroachment controls on others) provides a clear and efficient way to control accessory structures and uses.

- Accessory Structures & Uses: Currently all accessory structures and uses require a certificate of zoning compliance. For many accessory structures, the process can be simplified by spelling out the restrictions that structures must comply with. Many communities do not want to institute a permitting process for simple structures like window air conditioning units and dog houses, when they can be controlled via maximum size regulations. Obviously, for those structures that require a building permit, a zoning review is conducted to ensure that the structure complies with both the building code and zoning requirements (which may make the certificate of zoning compliance redundant). The different types of accessory structures should be defined and individual restrictions crafted for size/dimension, height and location.

Another recommended control on accessory structures and uses that should be added to the regulations is the special use permit. Because no code can possibly cover every accessory structure, especially as new types of structures and uses are created, a special use permit can be used to address all accessory structures and uses not currently regulated within the Code. Such a provision would read similar to the following: “Any accessory structure not listed within this Code shall be considered a special use. Such uses shall be regulated in the same manner as a listed accessory use that is most similar in nature.”

- Temporary Uses: There are additional temporary uses that the Village may want to consider regulating, such as outdoor storage, outdoor sales and display, temporary contractor trailers, temporary storage trailers and temporary storage containers (i.e., PODS). More often communities are taking a proactive stance at regulating these, especially if significant construction is ongoing or anticipated, before they become problematic or cause nuisance issues. Many older codes lack any sort of regulation or enforcement mechanism for these temporary uses.
- Temporary Uses: The following language appears to deny nonconformities all permission to host a temporary use outright, stating that if “the permanent use of the property fails to comply in all respects with the provisions of all Village ordinances regulating the development, use and maintenance of the property,” it cannot be granted a temporary use. This may be an undesirable effect and not current Village practice. In some cases, it is true that the nonconformity of a site would deem it unsafe for a temporary use, while in other cases, a nonconformity would not impact the site or those around, such as a garage sale on a residential lot that is nonconforming in terms of lot area or width.
- Temporary Uses: The temporary use “civic uses of public property” is confusing and does not indicate specifically what is intended – what constitutes a civic use is unclear. This term should be defined and examples provided. In addition, the Code stipulates public buildings within the open space or institutional district, however it may be better to say public buildings generally to reduce confusion.

## ARTICLE 15: SIGNS

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Sign regulation is one of the most defining aspects of a community's character. While municipalities have broad legal authority to control signs based on traffic and safety considerations, the exercise of that authority raises serious economic, as well as constitutional, issues. Therefore, sign regulations must be conceived within a carefully articulated policy and based only upon time, place and manner restrictions. Good sign regulations balance the needs of businesses to communicate with the public with the needs of municipalities to protect public welfare and aesthetics.

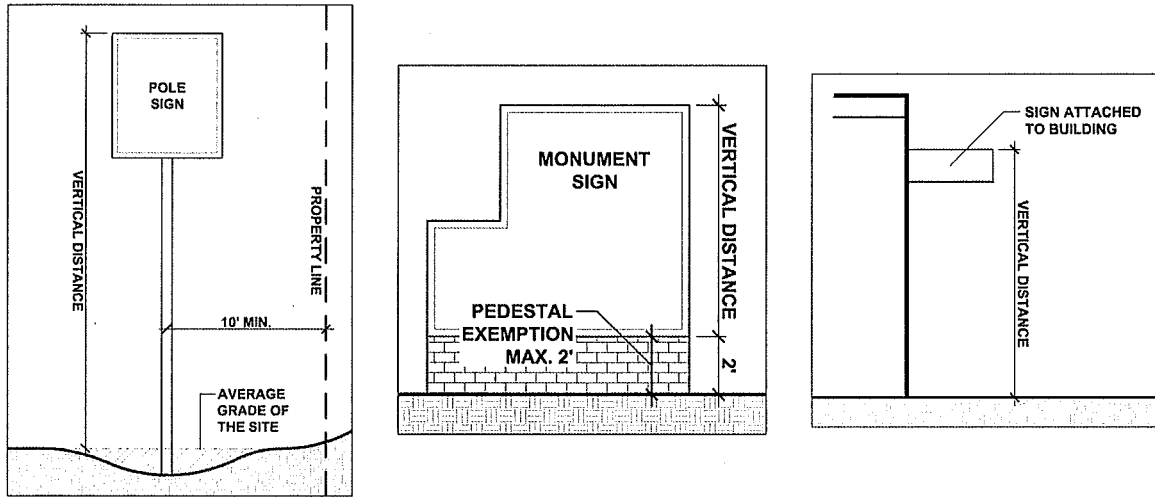
Current Hinsdale sign standards are confusing, and do not offer a comprehensive means of controlling signs, especially the various permanent sign types. These regulations need refinement, which will require a number of key policy decisions including: Where should the different types of signs be allowed? Which signs should be prohibited? How big should signs be and should standards be specifically tailored to zoning districts?

While the key issues below point out some specific issues with these provisions, the whole Article must be evaluated to ensure that the sign controls are actually addressing specific undesired sign characteristics. In addition, if district standards are revised or if design standards are incorporated into the Code, the sign controls will have to be analyzed for compatibility.

This Article includes the sign provisions of Section 9-106.

### *Key Issues*

- Sign Types: The functional versus structural sign type classification is very confusing and can be interpreted as not being content neutral. The reorganization has tried to minimize the distinctions and convert definitions into regulatory controls. This should be further addressed in the Code revision.
- Sign Permit: The current Code does not require identification tags on the sign, which assists in enforcement of the sign code. If the Village is interested, such ID information requirements read are typically: "Every sign or other advertising structure must have painted in a conspicuous place, in letters no less than one (1) inch in height, the date of erection, the sign permit number (to be installed on the sign by the sign company), and the electrical permit number (to be installed on the sign by the electrical contractor) and voltage of any electrical apparatus, if applicable."
- Sign Height: Sign height measurement must be established for all signs. Sign height measurement should be distinguished between ground signs and those mounted on buildings. This is necessary to verify consistent compliance with sign height and sign clearance requirements. The illustrations below are one example of how this can be calculated.

**SIGN HEIGHT (EXAMPLE OF TECHNIQUE ONLY)**

- **Landscaping:** This is a very large requirement for a landscaped area around a sign, especially if such sign is located separately from other landscaped areas. Alternative landscaping requirements can be developed that are less onerous, distinguishing requirements for a ground sign that would have a decorative base that would not require landscaping, from that of a taller pylon sign.
- **Construction Standards:** There are no provisions for glass, lettering and wind load used in sign construction, which are included for safety reasons. Typical provisions are: 1) "Glass forming any part of a sign must be wired glass or safety glass." 2) "All letters, figures, characters or representations in cut-out or irregular form, maintained in conjunction with, attached to, or superimposed upon any sign must be safely and securely built or attached to the sign structure." 3) "All signs must be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot and receive dead loads as required by the Building Code."
- **Color Limitation:** We do not recommend continuing to keep the provision that limits signs to three colors. Sign controls must be cautious of First Amendment issues and the limitation of colors can infringe upon this. For instance, certain company logos have specific colors – often these colors are created in specific inks. If a logo exceeds three colors but the Code prohibits that, there could be a case of infringing on the applicants First Amendment rights.

What many communities do to limit visual clutter on a sign face is the use of an "items of information" restriction. Below is an example of such language:

**G. Items of Information**

1. All signs must limit the number of items of information on any single sign face to no more than three (3) items to prevent traffic hazards for passing motorists and to minimize the cluttered appearance of signs. Directory signs are exempt from this provision.

2. Ground signs for developments with multiple tenants, used to advertise which tenants are located within the development, are limited to one (1) item of information per tenant within the development, in addition to the name and address of the development.
  3. All items of information on a sign on a zoning lot must be related to goods and/or services sold or offered on the premises, with the exception of non-commercial or political signs.
- Master Sign Plan: There is no provision within the current Code for a Master Sign Plan, which is a very useful tool for the Village to ensure attractive signs. When a new multi-tenant development is constructed, the Master Sign Plan ensures that all current and future tenants coordinate their signs and provide an attractive appearance.

For new commercial development with multiple tenants, where more than one (1) wall sign, awning or canopy is proposed, the applicant must submit a Master Sign Plan for review and approval by the *\_(need to determine approval body)\_*. The purpose of a Master Sign Plan is to coordinate signs on multi-tenant buildings, and create a plan that establishes a building or site's overall sign design, which then provides direction to future tenants. A Master Sign Plan must include, at a minimum, criteria and specifications for general appearance, location, lighting and approved construction materials.

- Bulletin Boards (Exempt Signs): The Village may also want to consider provisions for an electronic bulletin board. Many new bulletin boards are electronic, including schools, churches, community centers, etc. because they provide a “neater” appearance – letters don’t fall off, maintenance is less, etc. There are ways to control the brightness, timing and square footage of electronic area on such signs.
- Temporary Signs: Currently, three types of temporary signs are addressed in the exempt sign section – general temporary signs, temporary signs for temporary uses and temporary window signs. Do these regulations sufficiently address all types of temporary signs seen throughout the Village? The Article also does not control banners, whether they are permitted or prohibited. Are there certain temporary signs for which the Village would require a sign permit (such as a temporary pole sign or temporary wall sign)?
- Signs in the B-2 District: When addressing areas like the B-2 District, which is a pedestrian-oriented downtown, the Village may want to consider allowing certain types of signs that enhance the character of such area. For example, sandwich board signs are generally seen as an aesthetic enhancement of the pedestrian environment and indicate an active business district. These are currently prohibited in the Code. If the Village would like to permit these within the B-2 District, the Code should exempt them from permit requirements but include strict standards on their placement, maintenance and size/design.
- Temporary Sign Exemption: There is an exemption to the time limit for temporary signs when a sign permit application (assuming the permit is for a permanent sign) is pending. This would allow the temporary sign to stay up for longer than 60 days. Is this still desired?

- Prohibited Signs: In order to be as effective as possible, a prohibited sign list should be as “clean” as possible – i.e., the signs are prohibited throughout Hinsdale no exceptions. Many of the signs below have exceptions. This means that these signs are not, in effect, prohibited but rather limited to certain districts. They should be removed from this list. There are also some additional signs the Village may want to consider prohibiting:
  - Signs of an obscene nature.
  - Signs placed or painted on parked vehicles where the primary purpose is to advertise a product or service, or to direct the public to a business or activity located on or off the premises are prohibited. Signs displayed on trucks, buses or other vehicles, which are being operated and stored in the normal course of a business, such as signs indicating the owner or business that are located on delivery trucks, moving vans and rental trucks, are permitted, provided that the primary purpose of such vehicles is not the display of signs, and that they are parked or stored in areas appropriate to their use as vehicles.
  - Signs which constitute a traffic hazard, including those signs that:
    - Obstruct free and clear vision at any street, intersection, parking lot entrance or exit, or driveway.
    - Interfere with, obstruct the view of, or may be confused with any authorized traffic sign, signal or device because of its position, shape or color, including signs illuminated in red, green or amber color to resemble a traffic signal.
    - Make use of the words STOP, LOOK, DETOUR, DANGER or any other word, phrase, symbol or character in a manner that misleads, interferes with, or confuses traffic.
- Ground and Pylon Signs: This terminology is very confusing and not commonly used. It is recommended that the Village update the terms to refer to ground signs as “low profile signs” and pylon signs as “pole signs.” The Village should also consider whether to permit the continuation of pole signs based upon the character of the Village’s commercial areas. It may be appropriate to permit only low profile signs.
- Marquee: Marquees are a very different type of structure than awnings or canopies and should be regulated separately, if the Village would like to continue to allow them. Currently there are no real standards for a marquee in the Code, yet they are referenced throughout the Article.
- Awnings and Canopies: There are no regulations for the actual awning or canopy structure. While it is understood that signs can only be located on the valance, there are structural and designs standards that should be applied to the awning/canopy as a whole. In addition, the limitation on sign area to the valance only is restrictive and, especially on smaller awnings, may create issues of readability. Many communities allow the location of printing to the entire awning, but limit the overall percentage of area that can be printed (usually, 25% to 30%). In addition, a limitation on the number of items of information will ensure that printing on awnings does not appear cluttered.
- Awning/Canopy Valance Sign, Wall Sign, Window Sign Area: The current method of calculating sign area for these signs (one standards for a maximum area and no individual controls on sign type) is not a refined way to control the appearance of signs as none of the above are limited individually. Sign area control in this manner can lead to uncoordinated and oversized signs. Typically, each of the above types of signs would have a separate maximum sign area. For example, wall signs can be done as a number of square feet or established proportional to the building wall. Window signs should be limited by window area – typically 25%. Window signs in particular need better control in order to ensure transparency of the storefront, a balance between temporary and permanent window signs, and prevention of a cluttered appearance.

- Projecting Signs: Standards for projecting signs are confusing and do not offer an effective means for advertising for many businesses. Currently, the Code only allows them in the B-2 District, for a second floor business, only one per building and a limitation on three square feet. When properly regulated by construction (size, location, etc.) and with design standards, projecting signs can enhance the pedestrian environment in an area like the B-2 District. The current standards are also very restrictive for a multi-tenant building in terms of sign size, location and number of signs per building.
- Electronic Signs: Currently, public service signs are the only type of electronic sign allowed, which is designated for public service – time, temperature, stock reports, etc. This concept of “public service” can be too broadly interpreted, for example if a church would like to advertise a public event they may use this provision to secure an electronic sign. The definition and permissions for the use of a public service sign should be refined.

We would also recommend that the Village state their policy on electronic signs explicitly, whether they would like to permit or prohibit electronic signs. Considering their current popularity, it is recommended that the Village make a policy decision on these signs now so that it does not have to face an interpretation challenge later.

## ARTICLE 16: OFF-STREET PARKING & LOADING

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Parking and loading standards found in Sections 9-104 and 9-105, as well as the regulations on vehicle storage in Section 9-101 would be found here. Parking requirements (required number of spaces per use) are placed into table format.

Parking standards should consider both the demand for parking and the appearance of parking areas. To expand upon this, the general organization of the parking regulations according to the following subsections ensures that all aspects of off-street parking and loading are addressed:

- Permitted location of off-street spaces
- Parking lot and driveway design (surfacing, lighting, curbing, marking, etc.)
- Parking alternatives, such as land-banked parking, shared parking, etc.
- Required off-street spaces, including accessible parking set asides and required dimensions (parking for persons with disabilities)
- The storage of commercial and recreational vehicles in residential districts
- Location and design of off-street loading berths

### *Key Issues*

- One of the more confusing aspects of the current Code is the treatment of off-street parking as an accessory use. Off-street parking should be considered part of the on-site development standards, like landscaping and signs. This prevents confusion over how parking should be treated in the building approval process and in terms of nonconformities. Additionally, the Code is contradictory in that it states accessory parking in single-family residential districts is not permitted, unless approved by special use, while the off-street parking section (Section 9-104) states that parking is a permitted accessory use in all districts. Off-street parking requirements are a function of the use and the district they are located in, therefore requirements that address only one of these two aspects can lead to confusion.
- Location: There is confusion in the current Code over where off-street parking can be located. The Code seems to indicate that if parking cannot be accommodated on-site, then a parking lot may be located within 1,000 feet of the use. However, residential use requirements later state that parking must be located on the same lot and that the location of parking spaces is permitted “on surface lots, underground, under a building, or in parking structures.” Without further clarification, these two requirements contradict each other. Language permitting surface lots, parking structures and underground parking are typically reserved for multi-family parking, as this would not be appropriate for a single-family dwelling. The location of off-street parking within 1,000 feet is typically reserved for multi-family and non-residential uses only. In addition, the Code is not clear on where, or even whether or not, parking pads are permitted, and is silent on requiring single-family spaces be located in a garage (detached or attached). There are also significant configuration standards for townhouse development parking lots, which should be evaluated for whether or not they are a practical site design. In order to resolve these various issues, off-street parking location standards should be clearly delineated for the following use categories: single-family and two-family uses; townhouse development; multi-family dwellings; and non-residential uses.

- Parking Area Design: The design standards for parking areas within the Village can be enhanced to incorporate modern parking techniques and prevent undesirable parking lot design. For example:
  1. The Village could consider permitting the construction of less frequently used parking lots with alternative surfaces, including semi-pervious paving material like pervious pavers and grass-crete, which allow for water percolation, minimizing stormwater run-off. Allowing the use of semi-pervious materials for single-family dwelling driveways may be desirable as well. Also, residential parking areas currently permit gravel, which may not be desired. Semi-pervious materials allow for some water absorption, which is the benefit of gravel, but eliminate the maintenance concerns that stem from use of gravel as a driveway material.
  2. Recent studies have found the 75°-oriented parking spaces may a very efficient parking layout. Therefore, the space and aisle dimension standards can be updated to include the dimensions for a 75°-oriented parking space.
- Design - Stacking Spaces: There is a current requirement that drive-through facilities need six stacking spaces, the design, and how these spaces are counted, should be included in the Code.
- Compact Spaces: Currently, a reduction in the size of commuter parking spaces and those for office and institutional uses is permitted. The ability to use a compact space design should be more clearly detailed, and may be applicable to other areas where there is a significant amount of parking provided on-site. For example, in parking lots or parking structures containing more than 50 spaces, a certain percentage of the stalls over the first 50 may be compact parking stalls.
- Parking Flexibilities: The current Code has some parking alternatives, primarily a fee-in-lieu of provision within the B-2 District and landbanking options. If there are areas within the Village where it is difficult or nearly impossible to provide off-street parking, the Village may want to exempt these areas from parking requirements or exempt those businesses under a certain size, for instance businesses under 2,500 square feet. The Village can also allow a certain amount of on-street spaces to count toward a business' off-street parking requirements. This encourages development of areas previously constrained by onerous parking requirements. Another option is to allow for a shared parking provision, where two uses may share one parking lot – either by accommodating all parking spaces required for each use in one lot or, if the businesses share different operating hours, they can share one lot that has the number of spaces required for only one of the uses (required to be the use that requires more off-street parking).
- Off-Street Parking Requirements: Off-street parking requirements should be revisited and adjusted to reflect local standards and current demand. Modern codes include a table that requires a certain amount of off-street parking by each use listed in the district (this anticipates the adoption of a generic use list, as opposed to the Village's current specific use list). This allows tailoring parking requirements to the nature and physical make-up of the use; for example, rather than requiring one space per 100sf for both restaurants and retail uses, the restaurant requirements can be revised to one space per 60sf of public area, which is the area estimated for a four-person table.

- Commercial & Recreational Vehicle Storage: Commercial and recreational vehicles require special attention because of their size and traffic considerations. However, because residents may own recreational vehicles, such as boat trailers, jet skis and snowmobiles, and others may own a business where the commercial vehicle is also the household vehicle, considerations for these vehicles to park within residential areas may be required. Some of our recommendations for treating these types of vehicles include:

Some of the regulations recommended for commercial vehicles are:

- Permitted commercial vehicles should include vehicles owned and used for commercial purposes by the occupant of a dwelling, provided that the vehicle is stored or parked in the permitted parking area. Permitted commercial vehicles may include the logo of the commercial business painted on or applied to the vehicle. Currently, the Code permits only one such vehicle with the sign on the vehicle limited to one square foot in area. The Village may want to include more leniency – and simplify enforcement – by limiting commercial vehicles to one vehicle parked outside an enclosed garage. If a property owner has two commercial vehicles (either both for one business or for two separate businesses), this would no longer limit the number of vehicles he/she could have but would control the appearance from the outside (by requiring the owner to park additional vehicles indoors).
- Only standard-sized commercial vehicles including, but not limited to, automobiles, vans, sports utility vehicles (SUVs) and pick-up trucks should be permitted to be stored or parked outdoors overnight on residentially-zoned private property.
- No commercial vehicle should park on any public right-of-way in a residential district, except for vehicles engaged in loading or unloading, or vehicles in connection with current work being done to the adjacent premises.
- No stored or parked commercial vehicle can be occupied or used for human habitation.
- All other commercial vehicles including, but not limited to, semi-truck tractor units, with or without attached trailers, commercial trailers, buses, limousines, tow trucks, construction vehicles or other large commercial or livery vehicles required to register for a “C-plate” or other classification for commercial vehicles, should not be permitted to be stored or parked outside overnight on residentially-zoned property.

Some of the regulations recommended for recreational vehicles are:

- Recreational vehicles include all trailers, campers, motor homes, boats, pop-up campers, and trailers that transport snowmobiles, wave-runners, ATVs, etc.
- No recreational vehicle or trailer licensed to transport recreational vehicles or equipment can park in the public right-of-way or in the driveway of a residential district for more than 48 hours. Currently, the limitation is 72 hours.
- Recreational vehicles can be stored (i.e., longer than 48 hours) in a residential district only when located in a fully enclosed permanent structure. Temporary storage tents for recreational vehicles are prohibited.
- No recreational vehicle can be used for living, sleeping, or housekeeping purposes in any zoning district.

- Loading: Current off-street loading berth requirements for the Village, both in terms of the number of berths required and their design, are in line with similar communities with one exception – the requirement that the first loading berth for any use be sized to accommodate a tractor-trailer. This may be excessive for the Village’s need, based on the types of delivery vehicles that visit most local businesses, especially in the B-2 District, which do not need a tractor-trailer sized space and may not be able to accommodate it on-site. Typically, a standard size space is required unless the Village determines that a larger space is necessary.

## ARTICLE 17: LANDSCAPING AND SCREENING

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This Article contains landscaping and screening provisions. These provisions are currently found in Section 9-107.

### *Key Issues*

- There are very limited landscaping requirements in Hinsdale's Code. Typically, a code will include landscaping requirements for:
  - Interior of parking lots
  - Screening (perimeter) of parking lots
  - Buffer yards between incompatible zoning districts and uses
  - Screening of loading areas, dumpsters, drive-throughs, etc.
  - On-lot landscaping
- Landscaping Design Standards: One of the most important elements of the landscaping provisions is basic landscaping design standards to ensure that what is planted is able to survive, accomplishes the goals of the landscaping standards at planting, and is properly maintained. Especially important for assuring a significant landscape impact is the level of maturity required for plant types at the time of installation. Young plantings could result in an insufficient level of landscape improvements during the first several years of a project, which do not perform the intended screening and beautification functions until the plants mature. Ongoing maintenance of required landscaping, including requiring replacement of dead or diseased plant material, is important and should be included. The only design standard contained in the current Code is the requirement that trees planted in the interior of the parking lot be three inches in diameter. Proper landscaping standards should include specific criteria for shade trees, evergreen trees, shrubs, and groundcover, among other details such as design of parking lot islands. Finally, performance guarantees could be required to ensure not only installation of required landscaping, but also maintenance throughout, at least, the first year after installation.
- Parking Lot Landscaping: One of the areas where landscaping makes the most impact is within surface parking lots. Parking lot landscaping accomplishes a number of purposes including screening the lots from view from the right-of-way, separating the pedestrian from the auto, improving the appearance of the lots from within (i.e., avoiding a sea of asphalt appearance), mitigating the "heat island" effect, and minimizing impervious surface and allowing for some stormwater absorption.

The current Code has minimum standards for parking lot landscaping. It states that every parking lot shall be screened by a 10 foot yard but provides no standards for how that is to be accomplished (by pedestrian walls or fences, berms, shrubs, trees, etc.). There are also interior parking lot landscaping requirements which require a tree within a 36 square foot landscaped areas for every 30 spaces, but these are very minimal standards. Typically, parking lot islands are required for every 10 to 15 spaces and additional landscaped areas outside of any perimeter landscaping and the required islands are also mandated. One landscaped area per 30 spaces may not accomplish the desired effect of "greening" the interior of a parking lot and reducing the impervious surface. Finally, there are no additional standards for these landscaped areas, including requirements for groundcover, shrub and perennial plantings on landscaped areas over a certain size, or provisions that allow for special designs to absorb additional run-off.

- Buffer Yards: Providing flexibility for the use of walls, fences, berms or landscaping, or a combination of methods, to screen and buffer dissimilar land uses is likely necessary, especially on smaller sites or infill sites in a community like Hinsdale. The visual quality of each of these techniques should be specified with detailed planting and design requirements. Providing a “menu” of buffering options linked to buffer yard size for small sites versus major developments may be necessary to allow for redevelopment without the need for variances.

Current buffer yard requirements are minimal and only required when a lot “devoted to any other use than use as a dwelling abuts or is across a right-of-way from any lot zoned for residential use.” One complication with this language is that a townhouse or multi-family use adjacent to a single-family dwelling would not require a buffer yard. Higher density residential uses should be buffered from single-family uses.

In terms of requirements for the design of the buffer yard, the Code require a five foot buffer yard that screens to six feet, so long as they building does not exceed 15 feet – in which case a different standard based on the neighboring residential district applies. There are no planting requirements, which may lead to inconsistent or inadequate screening. Buffer yards are typically larger (10 feet for rear yards and eight feet for interior side yards), mandate a certain amount of tree and shrub plantings, and require a wall, fence or berm. There is a larger buffer yard required for “outdoor activity areas,” but again there are no planting requirements. Creating the proper buffer through plantings and walls/fences is essential to achieve the intended effect of mitigating noise, light, glare, etc.

- Screening: The current Code has some screening requirements for certain uses, which may not accomplish the intended screening, including the following:
  - Loading berths require a six foot screen when visible from a residentially zoned lot. This is subjective. Loading berths should require screening at all times unless such screening would interfere with safe site circulation.
  - Refuse containers and outdoor storage uses do not have a screening height requirement, which should be a minimum of six feet and a maximum of eight feet.
  - There is a requirement that storage of Class II vehicles requires a six foot screen. (Storage of Class II vehicles should be evaluated for consistency with earlier off-street parking requirements.)
  - Residential recreation facilities require a 10 foot perimeter yard with a six foot screen, which should be analyzed against existing provisions for yards, accessory structures, permitted encroachments, and fences for conflicts.
  - Screening of ground-mounted mechanical equipment should be considered.

Comprehensive screening requirements are needed as part of this Article.

- Compliance on Nonconforming Sites: Once landscaping requirements are in place, a challenge will be to bring any existing developed sites into compliance over time without discouraging investment in improvements due to the additional costs of landscaping. Landscaping should be required when modification of parking lots and significant building permits are requested. When building additions or expansions are undertaken, the percentage of landscaping required should be proportionally linked to the proposed additional building area. Existing parking lots should be

required to comply with landscaping requirements when a certain number of parking spaces (usually five to ten spaces) are added to the lot or if that lot is resurfaced or reconstructed. A simpler but less flexible alternative would be to establish a time period over which all sites must be brought into compliance with the landscape standards. For example, all property owners must install the required landscaping within a 5-year time period.

- Sustainable Design: The landscaping provisions should also address sustainable design techniques, such as bio-swales and water gardens. While many of these techniques cannot be required by code, the Code can allow for and encourage them.
- Plant List: The Code should include a recommended and prohibited plant list to avoid invasive species and ensure a consistent landscaping scheme throughout the Village. The plant list included in the Ogden Avenue plan could be incorporated into the Code.
- Enforcement: Enforcement of landscaping provisions is necessary. First the Code should clearly state that an occupancy permit will be withheld until landscaping is installed in conformance with the approved landscape plan. Second, the Village can require performance guarantees that ensure landscaping will be properly installed and maintained for the first year of a development.

## ARTICLE 18: NONCONFORMITIES

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This Article, which is the current Article 10, includes specific provisions for regulating: 1) nonconforming uses; 2) nonconforming structures; and 3) nonconforming lots of record. It should clearly define what a nonconformity is, and explain what changes and/or alterations are permissible for each type of nonconformity.

The nonconformities article consists of a series of regulations placed upon structures, uses or lots that were in conformance with the Zoning Code before it was either updated or amended. While it is desirable to eliminate nonconformities and prevent the creation of new ones, it is inevitable that some structures, uses or lots are, or will become, nonconforming. Therefore, all zoning codes contain nonconformity regulations.

A nonconformities section should be concise and clearly define what a nonconformity is and explain what changes and/or alterations are permissible. To keep things simple, provisions should refer to nonconforming structures, nonconforming uses and nonconforming lots of record. (Nonconforming signs are treated in the same manner as nonconforming structures because they are structures.)

### *Key Issues*

- Nonconforming Uses & Structures: Nonconformity regulations for uses and structures are typically general in nature and address the following:
  - Normal repair, replacement, restoration, maintenance or improvement is permitted for any structure devoted to a nonconforming use or to any nonconforming structure, so long as it does not create any new nonconformity or increase the bulk or density.
  - Structural alterations to a structure containing a nonconforming use or any nonconforming structure are permitted so long as they do not create any new nonconformity or increase the bulk or density, with the exception that an alteration is permitted if required by law, necessary to restore the structure to a safe condition, or if the alteration will eliminate the nonconformity.
  - A nonconforming use or nonconforming structure cannot be expanded, extended, enlarged, added to or increased in intensity.
  - A nonconforming use or nonconforming structure cannot be relocated, in whole or in part, to any other location on the same zoning lot, or to any other zoning lot, unless it conforms to all zoning regulations.
  - A nonconforming use can only be changed to a use permitted within the zoning district in which it is located. Once changed, in whole or in part, it cannot be changed back.
  - A change of use occurs when an existing nonconforming use has been terminated and a permitted use has commenced.
  - If a nonconforming use is discontinued, or becomes vacant, and remains unoccupied for a continuous period of time (stated within the code), such use is considered abandoned and cannot be resumed. Any change in use in violation of the Code is also considered abandonment.
  - Any subsequent use must comply with all regulations of the zoning district in which it is located. If the period of discontinuance is caused by government action, act of god, or other act of no fault by the user, then the period of discontinuance shall not be included in calculating the timeframe .

- If a structure devoted to a nonconforming use or a nonconforming structure is damaged or destroyed, by any means not within the control of the owner/tenant, by more than a certain percentage of replacement value (typically 50%) then it cannot be restored. The Code should also define how to calculate replacement value, limit the amount of time permitted to obtain a building permit, which is usually a year, and prohibit an owner/tenant who did the damage themselves from rebuilding/restoring.

The following are issues specific to Hinsdale's current nonconforming use and structure provisions:

- There needs to be a consistent provision for damage or destruction, not a variable percentage. Most Illinois communities use 50%.
- All amortization provisions, written in the Article as 30 days after the date of adoption, should be eliminated as they are expired.
- The use of a "Nonconforming Use in Structures Not Designed for a Permitted Use" terminology is confusing. This is not a typical provision. Either a use is nonconforming or a structure is nonconforming, or both are, but to determine the intent of a physical building and whether or not it can accommodate a permitted use is a vague and suspect standard. This should be eliminated. If there are specific situations in the Village that this provision is intended to address, these should be evaluated and proper standards specific to those situations crafted.
- The use of the term "Precode Structures" is outdated. This should be referred to as nonconforming structures. In addition, signs are considered a structure and therefore a separate section is unnecessary.
- Within the "Precode Structures" section, there are a number of allowances for expansions of structures. This should be carefully evaluated, as the way the current provisions are written certain of these are permitted for any nonconforming structure while others are allowed only in single-family residential districts or single-family dwellings with a detached garage.

All nonconforming structures are permitted the following: front and rear yard nonconformities may extend vertically, but not horizontally; side yard nonconformities may extend vertically or horizontally, with certain limitations; and nonconforming elevations may extend roof elevations horizontally. A structure in the single-family residential districts with a nonconforming building height is permitted to extend horizontally and vertically with certain limitations, and there are certain provisions to allow the construction of a detached garage in certain circumstances where floor area and building coverage make the structure nonconforming.

Many communities typically allow the extension or reconstruction of nonconformities, but limit these to single-family and two-family uses. There should be a greater level of specificity to Hinsdale's provisions in order to maintain proper control over additions to existing nonconformities.

- Nonconforming Lots of Record: The nonconforming lots of record standards are very confusing, primarily because they contain so many bulk regulations. This is not typical and such specificity in crafting regulations for nonconforming lots seems to merit the creation of a district or districts where lots of those minimum dimensions would be conforming. By creating such districts, the nonconforming lots of record standards can be simplified to address the few remaining nonconforming lots.

A sample of simpler nonconforming lot of record provisions is included below:

**E. NONCONFORMING LOT OF RECORD**

This section regulates existing lots of record, existing on the effective date of this Zoning Ordinance or at the time such lot comes within the applicability of this section, that do not conform to the lot area or lot width requirements of the zoning district in which they are located. No nonconforming lot of record may be improved except in compliance with this section.

**1. Individual Lots of Record**

Notwithstanding limitations imposed by other provisions of this Zoning Ordinance, a single-family dwelling may be erected on a single lot of record that does not conform to the lot area or lot width requirements of the zoning district, provided that the lot is in separate ownership and meets all other zoning district bulk requirements.

Nothing herein shall prevent the continued use of a residential dwelling which was lawfully designed, constructed and used for residential purposes on such nonconforming lot of record, provided that there shall be no adjoining lot(s) held in common ownership that could be added to make such lot conform to the required lot area or lot width. Nothing herein shall prevent the reconstruction, alteration or enlargement of such residential building or its accessory uses, provided such reconstruction, alteration or enlargement thereof conforms with all other regulations of this Zoning Ordinance.

**2. Lots of Record Held in Common Ownership**

If on the effective date of this Zoning Ordinance, in situations where there are two (2) or more lots of record with continuous frontage in single ownership, and one (1) or more of the lots having contiguous frontage does not meet the requirements for lot width or lot area as established by this Zoning Ordinance, the land so involved shall be considered to be a single undivided parcel for the purposes of this Zoning Ordinance. No portion of said parcel shall be used, transferred or conveyed which does not meet the lot width and lot area requirements established by this Zoning Ordinance. No division of the parcel shall be made which leaves the remaining lot(s) with lot width or lot area below the requirements of this Zoning Ordinance. No building permit shall be issued for the use of any lot, or portion of a lot, transferred or conveyed in violation of this Section.

## APPENDIX A

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## **Certificate of Occupancy, Official Comprehensive Plan & Official Map, & Eminent Domain**

The following sections should to be incorporated into the larger Village Code. This is a more appropriate location for these sections as they do not deal directly with land use regulations: certificate of occupancy, Official Comprehensive Plan and Official Map, and eminent domain time extensions. In particular, it is inappropriate to keep Comprehensive Plan requirements within the Zoning Code.

Finally, plans that have been adopted by the Village, which would be considered components of the Comprehensive Plan should be referenced as well:

4. Adopted summary of Hinsdale 2025 Strategic Plan
5. Adopted Ogden Avenue Corridor Plan
6. Findings/report of the Central Business District-Northtown-Parking Task Force, once the review and adoption process is complete

## **SECTION 11-402. CERTIFICATE OF OCCUPANCY**

### **A. Authority**

The Village Manager shall have authority to issue certificates of occupancy; provided, however, that no such certificate shall be issued except in accordance with the provisions of this section and the provisions of the Village Code of Hinsdale governing development, building and related matters.

### **B. Purpose**

For the purposes of this Code, the certificate of occupancy provides a procedure for the inspection of completed premises to ensure their compliance with this Code and approved plans prior to commencement of the use or occupancy of such premises. The certificate may also evidence compliance with other provisions of the Village Code of Hinsdale as set forth in those provisions.

### **C. Certificate Required**

Unless a certificate of occupancy shall have first been obtained certifying compliance with the provisions of this Code:

1. No structure, or addition thereto, constructed, reconstructed, remodeled, altered, or moved after the effective date of this Code shall be occupied or used for any purpose.
2. No land vacant as of the effective date of this Code shall be used or occupied for any purpose, except the raising of crops.
3. Except for changes involving only substitution of occupants in existing dwelling units, no use or occupancy of any land or structure shall be changed to any other use or occupancy, whether or not construction, remodeling, alteration, or moving is involved.
4. No home occupation shall be established.

This section shall not apply to signs regulated by Article 14 (Signs) of this Code.

### **D. Procedure**

1. When no certificate of zoning compliance is required, applications for a certificate of occupancy shall be filed in accordance with the requirements of Section 3.2. When a certificate of zoning compliance has been issued, the application for that certificate shall also be treated as the application for a certificate of occupancy and shall be processed as such at such time as the applicant notifies the Village Manager in writing that the subject structure or use is ready for a certificate of occupancy in accordance with the certificate of zoning compliance.

In any case where the structure or use involved has been constructed or established pursuant to any approval granted pursuant to this Code, the application shall be accompanied by "as built" plans depicting the structure or use as built and bearing the certificate of a surveyor, engineer, architect, land planner, or owner-designer, as may be appropriate, certifying that the structure or use as built conforms in all respects to the approval granted.

2. Within ten (10) days following the receipt of a completed application, the Village Manager shall cause the subject structure or premises to be inspected and shall take one of the

following actions based on such inspection:

- a. The Village Manager shall issue a certificate of occupancy if all work has been completed and the structure and use thereof are in full and complete compliance with all applicable provisions of this Code, other relevant codes and ordinances of the Village, the applicant's plans as approved, and any conditions attached to any approval issued pursuant to this Code.
  - b. If, however, all work is not complete or is in any manner not in full compliance with all applicable requirements, the Village Manager shall deny the application and shall inform the applicant in writing of the specific deficiencies on which such denial is based, citing the particular provisions of the codes and ordinances of the Village, the particular items in the applicant's plans or the applicable special approval conditions with respect to which compliance is lacking.
3. In addition to the matters required to be contained in a certificate of occupancy pursuant to other applicable provisions of the Village Code of Hinsdale, each certificate of occupancy issued shall state the specific use of the subject property for which it is issued, shall identify the specific plans, if any, pursuant to which it is issued, and shall set forth any conditions imposed in connection with any approval granted pursuant to this Code.
  4. Every certificate of occupancy issued pursuant to this Section shall be kept on file in the Office of the Village Manager and shall be a public record open to inspection pursuant to the provisions of the Illinois Freedom of Information Act.

#### **E. Temporary Certificate of Occupancy**

Notwithstanding the provisions of ~~Paragraph D2~~ of this section, when construction, reconstruction, remodeling or alteration of a structure does not require the vacating of the structure, or when parts of the structure are finished and ready for occupancy before the completion of such construction, reconstruction, remodeling or alteration and are certified upon inspection to be safe for use or occupancy and to be in full compliance with all applicable provisions of this Code, other relevant codes and ordinances of the Village, the applicant's plans as approved and any conditions attached to any approvals issued pursuant to this Code with respect to such structure or its premises, a temporary certificate of occupancy may be issued for a period not to exceed six (6) months from its date, which temporary certificate shall bear on its face, in bold type, a statement of its temporary nature. However, that no such temporary certificate shall be issued pursuant to this Code unless said structure also qualifies for a temporary certificate of occupancy issued pursuant to the Hinsdale Building Code.

#### **F. Certificate of Occupancy for Existing Uses**

The Village Manager may issue a certificate of occupancy certifying the lawful existence and use of any existing structure or use in the same manner, and subject to the same standards and limitations, as authorized by this section with respect to new structures and uses. Such certificate of occupancy shall be prima facie evidence of the facts contained in it with respect to any structure or use as of the date of its issue and remain effective for that purpose for so long as neither the use or structure nor the applicable provisions of this Code are changed.

#### **G. Void Certificates**

Any certificate of occupancy issued in violation of the provisions of this Code, whether intentionally, negligently or innocently, shall be void ab initio and shall give rise to no rights whatsoever.

## SECTION 11-101.K.2. EXTENSIONS FOR EMINENT DOMAIN PROCEEDINGS

### B. Extensions for Eminent Domain Proceedings

1. The Village Manager or Village Board, upon prior written requests, shall, without notice or hearing, grant an extension of any time limit imposed on any grant of any permit or approval in the event that the real property subject to such permit or approval also is subject to an eminent domain proceeding properly pending before a court of competent jurisdiction. Under no circumstances shall any extension of time be greater than two (2) years. The applicant for such extension of time shall file with the Village, as part of its written request and every three (3) months during the period of any extension, proof of such eminent domain proceeding. Failure to file such proof shall cause any such extension to be automatically terminated.
2. Any time limit extended according to this section shall be further extended for six (6) months immediately after the eminent domain proceeding has been dismissed or otherwise terminated, provided such termination or dismissal occurred within the prescribed two (2) year time period, to allow the applicant reasonable time to act in accordance with the permit or approval that was extended.
3. No time period fixed according to this section shall be extended pursuant to Paragraph \_\_\_ above. Any extension of time granted pursuant to Paragraph \_\_\_ above *prior* to a request for an extension of time pursuant to this section shall be deemed to have been granted pursuant to this section for the purposes of calculating the maximum extension of time available pursuant to this subsection. In other words, if an extension of time was previously granted according to the requirements for an extension of time related to good cause (Paragraph \_\_\_ ) in an eminent domain proceeding, that previously granted extension of time shall be considered to be granted under the requirements of this section that provides extensions of time for eminent domain proceedings and the timeframe shall be calculated according to this section.

## **SECTION 11-201. OFFICIAL COMPREHENSIVE PLAN**

### **A. Authority**

The Plan Commission shall have authority to prepare and recommend to the Village Board a Comprehensive Plan of the Village and the unincorporated areas surrounding the Village and from time to time to prepare and recommend amendments thereto, any or all of which the Village Board may adopt as the "Official Comprehensive Plan of the Village of Hinsdale," all in accordance with the procedures set out in this section.

### **B. Definitions**

The "Official Comprehensive Plan" shall be defined as a compilation of: policy statements; goals; standards; maps; recommended planning, regulatory, fiscal, and public works programs; pertinent data relative to the past, present, and future trends of the Village with respect to its population, housing, economic, social and environmental development patterns and its land, water and natural resources and use and its transportation facilities, public facilities and utilities; and any other matter relative to the present and future patterns of life within the Village or within the unincorporated areas lying within one and one-half (1½) miles of its boundaries as they may from time to time exist, prepared and recommended by the plan commission with the advice and assistance of the Village Manager and the Village Manager's staff and adopted by the Village Board by ordinance duly enacted, together with such amendments thereto as may be adopted from time to time. The term "Official Comprehensive Plan" also shall refer to any internally consistent and complete portion of such a compilation relating to any one or more of the aforesaid subjects or to any specific portion of the aforesaid geographical area. As of the effective date of the Zoning Code, the term "Official Comprehensive Plan" shall be understood to refer to the following documents:

1. The Hinsdale Zoning Code
2. The Hinsdale Subdivision Ordinance
3. The current statement of objectives and policies of the Village, as amended from time to time
4. The Official Map, on file with the Village Clerk
5. Executive Summary of Hinsdale 2025 Strategic Plan
6. Ogden Avenue Corridor Plan
7. Report of the Central Business District-Northtown-Parking Task Force

### **C. Purpose**

The Official Comprehensive Plan shall be considered an official statement of the policy of the Village with respect to: the existing and developing character of the various areas of the Village and its vicinity; the proper objectives, standards, and direction for future maintenance, growth, development and redevelopment of the Village; the means to be employed to protect existing character or development and to encourage future development that will be in the best interests of the Village; and the actions and programs to be undertaken by the Village with respect to its future maintenance and development.

#### **D. Effect**

After the adoption of the Official Comprehensive Plan or a part thereof, no ordinance, regulation, or official map relating to the physical maintenance, development or redevelopment of the Village or any land within it shall be enacted, established, amended or varied and no right of way, street, utility or public structure or land shall be authorized, established, developed, redeveloped or modified in location or extent except in accordance with the policies, goals, objectives, principles and standards of the Official Comprehensive Plan or relevant part thereof unless the Village Board shall first make a specific finding that the facts and circumstances affecting the particular matter justify a departure from the Official Comprehensive Plan.

#### **E. Procedures**

##### **1. Plan Development**

- a. The Plan Commission, with the assistance of the Village Manager and the Village Manager's staff, shall exercise the powers and duties delegated to it by the Village Code in the continuing development and revision of the Official Comprehensive Plan. The process of plan development is necessarily an informal one not readily adaptable to rigid procedures, but the Plan Commission and the Village Manager, in developing a Plan, shall make all reasonable efforts to obtain the views, comments, and criticisms of interested persons. In addition, the Plan Commission, prior to making any recommendation for the adoption or amendment of a plan or part thereof to the Village Board, shall conduct a public hearing in accordance with the provisions of Article 3.
- b. The Village Board may, at any time, refer a Plan to the Plan Commission for consideration and recommendation. In the case of such referral, the Plan Commission shall return its recommendation to the Village Board no later than ninety (90) days following the receipt of the referral. In the event such recommendation is not so delivered, the Village Board may proceed to consider the amendment without such recommendation.
- c. When satisfied that a plan, or a part thereof, is adequate for adoption as an amendment of the Official Comprehensive Plan, the Plan Commission shall transmit such plan or part thereof to the Village Board together with its recommendations for adoption of such plan as well as any reports or statements deemed necessary to a full consideration of such plan or part thereof. Such reports or statements may include majority and minority positions. Such transmittal shall be made not later than fifteen (15) days following the close of the public hearing concerning such plan.

##### **2. Plan Adoption**

Upon receiving any recommendation of the Plan Commission with respect to the adoption or amendment of any Plan or a part thereof, the Village Board, by ordinance duly enacted, may adopt such Plan in whole or in part, with or without amendments, refer such plan or any part thereof back to the Plan Commission for further consideration, or reject such plan. The Board of Trustees shall take such action not later than ninety (90) days following the close of the Plan Commission public hearing on such Plan. The failure of the Village Board to act within such period shall be deemed to be a rejection of the Plan. Upon the adoption of any such Plan or part thereof, it shall be designated as the "Official Comprehensive Plan of the Village of Hinsdale" and, if less than a total comprehensive plan, shall carry a subheading designating its specific contents.

**3. Plan Amendment**

The Official Comprehensive Plan, or any part thereof, may be amended at any time in accordance with the provisions of this section. Such an amendment may be initiated by the Village Board, Plan Commission, Village Manager, or by any owner of property affected by the provisions of such Plan sought to be amended. Amendments initiated by the Village Board, Plan Commission or Village Manager shall require no formal application and shall be processed as provided in this section. Amendments initiated by the owner of affected property shall be initiated by an application filed pursuant to this Code, except that the time limits specified in this section shall apply.

**4. Plan Filing and Notice of Adoption**

The ordinance adopting the Official Comprehensive Plan, or any part thereof, shall provide that the Village Manager shall cause a certified copy thereof to be placed on file in the Office of the Village Clerk and shall cause a notice evidencing the adoption of such plan, or part thereof, to be filed with the DuPage County Recorder of Deeds and the Cook County Recorder of Deeds.

## **SECTION 11-202. OFFICIAL MAP**

### **A. Authority**

The Plan Commission shall have authority to prepare and to recommend to the Board of Trustees an Official Map of the Village and the unincorporated areas surrounding the Village and from time to time to prepare and recommend amendments thereto, all of which the Board of Trustees may adopt as the "Official Map of the Village of Hinsdale."

### **B. Definition**

The "Official Map" shall be defined as a compilation of maps, standards and specifications of and for existing and proposed rights-of-way, streets, alleys, utility easements, public grounds and public utility systems within the Village or within the unincorporated area lying within one and one-half (1½) miles of its boundaries as they may from time to time exist, prepared and recommended by the Plan Commission with the advice and assistance of the Village Manager and the Village Manager's staff, and adopted by the Village Board by ordinance duly enacted, together with such amendments thereto as may be adopted from time to time. The term "Official Map" also shall refer to any internally consistent and complete portion of such a compilation relating to any one or more of the aforesaid subjects or to any specific portion of the aforesaid geographical area. As of the effective date of this Code, the term "Official Map" shall be understood to refer to the documents listed in Subsection 11-201B of this Code. The Official Map referred to in this Section is the map authorized by Sections 11-2-6 et seq. of the Illinois Municipal Code, Ill. Rev. Stat. ch. 24, 11-12-6 et seq.

### **C. Purpose**

The Official Map is adopted to implement the Official Comprehensive Plan, to assure the adequacy of the public facilities to which it relates, and to secure for the Village the authority and benefits provided by state law in connection with such an Official Map.

### **D. Effect**

The Official Map shall have the effect accorded to it by Sections 11-12-8 et seq. of the Illinois Municipal Code, Ill. Rev. Stat. ch. 24, 11-12-8 et seq., and also shall have the effect accorded to the Official Comprehensive Plan.

### **E. Procedures**

The procedures for the development, adoption, amendment and filing of the Official Map shall be the same as those provided for the Official Comprehensive Plan.

## **APPENDIX B**

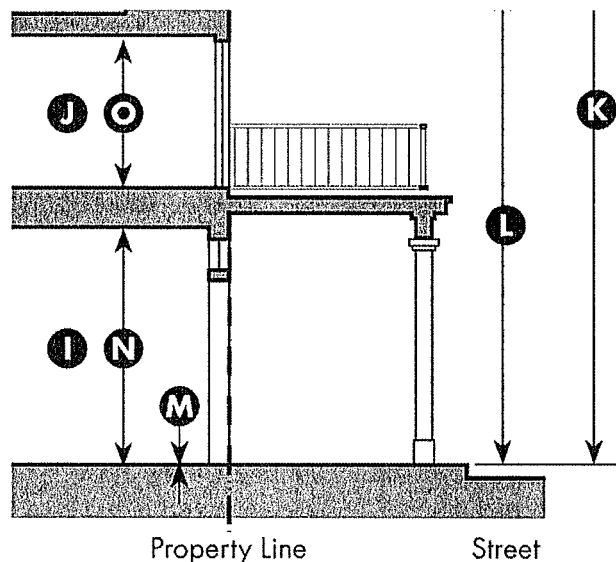
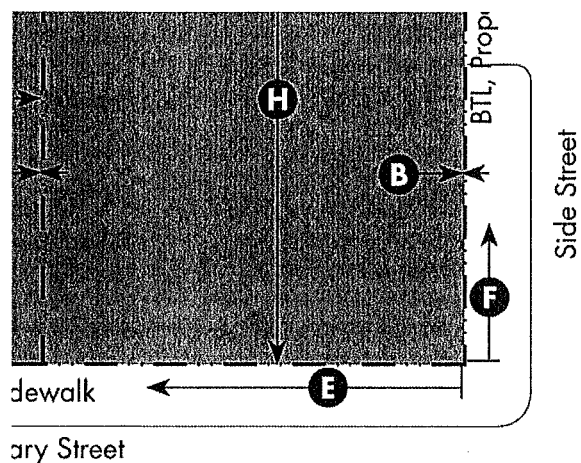
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(Hybrid Coding Article)

# ZONINGPRACTICE

May 2008

AMERICAN PLANNING ASSOCIATION



--- Setback Line

■ Building Area

➔ ISSUE NUMBER FIVE

## PRACTICE HYBRID CODING

Setback (Distance from Property Line)		
Front	0'	A
Side	0'	B
Height (from Property Line)		
Front	0'	C
Side	8'	D
Other Zone	5'	D
Building Area		
Not built to BTL	80% min.*	E
Built to BTL	30% min.*	F
Maximum	125' max.	G

Use		
Ground Floor	Service, Retail, or Recreation, Education & Public Assembly*	
Upper Floor(s)	Residential or Service*	
Refer to Table 4.1 for specific uses. Ground floors that face the street shall be residential and shall not include parking.		
Height		
Minimum	22'	
Maximum	2.5 stories and 40'	
Maximum Parapet	35'	

# The Five Steps to a Hybrid Code

By Arista Strungys, AICP

Many communities across the country are showing new interest in using zoning regulation to better realize a desired building form.

Zoning codes have always contained the basic bulk relationships that create the three-dimensional building envelope, such as minimum lot area, lot coverage restrictions, required setbacks, and maximum height, but additional design-oriented elements to better refine that form have not, traditionally, been part of the equation. As a result, many communities are not satisfied with the end result, whether it's monotonous residential subdivisions or out-of-character infill development. To remedy this, some communities have looked to form-based coding as a solution.

However, to completely revise a traditional zoning code, especially in a fully built out community, into a form-based code can may be akin to tossing the baby out with the bathwater. In many situations, hybrid codes represent a viable alternative.

A hybrid code combines traditional zoning controls with form-based zoning tech-

niques. Traditional controls create a building envelope that does not speak directly to the "form" of new development. Where traditional controls establish a three-dimensional box in which a property owner is allowed to build, form-based codes, on the other hand, concentrate on design. These codes mold and shape the three-dimensional box to address issues of context, scale, design, and character. However, not all communities need a "pure" form-based code.

In fact, for many jurisdictions, the existing bulk controls work just fine. Because a form-based code requires an understanding of architectural standards and numerous interpretations of design controls, some communities lack the staff expertise or capacity to administer this type of code. If current code administration is familiar and efficient, jurisdictions will need a compelling reason to adopt a new code.

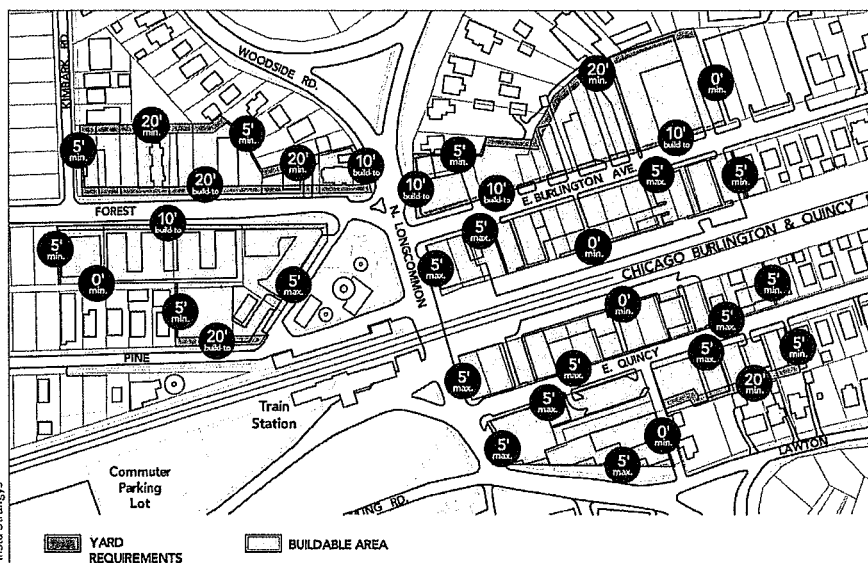
Instead, by integrating form-based controls into a traditional zoning code, the a community can pinpoint the specific design elements desired in new development, and it can achieve a similar outcome to that of a form-based code without having to start from scratch. When done carefully, incorporating form-based elements can help refine and focus standard bulk requirements.

## WHY CREATE A HYBRID CODE?

Traditional zoning speaks more to land-use compatibility than design, so it may not result in the desired physical character and scale for new development. In other words, traditional zoning speaks to *how much you can do*, while form-based controls add the element of *how you can do it*. When form-based controls are added, the zoning regulations can better articulate what is meant by, for example, keeping within the established scale, context, or design traditions without having to create an entirely new zoning code. Property owners are more willing to accept regulations that enhance those they are familiar with and understand, rather than a completely revised set of standards and new administrative procedures and reviews.

This type of hybridization has a number of benefits. Code administrators are still working within a familiar framework, crafting form-based elements that they understand and feel comfortable administering. Other zoning districts, where more traditional bulk controls have been working, do not need to be overhauled. In many built out communities, the "place making" philosophy of form-based zoning is unnecessary—a place is already "made," so to speak. In those instances, the form-based controls are used to maintain the existing established character and guarantee that new development fits in, adding a layer of character preservation to the code.

However, the use and development of form-based techniques can also be a challenge. The form-based controls must be easily



In addition to including controls on building form, hybrid codes can also regulate the placement of buildings on a lot, as shown in this map representing required yards in a central business district. In some cases, to preserve historic development patterns, a parcel-by-parcel determination of proper setback may be required. Standards can include a mix of build-to, maximum, and minimum setback lines.

## ASK THE AUTHOR JOIN US ONLINE!

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### About the Author

Arista Strungys, AICP, is a senior associate at Camiros, Ltd. Her area of expertise is zoning and development regulations, and she has worked with communities across the country to create hybrid ordinances that combine traditional zoning regulations with form-based controls.

understood by staff, the community, property owners, developers, architects, and others involved in the development process. While there will be those controls that require a certain expertise, most provisions should be written so that they can be read and interpreted by the whole community. If residents do not understand the code, they will not trust it.

### IMPLEMENTATION

Implementing new rules in built environments, where a substantial zoning tradition tied to existing bulk and use standards already exists, is also a challenge. In a sense, a "pure" form-based code can be easier to implement within a new or growing community because new development tends to occur upon a clean slate. A form-based code is easier to accept when it will be applied only in the future for new development.

However, within a built out community, many residents may feel that their existing code has served them well and do not understand why any revision is necessary. Often, a certain character develops out of tradition, not regulation, and residents do not realize that new development—under the existing rules—is not obligated to "match." In many cases, existing zoning regulations permit new development by-right that is out of scale and character with existing development; new buildings that respect the existing character happen only by pure luck.

### FIVE STEPS OF HYBRID CODING

The task of integrating design-oriented controls into a code may seem daunting, but there is a logical schedule of actions that determines which design elements should be incorporated, crafts the proper development controls, and builds public support for the new code. This can be broken down into five key steps. To help illustrate this five-step process, the Village of Riverside, Illinois, is provided as an example of how a hybrid code was drafted,

A "pure" form-based code can be easier to implement within a new or growing community because new development tends to occur upon a clean slate.

adopted, and implemented. Riverside is a National Historic District designed by Frederick Law Olmsted, so the built form is a key part of the community. Prior to adoption of the new regulations, an outdated zoning ordinance, which did not address the village's historic character, controlled the form of development and potentially permitted projects that were out of scale and context. This example describes the hybrid coding process for both the central business district (CBD) and the residential districts, which were conducted as consecutive ordinance updates.

#### Step 1: Target the Area

The first step is to identify the area that will be subject to the regulations. In this step, the community must target the appropriate area and define its boundaries. While the target area does not require the district to have a singular character—different components of a district can be addressed through a subdistrict structure—it must have a unifying theme and purpose. Usually, it relates to a location, such as a central business district or commercial corridor, or a particular issue, like residential teardowns, that needs special "form-based" attention. In terms of code organization, the targeted area is often an

existing zoning district, but it can also require the creation of new districts or the application of zoning overlay districts.

After identifying the area, it is also important to consider the transitions. For example, if the anticipated form-based regulations are for the downtown, which is surrounded by single-family residential, it is important to address the transition from commercial to residential, especially if the downtown revisions encourage increased height or density. For example, regulations for a transition area may require town houses as a buffer between downtown development and surrounding single-family homes. This is where the subdistrict structure is useful.

Many times the issues throughout the targeted area are not the same. Using the same downtown example, a single set of architectural standards may be appropriate for the entire area, but the use structure may not be. A downtown core would desire more lively uses like retail stores, coffee shops, and restaurants, while office uses along the ground floor would not be appropriate. However, ground-floor offices could be ideal for other commercial streets within the district. The subdistrict structure can take them into account much like the town house transition area. This organizational technique allows a community to tailor the uses for each of these subareas to achieve specific goals, while maintaining the same design character throughout.

In Riverside, zoning for the CBD required definition of the area, while the residential districts dealt with the issue of out-of-scale new development. This provides a good illustration of how hybrid coding can be either place or issue specific. In the case of the CBD, all of the village's business uses were grouped under one zoning classification, which did not distinguish between the historic CBD and the commercial corridor uses

along a major arterial at the eastern boundary of the village. Therefore, Riverside had to create a new district. However, while the boundaries of the historic CBD were relatively straightforward, one set of use controls was insufficient to define the use of different areas within the core. Therefore, the hybrid code divided the CBD into three subdistricts: the retail core, which was the heart of the district; the public use zone for village and public open space uses; and the mixed use periphery, which helped to address transitions from the retail core. Because the common thread throughout all three subdistricts was building design, most of the design standards applied throughout the new district.

In the residential districts, the village was concerned about the scale of new development. Because the majority of Riverside is

Basic zoning regulations will establish density, permitted uses, and lot sizes, but design controls will direct the physical character of new construction. Built out communities often use hybrid coding to preserve or restore historic character and, at the same time, address modern development needs, such as flexibility in off-street parking requirements or mixed use development. In a greenfield development, hybrid coding is oriented more toward place making because there are no surrounding developments and fewer—or no—established design traditions. Here, the hybrid code sets the tone for the first development and for all that follow.

In a way, it can be easier to define the policy for an area of preservation because the guiding principles are already on the ground. Place making in greenfield environments

ability and the ability to “look through” a block by keeping front yards unobstructed by fences, hedges, and even automobiles.

### Step 3: Describe the Form

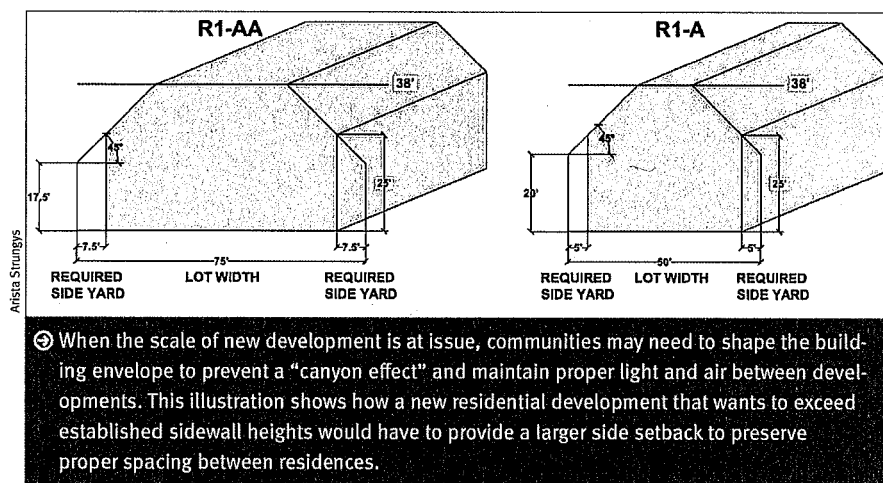
Any zoning process, including hybrid coding, should involve the public at all points in the process. However, public involvement at step three is crucial. Residents generally know what they like in terms of physical form, but have very different ways of articulating that idea. In addition, they often react to perception rather than reality. A building height of three stories means—and implies—a lot of different things to a lot of different people.

Before moving to step four and drafting regulations, the goal is to have everyone speaking the same language. Visual preference surveys, open houses, and public workshops—often conducted more than once—are good ways to elicit public consensus on specific design elements. For example, residents can use these forums to point out which buildings within the district provide the proper architectural context. Further, they can cite specific character-giving elements, like fenestration design, desired roof form, and preferred building materials, that they would like to be part of the regulations.

The educational aspect of step three cannot be overstated. To continue the previous example, some residents may resist the idea of a three-story building height when described as 35 feet, but they may not be aware that many of character-defining buildings in the downtown are already 35 feet in height. In another example, if a community wants to use hybrid coding for single-family infill, it needs to determine what residents find troublesome about new development.

In many cases, this boils down to a discussion of design versus scale. Planners should work with the public to determine what is at the core: Is it the architectural design of new buildings? The building materials being used? Or is it the scale of new construction and the impact on adjacent, existing residences? At this point in the process, it is important for the community to get at the true motivations and concerns of its residents in order to understand what really needs to be regulated.

For both zoning updates in Riverside, the village provided a number of opportunities for public participation. The plan commission and village staff identified the initial set of zoning issues to be addressed, but once these were identified, Riverside held public open houses,



comprised of single-family residential, the hybrid coding process was issue oriented (i.e., ensuring that new residential development maintain the established character) rather than being driven by a need to define community character.

### Step 2: Set the Policy

Before creating specific regulations, communities must confirm the development policies and concepts that will guide the drafting process. Often these policies come from recently adopted plans, like a comprehensive plan or downtown plan. Regardless of whether a community has articulated development policy through an adopted plan or if it uses the zoning process to determine that policy, communities need to focus on the following question: Is the driving goal one of place making or preservation?

requires more detailed concepts prior to drafting the regulations, because there is no surrounding context. The first new development also takes on additional significance because it sets the tone for all that follows.

The entire Village of Riverside is a National Historic District, so both the CBD and residential zoning assignments were focused on preservation. The goal was to create zoning districts consistent with Olmsted’s vision. Because original zoning regulations addressed all commercial areas under one classification, the village needed to create a “concept plan” to determine the goals for future development in the historic business core and to outline those elements of building form and site layout that define the CBD. For the residential districts, the goal was to require new development to maintain the established character, such as front yard vari-

typically on weekends, so that residents could understand the full range of issues being addressed and provide input into the different regulatory approaches. The village used visual preference surveys to gain a better understanding of what residents did and did not like. After the new codes were drafted, Riverside opened up all ordinance review meetings to the public to allow for continued input. For the residential revisions alone, more than 20 public meetings were held with the plan commission before the public hearing on the final ordinance.

what is *encouraged*. The second task is to determine how specific or broad each standard should be.

It is often easier to tell an applicant that he or she must do something, rather than attempt to persuade an applicant that adding a certain design element is recommended. The benefit of a requirement—a “must”—is that the expected form is more predictable and less review time is needed because it is an issue of compliance, rather than negotiation. The downside is that a requirement may be met with resistance from property owners,

is expected and no cohesive look to the resulting development. This negates the purpose of form-based controls.

Finally, it is important for a community to remember the type of development it is planning for and to ensure that regulations do not exclude specific development types that may be desired, even if they are not the predominant form. If traditional residential development includes tall homes in the Victorian style, the code can be tailored to specifically address these architectural forms as exceptions without setting a height limit that leads to out-of-scale modern development that towers over its neighbors.

In order to preserve the historic development pattern within the village, Riverside established strict setback controls for both the CBD and the residential districts. In the CBD, the village created parcel-by-parcel setbacks for each zoning lot, including a combination of minimum setbacks, maximum setbacks, and build-to lines, coupled with buffer yard requirements where lots abutted residential uses. In residential districts, in order to maintain the historic variability of the front setback, the concept of a street yard was created. Prior to the ordinance update, the village used an averaging provision. The dimension of the street yard—whether a front yard or corner side yard in more traditional zoning terms—is determined by the closest dimension indicated on the Works Progress Administration (WPA) House Setback Survey. The WPA undertook a House Setback Survey in Riverside between 1936 and 1953 to document building placement on Riverside’s lots. The information contained in this survey, available from the village building department, is used to determine the street yard dimension. Because Riverside historically has a varied front setback, using the map allows the village to maintain the historic development pattern and front yard variability.

Some districts were also more amenable to strict controls than others. Within the CBD, there are very specific design standards for new construction, including permitted building materials and standards for scale, massing, and fenestration, including an illustrative guide of contextual architecture. Because the CBD is a concentrated area with a clearly established historic character, the majority of regulations are “musts.” However, within the residential districts, the village drafted design standards to address only the specific elements that were identified as the most vulnerable to permitting out-of-character construction, such as building

### Secondary Street Landscape Area:

- A 4' ornamental fence along surface parking lots
- B 2' min. width for groundcover
- C 4' wide min. Low Hedge row
- D Large Deciduous Trees 25' O.C. along surface parking lots
- E Parking Structures

### Plaza Area:

When creating a hybrid code it is also important to look at the various site elements—parking, signs, and landscaping—so that they work in concert with the desired building form. In this example, the community included landscaping standards for frontage along a right-of-way as well as within a required plaza area.

With any design-oriented process, the use of illustrations and photos is necessary to communicate design concepts and policy ramifications. Open houses provide an important opportunity to illustrate what is currently permitted under existing regulations and to solicit input on proposed changes. For example, in Riverside, the controversy centered around the maximum building height for the CBD. Many residents believed that the proposed three-story height was too tall. Only after the village illustrated how that height matched existing development within the CBD was the issue resolved.

#### Step 4: Balance the Regulations

Once the various elements of the desired form are identified, specific regulations can be drafted. First, planners need to balance what *must* (a requirement) be done versus

developers, architects, and others during the code-drafting process, and may lead to increased variance applications after code adoption. When design elements are simply encouraged, the code provides more flexibility and tends to calm the nerves of those who fear the “architecture police,” but if too many elements are only encouraged, communities have no way to guarantee the desired end product.

The specificity of the controls, whether required or encouraged, is another difficult situation for any community to navigate. If the controls are very specific, the developer knows exactly what is expected and can plan accordingly. But if the standards are too specific, with limited alternatives, the outcome can produce cookie-cutter development. On the other hand, if the standards are left too broad, then there can be confusion over what

Arista Strunings

materials, garages, and a building height setback plane. The village did not want to control residential architecture and require design review for each new structure.

#### Step 5: Administer and Implement the Code

The final step is to create the tools to administer and implement the hybrid code. This should begin with an assessment of the capacity and expertise of both staff and the various boards and commissions to determine who is best able to review the applications.

There are a number of options to put a hybrid code into action. One of the most basic is the site plan review process. Generally, site plan review addresses the different aspects of site design (e.g., circulation, parking, landscaping, and open space, etc.), but communities can expand this process to include building design review that originates from the form-based controls in the code.

Implementing a hybrid code through the site plan review process requires consideration of who reviews the applications. The

Implementing a hybrid code through the site plan review process may also increase the number of applications seen by the review body, depending on what districts or development types have received form-based treatment. For example, if single-family infill is now subject to significant form-based controls, then the site plan review body, depending on the development activity in the area, may see its workload double or even triple. If the area is active, a separate committee and review process may be necessary just to accommodate the number of applications in a timely manner. This is especially true if site plan review is handled by a body like the plan commission, which already has a number of other duties.

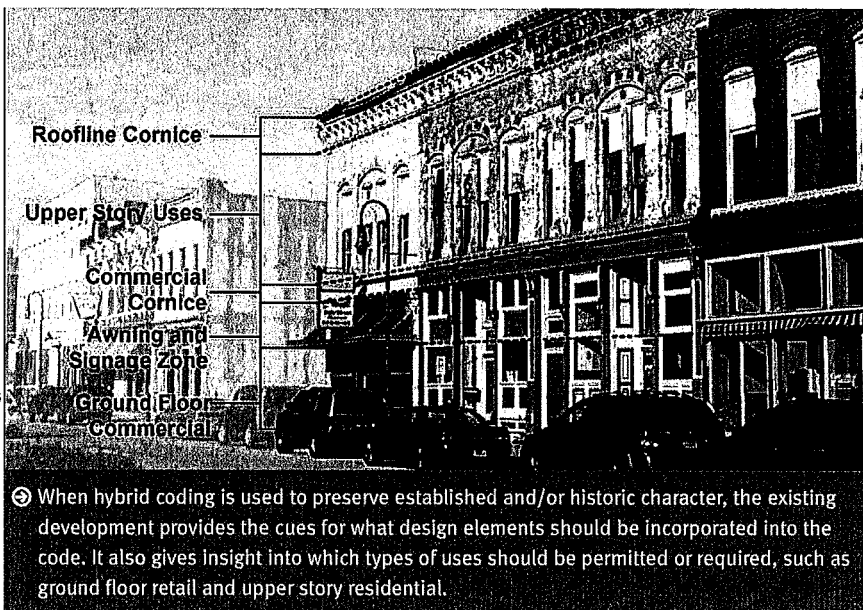
One option outside of site plan review is to create a design review process. A design review committee, comprised of community members (including some with specific design expertise), would analyze each application for compliance with the intent of the regulations. If the hybrid coding is only

alternatives, there will be a more subjective interpretation. Staff may not be comfortable making these subjective decisions and a public committee may be necessary.

As the community formulates its standards and considers the review process, the key issues to keep in mind are: capacity, efficiency, expertise, and consistency. In other words, the jurisdiction needs to review each application and render a decision within a reasonable time frame. The outcome should be predictable, and the review body should be consistent in the application of standards and decisions.

Because Riverside's original ordinance dated from 1922, there were no review processes in place that could evaluate development applications against the new standards. Therefore, as part of the creation of the CBD zoning district, the village established a site plan review procedure. The updated zoning put the plan commission in charge of reviewing and approving site plan applications. Because of the small size of the village core and the expertise of plan commission members, integrating application review as a member responsibility proved to be an effective and efficient way to administer the new design-oriented regulations for the CBD. Because residents are very concerned about the character of new development, the plan commission's review also allows for transparency in the development approval process.

When Riverside initially discussed design standards for new residential development, the village worried it would need a design review committee to assist in review of those applications. However, because the design standards were restricted to a series of requirements that must be met, the need for such a committee became unnecessary. Staff could continue to process applications as they came in for compliance with new form-based regulations.



When hybrid coding is used to preserve established and/or historic character, the existing development provides the cues for what design elements should be incorporated into the code. It also gives insight into which types of uses should be permitted or required, such as ground floor retail and upper story residential.

review body must be comfortable with this added layer of responsibility. If the site plan review process is conducted internally by staff, they may be comfortable making site plan assessments but uncomfortable with interpreting architectural standards, which may require additional expertise. In this situation, it may be appropriate to conduct the site plan review through staff and forward the comments to another committee for design review.

applied to a certain areas, staff can conduct an internal site plan review and forward their report to the design review committee to be integrated at the end of the process as one comprehensive review report.

If requirements are strict, staff can review the applications and expedite the process by checking for compliance. If more standards are encouraged and require negotiation for their inclusion in a design, or if the standards are very broad or offer a number of

#### THE TRANSITION

As new rules affecting the design and placement of buildings are integrated with use and bulk controls, it is important for a community to agree upon urban design goals or guidelines and to illustrate how form-based regulations within a revised zoning code can help to advance the design vision. The result of this, however, may be the creation of nonconformities. It is helpful in these instances to provide that existing structures are "deemed conforming." This type of provision should not be

♦ **Oklahoma City, Oklahoma: Zoning Ordinance**

Design guidelines as well as site-specific yard and bulk regulations, are combined with traditional zoning controls to guide the form and character of new development in Oklahoma City's Downtown Business District, Downtown Transitional District Limited, and Downtown Transition District General. These regulations are interpreted and enforced via a downtown design review certificate of approval for all projects, whether public or private.

♦ **Noblesville, Indiana: Corporate Campus**

The Corporate Campus Plan and Development Regulations, which covers nearly six square miles, lays out recommendations for land-use and transportation improvements. Further, it contains detailed development policy and urban design guidelines to assure that the character of new development meets the expectations and values of the community. This is achieved through the provision of an overall land-use plan, a set of land-use and urban design policies, and design guidelines that are depicted in the form of several illustrative plans designed to give developers a clear statement of the community's intent. The implementation of this plan is governed by a specific design set of zoning controls which are incorporated in a Corporate Campus Zoning District.

♦ **Park Ridge, Illinois—Zoning Ordinance**

The B-4 Uptown Business District is intended to sustain the current commercial, pedestrian-oriented character, and economic viability of the central business district. Hybrid coding is used to ensure that new development is consistent with Uptown's established scale, architecture, and mix of uses. In order to refine the regulations for this district, a series of subdistricts have been created with distinct use and bulk regulations.

applied to every nonconformity, because many may be undesirable and should be eliminated. It is, however, a useful tool to help preserve existing structures that may violate existing code requirements but that have distinct character-giving elements in the community.

For example, new residential height restrictions may make certain homes with more elaborate roof forms nonconforming because of maximum height violations, but keeping the old height restrictions may lead to undesirable residential infill that is out of character and out of scale. The solution may be to tailor the height restrictions to prevent the out-of-scale construction but deem the existing structures, which violate that restriction, conforming. In all cases, a "deemed conforming" provision should be very specific in application and carefully considered before codification.

Riverside's original ordinance used an interior residential height measurement that did not regulate overall building height. Because building height is a key bulk control, part of the update established both a set building height and a building height setback plane. Together, these controls manage the scale and volume of new construction. Because the new ordinance includes a definitive building height that could result in taller

The solution may be to tailor the height restrictions to prevent the out-of-scale construction but deem the existing structures, which violate that restriction, conforming.

buildings, the village wanted to control overall volume with a setback plane. The actual dimensions of these regulations were based upon the predominant design characteristics of existing homes. For example, most homes of the desired scale had a sidewall height of approximately 23 feet. Therefore, at the minimum side yard setback, the building height setback plane permits 23 feet as the maximum sidewall height at the minimum side yard setback. If a higher sidewall height is desired, the builder must provide a larger side yard setback.

In addition, the new controls allowed dormers and gables, common to Riverside's residential architecture, to pierce this envelope. However, with new restrictions on building height, the village was concerned that a number of existing homes, many of which could be historic, violated the new restrictions. Rather than treat these existing homes as nonconformities, which by definition are intended for gradual elimination, all homes that existed on the date of adoption of the ordinance that did not comply with the building height restrictions were deemed conforming to encourage their preservation.

**THE BEST OF BOTH WORLDS**

A hybrid code incorporates the best of both worlds. Form-based elements target areas that need refined design regulation, while those parts of the code that work remain as they are. The public process elicits design controls that are supported and desired by the community, and creates a code understood and trusted by residents. By keeping what works and using form-based techniques to target specific areas or issues, a traditional zoning code can achieve the same results as a form-based code without having to start from scratch.

Neighborhood Center Standards from the City of Grass Valley, California, Development Code. Cover concept by Lisa Barton. Image courtesy of Opticos Design, Inc. and Crawford, Multari & Clark Associates.

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# HOW CAN YOUR COMMUNITY INCLUDE FORM CONTROLS IN A CONVENTIONAL ORDINANCE?

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