

# An Introduction to The County Comprehensive Land Use Planning Program

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## Private Property Rights

Private property ownership is a fundamental constitutional right!

- Private property can be taken only for public use after payment of just compensation
  - US Constitution - 5<sup>th</sup> Amendment
  - SC Constitution - Art. I, Section 13
    - use of statutory eminent domain procedures
    - SC prohibits economic development considerations as a public use



# Land Use Regulation & “Police Power”

US Supreme Court – *Village of Euclid, Ohio v. Ambler Realty Co.* (1926)

- The power to regulate uses of land and buildings to protect the health, welfare and safety of a community is a legitimate use of the entity’s “police power” pursuant to the 10<sup>th</sup> Amendment.
- Ordinance must be clearly arbitrary and unreasonable and without substantial relation to public health, safety, morals, or general welfare before it can be declared unconstitutional.



## “Takings” and How to Avoid Conflicts

- What is a “taking”: The improper restriction on use of private property without paying just compensation to the owner.
- Physical: The physical transfer of ownership to part or all of private property.
  - Bike Path: *Dolan v. Tigard* (1994)
  - Public Beach Access – *Nolan v. California CC* (1987)
- Regulatory: A local regulation has the effect of improperly restricting use of property
  - Total loss of use/value: *Lucas v. S.C. CC* (1992)
  - Partial loss of use/value: *Penn Central RR v. New York*, (1978)



# The Modern “View” of Land Use Regulations

- Recent US Supreme Court decisions have required local land use controls have an “essential nexus” to the government’s legitimate interests.
  - Sheetz v. El Dorado, Calif. (2024)
    - Traffic mitigation impact fee
  - Koontz v. St. John’s Water District (2013)
    - Environmental protection land dedication



**When is the Best Time to Plant a Tree?**



# Planning affects every aspect of local government management.

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The Legislation

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The Requirements

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The Governing Bodies

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Planning Tools



The Legislation

# Planning Enabling Act

- 1924 – General Assembly authorized municipal planning
- 1942 – General Assembly authorized county planning
- 1994 – The Local Government Comprehensive Planning Enabling Act: Repealed all of the above and required all local comprehensive plans, zoning ordinances and land development ordinances conform to the 1994 act

## Three aspects of local government planning

Zoning – What can  
you do where?

Land  
Development/  
Subdivision – How  
can you do it?

Architectural  
Design Standards  
– What does it  
have to look like?





# The Requirements

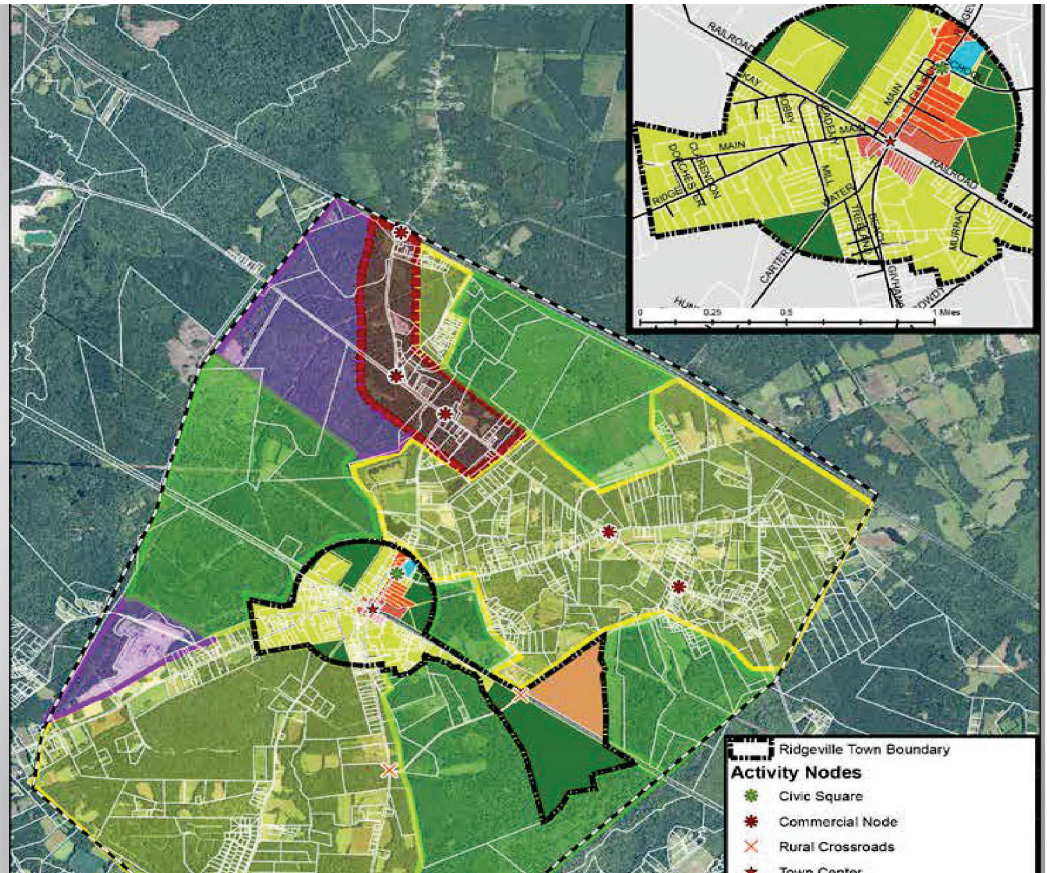
## Comprehensive Plan

- In order to regulate zoning and land use in SC you must have a Comprehensive Plan
- Done every 10 years with a 5-year update
- Elements – 10 Elements
- Goals
- FLUM
- Compliance



# Future Land Use Map

- Current Land Use
- Future Land Use Map



## Zoning Ordinance – What Can I Do with My Land?

- Land Use
- Subdivision
- Lot size
- Setbacks
- Signage Requirements
- Landscape Requirements



## Land Development /Subdivision Regulations – How do I Have to Develop My Land?

- Plat/Plan Requirements
- Road Standards
- Sidewalk Requirements
- Stormwater Standards

## Design Standards – What Does it Have to Look Like When I Develop My Land?

- Very few Counties have these
- “A local government which enacts a zoning ordinance which makes specific provision for the preservation and protection of historic and architecturally valuable districts and neighborhoods or significant or natural scenic areas, or protects or provides, or both, for the unique, special, or desired character of a defined district, corridor, or development area or any combination of it, by means of restriction and conditions governing the right to erect, demolish, remove in whole or in part, or alter the exterior appearance of all buildings or structures within the areas, may provide for appointment of a board of architectural review or similar body.”



# Residential Design Standards



# Commercial Design Standards





# The Governing Bodies

## Planning Commission

- Recommending Body to Councils
- Appointed by Council
- Comprehensive Plan
- Zoning Ordinance
- Map Amendments (Rezoning)
- Land Development Approvals – Smaller Towns
  - Plats
  - Subdivisions
- Appeals of decisions regarding plats or subdivisions
- Maps, Reports, Studies, etc.



## Zoning Administrator

- Makes determinations on land use issues
- Appointed by County Administrator or Planning Commission
- Powers and duties outlined in Zoning Ordinance
- Issues zoning permits or certificate of occupancy
- Decisions are appealable to the Board of Zoning Appeals

## Board of Zoning Appeals

- Quasi-Judicial Board
- Appointed by Council
- Special Exception Requests
- Variance Requests – Four Part Test
  - There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;
  - The application of the Ordinance on this particular piece of property would create an unnecessary hardship;
  - Such conditions are peculiar to the piece of property involved; and
  - Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of the Ordinance or the Land Use Plan, provided, however, that no variance may be granted for a use of land or building or structure that is prohibited in a given district by this Ordinance. Economic Hardship shall not be deemed the sole basis for relief
- Appeal of Zoning Administrator's Decision

# County Council's Role

- Create a vision for your community
- Formulate clear and concise regulations for land use and land development in your county
- Appoint enthusiastic and qualified citizens to boards and commissions
- Adequately equip staff to carry out your vision and enforce regulations (staffing, compensation and support)

## Public Notice Requirements

*-How to Count to 30!*

- Planning and Development Laws have very particular public notice requirements
- Freedom of Information Act Requirements
- State Planning Enabling Act Notice Requirements
- Local Ordinance Requirements
- Procedural Issues





## Planning Tools

- Planned Developments – Mixed Use
- Overlay Districts (Viewshed)
- Urban Growth Boundaries
- Special Planning Areas
- Development Agreements – SC Code 6-31-10
- Cluster Developments - SC Code 6-29-720(C)
- Joint Planning Commission
- Traffic Impact Analysis
- Impact Fees – SC Code 6-1-930

## Urban Growth Boundaries

- Ridgeville Urban Growth Boundary
- Annexation by town
- Planned Development Zoning
- Coordination with County and School District on needs
- Development Agreements
- Amending County Water and Sewer Master Plans
- Downtown Master Plan
- Master Transportation Planning
- RID/MID for roads infrastructure

## Hot Topics



# Legal Terminology

## Takings

- Fifth amendment to the US Constitution
- Inverse Condemnation
- Regulatory Takings
- Eminent Domain

## Vested Rights

- State law 6-29-1560 (which applies in absence of local ordinance): Right to develop for 2 years after requested rezoning, variance, conditions, special exception, or other affirmative government approval
- Then 5 mandatory renewals unless the applicable ordinance has changed

# Public Financing Tools

TIF

MCIP

CID/RID

# Questions



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