

**VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
MARCH 6, 2007 AGENDA**

SUBJECT:	TYPE:	SUBMITTED BY:
Right-of-Way Vacation	Resolution ✓ Ordinance Motion Discussion Only	Don Scheidler Interim Community Development Director

SYNOPSIS

An ordinance has been prepared for a Right-of-Way Vacation of Pershing Avenue immediately south of Ogden Avenue for the expansion of an existing automobile dealership, Ultimate Motor Cars, at 2055 and 2101 Ogden Avenue. Pursuant to Village Policy, six (6) affirmative votes are required to approve the vacation of Pershing Avenue.

FISCAL IMPACT

Staff is recommending the petitioner compensate the Village to vacate Pershing Avenue per the Right-of-Way Vacation Policy. The recommended compensation is \$14,088.13 for the entire Right-of-Way. The estimated Equalized Assessed Value (EAV) for this land is \$42,691.30. Placing this land on the tax rolls would generate approximately \$2,114 per year in total taxes to all taxing bodies. The Village portion of the annual real estate taxes is estimated to be \$190.

UPDATE & RECOMMENDATION

This item was discussed at the February 27, 2007 Village Council Workshop. The operator of the business at 2105 Ogden expressed concerns about the impact of the vacation of Pershing Avenue and their inability to use the alley located south of their property. Staff has contacted the business operator and has begun discussions of proposed improvements and use of the alley immediately adjacent to their property. Condition 6 of the draft planned development ordinance recommended by Plan Commission and presented at the Workshop that requires the petitioner to make certain improvements to the alley has been removed from the draft ordinance.

Staff's original calculation of the recommended compensation (one-third of the estimated EAV for the land) of \$14,088 is slightly low due to a rounding process used early in the calculation. The correct recommended compensation is \$14,230.43 (one-third of the estimated EAV of \$42,691.30).

Approval is recommended on the March 6, 2006 Active Agenda.

BACKGROUND

The petitioner wishes to expand the existing dealership located at 2055 Ogden Avenue. The petitioner currently leases 2055 Ogden Avenue and operates an automobile dealership out of the small one-story building. The property at 2101 Ogden includes a vacant building that was purchased by the petitioner. The two properties are separated by Pershing Avenue. To accomplish the expansion, the petitioner is requesting

the Village vacate Pershing Avenue between 2055 and 2101 Ogden Avenue to create a single parcel in order to expand an existing automobile dealership.

Vacation of Pershing Avenue

The vacation of Pershing Avenue will allow for a more efficient site design layout. The petitioner is proposing to renovate the building at 2101 Ogden Avenue to provide offices and an indoor showroom. The petition proposes the demolition of the existing building at 2055 Ogden Avenue in order to utilize the entire parcel as an outdoor display space. Customer parking is proposed on the east side of the vacated Pershing Avenue, while the west side would be additional outdoor display space. Pershing Avenue is in fair to poor condition and used primarily as a private driveway.

The Village does not currently allow through traffic on Pershing Avenue. A guardrail has been installed within the Village Right-of-Way just south of the subject properties. The barrier sets up a public stub street that serves as a private driveway.

Per the Village's Right-of-Way Vacation Policy (Resolution 2003-58), staff contacted utility companies and public entities and determined that there are multiple utilities located within the right-of-way. The most significant of these utilities is a DuPage Water Commission water main located on the east side of Pershing Avenue. An easement over the entire right-of-way must be maintained in order to vacate the right-of-way. Additionally, the petitioner has agreed to indemnify the Village and DuPage Water Commission from any damages caused by the water utilities within the vacated right-of-way. Staff has required that no display cars are parked above the water main.

Site Design

Due to the right-of-way vacation, the petitioner can utilize the two parcels and vacated right-of-way as a single site which allows for a more efficient site design layout. The petitioner is proposing to utilize the Pershing Avenue curb cut onto Ogden Avenue as their primary access.

The proposal calls for a landscaped area along the entire length of Ogden Avenue in addition to public sidewalks along Ogden and Pershing Avenues. As part of the landscaping, a code compliant monument sign will replace two non-compliant signs. A six foot wood fence will be installed at the south end of the vacated Pershing Avenue. The existing Ogden Avenue sidewalks will be maintained and extended through the vacated right-of-way. An existing sidewalk on the east side of the Pershing Avenue right-of-way will be maintained as well.

Display cars will be located on the west side of the vacated right-of-way and also throughout the 2055 Ogden Avenue parcel. The petitioner's goal is to demolish the existing building at 2055 Ogden Avenue and utilize the entire parcel as an outdoor display area for their vehicles. Customer parking will be provided on the east side of the vacated right-of-way. Sale vehicles will typically be delivered via semi-truck during regular hours of operation. The semi-truck will be able to unload vehicles by pulling into the vacated right-of-way and use a three-point turn to exit the site as shown on the petitioner's architectural plans.

Public Improvements

Significant public improvements will take place as a result of this development. Currently, the site sheet drains toward the southwest and creates issues for the Village's stormwater sewers in that area. A comprehensive grading plan will drain stormwater into storm sewer inlets which will tie into the Village's

storm sewers at the intersection of the public alley and Pershing Avenue. The petitioner will also remove two existing Ogden Avenue curb cuts and reduce the size of the Pershing Avenue curb cut.

Compliance with the Ogden Avenue Master Plan

This proposal complies with the Ogden Avenue Master Plan as shown below:

Ogden Avenue Master Plan	Proposal
Close some minor side streets and use vacated rights-of-ways	Proposal calls for vacation of Pershing Avenue. Village will no longer have the responsibility of maintaining the stub street that serves only two properties.
Improve building facades	Proposal calls for the renovation of 2101 Ogden Avenue and future demolition of 2055 Ogden Avenue.
Improve building signage	Proposal removes two non-compliant signs and installs one compliant monument sign.
Relocate signs from parking lots to landscaped areas	Proposal locates sign in landscaped area.
Improve the parkway with new trees, plantings, signage, and sidewalks	Proposal provides lawn, landscaping, signage and sidewalks along Ogden Avenue. Increased green space will improve stormwater management on the property.
Reduce curb cuts along Ogden Avenue	Proposal calls for the removal of two curb cuts that are shown as removed in the Ogden Avenue Master Plan.
Provide interconnected sidewalks along Ogden Avenue	Proposal maintains sidewalk along Ogden Avenue and maintains access to Ogden Avenue for Pershing Avenue residents via a sidewalk with a sidewalk easement.

Plan Commission Review

The Plan Commission considered the project at their January 8, 2007, January 22, 2007, and February 5, 2007 meetings. The project was continued twice as a result of objections raised by the business owner who leases 2105 Ogden Avenue. The business owner operates an automobile dealership and U-Haul truck rental business on the site. The initial objection raised was that the owner would not be able to turn around his large U-Haul trucks without the use of Pershing Avenue. The petitioner provided engineering exhibits showing the largest U-Haul truck could be turned around using the existing 2105 Ogden Avenue parcel and the Village’s alley. The second objection was that the Illinois Secretary of State required the business owner to have two separate access points to Ogden Avenue. Currently, the business owner has one curb cut directly onto Ogden Avenue and uses the public alley and Pershing Avenue as his second access point. Without two access points, the business owner claimed that his business would be closed. The Plan Commission required the business owner to provide evidence of these requirements. Upon review of the business owner’s submittal, the Plan Commission did not believe his business would close as a result of the Pershing Avenue vacation.

At their February 5, 2007 meeting, the Plan Commission recommended unanimous approval of the Special Use, Planned Development, and Right-of-Way Vacation with the conditions as noted in the Staff Memo dated February 5, 2007. The Plan Commission did not opine on the recommended compensation. Staff concurs with the Plan Commission recommendation.

VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY

INITIATED: Applicant **DATE:** March 6, 2007
(Name)

RECOMMENDATION FROM: _____ **FILE REF:** _____
(Board or Department)

NATURE OF ACTION:

- Ordinance
- Resolution
- Motion
- Other

STEPS NEEDED TO IMPLEMENT ACTION:

Motion to Adopt “AN ORDINANCE VACATING A CERTAIN PORTION OF A PUBLIC RIGHT-OF-WAY IN THE VILLAGE OF DOWNERS GROVE (A PORTION OF PERSHING AVENUE LYING SOUTH OF OGDEN AVENUE AT THE INTERSECTION OF OGDEN AND PERSHING AVENUES)”, as presented.

SUMMARY OF ITEM:

Adoption of the attached ordinance will vacate a portion of Pershing Avenue lying south of Ogden Avenue at the intersection of Ogden and Pershing Avenues.

RECORD OF ACTION TAKEN:

ORDINANCE NO. _____

**AN ORDINANCE VACATING A CERTAIN PORTION OF A
PUBLIC RIGHT-OF-WAY IN THE VILLAGE OF DOWNERS GROVE
(A PORTION OF PERSHING AVENUE LYING SOUTH OF OGDEN AVENUE AT THE
INTERSECTION OF OGDEN AND PERSHING AVENUES)**

WHEREAS, it has been determined by the Council of the Village of Downers Grove in DuPage County, Illinois, that it is in the public interest to vacate a certain portion of an improved public right-of-way in said Village hereinafter more particularly described; and

WHEREAS, there are certain public service facilities situated in said portion of said right-of-way, and the Village Council has determined that it is necessary and in the public interest to reserve such rights-of-way and easements as are in the judgment of the Council necessary or desirable for continuing public service by means of those facilities and for the maintenance, renewal and reconstruction thereof; and

WHEREAS, the required public notice has been given and a public hearing respecting said vacation has been conducted in accordance with applicable law; and

WHEREAS, the Village Council, after due investigation and consideration, has determined that the nature and extent of the public use and the public interest to be served is such as to warrant the vacation of said portion of said right-of-way.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Downers Grove, in DuPage County, Illinois, as follows:

SECTION 1. That all that part of the following described property, to wit:

That part of Pershing Avenue in Arthur T. McIntosh and Company's Belmont Country Club Addition, (being a subdivision in parts of Section 1, Township 38 North, Range 10 East of the Third Principal Meridian and Section 6, Township 38 North, Range 11 East of the Third Principal Meridian, according to the plat thereof recorded May 18, 1927 as Document 235837), described as follows: Beginning at the Northwest corner of Lot 7 in Block 2 of said subdivision; thence South 00 degrees 05 minutes 35 seconds West (assumed bearing) 151.62 feet to the Southwest corner of said Lot 7; thence South 77 degrees 53 minutes 34 seconds West 67.53 feet to the Southeast corner of Lot 1 in Block 3 of said subdivision; thence North 00 degrees 05 minutes 35 seconds East 153.13 feet to the Northeast corner of said Lot 1; thence North 79 degrees 09 minutes 16 seconds East 67.22 feet to the point of beginning in the Village of Downers Grove, DuPage County, Illinois

(hereinafter referred to as the "Vacated Pershing Avenue"), is hereby vacated and closed, and that it is hereby declared that the same is no longer required for public use and that the public interest will be served by such vacation.

SECTION 2. A perpetual non-exclusive easement is hereby reserved for and granted to the Village of Downers Grove, Illinois, the DuPage Water Commission and to those public utility companies operating under

franchises from the said Village including, but not limited to, AT&T, Comcast Cable, Northern Illinois Gas Company, Commonwealth Edison Company, and Downers Grove Sanitary District and their respective successors and assigns, over, on, across, under, and through all of the areas on the plat of vacation marked “Public Utilities and Access Easement Reservation” of the Vacated Pershing Avenue as described herein for the perpetual right, privilege and authority to construct, reconstruct, repair, inspect, maintain and operate various utility transmission and distribution systems and community antenna televisions systems and all necessary connections, appliances and other structures and appurtenances as may be deemed necessary by said Village and for any and all municipal purposes, over, upon, along, under and through said indicated easements, together with right of access across the property to do any of the above work. The right is also granted to cut down, trim or remove any trees, shrubs or other plants that interfere with the operation of the utilities. No permanent buildings or structures shall be placed on said easements, but same may be used for gardens, shrubs, landscaping, fencing, paved parking, driveways and other purposes that do not then or later interfere with the aforesaid uses and rights. All installations shall be subject to the ordinances of the Village of Downers Grove. Easements are hereby reserved for and granted to the Village of Downers Grove and other governmental authorities having jurisdiction of the land over the entire easement area for ingress, egress and the performance of any and all municipal and other governmental services.

SECTION 3. This vacation shall be subject to the following conditions:

1. Prior to the petition being considered by the Village Council, the Petitioners must submit a plat of vacation which shall specifically include the easement language contained in Section 2 of this Ordinance.
2. The Petitioners shall pay to the Village of Downers Grove \$14,230.43.
3. The vacation shall substantially conform to the staff report dated January 8, 2007, and February 5, 2007 and with the plat of vacation submitted to the Village of Downers Grove dated February 22, 2007 prepared by CM Lavoie & Associates, Inc.

SECTION 4. That the Mayor and Clerk of the Village of Downers Grove are hereby authorized to sign the plat of vacation of the Vacated Pershing Avenue described herein.

SECTION 5. That a certified copy of this ordinance and an accurate map of the Vacated Pershing Avenue shall be filed for record by the Clerk of the Village of Downers Grove in the Office of the Recorder of Deeds, DuPage County, Illinois.

SECTION 6. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 7. That this ordinance shall be in full force and effect from and after its passage and publication in pamphlet form as provided by law.

Mayor

Passed:

Published:

Attest: _____

Village Clerk

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PLAT OF VACATION

OF PUBLIC RIGHT-OF-WAY
WITH RESERVATION OF EASEMENT
IN THE VILLAGE OF DOWNERS GROVE,
DUPAGE COUNTY, ILLINOIS



LEGAL DESCRIPTION OF ROADWAY VACATION:

THAT PART OF PERSHING AVENUE IN ARTHUR T. MCINTOSH AND CO'S. BELMONT COUNTRY CLUB ADDITION, (BEING A SUBDIVISION IN PARTS OF SECTION 1, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN AND SECTION 6, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THERE OF RECORDED MAY 18, 1927 AS DOCUMENT 235837), DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT 7 IN BLOCK 2 OF SAID SUBDIVISION; THENCE SOUTH 00 DEGREES 05 MINUTES 35 SECONDS WEST (ASSUMED BEARING) 151.62 FEET TO THE SOUTHWEST CORNER OF SAID LOT 7; THENCE SOUTH 77 DEGREES 53 MINUTES 34 SECONDS WEST 67.53 FEET TO THE SOUTHEAST CORNER OF LOT 1 IN BLOCK 3 OF SAID SUBDIVISION; THENCE NORTH 00 DEGREES 05 MINUTES 35 SECONDS EAST 153.13 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE NORTH 79 DEGREES 09 MINUTES 16 SECONDS EAST 67.22 FEET TO THE POINT OF BEGINNING IN THE VILLAGE OF DOWNERS GROVE, DUPAGE COUNTY, ILLINOIS. (CONTAINING 0.231 ACRES, MORE OR LESS.)

EASEMENT PROVISIONS:

A PERPETUAL NON-EXCLUSIVE EASEMENT IS HEREBY RESERVED FOR AND GRANTED TO THE VILLAGE OF DOWNERS GROVE, ILLINOIS, THE DUPAGE WATER COMMISSION AND TO THOSE PUBLIC UTILITY COMPANIES OPERATING UNDER FRANCHISES FROM THE SAID VILLAGE INCLUDING, BUT NOT LIMITED TO, AT&T, COMCAST CABLE, NORTHERN ILLINOIS GAS COMPANY, COMMONWEALTH EDISON COMPANY, AND DOWNERS GROVE SANITARY DISTRICT AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, OVER, ON, ACROSS, UNDER, AND THROUGH ALL OF THE AREAS ON THE PLAT OF VACATION MARKED "PUBLIC UTILITIES AND ACCESS EASEMENT RESERVATION" OF THE VACATED PERSHING AVENUE AS DESCRIBED HEREIN FOR THE PERPETUAL RIGHT, PRIVILEGE AND AUTHORITY TO CONSTRUCT, RECONSTRUCT, REPAIR, INSPECT, MAINTAIN AND OPERATE VARIOUS UTILITY TRANSMISSION AND DISTRIBUTION SYSTEMS AND COMMUNITY ANTENNA TELEVISIONS SYSTEMS AND ALL NECESSARY CONNECTIONS, APPLIANCES AND OTHER STRUCTURES AND APPURTENANCES AS MAY BE DEEMED NECESSARY BY SAID VILLAGE AND FOR ANY AND ALL MUNICIPAL PURPOSES, OVER, UPON, ALONG, UNDER AND THROUGH SAID INDICATED EASEMENTS, TOGETHER WITH RIGHT OF ACCESS ACROSS THE PROPERTY TO DO ANY OF THE ABOVE WORK. THE RIGHT IS ALSO GRANTED TO CUT DOWN, TRIM OR REMOVE ANY TREES, SHRUBS OR OTHER PLANTS THAT INTERFERE WITH THE OPERATION OF THE UTILITIES. NO PERMANENT BUILDINGS OR STRUCTURES SHALL BE PLACED ON SAID EASEMENTS, BUT SAME MAY BE USED FOR GARDENS, SHRUBS, LANDSCAPING, FENCING, PAVED PARKING, DRIVEWAYS AND OTHER PURPOSES THAT DO NOT THEN OR LATER INTERFERE WITH THE AFORESAID USES AND RIGHTS. ALL INSTALLATIONS SHALL BE SUBJECT TO THE ORDINANCES OF THE VILLAGE OF DOWNERS GROVE. EASEMENTS ARE HEREBY RESERVED FOR AND GRANTED TO THE VILLAGE OF DOWNERS GROVE AND OTHER GOVERNMENTAL AUTHORITIES HAVING JURISDICTION OF THE LAND OVER THE ENTIRE EASEMENT AREA FOR INGRESS, EGRESS AND THE PERFORMANCE OF ANY AND ALL MUNICIPAL AND OTHER GOVERNMENTAL SERVICES.

GRAPHIC SCALE



(IN FEET)
1 inch = 40 ft.

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

THE ATTACHED PLAT OF VACATION IS IDENTIFIED AS THAT INCORPORATED INTO AND MADE A PART OF THE VILLAGE OF DOWNERS GROVE ORDINANCE NUMBER _____ ADAPTED BY THE VILLAGE OF DOWNERS GROVE MAYOR AND VILLAGE COUNCIL ON THIS _____ DAY OF _____ A.D., 20____.

BY: _____
BRIAN KRAJEWSKI, MAYOR

ATTEST: _____
APRIL HOLDEN, VILLAGE CLERK

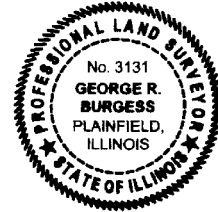
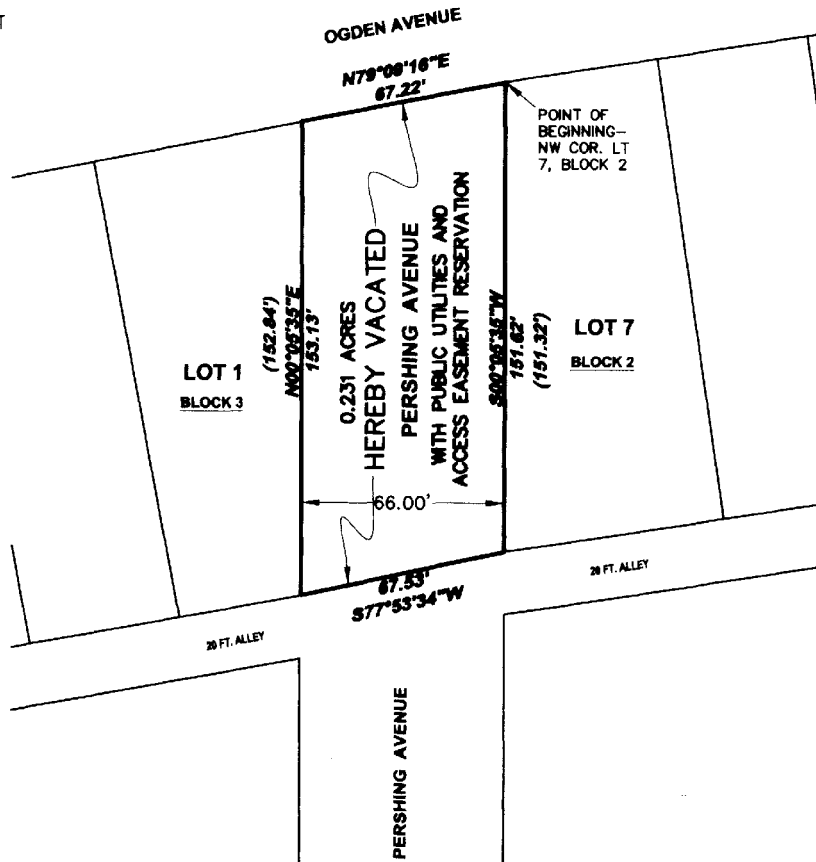
STATE OF ILLINOIS)
) SS
COUNTY OF KENDALL)

THIS IS TO CERTIFY THAT C.M. LAVOIE & ASSOCIATES HAVE SURVEYED AND PLATTED THE PROPERTY DESCRIBED HEREON FOR THE PURPOSES OF VACATION AND THAT THE ANNEXED PLAT IS A CORRECT AND TRUE REPRESENTATION OF SAID PROPERTY. ALL DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF.

GIVEN UNDER MY HAND AND SEAL AT PLAINFIELD, ILLINOIS, THIS 22ND DAY OF FEBRUARY, A.D., 2007.

George R. Burgess

ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 35-3131
LICENSE RENEWAL/DATE OF EXPIRATION: 11-30-08



PREPARED FOR:
ULTIMATE MOTORS
2065 OGDEN AVE.
DOWNERS GROVE, IL. 60515

C.M. Lavoie & Associates, Inc.
Consulting Civil Engineering
& Land Surveying
1050 State Route 126
Plainfield, Illinois 60544
voice 815-254-0505
fax 815-436-5158

JOB NUMBER: 08-227	DATE: 10-31-2008	
DRAWN BY: GFB	SCALE: 1"=40'	
CHECKED BY: GFB		
#	DATE	DESCRIPTION
1	08-22-2007	EASEMENT ADDED
2		
3		