

COUNCIL WORKSHOP ITEM

ITEM: Zoning Commission Text Amendment File Number 2001-01. A Text Amendment proposal to amend the Zoning Ordinance with respect to reducing the minimum setback requirement for parking and vehicle display areas only on the intersecting street sides of corner lots in the B-3 and M-1 Zoning Districts along Ogden Avenue.

DATE: April 4, 2001

PREPARED BY: Amanda G. Browne, Department of Planning Services

PURPOSE: To consider the recommendation of the Zoning Commission to deny the proposed Text Amendment.

DISCUSSION:

The Zoning Commission conducted a public hearing on March 22, 2001 to consider a text amendment to reduce the minimum setback requirement for parking and vehicle display areas only on the intersecting street sides of corner lots in the B-3 and M-1 Zoning Districts along Ogden Avenue. Currently, the setback requirement for parking and vehicle display areas is 25 feet as measured from the front property line (with corner lots having two front property lines, one along each street frontage). The amendment would reduce the setback for parking and vehicle display areas on the intersecting street side from 25 feet to 8 feet. The setback along Ogden Avenue is not proposed to be amended.

After considerable discussion and consideration of the request, the Zoning Commission voted to recommend that the Council deny the proposed text amendment. As outlined in detail in the attached minutes of the public hearing, the Zoning Commission cited numerous concerns with the proposed amendment, including the following: the potential for visibility conflicts, especially on corner lots that may have little to no parking setback as measured from the property line along Ogden Avenue due to the setback being measured from the centerline of the right-of-way; the narrowing or "tunneling" effect that they felt would result as Ogden is approached along an intersecting street, in that the decreased setbacks of the parked cars at the intersections at Ogden would be a stark contrast to the setbacks of the structures along the intersecting streets; and the negative visual impact they felt this decreased setback would have on the Ogden Avenue corridor as a whole, which they feel is of significant concern as evidenced in the Ogden Avenue Commercial Corridor Master Plan.

The Zoning Commission members felt that a thorough review of those lots which already have parking setback nonconformities as compared to those lots which will be allowed to expand their parking areas closer to the intersecting streets may provide a clearer picture as to the potential impact this amendment would have along the entire Ogden Avenue corridor. They also felt that a proposal which excluded corner properties at certain signalized and/or heavily traveled intersections such as Fairview Avenue, Main Street, Saratoga Avenue, Downers Drive, and Belmont Road may be more appropriate than decreasing the setback for all corner lots along the entire Ogden Avenue corridor. After considerable deliberation, the Zoning Commission unanimously recommended denial of the text amendment as proposed.

ATTACHMENTS:

Letter to Mayor and Council regarding File Number 2001-01, dated April 3, 2001

Draft Minutes of Zoning Commission dated March 22, 2001

Staff Memorandum regarding File Number 2001-01 dated March 16, 2001

RECOMMENDATION:

That the Village Council consider the proposed Text Amendment to reduce the front setback requirement for parking and vehicle display areas only on the intersecting street sides of corner lots along Ogden Avenue in the B-3 and M-1 Zoning Districts from 25 feet to 8 feet.

Village Staff has also requested that the Council consider placing this item on the April 17, 2001 active agenda with a one week turn-around time in lieu of the typical three week turn-around time.



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April 3, 2001

Mayor Brian Krajewski and Village Council
Village of Downers Grove
801 Burlington
Downers Grove, IL 60515

RE: File No. 2001-01: Regarding a proposed amendment to the Zoning Ordinance, Chapter 28 of the Downers Grove Municipal Code concerning setbacks on corner lots along Ogden Avenue.

Dear Mayor Krajewski and Council Members:

At their March 22, 2001 meeting the Zoning Commission reviewed a proposed amendment to the Zoning Ordinance concerning setbacks on corner lots along Ogden Avenue.

MR. STEELE MOVED TO FORWARD A RECOMMENDATION TO THE VILLAGE COUNCIL TO REJECT THE PROPOSED AMENDMENT TO REDUCE THE MINIMUM SETBACK REQUIREMENT FOR PARKING AND VEHICLE DISPLAY AREAS TO EIGHT (8) FEET ON THE INTERSECTING STREET SIDES OF CORNER LOTS ALONG OGDEN AVENUE. MR. LUKAS SECONDED THE MOTION.

VOTE: **Aye:** Mr. Steele, Mr. Lukas, Mr. Griesbaum, Mr. Pappalardo, Mr. Sullivan, Chairman Musielak

Nay: None

Abstain: None

MOTION PASSED: **6:0:0**

Further discussion of this recommendation can be found on pages 2-12 of the March 22, 2001 minutes.

Sincerely,

Lawrence Musielak
Lawrence Musielak, Chairman
Zoning Commission

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**Village of Downers Grove
Correspondence**

TO: Zoning Commission Members

FROM: Amanda G. Browne, Planner
Planning Services Department

DATE: March 16, 2001

RE: **Text Amendment Case 2001-01, a proposed amendment to the Zoning Ordinance regarding setbacks on corner lots along Ogden Avenue.**

Background:

Staff has been directed by the Village Council to present a text amendment proposing to reduce the setback requirements for corner lots along Ogden Avenue. Specifically, the proposal is to reduce the minimum required setback for parking and motor vehicle display areas on the intersecting street sides of corner lots along Ogden Avenue in the B-3 and M-1 Zoning Districts.

Please note that vehicle display areas are those outside areas where new and/or used motor vehicles are kept or placed for sale, which is a separate and distinct use from off-street parking, and further does not include the storage of other merchandise.

Prior to March of 1991, the front setback requirement in the B-3 District along all streets except Ogden Avenue was 8 feet, which was applied to structures, parking areas, and vehicle display areas. When the Ordinance was amended in 1991, the minimum front setback in the B-3 District as applied to structures, parking areas, and vehicle display areas was increased from 8 feet to 25 feet. The front setback in the M-1 District was 35 feet prior to this 1991 amendment, and was therefore not affected by this change.

It has been determined that requiring parking and vehicle display areas to conform to the same minimum front setback as that required for structures has had unexpected limiting impacts upon development and redevelopment along Ogden Avenue. In September of 1995, the Village recognized this limiting impact, and reduced the minimum front setback requirement for vehicle parking and display from 75 feet to 50 feet as measured from the centerline of Ogden Avenue. The 1995 amendment did not, however, reduce the minimum front setback along the intersecting street sides of corner lots along Ogden Avenue. This has continued to have a limiting impact on the redevelopment of corner lots along Ogden Avenue, which have the extra burden of providing front yard setbacks on both street frontages for structures as well as for parking and vehicle display areas.

This proposed text amendment would reduce the setback requirement to 8 feet only as applied to the intersecting street sides of corner lots along Ogden Avenue, and would only apply to parking areas and to vehicle display areas.

It should be noted that those corner lots which also abut residentially zoned properties will remain subject to the Transitional Yard requirements of Section 28-1113. In the B-3 zoning district, where the extension of a front or side lot line coincides with the front lot line of an adjacent residentially zoned property, a yard equal in depth to the minimum front yard requirement of that residential district is required to be provided on the B-3 zoned property for a distance of no less than 25 feet, including the width of any intervening alley. The remainder of the front lot line on the B-3 zoned property is also subject to a minimum landscaped greenspace requirement of 8 feet. In the M-1 zoning district, the parking of vehicles is not permitted within 15 feet of any residential zoning district.

Even though this amendment is proposed to reduce the front yard setback along the intersecting street sides of corner lots for parking and vehicle display areas, the minimum openspace - landscaped greenspace requirements are not proposed to be reduced or otherwise amended. In the B-3 District, a minimum of 10% of the lot area is required to be maintained as landscaped greenspace, 50% of which must be located within the front yard. In the M-1 District, the minimum requirement is 15% of the lot area, of which 50% is required to be located within the front yard.

Proposed Amendment:

Section 28-1110 of the Zoning Ordinance establishes the minimum front setback requirements for all zoning districts. The amendment to this section is as follows (stricken items are proposed to be deleted, double-underlined items are proposed to be added):

- (j) B-3 District: Except as otherwise provided below, Same as required in the B-2 General Retail Business District. Where a zoning lot fronts on Ogden Avenue and also fronts on a street intersecting with Ogden Avenue, the minimum setback for parking or display of motor vehicles along the intersecting street shall be not less than eight (8) feet.

Subsection (m) establishes the minimum setback in the M-1 zoning district, and is proposed to be amended with the addition of a new subsection (7) as follows (stricken items are proposed to be deleted, double-underlined items are proposed to be added):

- (m) (7) Where a zoning lot fronts on Ogden Avenue and also fronts on a street intersecting with Ogden Avenue, the minimum setback for parking or display of motor vehicles along the intersecting street shall be not less than eight (8) feet.

Conclusion:

For all of the above noted reasons, Staff feels that the proposed amendment is reasonable and necessary, and respectfully requests that an affirmative recommendation be forwarded to the Village Council.

All interested parties should attend this hearing and will be given opportunity to be heard. The hearing may be continued from time to time with no further public notice. Individuals with a disability requiring reasonable accommodations in order to participate in any meeting should contact the Community Relations Department at (630) 434-5560 prior to the meeting. Wheelchair access may be gained through the south (side) entrance of the Village Hall. Zoning Commission, Mr. Lawrence Musielak, Chairman, published in the Downers Grove Reporter, Wednesday, March 7, 2001.

Ms. Browne said that the Village Council has directed Staff to present this text amendment which proposes to reduce the minimum required front setback for parking and motor vehicle display areas only along the intersecting street sides of corner lots along Ogden Avenue in the B-3 and M-1 Zoning Districts.

As a matter of background information, Ms. Browne explained that prior to March of 1991, the front setback requirement in the B-3 District along all streets except Ogden Avenue was 8 feet, which was applied to structures, parking areas, and vehicle display areas. When the Ordinance was amended in 1991, the minimum front setback in the B-3 District as applied to structures, parking areas, and vehicle display areas was increased from 8 feet to 25 feet. The front setback in the M-1 District was 35 feet prior to this 1991 amendment, and was therefore not affected by this change.

Ms. Browne said that in September of 1995, the Village recognized the limiting impact that requiring vehicle parking and display areas to maintain the same setback as structures was having on redevelopment along Ogden Avenue. The minimum front setback requirement for vehicle parking and display was therefore reduced from 75 feet to 50 feet as measured from the centerline of Ogden Avenue.

Ms. Browne said that the 1995 amendment did not, however, reduce the minimum front setback along the intersecting street sides of corner lots along Ogden Avenue. This has continued to have a limiting impact on the redevelopment of corner lots along Ogden Avenue, which have the extra burden of providing front yard setbacks on both street frontages for structures as well as for parking and vehicle display areas.

Ms. Browne clarified that this proposed text amendment would reduce the setback requirement to 8 feet only as applied on the intersecting street sides of corner lots along Ogden Avenue, and would only apply to parking areas and to vehicle display areas. She added that those corner lots which also abut residentially zoned properties, will remain subject to the Transitional Yard requirements of Section 28-1113.

To illustrate the transitional yard requirement, Ms. Browne used an overhead transparency and explained that in the B-3 zoning district, where the extension of a front or side lot line coincides with the front lot line of an adjacent residentially zoned property, a yard equal in depth to the minimum front yard requirement of that residential district is required to be provided on the B-3 zoned property for a distance of no less than 25 feet, including the width of any intervening

alley. The remainder of the front lot line on the B-3 zoned property is also subject to a minimum landscaped greenspace requirement of 8 feet. In the M-1 zoning district, the parking of vehicles is not permitted within 15 feet of any residential zoning district.

Ms. Browne added that even though this amendment would reduce the front setbacks along the intersecting street sides of corner lots for parking and vehicle display areas, the minimum openspace - landscaped greenspace requirements are not proposed to be reduced or otherwise amended. In the B-3 District, a minimum of 10% of the lot area is required to be maintained as landscaped greenspace, 50% of which must be located within the front yard. In the M-1 District, the minimum requirement is 15% of the lot area, of which 50% is required to be located within the front yard. If a redevelopment plan utilizing the proposed decreased setback provision did not also meet the openspace requirements, use of the decreased setback may not be permissible.

Ms. Browne said that the specific text of the proposed amendment affects Sections 28-1110 subsections (j) and (m) and is outlined within the memorandum. She added that Staff feels that the proposed amendment is reasonable and necessary and would request that the Commission forward a recommendation for approval to the Council.

Mr. Pappalardo asked for clarification as to the parking setback as applied along Ogden Avenue. Ms. Browne stated that the parking setback is measured from the centerline of the Ogden Avenue right of way as opposed to being measured from the front property line, because the width of the right of way varies along Ogden Avenue from 66 feet to up to 100 feet in certain areas. Ms. Browne said that measuring the setback from the centerline of the right of way visually achieves a uniform setback.

Mr. Pappalardo asked if the distance from the centerline of Ogden Avenue to the setback, and from the property line to the setback is, in general, more or less than 8 feet. Ms. Browne said that because the parking setback is measured from the centerline of the right of way, the actual setback as measured from the front property line varies from property to property depending upon the width of the right of way along the front of the property. For example, Ms. Browne stated that if the right of way is 66 feet wide, the setback as measured from the front property line would be 50 feet minus half of the right of way, which is 33 feet, which yields a 17 foot setback as measured from the front property line. If, however, the right of way is 80 feet wide, the setback as measured from the front property line would be 50 feet minus half of the right of way, which is 40 feet and results in a setback as measured from the front property line of 10 feet.

Mr. Lukas said he thought the setback was less than 8 feet at the corner of Glendenning and Ogden. Ms. Browne said that may in fact be the case. If the right of way is 100 feet wide, for example, the front setback as measured from the front property line would be zero, as the property line would coincide with the 50 foot setback line as measured from the centerline of the 100 foot wide right of way. Ms. Browne stated that although she is uncertain of the right of way width at that particular intersection, many of the businesses along Ogden Avenue have legal non-conformities with regard to the setbacks of their parking and vehicle display areas, which are permitted to remain but not increased.

With respect to the applicable transitional yard requirement, Chairman Musielak asked if any consideration had been given to forming a triangular setback where the front yard of the commercial property abuts the front yard of the residential property. Ms. Browne said that that provision has been contained within the Ordinance for many years and is not being proposed to be amended with this proposed amendment. The front setback on the intersecting street side must equal that of an abutting residentially zoned property for a distance of 25 feet. Only after that 25-foot distance will the proposed decreased setback of 8 feet be permitted to be utilized.

Ms. Browne added that this amendment does not reduce the required minimum greenspace landscaped areas. Thus, Ms. Browne said property owners would not automatically be afforded the right to pave up to the 8-foot setback if they cannot also maintain the minimum landscaped greenspace requirement for the property, or if doing so would increase an existing nonconformity.

Mr. Lukas asked if anyone has questioned the Village about the existing setback requirement. Ms. Browne replied yes. Any property owner of a corner lot along Ogden Avenue proposing to park or display vehicles for sale, that does not otherwise have nonconforming rights to park closer than 25 feet has been required to conform to the 25 foot setback requirement along the intersecting street side. She said recently Luxury Motors purchased an adjacent corner property along Ogden Avenue to expand their vehicle display area, and the 25-foot setback requirement along the intersecting side street will substantially reduce the amount of space which they can use for that purpose.

Chairman Musielak asked if the proposed amendment would reduce the parking setback to 8-feet along major or arterial streets. Ms. Browne replied yes, and that as written, the amendment would apply to corner lots on all streets that intersect Ogden Avenue. Chairman Musielak said he did not feel 8 feet would be an adequate setback at major intersections such as Fairview and Ogden or Main and Ogden. Mr. Lukas agreed and expressed concern about adequate visibility, especially if a property owner parked a large vehicle or truck within 8 feet of the street. Mr. Sullivan agreed and recalled a similar concern about visibility in 1995 when the Commission discussed setback issues in conjunction with Walgreens proposed purchase of a corner lot at the intersection of Ogden and Fairview. Mr. Pappalardo also expressed reservations and concerns about permitting an 8-foot setback at busy intersections like Main and Ogden and Fairview and Ogden. Chairman Musielak asked if the proposed amendment could be fine-tuned to exclude major intersections because an 8-foot setback could create visibility problems at those locations. He said he feels there should be a greater setback on corner lots at intersections with heavy traffic flow.

Mr. Steele asked how the completion of sidewalks along Ogden Avenue and along the side streets would be affected by this amendment, and expressed concern that this amendment might interfere with the Village's efforts to improve the Ogden Avenue corridor. Ms. Browne said that sidewalks are typically located within the public right-of-way and not on private property. Ms. Browne added that the setback along the Ogden Avenue right of way is not proposed to be amended, therefore, the impacts on sidewalks along Ogden Avenue are not at issue. Sidewalks on the streets approaching Ogden Avenue should also not be compromised, as the sidewalks would typically be within the public right of way. Mr. Steele noted that not all of Ogden Avenue has a publicly owned parkway, and therefore, there may not be adequate room for a sidewalk. Ms. Browne said that sometimes when there is not enough space within the public right-of-way for a sidewalk, as part of

redeveloping their property, an owner will oftentimes grant an easement to allow placement of the sidewalk on private property.

Mr. Steele asked if greenspace is required along the sidewalk, or would the sidewalk abut the paved area. Ms. Browne said that the minimum greenspace required must be located on the property itself; any greenspace that may be located in the public right of way or the parkway does not count towards the minimum requirement. The question as to how much parkway would be located within the right of way depends upon the width of the right of way, the width of the street pavement, and the location of the street pavement within the right of way, as not all street pavements are centered exactly within the right of way.

Chairman Musielak agreed that a sidewalk easement in the front yard could eliminate some of the greenspace. Ms. Browne clarified that the greenspace requirement is separate and distinct from the setback requirement, and must still be met. However, Chairman Musielak pointed out that in areas where there is no public right of way, the sidewalk would be in the front yard. Ms. Browne said that the conversation is going a little afield, and clarified that the proposed amendment concerns only intersecting side streets.

Chairman Musielak asked if there is a minimum parking setback requirement on Ogden Avenue in addition to it being required to be 50 feet from the centerline. Ms. Browne replied no. She explained the current setback requirement is measured 50 feet from the centerline of Ogden Avenue, which, due to the varying right of way widths along Ogden Avenue, achieves a consistent visual parking setback. Members of the Commission felt it was a problem that there was no minimum parking setback requirement other than as measured from the centerline. Mr. Steele felt that without a set minimum setback, Ogden Avenue would continue to lack uniformity. Ms. Browne clarified again that the setback as measured along Ogden Avenue is not specifically at issue, and would have to be addressed in a separate amendment. What is proposed to be amended is the front setback for parking areas along the intersecting street sides along Ogden Avenue.

Chairman Musielak asked if the Commission wishes to reduce the minimum parking setback requirement on intersecting side streets along Ogden Avenue from 25 feet to 8 feet with the stipulation that it not be applied to major arterial streets. Ms. Browne suggested that the Commission name the streets that it wishes to exempt from the 8-foot minimum setback requirement. Mr. Lukas asked if, as traffic increased, the Ordinance would have to be amended each time they wished to exempt another intersection from the 8-foot minimum setback requirement. Ms. Browne replied yes, that if the proposed amendment is tailored to exempt specific corners from being able to utilize this provision, any future intersection that the Village felt should be exempted would require an additional amendment.

Chairman Musielak noted that Cumnor and Williams were not major arterial streets, but he did not feel the 8-foot minimum setback would be appropriate on those streets. He asked if the Commission would have to name each street that it wished to exempt from the requirement. Ms. Browne said that the Commission could consider exempting certain street classifications as they appear on the Future Land Use Map, such as arterial streets, or they could consider naming individual streets that they feel should be exempted.

Mr. Steele noted that the minimum setback in residential areas is usually 25 to 30 feet. He said he feels that allowing vehicles to be parked almost up to the lot line on the last one or two lots on a block as you approach Ogden Avenue will essentially destroy the ambiance of the residential area and will eliminate the visual appeal of the parkway.

Mr. Lukas agreed and said it would be like suddenly going into an alley as you drive along the street. He said there is already a similar situation at the corner of Glendenning and Ogden where a used car dealer has parked vehicles close to the street. Chairman Musielak noted that the used car dealership on that corner has been there for a long time and has been "grandfathered in". Thus, they are not required to meet the minimum setback requirements.

Chairman Musielak said it appears from the discussion that the Commission feels that a minimum 8-foot setback is too small.

Mr. Lukas said that he does not want the zoning requirements to discourage businesses from locating, remaining or expanding on Ogden Avenue in Downers Grove because he is well aware that they can easily go to Naperville, Lisle, Westmont, etc. if our requirements are too restrictive. However, he would like to have some semblance of order along Ogden Avenue.

Chairman Musielak asked how the Commission would feel about recommending a parking setback of 50% of the minimum setback required on the adjacent residential property. Mr. Griesbaum said that it would create less of a difference between the setback on the corner lot and setback on the adjacent residential property.

Mr. Lukas noted that when vehicles are parked too close to the street it creates a visibility problem when turning off of side streets on to Ogden Avenue.

Mr. Pappalardo said he feels that the Ogden Avenue setback requirement of 50 feet from the centerline also needs to be addressed. He said that on some properties there may be no setback from the lot line.

Mr. Sullivan said the Commission should keep in mind that Ogden Avenue runs through the center of the community and is a display area as well as a tax-generating area. He said the Village should think about what they want Ogden Avenue to be in 20 or 50 years. Mr. Sullivan said he feels this proposed amendment is an accommodation to putting as many cars as possible on the existing small lots along Ogden Avenue. Ms. Browne pointed out that this amendment will affect off-street parking for all corner businesses along Ogden Avenue, not just vehicle displays at car dealerships.

Mr. Steele asked if any other property owners have requested this variance. Ms. Browne said that any property owner with a corner lot is subject to these provisions, and as to how many have actually requested such a change, or how many have been unhappy with the requirement itself, she could not be certain. The building department receives permit applications with proposed site plans, and they would be the ones working with property owners with respect to enforcement of the setbacks.

Chairman Musielak said there appears to be a consensus among Commission members that they do not want to allow a minimum 8-foot setback for vehicle parking on major arterial streets that intersect Ogden Avenue. He suggested that Staff rework the ordinance based on the Commission's discussion and return with an ordinance listing the intersecting side streets that would be exempt from the minimum 8-foot setback.

Ms. Browne suggested exempting Fairview, Main, and Belmont/Finley and asked the members for their opinion. Chairman Musielak asked about exempting Downers Drive coming out of Burlington Highlands. Mr. Sullivan asked about including Cumnor and Washington. Mr. Griesbaum said he thought there were probably other streets that should be exempt from the minimum 8-foot setback requirement as well. Chairman Musielak said he already has experienced problems with visibility at the intersection of Washington and Ogden.

Mr. Griesbaum said he would like to know how this ordinance ties into the overall plan for the development of Ogden Avenue. He said he feels it would help the Commission decide this issue if they had a better understanding of the Village's future plans for Ogden Avenue.

Chairman Musielak said it appears that there is an impasse because Staff, as the petitioner, seems to feel this setback change is necessary and it appears that the Commission does not. Chairman Musielak asked if there is any action the Commission would like to take.

Mr. Steele wondered if the issue could be addressed by specifying a specific minimum setback from the centerline of the side street, depending on its status.

Mr. Pappalardo pointed out that the setbacks would vary depending on with street width.

Chairman Musielak said if the Commission feels an 8-foot setback is not enough, perhaps they would like to recommend a larger minimum setback, i.e. 12 feet, 15 feet, 20 feet.

Mr. Steele asked about the ownership status of the land along the side streets. He asked if there is publicly owned parkway along the commercially zoned lots on the side streets. Ms. Browne said that typically the right of way of an intersecting street along Ogden Avenue is 66 feet wide and the width of the street pavement is typically approximately 30 feet, which would leave a publicly owned parkway on either side of the street pavement.

Chairman Musielak noted that the some sections of sidewalk along Ogden Avenue abut the curb and there is no parkway between the sidewalk and the street. He said he feels that a sidewalk that close to the roadway is dangerous.

Ms. Browne asked that at this time the Commission focus on the intersecting side streets rather than conditions along Ogden Avenue. She said the setback requirements along Ogden Avenue could be addressed as part of another amendment, but are not proposed to be amended at this time.

Chairman Musielak said the Commission is concerned about what the Village is trying to accomplish on Ogden Avenue and whether or not an 8-foot minimum setback on intersecting side

streets will enhance their future plans for the area. Currently the Commission members feel that such a setback will have a negative impact on the improvements the Village is trying to accomplish on Ogden Avenue.

Chairman Musielak asked what options the Commission has. Ms. Browne said the Commission could consider a recommendation to the Village Council for a minimum setback other than 8 feet, and/or that would exempt certain streets, or that would simply recommend denial of the amendment as proposed.

Mr. Steele said he feels the lack of an exact measurement for the minimum setback along Ogden Avenue is causing uncertainty for the Commission as they try to decide this issue. He said that if a clear minimum setback can be established for Ogden Avenue then the Commission would be better able to make decision concerning the side streets.

Chairman Musielak said that if the property fronts a section of Ogden Avenue with a wide enough right of way, it is possible that there would be little to no front parking setback along the Ogden Avenue street side. If a corner lot has no setback along Ogden Avenue and only an 8-foot setback along the side street, Chairman Musielak said that vehicles on that lot could be located very close to the street.

Mr. Pappalardo said it is really important to know what is happening on Ogden Avenue to be able to make any judgement concerning the side streets.

Chairman Musielak asked the Commission if they wished to recommend approval of the proposed 8-foot setback or if they wished to recommend a different setback, or if they wish to recommend denying the proposed amendment.

Mr. Steele said he feels the issue should be tabled.

Mr. Sullivan asked if Staff could provide some input on the effects of the proposed minimum 8-foot setback. He thought that probably 80% of the intersecting streets along Ogden Avenue already have less than an 8-foot minimum setback, i.e. Glendenning Road and Sterling Road. He said if the Commission knew how many intersecting side streets already had an 8-foot setback or less, they would have a better grasp on the impact of the proposed amendment. Ms. Browne asked if the Commission wanted to see aerial photos of the area, which might give them a better idea of the existing conditions along Ogden Avenue, or if they were looking for Staff to provide them with an inventory of the existing conditions at each street intersection.

Mr. Griesbaum said he does not feel the Commission knows what the impact of any minimum setback will be. Thus, he did not feel that they could recommend a setback at this time. Chairman Musielak suggested that perhaps the Commission does not want to change the setback; perhaps they want to keep the current 25-foot setback requirement.

Mr. Lukas asked if a variance would give Luxury Motors the desired amount of vehicle display space. If so, perhaps an Ordinance change would not be needed. Ms. Browne said a variance

could be requested, however, the Zoning Board of Appeals is only authorized to grant setback variations of up to 50% of the requirement, which would be 12.5 feet. How 12.5 feet of extra parking area would benefit or affect Luxury Motors, she could not be certain. She said that other requirements such as the minimum stall size and the minimum width of the aisle space come into play in designing a parking lot layout.

Mr. Sullivan said he has little sympathy for Luxury Motors because they knew the zoning requirements when they chose to build out 8 or 10 feet closer to Ogden Avenue. Chairman Musielak reminded the Commission that Luxury Motors is not the petitioner in this case; Council directed Staff to present this petition. Ms. Browne added that this amendment will not just affect Luxury Motors, nor will it just affect car dealerships, it will affect all corner properties along Ogden Avenue.

Mr. Steele said that in his experience, modern well-planned communities are more attractive when the streets have uniform rights of way. He said the Village is probably trying to clean up Ogden Avenue and give it a more uniform appearance. However, he did not see how an 8-foot setback on the intersecting street sides will ever improve the aesthetics along Ogden Avenue. Mr. Steele said he feels the Commission needs to know what plans the Village has for Ogden Avenue before they can make a recommendation on the side street setback. Mr. Steele said he feels the Commission should not take any action on the proposed amendment at this time.

Ms. Browne said that as the Council directed Staff to present this text amendment, they did not consider the applicable setback as it applies to Ogden Avenue as being improper.

Mr. Griesbaum suggested that the Commission outline the information they feel they need before they can make a recommendation on the side street setback. He said he feels they need to know what is already allowed at each of the intersections along Ogden Avenue and what the real impact of reducing the minimum setback to 8 feet will be. He wondered how the reduced setback would affect redevelopment along Ogden Avenue. Mr. Griesbaum said he feels the Commission must consider future development and redevelopment along Ogden Avenue as well as the existing businesses before they can understand the real impact of reducing the setback requirements.

Mr. Pappalardo asked if the amendment can be tabled pending receipt of additional information. Chairman Musielak said the Commission has the option to accept, reject or table the proposal. He asked if there is an action that the Commission would like to take.

Mr. Lukas said he would not want to take any action that would negatively impact a property owner who wanted to redevelop his property. He said he does not want to amend the Ordinance in such a way that a property owner would have fewer benefits from redevelopment than he had from being "grandfathered in". Mr. Lukas said, for example, that the rule concerning non-conforming signs requires that if a sign is altered it must come into conformance. Thus, rather than losing the privileges of non-conformity, businesses refrain from changing and possibly improving their signs, and unattractive, non-conforming signs remain. Mr. Lukas said perhaps there would be less of a problem if the rules were the same for everyone.

Mr. Sullivan said that a property owner would not lose his "grandfathered" rights with respect to parking by redeveloping his property. However, some property owners do not have the rights and are not "grandfathered in" and they would be gaining something they do not already have.

Mr. Lukas pointed out that there are a lot of shallow lots along Ogden Avenue in Downers Grove and the Village is not able to compete for businesses with towns such as Westmont that have larger, deeper lots along Ogden Avenue.

Chairman Musielak said the Village has been reluctant to expand the depth of the lots along Ogden Avenue by going into the adjacent residential areas. Mr. Lukas agreed; however, he does not want to see businesses leave Downers Grove because of unfavorable zoning laws.

Chairman Musielak noted that Ogden Avenue in Downers Grove seems to be attractive to small used car dealerships. However, he noted that the area does not offer enough space for most large auto dealers. He agreed that new and used car dealerships generate a lot of sales tax revenue and he too would hate to lose them.

Mr. Sullivan agreed that large dealerships generate a large amount of revenue; however they also require large parcels of property. Mr. Sullivan said the Village must decide if it wants to maintain the 25-foot setback on corner lots on intersecting side streets or if it wants to accommodate new businesses and redevelopment and grant them the same privileges as those that have been grandfathered. He said that as Ms. Browne pointed out Council asked Staff to present this ordinance and he felt that perhaps Council was suggesting that we should give those grandfathered rights to all businesses.

Chairman Musielak added that the Council would like the Zoning Commission to approve the change. Mr. Sullivan agreed and said the question is whether or not the Commission wants to extend those privileges.

Mr. Sullivan said if businesses are aware that the minimum setback requirement is 25 feet, they should take that into consideration when deciding where to locate their establishment. He feels businesses should abide by the existing zoning regulations.

Mr. Steele said he feels the Commission has identified several key factors, which are not a part of the amendment, that need to be studied and clarified before the Commission can consider the side street setback issue. He said he would like to convey them to the Council and Staff along with the recommendation.

MR. STEELE MOVED TO FORWARD A RECOMMENDATION TO THE VILLAGE COUNCIL TO REJECT THE PROPOSED AMENDMENT TO REDUCE THE MINIMUM SETBACK REQUIREMENT FOR PARKING AND VEHICLE DISPLAY AREAS TO EIGHT (8) FEET ON THE INTERSECTING STREET SIDES OF CORNER LOTS ALONG OGDEN AVENUE. MR. LUKAS SECONDED THE MOTION.

VOTE: **Aye:** Mr. Steele, Mr. Lukas, Mr. Griesbaum, Mr. Pappalardo, Mr. Sullivan, Chairman Musielak

Nay: None

Abstain: None

MOTION PASSED: **6:0:0**

Mr. Steele said he feels the following concerns should be addressed before the Commission considers this matter again:

- (1) the lack of uniformity in the setbacks along Ogden Avenue;
- (2) the language of the Ordinance should be tailored to consider the arterial streets and other heavily traveled streets that intersect Ogden Avenue;
- (3) the visual narrowing of residential streets where they intersect with Ogden Avenue; and
- (4) the status of the rights of way along the side streets.

Ms. Browne clarified that it is fair to assume that there is a parkway on the intersecting side streets, although it may not all be improved with curbs, gutters and sidewalks. Mr. Steele said that the width of the parkway is important.

Mr. Steele said that another concern he would like addressed is having a set minimum setback along the side streets or one that is measured from the centerline.

Ms. Browne added Mr. Griesbaum's request for an inventory of existing non-conformities and the number of remaining corner lots that could benefit from this ordinance change.

Mr. Sullivan said he would like to know what the actual setback is along Ogden Avenue and where the buildings and property lines are located. He said he would also like to know how much front yard and side yard would be achieved on Ogden Avenue with the proposed setback.

Mr. Steele said he feels the issue of existing setbacks along Ogden Avenue should be addressed and clarified. He noted that Ogden Avenue varies in width resulting in the current hodge-podge of setbacks. Mr. Steele said he feels that a uniform set of standards should be established for all property in the Village that fronts along Ogden Avenue before the Commission can recommend side street setback requirements.

Chairman Musielak noted that currently the only parking setback requirement along Ogden Avenue is 50 feet from the centerline. He pointed out that the front property line could be 50 feet from the centerline resulting in a parcel with no front yard. He added that the Commission would like to see an additional requirement for a minimum setback of 8 or 10 feet from the front lot line established. He felt that the creation of a minimum setback would allow the Commission to address the issue of side street setbacks more intelligently.

Ms. Browne reminded the Commission that the open space - landscaped greenspace requirement that a certain percentage of greenspace must be located in the front yard will still apply. Chairman Musielak asked what would happen if there was no front yard. Ms. Browne explained that there is always a required front yard, which is the distance between the front property line and the building façade. Parking is allowed within that required front yard, provided that the greenspace requirement can be met, and the amendment would allow parking to be closer to the property line, only if the other requirements, including greenspace, can be met.

Mr. Pappalardo said depending on the size of the lot, the 10% greenspace in the front yard might be a very small strip along the lot line.

Mr. Steele said the Commission is trying to establish uniformity for Ogden Avenue now and in the future. However, he does not feel the current Ordinance will result in uniformity. Mr. Steele said the Commission also has line-of-sight and safety concerns with the narrowing of side streets, particularly along arterial streets that intersect with Ogden Avenue.

Chairman Musielak said that although the Commission has recommended rejection of this petition tonight, he hoped that Council and Staff would submit a revised amendment for their future consideration that addressed the Commission concerns.

Ms. Browne clarified that although the Commission made a recommendation to deny this petition, it will go before the Village Council for a final decision, and may not necessarily be remanded back to the Commission. Chairman Musielak said he hoped the Council would respect the Commission enough to recognize their concerns, as this issue has been debated for well over an hour. He said he would be disappointed if they overlooked the Commission's recommendation.

Chairman Musielak asked if there was any old business.

Mr. Sullivan asked what happened to the Commission's review of the Concentrated Business District (CBD). Ms. Browne said that with the pending redevelopment of Block 117, the Village Council is discussing the CBD and she is waiting for direction from them as to when they wish the Commission to resume their discussion.

MR. STEELE MOVED TO ADJOURN THE MEETING. MR. GRIESBAUM SECONDED THE MOTION.

VOTE: **Aye:** Mr. Steele, Mr. Griesbaum, Mr. Lukas, Mr. Pappalardo, Mr. Sullivan, Chairman Musielak

Nay: None

Abstain: None

MOTION CARRIED: 6:0:0
The meeting was adjourned at 8:45 p.m.

ORDINANCE NO. _____

AN ORDINANCE AMENDING SETBACK PROVISIONS FOR OGDEN AVENUE

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

SECTION 1. That Section 28-1110 of the Downers Grove Municipal Code is hereby amended as follows:

28-1110. Front Yard.

(a) R-1 District:

(1) *General requirement.* Except as provided herein, structures shall be setback at least forty (40) feet. Structures over twenty (20) feet in height shall be set back one (1) additional foot for each two feet of height over twenty (20) feet.

(2) *Non-residential uses.* For non-residential uses in buildings less than forty (40) feet in height, the setback shall be the same as required for single-family dwellings. For non-residential uses in buildings forty (40) feet or more in height, the setback shall be increased beyond the requirements for single-family dwellings by two (2) feet for each additional one (1) foot of height over forty (40) feet.

(b) R-2 District:

(1) *General requirement.* Except as provided herein, buildings shall be setback at least thirty five (35) feet. Buildings over twenty (20) feet in height shall be set back one (1) additional foot for each two feet of height over twenty (20) feet.

(2) *Non-residential uses.* Same as required for the R-1 District.

(c) R-3 District:

(1) *General requirement.* Except as provided herein, buildings shall be setback at least thirty (30) feet. Buildings over twenty (20) feet in height shall be set back one (1) additional foot for each two feet of height over twenty (20) feet.

(2) *Non-residential uses.* Same as required for the R-1 District.

(d) R-4 District:

(1) *General requirement.* Except as provided herein, buildings shall be setback at least twenty five (25) feet. Buildings over twenty (20) feet in height shall be set back one (1) additional foot for each two feet of height over twenty (20) feet.

(2) *Non-residential uses.* Same as required for the R-1 District.

(e) R-5 District: Same as required in the R-4 District.

(f) R-5A District: Same as required in the R-4 District.

(g) R-6 District: Same as required in the R-4 District.

(h) B-1 District:

(1) Except as otherwise provided below, the minimum setback in the B-1 zoning district shall be not less than thirty (30) feet. Provided, buildings over twenty (20) feet in height shall be set back one (1) additional foot for each two (2) feet of height over twenty (20) feet. These setback requirements shall be observed on each street side of a corner lot.

(2) The required setback with respect to signs shall be measured from that portion of the sign or its support whichever is closest to the street.

(3) Notwithstanding any of the foregoing provisions of this section or any provision of Article XII, additional construction on a zoning lot on which a building was erected prior to April 19, 1965, may conform to the actual setback line of such building, if the actual setback line of such building is legally nonconforming and all required transitional yards, if any, are provided and maintained in accordance with the applicable provisions of this Zoning Ordinance.

(4) Except as otherwise provided in this section, the minimum setback on Ogden Avenue shall be not less than seventy-five (75) feet from the center line of Ogden Avenue. The minimum setback for any vertical portion of a canopy shall be fifty-eight (58) feet from the center line of Ogden Avenue, and the minimum setback for any horizontal portion of a canopy shall be fifty (50) feet from the center line of Ogden Avenue or eight (8) feet from the property line, whichever is greater. Off-street parking, portable or fixed signs, fences, private electric light standards or any similar items, shall comply with a minimum setback of not less than fifty (50) feet from the center line of Ogden Avenue. Where there is a conflict between this subsection and the provisions of Section 28-1518, this subsection shall control.

(5) Property in the Fairview Concentrated Business District shall have a minimum setback of eight (8) feet.

(6) The minimum setback from the north line of Second Street shall be fifty (50) feet between the east line of Fairview Avenue and the west line of Wilcox Avenue.

(i) *B-2 District:*

(1) Except as otherwise provided below, the minimum setback shall be not less than twenty-five (25) feet, except that buildings over twenty (20) feet in height shall be set back one (1) additional foot for each two (2) feet of height over twenty (20) feet. The setback requirements shall be observed on each street side of a corner lot.

(2) The required setback with respect to signs shall be measured from that portion of the sign or its support whichever is closest to the street.

(3) Notwithstanding any of the foregoing provisions of this section or any provision of Article XII, additional construction on a zoning lot on which a building was erected prior to April 19, 1965, may conform to the actual setback line of such building, if the actual setback line of such building is legally nonconforming and all required transitional yards, if any, are provided and maintained in accordance with the applicable provisions of this Zoning Ordinance.

(4) The minimum setback on Ogden Avenue shall be as required in the B-1 Business District.

(5) Property in the Fairview Concentrated Business District shall have a minimum setback of eight (8) feet.

(6) Property in the Concentrated Business District shall not be required to provide any setback.

(j) *B-3 District:* Except as provided below, setback shall be the same as required in the B-2 General Retail Business District. Where a zoning lot fronts Ogden Avenue and also fronts on a street intersecting with Ogden Avenue, the minimum setback for parking or display of motor vehicles along the intersecting street shall be not less than eight (8) feet.

(k) *O-R District:* The minimum setback shall be seventy-five (75) feet, except that any lot fronting, in whole or in part, on land located in a residential zoning district, shall provide a setback of one hundred (100) feet. Buildings that exceed fifty (50) feet in height shall be provided with one (1) additional foot of setback for every foot of height in excess of fifty (50) feet.

(l) *O-R-M District:*

(1) Except as otherwise provided below, the minimum setback in the O-R-M District shall be not less than thirty-five (35) feet. Provided, buildings over thirty (35) feet in height shall be set back one (1) additional foot for each two (2) feet of height over thirty (35) feet. These setback requirements shall be observed on each street side of a corner lot.

(2) The setback on Second Street, from the east line of Wilcox Avenue to the west line of Cumnor road shall be sixty (60) feet.

(3) The setback on Ogden Avenue shall be seventy-five (75) feet from the center line of Ogden Avenue, except that lighting standards shall be set back fifty (50) feet from the center line.

(4) The setback on Inverness Road, on the north side only, from Belmont Road to Janes, shall be twenty-five (25) feet.

(5) The setback on Warren Avenue, on the south side only, from Lee Street to Saratoga Avenue, and the setback on Rogers Street, on the south side only, from Prospect Avenue to Fairview Avenue, shall be ten (10) feet for those zoning lots that were classified for manufacturing uses as of January 1, 1950, and remaining classified from time to time in a Manufacturing District.

(6) The setback on Maple Avenue, on the south side only, shall be ten (10) feet.

(m) M-1 District:

(1) Except as otherwise provided below, the minimum setback in the M-1 District shall be not less than thirty-five (35) feet. Provided, buildings over thirty (35) feet in height shall be set back one (1) additional foot for each two (2) feet of height over thirty (35) feet. These setback requirements shall be observed on each street side of a corner lot.

(2) The setback on Second Street, from the east line of Wilcox Avenue to the west line of Cumnor Road shall be sixty (60) feet.

(3) The setback on Ogden Avenue shall be seventy-five (75) feet from the center line of Ogden Avenue, except that lighting standards shall be set back fifty (50) feet from the center line.

(4) The setback on Inverness Road, on the north side only, from Belmont Road to Janes Avenue, shall be twenty-five (25) feet.

(5) The setback on Warren Avenue, on the south side only, from Lee Street to Saratoga Avenue, and the setback on Rogers Street, on the south side only, from Prospect Avenue to Fairview Avenue, shall be ten (10) feet for those zoning lots that were classified for manufacturing uses as of January 1, 1950, and remaining classified from time to time in the M-1 Manufacturing District.

(6) The setback on Maple Avenue, on the south side only, shall be ten (10) feet.

(7) Where a zoning lot fronts on Ogden Avenue and also fronts on a street intersecting with Ogden Avenue, the minimum setback along the intersecting street shall be not less than eight (8) feet.

(n) M-2 District: Except as otherwise provided below, the minimum setback in the M-1 District shall be not less than thirty-five (35) feet. Provided, buildings over thirty (35) feet in height shall be set back one (1) additional foot for each two (2) feet of height over thirty (35) feet. Provided, where a lot in the M-2 zoning district is located directly across a street from property in a residence district, such lot shall be provided with a setback of not less than one hundred (100) feet. These setback requirements shall be observed on each street side of a corner lot.

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

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

Mayor

Passed:

Published:

Attest: _____
Village Clerk

[zonstbk]