

COUNCIL WORKSHOP ITEM

ITEM: Zoning Commission recommendation regarding Case 2001-06: Part A regarding the lot coverage percentage for churches in residential zoning districts; and Part B regarding the deletion of Section 20-405(a).
DATE: September 18, 2001
PREPARED BY: Amanda G. Browne, Department of Planning Services
PURPOSE: To consider approval of the requested text amendment

DISCUSSION:

Staff is proposing two text amendments to the Zoning Ordinance. Specifically, the proposed amendment consists of two parts:

Part A proposes an increase in the maximum lot coverage percentage from 30% to 40% for churches in residential zoning districts beyond 1,000 feet of the Concentrated Business District. During the Council's Workshop discussion regarding Case 2000-04, which increased the maximum lot coverage percentage from 30% to 40% for churches within 1,000 feet of the CBD, the Council directed staff to amend the Ordinance to increase the maximum lot coverage percentage for all churches in residential zoning districts, regardless of their proximity to the CBD.

Part B proposes to delete Section 28-405(a) of the Zoning Ordinance, as this provision is more correctly and is presently regulated by the Subdivision Control Ordinance, as opposed to being included in the Zoning Ordinance.

The Zoning Commission unanimously forwarded a positive recommendation to the Village Council in favor of the two proposed amendments to the Zoning Ordinance.

ATTACHMENTS:

1. Correspondence from Zoning Commission Chairman, dated September 19, 2001
2. Staff Findings, with attachments, dated August 16, 2001
4. DRAFT Zoning Commission minutes excerpt, dated August 23, 2001

RECOMMENDATION:

To place an Ordinance approving the requested text amendments on an Active Agenda, as recommended by the Zoning Commission.



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September 19, 2001

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

RE: File No. 2001-06: Regarding proposed amendments to the Zoning Ordinance, Chapter 28 of the Downers Grove Municipal Code concerning A) an increase in the maximum lot coverage percentage for churches in residential zoning districts beyond one-thousand (1,000) feet of the Concentrated Business District; and B) to delete Section 28-405(a) regarding minimum lot sizes for newly created lots, as this provision is regulated by the Subdivision Control Ordinance.

Dear Mayor Krajewski and Council Members:

At their August 23, 2001 meeting the Zoning Commission reviewed proposed amendments to the Zoning Ordinance concerning A) an increase in the maximum lot coverage percentage for churches in residential zoning districts beyond one-thousand (1,000) feet of the Concentrated Business District; and B) to delete Section 28-405(a) regarding minimum lot sizes for newly created lots, as this provision is regulated by the Subdivision Control Ordinance.

MR. PAPPALARDO MOVED TO FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL REGARDING CASE 2001-06, PART (A), AN AMENDMENT TO INCREASE THE MAXIMUM LOT COVERAGE PERCENTAGE FOR CHURCHES IN RESIDENTIAL ZONING DISTRICTS BEYOND ONE THOUSAND (1,000) FEET OF THE CONCENTRATED BUSINESS DISTRICT; AND 2001-06 PART (B), AN AMENDMENT TO DELETE SECTION 28-405(a). MS. RABATAH SECONDED THE MOTION.

VOTE:	Aye:	Mr. Pappalardo, Ms. Rabatah, Mr. Sullivan, Chairman Musielak
	Nay:	None
	Abstain:	None

MOTION CARRIED: 4:0:0

Further discussion of this recommendation can be found on pages 7-9 of the August 23, 2001 minutes.

Sincerely,

Lawrence Musielak

Lawrence Musielak, Chairman
Zoning Commission

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**VILLAGE OF DOWNERS GROVE
DEPARTMENTAL CORRESPONDENCE**

TO: Zoning Commission Members

FROM: Amanda G. Browne, Planner
Department of Planning Services

DATE: August 16, 2001

RE: **Zoning Ordinance Text Amendment Petition: Case 2001-06:
Part A regarding a proposal to increase in the maximum lot coverage for churches in residential zoning districts; and Part B regarding a proposal to delete Section 28-405(a), as this provision is regulated by the Subdivision Control Ordinance as opposed to the Zoning Ordinance.**

Introduction:

This two-part amendment is being presented by Staff to the Zoning Commission for recommendation to the Village Council. Part A proposes an increase in the maximum lot coverage percentage for churches in residential zoning districts beyond 1,000 feet of the Concentrated Business District. Part B proposes to delete Section 28-405(a) of the Zoning Ordinance, as this provision is more correctly and is presently regulated by the Subdivision Control Ordinance, as opposed to being included in the Zoning Ordinance.

Part A

In November of 2000, Case 2000-04 was presented to the Zoning Commission by the First Baptist Church of Downers Grove and proposed a text amendment to increase the maximum building lot coverage percentage for churches in residential districts within 1,000 feet of the Concentrated Business District from 30% to 40%. The Zoning Commission forwarded a positive recommendation to the Village Council regarding the proposed amendment, and the Council approved the amendment with the passage of Ordinance number 4243 on January 2, 2001.

During the Council's discussion regarding the proposed amendment, Staff received direction from the Council to propose that the Ordinance be amended so that the maximum building lot coverage for all churches in residential districts be increased from 30% to 40%, regardless of their proximity to the Concentrated Business District.

The Council indicated that due to the age of the majority of the existing churches in residential districts and the lawful bulk non-conformities often associated with them, increasing the maximum lot coverage percentage from 30% to 40% for all churches would aid in accommodating reasonable expansions to church facilities.

Staff therefore proposes the following amendment to Section 28-502(a) of the Zoning Ordinance:

28-502. R-1 District Special Uses.

The following uses are allowed in the R-1 Single Family Residence District as special uses:

- (a) Churches, church schools, and other places of worship; provided the property for said use fronts on an arterial or collector street designated as such a street on the Downers Grove Future Land Use Map or is contiguous on at least one side to a "B", "M", or "O-R-M" zoning district and provided the zoning lot for said use has an area of not less than two (2) acres and not more than ~~thirty (30)~~ forty (40) percent of the lot is occupied by buildings; ~~except that churches located within 1,000 feet of the Concentrated Business District may have up to forty (40) percent of the lot occupied by buildings.~~

Please note that the R-2 through R-5A zoning districts incorporate this section by reference, thereby requiring special use approval for churches and making them subject to the same requirements. Churches in the R-6, Multiple Family Residence zoning district are not required to obtain a special use as in the other residential zoning districts, but are subject to the standard requirements for non-residential uses as outlined by the Zoning Ordinance.

Part B

Part B of this amendment proposes the deletion of Section 28-405(a) of the Zoning Ordinance, which pertains to the minimum lot sizes for newly subdivided lots. This requirement is, however, regulated by the Subdivision Control Ordinance, specifically Section 20-301. The requirements of this section are based partially on the minimum lot area and lot width requirements of the underlying zoning district, and partially on whether the lots are served by municipal sanitary sewer and water services.

For lots with municipal sanitary sewer and water services, all newly subdivided lots in all zoning districts except the R-1 and R-2 districts must be at least 10,500 square feet in area and 75 feet in width. In the R-1 and R-2 districts, the underlying zoning district requirements of the Zoning Ordinance regarding lot area and lot width prevail, as they exceed the minimums as required under the Subdivision Control Ordinance. In the R-1 District, the minimum lot area is 20,000 square feet and the minimum lot width is 100 feet. In the R-2 District, the minimum lot area is 15,000 square feet and the minimum lot width is 85 feet.

For lots that are not served by municipal sanitary sewer and water services, the Subdivision Control Ordinance has much larger lot area and lot width requirements than as required in any zoning district. The minimum lot area requirement for lots without these municipal services is 40,000 square feet, and the minimum lot width requirement is 150 feet.

The current wording of Section 28-405(a) of the Zoning Ordinance also includes a provision that would appear to allow the creation of new lots that are smaller in area than as required by the Subdivision Control Ordinance without obtaining an exception as part of the subdivision approval process, provided that 50% of the lots on the block are smaller than the minimum requirement. Exceptions to the lot area and lot width requirements for newly created lots are a function of the Subdivision Control Ordinance, not the Zoning Ordinance, and further require approval by the Village Council.

For these reasons, this subsection 28-405(a) is proposed to be deleted in its entirety:

28-405. Minimum areas for Zoning Districts.

~~(a) Nothing in this Ordinance shall be interpreted so as to allow the creation of newly subdivided lots with a minimum lot area of less than 10,500 square feet. Provided, in those areas of the Village which are zoned for and subdivided with lots of less than 10,500 square feet, new lots with as little as 7,500 square feet may be created if 50% of the lots in the block in which the proposed subdivision is located contain less than 10,500 square feet.~~

Subsection (b) regarding the minimum area of zoning districts will become the only subsection under Section 28-405, and is not proposed to be amended.

Conclusion:

With respect to Part A, as with the previous amendment that increased the building lot coverage for churches in residential districts within 1,000 feet of the Concentrated Business District from 30% to 40%, Staff supports an amendment that would do the same for all churches regardless of their proximity to the CBD. The increase in building lot coverage from 30% to 40% is modest, and will not eliminate any church's obligation to meet all of the applicable requirements of the Ordinance such as setbacks, parking, or floor area ratio. Additionally, in the residential zoning districts, newly developed churches or existing churches requesting significant additions or modifications to existing facilities will continue to be reviewed on a case by case basis by way of the Special Use permit process.

The amendment proposed in Part B is proposed for clarification purposes, and does not contain substantive changes to the application of the Zoning Ordinance, as the minimum lot area and lot width requirements for newly created lots are regulated by the Subdivision Control Ordinance.

Staff respectfully requests that the Zoning Commission forward a favorable recommendation to the Village Council regarding the two proposed amendments.

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to submit an application for a special use permit amendment for that facility in the future.

Chairman Musielak said he is familiar with the current facility, as his mother-in-law is a resident at Saratoga Grove. He asked if they will have enough space to build another facility on that site and still provide adequate space for parking. Mr. Pugliese said they have additional land, which could be added to the current special use permitted lot.

Mr. Sullivan asked about "Amended Rider A". Ms. Browne said Staff worked with Rest Haven on the rider, which is the attachment to their application which proposes the specific text change.

MR. SULLIVAN MOVED TO FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL REGARDING CASE 2001-05, A PROPOSED AMENDMENT TO THE ZONING ORDINANCE REGARDING NURSING HOMES IN RESIDENTIAL ZONING DISTRICTS. MS. RABATAH SECONDED THE MOTION.

VOTE: **Aye:** Mr. Sullivan, Ms. Rabatah, Mr. Pappalardo, Chairman Musielak

Nay: None

Abstain: None

MOTION PASSED: 4:0:0

Case 2001-06: Ms. Browne said that this two-part amendment is being presented by Staff to the Zoning Commission for recommendation to the Village Council.

Ms. Browne explained that Part A proposes an increase in the maximum lot coverage percentage by buildings for churches in residential zoning districts beyond 1,000 feet of the Concentrated Business District. She said that this amendment came about last year when the Council reviewed a proposed amendment from the First Baptist Church to increase the maximum lot coverage by buildings from 30% to 40% for churches within 1,000 feet of the Concentrated Business District. At the Workshop meeting, Council members had commented that they felt the increased lot coverage percentage was a good idea for all churches regardless of whether they were within 1,000 feet of the Concentrated Business District, and asked Staff to prepare an amendment to that effect.

Chairman Musielak asked if any of the churches outside of the Central Business District have requested the amendment. Ms. Browne replied that she is not aware of any, however, she said the First Baptist Church had conducted a survey of churches within the Village when they requested the original amendment, and at that time most indicated an interest in the greater lot coverage percentage.

Ms. Browne noted that churches in residential districts typically have limited land area and are surrounded by established neighborhoods, therefore, there is little to no ability for them to increase

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their property size. Thus, the Council felt this amendment would be a way to enable churches to make more use of the land that they have.

Chairman Musielak asked if Staff felt churches within 1,000 feet of the Concentrated Business District would ask for increased lot coverage now that all churches in the Village would be allowed 40 percent lot coverage. Ms. Browne said that is difficult to predict, however, she noted that the final lot coverage percentage for the recent First Baptist Church expansion turned out to be 30.25 percent. Mr. Pappalardo agreed, and recalled that when he asked the representatives of the First Baptist Church if they felt they would need more than 40 percent lot coverage, they had replied no.

Ms. Browne pointed out that churches must still comply with the underlying bulk regulations of the zoning district in which they are located. She said that although the First Baptist Church worked very hard to modify their plans to meet all of the setback requirements, they still had to request setback variations from the Zoning Board of Appeals for their side and rear yards.

Mr. Sullivan said he is concerned about the effect this amendment may have on small churches in the area located on single family-sized lots, which may some day be incorporated into the Village. He wondered what would happen if they decide to expand their lot coverage to 40 percent. Ms. Browne noted that requirements such as parking must also be met, and nonconformities on smaller lots can not be exacerbated by building an addition.

Mr. Sullivan said he would be more comfortable if a church were petitioning for the amendment because they wanted to expand their facilities and could not do so and still meet the 30 percent lot coverage restriction. Chairman Musielak said in this case, the Village Council is acting as the petitioner in requesting this amendment.

Ms. Browne said there are churches within the Village that have planned construction projects that may benefit from this amendment. Staff has been working with St. Mary's on Prairie Avenue, as they are planning to increase their sanctuary. Mr. Sullivan noted that when churches in the area have requested amendments for parking requirements and other problems the Commission has been supportive. He said he would feel more comfortable if a specific church were the petitioner. Chairman Musielak agreed; however, he said he would not oppose the proposed amendment.

Ms. Rabatah asked if Mr. Sullivan would feel more comfortable with a different lot coverage percentage. Mr. Pappalardo said that although the First Baptist Church renovations did not result in 40 percent lot coverage, he felt that allowing 40 percent gives churches some leeway if they wish to expand. Ms. Browne added that any church expansion would be subject to a case by case review before the Zoning Board of Appeals and the Village Council.

Chairman Musielak said he did not want the Zoning Commission to get a reputation for being a "rubber stamp". The Commission agreed.

Ms. Browne said when the Council reviewed the original petition from the First Baptist Church for a text amendment to expand the lot coverage for churches within 1,000 feet of the Concentrated Business District, they considered returning the petition back to the Zoning Commission to be amended to include all churches in Downers Grove. However, the Council decided not to delay the

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First Baptist amendment, and to have Staff present a separate amendment. Ms. Browne added that the reason this has taken some time to come back is that Staff had been waiting to see if other relatively minor amendments might come up that could be considered as one petition.

Mr. Sullivan said he can support Staff's petition; however, he feels it is wrong to rely so heavily on the ZBA review process with the final decisions made by the Village Council. He said he feels Village government should be established so that the boards and commissions make recommendations, and the Council acts as the "board of directors" of the community. If the commissions' decisions are within the boundaries of past practices, Mr. Sullivan said he feels the Council should respect their recommendations. He said he is reluctant to see individual decisions being made on each piece of property. Mr. Sullivan said he feels there is too much liability, and he does not feel the Council was elected for that purpose. He said he feels the citizens are asking for a professional staff to run the Village, and for the Council to make difficult or unusual decisions and decisions on policy and direction, but not to review every property on a case by case basis. Mr. Sullivan added that he would like to encourage the Village Council to delegate more, because the Village has a full time professional staff to do the job.

Chairman Musielak asked for Staff's recommendation on the proposed amendment. Ms. Browne said Staff requests that the Zoning Commission make a favorable recommendation to the Village Council concerning this amendment.

Ms. Browne continued with Part B of Case 2001-06, which proposes to delete Section 28-405(a) of the Zoning Ordinance, as this provision is more correctly and is presently regulated by the Subdivision Control Ordinance.

Ms. Browne explained that the creation of new zoning lots and the minimum requirements for them is governed by the Subdivision Control Ordinance, which is contained in Section 20 of the Municipal Code. Ms. Browne said that whenever land is proposed to be divided, the controlling regulations are those within the Subdivision Control Ordinance.

According to the Subdivision Control Ordinance, Ms. Browne said the minimum lot size is at least 10,500 square feet in area and 75 feet in width, depending upon the underlying zoning district. However, this provision of the Zoning Ordinance would appear to allow lots with less area and width to be created. Thus, not only are the provisions and regulations for the creation of new lots inappropriately included in this section of the Zoning Ordinance, but the provisions also conflict with the governing regulations within the Subdivision Ordinance. Thus, Ms. Browne said Staff proposes to strike Section 28-405(a) in its entirety. Ms. Browne noted that subsection (b) will remain, and will be re-lettered to subsection (a).

Chairman Musielak asked if the Commission had any comments concerning the deletion of Section 28-405(a) as proposed by Staff. Hearing none, he called for a motion.

MR. PAPPALARDO MOVED TO FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL REGARDING CASE 2001-06, PART (A), AN AMENDMENT TO INCREASE THE MAXIMUM LOT COVERAGE PERCENTAGE FOR CHURCHES IN RESIDENTIAL ZONING DISTRICTS BEYOND ONE THOUSAND (1,000) FEET OF

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THE CONCENTRATED BUSINESS DISTRICT; AND 2001-06 PART (B), AN AMENDMENT TO DELETE SECTION 28-405(a). MS. RABATAH SECONDED THE MOTION.

VOTE: **Aye:** Mr. Pappalardo, Ms. Rabatah, Mr. Sullivan, Chairman Musielak

Nay: None

Abstain: None

MOTION CARRIED: **4:0:0**

Discussion Session Regarding Automobile Sales:

Ms. Browne said that Council has requested that the Planning Staff prepare a text amendment that would require used car dealerships to obtain special use authorization in order to occupy sites and conduct business on property located in the B-3 and M-1 zoning districts. Staff is proposing that the Zoning Commission discuss their ideas and suggestions as to the requirements that they would like to see included in this amendment. Ms. Browne said Staff will then prepare an amendment based upon the Commission's suggestions, and then present it at a public hearing before the Zoning Commission for their consideration and recommendation to the Council.

Ms. Browne said that under the current Zoning Ordinance regulations, uses regarding new and used car dealerships are permitted as follows: "Automobile sales and service conducted wholly within a completely enclosed building" is a permitted use as of right the B-2 and B-3 zoning districts. "Motor Vehicle Sales, including used car lots" is permitted use as of right in the B-3 and M-1 zoning districts. "Used passenger automobile sales on an open lot or within a building" is also a permitted use as of right in the B-3 and M-1 zoning districts.

Ms. Browne said there is no special use approval required for any type of car dealership, either in the B-3 or M-1 zoning districts. However, if the dealership provides any level of automobile service, a special use permit is required in both the B-3 and M-1 zoning districts.

Ms. Browne said that throughout the Village, most of the B-3 zoning is located along Ogden Avenue; however, there are also some B-3 zoned areas along Butterfield Road and at the northwest corner of 75th and Fairview. Ms. Browne said that the M-1 zoning district can be found south of the Burlington Northern Santa Fe railroad tracks along I-355 and on Warrenville Road, west of Finley Road and on the north side of Ogden Avenue, east of Finley.

Ms. Browne said there are a number of new and used automobile dealerships along Ogden Avenue that may or may not have existing non-conformities because they were in existence prior to April 1965. These non-conformities can include activities such as displaying vehicles within required driveways or setback areas. Although the Zoning Ordinance permits certain existing non-