

VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY

INITIATED: Planning & Community Development **DATE:** August 19, 2003
(Name)

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

NATURE OF ACTION:

STEPS NEEDED TO IMPLEMENT ACTION:

- Ordinance
- Resolution
- Motion
- Other

Motion to Adopt "AN ORDINANCE AMENDING THE DOWNERS GROVE COMPREHENSIVE ZONING ORDINANCE", as presented.

SUMMARY OF ITEM:

At their meeting of July 1, 2003, the Plan Commission unanimously recommended adoption of the attached ordinance which will make certain amendments to the Zoning Ordinance in relation to the dissolution of the Zoning Commission and amending the powers and duties of the Plan Commission and Zoning Board of Appeals.

RECORD OF ACTION TAKEN:

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE

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 Chapter 28 of the Downers Grove Municipal Code is hereby amended as follows:

28-201. Definitions.

For the purposes of this Zoning Ordinance, the following words and phrases shall have the meanings respectively ascribed to them as follows:

* * *

~~Board. The Zoning Board of Appeals.~~

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Zoning Board of Appeals. The Downers Grove Zoning Board of Appeals.

~~Zoning Commission. The Zoning Commission created under and pursuant to the provisions of Chapter 2 of this Code.~~

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28-303. Appeal From Decision of Director.

(a) The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Director in the enforcement of this Zoning Ordinance. This includes, but is not limited to interpretative rulings of this Zoning Ordinance and petition submittal requirements.

(b) Review may be initiated by any person aggrieved within thirty (30) days of the an order, requirement, decision, or determination of the Director by filing an appeal. The Director shall forthwith transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

(c) An appeal stays all proceedings in furtherance of the action appealed from, unless the Director certifies to the Zoning Board of Appeals that by reason of facts stated in the certificate a stay would, in the Director's opinion, cause imminent peril to life or property. In this event, the proceedings shall not be stayed other than by an order of the Board on due cause being shown.

(b) Within sixty (60) days of receipt of a complete appeal petition, the Zoning Board of Appeals shall commence a public hearing to be held as provided in Section 28-307. Notice of time and place of the public hearing on such appeal shall be given to the petitioner and any known objectors in a manner determined by the Director. Within thirty-five (35) days after conclusion of the public hearing, the Zoning Board of Appeals shall render a decision. The Zoning Board of Appeals may reverse, or affirm wholly or in part, or may modify any order, requirement, decision, or determination appealed from, and may make such order or finding as it deems warranted. To this end, the Zoning Board of Appeals shall have the powers of the Director from whom the appeal is taken.

28-304. Petitions.

(a) Except as otherwise specifically provided herein, petitions under this Zoning Ordinance shall be filed with the Director. Each petition shall be in a form as prescribed by the Director and shall include such submittals, material and information as may be required by the Director to establish that the petition meets the standards and requirements of this Zoning Ordinance, including, but are not limited to, the following:

- (1) A list of the names and addresses of the following:
 - (i) all owners of record of the property which is the subject of such petition; and,
 - (ii) all persons to whom the latest general real estate tax bills were sent for all property situated within two hundred and fifty (250) feet of the subject property; and,
 - (iii) any homeowners, condominium or similar association of which the subject property is a member.

(2) Information and materials as may be required by the Director to establish that the petition meets the standards and requirements of this Zoning Ordinance. This includes, but is not limited to any, maps, plats, surveys, engineering documents, environmental reports, traffic studies, and other materials and information as required by rules established by the Director.

(3) Payment of required fees.

(b) Such petition shall be considered complete upon submittal of all information and documents required, and payment of the any applicable fee.

(c) A petition may be amended at any time before final action upon such terms and conditions as the Director (if amended before any required hearing), the Zoning Board of Appeals or Zoning Commission or Plan Commission (if amended before final action by such body), or the Village Council, may direct. Such terms and conditions may include, but are not limited to, requiring republication of the notice, rehearing of the petition and/or tolling any time limits for Village action as otherwise mandated herein.

28-308. Time Periods.

Any time limit specified in this Zoning Ordinance for any decision or action by the Director, the Zoning Board of Appeals, ~~the Zoning Commission~~, the Plan Commission or the Village Council may be extended or tolled by the joint agreement of the petitioner and the Director. In the event a decision or action by the Director, the Zoning Board of Appeals, ~~the Zoning Commission~~, the Plan Commission or the Village Council is not rendered within the time period specified, and the petitioner has not agreed to an extension or tolling of such time limit, the petition shall be deemed to be denied.

28-802. O-R-M District - Special uses.

The following uses are allowed in the O-R-M Office-Research-Manufacturing District as special uses:

- (a) Aircraft landing areas.
- (b) Automobile service stations. (See Section 28-1018.)
- (c) Drive-in banking facilities.
- (d) Planned developments. (See Article XVI.)
- (e) Railroad and motor freight terminal, railroad switching facilities.
- (f) Recycling collection facilities. (See Section 28-1007.)
- (g) Vocational and trade schools
- (h) Any other proposed business, manufacturing, assembling, servicing or processing activity, if the

~~Board~~Plan Commission finds:

(1) Such proposed activity is of the same general character as the uses permitted in Section 28-802;

(2) It is reasonably anticipated that such proposed activity will be in compliance with the environmental standards set forth in Article XX. The ~~Board~~Plan Commission may in its discretion require that there be furnished favorable certification by a registered professional engineer approved by the ~~Board~~Plan Commission covering any one or more of such environmental standards; and

(3) Such proposed activity will be in compliance with all applicable provisions of this Zoning Ordinance.

28-906. M-2 District - Special Uses.

The following uses are allowed in the M-2 Restricted Manufacturing District as special uses:

- (a) Aircraft landing areas.
- (b) Cartage and express facilities including motor freight terminals.
- (c) Contractor or construction shops and offices.
- (d) Medical and dental clinics.
- (e) Public utilities and services.
- (f) Planned developments. (See Article XVI.)
- (g) Recycling collection facilities. (See Section 28-1007.)
- (h) Vocational and trade schools.
- (i) Any other proposed business, manufacturing, assembling, servicing or processing activity, if the

BoardPlan Commission finds that:

(1) Such proposed activity is of the same general character as uses permitted in Section 28-906;

(2) Such proposed activity will be in compliance with the environmental standards in Article XX. For such purpose, the **BoardPlan Commission** may in its discretion require that there be furnished a favorable certification by a registered professional engineer approved by the **BoardPlan Commission** covering any one or more of such performance standards; and

(3) Such proposed activity will be in compliance with all applicable provisions of this Article.

- (j) Accessory uses, incidental to the principal use listed above.
- (k) Self-storage facilities, including mini-warehouses. (See Section 28-1010.)

28-1018. Automobile Service Station.

An automobile service station shall be subject to the following conditions:

* * *

(q) *Traffic flow study.* The **Zoning Board of AppealsPlan Commission**, the Village Engineer or the Village Council may order a traffic survey of any proposed location by a qualified traffic engineer. The traffic engineer will then submit a report of findings and recommendations to the **BoardPlan Commission** as to any possible traffic hazard from traffic flow or from the topography of the proposed location of the automobile service station. Due consideration shall be given by the **BoardPlan Commission** to the report, if any, submitted by the traffic engineer.

* * *

28-1020. Churches.

(a) Where permitted as a special use, and except as provided herein, churches shall be constructed, maintained and operated in conformance with applicable zoning regulations. Provided, and except as otherwise expressly set forth in this Zoning Code, the Lot and Bulk regulations set forth in Article XI may be modified in the event, but only to the extent that, the Council determines that strict compliance substantially burdens the exercise of religion. Provided, no modification shall be permitted to the extent that the Council determines that application of the burden (i) is in furtherance of a compelling governmental interest and (ii) is the least restrictive means of furthering that compelling governmental interest.

(b) In the event such a substantial burden is claimed, the applicant for a church special use shall submit materials and evidence as to the following:

(1) Describe the alleged burden in detail, including why such burden is of such a substantial nature so as to justify modification of the zoning regulations.

(2) Describe efforts employed by the applicant to avoid or reduce the burden.

(3) Describe the minimal modification requested to avoid or reduce the burden.

(4) Describe any adverse impacts of the requested modification on the area involved and efforts to reduce such impact.

(5) Such other items as the applicant may deem relevant or as requested by the Director, the BoardPlan Commission or the Council related to the alleged burden or requested modification.

(c) In the event it is determined that there is a substantial burden, and that the regulation at issue is not in furtherance of a compelling governmental interest or is not the least restrictive means of furthering that compelling governmental interest, the BoardPlan Commission may recommend and the Council may authorize modification of the Lot and Bulk provisions of Article XI, subject to the following:

(1) The modification shall be the minimal adjustment needed so that the regulation no longer substantially burdens the exercise of religion. Provided, the regulation shall not be modified to the extent that it is in furtherance of a compelling governmental interest and is also the least restrictive means of furthering that compelling governmental interest.

(2) The modification shall be permitted only to the extent that and for the period of time that, the structure is used for a church. A covenant shall be recorded with the Office of the DuPage County Recorder of Deeds, in a form acceptable to Village Attorney, providing that the modification will be brought into compliance with the affected regulation in the event the property ceases to be used as a church. The Village shall have the right to refuse to issue, or to revoke an occupancy permit for the structure in the event it is not used as a church unless and until such compliance is achieved.

(3) Such conditions and restrictions may be imposed as appropriate to mitigate any adverse impact of the modification.

28-1307. Telecommunications Towers.

* * *

(b) *Permit required.* A permit shall be required for the construction or installation of any telecommunications tower as provided herein. The Village encourages the users of telecommunications towers to submit a single application for approval of multiple telecommunications tower sites. Permit applications shall be filed with, and in a form as prescribed by, the Director, and shall be considered complete upon the determination of the Director that all required fees, information and documents have been submitted. An application be amended at any time before final action upon such terms and conditions as the Director (if amended before any required hearing), the Zoning Board of Appeals or Plan Commission (if amended before final action by such body), or the Village Council, may direct. Such terms and conditions may include, but are not limited to, requiring re-notice or rehearing of the petition and/or tolling any time limits for Village action as otherwise mandated herein. Permit requests for approval of multiple sites shall be given priority in the review process. The permit application shall include such submittals, material and information as may be required by the Director to establish that the request meets the standards and requirements of this Section. This may include, but is not limited to, the following:

(1) An inventory of the applicant's existing telecommunications towers, antennas, or sites approved for telecommunications towers or antennas, that are either within the corporate limits of the Village or within 1.5 miles of the Village corporate limits. This inventory shall include such information as the Director may direct, including but not limited to specific information about the location, telecommunications tower height, and design of each telecommunications tower. The Director may share such information with other persons seeking to locate a telecommunications tower or antenna within the jurisdiction of the Village. Provided, the Director is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

(2) A scaled site plan clearly indicating the location, type and telecommunications tower height of the proposed telecommunications tower and/or antenna, on-site land uses and zoning, adjacent land

uses and zoning (including when adjacent to other municipalities), zoning classification of the site and all properties within the applicable separation distances set forth in this Section, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed telecommunications tower and any other structures, topography, parking, and other information deemed by the Director to be necessary to assess compliance with this section.

(3) Legal description of the parent tract and leased parcel (if applicable).

(4) The setback distance between the proposed telecommunications tower and the nearest residentially zoned properties.

(5) The separation distance from other telecommunications towers described in the inventory of existing sites submitted pursuant to this Section shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing telecommunications tower(s) and the owner/operator of the existing telecommunications tower(s), if known.

(6) A landscape plan showing specific landscape materials.

(7) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

(8) A description of compliance with this Section and all applicable federal, state or local laws.

(9) A notarized statement by the applicant as to whether construction of the telecommunications tower will accommodate collocation of additional antennas for future users.

(10) Identification of the entities providing the backhaul network for the telecommunications tower(s) described in the application and other cellular sites owned or operated by the applicant in the Village.

(11) A description of the availability and suitability of the use of existing telecommunications towers, other structures, or alternative technology, not requiring the construction or use of a new telecommunications tower.

(12) A description of the feasible location(s) of future telecommunications towers or antennas within the Village of Downers Grove based upon existing physical, engineering, technological or geographical limitations in the event the proposed telecommunications tower is erected.

(13) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

(14) Payment of required fees.

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28-1401. Control of off-site parking facilities.

Where required parking facilities are provided on land other than the zoning lot on which the structure or use served by such facilities is located, they shall be, and shall remain in the same possession or ownership as the zoning lot occupied by the structure or use to which the parking facilities are accessory. No such off-site parking facilities shall be authorized and no building permit shall be issued where the plans call for parking facilities other than on the same zoning lot, until and unless the Zoning Board of Appeals or the Plan Commission have ~~has~~ reviewed the plans and heard the owner and made findings that the common ownership or possession of the zoning lot and the size of the parking facilities are reasonably certain to continue and that the off-site parking facilities will be maintained at all times during the life of the proposed use or structure.

28-1404. Location of parking spaces.

The location of off-street parking spaces in relation to the use served shall be as prescribed hereinafter. All distances specified shall be walking distances between such parking spaces and a main entrance to the use served.

(a) *Front yards.* Off-street parking spaces may not be located in any required front yards, except as follows:

(1) Off-street parking spaces accessory to a single-family residence may be located in any driveway that is improved with an appropriate surface material approved by the Village Engineer.

(2) Off-street parking spaces accessory to any church that was in existence prior to April 19, 1965, or prior to the time when the provisions of this Ordinance became applicable thereto, may be located in the required front yard, but not within five (5) feet of the front lot line, only to the extent necessary to provide the number of parking spaces that would have been required for such church under the provisions of Section 28-1410 if such provisions had been applicable thereto at the time of construction or occupancy of such church.

(3) Off-street parking spaces for properties in the M-1, Light Manufacturing Zoning District that are located on the west side of Thatcher Road and also abut the Illinois State Tollway right-of-way may be located in the required front yard but not less than five (5) feet from the front property line, provided that such spaces are located in a parking lot that is improved with an appropriate surface material approved by the Village Engineer.

(b) *Residence districts.* Parking spaces accessory to dwellings shall be located on the same zoning lot as the use served. Spaces accessory to uses other than dwellings may be located on a lot adjacent to, or directly across a street or alley from, the lot occupied by the use served, but in no case at a distance in excess of three hundred (300) feet from the parking spaces to the main entrance to the use served.

(c) *Business and manufacturing districts.* All required parking spaces shall be within one thousand (1,000) feet of the main entrance to the use served, except for spaces accessory to dwelling units, which shall be within three hundred (300) feet of the entrance to the dwelling. One quarter of all required spaces shall be within three hundred (300) feet of the main entrance to the use served. The remaining required spaces must be within one thousand (1,000) feet of the main entrance to the use served provided that businesses which dispense alcoholic beverages for consumption on the premises may not have parking facilities across an arterial street (designated as such a street on the Downers Grove Future Land Use Map) from the business. However, no parking spaces accessory to a use in a business or manufacturing district shall be located in a residence district unless authorized by the BoardPlan Commission as a special use.

28-1410. Number of off-street parking and off-street loading spaces required.

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(c) Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided collectively is not less than the sum of the separate requirements for each such use and provided that all regulations governing location of accessory parking spaces in relation to the use served are adhered to. Further, no parking space or portion thereof shall serve as a required space for more than one use unless otherwise authorized by the

(d) When two (2) or more uses are located on the same zoning lot or within the same building, parking spaces equal in number to the sum of the separate requirements for each such use shall be provided. No parking spaces or portion thereof shall serve as a required space for more than one use unless otherwise authorized by the BoardPlan Commission as a special use in accordance with this Zoning Ordinance.

(e) For uses not listed in the foregoing schedule of parking requirements, parking spaces shall be provided on the same basis as required for the most similar listed use, or as determined by the Zoning Board of Appeals or Plan Commission, and off-street loading spaces shall be provided in adequate number and size to serve such use as determined by the Board.

(f) The Concentrated Business District is exempt from the provisions of this section. Zoning Board of Appeals or Plan Commission as a variation in accordance with this Zoning Ordinance.

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28-1502. General requirements.

All signs shall comply with the following requirements unless otherwise provided:

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(1) No sign that is affixed to a structure shall project more than twelve (12) inches into a required setback or required yard or such further distance as may be approved as a variation by the Zoning Board of Appeals or Plan Commission pursuant to this Zoning Ordinance on the basis of considerations of safety to pedestrian and vehicular traffic.

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28-1523. Modifications and variations by the Zoning Board of Appeals.

The Zoning Board of Appeals or Plan Commission, upon petition made pursuant to Article XX of this Zoning Ordinance, and after a public hearing on such petition, may vary, or otherwise modify, the petition of any provision of this Article to any particular case when, in the opinion of such Board or Commission, the literal enforcement thereof would do manifest injustice or would be contrary to the spirit and purpose of this Article or the public interest. The decision of the Zoning Board of Appeals or Plan Commission shall specify the nature of the variation or other modification, the conditions upon which it is made, if any, and the facts or other reasons supporting the action taken.

28-1700SEC. Text Amendments to the Zoning Ordinance.

(a) A petition to amend the text of this Zoning Ordinance may be initiated by any person, including any Village government office, department, board or commission, or Village resident. The petition shall be filed with the Director and shall include such documents, reports, maps and other information as may be required by the Director pursuant to Sections 28-300 and 28-304. This petition, including such other documents as may be appropriate, shall be transmitted by the Director to the Zoning Plan Commission, along with the Director's analysis and recommendation, if any.

(b) Within ninety (90) days of receipt of a complete petition, the Zoning Plan Commission shall commence a public hearing. Within forty-five (45) days after conclusion of the public hearing, the Zoning Plan Commission shall recommend approval or disapproval of all, or any portion of the petition and may condition such recommendation on such revisions to the proposed text change as the Zoning Plan Commission determines appropriate or necessary to protect the public health safety and welfare, and/or ensure that the text change will conform to the spirit and intent of this Zoning Ordinance.

(c) Within ninety (90) days of receipt of the findings and recommendations of the Zoning Plan Commission, the Village Council shall approve, approve as modified, or deny the petition, or any part thereof. The Village Council may approve or disapprove all, or any portion of the petition, including any modifications thereto, and may condition any approval on restrictions and requirements as the Village Council determines appropriate or necessary to ensure that the petition, as approved, will conform to the provisions of this Zoning Ordinance. A violation of such conditions shall be deemed a violation of this Zoning Ordinance. In the alternative, the Village Council may remand the petition, in whole or in part, back to the Zoning Plan Commission if the Village Council determines that it is necessary or appropriate to provide a fair and complete consideration of the petition because there is a material and significant change in conditions since the Zoning Plan Commission hearing, or there is new or additional information which is material to the petition and which was not reasonably available at the time of the Zoning Plan Commission hearing. The Village Council will specify the reasons and scope of such remand and further proceedings before the Zoning Plan Commission will be limited to such items. The Zoning Plan Commission will conduct such further proceedings as may be appropriate and re-present the petition, with appropriate recommendations, to the Village Council within sixty (60) days of referral. Thereafter, the Village Council shall render a final decision within sixty (60) days of such re-presentation.

28-1701. Amendment to Zoning Classification.

(a) A petition to amend the zoning map to change the zoning classification of any parcel of property may be initiated by the Director or the owner of the land which is described in the petition. The petition shall be filed with the Director and shall include such documents, reports, maps and other information as may be required by the Director pursuant to Sections 28-300 and 28-304. This petition, including such other

documents as may be appropriate, shall be transmitted by the Director to the Zoning Board of Appeals or Plan Commission, along with the Director's analysis and recommendation, if any.

(b) Within ninety (90) days of receipt of a complete petition notice shall be given and the Zoning Board of Appeals or Plan Commission shall commence a public hearing. Within forty-five (45) days after conclusion of the public hearing, the Zoning Board of Appeals or Plan Commission shall transmit to the Owner and the Village Council its recommendations regarding the petition. The Zoning Board of Appeals or Plan Commission may recommend approval or disapproval of all, or any portion of the petition, including any modifications thereto.

(c) Within ninety (90) days of receipt of the findings and recommendations of the Zoning Board of Appeals or Plan Commission, the Village Council shall approve, approve as modified, or deny the petition, or any part thereof. The Village Council may approve or disapprove all, or any portion of the petition, including any modifications thereto. A violation of such conditions shall be deemed a violation of this Zoning Ordinance. In the alternative, the Village Council may remand the petition, in whole or in part, back to the Zoning Board of Appeals or Plan Commission if the Village Council determines that it is necessary or appropriate to provide a fair and complete consideration of the petition because there is a material and significant change in conditions since the Zoning Board of Appeals or Plan Commission hearing, or there is new or additional information which is material to the petition and which was not reasonably available at the time of the Zoning Board of Appeals or Plan Commission hearing. The Village Council will specify the reasons and scope of such remand and further proceedings before the Zoning Board of Appeals or Plan Commission will be limited to such items. The Zoning Board of Appeals or Plan Commission will conduct such further proceedings as may be appropriate and re-present the petition, with appropriate recommendations, to the Village Council within sixty (60) days of referral. Thereafter, the Village Council shall render a final decision within sixty (60) days of such re-presentation.

(d) No rezoning petition will be accepted for processing prior to one year after the date that similar petition concerning the same property was turned down.

28-1800SEC. General Provisions.

(a) The Zoning Board of Appeals or Plan Commission may authorize, in specific cases, such variance from the terms of this Zoning Ordinance as will not be contrary to the public interest and welfare where, because of special conditions a literal enforcement of the provisions of this Zoning Ordinance would result in unnecessary hardship. Variations without being associated with any other type of zoning action shall be presented to the Zoning Board of Appeals. Variations associated with other type of zoning action shall be presented to the Plan Commission.

(b) Under no circumstances shall the Zoning Board of Appeals or Plan Commission grant a variation to allow a use not permissible under the terms of this Zoning Ordinance in the district involved, or any use expressly or by implication prohibited.

(c) The decision of the Zoning Board of Appeals or Plan Commission shall specify the nature of the variation or other modification, the conditions upon which it is made, if any, and the facts or other reasons which support the action taken.

28-1801. Procedures.

(a) A petition for a variation may be initiated by the Director or the owner of the land which is described in the petition. The petition shall be filed with the Director and shall include such documents, reports, maps and other information as may be required by the Director pursuant to Sections 28-300 and 28-304. This petition, including such other documents as may be appropriate, shall be transmitted by the Director to the Zoning Board of Appeals or Plan Commission, along with the Director's analysis and recommendation, if any.

(b) Within ninety (90) days of receipt of a complete petition, the Zoning Board of Appeals or Plan Commission shall commence a public hearing. Within forty-five (45) days after conclusion of the public hearing, the Zoning Board of Appeals or Plan Commission shall grant or deny the petition for such variation,

in whole or in part. The Zoning Board of Appeals or Plan Commission may impose such condition and restrictions as the Board determines appropriate or necessary to protect the public health safety and welfare, and/or ensure that the petition, as approved, will conform to the provisions of this Zoning Ordinance. A violation of such conditions shall be deemed a violation of this Zoning Ordinance. Each decision of the Zoning Board of Appeals or Plan Commission shall be set forth in writing and shall include specific findings of fact.

28-1802. Authorized variations.

Variations from the regulations of this Zoning Ordinance may be granted in the following instances only, and then only to the extent necessary:

(a) To permit the extension of a district to include an entire lot where the boundary line of the district divides a lot of record on. Provided, such extension shall not to exceed an additional one hundred (100) feet of street frontage nor increase the area of the district by twenty thousand (20,000) square feet.

(b) To permit any yard of less dimension than required by the applicable regulations not to exceed fifty percent (50%) reduction.

(c) To permit any structure to exceed the height limitations imposed by the applicable regulations, not to exceed a ten percent (10%) increase.

(d) To permit the use of a lot less in width or area by not more than twenty percent (20%) of the lot width or area required by this Zoning Ordinance.

(e) To reduce the applicable off-street parking or loading facilities required by not more than two (2) parking spaces nor one (1) loading berth or twenty percent (20%) of the required number, whichever is greater.

(f) To reduce the minimum lot area required per dwelling unit not more than ten percent (10%).

(g) To increase by not more than twenty-five percent (25%) the maximum distance that required parking spaces are permitted to be located from the use served.

(h) To permit the same off-street parking facilities to qualify as a required facility for two or more uses, provided the substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week.

(i) To permit temporary buildings and uses for periods greater than sixty (60) days but not more than two (2) years in undeveloped sections of the Village, and for periods greater than sixty (60) days but not more than six (6) months in developed sections.

(j) To permit a limited increase in the number of employees permitted in processing activities in the business districts, but only when such increase will not adversely affect the character of the establishment, will not be detrimental to or affect the character of surrounding residential development and will not increase traffic or parking congestion.

(k) Notwithstanding the standards of Section 28-1803, to allow the required screening for parking spaces to be discontinuous to the extent that no more than twenty-five percent (25%) of the perimeter is unscreened in instances where it is in the interest of public safety to permit observation of parking areas.

(l) Notwithstanding the standards of Section 28-1803, to permit variations of any provision of Section 28-1301, if, in the opinion of the Zoning Board of Appeals or Plan Commission, a literal enforcement thereof would do manifest injustice or would be contrary to the spirit and purpose of such provisions regulating fences, or to the public interest.

(m) Notwithstanding the standards of Section 28-1803, to permit the location of detached private garages in the portion of the front yard in excess of the required setback in any particular case in which the enforcement of the requirement that accessory buildings be located in side or rear yards would do manifest injustice or would be contrary to the spirit and purpose of this Zoning Ordinance or to the public interest, and in which case a site plan and architectural drawings show compatibility of the proposal with the surrounding area.

(n) To permit a fifty percent (50%) reduction in the yard dimensions required by this Zoning Ordinance in those cases when fifty percent (50%) of the building, based on a current appraisal of the market

value, has been damaged by fire, explosion, act of God, or the public enemy; provided that, the amount of nonconformity existing prior to said calamity shall not increase.

(o) Notwithstanding the provisions of Section 28-1803, the Zoning Board of Appeals or Plan Commission may vary any provision of Article XV, Signs, in any particular case in which the literal enforcement thereof would do manifest injustice or would be contrary to the spirit and purpose of Article XV or the public interest.

(p) Notwithstanding the standards of Section 28-1803, to permit variations of any provision of Section 28-1003 regarding Group Homes, if, in the opinion of the Zoning Board of Appeals or Plan Commission, a literal enforcement thereof would do manifest injustice or would be contrary to the spirit and purpose of such provisions regulating group homes or to the public interest.

(q) Notwithstanding the provisions of Section 28-1803, the Zoning Board of Appeals or Plan Commission may vary the provisions of , Sections 28-1405 and 28-1406, size of parking spaces and design of off-street parking areas, in an amount not to exceed ten percent (10%) of any requirement established therein in any case in which the following conditions can be met:

(1) The required size of spaces is not necessary or appropriate due to the nature of the use which the parking serves, including such considerations as the degree to which there is turnover of parked vehicles as a result of the use, and the necessity to provide space for loading and unloading of goods, as in a retail use;

(2) The owner for the variation can provide for snow removal in such manner that plowed snow can be stored elsewhere on the property than within the parking spaces themselves.

(3) The reduction in the required size of spaces or aisles will not create a hazardous condition for the movement of vehicles within the parking area. A partial variation to allow for a certain percentage of space for compact vehicles may be, but is not necessarily, a part of the conditions of the variation.

(r) Notwithstanding the provisions of Section 28-1803, the Zoning Board of Appeals or Plan Commission may authorize variations as provided in this section from the height, separation and setback requirements of Article IXa for an antenna or telecommunications tower where no reasonable alternative is available and strict enforcement of the provision would prevent, from a technical perspective, the reasonable and necessary use of the facility for telecommunications services; or where, because of unique circumstances, such as but not limited to the location of the property, the potential for collocation and the proximity and nature of surrounding uses, the proposed variation and telecommunications tower will promote the goals of collocation and minimal impact on residential areas. The variations which may be granted under this section are as follows:

(1) To modify by not more than 5% the maximum height, separation or setback for an antenna or telecommunications tower located within a residential district. (R-1, R-2, R-3, R-4, R-5, R-5A, R-6)

(2) To modify by not more than 10% the maximum height, separation or setback for an antenna or telecommunications tower located within a business district. (B-1, B-2 B-3)

(3) To modify by not more than 20% the maximum height, separation or setback for an antenna or telecommunications tower located within an office or manufacturing district. (O-R, O-R-M, M1, M2)

(s) To permit the waiver or reduction of any provision of Section 28-1106 regarding open space and landscaped greenspace requirements. Provided, any variation shall be conditioned upon the owner, to the extent practical, providing alternative landscaped greenspace on the property of a quality and quantity, as determined by the Zoning Board of Appeals or Plan Commission, necessary to reduce or eliminate the impact of the variance granted.

28-1803. Standards for granting a variation.

(a) A variation shall be permitted only if the Zoning Board of Appeals or Plan Commission finds that it is in harmony with the general provisions and interest of this Zoning Ordinance and that there are

practical difficulties or particular hardships in the way of carrying out the strict letter of the provisions of this Zoning Ordinance. In its consideration of the standards of practical difficulties or particular hardships, the Zoning Board of Appeals or Plan Commission shall require evidence that:

(1) The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located.

(2) The plight of the owner is due to unique circumstances.

(3) The variation, if granted, will not alter the essential character of the locality.

(b) For the purpose of supplementing the above requirements, the Zoning Board of Appeals or Plan Commission, in making the determination whether there are practical difficulties or particular hardships, shall also take into consideration the extent to which the following facts, favorable to the owner, have been established by the evidence:

(1) That the particular physical surroundings, shape, or topographical conditions of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.

(2) That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification.

(3) That the alleged difficulty or hardship has not resulted from the actions of the owner.

(4) That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fires, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

(5) That the proposed variation will not alter the land use characteristics of the district.

(6) That the granting of the variation requested will not confer on the owner any special privilege that is denied by this Zoning Ordinance to other lands or structures in the same district.

28-1900SEC. General Provisions.

(a) The principal objective of this Zoning Ordinance is to provide for an orderly arrangement of compatible building and land uses, and for the proper location of all types of uses required in the social and economic welfare of the Village. To accomplish this objective, each type and kind of use is classified as permitted in one or more of the various districts established by this Ordinance. However, in addition to those uses specifically classified and permitted in each district, there are certain additional uses which it may be necessary to allow because of their unusual characteristics or the service they provide the public. These special uses require particular consideration as to their proper location in relation to adjacent established or intended uses, or to the planned development of the community.

(b) The Village Council shall have authority, after having received the recommendations of the ~~Zoning Board of Appeals~~ Plan Commission as set forth herein to permit the special uses of land or structures, or both, listed in the district regulations, if the Council finds that the proposed locations and establishment of any such use will be desirable or necessary to the public convenience or welfare and will be harmonious and compatible with other uses adjacent to and in the vicinity of the selected site, or sites, and will not cause undue congestion in the public streets. The Village Council shall also have the authority, after having received the findings and recommendations of the ~~Board~~ Plan Commission as to the matters referred to in subsections 28-1902 (i) and (ii) to permit, by ordinance, special uses of land or structures in any district or location for public or public utility purposes which it deems reasonably necessary for public convenience and welfare.

(c) The Village Council shall also have the authority, after having received the recommendations of the Plan Commission, to permit conditional uses in the nature of Planned Developments, as set forth in Article VII.

(d) Any use formerly classified as a "conditional use" under the preceding version of this Zoning Ordinance or Zoning Ordinance shall be deemed to be a special use.

28-1901. Procedures.

(a) A petition for a special use may be initiated by the Director or the owner of the land which is described in the petition. The petition shall be filed with the Director and shall include such documents, reports, maps and other information as may be required by the Director pursuant to Sections 28-300 and 28-304. This petition, including such other documents as may be appropriate, shall be transmitted by the Director to the BoardPlan Commission, along with the Director's analysis and recommendation, if any.

(b) Within ninety (90) days of receipt of a complete petition, the BoardPlan Commission shall commence a public hearing. Within forty-five (45) days after conclusion of the public hearing, the BoardPlan Commission shall transmit to the Village Council their recommendations regarding such proposed special use. The BoardPlan Commission may recommend approval or disapproval of all, or any portion of the petition, including any modifications thereto, and may condition such recommendation on restrictions and requirements as the BoardPlan Commission determines appropriate or necessary to protect the public health safety and welfare, and/or ensure that the petition, as approved, will conform to the provisions of this Zoning Ordinance.

(c) Within ninety (90) days of receipt of the findings and recommendations of the BoardPlan Commission, the Village Council shall approve, approve as modified, or deny the petition, or any part thereof. The Village Council may approve or disapprove all, or any portion of the petition, including any modifications thereto, and may condition any approval on restrictions and requirements as the Village Council determines appropriate or necessary to ensure that the petition, as approved, will conform to the provisions of this Zoning Ordinance. A violation of such conditions shall be deemed a violation of this Zoning Ordinance. In the alternative, the Village Council may remand the petition, in whole or in part, back to the BoardPlan Commission if the Village Council determines that it is necessary or appropriate to provide a fair and complete consideration of the petition because there is a material and significant change in conditions since the BoardPlan Commission hearing, or there is new or additional information which is material to the petition and which was not reasonably available at the time of the BoardPlan Commission hearing. The Village Council will specify the reasons and scope of such remand and further proceedings before the BoardPlan Commission will be limited to such items. The BoardPlan Commission will conduct such further proceedings as may be appropriate and re-present the petition, with appropriate recommendations, to the Village Council within sixty (60) days of referral. Thereafter, the Village Council shall render a final decision within sixty (60) days of such re-presentation.

28-1902. Standards for Approval.

The Village Council may authorize a special use by ordinance provided the evidence presented is such as to establish the following:

(i) That the proposed use at that particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community.

(ii) That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, or general welfare of persons residing or working in the vicinity or injurious to property values or improvements in the vicinity.

(iii) That the proposed use will comply with the regulations specified in this Zoning Ordinance for the district in which the proposed use is to be located or will comply with any variation(s) authorized pursuant to Section 28-1802.

(iv) That it is one of the special uses specifically listed for the district in which it is to be located.

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

[zoning]