

COUNCIL WORKSHOP ITEM

ITEM: Zoning Commission recommendation regarding text amendment case 2003-02, a request to amend the Zoning Ordinance as applicable only to those properties fronting on Douglas Road between Rogers Street on the north and Maple Avenue on the south to reduce the minimum front setback requirement to 10 feet; to allow parking facilities within the required front setback; and to allow chain link fences within the required front setback. Robert Bair of Bair Plumbing and Heating, Petitioner.

DATE: March 18, 2003

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

PURPOSE: To consider approval of the text amendments as proposed.

DISCUSSION:

At their February 20, 2003 meeting, the Zoning Commission conducted its public hearing regarding the proposed text amendments in this case. The petitioner is proposing a series of three text amendments which are intended to apply only to the two properties located at the southeast and southwest corners of the intersection of the Douglas Road right-of-way and Rogers Street, north of Maple Avenue. The amendments include proposed changes to the minimum front setback requirement, and to the location of parking spaces and fences within the minimum front setback adjacent to this section of the Douglas Road right-of-way.

As outlined in further detail in the attached Staff Report, the petitioner made a formal application to vacate this section of the Douglas Road right-of-way in July of 2000 in order to accommodate additional parking and security fencing. In November of 2002, the Village Council expressed its unwillingness to vacate this portion of the right-of-way, indicating concern that there could be a change in the plans for the potential underpass at the Maple Avenue crossing of the Burlington Northern Santa Fe Rail Road just west of the subject right-of-way.

In the alternative to vacating the subject right-of-way, the Council requested that Staff work with the petitioner to find an alternate means of more efficiently utilizing private property in lieu of vacating the right-of-way. The result is the three text amendments being proposed by the petitioner. In Staff's opinion, the proposed amendments adequately address the request of the Council to provide the flexibility needed to allow the two property owners adjacent to this section of the Douglas Road right-of-way to be better able to utilize their properties without having to vacate the right-of-way.

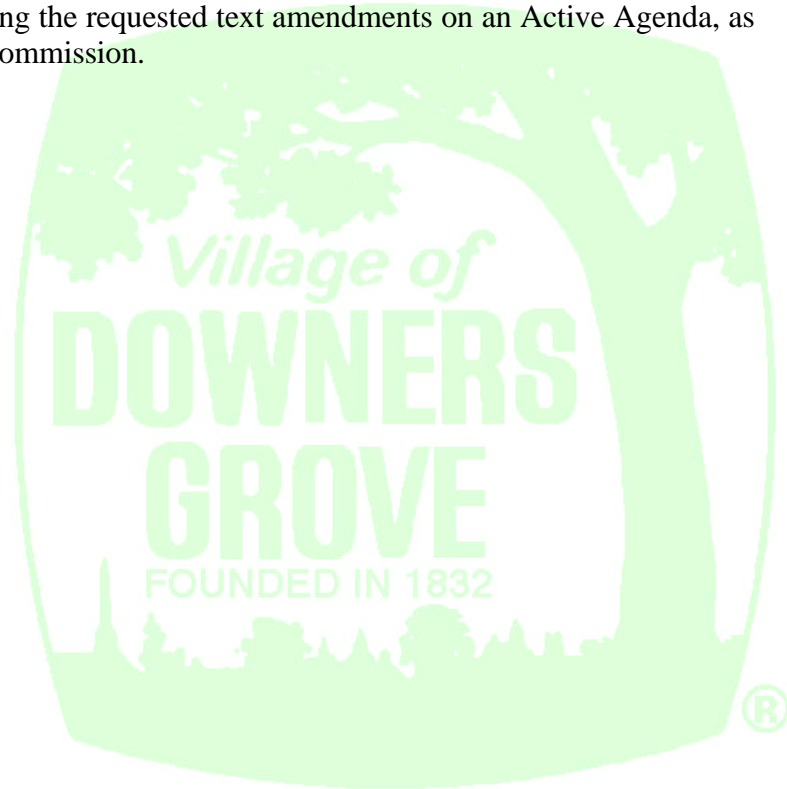
As outlined in the attached minutes of the Zoning Commission's public hearing regarding this case, the Commission has unanimously forwarded a recommendation for approval of the text amendments being requested in this case.

ATTACHMENTS:

1. Correspondence from Chairman of the Zoning Commission, Lawrence Musielak
2. Staff Report, dated February 14, 2003
3. Draft Minutes of Zoning Commission public hearing, dated February 20, 2003
4. Draft Ordinance prepared by Legal Department

RECOMMENDATION:

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



**VILLAGE OF DOWNERS GROVE
DEPARTMENTAL CORRESPONDENCE**

TO: Zoning Commission Members

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

DATE: February 14, 2003

RE: **Case 2003-02: A text amendment applicable only to those properties fronting on Douglas Road between Rogers Street on the north and Maple Avenue on the south to reduce the minimum front setback requirement from 35 feet to 10 feet; to allow parking facilities within the required front setback; and to allow chain link fences within the required front setback.**

Introduction:

The petitioner, Mr. Robert Bair of Bair Plumbing and Heating located at 447 Rogers Street, is proposing a series of three text amendments which are intended to apply to a very small area within the Village, namely the two properties located at the southwest and southeast corners of the intersection of the Douglas Road right-of-way and Rogers Street, north of Maple Avenue. The proposed amendments would be applicable only to these two properties, and include amendments to the provisions regarding the minimum required front setback, and to the location of parking spaces and fences within the required front setback adjacent to this section of the Douglas Road right-of-way.

Background Information:

The Douglas Road right-of-way located between Rogers Street on the north and Maple Avenue on the south is semi-improved with a paved surface, which has been used for access to and parking for the two businesses which abut the right-of-way. The right-of-way has not been improved for roadway purposes with features such as curbs, gutters, parkways, streetlights or sidewalks. Due to a significant change in grade, the pavement does not intersect with Maple Avenue to the south, and the right-of-way is therefore not used for typical thoroughfare purposes.

The petitioner desires to improve his property at 447 Rogers Street with additional fenced-in parking areas along the Douglas Road right-of-way frontage of his property, which is zoned M-1, Light Manufacturing. Due to the setback regulations as applied to this property (which are further described later in this memorandum) and the locations of the current improvements on the site, the area available for the desired parking and fencing is severely limited.

The petitioner first approached the Village regarding these issues approximately seven years ago in 1996, at which time he inquired as to vacating this portion of the Douglas Avenue right-of-way. Due to the pending installation of the DuPage Water Commission water main on the north

side of Maple Avenue at that time, the Village Manager's Office requested that the petitioner wait until that project was completed before submitting an application to vacate the right-of-way.

In July of 2000, the petitioner made a formal application to vacate the right-of-way. In September of 2000, the vacation request received a unanimous affirmative recommendation from the Village's Plan Commission, subject to the reservation of certain utility easements. The Plan Commission found that the factors limiting the likelihood of the right-of-way ever being improved for thoroughfare purposes warranted its vacation.

Subsequent to the Plan Commission's hearing but prior to their recommendation being forwarded to the Village Council for consideration, the Village Manager's Office then placed the vacation request on hold. The subject right-of-way is located just east of the existing Maple Avenue crossing at the Burlington Northern Santa Fe Rail Road, and it was determined that the question as to whether the vacation request would have any relationship to the potential construction of an underpass at the Maple Avenue crossing should be answered first.

The vacation request remained on hold for just over two years while the Village's Transportation Engineer, the Burlington Northern Santa Fe Rail Road and their consulting engineers reviewed this issue. After considerable review, it was the belief of the technical staff and consultants that the right-of-way could be vacated without any impact on the potential construction of an underpass at the Maple Avenue crossing.

The vacation proposal was subsequently submitted to the Village Council in November of 2002, at which time the Council expressed significant concern that the plans for the underpass could change. At their workshop meeting regarding this item, the Council members expressed their unwillingness to vacate this portion of the Douglas Road right-of-way. In the alternative, the Village Council requested that Staff to work with the petitioner to find another method of more efficiently utilizing the private property adjacent to the subject right-of-way other than vacating it. The result is the series of three text amendments being proposed in this case.

All three amendments will apply only to the Douglas Road right-of-way frontages of the two properties between Rogers Street on the north and Maple Avenue on the south. The first amendment proposes to reduce the minimum front setback requirement from 35 feet to 10 feet. The second amendment proposes to allow parking to be located within the required front setback and up to the front property line. The third amendment proposes to allow chain link fences up to 8 feet in height to be located within the required front setback and up to the front property line.

Proposed Amendments:

Front Setback:

Section 28-1110(m) of the Zoning Ordinance establishes the minimum front setback requirements for the M-1 District. Generally, properties within the M-1 District must provide a base front setback of 35 feet, which must be maintained on both street sides of a corner lot. It is noteworthy that the Zoning Ordinance provides certain alternative setback requirements for properties in areas with unique or otherwise restrictive lot characteristics. For instance, the properties on the south side of Rogers Street between Prospect Avenue and Fairview Avenue,

including the two subject properties in question, have an alternate front setback requirement of 10 feet due to the relative shallow nature of the properties between Rogers Street on the north and the Burlington Northern Santa Fe Rail Road right-of-way on the south.

Section 28-1110(m) of the Zoning Ordinance is proposed to be amended as follows to reduce the minimum front setback on the Douglas Road frontage of the two properties in question from 35 feet to 10 feet (~~stricken~~ items are proposed to be deleted, double-underlined items are proposed to be added):

28-1110 Front Setbacks

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 centerline 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.
- (8) The setback on Douglas Road between Rogers Street on the north and Maple Avenue on the south shall be not less than ten (10) feet.

Parking within the minimum front setback:

The second amendment proposes to allow parking within the minimum required front setback on the Douglas Road frontage of the two properties fronting on Douglas Road between Rogers and Maple.

With limited exceptions, the provisions of Section 28-1404 of the Zoning Ordinance do not allow parking spaces to be located within the required front setback. The first exception to this requirement pertains to parking for single family residential uses. The second exception was part of a text amendment that was adopted by the Village Council in December of 2001 which reduced the front setback for parking from 35 feet to 10 feet for only those properties located on the west side of Thatcher Road that also abut the Interstate 355 Tollway.

Please note that the prohibition of parking within the required front setback does not necessarily prohibit parking in front of a building. If the setback of the building is sufficient so that parking can be provided without encroaching into the required front setback, parking is permitted to be located in front of a building. Also, it is noteworthy that within the B-3 Zoning District along Ogden Avenue, the parking setback along the intersecting street sides of corner lots was reduced from 25 feet to 8 feet, thereby effectively allowing parking to be located within the required front setback. Additionally, the minimum required setback for parking along Ogden Avenue is 50 feet as measured from the centerline of the Ogden Avenue right-of-way, which results in a zero parking setback requirement for those properties which abut sections of Ogden Avenue with a 50 foot wide half right-of-way.

Specific to the M-1 District, the current minimum front setback for structures and for parking is 35 feet, which the previous amendment proposes to reduce to 10 feet for the two properties in question. Through this amendment, parking is proposed to be allowed to be located within the required front setback along the Douglas road right-of-way of the two properties in question. This would effectively treat the frontage on the Douglas Road right-of-way as being comparable to having a side yard setback requirement, which in the M-1 District is a minimum of 10 feet. Section 28-1404(a) regarding the location of parking spaces within the required front yard is proposed to be amended as follows (~~stricken~~ items are proposed to be deleted, double-underlined items are proposed to be added):

28-1404 Location of Parking Spaces

(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 about 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.

(4) Off-street parking spaces for properties in the M-1, Light Manufacturing Zoning District that front on Douglas Road between Rogers Street on the north and Maple Avenue on the south may be located in the required front yard on the Douglas Road frontage, provided that such spaces are located in a parking lot that is improved with an appropriate surface material approved by the Village Engineer.

Chain Link Fences within the required front yard:

The third amendment proposes to add a provision allowing chain link fences of up to 8 feet in height to be located in the required front yard, but again, only on the Douglas Road frontage of the two properties located between Rogers and Maple.

The petitioner desires to enclose the parking area on his property for security purposes, but to still have visibility. Currently, Section 28-1301 of the Zoning Ordinance permits "open design fences" of up to eight feet in height in Business and Manufacturing districts. However, the definition of "open design fences" in Section 28-201 specifically excludes chain link fences. Section 28-1301 is therefore proposed to be amended to allow chain link fences on the Douglas Road frontages of the two properties in question to be up to 8 feet in height in the same area where 8 foot tall open design fences are currently allowed: (~~stricken~~ items are proposed to be deleted, double-underlined items are proposed to be added):

28-1301 Fences

a) Fences, including walls and plants in the nature of a fence, shall be erected in conformance with the requirements of this section.

(b) through (g) to remain.

(h) In business and manufacturing districts, the following are allowed:

(1) In front yards and side yards abutting a street, open-design fences of no more than eight (8) feet in height are permitted.

(2) In rear yards and side yards not abutting a street, fences or walls of no more than eight (8) feet in height are permitted.

(3) In front yards of properties fronting on Douglas Road between Rogers Street on the north and Maple Avenue on the south, chain link fences of no more than eight (8) feet in height are permitted on the Douglas Road frontage.

Staff Recommendation:

Staff recognizes the steps that the petitioner has taken over the past seven years in attempting to address the unique situation of the two properties adjacent to the Douglas Road right-of-way between Rogers Street and Maple Avenue.

Staff views the proposed amendments as reasonable and of a narrow scope applicable to only the two subject properties in question. Additionally, Staff is of the opinion that these three amendments adequately address the request of the Village Council to provide the flexibility needed to allow the two property owners adjacent to this section of the Douglas Road right-of-way to be better able to utilize their properties without having to vacate the right-of-way.

Staff therefore recommends that the Zoning Commission consider forwarding an affirmative recommendation to the Village Council regarding the three amendments proposed in this case.

Legal Notice: Village of Downers Grove Notice of Public Hearing - Notice is hereby given that a public hearing will be conducted by the Zoning Commission of the Village of Downers Grove on Thursday, February 20, 2003 at 7:30 p.m. in the Committee Room of the Village Hall, 801 Burlington Avenue, Downers Grove, IL. The purpose of the public hearing is to consider the following proposed text amendments to the Zoning Ordinance:

Case 2003-01, a request for a text amendment to allow the permanent outdoor display of merchandise as a Special Use in the B-3, General Services and Highway Business District.

Case 2003-02, a text amendment applicable only to those properties fronting on Douglas Road between Rogers Street on the north and Maple Avenue on the south to reduce the minimum front setback requirement from 35 feet to 10 feet; to allow parking facilities within the required front setback; and to allow chain link fences within the required front setback.

All interested parties should attend this hearing and will be given an 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 should contact the community relations department at (630) 434-5550 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, February 5, 2003.

DRAFT

Chairman Musielak asked for a motion on the above amendment.

MR. LEVIN MOVED TO AMEND THE PETITIONER'S AMENDMENT TO INCLUDE THE FOLLOWING TO SECTION 28-1005(e): "THE PETITIONER SHALL DEMONSTRATE THAT ON-SITE PARKING WILL BE SATISFACTORILY ADDRESSED IN RELATION TO THE AMOUNT OF AREA UTILIZED FOR THE OUTDOOR DISPLAY OF MERCHANDISE, AS WELL AS THE TYPE OF MERCHANDISE BEING DISPLAYED." MR. GRIESBAUM SECONDED THE MOTION.

VOTE: Aye: Mr. Levin, Mr. Griesbaum, Mr. Baker, Mr. Pappalardo, Ms. Rabatah, Mr. Steele, Chairman Musielak

Nay: None

Abstain: None

MOTION CARRIED: 7:0:0

Chairman Musielak asked for a roll call on the amended motion.

VOTE: Aye: Mr. Griesbaum, Mr. Levin, Mr. Baker, Mr. Pappalardo, Ms. Rabatah, Mr. Steele, Chairman Musielak

Nay: None

Abstain: None

MOTION CARRIED: 7:0:0

Case 2003-02

Chairman Musielak called the next public hearing to order, Case 2003-02, a request to amend the Zoning Ordinance as applicable only to those properties fronting on the Douglas Road right-of-way between Rogers Street on the north and Maple Avenue on the south, to reduce the minimum front setback requirement to 10 feet; to allow parking facilities within the required front setback; and to allow chain link fences within the required front setback. Mr. Robert Bair of Bair Plumbing and Heating, Petitioner.

Mr. Robert Bair of Bair Plumbing and Heating located at 447 Rogers Street, said that he is proposing a series of three text amendments, which are intended to apply to a very small area within the Village in order to be able to move his existing chain link fence out about 30 feet to accommodate additional parking areas on his property.

DRAFT

Mr. Bair explained that his business is growing and he has trucks and equipment which he would like to protect by parking them within a fenced-in area. He said that there is a chain link fence currently located along the Douglas Road frontage of his property, and that he would like to move the fence out to a ten-foot setback in order to provide more space in which to store his trucks and equipment. Mr. Bair indicated that the existing fence is approximately 40 to 45 feet from the lot line along Douglas Road, and he would like to move it out about 30 feet, or approximately 10 feet from that property line.

Mr. Bair added that his business is located in an area zoned for manufacturing, and most of the other businesses in the area are manufacturing businesses. Mr. Bair said Douglas Road is a dedicated road that has not been maintained by the Village.

Chairman Musielak asked for clarification as to whether Douglas Road is a dedicated right-of-way, but is unimproved for typical street purposes. Mr. Bair replied yes, and said that he and his neighbor plow the area and generally keep it clean. There are no curbs or sidewalks within the right-of-way.

Ms. Browne presented the staff report, reviewing the amendments being proposed in this case. Ms. Browne briefly reviewed the history of the petitioner's initial proposal to vacate the subject right-of-way. She explained that the Council has asked that staff work with the petitioner to find an alternate means of allowing the petitioner to better utilize the private property in lieu of vacating the right-of-way. The result is the three text amendments being proposed in this case.

In order to illustrate the effects of the text amendments being proposed in this case, Ms. Browne distributed a partial plat of survey for the 447 Rogers Street property. She illustrated the property lines, the existing setback requirements, and the proposed setback requirements.

Ms. Browne explained that due to the shallowness of properties in this area which abut Maple Avenue or the Burlington Northern right-of-way, the Ordinance provides certain modified front yard setbacks. She noted that there is currently a 10-foot setback requirement as measured from the northerly property line on Rogers Street, as well as a 10-foot setback requirement as measured from the southerly property line along Maple Avenue.

Ms. Browne pointed out that the longest portion of Mr. Bair's existing fence is approximately 35 feet from the westerly front property line along the Douglas Road right-of-way. Ms. Browne said Mr. Bair's proposal is to reduce the 35-foot setback along Douglas Road to a 10-foot setback, and to allow parking areas and chain link fences within the required setback.

Ms. Browne explained that if these text amendments were to be approved, the required setback would be reduced to 10 feet for buildings; however, fences and parking would be allowed to be located within the required 10-foot setback. Ms. Browne said the amendment is intended to treat the Douglas Road front property lines of the two affected properties in the same manner as the Rogers Street and Maple Avenue front property lines of the properties. Ms. Browne added that the two affected properties are also unusual in that each of them has three frontages, and therefore has three front setback obligations.

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Ms. Browne pointed out that this section of Douglas Road is a semi-improved right-of-way that has not been and can be assumed to never be used as a north-south thoroughfare between Rogers and Maple due to the grade differential of approximately 6 to 8 feet between Douglas Road and Maple Avenue.

Ms. Browne also outlined the process which Mr. Bair has undertaken in attempts to resolve this issue, including a proposal to vacate the subject right-of-way along Douglas Road. She explained that his original vacation petition filed and reviewed by the Plan Commission in 2000, who recommended approval of the vacation. However, the recommendation was put on hold at the Village Council level while engineers for the Village and the Burlington Northern Santa Fe Railroad investigated the possibility of an underpass at the Maple Avenue crossing just west of the area in question. Although the engineers determined that this vacation of the right-of-way should not impact that potential grade separation, the Village Council was still concerned that at some time in the future the plans could potentially change. The Council did not object to what the petitioner was trying to achieve in trying to better utilize his private property.

Ms. Browne said the Council requested that staff work with the petitioner to try to find another way to achieve his goal without having to vacate the Douglas Road right-of-way. The result is the text amendments being proposed in this case, which represent the culmination of all the processes that the petitioner has gone through over the years.

Ms. Browne concluded that staff views these amendments as very narrow in scope, in that they apply only to Mr. Bair's property and the property directly across from him on Douglas Road. Additionally, the amendments would leave the public right-of-way intact for any future public purpose, which was the request of the Council.

Mr. Griesbaum asked if the right-of-way is not vacated, could it be used for an underpass or for other purposes. Ms. Browne said she did not believe that pavement in the Douglas Road right-of-way would ever be physically connected to the pavement of Maple Avenue due to the significant change in grade between the two pavements. However, she explained that the Council was concerned that the Maple Avenue right-of-way may have to be widened in the future to accommodate an underpass. Rather than vacating the Douglas Road right of way north of Maple and potentially having to acquire it back at some point in the future in order to widen the Maple Avenue right-of-way, the Council wanted to be able to accommodate the petitioner without having to vacate the right-of-way.

Ms. Browne added that the Village Council has currently instituted a 6-month moratorium on vacations, and that they are considering amending their policy to require compensation for vacated rights-of-way.

Chairman Musielak asked if the other abutting property owner is aware of Mr. Bair's petition. Ms. Browne replied yes, and added that at the time of the vacation petition, the other owner actually signed the petition for the vacation.

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Chairman Musielak asked Mr. Bair if moving his fence out to a ten-foot setback would affect the access or egress of his neighbors. Mr. Bair replied no.

Mr. Levin add that there are only two properties involved, Mr. Bair's and the Perma Seal building across Douglas Avenue.

Mr. Baker asked Ms. Browne if Mr. Bair or a future owner could expand the building on the site out to the ten-foot setback. Ms. Browne replied yes, although it is not part of Mr. Bair's current proposal. She explained that staff felt it would be reasonable to treat the Douglas Road frontages of these two properties similar to the Rogers Street and Maple Avenue frontages, essentially treating the Douglas front property line as a side property line, in that the side setback in the M-1 District is 10 feet.

Mr. Baker asked if the property owners on both sides of this section of Douglas Road expanded their buildings out to the ten-foot setback would it present a problem if the road were reinstated as a true road. He wondered if the proximity of the buildings would present a fire hazard or make it difficult for fire equipment to access the area.

Ms. Browne said no, indicating that even if both buildings on either side were to have 10-foot front setbacks, given the 66-foot wide right-of-way, there would still be approximately 86 feet of space separating the two buildings. If fences were constructed on the front property lines, there would still be 66 feet of separation between the two fences.

Ms. Rabatah asked if anyone knew how long the current grade separation has been in place. The consensus of the Commission was that the grade separation has always been there. Before the sanitary line was installed within the Maple Avenue right-of-way, the grade separation was a grassy hill, and the current retaining wall has been in place at least for two years.

Chairman Musielak asked if Mr. Bair's trucks are visible from Maple Avenue when they are parked against the embankment. Mr. Bair said he does not park trucks close to the embankment; however, the large trucks are visible from Maple Avenue.

Chairman Musielak asked for a motion on the amendments.

Mr. Griesbaum thanked Mr. Bair for his patience over the last several years, indicating that although the vacation proposal has not worked out, he hopes these text amendments afford him enough flexibility to better utilize his property.

**Village of Downers Grove
Interdepartmental Correspondence**

TO: Mayor and Council

FROM: Amanda Browne, Department of Planning Services

DATE: March 18, 2003

RE: **Site Plan Exhibit for Zoning Commission Case 2003-02, a text amendment concerning the front setback requirements for buildings, parking and fencing for properties fronting on the Douglas Road right-of-way between Rogers Street on the north and Maple Avenue on the south.**

As outlined in the minutes of the February 20, 2003 meeting of the Zoning Commission regarding the above referenced case, the attached site plan exhibit was submitted to the commission members to illustrate the existing and proposed setback requirements as applied to one of the two properties affected by the proposed amendments.

Please feel free to contact me at 434-5531 if you have any questions regarding this plan.

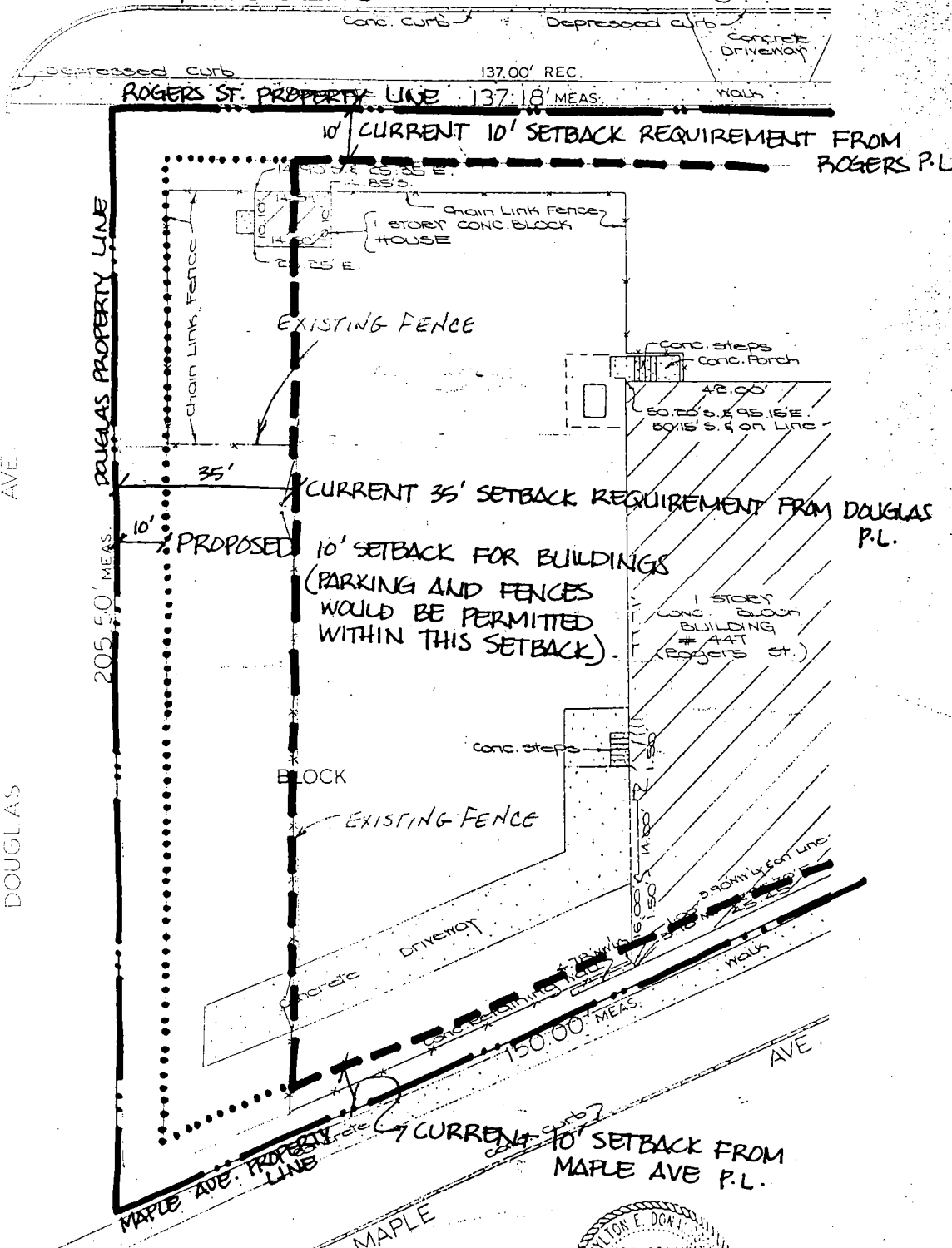
Plat of Survey

OF

BLOCK 13 (EXCEPT THE EAST 310.97 FEET), MEASURED ON THE NORTH LINE THEREOF), IN GOSTYN, A SUBDIVISION
NORTHEAST 1/4 OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORD
THEREOF RECORDED JUNE 8, 1899 AS DOCUMENT 41158, IN DU PAGE COUNTY, ILLINOIS.
COMMONLY KNOWN AS: 447 ROGERS STREET, DOWNERS GROVE, ILLINOIS.

447 ROGERS

ST.



ORDINANCE NO. _____

AN ORDINANCE AMENDING CERTAIN SETBACK PROVISIONS ON DOUGLAS ROAD

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 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:*

(1) *General requirement.* Except as provided herein, setback requirements shall be the same as required in the R-4 District.

(2) *Landbank Development.* A Landbank Development shall not be required to provide any setback except as may be mandated by the Village Council in the context of a Planned Development.

(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.

(8) The setback on Douglas Road between Rogers Street on the north and Maple Avenue on the south shall be not less than ten (10) 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 Section 28-1303 of the Downers Grove Municipal Code is hereby amended as follows:

28-1301. Fences.

(a) Fences, including walls and plants in the nature of a fence, shall be erected in conformance with the requirements of this section.

(b) It shall be unlawful to erect or alter any fence within the Village unless a permit has been issued by the Director. A written petition for such permit shall be filed with the Director and fee paid, in conformance with this Zoning Ordinance. A fence permit issued under this section shall be valid for a term of six (6) months.

(c) *Impairment of public protection services and vision obstruction prohibited.* No fence shall be constructed in any yard which, by nature of the material used for its construction, its design or its

location, would impair public protection services or would impair public safety by obstructing the vision of persons using the street, sidewalks, or driveways on or adjacent to such yard.

(d) *Structural elements.* All fences shall be constructed so that structural elements, if any, are located on the side of the fence facing toward the property on which the fence is constructed.

(e) *Open design fences.* Open design fences shall be constructed in such a manner that no vertical member shall exceed a width of six inches, and the ratio of open area to closed shall be 1:2, with the open area distributed uniformly over the entire fence surface.

(f) *Electrified or barbed wire fences.* No electrified or barbed wire fence shall be erected in any zoning district except that such fences may be erected in the business and manufacturing district by variation granted pursuant to Article XV of this Zoning Ordinance.

(g) *Residence district regulations.* In residence districts, the following are allowed:

(1) *Front and side yards abutting streets.* In front yards and side yards abutting a street:

(i) Open-design fences of no more than four (4) feet in height are permitted within required front yards and on corner lots within required side yards abutting streets.

(ii) Chain link and woven mesh fences are not permitted, except that chain link fences, including those which are anodized or vinyl-clad, constructed without slats, are permitted within the yard area on corner lots where the side of any principal structure located on such lot faces a street, provided that such fence shall be located only in the area from the rear line of the structure to the rear lot line, and further provided, that such fence shall not exceed four (4) feet in height.

(iii) Fences or walls of no more than six (6) feet in height are permitted within the yard area on corner lots where the side of any principal structure located on such lot faces a street if the rear of the structure faces the rear of a structure which is located on an adjacent corner lot, provided that such fence shall be located only in the area from the rear line of the structure to the rear lot line, and further provided that, if a driveway passes through such yard or within fifteen (15) feet of such yard on the nearest adjacent lot, the fence shall be constructed in such manner as to provide triangular vision clearance areas formed by the lot lines, the driveway, and lines connecting points fifteen (15) feet from the intersection thereof.

(2) In all other yards:

(i) Fences or walls of no more than six (6) feet in height are permitted within the required side or rear yard; provided, however, that on double frontage lots, where the rear of any principal structure located thereon faces a street, the yard on such frontage shall be considered a rear yard, subject to the provisions of this paragraph except that if a driveway passes through such yard or within fifteen (15) feet of such yard on the nearest adjacent lot, the fence shall be constructed in such manner as to provide triangular vision clearance areas formed by the lot lines, the driveway, and lines connecting points fifteen (15) feet from the intersection thereof.

(ii) On corner lots with three sides abutting a street, fences or walls of no more than six (6) feet in height are permitted within any yard area except that area where the front of any principal structure located on such lot faces a street, provided that such fence shall be located only in the area from the rear line of the structure to the rear lot line, and further provided that, if a driveway passes through such yard or within fifteen (15) feet of such yard on the nearest adjacent lot, the fence shall be constructed in such manner as to provide triangular vision clearance areas formed by the lot lines, the driveway, and lines connecting points fifteen (15) feet from the intersection thereof.

(h) In business and manufacturing districts, the following are allowed:

(1) In front yards and side yards abutting a street, open-design fences of no more than eight (8) feet in height are permitted.

(2) In rear yards and side yards not abutting a street, fences or walls of no more than eight (8) feet in height are permitted.

(3) In front yards of properties fronting on Douglas Road between Rogers Street on the north and Maple Avenue on the south, chain link fences of no more than eight (8) feet in height are permitted on the Douglas Road frontage.

SECTION 3. That Section 28-1404 of the Downers Grove Municipal Code is hereby amended

as follows:

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.

(4) Off-street parking spaces for properties in the M-1, Light Manufacturing Zoning District that front on Douglas Road between Rogers Street on the north and Maple Avenue on the south may be located in the required front yard on the Douglas Road frontage, 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 Board as a special use.

SECTION 4. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. 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

[dougstbk]