

**VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
FEBRUARY 20, 2007 AGENDA**

SUBJECT:	TYPE:	SUBMITTED BY:
Authorize staff to negotiate a Redevelopment Agreement for the property at the southwest corner of Ogden & Lee	<ul style="list-style-type: none"> ✓ Resolution Ordinance Motion Discussion Only 	David Fieldman Deputy Village Manager

SYNOPSIS

A resolution has been prepared authorizing staff to negotiate a Redevelopment Agreement inclusive of specific *key terms* of agreement for the property located at the southwest corner of Ogden & Lee. The proposed *key terms* are attached and detail the recommended Developer Obligations as well as Village Obligations.

STRATEGIC PLAN ALIGNMENT

The Strategic Plan Goals for 2011 include *Vibrant Major Commercial Corridors*. The Ogden Avenue Strategy approved by the Council in 2005 calls for the redevelopment of two sites per year. The Downers Grove Economic Development Commission has identified the redevelopment of this site as a top priority.

FISCAL IMPACT

Approval of this resolution does not financially obligate the Village at this time. At such future date as the Village Council approves a Redevelopment Agreement staff will present a complete fiscal impact analysis and said Redevelopment Agreement would be drafted to generate a net positive or neutral fiscal impact to the Village.

UPDATE AND RECOMMENDATION

Due to weather, the Village Council did not discuss this item as a part of the February, 13, 2007, Council Workshop meeting. Public comments were heard on February 13, 2007.

Therefore, it is recommended that the Village Council approve a single motion at the start of the February 20, 2007, Village Council meeting to waive the traditional one-week waiting period to allow for action on appropriate items.

Subject to approval of the motion to waive the traditional one-week waiting period, staff recommends Council discuss this item and proceed with approval, provided there is consensus for support of this item.

BACKGROUND

The subject site is located at the southwest corner of Ogden Avenue and Lee Street and is commonly referred to the “Aldi site.” The 15.5 acre site consists of multiple parcels under separate ownership. The Bradford Real Estate Companies, Chicago, Illinois, a developer specializing in commercial in-fill redevelopment, has contracts to purchase a majority of the parcels and expects to have all parcels under contract within the next thirty days. The developer has proposed a mixed use development of commercial

and residential uses. The commercial portion of the site is located within the Ogden Avenue Tax Increment Financing (TIF) District. The proposed development would require zoning approval in the form of a planned development which would include a public hearing before the Plan Commission with recommendation to the Village Council.

Impediments to Development

The subject site contains several impediments to development that may have contributed to the fact that this parcel has sat vacant for a number of years. Specific site related issues include:

Environmental Contamination: A large portion of the site was previously used as a junk yard. It is known that the site contains lead that must be remediated to Illinois Environmental Protection Agency standards. The remediation will likely consist of the excavation of the contaminated soil and removal from the site. The contaminated soil will have to be handled as special waste and placed in an approved landfill.

Wetlands: A large portion of the site contains wetlands. These wetlands must be managed pursuant to the Village's stormwater management regulations. The wetland management will likely consist of filling in the wetlands and paying a fee in lieu of on-site wetland mitigation.

Floodplain: A large portion of the site lies within the floodplain. Development within and around the floodplain must conform to the Village's stormwater management regulations. The floodplain management will likely consist of filling in the floodplain and providing the required on-site compensatory storage by expanding the capacity of the detention basin.

Sanitary Sewer: The nearest usable sanitary sewer main is located over 1,200 feet north of the site. This main would have to be extended to the site to serve the development. The construction is expected to take about six months and cost approximately \$440,000.

Multiple Land Owners: The site is comprised of 14 parcels owned by 7 individuals. Assembling these parcels and coordinating the schedule of acquisition increases development costs and allows the site to develop as a single large scale development as envisioned in the Ogden Master Plan

Tax Increment Financing Assistance

The proposed key terms would provide assistance in the form of installation of public improvements, the use of a portion of increased real estate taxes generated by the proposed development and use of a portion of the new sales taxes generated by the proposed improvements. The assistance would pay a portion of the costs of addressing the impediments identified above. A preliminary financial analysis completed by staff indicates that the proposed development would generate enough real estate tax increment and new sales tax revenue to cover the cost of the requested assistance.

As such, staff has evaluated the developer's request for TIF assistance and its level of consistency with the Ogden Avenue TIF District Strategy and prepared the following summary of the relationship between the developer's proposal and the Ogden Avenue TIF District Strategy:

Gap Financing - The requested assistance package is designed to cover the financial gap in the project created by the unique conditions of the site. To make sure that the Village pays only for the financial gap, the Village's TIF consultant will review the development pro-

forma to determine the actual financial gap and make recommendations about the level of assistance to be provided.

Positive or Neutral Financial Return - The amount of Village revenue generated by the proposed development over the remaining life of the Ogden TIF District must be equal to or greater than the Village's out of pocket costs.

Minimize the Risk of the Use of Public Funds - The Village should be guaranteed that its up-front cash investment in the project will result in the development of the project. To address this concept, a key term is requirement of a letter of credit in the amount of \$1 million.

Remediate the Environmental Contamination - The proposed development must result in a full remediation of contamination on the site.

High Quality Buildings and Sales Tax Producing Tenants - The Village's goal is to improve the appearance of Ogden Avenue and to generate sales tax from the uses along the corridor. Therefore, a key term is to require a planned development ensuring high quality building design and restricts the tenants to sales tax producing uses, except for the bank shown on the plans.

It is proposed that some of the requested assistance would be provided “up-front” as part of the development process including the installation of a traffic signal at Lee Street, the installation of the sanitary sewer and a cash contribution of \$900,000 for TIF eligible expenses. These “up-front” contributions are included in the FY 2007 Budget in the Ogden TIF Fund and Capital Fund. The remainder of the assistance would be paid over time from revenues generated by the development. The payments would consist of 82% of the incremental real estate tax increment generated and 50% of the new sales tax revenue generated by the development. The balance of the real estate tax increment from this development would be paid to School District 58 pursuant to an existing agreement. The total amount of assistance paid to the developer would be subject to Village Council approval based on complete analysis prepared by the Village’s TIF consultant.

Development Concept Summary

The developer would like to develop the site with commercial and residential uses listed in the table below and according to the attached concept plan.

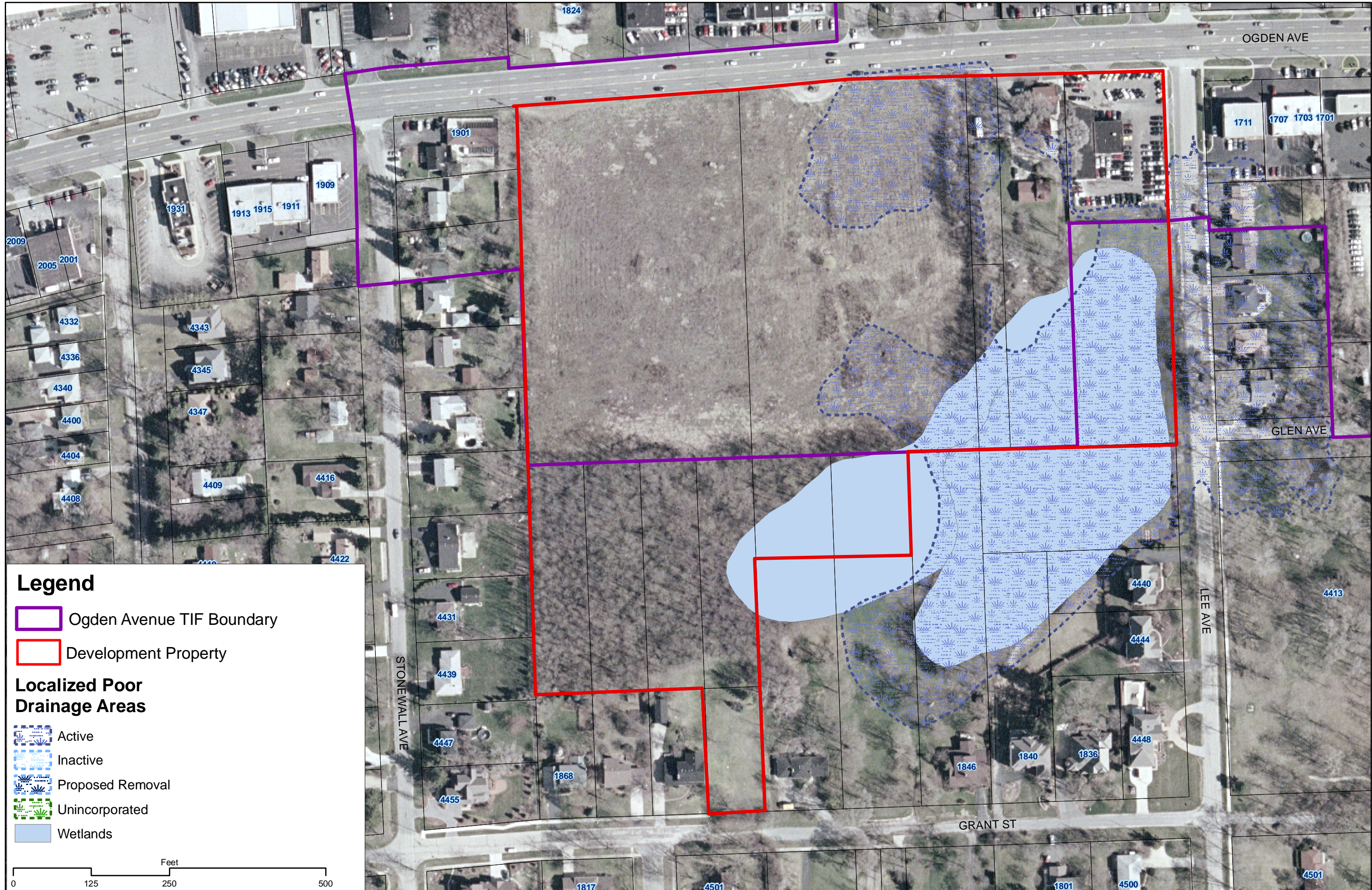
Parcel Size	15.5 acres
Proposed Commercial Uses	
Aldi grocery store	15,450 square feet
Retail stores	15,600 square feet
Restaurant with drive-thru	3,856 square feet
Restaurant	3,917 square feet
Bank with drive-thru	4,115 square feet
Commercial Outlot	.89 acres
Proposed Residential Uses	
Townhomes	78 units

The Ogden Avenue Master Plan recommends that the site be developed with 6,000 square feet of restaurant space and 105,000 square feet of retail space (see attached page). Please note that the Ogden Avenue Master Plan recommendation does not address issues such as floodplain and wetland management. The



recommendation is not consistent with the type of development viable under current market conditions. Staff from the Village and the Downers Grove Economic Development Corporation and the developer have not been able to identify retail tenants that desire the size and type of commercial space shown on the master plan recommendation. Interested retail tenants desire smaller spaces as shown on the concept plan. To improve the economic viability of the project and to provide a buffer from the proposed commercial uses and the existing residential uses to the south, the developer is proposing to develop the balance of the site with townhomes. The inclusion of the townhomes helps to cover the extraordinary costs of the development impediments. Staff previously fielded some interest from large retail tenants that proposed about 200,000 square feet of space, however, this type of development would require the acquisition and demolition of all properties on the block bounded by Ogden Avenue, Stonewall Avenue, Grant Street and Lee Avenue.

Review and Approval Process





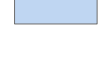
If the Council authorizes staff to negotiate a redevelopment agreement, the staff and the developer would work together to draft the agreement. This agreement would be presented to Council for consideration in approximately 90 to 120 days. In addition, the Village Council would have to approve the zoning for the site in the form of a planned development. A public hearing before the Plan Commission would be required in advance of Council consideration of the planned development.



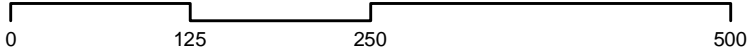
Legend

-  Ogden Avenue TIF Boundary
-  Development Property

Localized Poor Drainage Areas

-  Active
-  Inactive
-  Proposed Removal
-  Unincorporated
-  Wetlands

Feet



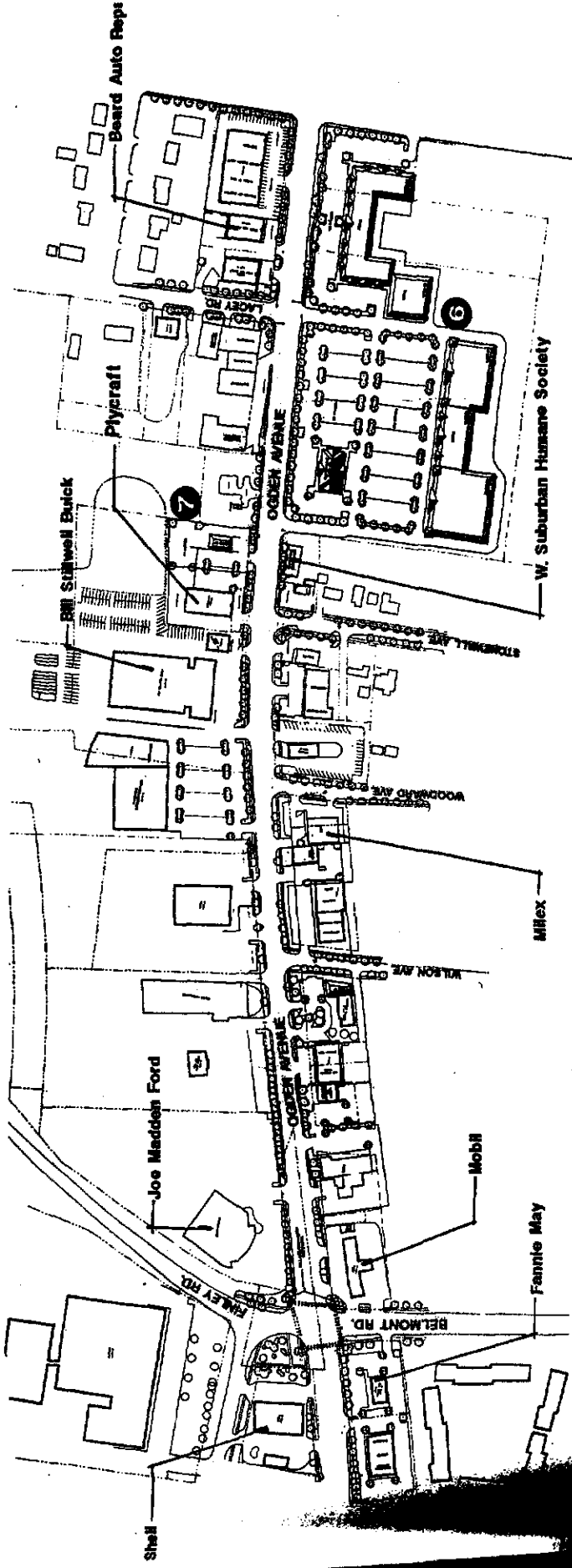
Redevelopment Opportunity Sites

B

OGDEN AVENUE COMMERCIAL CORRIDOR

Master Plan
Section B: Sara Lee Store to Lee Ave

Site	6. Stonewall/Lee (South side)	7. Plycraft and CornEd Site (North side)
Site Area	592,800 sq. ft.	23,744 sq. ft.
Building Area	Retail: 105,100 sq. ft. Restaurant: 6,000 sq. ft.	2,400 sq. ft.
Potential Use	Retail/Restaurant	Retail
Existing Use	Vacant Land	Vacant land



VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY

INITIATED: Legal Department **DATE:** February 20, 2007
(Name)

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

NATURE OF ACTION:

- Ordinance
- Resolution
- Motion
- Other

STEPS NEEDED TO IMPLEMENT ACTION:

Motion to Adopt "A RESOLUTION AUTHORIZING STAFF TO NEGOTIATE AND PREPARE A REDEVELOPMENT AGREEMENT INCLUSIVE OF SPECIFIC KEY TERMS FOR THE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF OGDEN AVENUE & LEE STREET", as presented.

SUMMARY OF ITEM:

Adoption of the attached ordinance will authorize staff to negotiate and prepare a redevelopment agreement for the property located at the southwest corner of Ogden Avenue and Lee Street.

RECORD OF ACTION TAKEN:

RESOLUTION NO. ____

**A RESOLUTION AUTHORIZING STAFF TO NEGOTIATE AND
PREPARE A REDEVELOPMENT AGREEMENT INCLUSIVE OF SPECIFIC
KEY TERMS FOR THE PROPERTY LOCATED AT THE
SOUTHWEST CORNER OF OGDEN AVENUE & LEE STREET**

WHEREAS, the Village is a home rule unit of government in accordance with Article VII, Section 6, of the Constitution of the State of Illinois, 1970; and

WHEREAS, the Village has the authority, pursuant to the laws of the State of Illinois, to promote the health, safety and welfare of the Village and its inhabitants, to prevent the presence of blight, to encourage private development in order to enhance the local tax base, to increase additional tax revenues realized by the Village, foster increased economic activity within the Village, to increase employment opportunities within the Village, and to enter into contractual agreements with third parties for the purpose of achieving the aforesaid purposes, and otherwise be in the best interests of the Village;

WHEREAS, the Village is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1, et seq., as amended (the "Act"), to finance redevelopment in accordance with the conditions and requirements set forth in the Act; and

WHEREAS, to stimulate and induce redevelopment on Ogden Avenue pursuant to the Act, the Village has adopted the following ordinances, after giving all notices required and after conducting the public hearings required by law:

1. Ordinance No. 4247, titled "*An Ordinance Approving the Ogden Avenue Corridor Redevelopment Plan and Project*" (the "Redevelopment Plan");
2. Ordinance No. 4248, titled "*An Ordinance Designating the Ogden Avenue Corridor Redevelopment Project Area*" ("Redevelopment Project Area");
3. Ordinance No. 4249, titled "*An Ordinance Adopting Tax Increment Financing for the Village of Downers Grove, DuPage County, Illinois, in Connection with the Designation of the Ogden Avenue Corridor Redevelopment Project Area.*"

WHEREAS, The Bradford Real Estate Companies desire to develop the property generally located at the southwest corner of Ogden Avenue and Lee Street as graphically depicted on the attached Concept Site Plan attached hereto and incorporated herein by reference as Exhibit "A"; and

WHEREAS, it is necessary for the successful completion of a portion of the Redevelopment Plan that the Village enter into a Redevelopment Agreement with The Bradford Real Estate Companies to provide for the future development of the property, thereby implementing and bringing to completion a portion of the Redevelopment Plan; and

WHEREAS, the Village has determined that it is desirable and in the Village's best interests to assist The Bradford Real Estate Companies in the manner set forth in the Redevelopment Agreement Key Terms attached hereto and incorporated herein by reference as Exhibit "B".

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

SECTION 1. The Village staff is hereby authorized to negotiate and prepare a Redevelopment Agreement with The Bradford Real Estate Companies for the redevelopment of the property generally located at the southwest corner of Ogden Avenue and Lee Street.

SECTION 2. The Redevelopment Agreement to be negotiated and prepared shall substantially conform to the Redevelopment Agreement Key Terms attached hereto as Exhibit "B".

SECTION 3. Upon completion of the negotiation and drafting of the Redevelopment Agreement, the Village staff shall present the Redevelopment Agreement to the Village Council for consideration pursuant to Village Code and the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1, et seq., as amended.

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

SECTION 5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest: _____
Village Clerk

Redevelopment Agreement
Key Terms
February 13, 2007

Developer Obligations

Developer shall construct all public and private improvements, except the items labeled Village Improvements below. The developer improvements shall include the burial of the overhead utility lines.

Developer shall develop the site per the attached concept site plan.

Developer shall complete the required environmental remediation. Developer shall obtain a Focused No Further Remediation letter from the Illinois EPA no later than (date to be inserted).

Developer shall adhere to an approved development schedule that includes deadlines for the submittal of a planned development application, obtaining planned development approval, starting development activities and completing development activities.

At the time of execution of the Redevelopment Agreement, the Developer shall submit a letter of credit in the amount of \$1.0 million to ensure completion of the development. The letter of credit shall be reduced and released according to the following schedule:

- Reduced by \$250,000 to \$750,000 upon completion of site development (mass grading, installation of underground utilities, installation of detention basin)
- Reduced by \$250,000 to \$500,000 upon completion of foundation of the final commercial building.
- Reduced by \$250,000 to \$250,000 upon completion of the portion of the development located within the Tax Increment Financing District.
- Released upon the completion of the required maintenance period.

Village shall have the right to draw on the letter of credit upon the occurrence of a Penalty Event (falling behind the development schedule, abandonment of the project). The draws shall be limited to specific amounts for each penalty event occurrence.

Except for the bank shown on the concept site plan, the Developer shall lease the commercial space to sales tax producing tenants. Developer agrees that the initial lease period for all leases shall be not less than 5 years. Commercial tenants shall annually file copies of the ST-1 monthly sales tax forms.

Prior to the completion of the development, Developer shall submit proof of paid invoices for TIF eligible expenses.

Village Obligations

Village shall construct or cause to be constructed a traffic signal at the intersection of Ogden and Lee.

Village shall construct or cause to be constructed a sanitary sewer per the attached concept sewer plan. The sanitary sewer shall be brought to the north lot line of the subject property.

Village shall reimburse the developer for TIF eligible expenses in an amount not to exceed \$900,000 to be paid upon the completion of the commercial development and the portion of the townhome development located within the TIF District. Completion shall include the issuance of the No Further Remediation letter.

In addition, the Village shall pay to the developer an amount equal to 82% of the annual incremental property taxes generated by the portion of the development located within the Tax Increment Financing District and 50% of the sales tax generated by the development, provided that the total amount of the reimbursement shall not exceed a principal amount of \$5,425,000 pursuant to the terms of a Developer Note (4% interest carry on the unpaid principal). The note shall expire upon the expiration of the TIF District. The Village may make the payments from a fund of the Village's choice.

The amount of the principal of the Developer Note shall be subject to an adjustment based on the actual profit earned. For each dollar of profit earned above a return of 10%, the principal shall be reduced by \$0.50. Upon completion of the development, the developer shall submit actual costs and revenues of the project for Village review. **OR**, the amount of the principal of the Developer Note shall be determined at the time of execution of the Redevelopment Agreement. The amount of the Developer Note shall be determined by the Village based on a review of the development pro-forma and preparation of a real estate tax increment and sales tax increment projection by the Village's TIF consultant.