

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL WORKSHOP
FEBRUARY 27, 2007 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
Special Use, Planned Development, and Right-of-Way Vacation	Resolution <input checked="" type="checkbox"/> Ordinance Motion Discussion Only	Don Scheidler Interim Community Development Director

SYNOPSIS

Ordinances have been prepared for a Special Use, Planned Development and Right-of-Way Vacation of Pershing Avenue immediately south of Ogden Avenue for the expansion of an existing automobile dealership, Ultimate Motor Cars, at 2055 and 2101 Ogden Avenue. Pursuant to Village Policy, six (6) affirmative votes are required to approve the vacation of Pershing Avenue.

FISCAL IMPACT

Staff is recommending the petitioner compensate the Village to vacate Pershing Avenue per the Right-of-Way Vacation Policy. The recommended compensation is \$14,088.13 for the entire Right-of-Way. The estimated Equalized Assessed Value for this land is \$42,691.30. Placing this land on the tax rolls would generate approximately \$2,114 per year in total taxes to all taxing bodies. The Village portion of the annual real estate taxes is estimated to be \$190.

RECOMMENDATION

Staff recommends approval of the Special Use, Planned Development and Right-of-Way Vacation. Staff recommends that the petitioner prepare a plat of vacation and that this item be placed on a future Council meeting agenda once the plat is prepared.

BACKGROUND

The petitioner wishes to expand the existing dealership located at 2055 Ogden Avenue. The petitioner currently leases 2055 Ogden Avenue and operates an automobile dealership out of the small one-story building. The property at 2101 Ogden includes a vacant building that was purchased by the petitioner. The two properties are separated by Pershing Avenue. To accomplish the expansion, the petitioner is requesting the Village vacate Pershing Avenue between 2055 and 2101 Ogden Avenue to create a single parcel in order to expand an existing automobile dealership.

Vacation of Pershing Avenue

The vacation of Pershing Avenue will allow for a more efficient site design layout. The petitioner is proposing to renovate the building at 2101 Ogden Avenue to provide offices and an indoor showroom. The petition proposes the demolition of the existing building at 2055 Ogden Avenue in order to utilize the entire parcel as an outdoor display space. Customer parking is proposed on the east side of the vacated Pershing Avenue, while the west side would be additional outdoor display space. Pershing Avenue is in fair to poor condition and used primarily as a private driveway.

The Village does not currently allow through traffic on Pershing Avenue. A guardrail has been installed within the Village Right-of-Way just south of the subject properties. The barrier sets up a public stub street that serves as a private driveway.

Per the Village's Right-of-Way Vacation Policy (Resolution 2003-58), staff contacted utility companies and public entities and determined that there are multiple utilities located within the right-of-way. The most significant of these utilities is a DuPage Water Commission water main located on the east side of Pershing Avenue. An easement over the entire right-of-way must be maintained in order to vacate the right-of-way. Additionally, the petitioner has agreed to indemnify the Village and DuPage Water Commission from any damages caused by the water utilities within the vacated right-of-way. Staff has required that no display cars are parked above the water main.

Site Design

Due to the right-of-way vacation, the petitioner can utilize the two parcels and vacated right-of-way as a single site which allows for a more efficient site design layout. The petitioner is proposing to utilize the Pershing Avenue curb cut onto Ogden Avenue as their primary access.

The proposal calls for a landscaped area along the entire length of Ogden Avenue in addition to public sidewalks along Ogden and Pershing Avenues. As part of the landscaping, a code compliant monument sign will replace two non-compliant signs. A six foot wood fence will be installed at the south end of the vacated Pershing Avenue. The existing Ogden Avenue sidewalks will be maintained and extended through the vacated right-of-way. An existing sidewalk on the east side of the Pershing Avenue right-of-way will be maintained as well.

Display cars will be located on the west side of the vacated right-of-way and also throughout the 2055 Ogden Avenue parcel. The petitioner's goal is to demolish the existing building at 2055 Ogden Avenue and utilize the entire parcel as an outdoor display area for their vehicles. Customer parking will be provided on the east side of the vacated right-of-way. Sale vehicles will typically be delivered via semi-truck during regular hours of operation. The semi-truck will be able to unload vehicles by pulling into the vacated right-of-way and use a three-point turn to exit the site as shown on the petitioner's architectural plans.

Public Improvements

Significant public improvements will take place as a result of this development. Currently, the site sheet drains toward the southwest and creates issues for the Village's stormwater sewers in that area. A comprehensive grading plan will drain stormwater into storm sewer inlets which will tie into the Village's storm sewers at the intersection of the public alley and Pershing Avenue. The petitioner will also remove two existing Ogden Avenue curb cuts and reduce the size of the Pershing Avenue curb cut.

Compliance with the Ogden Avenue Master Plan

This proposal complies with the Ogden Avenue Master Plan as shown below:

Ogden Avenue Master Plan	Proposal
Close some minor side streets and use vacated rights-of-ways	Proposal calls for vacation of Pershing Avenue. Village will no longer have the responsibility of maintaining the stub street that serves only two properties.
Improve building facades	Proposal calls for the renovation of 2101 Ogden Avenue and future demolition of 2055 Ogden Avenue.
Improve building signage	Proposal removes two non-compliant signs and installs one compliant monument sign.
Relocate signs from parking lots to landscaped areas	Proposal locates sign in landscaped area.
Improve the parkway with new trees, plantings, signage, and sidewalks	Proposal provides lawn, landscaping, signage and sidewalks along Ogden Avenue. Increased green space will improve stormwater management on the property.
Reduce curb cuts along Ogden Avenue	Proposal calls for the removal of two curb cuts that are shown as removed in the Ogden Avenue Master Plan.
Provide interconnected sidewalks along Ogden Avenue	Proposal maintains sidewalk along Ogden Avenue and maintains access to Ogden Avenue for Pershing Avenue residents via a sidewalk with a sidewalk easement.

Plan Commission Review

The Plan Commission considered the project at their January 8, 2007, January 22, 2007, and February 5, 2007 meetings. The project was continued twice as a result of objections raised by the business owner who leases 2105 Ogden Avenue. The business owner operates an automobile dealership and U-Haul truck rental business on the site. The initial objection raised was that the owner would not be able to turn around his large U-Haul trucks without the use of Pershing Avenue. The petitioner provided engineering exhibits showing the largest U-Haul truck could be turned around using the existing 2105 Ogden Avenue parcel and the Village's alley. The second objection was that the Illinois Secretary of State required the business owner to have two separate access points to Ogden Avenue. Currently, the business owner has one curb cut directly onto Ogden Avenue and uses the public alley and Pershing Avenue as his second access point. Without two access points, the business owner claimed that his business would be closed. The Plan Commission required the business owner to provide evidence of these requirements. Upon review of the business owner's submittal, the Plan Commission did not believe his business would close as a result of the Pershing Avenue vacation.

At their February 5, 2007 meeting, the Plan Commission recommended unanimous approval of the Special Use, Planned Development, and Right-of-Way Vacation with the conditions as noted in the Staff Memo dated February 5, 2007. The Plan Commission did not opine on the recommended compensation. Staff concurs with the Plan Commission recommendation.

ATTACHMENTS

Aerial Map

Ordinances

Staff Report with attachments dated January 8, 2007

Staff Memo with attachments dated January 22, 2007

Staff Memo dated February 5, 2007

Exhibits

Draft Minutes of the Plan Commission Hearing dated January 8, 2007

Draft Minutes of the Plan Commission Hearing dated January 22, 2007

Draft Minutes of the Plan Commission Hearing dated February 5, 2007

Materials from business owner at 2105 Ogden Avenue and petitioner dated February 5, 2007



2105 Ogden Ave

2101 Ogden Ave

Right-of-Way
to be Vacated

2055 Ogden Ave

4400 Pershing Ave

OGDEN AVE

PERSHING AVE

2051
2047

4401

4407

4400

ORDINANCE NO. _____

**AN ORDINANCE VACATING A CERTAIN PORTION OF A
PUBLIC RIGHT-OF-WAY IN THE VILLAGE OF DOWNERS GROVE
(A PORTION OF PERSHING AVENUE LYING SOUTH OF OGDEN AVENUE AT THE
INTERSECTION OF OGDEN AND PERSHING AVENUES)**

WHEREAS, it has been determined by the Council of the Village of Downers Grove in DuPage County, Illinois, that it is in the public interest to vacate a certain portion of an improved public right-of-way in said Village hereinafter more particularly described; and

WHEREAS, there are certain public service facilities situated in said portion of said right-of-way, and the Village Council has determined that it is necessary and in the public interest to reserve such rights-of-way and easements as are in the judgment of the Council necessary or desirable for continuing public service by means of those facilities and for the maintenance, renewal and reconstruction thereof; and

WHEREAS, the required public notice has been given and a public hearing respecting said vacation has been conducted in accordance with applicable law; and

WHEREAS, the Village Council, after due investigation and consideration, has determined that the nature and extent of the public use and the public interest to be served is such as to warrant the vacation of said portion of said right-of-way.

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

SECTION 1. That all that part of the following described property, to wit:

That part of Pershing Avenue in Arthur T. McIntosh and Company's Belmont Country Club Addition, (being a subdivision in parts of Section 1, Township 38 North, Range 10 East of the Third Principal Meridian and Section 6, Township 38 North, Range 11 East of the Third Principal Meridian, according to the plat thereof recorded May 18, 1927 as Document 235837), described as follows: Beginning at the Northwest corner of Lot 7 in Block 2 of said subdivision; thence South 00 degrees 05 minutes 35 seconds West (assumed bearing) 151.62 feet to the Southwest corner of said Lot 7; thence South 77 degrees 53 minutes 34 seconds West 67.53 feet to the Southeast corner of Lot 1 in Block 3 of said subdivision; thence North 00 degrees 05 minutes 35 seconds East 153.13 feet to the Northeast corner of said Lot 1; thence North 79 degrees 09 minutes 16 seconds East 67.22 feet to the point of beginning in the Village of Downers Grove, DuPage County, Illinois

(hereinafter referred to as the "Vacated Pershing Avenue"), is hereby vacated and closed, and that it is hereby declared that the same is no longer required for public use and that the public interest will be served by such vacation.

SECTION 2. A perpetual non-exclusive easement is hereby reserved for and granted to the Village of Downers Grove, Illinois, the DuPage Water Commission and to those public utility companies operating under

franchises from the said Village including, but not limited to, AT&T, Comcast Cable, Northern Illinois Gas Company, Commonwealth Edison Company, and Downers Grove Sanitary District and their respective successors and assigns, over, on, across, under, and through all of the areas on the plat of vacation marked “Public Utilities and Access Easement Reservation” of the Vacated Pershing Avenue as described herein for the perpetual right, privilege and authority to construct, reconstruct, repair, inspect, maintain and operate various utility transmission and distribution systems and community antenna televisions systems and all necessary connections, appliances and other structures and appurtenances as may be deemed necessary by said Village and for any and all municipal purposes, over, upon, along, under and through said indicated easements, together with right of access across the property to do any of the above work. The right is also granted to cut down, trim or remove any trees, shrubs or other plants that interfere with the operation of the utilities. No permanent buildings or structures shall be placed on said easements, but same may be used for gardens, shrubs, landscaping, fencing, paved parking, driveways and other purposes that do not then or later interfere with the aforesaid uses and rights. All installations shall be subject to the ordinances of the Village of Downers Grove. Easements are hereby reserved for and granted to the Village of Downers Grove and other governmental authorities having jurisdiction of the land over the entire easement area for ingress, egress and the performance of any and all municipal and other governmental services.

SECTION 3. This vacation shall be subject to the following conditions:

1. Prior to the petition being considered by the Village Council, the Petitioners must submit a plat of vacation which shall specifically include the easement language contained in Section 2 of this Ordinance.
2. The Petitioners shall pay to the Village of Downers Grove \$14,088.13.
3. The vacation shall substantially conform to the staff report dated January 8, 2007, and February 5, 2007 and with the plat of vacation submitted to the Village of Downers Grove dated _____ prepared by _____.

SECTION 4. That the Mayor and Clerk of the Village of Downers Grove are hereby authorized to sign the plat of vacation of the Vacated Pershing Avenue described herein.

SECTION 5. That a certified copy of this ordinance and an accurate map of the Vacated Pershing Avenue shall be filed for record by the Clerk of the Village of Downers Grove in the Office of the Recorder of Deeds, DuPage County, Illinois.

SECTION 6. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 7. That this ordinance shall be in full force and effect from and after its passage and publication in pamphlet form as provided by law.

Mayor

Passed:

Published:

Attest: _____

Village Clerk

1\wp8\ord.07\Vacate-Pershing

PLAT OF VACATION

OF PUBLIC RIGHT-OF-WAY
IN THE VILLAGE OF DOWNERS GROVE,
DUPAGE COUNTY, ILLINOIS

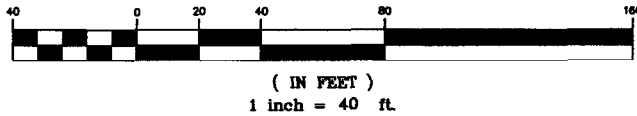


LEGAL DESCRIPTION OF ROADWAY VACATION:

THAT PART OF PERSHING AVENUE IN ARTHUR T. MCINTOSH AND CO'S. BELMONT COUNTRY CLUB ADDITION, (BEING A SUBDIVISION IN PARTS OF SECTION 1, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN AND SECTION 6, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THERE OF RECORDED MAY 18, 1927 AS DOCUMENT 235837), DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT 7 IN BLOCK 2 OF SAID SUBDIVISION; THENCE SOUTH 00 DEGREES 05 MINUTES 35 SECONDS WEST (ASSUMED BEARING) 151.62 FEET TO THE SOUTHWEST CORNER OF SAID LOT 7; THENCE SOUTH 77 DEGREES 53 MINUTES 34 SECONDS WEST 67.53 FEET TO THE SOUTHEAST CORNER OF LOT 1 IN BLOCK 3 OF SAID SUBDIVISION; THENCE NORTH 00 DEGREES 05 MINUTES 35 SECONDS EAST 153.13 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE NORTH 79 DEGREES 09 MINUTES 16 SECONDS EAST 67.22 FEET TO THE POINT OF BEGINNING IN THE VILLAGE OF DOWNERS GROVE, DUPAGE COUNTY, ILLINOIS.

CONTAINS 0.231 ACRES, MORE OR LESS.

GRAPHIC SCALE



STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

THE ATTACHED PLAT OF VACATION IS IDENTIFIED AS THAT INCORPORATED INTO AND MADE A PART OF THE VILLAGE OF DOWNERS GROVE ORDINANCE NUMBER _____ ADAPTED BY THE VILLAGE OF DOWNERS GROVE MAYOR AND VILLAGE COUNCIL ON THIS _____ DAY OF _____ A.D., 20__

BY: _____
BRIAN KRAJEWSKI, MAYOR

ATTEST: _____
APRIL HOLDEN, VILLAGE CLERK

STATE OF ILLINOIS)
) SS
COUNTY OF KENDALL)

THIS IS TO CERTIFY THAT C.M. LAVOIE & ASSOCIATES HAVE SURVEYED AND PLATTED THE PROPERTY DESCRIBED HEREON FOR THE PURPOSES OF VACATION AND THAT THE ANNEXED PLAT IS A CORRECT AND TRUE REPRESENTATION OF SAID PROPERTY. ALL DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF.

GIVEN UNDER MY HAND AND SEAL AT PLAINFIELD, ILLINOIS, THIS 31ST DAY OF OCTOBER, A.D., 2006.

ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 35-3131
LICENSE RENEWAL/DATE OF EXPIRATION: 11-30-06

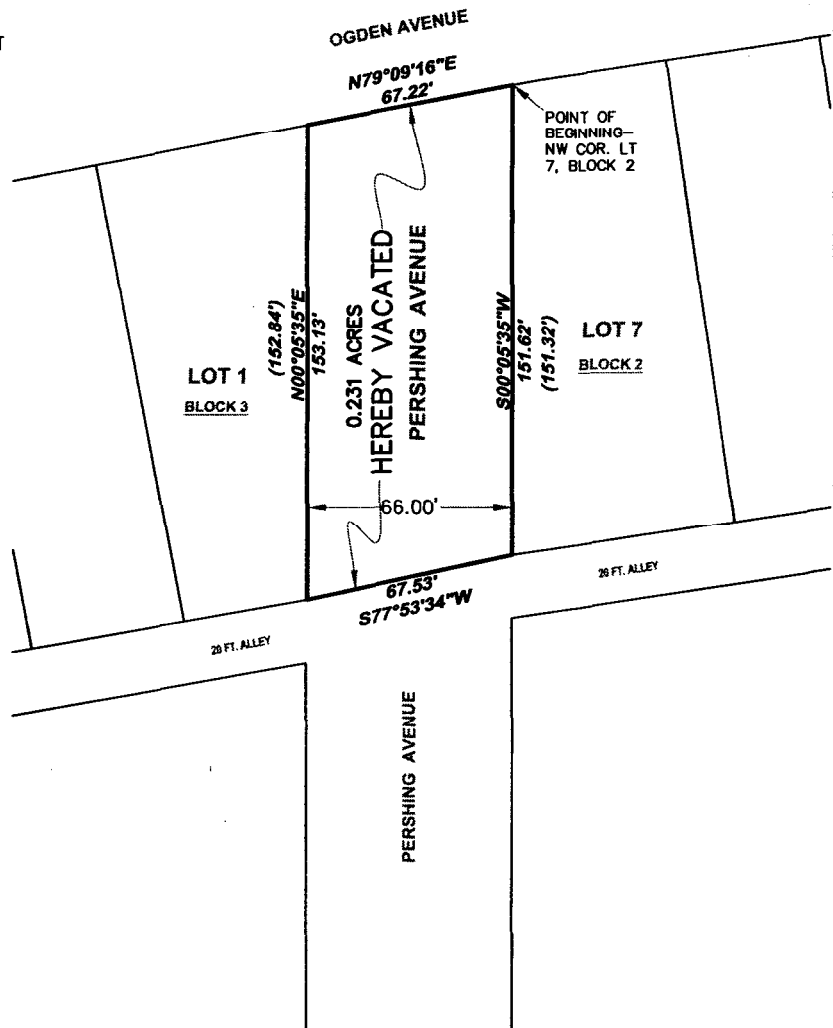


PREPARED FOR:
ULTIMATE MOTORS
2055 OGDEN AVE.
DOWNERS GROVE, IL. 60515



C.M. Lavoie & Associates, Inc.
Consulting Civil Engineering
& Land Surveying
1050 State Route 126
Plainfield, Illinois 60544
voice 815-254-0505
fax 815-436-5158

JOB NUMBER: 06-227		DATE: 10-31-2006	
DRAWN BY: GRB		SCALE: 1"=40'	
CHECKED BY: GRB			
1	DATE	DESCRIPTION	
2			
3			



ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING
ORDINANCE OF THE VILLAGE OF DOWNERS GROVE, ILLINOIS
TO ULTIMATE MOTOR CARS AS
FINAL PLANNED DEVELOPMENT #45**

WHEREAS, the Owners of the property at 2055 & 2101 Ogden Avenue, Downers Grove, IL (PINs 08-01-405-006 & 08-01-406-002); (hereinafter referred to as the "Property" and legally described below) have requested that such real estate be designated as a Planned Development to be known as Ultimate Motor Cars Planned Development # 45 pursuant to the provisions of the Comprehensive Zoning Ordinance of the Village of Downers Grove, as set forth in Chapter 28 of the Downers Grove Municipal Code (hereinafter referred to as the "Zoning Ordinance"); and

WHEREAS, the Owners have also filed a written petition with the Village conforming to the requirements of the Comprehensive Zoning Ordinance and requesting approval of Ultimate Motor Cars Planned Development site plan for construction of an office/retail building as provided under the Comprehensive Zoning Ordinance; and,

WHEREAS, the Property is zoned B-3, General Services and Highway Business District under the Downers Grove Zoning Ordinance; and,

WHEREAS, the Plan Commission of the Village of Downers Grove has given the required public notice and has conducted a public hearing respecting a final plan for the Ultimate Motor Cars Planned Development #45 on the Property in accordance with the statutes of the State of Illinois and the ordinances of the Village of Downers Grove and has reported its findings and recommendations to the Village Council of the Village of Downers Grove pursuant to the provisions of the Zoning Ordinance; and,

WHEREAS, the Plan Commission recommended that the Property be designated as a Planned Development, with approval of the Ultimate Motor Cars planned development plans as the documents submitted are consistent with the requirements of the Comprehensive Zoning Ordinance and the character of the planned development; and

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

SECTION 1. That the provisions of the preamble are incorporated into this ordinance.

SECTION 2. The following documents are attached hereto and incorporated herein by reference as a part of this ordinance as Group Exhibit A, and are hereafter collectively referred to as the "Ultimate Motor Cars Final Development Plans", all of which are incorporated by reference:

1. The development shall substantially conform to the staff report dated January 8, 2007; the plat of easement and plat of vacation prepared by C.M. Lavoie & Associates dated October 31, 2006; the preliminary engineering plan prepared by C.M. Lavoie & Associates dated November 3, 2006, revised December 11, 2006; and architectural plans prepared by Fergon Architects dated November 3, 2006, revised December 13, 2006, except as such plans may be modified to conform to Village Codes and Ordinances.
2. All construction within the Ogden Avenue right-of-way will require approval from the Illinois Department of Transportation (IDOT).

3. The petitioner shall coordinate with the Village's potential capital improvement plan to ensure comprehensive drainage improvements in the area. The petitioner's site plans shall be developed to tie into the Village's planned capital improvements for Pershing Avenue immediately south of the vacated right-of-way section.
4. Prior to the issuance of construction/site development permits, the following changes shall be made to the plans:
 - a. Storm sewer calculations shall be provided and shall include hydraulic grade line calculations. An exhibit that shows the storm sewer tributary area shall also be included. The offsite flow from the east shall be addressed in the calculations. Proposed storm pipe sizes and invert elevations shall be provided.
 - b. Final site improvement plans shall be prepared. A grading plan, utility plan and sediment and erosion control plan shall minimally be included. Plans shall be signed and sealed by a registered professional engineer. Coordinate with planned Village capital improvement project.
 - c. The site plan shall include standard Village erosion control notes on the sediment and erosion control sheet.
 - d. Realign proposed storm sewers to maximize flow capture and to coordinate with planned Village capital project plans for alley area to the south. Flow may not be routed through underground detention chamber at the condominium complex to the south.
 - e. The fence along the south side of the vacated right-of-way shall be shown to allow water movement underneath the fence.
 - f. Site plans shall show signs displaying 'customer only parking' on the east side of the vacated Pershing Avenue right-of-way to ensure that no display cars are parked on top of the existing water utilities.
5. Prior to final Village Council consideration, the petitioner shall have a Plat of Vacation prepared by a licensed surveyor. The Village shall provide easement language which shall be noted on the Plat of Vacation to show the following:
 - a. A drainage and utility easement for the Village of Downers Grove, DuPage Water Commission and other public utilities including but not limited to Commonwealth Edison, Comcast, and AT&T.
 - b. A cross-access easement to allow current and future owners of 2055 Ogden Avenue access to Ogden Avenue through the vacated Pershing Avenue right-of-way
 - c. A sidewalk easement to allow for the Pershing Avenue sidewalk to continue within the vacated right-of-way.
 - d. The petitioner shall indemnify the Village and DuPage Water Commission for all damages associated with the water utilities under the vacated Pershing Avenue right-of-way.
6. Petitioner shall apply for a permit and pay for improvements to the alley, as described in Exhibit B attached hereto and incorporated herein by reference, which was provided at the January 22, 2007 Plan Commission meeting.

SECTION 3. That the Village Council hereby finds as follows:

(1) That Planned Development #45 meets the requirements of the Comprehensive Zoning Ordinance as follows:

- a. That the planned development at the 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.
- b. That the planned development 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.

- c. That the planned development is specifically listed as a special use in the district in which it is to be located.
- d. That the location and size of the planned development, the nature and intensity of the operation involved in or conducted in connection with said planned development, the size of the subject property in relation to the intensity of uses proposed, and the location of the site with respect to streets giving access to it, shall be such that it will be in harmony with the appropriate, orderly development of the district in which it is located.
- e. That the planned development will not be injurious to the use and enjoyment of other property in the immediate vicinity of the subject property for the purposes already permitted in such zoning district, nor substantially diminish and impair other property valuations within the neighborhood.
- f. That the nature, location, and size of the structures involved with the establishment of the planned development will not impede, substantially hinder, or discourage the development and use of adjacent land and structures in accord with the zoning district in which it is located.
- g. That adequate utilities, access roads, drainage, and other necessary facilities have been or will be provided for the planned development.
- h. That parking areas shall be of adequate size for that particular planned development, which areas shall be properly located and suitably screened from adjoining residential uses.
- i. That the planned development shall in all other respects conform to the applicable regulations of the zoning district in which it is located.

(2) That the proposed Development conforms with the requirements of the Comprehensive Zoning Ordinance.

SECTION 4. The Zoning Ordinance is hereby amended by adding to the Zoning Map the boundaries of the following described real estate and by designating said real estate as a Planned Development under the title and style "Ultimate Motor Cars Planned Development #45" to be stated on the face of said map within the boundaries of the real estate hereinafter described, to wit:

Lot 1 in Block 3 and Lots 6 & 7 in Block 2 in Arthur T. McIntosh and Company's Belmont Country Club Addition, being a subdivision in Parts of Section 1, Township 38 North, Range 10 East of the Third Principal Meridian and Section 6, Township 38 North, Range 11 East of the Third Principal Meridian, according to the Plat thereof recorded May 18, 1927 as Document 235837, in DuPage County, Illinois.

Commonly known as 2101 & 2055 Ogden Avenue. Downers Grove, IL (PIN 08-01-405-006 & 08-01-406-002)

And

That part of Pershing Avenue in Arthur T. McIntosh and Company's Belmont Country Club Addition, (being a subdivision in parts of Section 1, Township 38 North, Range 10 East of the Third Principal Meridian and Section 6, Township 38 North, Range 11 East of the Third Principal Meridian, according to the plat thereof recorded May 18, 1927 as Document 235837), described as follows: Beginning at the Northwest corner of Lot 7 in Block 2 of said subdivision; thence South 00 degrees 05 minutes 35 seconds West (assumed bearing) 151.62 feet to the Southwest corner of said Lot 7; thence South 77 degrees 53

minutes 34 seconds West 67.53 feet to the Southeast corner of Lot 1 in Block 3 of said subdivision; thence North 00 degrees 05 minutes 35 seconds East 153.13 feet to the Northeast corner of said Lot 1; thence North 79 degrees 09 minutes 16 seconds East 67.22 feet to the point of beginning in the Village of Downers Grove, DuPage County, Illinois.

Commonly known as that portion of Pershing Avenue Lying south of Ogden Avenue at the intersection of Ogden and Pershing Avenues (“Vacated Pershing Avenue”)

SECTION 5. The Ultimate Motor Cars Final Planned Development Plans be and are hereby approved to permit a Planned Development, subject to the conditions and restrictions contained therein, and subject to the following:

- a. The planned development shall be constructed, maintained and operated in conformance with the Ultimate Motor Cars Final Planned Development Plans as well as such covenants, conditions and restrictions as may be approved by the Village Council.
- b. The Village shall have the right to review and approve the bylaws, and any changes thereto, to ensure compliance with this Ordinance and applicable laws.
- c. Except as provided herein, the Ultimate Motor Cars Final Planned Development # 45 shall be in conformance with all applicable laws of the Village.

SECTION 6. The Ultimate Motor Cars Development Plans as well as all covenants, conditions and restrictions heretofore or hereafter filed in connection with the Ultimate Motor Cars Planned Development #45 shall be deemed to be contractual undertakings by and shall be binding upon the applicants therefore, the owners of the land covered by the Ultimate Motor Cars Planned Development #45, and their successors and assigns, and shall limit and control the construction, location, use and operation of all land in the Ultimate Motor Cars Planned Development #45, and improvements and structures to be located thereon; and that no building permit or improvement location permit shall be issued with respect to any land included in such Planned Development unless countersigned by the Village Manager of the Village of Downers Grove.

SECTION 7. That all ordinances or resolutions, or parts thereof, in conflict with the provisions of this ordinance be and are hereby repealed.

SECTION 8. 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:

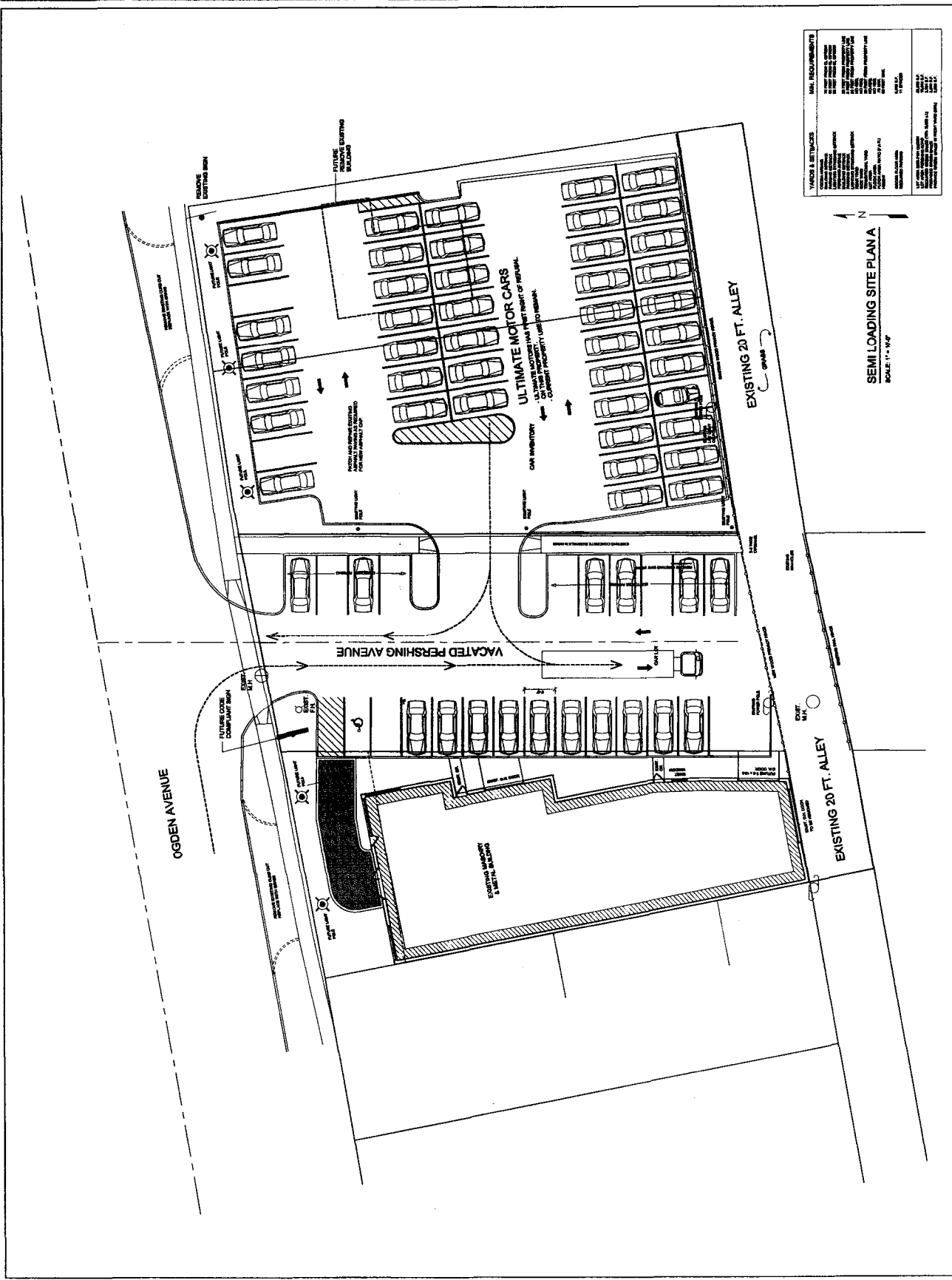
Published:

Attest: _____
Village Clerk

DATE	
REVISION	
NO.	
BY	
CHECKED	
DATE	

ULTIMATE MOTOR CARS
 7500 S 3000 OGDEN AVENUE, COMMERCIAL DISTRICT
 OGDEN, UTAH 84403
 ARCHITECTS LTD.

NOVEMBER 1, 1988
 00035



MAX. REQUIREMENTS

MAX. LOT AREA	10,000 SQ. FT.
MAX. LOT COVERAGE	30%
MAX. BUILDING HEIGHT	35 FT.
MAX. BUILDING AREA	3,500 SQ. FT.
MAX. NUMBER OF UNITS	100
MAX. NUMBER OF PARKING SPACES	100
MAX. NUMBER OF DRIVEWAYS	10
MAX. NUMBER OF LOADING DOCKS	10
MAX. NUMBER OF TRUCKS	10
MAX. NUMBER OF TRAILERS	10
MAX. NUMBER OF SEMI TRAILERS	10
MAX. NUMBER OF TRUCKS PER HOUR	10
MAX. NUMBER OF TRAILERS PER HOUR	10
MAX. NUMBER OF SEMI TRAILERS PER HOUR	10
MAX. NUMBER OF TRUCKS PER DAY	100
MAX. NUMBER OF TRAILERS PER DAY	100
MAX. NUMBER OF SEMI TRAILERS PER DAY	100
MAX. NUMBER OF TRUCKS PER WEEK	700
MAX. NUMBER OF TRAILERS PER WEEK	700
MAX. NUMBER OF SEMI TRAILERS PER WEEK	700
MAX. NUMBER OF TRUCKS PER MONTH	2,800
MAX. NUMBER OF TRAILERS PER MONTH	2,800
MAX. NUMBER OF SEMI TRAILERS PER MONTH	2,800
MAX. NUMBER OF TRUCKS PER YEAR	33,600
MAX. NUMBER OF TRAILERS PER YEAR	33,600
MAX. NUMBER OF SEMI TRAILERS PER YEAR	33,600

SEMI LOADING SITE PLAN A
 SCALE: 1" = 10'-0"

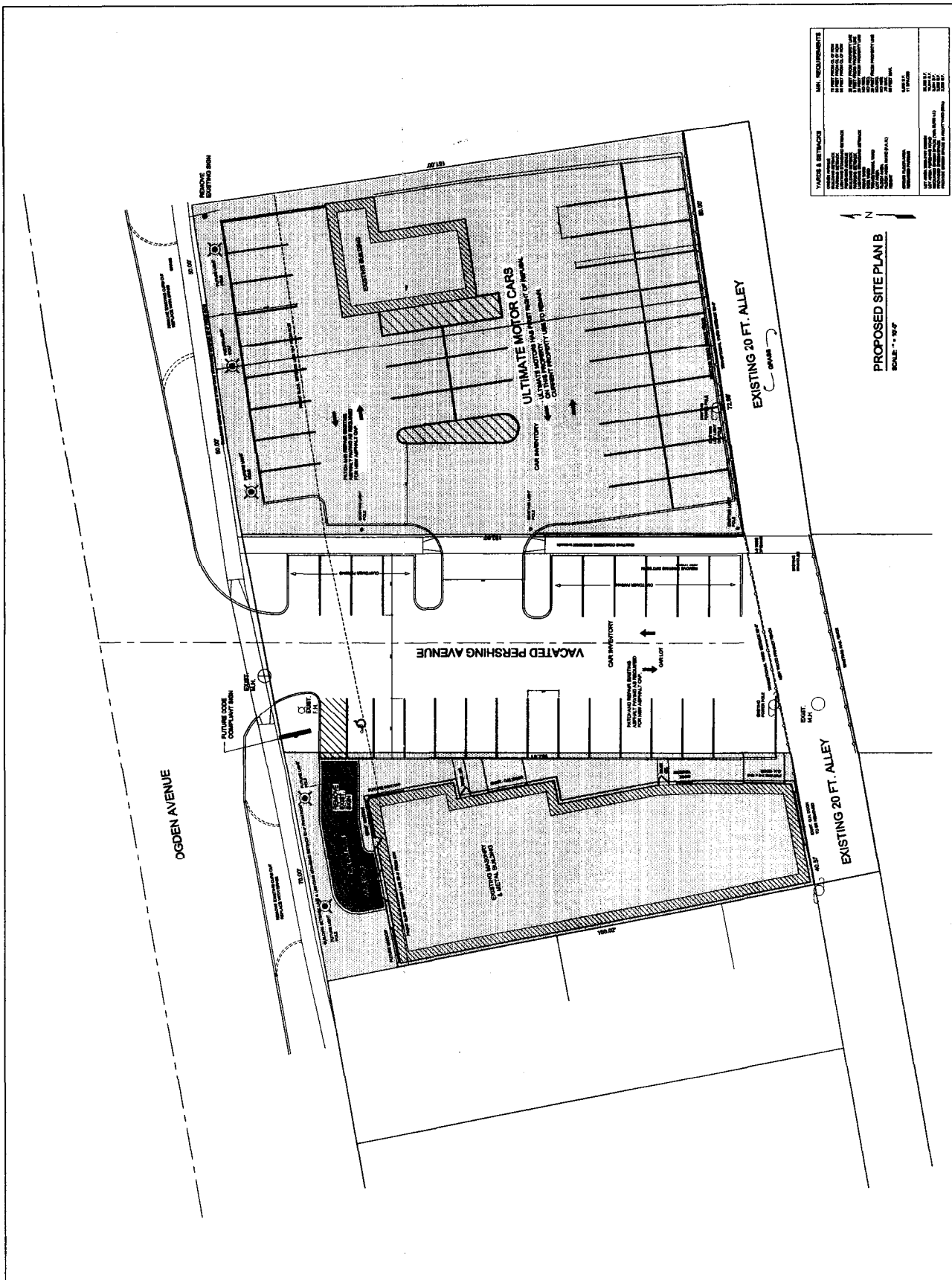
DATE	
SCALE	
PROJECT	
CLIENT	
ARCHITECT	
ENGINEER	
PLUMBER	
ELECTRICIAN	
Mechanical	
Structural	
Other	

ULTIMATE MOTOR CARS
 2101 & 2005 OGDEN AVENUE, DOWNTOWN GREECE
 COMMERCIAL DESIGN ARCHITECTS, LLC

ARCHITECTS LTD.
 1100 W. 10th Street
 2nd Floor
 Minneapolis, MN 55408
 612.338.1100

PROJECT NO. 00035
 SHEET NO. 2 of 5

TYPE & TRACK	MT. REQUIREMENTS
TYPE 1 TRACK	1.5' CLEARANCE
TYPE 2 TRACK	1.5' CLEARANCE
TYPE 3 TRACK	1.5' CLEARANCE
TYPE 4 TRACK	1.5' CLEARANCE
TYPE 5 TRACK	1.5' CLEARANCE
TYPE 6 TRACK	1.5' CLEARANCE
TYPE 7 TRACK	1.5' CLEARANCE
TYPE 8 TRACK	1.5' CLEARANCE
TYPE 9 TRACK	1.5' CLEARANCE
TYPE 10 TRACK	1.5' CLEARANCE
TYPE 11 TRACK	1.5' CLEARANCE
TYPE 12 TRACK	1.5' CLEARANCE
TYPE 13 TRACK	1.5' CLEARANCE
TYPE 14 TRACK	1.5' CLEARANCE
TYPE 15 TRACK	1.5' CLEARANCE
TYPE 16 TRACK	1.5' CLEARANCE
TYPE 17 TRACK	1.5' CLEARANCE
TYPE 18 TRACK	1.5' CLEARANCE
TYPE 19 TRACK	1.5' CLEARANCE
TYPE 20 TRACK	1.5' CLEARANCE



PROPOSED SITE PLAN B
 SCALE: 1" = 10'-0"

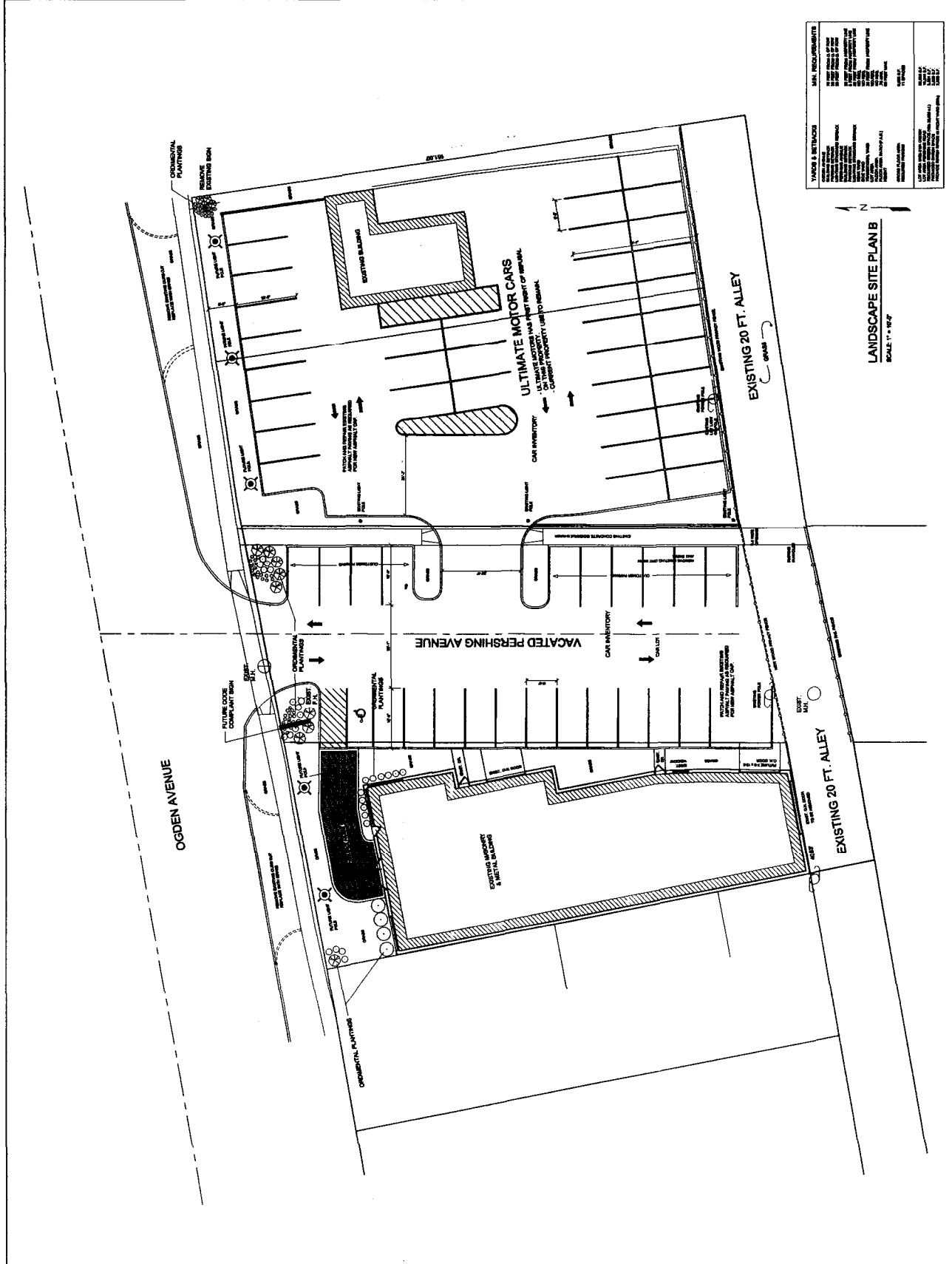
DATE	DESCRIPTION

ULTIMATE MOTOR CARS
 2875 S 2800 OGDEN AVENUE, DOWNSIDE DRIVE
 COMMERCIAL AND RESIDENTIAL LOTS

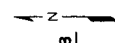
ARCHITECTS LTD.
 1400 15th Street, Suite 100
 Denver, Colorado 80202
 Phone: 303.733.1111
 Fax: 303.733.1112

PROJECT NO. 00035
 SHEET NO. 4 OF 5

LANDSCAPE SITE PLAN B
 SCALE: 1" = 30'-0"



LANDSCAPE MATERIALS	
PLANTING	SEE SPECIFICATIONS
GRASS	SEE SPECIFICATIONS
PAVING	SEE SPECIFICATIONS
CONCRETE	SEE SPECIFICATIONS
ASPHALT	SEE SPECIFICATIONS
STONE	SEE SPECIFICATIONS
BRICK	SEE SPECIFICATIONS
WOOD	SEE SPECIFICATIONS
STEEL	SEE SPECIFICATIONS
GLASS	SEE SPECIFICATIONS
PLASTIC	SEE SPECIFICATIONS
PAINT	SEE SPECIFICATIONS
FINISHES	SEE SPECIFICATIONS
UTILITIES	SEE SPECIFICATIONS
IRRIGATION	SEE SPECIFICATIONS
LANDSCAPE ARCHITECTURE	SEE SPECIFICATIONS



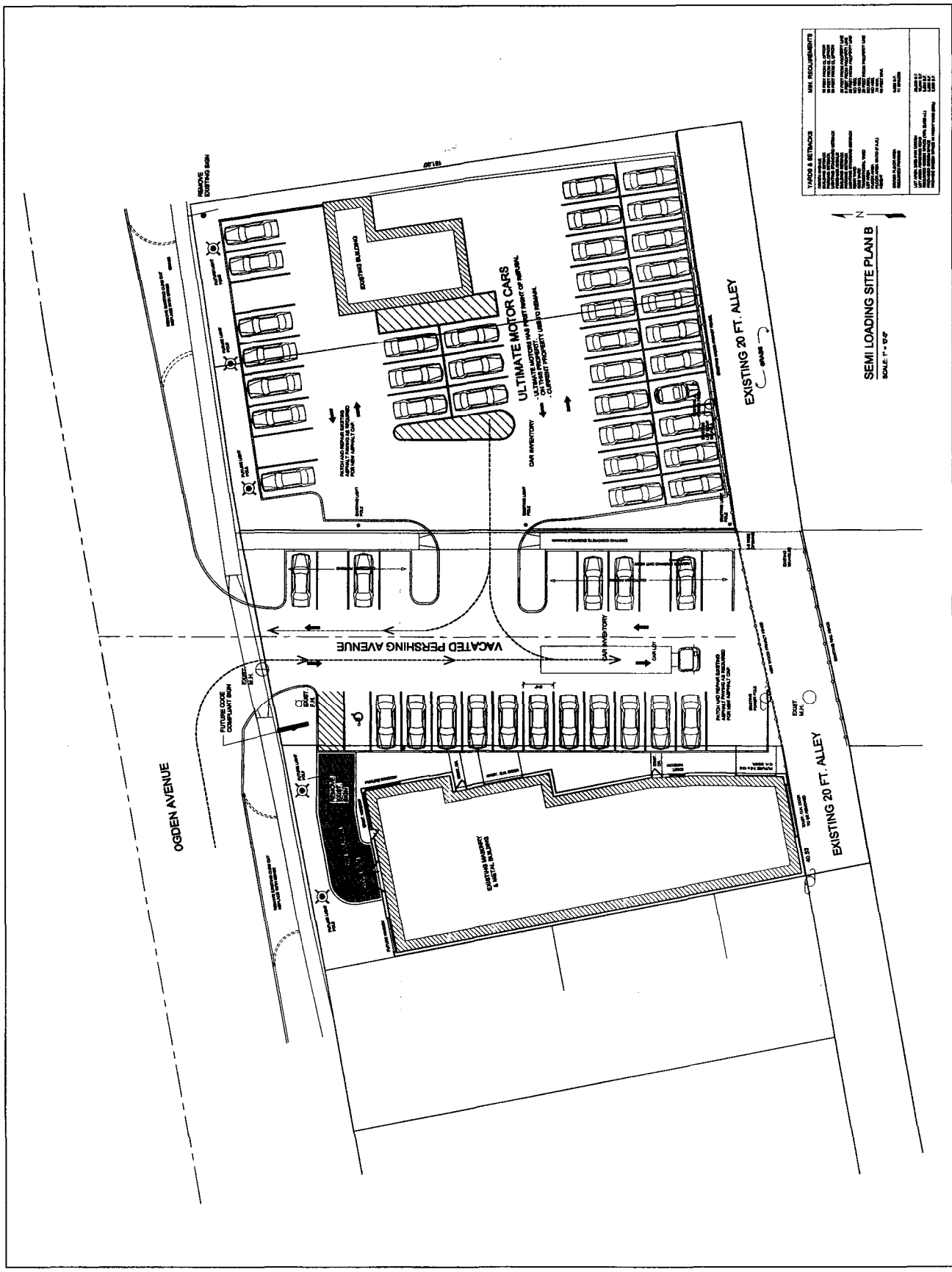
LANDSCAPE SITE PLAN B
 SCALE: 1" = 30'-0"

DATE	
REVISION	
NO.	
BY	
CHECKED	
DATE	

ULTIMATE MOTOR CARS
 2701 2800 OGDEN AVENUE, DOWNSIDE QUARTERS

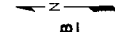
ARCHITECTS LTD.
 1000 ...
 ...

NOVEMBER 1, 2000
 00035
 5 of 5



MAX. REQUIREMENTS

MAX. LOT AREA	10,000 SQ. FT.
MAX. LOT COVERAGE	40%
MAX. BUILDING HEIGHT	35 FT.
MAX. BUILDING AREA	3,500 SQ. FT.
MAX. GARAGE FLOOR AREA	10,000 SQ. FT.
MAX. GARAGE FLOOR COVERAGE	100%
MAX. GARAGE FLOOR HEIGHT	14 FT.
MAX. GARAGE FLOOR WIDTH	12 FT.
MAX. GARAGE FLOOR DEPTH	12 FT.
MAX. GARAGE FLOOR AREA PER CAR	100 SQ. FT.
MAX. GARAGE FLOOR COVERAGE PER CAR	100%
MAX. GARAGE FLOOR HEIGHT PER CAR	14 FT.
MAX. GARAGE FLOOR WIDTH PER CAR	12 FT.
MAX. GARAGE FLOOR DEPTH PER CAR	12 FT.
MAX. GARAGE FLOOR AREA PER CAR	100 SQ. FT.
MAX. GARAGE FLOOR COVERAGE PER CAR	100%
MAX. GARAGE FLOOR HEIGHT PER CAR	14 FT.
MAX. GARAGE FLOOR WIDTH PER CAR	12 FT.
MAX. GARAGE FLOOR DEPTH PER CAR	12 FT.
MAX. GARAGE FLOOR AREA PER CAR	100 SQ. FT.
MAX. GARAGE FLOOR COVERAGE PER CAR	100%
MAX. GARAGE FLOOR HEIGHT PER CAR	14 FT.
MAX. GARAGE FLOOR WIDTH PER CAR	12 FT.
MAX. GARAGE FLOOR DEPTH PER CAR	12 FT.



SEMI LOADING SITE PLAN B
 SCALE: 1" = 50'

EXHIBIT

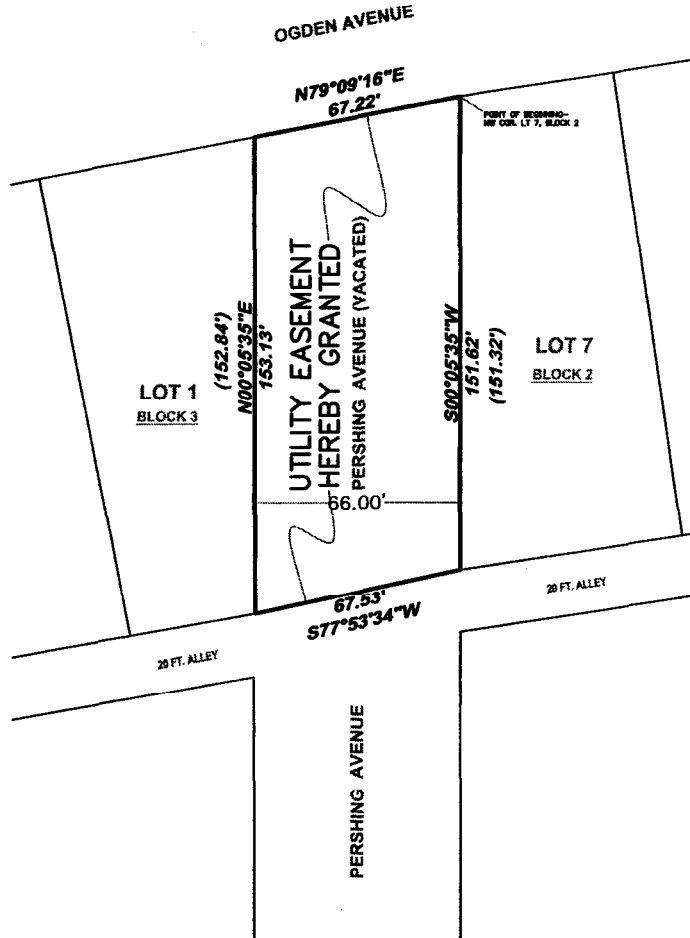
PLAT OF EASEMENT FOR PUBLIC UTILITY PURPOSES

IN THE VILLAGE OF DOWNERS GROVE,
DUPAGE COUNTY, ILLINOIS



EASEMENT DESCRIPTION:

THAT PART OF PERSHING AVENUE IN ARTHUR T. MCINTOSH AND CO'S. BELMONT COUNTRY CLUB ADDITION, (BEING A SUBDIVISION IN PARTS OF SECTION 1, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN AND SECTION 6, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THERE OF RECORDED MAY 18, 1927 AS DOCUMENT 235837), DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT 7 IN BLOCK 2 OF SAID SUBDIVISION; THENCE SOUTH 00 DEGREES 05 MINUTES 35 SECONDS WEST (ASSUMED BEARING) 151.62 FEET TO THE SOUTHWEST CORNER OF SAID LOT 7; THENCE SOUTH 77 DEGREES 53 MINUTES 34 SECONDS WEST 67.53 FEET TO THE SOUTHWEST CORNER OF LOT 1 IN BLOCK 3 OF SAID SUBDIVISION; THENCE NORTH 00 DEGREES 05 MINUTES 35 SECONDS EAST 153.13 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE NORTH 79 DEGREES 09 MINUTES 16 SECONDS EAST 67.22 FEET TO THE POINT OF BEGINNING IN THE VILLAGE OF DOWNERS GROVE, DUPAGE COUNTY, ILLINOIS.



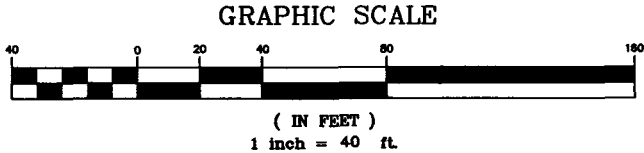
STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

APPROVED AND ACCEPTED ON BEHALF OF THE VILLAGE OF DOWNERS GROVE BY VILLAGE COUNCIL ON THIS

_____ DAY OF _____, A.D., 20__

BY: _____
BRIAN KRAJEWSKI, MAYOR

ATTEST: _____
APRIL HOLDEN, VILLAGE CLERK

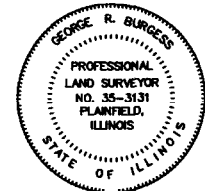


(0.00')
0.00'
STATE OF ILLINOIS)
) SS
COUNTY OF KENDALL)

RECORD INFORMATION
MEASURED INFORMATION

THIS IS TO CERTIFY THAT C.M. LAVOIE & ASSOCIATES HAVE PLATTED THE PROPERTY DESCRIBED HEREON FOR THE PURPOSES OF GRANTING AN EASEMENT AND THAT THE ANNEXED PLAT IS A CORRECT AND TRUE REPRESENTATION OF SAID PROPERTY. ALL DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF.

GIVEN UNDER MY HAND AND SEAL AT PLAINFIELD, ILLINOIS, THIS 31ST DAY OF OCTOBER, A.D., 2006.



PREPARED FOR:
ULTIMATE MOTORS
2055 OGDEN AVE.
DOWNERS GROVE, IL. 60515

ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 35-3131
LICENSE RENEWAL/DATE OF EXPIRATION: 11-30-06

C.M. Lavoie & Associates, Inc.
Consulting Civil Engineering
& Land Surveying
1050 State Route 126
Plainfield, Illinois 60544
voice 815-254-0505
fax 815-436-5158

JOB NUMBER: 06-227		DATE: 10-31-2006	
DRAWN BY: GRB		SCALE: 1"=40'	
CHECKED BY: GRB			
#	DATE	DESCRIPTION	
1			
2			
3			

PLAT OF VACATION

OF PUBLIC RIGHT-OF-WAY
IN THE VILLAGE OF DOWNERS GROVE,
DUPAGE COUNTY, ILLINOIS

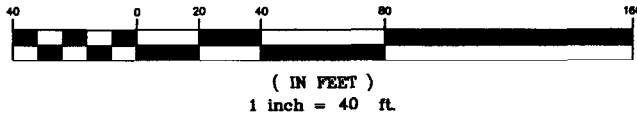


LEGAL DESCRIPTION OF ROADWAY VACATION:

THAT PART OF PERSHING AVENUE IN ARTHUR T. MCINTOSH AND CO'S. BELMONT COUNTRY CLUB ADDITION, (BEING A SUBDIVISION IN PARTS OF SECTION 1, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN AND SECTION 6, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THERE OF RECORDED MAY 18, 1927 AS DOCUMENT 235837), DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT 7 IN BLOCK 2 OF SAID SUBDIVISION; THENCE SOUTH 00 DEGREES 05 MINUTES 35 SECONDS WEST (ASSUMED BEARING) 151.62 FEET TO THE SOUTHWEST CORNER OF SAID LOT 7; THENCE SOUTH 77 DEGREES 53 MINUTES 34 SECONDS WEST 67.53 FEET TO THE SOUTHEAST CORNER OF LOT 1 IN BLOCK 3 OF SAID SUBDIVISION; THENCE NORTH 00 DEGREES 05 MINUTES 35 SECONDS EAST 153.13 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE NORTH 79 DEGREES 09 MINUTES 16 SECONDS EAST 67.22 FEET TO THE POINT OF BEGINNING IN THE VILLAGE OF DOWNERS GROVE, DUPAGE COUNTY, ILLINOIS.

CONTAINS 0.231 ACRES, MORE OR LESS.

GRAPHIC SCALE



STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

THE ATTACHED PLAT OF VACATION IS IDENTIFIED AS THAT INCORPORATED INTO AND MADE A PART OF THE VILLAGE OF DOWNERS GROVE ORDINANCE NUMBER _____ ADAPTED BY THE VILLAGE OF DOWNERS GROVE MAYOR AND VILLAGE COUNCIL ON THIS _____ DAY OF _____ A.D., 20__

BY: _____
BRIAN KRAJEWSKI, MAYOR

ATTEST: _____
APRIL HOLDEN, VILLAGE CLERK

STATE OF ILLINOIS)
) SS
COUNTY OF KENDALL)

THIS IS TO CERTIFY THAT C.M. LAVOIE & ASSOCIATES HAVE SURVEYED AND PLATTED THE PROPERTY DESCRIBED HEREON FOR THE PURPOSES OF VACATION AND THAT THE ANNEXED PLAT IS A CORRECT AND TRUE REPRESENTATION OF SAID PROPERTY. ALL DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF.

GIVEN UNDER MY HAND AND SEAL AT PLAINFIELD, ILLINOIS, THIS 31ST DAY OF OCTOBER, A.D., 2006.

ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 35-3131
LICENSE RENEWAL/DATE OF EXPIRATION: 11-30-06



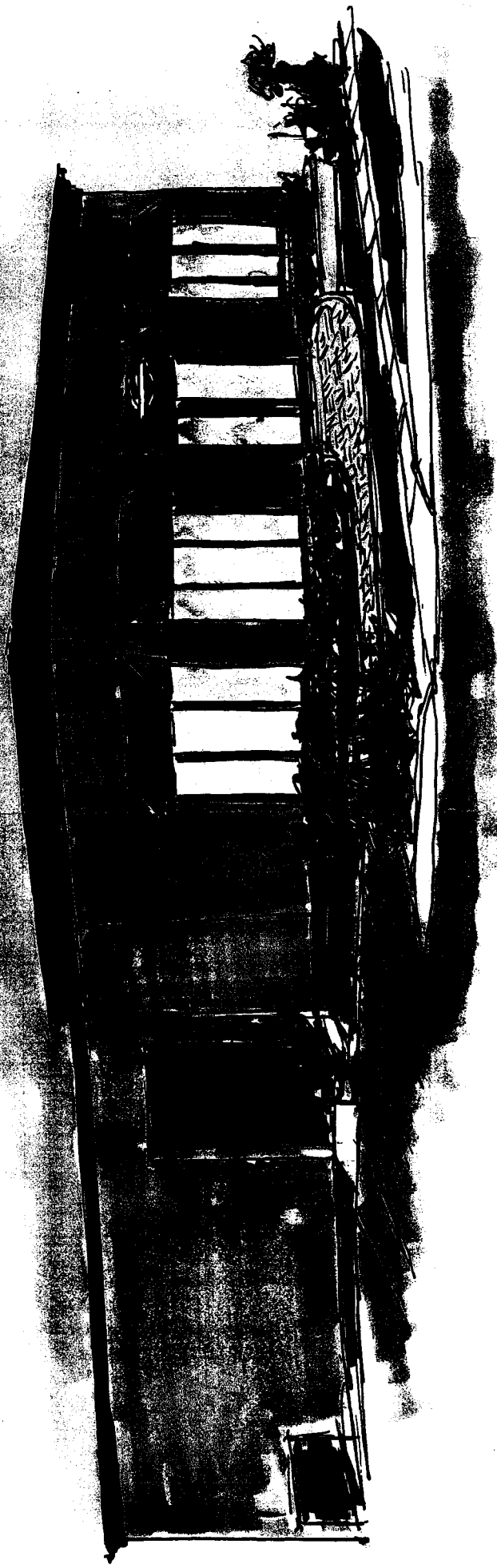
PREPARED FOR:
ULTIMATE MOTORS
2055 OGDEN AVE.
DOWNERS GROVE, IL. 60515



C.M. Lavoie & Associates, Inc.
Consulting Civil Engineering
& Land Surveying
1050 State Route 126
Plainfield, Illinois 60544
voice 815-254-0505
fax 815-436-5158

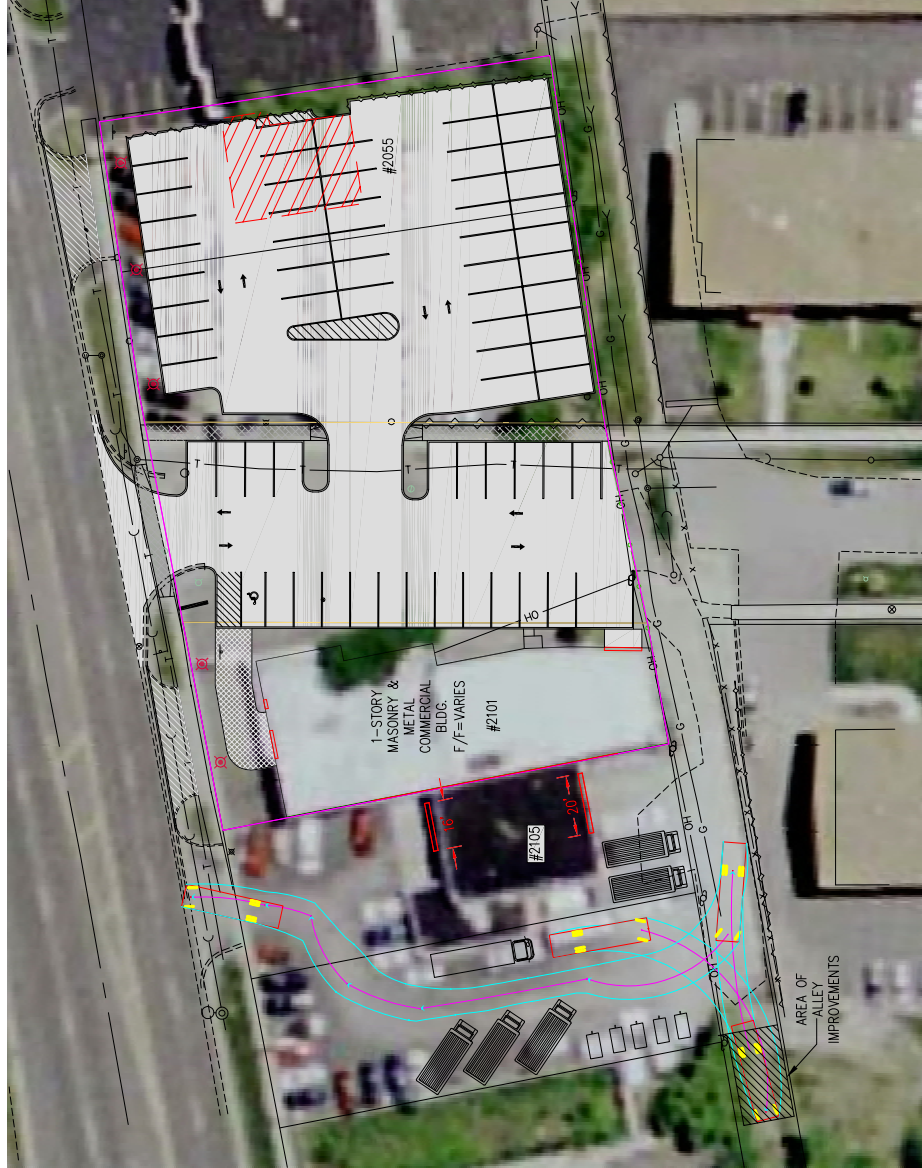
JOB NUMBER: 06-227		DATE: 10-31-2006	
DRAWN BY: GRB		SCALE: 1"=40'	
CHECKED BY: GRB			
1	DATE	DESCRIPTION	
2			
3			





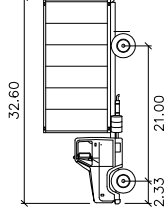
ULTIMATE MOTOR CARS
OGDEN AVENUE, POWNERS GROVE

AUTOTURN EXHIBIT B - ULTIMATE MOTOR CARS

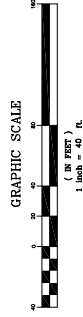


SITE LOCATION

UHAUL - 26' SUPER MOVER



feet
 Width : 7.60
 Track : 7.25
 Lock to Lock Time : 6.00
 Steering Angle : 31.80



AERIAL PHOTOGRAPHY TAKEN FROM WWW.TERRASERVER.COM DATED APRIL 1, 2006.

C.M. Lavioe & Associates, Inc.
 Consulting Civil Engineering & Land Surveying
 1050 State Route 126
 Plainfield, Illinois 60544
 voice 815-254-0505
 fax 815-436-5158



JOB NUMBER:	06-227	DATE:	01-16-2007
DRAWN BY:	CNW	SCALE:	1"=40'
CHECKED BY:	MOC		
DESCRIPTION:			
#	1	DATE	
	2		
	3		

ORDINANCE NO. _____

**AN ORDINANCE AUTHORIZING A SPECIAL USE FOR
2055 & 2101 OGDEN AVENUE TO PERMIT AN AUTOMOBILE DEALERSHIP**

WHEREAS, the following described property, to wit:

Lot 1 in Block 3 and Lots 6 & 7 in Block 2 in Arthur T. McIntosh and Company’s Belmont Country Club Addition, being a subdivision in Parts of Section 1, Township 38 North, Range 10 East of the Third Principal Meridian and Section 6, Township 38 North, Range 11 East of the Third Principal Meridian, according to the Plat thereof recorded May 18, 1927 as Document 235837, in DuPage County, Illinois.

Commonly known as 2101 & 2055 Ogden Avenue, Downers Grove, IL (PIN 08-01-405-006 & 08-01-406-002)

And

That part of Pershing Avenue in Arthur T. McIntosh and Company’s Belmont Country Club Addition, (being a subdivision in parts of Section 1, Township 38 North, Range 10 East of the Third Principal Meridian and Section 6, Township 38 North, Range 11 East of the Third Principal Meridian, according to the plat thereof recorded May 18, 1927 as Document 235837), described as follows: Beginning at the Northwest corner of Lot 7 in Block 2 of said subdivision; thence South 00 degrees 05 minutes 35 seconds West (assumed bearing) 151.62 feet to the Southwest corner of said Lot 7; thence South 77 degrees 53 minutes 34 seconds West 67.53 feet to the Southeast corner of Lot 1 in Block 3 of said subdivision; thence North 00 degrees 05 minutes 35 seconds East 153.13 feet to the Northeast corner of said Lot 1; thence North 79 degrees 09 minutes 16 seconds East 67.22 feet to the point of beginning in the Village of Downers Grove, DuPage County, Illinois.

Commonly known as that portion of Pershing Avenue Lying south of Ogden Avenue at the intersection of Ogden and Pershing Avenues (“Vacated Pershing Avenue”)

(hereinafter referred to as the "Property") is presently zoned in the "*B-3, General Services & Highway Business District*" under the Comprehensive Zoning Ordinance of the Village of Downers Grove; and

WHEREAS, the owner of the Property has filed with the Plan Commission, a written petition conforming to the requirements of the Zoning Ordinance, requesting that a Special Use per Section 28-609(c) of the Zoning Ordinance be granted to allow an automobile dealership.

WHEREAS, such petition was referred to the Plan Commission of the Village of Downers Grove, and said Plan Commission has given the required public notice, has conducted a public hearing respecting said petition and has made its findings and recommendations, all in accordance with the statutes of the State of Illinois and the ordinances of the Village of Downers Grove; and,

WHEREAS, the Plan Commission has recommended approval of the requested Special Use, subject to certain conditions; and,

WHEREAS, the Village Council finds that the evidence presented in support of said petition, as stated in the aforesaid findings and recommendations of the Plan Commission, is such as to establish the following:

1. 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.

2. The proposed 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.
3. 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.
4. The proposed use is one of the special uses specifically listed for the district in which it is to be located and, if approved with restrictions as set forth in this ordinance, will comply with the provisions of the Downers Grove Zoning Ordinance regulating this Special Use.

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

SECTION 1. That a Special Use of the Property is hereby granted to permit an automobile dealership.

SECTION 2. This approval is subject to the following conditions:

1. The development shall substantially conform to the staff report dated January 8, 2007; the plat of easement and plat of vacation prepared by C.M. Lavoie & Associates dated October 31, 2006; the preliminary engineering plan prepared by C.M. Lavoie & Associates dated November 3, 2006, revised December 11, 2006; and architectural plans prepared by Fergon Architects dated November 3, 2006, revised December 13, 2006, except as such plans may be modified to conform to Village Codes and Ordinances.
2. All construction within the Ogden Avenue right-of-way will require approval from the Illinois Department of Transportation (IDOT).
3. The petitioner shall coordinate with the Village's potential capital improvement plan to ensure comprehensive drainage improvements in the area. The petitioner's site plans shall be developed to tie into the Village's planned capital improvements for Pershing Avenue immediately south of the vacated right-of-way section.
4. Prior to the issuance of construction/site development permits, the following changes shall be made to the plans:
 - a. Storm sewer calculations shall be provided and shall include hydraulic grade line calculations. An exhibit that shows the storm sewer tributary area shall also be included. The offsite flow from the east shall be addressed in the calculations. Proposed storm pipe sizes and invert elevations shall be provided.
 - b. Final site improvement plans shall be prepared. A grading plan, utility plan and sediment and erosion control plan shall minimally be included. Plans shall be signed and sealed by a registered professional engineer. Coordinate with planned Village capital improvement project.
 - c. The site plan shall include standard Village erosion control notes on the sediment and erosion control sheet.
 - d. Realign proposed storm sewers to maximize flow capture and to coordinate with planned Village capital project plans for alley area to the south. Flow may not be routed through underground detention chamber at the condominium complex to the south.

- e. The fence along the south side of the vacated right-of-way shall be shown to allow water movement underneath the fence.
- f. Site plans shall show signs displaying ‘customer only parking’ on the east side of the vacated Pershing Avenue right-of-way to ensure that no display cars are parked on top of the existing water utilities.

- 5. Prior to final Village Council consideration, the petitioner shall have a Plat of Vacation prepared by a licensed surveyor. The Village shall provide easement language which shall be noted on the Plat of Vacation to show the following:
 - a. A drainage and utility easement for the Village of Downers Grove, DuPage Water Commission and other public utilities including but not limited to Commonwealth Edison, Comcast, and AT&T.
 - b. A cross-access easement to allow current and future owners of 2055 Ogden Avenue access to Ogden Avenue through the vacated Pershing Avenue right-of-way
 - c. A sidewalk easement to allow for the Pershing Avenue sidewalk to continue within the vacated right-of-way.
 - d. The petitioner shall indemnify the Village and DuPage Water Commission for all damages associated with the water utilities under the vacated Pershing Avenue right-of-way.

- 6. Petitioner shall apply for a permit and pay for improvements to the alley, as described in Exhibit B attached hereto and incorporated herein by reference, which was provided at the January 22, 2007 Plan Commission.

SECTION 3. The above conditions are hereby made part of the terms under which the Special Use is granted. Violation of any or all of such conditions shall be deemed a violation of the Village of Downers Grove Zoning Ordinance, the penalty for which may include, but is not limited to, a fine and or revocation of the Special Use granted herein.

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 pamphlet form as provided by law.

Mayor

Passed:

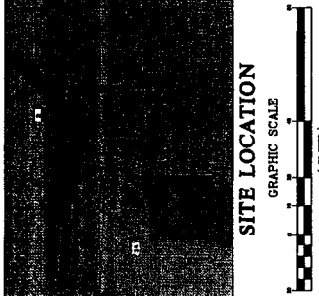
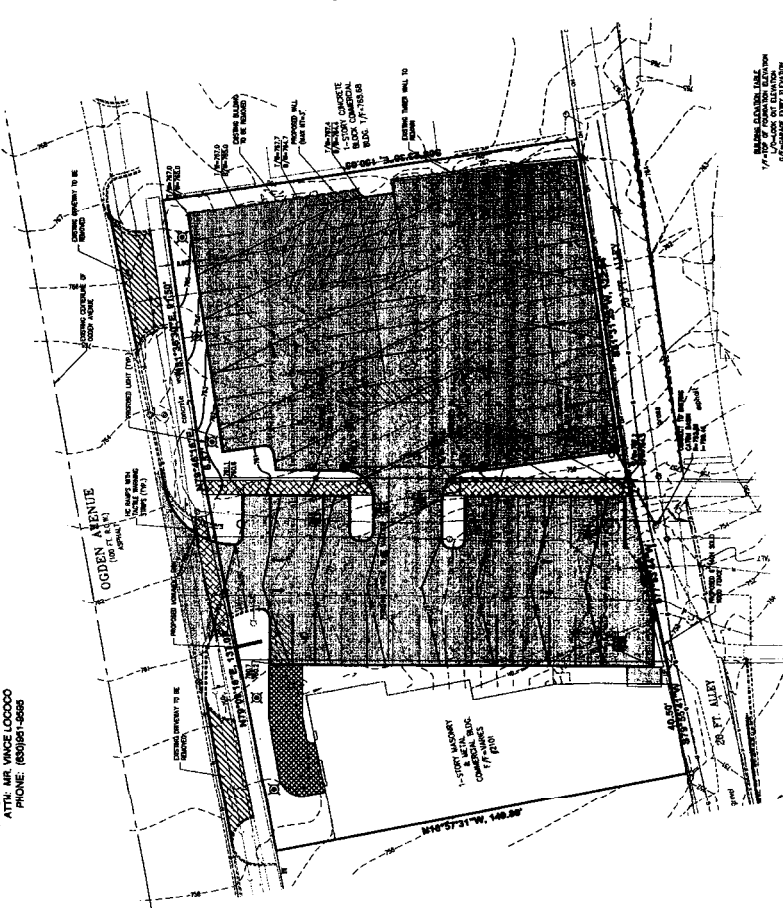
Published:

Attest: _____

Village Clerk

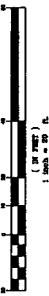
PRELIMINARY ENGINEERING PLAN

PLANS PREPARED FOR:
 ULTIMATE MOTOR CARS
 10000 S. OGDEN AVENUE
 DOWNSIDE GROVE, ILLINOIS 60515
 ATTN: MR. VINCE LOCCOCO
 PHONE: (830)81-4888



SITE LOCATION

GRAPHIC SCALE

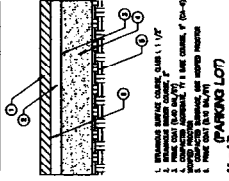


- NOTES:**
1. ALL WORK SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
 2. ALL WORK SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
 3. ALL WORK SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
 4. ALL WORK SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
 5. ALL WORK SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
 6. ALL WORK SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
 7. ALL WORK SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
 8. ALL WORK SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
 9. ALL WORK SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
 10. ALL WORK SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.

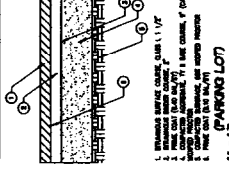
CONCRETE SCHEDULE

ITEM	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	CONCRETE	100	CU YD	100.00	10000.00
2	REINFORCING BARS	100	TON	100.00	10000.00
3	FORMWORK	100	SQ YD	100.00	10000.00
4	PAVING	100	SQ YD	100.00	10000.00
5	LANDSCAPING	100	SQ YD	100.00	10000.00

HANDICAP PARKING



TYPICAL PAVEMENT SECTION



- NOTES:**
1. PAVEMENT SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
 2. PAVEMENT SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
 3. PAVEMENT SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
 4. PAVEMENT SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
 5. PAVEMENT SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.

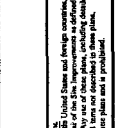
LOT AREA STATISTICS

ITEM	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	TOTAL LOT AREA	10000	SQ FT	1.00	10000.00
2	PAVEMENT AREA	5000	SQ FT	1.00	5000.00
3	LANDSCAPING AREA	5000	SQ FT	1.00	5000.00

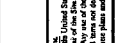
LEGEND

- PROPOSED PAVED AND SECTION
- PROPOSED PAVED AND SECTION
- PROPOSED PAVED AND SECTION
- PROPOSED PAVED AND SECTION
- PROPOSED PAVED AND SECTION
- PROPOSED PAVED AND SECTION
- PROPOSED PAVED AND SECTION
- PROPOSED PAVED AND SECTION
- PROPOSED PAVED AND SECTION
- PROPOSED PAVED AND SECTION

CURB AND GUTTER DETAIL



6" BARRIER CURB



NOTES:

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
2. ALL WORK SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
3. ALL WORK SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
4. ALL WORK SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
5. ALL WORK SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
6. ALL WORK SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
7. ALL WORK SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
8. ALL WORK SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
9. ALL WORK SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.
10. ALL WORK SHALL BE IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, AS AMENDED, AND ALL APPLICABLE LOCAL ORDINANCES.

ULTIMATE MOTOR CARS
 DOWNERS GROVE, ILLINOIS

PRELIMINARY ENGINEERING PLAN

DATE: 11-20-00
 SHEET: 1 OF 1

C.M. Lavoie
 CONSULTING CIVIL ENGINEERING
 1000 S. OGDEN AVENUE
 DOWNERS GROVE, ILLINOIS 60515
 PHONE: (830)81-4888

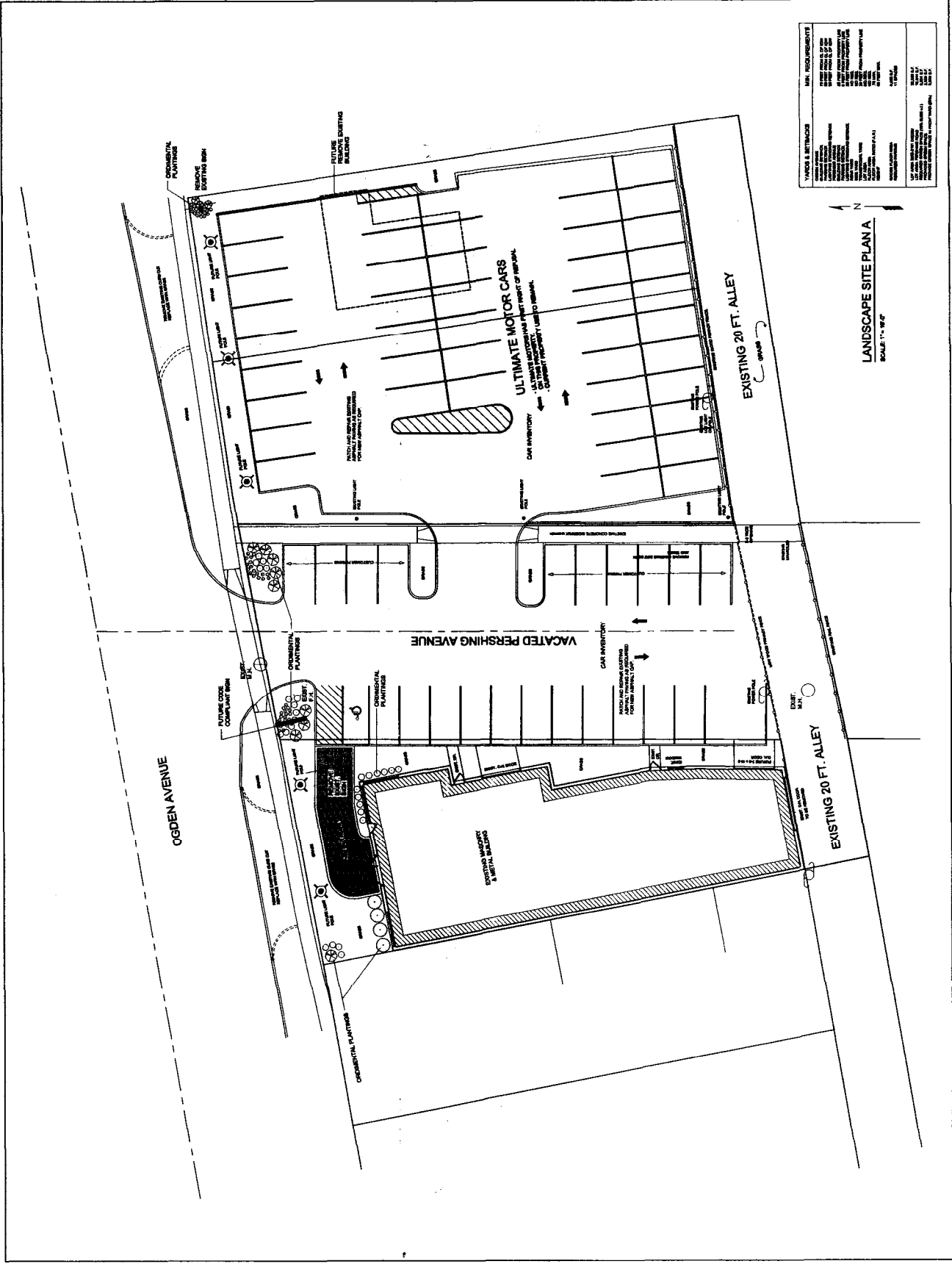
NO. 1	NO. 2	NO. 3	NO. 4	NO. 5	NO. 6

ULTIMATE MOTOR CARS
 2011 S. 3000 AVENUE, COMMERCE, GENESEE COUNTY, NY 14829
 CONTACT: JAMES H. HARRIS, P.E.
 JHARRIS@HARRISARCHITECTS.COM



PROJECT NO. 11-00035
 DATE: 11/11/11
 DRAWING NO. 11-00035-05
 SHEET NO. 4 OF 5

DATE	NO.



LANDSCAPE SITE PLAN A
 SCALE: 1/4" = 1'-0"

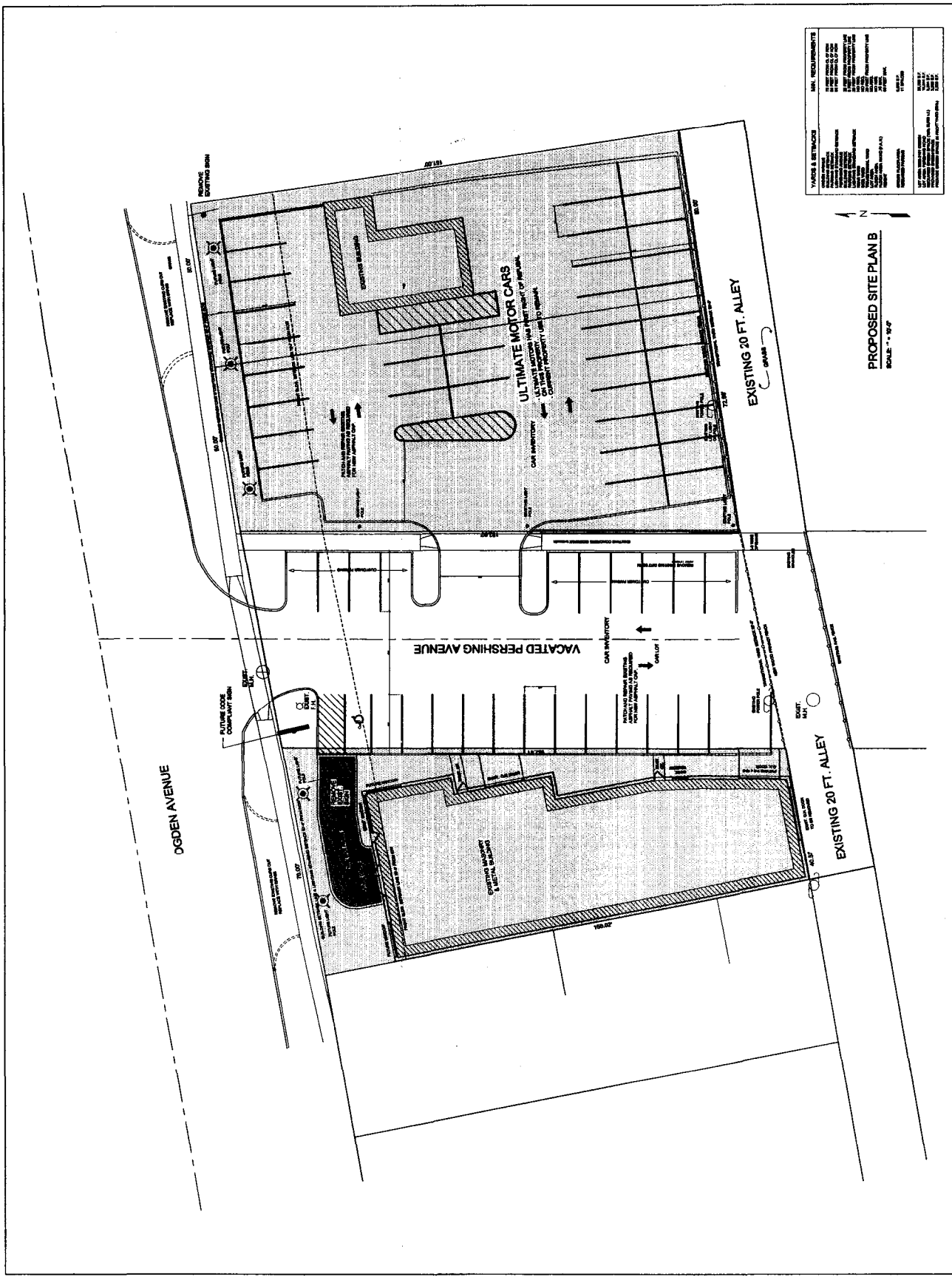
NO.	DATE	DESCRIPTION
1	11/11/11	PRELIMINARY
2	11/11/11	REVISION
3	11/11/11	REVISION
4	11/11/11	REVISION
5	11/11/11	REVISION
6	11/11/11	REVISION
7	11/11/11	REVISION
8	11/11/11	REVISION
9	11/11/11	REVISION
10	11/11/11	REVISION

DATE	
SCALE	
PROJECT	
CLIENT	
ARCHITECT	
ENGINEER	
PLUMBER	
ELECTRICIAN	
Mechanical	
Structural	
Other	

ULTIMATE MOTOR CARS
 2101 & 2005 OGDEN AVENUE, DOWNTOWN GREEK
 COMMERCIAL DESIGN ARCHITECTS LTD.

ARCHITECTS LTD.
 1100 West 1st Avenue, Suite 100
 Vancouver, BC V6C 1A7
 TEL: 604-681-1100
 FAX: 604-681-1101
 WWW.COMMERCIALDESIGNARCHITECTS.COM

PROJECT NO. 00035
 SHEET NO. 2 of 5



TYPE & DETAIL	NO.	REQUIREMENTS
1. SIGNAGE	1	SEE SIGNAGE SPECIFICATIONS
2. LIGHTING	2	SEE LIGHTING SPECIFICATIONS
3. PAINT	3	SEE PAINT SPECIFICATIONS
4. FLOORING	4	SEE FLOORING SPECIFICATIONS
5. WALLS	5	SEE WALL SPECIFICATIONS
6. CEILING	6	SEE CEILING SPECIFICATIONS
7. MECHANICAL	7	SEE MECHANICAL SPECIFICATIONS
8. ELECTRICAL	8	SEE ELECTRICAL SPECIFICATIONS
9. PLUMBING	9	SEE PLUMBING SPECIFICATIONS
10. STRUCTURAL	10	SEE STRUCTURAL SPECIFICATIONS
11. LANDSCAPE	11	SEE LANDSCAPE SPECIFICATIONS
12. OTHER	12	SEE OTHER SPECIFICATIONS

PROPOSED SITE PLAN B
 SCALE: 1/8" = 1'-0"

EXHIBIT

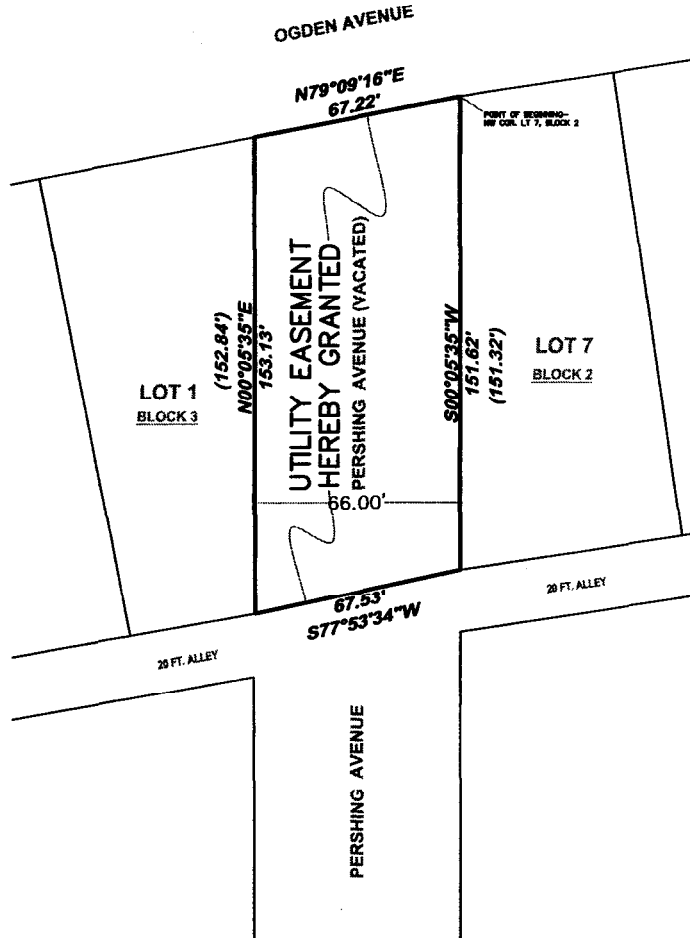
PLAT OF EASEMENT FOR PUBLIC UTILITY PURPOSES

IN THE VILLAGE OF DOWNERS GROVE,
DUPAGE COUNTY, ILLINOIS



EASEMENT DESCRIPTION:

THAT PART OF PERSHING AVENUE IN ARTHUR T. MCINTOSH AND CO'S. BELMONT COUNTRY CLUB ADDITION, (BEING A SUBDIVISION IN PARTS OF SECTION 1, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN AND SECTION 6, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THERE OF RECORDED MAY 18, 1927 AS DOCUMENT 235837), DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT 7 IN BLOCK 2 OF SAID SUBDIVISION; THENCE SOUTH 00 DEGREES 05 MINUTES 35 SECONDS WEST (ASSUMED BEARING) 151.62 FEET TO THE SOUTHWEST CORNER OF SAID LOT 7; THENCE SOUTH 77 DEGREES 53 MINUTES 34 SECONDS WEST 67.53 FEET TO THE SOUTHEAST CORNER OF LOT 1 IN BLOCK 3 OF SAID SUBDIVISION; THENCE NORTH 00 DEGREES 05 MINUTES 35 SECONDS EAST 153.13 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE NORTH 79 DEGREES 09 MINUTES 16 SECONDS EAST 67.22 FEET TO THE POINT OF BEGINNING IN THE VILLAGE OF DOWNERS GROVE, DUPAGE COUNTY, ILLINOIS.



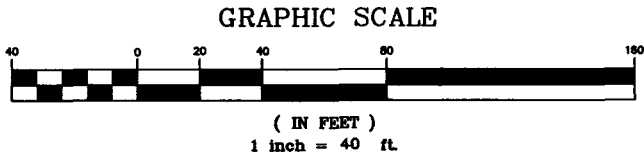
STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

APPROVED AND ACCEPTED ON BEHALF OF THE VILLAGE OF DOWNERS GROVE BY VILLAGE COUNCIL ON THIS

_____ DAY OF _____, A.D., 20__

BY: _____
BRIAN KRAJEWSKI, MAYOR

ATTEST: _____
APRIL HOLDEN, VILLAGE CLERK



(0.00')
0.00'
STATE OF ILLINOIS)
) SS
COUNTY OF KENDALL)

RECORD INFORMATION
MEASURED INFORMATION

THIS IS TO CERTIFY THAT C.M. LAVOIE & ASSOCIATES HAVE PLATTED THE PROPERTY DESCRIBED HEREON FOR THE PURPOSES OF GRANTING AN EASEMENT AND THAT THE ANNEXED PLAT IS A CORRECT AND TRUE REPRESENTATION OF SAID PROPERTY. ALL DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF.

GIVEN UNDER MY HAND AND SEAL AT PLAINFIELD, ILLINOIS, THIS 31ST DAY OF OCTOBER, A.D., 2006.



PREPARED FOR:
ULTIMATE MOTORS
2055 OGDEN AVE.
DOWNERS GROVE, IL. 60515

ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 35-3131
LICENSE RENEWAL/DATE OF EXPIRATION: 11-30-06

C.M. Lavoie & Associates, Inc.
Consulting Civil Engineering
& Land Surveying
1050 State Route 126
Plainfield, Illinois 60544
voice 815-254-0505
fax 815-436-5158

JOB NUMBER: 06-227		DATE: 10-31-2006	
DRAWN BY: GRB		SCALE: 1"=40'	
CHECKED BY: GRB			
#	DATE	DESCRIPTION	
1			
2			
3			

PLAT OF VACATION

OF PUBLIC RIGHT-OF-WAY
IN THE VILLAGE OF DOWNERS GROVE,
DUPAGE COUNTY, ILLINOIS

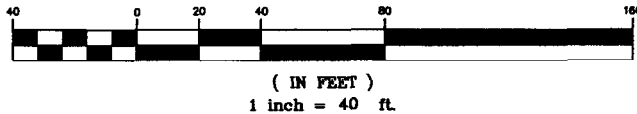


LEGAL DESCRIPTION OF ROADWAY VACATION:

THAT PART OF PERSHING AVENUE IN ARTHUR T. MCINTOSH AND CO'S. BELMONT COUNTRY CLUB ADDITION, (BEING A SUBDIVISION IN PARTS OF SECTION 1, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN AND SECTION 6, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THERE OF RECORDED MAY 18, 1927 AS DOCUMENT 235837), DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT 7 IN BLOCK 2 OF SAID SUBDIVISION; THENCE SOUTH 00 DEGREES 05 MINUTES 35 SECONDS WEST (ASSUMED BEARING) 151.62 FEET TO THE SOUTHWEST CORNER OF SAID LOT 7; THENCE SOUTH 77 DEGREES 53 MINUTES 34 SECONDS WEST 67.53 FEET TO THE SOUTHEAST CORNER OF LOT 1 IN BLOCK 3 OF SAID SUBDIVISION; THENCE NORTH 00 DEGREES 05 MINUTES 35 SECONDS EAST 153.13 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE NORTH 79 DEGREES 09 MINUTES 16 SECONDS EAST 67.22 FEET TO THE POINT OF BEGINNING IN THE VILLAGE OF DOWNERS GROVE, DUPAGE COUNTY, ILLINOIS.

CONTAINS 0.231 ACRES, MORE OR LESS.

GRAPHIC SCALE



STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

THE ATTACHED PLAT OF VACATION IS IDENTIFIED AS THAT INCORPORATED INTO AND MADE A PART OF THE VILLAGE OF DOWNERS GROVE ORDINANCE NUMBER _____ ADAPTED BY THE VILLAGE OF DOWNERS GROVE MAYOR AND VILLAGE COUNCIL ON THIS _____ DAY OF _____ A.D., 20__

BY: _____
BRIAN KRAJEWSKI, MAYOR

ATTEST: _____
APRIL HOLDEN, VILLAGE CLERK

STATE OF ILLINOIS)
) SS
COUNTY OF KENDALL)

THIS IS TO CERTIFY THAT C.M. LAVOIE & ASSOCIATES HAVE SURVEYED AND PLATTED THE PROPERTY DESCRIBED HEREON FOR THE PURPOSES OF VACATION AND THAT THE ANNEXED PLAT IS A CORRECT AND TRUE REPRESENTATION OF SAID PROPERTY. ALL DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF.

GIVEN UNDER MY HAND AND SEAL AT PLAINFIELD, ILLINOIS, THIS 31ST DAY OF OCTOBER, A.D., 2006.

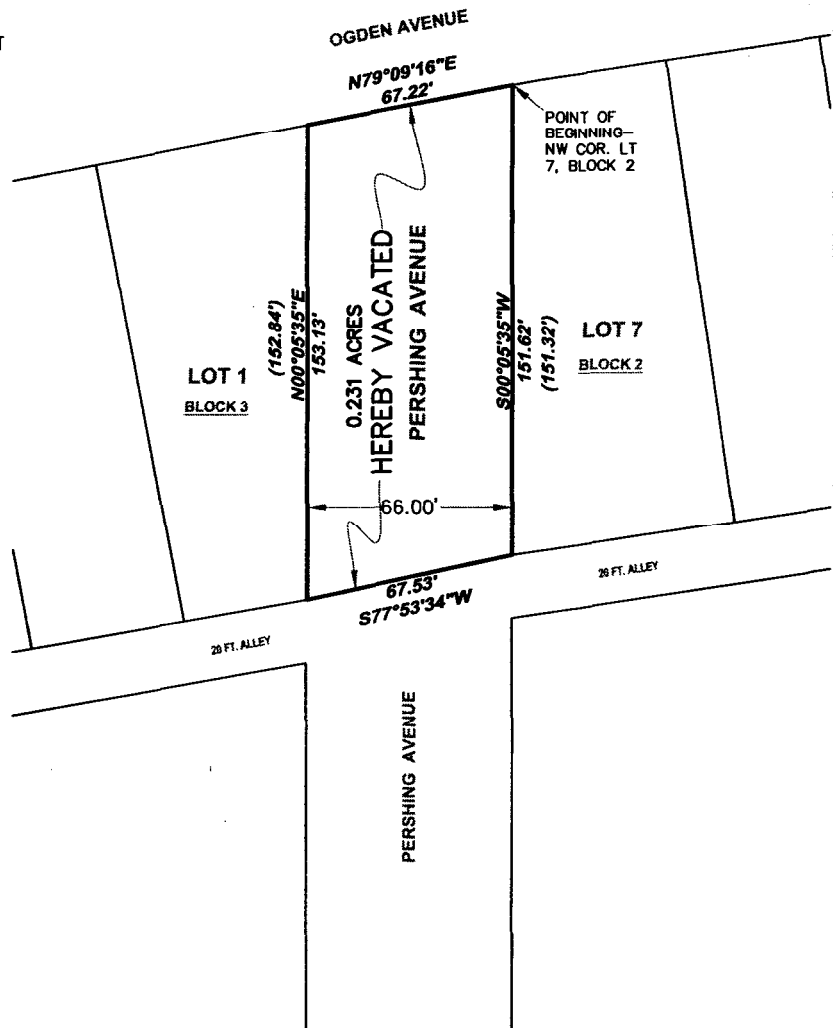
ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 35-3131
LICENSE RENEWAL/DATE OF EXPIRATION: 11-30-06



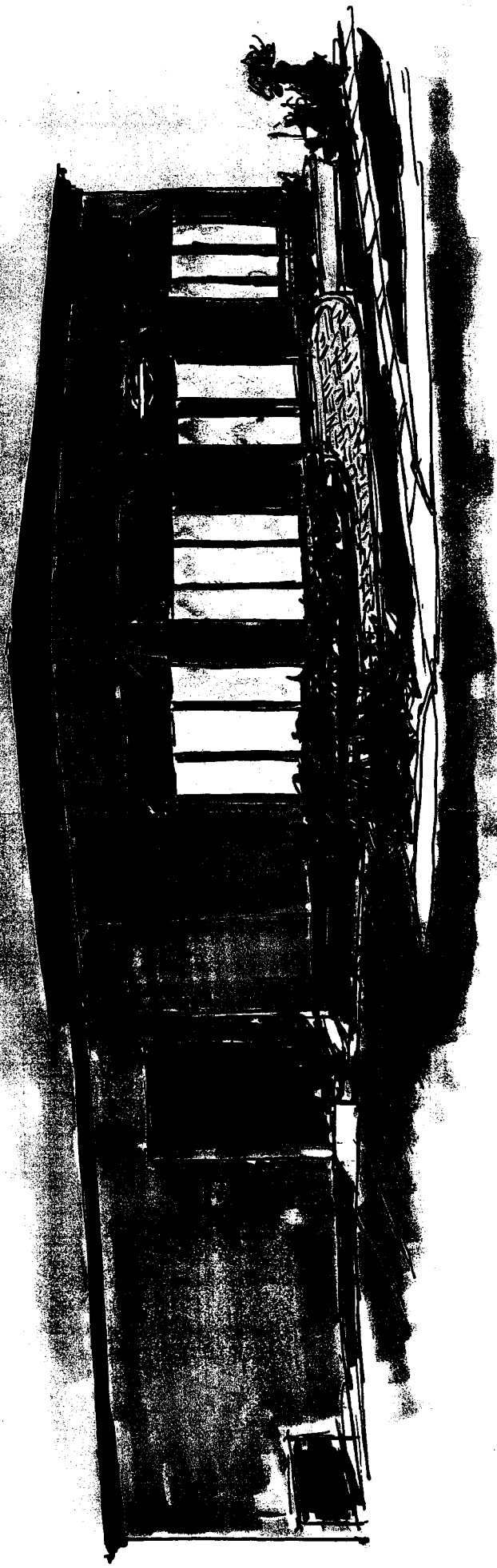
PREPARED FOR:
ULTIMATE MOTORS
2055 OGDEN AVE.
DOWNERS GROVE, IL. 60515



C.M. Lavoie & Associates, Inc.
Consulting Civil Engineering
& Land Surveying
1050 State Route 126
Plainfield, Illinois 60544
voice 815-254-0505
fax 815-436-5158

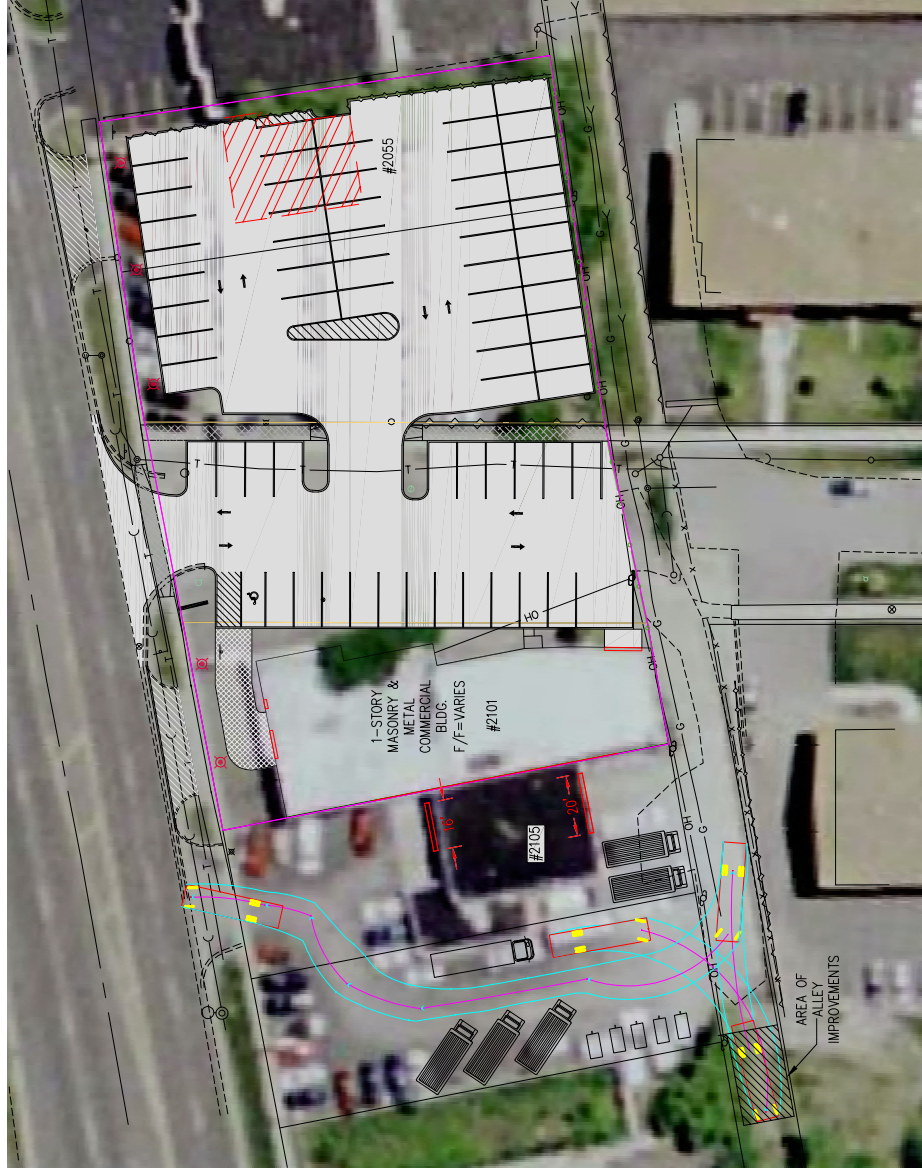


JOB NUMBER: 06-227		DATE: 10-31-2006	
DRAWN BY: GRB		SCALE: 1"=40'	
CHECKED BY: GRB			
1	DATE	DESCRIPTION	
2			
3			



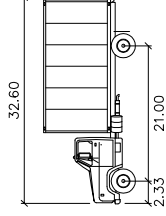
ULTIMATE MOTOR CARS
OGDEN AVENUE, POWNERS GROVE

AUTOTURN EXHIBIT B - ULTIMATE MOTOR CARS

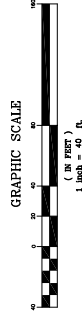


SITE LOCATION

UHAUL - 26' SUPER MOVER



feet
 Width : 7.60
 Track : 7.25
 Lock to Lock Time : 6.00
 Steering Angle : 31.80



AERIAL PHOTOGRAPHY TAKEN FROM WWW.TERRASERVER.COM DATED APRIL 1, 2006.

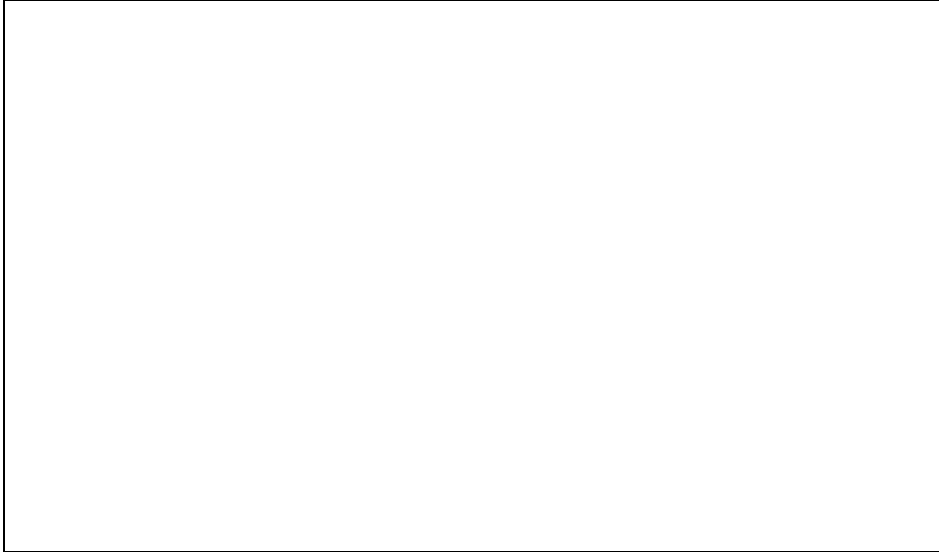
C.M. Lavioe & Associates, Inc.
 Consulting Civil Engineering & Land Surveying
 1050 State Route 126
 Plainfield, Illinois 60544
 voice 815-254-0505
 fax 815-436-5158



JOB NUMBER:	06-227	DATE:	01-16-2007
DRAWN BY:	CNW	SCALE:	1"=40'
CHECKED BY:	MOC		
DESCRIPTION:			
#	1	DATE	
	2		
	3		

**EASEMENT FOR ACCESS,
SIDEWALK PURPOSES,
UTILITY AND DRAINAGE
PURPOSES AND
INDEMNIFICATION
AGREEMENT**

PIN: 08-01-405-006
Address: 2101 Ogden Avenue,
Downers Grove, IL 60515



FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the undersigned GRANTOR(S) for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, grants, warrants and conveys to the VILLAGE OF DOWNERS GROVE, an Illinois municipal corporation (the "VILLAGE"), in the County of DuPage and State of Illinois, its successors and assigns, the COUNTY OF DUPAGE, the DUPAGE WATER COMMISSION and to utility companies operating under franchise from the said VILLAGE including, but not limited to, AT&T, COMMONWEALTH EDISON COMPANY, COMCAST CABLE, THE DOWNERS GROVE SANITARY DISTRICT and their respective successors and assigns jointly and severally, a perpetual non-exclusive easement and privilege on, over, across, under, in and through certain lands marked "Public Utilities and Access Easement Reservation" on the plat of vacation of the Vacated Street Right-of-Way **for any and all municipal, governmental and public utility purposes with privilege and authority to construct, reconstruct, repair, inspect, maintain and operate various utility transmission and distribution systems and community antenna televisions systems**

and all necessary connections, appliances and other structures and appurtenances as may be deemed necessary by said VILLAGE and for any and all municipal purposes, including but not limited to storm sewer purposes, storm water purposes, water main purposes, any and all utilities, sidewalk or roadway purposes, or by said DuPage Water Commission for its waterworks system, with full and free right of entry for the purpose of performing any excavation, drilling, filling, and grading, together with the right to cut, trim, or remove trees, bushes and roots, or perform other work necessary for construction, maintenance, reconstruction, and repair of all appurtenances, of whatever kind or nature as the VILLAGE, County, Commission, utility franchisees, their successors, or assigns determine is necessary to be constructed or installed on the real estate owned by the GRANTOR(S) situated in the County of DuPage, State of Illinois, and described as follows:

See attached **Exhibit A** (Legal Description)

(Affects PIN:08-01-405-006

Common Address: 2101 Ogden Avenue, Downers Grove, IL 60515).

SIDEWALK EASEMENT

A cross access easement is hereby reserved for and granted to the VILLAGE for a public sidewalk solely for the purpose of a public access sidewalk that is provided within the Vacated Street Right-of-Way as described herein and as shown on plans drawn and revised on 12-11-06 by C.M. Lavoie for a permanent, non-exclusive easement and the right to construct, replace, maintain, remove or modify a public sidewalk in, upon, over and across that certain real property situated in said VILLAGE of Downers Grove.

The GRANTOR(S) shall not permit, and no GRANTEE shall permit, permanent obstructions to be placed over the VILLAGE's easements or facilities or in, upon or over the properties described herein without written consent of the VILLAGE or over the COMMISSION's easement or facilities without written consent of the COMMISSION; but same may be used for gardens, shrubs, landscaping, parking, and other purposes that do not then or later interfere with the aforesaid uses and rights. All installations shall be subject to the ordinances of the VILLAGE of Downers Grove. Easements are hereby reserved for and granted to the VILLAGE of Downers Grove and other governmental authorities having jurisdiction of the land over the entire easement area for ingress, egress and the performance of any and all municipal and other governmental services. and in no case shall the GRANTOR(S) nor the GRANTEES permit any interference with the proper operation and maintenance of the water service facilities.

Notwithstanding anything to the contrary herein except the need to obtain written consent, it is understood that the GRANTOR(S) hereby reserves the right to utilize the property which is the subject of the easement so long as it meets zoning requirements and does not reasonably interfere with easement rights granted hereunder which use shall specifically include but not be limited to the right to ingress and egress over, upon and through the property, and any and all other rights not inconsistent with use by the VILLAGE or the other GRANTEES.

This easement and all the terms, conditions, rights and obligations contained herein shall run with the land and the covenants and agreements herein contained shall be binding upon the parties hereto, their respective GRANTEES, lessees, GRANTORS,

successors, assigns and all subsequent owners of the fee title to the real estate described in Exhibit A.

Any mortgage, deed of trust, or ground lease granted or entered into with respect to the real estate described in Exhibit A from and after the date of this grant of easement shall be subordinate and inferior to the easements, rights, benefits and obligations created hereby, and the foreclosure under any such mortgage or deed of trust shall not extinguish or impair the easements, right, benefits, and obligations created by this grant of easement.

ACCESS EASEMENT for 2055 OGDEN AVENUE

A cross access easement is hereby further reserved for and granted to the owner of 2055 Ogden Avenue, its heirs, successors and assigns (hereinafter “GRANTEE 2055 OGDEN AVENUE”), permitting access through and over the Vacated Street Right-of-Way as described herein for the perpetual right, privilege and authority to access Ogden Avenue.

Specifically, GRANTOR is the owner of record of certain real estate located in Downers Grove, DuPage County, Illinois, which is presently maintained as an unimproved alleyway and legally described in Exhibit A attached hereto and incorporated herein by reference.

GRANTEE is the owner of the property at 2055 Ogden Avenue, Downers Grove, Illinois 60515, which is located directly east of GRANTOR’s Property and legally described in Exhibit B attached hereto and incorporated herein by reference, PIN 08-01-406-002 (hereinafter referred to as “GRANTEE’s Property”).

Whereas, GRANTEE 2055 OGDEN AVENUE requires access through and over GRANTOR’s Property; and GRANTOR has determined that such easement for a right of

access will not adversely impact the use of GRANTOR's Property or impair the public health, safety and welfare nor interfere with any other easement, GRANTOR hereby grants to GRANTEE 2055 OGDEN AVENUE, its heirs, successors and assigns, a revocable easement permitting access through and over GRANTOR's Property for purposes of vehicular ingress and egress to GRANTEE 2055 OGDEN AVENUE's Property.

The easement herein granted shall be limited to GRANTEE 2055 OGDEN AVENUE's use for access to GRANTEE 2055 OGDEN AVENUE's Property. This easement shall be subject to any rights of third parties in GRANTOR's Property and GRANTOR makes no warranty regarding GRANTEE's right to use the right of access except as regards the interest of the GRANTOR.

INDEMNIFICATION

GRANTOR, the owner of 2101 Ogden Avenue, its heirs, successors and assigns, assumes all liability and shall indemnify, defend and hold harmless the VILLAGE and DuPage Water Commission, its officers and employees, for any injury and damage to persons or property occasioned by or arising in connection with the water utilities located within the Vacated Street Right-of-Way.

GENERAL TERMS

1. The provisions and conditions of this Agreement shall be binding upon and inure to the benefit of the Parties, their legal representatives, successors and assigns, and shall run with the title of Property;
2. Neither the VILLAGE, its officers, agents or employees, including any public utility that is authorized to use the public right-of-way, nor the DuPage Water

Commission shall be liable for any damage incurred to the alleyway during or as a result of any repair, maintenance, operation, use or installation of equipment or facilities within the Vacated Street Right-of-Way, including but not limited to tree removal.

3. The persons executing this Agreement for and on behalf of the respective parties represent and warrant that they have the full power and authority to execute this Agreement and to bind the respective parties to all the terms conditions and covenants contained herein and that their authority has been granted and approved by the appropriate authority;

4. In case one or more of the provisions contained in this Agreement should, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein;

5. This Instrument shall be recorded and filed by the VILLAGE with the DuPage County Recorder of Deeds, at the GRANTOR's expense.

6. In case one or more of the provisions contained in the Agreement should, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

7. Illinois law shall govern this Agreement in its performance and interpretation. Venue shall be the County of DuPage.

IN WITNESS THEREOF, the parties hereto have executed this Agreement on the date herein written below.

Date

GRANTOR (2101 Ogden Avenue, Downers Grove, IL 60515):

Subscribed and sworn
to this ____ day of
_____, 2007

Notary Public

**GRANTEE:
VILLAGE OF DOWNERS GROVE**

Cara Pavlicek, Village Manager

Attest: _____
Village Clerk

GRANTEE (2055 OGDEN AVENUE, DOWNERS GROVE, IL 60515):

Signature

Subscribed and sworn to
before me this _____
Day of _____, 2007.

Print Name

Notary Public

ACKNOWLEDGMENT OF EASEMENT

This is to certify that the interest in real property conveyed herein to the Village of Downers Grove, a governmental agency, is hereby accepted by the undersigned, Village Manager, on behalf of the Village of Downers Grove pursuant to authority, consent(s) to the recordation thereof by its duly authorized officer.

Cara Pavlicek, Village Manager

By: _____

Date: _____

Return to:
Village Clerk
Village of Downers Grove
801 Burlington Ave.
Downers Grove, IL 60515

EXHIBIT A

Lot 1 in Block 3 in Arthur T. McIntosh and Company's Belmont Country Club Addition, being a subdivision in Parts of Section 1, Township 38 North, Range 10 East of the Third Principal Meridian and Section 6, Township 38 North, Range 11 East of the Third Principal Meridian, according to the Plat thereof recorded May 18, 1927 as Document 235837, in DuPage County, Illinois, commonly known as 2101 and 2055 Ogden Avenue, Downers Grove, IL (PIN 08-01-405-006)

and

That part of Pershing Avenue in Arthur T. McIntosh and Company's Belmont Country Club Addition, (being a subdivision in parts of Section 1, Township 38 North, Range 10 East of the Third Principal Meridian and Section 6, Township 38 North, Range 11 East of the Third Principal Meridian, according to the plat thereof recorded May 18, 1927 as Document 235837), described as follows: Beginning at the Northwest corner of Lot 7 in Block 2 of said subdivision, thence South 00 degrees 05 minutes 35 seconds West (assumed bearing) 151.62 feet to the Southwest corner of said Lot 7; thence South 77 degrees 53 minutes 34 seconds West 67.53 feet to the Southeast corner of Lot 1 in Block 3 of said subdivision; thence North 00 degrees 05 minutes 35 seconds East 153.13 feet to the Northeast corner of said Lot 1; thence North 79 degrees 09 minutes 16 seconds East 67.22 feet to the point of beginning in the Village of Downers Grove, DuPage County, Illinois

EXHIBIT B

Lots 6 & 7 in Block 2 in Arthur T. McIntosh and Company's Belmont Country Club Addition, being a subdivision in Parts of Section 1, Township 38 North, Range 10 East of the Third Principal Meridian and Section 6, Township 38 North, Range 11 East of the Third Principal Meridian, according to the Plat thereof recorded May 18, 1927 as Document 235837, in DuPage County, Illinois, commonly known as 2101 and 2055 Ogden Avenue, Downers Grove, IL (PIN 08-01-406-002)



Village of Downers Grove

STAFF REPORT

TO: Plan Commission **HEARING DATE:** January 8, 2007

FROM: Department of Community Development **PREPARED BY:** Stan Popovich, AICP Planner

TITLE

PC-01-07; 2055 & 2101 Ogden Avenue – Special Use, Planned Development, and Right-of-Way Vacation;

The petitioner is requesting approval of a Special Use to locate a used car dealership in a B-3 district along Ogden Avenue. The petitioner is also requesting approval to vacate Pershing Avenue and complete a Planned Development encompassing 2055 Ogden Avenue, the vacated Pershing Avenue right-of-way, and 2101 Ogden Avenue.

APPLICATION/NOTICE: The application has been filed in conformance with applicable procedural and public notice requirements.

GENERAL INFORMATION

OWNER(S): Adrianna VanEekeren
P.O. Box 794
Lake Geneva, WI 53147

Vincent and Michelle Lococo
Ultimate Motor Cars
2101 Ogden Avenue
Downers Grove, IL 60515

APPLICANT: Vincent and Michelle Lococo
Ultimate Motor Cars
2101 Ogden Avenue
Downers Grove, IL 60515

PROPERTY INFORMATION

EXISTING ZONING: B-3

EXISTING LAND USE: Commercial

PROPERTY SIZE: Approximately 27,500 square feet (9,200 square feet of 2055 Ogden Avenue, 8,050 square feet of 2101 Ogden Avenue, and 10,250 square feet of Pershing Avenue)

PINs: 08-01-406-002 (2055 Ogden Avenue) and 08-01-405-006 (2101 Ogden Avenue)

SURROUNDING ZONING AND LAND USES:

	ZONING	FUTURE LAND USE
NORTH:	M-1 Light Manufacturing	Office, Research, & Manufacturing
SOUTH:	R-6 Multiple Family Residence	Residential 11-25 DU/Acre
EAST:	B-3 General Services and Highway Business	Commercial
WEST:	B-3 General Services and Highway Business	Commercial

ANALYSIS

SUBMITTALS

This report is based on the following documents, which are on file with the Department of Community Development:

1. Applications/Petitions for Public Hearing
2. Proof of Ownership
3. Project Summary/Cover Letter
4. Plat of Survey & Topography Plan
5. Preliminary Engineering Plan
6. Preliminary Plat of Easement
7. Architectural Drawings
 - a. Site Plan A showing long-term plans
 - b. Site Plan B showing short-term plans
8. Architectural Rendering of 2101 Ogden Avenue

DESCRIPTION

The two parcels at 2055 Ogden Avenue and 2101 Ogden Avenue are currently zoned B-3 General Services and Highway Business. The petitioners lease 2055 Ogden Avenue from Ms. Van Eekeren and use the one-story commercial building as offices for their automobile dealership, Ultimate Motor Cars (UMC). The remaining parcel is used for display spaces. A one-story commercial building at 2101 Ogden Avenue was recently purchased by the petitioners who propose to convert the vacant building into an indoor showroom and office space for UMC.

The short-term plan for the parcels is to relocate their office operations from the building at 2055 Ogden Avenue and renovate 2101 Ogden Avenue into the primary office and indoor display space. The long-term plan is for the petitioner to purchase 2055 Ogden Avenue, demolish the existing building, and convert the entire parcel into an outdoor display area. The petitioners have an agreement with the current owner, Ms. Van Eekeren, to have the first right of refusal on 2055 Ogden Avenue.

In order to better utilize the two sites, the petitioner is requesting the Village of Downers Grove (Village) vacate the section of Pershing Avenue that is between the two subject properties. The petitioner is requesting a Special Use, Planned Development, and Right-Of-Way Vacation. The petitioner does not require any variations from the Zoning Ordinance.

Right-of-Way Vacation

Currently, Pershing Avenue is not a through street. The Village has installed a vehicle barrier along the south side of the alley that runs east-west along the south side of the subject properties. This barrier prohibits through traffic on Pershing Avenue. Due to this arrangement, UMC and previous tenants of the subject properties have used Pershing Avenue as a parking lot and semi-private drive for their businesses. By vacating the right-of-way, the petitioner will be able to utilize both parcels and the right-of-way as a single continuous lot and create a comprehensive site plan.

Per the Village's right-of-way vacation policy (Resolution 2003-58), staff contacted the utility companies and public entities (including the Police Department, Fire Department and Public Works Department) to determine if any rights to the right-of-way should be retained. Currently, the Village and the DuPage Water Commission have water utilities running north-south underneath Pershing Avenue. Commonwealth Edison, Comcast, and AT&T have utility poles and overhead lines traversing Pershing Avenue along the proposed southern vacation boundary. Additionally, Commonwealth Edison has poles and lines running north-south along the west side of the right-of-way. The Village recommends retaining an easement over the entire width and length of the right-of-way. The easement will significantly limit the types of structures that can be built on the vacated property. A fence and pavement resurfacing are the most significant structures that could be constructed on the vacated right-of-way.

As a condition of approval, the Village will require that no display cars are parked on the east side of the vacated right-of-way which is above the existing water utilities. The Village will also require the petitioner to indemnify the Village from any damages caused by the water utilities within the vacated right-of-way. The petitioners have been informed of these requirements and do not object to the easement and indemnification.

Site Design

Due to the right-of-way vacation, the petitioner can utilize the two parcels and vacated right-of-way as a single site which allows for a more efficient site design layout. The petitioner is proposing to utilize the Pershing Avenue curb cut onto Ogden Avenue as their primary access. This curb cut will be reduced in size to provide the appearance of a private driveway rather than a public street. Two curb cuts along Ogden Avenue that currently serve 2055 and 2101 Ogden Avenue will be removed. These two curb cuts were identified for removal within the Ogden Avenue Master Plan.

The proposal provides for a landscaped area along the entire length of Ogden Avenue. The landscaped area will include both plantings and lawn. Additionally, a brick paver walkway will be installed in front of 2101 Ogden Avenue which will serve as both pedestrian and vehicular access to the showroom. A code compliant monument sign will replace two non-compliant signs and be located within landscape plantings. The proposed landscaping meets the zoning requirements for landscaped open green space.

The existing Ogden Avenue sidewalks will be maintained and extended through the vacated right-of-way. An existing sidewalk on the east side of the Pershing Avenue right-of-way will be maintained as well. A sidewalk easement will be granted by the petitioner to allow public access to Ogden Avenue along the Pershing Avenue sidewalk. The petitioner has been informed of this requirement and does not object to the sidewalk easement language.

A fence will be constructed across the south end of the vacated right-of-way, but will not block the existing sidewalk. The fence will not be flush with the ground to allow for positive storm water drainage as noted below.

Display cars will be located on the west side of the vacated right-of-way and also throughout the 2055 Ogden Avenue parcel. The petitioner's goal is to demolish the existing building at 2055 Ogden Avenue and utilize the entire parcel as an outdoor display area for their vehicles. Until that time, the building will remain and the rest of the parcel will be used as an outdoor display area.

Customer parking will be provided on the east side of the vacated right-of-way. As a condition of approval, no display vehicles may be parked on the east side of the vacated right-of-way because existing water utilities are located underneath this side of Pershing Avenue. A drive aisle along the east side of Pershing Avenue will be located so that it provides access to 2055 Ogden Avenue. The landscaped island to the south of the drive aisle will be located so that a water valve falls within its boundary. A cross access easement will be granted to Ms. Van Eekeren's property to allow access onto Ogden Avenue through the vacated Pershing Avenue right-of-way. The petitioner has been informed of this requirement and does not object to the easement.

Sale vehicles will typically be delivered via semi-truck during regular hours of operation. The semi-truck will be

able to unload vehicles by pulling into the vacated right-of-way and use a three-point turn to exit the site as shown on the petitioner's architectural plans.

COMPLIANCE WITH THE FUTURE LAND USE PLAN

According to the Future Land Use Plan, the subject property is designated as Commercial. The property is zoned B-3 and is located within the Ogden Avenue commercial corridor. The proposed use would compliment the uses in the vicinity. The proposal is consistent with the intent of the Future Land Use Plan and will not diminish the use of the surrounding properties.

COMPLIANCE WITH THE ZONING ORDINANCE

The property is zoned B-3. The proposed use, an automobile dealership, is a permitted Special Use in this zoning district. The proposed site plan meets all zoning requirements including green space, parking, floor area ratio and Ogden Avenue setbacks.

COMPLIANCE WITH THE SUBDIVISION ORDINANCE

This section is not applicable.

COMPLIANCE WITH THE SIGN ORDINANCE

The petitioner is proposing to remove two (2) existing non-compliant signs and replace them with one (1) monument sign that is in compliance with the Sign Ordinance. Any proposed building signs will have to comply with the Sign Ordinance. The petitioner has not yet applied for a sign permit, but the proposed signs will be reviewed for compliance during the application process.

COMPLIANCE WITH THE OGDEN AVENUE MASTER PLAN

The proposed plan complies with the Ogden Avenue Master Plan as shown in Table 1.

Table 1.

Ogden Avenue Master Plan	Proposal
Close some minor side streets and use vacated rights-of-ways	Proposal calls for vacation of Pershing Avenue.
Improve building facades	Proposal calls for the renovation of 2101 Ogden Avenue and future demolition of 2055 Ogden Avenue.
Improve building signage	Proposal removes two non-compliant signs and installs one compliant monument sign.
Relocate signs from parking lots to landscaped areas	Proposal locates sign in landscaped area.
Improve the parkway with new trees, plantings, signage, and sidewalks	Proposal provides lawn, landscaping, signage and sidewalks along Ogden Avenue
Reduce curb cuts along Ogden Avenue	Proposal calls for the removal of two curb cuts that are shown as removed in the Ogden Avenue Master Plan.
Provide interconnected sidewalks along Ogden Avenue	Proposal maintains sidewalk along Ogden Avenue and maintains access to Ogden Avenue for Pershing Avenue residents via a sidewalk with a sidewalk easement.

ENGINEERING/PUBLIC IMPROVEMENTS

The existing site's storm water management will be greatly improved. Currently, the site sheet drains toward the southwest and creates issues for the Village's storm water sewers in that area. The proposal calls for improved storm water drainage through a comprehensive grading of the site. The storm water from 2055 Ogden Avenue

will be captured via three catch basins and tie into Village storm sewers south of the project. Vacated Pershing Avenue will be improved through grading and installation of a curb and gutter system. The Village is proposing to improve drainage in the area by installing storm water detention facilities just south of the vacated Pershing Avenue area in the existing public alley. As a condition of approval, the petitioner shall be required to work in conjunction with the Village's engineers to tie into these facilities to improve drainage in this area.

The petitioner is proposing to remove two curb cuts along Ogden Avenue that serve 2055 and 2101 Ogden Avenue. The removal of these two curb cuts will add green space to Ogden Avenue and is in line with the Ogden Avenue Master Plan. The petitioner shall also reduce the size of the Pershing Avenue curb cut to Ogden Avenue so that it appears to be a private drive rather than a public through street.

The petitioner will be required to maintain the existing sidewalks along Ogden Avenue and Pershing Avenue. The Ogden Avenue sidewalk will be extended through the vacated Pershing Avenue right-of-way. A sidewalk easement will be granted by the petitioner to allow for the Pershing Avenue sidewalk to traverse his development.

PUBLIC SAFETY REQUIREMENTS

The property currently provides adequate emergency access and will continue to provide such access. The future building renovation and improvement of 2101 Ogden Avenue will have to be reviewed prior to a permit being issued. As such, the building will have to comply with current building codes and some upgrades to the fire alarm system may be required.

NEIGHBORHOOD COMMENT

Staff spoke with the tenant, Mr. Dan Banks, at 2105 Ogden Avenue who uses the property as an automobile dealership and U-Haul truck rental. Mr. Banks stated that he will lose a substantial amount of business due to the street vacation as he is required by U-Haul to have two access points onto Ogden Avenue. In addition to the property's curb cut onto Ogden Avenue, Mr. Banks uses the east-west public alley and Pershing Avenue to access Ogden Avenue. He also noted that should Pershing Avenue be vacated as proposed, his Ogden Avenue access would become more difficult since his only access would be through his curb cut. Additionally, Mr. Banks uses Pershing Avenue as a loop to maneuver large U-Haul trucks.

While staff finds these as valid concerns, the Village could at any point convert the alley from a gravel corridor into a green space corridor if it was determined to be a necessary Village improvement. The portions of alley immediately east and west of this alley segment are green spaces. The Ogden Avenue Master Plan calls for the closing of minor stub streets as well. Additionally, the Village's strategic plan calls for the creation of vibrant commercial corridors. Staff believes the vacation of little used public right-of-ways adjacent to Ogden Avenue is a tool to meet this goal. This planned development will assist in creating the vibrant corridors that the Village desires.

FINDINGS OF FACT

Compliance with the Procedure to be Followed in the Vacation of Streets, Alleys, and Public Rights-of-Way (Resolution #2003-58)

Staff believes the request complies with the Village policy outlined in Resolution #2003-58. Pershing Avenue is not used for public traffic and is currently used to park cars and provide access to the east-west alley. Staff believes the street right-of-way does not need to be retained for the general health, safety and welfare of Village residents. The utility providers affected by the vacation have noted that an easement is acceptable to maintain existing utility facilities. Staff believes the existing utilities and public needs can be addressed with an easement and is recommending retaining an easement over the entire portion of the street to be vacated. Staff recommends the petitioner indemnify the Village and DuPage Water Commission from any damage caused by the water utilities located underneath the vacated right-of-way.

Staff recommends that the entire Pershing Avenue right-of-way be vacated to the owner of 2101 Ogden Avenue. The property owner of 2055 Ogden Avenue, Ms. Van Eekeren, has indicated in a letter that she does not want the right-of-way but wants to ensure her property has access to Ogden Avenue through the vacated right-of-way.

Staff believes this can be addressed through a cross access easement over the entire portion of the right-of-way to be vacated.

At the petitioner's sole expense, the petitioner will be required to provide a Plat of Vacation prepared by a licensed surveyor. The licensed surveyor shall consult with the DuPage County Recorder to determine how the Plat of Vacation shall be prepared to meet the DuPage County requirements. The surveyor shall adequately describe the vacated right-of-way on the Plat of Vacation.

Staff recommends that the petitioner provide the Village with compensation for the vacated street. Compensation is typically determined by one of three models, a land value assessment, an appraisal, or a purchase price for redevelopment. Staff believes the model to be used and compensation should be determined through Village Council discussions.

In order to assist in this discussion, staff prepared a table that identifies the amount of compensation that would be required using the land value assessment model. This amount is based on the latest assessment of land adjacent to the right-of-way. When land will be encumbered with an easement, land is generally valued at one-third (1/3) of the value of the same property that does not have an easement. The following table provides the estimated value of the petitioner's land.

Table 1. Estimated value of alley

Property Address	Land Value	Land Value per Acre	Acres of ROW to be vacated	Estimated Value of entire ROW	Encumbered Value of entire ROW
2101 Ogden Ave	\$ 34,190	\$ 184,811	0.231	\$ 42,691.30	\$ 14,088.13

Based on the land value assessment model, the petitioner would be required to compensate the Village an amount of \$14,088.13.

The standards for approval of a Special Use and Planned Development are listed below. The petitioner has addressed the standards for approval in the attached project summary. Staff believes the proposed use is compatible with the surrounding area and will not have an adverse impact on the development or the existing trend of development in the Ogden Avenue corridor.

Section 28.1902 Standards for Approval of Special Uses

The Village Council may authorize a special use by ordinance provided that the proposed Special Use is consistent and in substantial compliance with all Village Council policies and land use plans, including but not limited to the Comprehensive Plan, the Future Land Use Plan and Master Plans and the evidence presented is such as to establish the following:

- (a) 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.*
- (b) 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.*
- (c) 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.*
- (d) That it is one of the special uses specifically listed for the district in which it is to be located.*

28.1607 Standards for Approval of Planned Developments

The Plan Commission may recommend a planned development designation, plan or amendment based upon the following findings:

- (1) The extent to which the planned development meets the standards of this Article.*
- (2) The extent to which the planned development departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to, the density, dimension, area, bulk, and use, and the reasons why such departures are deemed to be in the public interest.*
- (3) The method by which the proposed plan makes adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects designated common open space, and furthers the amenities of light and air, recreation and visual enjoyment.*
- (4) Conformity with the planning objectives of the Village.*

The Village Council may authorize a planned development designation, plan or amendment with findings such as, but not limited to, the following:

- (1) That the planned development at the 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.*
- (2) That the planned development 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.*
- (3) That the planned development is specifically listed as a special use in the district in which it is to be located.*
- (4) That the location and size of the planned development, the nature and intensity of the operation involved in or conducted in connection with said planned development, the size of the subject property in relation to the intensity of uses proposed, and the location of the site with respect to streets giving access to it, shall be such that it will be in harmony with the appropriate, orderly development of the district in which it is located.*
- (5) That the planned development will not be injurious to the use and enjoyment of other property in the immediate vicinity of the subject property for the purposes already permitted in such zoning district, nor substantially diminish and impair other property valuations within the neighborhood.*
- (6) That the nature, location, and size of the structures involved with the establishment of the planned development will not impede, substantially hinder, or discourage the development and use of adjacent land and structures in accord with the zoning district in which it is located.*
- (7) That adequate utilities, access roads, drainage, and other necessary facilities have been or will be provided for the planned development.*
- (8) That parking areas shall be of adequate size for that particular planned development, which areas shall be properly located and suitably screened from adjoining residential uses.*

That the planned development shall in all other respects conform to the applicable regulations of the zoning district in which it is located.

RECOMMENDATIONS

The proposed Special Use, Planned Development, and Right-of-Way Vacation are compatible with the surrounding zoning and land use classifications. Based on the findings listed above, staff recommends that the Plan Commission make a motion recommending approval of a Special Use, Planned Development, and Right-of-Way Vacation for an automobile dealership at 2055 and 2101 Ogden Avenue subject to the following conditions:

1. The development shall substantially conform to the staff report dated January 8, 2007; the plat of easement and plat of vacation prepared by C.M. Lavoie & Associates dated October 31, 2006; the preliminary engineering plan prepared by C.M. Lavoie & Associates dated November 3, 2006, revised December 11, 2006; and architectural plans prepared by Fergon Architects dated November 3, 2006, revised December 13, 2006, except as such plans may be modified to conform to Village Codes and Ordinances.
2. All construction within the Ogden Avenue right-of-way will require approval from the Illinois Department of Transportation (IDOT).
3. The petitioner shall coordinate with the Village's potential capital improvement plan to ensure comprehensive drainage improvements in the area. The petitioner's site plans shall be developed to tie into the Village's planned capital improvements for Pershing Avenue immediately south of the vacated right-of-way section.
4. Prior to the issuance of construction/site development permits, the following changes shall be made to the plans:
 - a. Storm sewer calculations shall be provided and shall include hydraulic grade line calculations. An exhibit that shows the storm sewer tributary area shall also be included. The offsite flow from the east shall be addressed in the calculations. Proposed storm pipe sizes and invert elevations shall be provided.
 - b. Final site improvement plans shall be prepared. A grading plan, utility plan and sediment and erosion control plan shall minimally be included. Plans shall be signed and sealed by a registered professional engineer. Coordinate with planned Village capital improvement project.
 - c. The site plan shall include standard Village erosion control notes on the sediment and erosion control sheet.
 - d. Realign proposed storm sewers to maximize flow capture and to coordinate with planned Village capital project plans for alley area to the south. Flow may not be routed through underground detention chamber at the condominium complex to the south.
 - e. The fence along the south side of the vacated right-of-way shall be shown to allow water movement underneath the fence.
 - f. Site plans shall show signs displaying 'customer only parking' on the east side of the vacated Pershing Avenue right-of-way to ensure that no display cars are parked on top of the existing water utilities.
5. Prior to final Village Council consideration, the petitioner shall have a Plat of Vacation prepared by a licensed surveyor. The Village shall provide easement language which shall be noted on the Plat of Vacation to show the following:
 - a. A drainage and utility easement for the Village of Downers Grove, DuPage Water Commission and other public utilities including but not limited to Commonwealth Edison, Comcast, and AT&T.
 - b. A cross-access easement to allow current and future owners of 2055 Ogden Avenue access to Ogden Avenue through the vacated Pershing Avenue right-of-way
 - c. A sidewalk easement to allow for the Pershing Avenue sidewalk to continue within the vacated right-of-way.
 - d. The petitioner shall indemnify the Village and DuPage Water Commission for all damages associated with the water utilities under the vacated Pershing Avenue right-of-way.
6. Prior to completion of the Plat of Vacation, the licensed surveyor shall contact and discuss with the DuPage County Recorder as to how the vacated land shall be described on the Plat of Vacation.
7. Prior to final Village Council consideration, the petitioner shall provide the Village with compensation as determined by Village Council.

Staff Report Approved By:

Don Rosenthal
Director of Community Development

DR:sjp
-att

P:\P&CD\PROJECTS\PLAN COMMISSION\2007 PC Petition Files\PC-01-07 2101 & 2055 Ogden\Staff Report PC 01-07.doc

**ULTIMATE MOTOR CARS, INC.
2055 OGDEN AVENUE
DOWNERS GROVE, IL 60515
TEL: 630.515.9595
FAX: 630.515.9898**

November 6, 2006

Village of Downers Grove
801 Burlington Avenue
Downers Grove, IL 60515

RE: 2101 Ogden Avenue, Downers Grove, Parcel No: 08-01-405-006
Zoning Inquiry - Special Use – Used Automobile Dealer
Vacating a Street (right-of-way)

To: Village Staff Development Team Members:

I would like to introduce myself. My name is Vincent M. Lococo, Jr. My wife and I are the sole owners of Ultimate Motor Cars, Inc. Ultimate Motor Cars, Inc. is located at 2055 Ogden Avenue; directly east of Pershing Avenue. Our business was established in September 2000. In addition, I along with two family generations have been in the automobile industry and property owners of several establishments on Ogden Avenue, Downers Grove since the 1960's.

Upon Ultimate Motor Cars reaching our 6th successful year in business; we are now seeking to expand. On, November 15, 2005 we purchased the adjacent property 2101 Ogden Avenue previously Z-Tech also known as Ziebart Rust Proofing & Detailing. This property is located directly west of Ultimate Motor Cars. Pershing Avenue currently divides the two properties, 2055 & 2101 Ogden Avenue. Our intentions are to be able to incorporate our current facility 2055 Ogden with 2101 Ogden by vacating the street.

Should the Village of Downers Grove consent to vacate Pershing Avenue, there will be several benefits to adjacent property owners. Currently, diesel U-Haul trucks utilize the alley and Pershing Avenue to gain access to Ogden Avenue. By eliminating access to the alley via the vacating of Pershing Avenue, homeowners will see a significant decrease in the amount of traffic, noise, and dirt cause by the diesel trucks.

We will install a 6-foot privacy fence that will be aligned with the now current fence. This fencing will potentially extend from the eastern property line of 2055 Ogden to the western property line of 2101 Ogden. An opening, of a gate size width will continue to exist so that the current city sidewalk will remain intact. Therefore, providing the citizens of Downers Grove convenient public access to the Ogden Avenue Corridor.

In conjunction with a higher and more solid fencing system, it will act as a sound barrier, provide a uniform appearance, and most importantly improve the overall esthetics of the area. Granting us approval to vacate Pershing Avenue will greatly benefit the adjacent condominium homeowners, located directly behind 2055 and 2101 Ogden along with maintaining public access to Ogden Avenue.

We are requesting the Plan Commission for permission to operate an automobile facility at 2101 Ogden Avenue; as a special use to support our current dealership Ultimate Motor Cars Inc. This will enable our business to grow and prosper and strengthen our commitment to Downers Grove. It will also enhance the appearance and value of the subject property as well as those neighboring properties.

The granting of a special use meets the Standards for Approval Section 28.1902. for the following reasons:

- a. **The proposed use is necessary or desirable to provide a service or facility, which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community.**
 1. The proposed Automobile Dealership will enable the expansion of Ultimate Motor Cars while relieving congestion at the current location. Allowing for the expansion will create sufficient space to sell used vehicles while alleviating current Pershing Avenue traffic issues.
 2. The proposed Automobile Dealership use is to be retail orientated and will provide a valuable service to the public.
 3. The proposed Automobile Dealership is consistent with the surrounding dealerships and commercial uses along the Ogden Corridor.
- b. **Such use will not be detrimental to the health, safety, morals or general welfare of persons residing or working in the vicinity or injurious to property values in the vicinity.**

1. The proposed Automobile Dealership use will not negatively impact the health, safety, morals or general welfare of persons residing or working in the vicinity, as many as of the surrounding properties contain similar uses.
- c. The proposed use will comply with the regulations specified in the Zoning Ordinance for the district in which the proposed use is to be located, or will comply with any variations authorized under 28-1803**
1. The proposed Automobile Dealership will fully comply with the requirements of the B-3 zoning district pending the approval of the Special Use and the vacation of a street.
- d. That it is one of the special uses specifically listed for the district in which it is to be located.**
1. Automobile Dealership are specifically listed as a Special Use in the B-3 Zoning District.

With regards to the Ogden Avenue Master Plan:

Green Space-We the petitioners intend to allocate all the necessary percentage of green space to the front perimeter of both 2055 and 2101 Ogden. We are proposing that the landscaping/ green space around the 2101 Ogden Avenue building will not only include shrubs but also brick paving. The existing public sidewalks will remain intact providing safe pedestrian access along the Ogden Avenue corridor and also will allow public access to Pershing Avenue.

Parking- Site plan shows the necessary parking spaces along with handicapped accessible parking, and vehicle inventory. All, which are in appliance with the zoning ordinance, standardized width and depth dimensional requirements.

Signage- Site plan shows removal and replacement under the moratorium rules or under the new rules depending on whether or not a new Ordinance has been approved.

Loading- The loading area will take place on the now existing Pershing Avenue. Therefore eliminating congestion and public safety issues along Ogden Avenue.

Curb Cuts- The site plan addresses the issue of eliminating unnecessary curb cuts due to the vacate of Pershing Avenue. The removal of the 2101 Ogden Avenue curb cut follows the Ogden Avenue Master Plan.

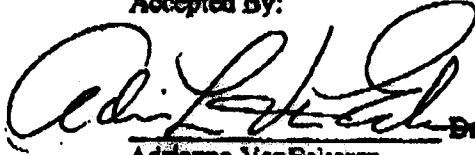
Pershing Avenue Use Agreement

This agreement was made this 1st day of November 2006 between Vincent Lococo Jr., Michelle Lococo and Adriana VanEkeren regarding the proposed future use of Pershing Avenue.

The current tenants of 2055 Ogden Avenue and present owner of 2101 Ogden Avenue Vincent Lococo Jr. & Michelle Lococo and current owner of 2055 Ogden Avenue Adriana VanEkeren shall be bound by the terms of the following agreement.

I, Adriana VanEkeren, permit Vincent Lococo Jr. and Michelle Lococo to proceed with the city of Downers Grove to vacate Pershing Avenue with easements. I am aware and supportive of this plan. I permit this vacation under the condition that any tenants and/or future owners of 2055 Ogden Avenue shall have access off of Pershing Avenue.

Accepted By:

 Date: 11/2/06
Adriana VanEkeren
Owner of 2055 Ogden Avenue

 Date: 11/2/06
Vincent Lococo Jr.
Tenant of 2055 Ogden Avenue

 Date: 11/2/06
Michelle Lococo
Tenant of 2055 Ogden Avenue

Board of Trustees

Donald E. Eckmann
President

Wallace D. Van Buren
Vice President

Edward C. Richard
Clerk

Legal Counsel
Michael C. Wiedel

Downers Grove

Sanitary District

2710 Curtiss Street
P.O. Box 1412
Downers Grove, IL 60515-0703
Phone: 630-969-0664
Fax: 630-969-0827
www.dgsd.org

Staff

Lawrence C. Cox
General Manager

Nicholas J. Menninga
Assistant General Manager

Ralph E. Smith, Jr.
Operations Director

Sheila K. Henschel
Administrative Services
Director

Providing a Better Environment for South Central DuPage County

October 31, 2006

Mr. Robert Schiller
CM Lavoie & Associates
1050 W. Illinois Route 126
Plainfield, IL 60544

RE: Pershing & Ogden Ultimate Motorcars Concept Plan

Dear Mr. Schiller:

The Sanitary District has reviewed and approved the concept plan for the subject location. The Sanitary District has no objection to the vacation of the Pershing right-of-way at this location. The demolition of the Conley building and remodeling of the Ziebart must be permitted through the Sanitary District standard permit procedures.

If you have any questions, please call (630-969-6753 x109).

Sincerely,
DOWNERS GROVE SANITARY DISTRICT



Ted Cherwak
Sewer Construction Supervisor

PLAT OF VACATION

OF PUBLIC RIGHT-OF-WAY
IN THE VILLAGE OF DOWNERS GROVE,
DUPAGE COUNTY, ILLINOIS



LEGAL DESCRIPTION OF ROADWAY VACATION:

THAT PART OF PERSHING AVENUE IN ARTHUR T. MCINTOSH AND CO'S. BELMONT COUNTRY CLUB ADDITION, (BEING A SUBDIVISION IN PARTS OF SECTION 1, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN AND SECTION 6, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THERE OF RECORDED MAY 18, 1927 AS DOCUMENT 235837), DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT 7 IN BLOCK 2 OF SAID SUBDIVISION; THENCE SOUTH 00 DEGREES 05 MINUTES 35 SECONDS WEST (ASSUMED BEARING) 151.62 FEET TO THE SOUTHWEST CORNER OF SAID LOT 7; THENCE SOUTH 77 DEGREES 53 MINUTES 34 SECONDS WEST 67.53 FEET TO THE SOUTHEAST CORNER OF LOT 1 IN BLOCK 3 OF SAID SUBDIVISION; THENCE NORTH 00 DEGREES 05 MINUTES 35 SECONDS EAST 153.13 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE NORTH 79 DEGREES 09 MINUTES 16 SECONDS EAST 67.22 FEET TO THE POINT OF BEGINNING IN THE VILLAGE OF DOWNERS GROVE, DUPAGE COUNTY, ILLINOIS.

CONTAINS 0.231 ACRES, MORE OR LESS.

GRAPHIC SCALE



(IN FEET)

1 inch = 40 ft.

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

THE ATTACHED PLAT OF VACATION IS IDENTIFIED AS THAT INCORPORATED INTO AND MADE A PART OF THE VILLAGE OF DOWNERS GROVE ORDINANCE NUMBER _____ ADAPTED BY THE VILLAGE OF DOWNERS GROVE MAYOR AND VILLAGE COUNCIL ON THIS _____ DAY OF _____ A.D., 20__

BY: _____
BRIAN KRAJEWSKI, MAYOR

ATTEST: _____
APRIL HOLDEN, VILLAGE CLERK

STATE OF ILLINOIS)
) SS
COUNTY OF KENDALL)

THIS IS TO CERTIFY THAT C.M. LAVOIE & ASSOCIATES HAVE SURVEYED AND PLATTED THE PROPERTY DESCRIBED HEREON FOR THE PURPOSES OF VACATION AND THAT THE ANNEXED PLAT IS A CORRECT AND TRUE REPRESENTATION OF SAID PROPERTY. ALL DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF.

GIVEN UNDER MY HAND AND SEAL AT PLAINFIELD, ILLINOIS, THIS 31ST DAY OF OCTOBER, A.D., 2006.

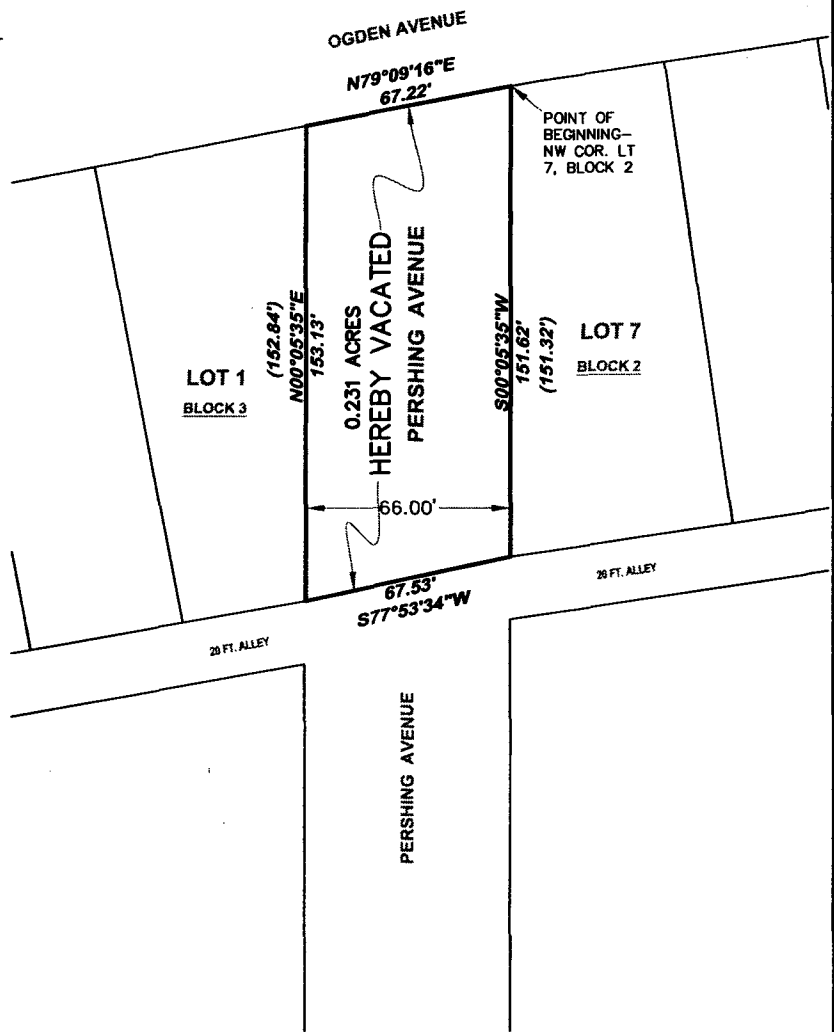
ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 35-3131
LICENSE RENEWAL/DATE OF EXPIRATION: 11-30-06



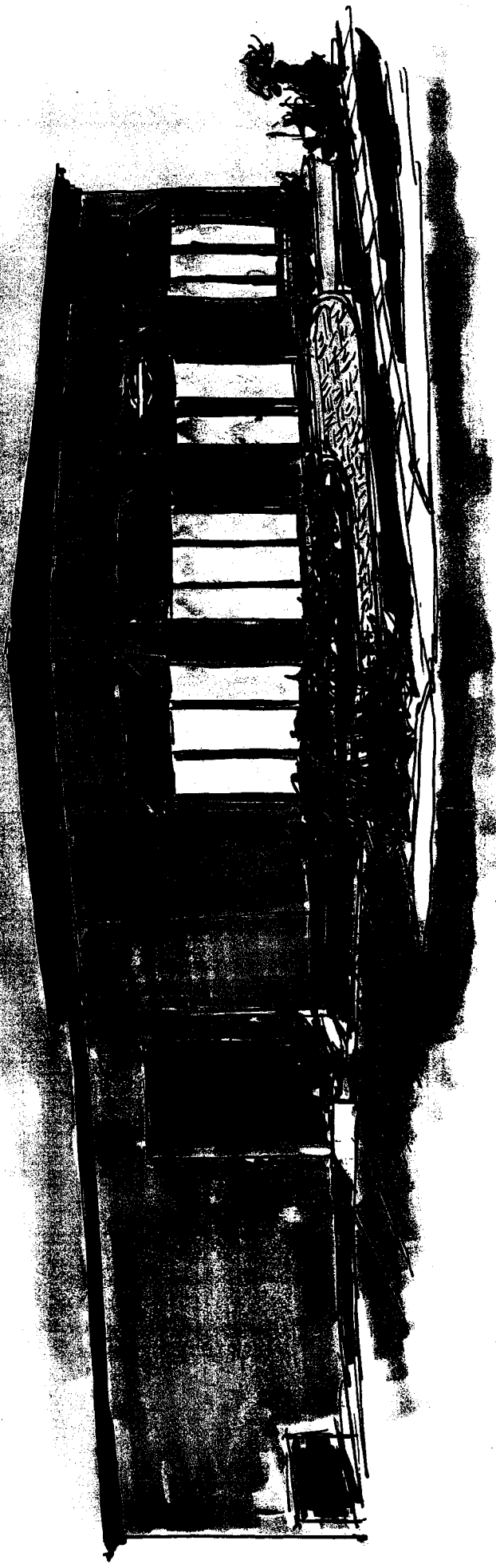
PREPARED FOR:
ULTIMATE MOTORS
2065 OGDEN AVE.
DOWNERS GROVE, IL. 60515



C.M. Lavoie & Associates, Inc.
Consulting Civil Engineering
& Land Surveying
1050 State Route 126
Plainfield, Illinois 60544
voice 815-254-0505
fax 815-436-5158



JOB NUMBER: 06-227	DATE: 10-31-2006	
DRAWN BY: GRB	CHECKED BY: GRB	
#	DATE	DESCRIPTION
1		
2		
3		



ULTIMATE MOTOR CARS
OGDEN AVENUE, DOWNERS GROVE



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT MEMO

To: Plan Commission
From: Stan Popovich, AICP, Planner
Subject: **PC-01-07, 2055 & 2101 Ogden Avenue, Special Use, Planned Development, and Right-of-Way Vacation**
Date: January 22, 2007

Background:

Plan Commission petition PC-01-07, 2055 and 2101 Ogden Avenue, was heard at the January 8, 2007 meeting. Based on objections from the tenant and property owner at 2105 Ogden Avenue, the Plan Commission made a motion to continue the petition to January 22, 2007. The tenant and property owner raised objections over the loss of business, the stated inability to maneuver large trucks at 2105 Ogden Avenue without the use of Pershing Avenue, and the loss of access to Ogden Avenue through the existing alley and Pershing Avenue. Staff offers the following analysis:

Petition PC-01-07:

This petitioner is requesting the following items:

1. Vacation of Pershing Avenue
2. Special Use for an automobile dealership within the B-3 zoning district
3. Planned Development for 2055 Ogden Avenue and 2101 Ogden Avenue

This petition deals strictly with these three items and does not request the vacation of the alley located directly south of the subject properties. The petition seeking vacation of Pershing Avenue was filed in accordance with all Village procedures and policies for a right-of-way vacation. The requested Pershing Avenue vacation meets all Village policies and standards of right-of-way vacations.

The Special Use and Planned Development meets all Village standards and procedures for petitions. In addition to the regular standards for approval, this Special Use and Planned Development petition is also required to meet the standards of the Ogden Avenue Master Plan (OAMP). Staff believes this petition meets all the standards for the Special Use, Planned Development, and OAMP.

During the January 8, 2007 Plan Commission meeting, the Commission questioned if the Special Use petition meets Special Use approval standard b. The Special Use, an automobile dealership, will not be detrimental to the health, safety or general welfare of the persons in the vicinity. The dealership will be consistent with other existing uses along Ogden Avenue in the B-3 zoning district.

The proposed plan is consistent with the Village's land use ordinances and policies. The table below lists the benefits to the Village and its residents:

Ogden Avenue Master Plan	Proposal
Close some minor side streets and use vacated rights-of-ways	Proposal calls for vacation of Pershing Avenue. Village will no longer have the responsibility of maintaining the stub street that serves only two properties.
Improve building facades	Proposal calls for the renovation of 2101 Ogden Avenue and future demolition of 2055 Ogden Avenue.
Improve building signage	Proposal removes two non-compliant signs and installs one compliant monument sign.
Relocate signs from parking lots to landscaped areas	Proposal locates sign in landscaped area.
Improve the parkway with new trees, plantings, signage, and sidewalks	Proposal provides lawn, landscaping, signage and sidewalks along Ogden Avenue. Increased green space will improve stormwater management on the property.
Reduce curb cuts along Ogden Avenue	Proposal calls for the removal of two curb cuts that are shown as removed in the Ogden Avenue Master Plan.
Provide interconnected sidewalks along Ogden Avenue	Proposal maintains sidewalk along Ogden Avenue and maintains access to Ogden Avenue for Pershing Avenue residents via a sidewalk with a sidewalk easement.

Alley:

The 20-foot gravel alley runs east to west from Pershing Avenue to Belmont Avenue. The alley south of 2101 and 2105 Ogden Avenue is gravel, while further to the west it is unimproved (grass). Since the construction of the condominiums to the south of 2101 Ogden Avenue (4400 Pershing Avenue), the Village has been discussing stormwater improvements for the entire neighborhood. The Village is pursuing plans to utilize the entire 20-foot gravel alley to aid in the completion of these stormwater improvements. As such, vehicular traffic will be discontinued to make way for stormwater improvements.

2105 Ogden Avenue :

The property at 2105 Ogden Avenue is approximately 15,000 square feet. The property has 100 feet of frontage on Ogden Avenue and is approximately 150 feet deep. An automobile dealership and U-Haul truck rental business occupies 2105 Ogden Avenue.

The property has one direct curb cut onto Ogden Avenue that is located immediately north of the existing building. This is the only access point that the Village is required to provide to the property owner, because it is the only frontage that the property has directly onto Ogden Avenue. At the January 8 Plan Commission meeting, the tenant testified he uses the alley to the south and Pershing Avenue as a second access point to Ogden Avenue. The tenant does not have direct access to Pershing Avenue, rather he accesses Pershing Avenue through the alley to the south.

Section 19.14 of the Municipal Code requires a permit to be issued for any individual to have access to an alley. There are no permits on file with the Village to use the alley as an access point to Pershing

Avenue. The tenant is relying on an informal means to access Pershing Avenue through the alley and ultimately Ogden Avenue. As part of the required permit, improvements to the alley must be undertaken by the applicant.

As noted above, the Village is pursuing plans to undertake stormwater management improvements to the alley that would make the alley unavailable to traffic. These improvements could follow the improvements that took place directly south of 2055 Ogden Avenue which modified the existing gravel alley to a grass alley to improve drainage and ultimately stormwater management. As noted above, stormwater improvements to the alley in question have been discussed by the various property owners in the area and Village staff for a number of years.

At the January 8 Plan Commission meeting, the tenant at 2105 Ogden Avenue presented claims that it is extremely difficult for the tenant to turn his large trucks around on his property. As a result of this difficulty, the tenant is using the public alley without a permit to maneuver his vehicles. The petitioner has provided the Village with engineering exhibits that show a 26-foot U-Haul truck successfully maneuvering around 2105 Ogden Avenue using the public alley to the south. While closing Pershing Avenue will change the current parking and maneuvering practices of the tenant, the engineering drawings clearly demonstrate the largest truck can be turned around on the property using the Village's alley.

Recommendations :

Staff believes the policy issues of being able to vacate right-of-ways to adjacent property owners, in order to improve Ogden Avenue through better developments, is a key to completing the goals of the Strategic Plan. Staff maintains the proposed Special Use, Planned Development, and Right-of-Way Vacation are compatible with the goals, procedures, policies, and standards of the Village and recommends approval of this petition with the conditions as noted in the Staff Report dated January 8, 2007.



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT MEMO

To: Plan Commission
From: Stan Popovich, AICP, Planner
Subject: PC-01-07, 2055 & 2101 Ogden Avenue, Special Use, Planned Development, and Right-of-Way Vacation
Date: February 5, 2007

Background:

Plan Commission petition PC-01-07, 2055 and 2101 Ogden Avenue, was heard at the January 8, 2007 meeting. At the January 8, 2007 Plan Commission meeting, the Plan Commission made a motion to continue the petition to January 22, 2007 based on objections from the tenant and property owner at 2105 Ogden Avenue. The initial objections the tenant and property owner of 2105 Ogden Avenue raised were over the loss of business, the stated inability to maneuver large trucks at 2105 Ogden Avenue without the use of Pershing Avenue, and the loss of access to Ogden Avenue through the existing alley and Pershing Avenue.

At the January 22, 2007 Plan Commission meeting, the petitioner presented engineering exhibits showing that the largest truck could in fact turn around within the confines of the property and adjoining alley. The tenant of 2105 Ogden Avenue disputed that the trucks could turn around using the alley and his property due to the location of the building and utility poles. The tenant also stated the Illinois Secretary of State requires him to have two entrances onto his property to operate two businesses, an automobile dealership and U-Haul rental, on one lot. Based on this issue, the Plan Commission made a motion to continue the petition to the February 5, 2007 meeting. The Plan Commission clearly stated that the tenant of 2105 Ogden Avenue has the burden of proof to provide the Plan Commission with written Illinois Secretary of State regulations showing that his business is required to have two entrances. Staff offers the following analysis:

Secretary of State Regulations :

The specific Illinois Secretary of State regulations are a matter strictly between the individual business owner and the Illinois Secretary of State and do not directly impact the Village's planning policies, goals, and standards. Staff does not believe the Village is in a position to offer an interpretation of the Illinois Secretary of State's regulations.

Petition PC-01-07:

This petitioner is requesting the following items:

1. Vacation of Pershing Avenue
2. Special Use for an automobile dealership within the B-3 zoning district
3. Planned Development for 2055 Ogden Avenue and 2101 Ogden Avenue

As previously stated in the January 8, 2007 Staff Report and January 22, 2007 Memorandum, staff believes this petition meets the Village's policies, standards, and goals of Right-of-Way Vacation, Special Use, and Planned Development. Additionally, the petition meets the policies, standards, and goals of the Ogden Avenue Master Plan and the Village's Strategic Plan. The Staff Report and Memorandum provide written documentation showing exactly how the petition meets the goals of each of these policies.

Recommendations :

Staff believes the policy issues of being able to vacate right-of-ways to adjacent property owners, in order to improve Ogden Avenue through better developments, is a key to completing the goals of the Strategic Plan. Staff maintains the proposed Special Use, Planned Development, and Right-of-Way Vacation are compatible with the goals, procedures, policies, and standards of the Village.

Staff recommends approval of this petition with the seven (7) conditions as noted in the Staff Report dated January 8, 2007 and an additional condition for the petitioner to apply for a permit and pay for the necessary alley improvements as testified to at the January 22, 2007 Plan Commission meeting. All eight (8) conditions are shown below:

1. The development shall substantially conform to the staff report dated January 8, 2007; the plat of easement and plat of vacation prepared by C.M. Lavoie & Associates dated October 31, 2006; the preliminary engineering plan prepared by C.M. Lavoie & Associates dated November 3, 2006, revised December 11, 2006; and architectural plans prepared by Fergon Architects dated November 3, 2006, revised December 13, 2006, except as such plans may be modified to conform to Village Codes and Ordinances.
2. All construction within the Ogden Avenue right-of-way will require approval from the Illinois Department of Transportation (IDOT).
3. The petitioner shall coordinate with the Village's potential capital improvement plan to ensure comprehensive drainage improvements in the area. The petitioner's site plans shall be developed to tie into the Village's planned capital improvements for Pershing Avenue immediately south of the vacated right-of-way section.
4. Prior to the issuance of construction/site development permits, the following changes shall be made to the plans:
 - a. Storm sewer calculations shall be provided and shall include hydraulic grade line calculations. An exhibit that shows the storm sewer tributary area shall also be included. The offsite flow from the east shall be addressed in the calculations. Proposed storm pipe sizes and invert elevations shall be provided.
 - b. Final site improvement plans shall be prepared. A grading plan, utility plan and sediment and erosion control plan shall minimally be included. Plans shall be signed and sealed by a registered professional engineer. Coordinate with planned Village capital improvement project.
 - c. The site plan shall include standard Village erosion control notes on the sediment and erosion control sheet.
 - d. Realign proposed storm sewers to maximize flow capture and to coordinate with planned Village capital project plans for alley area to the south. Flow may not be routed through underground detention chamber at the condominium complex to the south.
 - e. The fence along the south side of the vacated right-of-way shall be shown to allow water movement underneath the fence.
 - f. Site plans shall show signs displaying 'customer only parking' on the east side of the vacated Pershing Avenue right-of-way to ensure that no display cars are parked on top of the existing water utilities.
5. Prior to final Village Council consideration, the petitioner shall have a Plat of Vacation prepared by a licensed surveyor. The Village shall provide easement language which shall be noted on the Plat of Vacation to show the following:
 - a. A drainage and utility easement for the Village of Downers Grove, DuPage Water Commission and other public utilities including but not limited to Commonwealth Edison, Comcast, and AT&T.

- b. A cross-access easement to allow current and future owners of 2055 Ogden Avenue access to Ogden Avenue through the vacated Pershing Avenue right-of-way
 - c. A sidewalk easement to allow for the Pershing Avenue sidewalk to continue within the vacated right-of-way.
 - d. The petitioner shall indemnify the Village and DuPage Water Commission for all damages associated with the water utilities under the vacated Pershing Avenue right-of-way.
6. Prior to completion of the Plat of Vacation, the licensed surveyor shall contact and discuss with the DuPage County Recorder as to how the vacated land shall be described on the Plat of Vacation.
 7. Prior to final Village Council consideration, the petitioner shall provide the Village with compensation as determined by Village Council.
 8. ***Petitioner shall apply for a permit and pay for improvements to the alley as shown in Exhibit B, which was provided at the January 22, 2007 Plan Commission meeting.***

If the Plan Commission is not satisfied that the Illinois Secretary of State regulations can be met, the Plan Commission could offer an alternative positive recommendation with the original seven (7) conditions of the January 8, 2007 Staff Report and an additional condition added that a cross-access easement agreement be completed between the petitioner, the owner of 2105 Ogden Avenue, and the Village. The cross-access easement language would provide access only to the current tenant of 2105 Ogden Avenue (West Auto Mart) and would sunset if the ownership of the business or property would change. If a cross-access easement is approved, the Village will require the property owner at 2105 Ogden to obtain a permit to use the alley behind the property. Additionally, as a condition of the easement, the petitioner could request that the property owner or tenant of 2105 Ogden Avenue pay for a portion of the improvements to Pershing Avenue.

Staff will not support this condition at the Village Council level. The ability of the Village to enforce such an easement would be difficult. Additionally, a cross-access agreement would create additional uncertainty and could limit the type of stormwater system that could be installed at the intersection of Pershing Avenue and the alley.

VILLAGE OF DOWNERS GROVE
PLAN COMMISSION MEETING, JANUARY 8, 2007, 7:00 P.M.

FILE NO. PC-01-07 A petition seeking 1) Final Planned Development Approval for an Auto Dealer on Ogden Avenue – P.D. #44 Ultimate Motor Cars; 2) Street Right of Way Vacation for property located on the South Side of Ogden Avenue at the Intersection of Ogden & Pershing Avenues, commonly known as 2101 & 2055 Ogden Avenue, Downers Grove, IL (PIN Nos. 08-01-405-006, 08-01-406-002; Vincent M. Loccoco, Jr. & Michelle Loccoco, Petitioners/Owners

Chairman Jirik swore in those individuals who would be speaking on File No. PC-01-07.

Mr. Stan Popovich, Village Planner, confirmed the request was for a Special Use for a vacation of street right-of-way. The property is located at the intersection of Pershing and Ogden Avenue, zoned B-3, and is an auto dealership, which is an allowable Special Use. The owner currently owns 2101 Ogden Avenue and leases 2055 Ogden Avenue. The property owner of 2055 Ogden Avenue has submitted a letter with the proposal and has sent approval of the proposal, as stated in the report. The petitioner currently uses 2055 as an office building and display space for the dealership. The petitioner recently purchased 2101 and will renovate the building into a showroom and offices. Long-term, the petitioner plans to purchase 2055 Ogden Avenue, has a right of first refusal on the purchase, has the right to raze the building, and will use the entire lot as a dealership. The petitioner is requesting a vacation of the Pershing Avenue right-of-way to better utilize the two parcels. Pershing is not a through street off Ogden Avenue. Due to the condition of the Pershing stub, it has been used as a parking lot without any through access.

Per the Village's Right-of-Way Vacation Policy, the utility companies were contacted as well as the DuPage Water Commission due to a large watermain on north-south Pershing Avenue. Commonwealth Edison has poles and lines running north-south along the west side of the right-of-way. The Village recommends retaining an easement over the entire width and length of the right-of-way. As a condition of approval, the Village will require that no display cars be parked on the east side of the vacated right-of-way, which is above the existing water utilities. The Village will also require the petitioner to indemnify the Village and DuPage Water Commission from any damages caused by the water utilities within the vacated right-of-way. The petitioners were informed of these requirements and did not object to the easement and indemnification.

Due to the right-of-way vacation, the petitioner can utilize the two parcels and vacated right-of-way as a single site, which allows for a more efficient site design layout. The petitioner is proposing to utilize the Pershing Avenue curb cut onto Ogden Avenue as their primary access. Two curb cuts along Ogden Avenue that currently serve 2055 and 2101 Ogden Avenue will be removed. The proposal provides for a landscaped area along the entire length of Ogden Avenue and includes both plantings and lawn. A brick paver walkway will be installed in front of 2101 Ogden Avenue, which will serve as both pedestrian and vehicular access to the showroom. A Code-compliant monument sign will replace two non-compliant signs and be located within landscape plantings. The proposed landscaping meets the zoning requirements for landscaped open green space.

The existing Ogden Avenue sidewalks will be maintained and extended through the vacated right-of-way. An existing sidewalk on the east side of the Pershing Avenue right-of-way will be maintained as well. A sidewalk easement will be granted by the petitioner to allow public access to

Ogden Avenue along the Pershing Avenue sidewalk. The petitioner has been informed of this requirement and does not object to the sidewalk easement language. A fence will be constructed across the south end of the vacated Pershing Avenue right-of-way but will not block the existing sidewalk. The fence will not be flush with the ground to allow for positive storm water drainage as noted below.

Semi-truck deliveries will be able to unload vehicles by pulling into the vacated right-of-way and use a three-point turn to exit the site. Staff finds the proposal consistent with the Future Land Use Plan (FLUP), the Zoning Ordinance, the Sign Ordinance and the Ogden Avenue Master Plan. Mr. Popovich noted that stormwater will also be improved on the two sites. As a condition of approval, the petitioner shall be required to work in conjunction with the Village's engineers to tie into the stormwater facilities to improve drainage and work as one system. The property currently provides adequate emergency access.

Staff has received three public comments, one from the tenant of 2105 Ogden Avenue who uses the property as an automobile dealership and U-Haul truck rental. The tenant has indicated he will lose a substantial amount of business due to the street vacation. While staff finds this is a valid concern, the Village could at any point convert the alley from a gravel corridor into a green space corridor if it was determined to be a necessary Village improvement. The portions of alley immediately east and west of this alley segment are green spaces. The Ogden Avenue Master Plan calls for the closing of minor stub streets as well, and the Village's Strategic Plan calls for the creation of vibrant commercial corridors. This planned development will assist in creating the vibrant corridors the Village desires.

Staff spoke to a neighbor, Ms. Ruth Gale who resides to the south, who inquired about vacating the alley, the fence, and a door. Staff clarified the issues for her and Ms. Gale did not offer any objections to the project.

Per the Village's right-of-way vacation policy, the Village Council has the right to determine compensation for the vacation. This is the first stub street the Village would vacate. Staff provided a compensation calculation, but was not asking the Plan Commission to make a recommendation on the amount of compensation for the right-of-way at this time. Overall, staff recommended approval subject to the conditions in its report.

Discussion followed on how this proposal compared to another prior development at 4401 Belmont Road, wherein Mr. O'Brien explained the Village was trying to capture some of the water sheet draining off the property and into the storm sewer network. It was noted the alleys behind 2101 and 2055 Ogden Avenue were not being vacated. Green space for the site was pointed out. Details followed on the indemnification of the Village and the DuPage Water Commission as to water main issues. Any damage caused by the watermain would not be the responsibility of the Village or DuPage Water Commission. The number of parking spaces was confirmed as remaining the same. Mr. Webster expressed concern about the turning of trucks and preferred to see a truck-turning template.

Regarding the timing of the proposal, Mr. Popovich explained in the short-term the Special Use and Planned Development would be approved and if any building changes were made to the two addresses, they would have to come in for the building permit and review process. In addition, the petitioner would be renovating 2101 Ogden Avenue to showroom and offices and would then move

his main facility from 2055 to 2101 wherein improvements along Ogden Avenue would have to take place followed by improvements to the parking lot. At some point in the future when the 2055 building is purchased, the petitioner would raze the building, and the demolition would have to go through the Village for review and permit and comply with the plans submitted. As to the timing, the petitioner had a period of one year to begin the permit process. Mr. O'Brien indicated in order for the petitioner to get the building permit, the improvement to Pershing would have to be made before 2101 is renovated. The timing of when 2055 was razed was a function of when the petitioner received full control of the property. When that occurred, Mr. O'Brien explained the petitioner would have to receive a permit for the demolition of the building, but would not have return to the Plan Commission unless the plans deviated from the current proposal. The majority of the improvements would have to be completed before receiving an occupancy permit.

Chairman Jirik confirmed with staff that the owner of 2055 did not object to the vacation. Per Mr. Webster's question, Mr. Popovich could not confirm the steps for the capital improvement plan for the alley.

Mr. Mike Cook, C.M. LaVoie & Associates, 4941 Forest Avenue, Downers Grove, representing the petitioners, Vince and Michelle Loccoco, owners of 2101 Ogden, explained the petitioners were seeking a Special Use permit, a PUD, and vacation of right-of-way as discussed by staff. Currently the petitioners operate Ultimate Motor Cars at 2055 Ogden Avenue. They purchased the site at 2101 Ogden, formerly the Ziebart building, to expand operations and to be a show room. No maintenance operations would take place at the 2101 buildings. The current lease arrangement for 2055 Ogden has four years remaining. However, the petitioners would like to approach the current property owner to tear down 2055 Ogden immediately. In regards to the vacation of right-of-way, Mr. Cook confirmed the display vehicles would be on the west and employee and customer parking would be located on east side of Pershing Avenue. The vacation of the right-of-way would become an opportunity enhancement. Mr. Cook stated the petitioner would like to enhance the area as it moves forward and not work piecemeal. Some of the improvements to the building would include new windows, some awnings, and some exterior updates to the building. He agreed to the requirements of the Special Use as referenced in staff's memo.

Regarding the difference in parking spaces, it was a matter of a reduction of display vehicles. No outdoor speaker systems would be used. A request for a photometrics plan was made.

Chairman Jirik opened up the meeting to public comment.

Mr. Dan Banks, tenant of 2105 Ogden Avenue, West Automart, expressed concern that if the alley were blocked, he would lose half his U-haul business and lose his business entirely. He would like to see a portion of the road remain open so he can get his trucks out to Pershing. He demonstrated the turning movement on the map, which was the only way the trucks could be maneuvered. He discussed the matter with the applicant. It was also noted by staff that a formal stormwater plan was not developed yet.

Mr. Al Sadona, 2105 Ogden, property owner, stated if the petition is approved, it would affect his tenant's business, decrease his property value, and it was not fair for one business to flourish while one fails. He wanted something to be worked out with all the parties.

Being no further comments, Chairman Jirik closed the public participation portion of the hearing.

Mr. Matejczyk asked the petitioner if he would be willing to allow access from 2105 to Pershing Avenue since that access was needed to get out onto Ogden Avenue.

Mr. Vince Loccoco, 2101 Ogden Avenue, Downers Grove, petitioner, stated the matter was discussed with the Village, who, in turn, advised he would not be able to get the project done without vacating the street. By vacating the street, there would be no public vehicular access through the street. In addition, he was of the understanding the Village was trying to remove the dead-end streets. The alley to the south and east of him was being used by a neighbor business called DNDC. The grass alley directly south of 2055 Ogden is still a Village right-of-way, but is not in use as an access point.

Discussion followed among the Commissioners on some of the uncertainties in terms of the stormwater and the vacation of a right-of-way still being used. Chairman Jirik summarized the issue before the Commissioners was that two businesses were using one access. Conversely, Mr. Webster pointed out the right-of-way was not being used in the use envisioned by the Village's Master Plan, and it only benefited one parcel. Further dialog followed that it was creating a hardship. The issue of a cross-access agreement was brought up. A discussion followed on where the Public Works Department stood regarding the stormwater matter.

Mr. Mike Millette, Assistant Director of Public Works, explained Public Works staff was looking to reduce the sheet flow coming off the existing Pershing right-of-way and looking at an opportunity for a small basin should the area become vacated. Should the alley be abandoned, staff was looking at any method to slow the water down.

Mr. Dan Banks, 2105 Ogden Avenue, West Automart, discussed his site in more detail and explained the difficulty that trucks experienced when making turns on his property. Chairman Jirik envisioned the developed site would cause the same issues.

Mr. Vince Loccoco, Petitioner, added he has been at the site for a long time, this was what he was told and he was agreeable to the Village's terms. He was trying to improve the site and reduce congestion. By putting his plan together, he thought it was an improvement to the area and met the Strategic Plan.

Asked if Mr. Loccoco would be open to "encourage" exploratory discussion between staff, the applicant, and the owners of the U-haul business in devising an access for the U-haul business, and include that information in the packet to Village Council, Mr. Loccoco was supportive. Asked if Mr. Loccoco would be agreeable to allow cross access to the U-haul business, he replied he wanted to continue the process of vacating Pershing Avenue per his original request. However, if there was more discussion needed, he was open to it; he also wanted an answer.

MOTION #1:

MR. BEGGS MOVED TO CONTINUE THE MATTER UNTIL THE NEXT SCHEDULED MEETING. MOTION FAILED FOR LACK OF A SECOND.

MOTION #2:

MR. BEGGS MOVED TO SEND AN UNFAVORABLE RESPONSE TO THE PETITION AND RECOMMEND DENIAL. SECONDED BY MRS. HAMERNIK.

Mrs. Hamernik reiterated she would only support the petition if the matter were resolved; Mr. Matejczyk concurred and stated he would have difficulty approving the petition until access through Pershing was approved. Discussion followed that the process stopped and that the petitioner would have to return and demonstrate no hardship to the business.

Mr. Cook agreed to return to the next scheduled meeting and come up with an agreeable solution for all parties involved.

MR. BEGGS WITHDREW HIS MOTION FOR DENIAL; MRS. HAMERNIK CONCURRED AND ACCEPTED THE WITHDRAWAL.

MOTION #3:

MR. WAECHTLER MOVED TO CONTINUE THE PETITION TO A DATE CERTAIN, THAT DATE BEING JANUARY 22, 2007, SECONDED BY MR. MATEJCZYK.

ROLL CALL:

AYE: MR. WAECHTLER, MR. MATEJCZYK, MR. BEGGS, MR. COZZO, MRS. HAMERNIK, MR. QUIRK, MRS. RABATAH, MR. WEBSTER, CHAIRMAN JOHNSON.

MOTION APPROVED 9-0.

VILLAGE OF DOWNERS GROVE
PLAN COMMISSION MEETING, JANUARY 22, 2007, 7:00 P.M.

Chairman Jirik called the January 22, 2007 meeting of the Plan Commission to order at 7:00 p.m. and asked for a roll call:

PRESENT: Chairman Jirik, Mr. Beggs, Mr. Cozzo, Mrs. Hamernik, Mr. Matejczyk, Mr. Quirk, Mrs. Rabatah, Mr. Webster

ABSENT: Mr. Waechtler

STAFF

PRESENT: Jeff O'Brien, Senior Planner, Stan Popovich, Planner, Mike Millette, Public Works Asst. Dir.

VISITORS: Mr. Dan Banks, 2105 Ogden; Mr. Al Sadona, 2105 Ogden; Mr. Vince and Mrs. Michelle Lococo, 2101 Ogden; Mr. Mike Cook, C. M. LaVoie, 1050 W. IL Rt. 126, Plainfield, IL

The Plan Commission recited the Pledge of Allegiance.

APPROVAL OF MINUTES

Mr. Matejczyk noted on Page 12 amended that he would "have difficulty approving the petition unless it were approved for access to Pershing."

DRAFT MINUTES OF THE JANUARY 8, 2007 PLAN COMMISSION MEETING WERE APPROVED, AS AMENDED, ON MOTION BY MR. MATEJCZYK, SECONDED BY HAMERNIK.

MOTION CARRIED BY VOICE VOTE OF 8-0.

Chairman Jirik reconvened File No. PC-01-07, noting that those individuals who were sworn in on this petition were still sworn in. He asked staff to present any new information on the petition.

FILE NO. PC-01-07 A petition seeking 1) Final Planned Development Approval for an Auto Dealer on Ogden Avenue – P.D. #44 Ultimate Motor Cars; 2) Street Right of Way Vacation for property located on the South Side of Ogden Avenue at the Intersection of Ogden & Pershing Avenues, commonly known as 2101 & 2055 Ogden Avenue, Downers Grove, IL (PIN Nos. 08-01-405-006, 08-01-406-002; Vincent M. Lococo, Jr. & Michelle Lococo, Petitioners/Owners

Mr. Stan Popovich, Village Planner, confirmed the request was for a Special Use for a vacation of street right-of-way to create one site from the 2101 Ogden and 2055 Ogden sites for an auto showroom. Both sites would be improved. The petitioner has agreed to multiple easements and for the indemnification of the water mains on the east side of Pershing Avenue right-of-way. The petition was continued over objections from the property owner at 2101 of Ogden, his inability to maneuver trucks, and loss of access to Pershing Avenue via the alley. The alley is an unimproved

gravel alley with a 20 foot width. At the time the condominiums at 4400 Pershing Avenue were being constructed, the Village was in discussion with the various owners to address stormwater issues. The Village intends to discontinue traffic in the alley, improve drainage in the area, and relieve traffic off the alley south of 2101 and 2105 Ogden Avenue. Other details of the site and truck traffic maneuverability followed, noting the owner of 2015 Ogden could use the property to turn his trucks around. Mr. Popovich stated the petitioner was not requesting a vacation of the alley. Otherwise, all Village standards and policies were met. Staff recommended approval with the conditions stated in its January 8, 2007 staff report.

Discussion followed on whether Section 19.14 of the Municipal Code was enforced as it relates to access to an alley, wherein Mr. O'Brien confirmed that a permit would be required. Mrs. Hamernik understood that the Code appeared to address the construction portion of the Code. After Mr. O'Brien's explanation, Mrs. Hamernik then understood that the permit would be for use and for construction, to which Mr. O'Brien agreed. Mr. O'Brien explained the Village had no permit on file to access the alley from 2105 Ogden or any other property on the block. From the Village's perspective, there was a question if a permit could be granted due to the uncertainty of the stormwater issues in the area.

Per Mr. O'Brien, the U-Haul business did not have a permit to access Pershing. Mr. Beggs asked if there was an issue for the U-Haul business to continue to use the alley, wherein Mr. O'Brien indicated there could be if the Village decided to make improvements to the alley for stormwater. Asked if other alleys existed in the area, Mr. O'Brien explained there was an adjacent alley, which was publicly owned but closed to vehicular traffic. Mr. Cozzo inquired about the possible improvement of the alley just west of 2105 Ogden and what the nature of the improvement would entail in order to allow for a three-point turn. Mr. O'Brien explained the improvement could be as little as laying stone or as much as paving the alley with a retaining wall. He would let the petitioner explain the required improvements. Mr. O'Brien pointed out because it was on Village property, any engineering for the alley would require a permit since the Village would not perform the work and instead would review the plans.

Mr. Webster asked staff for the definition of "general welfare" in staff's memo and understood that indirectly the Village was asking the petitioner to block off access back to Ogden from the current arrangement that exists. He questioned how it was affecting the "general welfare" of the owner at 2105 Ogden. Mr. O'Brien explained it was the "general welfare" of the entire Village. He noted the goals of the Village were weighed when reviewing the property. He noted a unified development would be more consistent with the overall goals. Staff reviewed the case as it was being proposed, versus a proposal of using the sites individually and Pershing Avenue in its current state. Mr. O'Brien stated it was matter of what proposal would work better; i.e., having two developments and the Village maintain a piece of road functioning as a private road, or, the petitioner taking the property and using the site as one unified site with a better development for Ogden Avenue.

Mr. Mike Cook, C.M. LaVoie & Associates, 1050 W. IL Rt. 126, Plainfield, IL., representing the petitioners, Vince and Michelle Lococo, owners of 2101 Ogden, explained the new information was in the commissioners' packets. Furthermore, Mr. Cook stated the new information included access and the viability of providing vehicular access with ingress and egress to Ogden Avenue. Other material included information downloaded from the official U-Haul website with regard to U-Haul truck dimensions for a 26-foot truck. Mr. Cook proposed two alternatives for the site based on

photographs taken during a January 11 visit to 2105 Ogden Avenue with the petitioner. Specifically, Exhibit A detailed movements through the existing 2105 Ogden Avenue building which has two 12 foot tall doors. One 20-foot wide door is on the south façade and the second 16-foot wide door is on the north façade. The 26-foot U-haul super-mover truck measures just over 11 feet tall. Mr. Cook discussed how the truck movement could travel through the site just by relocating the placement of the trucks and trailers on the site and still use the same ingress/egress to Ogden Avenue. Another alternative, Exhibit B addressed the three-point turn. As to the improvements for that, the petitioner would work with the Public Works Department and resolve the matter with the Village. The petitioner would pay the improvements that would be made to the alley, and the petitioner would get the necessary permits and the improvements engineered properly to provide for the additional length of alley for the vehicle movement of the adjacent property owner.

Mr. Cook stated he spoke with Mr. Millette about the stormwater issue, and it was not a matter of closing the entire alley for stormwater management but a matter of slowing down the water. Mr. Matejczyk believed the 2105 Ogden owner still needed some assurance as to not being cut off from turning on the site. Mr. Cook stated that those improvements were the Village's responsibilities.

Chairman Jirik commented in one sense if the Village was to engage in a stormwater action, he believed it was a separate question under separate purview, but equally, it would simplify the issue because it would render the question moot because there was no access. Both options were leading the matter away from the discussion.

Mr. Vince Lococo, 2101 Ogden, said he used to own the U-Haul at 2055 Ogden Avenue, but sold it approximately five years. He sold the business to the former tenant 2105 Ogden Avenue, who sold the business to the current tenant at 2105 Ogden

Ms. Michelle Lococo confirmed she and her husband were the initial operators of the U-Haul business. At the time they took over the 2055 Ogden Avenue property, they decided not to run the U-Haul business out of 2055 Ogden Avenue due to the space needed for their current inventory. Therefore, the previous tenant of 2105 Ogden Avenue was the person who took over the U-Haul business. She stated the business was in operation for almost seven years, and the trucks were going in and out of the site for approximately six to six and one-half years.

Mr. Popovich stated he invited Mr. Banks, the U-Haul business owner, to meet with the Village but Mr. Banks declined. However, Mr. Banks was sent the Plan Commission packet information and was informed of staff's decisions. Ms. Lococo did not meet with Mr. Banks.

Chairman Jirik opened up the meeting to public comment.

Mr. Dan Banks, 2105 Ogden stated the truck did not fit through the structure as stated in Exhibit A. He explained that there is a heating unit inside the high-bay that hangs from the ceiling which prohibits large trucks from driving through the building. As to the three-point turn, the truck is a 26-foot cargo truck and was actually 33 feet long. He explained a fence and telephone pole existed where the three-point turn took place and left one foot of space to maneuver around. The ground was soft in that area as well. As to turning around on the site, he stated the Secretary of State required that his trucks had to be located in the back lot, and he had to have a separate exit for the

DRAFT

trucks, which the site offered. U-Haul was a large part of his business, and he stated he paid a lot of money for his business based on the revenue from the U-Haul business. He believed the proposal would hurt his business. He did speak with Mr. Lococo about the access, and he did not have an issue with it, but indicated the issue was with the Village.

Mr. Al Sadona, 2105 Ogden, with West Automart, recalled the U-Haul business was in operation during his childhood. He found it interesting that he was about to lose money on his property and his business would suffer because another owner did not look to the future and purchased a bad piece of property. He believed a compromise should be made. He also pointed out the petitioner was going on the premise that he would purchase the property at 2055 Ogden Avenue but it was not guaranteed.

There being no further comments, Chairman Jirik closed the public participation portion of the meeting.

Regarding Exhibit B, Mr. Cook explained he would address the improvements to satisfy the Village's requirements. The power pole and fence was shown on Exhibit B. Mr. Cook explained the exhibits used the dimensions as shown on the official U-Haul website for the largest truck. He offered to rerun the auto-turn specifications for the commissioners if necessary.

Mr. Vince Lococo, Petitioner, stated when he gave the business to the previous tenant prior to Mr. Banks, the Secretary of State did not require two access points but instead required him to install two barricades to distinguish between the two businesses -- the cars for sale and the trucks for rent.

Assistant Public Works Dir. Millette confirmed the Village did not need the entire length of the alley behind the two parcels under discussion. However, the Village was contemplating an underground pipe that would run west and discharge into the wetlands. The pipe could be maintained just fine because no structures would be built upon it. Mr. Millette confirmed the Village wanted to slow down the water streaming across towards the southwestern alley of Pershing Avenue but details still had to be reviewed. As to vacating a portion of the alley behind 2105 Ogden to allow for the truck-turning radius, Mr. Millette had no issue with it. He confirmed that both Exhibits A and B could be used should the underground pipe be installed.

Mrs. Michelle Lococo, Petitioner, closed by summarizing she understood that Mr. Banks and Mr. Sadona felt it was detrimental to run their business by having access to Pershing. However, she stated it was a free convenient access, and there was no official permit of use issued. She did not believe their property value would decrease. She asked that they adapt to change by offering the two alternatives. The property under discussion did not belong to either individuals, and it was the Village's property. She intended to purchase it and improve the drainage issues and overall aesthetics of the Ogden Avenue Corridor.

Mr. Webster questioned whether the U-Haul business would continue to operate as he recalled at the previous meeting the tenant stated that the U-Haul franchise agreement required two access points onto Ogden Avenue. However, the tenant provided no proof of that statement. He agreed with both the Village and the petitioner's goals, but he not see any technical reason as to why the two exhibits would not work. He discussed his thoughts in finding the facts of the argument and believed the general welfare of one person was going "out the window" for the benefit of other people.

Mr. Beggs raised discussion on the permitting of the alley as it relates to use. He questioned the validity of the U-Haul contract. He also did not believe adverse possession could run against municipal land. Therefore, he understood that the alley was needed to operate the U-Haul business and believed a three-point turn should not take place at the back of the alley but that some form of parking space run along the west lot line that could be backed into and to utilize the rear offset to allow for truck turn around. He pointed out if the Village wanted to improve Ogden Avenue on the one hand, it should also permit and/or financially support strengthening the alley at the southern-most part of the lot for the turnaround point. He questioned whether the Village would issue a permit for that plan. The Village should not place the financial burden on the parties involved. In addition, Mr. Beggs noted the property at 2055 Ogden Avenue was being leased, and it was speculation that the owner would want to sell in the future. He would rather make the permitting decision and financial decision left to the Village Council.

Chairman Jirik also concurred with some of the comments being made; noting general welfare was being used to evaluate the petition. As to maneuvering the different turns, he stated the turns could be made, and therefore, it was not a detriment or hardship. He stated that different is not a hardship. However, functionally the land was not an alley but was a piece of private driveway owned by the Village. He questioned what the Village's policy was for maintaining a private driveway for a single owner that no one could get to, which he felt was not detrimental or injurious.

Mrs. Rabatah inquired whether the Village would consider the vacation of the alley since the Village was planning stormwater management, wherein Mr. O'Brien surmised that if there were a petition for vacation, it would probably be for the entire alley from Belmont to Pershing Avenue and retaining a drainage and utilities easement over the 20-foot width alley. Mr. Matejczyk believed it would solve many of the issues. However, Mr. Matejczyk did have concern if the U-Haul was requiring the tenant to have two entrances for the business since, in essence, the Village would be shutting down the business. Mr. Webster reminded the Commissioners that it was a fact-finding body, and the Commission did not have all of the facts; i.e., no copy of the U-Haul contract was provided. While he wanted to support the project, he did have concerns about one business not being able to operate.

Mr. Matejczyk discussed that in order for 2105 Ogden site to continue business, improvements must take place for the trucks to turn around. He could not recall this Commission approving a petition that puts a burden on an adjacent property owner for some significant expense, wherein Mr. Cook reminded the Commissioners of the improvements that would be made by the petitioner and that the petitioner would pay for those improvements. Mr. Cozzo, however, understood that if 2105 Ogden needed a second access then the only way 2105 could have the second access was if the Commission approved the petition and if he can use the petitioner's property to access Ogden Avenue. Therefore, it did not matter whether the improvements to the alley were made or not.

Mr. Dan Banks, 2105 Ogden, noted the Secretary of State was requiring the second entrance and division barriers. He was going on what was told to him by an inspector from the Secretary of State. Mr. Banks did not know the exact provision or code.

Mr. Quirk confirmed the second entrance was because of the second business.

Mr. Banks stated he had two separate businesses -- the car lot and the truck rental business.

DRAFT

Discussion followed on the licensing of two separate businesses and being in State compliance with the entrances.

Mr. Popovich said he did visit other U-Haul sites where one access was provided, and two types of business were running on the site; i.e., truck rental and storage space. Mr. Webster noted the second business was not a vehicle business but was a storage business.

Mr. Vince Lococo, Petitioner, stated when he owned the U-Haul business, the Secretary of State told him he had to have a barrier division between the auto business and the U-Haul business, and he had one access for both businesses. He stated there was no two separate accesses required.

Mr. Webster stated the testimony contradicted each other, and there was no representative from the Secretary of State present.

Chairman Jirik brought the discussion around to continuing the matter or moving the matter forward with the condition that the specific provisions from the Secretary of State are provided in a motion.

Mr. Matejczyk thought the project was great for Ogden Avenue, and the petitioner confirmed the alley improvements. However, he agreed the Secretary of State information was crucial. He would have difficulty voting to approve a petition that would place an undue hardship on a business. He suggested that the matter be continued until the last piece of information was obtained before forwarding it to the Village Council.

Per staff's question on researching the information, Mr. O'Brien stated the Village attorneys could pull the requirements. However, he pointed out two individual owners were told two different requirements by the State of Illinois and interpretation of any provisions was the issue. Chairman Jirik believed a specific standard had to exist with respect to enforcement and to obtain a license. Mr. Webster would not accept staff's interpretation or the Village attorney's interpretation of the Secretary of State. He favored moving the matter forward so as not to burden the petitioner.

Mrs. Hamernik believed there was motivation for Mr. Banks to get the proper information in order to move the matter forward.

Mr. Matejczyk pointed out if the Secretary of State information was not received in two weeks, it could be forward to the Village Council.

Mr. Quirk asked if the Secretary of State was polled would that change the position of the owner of 2105 Ogden to operate their business without being encumbered. Mr. Webster stated that the U-Haul tenant did not appear to know the requirements of the Secretary of State and had no proof. Mr. Webster stated he could not make a determination without the information.

WITH RESPECT TO FILE NO. PC-01-07, MR. MATEJCZYK MADE A MOTION TO CONTINUE THE PETITION TO DATE CERTAIN, THAT DATE BEING FEBRUARY 5, 2007 AND THAT THE PETITION BE FIRST ON THE AGENDA. SECONDED BY MR. BEGGS.

DRAFT

Mr. Beggs stated the burden of proof was on Mr. Banks (2105 Ogden) to show his limitations from the Secretary of State regulations. He wanted to see evidence from Mr. Banks or the Secretary of State representative. Chairman Jirik concurred and added such regulations had to be detailed and defined by Mr. Banks. Mr. Banks confirmed publicly that he understood what was being asked of him.

ROLL CALL:

**AYE: MR. MATEJCZYK, MR. BEGGS, MR. COZZO, MRS. HAMERNIK, MR. QUIRK,
MRS. RABATAH, MR. WEBSTER, CHAIRMAN JIRIK**

NAY: NONE

MOTION. VOTE: 8-0.

Chairman Jirik thanked staff for the recent training. In the future, he would like to discuss some of the topics brought up by the Village Manager.

**MRS. HAMERNIK MOVED TO ADJOURN THE MEETING. MR. QUIRK SECONDED
THE MOTION. THE MEETING WAS ADJOURNED AT 8:45 P.M.**

/s/ Celeste K. Weilandt
Celeste K. Weilandt
(As transcribed by MP-3 audio)

VILLAGE OF DOWNERS GROVE
PLAN COMMISSION MEETING, FEBRUARY 5, 2007, 7:00 P.M.

Chairman Jirik called the February 5, 2007 meeting of the Plan Commission to order at 7:05 p.m. and asked for a roll call:

PRESENT: Chairman Jirik, Mr. Beggs, Mr. Cozzo, Mr. Matejczyk, Mrs. Rabatah, Mr. Waechtler

ABSENT: Mrs. Hamernik, Mr. Quirk and Mr. Webster

STAFF

PRESENT: Senior Planner, Jeff O'Brien and Planners Stan Popovich and Damir Latinovic; Public Works Asst. Dir. Mike Millette; Traffic Manager Dorin Fera.

VISITORS: Dan and Mary Bank, West Auto Mart Enterprises, 2105 Ogden, Downers Grove, Vince and Michelle Lococo, Ultimate Motor Cars, 2055 Ogden, Downers Grove, Sheila McGlone-Eisman, 445 Austin St., Downers Grove

The Plan Commission recited the Pledge of Allegiance.

Chairman Jirik reviewed the protocol for the meeting.

FILE NO. PC-01-07 (continued from 1/22/07) A petition seeking 1) Final Planned Development Approval for an Auto Dealer on Ogden Avenue – P.D. #44 Ultimate Motor Cars; 2) Street Right of Way Vacation for property located on the South Side of Ogden Avenue at the Intersection of Ogden & Pershing Avenues, commonly known as 2101 & 2055 Ogden Avenue, Downers Grove, IL (PIN Nos. 08-01-405-006, 08-01-406-002; Vincent M. Lococo, Jr. & Michelle Lococo, Petitioners/Owners

Chairman Jirik reconvened File No. PC-01-07 and reminded the Commissioners that a public inquiry was made at the last meeting as it relates to a Secretary of State requirement regarding ingress/egress for a parcel.

Chairman Jirik opened the meeting to public comment.

Mr. Dan Bank, 2105 Ogden Avenue, West Auto Mart, referenced copies of the Administrative Code and Established Place of Business Requirements for Dealers on the dais. Specifically, when Mr. Banks spoke directly to the Secretary of State, they referred him to Page 2, Section 6A of the Administrative Code. When speaking to his local agent from the Secretary of State, the agent gave Mr. Bank the Requirements for Dealers and noted the specific section pertaining to separation of business. He stated the agent also recalled the conversation he had with Mr. Bank about the separation of business. However, Mr. Bank conveyed the Secretary of State would not get into the middle of this matter. Mr. Bank explained the separation definition did not state completely that a separate entrance was needed and that the requirement could be interpreted differently. All he could do was run his business on what he was told when he opened up the U-Haul business. He interpreted the information that if the two businesses were separated he had to have a separate entrance for each.

Mr. Bank further explained that under the old owner, the two businesses were separated using a fence. After some time, however, the vehicles could pass through the fence. Additionally, the U-Haul Office was located in the garage that was separate from the car sales office. Mr. Bank stated he would like to continue to use the alley to allow trucks to get to Pershing as he had done previously and because it was safer. Currently, he was asking the Village not to vacate Pershing Avenue.

Per Mrs. Rabatah's question, Mr. Bank said he was using Ogden Avenue for both entrance and exit for the U-Haul and automobile business. He cannot stop people from driving the trucks through the Ogden Avenue entrance, but most of the trucks were using the alley to get to Pershing. Currently there was a separation using an orange plastic fence for both sides with a gap to get through. However, when he took over the business, the separation to allow vehicles to pass was already acceptable. Mr. Bank explained the Secretary of State visited his site last week, and he is in compliance with the State's requirements.

Petitioner, Mrs. Michelle Lococo, 2101 Ogden Avenue, indicated she was also directed to the same section in the Requirements for Dealers code, but the specific section stated nothing specific to requiring two entrances. She stated the burden of proof was on Mr. Bank to provide that information per the Plan Commission's direction at the January 22nd hearing. Conversations with her field representative indicated there were no requirements stating that two separate entrances were needed. Additionally, in speaking to the Secretary of State in Springfield, Mrs. Lococo was directed to the same manual. She read Section 6C of the Illinois Administrative Vehicle Code Title 92, Transportation Chapter 2, Part 10.20, *Dealers Established Place of Business*. She read that the "sale of automobiles shall be the primary business of the licensed dealers and shall constitute 50% of the gross revenue". She also pointed out that Mr. Bank testified in a previous meeting that the U-Haul was more than 50% of his business. Secondly, she pointed out Section 6C of the Code also stated "businesses must be reasonably related to the sales and operation of automobiles and include the sale of auto parts and accessories, sale of gas, diesel, oil and lubricants, the sale of tires, the leasing of autos, and the financing of autos". Mrs. Lococo spoke with Mr. Russ Loro, head of Administrative Hearings, which revokes or suspends dealers that operate businesses other than those stated operating out of 10.20.10.6C. She asked him if a used auto dealership could run a U-Haul franchise business on the same premises, wherein Mr. Loro conveyed to her that it could not, and "they were not reasonably related businesses". Ms. Lococo stated she did not feel reporting the names or locations of the business to Mr. Loro were necessary at this time.

Mrs. Lococo asked that the Commissioners review the information for facts, pointing out the Codes did not address the two entrance requirements.

Mr. Stan Popovich, Village Planner, stated the Illinois Secretary of State regulations were between the business owner and the Illinois Secretary of State and did not directly affect the Village's procedures or goals, and staff was not in the position to interpret the regulations. Mr. Popovich stated the proposal did meet the Village's standards as stated in the original staff report. Staff recommended approval of the petition as originally stated with the conditions supplied in staff's February 5, 2007 memo with an additional condition that the petitioner apply for a permit and complete improvements to the alley as presented at the January 22, 2007 meeting and in Exhibit B. Should the Commissioners have issues with the necessity of alley access to Pershing Avenue, staff

recommended a positive approval with conditions for a cross-access easement, but staff would not support an agreement that has the potential to limit the Village's use of alley.

Mr. Waechtler recalled in prior minutes that diagrams were presented which conveyed no issues with turning around on the site, wherein Mr. Popovich confirmed there were diagrams and photos presented during the January 22, 2007 meeting that indicated the trucks could make turns through the building on the site and could make three-point turns. Mr. Waechtler also recalled there were to be conversations between the two owners, but Mr. Popovich stated the conversations never took place.

Mr. Waechtler discussed drainage concerns with Mr. Millette. Mr. Millette noted the improvements being added to 2055 and 2101 Ogden Avenue would not have an adverse affect to the adjacent wetland area nor the nearby condominiums. Details followed on how the water would be captured.

Mr. Matejczyk believed the evidence conveyed during the meeting would not negatively affect Mr. Bank's business, and he believed the evidence addressed his concerns. However, Mr. Matejczyk did not recall reviewing a right-of-way vacation that had been under so much use and it was a first time for this Commission. However, he believed the petitioner's request was in the best interest of the Village's Ogden Avenue Master Plan, and he would vote to recommend approval.

Discussion followed by Mr. Waechtler on the length of time it took for this Commission to discuss the petition. However, Mr. Matejczyk explained the hold-up was due to requesting more information and concern about putting someone out of business.

Mr. Cozzo indicated much of the discussion was based on whether Mr. Bank could receive a permit to use the alley. Chairman Jirik indicated he characterized the issue as the alley was being used as a private driveway, which the Village was not in the business to maintain a private drive. He believed the car lot needed to be separated and apart, but there were no requirements for ingress and egress. Chairman Jirik discussed his understanding of the lot separation as noted in the Secretary of State Code. Mr. Matejczyk indicated a precedent was being set in this matter.

Chairman Jirik emphasized in the future it will be important to get all the facts.

Mr. Beggs commented Mr. Bank could have been misled when he purchased the business, but it was not this Commission's purview.

WITH RESPECT TO FILE NO. PC-01-07, MR. BEGGS MADE A MOTION TO APPROVE THE PETITION AND FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL WITH THE EIGHT (8) CONDITIONS STATED IN STAFF'S MEMORANDUM DATED FEBRUARY 5, 2007:

- 1. THE DEVELOPMENT SHALL SUBSTANTIALLY CONFORM TO THE STAFF REPORT DATED JANUARY 8, 2007; THE PLAT OF EASEMENT AND PLAT OF VACATION PREPARED BY C.M. LAVOIE & ASSOCIATES DATED OCTOBER 31, 2006; THE PRELIMINARY ENGINEERING PLAN PREPARED BY C.M. LAVOIE & ASSOCIATES DATED NOVEMBER 3, 2006, REVISED DECEMBER 11, 2006; AND ARCHITECTURAL PLANS PREPARED BY FERGON ARCHITECTS DATED NOVEMBER 3, 2006, REVISED DECEMBER 13, 2006,**

EXCEPT AS SUCH PLANS MAY BE MODIFIED TO CONFORM TO VILLAGE CODES AND ORDINANCES.

- 2. ALL CONSTRUCTION WITHIN THE OGDEN AVENUE RIGHT-OF-WAY WILL REQUIRE APPROVAL FROM THE ILLINOIS DEPARTMENT OF TRANSPORTATION (IDOT).**
- 3. THE PETITIONER SHALL COORDINATE WITH THE VILLAGE'S POTENTIAL CAPITAL IMPROVEMENT PLAN TO ENSURE COMPREHENSIVE DRAINAGE IMPROVEMENTS IN THE AREA. THE PETITIONER'S SITE PLANS SHALL BE DEVELOPED TO TIE INTO THE VILLAGE'S PLANNED CAPITAL IMPROVEMENTS FOR PERSHING AVENUE IMMEDIATELY SOUTH OF THE VACATED RIGHT-OF-WAY SECTION.**
- 4. PRIOR TO THE ISSUANCE OF CONSTRUCTION/SITE DEVELOPMENT PERMITS, THE FOLLOWING CHANGES SHALL BE MADE TO THE PLANS:**
 - a. STORM SEWER CALCULATIONS SHALL BE PROVIDED AND SHALL INCLUDE HYDRAULIC GRADE LINE CALCULATIONS. AN EXHIBIT THAT SHOWS THE STORM SEWER TRIBUTARY AREA SHALL ALSO BE INCLUDED. THE OFFSITE FLOW FROM THE EAST SHALL BE ADDRESSED IN THE CALCULATIONS. PROPOSED STORM PIPE SIZES AND INVERT ELEVATIONS SHALL BE PROVIDED.**
 - b. FINAL SITE IMPROVEMENT PLANS SHALL BE PREPARED. A GRADING PLAN, UTILITY PLAN AND SEDIMENT AND EROSION CONTROL PLAN SHALL MINIMALLY BE INCLUDED. PLANS SHALL BE SIGNED AND SEALED BY A REGISTERED PROFESSIONAL ENGINEER. COORDINATE WITH PLANNED VILLAGE CAPITAL IMPROVEMENT PROJECT.**
 - c. THE SITE PLAN SHALL INCLUDE STANDARD VILLAGE EROSION CONTROL NOTES ON THE SEDIMENT AND EROSION CONTROL SHEET.**
 - d. REALIGN PROPOSED STORM SEWERS TO MAXIMIZE FLOW CAPTURE AND TO COORDINATE WITH PLANNED VILLAGE CAPITAL PROJECT PLANS FOR ALLEY AREA TO THE SOUTH. FLOW MAY NOT BE ROUTED THROUGH UNDERGROUND DETENTION CHAMBER AT THE CONDOMINIUM COMPLEX TO THE SOUTH.**
 - e. THE FENCE ALONG THE SOUTH SIDE OF THE VACATED RIGHT-OF-WAY SHALL BE SHOWN TO ALLOW WATER MOVEMENT UNDERNEATH THE FENCE.**
 - f. SITE PLANS SHALL SHOW SIGNS DISPLAYING 'CUSTOMER ONLY PARKING' ON THE EAST SIDE OF THE VACATED PERSHING AVENUE RIGHT-OF-WAY TO ENSURE THAT NO DISPLAY CARS ARE PARKED ON TOP OF THE EXISTING WATER UTILITIES.**
- 5. PRIOR TO FINAL VILLAGE COUNCIL CONSIDERATION, THE PETITIONER SHALL HAVE A PLAT OF VACATION PREPARED BY A LICENSED SURVEYOR. THE VILLAGE SHALL PROVIDE EASEMENT LANGUAGE WHICH SHALL BE NOTED ON THE PLAT OF VACATION TO SHOW THE FOLLOWING:**
 - a. A DRAINAGE AND UTILITY EASEMENT FOR THE VILLAGE OF DOWNERS GROVE, DUPAGE WATER COMMISSION AND OTHER**

PUBLIC UTILITIES INCLUDING BUT NOT LIMITED TO COMMONWEALTH EDISON, COMCAST, AND AT&T.

- b. A CROSS-ACCESS EASEMENT TO ALLOW CURRENT AND FUTURE OWNERS OF 2055 OGDEN AVENUE ACCESS TO OGDEN AVENUE THROUGH THE VACATED PERSHING AVENUE RIGHT-OF-WAY**
 - c. A SIDEWALK EASEMENT TO ALLOW THE PERSHING AVENUE SIDEWALK TO CONTINUE WITHIN THE VACATED RIGHT-OF-WAY.**
 - d. THE PETITIONER SHALL INDEMNIFY THE VILLAGE AND DUPAGE WATER COMMISSION FOR ALL DAMAGES ASSOCIATED WITH THE WATER UTILITIES UNDER THE VACATED PERSHING AVENUE RIGHT-OF-WAY.**
- 6. PRIOR TO COMPLETION OF THE PLAT OF VACATION, THE LICENSED SURVEYOR SHALL CONTACT AND DISCUSS WITH THE DUPAGE COUNTY RECORDER AS TO HOW THE VACATED LAND SHALL BE DESCRIBED ON THE PLAT OF VACATION.**
 - 7. PRIOR TO FINAL VILLAGE COUNCIL CONSIDERATION, THE PETITIONER SHALL PROVIDE THE VILLAGE WITH COMPENSATION AS DETERMINED BY VILLAGE COUNCIL.**
 - 8. PETITIONER SHALL APPLY FOR A PERMIT AND PAY FOR IMPROVEMENTS TO THE ALLEY AS SHOWN IN EXHIBIT B, WHICH WAS PROVIDED AT THE JANUARY 22, 2007 PLAN COMMISSION MEETING.**

SECONDED BY MR. MATEJCZYK.

Mrs. Rabatah noted even though Pershing Avenue was actively used by Mr. Bank, it was being used for convenience and not out of necessity since this was a precedent.

ROLL CALL:

AYE: MR. BEGGS, MR. MATEJCZYK, MR. COZZO, MRS. RABATAH, MR. WAECHTLER, CHAIRMAN JIRIK

NAY: NONE

MOTION CARRIED. VOTE: 6-0

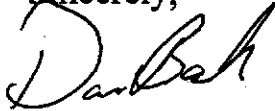
Chairman Jirik thanked staff and the Commissioners for their time discussing the above matter and getting all the facts.

West Auto Mart Enterprises
2105 Ogden Ave
Downers Grove, IL 60515
Telephone: 630-964-2514
Fax: 630-964-9115
www.westautomart.com

TO: Village of Dowers Grove
FROM: Dan Bank, West Auto Mart Enterprises
DATE: 01/25/07
RE: 01/22/07 Meeting

I would like to correct a statement I made at the January 22 village meeting. In attempting to express the importance of the UHAUL business I inaccurately stated that UHAUL is my primary business. The West Auto Mart car lot is my primary business and UHAUL is secondary to the car lot. The extreme importance I was trying to express lies in the revenue that the UHAUL business provides during the months the car lot revenue is down. When I made the inaccurate statement I was specifically referring to the last 2 months where the car sales were down and the UHAUL revenue played a significant role in paying the bills. I apologize for the mistake in my statement and any misunderstanding it has caused.

Sincerely,



Dan Bank

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE
PART 1020 DEALERS, WRECKERS, TRANSPORTERS AND REBUILDERS
SECTION 1020.10 DEALERS ESTABLISHED PLACE OF BUSINESS

Section 1020.10 Dealers Established Place of Business

- a) Each person seeking to be or already duly licensed as a new or used vehicle dealer under the Illinois Vehicle Code (I.V.C.) [625 ILCS 5] shall maintain an established place of business which shall, in addition to those requirements in Section 5-100 of the Illinois Vehicle Code (I.V.C), meet the following requirements:
- 1) Have office facilities in a building for maintaining and keeping books and records as are required. The office facilities shall be permanently mounted on a fixed foundation and may not include a trailer with axle attached and still moveable. It may include, however, a house trailer in a licensed mobile home park or dealership lot with tires removed and utilities attached.
 - 2) Be properly and permanently equipped with the necessary office equipment and machines, and documents and papers adequate to properly conduct business as a dealer and must be within a permanent building or structure as required in subsection (a)(1) above.
 - 3) Be equipped with an operating telephone for inbound and outbound calls and have the business telephone number published in the telephone directory generally available in the dealership area, and adequately equipped with operating electric lights.
 - 4) Have the name of the dealership posted on the front entrance door.
 - 5) Have posted on the front entrance door a sign setting forth the days and regular and reasonable hours when open for business. A dealership shall not be deemed as being open for business unless at least one employee, who is able to conduct regular business, is on the premises and available to the public and the dealership must be operated consistent with general dealer practices. The dealership must be open for business at least five (5) days out of each seven (7) days in a week, and a minimum of four (4) hours consecutive per day. However, dealers who operate their dealerships less than 12 months shall state in the license application those months in which

the dealership is closed and shall not be required to maintain regular business hours during the period of closure. The months of closure shall also be posted in a prominent place for the public to see in the dealership office.

- 6) Maintain a lot, being the area not occupied by a building, which shall be surfaced with rock or better surface material, and which shall be properly illuminated, if open after sundown, so that vehicles for sale can be properly inspected by any prospective customer.
 - A) The lot used for sale of vehicles shall be separate and apart from any other business. In addition, where a dealer is selling both new and used cars, the new cars shall be parked separately and apart from used cars.
 - B) The above lot requirement shall not be applicable where the place of business has an indoor showroom, properly illuminated, for the display of vehicles held for sale.
 - C) The separate lot requirement specified in subsection (a)(6)(A) above shall not prohibit the operation by the dealer of other businesses on the same premises, which shall include the lot, provided that the businesses are reasonably related to the sale or operation of new or used automobiles, provided further that the sale of new or used automobiles shall constitute at least 50% of the gross revenues of the licensed holder, and the sale of automobiles shall be the primary business of the licensed dealer. No business defined as reasonably related to the sale of automobiles under this Section shall exceed 50% of the gross revenue of the business entities using the lot. Businesses reasonably related to the sale or operation of automobiles shall include only the sale of automobile parts and accessories, the sale of gasoline, diesel fuel, oil and lubricant, the sale of automobile tires, the leasing of automobiles, insuring automobiles and financing of automobiles sold by the licensed dealers engaged in these businesses. Licensed dealers engaged in operating businesses other than those stated herein shall remove such businesses or modify them to comply with this rule within 60 days of notification by the Secretary of State, or be subject to the revocation or suspension of their dealers license.
- 7) Dealership in a Department Store - Where a dealer maintains a place of business within a department store, the dealership shall be separated from other operations within the department store.
- 8) Sign – Display a permanent sign bearing the name of the dealership which shall be properly illuminated if open after sundown and which shall be visible from the highway leading to the established place of business.

- 9) Display a federally required pricing document on all new motor vehicles held for sale.
- 10) If the premises are leased, such lease must be for at least the duration of the current licensed period.

b) **Supplemental Lots**

An Illinois licensed dealer may operate as an additional place of business a permanent supplemental lot which will meet all the requirements of subsections (a)(1) through (a)(10) of this Section, except the records required to be kept shall be maintained at the principal place of business of the dealership, as defined by Section 1-164 of the I.V.C., unless the supplemental lot is more than one mile from the main dealerships. The one mile shall be measured by the most direct road between the dealership and the supplemental lot.

- 1) A licensed dealer shall apply for the supplemental lot authorization when he/she files the application required by Sections 5-101 or 5-102 of the I.V.C. or he/she may file an application to add a supplemental lot during the license period.
- 2) The fee for a license to operate a supplemental lot is \$25 or \$12.50 as provided in Sections 5-101 (b)(7) and 5-102(b)(5) of the I.V.C.
- 3) No vehicle sales at supplemental lots shall be allowed on Sundays except as provided for in Section 5-106 of the I.V.C.

c) **Trade Show Exhibition, Display Exhibition and Off Site Sale**

A licensed dealer may operate as an additional place of business an exhibition area in a trade show exhibition, display exhibition, or off site sale, provided:

- 1) The trade show exhibition, display exhibition or off site sale must be conducted separate and away from the licensed dealer's established and additional places of business.
- 2) The licensed dealer has a currently valid new or used vehicle dealer's license issued by the Secretary of State of Illinois or another state where applicable.
- 3) The applicant dealer meets the requirements of subsection (c)(7), (8) or (9) of this Section.
- 4) No permit granted for an additional location in a trade show exhibition, display exhibition or off site sale may be transferred nor removed to another location.
- 5) Regardless of the dates of the trade show exhibition, display exhibition or off site sale no vehicle sales will be allowed on Sunday

except as provided for in Section 5-106 of the I.V.C.

- 6) The licensed dealer has provided the Secretary of State with a copy of the written contract with the agency or person or other entity sponsoring, creating or supervising the trade show exhibition, display exhibition or off site sale and an application for the trade show exhibition, display exhibition or off site sale permit containing the name of the dealership, its license number, the location and dates of the trade show exhibition, display exhibition or off site sale, and signed by the licensed dealer.
- 7) Trade Show Exhibitions
 - A) A permit for an additional location granted for a trade show exhibition shall in no event be valid for more than thirty (30) days from the date of the first day of the trade show exhibition for which it is granted.
 - B) The fee for a permit to operate in a trade show exhibition shall be \$10.00 per permit.
 - C) No vehicles may be offered for sale.
 - D) Each trade show exhibition must have a minimum of three (3) licensed participants, at least two of which must be licensed under Section 5-101 or 5-102 of the I.V.C., who all meet the requirements in subsections (c)(1) through (6) of this Section.
 - E) A trade show exhibition of new vehicles shall only have participants licensed as new vehicle dealers, at least two of which must be licensed under Section 5-101 of the I.V.C., and meet the requirements in subsections (c)(1) through (6) of this Section.
- 8) Display Exhibitions
 - A) Only a new or used vehicle dealer licensed under Section 5-101 or 5-102 of the I.V.C., who also meets the requirements of subsections (c)(1) through (6) of this Section, may participate in a display exhibition.
 - B) A permit for an additional location granted for a display exhibition shall in no event be valid for more than thirty (30) days from the date of the first day of the display exhibition for which it is granted.
 - C) The fee for a permit to operate in a display exhibition shall be \$10.00 per permit.
 - D) No vehicles may be offered for sale.

9) Off Site Sales

- A) Only a dealer licensed under Section 5-101 or 5-102 of the I.V.C., who also meets the requirements of subsections (c)(1) through (6) of this Section, may conduct an off site sale.
 - B) The off site sale must not be conducted out of the licensed dealer's relevant market area, as defined in Section 5-100 of the I.V.C. This does not apply to off site sales of motor homes or recreational vehicles.
 - C) A permit for an additional location granted for an off site sale shall in no event be valid for more than seven (7) days from the date of the first day of the off site sale for which it is granted.
 - D) The fee for a permit to operate an off site sale shall be \$25.00 per permit.
- d) Each person seeking to be or already duly licensed as a scrap processor, automotive parts recycler, rebuilder, repairer or out of state salvage buyer under the I.V.C. shall maintain an established place of business which shall meet the requirements contained in subsection (a) above, except that no lot as set forth in subsection (a)(6) above is required. However, if open after sundown, the premises shall be adequately illuminated so that prospective purchasers may inspect the items held for sale.
- e) None of the requirements of this Section shall apply to the place of business of a vehicle auctioneer licensed under Chapter 5, Article VII of the I.V.C.

(Source: Amended at 19 Ill. Reg. 11640, effective August 1, 1995)



JESSE WHITE • SECRETARY OF STATE

September 2002

EAW

TO ASSIST PERSONS LICENSED OR REQUIRED TO BE LICENSED BY THE SECRETARY OF STATE AS A NEW VEHICLE DEALER (SECTION 5/5-101), A USED VEHICLE DEALER (SECTION 5/5-102), A REPAIRER, A REBUILDER, AN AUTO PARTS RECYCLER OR A SCRAP PROCESSOR (SECTION 5/5-301), AND AN OUT-OF-STATE SALVAGE BUYER (SECTION 5-302), THIS BOOKLET IS BEING PREPARED AND CONSISTS OF TWO SEPARATE AND DISTINCT PARTS:

PART ONE – ESTABLISHED PLACE OF BUSINESS REQUIREMENTS

PART TWO – RECORDKEEPING REQUIREMENTS FOR ALL LICENSEES

Requirements For an Established Place of Business

General Information

The information contained within this section is applicable to all licensees and is excerpted from the applicable Statutes and the Illinois Administrative Code.

For your convenience the appropriate definitions and requirements for an established place of business and a depiction of the physical premises required by each licensee is provided.

PART ONE

<u>Section</u>	<u>Heading</u>	<u>Page</u>
	General Information	i
1	Definition of an Established Place of Business (EPOB)	1-6
2	Requirements	7-8
3	Supplemental Lot	9
4	Trade Show or Exhibition and Off-Site Sales	10-11
5	Licensing Requirement Questionnaire	13-14

Section 1

DEFINITION

625 ILCS 5/5-100 Established Place of Business

Established Place of Business (EPOB) means the place owned or leased and occupied by any person duly licensed or required to be licensed as a dealer for the purpose of engaging in:

1. selling,
2. buying,
3. bartering,
4. displaying,
5. exchanging or dealing in, on consignment or otherwise, vehicles and their essential parts and for such other ancillary purposes as may be permitted by the Secretary by rule.

The established place of business shall include an office in which the dealer's records shall be separate and distinct from any other business or tenant which may occupy space in the same building.

This office shall not be located in a:

1. house trailer,
2. residence,
3. tent,
4. temporary stand,
5. temporary address,
6. room or rooms in a hotel or rooming house, nor the premises occupied by a single or multiple unit residence.

The established place of business for a **scrap processor** shall be the fixed location where the scrap processor maintains its principal place of business.

The Secretary of State shall, by rule and regulation, adopt guidelines for the administration and enforcement of this definition, such as, but not limited to:

1. issues concerning the required hours of operation,
2. descriptions as to where vehicles are displayed and offered for sale,
3. limitations as to where books and records are maintained and requirements for the fulfillment of warranties

A dealer may have an additional place of business (supplemental) as defined in this Section:

"Additional place of business" means a place owned or leased and occupied by the dealer in addition to its established place of business, at which the dealer conducts or intends to conduct business on a **permanent or long-term** basis. It does not include:

"Off site sale" which means the temporary display and sale of vehicles, for a period of not more than 7 calendar days (excluding Sundays), by a dealer licensed under 5-101 or 5-102, or any other person as defined in Section 5-102.1, at a place other than the dealer's established place of business or additional places of business.

"Exhibition" means a temporary display of vehicles, for a period of not more than 30 days, by a dealer licensed under 5-101 or 5-102, or any other person as defined in Section 5-102.1, at a trade show or similar event at which no vehicles are offered for sale, that is conducted at a place other than the dealer's established and additional places of business.

See pages 10 for additional information on 'Trade Show Exhibitions', 'Display Exhibition' and Off Site Sales.

ILLINOIS VEHICLE CODE
ILLINOIS COMPILED STATUTES
Definitions

5/1-101. Definition of words and phrases

§ 1-101. Definition of words and phrases. The following words and phrases when used in this Code shall, for the purpose of this Code, have the meanings respectively ascribed to them in this Chapter, except when the context otherwise requires and except where another definition set forth in another Chapter of this Code and applicable to that Chapter or a designated part thereof is applicable.

5/1-101.05. Abandoned vehicle

§ 1-101.05. Abandoned vehicle. For the purposes of Chapter 4, "abandoned vehicle" means any vehicle in a state of disrepair rendering the vehicle incapable of being driven in its condition or any vehicle that has not been moved or used for 7 consecutive days or more and is apparently deserted.

5/1-101.2. Affirmation

§ 1-101.2. Affirmation. A signed statement to the effect that the information provided by the signer is true and correct. The affirmation shall subject any person who shall knowingly affirm falsely, in matter material to any issue or point in question, to the penalties inflicted by law on persons convicted of perjury under Section 32-2 of the Criminal Code of 1961.¹

5/1-102.1. Antique vehicle

§ 1-102.1. Antique vehicle. A motor vehicle that is more than 25 years of age or a bona-fide replica thereof and which is driven on the highways only going to and returning from an antique auto show or an exhibition, or for serving or demonstration, or a fire-fighting vehicle more than 20 years old which is not used as fire-fighting equipment but is used only for the purpose of exhibition or demonstration.

5/1-105.3. Automotive parts recycler

§ 1-105.31. Automotive parts recycler. A person who is in the business of acquiring previously owned vehicles and vehicle parts for the primary purpose of parts of vehicles in a manner other than that described in the definition of a "scrap processor" in this Code.

5/1-106.5. Bumper

§ 1-106.5. Bumper. Every device or system of devices protruding from and attached to the front and rear of a motor vehicle that has been designed to be used to absorb the impact of a collision.

5/1-107. Bus

§ 1-107. Bus. Every motor vehicle, other than a commuter van, designed for carrying more than 10 persons. P.A. 76-1586, § 1-107, eff. July 1, 1970. Amended by P.A. 80-529, § 1, eff. Jan. 1, 1979; P.A. 82-1011, § 2, eff. Sept. 17, 1982.

5/1-109.01. Camping trailer

§ 1-109.01. Camping trailer. A trailer, not used commercially, constructed with partial side walls which fold for towing and unfold to provide temporary living quarters for recreational camping or travel use and of a size or weight not requiring an overdimension permit when towed on a highway.

5/1-110.2. Certificate of purchase

§ 1-110.2. Certificate of purchase. A bill of sale given to a licensee making an acquisition of a vehicle under Sections 4-208 and 4-209 of this Code.

5/1-111.1b. Chassis

§ 1-111.1b. Chassis. Every frame or supportive element of a vehicle whether or not a manufacturer's identification number, serial number, or other identifying numbers are present on said part.

5/1-111.1c. Chassis manufacturer

§ 1-111.1c. Chassis manufacturer. A person who manufactures and produces the frame upon which is mounted the body of a motor vehicle.

5/1-112.1. Conversion

§ 1-112.1. Conversion. A motor vehicle, other than a motor home, which has been modified by a person other than the manufacturer of the chassis of the motor vehicle and which has not been the subject of a retail sale.

5/1-112.2. Converter or second stage manufacturer

§ 1-112.2. Converter or second stage manufacturer. A person who prior to the retail sale of a motor vehicle, assembles, installs or affixes a body, cab, or special equipment to a chassis, or who adds, subtracts from, or modifies a previously assembled or manufactured motor vehicle.

5/1-112.3. Converter Dolly

§ 1-112.3. Converter Dolly. A vehicle consisting of a chassis equipped with one or more axles, a fifth wheel or an equivalent mechanism, and draw bar, the attachment of which converts a semitrailer to a full trailer.

5/1-112.5. Counterfeit

§ 1-112.5. Counterfeit. To copy or imitate, without legal authority, with the intent of deceiving or defrauding.

5/1-115. Dealer

§ 1-115. Dealer. Every person engaged in the business of acquiring or disposing of vehicles or their essential parts and who has an established place of business for such purpose.

5/1-115.1. Disposition of vehicle or vehicle part

§ 1-115.1. Disposition of vehicle or vehicle part. The purchase, exchange, transfer, sale, assignment or other change of ownership or possession or the junking or wrecking of a vehicle or vehicle part.

5/1-118. Essential parts

§ 1-118. Essential parts. All integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation. "Essential parts" includes the following: vehicle hulks, shells, chassis, frames, front end assemblies (which may consist of headlight, grill, fender and hood), front clip (front end assembly with cowl attached), rear clip (which may consist of quarter panels, fenders, floor and top), doors, hatchbacks, fenders, cabs, cab clips, cowls, hoods, trunk lids, deck lids, T-tops, sunroofs, moon roofs, astro roofs, transmissions of vehicles of the second division, seats, aluminum wheels, engines and similar parts. Essential parts shall also include stereo radios, cassette radios, compact disc radios, cassette/compact disc radios and compact disc players and compact disc changers which are either installed in dash or trunk-mounted.

An essential part which does not have affixed to it an identification number as defined in Section 1-129 adopts the identification number of the vehicle to which such part is affixed, installed or mounted.

**ILLINOIS VEHICLE CODE
ILLINOIS COMPILED STATUTES**

Definitions

5/1-123.3. Frame

§ 1-123.3. Frame. The main longitudinal structural members of the chassis of the vehicle or, for vehicles with unitized body construction, the lowest main longitudinal structural members of the body of the vehicle.

5/1-128. House trailer

§ 1-128. House trailer. (a) A trailer or semitrailer equipped and used for living quarters or for human habitation (temporarily or permanently) rather than for the transportation of freight, goods, wares and merchandise; or

(b) A house trailer or a semitrailer which is used commercially (temporarily or permanently), that is, for the advertising, sales, display or promotion of merchandise or services, or for any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

5/1-129. Identification number

§ 1-129. Identification Number. The numbers and letters, if any, on a vehicle or essential part, affixed by its manufacturer, the Illinois Secretary of State or the Illinois Department of State Police for the purpose of identifying the vehicle or essential part, or which is required to be affixed to the vehicle or part by federal or state law.

P. A. 76-1586, § 1-129, eff. July 1, 1970. Amended by P.A. 84-1302, § 1, eff. Jan. 1, 1987; P.A. 84-1304, § 1, eff. Jan. 1, 1987.

5/1-134.1. Junk vehicle

§ 1-134.1. Junk vehicle. A junk vehicle is a vehicle which has been or is being disassembled, crushed, compressed, flattened, destroyed or otherwise reduced to a state in which it no longer can be returned to an operable state.

5/1-142. Manufacturer

§ 1-142. Manufacturer. Every person engaged in the business of manufacturing and assembling vehicles or reconstructed vehicles, or engine and driveline components for vehicles.

5/1-142.01. Materially altered vehicle

§ 1-142.01. Materially altered vehicle. Any vehicle which has been modified, rebuilt, repaired, reconstructed, restored or specially constructed.

5/1-144.05. Model year

§ 1-144.05. Model year. The year of manufacture of a vehicle based upon the annual production period of the vehicle as designated by the manufacturer and indicated on the title and registration of the vehicle. If the manufacturer does not designate a production period for the vehicle, then "model year" means the calendar year of manufacture.

5/1-144.1. Modified vehicle

§ 1-144.1. Modified vehicle. Every vehicle of a type required to be registered under this Code altered by the addition, deletion, or modification of the body, chassis, component or essential parts, new or used.

5/1-145.001. Motor driven cycle

§ 1-145.001. Motor driven cycle. Every motorcycle and every motor scooter with less than 150 cubic centimeter piston displacement including motorized pedalcycles.

5/1-146. Motor vehicle

§ 1-146. Motor vehicle. Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except for vehicles moved solely by human power and motorized wheelchairs. For this Act, motor vehicles are divided into two divisions:

First Division: Those motor vehicles which are designed for the carrying of not more than 10 persons.

Second Division: Those motor vehicles which are designed for carrying more than 10 persons, those motor vehicles designed or used for living quarters, those motor vehicles which are designed for pulling or carrying freight, cargo or implements of husbandry, and those motor vehicles of the First Division remodelled for use and used as motor vehicles of the Second Division.

5/1-147. Motorcycle

§ 1-147. Motorcycle. Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than 3 wheels in contact with the ground, but excluding a tractor.

5/1-148.2. Motorized pedalcycle

§ 1-148.2. Motorized Pedalcycle. A motorized pedalcycle is a motor-driven cycle whose speed attainable in one mile is 30 mph or less, which is equipped with a motor that produces 2 brake horsepower or less. If an internal combustion engine is used, the displacement shall not exceed 50 cubic centimeter displacement and the power drive system shall not require the operator to shift gears.

5/1-148.3a. Muffler

§ 1-148.3a. Muffler. A device consisting of a series of chambers or baffle plates or other mechanical design for the purpose of receiving exhaust gas from an internal combustion engine or turbine wheels for the purposes of receiving exhaust gas from a diesel engine, all of which are effective in reducing noise.

5/1-148.3b. Multipurpose passenger vehicle

§ 1-148.3b. Multipurpose passenger vehicle. A motor vehicle with motive power, except a trailer, designed to carry 10 persons or less that is constructed either on a truck chassis or with special features for occasional off-road operation.

5/1-148.4. New vehicle

§ 1-148.4. New Vehicle. A new vehicle which has not been previously sold to any person except a franchised distributor or franchised new vehicle dealer.

5/1-155. Owner

§ 1-155. Owner. A person who holds legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of such vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this Code.

5/1-157. Passenger car

§ 1-157. Passenger car. A motor vehicle of the First Division including a multipurpose passenger vehicle, that is designed for carrying not more than 10 persons.

ILLINOIS VEHICLE CODE
ILLINOIS COMPILED STATUTES

Definitions

5/1-158.5. Penalties and offenses—Definitions

§ 1-158.5. Penalties and offenses—definitions. The following words and phrases when used in this Act, shall for the purposes of this Act, have the meanings ascribed to them in Article V of the "Unified Code of Corrections", as now or hereafter amended:¹

Business Offense;
Conviction;
Court;
Felony;
Class 1 Felony;
Class 2 Felony;
Class 3 Felony;
Class 4 Felony;
Imprisonment;
Judgment;
Misdemeanor;
Class A Misdemeanor;
Class B Misdemeanor;
Class C Misdemeanor;
Offense;
Petty Offense;
Sentence.

5/1-161. Pole trailer

§ 1-161. Pole trailer. Every vehicle without motive power, designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

5/1-162. Police officer

§ 1-162. Police officer. Every officer authorized to direct or regulate traffic or to make arrests and issue citations for violations of traffic regulations.

5/1-162.5. Principal place of business

§ 1-162.5. Principal place of business. The place where any person transacts his principal business, or where he makes up and approves his payroll, maintains a central file of records and maintains his principal executive offices. In the event that not all of these functions are performed in one place, then that place where a majority of such functions are performed or the place where such person does in fact principally transact and control his business affairs.

5/1-168.05. Rebuilder

§ 1-168.05. Rebuilder. A person who is in the business of returning a vehicle for which a salvage certificate has been previously issued back to its original or operating condition.

5/1-168.1. Rebuilt vehicle

§ 1-168.1. Rebuilt vehicle. A vehicle for which a salvage certificate has been issued and which subsequently has been put back into its original or operating condition by a licensed rebuilder and which has met all the requirements of a salvage vehicle inspection.

5/1-168.5. Recognized repair technician

§ 1-168.5. Recognized repair technician. A person professionally engaged in vehicle repair, employed by a going concern whose purpose is vehicle repair, or possessing nationally recognized certification for emission-related diagnosis and repair.

5/1-169. Recreational vehicle

§ 1-169. Recreational vehicle. Every camping trailer, motor home, mini motor home, travel trailer, truck camper or van camper used primarily for recreational purposes and not used commercially nor owned by a commercial business.

5/1-171. Registration—Registration sticker

§ 1-171. Registration—Registration sticker. Registration. The registration certificate or certificates, registration plates and registration stickers issued under the laws of this State pertaining to the registration of vehicles.

Registration Sticker or Stickers. A device or devices to be attached to a rear registration plate that will renew the registration and registration plate or plates for a pre-determined period not to exceed one registration year except as provided in subsection (1) of Section 3-414 of this Code. Should the Secretary of State determine it is advisable to require a registration sticker to be attached to a front registration plate, he may require such action and provide the necessary additional sticker. Such determination shall be publicly announced at least 30 days in advance of a new annual registration year.

5/1-171.01a. Remittance agent

§ 1-171.01a. Remittance agent. For the purposes of Article IX of Chapter 3, the term "remittance agent" means any person who holds himself or herself out to the public as being engaged in or who engages in accepting money for remittance to the State of Illinois or any of its instrumentalities or political subdivisions, or to any of their officials, for the payment of vehicle taxes or vehicle license or registration fees regardless of when the money is accepted from the public or remitted to the State, whether or not the person renders any other service in connection with the making of any such remittance or is engaged in any other endeavor. The term "remittance agent" does not include any licensed dealer in motor vehicles who accepts money for remittance to the State of Illinois for the payment of vehicle taxes or vehicle licenses or registration fees as an incident to his or her business as a motor vehicle dealer.

5/1-171.01b. Remittee

§ 1-171.01b. Remittee. The State of Illinois location where the remittance agent brings the money and application he or she receives from the general public (remitter) to be processed by the State of Illinois.

5/1-171.01c. Remitter

§ 1-171.01c. Remitter. Any person who gives money to a remittance agent to submit to the State of Illinois and its licensing and taxing agencies for the payment of vehicle taxes or vehicle license and registration fees.

5/1-171.02. Repaired vehicle

§ 1-171.02. Repaired vehicle. A vehicle other than a rebuilt vehicle which has been put back into its original or operating condition by restoring, mending, straightening, replacing, altering or painting its essential parts by a licensed repairer.

5/1-171.3. Repairer

§ 1-171.3. Repairer. A person who is in the business of returning a vehicle other than a vehicle for which a salvage certificate has been issued back into its original or operating condition by restoring, mending, straightening, replacing, altering, or painting its essential parts.

5/1-174. Retail sale

§ 1-174. Retail sale. The act or attempted act of selling vehicles or otherwise disposing of a vehicle to a person for use as a consumer.

5/1-182.3. Scrap processor

§ 1-182.3. Scrap processor. A person who purchases a vehicle, junk vehicle, or vehicle cowl for processing into a form other than a vehicle, junk vehicle, or vehicle cowl for remelting purposes only, who from a fixed location utilizes machinery and equipment for processing or manufacturing ferrous or nonferrous metallic scrap into prepared grades, and whose principal product is metallic scrap and who records the purchases on a weight ticket.

ILLINOIS VEHICLE CODE
ILLINOIS COMPILED STATUTES
Definitions

5/1-182.8. Second stage manufacturer or converter

§ 1-182.8. Second stage manufacturer or converter. A person who prior to the retail sale of a motor vehicle, assembles, installs or affixes a body, cab, or special equipment to a chassis, or who adds, subtracts from, or modifies a previously assembled or manufactured motor vehicle.

5/1-183. Secretary

§ 1-183. Secretary. The Illinois Secretary of State or his or her designee.

5/1-184. Secretary of State

§ 1-184. Secretary of State. The Secretary of State of Illinois.

5/1-187. Semitrailer

§ 1-187. Semitrailer. Every vehicle without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

5/1-187.01. Servicing of vehicles

§ 1-187.01. Servicing of vehicles. The altering or maintaining of the parts of a vehicle other than its essential parts. Regarding engines and transmissions, however, repair or replacement of parts, which does not result in the removal of all or any part of the identification number shall be deemed servicing of the vehicle.

5/1-192. Specially constructed vehicle

§ 1-192. Specially constructed vehicle. Every vehicle of a type required to be registered hereunder that: (a) has been materially altered from its original construction by the removal, addition or substitution of essential parts; or (b) was not originally constructed under a distinctive name by a generally recognized manufacturer of vehicles.

5/1-209. Trailer

§ 1-209. Trailer. Every vehicle without motive power in operation, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

5/1-210.01. Travel trailer

§ 1-210.01. Travel trailer. A trailer, not used commercially, designed to provide living quarters for recreational, camping or travel use, and of a size or weight not requiring an overdimension permit when towed on a highway.

5/1-211. Truck

§ 1-211. Truck. Every motor vehicle designed, used, or maintained primarily for the transportation of property.

5/1-211.01. Truck camper

§ 1-211.01. Truck camper. A truck, not used commercially, when equipped with a portable unit designed to be loaded onto the bed which is construed to provide temporary living quarters for recreational, travel or camping use.

5/1-212. Truck tractor

§ 1-212. Truck tractor. Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

5/1-212.5. Truckster

§ 1-212.5. Truckster. Every motor vehicle or motorcycle with 3 wheels designed, used or maintained primarily for the transportation of property.

5/1-215. Used car dealer

§ 1-215. Used car dealer. Every person engaged in the business of buying, selling or exchanging used motor vehicles and who has an established place of business for such purpose in this State.

5/1-216. Used motor vehicle

§ 1-216. Used motor vehicle. Every motor vehicle which has been sold, bargained, exchanged, given away, or title transferred from the person who first acquired it from the manufacturer or importer, dealer, or agent of the manufacturer or importer and so used as to have become what is commonly known as "second hand" within the ordinary meaning thereof: Provided, that a new motor vehicle shall not be considered as a "used motor vehicle" until it has been placed in a bona fide consumer use, notwithstanding the number of transfers of such motor vehicle. The term "bona fide consumer use" means actual operation by an owner who acquired the vehicle for use in business or for pleasure purposes and who has been granted a Certificate of Title on such motor vehicle and has registered such motor vehicle, all in accordance with the laws of the residence of the owner.

5/1-217. Vehicle

§ 1-217. Vehicle. Every device, in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power, devices used exclusively upon stationary rails or tracks and snowmobiles as defined in the Snowmobile Registration and Safety Act.¹

For the purposes of this Code, unless otherwise prescribed, a device shall be considered to be a vehicle until such time it either comes within the definition of a junk vehicle, as defined under this Code, or a junking certificate is issued for it.

For this Code, vehicles are divided into 2 divisions:

First Division: Those motor vehicles which are designed for the carrying of not more than 10 persons.

Second Division: Those vehicles which are designed for carrying more than 10 persons, those designed or used for living quarters and those vehicles which are designed for pulling or carrying property, freight or cargo, those motor vehicles of the First Division remodelled for use and used as motor vehicles of the Second Division, and those motor vehicles of the First Division used and registered as school buses.

5/1-217.1. Vehicle cowl

§ 1-217.1. Vehicle cowl. The portion of the vehicle that separates the front compartment from the rear compartment, commonly referred to as the firewall, to which a vehicle identification number is normally attached.

5/1-218.1. Vehicle shell

§ 1-218.1. Vehicle shell. Every sheet metal part of a vehicle whether or not attached to a chassis or part of a chassis. For the purposes of this definition the term vehicle shell include the terms, shell, vehicle hulk, body, vehicle body.

ILLINOIS VEHICLE CODE
ILLINOIS COMPILED STATUTES
Definitions

5/5-100. Definitions

§ 5-100. Definitions. For the purposes of this Chapter, the following words shall have the meanings ascribed to them as follows:

"Additional place of business" means a place owned or leased and occupied by the dealer in addition to its established place of business, at which the dealer conducts or intends to conduct business on a permanent or long term basis. The term does not include an area where an off site sale or exhibition is conducted. The Secretary of State shall adopt guidelines for the administration and enforcement of this definition by rule.

"Display exhibition" means a temporary display of vehicles by a dealer licensed under Section 5-101 or 5-102, at a location at which no vehicles are offered for sale, that is conducted at a place other than the dealer's established and additional places of business.

"Established place of business" means the place owned or leased and occupied by any person duly licensed or required to be licensed as a dealer for the purpose of engaging in selling, buying, bartering, displaying, exchanging or dealing in, on consignment or otherwise, vehicles and their essential parts and for such other ancillary purposes as may be permitted by the Secretary by rule. It shall include an office in which the dealer's records shall be separate and distinct from any other business or tenant which may occupy space in the same building. This office shall not be located in a house trailer, residence, tent, temporary stand, temporary address, room, or rooms in a hotel or rooming house, nor the premises occupied by a single or multiple unit residence. The established place of business of a scrap processor shall be the fixed location where the scrap processor maintains its principal of business. The Secretary of State shall, by rule and regulation, adopt guidelines for the administration and enforcement of this definition, such as, but not limited to issues concerning the required hours of operation, describing where vehicles are displayed and offered for sale, where books and records are maintained and requirements for the fulfillment of warranties. A dealer may have an additional place of business as defined under this Section.

"Off site sale" means the temporary display and sale of vehicles, for a period of not more than 7 calendar days (excluding Sundays), by a dealer licensed under Section 5-101 or 5-102 at a place other than the dealer's established and additional places of business.

"Relevant market area", for a new vehicle dealer licensed under Section 5-101 and for a used vehicle dealer licensed under Section 5-102, means the area within 10 miles of the established or additional place of business of the dealer located in a county with a population of 300,000 or more, or within 15 miles if the established place of business is located in a county with a population of less than 300,000.

"Trade show exhibition" means a temporary display of vehicles, by dealers licensed under Section 5-101 or 5-102, or any other person as defined in subsection (c) of Section 5-102.1, at a location at which no vehicles are offered for sale that is conducted at a place other than the dealer's established and additional places of business. In order for a display exhibition to be considered a trade show exhibition, it must be participated in by at least 3 dealers, 2 of which must be licensed under Section 1-101 or 5-102; and a trade show exhibition of new vehicles shall only be participated in by licensed new vehicle dealers at least 2 of which must be licensed under Section 5-101.

5/5-700. Definitions

§ 5-700. Definitions. For the purposes of this Article, the following phrases have meanings ascribed to them in this Section:

Place of business for a vehicle auctioneer. This means the place owned and regularly occupied by a vehicle auctioneer licensee, within or without the State, for the primary and principal purpose of keeping and maintaining the books and records required for the conduct of business, with the personnel available during normal business hours or an automatic telephone answering service during normal business hours or an automatic telephone answering service during normal business hours. The additional place of business means that place within the State where the auction is held, which place of business shall contain the books and records required for said auction with personnel available during normal business hours. The Secretary of State shall be notified of the additional place of business at least 10 days before the auction.

Auctioning vehicles. This means arranging for and handling the sale of vehicles, not the property of the auctioneer, by auction to the highest bidder.

Section 2

REQUIREMENTS

The following requirements for an established place of business are set forth in the Illinois Administrative Code, Title 92, TRANSPORTATION, CHAPTER II, SECRETARY OF STATE, PART 1020, DEALERS, WRECKERS, TRANSPORTERS AND REBUILDERS.

Section 1020.10 Dealers Established Place of Business

Each person seeking to be or already duly licensed as a new or used vehicle dealer under the Illinois Vehicle Code (IVC) (Ill. compiled Statutes 625/5-101 et seq.) shall maintain an established place of business which shall, in addition to those requirements in Section 5/5-100 of the Illinois Vehicle Code meet the following requirements:

1. Have office facilities in a building for maintaining and keeping books and records as are required. The office facilities shall be permanently mounted on a fixed foundation and may not include a trailer with axle attached and still moveable. It may include, however, a house trailer in a licensed mobile home park or dealership lot with tires removed and utilities attached.
2. Be properly and permanently equipped with the necessary office equipment and machines, and documents and papers adequate to properly conduct business as a dealer and must be within a permanent building or structure as required in subsection (1) above.
3. Be equipped with an operating telephone for inbound and outbound calls and have the business telephone number published in the telephone directory generally available in the dealership area.
4. Be adequately equipped with operating electric lights.
5. Have the name of the dealership posted on the front entrance door.
6. Have posted on the front entrance door a sign setting forth the days and regular and reasonable hours when open for business.

A dealership shall not be deemed as being open for business unless at least one employee, who is able to conduct regular business, is on the premises and available to the public and the dealership must be operated consistent with general dealer practices.

The dealership must be open:

- a. five (5) days out of seven (7) days in a week
- b. minimum of four (4) consecutive hours per day.

However, dealers who operate their dealerships less than 12 months shall state in the license application those months closed and shall post the months of closure in a prominent place for the public to see in the dealership office. During the posted closure months, the dealership is not required to maintain regular business hours.

7. Maintain a lot, being the area not occupied by a building, which shall be surfaced with rock or better surface material, and which shall be properly illuminated, if open after sundown, so that vehicles for sale can be properly inspected by any prospective customer.
 - a. The lot used for the sale of vehicles shall be separate and apart from any other business.
 - b. In addition, where a dealer is selling new and used vehicles, the new cars shall be parked separately and apart from the used vehicles.
 - c. The above lot requirement shall not be applicable where the place of business has an indoor showroom, properly illuminated, for the display of vehicles held for sale.
 - d. The separate lot requirement specified in subsection (7) (a) (b) shall not prohibit the operation by the dealer of other businesses on the same premises, which shall include the lot, provided:
 - 1) the businesses are reasonably related to the sale or operation of new or used automobiles,
 - 2) further that the sale of new or used automobiles shall constitute at least 50% of the gross revenues of the licensed holder, and
 - 3) the sale of automobiles shall be the primary business of the licensed dealer,

Section 2

No business defined as reasonably related to the sale of automobiles under this Section shall exceed 50% of the gross revenue of the business entities using the lot.

Businesses reasonably related to the sale or operation of automobiles shall include only:

- the sale of automobile parts and accessories,
- the sale of gasoline, diesel fuel, oil and lubricant,
- the sale of automobile tires,
- the leasing of automobiles,
- insuring automobiles, and
- financing of automobiles sold by the licensed dealers engaged in these businesses.

Licensed dealers engaged in operating businesses other than those stated herein shall remove such businesses or modify to comply with this rule within 60 days of notification by the Secretary of State, or be subject to the revocation or suspension of their dealers license.

8. Dealership in a Department Store

- Where a dealer maintains a place of business within a department store, the dealership shall be separated from other operations within the department store.

9. Sign

- A permanent sign bearing the name of the dealership must be displayed
 - if the dealership is open after sundown, the sign shall be properly illuminated
 - the sign shall be visible from the highway leading to the established place of business.

10. Display a federally required pricing document on all motor vehicles held for sale.

11. If the premises are leased, such lease must be for at least the duration of the current licensed period.

Section 3

IAC 1020.10 Supplemental Lot

An Illinois licensed dealer may operate as an additional place of business a permanent supplemental lot which will meet all the requirements as previously stated except:

- records required to be kept shall be maintained at the principal place of business **UNLESS** the supplemental lot is more than one mile from the main dealership.

The one mile shall be measured by the most direct route between the dealership and the supplemental lot.

1. A licensed dealer shall apply for the supplemental lot authorization when filing the application required by Sections 5/5-101 or 5/5-102 or the application may be filed for the supplemental lot authorization during the licensed period.
2. No vehicle sales at supplemental lots shall be allowed on Sundays except as provided for in Section 5/5-106 of the Illinois Vehicle Code.
3. The applicable fee as provided in Sections 5/5-101 (b) (7) and 5/5-102 (b) (5) is required.

NOTE: Each person seeking to be or already duly licensed as a scrap processor, automotive parts recycler, rebuilder, repairer or out of state salvage buyer under the I.V.C. shall maintain an established place of business which shall meet the requirements contained within Section 2 above, except that no lot as set forth for licensees under 5-101 and 5-102 is required. However, if open after sundown, the premises shall be adequately illuminated so that prospective purchasers may inspect the items held for sale.

None of the requirements of this section shall apply to the place of business of a vehicle auctioneer licensed under Chapter 5, Article VII of the I.V.C.

Section 4

IAC 1020.10 Trade Show Exhibition, Display Exhibition and Off Site Sale

A licensed dealer may operate as an additional place of business an exhibition area in a trade show exhibition, display exhibition, or off site sale provided:

1. The trade show exhibition, display exhibition or off site sale must be conducted separate and away from the licensed dealer's established and additional places of business.
2. The licensed dealer has a currently valid new or used vehicle dealer's license issued by the Secretary of State of Illinois or another State where applicable.
3. The applicant dealer meets the requirements of subsection (7), (8) or (9) of this section.
4. No permit granted for an additional location in a trade show exhibition, display exhibition or off site sale may be transferred nor removed to another location.
5. Regardless of the dates of the trade show exhibition, display exhibition or off site sale, no vehicle sales will be allowed on Sunday except as provided for in Section 5-106 of the Illinois Vehicle Code.
6. The licensed dealer has provided the Secretary of State with a copy of the written contract with the agency or person or other entity sponsoring, creating or supervising the trade show exhibition, display exhibition or off site sale and an application for the trade show exhibition, display exhibition or off site sale permit containing the name of the dealership, its license number the location and dates of the trade show exhibition, display exhibition or off site sale, and signed by the licensed dealer.
7. Trade Show Exhibitions:
 - a) A permit for an additional location granted for a trade show exhibition shall, in no event, be valid for more than thirty (30) days from the date of the first day of the trade shown exhibition for which it is granted.
 - b) A fee is required for the permit.
 - c) No vehicles may be offered for sale.
 - d) Each trade show exhibition must have a minimum of three (3) licensed participants, at least two of which must be licensed under Section 5/5-101 or 5/5-102 of the Illinois Vehicle Code, who at all meet the requirements in subsection (1) through (6) of this Section.
 - e) A trade show exhibition of new vehicles shall only have participants licensed as new vehicle dealers, at least two of which must be licensed under Section 5/5-101 of the Illinois Vehicle Code and meet the requirements in subsection (1) through (6) of this Section.
8. Display Exhibitions:
 - a) Only a new or used vehicle dealer licensed under Section 5/5-101 or 5/5-102 of the Illinois Vehicle Code who also meet the requirements of subsection (1) through (6) of this Section, may participate in a display exhibition.
 - b) A permit for an additional location granted for a display exhibition shall, in no event, be valid for more thirty (30) days from the date of the first day of the display exhibition for which it is granted.
 - c) A fee is required for the permit.
 - d) No vehicles may be offered for sale.
9. Off Site Sales:
 - a) Only a dealer licensed under Section 5/5-101 or 5/5-102 of the Illinois Vehicle Code, who also meet the requirements of subsection (1) through (6) of this Section, may conduct an off site sale.
 - b) The off site sale must not be conducted out of the licensed dealer's relevant market area, as defined in Section 5-100 of the Illinois Vehicle Code. This does not apply to off site sales of motor homes or recreational vehicles.
 - c) A permit for an additional location granted for an off site sale shall, in no event, be valid for more than seven (7) days from the date of the first day of the off site sale for which it is granted.
 - d) A fee is required for the permit.

Section 4

625 ILCS 5/5-106 Sales on Sunday

No person may keep open, operate, or assist in keeping open or operating any established or additional place of business for the purpose of buying, selling, bartering, exchanging, or leasing for a period of 1 year or more, or offering for sale, barter, exchange, or lease for a period of 1 year or more, any motor vehicle, whether new or used, on the first day of the week, commonly called Sunday; provided, that this Section does not apply to the opening of an established or additional place of business on Sunday for the following purposes:

- (1) to sell petroleum products, tires or repair parts and accessories;
- (2) to operate and conduct a motor vehicle repair shop;
- (3) to supply services for the washing, towing or wrecking of motor vehicles;
- (4) to participate in a new vehicle show or display participated in by two or more licensed dealers who have been granted an exhibition permit for such purpose by the Secretary of State;
- (5) to sell motorcycles, motor driven cycles, motorized pedalcycles when offered for sale by a dealer licensed under Sections 5-101 and 5-102 to sell only such motor vehicles;
- (6) to offer for sale manufactured housing;
- (7) to sell self contained motor homes, mini motor homes, van campers and recreational trailers when offered for sale by a dealer at an established or additional place of business where only such vehicles are displayed or offered for sale.

LICENSING REQUIREMENT QUESTIONNAIRE

Name _____ DRS _____ Audit # _____

Repairer/Rebuilder

- 1) Is the business in a properly zoned classification? Yes No
- 2) Does the repairer have the proper workers' compensation rate code classification? Yes No
- 3) Does the rebuilder have the proper workers' compensation rate code or classification for the repair industry or the auto parts recycling industry? Yes No
- 4) Does the firm have a hazardous waste generator number? Yes No

Hazardous Waste Generator Number _____

Letter of exemption-Date and Number _____

- 5) Does the firm have liability insurance? Yes No

Carrier Name _____

Policy Number _____

- 6) Does the firm have the proper sales tax classification and federal tax identification numbers? Yes No

Illinois Sales Tax Number _____

Federal Tax Identification Number _____

Auto Parts Recycler

- 1) Has the firm purchased 5 vehicle within the year or are there 5 hulks or chassis in stock? Yes No
- 2) Is the firm in properly zoned classification? Yes No
- 3) Does the auto parts recycler have the proper workers' compensation rate code or classification? Yes No
- 4) Does the firm have the proper sales tax classification and federal tax identification numbers? Yes No

Illinois Sales Tax Number _____

Federal Tax Identification Number _____

Auditor _____ Date _____

Comments (If Required)

See Reverse For Instructions

- 1) Explain all NO answers.
- 2) View all required documents.
- 3) Obtain all required information form documents.
- 4) For ZONING INFORMATION—ask the type of zoning, then if questions exist, please note and the Correspondence Operator will send a letter to the zoning office.

ATTACH THIS QUESTIONNAIRE TO THE AUDIT RECORD SHEET

Workers' Compensation Code:

Rebuilder – 8393 Repairer – 8393 Auto Parts Recycler – 3821

NOTE: Firms with no employees are exempt from these requirements.

**ULTIMATE MOTOR CARS, INC.
2055 OGDEN AVENUE
DOWNERS GROVE, IL 60515**

The Regulations of a "Vehicle Dealer" is outlined within the Illinois Administrative Vehicle Code Manual. A full copy of this manual can be obtained via the library or via the Internet. The matter at hand this evening is whether or not the Secretary of State requires two entrances for a used automobile dealership operating a second business on the same premises. No where is it stated in the Illinois Administrative Vehicle Code Manual that this is factual.

For further verification, we took the liberty to contact our Secretary of State Field Representative and the main office in Springfield for assurance. Mr. Roger F. Shanahan is the Administrator of the Vehicle Services Department for several Dupage County automobile dealerships. Upon detailed discussion with Mr. Shanahan, he verified that there are "no rules or requirements stating that you need two entrances into a automobile dealership that is operating a secondary business on the premises."

Furthermore, when we contacted the Secretary of State Vehicle Services Department numerous representatives confirmed the same to be true. Springfield made it quite clear that the rules and regulations of New or Used Automobile Dealers can be obtained through the Illinois Administrative Vehicle Code Manual. I believe that we are not here for the third meeting tonight to discuss hearsay; but to discuss facts. Yes, the burden of proof is on Mr. Banks tonight but we too felt in necessary to provide some additional insight on this matter. We will prove to you that the discussions over the last month have been irrelevant since the operation of a used car dealership and a U-Haul Franchise is not even prohibited by the Secretary of State.

We ask of you to refer to the blue pamphlet titled "Regulations for Vehicle Dealers"

Upon investigation of this matter the following requirements for an established place of business are set forth in the Illinois Administrative Vehicle Codes, Title 92, TRANSPORTATION, CHAPTER II, SECRETARY OF STATE, PART 1020, DEALERS ESTABLISHED PLACE OF BUSINESS

██████████ 6(A) and ██████ specifically state the following:

6(A) “The lot used for sale of vehicles shall be separate and apart from any other business. In addition, where a dealer is selling both new and used cars **shall be parked separately and apart from used cars.**”

Comments/Interpretation: As discussed in the previous meeting on January 22, 2007 it was clearly mentioned that Mr. Banks was required to keep the U-Haul Truck Rentals separated from his used car business. Rule 1020.10 6(A), reinforces this factual statement made during the January 22, 2007 by Mr. Banks and myself.

██████████ “The separate lot requirement specified in subsection (a) (6)(A) above shall not prohibit the operation by the dealer of other business on the same premises, which shall include the lot, **provided that the business are reasonably related to the sale or operation of new or used automobiles, provided further that the sale new or used automobiles shall constitute at least 50 percent of the gross revenues** of the licensed dealer, **and the sale of automobiles shall be the primary business of the licensed dealer.** No business defined as reasonably related to the sale of automobiles under this Section shall exceed 50 percent of the gross revenue of the business entities using the lot. **Businesses reasonably related to the sale or operation of automobiles shall include only the sale of automobile parts and accessories, the sale of gasoline, diesel fuel, oil and lubricant, the sale of automobile tires, the leasing of automobiles, insuring automobiles, and the financing of automobiles** sold by the licensed dealers engaged in operating business other than those stated herein shall remove such businesses or modify them to comply with this rule within 60 days of notification by the Secretary of State, or be subject to, the revocation or suspension of their dealers license.

Comments/Interpretations: I believe Rule 1020.10 6(C) indicates that Mr. Banks is in violation of the Rules and Regulations of the Secretary of State.

Point 1: The sale of automobiles shall be the primary business and that the sale of new or used automobiles shall constitute at least 50% of the gross revenues. If we all can recall that from past meetings Mr. Banks clearly testified that U-Haul is “more than 50% of his business.”

Point 2: The renting of U-Haul trucks is not a permitted use in conjunction with a used automobile dealer. The only permitted businesses as stated in 6(C) shall be:

1. the sale of automobile parts and accessories,
2. the sale of gasoline, diesel fuel,
3. oil and lubricant,
4. the sale of automobile tires,
5. the leasing of automobiles,
6. insuring automobiles,
7. the financing of automobiles

Furthermore, when we discussed this matter with SOS Springfield we were directed to Mr. Russ Loro – Tel: (217)785-8245. Mr. Loro is the head of Administrative Hearings which revokes or suspends dealers that are engaged in operating businesses other than those stated in Rule 1020.10 6(C). When we presented a [REDACTED] to Mr. Loro of - Can a used automobile dealer operate a U-Haul Franchise on the same premises? Immediately the answer was no. A used automobile dealer and a U-Haul franchise was not considered a reasonably related business.

Mr. Loro informed us that if we would like to proceed with releasing the name of the business and location he would notify Secretary of State Vehicle Police Department in Villa Park, Illinois. As of to date, we have not divulged any information pertaining to names or location of Mr. Banks businesses.

We ask of you to look at the factual information we have provided. My wife and I have no malicious intent to negatively impact Mr. Banks lively hood; but at the same time we are hear to protect our lively hood.

We feel that we have been straight forward and the provided material with detailed professionalism.

We are truly committed to the financial development of this undertaking; which will provide many benefits for the well being of the community of Downers Grove.

Sincerely,
Vincent M. Lococo Jr. & Michelle Lococo

102, or any other person as defined in subsection (c) 625 ILCS, 5/5-12.1, at a location at which no vehicles are offered for sale that is conducted at a place other than the dealers established and additional places of business. In order for an exhibition to be considered a trade show exhibition, it must be participated in by at least 3 or more dealers, 2 of which must be licensed under 625 ILCS, 5/5-101 or 5/5-102; and a trade show exhibition of new vehicles shall only be participated in by licensed new vehicle dealers at least 2 of which must be licensed under 625 ILCS, 5/5-101. The term "any other person" shall include new or used vehicle dealers licensed by other states.

The Secretary shall issue a trade show exhibition permit if:

- (1) an application is received, accompanied by a fee of \$10;
 - (2) the applicant is a licensed new vehicle dealer or used vehicle dealer in good standing; and
 - (3) the Secretary determines that the proposed trade show exhibition shall conform with requirements imposed by law.
- d) Each person seeking to be or already duly licensed as a scrap processor, automobile parts recycler, rebuilder, repairer or out of state salvage buyer under the Illinois Combined Statutes shall maintain an established place of business which shall meet the requirements contained in subsection (a) above, except that no lot as set forth in subsection (a)(6) above is required. However, if open after sunset, the premises shall be adequately illuminated so that prospective purchasers may inspect the items held for sale. None of the requirements of this Section shall apply to the place of business of a vehicle auctioneer licensed under 625 ILCS 5/5-700.

Rule 1010.450

DEALER PLATES

1. Special Plates issued to a Dealer may be displayed upon any vehicle held for sale or resale, and
 - (a) Upon any such vehicle for any legal purpose including pick-up at the point of manufacture or assembly, demonstrating, testing or for delivery to the buyer.
 - (b) On any such vehicle loaned, but not rented, as a "loaner" to a customer for temporary use the days that his car is being serviced or repaired.
 - (c) On one truck up to 8,000 pounds owned by the dealer and used to haul his parts incidental to the operation of his business.
2. Special plates issued to a dealer may not be displayed:
 - (a) Upon any vehicle rented to another person.
 - (b) Upon any vehicle of the second division carrying cargo or merchandise except as provided herein.
 - (c) Upon any work or service vehicle.
 - (d) In any for-hire movement.
 - (e) On any vehicle used permanently as a personal vehicle and not as a demonstrator, such prohibited uses being defined as follows:
 - A. On any vehicle used by any person enrolled at and attending an educational institution during the school term or year and to and from school.

- B. On any vehicle used on vacation trips to areas outside the geographic scope of normal business for a period in excess of 25 days.
- C. On any vehicle used by any person who is a member of the armed forces and stationed at any military base or encampment or installation.
- D. On any vehicle used continuously for 25 or more days as a personal vehicle by any person not an agent, servant or employee of the dealer owning such special plate.

3. Dealer Plates and One-Trip Use

Notwithstanding the above limitations, Dealer Plates may be used on a one-trip demonstration basis by a prospective bona fide buyer and carrying cargo or merchandise, providing that the form of document specified herein is carried in the cab of the vehicle. Any demonstration movement shall be limited to a period of 3 days.

Each dealer who wishes to grant to a prospective bona fide buyer the use of a dealer plate on a one-trip demonstration for three days shall prepare a document identical to this form in duplicate, and

1. Retain one copy in the offices of the dealer.
2. Issue one copy to the user for display on the vehicle.

_____ (Date)
1. Name of Dealer:
2. Address of Dealer:
3. Dealer Plate or plates being used:
4. Name of prospective buyer:
5. Date use is to begin and end:

FORM REQUIRED

Each dealer shall file an annual report listing the name of each prospective buyer permitted to make a demonstration trip with a vehicle identifying the plate number utilized and the dates that the demonstration trip began and ended. The Secretary of State may prescribe the form of such report. The Secretary of State may, in addition, grant in his discretion, a permit for a one-trip demonstration in excess of 3 days upon application therefor and showing of good cause.

Rule 1010.470

DEALER PLATE RECORDS

Dealers shall also maintain a record of the assignment of dealer plates to employees of the dealer and a written record of the persons to whom the dealer has sold drive-away decal permits.



DEALERS' ESTABLISHED PLACE OF BUSINESS

(a) Each person seeking to be or already duly licensed as a new or used vehicle dealer under the Illinois Compiled Statute shall maintain an established place of business which shall, in addition to those requirements in 625 ILCS 5/5-100, meet the following requirements:

- (1) Have office facilities in a building for maintaining and keeping books and records as are required. The office facilities shall be permanently mounted on a fixed foundation and may not include a trailer with axle attached and still moveable. It may include, however, an office trailer or house trailer in a licensed mobile home park or dealership lot with tires removed and utilities attached.
- (2) Be properly and permanently equipped with the necessary office equipment and machines, and documents and papers adequate to properly conduct business as a dealer required in subsection (a)(1) above.
- (3) Be equipped with an operating telephone for inbound and outbound calls and have the business telephone number published in the telephone directory generally available in the dealership area, and adequately equipped with operating electric lights.
- (4) Have the name of the dealership posted on the front entrance door.
- (5) Have posted on the front entrance door a sign setting forth the days and regular and reasonable hours when open for business. A dealership shall not be deemed as being open for business unless at least one employee, who is able to conduct regular business, is on the premises and available to the public, and the dealership must be operated consistent with general dealer practices. The dealership must be open for business at least five (5) days out of each seven (7) days in a week, and a minimum of four (4) consecutive hours per day. However, dealers who operate their dealerships less than 12 months shall state in the license application those months in which the dealership is closed and shall not be required to maintain regular business hours during the period of closure. The months of closure shall also be posted in a prominent place for the public to see in the dealership office.
- (6) Maintain a lot, being the area not occupied by a building, which shall be surfaced with rock or better surface material, and which shall be properly illuminated, if open after sundown, so that vehicles for sale can be properly inspected by any prospective customer.
 - (A) The lot used for sale of vehicles shall be separate and apart from any other business. In addition, where a dealer is selling both new and used cars the new cars shall be parked separately and apart from used cars.
 - (B) The above lot requirement shall not be applicable where the place of business has an indoor showroom, properly illuminated, for the display of vehicles held for sale.

(c) The separate lot requirement specified in subsection (a)(6)(A) above shall not prohibit the operation by the dealer of other businesses on the same premises, which shall include the lot, provided that the businesses are reasonably related to the sale or operation of new or used automobiles, provided further that the sale of new or used automobiles shall constitute at least 50 percent of the gross revenues of the licensed dealer, and the sale of automobiles shall be the primary business of the licensed dealer. No business defined as reasonably related to the sale of automobiles under this Section shall exceed 50 percent of the gross revenue of the business entities using the lot. Businesses reasonably related to the sale or operation of automobiles shall include only the sale of automobile parts and accessories, the sale of gasoline, diesel fuel, oil and lubricant, the sale of automobile tires, the leasing of automobiles, insuring automobiles and the financing of automobiles sold by the licensed dealers engaged in operating businesses other than those stated herein shall remove such businesses or modify them to comply with this rule within 60 days of notification by the Secretary of State, or be subject to the revocation or suspension of their dealers license.

(7) *Dealership in a Department Store* — Where a dealer maintains a place of business within a department store, the dealership shall be separated from other operations within the department store.

(8) *Sign* — Display a permanent sign bearing the name of the dealership which shall be properly illuminated if open after sundown and which shall be visible from the highway leading to the established place of business.

(9) Display a federally required pricing document on all new motor vehicles held for sale.

(10) If the premises are leased, such lease must be for at least the duration of the current licensed period.

(b) Supplemental Lots

An Illinois licensed dealer may operate as an additional place of business a permanent supplemental lot which will meet all the requirements of subsections (a)(1) through (a)(10) of this Section, except the records required to be kept shall be maintained at the principal place of business of the dealership, as defined by 625 ILCS 5/1-164, unless the supplemental lot is more than one mile from the main dealership. The one mile shall be measured by the most direct road between the dealership and the supplemental lot.

(1) A licensed dealer shall apply for the supplemental lot authorization when he/she files the application required by Illinois Combined Statutes (625 ILCS 5/5-

101 or 625 ILCS 5/5-102) or he/she may file an application to add a supplemental lot during the license period.

(2) The fee for a license to operate a supplemental lot is \$100 or \$50 as provided in 625 ILCS 5/5-101(b)(7) and \$50 or \$25 as provided in 625 ILCS 5/5-102(b)(5).

(3) No vehicle sales at supplemental lots shall be allowed on Sundays except as provided for in 625 ILCS 5/5-101 or 5/5-102.

(c) Off Site Sale and Exhibition

"Off site sale" means the temporary display and sale of vehicles, for a period of not more than 7 calendar days (excluding Sundays), by a dealer licensed under 625 ILCS 5/5-101 or 5/5-102, at a place other than the dealer's established and additional places of business. The Secretary shall issue an off site sale permit to a dealer if:

- (1) an application therefore is received by the Secretary, accompanied by a fee of \$25;
- (2) the applicant is a licensed new vehicle dealer or used vehicle dealer in good standing; and
- (3) the Secretary determines that the proposed off site sale will conform with the requirements imposed by law.

However, in no event shall an off site sale permit be issued to any licensed new or used vehicle dealer for any off site sale to be conducted outside that dealer's relevant market area, except that this restriction shall not apply to off site sales of motor homes or recreational vehicles.

"Relevant market area," for a new vehicle dealer licensed under 625 ILCS 5/5-101, has the meaning ascribed to it in the Motor Vehicle Franchise Act. For a used vehicle dealer licensed under 625 ILCS 5/5-102, "relevant market area" means the area within 10 miles of any established or additional place of business of the dealer located in a county with a population of 300,000 or more, or within 15 miles if the place of business is located in a county with a population of less than 300,000.

An off site sale permit does not authorize the sale of vehicles on Sundays.

"DISPLAY EXHIBITION" means the temporary display of vehicles, by a dealer licensed under 625 ILCS, 5/5-101 or 5/5-102, at a location at which no vehicles are offered for sale, that is conducted at a place other than the dealers established and additional places of business.

The Secretary shall issue a display exhibition permit if:

- (1) an application is received, accompanied by a fee of \$10;
- (2) the applicant is a licensed new vehicle dealer or used vehicle dealer in good standing;
- (3) the Secretary determines that the proposed exhibition will conform with the requirements imposed by law.

"TRADE SHOW EXHIBITION" means a temporary display of vehicles, by a dealer licensed under 625 ILCS, 5/5-101 or 5/5-