

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
JUNE 11, 2013 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
Zoning Ordinance Map Amendment 960 75 th Street	Resolution ✓ Ordinance Motion Discussion Only	Tom Dabareiner, AICP Community Development Director

SYNOPSIS

An ordinance has been prepared to permit a zoning ordinance map amendment to rezone the property at 960 75th Street from R-1, Single Family Residence to B-2, General Retail Business.

STRATEGIC PLAN ALIGNMENT

The goals for 2011-2018 identified *Exceptional Municipal Services*.

FISCAL IMPACT

N/A

UPDATE & RECOMMENDATION

This item was discussed at the June 4, 2013 Village Council meeting. Staff recommends approval on the June 11, 2013 Active Agenda.

BACKGROUND

The petitioner is requesting approval of a zoning ordinance map amendment to rezone the property commonly known as 960 75th Street from R-1, Single Family Residence to B-2, General Retail Business. The property is improved with an 11,000 sq. ft. automobile repair facility, an automobile laundry, and parking lot. The current business is known as Pit Stop. The petitioner is requesting to rezone the property to B-2, General Retail Business to match the existing building and use on the property with appropriate zoning classification.

The subject property was annexed into the Village on January 1, 2012 as part of the Village-wide annexation program. Upon annexation, the property was automatically zoned R-1, which is Village's most restrictive zoning designation. Prior to the annexation, the property was zoned B-2, General Business in unincorporated DuPage County. On May 23, 2006, the property received a conditional use from the DuPage County to construct an automobile repair and automobile laundry facility. The existing building was subsequently constructed in 2007. Prior to that, the property was used as a gas station.

The existing use on the property is deemed legal nonconforming because the use was legally established in the County. It does not match the Village's R-1 Single Family Residence designation, which is automatically assigned to all newly annexed land. The use can remain on the property regardless if the rezoning request is approved; however, changes, expansions or replacement could be problematic. The petitioner is not proposing any changes to the existing building or the use at this time.

The properties to the north and east are zoned R-1, Single Family Residence and are improved with single family homes. The Bohemian Garden Restaurant, zoned B-2, General Retail Business and part of Planned Development #18 is located west of the site. The area immediately south of the property across from 75th Street is zoned R-2, Single Family Residential in the city of Dairen and is improved with single family homes.

The petitioner is not proposing any changes to the site or the building and the property meets all requirements for the B-2 Zoning Classification. The proposed B-2, General Retail Business zoning classification is appropriate for this property and is consistent with the zoning classifications in the area.

The Future Land Use Map of the Comprehensive Plan designates this property for single family residential use. Staff believes this was a scrivener's error as the intention was to carry over the existing business use, as was done elsewhere during the mapping process. The property has always been zoned for and occupied by commercial uses. Prior to the annexation into the Village, the property was zoned commercial in the DuPage County. The property supports the Comprehensive Plan's recommendation for Corridor Commercial uses along 75th Street. The Plan identifies 75th Street as a major arterial with unique character and should continue to function as a commercial area serving both the daily needs of local residents and residents of a larger region. With a six year old contemporary commercial building on the site, the proposal is also consistent with the Plan's recommendation to modernize aging commercial properties to remain competitive in the marketplace. The proposed rezoning of the property from R-1 to B-2 is consistent with the existing building and future use on the property. The proposed rezoning is consistent with the Comprehensive Plan.

The Plan Commission considered the petition at their May 6, 2013 meeting. At the meeting, two residents expressed concern that the site is not suited for commercial uses because it was vacant for many years before the existing building was constructed in 2007 and the previous use on the site went out of business soon after it was opening. Due to the high volume of traffic on 75th Street, the properties along 75th Street are not suited for single family residential use. Furthermore, because of the high volume of traffic (2010 data from DuPage County DOT shows approximately 36,800 daily vehicles along 75th Street) the property is best suited for commercial uses that benefit from the location along a busy arterial street. The existing contemporary building on the property was constructed in 2007 for an automobile repair and automobile laundry use. Therefore, the future use on the property will likely remain automobile repair and automobile laundry.

The Plan Commission found that the requested zoning ordinance map amendment is compatible with surrounding uses and zoning classifications. The proposal is consistent with the existing use on the property and the Comprehensive Plan's recommendation for corridor commercial uses along 75th Street. The Plan Commission also found that the request met the standards in Section 28.1702 of the Zoning Ordinance for rezoning. Based on their findings, the Plan Commission recommended approval of the zoning ordinance map amendment by a 5:1 vote. The dissenting member found that the request is not consistent with the future land use map within the Comprehensive Plan and therefore did not meet the standards for approval. Staff concurs with the Plan Commission recommendation.

ATTACHMENTS

Aerial Map

Ordinance

Staff Report with attachments dated May 6, 2013

Draft Minutes of the Plan Commission Hearing dated May 6, 2013

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE
OF THE VILLAGE OF DOWNERS GROVE, ILLINOIS, CODIFIED AS
CHAPTER 28 OF THE DOWNERS GROVE MUNICIPAL CODE, AS AMENDED
TO REZONE PROPERTY LOCATED AT 960 75th STREET**

WHEREAS, the real estate located at the north east corner of Main Street and 75th Street, hereinafter described has been classified as "R-1 Single-Family Residence" under the Comprehensive Zoning Ordinance of the Village of Downers Grove; and,

WHEREAS, the owner or owners of said real estate have requested that such property be rezoned as hereinafter provided; and

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 on May 6, 2013 and has made its findings and recommendations respecting said requested rezoning in accordance with the statutes of the State of Illinois and the ordinances of the Village of Downers Grove; and,

WHEREAS, making due allowance for existing conditions, the conservation of property values, the development of the property in conformance to the official Comprehensive Plan of the Village of Downers Grove, and the current uses of the property affected, the Council has determined that the proposed rezoning is for the public good; and,

WHEREAS, the current use of the property for automobile repair and automobile laundry shall remain lawful special uses pursuant to Section 28.1202 of the Downers Grove Municipal Code.

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

SECTION 1. The Comprehensive Zoning Ordinance of the Village of Downers Grove, Illinois, codified as Chapter 28 of the Downers Grove Municipal Code (which ordinance as heretofore amended, is hereinafter referred to as the "Zoning Ordinance"), is hereby further amended by changing to "B-2, General Retail Business District" the zoning classification of the following described real estate, to wit:

Lots 8 and 9 in Grandview Estates Unit 1, in the Southeast ¼ of the northeast ¼ of Section 29, Township 38 North, Range 11 East of the Third Principal Meridian, According to the Plat Recorded February 23, 1956 as Document 790302, in DuPage County, Illinois.

(Commonly known as 960 75th Street; PIN 09-29-104-019)

SECTION 2. The official zoning map shall be amended to reflect the change in zoning classification effected by Section 1 of this ordinance, subject to the following conditions:

1. Any changes to the conditions represented by the Petitioner as the basis for this petition, whether those changes occur prior to or after Village approval, shall be promptly reported to the Village. The Village reserves the right to re-open its review process upon

receipt of such information; and

2. It is the Petitioner's obligation to maintain compliance with all applicable Federal, State, County and Village laws, ordinances, regulations, and policies.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. 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



**VILLAGE OF DOWNERS GROVE
REPORT FOR THE PLAN COMMISSION
MAY 6, 2013 AGENDA**

SUBJECT:	TYPE:	SUBMITTED BY:
PC-15-13 960 75 th Street	Zoning Ordinance Map Amendment	Damir Latinovic, AICP Planner

REQUEST

The petitioner is requesting a Zoning Ordinance Map Amendment to rezone the subject property from R-1, Single Family Residential to B-2, General Retail Business.

NOTICE

The application has been filed in conformance with applicable procedural and public notice requirements.

GENERAL INFORMATION

OWNER: Chicago Title Land Trust Company as Trustee U/T/N 3176
10 South LaSalle St., Suite 2750
Chicago, IL 60603

APPLICANT: Ann Posejpal
404 Deepwood Court
Naperville, IL 60540

PROPERTY INFORMATION

EXISTING ZONING: R-1, Single Family Residential
EXISTING LAND USE: Automobile Repair and Automobile Laundry facility
PROPERTY SIZE: 41,360 square feet (0.95 acres)
PINS: 09-29-104-019

SURROUNDING ZONING AND LAND USES

	ZONING	FUTURE LAND USE
NORTH:	R-1, Single Family Residential	Single Family Residential
SOUTH:	R-2, Single Family Residential/City of Darien	N/A
EAST:	R-1, Single Family Residential	Single Family Residential
WEST:	B-2, General Retail Business	Corridor Commercial

ANALYSIS

SUBMITTALS

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

1. Application/Petition for Public Hearing
2. Zoning Map and Ordinance
3. Proposal Narrative
4. Plat of Survey

PROJECT DESCRIPTION

The 200-foot wide by 206.8-foot deep property, commonly known as 960 75th Street, is located at the northeast corner of 75th and Main Streets. The property is zoned R-1 Single Family Residential and is improved with an 11,000 sq. ft. automobile repair and automobile laundry facility and adjacent parking lot. The petitioner is requesting to rezone the property to B-2 General Retail Business to match the existing building and use on the property with appropriate zoning classification

The subject property was annexed into the Village on January 1, 2012 as part of Village-wide annexation program. Upon annexation, the property was automatically zoned R-1, which is Village's most restrictive zoning designation.

Prior to annexation, the property was zoned B-2, General Business in unincorporated DuPage County. On May 23, 2006, the property received a conditional use from the DuPage County to construct an automobile repair and automobile laundry facility. The existing building was subsequently constructed in 2007. Prior to that, the property was used as a gas station.

The properties to the north and east are zoned R-1, Single Family Residence and are improved with single family homes. The Bohemian Garden Restaurant, zoned B-2, General Retail Business and part of Planned Development #18 is located west of the site. The area immediately south of the property across from 75th Street is zoned R-2, Single Family Residential in the city of Dairen and is improved with single family homes.

The property is currently occupied by an automobile repair and automobile laundry use (Pit Stop). The existing use is deemed legal nonconforming because the use was legally established in the County. The use can remain on the property regardless if the rezoning request is approved or not. The petitioner is not proposing any changes to the existing building or the use. The petitioner is requesting to rezone the property to B-2 zoning district to better align the existing use on the property with the appropriate zoning classification.

COMPLIANCE WITH THE COMPREHENSIVE PLAN

The Comprehensive Plan designates this property for single family residential use. The property, however, has always been zoned for and occupied by commercial uses. Prior to the annexation into the Village, the property was zoned B-2, General Retail Business in the DuPage County. Before the existing automobile repair and automobile laundry use was developed in 2007, the property was used as a gas station. The proposed rezoning of the property from R-1 to B-2 is consistent with the existing building and future use on the property.

The property supports the Comprehensive Plan's recommendation for Corridor Commercial uses along 75th Street. The Plan identifies 75th Street as a major arterial with unique character and should continue to function as a commercial area serving both the daily needs of local residents and residents of a larger region. The Corridor Commercial uses could include a blend of commercial retail, office, regional commercial retail and service uses that benefit from a location along a major arterial road such as 75th Street. With a six year old contemporary commercial building on site, the proposal is also consistent with the Plan's recommendation to modernize aging commercial properties to remain competitive in the marketplace. The proposed rezoning is consistent with the Comprehensive Plan.

COMPLIANCE WITH THE ZONING ORDINANCE

The property is zoned R-1, Single Family Residential. The existing automobile repair and automobile laundry building and use is deemed legal nonconforming because it was legally established in 2007. The petitioner is proposing to rezone the property to B-2, General Retail Business to better align the zoning classification with the existing commercial building and use. Additionally, the proposed rezoning is consistent with the B-2 zoning classification west of the site and commercial zoning and uses located southwest of the property in the City of Darien.

The petitioner is not proposing to make any changes to the building or the site. The existing site conditions and bulk requirements of both the R-1 and B-2 zoning classification are compared in the table below:

960 75th Street	Existing Site Conditions	R-1 District Bulk Requirements	B-2 District Bulk Requirements
Lot Area	41,360 sq. ft. (existing, no change)	20,000 sq. ft.	10,500 sq. ft.
Lot Width	200 ft. (existing, no change)	100 ft.	75 ft.
Front Yard Setback (South)	76.91 ft. (existing, no change)	40 ft.	29 ft.
Front Yard Setback (West)	50.3 ft. (existing, no change)	40 ft.	29 ft.
Side Yard Setback (East)	24.4 ft. (existing, no change)	10 ft.	15 ft.
Rear Yard Setback (North)	61.18 ft. (existing, no change)	20 ft.	15 ft.
Green Space Total	9,389 sq. ft. (20%) (existing no change)	N/A	4,136 sq. ft. (10%)
Green Space Front Yard	6172 sq. ft. (15%) (existing no change)	N/A	2,068 sq. ft. (5%)
FAR	0.27 (11,294 sq. ft.) (existing no change)	N/A	0.75 (31,020 sq. ft.)
Lot Coverage	5,409 sq. ft. (13%) (existing no change)	13,235 sq. ft. (32%)	N/A

The proposed B-2, General Retail Business zoning classification is appropriate for this property and is consistent with the zoning classifications in the area.

NEIGHBORHOOD COMMENT

Notice was provided to all property owners 250 feet or less from the property in addition to posting the public hearing notice sign and publishing the legal notice in the *Downers Grove Reporter*. Staff has received two phone calls inquiring about the nature of the petition and commenting that in the past previous tenants would periodically install temporary signs on the property without permits. Staff has advised the residents that the Village’s Sign Ordinance includes regulations on temporary signage and that the Village code enforcement officers will inspect the site periodically to assure the new use will comply with the Sign Ordinance.

FINDINGS OF FACT

Section 28.1702 Standards for Approval of Amendments to the Zoning Ordinance

Village Council and Plan Commission consideration and approval of any amendment, whether text or map, is a matter of legislative discretion that is not controlled by any one standard. However, in making its decisions and recommendations regarding map amendments, the Village Council and Plan Commission shall consider the following factors:

(1) *The existing uses and zoning of nearby property.*

The properties to the north and east are zoned R-1, Single Family Residence and are improved with single family homes. The Bohemian Garden Restaurant, zoned B-2, General Retail Business and part of Planned Development #18 is located west of the site. The area immediately south of the property across 75th Street is zoned R-2, Single Family Residential in the city of Dairen and is improved with single family homes. The subject site has been zoned for and used as a commercial use in unincorporated DuPage County before its annexation into the Village in January of 2012. This standard has been met.

(2) *The extent to which the particular zoning restrictions affect property values.*

The proposed rezoning will not negatively affect surrounding property values. Prior to its annexation to the Village in January of 2012, the property was zoned B-2, General Business in unincorporated DuPage County. On May 23, 2006, the property received a conditional use from the DuPage County for an automobile repair and automobile laundry facility on the site. Prior to that, the property was used as a gas station. The petitioner is requesting to rezone the property to better align the existing use with the appropriate zoning classification. This standard has been met.

(3) *The extent to which any determination in property value is offset by an increase in the public health, safety and welfare.*

The proposal will not negatively impact property values or the public health, safety and welfare of the community or neighborhood. Prior to its annexation to the Village in January of 2012, the property was zoned B-2, General Business in unincorporated DuPage County. The petitioner is not proposing any changes to the existing automobile repair and automobile laundry use on the site. Staff believes this standard has been met.

(4) *The suitability of the subject property for the zoned purposes.*

Prior to its annexation to the Village in January of 2012, the property was zoned B-2, General Business in unincorporated DuPage County. The existing automobile repair and automobile laundry use was established in 2007. Additionally, the property is located along a major arterial (75th Street) roadway which carries approximately 36,800 vehicles per day according to the DuPage County Department of Transportation. The proposed B-2 zoning is also consistent with existing commercial uses and zoning classifications west and southwest of the site. As such, the proposed B-2 zoning is suitable for the property. This standard has been met.

(5) *The length of time that the subject property has been vacant as zoned, considering the context of land development in the vicinity.*

The property has been used for commercial purposes in the past. Prior to the existing automobile repair and automobile laundry use, the property was used as a gas station. A nearby 1.4 acre lot commonly known as 950 75th Street is zoned residential but has been vacant since 2009 when the single family home on the property was destroyed by fire. Due to the high volume of traffic on 75th Street, the trend of development along the corridor is for primarily commercial uses and some multi-family uses. The proposed B-2 zoning of the property is better suited for the existing building and use on the site and is consistent with the trend of commercial development along 75th Street. This standard has been met.

(6) *The value to the community of the proposed use.*

The petitioner is not proposing any changes to the exiting automobile repair and automobile laundry use. The proposed rezoning of the property supports the Comprehensive Plan's recommendation for Corridor Commercial uses along 75th Street. The Plan identifies 75th Street as a major arterial with unique character that should continue to function as a commercial area serving both the daily needs of local residents and residents of a larger region. The Corridor Commercial uses could include a blend of commercial retail, office, regional commercial retail and service uses that benefit from a location along a major arterial road such as 75th Street. The proposed rezoning is consistent with the Comprehensive Plan and provides a value to the community. This standard has been met.

(7) *The standard of care with which the community has undertaken to plan its land use development.*

The proposed rezoning is consistent with the Comprehensive Plan. The Plan calls for Corridor Commercial uses along 75th Street due to its unique character and ability to serve both Village residents and providing commercial goods and services to the larger region. Proposed rezoning supports the trend of commercial development along 75th Street. This standard has been met.

RECOMMENDATIONS

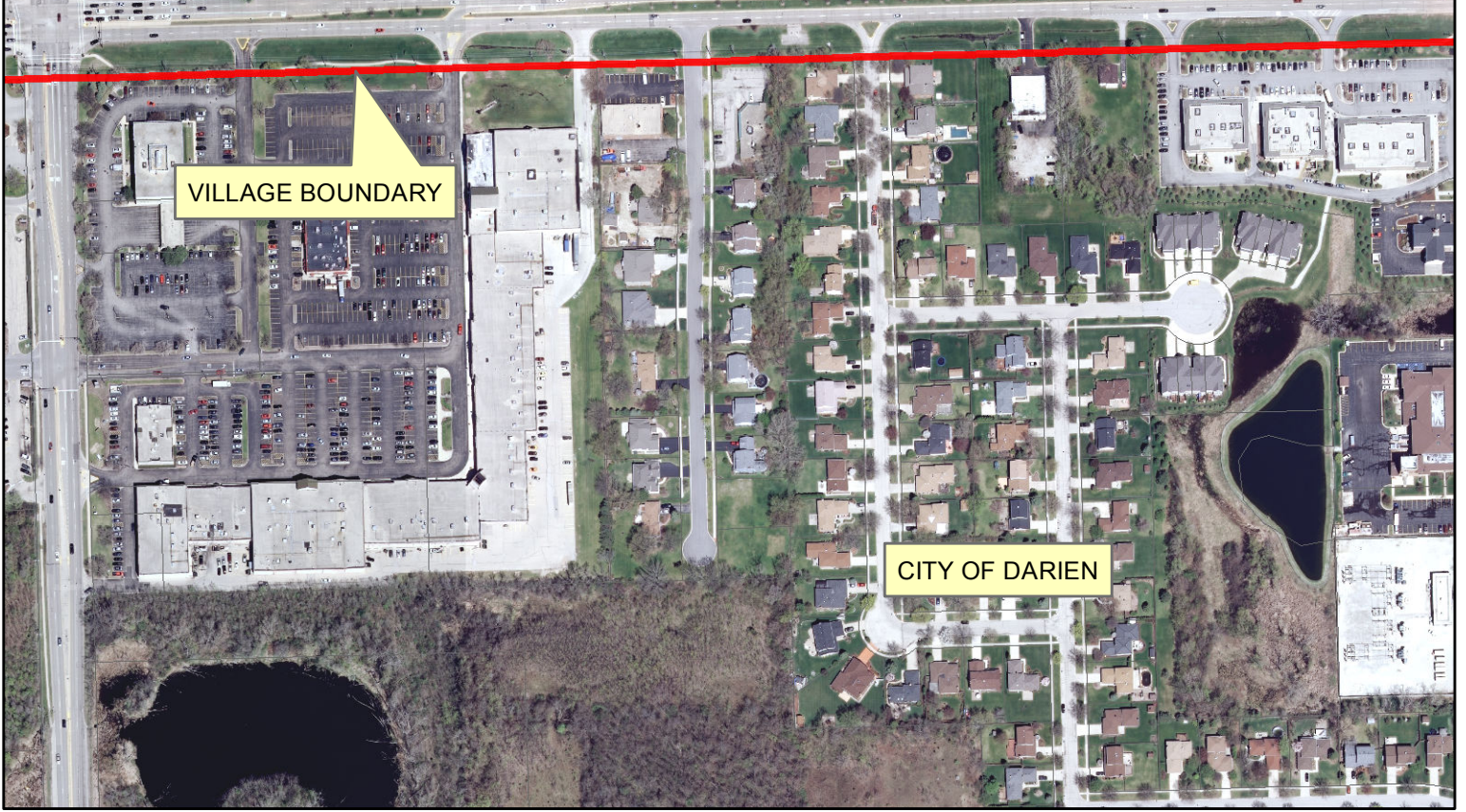
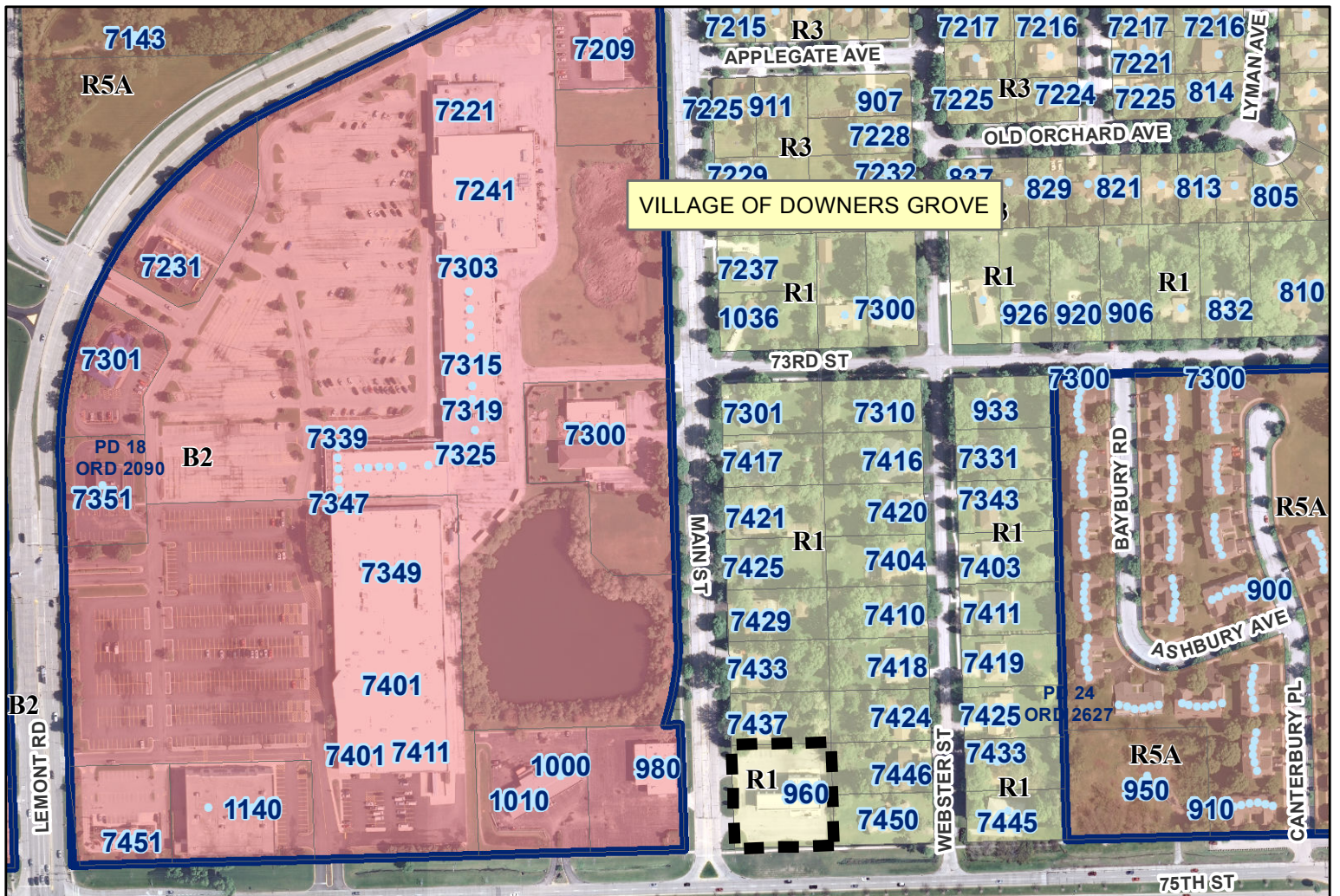
The proposed rezoning of the property from R-1 to B-2 is compatible with surrounding zoning classifications and land uses. Based on the findings listed above, staff recommends the Plan Commission make a positive recommendation to the Village Council regarding PC 15-13 petition.

Staff Report Approved By:

Tom Dabareiner, AICP
Director of Community Development

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-att

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0 95 190 380 Feet

**960 75th St
AREA ZONING MAP**

OWNER AUTHORIZATION

To: Village of Downers Grove, Illinois

Re: Petition for Plan Commission, Zoning Ordinance Map Amendment ("Project")
960 75th Street, Downers Grove, Illinois ("Property")

The undersigned, Chicago Title Land Trust Company, as Trustee under Trust Number 3176 ("Owner"), hereby authorizes Ann Posejpal, as Applicant, to execute all necessary applications, and hereby authorizes Tracy D. Kasson and Rathje & Woodward, LLC, as attorneys, to attend and give testimony at all public hearings and meetings on behalf of Owner before the Corporate Authorities of the Village of Downers Grove, Illinois, and such of its appointed boards and committees as may be necessary and appropriate, with respect to the above referenced Project pertaining to the above referenced Property.

This authorization shall remain in force and effect unless and until expressly terminated by written notice given by Owner to the Village of Downers Grove.

Dated this 1st ^{April} day of ~~March~~ 2013.

Chicago Title Land Trust Company, as
Trustee under Trust Number 3176

By: Maureen Paige

Print Name: MAUREEN PAIGE

Title: Trust Officer

This instrument is executed by the undersigned Land Trustee, not personally but solely as Trustee in the exercise of the power and authority conferred upon and vested in it as such Trustee. It is expressly understood and agreed that all the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee are undertaken by it solely in its capacity as Trustee and are not personally assumed by or shall at any time be asserted or enforceable against the Trustee on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the Trustee in this instrument.

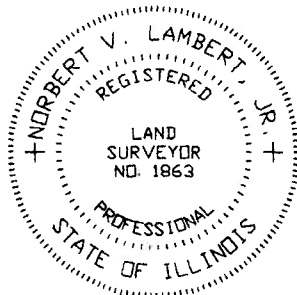
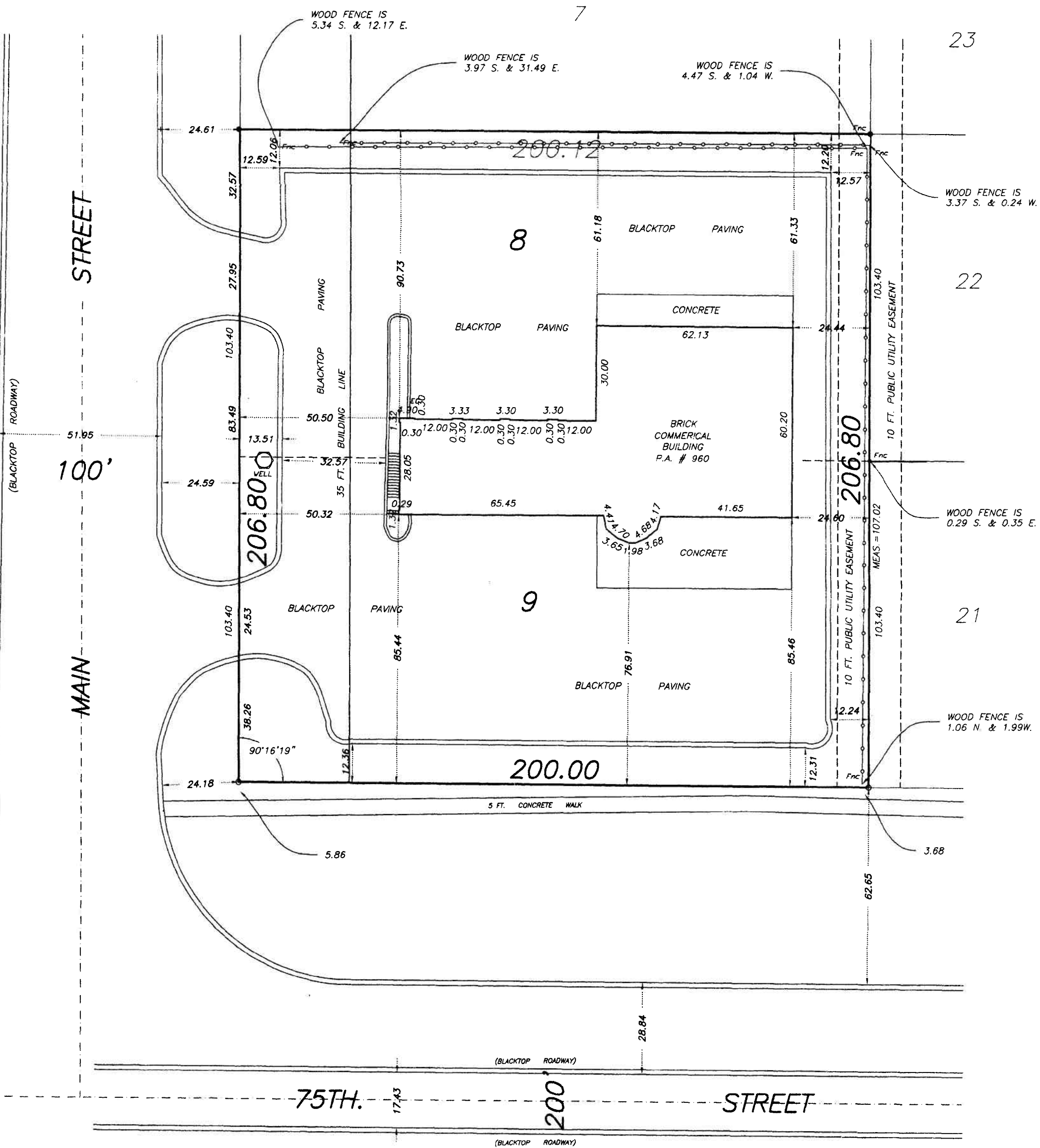
PROJECT SUMMARY

The Subject property has been zoned commercial in the County since the 1970s. In approximately 2007, a Quick Lube Oil Change and Car Wash facility was constructed on the property which was zoned B-2 in the County and received a conditional use for an automobile laundry (car wash) in 2006 from the County. The development met all of the applicable zoning requirements in the County. On January 1 2012, the subject property was annexed into the Village of Downers Grove. The property owner did not receive notice of this pending annexation. The notice first went to the store location, which was vacant. It then went to the tenant, Republic Bank. The Bank did not pass on the notice to the property owner. Otherwise, the owner would have requested the appropriate B-2 zoning at the time, rather than the default zoning classification provided by the City upon forceable annexation, which is R-1, the Village most restrictive classification. Currently, under the Village's Zoning Ordinances the subject property is a legal non-conforming use and has a right to continue its current use since it was a lawfully established use in the County prior to the forceable annexation. Residential zoning of this site is not appropriate. Rather, commercial zoning, as zoned in the County for many decades is appropriate given the property's location on 75th Street, which is a six lane highway , and on the Main street, a collector street.. Also, the three intersections are zoned non-residential. The northwest corner is zoned B-2 in the Village. The properties across the street are zoned business in Darien. Since the subject property had a lawful special use for the car wash in the County, the special use continues pursuant to Section 28.1202(f) of the Village's Ordinance as a lawful special use.

An amendment to the comprehensive plan to match the existing use and requested zoning is also appropriate. As mentioned above, this property has been zoned commercially in the County for decades. The northwest corner is shown as corridor commercial on the comprehensive plan. A similar designation is appropriate given its location on 75th and Main.

PLAT OF SURVEY

OF LOTS 8 AND 9 IN GRANDVIEW ESTATES UNIT 1, IN THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 29, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT RECORDED FEBRUARY 23, 1956 AS DOCUMENT 790302, IN DUPAGE COUNTY, ILLINOIS.



STATE OF ILLINOIS } S.S.
 COUNTY OF DU PAGE }

THIS IS TO CERTIFY THAT I, AN ILLINOIS LAND SURVEYOR, HAVE SURVEYED THE PROPERTY DESCRIBED ABOVE AND THAT THE ANNEXED PLAT IS A CORRECT REPRESENTATION OF SAID SURVEY.

THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY.

GIVEN UNDER MY HAND AND SEAL AT WHEATON, ILLINOIS, THIS 16TH DAY OF JANUARY, A.D., 2013.

Norbert V. Lambert Jr.

ILLINOIS LAND SURVEYOR NO. 1863 LIC. EXP. DATE 11/30/14
 ILLINOIS DESIGN FIRM, NO. 184-006711
 REFER TO DEED OR GUARANTEE POLICY FOR RESTRICTIONS NOT SHOWN ON SURVEY.
 ALL DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.
 COMPARE ALL POINTS BEFORE BUILDING AND REPORT ANY APPARENT DISCREPANCIES TO THE SURVEYOR.

ORDERED BY: RATHJE, WOODWARD-ATTY'S. ORDER NO. 13 A 27 FILE NO. 13-0022

LAMBERT & ASSOCIATES
 LAND SURVEYORS
 955 W. LIBERTY DR. WHEATON, ILL. 60187
 PHONE: (630) 653-6331 FAX: (630) 653-6396

● = found iron stake
 ○ = set iron stake

13-0022-

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Mr. Latinovic summarized that the project met the requirements of the Village's Comprehensive Plan and was consistent with the plan's goals to locate such contemporary uses that fit in small multi-tenant office/industrial parks near Interstates 88 and 355. The project also met the Village's Standards for Approval of a Special Use. Proper publication, signage and neighbor notification was followed and, to date, staff did not receive any comments from the public. Staff recommended that the Plan Commission forward a positive recommendation to the Village Council, subject to staff's one condition in its report.

Mr. Jeff Jordan, co-owner of Core 1, Inc., 1434 B. Brook Drive, Downers Grove introduced himself and stated he was before the commission to receive approval to move to a larger space. He explained that his business is to train junior high and high school athletes with some adult boot camps. Upon a question from the Commission, he explained he was expanding due to having more clients. They do not conduct any training outside of the facility on their property. Occasionally, they have group training at the outdoor fields of Downers Grove North and South High Schools.

Chairman Webster opened the meeting to public comment. No comments received. Public comment was closed. The petitioner had no closing comments. A motion was entertained.

WITH RESPECT TO PC-11-13, MR. WAECHTLER MADE A MOTION THAT THE PLAN COMMISSION FORWARD A POSTIVIE RECOMMENDATION TO THE VILLAGE COUNCIL, SUBJECT TO THE FOLLOWING CONDITION:

- 1. THE SPECIAL USE SHALL SUBSTANTIALLY CONFORM TO THE STAFF REPORT, PLANS AND DOCUMENTS ATTACHED TO THE REPORT EXCEPT AS SUCH PLANS MAY BE MODIFIED TO CONFORM TO THE VILLAGE CODES AND ORDINANCES.**

SECONDED BY MS. URBAN.

ROLL CALL:

**AYE: MR. WAECHTLER, MS. URBAN, MR. BEGGS, MR. COZZO, MRS. RATABAH,
CHAIRMAN WEBSTER**

NAY: NONE

MOTION PASSED. VOTE: 6-0

PC-15-13 A petition seeking a Zoning Ordinance Map Amendment to rezone the property from R-1, Single Family Residential to B-2, General Retail Business. The property is located at the northeast corner of Main Street and 75th Street and is commonly known as 960 75th Street, Downers Grove, IL (PIN 09-29-104-019). Ann Posejpal, Petitioner; Chicago Title Land Trust Company as Trustee U/T/N 3176, Owner.

Chairman Webster swore in those individuals who would be speaking on the above petition.

Mr. Latinovic turned commissioners' attention to the overhead, reporting the site was currently zoned R-1 Single-Family Residential with a commercial building constructed for an automobile

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repair and carwash business. The use was legal non-conforming in that it was legal due to the fact that the use was legally established in unincorporated DuPage County and was non-conforming because it does not comply with current Residential zoning on the property. The property was annexed into the Village in January 2012 as part of the Village-wide annexation project. Commissioners were reminded that upon annexation, all properties are automatically zoned R-1 Single-Family. A brief history of the site, before annexation, followed.

Per staff, because the property was legal non-conforming, the existing use could remain regardless of the rezoning of the petition. A map of the zoning districts surrounding the property were depicted as well as photographs of the surrounding properties. Mr. Latinovic pointed out that many of the uses along 75th Street were commercial in nature.

The petition was reviewed as it relates to the Comprehensive Plan with staff explaining that the Plan typically calls for corridor commercial uses along major arterials roads, such as 75th Street. The future land use map within the Comprehensive Plan, however, does list the property for residential use. Staff believes this was an oversight and scrivener's error. The building was modern, built in 2007 for an automobile-oriented commercial use, and was well suited considering commercial uses along 75th Street. In addition, Mr. Latinovic confirmed the building met all bulk requirements for the B-2 District. The current green space was at 20% versus the 10% required by Code. The petition met the Standards for Approval of Rezoning and there were no plans by the petitioner to change the building or the site. The trend of development along 75th Street was for commercial uses. Per staff, the existing building and its use met the requirements of the B-2 zoning classification.

Proper publication, signage, and neighbor notification was completed and, to date, staff received a couple of general inquiries about the nature of the petition. Staff recommended that the Plan Commission forward a positive recommendation to the Village Council on this petition.

Questions followed on clarification of the legal non-confirming issue and what would happen if the building were sold and the use changed. Mr. Latinovic explained that by rezoning the site to B-2 the use would become a legal and conforming use. Then, if a new use listed as a Special Use in B-2 district went into the site or the existing use wanted to expend, a separate approval would be required and would have to be reviewed by the Plan Commission and Village Council. Should the zoning not be changed to B-2, the property would remain residential and be considered legal non-conforming. Should the existing tenant vacate the site, Mr. Latinovic explained that the owners would be given 18 months to re-establish the same type of use. If the 18-month period lapses, only a residential use could be established there because the property is zoned residential.

Mr. Beggs referenced maps on pages 34 and 44 of the Comprehensive Plan as he had questions regarding the Village's boundary lines. He noticed there were no commercial uses proposed for the north side of 75th Street between Main and Fairview, to which staff confirmed positively.

Mr. Beggs then reviewed the residential map and questioned if the petition were not approved would anything change regarding the current use of the property, wherein Mr. Latinovic explained that the existing use, being very new, should have no changes in the near future. Asked if the commercial zoning was starting to intrude into the residential areas on the north side of 75th Street, Mr. Latinovic explained that staff felt it was not, as the new classification for the site would match the existing building and the use on site that was used as commercial for a long time. Additionally, he explained that the area between Main and Fairview on the north side would likely be multi-

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family. Further explanation followed regarding the buffering that would have to take place between the residential uses and commercial uses, as defined in the zoning ordinance. Details followed on how the last version of the Future Land Use Map was depicted with existing uses and how the site under discussion “got missed.” Per Director Dabareiner, no effort was made to take the commercial property and turn it into residential.

Per question, Mr. Latinovic proceeded to describe the mass annexation project that took place in January of 2012 by the Village, which included a number of properties at the northwest corner of the Village and small pockets on the south side. Details followed.

Petitioner, Mr. Tracy Kasson, 300 E. Roosevelt, Wheaton, IL, attorney for the landowner, Chicago Title Land Trust, confirmed he was before the commission because the property was forced annexed in 2012. Under the county’s jurisdiction, Mr. Kasson reported that the property was commercial with B-2 zoning and was commercial for many years prior. He believed the property should be rezoned as such in order to conform to what its use was and what the trend of development was. Residential use was not its highest and best use. Mr. Kasson reiterated that the proposal conformed with all of the B-2 bulk standards, etc. The Standards for Rezoning were briefly reviewed again. As to the uses, Mr. Kasson understood that the business was primarily oil change, but their list of services included some transmission fluid change and repair, similar to a Jiffy Lube.

Mr. Waechtler raised concern about noise spilling over into the residential areas, the hours of operations, and some fence issues, wherein, Mr. Kasson explained he did not know the hours of operation but agreed that the operator would have to meet the Village’s performance standards. Director Dabareiner explained the fence would be a code enforcement matter that will be addressed and fixed. As to hours of operation for the business, Mr. Latinovic stated it was Monday through Friday, 8:00 a.m. to 7:00 p.m.; Saturday and Sunday, 8:00 a.m. to 5:00 p.m. However, Mr. Dabareiner clarified that the hours could be limited to the existing hours. Mr. Kasson stated his client could work with the Village to address any issues but no changes are proposed to the existing use or the building on the property. Per a question, Mr. Latinovic stated he was not aware of the business using speakers, as he visited the site several times. He agreed noise issues could be addressed under the environmental standard requirements that apply for commercial properties but not for residentially zoned properties.

Asked if the rezoning takes place, could the automobile repair use intensify, wherein Mr. Latinovic stated not without the special use approval and the owner would have to appear before the commission. Currently, there was no need for the owner to go through the special use process, since the special use was legally established in the County and automatically became legal in the Village if the rezoning was approved. Mr. Kasson proceeded to explain why the B-2 rezoning was necessary.

Chairman Webster opened up the meeting to public comment.

Mr. Frank Szoldatits, 7425 Webster, Downers Grove, was sworn in and discussed the openings and closings of the car wash over the years and voiced concern that if the site is zoned commercial and becomes vacant again, who was to stop someone from coming in with another commercial business. He asked the commissioners to consider that and the fact that there is noise when the car wash is operating. Also, from his observation, the traffic pattern over the years has remained the same since

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he has lived in his home. He believed if the current business could function under the current zoning as a car wash, there was no need to change the zoning. However, if the zoning was changed to commercial, the building could be razed for something else.

Ms. Michelle Szoldatits, 7425 Webster Street was sworn in and asked staff to provide examples of B-2 general retail uses that could be built on the site, wherein Mr. Latinovic mentioned some uses listed in the Code as permitted uses.

Hearing no further public comment, Chairman Webster closed public comment.

Chairman Webster invited the commissioners to respond to public comments; no comments followed. The petitioner was then invited to respond to the public comments.

Mr. Kasson reiterated that the commercial zoning existed prior. Given the size of the property, he did not believe something like a Walgreens could be built on the site. Also, Mr. Kasson did not believe that the building would come down if the business did not succeed, since it was a new building with existing internal equipment, which was why the trust was able to lease the building again for that type of use. He closed by stating he believed the B-2 zoning was appropriate in this instance.

Per a question, Mr. Latinovic clarified that if the zoning was approved for B-2 zoning but the current business closed, another applicant could come in (with a by-right permitted use) and not be required to come before the Plan Commission.

For the record, Chairman Webster stated he believes that the standards have been met by the petitioner and as discussed by staff. Mr. Waechtler reiterated that in the future, staff provide additional information or someone present to answer questions regarding the existing or proposed use associated with the petition. Ms. Urban asked fellow commissioners to consider the bulk annexation of the property, noting this property was part of that annexation and that the property owner did seek and received a Special Use in 2007 from the county. She summarized her thoughts of the discussion.

WITH RESPECT TO PC 15-13, MS. URBAN MADE A MOTION THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL.

SECONDED BY MR. COZZO.

ROLL CALL:

AYE: MS. URBAN, MR. COZZO, MRS. RABATAH, MR. WAECHTLER, CHAIRMAN WEBSTER

NAY: MR. BEGGS

MOTION CARRIED. VOTE: 5-1

Mr. Beggs explained he was the dissenting vote because he disagreed with staff that the Comprehensive Plan allowed the property to be designated as residential in the future as an

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oversight referencing the two maps that showed the property for residential use. He disagreed with the proposition that the rezoning to B-2 is consistent with the Comprehensive Plan. Also, he stated no change would occur to the existing business if the commission did not recommend the change to B-2. The business would continue as it has in the past. He recalled a case on the west side of Main Street where residents in the area raised concern to preserve the residential character of the area. He did not agree that keeping the present zoning was confiscatory.

PC-14-13 A petition seeking a Zoning Ordinance Map Amendment to rezone the property from R-4, Single Family Residential to B-3, General Services and Highway Business. The property is located on the east side of Highland Avenue approximately 135 feet north of Ogden Avenue, commonly known as 4249 Highland Avenue, Downers Grove, IL (PIN 09-05-118-012. Ogden Industries, LLC, Petitioner; The Chicago Trust Co. N.A. TR#BEV-3311, Owner.

Chairman swore in those individuals who would be speaking on the above petition.

Planner, Mr. Stan Popovich, walked through the petitioner's request and noted the property on the overhead. This matter was before the commission last month for a special use for an automobile repair and laundry shop. Site specifics were reviewed. Per staff, the petitioner was seeking the rezoning to more accurately align the use with the appropriate zoning classification and to meet the goals of the Comprehensive Plan to expand commercial depth along the Ogden Avenue and commercial corridors. There were no plans to modify the existing parking lot except to make improvements per the previously reviewed special use for the 946 property. Surrounding zoning classifications were pointed out on the overhead map, noting a barrier was installed across Highland Avenue when Walgreens was approved. The location of the barrier basically splits the commercial side of Highland Avenue from the residential side of Highland Avenue.

The proposed rezoning, per staff, will meet the goals of the Village's Comprehensive Plan and will assist in future redevelopment; it is consistent with Comprehensive Plan; it is consistent with the B-3 bulk requirements; and the site will remain a parking lot. Proper publication, signage, and neighbor notification was sent out with staff reporting that no public comment has been received.

A review of the Findings of Fact followed in more detail with staff recommending the Plan Commission forward a positive recommendation, with respect to the rezoning, to the Village Council. Per commissioner questions, the alley was part of the TIF District and the alley would remain as an alley. TIF boundaries were pointed out.

Mr. Ken Rathje, 412 Chicago, Downers Grove, stated he is representing the trust, as owner. Ogden Industries was the beneficiary of the trust. Mr. Rathje recalled that this petition was raised by staff during the preparation of a petition last month for the 946 address. During that time staff was recommending and suggested a "tie-in" of a rezoning with the special use. Since that time, Mr. Rathje stated the owner has been interested in following staff's recommendation of pursuing a rezoning to B-3. Currently there was a special use on the property for a parking lot and there were plans to improve the parking lot, i.e., adding islands, lighting, etc. A history of the area's nearby zoning followed.

The Finding of Facts for the rezoning amendment were then reviewed by Mr. Rathje in greater detail. He asked the commissioners for a positive recommendation.