

**VILLAGE OF DOWNERS GROVE**  
**Report for the Village Council Meeting**  
**11/22/2016**

<b>SUBJECT:</b>	<b>SUBMITTED BY:</b>
941 63rd Street - Special Use extension	Stan Popovich, AICP Director of Community Development

**SYNOPSIS**

An ordinance has been prepared granting a six-month extension to Special Use Ordinance #5493 to permit an animal boarding facility in the B-2, General Retail Business zoning district at 941 63rd Street.

**STRATEGIC PLAN ALIGNMENT**

The goals for 2015-2017 include *Strong and Diverse Local Economy*.

**FISCAL IMPACT**

N/A

**RECOMMENDATION**

Approval on the December 6, 2016 active agenda.

**BACKGROUND**

On [November 10, 2015](#), the Village Council approved a proposal to construct a two-story 10,300 square foot veterinarian care clinic at 941 63<sup>rd</sup> Street. On November 3, 2016, the petitioner requested the Village Council grant a six-month extension of the Special Use approval. Per Section 12.050.I of the Zoning Ordinance, a special use approval will lapse after one year if a building permit has not been issued. The Village Council is authorized to extend the expiration period for good cause on up to two separate occasions, by up to six months each.

Since their approval, the petitioner has been diligently pursuing a building permit to construct the veterinarian care clinic. However, a private citizen has filed suit against the petitioner to enforce a private deed restriction on the property. This suit is still pending and the Village cannot issue a permit for the development until the suit is resolved.

**ATTACHMENTS**

Ordinance  
 Petitioner's request letter dated November 3, 2016  
 Ordinance No. 5493

**ORDINANCE NO. \_\_\_\_\_****AN ORDINANCE AUTHORIZING THE EXTENSION  
OF A SPECIAL USE TO PERMIT AN  
ANIMAL BOARDING SHELTER AT  
941 63<sup>RD</sup> STREET TO MAY 10, 2017**

WHEREAS, on November 10, 2015, the Village of Downers Grove has previously approved Ordinance No. 5493 entitled "AN ORDINANCE AUTHORIZING A SPECIAL USE FOR 941 63<sup>RD</sup> STREET TO PERMIT AN ANIMAL BOARDING SHELTER"; and

WHEREAS, pursuant to the Downers Grove Zoning Ordinance, Section 28.12.050(I), "The Village Council is authorized to extend the expiration period for good cause on up to 2 separate occasions, by up to 6 months each. Requests for extensions must be submitted to the Community Development Director and forwarded to the Village Council for a final decision";

WHEREAS, the owner of the Property has made a request for an extension of the improvements authorized under Ordinance No. 5493; and

WHEREAS, the Village Council has considered such request and has determined that it is in the best interest of the Village of Downers Grove to extend the Special Use approval as requested.

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

SECTION 1. That the Special Use approval as set forth in Ordinance No. 5493, permitting an animal boarding shelter at 941 63<sup>rd</sup> Street, is hereby extended to May 10, 2017.

SECTION 2. That this ordinance shall be in full force an effect from and after its adoption in the manner provided by law.

\_\_\_\_\_  
Mayor

Passed:

Published:

Attest: \_\_\_\_\_  
Village Clerk

300 South Wacker Drive, Suite 2200  
Chicago, Illinois 60606  
312.258.1600 ph 312.258.1955 fx

523 Encinitas Boulevard, Suite 200  
Encinitas, California 92024  
760.635.1465 ph 760.635.1475 fx

www.daspinaument.com

DASPIN & AUMENT  
LLP

Robert C. Aument

Direct Dial: (312) 258-3777  
raument@daspinaument.com

November 3, 2016

Mr. Stan Popovich  
Director, Community Development  
Village of Downers Grove  
801 Burlington Ave.  
Downers Grove, IL 60515

**Re: Animal Boarding Facility ("Project")  
941 63<sup>rd</sup> Street, Downers Grove, Illinois 60516 ("Subject Property")**

Dear Mr. Popovich:

On November 10, 2015, the Project received a Special Use from the Village of Downers Grove (Ordinance No. 5493) to allow an animal boarding shelter on the Subject Property.

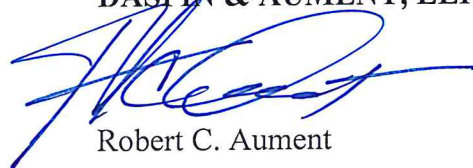
Following the issuance of the ordinance and prior to commencement of redevelopment of the Subject Property, a private citizen, Mr. Robert Pinelli, filed suit against the owner, Kremer Real Estate Holdings, LLC ("Kremer"), and other defendants to enforce a deed restriction on the Subject Property and enjoin Kremer from constructing a nonresidential building and other improvements on the Subject Property (Robert Pinelli v. Kremer Real Estate Holdings, et.al., DuPage County Case No.: 2016 CH 000472). The Village informed Kremer that it would not record the plat of consolidation or issue a building permit until the Pinelli lawsuit was resolved. The lawsuit is still pending.

Therefore, Kremer respectfully requests an extension of the Special Use (Ordinance No. 5493).

Please contact me if you have any questions or need additional information.

Sincerely,

DASPIN & AUMENT, LLP



Robert C. Aument

cc: Anthony Kremer  
Jason Sanderson

ORDINANCE NO. 5493**AN ORDINANCE AUTHORIZING A SPECIAL USE  
FOR 941 63<sup>rd</sup> STREET TO PERMIT AN ANIMAL BOARDING SHELTER**

WHEREAS, the following described property, to wit:

Parcel 1:

LOT 9 IN DOWNERS GROVE MEADOW LAWN, BEING A SUBDIVISION OF PART OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 38 NORTH RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 11, 1951, AS DOCUMENT 628245.

Parcel 2:

LOT 10 (EXCEPT THE WESTERLY 150 FEET THEREOF) IN DOWNERS GROVE MEADOW LAWN, BEING A SUBDIVISION OF PART OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 38 NORTH RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 11, 1951, AS DOCUMENT 628245.

Commonly known as 941 63<sup>rd</sup> Street, Downers Grove, IL 60515 (PINs 09-20-114-002 & 09-20-114-018)

(hereinafter referred to as the "Property") is presently zoned "*B-2, General Retail Business*" 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 28.5.010 of the Zoning Ordinance be granted to allow an animal boarding shelter; 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 October 12, 2015 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 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. That the proposed use is expressly authorized as a Special Use in the district in which it is to be located;
2. That the proposed use at the proposed location is necessary or desirable to provide a service or a facility that is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community.
3. That the proposed use will not, in this particular case, be detrimental to the health, safety or general welfare of

persons residing or working in the vicinity or be injurious to property values or improvements in the vicinity.

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

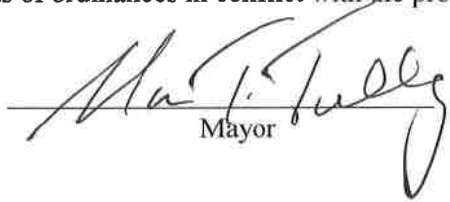
SECTION 1. That Special Use of the Property is hereby granted to allow an animal boarding shelter.

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

1. The special use shall substantially conform to the staff report dated October 12, 2015; architectural drawings prepared by Linden Group dated July 9, 2015, last revised on October 6, 2015, the landscape drawings prepared by Erickson Engineering dated August 7, 2015, last revised on October 6, 2015 and the engineering drawings prepared by Vantage Point Engineering dated August 7, 2015, last revised on October 6, 2015, except as such plans may be modified to conform to the Village codes and ordinances.
2. A Certificate of Occupancy shall not be issued for the new facility until the existing building on-site has been demolished.
3. All parking lot screening shall be at least three-feet tall at time of planting.
4. The applicant shall apply for all signage under a separate permit and shall comply with the Sign Ordinance.
5. Prior to issuing a building permit, an administrative lot consolidation shall be completed.
6. The building shall be equipped with an automatic suppression system and an automatic and manual fire alarm system.
7. The petitioner shall install signage along the east property line landscaping stating the following: "No Dog Walking This Area, Drains to River".
8. At no time shall more than sixty (60) dogs be boarded overnight at the facility.
9. At the discretion of the Village Manager, Petitioner may be required to submit a report detailing compliance with Section 28.10.040.B of the Downers Grove Zoning Ordinance (Operational Performance Standards - Noise), including but not limited to the duration and decibel levels of the noise emitted from the property. Any violation of this section or of the Downers Grove Zoning Ordinance shall be deemed grounds for revocation of the Special Use granted herein and shall be subject to the remedies and enforcement powers afforded the Village in Section 28.13.020.D of the Downers Grove Zoning Ordinance.


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.

  
\_\_\_\_\_  
Mayor

Passed: November 10, 2015

Published: November 11, 2015

Attest:   
\_\_\_\_\_  
Village Clerk