Zoning Ordinance Map Amendment 960 75th Street

**SUBJECT:** Zoning Ordinance Map Amendment 960 75th Street

**TYPE:** Resolution
- ✓ Ordinance
- Motion
- Discussion Only

**SUBMITTED BY:** 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

**RECOMMENDATION**
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.

[Signature]
Mayor

Passed:
Published:
Attest: ____________________________
Village Clerk
SUBJECT: PC-15-13
960 75th Street

TYPE: Zoning Ordinance Map Amendment

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

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

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

TD:dl
-att

P:\P&CD\PROJECTS\PLAN COMMISSION\2013 PC Petition Files\PC-15-13 960 75th St - Rezoning from R1 to B2\Staff Report PC-15-13.doc
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.

April

Dated this 1st day of March 2013.

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

By: ____________________________
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 not personally. No personal liability or personal responsibility is 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.