

RECOMMENDATION

TO: Mayor and Board of Trustees

FROM: Plan Commission

DATE: November 8, 2012

RE: Text Amendments to the C-2 Outlying Commercial District to Strengthen Retail

We transmit for your consideration a recommendation adopted by the Plan Commission on the request for Text Amendments to the C-2 Outlying Commercial District. The Plan Commission held a two workshop meetings (on September 13 and October 9, 2012) and a public hearing on November 8, 2012 where testimony and documentary evidence were presented in support of the request. A copy of the public hearing and workshop minutes are attached.

In support of its request, the Plan Commission makes the following findings of fact and conclusions:

FINDINGS OF FACT

Background

With the recent replacement of retail with medical office at the former Borders Books (replaced by a 25,000 square foot medical office for NorthShore University Health System) and the former George's What's Cooking (replaced by a 20,582 square foot medical office for Northwestern Memorial Hospital Physicians Group), the Mayor and Board of Trustees asked the Plan Commission to consider possible zoning amendments to the C-2 Outlying Commercial District to further support and strengthen retail. The C-2 Outlying Commercial District contains Deerbrook Mall, Deerfield Park Plaza, Cadwells Corners, the Home Depot PUD, and other various parcels (see attached aerial photos of the C-2 Outlying Commercial District).

The Plan Commission realizes there are some benefits to medical uses such as: Deerfield residents have the convenience of large medical groups such as NorthShore University and Northwestern Memorial Hospital Group within the Village; the employees of medical uses patronize local restaurants and businesses; medical uses have a regional draw bringing people to the Village (unknown if their customers patronize other businesses, but some probably do), and medical uses are stable uses which benefit landlords that do not have look for new tenants for the space, and the Village does not have a vacancy.

The Plan Commission also realizes that certain larger shopping centers in Deerfield, such as Deerfield Park Plaza and Cadwells Corners, suffer from the lack of visibility for the

stores. Retailers often want visible store locations (along with a certain amount of traffic on the roadway, and the correct demographic for their stores.)

The Commissioners reviewed various articles that explain how the retail world is changing. They also reviewed a non-sales tax survey from Northwest Municipal Conference (NWMC) that was conducted in 2010. These documents are available on the Village's website at www.deerfield.il.us, click on Departments → Community Development → Upcoming Public Hearings. Based on 2010 NWMC survey, when a non-sales tax business is restricted to where it can locate, the restriction has been put in place in downtowns, which is what Deerfield currently does. For more than 20 years, Deerfield has maintained a downtown first floor retail ordinance. The first floor retail ordinance allows retail uses as a Permitted Use on the first floor. Service uses such as dry cleaners, beauty shops, medical offices, and real estate offices have to obtain a Special Use when located on the first floor in the downtown. The purpose of the first floor retail ordinance is to create a shopping district in the downtown where patrons could walk from store to store, and not create a situation where the non-retail uses takes over the first floor in the downtown. An added benefit of the downtown first floor retail ordinance is the sales tax it generates for the Village.

Aerial of C-2 Outlying Commercial Zoning District

Aerial photographs of all of the C-2 properties are attached. There are approximately 30 properties in the C-2 Outlying Commercial District. Most of the C-2 properties are located around the intersection of Lake Cook Road and Waukegan Road and west of this intersection, with a small portion of the C-2 District located at the north end of the Village on Waukegan Road.

Comprehensive Plan

The appropriate sections of the Comprehensive Plan that address the C-2 Outlying Commercial District are attached. The Comprehensive Plan recognizes the importance of keeping the C-2 District a vibrant shopping area for the Village.

Recent Data Obtained from the International Council of Shopping Centers (ICSC)

Staff has obtained some recent data from an ICSC event held on August 22, 2012 where valuable information was shared. Retailers usually have brokers that represent them, and the retail brokerage industry shared what they are seeking in potential locations at this event. The Plan Commission was provided with data from the August 22, 2012 event booklet that indicate the size of the store needed (along with the geographic area preferred, population density, desired income, etc). Many of the stores such as Saks Fifth Avenue Off 5th, TJ Maxx/Marshall's/Homegoods are around 25,000 square feet in typical size, while stores such as Staples, Office Max and Office Depot are a typical size of around 15,000 square feet. Many of the restaurants such as Potbelly's, Five Guys, Roti Mediterranean Grill, and Noodles & Co., indicate a size of 3,000 square or less in area.

September 13 and October 9, 2012 Workshop Meetings and November 8, 2012 Public Hearing

In order to formulate their recommendation on possible Text Amendments to the C-2 District to strengthen retail, the Plan Commission held two workshop meetings on September 13 and October 9, before holding the public hearing. The workshop meeting minutes are attached. For the November 8 public hearing, all of the property owners were notified of the public hearing by mail (a detailed explanation of the proposed Text Amendments were included in the mailings) and a legal notice was published in The Deerfield Review. All of the past background information was placed on the Village's website for any property owner who wished to review this information and the mailing explained where this information was located on the Village's website. A list of various businesses in the C-2 District and their size in square feet was also placed on the Village's website to help someone to understand and visualize the size of various square footages of various size businesses.

Proposed Text Amendments to the C-2 Outlying Commercial District

Based on Plan Commission's discussions at the September 13 and October 9 Plan Commission workshop meetings, and the November 8 public hearing, below are the proposed Text Amendments to this zoning district to help strengthen retail in the C-2 Outlying Commercial District.

Proposed Text Amendment #1

Require a Special Use for any future service use, office use, medical office use, and recreational use listed in Article 5.02-B, 2, 3, and 4 which is between 10,000 square feet and 20,000 square feet in size when located on the ground floor, with the exception of a couple of areas in the Deerfield Park Plaza shopping center (formerly known as Lake Cook Plaza) where Text Amendment #1 would not apply. The areas include the 16,000 square foot Barking Lot building at 495 Lake Cook Road, and the 13,100 square foot area toward the rear of the shopping center addressed 405 Lake Cook Road, Suites A18 through A22 which is occupied by California Tan and the former Diplomat Pharmacy, as these area are more suited for non-retail uses.

Currently, uses in Article 5.02-B, 2, 3, and 4 are all Permitted Uses in the C-2 Outlying Commercial District.

Proposed Text Amendment #2

Do not allow future large non-retail service uses, office uses, medical office uses, and recreational uses listed in Article 5.02-B, 2, 3, and 4 of 20,001 square feet and over in size located on the ground floor in the C-2 District with the exception of the three (3) buildings at the rear of Deerbrook Mall which are Joy of the Game, Brunswick, and National Tire and

Battery, and in Deerfield Park Plaza the Sachs Recreation Center as the Plan Commission believes these areas noted above are not conducive to retail use.

Currently, uses in Article 5.02-B, 2, 3, and 4 are all Permitted Uses in the C-2 Outlying Commercial District.

Below are the current Permitted Uses in Article 5.02-B,2,3,and 4 in the C-2 Outlying Commercial District that would be impacted by the Proposed Text Amendments #1 and #2

In summary, based on proposed Text Amendments #1 and #2 the uses below become Special Uses if they are between 10,000 square feet and 20,000 square feet in size with the exception of a couple of geographic areas, not allowed if over 20,001 square feet in size with the exception of a couple of geographic areas, and they remain Permitted Uses if they are less than 10,000 square feet in size.

2. Service Uses

- a. Artists' Studios.
- b. Banks, Savings and Loan Associations and other Financial Institutions, not including drive-in facilities.
- c. Barber Shops.
- d. Beauty Shops.
- e. Blueprinting and Photocopying Establishments.
- f. Dry Cleaning and Laundry Establishments, including self-service, coin-operated equipment, provided that the floor area devoted to any one such establishment (including floor area devoted to accessory uses as well as the principal use) shall not exceed 2,750 square feet.
- g. Food Catering Establishments.
- h. Interior Decorating Shops, including upholstery and making of draperies, slip covers and other similar articles, when conducted as part of retail operations and secondary to the principal use.
- i. Photographic Studios.
- j. Radio and Television Service and Repair Shops.
- k. Shoe, Clothing and Hat Repair Shops.
- l. Tailor and Dressmaking shops, employing not more than five persons.
- m. Travel Agencies and Transportation Ticket offices.

3. Office Uses

- a. Accounting, Auditing and Bookkeeping offices.
- b. Business, Professional and Government offices.
- c. Employment Agencies.
- d. Insurance Agencies.
- e. Medical and Dental Facilities.
- f. Medical and Dental Laboratories.
- g. Newspaper Offices, provided that there is no print or distribution in connection therewith.

- h. Real Estate Offices.
 - i. Secretarial Services.
 - j. Security and Commodity Brokers.
4. Recreation and Social Facilities (Ord.0-81-57)
- a. Clubs and Lodges, not-for-profit.
 - b. Philanthropic or Charitable Organizations.
 - c. Self Improvement Facilities, including physical exercise and sports training schools, but not including those uses specifically provided for in Article 5.02-C.

Proposed Text Amendment #3

Currently, retail stores of 10,000 square feet in area or more are Special Uses in the C-2 Outlying Commercial District. The Plan Commission wants to loosen up this requirement for the area south of Lake Cook Road. The Plan Commission is recommending that retail uses listed in Article 5.02-B,1 up to 30,000 square feet in area be a Permitted Use in the C-2 District south of Lake Cook Road. Retail stores 30,001 square feet and over in this specific geographic area south of Lake Cook Road would need to obtain a Special Use. The rest of the C-2 District north of Lake Cook Road would remain with the Special Use requirement for retail stores of 10,000 square feet in size or more.

Proposed Text Amendment #4

Currently, there is a requirement that not less than 50% of the leasable square footage within a commercial planned unit development shopping center shall be devoted to retail use. The Plan Commission would like to keep the 50% retail use restriction in the commercial planned unit development shopping centers. The Plan Commission is recommending the exclusion of the square footage of the three buildings at the back of Deerbrook Mall which include Joy of the Game, Brunswick, and National Tire and Battery from the 50% retail calculation. In Deerfield Park Plaza, the Plan Commission is recommending the exclusion of the Sachs Recreation Center and the Barking Lot building from being counted in the 50% retail calculation.

The Plan Commission also does not want to allow future non-retail service uses, office uses, medical office uses, or recreational uses listed in Article 5.02-B, 2, 3, and 4 larger than 20,001 square feet on the ground floor in the commercial planned unit developments with the exception of the three (3) buildings in the rear of Deerbrook Mall, and in the Sachs Recreation Center in Deerfield Park Plaza.

Text Amendments to Update the Permitted Uses and Special Uses in the C-2 District

The Plan Commission reviewed the list of Permitted Uses and Special Uses in the C-2 District and updated the list. Based on the Plan Commission's comments at the two

workshop meetings and the public hearing regarding the proposed changes to the Permitted Uses and Special Uses, below are the proposed changes to the current list of uses.

Staff looked through the current list of Permitted and Special Uses in the C-2 Outlying Commercial District to determine what uses might be missing from the Village's Zoning Ordinance and also what uses are out of date. Staff also looked at the lists of uses in the surrounding communities of Northbrook, Highland Park, Vernon Hills, and Skokie. The lists below also include uses that business and property owners often inquire about. This topic was discussed at the September 13 and October 9, 2012 Plan Commission workshop meetings and the November 8 public hearing and the Plan Commission provided feedback on the proposed Permitted and Special Uses.

Below are the revised lists of proposed Permitted and Special Uses, to replace the current lists of Permitted and Special Uses in the C-2 Outlying Commercial Zoning District. **The new uses to be added to the C-2 District are highlighted below in yellow.** The current lists of Permitted and Special Uses are provided as an attachment to this memo.

Permitted Uses in the C-2 Outlying Commercial District

Article 5.02-B, 1 (Permitted Uses, Retail Business Uses):

- a. Antique Shops.
- b. Apparel and Accessories Stores.**
- c. Art Galleries.
- d. Art and School Supply Stores.
- e. Automobile Accessory and Parts Shops, specifically prohibiting servicing and installation of products (Ord. 0-88-50).
- f. Baby and Children's Products and Apparel Stores.**
- g. Beauty Products, Cosmetics, Perfumes and Soaps Stores.**
- h. Bedding and Mattress Stores.
- i. Bridal and Formalwear Stores.**
- j. Bakeries.
- k. Bicycle Stores, Sales, Rental and Repair.
- l. Book and Stationery Stores.
- m. Business Equipment Sales and Service.
- n. Cabinet, Kitchen and Bathroom Furnishings Sales Establishments (not including cutting, assembling, or manufacturing on premises).**
- o. Camera and Photographic Supply Stores.
- p. Candle and Wax Stores.**
- q. Candy and Confectionery Stores.
- r. Carpet, Rug, and Floor Covering Stores, but not including carpet and rug cleaning.
- s. Catalog Sales Stores.
- t. Cellular Phone and Mobile Device Stores.**

- u. China, Glassware and Metalware Stores.
- v. Comic Book Stores.
- w. Costume, Clothing and Theater Prop Sales and Rental Stores.
- x. Craft Stores.
- y. Dancing and Gymnastics Supplies and Apparel Stores.
- z. Delicatessens.
- aa. Department Stores.
- bb. Drug Stores and Pharmacies.
- cc. Electronics Stores, including ancillary electronics repair.
- dd. Exercise Equipment Sales.
- ee. Furriers and Fur Apparel Stores.
- ff. Home Decorating and Home Goods Retail Stores.
- gg. Fabric and Yarn Stores.
- hh. Florist Shops and Plant Stores, retail sales only.
- ii. Furniture and Household Appliance Stores.
- jj. Garden Supply Sales or Nursery, including lawn mower sales and repair, indoor only.
- kk. Gift Shops.
- ll. Hardware Stores, retail sales only.
- mm. Hobby Shops.
- nn. Household Appliance Sales.
- oo. Frozen Dessert Stores.
- pp. Jewelry Stores.
- qq. Leather Goods and Luggage Stores.
- rr. Magazine and Newspaper Stores.
- ss. Marine Stores, indoor only.
- tt. Meat and Fish Stores, retail sales only.
- uu. Medical Appliance and Supply Stores.
- vv. Musical Instrument Sales and Repair, Sheet Music, and Musical Recordings.
- ww. Office Supply Stores.
- xx. Opticians Sales, retail sales only.
- yy. Party Supply Stores.
- zz. Pool and Patio Stores, indoor only.
- aaa. Package Liquor Stores.
- bbb. Paint, Glass, and Wall Covering Stores.
- ccc. Pet Supply Stores.
- ddd. Picture Framing, including self-service when conducted for on-premises retail sale.
- eee. Restaurants, Cafes, Coffee Shops, Tea Shops, Bagel Shops, and Similar Operations of 3,000 square feet in area or less, including the square footage any outdoor seating area, and not including a drive-through.
- fff. Shoe Stores.
- ggg. Specialty Food Retail Stores of 3,000 square feet in area or less.
- hhh. Sporting Goods and Sportswear Stores.
- iii. Tanning Salons.

- jjj. Tobacco Shops.
- kkk. Toy Stores.
- lll. Uniform Stores.
- mmm. Variety Stores.
- nnn. Vitamin and Supplement Stores.

Article 5.02-B, 2 (Permitted Uses, Service Uses):

- a. Artists' Studios.
- b. Barber Shops.
- c. Beauty Shops.
- d. Dry Cleaning and Laundry Establishments, including self-service, coin-operated equipment, provided that the floor area devoted to any one such establishment (including floor area devoted to accessory uses as well as the principal use) shall not exceed 2,750 square feet. (Ord. O-01-27)
- e. Food Catering Establishments.
- f. Interior Decorating Shops, including upholstery and making of draperies, slip covers and other similar articles, when conducted as part of retail operations and secondary to the principal use.
- g. Locksmith and Key Making Establishments.
- h. Photocopy, Print, Sign Making, and Mail Delivery Establishments.
- i. Photographic Studios.
- j. Shoe, Clothing and Hat Repair Shops.
- k. Tailor and Dressmaking shops, employing not more than five persons.
- l. Travel Agencies and Transportation Ticket Offices.

Special Uses in the C-2 Outlying Commercial District

Article 5.02-C, 1 (Special Uses, Retail Business Uses):

- a. Automobile Accessory and Parts Shops, including servicing and installation of products.
- b. Automobile Convenience Food Shop. (Ord.O-88-08)
- c. Automobile Vehicle Sales - new cars only, with accessory servicing and repair facilities on a lot not less than 40,000 square feet in area.
- d. Building Supply Store (including seasonal outdoor sales area and outdoor display of merchandise). (Ord.O-97-50)
- e. Coins, stamps, precious metals, estate jewelry, antique flatware, sports cards, currency and related hobby items. (Ord. O-96-28)
- f. Convenience Stores.
- g. Furniture Stores. (Ord. O-87-58)
 - (1) Furniture stores which include as part of their operation the warehousing of the goods being offered for sale. The warehousing area may be in the same building as the main sales area and showrooms or in a separate building. (See Art.8.02-E,2,n,).

- (2) Private parties for charities and non-profit organizations when accessory to a retail furniture store of at least 20,000 square feet in area, provided such parties and events are conducted inside the premises. (Ord. O-06-27)
- h. Food Stores, Grocery Stores and Supermarkets. (Ord.O-02-44)
- i. Garden Supply Sales, including open sales and storage areas provided that each such area is located at least one hundred and fifty (150) feet from a residential district and is fenced and screened, as required below:
 - (1) Fencing
Fencing shall be provided around all outdoor sales areas. This fencing must be at least seven (7) feet in height.
 - (2) Screening
Screening shall be provided as required by the Plan Commission to ensure the enjoyment of surrounding properties and to provide for the public safety in accordance with Article 13, Administration and Enforcement - Special Use.
- j. Massage Services Establishments.
- k. Restaurants as defined in Article 14 (O-83-13), Cafes, Coffee Shops, Tea Shops, Bagel Shops, and Similar Operations of 3,001 square feet in area or greater, including the square footage any outdoor seating area. Also, drive-through facilities accessory to a restaurant which also has either direct signalized access to an existing right-of-way or (a) an Agreement has been executed which fully provides for the establishment of signalized access for the location and (b) the Illinois Department of Transportation has authorized said traffic signalization. (O-83-50)
- l. Retail Uses listed in Article 5.02-B,1 with a gross floor area of 10,000 square feet or more when located north of Lake Cook Road. Retail Uses listed in Article 5.02-B,1 with a gross floor area of 30,001 square feet or more when located south of Lake Cook Road.
- m. Specialty food retail stores of 3,001 square feet in area or greater.
- n. Video Rental Stores. (Ord. O-89-38)
- o. Warehouse Retail Stores, including membership clubs.

Proposed Text Changes and Deletions to the C-2 Zoning District

The chart on the following page indicates currently listed uses in the C-2 District (the first 6 uses are Permitted Uses, the last 2 items are Special Uses). Suggested text changes are listed in the right column of the chart and are also included above in the lists of Permitted and Special Uses. Below in italics are notes explaining the suggested text changes.

Current Text:	Suggested Text Change or Deletion:
Ice cream stores	Frozen dessert stores <i>(includes ice cream, ice cream cakes, frozen yogurt, Italian ice, and other frozen desserts)</i>
Musical instrument sales and repair	Musical instrument sales and repair, sheet music, and musical recordings
Pet shops	Pet supply stores
Phonograph record, tape and sheet music stores	Delete <i>(can be covered by "Musical instrument sales and repair, sheet music, and musical recordings" listed above)</i>
Radio and television sales	Delete <i>(can be covered by "Electronics stores" suggested above as a Permitted Use)</i>
Wearing apparel stores	Apparel and accessories stores <i>("wearing apparel stores" is awkwardly worded)</i>
Radio and television service and repair shops	Delete <i>(electronics repair is ancillary to retail electronics stores)</i>
<p>Restaurants as defined in Article 14. (O-83-13). Also, drive-through facilities accessory to a freestanding restaurant which existed as a Special Use prior to the adoption of the Zoning Ordinance which also has either direct signalized access to an existing right-of-way or (a) an Agreement has been executed which fully provides for the establishment of signalized access for the location and (b) the Illinois Department of Transportation has authorized said traffic signalization (O-83-50).</p>	<p>Restaurants as defined in Article 14 (O-83-13), Cafes, Coffee Shops, Tea Shops, Bagel Shops, and Similar Operations of 3,001 square feet in area or greater, including the square footage any outdoor seating area. Also, drive-through facilities accessory to a restaurant which also has either direct signalized access to an existing right-of-way or (a) an Agreement has been executed which fully provides for the establishment of signalized access for the location and (b) the Illinois Department of Transportation has authorized said traffic signalization. (O-83-50)</p> <p><i>The proposed language above cleans up the restaurant use in the following ways:</i></p> <ol style="list-style-type: none"> <i>1. It includes cafes, coffee shops, tea shops, bagel shops, and similar operations of 3,001 square feet in area or greater, including the square footage any outdoor seating area as a Special Use.</i> <i>2. It clarifies the wording regarding drive-throughs as Special Uses.</i> <i>3. It allows a non-freestanding restaurant to have a drive-through as a Special Use.</i>

Note: When a Proposed Use Is Not Specifically Listed in a Zoning District

According to Article 2.00-G of the Deerfield Zoning Ordinance, when a use is not specifically listed as a Permitted or Special Use, then such use is not allowed and is expressly prohibited in that zoning district. A petitioner can seek a Text Amendment to allow a new use to be added to the zoning district. In the last few years, Text Amendments have been granted to the C-2 District to allow dog day care facilities (The Barking Lot) and grocery parcel pick-up centers (Peapod) as Special Uses in this zoning district. The standard for a Text Amendment is that it must be in the public interest.

Proposed Definitions to Add to the Zoning Ordinance

The Plan Commission understands it would be helpful to staff to define certain uses so that when property owners and business owners inquire about new uses, staff has a clear definition. Below highlighted in blue are uses identified as needing a definition, along with the proposed definition.

Add the following to Article 14.02 (Definitions):

BEAUTY SHOP: An establishment where hair is washed, cut, dyed, and/or styled. May include ancillary services such as manicures, pedicures and massage.

CONVENIENCE STORE: A retail establishment which is designed for the sale of primarily prepackaged products in low volumes per sale, that generally includes milk, bread, soda, and snacks or similar convenience items.

MASSAGE SERVICES: Any method of massage, bodywork or somatic therapy which consists of the manipulation of the muscular structure and soft tissue of the human body, and includes the administration of pressure on or friction against or stroking, kneading, rubbing, tapping, percussion, pounding, vibrating or stimulating the external soft tissue of the body with the hands or with the aid of mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice by a massage therapist licensed by the State of Illinois.

TANNING SALON: Any establishment where a room or a booth, or group of rooms or booths, houses ultraviolet lamps or products containing lamps intended for the irradiation of any part of the living body for cosmetic or non-medical related purposes. Also includes air brush spray tanning.

VARIETY STORE: A retail establishment that offers a wide assortment of inexpensive merchandise, including health and personal care items, candy, toys, boxed or packaged foods, gifts, and housewares, but excluding resale stores, secondhand stores, consignments stores, close-out stores, liquidators, thrift stores, and flea markets.

Current Food Store Definition in Article 14.02 to be Changed

The definition for "food store" currently exists in the Zoning Ordinance, but is in conflict with the list of Permitted Uses in Article 5.02-B,1. In 2002, the Plan Commission recommended that food stores, grocery stores, and supermarkets be moved from the list of Permitted Uses to the list of Special Uses, and the Village Board approved this change. However, at this time, the Village did not change the definition of a food store which includes delicatessens, butcher shops, and fish markets - all of these food uses are listed as Permitted Uses in 5.02-B,1. Staff looked at the 2002 Plan Commission recommendation to see what the intent of the recommendation was. The type of stores mentioned in the 2002 recommendation are large grocery stores like Jewel and Whole Foods, not small specialty operations such as delicatessens, butcher/meat stores or fish stores. This conflict can be corrected by updating the definition of food stores. Below is the current definition of food stores, and the proposed new definition.

Current definition:

FOOD STORES: Stores which sell foods and other items commonly sold in connection therewith. The term "food store" shall include, but is not limited to, stores commonly referred to as dairy stores, delicatessens, fruit and vegetable markets, butcher shops, health food stores, nut shops, fish markets and supermarkets. This term shall not include services for the consumption of food on the premises.

Proposed new definition:

FOOD STORES: Stores which sell a variety of foods and other items commonly sold in connection therewith. The term "food store" shall include, but is not limited to, stores commonly referred to as fruit and vegetable markets, health food stores, grocery stores, and supermarkets. This term shall not include services for the consumption of food on the premises.

Additional Issues that Arose at the Plan Commission Meetings:

Dry Cleaners

The Plan Commission inquired if dry cleaners can be restricted to the "green" non-perc cleaners only. Village Attorney Peter Coblenz has researched the issue and indicated that the State of Illinois recently passed a new law, Public Act 97-1057 which will become effective in January 2013. P.A. 97-1057 regulates the way perchloroethylene (perc) is used, requiring dry cleaners to use best management practices while using the solvent and requiring improved control and containment systems, better training, and more comprehensive reporting. Existing equipment that uses perc is grandfathered in with the new law. This new law was supported by the dry cleaning industry. Village Attorney Peter Coblenz has indicated that with respect to environmental regulations, home rule communities can regulate concurrently with the State, but home rule regulation cannot be inconsistent with State regulations. Home rule communities face challenges with regulating environmental pollution because the rationale is that

environmental pollution does not respect local boundaries and is therefore not solely a matter pertaining to the government and affairs of the municipality. Therefore, statewide environmental policy is generally given primacy, and home rule regulations that conflict with state policy will be held invalid.

Peter Coblentz believes the Village of Deerfield could restrict new dry cleaners to “green” or non-perc cleaners, but it would be difficult to require existing dry cleaners to change to non-perc. He believes the Village may be able to require reporting and training for existing dry cleaners using perc, so long as such regulations remain consistent with the new State regulations. He also believes that with respect to zoning regulations, the Village can restrict dry cleaners to the customer service portion only and not allow a dry cleaning plant on the premises. Should the Village consider prohibiting on-site dry cleaning operations in some or all zoning districts, the Village should also consider the need for locating dry cleaning plants because the customer service portion of dry cleaning stores still depend on the dry cleaning process being completed at an off-site location.

Rental Tax

Commissioner Nadler informed the Plan Commission that in the State of Florida, communities can impose a rental tax on all leased commercial spaces. If a business generates sales tax, that sales tax gets credited to cover the rental tax for that business. For a business that does not generate sales tax, the rental tax serves to make up for lost sales tax revenue to the community. Village Attorney Peter Coblentz has been looking into the rental tax issue. He is not aware of any community in Illinois that has enacted this type of tax. In Florida, it is considered a sales tax. Mr. Coblentz believes in Illinois it would be looked at as a service occupation tax, and occupations are not permitted to be an object of home rule taxation in Illinois under the Illinois Constitution.

CONCLUSIONS

After studying the C-2 Outlying Commercial District over the last few months, the Plan Commission is concerned that large non-retail uses are allowed in the C-2 Outlying Commercial District as Permitted Uses. They are concerned about the strength and vitality of the commercial district if too much of the space in this zoning district is taken over by non-retail uses. The Plan Commission believes that it is important to strengthen retail so the C-2 district remains a vibrant and viable shopping area. The Plan Commission understands there is a great value to service uses, but they also believe that the enhancement of retail is a very valuable to the strength and success of this commercial area and the Village as a whole. Retail sales help the Village greatly, because retail generates sales tax for the Village helping to pay for Village services.

The Plan Commission is recommending several Text Amendments to help support the C-2 District as a viable and vibrant retail district. The Plan Commission believes the proposed Text Amendments help to promote and strengthen retail in the C-2 Outlying Commercial District. Text Amendments #1 and #2 make it more difficult for larger non-retail uses to

locate in the C-2 District. Text Amendment #3 lessens the existing requirement for retail up to under 30,000 square feet in area in a geographic area that can handle larger retail uses. Text Amendment #4 applies to the large commercial PUDs (Deerbrook Mall, Deerfield Park Plaza, Cadwells Corners, and the Home Depot PUD) and keeps the 50% retail requirement in place except in a few geographic areas in these commercial PUDs that are not included in the 50% retail requirement because they are not conducive to retail. The remainder of the Text Amendments is an update to the list of uses in the C-2 Outlying Commercial District. The proposed update to the list of C-2 uses will add more retail uses to the list of Permitted Uses in the C-2 Outlying Commercial District.

The Plan Commission believes the proposed Text Amendments will help to strengthen and enhance the C-2 Outlying Commercial Zoning District. They believe these regulations will help to protect the character of the C-2 District as a major retail district that should not be taken over by large service uses. The proposed Text Amendments will not impact the smaller service, medical office, and office uses that wish to locate in the C-2 District. It is only the larger service, medical office, and office uses between 10,000 square feet and 20,000 square feet that will require a Special Use. Proposed service, medical office, and office uses 20,001 square feet and over will not be allowed in the C-2 District with the exception of a few geographic areas toward the rear of the shopping centers where retail uses would not well due to very low visibility.

The Plan Commission believes that the proposed Text Amendments are in the public interest for the following reasons (these items were discussed in the Plan Commission's November 8 workshop meeting when they discussed their recommendation to the Board of Trustees):

- The proposed Text Amendments address large non-retail uses currently allowed as Permitted Uses in the C-2 district. There is concern about the vitality and strength of the C-2 District if too much of the district is taken over by non-retail uses.
- Changing large non-retail uses from Permitted Uses to Special Uses will allow the Village to make sure that the proposed use is compatible with the C-2 District (one of the Special Use standards when analyzing a Special Use).
- By limiting non-retail uses, retail is allowed to be the preferred use in the C-2 district, making it easier for retailers to locate in the C-2 District.
- The Text Amendments promote retail in areas that have been utilized for retail for many years.
- The Village's Comprehensive Plan indicates a desire for a strong economic base and the proposed Text Amendments help to achieve this.
- Promoting retail will provide Deerfield's citizens and also Deerfield's large daytime work population with a variety of shopping opportunities where a large selection of merchandise is available.
- There is a shopping synergy when retailers can locate in close proximity to each other.

RECOMMENDATION

Accordingly, it is the recommendation of the Plan Commission that the following Text Amendments to the C-2 Outlying Commercial District be adopted:

Text Amendment #1

Require a Special Use for any future service use, office use, medical office use, and recreational use listed in Article 5.02-B, 2, 3, and 4 which is between 10,000 square feet and 20,000 square feet in size when located on the ground floor, with the exception of a couple of areas in the Deerfield Park Plaza shopping center (formerly known as Lake Cook Plaza). The area excluded from Text Amendment #1 include the 16,000 square foot Barking Lot building at 495 Lake Cook Road, and the 13,100 square foot area toward the rear of the Deerfield Park Plaza shopping center addressed 405 Lake Cook Road, Suites A18 through A22 which is occupied by California Tan and the former Diplomat Pharmacy as these area are more suited for larger non-retail uses.

Text Amendment #2

Do not allow future large non-retail service uses, office uses, medical office uses, and recreational uses listed in Article 5.02-B, 2, 3, and 4 of 20,001 square feet and over in size located on the ground floor in the C-2 District with the exception of the three (3) buildings at the rear of Deerbrook Mall which are Joy of the Game, Brunswick, and National Tire and Battery, and the Sachs Recreation Center in Deerfield Park Plaza - as the Plan Commission believes these areas noted above are not conducive to retail use.

Text Amendment #3

Allow retail uses listed in Article 5.02-B,1 up to 30,000 square feet in area a Permitted Use in the C-2 District south of Lake Cook Road. Retail stores 30,001 square feet and over in this specific geographic area south of Lake Cook Road would need to obtain a Special Use. The rest of the C-2 District north of Lake Cook Road would remain with the Special Use requirement for retail stores of 10,000 square feet in size or more.

Text Amendment #4

Keep the 50% retail use restriction in the commercial planned unit development shopping centers but exclude the square footage of the three buildings at the back of Deerbrook Mall which include Joy of the Game, Brunswick, and National Tire and Battery from being counted in the 50% retail calculation. In Deerfield Park Plaza, the Plan Commission is recommending the exclusion of the Sachs Recreation Center and the Barking Lot building from the 50% retail calculation as these areas noted above are not conducive to retail use.

Do not allow future non-retail service uses, office uses, medical office uses, or recreational uses listed in Article 5.02-B, 2, 3, and 4 larger than 20,001 square feet on the ground floor

in the commercial planned unit developments with the exception of the three (3) buildings in the rear of Deerbrook Mall, and in the Sachs Recreation Center in Deerfield Park Plaza.

Uses in the C-2 District and New Definitions

The Plan Commission also recommends that the uses highlighted in yellow in this recommendation be added to the Permitted Use and Special Uses in the C-2 Outlying Commercial District, and the revised language and new definitions highlighted in blue also be added to the Zoning Ordinance.

Ayes (5): Berg, Bromberg, Moyer, Shayman, Shapiro

Nays (0): None

Respectfully submitted,
Dan Shapiro, Chairman
Deerfield Plan Commission