

VILLAGE OF VERNON HILLS

ORDINANCE NO. 2010-064

AN ORDINANCE AMENDING THE VERNON HILLS CODE OF ORDINANCES,
APPENDIX C ZONING, ARTICLES 4, 13 AND 16 TO ALLOW COMMERCIAL
BUILDING AND USE REVIEW WITHIN THE CORE RETAIL AREA

THE 7th DAY OF DECEMBER, 2010

Published in pamphlet form by the Authority
of the President and Board of Trustees of the
Village of Vernon Hills, Lake County,
Illinois, this 10th Day of December 2010

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AN ORDINANCE AMENDING THE VERNON HILLS CODE OF ORDINANCES, APPENDIX C ZONING, ARTICLES 4, 13 AND 16 TO ALLOW COMMERCIAL BUILDING AND USE REVIEW WITHIN THE CORE RETAIL AREA

WHEREAS, the Village of Vernon Hills has petitioned to amend the Code of Ordinances, Appendix C Zoning to approve the following:

1. The amendment of Article 4 to add a new Section 4.14, Commercial Building and Use Review within Core Retail Area as setforth in Exhibit A; and
2. The amendment of Articles 13 and 16 to reference the new Section 4.14 and its applicability within the B-1 General Business District, BP Business Park District and related planned use developments as setforth in Exhibit B; and
3. The amendment of the Zoning District Map to place the boundaries of the Core Retail Area Overlay District on the map as setforth in Exhibit C.

WHEREAS, upon due notice and after public hearings held October 20, 2010 and continued from time to time by the Planning and Zoning Commission of the Village of Vernon Hills, pursuant to the Vernon Hills Zoning Ordinance of 1982, as amended, said Planning and Zoning Commission has filed its report concerning said petition and recommended approval of the proposed amendments of Articles 4, 13 and 16 as setforth in Exhibits A, B and C; and,

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF VERNON HILLS, COUNTY OF LAKE AND STATE OF ILLINOIS:

SECTION I. Pursuant to the Vernon Hills Zoning Ordinance of 1982, as amended, the following amendments of the Code of Ordinances, Appendix C Zoning are hereby granted:

1. The amendment of Article 4 to add a new Section 4.14, Commercial Building and Use Review within Core Retail Area as setforth in Exhibit A; and
2. The amendment of Articles 13 and 16 to reference the new Section 4.14 and its applicability within the B-1 General Business District, BP Business Park District and related planned use developments as setforth in Exhibit B; and
3. The amendment of the Zoning District Map to place the boundaries of the Core Retail Area Overlay District on the map as setforth in Exhibit C.

SECTION II. SEVERABILITY. In the event that any section, clause, provision, or part of this ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect. If any part of this ordinance is found to be invalid in any one or more of its

several applications, all valid applications that are severable from the invalid applications shall remain in effect.

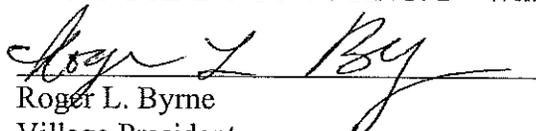
SECTION III. REPEAL AND SAVINGS CLAUSE. All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions or causes of action which shall have accrued to the Village of Vernon Hills prior to the effective date of this Ordinance.

SECTION IV. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

SECTION V. ORDINANCE NUMBER. This ordinance shall be known as Ordinance Number 2010-064.

Adopted by roll call vote as follows:

AYES: 4 – Koch, Marquardt, Schultz, Schwartz
NAYS: 0 - None
ABSENT AND NOT VOTING: 2 – Williams, Hebda



Roger L. Byrne
Village President

PASSED: 12/7/2010
APPROVED: 12/7/2010
PUBLISHED IN PAMPHLET FORM: 12/10/2010

ATTEST:


Michael S. Allison
Village Clerk



EXHIBIT A
SECTION 4.14

ARTICLE FOUR. GENERAL REGULATIONS

ADD NEW

Section 4.14 Commercial Building and Use Review within Core Retail Area

Sec. 4.14.1 Introduction/Purpose.

Because the Village does not impose a Village real estate tax on properties located in the Village, the Village is forced to rely almost exclusively on retail sales generated from the Village to fund its municipal services. The major source of retail sales (approximately 85%) in the Village is located within the Core Retail Area of the Village as set forth on the Village's Zoning District Map.

The Village's Core Retail Area is located along Milwaukee Avenue and Townline Road. While retail sales tax revenues have historically been sufficient to fund all necessary and required Village operational costs and services, the downturn in the economy has caused a serious reduction in retail sales resulting in a serious reduction in retail sales taxes payable to the Village. Together with this reduction in retail sales in the Core Retail Area, the Village has experienced a disturbing trend in former retail sales tax generating stores being leased to non-retail sales tax generating uses. A reduction in sales tax generating tenant spaces in the Village will exacerbate the already serious reduction in sales taxes being generated. This trend threatens the very economic viability of the Village.

The purpose of this section is to regulate the conversion or elimination of existing Retail Sales Establishments within its Core Retail Area. In doing this, the Village will preserve and enhance its largest source of operating revenue, being sales tax, while also working with the property owners to maintain a viable tenant mix on various properties within the Core Retail Area

Sec. 4.14.2 Definitions.

1. Retail Sales Establishment (RSE) – A retail establishment engaged in selling goods or merchandise to the general public, other retailers, contractors, or businesses, where such sales constitute the primary function of the business, all of which result in the payment of State and local sales taxes as defined by Illinois Compiled Statutes, Chapter 35, Article 120. The retail sales establishment may also include the rendering of services incidental to the sale of such goods.
2. Core Retail Area Overlay District (CRA) – The CRA is defined as the commercially zoned properties generally located along Milwaukee Avenue (Route 21) and Townline Road (Route 60) and specifically defined as the Core

Retail Area on the Village Zoning District Map where a variety of land uses are permitted including retail sales establishments and service oriented uses including legal or financial institutions, various offices or similar uses.

3. Commercial Areas – The CRA is divided into ten (10) Commercial Areas which contain individual RSE and non-RSE properties or building(s) as defined in the Initial Findings Report prepared by Rolf C. Campbell & Associates, Inc dated April 30, 2010.
4. Certificate of Building and Use Conversion (CBUC) – The CBUC is issued by the Village upon approval by the Village Board and is required when changes are proposed to floor areas sizes of certain RSE which may result in the reduction of retail sales tax generating floor spaces and the potential loss of sales tax revenue to the Village of Vernon Hills.

Sec. 4.14.3 Applicability

This ordinance shall apply to all properties and uses as of April 30, 2010 (As delineated in the Village of Vernon Hills Commercial Space Occupancy Analysis Initial Findings Report prepared by Rolf C. Campbell & Associates, Inc.) and located within the CRA District as designated on the Village's Zoning Map.

Within the CRA District, the conditions upon which a Certificate of Building and Use Conversion must be obtained from the Village are as follows:

1. When any property within the CRA District, being a single use building which exceeds 20,000 sq ft of gross floor area, whether occupied or vacant and which is or was defined as a Retail Sales Establishment (RSE) and the owner or tenant proposes the reduction in or conversion of the existing floor area of the RSE below 80% of the gross floor area to a non-RSE.
2. When any combination of smaller spaces in a building which total 20,000 sq ft or more that, thru their consolidation, is proposed to convert the existing floor area into a non-RSE.
3. For Westfield Hawthorn Mall, when any single existing RSE which exceeds 100,000 sq ft of gross floor area, or leasable spaces within the mall which are contiguous and, when combined, exceeds 20,000 sq ft and the owner or tenant proposes its conversion of the existing floor area into a non-RSE. Due to Westfield Hawthorn Mall being multiple floors, the gross floor area or leasable area shall be calculated using all floors within the building.
4. When any property being a single building containing an RSE which exceeds the applicable 80% requirements above, and where a property owner or developer intends to either subdivide the building into smaller leasable spaces or change the

use from a RSE to non-RSE such as office or other service type uses that would result in the loss of sales tax revenue to the Village.

For the purpose of this Section, the replacement of one non-RSE for another of the exact same size or less or with an RSE shall not require the issuance of a Certificate of Building and Use Conversion. However, the requirements of Section 4.12 Building Site Review shall still apply.

With the exception of Westfield Hawthorn Mall, all gross floor area or leasable spaces calculations shall be based on the ground floor dimensions.

Sec. 4.14.4 Requirements

- A. For all applicable properties as setforth in Section 4.14.3, the owners must maintain a minimum of 80% of building floor area per building for RSEs and the remainder being for RSEs or non-RSEs.
- B. A Certificate of Building and Use Conversion shall not be required for any conversion of space where the gross floor area will meet or exceed the restrictions setforth in item A, above.
- C. For properties with multiple buildings located within a unified retail center under single ownership, the maximum amount of non-RSE for a unified retail center may be shifted into one building which may cause that building to exceed the maximum percentage of non-RSE per building. This provision is subject to issuance of a Certificate of Building and Use Conversion.
- D. A new Certificate of Building and Use Conversion shall be required for any building or property where a Certificate of Building and Use Conversion has been previously granted for conversion of a portion of said building or property to a non-RSE and where, the property owner is requesting additional conversion of the building to another non-RSE.
- E. For the purpose of calculating non-RSE for a building, any previously existing non-RSE or previously issued and still existing non-RSE shall be included in calculating the total non-RSE for the building or property.

Sec. 4.14.5 Review Process.

Prior to Building Site Review as required by Section 4.12 of the Zoning Ordinance and/or issuance of a Building Permit and/or issuance of a Certificate of Occupancy, whichever is the first to occur, a property owner and petitioner shall appear before the Board of Trustee's Committee of the Whole for review and approval of a Certificate of Building and Use Conversion, as follow:

- A. An application for Certificate of Building and Use Conversion, required fee per Chapter 25 and the following information shall be submitted to the Village Clerk 30 days prior to the scheduled meeting:
1. Detailed description of the project.
 2. List of the proposed uses for the building including specific business names, if possible.
 3. Proposed site plan locating the building on the property and existing and proposed floor plan(s) of the building. Please note that these plans along with the landscaping plans and building elevations will be reviewed at a separate meeting by the Planning & Zoning Commission pursuant to Section 4.12.
 4. Detailed reasons why the building is being converted
 5. Detailed explanation discussing to what extent the proposed use and development at the particular location requested is necessary or desirable to provide a service or facility that is permitted outside the CRA District.
 6. Explain how this conversion is in the best interest of the Village and will contribute to the financial vitality of the Village or general welfare of the community.
 7. Detailed economic impact to the Village from said conversion including what the annual loss of sales tax will be.
- B. Within 30 days following the initial consideration by the Committee of the Whole, the Committee shall take one of the following actions:
1. Approval of the Certificate of Building and Use Conversion, by ordinance duly adopted, with or without modifications or conditions, based on the following standards:
 - The proposed building conversion either through its unique nature or via commensurate PILOT equivalent will not have a detrimental impact on the fiscal health of the Village; or
 - The proposed building conversion will strengthen the economic viability of the adjacent properties and Village; or
 - Without the proposed building conversion, the property cannot yield a reasonable rate of return; and
 - The proposed building conversion of RSE floor area is the minimum needed to accomplish the goals of the property owner and/or developer.
 2. Deny the application for Certificate of Building and Use Conversion
 3. Postpone the issuance of a building permit which would allow the conversion of said building for a period of up to 1 year from the date of application for a Certification of Building and Use Conversion to allow marketing of the building to RSE tenants. At the expiration of one (1) year, the Certificate of Building and Use Conversion shall be approved, subject to 4.15.5.B.4 below, and building permit will be issued, subject to satisfying all requirements of Code of Ordinances, Chapter 5 Building Regulations.
 4. In consideration of the Certificate of Building and Use Conversion, the Board of Trustees may consider an offer of a payment in lieu of taxes (PILOT) from the property owner or applicant for conversion of RSE to a non-RSE as

set forth in Section 4.14.4. The terms of the PILOT shall be agreed to between the parties prior to issuance of the Certificate of Building and Use Conversion. The PILOT shall be calculated based on the average retail sales per square foot for the entire building based on the most recent annual average sales per square foot for the Chicago Region as reported in the Urban Land Institute's Dollars & Cents of Shopping Centers or other Village approved sources. The PILOT would be applicable to floor area formerly dedicated to retail sales but exclude internal office and storage spaces. Where floor plan information is not available, the Building Commissioner will inspect the tenant space(s) to determine how the space was divided up by square feet.

5. In regards to the PILOT, the owner shall pay, on or before the date the Certificate of Building and Use Conversion is issued and on or before each subsequent anniversary date of the first payment for a period of 5 years after the date that the Certificate of Building and Use Conversion is issued, the amounts determined pursuant to the formula ("Sales Tax Formula") set forth in Section 4.14.5-B-4 as follows:
 - i. The first payment shall be made on or before the date the Certificate of Building Use is issued, in an amount equal to the one hundred (100%) percent of the Sales Tax Formula.
 - ii. The second payment shall be made on or before the first anniversary date of the issuance of the Certificate of Building Use in an amount equal to eighty (80%) percent of the Sales Tax Formula.
 - iii. The third payment shall be made on or before the second anniversary date of the issuance of the Certificate of Building Use in an amount equal to sixty (60%) percent of the Sales Tax Formula
 - iv. The fourth payment shall be made on or before the third anniversary date of the issuance of the Certificate of Building Use in an amount equal to forth (40%) percent of the Sales Tax Formula.
 - v. The fifth and final payment shall be made on or before the fourth anniversary date of the issuance of the Certificate of Building Use in an amount equal to twenty (20%) percent of the Sales Tax Formula.

Sec. 4.14.6 Limitations

A Certificate of Building and Use Conversion shall expire within one year unless a building permit is issued and construction has actually begun within that period and is thereafter diligently pursued to completion or unless a Certificate of Occupancy is issued and a use commenced within that period.

Sec. 4.14.7 Departures

The Village may administratively grant the following departures from this Section:

1. The addition of 1,000 or less square feet to any approved Non-RSE provided that the addition does not decrease the percentage of RSE building floor area by one full percent (1%).
2. The reduction of the floor area of any RSE that does not decrease the percentage of RSE building floor area by one full percent (1%).

For Departures that exceed the limits of this Section, issuance of a Certificate of Building and Use Conversion shall be required pursuant to the Review Process in Section 4.14.5.

EXHIBIT B
PROPOSED AMENDMENTS TO ARTICLES 13 AND 16

ARTICLE THIRTEEN B-1 GENERAL BUSINESS DISTRICT

Section 13.1 Purpose

Add to the paragraph the following language as underlined below:

In addition to the general purposes set forth in Article Two of this ordinance, the B-1 General Business District is intended to provide for a variety of compatible business uses which will tend to draw trade which is mutually supporting and so promote public convenience and business prosperity; and to permit commercial development in locations where safe and convenient access to arterial or major collector streets can be provided to handle the increased volume and variety of traffic generated by such development. At such times when property zoned B-1 General Business District is located within the Core Retail Area of the Village as set forth on Zoning District Map, the provisions of Section 4.14 et seq. shall apply as if fully set forth herein.

Section 13.2 Permitted Uses

Delete the 13.2.2 and replace it with the following:

13.2.2 The following uses are permitted in a B-1 General Business District subject to the regulations contained in Section 4.14 et seq.:

Section 13.3 Special Uses

Add to the first paragraph the following language as underlined below:

Upon recommendation by the planning and zoning commission, after public hearing on a petition pertaining thereto, in accordance with the requirements set forth for hearing in Section 21.6 of this ordinance, the corporate authorities of the village may, by special use permit, allow the following uses in the B-1 General Business District subject to the regulations contained in Section 4.14 et seq.

ARTICLE SIXTEEN BP BUSINESS PARK DISTRICT

Section 16.2 Permitted Uses

Add to the first sentence the following language as underlined below:

[The following uses are permitted in a B-P Business Park District subject to the regulations contained in Section 4.14 et seq.:]

Section 16.3 Special Uses

Add to the first paragraph the following language as underlined below:

Upon recommendation by the planning and zoning commission, after public hearing on a petition pertaining thereto, in accordance with the requirements set forth for hearing in Section 21.6 of this ordinance, the corporate authorities of the village may, by special use permit, allow the following uses in the B-P Business Park District subject to the regulations contained in Section 4.14 et seq.

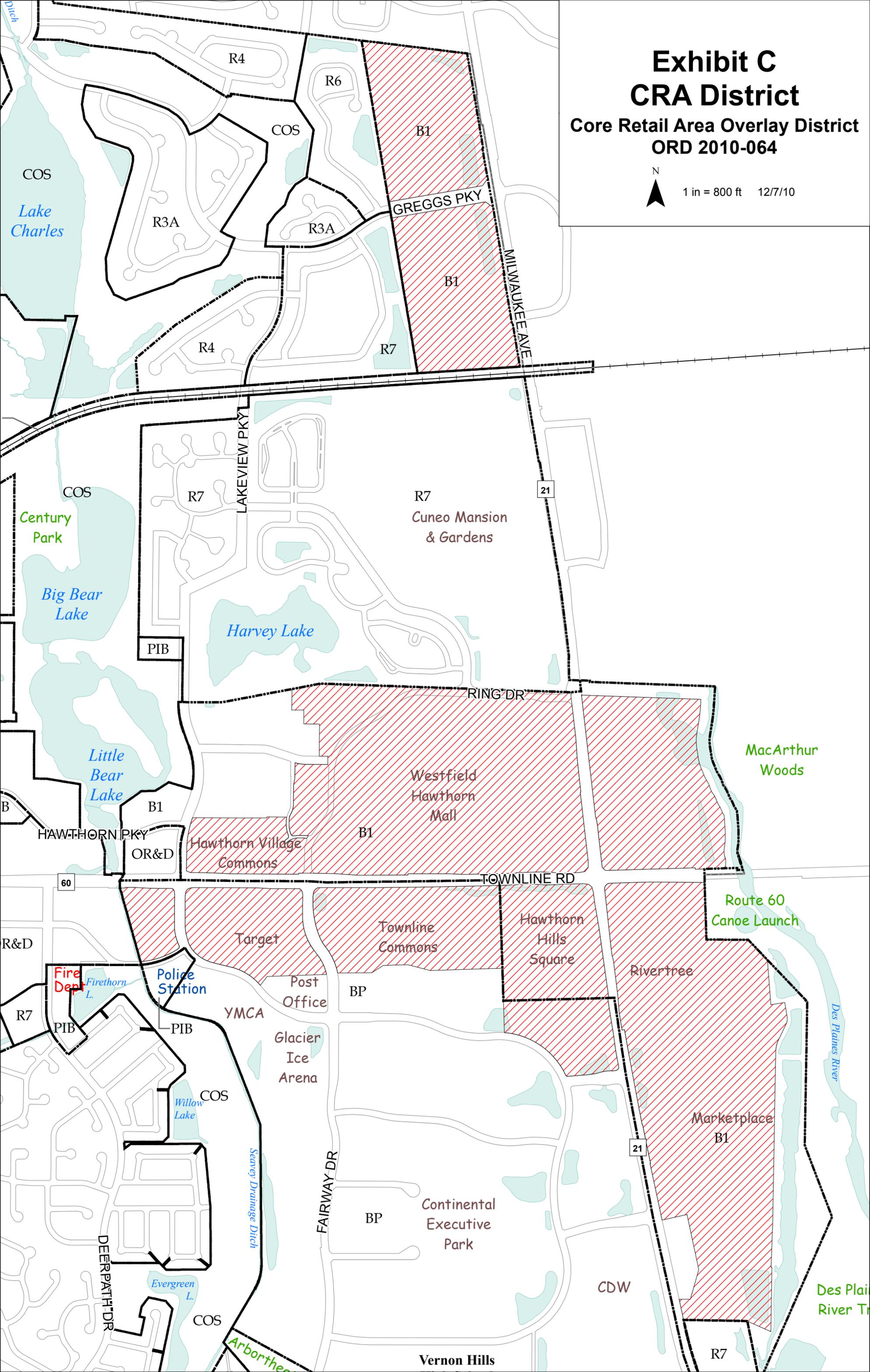
EXHIBIT C
AMENDMENT TO ZONING DISTRICT MAP

Attached is a portion of the Zoning District Map which the Core Retail Area overlay district is applied to.

Exhibit C CRA District Core Retail Area Overlay District ORD 2010-064



1 in = 800 ft 12/7/10



AFFIDAVIT OF SERVICE

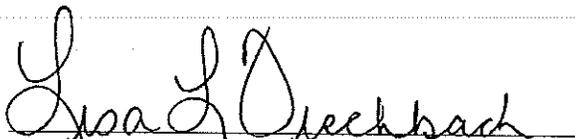
STATE OF ILLINOIS)
)
COUNTY OF LAKE)

I, MICHAEL S. ALLISON, BEING FIRST DULY APPOINTED, DEPOSES AND SAYS ON OATH THAT AS VILLAGE CLERK OF THE VILLAGE OF VERNON HILLS, HE DID CAUSE THE FOREGOING CERTIFICATE FOR ORDINANCE 2010-064, AN ORDINANCE AMENDING THE VERNON HILLS CODE OF ORDINANCES, APPENDIX C ZONING, ARTICLES 4, 13 AND 16 TO ALLOW COMMERCIAL BUILDING AND USE REVIEW WITHIN THE CORE RETAIL AREA



MICHAEL S. ALLISON, VILLAGE CLERK

SUBSCRIBED AND SWORN to Before
Me this 10th day of December, 2010



Notary Public

