

ORDINANCE 7112

PAMPHLET

**BOT 15-02: 207-221 & 223 E. ROOSEVELT ROAD AND
120-124 E. 13TH STREET (V-LAND PLANNED DEVELOPMENT)**



**PUBLISHED IN PAMPHLET FORM THIS 14th DAY OF AUGUST, 2015, BY ORDER
OF THE CORPORATE AUTHORITIES OF THE VILLAGE OF LOMBARD, DUPAGE
COUNTY, ILLINOIS.**

A handwritten signature in black ink, appearing to read "Sharon Kuderna".

**Sharon Kuderna
Village Clerk**

ORDINANCE NO. 7112

**AN ORDINANCE AUTHORIZING A FOURTH AMENDMENT
TO ORDINANCE 5122, ADOPTED MAY 2, 2002,
AS AMENDED BY ORDINANCE 5559, ADOPTED OCTOBER 7, 2004,
ORDINANCE 5878, ADOPTED JUNE 1, 2006 AND ORDINANCE 6663, ADOPTED
NOVEMBER 17, 2011 AUTHORIZING AN ANNEXATION AGREEMENT**

(BOT 15-02; 207-221 & 223 E. Roosevelt and 120 – 124 E. 13th Street
(V-Land Planned Development))

WHEREAS, VLAND LOMBARD HIGHLAND LLC, an Illinois Limited Liability Corporation, (hereinafter referred to as "the Developer") has petitioned the Village for an amendment to Ordinance Number 5122, adopted May 2, 2002; as amended by Ordinance 5559, adopted October 7, 2004; as amended by Ordinance 5878, adopted June 1, 2006; as amended by Ordinance 6663, adopted November 17, 2011 (hereinafter "the Fourth Amendment") to said Ordinance providing for an annexation agreement relative to the property described in Section 3 below (hereinafter the "Subject Property"); and

WHEREAS, said petition of the Developer requests an amendment to Ordinance Number 6663, deleting Section (5)(b)(v) in its entirety;

WHEREAS, a public hearing was held by the Village's Plan Commission on July 20, 2015, pursuant to appropriate and legal notice, for the purpose of considering the petition of the Developer for the amended plan and the Plan Commission has submitted to the Corporate Authorities of the Village its findings and recommendations with respect to said petition; and

WHEREAS, the Fourth Amendment has been drafted and a copy is attached hereto and incorporated herein as Exhibit "A"; and,

WHEREAS, the President and Board of Trustees approve and adopt the findings and recommendations of the Plan Commission and incorporate such findings and recommendations herein by reference as if they were fully set forth herein.

NOW, THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

SECTION 1: That Ordinance 5122, adopted May 2, 2002, and Ordinance 5559, adopted October 7, 2004, Ordinance 5878, adopted June 1, 2006, and Ordinance 6663, adopted November 17, 2011 is hereby further amended to include the Fourth Amendment attached hereto and marked Exhibit "A", by and between the Developer and the Village of Lombard.

SECTION 2: That the Village President and Village Clerk be and hereby are authorized to sign and attest to said Fourth Amendment.

SECTION 3: This Ordinance is limited and restricted to the properties generally located at 207-221 & 223 E. Roosevelt and 120 – 124 E. 13th Street (a.k.a., the V-Land Planned Development), Lombard, Illinois; legally described as follows:

LOTS 1 TO 3 IN V-LAND LOMBARD HIGHLAND RESUBDIVISION, BEING A SUBDIVISION OF PART OF THE WEST ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 12, 2006 AS DOCUMENT R2006-197358, IN DUPAGE COUNTY, ILLINOIS.

Parcel Numbers: 06-20-110-006, 007 & 008

SECTION 4: That all other portions of Ordinance Number 5122, adopted May 2, 2002, Ordinance Number 5559, adopted October 7, 2004, Ordinance Number 5878, adopted June 1, 2006, Ordinance Number 6663, adopted November 17, 2011 and not amended by this Ordinance, shall remain in full force and effect.

SECTION 5: This ordinance shall be in full force and effect from and after its passage and approval as provided by law.

Passed on first reading this ____ day of ____, 2015.

First reading waived by action of the Board of Trustees this 13th day of August, 2015.

Passed on second reading this 13th day of August, 2015 by 2/3 of the Corporate Authorities.

Ayes: Trustee Whittington, Fugiel, Johnston, Pike, Ware and Village President Giagnorio


Nays: None

Absent: Trustee Foltyniewicz

Approved this 13th day of August, 2015.


Keith T. Giagnorio
Village President

ATTEST:


Sharon Kuderna
Village Clerk

Published by me in pamphlet form on this 14th day of August, 2015.


Sharon Kuderna
Village Clerk

Space Above This Line Is for the Recorder's Use Only

**FOURTH AMENDMENT TO ANNEXATION AGREEMENT
BY AND BETWEEN
VLAND LOMBARD HIGHLAND, LLC
AND THE
VILLAGE OF LOMBARD**

After recording, please return to:
Village of Lombard
Department of Community Development
255 E. Wilson Avenue
Lombard, IL 60148

PERMANENT INDEX NUMBERS: 06-20-110-006, 007 & 008

COMMON STREET ADDRESS: 207-221 & 223 E. Roosevelt and 120 – 124 E. 13th Street
Lombard, Illinois

FOURTH AMENDMENT TO ANNEXATION AGREEMENT

THIS FOURTH AMENDMENT TO ANNEXATION AGREEMENT (“The **Fourth Amendment**”) is made and entered into as of this 13 day of August, 2015, by and between the Village of Lombard, a municipal corporation (the “**Village**”) and Vland Lombard Highland LLC, an Illinois limited liability company (the “**Developer**”). (The Developer and the Village are hereinafter sometimes referred to herein individually as a “Party” and collectively as the “Parties”.)

WITNESSETH:

WHEREAS, Developer is the record owner of the property legally described in **EXHIBIT A** attached to the Amended Agreement, as defined below (the “**Property**”); and

WHEREAS, Developer is also the record owner of that certain property legally described on **EXHIBIT B** attached to the Amended Agreement, as defined below (the “**Adjacent Property**”); and

WHEREAS, Developer acquired the Property from BP Products North America Inc., a Maryland corporation (the “**Prior Owner**”); and

WHEREAS, the Village and the Prior Owner previously entered into an Annexation Agreement, dated May 2, 2002, that governs the annexation, zoning and development of the Property and that was recorded against the Property with the DuPage County Recorder on September 30, 2002 as Document Number R2002-252316 (the “**Agreement**”); and

WHEREAS, pursuant to the Agreement, the Property has been annexed to the Village and has been rezoned to the B-3 Community Shopping District with certain conditional uses as more fully set forth in the Agreement; and

WHEREAS, the Village and the Developer previously entered into a First Amendment to the Agreement, dated October 7, 2004, (the “**First Amendment**”) that governed the annexation, zoning and development of the Property and the Adjacent Property, and that was recorded against the Property and the Adjacent Property with the DuPage County Recorder on December 3, 2004 as Document Number R2004-305031; and

WHEREAS, the Village and the Developer previously entered into a Second Amendment to the Agreement, dated June 1, 2006, (the “**Second Amendment**”) that governed the annexation, zoning and development of the Property and the Adjacent Property, and that was recorded against the Property and the Adjacent Property with the DuPage County Recorder on October 31, 2006 as Document Number R2006-209821; and

WHEREAS, the Village and the Developer previously entered into a Third Amendment to the Agreement, dated November 17, 2011, (the “**Third Amendment**”) that governed the annexation, zoning and development of the Property and the Adjacent Property, and that was recorded against the Property and the Adjacent Property with the DuPage County Recorder on December 29, 2011 as Document Number R2011-159683 (the Agreement, as amended by the First Amendment, the Second Amendment, and the Third Amendment, being hereinafter referred to as the “**Amended Agreement**”); and

WHEREAS, the Developer desires to amend the development plans for the Property in a manner not allowed by the Amended Agreement, and also desires to develop the Property in a manner that is inconsistent with the provisions of the Amended Agreement, therefore, the Developer desires to amend the Amended Agreement in certain respects as hereinafter more fully set forth; and

WHEREAS, in furtherance of the foregoing, Developer has filed an application with the Village Clerk requesting approval of a planned development amendment in the B4A Community Shopping District (the “**Developer’s Fourth Application**”); and

WHEREAS, the Developer’s Fourth Application was forwarded to the Plan Commission of the Village; and

WHEREAS, a public hearing on the Developer’s Fourth Application was conducted by the Village’s Plan Commission on July 20, 2015 pursuant to appropriate and legal notice, and the Plan Commission has submitted to the Corporate Authorities of the Village (the “**Corporate Authorities**”) its findings of fact and recommendations with respect to the Developer’s Fourth Application; and

WHEREAS, a public hearing on this Fourth Amendment was held by the Corporate Authorities on the 13 day of August, 2015; and

WHEREAS, the Parties wish to enter into a binding agreement with respect to the Amended Agreement upon and subject to the terms and conditions contained in this Fourth Amendment; and

WHEREAS, all public hearings and other actions required to be held or taken prior to the adoption and execution of this Fourth Amendment, in order to make the same effective, have been held or taken, including all hearings and actions required in connection with amendments to, variations from and classifications under the Lombard Zoning Ordinance (Chapter 155 of the Lombard Village Code – hereinafter the “**Zoning Ordinance**”), the Lombard Subdivision and Development Ordinance (Chapter 154 of the Lombard Village Code – hereinafter the “**Subdivision Ordinance**”), and the Lombard Sign Ordinance (Chapter 153 of the Lombard Village Code – hereinafter the “**Sign Ordinance**”), such public hearings and other actions having been held pursuant to public notice as required by law and in accordance with all requirements of law prior to adoption and execution of this Fourth Amendment; and

WHEREAS, the Corporate Authorities of the Village and the Developer deem it to the mutual advantage of the Parties and in the public interest that the Property and the Adjacent Property be developed as a part of the Village as provided in the Amended Agreement as amended by this Fourth Amendment; and

WHEREAS, the development of the Property and the Adjacent Property as provided in the Amended Agreement, as amended by this Fourth Amendment, will promote the sound planning and development of the Village as a balanced community and will be beneficial to the Village; and

WHEREAS, the Corporate Authorities of the Village have examined the proposed uses by Developer and have determined that said uses and the development of the Property and the Adjacent Property in accordance with the terms of the Amended Agreement, as amended by this Fourth Amendment, comply with the Comprehensive Plan of the Village; and

WHEREAS, Corporate Authorities and the Developer desire to amend the Amended Agreement as hereinafter set forth;


NOW, THEREFORE, in consideration of the premises and the mutual promises herein set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties hereto agree as follows:

1. **Incorporation of Recitals:** The Village and the Developer agree that the foregoing recitals are incorporated in this Fourth Amendment as if fully recited herein.
2. **Development of the Subject Property:** The Village and the Developer agree that the Property and the Adjacent Property (hereinafter collectively referred to as the "**Subject Property**") and legally described in Exhibit J attached hereto and made part hereof) shall be developed in accordance with the terms of the Amended Agreement as amended by this Fourth Amendment.
3. **Certain Capitalized Terms.** All references in the Amended Agreement to the term "**Subject Property**" shall mean and refer to the Subject Property as defined in this Third Fourth Amendment.
4. **Site Plan Approval:** Section 5(b)(v) of the Amended Agreement is hereby deleted in its entirety.
5. **Effectiveness of the Amended Agreement.** The Amended Agreement (including the exhibits that are a part thereof), except to the extent expressly amended by this Fourth Amendment, remains in full force and effect. In the event of any conflict between the expressly stated provisions of this Fourth Amendment and the expressly stated provisions of the Amended Agreement, this Fourth Amendment shall govern and control.

IN WITNESS WHEREOF, the Parties hereto have set their hands and seals to this Fourth Amendment as of the day and year first above written.

VILLAGE OF LOMBARD, an Illinois

Municipal Corporation

By: 

Name: Keith Giagnorio

Title: Its President

By: 

Name: Sharon Kuderna

Title: Village Clerk

DEVELOPER

VLAND LOMBARD HIGHLAND, LLC

By: 

Name: Steven J. Panko

Title: Its Manager

EXHIBIT J

LEGAL DESCRIPTION OF THE SUBJECT PROPERTY

LOTS 1 TO 3 IN V-LAND LOMBARD HIGHLAND RESUBDIVISION, BEING A SUBDIVISION OF PART OF THE WEST ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 12, 2006 AS DOCUMENT R2006-197358, IN DUPAGE COUNTY, ILLINOIS.

Parcel Numbers: 06-20-110-006, 007 & 008

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Lombard, Illinois**