

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

Resolution or Ordinance (Blue) X Waiver of First Requested
Recommendations of Boards, Commissions & Committees (Green)
Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager *John*

DATE: September 9, 2008 (BOT) Date: September 18, 2008

TITLE: PC 07-27: 601-651 E. Butterfield Road

SUBMITTED BY: Department of Community Development *WJD*

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration an ordinance granting a further time extension to Ordinance 6086 extending the life of the conditional uses for a one-year time period (September 20, 2009). (DISTRICT #3)

Staff is requesting a waiver of first reading.

Staff recommends approval of this request.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____
Date _____
Finance Director X _____
Date _____
Village Manager X _____
Date 9/11/08

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



MEMORANDUM

TO: David A. Hulseberg, Village Manager

FROM: William Heniff, Acting Community Development Director *WH*

DATE: September 18, 2008

SUBJECT: Conditional Use Extension - White Chocolate Grill (PC 07-27)

Ordinance 6086, which was associated with the PC 07-27 Plan Commission case, granted conditional use approval for a sit down restaurant, outdoor dining and off site parking for the subject property located at 601-651 E. Butterfield Road (White Chocolate Grill). As Ordinance 6086 was approved on September 20, 2007 and no work has since commenced, the conditional uses associated with Ordinance 6086 will become null and void on September 20, 2008.

The petitioner has requested a one year extension of the conditional use approvals associated with PC 07-27 to allow their client adequate time to investigate alternative uses for the remainder of the site.

RECOMMENDATION:

Staff recommends that the Village Board extend the life of the conditional uses associated with PC 07-27 for a one year time period, expiring September 20, 2009. Also, staff is requesting a waiver of first reading.

cc: Michael S. Toth
Richard Ross

Bridget O'Keefe



Warm Regards,

Thank you for your cooperation with this matter. I am available if questions arise regarding this extension request or if my attendance is required at a Village Board Hearing on this matter.

Our firm represents the Bilger Corporation, which is the owner of the property located at 601-651 E. Butterfield Road in Lombard, IL. On September 20, 2007, the Village of Lombard approved Ordinance 6086 which granted a conditional use permit and site plan approval for this property. Please be aware that the owner of the property is currently investigating alternative uses for the remainder of the site, and thus, the proposed development has not yet commenced. Our client respectfully requests an extension of the conditional use approvals for another year until such plans are finalized.

Dear Sir or Madam:

Re: 601-651 E. Butterfield Road (White Chocolate Grill)

Village of Lombard Board of Trustees
Village Hall
255 E. Wilson Ave.
Lombard, IL 60148-3931

BY TELEFAX/U.S. MAIL

August 28, 2008

DASPINAUMENT
LLP

227 West Monroe Street, Suite 3500
Chicago, Illinois 60606
312.258.1600 ph 312.258.1955 fx
www.daspinaument.com

Bridget O'Keefe
(312) 258-3795
bokeefe@daspinaument.com

Village of Lombard
Department of Community Development
255 E. Wilson Avenue
Lombard, IL 60148

Return To:

ADDRESS: 601-651 E. Butterfield Road,
Lombard

PIN: 06-29-402-014, 015, 022

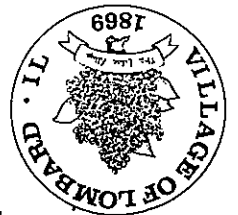
GRANTING A PLANNED DEVELOPMENT AMENDMENT;
CONDITIONAL USES FOR A SIT-DOWN RESTAURANT,
OUTDOOR DINING AND FOR OFF-SITE PARKING; AND
LANDSCAPING AND WALL SIGN VARIATIONS IN THE OPD
OFFICE PLANNED DEVELOPMENT DISTRICT

ORDINANCE 6086

FRED BUCHHOLZ
DUPAGE COUNTY RECORDER
OCT 04, 2007 11:49 AM
OTHER 06-29-402-014
008 PAGES R2007-182516



COPY



ORDINANCE NO. 6086

**AN ORDINANCE GRANTING A PLANNED DEVELOPMENT AMENDMENT;
CONDITIONAL USES FOR A SIT-DOWN RESTAURANT, OUTDOOR DINING AND
FOR OFF-SITE PARKING; AND LANDSCAPING AND WALL SIGN VARIATIONS IN
THE OPD OFFICE PLANNED DEVELOPMENT DISTRICT**

(PC 07-27; 601-651 E. Butterfield Road)

WHEREAS, the President and Board of Trustees of the Village of Lombard have heretofore adopted the Lombard Zoning Ordinance, otherwise known as Title 15, Chapter 155 of the Code of Lombard, Illinois; and,

WHEREAS, the President and Board of Trustees of the Village of Lombard have heretofore adopted the Lombard Sign Ordinance, otherwise known as Title 15, Chapter 153 of the Code of Lombard, Illinois; and,

WHEREAS, an application has heretofore been filed requesting an amendment to the conditional use for Lombard/Vorktown Office Center Planned Development, established by Ordinance 2277, and pursuant to Section 155.504(A) (major changes in a planned development) and Section 155.511 (Site Plan Approvals for planned developments) of the Lombard Zoning Ordinance; and

WHEREAS, said application also requests approval of conditional uses, per Section 155.411 (C) (14), for a restaurant establishment; per Section 155.411 (C) (10), for outdoor dining associated with a restaurant establishment; and per Section 155.411 (C) (9), for off-site parking for property located within the O Office District; and

WHEREAS, said application also requests approval of variations from Section 155.706 (C) and 155.709 (B) of the Zoning Ordinance reducing the required perimeter parking lot landscaping from five feet (5') to zero feet (0') along the western and southern property lines in order to provide for shared cross-access and parking; and

WHEREAS, said application also requests approval of variations from Section 153.503(B) (12)(b) of the Sign Ordinance to allow for three wall signs per street front exposure, where a maximum of one sign is permitted; and

WHEREAS, a public hearing on such application has been conducted by the Village of Lombard Plan Commission on August 20, 2007 pursuant to appropriate and legal notice; and,

WHEREAS, the Plan Commission has filed its recommendations with the President and Board of Trustees recommending approval of the planned development amendment, conditional uses, variations and deviations described herein; 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 the following conditional uses, variations and deviations as set forth below are hereby granted for the Subject Property legally described in Section 2, subject to the conditions set forth in Section 3:

- a. An amendment to the conditional use for Lombard/Yorktown Office Center Planned Development, established by Ordinance 2277, and pursuant to Section 155.504(A) (major changes in a planned development) and Section 155.511 (Site Plan Approvals for planned developments) of the Lombard Zoning Ordinance
- b. A conditional use, per Section 155.411 (C) (14) of the Zoning Ordinance for a restaurant establishment;
- c. A conditional use, per Section 155.411 (C) (10) of the Zoning Ordinance for outdoor dining associated with a restaurant establishment;
- d. A conditional use, per Section 155.411 (C) (9) of the Zoning Ordinance for off-site parking.
- e. Variations from Sections 155.706 (C) and 155.709 (B) of the Zoning Ordinance to reduce the perimeter lot landscaping requirements from five feet (5') to zero feet (0') along the western and southern property lines in order to provide for shared cross-access and parking;
- f. A deviation from Section 153.503(B) (12)(b) of the Sign Ordinance to allow for three wall signs per street front exposure, where a maximum of one sign is permitted.

SECTION 2: That the ordinance is limited and restricted to the properties generally located at 601-651 E. Butterfield Road, Lombard, Illinois, and legally described as follows:

PARCEL 1

LOTS 1 AND 2 IN YORKTOWN CENTER ASSESSMENT PLAT OF TRACT 5 OF THE PLAT OF SURVEY OF THE BOEGER FARM OF PART OF SECTION 28 AND 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO SAID ASSESSMENT PLAT RECORDED DECEMBER 10, 1979 AS DOCUMENT R79-110076, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 2

LEASEHOLD ESTATE CREATED BY A CERTAIN IDENTURE OF LEASE MADE BY NORTHERN ILLINOIS GAS COMPANY, AN ILLINOIS CORPORATION TO J.R. GOTTLIEB AND ASSOCIATES, AN ILLINOIS CORPORATION, RECORDED AS DOCUMENT R70-51406 AND ASSIGNED TO THE FIRST NATION BANK OF DES PLAINES AS TRUSTEE UNDER TRUST AGREEMENT DATED NOVEMBER 21, 1978 AND KNOWN AS TRUST NUMBER 90572442 BY ASSIGNMENT RECORDED AS DOCUMENT R79-51407 AND ASSIGNED TO K/B OPPORTUNITY FUND I, L.P., A DELAWARE LIMITED PARTNERSHIP BY ASSIGNMENT RECORDED JUNE 29, 1994 AS DOCUMENT R94-143186 AND ASSIGNED TO DUKE REALTY LIMITED PARTNERSHIP, AN INDIANA LIMITED PARTNERSHIP BY ASSIGNMENT AND ASSUMPTION OF GROUND LEASE RECORDED MAY 22, 1998 AS DOCUMENT R98-097831, AND FURTHER ASSIGNED TO 611 BUTTERFIELD ROAD LLC BY ASSIGNMENT AND ASSUMPTION OF GROUND LEASE RECORDED JUNE 22, 2000 AS DOCUMENT R2000-094961, DEMISING AND LEASING FOR A TERM OF YEARS BEGINNING JUNE 1, 1979 AND ENDING MAY 31, 2014 THE FOLLOWING DESCRIBED LAND TO WIT: ALL THAT PART OF TRACT #5 OF PLAT OF SURVEY OF THE BOEGER FARM SOUTH OF BUTTERFIELD ROAD (RECORDED AS DOCUMENT 789439) IN THE EAST HALF OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS TO WIT: COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 29, THENCE SOUTH 88 DEGREES 40 MINUTES WEST ALONG THE SOUTH LINE OF SAID SECTION 29 A DISTANCE OF 1014.30 FEET TO THE WEST LINE OF SAID TRACT #5, BEING ALSO THE EAST LINE OF YORKSHIRE PRIVATE FARMS, YORK TOWNSHIP SUPERVISOR'S ASSESSMENT PLAT #3; THENCE NORTH 12 DEGREES 05 MINUTES WEST ALONG THE WEST LINE OF SAID TRACT #5, A DISTANCE OF 1702.74 FEET; THENCE NORTH 12 DEGREES 50 MINUTES WEST ALONG THE WEST LINE OF SAID TRACT #5, A DISTANCE OF 232.27 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREBY CONVEYED; SAID POINT BEING IN THE NORTHERLY LINE OF THAT CERTAIN TRACT OR PARCEL OF LAND CONVEYED TO THE ILLINOIS STATE HIGHWAY COMMISSION BY WARRANTY DEED DATED MARCH 1, 1957 RECORDED IN DUPAGE COUNTY, ILLINOIS ON MARCH 12, 1957 IN BOOK 871 ON PAGE 610 AS DOCUMENT 835250; THENCE NORTH 70 DEGREES 25 MINUTES 30 SECONDS EAST ALONG THE NORTHERLY LINE OF THE TRACT OF LAND SO CONVEYED BY DEED DATED MARCH 1, 1957 A DISTANCE OF 233.68 FEET TO A POINT OF CURVE; THENCE EASTERLY ALONG THE NORTHERLY LINE OF THE TRACT OF LAND SO CONVEYED BY DEED DATED

MARCH 1, 1957 BEING A CURVE CONCAVE TO THE NORTH AND HAVING A RADIUS OF 11,334.19 FEET A DISTANCE OF 344.18 FEET TO THE EASTERLY LINE OF SAID TRACT #5; THENCE NORTH 12 DEGREES 05 MINUTES WEST ALONG THE EASTERLY LINE OF SAID TRACT #5, A DISTANCE OF 83.41 FEET MORE OR LESS, TO A POINT DISTANCE 82.5 FEET MEASURED AT RIGHT ANGLES, NORTHERLY FROM THE NORTHERLY LINE OF THE TRACT OF LAND SO CONVEYED BY DEED DATED MARCH 1, 1957 EXTENDED; THENCE WESTERLY PARALLEL WITH THE NORTHERLY LINE OF THE TRACT OF LAND SO CONVEYED BY DEED DATED MARCH 1, 1957, BEING A CURVE CONCAVE TO THE NORTH AND HAVING A RADIUS OF 11,251.69 FEET, A DISTANCE OF 353.97 FEET TO A POINT OF TANGENT; THENCE SOUTH 70 DEGREES 25 ALONG THE WESTERLY LINE OF SAID TRACT #5, A DISTANCE OF 83.07 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

Parcel Numbers: 06-29-402-014, -015, -022

SECTION 3: The planned development amendment, conditional uses, variations and deviations set forth in Section 1 above shall be granted subject to compliance with the following conditions:

1. The petitioner shall develop the site and building in accordance with the following plans submitted as part of this request, except as modified by the conditions of approval:
 - i. Layout and Paving Plan, prepared by V3 Companies and dated June 22, 2007.
 - ii. Parking Lot Landscaping Plan, prepared by V3 Companies and dated July 16, 2007;
 - iii. Foundation Landscaping Plan, prepared by H.C. Klover Architect
 - iv. Building Elevations, prepared by H.C. Klover Architect and dated July 13, 2007.
2. The petitioner's building improvements shall be designed and constructed consistent with Village Code and shall also address the comments included within the IDRRC report.
3. Upon a request by the Village, the petitioner shall provide for a cross access easement between the subject properties and abutting properties.

4. Prior to consideration by the Village Board, the petitioner shall submit modified building elevations that substitute masonry for the buff colored stucco.

SECTION 4: This ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

Passed on first reading this 6th day of September, 2007.

First reading waived by action of the Board of Trustees this _____ day of _____, 2007.

Passed on second reading this 20th day of September, 2007, pursuant to a roll call vote as follows:

Ayes: Trustees Gron, Tross, O'Brien and Fitzpatrick

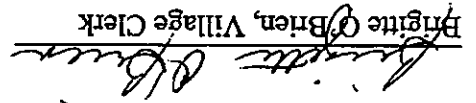
Nays: None

Absent: Trustees Moreau and Soderstrom

Approved this 20th day of September, 2007


William J. Akneller, Village President

ATTEST:


Brigitte O'Brien, Village Clerk

Published by me this 25th of September, 2007

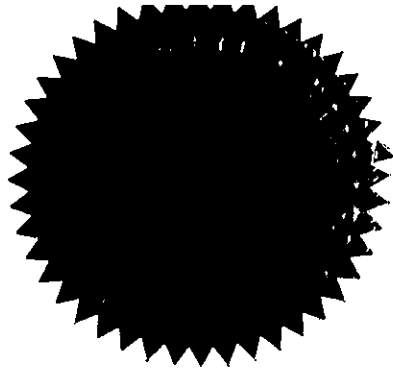
Ordinance No. 6086
Re: PC 07-27
Page 6

Brigitte O'Brien
Brigitte O'Brien, Village Clerk

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Barbara A. Johnson
Deputy Village Clerk
Village of Lombard
DuPage County, Illinois

Barbara A. Johnson



1st day of October, 2007

In Witness Whereof, I have herunto affixed my official signature and the Corporate Seal of said Village of Lombard, DuPage County, Illinois this

said Village duly approved September 20, 2007.

of the said Village as it appears from the official records of

601-651 E. BUTTERFIELD ROAD, LOMBARD, ILLINOIS

PIN: 06-29-402-014, 015, 022

DEVELOPMENT DISTRICT

SIGN VARIATIONS IN THE OPD OFFICE PLANNED

OFF-SITE PARKING, AND LANDSCAPING AND WALL

DOWN RESTAURANT, OUTDOOR DINING AND FOR

AMENDMENT; CONDITIONAL USES FOR A SIT-

GRANTING A PLANNED DEVELOPMENT

copy of ORDINANCE 6086

I further certify that attached hereto is a

President and Board of Trustees of said Village.

Village Clerk, I maintain and am safekeeper of the records and files of the

authorized by Statute and provided by local Ordinance, and as such Deputy

Village Clerk of the Village of Lombard, DuPage County, Illinois, as

I, Barbara A. Johnson, hereby certify that I am the duly qualified Deputy



ORDINANCE NO. _____
AN ORDINANCE GRANTING
A TIME EXTENSION TO ORDINANCE 6086,
RELATIVE TO THE WHITE CHOCOLATE GRILL
(PC 07-27; 601-651 E. Butterfield Road)

WHEREAS, on September 20, 2007, the President and Board of Trustees of the Village of Lombard adopted Ordinance 6086, granting a planned development amendment; conditional uses for a sit-down restaurant, outdoor dining and for off-site parking; and landscaping and wall sign variations in the OPD Office Planned Development District for the property at; 601-651 E. Butterfield Road commonly referred to as the White Chocolate Grill; and

WHEREAS, pursuant to Section 155.103 (F)(11) of the Lombard Zoning Ordinance, otherwise known as Title 15, Chapter 155 of the Code of Lombard, Illinois, conditional uses are null and void if construction is not substantially underway within one year from the date of granting thereof, unless further action is taken by the Village Board; and,

WHEREAS, construction has not commenced and no building permit has been issued for the development granted by Ordinances 6086; and,

WHEREAS, the Village has received a letter requesting a time extension of said Ordinances; and,

WHEREAS, the President and Board of Trustees have determined that it is in the best interests of the Village of Lombard to grant said extension.

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: Ordinances 6086 are hereby amended and extended and shall be null and void unless a building permit is obtained and the project is substantially underway within twelve (12) months of the date of original adoption of this Ordinance (i.e., September 20, 2009).

SECTION 2: That all other provisions associated with Ordinance 6086, not amended by this Ordinance, shall remain in full force and effect.

SECTION 3: This ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

Passed on first reading this _____ day of _____, 2008.
First reading waived by action of the Board of Trustees this _____ day of _____, 2008.

Passed on second reading this _____ day of _____, 2008.

Ayes: _____

Nays: _____

Absent: _____

Approved this _____ day of _____, 2008.

William J. Mueller
Village President

ATTEST:

Brigitte O'Brien
Village Clerk

Published by me in pamphlet form this _____ day of _____, 2008

Brigitte O'Brien
Village Clerk