

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE: February 20, 2007 (BOT) Date: March 1, 2007

TITLE: PC 07-10: 1263 S. Main Street)

SUBMITTED BY: Department of Community Development *DLK*

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests Conditional Use approval to provide for a Physical Culture and Massage Establishment, as defined and regulated by Chapter 12, Section 122 of the Code of Ordinances, within a B3 Community Shopping District. (DISTRICT #6)

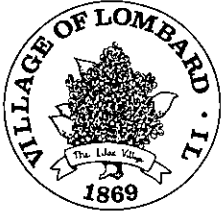
The Plan Commission recommended approval of this petition with conditions.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X *W.T. Lichter* _____ Date *3/22/07*

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: William T. Lichter, Village Manager

FROM: David A. Hulseberg, AICP, Assistant Village Manager/Director of Community Development *DLH*

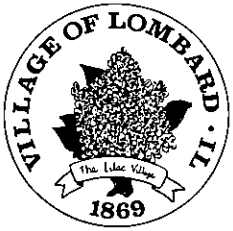
DATE: April 5, 2007

SUBJECT: PC 07-10: 1263 S. Main Street

Attached are the following items for Village Board consideration as part of the April 5, 2007 Village Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 07-10;
3. An Ordinance granting approval of a conditional use for a massage establishment, subject to conditions.
4. Plans associated with the petition.

Please let me know if you have any questions on the aforementioned materials.



VILLAGE OF LOMBARD

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Village President
William J. Mueller

April 5, 2007

Village Clerk
Brigitte O'Brien

Mr. William J. Mueller,
Village President, and
Board of Trustees
Village of Lombard

Trustees
Greg Alan Gron, Dist. 1
Richard J. Tross, Dist. 2
John "Jack" T. O'Brien, Dist. 3
Steven D. Sebby, Dist. 4
Kenneth M. Florey, Dist. 5
Rick Soderstrom, Dist. 6

Subject: PC 07-10; 1263 S. Main Street

Dear President and Trustees:

Village Manager
William T. Lichter

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner requests Conditional Use approval to provide for a Physical Culture and Massage Establishment, as defined and regulated by Chapter 12, Section 122 of the Code of Ordinances, within a B3 Community Shopping District.

"Our shared *Vision* for Lombard is a community of excellence exemplified by its government working together with residents and business to create a distinctive sense of spirit and an outstanding quality of life."

Peter Lee, attorney for the petitioner Yong Min Hong, presented the petition. He stated that the petitioner has filed a petition for a conditional use for a physical culture and massage establishment located in the B3 Community Shopping District. His client will rent a 1,200 square foot space in a 43,000 square foot multi-tenant building on Main Street. The petitioner has worked with the Village staff and he has submitted the necessary paperwork and will comply with any and all requirements of the Village pertaining to the massage establishment license. His client will obtain the necessary building permits once they have been approved for the conditional use. The use is compatible with Comprehensive Plan and with Village ordinances. The people working there will be licensed with the State of Illinois.

"The *Mission* of the Village of Lombard is to provide superior and responsive governmental services to the people of Lombard."

Chairperson Ryan then opened the meeting for public comment. No one spoke in favor of the petition. Speaking against the petition were:

Steven Zibrat, 1303 Lore Lane, stated that the public hearing notice did not contain a lot of detail. He said there a lot of negative connotations associated with massage establishments, especially by a residential area. He stated that the petitioner should provide objective information regarding what will be done at the location, and the impact of the use on properties.

Jack Thompson, 1304 S. Main Street, stated that there is another massage establishment around the corner by McDonalds and they had an issue with transient people. He mentioned the other uses in the center and wondered if there was a need for a massage parlor in the area.

Paul Rogus, 1310 S. Main Street, stated the connotations of the type of establishment and if it is appropriate for the Village. As a middle upper class community, it is not a category of business he expects to see in Lombard. He asked what the hours of operation would be. The evening hours would suggest something shady.

Mr. Lee responded to the questions. He said they provide massage services. It is a massage not unlike anything given at a health club. They have masseuses that will provide services from the top of the head to the bottom of the foot. They work with muscles, relieving stress points in the body. There are many products on the market, home remedies that are similar to what they do. They have massage seats and they give pressure points and relieve tension.

They realize there are some negative connections by name association, but their use is within the Ordinance of the Village and they should be given the opportunity to do their business. The activities of the masseurs are governed by the State and they will only have licensed individuals on the premises. The tenant space has been empty for a while, and they have been working with the landlord, who has approved their use subject to approval by Village.

The proposed hours of operation are 9 a.m. to 9 p.m. Unfortunately, they acknowledge some negative connotations, but there are positive sides to the proposed business.

Chairperson Ryan asked staff to address the Village code regulations. William Heniff stated that massage establishments are regulated by special provisions included within Chapter 122 of the Village Code. This Chapter sets forth the licensing provisions.

The petitioners are seeking a conditional use for physical culture and massage and not an adult use. The use is a pseudo-medical use for purposes of massage versus erotic activity which is what adult use is. Chapter 122 of the Village Code provides further clarity of the use. Adult uses are not permitted or conditional uses within the B3 District.

Commissioner Olbrysh mentioned that it would be better to call the use physical cultural therapy as National University of Health Services (NUHS) also has such a program.

Mr. Heniff then presented the staff report which was submitted to the public record in its entirety. The petitioner requests conditional use approval for a massage establishment within the Oxford Corners Shopping Center. The proposed use will occupy a currently vacant 1,200 square foot space within the 43,000 square foot multi-tenant building. Prior to commencing the proposed massage establishment, the applicant is required to submit an application and receive approval for a Massage Establishment Business License with the Village. As the proposed tenant space is under 5,000 square feet in size, the proposed use would not be subject to the Roosevelt Road development moratorium.

The Building Division notes that building permits will be required for any improvements within the tenant space.

Mr. Heniff noted that the Zoning Ordinance lists “Physical culture and massage establishments (as defined and regulated by Chapter 12, Section 122 of the Code of Ordinances)”, as a conditional use within the B3 District. The 1994 text amendments to the Zoning Ordinance further regulating therapeutic massage establishments was intended to better differentiate the massage activity from adult uses.

Prior to commencing the proposed massage establishment, the applicant is required to submit an application and receive approval for a Village Massage Establishment Business License. Individual masseurs/masseuses are licensed through the State of Illinois and are required to provide a copy of their license as part of the overall business license application. The business licensing provisions ensure that the business activity is being operated consistent with Village Code – if an establishment does not meet the code provisions, their license application would not be extended or could be revoked. The licensing procedure also includes a background check. Licenses are also not transferable.

The petitioner notes that the proposed establishment would be primarily operated by two licensed masseurs/masseuses. Additional masseurs/masseuses may be added based upon business conditions. The concept floor plan, which will be finalized should the conditional use approval be granted, proposes to have three massage rooms, two bathrooms, a dry sauna, a shower room, a laundry room, an office and a front counter/waiting area. No external improvements are proposed as part of the business operation.

The subject property is bounded by commercial uses on three sides. To the north, west and east are strip commercial establishments, providing a wide variety of retail and service commercial as South of the subject property is the Village’s pump station and residences. The physical culture and massage establishment, operated in conformance with Village Code, would be compatible with the adjacent land uses.

A final consideration associated with this petition, as discussed as part of PC 00-17 for the subject property. That petition was for an automotive service facility (installation of automotive radio equipment). In that case, staff recommended that the petitioner provide a cross-access driveway to the Famous Liquors center. However, in this case, staff recognizes that the traffic impacts of the development proposal would not be as significant as the previously proposed automotive repair facility. As such, staff only recommends as a condition of approval that the property owner submit to the Village a Plat of Easement granting cross-access to the abutting property at 55 East Roosevelt Road (06-20-100-066), prior to issuance of a certificate of occupancy, with the location of the cross-access easement subject to review and approval by the Village.

For comparative purposes, staff recommended approval of another massage establishment within an existing strip center at 406 W. 22nd Street. In that case, the Village did require the property owner to make significant parking lot improvements in order to facilitate overall traffic and

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parking improvements on the site. Staff views the request to provide the rights for a future cross-access connection to the adjacent shopping center to be similar in nature. Moreover, a vehicular access provision for properties along Roosevelt Road is one area currently under review by the Roosevelt Road Corridor Ad-hoc Committee. This recommendation would be consistent with their overall review of the corridor.

He stated that staff recommends approval of the petition, subject to the conditions in the report; with an amendment to condition 2 to note that the license reference should be for a business license.

Responding to the staff report, Mr. Thompson mentioned the checks that the Village has, and he mentioned that with another establishment may still have problems. You can go through all the checks you want, but it might still happen.

Mr. Zibrat noted that there are residences to the east as well. There is a higher level of proof with these establishments. The concerns are valid and its good to hear the Village goes through those checks and they have to pass those checks.

Chairperson Ryan then opened the meeting for the Commissioners.

Commissioner Burke referenced condition 4 regarding the easement request and asked the petitioner if they find that condition acceptable. Mr. Lee stated that they talked to the landlord regarding the condition and he has been assured that there would not be any issues with the easement requirement.

Commissioner Nelson asked if this was the first business they have operated. Me. Lee stated that this is their first business in Lombard and they have not operated anywhere else previously.

Commissioner Sweetser agreed with Commissioner Olbrysh in terms of the name of the land use activity. This is no different than NUHS or a health club. The activities are the same as a chiropractor. A lot of people are seeking that type of treatment for stress and she is glad that these uses are coming to Lombard. She suggested to staff that in order to avoid future confusion regarding this land use that a text amendment to the Zoning Ordinance should be made.

Commissioner Olbrysh noted that massage therapy is an alternate form of medicine and is now recognized by universities.

After due consideration of the petition and the testimony presented, the Plan Commission found that the petition complies with the standards required by the Lombard Zoning Ordinance. It was moved by Commissioner Olbrysh, seconded by Commissioner Sweetser, that the petition be forwarded to the Village Board with a recommendation of approval of PC 07-10, subject to the following conditions noted in the staff report, as amended:

1. The conditional use for the physical culture and massage establishment is exclusively for the tenant space at 1263 South Main Street. Any expansion of the establishment

within the existing shopping center beyond what was submitted as part of PC 07-10, shall require an amendment to the conditional use approval.

2. Any massage establishments to be located on the premises shall apply for and receive a business license from the Village of Lombard. Said establishments shall meet all provisions of Chapter 12, Section 122 of the Village Code and shall keep their license in good standing. Moreover, all massage therapists employed on the premises must have a current license from the State of Illinois for the conditional use to apply.
3. The petitioner shall apply for and receive a building permit for any improvements to the interior of the tenant space prior to starting and build-out of the tenant space. Moreover, the petitioner shall apply for and receive approval of a Certificate of Occupancy/Zoning Certificate prior to opening the business establishment.
4. The property owner shall submit to the Village a Plat of Easement granting cross-access to the abutting property at 55 East Roosevelt Road (06-20-100-066), prior to issuance of a certificate of occupancy, with the location of the cross-access easement subject to review and approval by the Village.

The petition was recommended for approval by a 4-0 vote.

Respectfully,

VILLAGE OF LOMBARD



Donald Ryan, Chairperson
Lombard Plan Commission

c. Petitioner
Lombard Plan Commission

Planned Development, developed as the Lombard Pines Shopping Center (across from subject property)

South: B3 Community Shopping District; developed as a Village owned/operated pump station); and unincorporated property zoned R4 Single Family District (DuPage County), developed and single family residences

East: B3 Community Shopping District, developed as a commercial strip retail center; and R3 Attached Single Family Residence District, developed as townhouses

West: B3 Community Shopping District, developed as a bank, offices and a strip commercial center

ANALYSIS

SUBMITTALS

This report is based on the following documents which were filed with the Department of Community Development on February 19, 2007:

1. Petition for Public Hearing with the Standards for Conditional Uses.
2. Plat of Survey; Prepared by Glen D. Krisch Surveyor, Inc.; dated February 6, 2004.
3. Oxford Corners tenant space lease plan (depicts location of proposed tenant space).
4. Preliminary Interior Building Sketch Plan, prepared by petitioner.

DESCRIPTION

This petition requests conditional use approval for a massage establishment within the Oxford Corners Shopping Center. The proposed use will occupy a currently vacant 1,200 square foot space within the 43,000 square foot multi-tenant building. Prior to commencing the proposed massage establishment, the applicant is required to submit an application and receive approval for a Massage Establishment Business License with the Village.

Special Note: As the proposed tenant space is under 5,000 square feet in size, the proposed use would not be subject to the Roosevelt Road development moratorium.

INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING

Private Engineering Services

The Department of Community Development, Private Engineering Services Division, has no comments on the petition.

Public Works

The Department of Public Works has no comments on the petition.

FIRE AND BUILDING

The Bureau of Inspectional Services reminds the petitioner that other building codes and ordinance requirements, especially the Village Municipal Code of Ordinances, Title 11, Section 122.30 which details the requirements for Necessary Facilities, must be met. If this request is granted and construction work of any kind is necessary to facilitate this type of occupancy then permits for such work would be necessary and are required prior to any work being started.

PLANNING

Compliance with the Zoning Ordinance

The Zoning Ordinance lists “Physical culture and massage establishments (as defined and regulated by Chapter 12, Section 122 of the Code of Ordinances)”, as conditional uses within the B3 Community Shopping District. Staff notes that the 1994 text amendments to the Zoning Ordinance further regulating therapeutic massage establishments was intended to better differentiate the massage activity from adult uses.

Prior to commencing the proposed massage establishment, the applicant is required to submit an application and receive approval for a Village Massage Establishment Business License. Individual masseurs/masseuses are licensed through the State of Illinois and are required to provide a copy of their license as part of the overall business license application. The business licensing provisions ensure that the business activity is being operated consistent with Village Code – if an establishment does not meet the code provisions, their license application would not be extended or could be revoked.

The petitioner notes that the proposed establishment would be primarily operated by two licensed masseurs/masseuses. Additional masseurs/masseuses may be added based upon business conditions. The concept floor plan, which will be finalized should the conditional use approval be granted, proposes to have three massage rooms, two bathrooms, a dry sauna, a shower room, a laundry room, an office and a front counter/waiting area. No external improvements are proposed as part of the business operation.

Compatibility with the Comprehensive Plan

The Comprehensive Plan recommends community commercial uses for the subject property and the surrounding area. The proposed use would be compatible with the Comprehensive Plan due to the commercial and service nature of the proposed business.

Compatibility with Surrounding Land Uses

The subject property is bounded by commercial uses on three sides. To the north, west and east are strip commercial establishments, providing a wide variety of retail and service commercial as well as office activities. Also east of the subject property is a small townhouse development. The primary entrance to the establishment is oriented away from these residences and it is not anticipated that the proposed use would generate additional loading or traffic demand on the east drive aisle abutting the residences. South of the subject property is the Village's pump station.

Within the shopping center itself, the existing businesses include:

Edward Jones – financial investment office
Parwaz – fast-food establishment
Steve's Cigarettes – tobacconist
Cyberwiz – computer sales & service
Tower Cleaners – dry cleaning establishment
Green Pharmacy – pharmacy
Russian Deli – fast-food restaurant
China House – fast-food restaurant
Jimmy John's – fast-food restaurant
Sahara Café – fast-food restaurant
Blockbuster Video – video/DVD rental

The physical culture and massage establishment, operated in conformance with Village Code, would be compatible with the adjacent land uses.

A final consideration associated with this petition, as discussed as part of PC 00-17 for the subject property. That petition was for an automotive service facility (installation of automotive radio equipment). In that case, staff recommended that the petitioner complete one of the following options:

- Close the Oxford Corner's Roosevelt Road access and providing cross access to Famous Liquors, lining the cross-access up with the southern drive of Famous Liquors, or
- Restricting Oxford Corner's Roosevelt Road access to right-in, right-out only, with cross access lining up with the southern drive of Famous Liquors.

Those recommendations were made to decrease any traffic hazards on Roosevelt Road. However, in this case, staff recognizes that the traffic impacts of the development proposal would not be as significant as the previously proposed automotive repair facility. As such, staff only recommends as a condition of approval that the property owner submit to the Village a Plat of Easement granting cross-access to the abutting property at 55 East Roosevelt Road (06-20-100-066), prior to issuance of a certificate of occupancy, with the location of the cross-access easement subject to review and approval by the Village.

For comparative purposes, staff recommended approval of another massage establishment within an existing strip center at 406 W. 22nd Street (PC 00-53 and 06-08). In that case, the Village did require the property owner to make significant parking lot improvements in order to facilitate overall traffic and parking improvements on the site. Staff views the request to provide the rights for a future cross-access connection to the adjacent shopping center to be similar in nature. Moreover, vehicular access provisions for properties along Roosevelt Road is one area currently under review by the Roosevelt Road Corridor Ad-hoc Committee. This recommendation would be consistent with their overall review of the corridor.

FINDINGS AND RECOMMENDATIONS

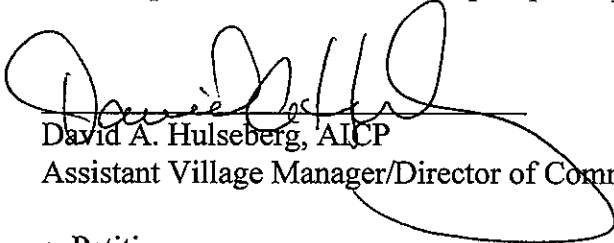
Staff has reviewed the response to standards included as part of the petition and concurs that the petition meets the standards set forth in the Zoning Ordinance. Staff believes that the proposed use is appropriate at the subject location and is compatible with surrounding uses, provided that it is operated in compliance with Village Code.

Based on the above findings, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion recommending **approval** of this petition subject to the conditions as outlined:

Based on the submitted petition and the testimony presented, the proposal does comply with the standards required by the Lombard Zoning Ordinance, and, therefore, I move that the Plan Commission accept the findings and responses to the standards for conditional uses included within the Inter-departmental Review Report as the findings of the Lombard Plan Commission and therefore, recommends to the Corporate Authorities **approval** of PC 07-10, subject to the following conditions:

1. The conditional use for the physical culture and massage establishment is exclusively for the tenant space at 1263 South Main Street. Any expansion of the establishment within the existing shopping center beyond what was submitted as part of PC 07-10, shall require an amendment to the conditional use approval.
2. Any massage establishments to be located on the premises shall apply for and receive a license from the Village of Lombard. Said establishments shall meet all provisions of Chapter 12, Section 122 of the Village Code and shall keep their license in good standing. Moreover, all massage therapists employed on the premises must have a current license from the State of Illinois for the conditional use to apply.
3. The petitioner shall apply for and receive a building permit for any improvements to the interior of the tenant space prior to starting and build-out of the tenant space. Moreover, the petitioner shall apply for and receive approval of a Certificate of Occupancy/Zoning Certificate prior to opening the business establishment.
4. The property owner shall submit to the Village a Plat of Easement granting cross-access to the abutting property at 55 East Roosevelt Road (06-20-100-066), prior to issuance of a certificate of occupancy, with the location of the cross-access easement subject to review and approval by the Village.

Inter-Departmental Review Group Report Approved By:



David A. Hulseberg, AICP
Assistant Village Manager/Director of Community Development

c. Petitioner

Location Map

PC 07-10



- 1) The establishment in this petition to the plan commission purports to observe the established health and safety regulations of the Village of Lombard. The proposed use petitioned for has the goal of creating a thriving business in the ever growing field of stress reduction and personal pampering that will abide by all state and local requirements. Our licensed therapists will be held to the highest level of ethical practices and will work at erasing the stigma and negative connotations often associated with massage.
- 2) The proposed establishment in this petition will inject itself into an established commercial complex of successful retailers that will raise the level of economic activity at this location, compliment existing businesses in the area and increase overall property value within the vicinity by opening a business that will service not only the residents of the village but with hopes of bringing in clients from all around the surrounding areas.
- 3) Our establishment hopes to add greatly to the surrounding areas and will not impede any future or normal development that could occur within the surrounding areas.
- 4) Oxford corners is an established strip mall with more than adequate public utilities, points of access and exit, and the necessary drainage facilities already in place.
- 5) Oxford corners is an established strip mall near the corner of main street and Roosevelt road that has plenty of parking spaces and provides access to the strip mall with 2 major entry/exit points one of which is an entry/exit point that is an adequate distance point from Roosevelt Road as to not cause any safety or congestion concerns.
- 6) Our hope is for said proposed use to be a contributing factor to the betterment of the Village of Lombard and to it's future objectives and goals.
- 7) Our establishment will adhere to all applicable regulations of the Village and the State of Illinois.

ORDINANCE NO. _____

**AN ORDINANCE GRANTING A CONDITIONAL USE PURSUANT TO
TITLE 15, CHAPTER 155, SECTION 414 OF THE
LOMBARD ZONING ORDINANCE**

(PC 07-10: 1263 S. Main Street)

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 subject property is zoned B3 Community Shopping District; and,

WHEREAS, an application has been filed requesting approval of a conditional use to provide for a massage establishment on the property described in Section 2 below; and,

WHEREAS, a public hearing on such application has been conducted by the Village of Lombard Plan Commission on March 19, 2007 pursuant to appropriate and legal notice; and,

WHEREAS, the Plan Commission has filed its recommendation with the President and Board of Trustees recommending approval of the conditional use 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 a Conditional Use is hereby granted for the property described in Section 2 below and pursuant to Title 15, Chapter 155, Section 414 (C) 17 of

Ordinance No. _____

Re: PC 07-10

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the Village of Lombard Zoning Ordinance to provide a massage establishment to be located on the Subject Property legally described in Section 2 below.

SECTION 2: That this ordinance is limited and restricted to the property generally located at 1263 S. Main Street, Lombard, Illinois and legally described as follows:

The West 220 feet of the North 660 feet (except that part of the East 70 feet which is the Roosevelt Road right of way and except the west 150 feet of the north 190 feet and except the west 50 feet of the south 470 feet thereof) of the west ½ of the northwest ¼ of Section 20, Township 39 North, Range 11, East of the Third Principal Meridian, in DuPage County, Illinois.

Parcel Number: 06-20-100-039

SECTION 3: This ordinance shall be granted subject to compliance with the following conditions:

1. The conditional use for the physical culture and massage establishment is exclusively for the tenant space at 1263 South Main Street. Any expansion of the establishment within the existing shopping center beyond what was submitted as part of PC 07-10, shall require an amendment to the conditional use approval.
2. Any massage establishments to be located on the premises shall apply for and receive a business license from the Village of Lombard. Said establishments shall meet all provisions of Chapter 12, Section 122 of the Village Code and shall keep their license in good standing. Moreover, all massage therapists employed on the premises must have a current license from the State of Illinois for the conditional use to apply.
3. The petitioner shall apply for and receive a building permit for any improvements to the interior of the tenant space prior to starting and build-out of the tenant space. Moreover, the petitioner shall apply for and receive approval of a Certificate of Occupancy/Zoning Certificate prior to opening the business establishment.

Ordinance No. _____

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4. The property owner shall submit to the Village a Plat of Easement granting cross-access to the abutting property at 55 East Roosevelt Road (06-20-100-066), prior to issuance of a certificate of occupancy, with the location of the cross-access easement subject to review and approval by the Village.

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 ____ day of _____, 2007.

First reading waived by action of the Board of Trustees this ____ day of _____, 2006.

Passed on second reading this ____ day of _____, 2007.

Ayes: _____

Nays: _____

Absent: _____

Approved this ____ day of _____, 2007.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

Ordinance No. _____

Re: PC 07-10

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Published in pamphlet form this ____ day of _____, 2007.

Brigitte O'Brien, Village Clerk

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