

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

X  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: Scott Niehaus, Village Manager

DATE : March 1, 2019   (BOT) Date: March 7, 2019

SUBJECT: Stormwater Detention/Retention Variance Fee Escrow Agreement -  
415 E. North Avenue (Former Casey's Restaurant Property)

SUBMITTED BY: William J. Heniff, AICP, Director of Community Development 

**BACKGROUND/POLICY IMPLICATIONS:**

The applicant is requesting that the Village Board approve a Stormwater  
Detention/Retention Variation Fee Escrow Agreement for the property at 415 East  
North Avenue.

This Ordinance will reestablish an escrow fund in the amount of \$14, 408.18 to address  
stormwater detention/retention requirements associated with a past driveway variation.

A waiver of first reading is also requested so that the Village will be able to release  
pending building permits for the site.

**Fiscal Impact/Funding Source:**

Review (as necessary):  
Finance Director \_\_\_\_\_ Date \_\_\_\_\_  
Village Manager \_\_\_\_\_ Date \_\_\_\_\_

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:** Scott R. Niehaus, Village Manager

**FROM:** William J. Heniff, AICP, Director of Community Development *WJH*

**MEETING DATE:** March 7, 2019

**SUBJECT:** **Stormwater Detention/Retention Variance Fee Escrow Agreement - 415 E. North Avenue (Former Casey's Restaurant Property)**

In October, 2002, the Village of Lombard adopted Ordinance No. 5211 approving a variation from the stormwater detention provisions for property located at 415 E. North Avenue. The variation was granted to the owner of Casey's Restaurant so that they could build a driveway access to the restaurant from Joyce Street due to access that was being removed as part of the widening of North Avenue. The variation granted allowed the driveway to be built without having the owner compensate for additional stormwater impact. As part of the variation ordinance, the Village required the property owner to pay \$14,408.18 into an escrow account in order to provide the Village with the ability to account for the requisite fee in-lieu of detention requirement and /or remove the driveway at a later date if necessary.

In 2005 and 2010 the Village Board reviewed the issue and extended the need for the escrow fund. In 2015, via Ordinance 7159, the Village Board adopted Ordinance 7159 which provided for the release of the funds and provided for a lien to be recorded against the property in the amount of \$14,408.18. The Ordinance stated that if the stormwater detention improvements are not constructed by December 31, 2020, or the driveway is not removed, or the property is sold, the lien would be payable to Village. The Ordinance also precluded the Village from approving any building permits for the property. The subject property was sold in 2018 and the new property owner is seeking to remodel the existing restaurant to accommodate their proposed restaurant/banquet facility. However, rather than undertaking the improvements, the new property owner is seeking actions from the Village to allow for their project to continue by re-establishing an escrow fund.

Attached is an Ordinance authorizing a Stormwater Detention/Retention Variation Fee Escrow Agreement. The new owner has given the Village a check for \$14,408.18 to be held in escrow by the Village. This will allow the Village to release building permits for the site. If one of the conditions are met (remove the driveway or provide requisite stormwater detention) by December 31, 2020 and the money will be released. If the work is not complete by December 31, 2020 the funds will become non-refundable and the Village will be able to deposit the funds in to the applicable Salt Creek stormwater management watershed account.

A copy of Ordinance 7159 and supporting documentation is also attached for reference purposes.

**ACTION REQUESTED**

Please place this item on the March 7, 2019 Board of Trustees late agenda for consideration. The applicant is requesting that the Village Board approve a Stormwater Detention/Retention Variation Fee Escrow Agreement for the property at 415 East North Avenue.

A waiver of first reading is also requested so that the Village will be able to release pending building permits for the site.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE APPROVING A STORMWATER  
DETENTION/RETENTION VARIATION FEE ESCROW AGREEMENT  
(415 EAST NORTH AVENUE)**

**WHEREAS**, pursuant to Ordinance No. 7159, adopted December 17, 2015, entitled, "An Ordinance Amending Ordinance No. 5211, Adopted November 7, 2002, in Regard to Granting a Variation From the Provisions of Chapter 151, Section 151.55 of the Lombard Village Code in Regard to the Stormwater Detention/Retention Basin Requirement," (the "Ordinance"), and the Stormwater Detention Variance Fee Lien (the "Variance Fee Lien") relative thereto, both recorded on March 3, 2016 as document number R2016-020102 with the DuPage County Recorder's Office, the issuance of building permits relative to the property commonly known as 415 East North Avenue was made subject to certain conditions; and

**WHEREAS**, the current owners of 415 East North Avenue would like to move forward with applying for, and obtaining, building permits relative to certain improvements to 415 East North Avenue, without full compliance with the provisions of the aforementioned Ordinance and Variance Fee Lien, and are prepared to make a monetary deposit of \$14,408.18, in escrow with the Village, to secure full compliance with the provisions of the Ordinance and the Variance Fee Lien, with said compliance to occur on or before December 31, 2020, so as to cause the Village to process said building permits application without full compliance with the provisions of the Ordinance and the Variance Fee Lien; and

**WHEREAS**, the owners of 415 East North Avenue have proposed a Stormwater Detention/Retention Variation Fee Escrow Agreement (415 East North Avenue), in

relation to the aforementioned escrow deposit, in the form as attached hereto as Exhibit 1 and made part hereof (the "Escrow Agreement"); and

**WHEREAS**, the President and Board of Trustees find said Escrow Agreement to be acceptable, and in the best interests of the Village;

**NOW, THEREFORE, BE IT ORDAINED**, by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

**SECTION 1:** That the Escrow Agreement is hereby approved, and the Village President and Village Clerk are hereby authorized and directed to execute same on behalf of the Village.

**SECTION 2:** That this Ordinance shall be in full force and effect from and after its passage and approval, as required by law.

Passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2019.

First reading waived by action of the Board of Trustees this \_\_\_\_ day of \_\_\_\_\_, 2019.

Passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2019, pursuant to a roll call vote as follows:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**APPROVED** by me this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Keith Giagnorio, Village President

**ATTEST:**

\_\_\_\_\_  
Sharon Kuderna, Village Clerk

**Exhibit 1**

**Stormwater Detention/Retention Variation Fee Escrow Agreement  
(415 East North Avenue)**

(attached)

**STORMWATER DETENTION/RETENTION  
VARIATION FEE ESCROW AGREEMENT  
(415 EAST NORTH AVENUE)**

This STORMWATER DETENTION/RETENTION VARIATION FEE ESCROW AGREEMENT (415 EAST NORTH AVENUE) (the "Agreement") is made and entered into as of this 25<sup>th</sup> day of FEB, 2019, by and between LOMBARD REAL ESTATE, LLC and LOMBARD HOTELS GROUP, LLC of 191 Ashfield Court, Bloomingdale, Illinois 60108 (the "Companies"), and the VILLAGE OF LOMBARD, Illinois (the "Village").

**RECITALS**

- A. The Companies are the owners of the property commonly known as 415 East North Avenue, Lombard, Illinois, as legally described on Exhibit A attached hereto and made part hereof (the "Subject Property"), having acquired the Subject Property during 2018.
- B. Pursuant to Village Ordinance No. 7159, adopted December 17, 2015, entitled, "An Ordinance Amending Ordinance No. 5211, Adopted November 7, 2002, in Regard to the Granting of a Variation From the Provisions of Chapter 151, Section 151.55 of the Lombard Village Code in regard to the Stormwater Detention/Retention Basin Requirement" (the "Ordinance") and the Stormwater Detention Variance Fee Lien (the "Variation Fee Lien"), both recorded on March 3, 2016 as document number R2016-020102, the Subject Property was made subject to a lien to guarantee that either:
- (i) the driveway pavement on a portion of the Subject Property and at least 4½ inches of base stone shall be removed, and the area restored with 6 inches of topsoil and seed, so as to eliminate the need for the variance; or
  - (ii) proper site stormwater runoff storage requirements for the Subject Property are provided, so as to eliminate the need for the variance; or
  - (iii) a variance fee of \$14,408.18 (the "Variation Fee") be paid to the Village by the owner of the Subject Property, which shall be a non-refundable deposit into the Village's Salt Creek Watershed Improvements Account;

on or before December 31, 2020, or no further building or other permits will be issued by the Village relative to the Subject Property, or in relation to any other property served by the structure (the paved driveway) on the Subject Property (the aforementioned requirements of the Ordinance and the Variation Fee Lien being hereinafter referred to as the "Variation Fee Guarantee").

- C. The Variation Fee Guarantee also provided that, notwithstanding what is set forth in B. above, a sale of the Subject Property, prior to December 31, 2020, shall require that one of the actions set forth in subsections B.(i), (ii) or (iii) above take place, before any building or other permits are issued by the Village relative to the Subject Property, or in relation to any other property served by the structure (the paved driveway) on the Subject Property.

- D. The Companies desire to go forward with their plans to improve the Subject Property and to apply for and obtain building permits to commence work in relation to said improvements.
- E. Pursuant to the provisions of the Variation Fee Guarantee, as the Companies acquired title to the Subject Property subsequent to the approval and recording of the Variation Fee Lien, the Companies cannot be issued building permits to commence work on the improvements on the Subject Property until such time as one of the actions set forth in subsections B.(i), (ii) or (iii) above take place.
- F. The Companies have offered to deposit the Variation Fee with the Village, in order to cause the issuance of the building permits relative to the proposed improvements on the Subject Property, but would like the option of having the Variation Fee returned to them in the event that one of the actions set forth in subsections B.(i) or (ii) above (the "Required Work") occurs on or before December 31, 2020.
- G. The Companies and the Village desire to reach an understanding, regarding the ability for the Village to issue said building permits to the Companies while at the same time addressing the requirements of the Variation Fee Guarantee, and, therefore, have agreed as set forth below.

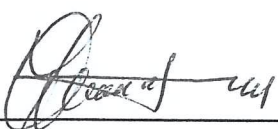
**NOW, THEREFORE**, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which the Companies and the Village hereby acknowledge, the Companies and the Village agree as follows:

1. The Recitals, as set forth above, are hereby incorporated herein by reference.
2. The Companies, at the time of the building permit application, relative to the improvements on the Subject Property, shall deposit with the Village the sum of \$14,408.18, to be held in escrow by the Village for the benefit of the Companies and the Village (the "Escrow Deposit").
3. The Escrow Deposit will not earn any interest.
4. That, upon receipt of the Escrow Deposit, the Village shall process the aforementioned building permit application in accordance with the requirements of the Lombard Village Code.
5. The Required Work shall be completed by the Companies on or before December 31, 2020.
6. If said Required Work is completed by the Companies, in accordance with the requirements of the Lombard Village Code and the specifications of the Variation Fee Guarantee, on or before December 31, 2020, then the Companies shall be entitled to a full refund of the Escrow Deposit, within thirty (30) days of said Required Work being completed.
7. In the event the Companies fail to complete the Required Work on or before December 31, 2020, said Escrow Deposit will become non-refundable and shall be transferred by the Village to the Village's Salt Creek Watershed Improvements Account.



This Agreement shall be in full force and effect from and after the date set forth above, which shall be the date that this Agreement is approved by the Lombard Village Board.

**Lombard Real Estate, LLC**

By:   
Name: MOHAMMAD KARWAN  
Title: Manager

Date: 2-25-19

**Lombard Hotels Group, LLC**

By:   
Name: MOHAMMAD KARWAN  
Title: Manager

Date: 2-25-19

**Village of Lombard**

By: \_\_\_\_\_  
Keith Giagnorio  
Village President

Date: \_\_\_\_\_

Attest: \_\_\_\_\_  
Sharon Kuderna  
Village Clerk

Date: \_\_\_\_\_

**Exhibit A**

**Legal Description of  
the Subject Property**

Lot 1 in Hughes' Resubdivision of Lots 1, 2, 3, 4, 5 and 6 (except the East 20.0 feet of said Lot 6) in Block 1 in "Lombard Heights," a Subdivision of part of the Northeast quarter of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, lying North of the North line of the Subdivision entitled Lombard Vista, as Document 243024, according to the plat of said "Lombard Heights" recorded December 28, 1953 as Document 704195 and Certificate of Correction recorded June 9, 1955 as Document 760296, in DuPage County, Illinois.


Along with:

The East 20 feet of Lot 6 and all of Lots 7, 8, 9 and 10 in Block 1 in Lombard Heights, being a Subdivision of part of the Northeast 1/4 of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, according to the plat thereof recorded December 28, 1953 as Document 704195 and Certificate of Correction filed June 9, 1955 as Document 760296, in DuPage County, Illinois.

P.I.N.s: 06-05-200-014 and -015.

## MEMORANDUM

**TO:** Scott R. Niehaus, Village Manager

**FROM:** William J. Heniff, AICP, Director of Community Development 

**DATE:** December 17, 2015

**SUBJECT:** Ordinance Amendment to Chapter 151 of the Village Code – Lien Provisions for Stormwater Variances

At the December 3, 2015 Village Board meeting, the Board unanimously approved an Ordinance amending Section 151.57 of the Lombard Village Code to provide for a lien option in cases of temporary variances from the Village's Stormwater Detention requirements. With this approval, a companion amendment specifically related to the vacant Casey's Restaurant property at 451 E. North Avenue is being requested by the property owner.

### **BACKGROUND**

In October, 2002, the Lombard Village Board adopted Ordinance No. 5211 approving a variation from the stormwater detention provisions for property located at 451 E. North Avenue. The variation was granted to allow Casey's Restaurant to have a temporary driveway access to the restaurant from Joyce Street, as their access that was being removed as part of the North Avenue widening project. The variation granted allowed the temporary driveway to be built without having the owner compensate for additional stormwater impacts. As part of the variation ordinance, the Village required the property owner to pay \$14,408.18 into an escrow account. Per the ordinance, the escrow funds were to be held until the driveway was removed or until 2005, when they would be used to remove the driveway. However, given construction delays with the North Avenue project, the initial ordinance was extended to 2010. A further five-year time extension to December 31, 2015 was offered, given the downturn in the market at that time.

Casey's ownership approached the Village to determine if the funds could be released while keeping the existing driveway access to Joyce Avenue. Through these discussions, the option of establishing a lien on the vacant 451 E. North Avenue property is being requested. The aforementioned ordinance approved the ability of the Village Board to consider such requests. Village Counsel has prepared the attached draft ordinance which provides for the lien option for the 451 E. North Avenue property. The funds currently held by the Village would be released and a corresponding lien would be placed upon the property in the same amount. If the required stormwater detention improvements associated with the driveway are not constructed by December 31, 2020, or the driveway is not removed by that date, the lien would be payable to the Village. The lien will also be required to be repaid if the property is sold.

**ACTION REQUESTED**

Please place this item on the December 17, 2015 Village Board agenda for approval. The attached ordinance provides and amends Ordinance 5211 which granted a variation from Section 151.55 relative to required stormwater detention requirements for the property at 451 E. North Avenue and would allow for a lien in lieu of escrow payment of funds associated with the past driveway variation.

To be consistent with the time periods expressed in past actions and to ensure that no time gaps will occur relative to the previously approved actions, staff recommends a waiver of first reading.



**FRED BUCHOLZ**  
DUPAGE COUNTY RECORDER  
MAR.03,2016 11:33 AM  
OTHER \$38.00 06-05-200-015  
012 PAGES R2016-020102

**ORDINANCE 7159**

**AMENDING ORDINANCE NO. 5211, ADOPTED  
NOVEMBER 7, 2002, IN REGARD TO THE GRANTING OF  
A VARIATION FROM THE PROVISIONS OF CHAPTER 151,  
SECTION 151.55 OF THE LOMBARD VILLAGE CODE IN  
REGARD TO THE STORMWATER DETENTION/RETENTION  
BASIN REQUIREMENT**

**PIN: 06-05-200-015**

**ADDRESS: 415 E. North Avenue, Lombard, IL 60148**

**Prepared by and Return To:  
Village of Lombard  
255 E. Wilson Avenue  
Lombard, IL 60148**



I, Janet Downer, hereby certify that I am the duly qualified Deputy Village Clerk of the Village of Lombard, DuPage County, Illinois, as authorized by Statute and provided by local Ordinance, and as such Deputy Village Clerk, I maintain and am safekeeper of the records and files of the President and Board of Trustees of said Village.

I further certify that attached hereto is a  
copy of

ORDINANCE 7159

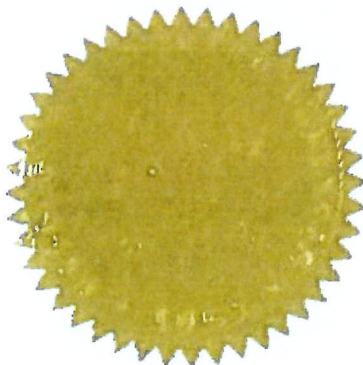
AMENDING ORDINANCE NO. 5211, ADOPTED  
NOVEMBER 7, 2002, IN REGARD TO THE GRANTING OF  
A VARIATION FROM THE PROVISIONS OF CHAPTER 151, SECTION 151.55  
OF THE LOMBARD VILLAGE CODE IN REGARD TO  
THE STORMWATER DETENTION/RETENTION BASIN REQUIREMENT

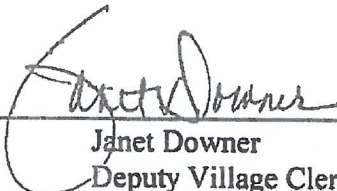
PIN: 06-05-200-015

ADDRESS: 415 E. North Avenue, Lombard, IL 60148

of the said Village as it appears from the official records  
of said Village duly approved this 17th  
day of December, 2015.

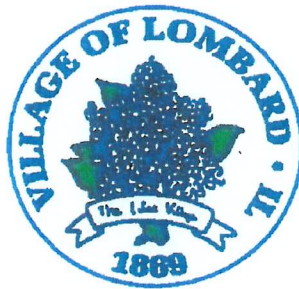
In Witness Whereof, I have hereunto affixed my official signature and the  
Corporate Seal of said Village of Lombard, Du Page County, Illinois this 1st  
day of March, 2016.



  
\_\_\_\_\_  
Janet Downer  
Deputy Village Clerk  
Village of Lombard  
DuPage County, Illinois

**ORDINANCE 7159  
PAMPHLET**

**ORDINANCE AMENDMENT TO CHAPTER 151 OF THE VILLAGE CODE --  
LIEN PROVISIONS FOR STORMWATER VARIANCES**



**PUBLISHED IN PAMPHLET FORM THIS 18<sup>th</sup> DAY OF DECEMBER, 2015, BY ORDER  
OF THE CORPORATE AUTHORITIES OF THE VILLAGE OF LOMBARD, DUPAGE  
COUNTY, ILLINOIS.**

  
**Sharon Kuderna  
Village Clerk**

**ORDINANCE 7159**

**AN ORDINANCE AMENDING  
ORDINANCE NO. 5211, ADOPTED NOVEMBER 7, 2002,  
IN REGARD TO THE GRANTING OF A VARIATION  
FROM THE PROVISIONS OF CHAPTER 151, SECTION 151.55  
OF THE LOMBARD VILLAGE CODE IN REGARD TO  
THE STORMWATER DETENTION/RETENTION BASIN REQUIREMENT**

**BE IT ORDAINED** by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

**SECTION 1:** That Section 3.C. of Ordinance No. 5211, adopted November 7, 2002, is amended to read in its entirety as follows:

"C. Pursuant to Section 151.57(J) of the Lombard Village Code, a lien, in the form attached hereto as Exhibit A and made part hereof, in the amount of \$14,408.18 shall be recorded by the Village, in lieu of the payment of the applicable detention variance fee. The amount of said lien is based on the Village's Detention Variance Fee Program (Section 151.57 of the Lombard Village Code). Said lien shall guarantee that either:

- (i) the driveway pavement and at least 4½ inches of base stone shall be removed, and the area restored with 6 inches of topsoil and seed, so as to eliminate the need for the variance; or
- (ii) proper site stormwater runoff storage requirements for the property referenced in Section 2 above (the "Subject Property") are provided, so as to eliminate the need for the variance; or
- (iii) the variance fee of \$14,408.18 is paid to the Village by the owner of the Subject Property, which shall be a non-refundable deposit into the Village's Salt Creek Watershed Improvements Account;

on or before December 31, 2020, or no further building or other permits will be issued by the Village relative to the Subject Property, or in relation to any other property served by the structure (the paved driveway) on the Subject Property. Notwithstanding the foregoing, a sale of the Subject Property, prior to December 31, 2020, shall require that one of the actions set forth in subsections (i), (ii) or (iii) above take place, before any building or other permits are issued by the Village relative to the Subject Property, or in relation to any other property served by the structure (the paved driveway) on the Subject Property."



**SECTION 2:** That Section 3 of Ordinance No. 5211, adopted November 7, 2002, is amended by adding a new subsection E. thereto, which shall read in its entirety as follows:

"E. For purposes of subsection C. above, the other property, served by the structure (the paved driveway) on the property described in Section 2 above, is legally described as follows:

THE EAST 20 FEET OF LOT 6 AND ALL OF LOTS 7, 8, 9 AND 10 IN BLOCK 1 IN LOMBARD HEIGHTS, BEING A SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 28, 1953 AS DOCUMENT 704195 AND CERTIFICATE OF CORRECTION FILED JUNE 9, 1955 AS DOCUMENT 760296, IN DUPAGE COUNTY, ILLINOIS;

PIN: 06-05-200-015;

Common Address: 415 E. North Avenue, Lombard, Illinois 60148."

**SECTION 3:** That Ordinance No. 5211, adopted November 7, 2002, is hereby amended by attaching an Exhibit A thereto, which shall read the same as Exhibit A attached hereto and made part hereof.

**SECTION 4:** That upon the recording of the lien referenced in Section 1 above, and attached hereto as Exhibit A, the \$14,408.18 currently on deposit with the Village, representing the stormwater detention variance fee previously paid relative to Ordinance No. 5211, adopted November 7, 2002, shall be returned to the individual or entity that previously paid said amount to the Village.

**SECTION 5:** That all other provisions of Ordinance No. 5211, adopted November 7, 2002, not amended hereby, shall remain in full force and effect.

**SECTION 6:** That 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 \_\_\_\_, 2015.

First reading waived by action of the Board of Trustees this 17<sup>th</sup> day of December, 2015.

Passed on second reading this 17<sup>th</sup> day of December, 2015.

Ayes: Trustee Whittington, Fugiel, Foltyniewicz, Johnston, Pike and Ware

Nays: None

Absent: None

Approved this 17<sup>th</sup> day of December, 2015.

  
Keith T. Giagnorio  
Village President

ATTEST:

  
Sharon Kuderna  
Village Clerk

Published by me in pamphlet form on this 18<sup>th</sup> day of December, 2015.

  
Sharon Kuderna  
Village Clerk

**Exhibit A**

**Stormwater Detention Variance Fee Lien**

**(attached)**

**STORMWATER DETENTION VARIANCE FEE LIEN**

I, Scott Niehaus, Village Manager for the Village of Lombard, DuPage County, Illinois (the "Village"), hereby certify that, pursuant to Section 151.57(J) of the Lombard Village Code, and Village of Lombard Ordinance No. 5211, adopted November 7, 2002, as amended by Village of Lombard Ordinance No.7159, adopted December 17, 2015, (the "Legal Requirements"), the Village has granted a stormwater detention variance (the "Detention Variation") to the owner of the below-described property, Oxford Bank & Trust, as Trustee under Trust Agreement dated March 21, 1997, and known as Trust #550 (the "Property Owner"), relative to the below-described property:

Lot 1 in Hughes' Resubdivision of Lots 1, 2, 3, 4, 5 and 6 (except the East 20.0 feet of said Lot 6) in Block 1 in "Lombard Heights," a Subdivision of part of the Northeast quarter of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, lying North of the North line of the Subdivision entitled Lombard Vista, as Document 243024, according to the plat of said "Lombard Heights" recorded December 28, 1953 as Document 704195 and Certificate of Correction recorded June 9, 1955 as Document 760296, in DuPage County, Illinois;

PIN: 06-05-200-014;

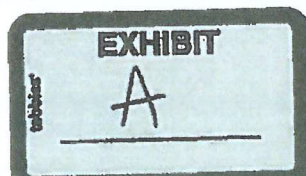
Common Address: 451 E. North Avenue, Lombard, Illinois 60148;

(the "Subject Property").

That, by reason of the foregoing, and pursuant to the provisions of the Legal Requirements, a lien in the amount of Fourteen Thousand Four Hundred Eight and 18/100 Dollars (\$14,408.18), on behalf of the Village, is hereby declared against the Subject Property; said dollar amount representing the stormwater detention variance fee required by Section 151.57 of the Lombard Village Code (the "Lien").

In regard to said Lien:

- A. Upon the payment of the amount of said Lien to the Village, the removal of the structure (the paved driveway) necessitating the Detention Variation from the Subject Property, or the providing of the required site stormwater runoff storage requirements for the Subject Property, the Lien will be released.
- B. In the event that the Property Owner fails to remove the structure (the paved driveway) necessitating the Detention Variation from the Subject Property, so as to eliminate the need for the Detention Variation, or fails to provide the site stormwater runoff storage requirements for the Subject Property, by December 31, 2020, the amount of the Lien shall be due and payable to the Village, and no further building or other permits will be issued relative to said Subject Property, or



in relation to the adjacent property served by the structure (the paved driveway) on the Subject Property, until the amount of the Lien is paid. Said adjacent property, which is also owned by the Property Owner, is described as follows:

The East 20 feet of Lot 6 and all of Lots 7, 8, 9 and 10 in Block 1 in Lombard Heights, being a Subdivision of part of the Northeast 1/4 of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, according to the plat thereof recorded December 28, 1953 as Document 704195 and Certificate of Correction filed June 9, 1955 as Document 760296, in DuPage County, Illinois;

PIN: 06-05-200-015;

Common Address: 415 E. North Avenue, Lombard, Illinois 60148;

(the "Adjacent Property").

- C. A sale of the Subject Property, prior to December 31, 2020, shall require the payment of the amount of the Lien, the removal of the structure (the paved driveway) necessitating the Detention Variation from the Subject Property, or the provision of the required site stormwater runoff storage requirements for the Subject Property, before any building or other permits are issued by the Village relative to the Subject Property or the Adjacent Property.

Dated this 17th day of December, 2015.

**VILLAGE OF LOMBARD**

  
Scott Niehaus  
Village Manager

**CERTIFICATION**

STATE OF ILLINOIS     )  
  )SS  
COUNTY OF DuPAGE    )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named Scott Niehaus, personally known to me to be the Village Manager of the Village of Lombard, Illinois (the "Village"), and also known to me to be the same person whose name is subscribed to the foregoing instrument as such Village Manager, appeared before me this day in person and acknowledged that, as such Village Manager, he signed and delivered the signed instrument, pursuant to authority given by said Village, as his free and voluntary act, and as the free and voluntary act and deed of said Village, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this 17<sup>th</sup> day of December, 2015.

Karen J. Ellis  
Notary Public



Approved and consented to by OXFORD BANK & TRUST, AS TRUSTEE UNDER TRUST AGREEMENT DATED MARCH 21, 1997, AND KNOWN AS TRUST #550, the legal owner of record of the Subject Property and the Adjacent Property, this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

By: See signature page attached hereto & made a part hereof  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CERTIFICATION**

STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF DuPAGE     )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named \_\_\_\_\_ and \_\_\_\_\_, personally known to me to be Trust Officers at Oxford Bank & Trust (the "Bank"), and also known to me to be the same persons whose names are subscribed to the foregoing instrument as such Trust Officers, appeared before me this day in person and severally acknowledged that, as such Trust Officers, they signed and delivered the signed instrument, pursuant to authority given by said Bank, as their free and voluntary act, and as the free and voluntary act and deed of said Bank, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

See signature page attached hereto & made a part hereof  
\_\_\_\_\_  
Notary Public

This Stormwater Detention Variance Fee Lien is executed by OXFORD BANK & TRUST, not personally but solely as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee. All the terms, provisions, stipulations, covenants and conditions to be performed by OXFORD BANK & TRUST are undertaken by it solely as Trustee, as aforesaid and not individually, and all statements herein made are made on information and belief and are to be construed accordingly, and no personal liability shall be asserted or be enforceable against OXFORD BANK & TRUST by reason of any of the terms, provisions, stipulations, covenants and conditions, and/or statements contained in this instrument.

IN WITNESS WHEREOF, OXFORD BANK & TRUST not personally, but as Trustee as aforesaid, has caused these presents to be signed by its Vice President/Trust Officer this 22nd day of February, 2016.

OXFORD BANK & TRUST,  
as Trustee, UTA #550  
as aforesaid & not personally

BY: *Francis J. Nouchi*  
Vice President/Trust Officer

Attest:

By: *F. J. D. S.V.P.*  
Vice President

Subscribed and Sworn to before me  
this 22<sup>nd</sup> day of February, 2016.

*Sandra J Maluta*  
Notary Public

