

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 R. Niehaus, Village Manager

DATE: July 2, 2014 (B of T) Date: July 17, 2014

TITLE: Disconnection (De-Annexation) of Portions of Technology Drive Right-of-Way

SUBMITTED BY: Department of Community Development *HN*

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration an Ordinance for disconnection for a portion of the former Technology Drive right-of-way and adjacent tracts (Parcels B, C and E). (DISTRICT #3)

Staff recommends approval of this request.

Staff recommends waiver of first reading.

Fiscal Impact/Funding Source:

Review (as necessary):
Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X _____ 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*

DATE: July 17, 2014

SUBJECT: **Disconnection (De-Annexation) of Portions of Technology Drive Right-of-Way**

The Village of Lombard adopted Resolution R93-13 on March 7, 2013 which approved an Intergovernmental Agreement by and between Oak Brook Promenade, LLC, DMG Real Estate Holdings, LLC, the Village of Oak Brook and Lombard, relative to Technology Drive. The Lombard Village Board adopted Ordinance 6964 on June 17, 2014, which vacated a portion of Technology Drive to Oak Brook Promenade LLC. With the recording of the vacation and the placement of a restrictive covenant limiting billboards on the vacated tract, the Village can now proceed to disconnect (de-annex) the former Technology Drive right-of-way as well as remnant privately held tracts, commonly referred to within the Agreement as Parcels B, C and E.

Attached is a petition for disconnection by Oak Brook Promenade LLC, owner of the aforementioned parcels. Per the Agreement, upon approval of the disconnection by Lombard, the Village of Oak Brook shall take steps to annex the parcels into their corporate limits, per provisions set forth in the draft Ordinance and consistent with State Statutes.

ACTION REQUESTED

An Ordinance for Disconnection for a portion of the former Technology Drive right-of-way and adjacent tracts (Parcels B, C and E) is being transmitted to the Village Board for approval. Please place this item on the July 17, 2014 Village Board meeting for approval, with a waiver of first reading.

**AN ORDINANCE CONSENTING TO THE DISCONNECTION OF
CERTAIN PROPERTY LOCATED WITHIN THE VILLAGE OF LOMBARD,
AND THE ANNEXATION OF SAME BY THE VILLAGE OF OAK BROOK,
PURSUANT TO THE PROVISIONS OF 65 ILCS 5/7-1-24
(EASTERN MOST PORTION OF TECHNOLOGY DRIVE)**

WHEREAS, the Village of Lombard (the "Village") entered into "An Intergovernmental Agreement Between Oak Brook Promenade, LLC, DMG Real Estate Holdings, LLC, the Village of Oak Brook and the Village of Lombard in Regard to Technology Drive" with Oak Brook Promenade, LLC, the Village of Oak Brook and DMG Real Estate Holdings, LLC, dated March 7, 2013 (the "Agreement"); and

WHEREAS, pursuant to said Agreement, upon the satisfaction of certain conditions, as more fully set forth in said Agreement, (the "Disconnection Conditions"), the Village agreed to consent to the disconnection of the following-described property, currently located within the Village, and the annexation of same to the Village of Oak Brook, pursuant to 65 ILCS 5/7-1-24:

PARCEL #1:

PART OF LOT 5 IN HOMESTEAD VILLAGE SUBDIVISION, BEING A SUBDIVISION OF PART OF SECTIONS 28 AND 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 1, 1998 AS DOCUMENT R98-179522, DESCRIBED AS FOLLOWS: BEGINNING AT THE EASTERLY MOST SOUTHEAST CORNER OF SAID LOT 5; THENCE SOUTH 65 DEGREES 20 MINUTES 01 SECONDS WEST ALONG THE SOUTHERLY LINE OF SAID LOT 5, A DISTANCE OF 277.74 FEET TO THE INTERSECTION WITH THE SOUTHEASTERLY EXTENSION OF THE SOUTHWESTERLY LINE OF LOT 1 IN NAI HIFFMAN BUTTERFIELD ROAD SUBDIVISION PER PLAT OF SUBDIVISION RECORDED JULY 14, 2006 AS DOCUMENT NUMBER R2006-134912; THENCE NORTH 28 DEGREES 48 MINUTES 00 SECONDS WEST ALONG SAID SOUTHEASTERLY EXTENSION, 34.02 FEET TO THE NORTHERLY LINE OF SAID LOT 5; THENCE NORTH 65 DEGREES 20 MINUTES 01 SECONDS EAST ALONG SAID NORTHERLY LINE, 280.25 FEET TO THE WESTERLY MOST SOUTHEAST CORNER OF SAID LOT 5; THENCE SOUTH 24 DEGREES 34 MINUTES 27 SECONDS EAST ALONG THE EASTERLY LINE OF SAID LOT 5, A DISTANCE OF 33.93 FEET TO THE PLACE OF BEGINNING, IN DU PAGE COUNTY, ILLINOIS.

P.I.N.: Pt. 06-28-103-016

PARCEL #2:

THAT PART OF LOT 1 IN NAI HIFFMAN BUTTERFIELD ROAD SUBDIVISION, BEING A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 14, 2006 AS DOCUMENT NUMBER R2006-134912, DESCRIBED AS FOLLOWS: BEGINNING AT THE EASTERLY MOST SOUTHEAST CORNER OF LOT 5 IN HOMESTEAD VILLAGE PER PLAT OF SUBDIVISION RECORDED SEPTEMBER 1, 1998 AS DOCUMENT R98-179522; THENCE NORTH 24 DEGREES 34 MINUTES 27 SECONDS WEST ALONG THE EAST LINE OF SAID LOT 5, A DISTANCE OF 16.55 FEET; THENCE NORTH 65 DEGREES 25 MINUTES 33 SECONDS EAST, 75.25 FEET TO THE SOUTHERLY LINE OF SAID LOT 1 IN NAI HIFFMAN BUTTERFIELD ROAD SUBDIVISION; THENCE WESTERLY ALONG SAID SOUTHERLY LINE OF LOT 1 THE FOLLOWING TWO (2) COURSES AND DISTANCES: 1) SOUTH 13 DEGREES 07 MINUTES 04 SECONDS WEST, 20.78 FEET; 2) SOUTH 65 DEGREES 20 MINUTES 01 SECONDS WEST, 62.54 FEET TO THE PLACE OF BEGINNING, IN DU PAGE COUNTY, ILLINOIS.

P.I.N.: Pt. 06-28-103-020

PARCEL #3:

THAT PART OF HERETOFORE DEDICATED TECHNOLOGY DRIVE, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 1, 1998 AS DOCUMENT R98-179522, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF SAID TECHNOLOGY DRIVE WITH THE SOUTHEASTERLY EXTENSION OF THE SOUTHWESTERLY LINE OF LOT 1 IN NAI HIFFMAN BUTTERFIELD ROAD SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED JULY 14, 2006 AS DOCUMENT NUMBER R2006-134912; THENCE EASTERLY, SOUTHERLY AND WESTERLY ALONG THE NORTHERLY, EASTERLY AND SOUTHERLY LINES OF SAID TECHNOLOGY DRIVE THE FOLLOWING SEVEN (7) COURSES AND DISTANCES: 1) NORTH 65 DEGREES 20 MINUTES 01 SECONDS EAST, 340.28 FEET; 2) NORTH 13 DEGREES 07 MINUTES 04 SECONDS EAST, 20.78 FEET; 3) NORTH 65 DEGREES 25 MINUTES 33 SECONDS EAST, 4.75 FEET; 4) NORTH 24 DEGREES 34 MINUTES 27 SECONDS WEST, 15.00 FEET; 5) NORTH 65 DEGREES 25 MINUTES 33 SECONDS EAST, 80.00 FEET; 6) SOUTH 24 DEGREES 34 MINUTES 27 SECONDS EAST, 97.29 FEET; 7) SOUTH 65 DEGREES 20 MINUTES 01 SECONDS WEST, 432.87 FEET TO THE INTERSECTION WITH SAID SOUTHEASTERLY EXTENSION OF THE SOUTHWESTERLY LINE OF LOT 1; THENCE NORTH 28 DEGREES 48 MINUTES 00 SECONDS WEST ALONG SAID SOUTHEASTERLY EXTENSION, 66.17 FEET TO THE PLACE OF BEGINNING, IN DU PAGE COUNTY, ILLINOIS, AS VACATED BY VILLAGE OF LOMBARD ORDINANCE NO. 6964, ADOPTED JUNE 19, 2014, AND RECORDED ON JUNE 30, 2014, AS DOCUMENT NO. R2014-055842.

(the "Subject Property"); and

WHEREAS, the Disconnection Conditions set forth in the Agreement have been satisfied; and

WHEREAS, the owner of the Subject Property has filed a Petition for Disconnection of the Subject Property from the Village, a copy of which is attached hereto as Exhibit A, and made part hereof (the "Petition"); and

WHEREAS, the Subject Property is less than one hundred sixty (160) acres in size and is contiguous to the Village of Oak Brook; and

WHEREAS, the Petition has been signed by all the owners of record of the Subject Property; and

WHEREAS, there are no electors residing on the Subject Property; and

WHEREAS, it is in the best interests of the Village to consent to the disconnection of the Subject Property from the Village, and the annexation of the Subject Property to the Village of Oak Brook;

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 recitals as set forth above are hereby incorporated herein by reference and made part hereof.

SECTION 2: That the President and Board of Trustees of the Village hereby consent to the disconnection of the Subject Property from the Village, and the annexation thereof to the Village of Oak Brook, pursuant to 65 ILCS 5/7-1-24.

SECTION 3: That a certified copy of this Ordinance shall be forwarded to the Village of Oak Brook by the Village's Director of Community Development.

SECTION 4: That, pursuant to 65 ILCS 5/7-1-24, the Subject Property shall not be disconnected from the Village until it is properly annexed by the Village of Oak Brook.

SECTION 5: That this Ordinance, and the disconnection and annexation consents provided for herein, shall be null and void in the event that the Village of Oak Brook fails to

adopt an ordinance annexing the Subject Property, within sixty (60) days of the date of this Ordinance, and thereafter complete the proper recording of said Village of Oak Brook ordinance as required by 65 ILCS 5/7-1-24.

SECTION 6: 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 _____, 2014.

First reading waived by action of the Board of Trustees this ____ day of _____, 2014.

Passed on second reading this ____ day of _____, 2014, pursuant to a roll call vote as follows:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED by me this ____ day of _____, 2014.

Keith Giagnorio, Village President

ATTEST:

Sharon Kuderna, Village Clerk

Exhibit A

Petition for Disconnection of the Subject Property

(attached)

**PETITION FOR DISCONNECTION OF CERTAIN REAL PROPERTY
FROM THE VILLAGE OF LOMBARD
PURSUANT TO THE PROVISIONS OF 65 ILCS 5/7-1-24**

This Petition for Disconnection, dated this 18th day of June, 2014, is made by Oak Brook Promenade, LLC (hereinafter referred to as "OWNER"), to the Village of Lombard, an Illinois municipal corporation (hereinafter referred to as the "VILLAGE").

WITNESSETH:

WHEREAS, the OWNER is the owner of certain real property, which is legally described on EXHIBIT "A" attached hereto and made part hereof (hereinafter referred to as the "PROPERTY"); and

WHEREAS, there are no electors residing upon the PROPERTY; and

WHEREAS, the PROPERTY is currently situated within the corporate limits of the VILLAGE, but is also contiguous to the corporate limits of the Village of Oak Brook (hereinafter referred to as "OAK BROOK"); and

WHEREAS, the OWNER desires to disconnect the PROPERTY from the VILLAGE, and annex the PROPERTY to OAK BROOK, in accordance with the provisions of 65 ILCS 5/71-24;

NOW, THEREFORE, the OWNER hereby specifically petitions and requests that the VILLAGE take all necessary and appropriate actions as required to disconnect the PROPERTY from the VILLAGE, including the adoption of an Ordinance consenting to and providing for said disconnection, pursuant to 65 ILCS 5/7-1-24.

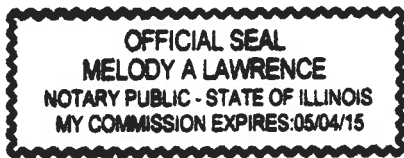
OWNER: Oak Brook Promenade, LLC,
An Illinois limited liability company

By: [Signature]
Dennis J. Hiffman
Its Managing Member

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 Dennis J. Hiffman, personally known to me to be the Manager of Oak Brook Promenade, LLC (the "Company"), and also known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager, appeared before me this day in person and acknowledged that, as such Manager, he signed and delivered the signed instrument, pursuant to authority given by said Company, as his free and voluntary act, and as the free and voluntary act and deed of said Company, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this 18th day of June 2014, 2014.



[Signature]
Notary Public

RECEIVED by me on behalf of the VILLAGE OF LOMBARD this 30th day of June, 2014.

By: [Signature]
Name: William J. Heniff
Title: Community Development Director

EXHIBIT A

Legal Description

PARCEL #1:

PART OF LOT 5 IN HOMESTEAD VILLAGE SUBDIVISION, BEING A SUBDIVISION OF PART OF SECTIONS 28 AND 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 1, 1998 AS DOCUMENT R98-179522, DESCRIBED AS FOLLOWS: BEGINNING AT THE EASTERLY MOST SOUTHEAST CORNER OF SAID LOT 5; THENCE SOUTH 65 DEGREES 20 MINUTES 01 SECONDS WEST ALONG THE SOUTHERLY LINE OF SAID LOT 5, A DISTANCE OF 277.74 FEET TO THE INTERSECTION WITH THE SOUTHEASTERLY EXTENSION OF THE SOUTHWESTERLY LINE OF LOT 1 IN NAI HIFFMAN BUTTERFIELD ROAD SUBDIVISION PER PLAT OF SUBDIVISION RECORDED JULY 14, 2006 AS DOCUMENT NUMBER R2006-134912; THENCE NORTH 28 DEGREES 48 MINUTES 00 SECONDS WEST ALONG SAID SOUTHEASTERLY EXTENSION, 34.02 FEET TO THE NORTHERLY LINE OF SAID LOT 5; THENCE NORTH 65 DEGREES 20 MINUTES 01 SECONDS EAST ALONG SAID NORTHERLY LINE, 280.25 FEET TO THE WESTERLY MOST SOUTHEAST CORNER OF SAID LOT 5; THENCE SOUTH 24 DEGREES 34 MINUTES 27 SECONDS EAST ALONG THE EASTERLY LINE OF SAID LOT 5, A DISTANCE OF 33.93 FEET TO THE PLACE OF BEGINNING, IN DU PAGE COUNTY, ILLINOIS.

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