

July 21, 2005

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

Subject: PC 05-16: 506 E. St. Charles Place

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The Village of Lombard is proposing an amendment to the conditions of approval associated with Ordinance Number 5324 granting approval of conditional use to allow for the re-establishment of the legal nonconforming status of an existing building in the B4 Corridor Commercial Shopping District.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on June 20, 2005. As the petition was brought forward by the Village, William Heniff, Senior Planner presented the petition.

He referenced the history of the subject property. A traffic accident substantially damaged the Scoop's ice cream building in 2001. The building location is deemed legal non-conforming as it was located within the required front yard of the subject property and was one of two principal buildings existing on the property. Because the estimated damage costs were greater than 50% of the value of the damaged building, any improvements would need to meet the full provisions of the Zoning Ordinance if it was to be repaired.

A petition was approved in 2003 by the Village Board that re-established the legal non-conforming status of the ice cream building and allowed the property owner to re-establish the business as it was prior to the auto accident, subject to conditions as outlined in Ordinance 5324.

Since the initial approval, the owner started the building restoration. The property owner also represented to the Village that the building was under lease by another party who intended to re-establish a business on the premises. However, two years has passed since the initial Ordinance was approved and four years has passed since the initial damage occurred.

While Ordinance 5324 includes conditions of approval for granting the conditional use, it did not establish specific timetables for which the building needed to be occupied. This petition is intended to set forth additional conditions of approval requiring specific times for a lease agreement and for issuance of a Certificate of Occupancy and/or Zoning Certificate for the property. Ultimately, these conditions would help ensure the intent of Ordinance 5324 to establish a viable commercial development on the subject property is achieved.

The proposed ordinance amendments would set specific timelines for development/improvement activity to occur on the premises. These amendments would consist of the following:

1. A lease signed within 60 days.
2. A building permit submitted within 120 days.
3. Issuance of a Certificate of Occupancy/Zoning Certificate within 180 days.

In the event that any of these timelines are not met, the conditional use granted through Ordinance 5324 shall be null and void and the full provisions of Section 155.305 of the Zoning Ordinance would be in effect. This would also require the property owner to be responsible for razing the structure. He noted that the property owner was aware of this petition being brought forward and did not object to it. He also noted in the findings and recommendations section of the IDRC report the word "following" should be struck from the conditions of approval.

Chairperson Ryan then opened the meeting for public participation. There was no one present to speak in favor of or against the petition. He then opened the meeting for discussion among the Commissioners.

Commissioner Burke asked if the time periods noted in the staff report were negotiated or did staff suggest them. Mr. Heniff said that the proposed dates are intended to be aggressive, but staff wanted to make sure that actions to get a business operating on the premises must occur at regular intervals. If the Village Board wanted to tighten up the timelines, they could do so, but staff has the three benchmark dates. He also clarified that the 180 day requirement for a certificate of occupancy does not require them operating a business on the premises, but rather requires the building to be in full compliance with the building codes so that a business could immediately go into the building.

Chairperson Ryan asked if the building could be razed if these conditions are not met. Mr. Heniff stated that if the amendment is adopted and the dates not met, the conditional use would become null and void. The Zoning Ordinance states the building would need to be razed at the expense of the property owner.

After due consideration of the petition and testimony presented, the Plan Commission found that the petition complies with the standards of the Zoning Ordinance. Therefore, the Plan Commission, by a roll call vote of 4 to 0, accepted the findings of the Inter-departmental Review Report as the findings of the Lombard Plan Commission and recommended to the Corporate

Authorities, **approval** of the petition associated with PC 05-16, subject to the following conditions as amended:

1. That the conditions previously established in Ordinance 5324 shall be satisfactorily addressed and shall remain in full force and effect.
2. That the property owner shall provide the Village with a copy of a lease agreement between the property owner and a lessee for the Scoop's ice cream building. The property owner shall also provide any supplemental documentation from the lessee denoting the proposed use of the subject premises. Said documentation shall be provided to the Village no later than sixty (60) days from the date of approval of this Ordinance.
3. That a building permit for any requisite interior or exterior improvements shall be applied for no later than one-hundred twenty (120) days from the date of approval of this Ordinance.
4. That a Certificate of Occupancy/Zoning Certificate shall be applied for and shall be approved by the Village within one-hundred eighty (180) days from the date of approval of this Ordinance.

Respectfully,

VILLAGE OF LOMBARD

Donald F. Ryan
Chairperson
Lombard Plan Commission

WJH:jd

c Petitioner
 Lombard Plan Commission