

Village of Lombard

*Village Hall
255 East Wilson Ave.
Lombard, IL 60148
villageoflombard.org*



Meeting Agenda

Thursday, August 20, 2009

7:30 PM

Village Hall Board Room

Village Board of Trustees

Village President: William J. Mueller

Village Clerk: Brigitte O'Brien

Trustees: Greg Gron, District One; Keith Giagnorio, District Two;

Zachary Wilson, District Three; Peter Breen, District Four;

Laura Fitzpatrick, District Five; and Bill Ware, District Six

I. Call to Order and Pledge of Allegiance**II. Roll Call****III. Public Hearings****IV. Public Participation**

[090474](#) Swearing-in Ceremony - Lt. Roy Newton, Sgt. Will Mitchell and Sgt. Bill Marks

Attachments: [policeswearingin8309.doc](#)

[090504](#) Proclamation - Sheldon Peck Homestead 10th Anniversary

Attachments: [procpeckhouse2009.doc](#)

[090539](#) Proclamation - Beacon Hill Retirement Community 25-Year Anniversary

V. Approval of Minutes**VI. Committee Reports**

Community Relations Committee - Trustee Laura Fitzpatrick, Chairperson

Economic/Community Development Committee - Trustee Bill Ware, Chairperson

Environmental Concerns Committee - Trustee Dana Moreau, Chairperson

Finance Committee - Trustee Zachary Wilson, Chairperson

Public Works Committee - Trustee Greg Gron, Chairperson

Transportation & Safety Committee - Trustee Dick Tross, Chairperson

Board of Local Improvements - Trustee Richard J. Tross, President

Community Promotion & Tourism - President William J. Mueller, Chairperson

Lombard Historical Commission - Brigitte O'Brien

VII. Village Manager/Village Board Comments

VIII Consent Agenda

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Payroll/Accounts Payable

- A. [090379](#) Approval of Accounts Payable
For the period ending June 19, 2009 in the amount of \$1,279,630.51.
- B. [090386](#) Approval of Village Payroll
For the period ending June 20, 2009 in the amount of \$824,965.89.
- C. [090387](#) Approval of Accounts Payable
For the period ending June 26, 2009 in the amount of \$652,137.52.
- D. [090399](#) Approval of Accounts Payable
For the period ending July 3, 2009 in the amount of \$1,152,434.75.
- E. [090505](#) Approval of the Village Payroll
For the period ending July 4, 2009 in the amount of \$877,946.31.
- F. [090400](#) Approval of Accounts Payable
For the period ending July 10, 2009 in the amount of \$223,609.73.
- G. [090416](#) Approval of Accounts Payable
For the period ending July 17, 2009 in the amount of \$919,211.71.
- H. [090417](#) Approval of Village Payroll
For the period ending July 18, 2009 in the amount of \$860,927.54.
- I. [090418](#) Approval of Accounts Payable
For the period ending July 24, 2009 in the amount of \$1,724,186.70.
- J. [090467](#) Approval of Accounts Payable
For the period ending July 31, 2009 in the amount of \$857,259.87.
- K. [090483](#) Approval of Village Payroll
For the period ending August 1, 2009 in the amount of \$797,081.29.
- L. [090484](#) Approval of Accounts Payable
For the period ending August 7, 2009 in the amount of \$211,250.46.

Ordinances on First Reading (Waiver of First Requested)

- M. [060514](#) PC 03-27: 240 Progress Road
Granting a further time extension of Ordinances 5358, 5550, 5717, 5918, 6236 and 6355 extending the time period for construction of the conditional use an additional 12 months (August 19, 2011). (DISTRICT #4)

Attachments: [CU Extension Memo 3.doc](#)
[Ord Extension 3.doc](#)
[SUBMIT_ext3.doc](#)
[59180001.pdf](#)
[CU Extension Memo 5.doc](#)
[SUBMIT_ext5.doc](#)
[Ordinance 6236.pdf](#)
[Ordinance 6355.pdf](#)
[060514.pdf](#)
[060514.pdf](#)
[080514.pdf](#)
[CU Extension Memo 6.doc](#)
[SUBMIT_ext6.doc](#)
[060514.pdf](#)
[060514.pdf](#)
[Ordinance 6504.pdf](#)

N. [090352](#)

PC 09-16: Text Amendments to the Lombard Zoning Ordinance
The Village of Lombard is proposing text amendments to Section 155.223, Section 155.412 through Section 155.420 and Section 155.802 (and any other relevant sections for clarity) pertaining to live entertainment, in the following respects:

1. In addition to current General Provisions, add standards regulating live entertainment; and
2. In addition to current definitions, add a definition for "live entertainment".

Attachments: [Cover Sheet.doc](#)
[DAH referral memo.doc](#)
[PUBLIC NOTICE 09-16.doc](#)
[Referral Letter 09-16.doc](#)
[Report 09-16.doc](#)
[Live Entertainment Memo\(revised\).doc](#)
[Ordinance 6356.pdf](#)
[090352.pdf](#)

Chairperson Ryan asked if this petition will be presented by the Village. William Heniff, Director of Community Development, replied yes.

Chairperson Ryan then requested the staff report.

William Heniff presented the staff report indicating that it is being submitted to the public record in its entirety. This petition is a follow up from a previous workshop session relative to live entertainment text amendments. There has been an increased demand for the integration of live entertainment into new and existing businesses. There has also been an increased demand to address live

entertainment in downtown Lombard, as suggested during the recent Downtown Visioning workshops.

The Zoning Ordinance presently permits live entertainment as a conditional use in the O, B3, B4 and B4A Districts, but only as part of a restaurant. As such, a restaurant establishment wishing to integrate a live entertainment component (karaoke, live music, etc.) is required to obtain conditional use approval through the public hearing process. Banquet halls, a type of restaurant, are already permitted to include live entertainment as an accessory use.

The proposed text amendments would allow live entertainment for applicable uses so long as the standards are met. Staff is proposing to add standards to live entertainment uses, which would regulate each live entertainment activity. Mainly, live entertainment would only be permitted as an accessory use to a permitted use or approved conditional use and would be required to meet all requirements of Village Code, including the liquor provisions.

He mentioned that the Zoning Ordinance does not currently include a definition for "live entertainment" which resulted in a subjective interpretation based upon a staff review. This text amendment will also provide better information to the public outlining the provisions which need to be met if desiring live entertainment associated with a business establishment.

Staff shared their text amendment comments with the Chamber of Commerce and Lombard Town Centre requesting their input. Staff also conducted a survey of neighborhood municipalities, most of which allow live entertainment as conditional use or permitted use.

What staff is proposing as part of the text amendment would allow for live entertainment as an accessory function. Mr. Heniff then noted page #5 of the staff report and referred to the seven provisions. He explained that live entertainment would be permitted as long as these standards are met, clearly as an accessory use. If you had a business activity with live entertainment as a principal use, it would not have to meet the provisions, but rather it would fall back to a theater use or some other use. There is a provision relative to the 25% gross floor area, which is consistent with the accessory use and activity. Mr. Heniff then went over the other provisions.

Staff would require a live entertainment application process for review and approval which would need to be achieved before the activity is started. He clarified that a permit would not be required but the process would be handled similarly to the valet parking process where an application would be submitted outlining their plan and program. If they operate within the confines of the permit then it would use an accessory use.

Concluding, Mr. Heniff noted the live entertainment definition and mentioned for clarity that it does not include adult uses. Based upon comments received from the Plan Commission, staff is recommending approval.

Chairperson Ryan asked if anyone had any questions relative to the staff report.

Commissioner Nelson asked if the Taste of Lombard falls into this. Mr. Heniff stated that the Taste of Lombard would be considered a special event because it is not associated with the principal function of the property.

Chairperson Ryan then opened the meeting for public comment. There was no

one to speak in favor or in opposition to the petition.

Chairperson Ryan then opened the meeting for comments among the Commissioners.

Commissioner Sweetser asked if any of the other Villages that staff looked at referred to animals. She asked if it was intentional that animals were omitted or that staff didn't come across it. Mr. Heniff stated that they didn't come across it. He stated that if it is an ancillary function, such as a seafood restaurant with an aquarium, we would consider those decorative elements. Mr. Heniff stated that staff may look at Health Department provisions for any animal issues. He also added that staff did not run across any uses whereby animals were the principal function.

Commissioner Olbrysh asked if adult uses are defined elsewhere in the Code. Mr. Heniff replied, yes.

Commissioner Cooper asked if there is any reference to days of the week or hours that this is allowed. Mr. Heniff responded by stating that because the uses are completely indoors, we do not require specific hours or days. If associated with a liquor license there will be sunset provisions as to how late you could serve liquor. Again, being indoors staff didn't see any special reason to place a limit on days or hours.

Commissioner Olbrysh referred again to the Taste of Lombard and asked if a special event permit would require that they follow certain standards. Mr. Heniff replied, yes. There is a special process with regulations pertaining to life safety which are more detailed than what the Code would have with regard to this proposal.

Commissioner Burke referred to provision #2 on page 4. He questioned if that meant that if there is a band, could they can only take up 25 percent of the restaurant or could the audience take up only 25 percent. Mr. Heniff replied that it would be the band or stage area associated with the activity.

Commissioner Burke suggested that it be clarified. Mr. Heniff asked if adding the word "performance" before "area" would help clarify the provision.

Commissioner Burke replied, yes.

- O. [090383](#) Sale of Surplus Equipment
Declaring one Village-owned vehicle #SM449 as surplus and authorizing its sale to Standard Equipment of Chicago in the amount of \$61,000. Staff is requesting a waiver of first reading.

Attachments: [090383.pdf](#)

[Ordinance 6357.pdf](#)

- P [090398](#) Special Assessment 217B Reduction of Interest Rate
Providing for the amendment of Ordinance #6281, adopted December 4, 2008, with regard to the paving and improving of portions of Edgewood Avenue, Vista Avenue, LeMoyne Avenue and Joyce Avenue in Special Assessment 217B as it relates to the reduction in the interest rate charged to residents for their portion of the project costs.

(DISTRICT #4)

Attachments: [Ordinance 6358.pdf](#)
[090398.pdf](#)

Q. [090407](#)

PC 09-19: Text Amendments to the Zoning Ordinance
The Village of Lombard is proposing text amendments to the Lombard Zoning Ordinance, amending Section 155.212 to establish replacement central air-conditioning systems as permitted obstructions in certain required yards.

Attachments: [Cover Sheet.doc](#)
[DAH referral memo.doc](#)
[PUBLICNOTICE 09-19.doc](#)
[referral letter.doc](#)
[Report 09-19.doc](#)
[Ordinance 6359.pdf](#)
[090407.pdf](#)

Chairperson Ryan stated that this petition has been brought forward by the Village and will be presented by staff.

Michael Toth, Planner I, presented the staff report. The Planning Services Division is proposing code amendments to address the issue of replacement central air-conditioning systems located within the interior side yard.

Mr. Toth stated that the Zoning Ordinance requires central air-conditioning systems meet the required interior side yard setback. There have been a number of permits that have come in over the years for the replacement of nonconforming central air-conditioning systems in the interior side yard. As air conditioning units are not a permitted encroachment in the side yard, they would therefore need to conform to the required setback for structures within the applicable zoning district. Per Section 155.303 of the Zoning Ordinance, once a nonconforming structure is removed, the rights to the nonconforming location are lost and the structure would need to come into compliance with Code. This would mean that any time a central air-conditioning system was to be replaced in a location that was not permitted by Code, a variation would be required.

Mr. Toth stated that unlike a structure, such as a fence or shed, there are more critical elements involved with the piping and electrical components of a home that make the replacement of the a/c unit more complicated. He added that staff wishes to continue to prohibit central air-conditioning systems units as a permitted encroachment in the front and corner side yard. In addition, any new (or additional) air-conditioning units would have to meet the minimum interior side yard requirement.

Mr. Toth stated that the proposed amendments have been drafted to prohibit any replacement central air-conditioning systems to further encroach into the interior side yard. The rationale for allowing a four foot (4') encroachment in the interior side yard assumes the six foot (6') setback required of most single-family residences, takes into consideration the required clearance from the house and the width of the unit.

Mr. Toth stated that staff recognizes the costs associated with the relocation of a

central air conditioning unit and also does not wish to punish residents who try to obtain a permit for the replacement of the air conditioning unit. Therefore, staff finds that allowing replacement air conditioning systems to be listing as a permitted encroachment in the interior side yard (with provisions) would reduce the number of variation requests, encourage residents to obtain a permit, eliminate relocation costs and maintain the existing character of residential properties throughout the Village.

Mr. Toth stated that in order to address the demand for the replacement of central air conditioning systems in the side yard, Section 155.212 "Permitted Obstructions in Required Yards" will now recognize "Replacement central air-conditioning systems" as a permitted encroachment in the side yard, with exceptions.

Referring to the standards for text amendments, Mr. Toth stated that the proposed amendments would not create additional nonconformity, but rather allow existing nonconforming central air-conditioning systems to be replaced, without requiring a variation. He then stated that this amendment would be consistent with staff and Board policies. The Village has adopted previous amendments regulating the location of certain accessory structures within required yards. Mr. Toth then referred to the list of past Board approvals for a/c units in the side yard.

Chairperson Ryan opened the meeting for discussion and questions by the Plan Commission. The Commissioners had no comments.

R. [090408](#)

PC 09-21: Text Amendments to the Lombard Zoning Ordinance
The Village of Lombard is proposing text amendments to Section 155.205 (A) (1) (c) of the Lombard Zoning Ordinance to allow fences in residential districts to be up to eight (8') in height along property lines that adjoin and parallel railroad right-of-way. (DISTRICTS #1 and #4)

Attachments: [Cover Sheet.doc](#)
[DAH referral memo.doc](#)
[PUBLIC HEARING 09-21.doc](#)
[referral letter.doc](#)
[Report 09-21.doc](#)
[Ordinance 6360.pdf](#)
[090408.pdf](#)

Chairperson Ryan stated that this petition has been brought forward by the Village and will be presented by staff.

Christopher Stilling, Assistant Director, presented the staff report. The Planning Services Division is proposing text amendments to Section 155.205 (A) (1) (c) of the Lombard Zoning Ordinance to allow fences in residential districts to be up to eight (8') in height along property lines that adjoin and parallel railroad right-of-way.

Mr. Stilling stated that the Zoning Ordinance already allows residential fences that abut commercially-zoned properties (those in a B, O, or I District) to be up to eight feet in height. Staff believes that the same logic that allows for a higher fence adjacent to a commercial property (presumably to screen the residence from noise and an undesirable view) would justify the need for a higher fence

adjacent to a railroad.

Referring to the standards for text amendments, Mr. Stilling stated that the proposed amendments would not create additional nonconformity, but rather allow existing nonconforming fences to be replaced, without requiring a variation. He then stated that this amendment would be consistent with staff and Board policies.

Chairperson Ryan opened the meeting for discussion and questions by the Plan Commission.

Commissioner Olbrysh asked if the code addresses using a specific type of fence. Mr. Stilling answered that the code is not material specific but it does specify that fences cannot cause bodily injury so nothing that is dangerous or sharp can be used.

***S. PC 09-23: Text Amendments to the Lombard Zoning Ordinance (218 E. St. Charles Road) (Moved to IX-A1)**

- T. [090419](#) Declaration of Surplus Property
Declaring four Village-owned vehicles as surplus property and authorizing their sale at the Tri-State Automobile Auction of Chicago. Staff is requesting a waiver of first reading.

Attachments: [090419.pdf](#)
[Ordinance 6361.pdf](#)

- U. [090479](#) Seizure and Impoundment of Motor Vehicles
Amending Title VII, Chapter 75 of the Lombard Village Code with regard to the seizure and impoundment of motor vehicles.

Attachments: [pdseizurevehcover8309.doc](#)
[pdseizurevehord8309.doc](#)
[Ordinance 6362.pdf](#)
[090479.pdf](#)

***V. Amending Title 3 of the Lombard Village Code (Moved to IX-A2)**

- W. [090486](#) Declaration of Surplus Property
Declaring one ambulance as surplus property and authorizing its sale to Apgar Ambulance in the amount of \$19,000.00. Staff is requesting a waiver of first reading.

Attachments: [090486.pdf](#)
[Ordinance 6363.pdf](#)

- X. [090498](#) Disposal of Village Property - Police Canine Dog
Declaring retiring Police canine dog "Doc" as surplus and authorizing the sale of the dog to Officer Bruce Bradford.

Attachments: [Ordinance 6364.pdf](#)
[090498.pdf](#)

Other Ordinances on First Reading

- Y. [060542](#) ZBA 06-21: 820 E. St. Charles Road
Granting a further time extension to Ordinance 5935, as amended by Ordinances 6094, 6247, 6373, and 6515 relative to the approval of a reduction in the minimum required lot area for the property located at 820 E. St. Charles Road. (DISTRICT #4)

Attachments: [apoletter 06-21.doc](#)
[coversheet.doc](#)
[ORDINANCE 06-21.doc](#)
[PUBLICNOTICE.doc](#)
[Referral Let 06-21.doc](#)
[Report 06-21.doc](#)
[WTL referral memo.doc](#)
[ORD 5935.pdf](#)
[coversheetextension.doc](#)
[Ord Extension.doc](#)
[Extension memo.doc](#)
[60940001.pdf](#)
[Ordinance 60940001.pdf](#)
[coversheetextension2.doc](#)
[Extension memo2.doc](#)
[Ordinance 6247.pdf](#)
[coversheetextension3.doc](#)
[Extension memo3.doc](#)
[Ordinance 6373.pdf](#)
[060542.pdf](#)
[060542.pdf](#)
[060542.pdf](#)
[Extension memo4.doc](#)
[coversheetextension4.doc](#)
[060542.pdf](#)
[060542.pdf](#)
[Ordinance 6515.pdf](#)
[060542BOT08_18_11.pdf](#)
[060542-CoverPage-9-1-11.pdf](#)
[Ordinance 6640.pdf](#)

Robert Mueller presented the petition. He described the location of the subject property as well as the surrounding zoning and land uses. There was previously a dilapidated residence on the property that has been removed. He became

aware of the need for a lot area variation after submitting plans for a building permit. In this case there is no way to meet the lot area requirement because there is no available land.

Chairperson DeFalco then opened the meeting for public comment. There was no one present to speak for or against the petition.

Chairperson DeFalco then requested the staff report.

Jennifer Backensto, Planner II, presented the staff report. The subject property is currently a legal Lot of Record; however, it does not meet the minimum lot area requirements for the B4 District. The petitioner is requesting a lot area variation to allow for the redevelopment of the property as an office building. Aside from the lot area requirement, no other zoning relief is being requested.

When this property was developed as a single-family residence in 1927, there were no minimum lot area requirements. In 1986, the Village approved a rezoning of the western side of the block from B4 to R2, leaving two remainder B4 parcels that did not meet the minimum lot area requirements for that district.

Staff finds that the physical surroundings of the subject property create a hardship. Due to the configuration and zoning of the adjacent lots, there is no way this property could be redeveloped without some sort of zoning relief. There are three scenarios under which redevelopment could occur, all of which would require approval through the public hearing process: the proposed lot area variation, rezoning of at least three of the single-family residential properties to the north and consolidation with those properties, or a variation to the subdivision regulations regarding lot configuration. Staff feels that a lot area variation would be the most appropriate type of zoning relief in this case as it would avoid both the encroachment of commercial development into the neighboring residential area as well as setting a precedent to allow unusual, "L" shaped lots.

Although the B4 zoning within the East St. Charles Road corridor reflects the Village's general desire to see redevelopment of entire block faces within this corridor, the previous approval of R2 zoning at 806 E. St. Charles Road prevents such a consolidated development. The granting of the requested lot area variation would not alter the character of the neighborhood or negatively impact the surrounding properties as the subject property has maintained the same boundaries since its development in 1927. Furthermore, the granting of this variation would not grant a precedent for other properties within the corridor as the nearby R2 zoning and irregular lot configurations present a unique situation that is not found elsewhere in the corridor.

Chairperson DeFalco then opened the meeting for discussion by the Board Members.

Mr. Young asked if there were any other issues associated with the redevelopment. Ms. Backensto stated that the permit had already been reviewed and the lot area variation was the only relief necessary. All transitional yards and other B4 District requirements will be met.

Z. [060677](#)

PC 05-42: 218-226 W. St. Charles Road (The Pointe at Lombard)
Granting a further time extension (September 18, 2012) to Ordinance
5816, as amended by Ordinances 5973, 6141, 6327, 6374 and 6510

relative to the property located at 218-226 W. St. Charles Road.
(DISTRICT #1)

Attachments: [WTL memo CU ext.doc](#)
[Submit Ordinance Extension.doc](#)
[O pointe at Lombard.pdf](#)
[ORD 5973.pdf](#)
[6141 Rec0001.pdf](#)
[CoverSheet 3rd extension.doc](#)
[DAH memo CU ext 3.doc](#)
[CoverSheet 4th extension.doc](#)
[DAH memo CU ext 4 petitioner letter.doc](#)
[DAH memo CU ext 4.doc](#)
[PC 05-42 Letter.pdf](#)
[Ordinance 6237.pdf](#)
[Ordinance 6374.pdf](#)
[060677.pdf](#)
[060677.pdf](#)
[060677.pdf](#)
[060677.pdf](#)
[060677.pdf](#)
[060677.pdf](#)
[Ordinance 6510.pdf](#)
[060677BOT09_15_11.pdf](#)
[060677 Cover Page.pdf](#)
[Ordinance 6645](#)

- AA.** [080502](#) ZBA 08-13: 1008 S. Lewis
Granting a time extension to Ordinance 6234 extending the time period
for construction of the variation for an additional twelve month period
(August 20, 2010). (DISTRICT #6)

Attachments: [apoletter.doc](#)
[Cover Sheet.doc](#)
[PUBLICNOTICE.doc](#)
[Referral Let 08-13.doc](#)
[Report 08-13.doc](#)
[WTL referral memo.doc](#)
[Ordinance 6234.pdf](#)
[BOT ext memo.doc](#)
[Cover Sheet extension.doc](#)
[Ordinance 6375.pdf](#)
[080502.pdf](#)
[080502.pdf](#)

The petitioner, Ricardo Alvarado, presented the petition. Mr. Alvarado began by stating that he is requesting the variance because he wishes to maintain the existing building line, otherwise his addition would have to be substantially altered. He added that he would like to keep the property aesthetically pleasing. Mr. Alvarado then stated that his neighbors all agreed that the addition would look best as planned.

Chairperson DeFalco asked if anyone was present to speak for or against the petition. There was nobody present to speak for or against the petition.

Chairperson DeFalco then requested the staff report. Michael Toth, Planner I, read the staff report. Mr. Toth stated that the property contains a two-story single family residence built (at the closest point) approximately 5.5 feet from the southern property line. The petitioner plans to construct a two-story addition from the rear of the residence expanding west and a one-story bedroom addition on the northwest portion of the residence on an existing concrete block patio. The rear addition would maintain the current building line of the existing residence. However, the residence does not run parallel to the southern property line. As such, the degree of encroachment would be increased into the interior side yard. As the residence already consists of an insufficient side yard setback and the house sits on an angle, the proposed addition would increase the level of non-conformity, thus requiring a variation. In an effort to bring the entire property into full Code compliance, staff recommends that the non-conforming side yard setback of the existing structure also be memorialized. Therefore, not only would the proposed addition be granted zoning rights in relation to the side yard setback, but the existing residence would also be afforded those same applicable rights.

Mr. Toth explained that the minimum interior side yard setback in the R2 - Single Family Residence District is six feet (6'). The existing residence currently maintains a 5.5 foot setback and does not run parallel with the southern property line. As the setback is less than six (6) feet, it is considered non-conforming. The addition will maintain the building line of the existing residence; as such, the addition would further encroach into the required interior side yard setback. As the current residence is located 5.5 feet from the property line and the proposed addition will be 5.1 feet from the property line at the closest point, the increased degree of encroachment is roughly 4.5 inches. However slight the encroachment, the addition would still remain clear of the

existing five foot (5') utility easement.

Mr. Toth mentioned that there are several ZBA cases that provide precedence for the requested variation where the addition holds the building line of the existing residence, but is located within the required side yard setback.

Mr. Toth stated that staff finds that this petition meets the Standards for Variations. A majority of the neighboring properties appear to be built directly on or in close proximity to the six (6) foot side yard setback lines. As such, the proposed addition would neither be out of character in the neighborhood nor detrimental to the welfare of the public or those neighboring properties.

Mr. Toth stated that staff is recommending approval of the side yard setback variation subject to the conditions outlined in the staff report.

Chairperson DeFalco then opened the meeting for discussion by the Board Members.

Mr. Young had asked if the 50% provision was necessary to include as a condition of approval (condition #2) because in the event that the house were to be destroyed they would utilize the same foundation.

Chairperson DeFalco replied by stating that the condition of approval would ensure that if the house were to be destroyed beyond 50% the house would need to come into conformance with Code. He also added that it would prevent the house or addition from being expanded deeper into the lot in the event that the house was to be destroyed.

Chairperson DeFalco asked staff if the five (5) foot utility easement is measured from the property line. Michael Toth responded that the five (5) foot utility easement is measured from the property line.

BB. [090284](#)

PC 09-10: 404 East North Avenue

Requests that the Village grant a conditional use pursuant to Section 155.416(C)(4) and (5) of the Lombard Zoning Ordinance to allow automobile service and automobile repair in the B4 Corridor Commercial Shopping District. (DISTRICT #4)

Attachments: [apoletter 09-10.doc](#)

[Continuance MEMO 09-10-2.doc](#)

[Continuance MEMO 09-10.doc](#)

[Cover Sheet.doc](#)

[DAH referral memo.doc](#)

[PUBLICNOTICE.doc](#)

[Referral Letter 09-10.doc](#)

[Report 09-10.doc](#)

[Ordinance 6376.pdf](#)

[090284.pdf](#)

Chairperson Ryan stated that staff has received a request from the petitioner to continue the petition to the June 15, 2009 Plan Commission meeting.

Chairperson Ryan indicated that staff has requested a continuance of this petition. Mr. Heniff clarified that the petitioner was aware of outstanding items associated with deficiencies on the property that they needed to meet. The petitioner verbally expressed their intent to staff to have the petition continued to the next meeting in order to correct these deficiencies. Staff has no objection to their request.

Commissioner Sweetser asked if they would incur some type of penalty as this is the second time they have requested a continuance. Mr. Heniff answered no.

Robert Labno, 404 E. North Avenue, presented the petition. He stated that they are currently trying to improve their business by adding a service area. He is present to ask for permission to open a service area. He stated that he did not have much else to say but that he would answer any questions.

Chairperson Ryan asked if anyone was present to speak in favor or against the petition.

Suzanne Gagliano, 2N130 LaLonde Avenue, stated that since the two dealerships opened up they use her street as drag strip. She has seen cars going more than 25 mph and has called the police. She is concerned about the safety of children in the neighborhood. They don't have sidewalks because they are unincorporated. She stated that she has asked the dealerships to stop but they have not. A few weeks ago, the police caught one employee driving without a driver's license. She stated that she would like the block capped off if necessary. She is worried that a service area would bring more traffic. She stated that she is just asking that they don't test drive cars in the neighborhood anymore.

Charles Marston, 2N040 LaLonde Avenue, stated that he had basically the same things to say. He stated that he has been down to confront them and has gotten no satisfaction. He stated that he lives close to the place and that they fix racing cars and the cars have no mufflers. At 10 p.m., they are firing them up and this wakes him up. He has called the Sherriff's Office and because it's a low priority call they are shut down by the time they arrive. He asked if the Plan

Commission had received their letters.

Chairperson Ryan stated yes.

Mr. Labno responded to their concerns. Regarding driving in the street, they do not have a problem with the street being blocked. It is an open street, but he admits the issues with fast cars in the area in the past. He stated that they are now under new management so he can't be sure what happened before. However, the issue has been addressed. He also mentioned that another dealership is across the street so there could be traffic generated from the other shop. He admitted that it is a small street with no sidewalks. He has heard that people have gone over the speed limit. He mentioned that the service area would be entered from Grace Street so there would be no need for anyone to go up the street.

Mr. Labno stated that the noise from the shop would be the same as any mechanic shop when working on cars. He stated that those living by North Avenue hear heavy traffic with loud trucks. He stated that they will try to limit such noise to before 9 p.m. and try to minimize other noise.

Chairperson Ryan ask if the business hours were until 9 p.m. Mr. Lando stated that the business closes at 9 p.m. but occasionally there could be a customer finalizing a deal. However, there is no need for them to race cars up and down the block. Most customers would want to go on North Avenue or the expressway and take a faster route.

Chairperson Ryan asked if the shop is under new ownership. Mr. Lando stated that the ownership is the same but they are under new management.

Chairperson Ryan then requested the staff report.

Stuart Moynihan, Associate Planner, presented the staff report. The petitioner is currently the operator of an automobile dealership at 404 E. North Avenue. The motor vehicle sales use was approved as a conditional use by Ordinance 6161 (PC 08-05) in October 2008. In a letter submitted during the staff review of PC 08-05, European Auto Exchange stated that no oil changes or major mechanical work would occur on the premises and that all major repair and body work would be done at another facility. Since that time, European Auto Exchange has performed some automotive service and minor repairs at the 404 E. North Avenue facility. To perform these services a vehicle lift has been installed within the building on the subject property. Therefore, staff informed the petitioner that conditional uses for automobile service and automobile repair would be necessary.

Conditional uses for the subject property were approved in March 1999 (PC 99-06 Ordinance 4599) and in November 2000 (PC 00-46, Ordinance 4907) for motor vehicle sales. However, since the approval was not acted upon within twelve months, the conditional use became null and void. In October of 2008, the current occupant of the property received a conditional use through PC 08-05 for motor vehicle sales.

On March 19, 2009, a Bureau of Inspection Services (BIS) inspector discovered that a vehicle lift had been installed inside the garage door at the northern side of building. The inspector was informed that the lift was being used for oil changes and minor vehicle service. As no permit had been issued, BIS notified European Auto Exchange that a permit was necessary for the lift.

Following the inspection, BIS notified Planning Services staff of the use of the lift. As the Zoning Ordinance lists automobile service and automobile repair as conditional uses in the B4 District, staff contacted the petitioner informing them that a conditional use for automobile service is required. The petitioner also acknowledged that some minor vehicle repairs were being performed at the facility. Staff informed the petitioner that this would require a second conditional use for automobile repair. The petitioner has since applied for a permit for the lift.

The petitioner is proposing to service vehicles which are for sale on the lot and to service vehicles which have been sold and are under warranty. In addition, the petitioner has requested that they be permitted to service race cars which are sponsored by European Auto Exchange and are a hobby of the business owner.

As part of PC 08-05, the petitioner submitted a site plan and landscape plan which did not accurately reflect the features and dimensions of the property. The inaccuracies included a depiction of greater parkway width along North Avenue than is present at the site and a strip of grass approximately twelve feet (12') in width located along the northern property line that is not present at the site. Approximately one hundred feet (100') of this strip, beginning at the northeastern corner of the property and extending westward, is in fact asphalt parking. As a corrective measure, the petitioner has submitted a new landscape plan which accurately depicts the property.

The Comprehensive Plan recommends Community Commercial at this location. As the use on the property will remain commercial retail with an added service component, the proposed use complies with the recommendation of the Comprehensive Plan.

Staff notes that the service and repair of race cars is not representative of a commercial operation on the property. It is the opinion of staff that service and repair of automobiles should be limited to vehicles for sale by European Auto Exchange and the personal automobiles of their customers. Therefore, staff is not supportive of the petitioner's request to service and repair race cars on the subject property.

The proposed use is compatible with the surrounding land uses. The properties to the east, south, and west are zoned B4 or B4PD and are development for commercial purposes. The residential properties north of the site are screened by an eight-foot (8') board on board fence and will be further screened by the plantings to be installed by the petitioner along the northern property line.

As a condition of PC 08-05, the petitioner was required to install a "no left turn" sign on the LaLonde Avenue driveway, in order to prevent vehicles from being test driven within the adjacent residential neighborhood to the north. This sign has been installed on the property. Still, staff has received two letters from property owners to the north which express concern about test drives occurring within the residential neighborhood. It is the opinion of staff that should the Plan Commission make a motion for approval of this petition it should include a condition which expressly prohibits test drives in the residential neighborhood to the north.

As a condition of PC 08-05, the petitioner was required to submit a Plat of Consolidation to make the subject property a single lot of record. The petitioner

has submitted the plat and received comments for revisions. To date, the petitioner has not submitted a final copy of the plat for recording.

The conditions in PC 08-05 also required the petitioner to install sidewalks along all surrounding public rights-of-way for the length of the property. The Subdivision and Development Ordinance requires that these sidewalks be installed. Currently, only one sidewalk exists along North Avenue. Grace Street and LaLonde Avenue currently have no improved sidewalks. Staff is working with the petitioner to develop plans for the installation of the remaining sidewalks.

Staff is recommending approval of the petition subject to the conditions in the staff report.

Chairperson Ryan then opened the meeting for comments among the Commissioners.

Commissioner Olbrysh stated that the big issue is the vehicles being driven for testing purposes. He stated that one of the conditions in the staff report prohibits this. He mentioned that test driving in the parking lot should also be considered. However, this will only partially resolve the issue because of the other dealership across the street. He stated that there is nothing we can do with the other dealership. He stated that he assumed that both dealerships are using that circle to test cars. He stated that the neighborhood won't be free of this issue unless speed bumps are installed on LaLonde.

Commissioner Sweetser stated that she agreed and that the issue needs to be dealt with.

Christopher Stilling stated that the area to the north is unincorporated.

Commissioner Sweetser asked if the street could be blocked off or if this would be up to the County.

Mr. Stilling stated that the street and properties to the north are not within our ultimate planning jurisdiction. He stated that it was unlikely that the Village could initiate speed bumps being installed. Residents would need to approach the township but the Village cannot perform the work.

Commissioner Sweetser stated that 9 p.m. sounds reasonable for noise and there should be no repairs sounds after 9 p.m.

Chairperson Ryan suggested adding a ninth condition.

Commissioner Olbrysh stated that condition 3 should include the parking lot as part of the condition.

Commissioner Sweetser stated that she would like to direct staff to work with the County or Township. She asked how they would monitor the impact on the neighborhood.

Mr. Stilling stated that condition 5 states that the conditional use can be revoked if the conditions of approval are not followed. The residents will let us know so we can be proactive.

The petitioner (Lux Chateau) requests text amendments to Section 155.417(G)(2) and Section 155.802 of the Lombard Zoning Ordinance (and other sections where needed for consistency within the Zoning Ordinance, clarity with the Smoke Free Illinois Act or as deemed appropriate) to allow for "Smoking Establishments" to be listed as a conditional use within the B4A - Roosevelt Road Corridor District. (DISTRICTS #2 and #6)

Attachments: [apoletter 09-17_09-18.doc](#)
[DAH referral memo.doc](#)
[PUBLIC NOTICE 09-17_09-18.doc](#)
[Report 09-17.doc](#)
[Referral Letter 09-17 and 09-18.doc](#)
[Ordinance 6377.pdf](#)
[090405.pdf](#)

Chairperson Ryan noted that PC 09-17 will be combined with PC 09-18, but will have two separate votes.

Russell Rasche, 638 Olesen Drive, Naperville, IL, attorney for the petitioner, presented the petitions. Mr. Rasche stated that the testimony is appropriate for both so he is glad to see both petitions together. The legal issues are covered adequately in the paperwork that each Commissioner has. He added that there are two letters - one with his opinion on the compliance of the request, one with the process and also staff's comments. He will give the history of the business in order to bring some perspective to what this is all about.

The petitioner actually has been in business in this community for some time - a couple of years now - and there was a similar type of establishment there prior to that. What has brought this all about is the Illinois Clean Air Act, which became effective 1/1/08. At that point the requirements for smoking establishments changed. The State said smoking is prohibited everywhere except a couple of exempt locations, one of which is a retail tobacco shop. The Act said as of that date, any new shops had to be freestanding/single-use facilities. A lot of those establishments could be grandfathered in; this is one of those facilities.

Prior to the Act they served prepared food. One of the requirements for smoking in a tobacco shop is that you can neither prepare food nor serve alcohol. So at that time, while they were operating under a food service license, they stopped the preparation of food. They never did serve alcohol. They maintained themselves strictly as a tobacco location and offer soft drinks for their customers, but it is primarily a hookah lounge. Staff felt that the current statutory provisions were not proficient and felt that this is a different sort of operation, therefore, a special use and text amendment are required to cover this sort of activity. This is the purpose for us being here today. We're looking to work with the Village. To a large extent this use is similar to a cigar lounge, which is somewhat popular.

Mr. Rasche then described the cigar lounge experience. He gave his experience of how he went to a hookah lounge to check to see what his son was doing and he found it to be a gathering place for college kids. They come in groups; everyone is carded; there is adult supervision; and, as a parent, found this to be

a fairly benign activity. It was an attractive place because of the supervision. They are popular on college campuses. Everyone is carded and has to be 18 to come in. It is supervised to make sure that nobody is bringing in alcoholic beverages. This establishment has operated for several years with absolutely no problems with the police, any arrests, or accusations or charges against them. It is a nice establishment with a lot of repeat customers.

Matthew Rasche, who was seated in the audience, displayed a hookah and the shishah that is used with the hookah. Russell Rasche discussed the hookah in detail while the shishah was passed around to the Commissioners so they could see and smell it. He stated that the shishah is very fruity and sweet - not what you'd expect from a tobacco product. The hookah is shared by 2 - 4 people, each with their own mouthpiece and hose for hygiene. If you have ever tried one of these, they are very light and are nothing like cigars or cigarettes. It is not inhaled and is a very sweet experience. The establishment attracts groups and gets a lot of people in visiting. It's a social experience.

The Village felt they needed to encapsulate this use into the statutes. Since the new State law passed and no other businesses can operate outside of a freestanding facility, it is his opinion that you won't see a bunch of these springing up. The financial aspects of the business are such that it is not financially feasible to have a stand alone building nor is it a high volume business. The chances of having another business such as this are fairly remote. It is more likely you might see a cigar lounge rather than another hookah lounge. It's a gathering place, it's safe, it's supervised and everyone is carded. This is not creating legions of hookah smokers it is really just a trendy thing.

Chairperson Ryan then opened the meeting for public comment.

There was no one to speak in favor or against the petition.

Bill Hall, 12 E 13th Street, stated he lives behind the business. Mr. Hall asked if the address is going to be Unit 1235. Mr. Rasche replied, no.

Mr. Hall asked what the hours of operation are. Chairperson Ryan requested that the petitioner address the Commission and the petitioner will answer the questions at the end.

Mr. Hall asked if liquor and prepared food would be provided. Mr. Rasche replied, no.

Mr. Hall asked if people would be carded. Mr. Rasche replied, yes.

Mr. Hall asked if liquids could be brought in. Mr. Rasche stated that liquids cannot be brought in and alcohol is not permitted on the premises.

Mr. Hall asked if drinks are served inside. Mr. Rasche stated that soft drinks, such as orange soda, grape crush, red bull and other standard types of soft drinks found in the supermarket would be available.

Mr. Hall asked if people would be allowed to go out the back door and smoke or have conversations. Mr. Rasche stated that they don't have tables out back nor is there an outdoor patio. He added that people don't enter or exit through the rear. The entrance is through the front. Mr. Rasche then stated that they won't allow people to walk out back with a hookah.

Mr. Hall asked if people can go out back to smoke a regular cigarette. Mr. Rasche stated that the whole point of the business is to be inside.

Referring to the actual hookah, Mr. Hall asked about the top part where the tobacco sits. He asked if it is made of clay or plastic. Matthew Rasche, 638 Olesen Drive, Naperville, IL, who was seated in the audience, stated that the top part is ceramic.

Mr. Hall stated that the obvious concern here is someone mixing hashish with the tobacco. Russell Rasche stated that won't happen because there is always adult supervision and they are in business to sell their own product. He added that if people wanted to do illicit drugs, they would buy them and do it in their own home. Mr. Rasche stated that it has tobacco in it and it consists of mostly fruits and sweeteners. He added that there is some tar in it, but it is minimal and that it wouldn't have the same results as hashish. He added that their primary business is a gathering place - something exotic and trendy where kids who are not old enough to drink will visit.

Mr. Hall stated that the only reason he mentioned the hashish is because he was in North Africa in Tripoli and hashish was very convenient there. Mr. Rasche stated that they won't be allowed to do that there because they don't want their business destroyed. He added that this establishment has been there for several years and there has never been a complaint or any police action there so it is a very clean shop.

Chairperson Ryan asked the petitioner to address the hours of operation. Matthew Rasche stated that the hours are from 6 p.m. to 2 a.m. on weekends and from 6 p.m. to 12 a.m. on weekdays. Mr. Hall stated that he objects to these hours and asked if they could close at 10 p.m. Russell Rasche stated that won't happen.

Chairperson Ryan then requested the staff report.

William Heniff, Director of Community Development, indicated that staff has drafted the following IDRC reports to submit to the public record in their entirety.

PC 09-17

Mr. Heniff stated that the subject property is located at 1221 S. Main Street, within the Oxford Corners Shopping Center, within the B4A Roosevelt Road Corridor District. The petitioner is requesting that the Village Board, through the Plan Commission public hearing process, approve a text amendment to allow for smoking establishments (as described in the amendment) in the B4A District. As a companion to this request, the petitioner is also seeking conditional use approval for such an establishment). Should this petition be approved, the companion petition can be considered for approval as well.

In 2007, Lux Chateau applied for and received a Restaurant Food Handlers Business License and a Tobacco Dealer Business License. The petitioner applied for a CO/ZC for retail, restaurant and lounge. The text "hookah" or any reference to tobacco is not present in the application. Staff later received word from the property owner they are not going to open. Given this directive, the CO/ZC is no longer processed and it was presumed that the previous CO/ZC (for Sahara) was still in effect and no further actions were taken by staff until staff learned of the new business use.

In January, 2008, the Smoke Free Illinois Act provisions are enacted. Key elements of the Act are:

- 1. The State Statute sets significant limitations regarding tobacco use and consumption and prohibits smoking associated with any business with a food handler's license.*
- 2. The State Statute allows for tobacco establishments (businesses in which 80% of their operating revenue is derived from the sale of tobacco products) to provide for smoking within their premises, provided that the operator meets the provisions set forth within the State Statute.*
- 3. New retail tobacco stores must be within free-standing stores.*

Staff notes that individuals may have been able to smoke in various establishments prior to January 1, 2008. Staff recognizes that the Smoke Free Illinois Act functionally created a new land use category, as the use could not be considered a coffee shop or a restaurant use. Therefore, if hookah use or other smoking activities was going to be the only activity on the premises, then it would be a principal use and function. Even if the petitioner's business establishment met the provisions set forth within the State Statute, the use would still be subject to the additional provisions included within the Lombard Zoning Ordinance, in order to legally operate.

With the Act provisions in place, the petitioner was informed by DuPage County of the requirement to cease serving food as part of their business activity. In subsequent discussions with the petitioner in later 2008 and early 2009, staff noted that restaurants and coffee establishments are listed as permitted uses within the Zoning Ordinance, hookah establishments as the principal use of the property (or for that matter any smoking establishments) are not listed as permitted or conditional uses. The Director made the interpretation that the petitioner's use is separate and distinct from the retail tobacco shop listing.

Staff notes that the principal use of the premises as a hookah establishment (a type of smoking establishment) is a use that is not expressly permitted or permitted through the conditional use process within the B4A District. Approval of the use can only be achieved through a text amendment to the Lombard Zoning Ordinance. The Director notes that the term "tobacco shop" is not specifically listed within the definitions within the Lombard Zoning Ordinance.

The petitioner states that the use is primarily a gathering place for people at least 18 years of age to enjoy the hookah experience. Based upon a visual inspection of the property and in review of the most recent building plans for the site, the business operation and floor plan consists of several tables and chairs arranged in a manner similar to a coffee house or restaurant.

The Director reviewed the B4A District provisions and noted that the Zoning Ordinance does make a distinction in the use lists regarding uses that are associated with purchasing products and consuming products. The following examples are offered:

- 1. Food stores, grocery stores, meat markets and delicatessens (the purchase of edible goods for consumption elsewhere) are listed and treated differently than restaurants (a business establishment within which food is offered for sale for consumption only within the structure on the premises).*

2. Liquor stores, packaged goods is listed as one type of business establishment, while a bar/tavern use (an establishment where alcoholic liquor is sold to be generally consumed on the premises) is listed as a separate type of use.

3. Clubs and lodges, meeting halls recreation and community centers are also listed as separate and distinct land uses.

These analogous examples can also be applied to the application of the hookah use, a cigar bar or any other like establishment and as part of an assembly gathering function.

Staff has made the interpretation that the hookah use being operated by the proprietor is not clearly compatible with the listed uses (tobacco shop) in the following respects:

1. The use has much more in common with a restaurant or tavern use (congregations of individuals assembling for the purpose of consuming products on the premises).

2. If the principal function is to provide for the congregation of individuals, such a use is more similar to the aforementioned taverns, clubs and lodges and meeting halls and the like, which are listed as conditional uses, not permitted uses.

3. Given this listing, a conservative but fair interpretation can be made that the intent of the Zoning Ordinance is to distinguish between traditional mercantile and assembly uses.

In the crafting of the proposed text amendment and in applying the Zoning Ordinance, if a business was specifically for the consumption of cigarettes or cigars (a smoking lounge), a similar assertion that it is not the same as the retail sales of tobacco products would be presented by the Director.

Staff notes that the smoking establishment use is not dissimilar to other types of conditional uses listed in the existing Zoning Ordinance, such as taverns and meeting halls. Therefore, staff recommends that the use be listed as a conditional use as well, for consistency.

It is important to note that should this text amendment be approved it would allow the existing establishment to continue its operation. It would also allow the use on all other B4A properties, provided that conditional use approval is granted by the Village. However, pursuant to the Smoke Free Illinois Act, future establishments would have to be located within single-occupant freestanding stores only. The references to the Smoke Free Illinois Act are referenced in the proposed definitions for tobacco shops and smoking establishments.

Staff finds that the standards for text amendments have been met. Furthermore, staff is recommending approval of PC 09-17.

PC 09-18

Mr. Heniff stated that the Smoke Free Illinois Act prohibits the establishment or operation of smoking establishments within strip centers. This provision was established to minimize impacts of second-hand smoke on employees and patrons of other establishments. However, in this case, an argument can be

made that as the petitioner's establishment was operating on the premises prior to January 1, 2008 (albeit not legally established). Therefore, if the text amendment and the conditional use are approved, staff would be able to sign off on the Zoning Certificate.

The property is surrounded by commercial uses to the north, west and northeast. Residential uses are located to the southeast and south. The building is oriented toward the commercial properties to the west. The use operates completely within the confines of the existing strip-center building. The past operation of the use finds that the use has not presented a negative impact on adjacent properties, in the following respects:

- 1. The use operates outside the hours of many other uses within the retail center.*
- 2. The use does not generate noise beyond levels associated with other types of retail establishments.*
- 3. The use will not generate traffic levels at levels greater than other types of like uses.*
- 4. The use will not generate excessive waste or deliveries.*

For a conditional use to be approved, the standards for conditional uses must be met. The petitioner has provided a response to the standards for conditional uses and staff states that the use as proposed would meet the standards for conditional uses.

Staff finds that the standards for conditional uses have been met. Furthermore, staff is recommending approval of PC 09-18 subject to the 3 conditions noted in the staff report.

Mr. Hall asked if there would be entertainment that would be conducted at the business or if a television would be the only source of entertainment. Russell Rasche stated that there would be sporting events on television and music.

Mr. Hall asked if there would be belly dancing. Mr. Rasche stated that belly dancing is not a regular part of their business. He added that he can't speak to the future but belly dancing is not a regular part of their business.

Mr. Hall asked if the noise level was going to be monitored. Mr. Rasche asked Mr. Hall if he has ever heard them before. Mr. Hall replied that he has heard them. Mr. Rasche asked when. Mr. Hall replied that he heard them when it was the Sahara. Mr. Rasche responded by stating that was a different owner. He added that you won't have a problem with these guys because they won't have bands or anything else of the sort. People are just sitting there talking, which is why people go there. He stated that all the business activities are to the front of the building and there are other businesses in the strip center that could generate noise.

Chairperson Ryan then opened the meeting for comments among the Commissioners.

Commissioner Sweetser stated that when a motion is made to pass or approve, it includes the IDRC comments. She stated Fire and BIS IDRC comments are subjunctive. In regard to the ventilation system outlined in the IDRC Report,

she asked if they are saying something has to be there or might be there. Mr. Heniff stated that the business is in compliance with the Smoke Free Act and the second comment was items that could be done to clean the air. One reason the Illinois Smoke Free Act doesn't allow smoking establishments in multi-tenant buildings is because they can sometimes share ventilation systems. The comments made in the report were recommended as ways or mechanics so that the smoke from the business establishment could be mitigated on the site itself. It was not mandated but rather offered as a comment. It is good information to have so if an abutting property owner has an issue, they could reconcile the ventilation issue.

Commissioner Nelson asked if the minimum age is 21. Russell Rasche replied that the minimum age is 18; however, there are individuals over 21 who still come here for the experience. He again added that the minimum age is 18.

Referring to the hookah device, Commissioner Nelson asked if you would get a separate mouthpiece. Mr. Rasche stated that there are units with multiple hoses. He added that the plastic mouthpiece fits into the wooden end and everyone has their own.

Commissioner Cooper wanted clarification as to why its okay for this establishment to be in a multi-tenant building but a new business could not. Russell Rasche explained that they are grandfathered in.

Commissioner Cooper asked if this was a hookah bar before that. Russell Rasche stated that this was a hookah bar before that. Mr. Heniff stated that for clarification purposes, staff did have counsel review this issue. The language states that any business established operating prior to 1/1/08 could continue to operate. Mr. Heniff stated that they do not have a Certificate of Occupancy. He added that they did receive a license prior to the Act and it says that anyone operating prior to the deadline, it doesn't say that it has to be "lawfully established". He added that if the zoning comes through, it can be considered as a legal nonconforming tenant space.

Commissioner Cooper questioned the ventilation asking if the use was approved would it cover a future tobacco use, such as a cigar lounge. Mr. Heniff replied that the approval would apply only to this particular location.

Commissioner Cooper asked if the ventilation would have to be changed. Mr. Heniff replied that the issue would have to be reviewed by the tenant/landlord. George Wagner, Village Attorney, mentioned that any new smoking use would have to be located in a freestanding building.

Chairperson Ryan confirmed that if another business wanted to open up a cigar shop in one of the other tenant spaces it couldn't because of the State law which states it has to be in a freestanding building. Mr. Rasche and Mr. Heniff both responded, yes.

Chairperson Ryan then stated they would take two separate votes, one for each petition. The first vote would be for PC 09-17 text amendments to the Lombard Zoning Ordinance to allow "Smoking Lounge" to be listed as a conditional use within the B4A-Roosevelt Road Corridor District.

DD. [090406](#)

PC 09-18: 1221 S. Main (Lux Chateau)

Requests that the Village grant a conditional use, pursuant to amended Section 155.417(G)(2) of the Zoning Ordinance to allow a "Smoking

Establishment" within the B4A - Roosevelt Road Corridor District.
(DISTRICT #6)

Attachments: [Cover Sheet.doc](#)
[Report 09-18.doc](#)
[apoletter 09-17_09-18.doc](#)
[DAH referral memo.doc](#)
[PUBLIC NOTICE 09-17_09-18.doc](#)
[Referral Letter 09-17 and 09-18.doc](#)
[Ordinance 6378.pdf](#)
[090406.pdf](#)

EE. [090410](#)

PC 09-22: 555 E. Butterfield Road (Comar Offices Planned Development)

Requests that Village grant approval of the following actions for the subject property located within the O-Office District:

1. A conditional use to establish the subject property as a planned development, pursuant to Section 155.502(F)(3), with the following deviations:

a. A deviation from Section 153.502(B)(5)(b) of the Sign Ordinance to increase the maximum allowable area of a freestanding sign from thirty (30) square feet to ninety-eight (98) square feet.

b. A deviation from Section 153.502(B)(5)(c) of the Sign Ordinance to increase the maximum allowable height of a freestanding sign from six (6) feet to twenty (20) feet.

c. A deviation from Section 153.502(B)(5)(f) of the Sign Ordinance to decrease the minimum allowable distance of a freestanding sign from a property line from ten (10) feet to two (2) feet. (DISTRICT #3)

Attachments: [apoletter.doc](#)
[Cover Sheet.doc](#)
[DAH referral memo.doc](#)
[PUBLIC NOTICE 09-22.doc](#)
[Referral Letter 09-22.doc](#)
[REPORT 09-22.doc](#)
[Ordinance 6379.pdf](#)
[090410.pdf](#)

George Kourafas, 1S660 Midwest Road, Oakbrook Terrace, presented the petition. He stated that he is asking for permission to take down a multi-tenant sign at 555 E. Butterfield Road and replace it. The original sign was built in 1984 and times have changed. He stated that they are looking to have a modern sign, upgrade it, and give a face lift. He thinks that the sign is too large right now and they want to reduce it to 96 square feet. Granting this variation would be significant to other businesses in the nearby area. He stated that they will be building this sign with a stone base bottom and stone columns to match the building more closely. Times in the office/retail markets are tough and landlords need to make sure things are fresh. The new sign will not interfere

with any property values or create obstructions to vehicles driving on Butterfield Road.

Chairperson Ryan asked if anyone was present to speak in favor or against the petition. No one spoke in favor or against.

Chairperson Ryan then requested the staff report.

Stuart Moynihan, Associate Planner, presented the staff report. The petitioner, Comar Properties, is proposing to replace a freestanding sign near the northeastern corner of the property located at 555 E. Butterfield Road. The proposed new sign will replace the larger existing sign in the same location. The Zoning Ordinance limits freestanding signs located in the O - Office District to thirty (30) square feet in area and six (6) feet in height. The proposed sign is ninety-eight (98) square feet in area and is twenty (20) feet in height. Therefore, deviations for sign height and area are required.

The petitioner had originally proposed to install the new sign in the same location as the existing sign which is setback two feet (2') from the northern property line. The Zoning Ordinance requires a minimum setback of ten feet (10') from all property lines. Since the submittal, the petitioner has agreed to meet the required setback of ten feet (10'). Therefore, the third deviation is not necessary.

Staff has researched the history of the subject property and has found no records of zoning relief granted to the property. Therefore, any structures, uses, or other situations on the subject property which are not in compliance with the Zoning Ordinance and which were lawfully established at the time can be considered legal non-conforming. The petitioner has decided not to apply for additional zoning relief on the subject property as part of this petition. However, future development activity may require that any such items be brought into compliance or granted the requisite zoning relief.

Section 155.503(F)(3) of the Zoning Ordinance requires that a planned development be established with any variation request on a property which is zoned O - Office District and meets the minimum requirements for lot area and frontage for a planned development. In the O District, the minimum lot area is 45,000 square feet and the minimum frontage is three hundred feet (300'). The subject property is approximately 78,000 square feet and has approximately five hundred thirty-six feet (536') of frontage. Therefore, the petitioner is requesting approval of a planned development on the property.

The Zoning Ordinance encourages and/or requires the establishment of planned developments for large-scale developments. Staff believes establishing a planned development will provide the Village Board with an instrument for managing the multiple uses on the property and encouraging high quality development. Office District Planned Developments have been established on many nearby properties south of Butterfield Road, including the two properties directly east of the subject property. Staff supports the establishment of a planned development on the subject property.

The petitioner is proposing to install a new freestanding sign on the subject property. At ninety-eight (98) square feet in area, the proposed sign would exceed the maximum of thirty (30) square feet permitted by the Zoning Ordinance.

The petitioner and the sign contractor have cited several reasons for the size of the proposed sign. The size of the sign is necessary to provide sufficient room to advertise each of the tenants which occupy the building on the subject property. In addition, each sign cabinet must be large enough to be visible from Butterfield Road.

At twenty feet (20') in height, the sign would exceed the maximum of six feet (6') permitted by the Zoning Ordinance. Arguments similar to those made for the sign's area can be made for the sign's height. The additional sign height will allow the petitioner to provide advertising space for each tenant. The height is also requested to allow for a stone base and a decorative roof.

Staff notes that if the property were zoned B3, B4, or B4A no deviations for the proposed signage would be needed. As the property fronts on a state right-of-way (Illinois 56), the Sign Ordinance would allow a freestanding sign up to one hundred twenty-five (125) square feet in area and up to twenty-five feet (25') in height. As the building contains multiple tenants, including a bank which draws customers to the site, it is reasonable to consider that the property may have similar signage needs to those in the B3, B4, or B4A zoning districts.

The existing freestanding sign on the property, permitted in 1984, is larger in both height and area than the proposed sign. Staff estimates the area of the existing sign to be two hundred two and one-half (202.5) square feet. The estimated height of the sign is twenty-two and one-half feet (22.5').

Staff supports the requested signage deviations, with the exception of a reduced setback, due to site considerations, multiple uses on the property, aesthetic enhancements, and size reductions from the existing sign which brings it into closer compliance with Village code.

Chairperson Ryan then opened the meeting for comments among the Commissioners.

Commissioner Olbrysh stated that the new sign is being reduced in overall size and is much more attractive. He stated that he noticed that the old sign has the address and the new proposal does not. He asked if they will rely on the address being on the building.

Mr. Kourafas stated that they have not ruled out putting the address on the new sign. He stated that right now they are in talks with the designer and architect to remodel the building. So the address would be on the building if not on the pylon.

FF. [090415](#)

**Going Out Of Business Sales
Amending Title 11, Chapter 120 of the Lombard Village Code with
regard to Going Out of Business Sales.**

Attachments: [Ordinance 6380.pdf](#)
[090415.pdf](#)

***GG Washington Boulevard West of Main Street, One-way Reversal (Moved to IX-C)**

- HH. [090426](#) Oak Creek Drive, No Parking
Committee recommendation to establish a No Parking zone on the "outside" curve to reduce a vehicular line of sight issue. (DISTRICT #3)
Attachments: [090426.pdf](#)
[Ordinance 6381.pdf](#)
[090426.pdf](#)
- II. [090427](#) North Chase Avenue, Parking Issue
Committee recommendation to remove No Parking restrictions on the east side of the street for the length of the business at 730 E. St. Charles Road. (DISTRICT #4)
Attachments: [090427.pdf](#)
[Ordinance 6382.pdf](#)
[090427.pdf](#)
[090427 Letter.pdf](#)
- JJ. [090428](#) St. Charles Rd. East of Garfield, Additional Parking
Committee recommendation to allow on-street parking on the north side of the 100 block of E. St. Charles Road. (DISTRICT #4)
Attachments: [090428.pdf](#)
[Ordinance 6383.pdf](#)
[090428.pdf](#)

Ordinances on Second Reading**Resolutions**

- KK. [090382](#) Village Complex Paving Project, Final Balancing Change Order No. 2
Authorizing a decrease to the contract with R.W. Dunteman Company in the amount of \$71,801.60. (DISTRICT #6)
Attachments: [090382.pdf](#)
[R 10-10.pdf](#)
[Change Order 2Final- Dun..pdf](#)
Dratnol reviewed with the committee.
- LL. [090392](#) FY2009 Dust Control Program, Final Balancing Change Order No. 1
Approving a decrease to the contract with CAM, LLC in the amount of \$10,150.00.

Attachments: [090392.pdf](#)
[Change Ord. 1 CAM.pdf](#)
[R 11-10.pdf](#)
[Change order #1 Final Cam.pdf](#)

MM. [090414](#) Craig Place & Willow Street Storm Sewer Improvements and Westmore-Meyers Road/Roosevelt Road Sidewalks Design Engineering Approving a contract with Baxter & Woodman, Inc. in the amount of \$28,157.00. (DISTRICTS #1, #4, & #6)

Attachments: [090414.pdf](#)
[Contract # ST-M-10-06.pdf](#)
[R 12-10.pdf](#)

***NN Great Western Trail Bridges Design Engineering Amendment No. 1 (Moved to IX-D)**

- OO.** [090432](#) 2009 Driveway Apron and Sidewalk Restoration Program Final Balancing Change Order No. 1
Authorizing a decrease to the contract with Strada Construction in the amount of \$39,868.74.
Attachments: [090432.pdf](#)
[R 14-10.pdf](#)
[Change Order #1 Final Strada.pdf](#)
- PP.** [090468](#) Agreement for Lobbying Services
Authorizing an Agreement between the Village of Lombard and Roger C. Marquardt & Company, Inc. to provide lobbying services for the Village through July 1, 2010.
Attachments: [marquardagreernew73109.doc](#)
[resmarquardt.DOC](#)
[SUBMIT.DOC](#)
[R 15-10.pdf](#)
[Marquardt Agreement.txt](#)
[Marquardt Agreement.txt.pdf](#)
[090468.pdf](#)
- QQ.** [090472](#) SA 217B Change Order No. 2
Authorizing an increase to the contract with Alamp in the amount of \$12,041.30. (DISTRICT #4)
Attachments: [090472.pdf](#)
[R 16-10.pdf](#)
[Change Order 2 ALamp.pdf](#)
- RR.** [090476](#) Olde Towne East Phase 4 Change Order No. 1
Authorizing a decrease in the amount of \$11,969.64 to the contract with John Neri Construction Company. (DISTRICT #4)
Attachments: [090476.pdf](#)
[090476 corrected cover sheet.pdf](#)
[R 17-10.pdf](#)
[Change Order #1 Neri.pdf](#)
- SS.** [090477](#) St. Charles Road Resurfacing, Intergovernmental Agreement with the Village of Villa Park
In the amount of \$32,506.00 to pay for a portion of paving St. Charles Road from Westmore-Meyers Road going east. (DISTRICTS #4 & #5)
Attachments: [090477.pdf](#)
[R 18-10.pdf](#)
[Villa Park Agreement.pdf](#)
- TT.** [090480](#) 101 S. Main St. Remediation Phase 2 Change Order No. 1

Authorizing a decrease in the amount of \$5,770.00 to the contract with Anthem Excavation and Demolition, Inc. (DISTRICTS #1 & #4)

Attachments: [090480.pdf](#)
[R 19-10.pdf](#)
[Change Order 1 Anthem Excavation.pdf](#)

- UU.** [090489](#) Intergovernmental Agreement Between the Village of Lombard and Helen M. Plum Library
Authorizing signatures of the President and Clerk on an Intergovernmental Agreement regarding the funding of the Library's IMRF, FICA and Medicare contributions related to their conversion to a public library district.

Attachments: [Intergovernmental Agre. with Library.pdf](#)
[090489.pdf](#)

- VV.** [090493](#) 100 S. Main Street
Authorizing the signatures of the President and Clerk on a Parking Lot Lease for the property located at 100 S. Main Street. (DISTRICT #1)

Attachments: [R 21-10.pdf](#)
[100sMainMemo3.doc](#)
[100SMainParkingLotLease4.doc](#)
[090493.pdf](#)

- WW.** [090494](#) 2210 & 2220 Fountain Square Drive (Sunrise Senior Living)
Accepting public watermain and fire hydrants for the development known as Sunrise Senior Living located at 2210 and 2220 Fountain Square Drive. (DISTRICT #3)

Attachments: [R 22-10.pdf](#)
[cover-BOT.doc](#)
[Memo - PES to VM.doc](#)
[090494.pdf](#)

- XX.** [090496](#) 2780 S. Highland Avenue (The Patio Restaurant)
Accepting public watermain and fire hydrant for the development known as The Patio Restaurant located at 2780 S. Highland Avenue. (DISTRICT #3)

Attachments: [R 23-10.pdf](#)
[cover-BOT.doc](#)
[Memo - PES to VM.doc](#)
[090496.pdf](#)

- YY.** [090497](#) 2770 S. Highland Avenue (Highlands III)
Accepting public fire hydrant for the development known as Highlands III located at 2770 S. Highland Avenue. (DISTRICT #3)

Attachments: [R 24-10.pdf](#)
[cover-BOT.doc](#)
[Memo - PES to VM.doc](#)
[090497.pdf](#)

Other Matters

- ZZ.** [090420](#) Fire Engine Purchase
Request for a waiver of bids and award of a contract to Pierce Manufacturing in the amount of \$469,652. Public Act 85-1295 does not apply.
Attachments: [090420.pdf](#)
- AAA.** [090421](#) Ford Expedition Purchase
Requesting a waiver of bids and award of a contract to Sutton Ford in the amount of \$26,936; and approving an ordinance declaring Village unit FR4 as surplus and authorizing its sale at the Tri-State Automobile Auction of Chicago. Public Act 85-1295 does not apply. Staff is requesting a waiver of first reading.
Attachments: [090421.pdf](#)
[Ordinance 6365.pdf](#)
- BBB.** [090447](#) Water & Sewer System Supplies
Award of a contract to Ziebell Water Service Products, the lowest responsible bidder of two bids, in the amount of \$90,000. Bid in compliance with Public Act 85-1295.
Attachments: [090447.pdf](#)
- CCC.** [090492](#) One Ton Dump Truck with Plow
Request for a waiver of bids and award of a contract to Packey Webb Ford in the amount of \$41,550.00; and approving an ordinance authorizing the trade-in of unit #ST394. Staff is requesting a waiver of first reading. Public Act 85-1295 does not apply.
Attachments: [090492.pdf](#)
[Ordinance 6369.pdf](#)
- DDD.** [090495](#) Pump Station Valve Replacement
Request for a waiver of bids and award of a contract to John Neri Construction in the amount of \$30,350.00. Public Act 85-1295 does not apply.
Attachments: [090495.pdf](#)
- EEE.** [090502](#) FY 2010 Sewer Televising
Award of a contract to United Septic, the lowest responsible bid of four bidders, in the amount of \$105,000.00. Bid in compliance with Public Act 85-1295.
Attachments: [090502.pdf](#)
[Contract # SAN 10-01.pdf](#)
[Change Order # 1 United Septic.pdf](#)
- FFF.** [090503](#) 2010 Asphalt Paving and Patching

Award of a contract to R.W. Dunteman Company, the lowest responsible bid of four bidders, in the amount of \$717,945.44. Bid in compliance with Public Act 85-1295.

Attachments: [090503.pdf](#)
[Contract # ST-10-02.pdf](#)
[Cert. of Insurance.pdf](#)
[Preformance Bond.pdf](#)

G.G.G. [090393](#) Parker Drive Cul-de-sac Improvements
Recommendation to create a cul-de-sac on Parker Drive as part of Special Assessment 217C. (DISTRICT #4)

Attachments: [090393.pdf](#)

H.H.H. [090411](#) SUB 09-01: 1799 S. Fairfield Ave.
Requests approval of a one-lot major plat of subdivision. (DISTRICT #3)

Attachments: [Cover Sheet.doc](#)
[DAH referral memo sub 09-01.doc](#)
[referral letter.doc](#)
[REPORT sub 09-01.doc](#)
[090411.pdf](#)

Michael Toth, Planner I, referenced the companion staff report. The petitioner is requesting approval of a plat of resubdivision for a 0.926 acre tract of land located at 1799 S. Fairfield Ave. As public right-of-way is to be officially dedicated to the Village, the subject plat would be classified as a major plat of subdivision. All major plats of subdivision must be reviewed and approved by the Plan Commission and Board of Trustees. This subdivision meets all of the requirements of the Zoning Ordinance and Subdivision and Development Ordinance.

No one in the audience had comments about the proposed plat.

Chairperson Ryan opened the meeting for discussion and questions by the Plan Commission. The Commissioners had no comments.

III. [090475](#) 2780 S. Highland Avenue - The Patio Restaurant
Request to approve a Plat of Easement for watermain located at 2780 S. Highland Avenue and known as The Patio Restaurant development. (DISTRICT #3)

Attachments: [BOT memo watermain easement.doc](#)
[Cover sheet.doc](#)
[090475.pdf](#)

J.J.J. [090482](#) Village Board Policy - New Business Promotion Policy
Request to adopt a "New Business Promotion Policy" as part of the Village Board Policy Manual for promotion of new businesses within the Village of Lombard.

Attachments: [Board Policy.doc](#)
[bot memo.doc](#)
[Cover sheet.doc](#)
[090482.pdf](#)

- KKK.** [090485](#) 2210 and 2220 Fountain Square Drive - Sunrise Senior Living
Request to approve a Plat of Easement for watermain located at 2210
and 2220 Fountain Square Drive and known as the Sunrise Senior
Living development. (DISTRICT #3)

Attachments: [BOT memo watermain easement.doc](#)
[Cover sheet.doc](#)
[090485.pdf](#)

- LLL.** [090491](#) Authorizing Execution of an Agreement with Highland Hills Sanitary
District
Motion authorizing an Agreement regarding discontinuation of water
service for nonpayment of sewer service charges.

Attachments: [Agreement- Highland Hills Sanitary Dist..pdf](#)
[090491.pdf](#)

- MMM.** [090488](#) Appointments to Various Boards, Commissions and Committees
Appointments and re-appointments to the Community Relations
Committee, Economic and Community Development Committee,
Environmental Concerns Committee, Finance Committee, Public Works
Committee, Transportation and Safety Committee and Board of Local
Improvements as submitted.

Attachments: [submit2.doc](#)
[apptsallwjm2009.DOC](#)
[090488.pdf](#)

- NNN.** [090149](#) Main Street LAPP Design Engineering
Approving a contract with Baxter & Woodman in the amount of
\$158,323.00. (DISTRICTS #1 & #4)

Attachments: [R 26-10.pdf](#)
[Contract # ST-02-07.pdf](#)
[090149.pdf](#)

IX. Items for Separate Action

Ordinances on First Reading (Waiver of First Requested)

- *A1.** [090412](#) PC 09-23: Text Amendments to the Lombard Zoning Ordinance (218 E.
St. Charles)
Next Stop Thrift Shop, requests a text amendment to Section
155.414(B) of the Lombard Zoning Ordinance allowing "Secondhand
stores and rummage shops" to be listed as a permitted use within the

B2 - General Neighborhood Shopping District. (DISTRICTS #1, #4, #5, & #6)

Attachments: [apoletter 09-23.doc](#)
[Cover Sheet.doc](#)
[DAH referral memo.doc](#)
[PUBLIC NOTICE 09-23.doc](#)
[referral letter.doc](#)
[Report 09-23.doc](#)
[Ordinance 6366.pdf](#)
[DAHmemo2.doc](#)
[090412.pdf](#)

Kathryn Nelson, 21W131 Everest Road, Lombard, presented the petition. She introduced her daughter, Marcy and then stated that they want to open a resale store. She stated that it would be a small store and it will also be their first business.

Michael Toth, Planner I, presented the staff report. The petitioner, Next Stop Thrift Shop, intends to utilize the vacant freestanding building located on the subject property for the sale of secondhand goods in the B2 - General Neighborhood Shopping District. There are currently no uses (permitted or conditional) that would allow such an activity in the B2 District; as such, the petitioner is requesting text amendments to the Zoning Ordinance to allow 'Secondhand stores and rummage shops' as a permitted use in the B2 District.

Mr. Toth stated that the proposed use is prohibited in the B2 - General Neighborhood Shopping District; however, if someone wanted to establish a secondhand store or rummage shop, this could be done in the B3, B4, B5 & B5A Districts as a permitted use. From a land use perspective, it is staff's opinion that the proposed use is suitable for the B2 - General Neighborhood Shopping District. The Zoning Ordinance describes the B2 - General Neighborhood Shopping District as an area intended to provide convenience shopping to adjacent residential areas, but allows for a wider range of uses than permitted in the B1 District. As such, the proposed use is consistent with the intent of the B2 - General Neighborhood Shopping District.

Mr. Toth stated that in 2002, the Village took action on a portion of the Comprehensive Plan that deals with long-term commercial plans, which recommends that the Central Business District encompass a much larger area. To accommodate such recommendation, the Village expanded upon the downtown by rezoning a number of properties adjacent to the downtown. As a result, the B5A - Downtown Perimeter District was created.

Mr. Toth then mentioned the fact that the subject property is located in close proximity to the downtown. As such, if the subject property were to be reclassified to the B5A - Downtown Perimeter District per the recommendation of the Comprehensive Plan, secondhand stores and rummage shops would become a permitted use.

Mr. Toth stated that the Comprehensive Plan recommends Neighborhood Commercial for all properties located in the B2 - General Neighborhood Shopping District. As the proposed business provides convenience goods to the

daily needs of nearby residents, staff believes that the proposed amendment is consistent with the Comprehensive Plan.

Mr. Toth then added that it would be required that the donated goods used for secondhand stores in the B2 District be dropped off within the confines of the building. Any outdoor collection centers in the B2 District are prohibited.

Staff finds that the standards set forth in the Zoning Ordinance have been met. Furthermore, staff is recommending approval of PC 09-23.

Kathryn Nelson questioned the staff report. She questioned the drop off of items being required within the confines in the building. She asked what would happen if someone left something at night. She then asked if they could have a receptacle. Mr. Toth responded by stating that in 2007, the Village did a text amendment that created 'collection centers' as a separate use. He noted that these receptacles are only allowed in certain districts, which he named, and must be attended. He then stated that if you wanted drop off you will have to establish drop off times during business hours. Mr. Toth stated that there could be an impact on adjacent properties, which could be a nuisance, if people dropped off items in an area that was unattended. Mr. Toth used an item such as a refrigerator as an example. Ms. Nelson stated that she won't have those types of appliances because they don't have enough room. She also stated that she will put that in writing that there will be no outside drop-offs.

Chairperson Ryan opened the meeting for discussion and questions by the Plan Commission. The Commissioners had no comments.

- *A2.** [090481](#) Amending Title 3 of the Lombard Village Code
With regard to changes in the composition of Standing Advisory
Committees.

Attachments: [SUBMIT.DOC](#)
[Ordinance 6367.pdf](#)
[090481.pdf](#)

Other Ordinances on First Reading

- A.** [090375](#) ZBA 09-05: 460 S. Main Street (Lombard Cemetery)
Requests a variation to Section 155.205(A)(1)(e)(4) of the Lombard
Zoning Ordinance to allow supporting members of a fence in the clear
line of sight area exceed six inches (6") in width. (DISTRICT #6)

Attachments: [apoletter 09-05.doc](#)
[DAH referral memo.doc](#)
[PUBLICNOTICE 09-05.doc](#)
[Report 09-05.doc](#)
[Cover Sheet.doc](#)
[Referral Letter 09-05.doc](#)
[Ordinance 6371.pdf](#)
[090375.pdf](#)

Stuart Moynihan, Associate Planner, presented the staff report. The subject

property is located at 460 S. Main Street, the intersection of West Washington Boulevard and South Main Street. The Public Works Department has recently replaced the deteriorated fencing at Lombard Cemetery with a new wrought iron-style fence four feet (4') in height. As part of this replacement, the existing brick pillars at the corners of the fence were reconstructed. As the two pillars at the corners of Washington Blvd. and Main St. are within clear line of sight areas, a variation is necessary to allow them to have a width greater than six inches (6").

On April 16, 2009, the Village of Lombard Board of Trustees approved a contract with Action Fence Contractors, Inc. to replace the fence at Lombard Cemetery. The execution of this contract was overseen by the Public Works Department. The fence was contracted and was constructed at four feet in height. It is an ornamental aluminum fence which meets the requirement for fencing to be of open construction when in a clear line of sight area.

As part of the replacement, six brick pillars were reconstructed at their original dimensions and locations. However, as these pillars were non-conforming structures, reconstruction would require that new pillars meet all code requirements. The new pillars are approximately nineteen and one half inches (19.5") in width with a stone cap at the top that is approximately two feet (2') in width. The Zoning Ordinance requires that supporting members of a fence within the clear line of sight area be no greater than six inches (6") in width. Two of the reconstructed pillars are within clear line of sight areas. These two pillars are located at the intersections of Washington Boulevard and Main Street, one at the northern intersection and one at the southern intersection. As the width of these pillars exceeds six inches (6"), a variation is necessary.

The Zoning Ordinance requires that fencing and walls within a front yard does not exceed four feet (4'). Staff notes that the height of the pillars along Main Street varies but currently can be measured as high as five and one half feet (5.5') from the grade at the Main Street sidewalk. However, in this case the grade of the cemetery and the grade of the Main Street sidewalk differ considerably. If measured from the grade of the cemetery, the pillars have a height of approximately four feet and three inches (4'3"). Section 155.205(c)(4) of the Zoning Ordinance, permits an additional three inches (3") of height for grade changes and decorative elements. The Public Works Department is currently exploring options for the final grading along the fence line. One option being considered is the construction of a retaining wall which would bring the measured height of the pillars into compliance with code.

The Public Works Department has expressed its reasons for replacing the deteriorated fence and pillars with the same features and location. Foremost among these reasons is the status of the cemetery as a historic site in the Village of Lombard. Public Works determined that the historical character of the cemetery would be best preserved by constructing a fence which matched the previous one. Another important consideration is that if the fence was to be moved out of the clear line of sight area, some grave sites could be at least partially outside of the fenced area. The Lombard Historical Commission also expressed its support for the fence replacement and recommended that the historical character of the fence be maintained.

Currently, the pillar on the northern side of the cemetery is of minimal concern regarding visibility as the northern side of Washington Boulevard allows only one way westbound traffic. The pillar on the southern side of the cemetery could block some visibility to and from Main Street as the southern side of

Washington Boulevard allows only one way eastbound traffic. However, as the pillars previously existed, no additional reduction in visibility should occur.

Staff is supportive of the proposed variation due to the historic nature of the site, the previously existing fence and pillars, and necessity to fence in all existing burial plots.

Chairperson DeFalco opened the meeting for public comment.

Thomas M. Stuckey, 465 S. Park Road, stated that the post is unacceptable. He has lived in his home on Park for twenty-five years. He stated that he is glad the cemetery is being maintained, but he could see through the old fence and post. He stated that you are taking a chance turning onto Main Street. He doesn't see how the Village could have approved the brick wall. He stated that he was surprised he was the only one present to object. The variance should have been requested before it was built. He asked if there was any coordination between the Village and the builders of the fence.

Chairperson DeFalco stated they the ZBA does not examine the Village's dealings with contractors.

Mr. Stuckey stated that the workers don't have concern for the people in the neighborhood. He stated that he nearly hit a trailer left in the road by some workers at night because it had no reflectors. He stated that the project was poorly planned and no concern was shown for the neighborhood. The fence in its current state is an accident waiting to happen.

Rita Schweider, 5 E. View St., stated that she is the Chairperson of the Lombard Historical Commission and a member of the Lombard Cemetery Committee. She indicated that there was coordination between the Historical Commission, the Village, and the Cemetery Committee. She also stated that the Village is looking at finding a solution when pulling out at Washington and Main St.

Dr. Corrado asked if the Transportation Safety Committee has looked at this issue.

Mike Toth stated that to date it had not been examined by them.

Mr. Tap asked if the ZBA had the authority to send the item to the Transportation Safety Committee.

Chairperson DeFalco stated that the ZBA could approve the petition but recommend that the signage on the street be looked at. Maybe both lanes of Washington should be westbound only. However, if the ZBA recommends denial they are saying it should not be done regardless.

Mrs. Newman stated that the potential safety issue should be looked into.

Dr. Corrado stated that the Transportation Safety Committee should examine this.

Mr. Stuckey asked if there are many accidents at this intersection.

Mr. Toth stated that does not know of any study of this intersection.

Chairperson DeFalco stated that when he visited the site, he had to inch

forward to turn onto Main. When he did so, he forgot to look for pedestrians on the sidewalk after the trouble of getting out. He stated that was even being mindful of what he was doing. Although the site is historical, there were fewer cars when the original post was built.

Mrs. Newman stated that Main Street also only had two lanes.

Mr. Stuckey stated that there was no column heading westbound on Washington.

Chairperson DeFalco stated that there was a column but it had partially deteriorated.

Mrs. Schweider stated that there was a concrete post and the Cemetery Committee asked that it be moved back six inches. However, they did not expect the light post and utility pole to be installed in the same area.

Mr. Stuckey stated that it is now worse and asked if the brick column can be moved back.

Chairperson DeFalco stated that this is a concern due to the grave sites at that corner.

Mr. Stuckey stated that he wants the post moved, not the fence itself.

Chairperson DeFalco stated that the post is currently supporting the fence.

Mr. Tap stated that he thinks the result of the construction looks fantastic and is a huge improvement. However, it seems like there was a push to get the work done. He has an issue with the sequence of events and the timing. Other options should be looked at rather than granting a variation.

Chairperson DeFalco stated that these items often arise as the result of a complaint and asked staff if this was the case.

Mr. Moynihan stated that it was caught as part of the permitting process.

Chairperson DeFalco asked when the permit was issued.

Mr. Moynihan stated that the permit was not issued due to the clear line of sight obstruction.

Chairperson DeFalco asked if the fence was then built without a permit.

Mr. Moynihan stated that it was built without a permit, before the clear line of sight issue could be resolved.

Mr. Tap stated that construction was on a fast track and that citizens would be treated differently. He would like to see some other options being looked at. He stated that he could not support the variation.

Chairperson DeFalco asked if this item should be tabled so that the clear line of sight issue could be looked at.

Mr. Tap stated that there has always been a problem at this intersection.

Dr. Corrado stated that they should deny the petition and ask for a regular post.

Mrs. Newman stated that recommendation for denial would give the Board their opinion.

Chairperson DeFalco stated that if both lanes of Washington were westbound only there would be no clear line of sight issues.

Dr. Corrado stated that the Lombard Historical Commission should not have suggested this.

Mrs. Schweider stated that it was the Cemetery Committee that made this decision. The two lamp posts were a surprise.

B. [090376](#)

ZBA 09-06: 736 Hammerschmidt Avenue

Requests that the Village grant a variation from Section 155.407(F)(3) of the Lombard Zoning Ordinance to reduce the interior side yard setback to four and one-half feet (4.5') where six feet (6') is required within the R2 Single-Family Residence District to allow for the installation of a generator unit. (DISTRICT #6)

Attachments: [apoletter 09-06.doc](#)
[Cover Sheet.doc](#)
[DAH referral memo.doc](#)
[PUBLICNOTICE 09-06.doc](#)
[Referral Let 09-06.doc](#)
[Report 09-06.doc](#)
[Ordinance 6370.pdf](#)
[090376.pdf](#)

The petitioner, Bob Sarocka, property owner, presented the petition. Mr. Sarocka, began by stating that they would like to install a gas generator to run their sump pump if the power were to fail. He added that in the past they have used a temporary generator for a two-day time period, but when they are not home they cannot run that generator.

Mr. Sarocka stated that they are seeking a variance to place the generator in the side yard. He stated that they neighbors have no problem with the request and there is a wood privacy fence located between themselves and the neighbors to the north. Mr. Sarocka added that the generator would meet Code if placed in the rear yard; however, the rear yard is prone to flooding. He also mentioned that placing it in the side yard would place it closer to the gas meter.

Chairperson DeFalco asked if anyone was present to speak for or against the petition. There was nobody present to speak for or against the petition.

Chairperson DeFalco then requested the staff report. Michael Toth, Planner I, presented the staff report. Mr. Toth stated staff has drafted this IDRC Report to submit to the public record in its entirety. The petitioner applied for a building permit to install a permanent natural-gas-operated generator unit in the northern interior side yard. The house on the subject property is located approximately 8.14' from the northern property line. According to the generator's specification manual, which was submitted as part of this petition, the generator is required to maintain at least eighteen inches (18") of clearance

from the house. The generator unit is twenty-five inches (25") wide; as such, the remaining setback from the northern property line would be four and one-half feet (4.5'). The R2 - Single Family District requires a minimum side yard of six feet (6'). According to the Zoning Ordinance, generators are not specifically listed as a type of structural encroachment within any required yard.

Mr. Toth stated that staff notes that there are no recorded easements of the subject property.

Mr. Toth stated staff finds that there are reasonable alternatives for relocating the generator unit in compliance with the Zoning Ordinance. Pertaining to lots in the R2 - Single Family District, the Zoning Ordinance states that those lots shall have a minimum lot area of 7,500 square feet and a minimum lot width of sixty feet (60'). The subject lot has a total lot area of 12,804 square feet and a lot width of sixty-six feet (66'). The rear yard requirement for the R2- Single Family Residential District is thirty-five feet (35'). As such, the proposed generator unit could be located up to thirty-five feet (35') from the rear property line. According to the plat of survey submitted as part of this petition, the house is located (at its closest point) ninety-seven feet (97') from the rear property line, which leaves an estimated 3,300 square feet of buildable area in the rear of the property for the placement of a generator unit. The 3,300 square foot area includes the side yard setback requirement and any accessory structures.

Mr. Toth stated that staff believes that there is adequate space in the rear of the property to locate the proposed generator unit. As there are no hardships associated with the physical characteristics of the subject property, staff is not supportive of the setback variation for the generator unit at its proposed location.

Mr. Toth stated that the Inter-Departmental Review Committee recommends that the Zoning Board of Appeals make a motion recommending denial of the side yard setback variation.

Chairperson DeFalco then opened the meeting for discussion by the Board Members.

Dr. Corrado asked if there would be any noise associated with the generator.

Lori Sarocka, property owner, stated that the noise levels would be similar to that of a lawnmower. She added that they would need to run the generator once a week for twelve minutes. She stated that they would most likely run it for twelve minutes on a Tuesday when the sirens are tested.

Mr. Tap discussed some of the specific sound levels discussed in the specification manual.

Mr. Sarocka stated that he had reviewed the sound levels and he had discussed the issue with his neighbors.

Lori Sarocka stated that her neighbors also have a similar flooding problem and their sump pumps are always required to run as well. She added that the generator would have a "good neighbor plug" so the neighbors could use the generator if needed.

Mrs. Newman asked if the generator would only run during power outages.

Lori Sarocka replied yes, but the generator would still need to run for twelve minutes per week.

Mrs. Newman asked if the sump pump ran constantly and what the effects of the standing water in the back yard.

Lori Sarocka stated that there is lots of standing water in the back yard after a rainfall.

Bob Sarocka stated that even if the generator were to be placed in the back yard it would only be eighteen inches further from the property line.

Chairperson DeFalco asked if the generator is to be located behind the garage.

Bob Sarocka replied; no, the generator would be located on the north side of the property.

Mr. Tap asked if there is flooding in the area where the air-conditioning condenser is located.

Lori Sarocka stated that water comes right up to the air-conditioning condenser and it is located on a slab.

Chairperson DeFalco asked if a concrete slab could be poured for the generator.

Bob Sarocka replied; yes, but the further away from the house the higher off the ground it would need to be.

Chairperson DeFalco asked staff if they knew of any flooding issues and whether or not the generator could be placed on a raised slab.

Mr. Toth stated that this is the first time he was made aware of any flooding issues on the subject property. He stated that he would need to discuss any flooding issues with the Engineering Department and the question of whether or not the generator could be placed on a raised slab would need to be discussed with the Building Department.

Mr. Tap asked the petitioner if there are additional costs associated with locating the generator in the rear yard and if that is one of the reasons for the variation.

Lori Sarocka replied, yes. She added that the generator would be blocked from the neighbors to the north by a wood privacy fence and it would be blocked from the street view by large trees.

Chairperson DeFalco stated that the neighbor's house to the north is fourteen feet from the property line, but if a new house were to be built, it could be built six feet from the property line.

Bob Sarocka stated that the house to the north is a very nice house and only five years old so it is unlikely that it would be rebuilt any time soon.

Chairperson DeFalco stated that the ZBA cannot consider finance as a hardship; however, flooding would be considered a hardship. He then mentioned that the ZBA has recommended approval of some replacement a/c

units in the past. He added that the proposed generator would be a new unit. Chairperson DeFalco then stated that similar to Lombard Pharmacy, conditions could be added to address the time of day that the generator could be run.

Mr. Tap stated that there are too many other areas where the generator could be located that would not require a variance.

- *C. [090425](#) Washington Boulevard West of Main Street, One-Way Reversal Committee recommendation to reverse the one-way direction to reduce vehicular line of sight issues, not to implement a right-turn-only onto Main Street and to grant the Village a variance for the fence posts. (DISTRICTS #1 & #6)
- Attachments: [090425.pdf](#)
[Ordinance 6368.pdf](#)

Ordinances on Second Reading

Resolutions

- *D. [090431](#) Great Western Trail Bridges Design Engineering Amendment No. 1 Reflecting an increase of \$359,541.36 to the contract with Bollinger, Lach & Associates. (DISTRICTS #4 & #5)
- Attachments: [R 25-10.pdf](#)
[Contract Amendment 1.pdf](#)
[090431.pdf](#)

Other Matters

X. Agenda Items for Discussion

XI. Executive Session

Reconvene

XII. Adjournment