

PLAN COMMISSION

INTER-DEPARTMENTAL REVIEW COMMITTEE REPORT

TEXT AMENDMENT TO THE ZONING ORDINANCE – Recreational Cannabis

August 29, 2019

Title

PC 19-19

Petitioner

Village of Lombard

Property Location

O, I, B1, B2, B3, B4, B4A, B5,
and B5A zoning districts

Approval Sought

The petitioner, the Village of Lombard, is requesting text amendments related to recreational cannabis.

Prepared By

Jennifer Ganser, AICP
Assistant Director

DESCRIPTION

The State of Illinois has approved the use of recreational cannabis, beginning Jan. 1, 2020. The Village held a Village Board workshop on July 31, 2019 and received direction from the Village Board to take the item to the Plan Commission for zoning text amendments.

Information is online including a FAQ, staff memos, and the video from the July 31, 2019 Village Board workshop at <https://www.villageoflombard.org/recreationalcannabis>

APPROVALS REQUIRED

The petitioner, the Village of Lombard, is requesting text amendments to the following Section of Village Code, and other relevant sections for clarity, all in order to establish provisions to provide for the sale of cannabis as a land use in the Village:

1. Amend Section 155.412(B) of the Village Code to add “Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto” to the list of permitted uses in the O Office District; also delete Section 155.412 (C)(9) which established medical cannabis dispensing organization as a conditional use in the O Office District;
2. Amend Section 155.413(C) of the Village Code to add “Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto” to the list of conditional uses in the B1 Limited Neighborhood Shopping District;
3. Amend Section 155.414(C) of the Village Code to add “Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto” to the list of conditional uses in the B2 General Neighborhood Shopping District;
4. Amend Section 155.415(C) of the Village Code to add “Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto” to the list of permitted uses in the B3 Community Shopping District;
5. Amend Section 155.416(C) of the Village Code to add “Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto” to the list of permitted uses in the B4 Corridor Commercial Shopping District;
6. Amend Section 155.417(G)(1)(a) of the Village Code to add “Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto” to the list of permitted uses in the B4A Roosevelt Road Corridor District;

APPROVALS REQUIRED (continued)

7. Amend Section 155.418(C) of the Village Code to add “Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto” to the list of conditional uses in the B5 Central Business District; also amend Section 155.418 (B) to read “Permitted Uses: Excluding cannabis dispensing facilities, any use permitted in the B3 District shall be permitted in the B5 District;
8. Amend Section 155.419(C) of the Village Code to add “Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto” to the list of conditional uses in the B5A Downtown Perimeter District;
9. Amend Section 155.420(B) of the Village Code to add “Cannabis Dispensing Facility operated in strict compliance with State law applicable thereto” to the list of permitted uses in the I Limited Industrial District;
10. Amend Section 155.802 of the Village Code (Rules and Definitions) establishing definitions for cannabis dispensing facility, cultivation centers, craft growers, processing organizations, and transporting organizations consistent with the definitions found in the Cannabis Regulation and Tax Act;
11. Delete the definition for Medical Cannabis Dispensing Organization in Section 155.802;
12. Amend the definition for Smoking establishment in Section 155.802 to delete the word “medical” therefore prohibiting all types of cannabis in a Smoking establishment; and
13. Create a new Section 155.225: Cannabis Establishments:
 - a. Establish buffer requirements for Cannabis Dispensing Facility establishments from a public or private elementary or secondary school, day care center, day care home, group day care home or part day care facility or another lawfully established cannabis dispensing facility. *(Buffer provisions are not proposed as part of the IDRC recommendation, but was advertised as a potential text amendment in the event the Plan Commission and Village Board sought such provisions)*
 - b. Regulations to specifically exclude cultivation centers, craft growers, processing organizations and transporting organizations as a permitted or a conditional use activity.
 - c. Regulations to specifically preclude on-site consumption of cannabis as part of any permitted or conditional land use activity.

INTER-DEPARTMENTAL REVIEW

Building Division:

The Building Division has no comments regarding the proposed text amendments.

Fire Department:

The Fire Department has no comments regarding the proposed text amendments.

Private Engineering Services:

Private Engineering Services has no comments regarding the proposed text amendments.

Public Works:

The Department of Public Works has no comments regarding the proposed text amendments.

Planning Services Division:

The following zoning districts will be discussed in the staff report: O, I, B1, B2, B3, B4, B4A, B5, and B5A. Attached are maps showing the locations of the different zoning districts.

Exhibit 1: Map of Business Districts B1-B5A

Exhibit 2: Map of Office District

Exhibit 3: Map of Industrial District

Exhibit 4: Draft 1,000-foot buffer map

Exhibit 5: Draft 100-foot buffer map

Exhibit 6: Materials from the July 31st Workshop

District	General Location
O	Heron Point (North Avenue and Route 53) Woodlake Business Park (Route 53 and Parkview Blvd) 22 nd Street Highland Avenue Butterfield Road
I	north of North Avenue Yorkbrook Business Park (Eisenhower Lane and Finley Road) Western Avenue and St. Charles Road
B1	Main Street from Harding Road to Wilson Avenue
B2	East St. Charles Road North Avenue and Route 53 Westmore Meyers Road
B3	Yorktown Mall Highlands of Lombard Fountain Square Eastgate Shopping Center (Westmore Meyers Road) Lombard Landings (Route 53 and North Avenue)
B4	North Avenue and Grace Street East St. Charles Road
B4A	Roosevelt Road
B5	Downtown Lombard
B5A	South of downtown along Main Street, approximately from Maple Street to Hickory Street

Permitted Use

At the Village Board workshop on July 31, 2019, the Village Board stated they were supportive of providing for the retail sale of recreational cannabis in the Village. Staff was directed to prepare a petition for Plan Commission consideration that would provide for such sales. The Village Board expressed a desire to provide the opportunity for some dispensing operators to seek available properties that would allow for the use to open by right as a permitted use. Permitted uses do not need to go through a public hearing approval process and can open by right. Staff proposes the following zoning districts list cannabis dispensing facilities as a permitted use: Office (O), Industrial (I), B3, B4, and B4A. These districts already draw from a larger area, including outside of Lombard.

For comparative purposes, staff notes that Liquor Stores (packaged goods) are a permitted use in the following districts: B3, B4, B4A, B5, and B5A. Customers will need to be over 21 to purchase cannabis, like liquor.

Due to the limited number of licenses by the State, and that some municipalities will opt-out, and based upon preliminary discussions with potential dispensing entities, staff expects the use to have a regional draw, similar to Yorktown Mall or a large retailer. Therefore, the higher intensity commercial districts are being proposed to allow the use as a permitted use.

Some Planned Developments in the Village have use charts which were established via Ordinance and recorded against the property. Examples include, but are not limited to, the Highlands of Lombard, Fountain Square, and Oak Creek. Whenever a property is in a Planned Development staff checks the ordinances of approval for concurrence or if the planned development has a use chart that will supersede the zoning ordinance. Therefore, cannabis dispensing facilities may not be located in certain planned developments due to existing regulations.

Conditional Use

Staff proposes making cannabis dispensing facilities a conditional use in the following districts: B1, B2, B5, and B5A. Should an establishment seek to be located on a property, a conditional use public hearing process would be required, with final consideration taking approximately 60-90 days.

The B1 and B2 are neighborhood districts and therefore closer to residentially developed properties. Most businesses in these areas are smaller in nature and serve the immediate neighborhood. Special consideration may need to be given to ensure neighborhood compatibility. This is similar with B5 and B5A, downtown and downtown perimeter zoning districts. By making the use a conditional use in these aforementioned four zoning districts, the Plan Commission would conduct a public hearing to determine the appropriateness of the use at a specific location. Ultimately the Village Board could approve or deny the conditional use based upon findings of fact that would substantiate the decision.

Medical Cannabis Dispensing Organization

To provide for clarity and consistency within the Zoning Ordinance, staff recommends deleting the use of a medical cannabis dispensing organization from the conditional uses in the Office District. Currently Lombard does not have any medical cannabis dispensaries within its corporate limits. As this industry evolves, staff anticipates many dispensaries will serve both medical and recreational customers. The proposed text amendments are more comprehensive in nature, particularly due to the changes in State law. The amendments will allow cannabis dispensing facilities as a permitted use in the Office District, for either medical or recreational, or both.

Definitions

As noted above, the definition of a medical cannabis dispensing organization will be deleted and a new definition to the Code for a cannabis dispensing facility will be added. The definition would be consistent with the definition found in the Cannabis Regulation and Tax Act and note that it includes both recreational and medical dispensaries.

The State still has a medical cannabis program and licenses are separate (medical versus recreational). A dispensary can receive a license for one, or both. Currently, DuPage County has three licenses for medical cannabis and all three licenses are accounted for (one in Naperville and two in Addison). Should the State allow for additional medical licenses, or a current license holder relocates, the current State buffers for medical cannabis dispensing would need to be followed.

“Cannabis Dispensing Facility means a facility operated by an organization or business that is licensed by the Department of Financial and Professional Regulation to acquire cannabis from a cultivation center, craft grower, processing organization, or another dispensary for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia, or related supplies under this Act to purchasers or to qualified registered medical cannabis patients and caregivers. As used in this Act, dispensary organization shall include a registered medical cannabis organization as defined in the Compassionate Use of Medical Cannabis Pilot Program Act or its successor Act that has obtained an Early Approval Adult Use Dispensing Organization License.

This is the same as the terms "dispensing organization" or "dispensary" as defined in the new State statute. The business shall be operated in strict compliance with State law applicable thereto. This definition includes businesses that receive a medical and/or recreational license from the State.”

In 2014, as part of a text amendment for medical cannabis, staff amended the definition for a smoking establishment to prohibit medical cannabis in those establishments. Staff now proposes to delete the word medical therefore prohibiting all types of cannabis in a smoking establishment. Smoking Establishments are allowed with a conditional use permit in the B4A District (Roosevelt Road).

Create a new Section 155.225: Cannabis Establishments:

The Village has the option to create buffers or additional regulations for a recreational cannabis dispensing facility or to prohibit aspects of the new law. Per current State regulations, medical dispensaries may not be located within 1,000 feet of the property line of a pre-existing public or private preschool, elementary school, secondary school, day care center, day care home, group day care home, or part day child care facility. Municipalities may not increase the buffer for medical cannabis dispensaries. Staff completed a buffer analysis for day care facilities and schools of 1,000 feet and found that such buffers would preclude or significantly limit the cannabis use in the desired zoning district in some zoning districts (like the B5 Central business District).

In order to support a buffer, there needs to be a reasonable nexus between the uses and the proposed buffer. Staff notes the Village does not have buffers on any existing commercial uses (there are buffer/separation requirements for group homes). There is a buffer for adult uses; however, the Village does have any adult use businesses currently. For comparative purposes, the State has a buffer on liquor stores of 100 feet from a church, school, hospital, or veterans' home, but this buffer is allowed to be waived by the Liquor Commissioner.

The State does not have pre-established buffers from uses like schools for recreational cannabis. The only distance restriction within the new State statute, for dispensing facilities, is between dispensing facilities (they cannot be closer than 1,500 feet). As such, any distance restriction between dispensaries must be 1,500 feet as the State statute indicates that municipalities may not enact regulations that are more restrictive than State law, while distances between dispensaries and other "sensitive locations" can be at distances other than 1,500 feet.

Staff does not propose adding any buffer requirements to Code. However, the Plan Commission and Village Board can consider existing land uses in their review of a conditional use application.

The Village has no regulation authority, under the new State statute, other than through zoning regulations. As such, the Village cannot adopt "business regulations" that apply to the dispensaries. For conditional use approvals, reasonable time, place and manner restrictions can be imposed, however, as the new State statute sets the approved hours of operation for dispensaries (6:00 a.m. to 10:00 p.m.), and as the new State statute does not allow municipalities to enact regulations that are more restrictive than the new State statute, the Village cannot restrict the hours of operation to other than as set forth in the new State statute.

At the workshop, the Village Board noted they are uninterested in establishing provisions to provide for cultivation centers, craft growers, processing organizations and transporting organizations. The Village Board provided direction to staff to preclude on-site consumption of cannabis as part of any permitted or conditional use activity. As such, the new Section of Code, Section 155.225, will note that pursuant to the Cannabis Regulation and Tax Act, the following uses, as defined by the Cannabis Regulation and Tax Act are not permitted or conditional use: cultivation centers, craft growers, processing organizations and transporting organizations.

Municipal outreach

Staff reached out to nearby municipalities. Many municipalities are researching the topic and in the early stages of taking the item to their Board and/or Plan Commission.

Municipality	Status
Addison*	Unsure (August 14 th PC meeting continued, which would have allowed it as a permitted use in the districts where medical is allowed)
Bloomington	Anticipated to opt-out of retail sales at their next Board meeting

Downers Grove	Discussed with Board on August 20 th , may discuss again at the September 3 rd meeting
DuPage County	Development Committee on August 20, 2019, County Board to discuss next
Elmhurst	Committee review scheduled for August 26 th
Glen Ellyn	Board workshop August 19 th , asked staff for more information and determined they do not want to allow for consumption on premise
Glendale Heights	Have discussed issue, unsure of next steps or timing
Lisle	Village Board discussion scheduled for September
Naperville*	Ordinance to opt-out approved on first reading at the August 20 th meeting. However, Council directed staff to prepare a report on zoning options if they choose to opt-in.
Oak Brook	Anticipated to opt-out of retail sales; will review a Text Amendment to prohibit sales at the September PC meeting
Oakbrook Terrace	Discussed with Board on August 13 th
Villa Park	The Village approved a text amendment to the Zoning Ordinance that would allow cannabis dispensing organizations as a special use in the C-3 zoning district.
Warrenville	Zoning public hearing on September 5 th
Wheaton	Public Hearing scheduled August 26 th to prohibit the use

The municipalities with an asterisk () currently have a medical cannabis dispensary.*

STANDARDS FOR TEXT AMENDMENTS

For any change to the Zoning Ordinance, the standards for text amendments must be affirmed. The standards are noted below:

1. *The degree to which the proposed amendment has general applicability within the Village at large and not intended to benefit specific property;*
The text amendments are generally applicable to all properties within the zoning districts of O, I, B1, B2, B3, B4, B4A, B5, and B5A in the Village.
2. *The consistency of the proposed amendment with the objectives of this ordinance and the intent of the applicable zoning district regulations;*
The proposed text amendments are consistent with the objectives of the Zoning Ordinance. Recreational cannabis dispensaries are a new use in Illinois and the zoning Ordinance is silent on the matter. Municipalities are given an option by the State of prohibit the use, via a Village Board approved ordinance. However, Lombard is looking to allow the use and regulate the use through the Zoning Ordinance.
3. *The degree to which the proposed amendment would create nonconformity;*
Staff does not believe any nonconformity would be created.
4. *The degree to which the proposed amendment would make this ordinance more permissive;*

The proposed amendments are for a new use in the State. This will ensure clarity with the Code so staff can direct these businesses to appropriate locations. The amended code will be neither more nor less permissive than existing code.

5. *The consistency of the proposed amendment with the Comprehensive Plan; and*

Staff finds that the proposed amendments would be consistent with the Comprehensive Plan. The recreational cannabis use is intended to be similar in nature to other types of retail sales activities by the State of Illinois, through their business regulation provisions. As such, if the use is deemed to be similar in nature to other types of retail sales activities (like liquor sales and the like), then its designation as a permitted or conditional use can be supported.

6. *The degree to which the proposed amendment is consistent with village policy as established in previous rulings on petitions involving similar circumstances.*

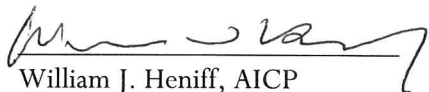
The Village has a history of amending the Zoning Ordinance for new and/or evolving land uses. Staff went thru a similar process for medical cannabis.

FINDING & RECOMMENDATIONS

Based on the above findings, the Inter-Departmental Review Committee has reviewed the petition and finds that it meets the standards for text amendments required by the Zoning Ordinance. As such, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion recommending approval of this petition:

Based on the submitted petition and the testimony presented, the requested text amendments **comply** with the standards required by the Village of Lombard Zoning Ordinance; and, therefore, I move that the Plan Commission accept the findings and recommendations of the Inter-Departmental Report as the findings of the Plan Commission and I recommend to the Corporate Authorities **approval** of PC 19-19.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP
Director of Community Development

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EXHIBIT 1

Village of Lombard Zoning

-  B1 - LIMITED NEIGHBORHOOD SHOPPING DISTRICT
-  B1PD - LIMITED NEIGHBORHOOD SHOPPING DISTRICT PLANNED DEVELOPMENT
-  B2 - GENERAL NEIGHBORHOOD SHOPPING DISTRICT
-  B2PD - GENERAL NEIGHBORHOOD SHOPPING DISTRICT PLANNED DEVELOPMENT
-  B3 - COMMUNITY SHOPPING DISTRICT
-  B3PD - COMMUNITY SHOPPING DISTRICT PLANNED DEVELOPMENT
-  B4 - CORRIDOR COMMERCIAL DISTRICT
-  B4PD - CORRIDOR COMMERCIAL DISTRICT PLANNED DEVELOPMENT
-  B4A - ROOSEVELT ROAD CORRIDOR DISTRICT
-  B4APD - ROOSEVELT ROAD CORRIDOR DISTRICT PLANNED DEVELOPMENT
-  B5 - CENTRAL BUSINESS DISTRICT
-  B5PD - CENTRAL BUSINESS DISTRICT PLANNED DEVELOPMENT
-  B5A - DOWNTOWN PERIMETER ZONING DISTRICT
-  B5APD - DOWNTOWN PERIMETER ZONING DISTRICT PLANNED DEVELOPMENT

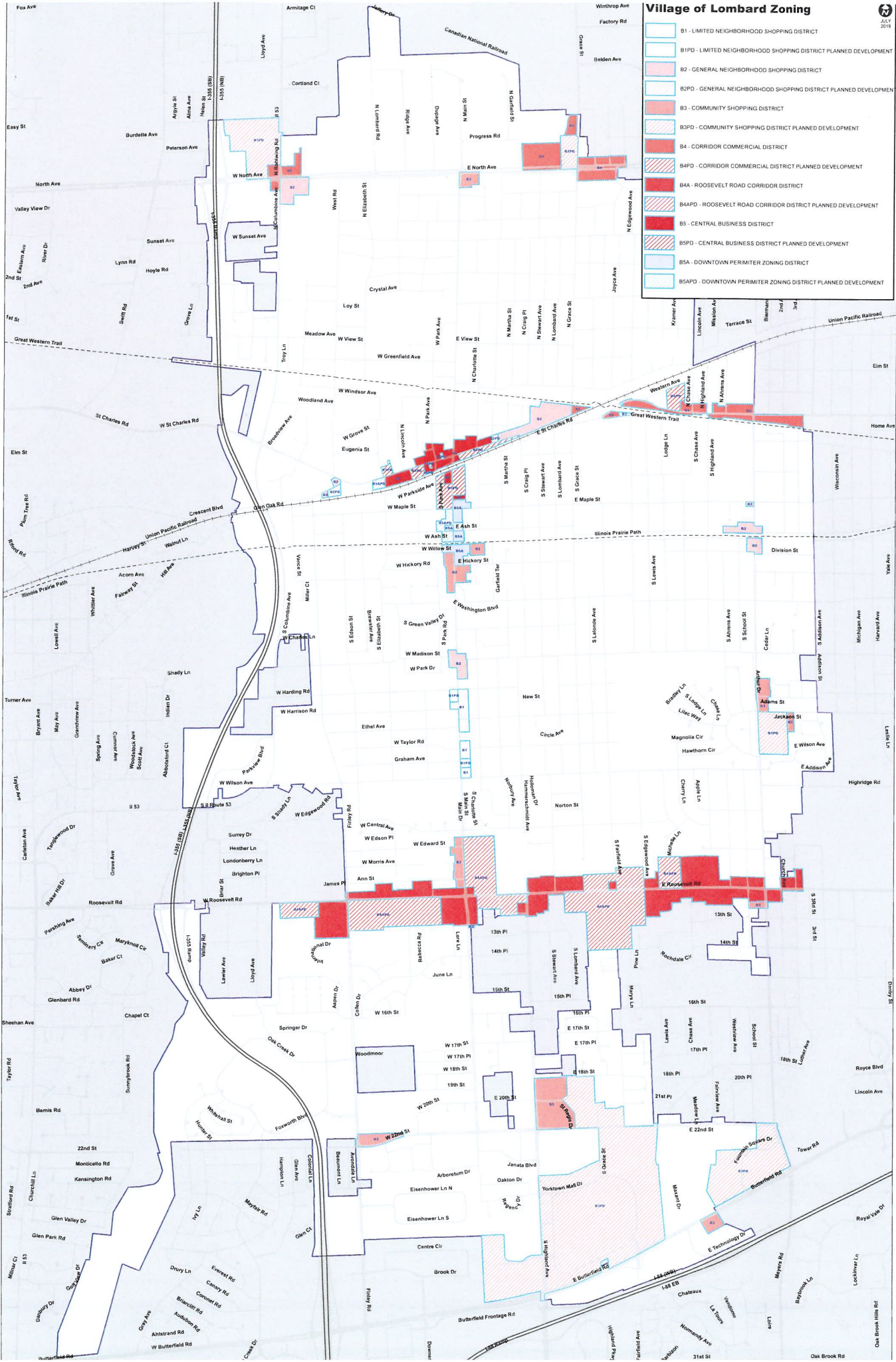




EXHIBIT 2

Village of Lombard Zoning

JULY 2018

-  O - OFFICE DISTRICT
-  OPD - OFFICE DISTRICT PLANNED DEVELOPMENT

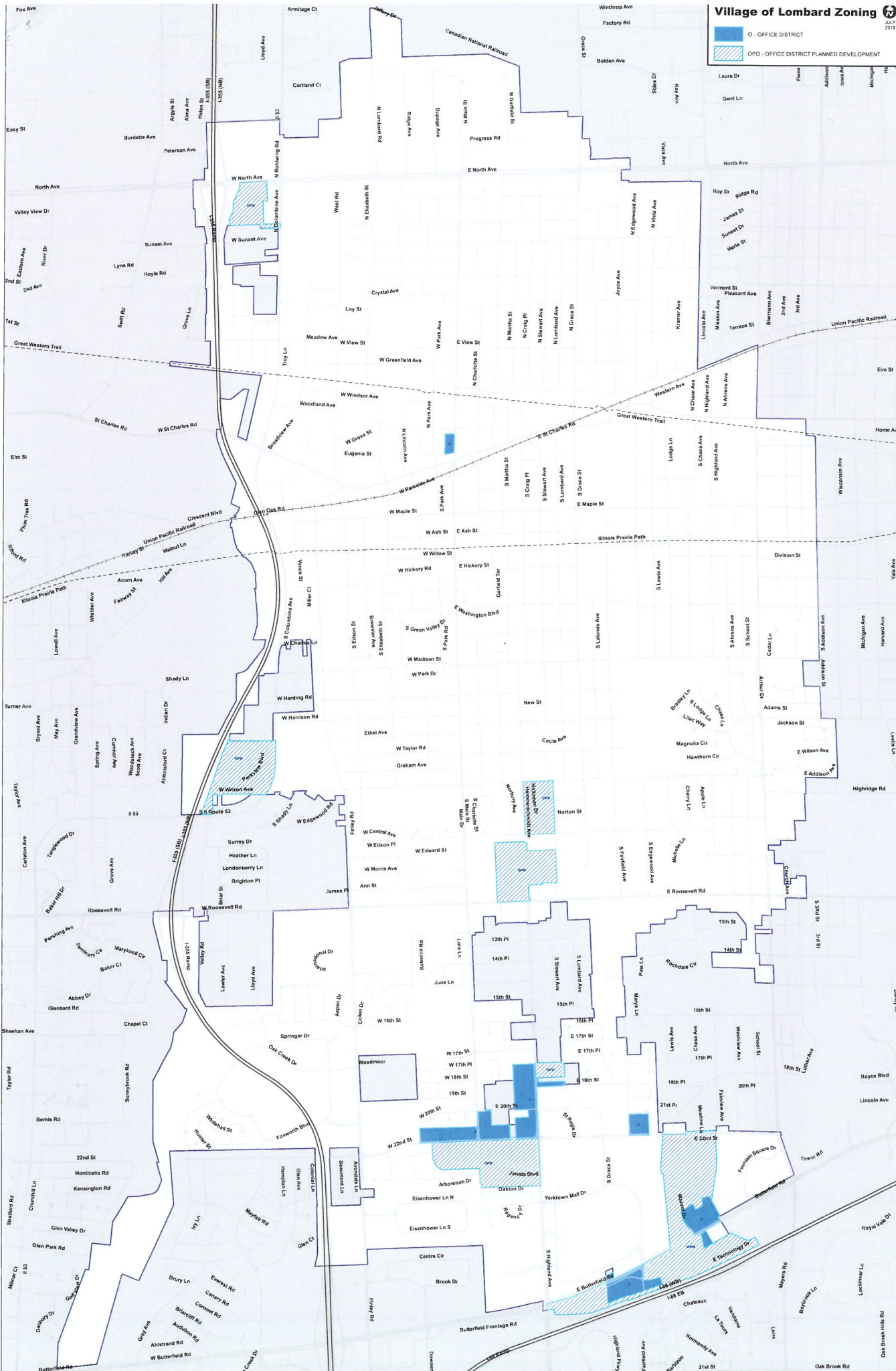


EXHIBIT 3

Village of Lombard Zoning

JULY 2019



-  I - LIMITED INDUSTRIAL DISTRICT
-  IPD - INDUSTRIAL PLANNED DEVELOPMENT



EXHIBIT 4

1000' Buffer outside of Schools and Licensed Daycares

Parcels Zoned B3, B4, B4A, Industrial, & Office ZONE

- B3/B3PD
- B4/B4PD
- B4A/B4APD
- VIPD
- O/OPD

Licensed Daycare & Schools

- LICENSED DAYCARE
- SCHOOLS
- Village Boundary

AUG 2019

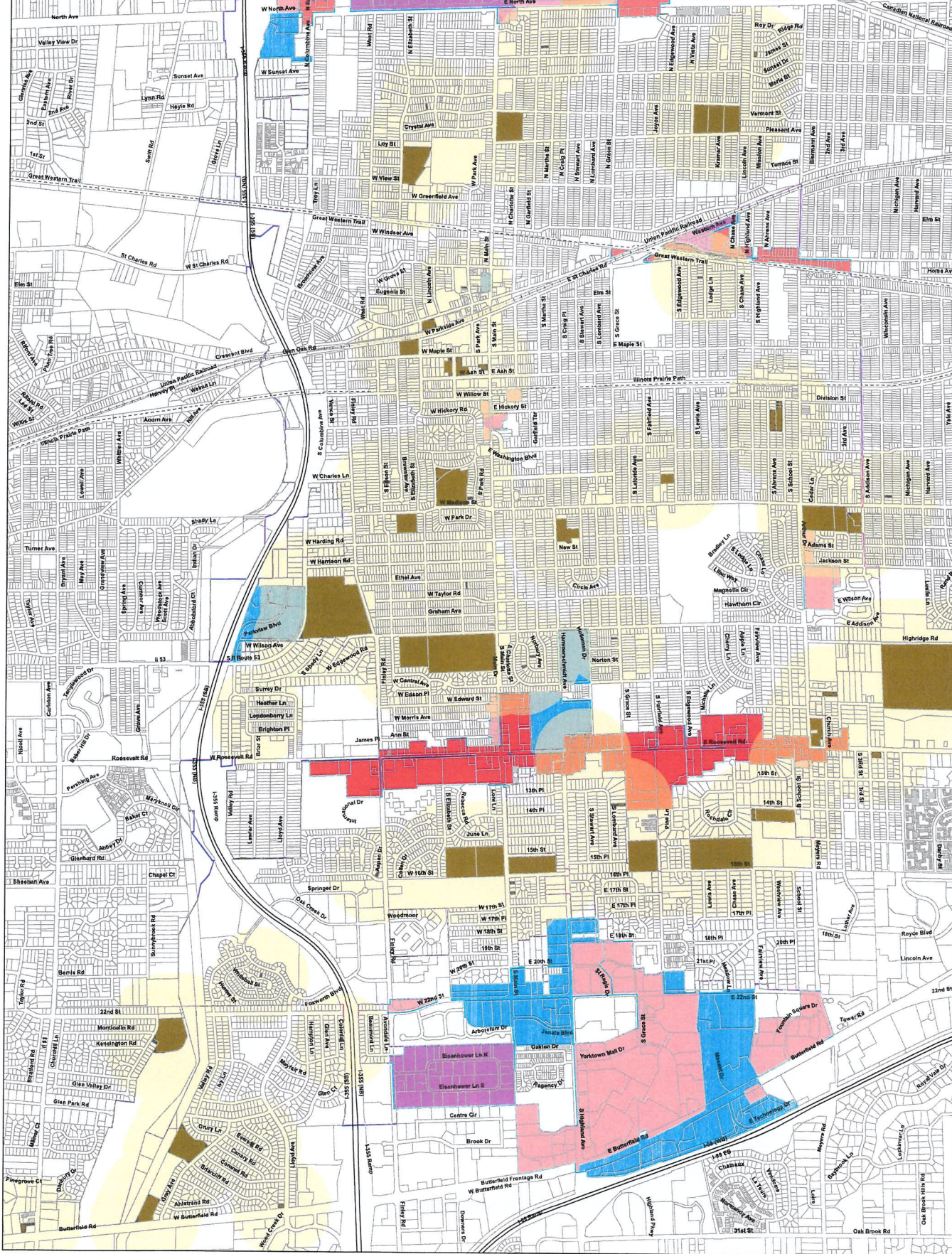


EXHIBIT 5

100' Buffer outside of Schools and Licensed Daycares

Parcels Zoned B3, B4, B4A, Industrial, & Office

ZONE

- B3/B3PD
- B4/B4PD
- B4A/B4APD
- UIPD
- O/OPD

Licensed Daycare & Schools

- LICENSED DAYCARE
- SCHOOLS
- Village Boundary

ALG 2019

