

Village of Lombard

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



Meeting Minutes

Monday, August 16, 2010

7:30 PM

Village Hall

Plan Commission

*Donald F. Ryan, Chairperson
Commissioners: Martin Burke,
Stephen Flint, Ronald Olbrysh,
Ruth Sweetser, Andrea Cooper and Richard Nelson
Staff Liaison: Christopher Stilling*

Call to Order

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Chairperson Ryan called the meeting to order at 7:30 p.m.

Pledge of Allegiance

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Chairperson Ryan led the Pledge of Allegiance.

Roll Call of Members

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Present: Chairperson Donald F. Ryan, Commissioner Stephen Flint, Commissioner Ruth Sweetser, Commissioner Martin Burke and Commissioner Richard Nelson

Absent: Commissioner Ronald Olbrysh and Commissioner Andrea Cooper

Also present: Christopher Stilling, AICP, Assistant Director of Community Development; Michael Toth, Planner I; and George Wagner, legal counsel to the Plan Commission.

Chairperson Ryan called the order of the agenda.

Christopher Stilling read the Rules of Procedures as written in the Plan Commission By-Laws.

Public Hearings

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100378

PC 10-11: 600 W. North Ave (Shell Gas Station) (Continued from July 19, 2010)

Requests amendments to Ordinance #4920 to provide for the following variations from the Lombard Sign Ordinance for the property located within the B4 Corridor Commercial District:

1. A variation from Section 153.210 to allow for an Automatic Changeable Copy Sign to be located on a property with less than 500 lineal front footage;
2. A variation from Section 153.210(D) to allow for a changeable message board of an Automatic Changeable Copy Sign to exceed two (2) feet in height;
3. A variation from Section 153.210(D) to allow for a display screen of an Automatic Changeable Copy Sign to exceed eighteen (18) inches in height;
4. A variation from Section 153.210(F) to allow for a changeable message board of an Automatic Changeable Copy Sign to be located outside of the twelve (12) foot to fifteen (15) foot height range;
5. A further variation to Section 153.505(B)(19)(a)(2)(a) to increase the total number of wall signs on the subject property to a total of ten (10) signs. (DISTRICT #1)

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Auna Foote, 5308 N. Northwest Highway, Chicago, presented the petition. Due to a revenue split with Circle K, Shell is proposing signage changes to two of their gas stations, one located on North Avenue and the other located on Roosevelt Road. The food and the car wash revenue would go to Circle K and Shell would get the revenues from the sale of gasoline.

Chairperson Ryan requested that she limit her presentation to the North Avenue location

as the Roosevelt Road location is a separate petition and would be discussed following this petition and voted on separately.

Continuing, Ms. Foote acknowledged that the property size is below the minimum for an LED price board. Their signage package includes the price board being part of the LED sign. They are requesting this type of sign not only for structural reasons but also for safety, accuracy, environmental and technological reasons. The LED boards are changed automatically the evening before, by plugging in the new gas prices. These new prices are then displayed the following morning. As gas prices can fluctuate daily, this method ensures accuracy as to the current gas price. This method also eliminates the possibility of the wind blowing price cards away. As such, there is no possibility of damage to vehicles from price cards falling onto them. It is mandatory that the gas stations have the right price at all times, which is why they want to convert all stations over to LED. The LED boards will use lower power consumption and are environmentally efficient compared to fluorescent bulbs. The LED sign will not blink, flash, flutter or give the appearance of movement. It will just display the price. She noted that price boards are moving toward this type of technology and there will be a point in time when the price cards will become obsolete. Ms. Foote referred to the table in the staff report which outlines requests from other petitioners for LED signs. She stated that their sign is proposed to be static and just relay the price and will not contain a message.

Lastly, she noted that the sign did not meet the 12 to 15 feet height range so they reduced the square footage by 21.7 square feet from their initial proposal in order to bring the LED up higher and reduce the square footage. This reduction brings the sign into closer compliance with code.

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.

Michael Toth, Planner I, presented the staff report. The subject property is located at the northwest corner of North Avenue (IL Route 64) and IL Route 53 and improved with a Shell gas station. Shell is currently in the process of reimagining their Circle K corporate identity standard in conjunction with the carwash and building signage. As part of their corporate reimagining process, the petitioner is requesting approval of a unified signage package.

The proposed signage package will include the expansion of existing signage, the addition of new signage on the car wash and the integration of an automatic change copy element on the existing freestanding sign. There were a number of past approvals associated with signage on the subject property. As part of this petition, signage associated with the past approvals will be further amended and the remaining signs will require additional signage relief, where applicable.

There are a total of four (4) variations associated with the proposed Automatic Changeable Copy sign - the first relates to the insufficient size of the property and the remaining three variations pertain to the design of the sign.

The Sign Ordinance limits automatic changeable copy signs to properties in the CR, B3, B4, B4A and B5 zoning districts on lots with a minimum of 500 lineal front footage. The subject property is located in the B4 Corridor Commercial District, but has a linear front footage of only 433 feet, a deficiency of 67 feet. Therefore, the Automatic Changeable Copy Sign automatically cannot be done as-of-right.

The Sign Ordinance restricts the message board component of an Automatic Changeable Copy Sign to two (2) feet tall and the display screen to 18-inches in height. The proposed Automatic Changeable Copy Sign message board is three-and-one-half (3.5) in height (see Exhibit 'A'). The intent of the height provision is to ensure that the automatic changeable copy element does not become the principal component of the freestanding sign.

The proposed display screen is twenty-six (26) inches in height where only a maximum of eighteen (18) inches is permitted. Since 2000, the Village has had four requests for automatic changeable copy signs exceeding code and he referred to Table 1.1. The Village has historically not supported variations relative to the size of Automatic Changeable Copy Sign message screens. Staff supported the variation request for Heritage Cadillac (PC 03-40) because of the unique characteristics and history of the subject property.

Section 153.210(F) of the Sign Ordinance states that the changeable message board of an Automatic Changeable Copy Sign must be located between twelve (12) feet to fifteen (15) feet above grade. The subject message board is proposed to be between ten (10) feet and thirteen-and-a-half (13.5) feet above grade. As such, the message board extends one (1) foot below the required height range.

Staff recognizes that the proposed Automatic Changeable Copy Sign would only advertise motor fuel rates; however, the Sign Ordinance is not intended not regulate the actual message displayed on the signage, but rather the medium that the message is displayed upon. In the Standards for Variations, the petitioner states that LED is more aesthetically pleasing than the traditional manual copy change. The petitioner also indicated that manual copies can blow away in the wind, which can be costly to repair. Lastly, safety is cited as a basis for the variation - stating that changing a manual copy sign can be dangerous. While staff recognizes these issues, the proposed signage is a matter of preference and the indicated hardships do not constitute a physical hardship associated with the property. Moreover, there are four variations associated with a sign that cannot be done as-of-right, which also demonstrates that the construction of the sign is also a matter of preference.

Ordinance #4920 granted signage relief to increase the number of permitted wall signs on the subject property from two (2) to five (5). The original approval specifically allowed one sign on each building (carwash and gas station) and a sign on each of three sides of the canopy. Through the petitioner's reimagining efforts, the existing fifty (50) square foot wall sign on the gas station will be replaced with a twenty-five (25) foot sign (see Exhibit 'B'). The fueling canopy will retain the three (3) original wall signs and the number of wall signs associated with the carwash would be increased from four (4) to six (6) (see Exhibit 'C'). Staff notes that all six (6) signs on the carwash will be new and are intended to accommodate corporate standards.

Staff notes that there are no past approvals associated with the three (3) additional wall signs that are currently located on the carwash. They are all shown on the approved elevations plans, but are not specifically mentioned in the approvals. As they are all less than ten (10) inches in height, they may have been perceived to be Valance Signs. However, these signs are not attached to the valance of an awning or canopy and are affixed directly to the building; therefore, they are considered Wall Signs. As such, approval is now being requested to allow six (6) signs where only one (1) wall sign was approved. Therefore, the request for additional wall signage in this case pertains only to the proposed signage associated with the carwash.

As the submitted plans indicate, a red and white banding element has also been included around the gas station building and carwash. Staff notes that the proposed

banding is not considered wall signage and is not factored into the overall calculation of the proposed wall signage. The banding is considered only to be a design aesthetic.

As Table 1.2 depicts, the proposed signage is a significant increase from the existing signage. When observing the raw numbers the signage is larger; however, without any quantifiable numbers to tie to any past approvals, staff examined the Sign Ordinance requirements. The Sign Ordinance requires that wall signs on properties with multiple tenant buildings be no more than one times the lineal foot frontage of tenant space. Staff referenced this provision as an example because the Sign Ordinance establishes a direct correlation between façade size and the square footage of wall signs.

When factoring the lineal foot frontage of each carwash elevation, none of the proposed wall signs are larger in area than the respective lineal footage of each building elevation. Also, due to the number of structures and on-site activities, gas stations provide rather unique signage issues. Staff has supported additional signage for gas stations in the past and believes that the proposed wall signage request is reasonable.

Staff has reviewed the standards for variations and finds that the proposed wall signs meet the standards for variations, but the proposed automatic changeable copy sign and freestanding sign do not meet the standards for variations and therefore recommends partial approval of this petition.

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

Commissioner Sweetser stated that the idea of the changeable message board has come up before. She noted that there is a difference between a message that repeats and runs continually versus something static. She suggested that it would be useful, due to the evolution of these signs, to differentiate between a message board and a changeable copy panel that would only be changed once every 24 hours and just show a price. She understands why staff would not want a running message, but she was inclined to permit one that would not change frequently and just display a price.

Chairperson Ryan agreed with Commissioner Sweetser about the difference between a running message versus a static one, but indicated the height of the sign is also not in compliance with code.

Commissioner Sweetser stated that there possibly could be some consideration given if there is no running message and the sign was brought up to an acceptable height range. If the panel needs to be a certain size in order to be readable, the smaller height size for a running message should not dominate the sign. It might be helpful to sort it out. Mr. Toth stated that the message board and screen have two separate height requirements.

Commissioner Burke clarified the issues at hand. He referred to the staff report, which stated that the proposed message board is 3.5 feet tall, but looking at the drawings, it appears that the LED display is much smaller than that 3.5 foot panel. He asked the petitioner what the size of the message was. Ms. Foote answered that she thought it to be 18" or 24" tall. Commissioner Burke then asked staff if that fell into the desired range. Mr. Stilling answered that 18" is the maximum allowed. Mr. Toth stated that the plans show the LED portion to be 26" in height.

Commissioner Burke stated if the petitioner had the ability to reduce it to an acceptable standard, it wouldn't be a big issue. He sees this in other communities and feels that it is a better way to display gas pricing than the current way. The other issue at hand is the height. He confirmed with staff that the height was lower than code, which is just the opposite of what is usually proposed. He felt that was more an issue of Village

ordinance and he doesn't see the height they are proposing as being objectionable.

Commissioner Burke stated he doesn't have an objection to the petition other than the size of the display itself.

Chairperson Ryan referred to the two pictures of the automatic changeable copy signs. He noted that it appeared that the existing price board sign was larger than what was being proposed and asked staff if that was the case. He also noted that the allowable square footage of the proposed sign is smaller due to it being a message sign. Mr. Stilling answered that the existing manual copy change sign is larger.

Commissioner Flint asked if that was within code. Ms. Stilling noted that the matter at hand was that the property did not have the required 500' frontage as well as the size of the message board. He stated that nothing prevents the petitioner from having the sign, except the lack of frontage of the subject property.

Commissioner Burke stated that variances are granted to make signs more efficient, attractive and practical. He noted that the pricing portion was now smaller because of the Circle K logo and if we are specifically talking about the pricing portion only, it is smaller, more attractive and practical.

Chairperson Ryan noted that they have to address the issue of the 500' lineal frontage. If the Plan Commission agrees that it is okay to have the sign, we are saying it is acceptable even though it doesn't meet the 500'.

Commissioner Sweetser stated that the basic reason for using the 500' delineation is that it provides a physical buffer between message boards. Having less than 500' could be confusing as the messages would be difficult to process because it is constantly moving. She noted that is not the case in this situation as the message board is not changing and therefore would not apply.

Commissioner Flint agreed with Commissioner Sweetser.

Commissioner Burke suggested that if the petitioner could make the actual price size smaller, it would be acceptable. Ms. Foote thought that if she went back to Circle K she thought they might fluctuate on the size, especially if the LED sign was approved.

Commissioner Burke then questioned if it would be visible if it were made smaller.

Chairperson Ryan thought that since the proposed flexible sign was smaller than the existing sign and by allowing the proposed 26" sign we would be cleaning it up, he doesn't have a problem with it, but would have trouble with having them bring it down to 18".

After some discussion about the wording of the motion, Attorney Wagner suggested that the Commissioners make two votes, one for the LED sign and one for the wall signs. He also suggested that they have discussion to address the wall signs before that particular vote.

It was moved by Commissioner Burke, seconded by Commissioner Sweetser, that this matter be recommended to the Corporate Authorities for approval relative to the Automatic Changeable Copy sign variations subject to one condition:

1. That the signage be consistent with the proposed signage plan, as it pertains to the Automatic Changeable Copy sign, prepared by Corporate Identification Solutions and dated June 25, 2010.

The motion carried by the following vote:

Aye: 4 - Flint, Sweetser, Burke and Nelson

Absent: 2 - Olbrysh and Cooper

Chairperson Ryan then opened the meeting for discussion to address the ten wall signs.

Commissioner Sweetser stated that if staff recommended approval of the number of wall signs and had good reason for it, then she had no objection.

It was moved by Commissioner Sweetser, seconded by Commissioner Flint, that this matter be recommended to the Corporate Authorities for approval relative to the variation to increase the total number of wall signs to a total of ten (10) subject to the following conditions:

1. The signage shall be consistent with the proposed signage plan, as it pertains only to the wall signage, which was prepared by Corporate Identification Solutions, and dated June 25, 2010
2. The petitioner shall apply for and receive a building permit for the proposed signage prior to installation.
3. That the petitioner shall satisfactorily address all comments included within the IDRC report.
4. Such approval shall become null and void unless work thereon is substantially under way within 12 months of the date of issuance, unless extended by the Board of Trustees prior to the expiration of the ordinance granting the variation.

The motion carried by the following vote:

Aye: 4 - Flint, Sweetser, Burke and Nelson

Absent: 2 - Olbrysh and Cooper

100379

PC 10-12: 930 E. Roosevelt Rd. (Shell Gas Station) (Continued from July 19, 2010)

Requests amendments to Ordinance #5120 to provide for the following variations from the Lombard Sign Ordinance for the property located within the B4A Roosevelt Road Corridor District:

1. A variation from Section 153.210 to allow for an Automatic Changeable Copy Sign to be located on a property with less than 500 lineal front footage;
2. A variation from Section 153.210(F) to allow for a changeable message board of an Automatic Changeable Copy Sign to be located outside of the required twelve (12) foot to fifteen (15) foot height range;
3. A variation from Section 153.505(B)(6)(e) to allow more than one freestanding sign

on the subject property.

4. A further variation to Section 153.505(B)(19)(a)(2)(a) to increase the total amount of wall signs on the subject property to a total of nine (9) signs. (DISTRICT #6)

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Auna Foote, 5308 N. Northwest Highway, Chicago, presented the petition. Ms. Foote stated that this petition's information is basically the same as the previous petition, PC 10-11. Circle K would be responsible for the building and car wash. The signage package for the building and car wash has been reduced 73.21 square feet than what was originally proposed. All things are the same for the LED message board in that it cannot flash, flicker or change messages, but instead display the price. The price will switch over at 2 a.m. every day. This automatic changeable copy sign has the same square footage as mentioned in the previous petition. We did not reduce the sign itself.

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

Chairperson Ryan then requested the staff report.

Michael Toth, Planner I, presented the staff report. He stated that the subject Shell Gas Station is located at the northwest corner of Roosevelt Road and Westmore-Meyers Road. Shell is currently in the process of reimagining their Circle K corporate identity standard in conjunction with the carwash and building signage. As part of their corporate reimagining process, the petitioner is requesting approval of a unified signage package.

The proposed signage package will include the expansion of existing signage, the addition of one freestanding sign and the addition of new signage on the car wash. An Automatic Changeable Copy element is also being proposed to be integrated into the existing freestanding sign. There were a number of past approvals associated with signage on the subject property. As part of this petition, signage associated with the past approvals will be further amended and the remaining signs will require additional signage relief, where applicable.

There are a total of two (2) variations associated with the proposed Automatic Changeable Copy sign - the first relates to the insufficient size of the property and the remaining variation relates to the design of the sign.

The Sign Ordinance limits automatic changeable copy signs to properties in the CR, B3, B4, B4A and B5 zoning districts on lots with a minimum of 500 lineal front footage. The subject property is located in the B4A Roosevelt Road Corridor District, but has a linear front footage of only 385 feet, a deficiency of 115 feet. Therefore, the Automatic Changeable Copy Sign automatically cannot be done as-of-right.

Section 153.210(F) of the Sign Ordinance states that the changeable message board of an Automatic Changeable Copy Sign must be located between twelve (12) feet to fifteen (15) feet above grade. The subject message board is proposed to be between ten (10) feet and eleven (11) feet above grade (as seen in Exhibit 'A'). As such, the message board extends one (1) foot below the required height range

Staff recognizes that the proposed Automatic Changeable Copy Sign would only advertise motor fuel rates; however, the Sign Ordinance is not intended to regulate the actual message displayed on the signage, but rather the medium that the message is displayed upon. In the Standards for Variations, the petitioner states that LED is more aesthetically pleasing than the traditional manual copy change. The petitioner also indicates that manual copies can blow away in the wind, which can be costly to repair. Lastly, safety is cited as a basis for the variation - stating that changing a manual copy sign can be dangerous. While staff recognizes these issues, the proposed signage is a matter of preference and the indicated hardships do not constitute a physical hardship

associated with the property.

The petitioner is proposing to remove directional signage associated with the car wash and increase the size of double-sided "vacuum" sign, which are located above the actual vacuum cleaners located on site. The existing vacuum signs are three (3) square feet in area and the petitioner is proposing to increase the size of each sign to thirty-seven (37) square feet. As the previous signs were only three (3) feet in area, they were classified as "Incidental Signs" because they were small in size and informed the public of services available on the premises. However; as the new sign is thirty-seven (37) square feet and is used to advertise the vacuums to off-site patrons, it is classified as a Freestanding Sign. According to the Sign Ordinance, no more than one freestanding sign shall be maintained on any one parcel of land in the B4A - Roosevelt Road Corridor District. Staff believes that placing an additional Freestanding Sign on the property to advertise the on-site vacuums is excessive. An incidental sign is currently being displayed over the vacuums, which staff believes is appropriate.

Ordinance #5120 (PC 02-16) granted signage relief to allow for more than one (1) wall sign per street front exposure. Moreover, the staff report associated with PC 02-16 specifically states that the variation granted an increased number of permitted wall signs from two (2) to seven (7). According to the PC 02-16 staff report, the fueling canopy had two (2) wall signs and the convenience mart located under the canopy had one (1) sign. The separate building containing the car wash had a total of four (4) signs, two of which distinguish the points of ingress and egress. For purposes of clarity, staff notes that the carwash is currently only displaying a total of three (3) wall signs, for a total of six (6) wall signs on the subject property.

Through the petitioner's reimagining efforts, the existing "Food Mart" wall sign on the gas station building would be replaced with two (2) 'Circle K' logo wall signs - one on the north elevation of the building and the other on the south (see Exhibit 'C'). The fueling canopy would retain the two (2) original wall signs. The number of wall signs associated with the carwash would be increased from three (3) to five (5) (see Exhibit 'D'). As such, there are a total of nine (9) wall signs proposed for the subject property as part of the submitted signage plan.

As the submitted plans indicate, a red and white banding element has also been included around the gas station building and carwash. Staff notes that the proposed banding is not considered wall signage and is not factored into the overall calculation of the proposed wall signage. The banding is considered only to be a design aesthetic.

As Table 1.1 depicts, the proposed signage is a significant increase from the current signage. When observing the raw numbers the signage is larger; however, without any quantifiable numbers to tie to any past approvals, staff examined the Sign Ordinance requirements. The Sign Ordinance requires that wall signs on properties with multiple tenant buildings be no more than one times the lineal foot frontage of tenant space. Staff referenced this provision as an example because the Sign Ordinance establishes a direct correlation between façade size and the square footage of wall signs.

When factoring the lineal foot frontage of each carwash elevation, none of the proposed wall signs are larger in area than the respective lineal footage of each building elevation. Also, due to the number of structures and on-site activities, gas stations provide rather unique signage issues. Staff has supported additional signage for gas stations in the past and believes that the proposed wall signage request is reasonable. Furthermore, Ordinance #5120 granted signage relief to allow for more than one (1) wall sign per street front exposure on the subject property. Without any specified limitation with regard to the number of signs mentioned in the approving ordinance, it could be interpreted that an unlimited number of wall signs could be permitted on the subject

property. As such, staff would like to take this opportunity to establish a specified number of permissible wall signs on the subject property

Staff has reviewed the standards for variations and finds that the proposed wall signs meet the standards for variations, but the proposed automatic changeable copy sign and freestanding sign do not meet the standards for variations and therefore recommends partial approval of this petition.

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

Commissioner Sweetser stated that the discussion from the prior petition would pertain to this one, but she wondered if staff wanted a specified number of permissible signs on the property and asked if that has been done. Mr. Toth answered they are proposing nine signs, which includes the existing and proposed signage. Commissioner Sweetser asked if that number needed to be stated. Mr. Toth answered that it would tie back to the approval of the variation for the nine signs.

Commissioner Burke stated he was agreeable to the automatic changeable copy sign.

Chairperson Ryan stated that along with the changeable copy sign there is also a request for a freestanding sign known as the vacuum sign. They are proposing to increase its size from 3' to 37', which he thought is excessive. He cautioned that this signage package is different than the previous petition and the motions needed to be adjusted accordingly.

Commissioner Burke clarified the types of signs being proposed mentioning the automatic changeable copy sign, freestanding vacuum sign and the wall signs.

Attorney Wagner stated that it would be easier to address each sign and make three separate motions.

It was moved by Commissioner Burke, seconded by Commissioner Sweetser, that this matter be recommended to the Corporate Authorities for approval relative to the Automatic Changeable Copy sign variations subject to one condition:

1. That the signage be consistent with the proposed signage plan, as it pertains to the Automatic Changeable Copy sign, prepared by Corporate Identification Solutions and dated June 25, 2010.

The motion carried by the following vote:

Aye: 4 - Flint, Sweetser, Burke and Nelson

Absent: 2 - Olbrysh and Cooper

It was moved by Commissioner Burke, seconded by Commissioner Sweetser, that this matter be recommended to the Corporate Authorities for denial relative to the variations associated with the freestanding vacuum sign. The motion carried by the following vote:

Aye: 4 - Flint, Sweetser, Burke and Nelson

Absent: 2 - Olbrysh and Cooper

It was moved by Commissioner Sweetser, seconded by Commissioner Flint, that this matter be recommended to the Corporate Authorities for approval relative to the variation to increase the total number of wall signs to a total of nine (9) subject to the following conditions:

1. The signage shall be consistent with the proposed signage plan, as it pertains only to the wall signage, which was prepared by Corporate Identification Solutions, and dated June 25, 2010
2. The petitioner shall apply for and receive a building permit for the proposed signage prior to installation.
3. That the petitioner shall satisfactorily address all comments included within the IDRC report.
4. Such approval shall become null and void unless work thereon is substantially under way within 12 months of the date of issuance, unless extended by the Board of Trustees prior to the expiration of the ordinance granting the variation.

The motion carried by the following vote:

Aye: 4 - Flint, Sweetser, Burke and Nelson

Absent: 2 - Olbrysh and Cooper

[100425](#)

SPA 10-02ph: 215 E. Roosevelt (V-Land Highland/Roosevelt Planned Development)

Requests site plan approval of a deviation from Section 153.505(B)(19)(b)(1)(a) of the Lombard Sign Ordinance to increase the maximum allowable area of a wall sign from thirty-two and one half (32.5) square feet to eighty-eight and four-tenths (88.4) square feet in the B4APD Roosevelt Road Corridor District, Planned Development. (DISTRICT #6)

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Terry Doyle of Doyle Signs, 232 Interstate Road, Addison, IL, is representing the contract for CD One Price Cleaners. CD One Price Cleaners opened their 215 E. Roosevelt location in April 2008. The location is a high profile location and should generate a reasonable amount of business. This location has been struggling to survive. The people that operate CD One Price Cleaners have 30 stores in the metro area. This particular location is 18% below average revenue than the 5 other stores that are located closest to the Lombard area. The most apparent difference is that the Lombard store has the smallest exterior identification sign of all 30 locations. When considering that this location is in the Roosevelt Road Corridor, is set back 75 feet from the property line and has a façade area of 837 square feet you would expect that this business would be allowed a sign that is somewhat larger than the Village Code permits. The Village Code states that if your business is located in the B4A District, the size and scale is greater than what is permitted in other districts. This sounds reasonable and appropriate. If you are a small business with 32'6" of frontage on Roosevelt Road and are setback 75 feet from the property line, the same ordinance restricts your wall sign area to the same size sign of that of a business (on the sidewalk) of the B5 District. This does not make sense and is the complete opposite of what the ordinance states. The existing sign for CD One Price Cleaners is less than 4% of the façade area of the storefront façade. It's too small. It should be larger than a sign permitted in the downtown with the same frontage. The proposed replacement sign is composed of a 3'6" opaque logo with silhouette illumination and a set of individual "CD One Price Cleaners" illuminated letters. The Village interpretation is that the sign is 88.4 square

feet of area (in a rectangle). This includes 42.3 square feet of blank brick wall. If you measure the area of the actual sign it is only 46.1 square feet. Is that too much to ask for if the sign is in the Roosevelt Road Corridor and set back 75 feet? The 75 foot setback is 62% of the 120 foot setback where the ordinance allows the sign to automatically double in size. The ordinance agrees that the further the sign is set back the more difficult it is to read. If the sign area permitted in the B5 downtown (for businesses located at the sidewalk) is the same size that is allowed for a business on Roosevelt Road, it makes sense to allow an increase in sign area and not restrict every business that doesn't have a 120 setback to the size allowed in the B5. It doesn't make any sense and the ordinance is an imperfect guideline for sign sizes, especially wall signs.

Mr. Doyle stated that the staff report indicates that we have not met the standards for variations, more specifically 1, 2 and 4. He referred to standard #1 and stated that it is unfair that the signage is more restricted at their location than it is in the downtown central core. It is a hardship to a business located on Roosevelt Road. Referring to standard #2, he mentioned another sign variation that was granted to the business to the west. He stated that the variation was granted for a 160 square foot sign with only 60 feet of frontage. The CD building façade is 28' in height and the sign is lost in the façade. Referring to standard #4, he stated that the hardship is caused by the ordinance because it limits the size of a sign on Roosevelt Road to that of a sign in the downtown business core (located at the sidewalk), obviously contradicting statements of both zoning districts.

Mr. Doyle then referred to the photos and architect line drawings of the sign and stated that the photos are all in scale and that you can see the existing and proposed signs. It's the same size sign that exists on another CD One Price Cleaners on Roosevelt Road about 5 miles to the west. We believe that it is a reasonable request based upon the setback, size of the façade and surrounding conditions on the Roosevelt Road location. Unfortunately, CD One Price Cleaners has a handicap because their name is long, but all other conditions are reasonable for the variation request.

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

Chairperson Ryan then requested the staff report.

Christopher Stilling, Assistant Community Development Director, presented the staff report. Doyle Signs is proposing to replace an existing wall sign and install a larger wall sign for the tenant space being occupied by CD One Price Cleaners located at 215 E. Roosevelt Road. The proposed sign on the building's front façade is approximately eighty-eight and four-tenths (88.4) square feet where a maximum of thirty-two and one half (32.5) square feet is permitted by the Sign Ordinance. Therefore, a site plan approval with a deviation for sign size is required.

The existing CD One Price Cleaners is seeking to replace their existing wall sign with a larger sign of similar design. The existing sign is approximately 32.5 square feet in area which is the maximum allowed by code. The petitioner is seeking to increase the size of the sign to 88.4 square feet in area.

In the B4A Roosevelt Road Corridor District, when a tenant's wall sign is less than one-hundred twenty feet (120') from the nearest property line, the maximum size of a wall sign for a multi-tenant unit is one times the lineal front footage of the tenant space. As the proposed wall sign will be approximately seventy feet (70') from the front property line along Roosevelt Road and the tenant space is approximately thirty-two and one half (32.5) lineal feet, the tenant would be entitled to thirty-two and one half (32.5) feet of signage area.

The petitioner's proposed wall sign on the building's front façade is approximately eighty-eight and four-tenths (88.4) square feet. In the Standards to Variations, the petitioner states that the request for additional square footage is to allow the wall sign to be more legible as thirty-two and one half (32.5) feet of signage area is not effective or easily readable from Roosevelt Road.

In 2006, staff initiated PC 06-26, which proposed text amendments to the Sign Ordinance to clarify that the area of a wall sign should be calculated as the smallest rectangular shape that could completely enclose the sign. Staff had historically performed the calculations of signage area in the same manner. These amendments were proposed and adopted to prevent applicants from using another geometric shape, such as a polygon, as the basis for additional signage area.

The proposed sign contains the business' name "CD One Price Cleaners" as well as the corporate logo. The logo itself is three-and one-half feet in height, while the text is twenty (20) inches in height. The relative size of the logo is the direct cause of the excessive square footage. Wall signage relief had been granted to the Buffalo Wild Wings located to the west at 207 E Roosevelt (SPA 08-02ph). In that case, the wall signage was supported because the actual size of the illuminated sign was less than what was allowed by the Sign Ordinance. The relief was granted to address the trade dress, consisting of the yellow and black/white checkerboard painted on the building itself. In that case both staff and the Plan Commission felt that relief did not have the same visual effect as standard signage. Another notable case in the Village includes the recently closed Hollywood Video within the High Point Shopping Center, which consisted of several unique color schemes unique to their building prototype. When viewed in that context, the proposed sign package was deemed not to be intrusive and was approved.

Staff finds that the existing sign is already legible from Roosevelt Road and the proposed signage is a matter of preference. Also, the indicated hardships do not constitute a physical hardship associated with the property as all businesses along Roosevelt Road are required to meet the same wall sign size provisions. The Plan Commission recently denied a request by Cricket Wireless for a wall sign deviation in the High Pointe Shopping Center. As in this case, the Cricket sign exceeded code because of the corporate "K" logo.

The Comprehensive Plan identifies the site for Community Commercial uses. The existing use is therefore consistent with the Comprehensive Plan.

The subject property is bordered on the east and west by other existing retail commercial uses. Roosevelt Road has traditionally included a substantial number of stand-alone and integrated shopping center developments. While selected establishments within the corridor have received signage variations, the petitioner's request would not be consistent with the planned development in which it exists.

Staff offers the following responses to the Standards for Variation:

- 1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be applied.*

Staff finds that there are no conditions related to the property that prevent compliance with the signage size regulations. The subject tenant space does not have physical surroundings, shape, or topographical features that differ substantially from other corner

tenant spaces within the planned development or those otherwise in close proximity. Furthermore, each tenant spaces in the planned development are located within close proximity to Roosevelt Road. Other tenants located in this building have successfully operated with wall signs of twenty-five (25) square feet or less.

2. The conditions upon which an application for a variation is based are unique to the property for which the variation is sought, and are not generally applicable to other property within the same zoning classification.

Staff finds that there are no conditions unique to the subject property. There are many tenant spaces within the planned development and nearby on Roosevelt Road that have the similar configurations and are subject to the same signage regulations.

4. The alleged difficulty or hardship is caused by this ordinance and has not been create by any person presently having an interest in the property.

Staff finds that the sign could be constructed per the ordinance requirements either by reducing the overall size of the sign or reducing the height of the logo. The hardship has been created by the tenant as a result of the preference for a particular letter in this sign's design.

Staff has concerns about the precedent that would be established if the proposed request was to be granted. Multiple other tenants within the planned development, including those adjacent to the subject tenant space and others located further away from Roosevelt Road, have been able to meet the established signage size regulations. Should this request be granted, it would strengthen the case of similar requests for other such tenant spaces.

Staff also notes that if this request were granted, future occupants of the subject tenant space would maintain the rights to a larger wall sign. Future signs could potentially have greater bulk than the one proposed as future tenants could make use of surface area that the CD One Price Cleaners sign would leave vacant.

The Department of Community Development has determined that the information presented has not affirmed the Standards for Variations. Based on the above considerations, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion denying the aforementioned deviation.

Mr. Stilling noted that the Plan Commission has the final decision in this case, unless the petitioner files an appeal, at which point it would go to the Village Board.

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

Commissioner Burke stated he agreed with the staff report.

Commissioner Flint stated he understood the petitioner's position and situation but felt that this would be setting a precedence.

Commissioner Sweetser questioned what the square footage of the sign would be without the logo. Mr. Stilling stated that even if the logo were to be removed, the sign would be around forty-seven square feet, which is still too large.

It was moved by Commissioner Flint, seconded by Commissioner Nelson, that this matter be denied. The motion carried by the following vote:

Aye: 4 - Flint, Sweetser, Burke and Nelson

Absent: 2 - Olbrysh and Cooper

Business Meeting

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The business meeting convened at 8:38 p.m.

Approval of Minutes

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On a motion by Nelson and seconded by Burke the minutes of the July 19, 2010 meeting were unanimously approved by the members present.

Public Participation

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There was no public participation.

DuPage County Hearings

[Play Video](#)

There were no DuPage County hearings.

Chairperson's Report

[Play Video](#)

The Chairperson deferred to the Assistant Director of Community Development.

Planner's Report

[Play Video](#)

The Assistant Director of Community Development had no report.

Unfinished Business

[Play Video](#)

There was no unfinished business.

New Business

[Play Video](#)

There was no new business.

Subdivision Reports

[Play Video](#)

There were no subdivision reports.

Site Plan Approvals

Commissioner Burke stated that as he worked for the developer, who is the petitioner, he would be recusing himself from SPA 10-03. He left the dias at 8:40 p.m.

100426**SPA 10-03: 1301 North Lombard Road (Bimbo Bakeries, USA)**

Requesting that the Village take the following actions to on the Subject Property, located within the IPD Limited Industrial District, Planned Development:

1. Pursuant to Ordinance 5695, grant site plan approval for the development on the Subject Property, based upon the petitioner's plans. (DISTRICT #1)

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James Brucato, 1843 S. Matthew Court, Libertyville, stated he represents Principal Construction Company and is presenting the Bimbo Bakeries project for site plan approval. He acknowledged receipt of the Inter-Department Review Report and indicated he would like to give a brief summary and history of the site for the Commissioner's benefit.

Mr. Brucato noted that this site was initially brought before the Plan Commission for approval approximately five years ago as petition PC 05-17. A condition of that approval was that any future developers seek site plan approval from the Village. In November, 2005 they represented the Walter E. Smithe project but due to the turn in the economy, the project was discontinued. They are here tonight with their current project and representing Bimbo Bakeries.

This project seeks site plan approval for a 50,840 square foot office/warehouse facility, which will house their regional headquarters. There will not be any manufacturing or baking at this facility. The building area is comprised of 15,840 square feet of office space and the remaining 35,000 square feet will be used as warehouse space. The proposal also consists of a 12,000 square foot warehouse expansion and additions to the parking lots and loading docks although it is unknown when this expansion may occur.

Mr. Brucato stated that the overall site is bounded by other industrial uses, the Illinois Central Railroad, DuPage County Forest Preserve, and a wetland. This development will take just over six acres of the western portion of the site with the remainder being undeveloped. They are not seeking any approvals for that portion but are seeking pre-approval of the expansion to the north as drawn on the plan. They are no variations or deviations being requested.

They see no issues with the IDRC report but they will request technical discussions on certain issues as they develop. Mr. Brucato mentioned that they want a more eco-friendly green landscape design that would require lower water usage and less maintenance and would be more environmentally responsible than a traditional turf layout.

Using the overhead projector, Mr. Brucato showed the site plan and described the building. He indicated that the building is "L" shaped with the front portion being office space and gave the dimensions. The remainder of the building heading north would consist of warehouse space. He showed the truck docks and stalls, the public parking area, and the detention area. He mentioned the public improvements they were obligated to perform such as a new cul-de-sac bulb being constructed at the end of Lombard Road and the full street improvements to be made on the Haney property.

The remainder of the site to the east is 7 acres and owned by the Forest Preserve District which will remain open space.

Next Mr. Brucato showed the elevation plan. He stated that the building is designed

with insulated precast concrete and conventional steel and has a pitched ballasted roof. The perimeter paving will be constructed of concrete or bituminous asphalt. At the entrance there will be a tinted glass curtainwall and a precast concrete wall panel. The entrance will project higher than the rest of the building. There will be some staining variations of the precast to break up the building. The building's clear height is 20' and 24' to the top of the panel itself.

He noted their hours of operation and requested a 24/7 approval just in case they get to that point in the future.

Lastly, he referred to an error in the staff report on page 11. The date should say 2011.

Chairperson Ryan asked if there was anyone to speak in favor or against the petition. Hearing none, he requested the staff report.

Christopher Stilling, Assistant Director of Community Development, presented the staff report. He mentioned that the report is being submitted into the public record in its entirety.

In August, 2005, the Village Board approved a conditional use for a planned development for the subject property (IDRC Report for PC 05-17 is attached). A condition of this approval was a requirement that any future developers of the property seek site plan approval from the Village for their respective project.

In November of 2005, the Plan Commission and ultimately the Village Board approved an amendment to the Planned Development for a proposed Walter E. Smithe Furniture warehouse and office building for the entire site (PC 05-41). That development never proceeded, however the development rights as established in Ordinance 5695 (PC 05-17) & 5794 (PC 05-41) still govern the property.

The petitioner now requests site plan approval for a new 50,840 square foot office/warehouse facility for Bimbo Bakeries on the western portion of the property. A proposed 12,321 square feet expansion plan is also shown and part of their request. This petition seeks approval of a final development plan which is consistent with the concept plans previously approved by the Village Board in the development agreement for the property. There are no variations or deviations associated with this request.

Mr. Stilling clarified that the concept plan on the parcel to the east is for illustrative purposes only and the petitioner is not seeking approvals for that plan.

Referring to the IDRC comments from the various departments he noted that those comments are not intended to be a comprehensive list of all items that must be corrected. Additional comments will be generated upon submittal of more detailed engineering drawings.

In the initial planned development approval, three plans were approved in order to provide maximum development flexibility. The current proposal being brought forward is the single building option on the western portion of the property, however a conceptual phase 2 plan has been submitted, however that is only for illustrative purposes to show how the balance of the site could develop in the future. Any future development on the remaining property to the east would be subject to another Site Plan Approval.

The petitioner's plan depicts the immediate and future plans for the property. The initial phase proposes a single 50,840 square foot building, of which 35,000 square feet of the building will be used for warehousing purposes and 15,840 square feet for office space.

Future phases will include an additional 12,321 square feet of warehousing space as well as 16 additional docks and parking for 15 additional cars and 15 route truck stalls. The primary use of the property will be the warehouse/distribution activities.

As previously noted, the plans also depict a future expansion to the Bimbo Bakeries site (Phase IB). The plan shows an additional 12,321 square feet of warehouse space as well as additions to the parking lots and loading docks. It is unclear when this expansion may occur but the petitioner wants to receive pre-approval for their expansion plans at this point in time. Please note that the potential phase 2 development on the eastern 5.3 acres is not part of this request. Any future development on the remaining property to the east would be subject to another Site Plan Approval.

Staff finds that the proposal meets both the original planned development and zoning ordinances.

As part of the site plan approval process, the petitioner has submitted proposed building elevations and materials board for the proposed structures. The plans give the Village a sense of what the project will look like upon completion. The exterior facades primarily consist of pre-cast concrete painted gray and white with additional tinted glass and metal treatments at the office entrance on the south elevation. This treatment is typical of most modern warehouse/distribution facilities. Staff finds that the elevations are consistent with the conditions of Ordinance 5695.

The petitioner has prepared a preliminary landscape plan for the project. The plan conceptually meets the provisions of the Zoning Ordinance, except as previously varied as part of the planned development approval. The proposed plan does not show landscaping within the wetland area - the final plant materials and maintenance requirements will be established by DuPage County as part of the wetland review process. The County will also require Best Management Practices along with certain improvements that will process and clean the water runoff before it goes through the system. This will be addressed through the final engineering process.

While the final light pole fixtures have not been selected by the petitioner to date, the light poles and fixtures to be utilized for all private roadway lighting and parking lot lighting should be uniform. The petitioner intends to meet this request. As part of the building permit submittal requirement, the petitioner shall provide complete specifications and photometric plans for the fixtures. The lighting plan shall be reviewed and approved by the Village as part of a building permit submittal prior to installation.

With regard to building operations it the hours of operation were noted to be almost 24/7. The petitioner has indicated they will be operational 24/7 and there is no provision against this.

As part of the original planned development approvals set forth by Ordinance 5695 and the development agreement, the Village agreed to vacate the entire Lombard Road right-of-way (ROW) along the western side of the subject property. As part of that ROW vacation, the developer of the subject property had to fulfill certain obligations which include:

- 1. A new cul-de-sac bulb shall be constructed at the current roadway terminus of Lombard Road, per Village specifications; and*
- 2. Full street improvements shall be made in front of the Haney & Sons property at 2N700 Lombard Road.*

The petitioner will fulfill these obligations. Furthermore, the development agreement set

forth provisions that could require for the reversion of this previously vacated Lombard Road ROW to the Village after a twenty year period if requested by the Village. The vacation allowed for the developer to construct the driveways to a private industrial standard versus the public ROW standard. This provision also allowed the Village to determine that there was little or no economic value to the property as part of the vacation process. As shown, no permanent structures, other than access drives and potential future parking are shown in this area. It should be noted that the proposed plan does meet all the parking requirements without the need to have parking spaces shown in the vacated Lombard Road area. Therefore, if the area were to revert back to dedicated ROW, the property owner would still meet the parking requirements. Any future parking needs could be accommodated elsewhere on site, outside of the vacated Lombard Road area.

As part of the PC 05-41 proposal, the petitioner was allowed to utilize the Commonwealth Edison property immediately south of the proposed building and within the planned development boundaries for stormwater detention. The rights to construct the detention on the Commonwealth Edison property has been memorialized through a permanent stormwater detention easement granted to the subject property owner. It should be noted that the petitioner has already constructed some of the detention in this area when they thought the Walter E. Smithe Furniture project was moving forward. The proposed plan shows them still utilizing this area for detention.

The initial approvals set forth the ability for outside storage. But for storage of delivery vehicles, the petitioner's plans do not propose to utilize outside storage as part of their business operations. The plans show that outside parking areas will be improved to the Village's parking lot standard.

As previously noted, the proposed plan shows an additional 12,321 square foot expansion to the Bimbo Bakeries warehouse area. The petitioner is requesting to receive pre-approval for their expansion plans at this point in time. Those plans are consistent with the requirements of the Zoning Ordinance as well as Ordinance 5695.

Although a single user is being proposed at this time, at the request of staff, the developer has provided a conceptual plan showing how the remaining 5.34 acres to the north could be developed. The concept plan shows a single building accommodating 2 tenants totaling 97,206 square feet in area. This plan is only for illustrative purposes and any future development on the remaining property to the east would be subject to a separate Site Plan Approval.

The petition shall meet all the provisions of the Sign Ordinance but should they require additional relief they will be required to file for further site plan approvals.

The Village vacated Lombard Road, pursuant to the development agreement. The petitioner will be installing full roadway improvements on Lombard road south of the subject property as set forth in the agreement. The petitioner does not plan to subdivide the property at this time. In the event the remaining parcel to the east is developed, the property owner will likely seek a subdivision at that time. It should be noted that in the initial planned development petition, each of the three concept plans proposed to segregate the existing wetland located at the northeast end of the property into a separate outlot. This will still be required should the adjacent site develop in the future.

The Comprehensive Plan identifies the site for industrial uses. The Plan advises that property maintenance should be encouraged in the North Lombard Light Industrial Area. The proposed site plan will meet both of these provisions and will therefore meet the recommendations of the Comprehensive Plan.

The proposed development is surrounded on three sides (north, south and west) by industrial activity. Staff finds that the proposed office/warehouse development as a type of light industrial use will be compatible with the adjacent industrial uses. Staff also finds that the use will be less intense and have fewer neighboring impacts than other uses that abut the property.

On the east side of the property is property owned by the DuPage County Forest Preserve District and is part of the Fullerton Woods Forest Preserve. In discussions with the District, they envision their property remaining as passive regional open space. The petitioner has been working with DuPage County to ensure that the development meets the County's wetland buffer requirements for wetland areas on the subject property as well as the adjacent Forest Preserve property. Therefore, staff does not see a conflict between the petitioner's project and the open space use to the east.

Concluding, Mr. Stilling noted that staff finds the request is compatible and recommends approval of the petition subject to the conditions in the staff report with the date in condition #9 being changed to 2012. This is due to the Village Board recently granting a two-year time extension to start construction.

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

Commissioner Sweetser referred to page 9 of the staff report. It states that the site plan is for illustrative purposes but she thought she heard the petitioner say it was being presented as part of the petition. Mr. Stilling clarified that the 12,000 square foot addition is part of the petition but Phase 2 located to the east and consisting of approximately 93,000 square feet is not. The total square footage requested to be approved is the warehouse addition of 12,321 square feet as well as the 50,840 for the warehouse/office facility.

Chairperson Ryan noted for the record that the Commissioners have done a great deal of work on this property and devoted many hours in workshops and prior approvals to get to this point. The petitioner is now picking up and adhering to the rules and regulations previously set forth.

Commissioner Sweetser stated that this petition is very welcome.

It was moved by Commissioner Sweetser, seconded by Commissioner Flint, that this matter be approved with amended conditions. The motion carried by the following vote:

Aye: 4 - Ryan, Flint, Sweetser and Nelson

Abstain: 1 - Burke

Absent: 2 - Olbrysh and Cooper

1. The petitioner shall develop the site in conformance with the submitted geometric and preliminary engineering plans, prepared by SpaceCo, dated July 30, 2010, last revised August 5, 2010, the site plan, prepared by Harris Architects, Inc., dated August 5, 2010, the building elevations, prepared by Harris Architects, Inc., dated August 9, 2010, the materials board and samples submitted to the Village on August 10, 2010 and the preliminary landscape plan, prepared by Walsh Landscape Construction, dated August 9, 2010 and made a part of this petition, except as may be changed for final engineering and building permit approval and the following conditions below.

2. The petitioner shall satisfactorily address all comments raised within the inter-departmental review report as part of their building permit application.

3. *The petitioner shall apply for and obtain a building permit for any development activity on the subject property.*
4. *As part of the requisite permit for the site improvements, the petitioner shall provide a copy of the final landscape plan that incorporates the approved wetland plantings for the property.*
5. *The petitioner shall apply for a building permit denoting the proposed parking lot lighting for the site. The light poles shall be of a uniform design and shall meet Village specifications for parking lot lighting.*
6. *All provisions associated with Ordinances 5695 and/or the approved development agreement for the subject property shall remain in full force and effect.*
7. *Any future development on the remaining parcel to the east shall be subject to site plan approval. In the event that the plan for that portion of the property is not consistent with the approved concept plans approved as part of ordinance 5695, a planned development amendment shall be required.*
8. *All outdoor trash collection areas shall be screened on all four (4) sides, with a masonry or concrete wall constructed with the same materials as the principal building.*
9. *The petitioner shall start construction no later than January 7, 2012, as set forth by Ordinance 6432, unless a further time extension is granted by the Village Board.*

Commissioner Burke returned to the dias at 9:00 p.m.

Workshops

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90 S. Highland Avenue

Christopher Stilling, Assistant Director of Community Development, presented the workshop. Staff is seeking the input of the Plan Commission in the following regards.

Village staff has recently been contacted by the property owner and their attorney for the property at 90 S. Highland Avenue. The property is a legal nonconforming two-family dwelling in the R2 Single Family District. The property owner of unit A recently entered into a contract to sell the unit, however just prior to closing, the FHA loan underwriter for the buyer would not approve the loan because it was considered legal nonconforming. The property owner would like the Village to consider a text amendment to allow the existing two-family dwelling as a permitted or conditional use so that it is no longer considered legal nonconforming. The petitioner is requesting the thoughts of the Plan Commission at their August 16, 2010 meeting relative to the concept of a text amendment before they formalize their plans for consideration by the Village.

The subject property is located in the R2 Single Family District and improved with a two-family dwelling. The property is also not on a lot of record and is divided by an assessment division. The property is in the middle of a large single family neighborhood all zoned R2. There are also several other two-family dwellings scattered throughout the neighborhood. Attached as Exhibit "A" is a map showing ten (10) other nonconforming two-family dwellings in the area. According to Village and County records, all of those

units were constructed prior to 1960.

The subject property did receive a building permit for a two-family dwelling in 1956 and at that time two-family dwellings were permitted uses in the R2 District. Subsequent to the construction of the property, the Village amended its Zoning Ordinance as part of the 1960 Zoning Ordinance amendments which no longer permitted two-family dwellings in the R2 District. More recently, the Zoning Ordinance has since been relaxed to allow two-family dwellings on those properties that are on a lot of record and abutting property in the B3, B4 or B4A Districts, through a conditional use approval process. As such, two-family structures are not permitted as of right within the R2 District. Since the property is not on a lot of record and does not abut property in the B3, B4 or B4A Districts, it is considered legal nonconforming.

The property owner recently entered into a contract to sell their unit to a buyer who was using a FHA loan to purchase the property. During the loan approval process, the lender became aware that the existing property was considered legal nonconforming. Attached as Exhibit "B" is a letter that staff wrote to the lender describing the status of the property. Unfortunately the lender would not approve the loan without written assurance from the Village that the structure could be rebuilt if it were destroyed beyond 50% of its value. Staff did inform them that Section 155.305 of the Zoning Ordinance sets forth a provision which allows the owner of a nonconforming structure that has been destroyed more than fifty percent (50%) of its fair market value to apply for a Public Hearing before the Plan Commission for a conditional use to allow such building to be re-established. Since there was no guarantee that the Village would grant the conditional use, their lender denied the loan. He used Poolside Dogs on St. Charles Road as an example of how the use was re-established.

We recently met with the homeowner and his attorney to determine what process they can go through to remove the legal nonconforming status. They informed us that because lending practices have been tightened, particularly for FHA loans, lenders are now hesitant to provide a loan for a structure that could not be rebuilt if it were destroyed because it is under collateralized. Staff has researched the matter further and can confirm that the FHA loan process, which is the common loan for many first time homebuyers, has become more stringent. Furthermore, the homeowner's attorney has indicated that because the property's appraisal has identified the site as legal nonconforming with a recommendation not to approve a loan, the property has been "red flagged". Staff can confirm that anyone who is seeking to purchase this property with a FHA loan cannot get a new appraisal for at least 6 months from the time the last appraisal was completed. Therefore the appraisal completed in June, 2010 with the negative recommendation would have to be used for any prospective buyer until December, 2010. The property owner is concerned about this issue because in the short term, they feel the property is not marketable as a result of the legal non-conforming status. Therefore they are requesting that the Village address this matter quickly so that a loan for the property could be approved. While staff recognizes the unique nature of the situation, it is still important to ensure that sound planning and zoning principles are being implemented as opposed to making land use changes to accommodate a private bank(s).

The Comprehensive Plan is intended to be a long-range guide for existing and future land uses. The Comprehensive Plan identifies this area for low density residential. The area is predominantly single-family detached with the exception of the approximately 11 non-conforming two-family dwellings. When uses and structures do not meet the provisions of the Zoning Ordinance and are considered legal nonconforming, Section 155.303 of the Zoning Ordinance specifies those circumstances and conditions under which nonconforming buildings, structures, and uses shall be permitted to continue. The reason for having nonconforming provisions is that over time, those uses would cease

and only permitted/conditional uses would be allowed.

The homeowner and their attorney would like the Village to consider a text amendment that allows existing two-family dwellings that were lawfully established in the R2 District prior to the 1960 Zoning Amendments, to be permitted by right or through a conditional use process. Staff has the following concerns with this approach:

- 1. Although this amendment would only apply to two-family dwellings lawfully built before 1960, it could set precedence for new requests since Village Code would recognize this more intense use in all parts of the R2 District, regardless of locale.*
- 2. Record keeping on building permits issued prior to 1960 is very limited. Of the eleven (11) two-family dwellings identified, staff found building permit records for six (6). According to the York Township Assessors office, the remaining buildings were built prior to 1955. As shown, staff is concerned because we do not have records for all the nonconforming two-family dwellings. Therefore someone could argue that they were lawfully established prior to 1960 and if we do not have record of it, there would be no way for us to prove it.*
- 3. The reason for having nonconforming provisions is that over time, those uses would cease and only permitted/conditional uses would be allowed. In this case, the Comprehensive Plan approved in 1998 clearly identifies this area as single-family detached. Therefore the introduction of this type of amendment would not be consistent with the Comprehensive Plan or the Zoning Ordinance. The property would also not meet the criteria for a rezoning as it would be deemed "spot zoning".*

While staff does have land use concerns about supporting a text amendment to allow existing legal nonconforming two-family dwellings in the R2 District, we recognize that this could be a growing issue that needs to be addressed. Should the Plan Commission support a text amendment to address this matter, staff would suggest that Section 153.300 of the Zoning Ordinance (Nonconforming Buildings, Structures and Uses) be amended rather than adding a provision to the R2 District. As previously mentioned, Section 155.305 of the Zoning Ordinance sets forth a provision which allows the owner of a non-conforming structure that has been destroyed fifty percent (50%) of its fair market value to apply for a Public Hearing before the Plan Commission for a conditional use to allow such building to be re-established.

A provision could be added to this section which provides a property owner in the R2 District the ability to proactively seek the conditional use to re-establish the legal conforming status of the property before it is ever damaged or destroyed. Staff could support this concept because the property would still remain legal nonconforming, while the property owner now has the assurance that the conditional use to re-establish the legal nonconforming status has already been "pre-approved". In addition, this could address the several other properties we have identified who may encounter a similar issue.

Staff is seeking the thoughts of the Plan Commissioners with respect to the following issues:

- 1. Does the Plan Commission support a text amendment which allows existing legal non-conforming two-family dwellings to be allowed in the R2 Zoning District?*
- 2. If the Plan Commission were to support such an amendment, should this process require a conditional use?*

3. Does the Plan Commission prefer amending Section 153.300 of the Zoning Ordinance rather than adding a provision to the R2 District?

Chairperson Ryan requested the thoughts and comments of the Plan Commissioners.

Chairperson Ryan questioned whether we would only be dealing with the 11 legal non-conforming properties shown on the exhibit if Section 153.300 was amended. Mr. Stilling answered that there are many more in town that staff doesn't know for sure if they are legal nonconforming or illegal nonconforming. So rather than establishing this as a use that is allowable, it would be better for them to have to come through the conditional use process proactively and prove their case asking for pre-approval to establish the legal nonconforming status should it be destroyed.

Chairperson Ryan clarified that staff does not have an exact number of properties in the Village that this would apply to. Mr. Stilling answered that we know of eleven properties in this immediate area.

Chairperson Ryan asked how we notify those property owners of the properties that would qualify that they have to appear before the Plan Commission and attend a public hearing. Mr. Stilling answered that staff would add a provision stating that if you wish to seek this you have a right. As lending practices are becoming more stringent they will note these properties through their due diligence process. If a concern is raised by the lender asking for assurance, staff can refer them to this provision which would allow them to proactively seek that themselves.

Commissioner Burke clarified that this would become apparent during the financing process. Mr. Stilling answered yes and they would then be reviewed on a case-by-case basis.

Commissioner Sweetser noted that if they miss this opportunity they still could apply for a nonconforming status if something happened.

Chairperson Ryan clarified that when a place is destroyed and they want to rebuild and they are informed that they are legal nonconforming they have a right to come before us. Mr. Stilling answered that unfortunately now they have to wait until the property is destroyed before they can ask to do that but now we want to give them the opportunity to do that before it's destroyed which allows them to rebuild exactly as before.

Commissioner Burke asked if we would be providing them with more leniency than what they have already. We are providing them an opportunity in advance to get pre-approval and assurances from the Village should they want to sell. He stated that makes sense.

Commissioner Sweetser asked if there would be any liability on the Village's part should someone, despite notifications, not be aware of this and go to get a loan and get turned down. Can they claim they didn't have the chance because they weren't aware they could get the pre-approval and then be the fault of the Village? Mr. Stilling answered that it is the responsibility of the property owner for meeting and knowing Village codes and there are court cases out there that show that.

Attorney Wagner stated that a Village has certain immunities. Everyone is required to know the law and cannot claim ignorance as a defense. This will provide an option if they fall into one of these circumstances.

Mr. Stilling stated that this will continue to be a growing issue as FHA loans are becoming more strict, these types of loans are being used by most first-time

homebuyers, and 2 family dwellings typically fall in the price range of first-time homebuyers. Lastly, this will give staff an opportunity to clean up the property as far as easements which most of them do not have.

Commissioner Sweetser stated she preferred option #3 which amends Section 153.300 of the Zoning Ordinance.

The rest of the Commissioners agreed with Commissioner Sweetser.

Adjournment

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The meeting adjourned at 9:15 p.m.

*Donald F. Ryan, Chairperson
Lombard Plan Commission*

*Christopher Stilling, Secretary
Lombard Plan Commission*