

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

 X Resolution or Ordinance (Blue) X *Waiver of First Requested*
Recommendations of Boards, Commissions & Committees (Green)
Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE: October 26, 2006 (BOT) Date: November 2, 2006

TITLE: PC 05-17: 1301 N. Lombard Road - Vacation of Lombard Road Public Right-of-Way

SUBMITTED BY: Department of Community Development *DL/WTL*

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration an ordinance amending Ordinance 5759 vacating a portion of the Lombard Road right-of-way north of the Commonwealth Edison Right-of-Way. (DISTRICT #1)

Staff is requesting a waiver of first reading.

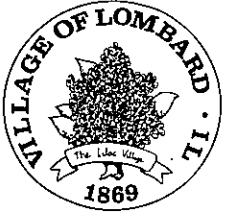
Please place this item on the November 2, 2006 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X *W. T. Lichter* _____ Date *10/26/06*

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



MEMORANDUM

TO: William T. Lichter, Village Manager

FROM: David A. Hulseberg, AICP
Assistant Village Manager/Director of Community Development *DAH/wtl*

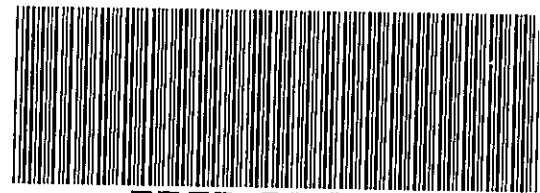
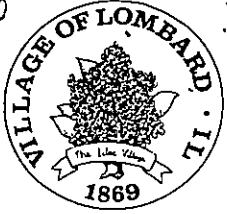
DATE: November 2, 2006

SUBJECT: 1301 North Lombard Road (Grant Property) – Vacation of Lombard Road
Public Right-of-Way – Scrivener's Error

As part of the development agreement for the Grant Property at 1301 North Lombard Road, the Village agreed to vacate portions of the Lombard Road public right-of-way. Ordinance 5759 which adopted by the Village Board on November 3, 2005 approved the vacation of the right-of-way. However, that Ordinance contained a scrivener's error pertaining to the property identification number that shall each acquire title to the entire vacated right-of-way described in the Ordinance.

ACTION REQUESTED

Attached is a copy of the original Ordinance and an Ordinance correcting the error for Village Board approval. Staff also requests a waiver of first reading of the Ordinance.



FRED BUCHOLZ
DUPAGE COUNTY RECORDER
JAN 30, 2006 8:48 AM
PLAT
010 PAGES R2006-017917

ORDINANCE 5759

**VACATING A PORTION OF LOMBARD ROAD RIGHT-
OF-WAY NORTH OF THE COMMONWEALTH EDISON
RIGHT-OF-WAY**

Return To:

**Village of Lombard
Department of Community Development
255 E. Wilson Avenue
Lombard, IL 60148**

ORDINANCE NO. 5759

**AN ORDINANCE VACATING A PORTION OF LOMBARD ROAD
RIGHT-OF-WAY NORTH OF THE COMMONWEALTH EDISON RIGHT-OF-WAY**

WHEREAS, the Village of Lombard (hereinafter the VILLAGE) maintains a right-of-way of fifty-three feet in width for that portion of Lombard Road which is wholly located within the corporate limits of the VILLAGE; and

WHEREAS, the VILLAGE finds that an industrial development is proposed to be developed east of the Lombard Road right-of-way at 1301 Lombard Road, Lombard Illinois; and

WHEREAS, said industrial development is subject to a development agreement approved by the Corporate Authorities of the VILLAGE on August 18, 2005; and

WHEREAS, the VILLAGE finds that the Lombard Road right-of-way (hereinafter referred to as the "SUBJECT RIGHT-OF-WAY") extends for a length of approximately 910 feet and is currently unimproved; and

WHEREAS, the VILLAGE finds that no abutting property owners to the west of the SUBJECT RIGHT-OF-WAY currently take access from the SUBJECT RIGHT-OF-WAY; and

WHEREAS, the VILLAGE finds that the SUBJECT RIGHT-OF-WAY provides access to the abutting property owner to the east of the SUBJECT RIGHT-OF-WAY (hereinafter the 'GRANT PROPERTY'); and

WHEREAS, the VILLAGE has determined that environmental constraints and the closing of Lombard Road north of the SUBJECT RIGHT-OF-WAY at the Canadian National/Illinois Central railroad right-of-way at the present time precludes the possibility of Lombard Road right-of-way from extending beyond its current terminus infeasible; and

WHEREAS, the VILLAGE has determined that the SUBJECT RIGHT-OF-WAY would primarily be for the use and benefit of the GRANT PROPERTY owner and would not serve the transportation needs of the Village; and

WHEREAS, the VILLAGE would benefit by transferring the future maintenance

responsibilities of the SUBJECT RIGHT-OF-WAY from the VILLAGE to the owner of the GRANT PROPERTY owner; and

WHEREAS, the VILLAGE has determined that a portion of the SUBJECT RIGHT-OF-WAY is still needed for public utility purposes; and

WHEREAS, the Corporate Authorities of the VILLAGE have received a Plat of Right of Way Vacation for the SUBJECT RIGHT-OF-WAY, attached hereto as "Exhibit A" and made part hereof; and

WHEREAS, the Corporate Authorities of the VILLAGE deem it to be in the best interest of the VILLAGE to authorize said right-of-way vacation and easement dedication if, as consideration for such vacation, the GRANT PROPERTY owner, completes to the satisfaction of the VILLAGE those improvements noted below.

NOW THEREFORE BE IT ORDAINED by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

SECTION 1: The President and Board of Trustees find as follows:

- A. Pursuant to 65 ILCS 5/11-91-1, an ordinance vacating a street can provide that it shall not become effective until the owner of a particular parcel of property abutting upon the street to be vacated pays compensation to the municipality in an amount which, in the judgment of the corporate authorities, shall be the fair market value of the property acquired or of the benefits which will accrue to said owner by reason of the vacation.
- B. Pursuant to 65 ILCS 5/11-91-1, if the ordinance vacating a street provides that only the owner of a particular parcel abutting upon the street to be vacated shall make the aforementioned compensation payment, then said owner of said particular parcel shall acquire title to the entire vacated street.
- C. That the fair market value of that portion of Lombard Road as determined by a MAI appraiser and as described in Section 3 below is \$50,000.00. However in consideration of wetland delineation work and environmental activities to address potential REFRA and CIRCLA issues that may be present exclusively within the Subject Vacation previously completed by the Developer, the Village shall waive payment of the appraised costs, provided that the Developer provide the Village with written documentation denoting the costs paid by the Developer for said wetland and environmental activities. Costs paid by the Developer for all off-site improvements shall also apply.
- D. That the owner of Lot 1 in Lombard Business Center, Unit 2, a subdivision of the Northeast Quarter of Section 31, Township 40 North, Range 11 East, of the Third

Principal Meridian, DuPage County, Illinois, recorded as document R74-56525, (i.e., the 'GRANT PROPERTY OWNER') shall make payment to the VILLAGE for the entire compensation due relative to the street vacation referenced in Section 3 below, as more specifically set forth in Section 4 below.

SECTION 2: It is hereby determined that the public interest will be served by vacating the SUBJECT RIGHT-OF-WAY as hereinafter described:

THAT PART OF LOMBARD ROAD LYING SOUTH OF THE SOUTH LINE OF THE ILLINOIS CENTRAL RAILROAD RIGHT-OF-WAY AND NORTH OF THE NORTH LINE OF THE COMMONWEALTH EDISON RIGHT-OF-WAY, IN THE NORTHEAST ¼ OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DU PAGE COUNTY, ILLINOIS.

as shown on the plat attached hereto as Exhibit "A" and designated "hereby vacated" be and the same hereby is vacated in its entirety to the GRANT PROPERTY OWNER subject to the conditions listed in Section 4 below.

SECTION 3: Pursuant to 65ILCS 5/11-91-1, the following parcel shall each acquire title to the entire vacated right-of-way that lies immediately adjacent thereto:

03-31-204-002 – 1301 North Lombard Road, Lombard, IL

SECTION 4: That this Ordinance shall be subject to the payment by the GRANT PROPERTY OWNER, as set forth in Section 1 above, of compensation in the amount of \$50,000.00. Said compensation amount shall consist of compliance with the following conditions, in lieu of the \$50,000.00:

A. **Vacation Appraisal.**

Pursuant to Section 154.203 (F)(4) of the Lombard Village Code, the GRANT PROPERTY OWNER shall reimburse the Village for all costs associated with the real estate appraisal for the Subject Vacations.

B. **Payment for Right-of Way to be Vacated.**

Pursuant to 65 ILCS 5/11-91-1, an Ordinance vacating a street shall not become effective until the GRANT PROPERTY OWNER pays compensation to the Village in an amount which, in the judgment of the Corporate Authorities, shall be the fair market value of the property acquired or of the benefits which will accrue to said GRANT PROPERTY OWNER by reason of the vacation. That the fair market value of that portion of the Subject Vacations as determined by a MAI appraiser is FIFTY THOUSAND (\$50,000.00) DOLLARS. However in

consideration of wetland delineation work and environmental activities to address potential REFRA and CIRCLA issues that may be present exclusively within the Subject Vacations previously completed by the GRANT PROPERTY OWNER, the Village shall waive payment of the appraised costs, provided that the GRANT PROPERTY OWNER provide the Village with written documentation denoting the costs paid by the GRANT PROPERTY OWNER for said wetland and environmental activities. Costs paid by the GRANT PROPERTY OWNER for all off-site improvements shall also apply.

C. **Plat of Vacation.**

The GRANT PROPERTY OWNER shall reimburse the Village for all costs associated with the surveying, platting and recording costs associated with the Subject Vacations.

D. **Utility Grants of Easement.**

The plat(s) of vacation relative to the subject vacations shall provide the Village with a public utility and drainage easement for all existing and proposed drainage, water and sewer utilities within the Subject Vacations.

E. **Site Improvements for the Subject Vacation.**

In consideration of the Subject Vacation, and subject to approval by the Corporate Authorities of the Village, the GRANT PROPERTY OWNER shall not be responsible for street improvements within the Subject Vacation. However, in consideration of the Subject Vacation, the GRANT PROPERTY OWNER shall complete the following activities:

1.) **Lombard Road Right-of-Way Improvements South of the Commonwealth Edison Right-of-Way.**

The GRANT PROPERTY OWNER shall be required to take all actions necessary to provide full public improvements, as would be required pursuant to the Village's Subdivision and Development Ordinance (Chapter 154 of the Village Code), along Lombard Road north of the Cortland Avenue right-of-way and south of the Commonwealth Edison right-of-way (hereinafter the "Lombard Road Improvement Area". The design of said public improvements shall be constructed consistent with Section 154.306 (D) of the Village Subdivision and Development Ordinance, as follows:

- a) Street: Full improvement of the street including the entire right-of-way width of the Lombard Road Improvement Area is required.

The GRANT PROPERTY OWNER shall construct a cul-de-sac bulb at the new Lombard Road terminus.

- b) Sidewalk: A sidewalk is required on the east side and for the full length of the right-of-way of the Lombard Road Improvement Area.
- c) Street Lights: Street lights are required along the full length of both sides of the right-of-way of the Lombard Road Improvement Area.
- d) Parkway: Trees and ground cover are required on both sides of the right-of-way of the Lombard Road Improvement Area.
- e) Public Water: The GRANT PROPERTY OWNER install a water main extension from its current terminus at Cortland Avenue to a point parallel with the north property line of the of the Lombard Road Improvement Area. The GRANT PROPERTY OWNER agrees to provide for and construct a watermain service line from the constructed water main to the existing industrial building located at 2N700 Lombard Road (hereinafter referred to as the "Haney Property"). The design of the service line shall be determined by and reviewed and approved by the Village Engineer. The GRANT PROPERTY OWNER shall also cap the well located within the of the Lombard Road Improvement Area at the sole cost of the GRANT PROPERTY OWNER.
- f) Public Sanitary Sewer: The GRANT PROPERTY OWNER shall install a sanitary sewer extension line from its current terminus at Cortland Avenue to a point parallel with the north property line of the of the Lombard Road Improvement Area. The GRANT PROPERTY OWNER also agrees to provide for and construct a sanitary sewer service line from the constructed sanitary sewer main to the Haney Property. The design of the service line shall be determined by and reviewed and approved by the Village Engineer. The GRANT PROPERTY OWNER shall also undertake any activities required by the DuPage County Health Department to remove the existing septic field located within the of the Lombard Road Improvement Area, at the sole cost of the GRANT PROPERTY OWNER. The GRANT PROPERTY OWNER shall also assist the Village in effectuating a facilities planning area amendment for the Haney Property into the Glenbard Facilities Planning area.

2) Haney Plat of Annexation/Right-of-Way Dedication.

The GRANT PROPERTY OWNER shall also be responsible for all of the following costs:

- a) Surveying, platting and recording costs associated with the annexation of the Haney Property into the corporate limits of the Village;
 - b) Surveying, platting and recording costs associated with the dedication of portions of the Haney Property as publicly dedicated right-of-way;
 - c) Surveying, platting and recording costs associated with the creation of a plat of resubdivision of the Haney Property, making the property a lot of record; and
 - d) Any legal costs associated with the conveyance of the Haney Property for public right-of-way purposes.
 - e) The total cost of the of the Lombard Road Improvement Area provided for in this subparagraph (e) subparagraph (f) and subparagraph (g) shall not exceed FORTY THOUSAND (\$40,000.00) DOLLARS.
- F. A blanket public utility easement shall be provided over the vacated right-of-way and shall comply with the Lombard Subdivision and Development Ordinance.
- G. The SUBJECT RIGHT-OF-WAY to be vacated shall be improved in conformance with a site plan, in full conformance with all applicable Village Codes and Ordinances of the Village and consistent with the terms and conditions as noted in the "Development Agreement for the Grant Property", approved by the Corporate Authorities of the Village of Lombard on August 18, 2005.
- H. A Plat of Consolidation shall be submitted for approval by the Lombard Department of Community Development. The Plat of Consolidation shall consolidate the entire SUBJECT RIGHT-OF-WAY and the adjoining Lot 1 of the Lombard Business Center, Unit 2, into a single lot of record.
- I. All public improvements shall be subject to the requirements of the Subdivision and Development Ordinance (Title 15, Chapter 154 of the Lombard Village Code). The Plats of Vacation and Consolidation shall not be recorded and no building permits for

private improvements shall be issued until the Department of Community Development has determined that all required submittals have been made.

- J. The GRANT PROPERTY OWNER shall indemnify and hold harmless the Village with respect to any claim or loss, including but not limited to, attorney's fees, costs and expenses of litigation, claims and judgments in connection with any and all claims or suits of any kind which may arise, either directly or indirectly, as a result of the Village's adoption of this Ordinance.
- K. Upon a written request to the GRANT PROPERTY OWNER from the Village, the GRANT PROPERTY OWNER agrees to rededicate the Subject Vacations right-of-way back to the Village, for public right-of-way purposes, at no cost to the Village (hereinafter referred to as the "Rededication"). The GRANT PROPERTY OWNER shall do all things necessary and appropriate to cooperate with the Village to effectuate the Rededication within six (6) months from the date of receipt of the request by the Village. The Village agrees that any such Rededication request shall only be made, if at all, between the first day of the twentieth (20th) year and the first day of the twenty-fifth (25th) year immediately following the date of this Agreement. The GRANT PROPERTY OWNER shall not be required to pay for or undertake any site improvements within the Subject Variations area as part of any such Rededication.

SECTION 5: That the GRANT PROPERTY OWNER is in agreement with the terms and conditions of this Ordinance, as evidenced below:

I, the undersigned, being the owner of Lot 1 in Lombard Business Center, Unit 2, which abuts the SUBJECT RIGHT-OF-WAY described in Section 2 above, hereby state that I have read this Ordinance and voluntarily agree to the conditions stated herein, and the associated compensation for said street vacation as set forth herein.



MARTIN T. BUALE

AGENT PLAINFIELD RETAIL LLC

SECTION 6: That the Department of Community Development is hereby directed to record a certified copy of this Ordinance, along with the original Plat of Vacation, with the DuPage County Recorder of Deeds, subject to the restrictions set forth in Section 4F above.

SECTION 7: That this Ordinance shall be in full force and effect from and after its

passage and approval as provided by law.

Passed on first reading this _____ day of _____ 2005.

First reading waived by action of the Board of Trustees this 3rd day of
November, 2005.

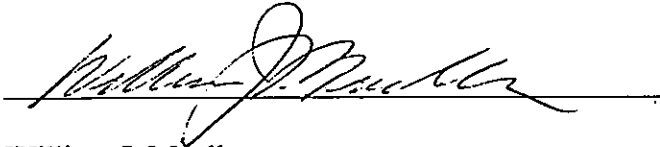
Passed on second reading this 3rd day of November, 2005.

AYES Trustees Gron, Tross, O'Brien, Sebby, Florey and Soderstrom

NAYS None

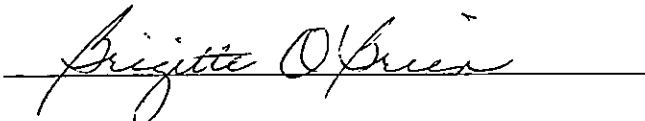
ABSENT None

Approved this 3rd day of November, 2005.

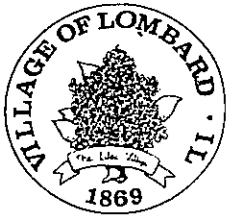


William J. Mueller
Village President

ATTEST:



Brigitte O'Brien
Village Clerk



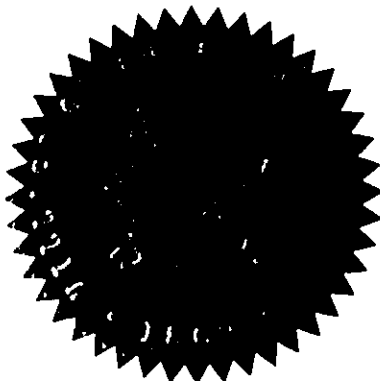
I, **Barbara A. Johnson**, hereby certify that I am the duly qualified Deputy Village Clerk of the **Village of Lombard**, DuPage County, Illinois, as authorized by Statute and provided by local Ordinance, and as such Deputy Village Clerk, I maintain and am safekeeper of the records and files of the President and Board of Trustees of said Village.

I further certify that attached hereto is a true and correct copy of ORDINANCE 5759

AN ORDINANCE VACATING A PORTION OF
LOMBARD ROAD RIGHT-OF-WAY NORTH OF
THE COMMONWEALTH EDISON RIGHT-OF-WAY

of the said Village as it appears from the official records of said Village duly passed on November 3, 2005.

In Witness Whereof, I have hereunto affixed my official signature and the Corporate Seal of said **Village of Lombard**, Du Page County, Illinois this 26th day of January, 2006.



Barbara A. Johnson

Barbara A. Johnson
Deputy Village Clerk
Village of Lombard
DuPage County, Illinois

ORDINANCE NO. _____

**AN ORDINANCE AMENDING AND CORRECTING ORDINANCE 5759
VACATING A PORTION OF LOMBARD ROAD
RIGHT-OF-WAY NORTH OF THE COMMONWEALTH EDISON RIGHT-OF-WAY**

WHEREAS, the Corporate Authorities of the Village of Lombard (hereinafter the VILLAGE) adopted Ordinance 5759 on November 3, 2005 pertaining to the vacation of a portion of Lombard Road right-of-way north of the Commonwealth Edison right-of-way, in Lombard, Illinois; and

WHEREAS, Ordinance 5759 contained a scrivener's error pertaining to the parcel identification number pertaining to the parcel that shall each acquire title to the entire vacated right-of-way; and

WHEREAS, the Corporate Authorities of the VILLAGE deem it to be in the best interest of the VILLAGE to correct the scrivener's error as set forth herein.

NOW THEREFORE BE IT ORDAINED by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

SECTION 1: That Section 3 of Ordinance 5759, adopted November 3, 2005 shall be amended to read in its entirety as follows:

SECTION 3: Pursuant to 65ILCS 5/11-91-1, the following parcel shall each acquire title to the entire vacated right-of-way that lies immediately adjacent thereto:

03-31-204-004 – 1301 North Lombard Road, Lombard, IL

SECTION 2: That all other provisions associated with Ordinance 5759 not amended by this Ordinance shall remain in full force and effect.

SECTION 3: That this Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

Passed on first reading this ____ day of _____, 2006.

First reading waived by action of the Board of Trustees this ____ day of _____, 2006.

Passed on second reading this ____ day of _____, 2006.

AYES _____

NAYS _____

ABSENT _____

Approved this ____ day of _____, 2006.

William J. Mueller
Village President

ATTEST:

Brigitte O'Brien
Village Clerk

Published by me in pamphlet form this ____ day of _____, 2006.

Brigitte O'Brien
Village Clerk