

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

 X Resolution or Ordinance (Blue) _____ Waiver of First Requested

Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE: April 12, 2005 (BOT) Date: April 21, 2005

TITLE: **BOT 05-02: Proposed Ordinance Granting a Variation from Wetland Mitigation Requirements of the DuPage Countywide Stormwater and Floodplain Management Ordinance**

SUBMITTED BY: Department of Community Development 

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration a proposed ordinance to grant a variation from Section 15-135.4 of the DuPage Countywide Stormwater and Floodplain Management Ordinance so that the north end of the Lombard Road Right-of-Way may be improved without mitigating for impacts to wetlands that have formed over the old roadway. The DuPage County Stormwater Oversight Committee has voted to not object to the variation.

Staff recommends approval of this ordinance.

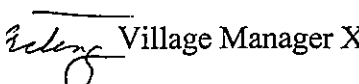
FISCAL IMPACT/FUNDING SOURCE:

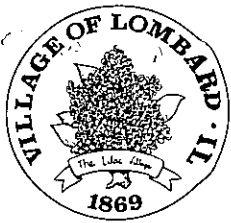
There will be no cost to the Village.

REVIEW (AS NECESSARY):

Village Attorney X _____ Date _____


Finance Director X _____ Date _____

 Village Manager X Leonard Flood Date 4/13/05



MEMORANDUM

To: William T. Lichter, Village Manager

From: David A. Hulseberg, AICP, Director of Community Development 

Subject: BOT 05-02; Variation from the Wetland Mitigation Requirements of the DuPage Countywide Stormwater and Floodplain Ordinance for the Lombard Road Right-of-Way

Date: April 12, 2005

The Department of Community Development requests that the attached ordinance be forwarded to the Village President and Board of Trustees for inclusion on their April 21, 2005 meeting agenda. This ordinance would grant a variation from Section 15-135.4 of the DuPage Countywide Stormwater and Floodplain Management Ordinance so that the north end of the Lombard Road Right-of-Way may be improved without mitigating for impacts to wetlands that have formed over the old roadway. Staff recommends that the ordinance be approved.

Per the requirements of the Countywide Ordinance, staff provided notice of the variance request to the Ordinance administrators in the Salt Creek watershed. Also, the County Stormwater Oversight Committee reviewed the proposed variation on April 5, 2005. The Committee voted to not object to the variation.

The previous gravel road had been barricaded due to difficulties maintaining and policing this road and also due to lack of budget to reconstruct a viaduct under the railroad tracks. Due to deferred maintenance since the barricading in 1987, soil and water have encroached upon the road to the point that County staff had determined that a regulatory wetland has formed. The Village's wetland consultant's opinion is that the soils do not meet the hydric soil criteria and that the hydrophytic vegetation was not present until 2001 as evidenced by aerial photos and, thus, the wetland should not be considered regulatory. The County Stormwater Oversight Committee concurred with the consultant.

It must be noted that the Army Corps of Engineers has been asked to review the consultant's report and concur with the assertion that there is no federal jurisdiction over the wetland. The Village is still awaiting their response. The Village may approve this variation from the Countywide Ordinance without jeopardizing the correspondence with the Army Corps since no immediate construction activity is pending. There is still a possibility that wetland mitigation may be required if the Army Corps claims jurisdiction. However, the Village's wetland consultant believes that this possibility is remote.

DAH/DG:dg Memo to VM

cc: David Gorman, PE, Development Engineer
William Heniff, AICP, Senior Planner
Wesley B. Anderson, PE, Director of Public Works
John Burg, Assistant Director of Public Works
David Dratnol, PE, Village Engineer

ORDINANCE NO. _____

**AN ORDINANCE GRANTING A VARIATION FROM ARTICLE 10, SECTION 15-135.4
OF THE DU PAGE COUNTY COUNTYWIDE STORMWATER AND FLOODPLAIN
MANAGEMENT ORDINANCE**

(BOT 05-02: Lombard Road Right-of-Way, Lombard, IL)

WHEREAS, the Village of Lombard has adopted the DuPage Countywide Stormwater and Floodplain Management Ordinance (hereinafter the "Countywide Ordinance") with the status of a partial waiver community, and;

WHEREAS, the Village of Lombard has petitioned for a variation from the requirements of Article 10, Section 15-135.4 of the Countywide Ordinance; and

WHEREAS, Article 16 of the DuPage Countywide Stormwater and Floodplain Management Ordinance grants partial waiver communities the authority to grant variations from the requirements of the Countywide Ordinance provided that the DuPage County Stormwater Oversight Committee has considered the variation, and;

WHEREAS, the DuPage County Stormwater Oversight Committee considered the above-referenced variation request on April 5, 2005 and voted to not object to the variation; and

WHEREAS, a public hearing was conducted by the President and Board of Trustees on April 21, 2005 pursuant to appropriate and legal notice; and

WHEREAS, the President and Board of Trustees approve and adopt the findings and recommendations of staff relative to the above-referenced variation request and incorporate such findings and recommendations herein by reference as if they were fully set forth herein:

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: That a variation is hereby granted from the provisions of Article 10, Section 15-135.4 of the Countywide Ordinance for the property described in Section 2 below, so as to waive the requirement to mitigate wetland environment lost to construct typical roadway improvements.

SECTION 2: That this Ordinance is limited and restricted to that portion of the Lombard Road Right-of-Way that is legally described as follows:

THAT PART OF THE LOMBARD ROAD RIGHT-OF-WAY LYING SOUTH OF THE SOUTH LINE OF THE ILLINOIS CENTRAL RAILROAD RIGHT-OF-WAY AND NORTH OF THE SOUTH LINE OF THE COMMONWEALTH EDISON COMPANY 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.

Ordinance No. _____

Page 2 of 2

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

Passed on first reading this _____ day of _____, 2005.

First reading waived by action of the Board of Trustees this _____ day of _____, 2005.

Passed on second reading this _____ day of _____, 2005, pursuant to a roll call vote as follows:

Ayes: _____

Nayes: _____

Absent: _____

Approved by me this _____ day of _____, 2005.

William J. Mueller, Village President

ATTEST:

Barbara A. Johnson, Deputy Village Clerk

Published by me in pamphlet form this _____ day of _____, 2005.

Barbara A. Johnson, Deputy Village Clerk