



## MEMORANDUM

**TO:** Scott R. Niehaus, Village Manager

**FROM:** William J. Heniff, AICP, Director of Community Development *WJH*

**DATE:** October 1, 2015

**SUBJECT:** PC 15-21; 611 E. Butterfield Road – Sam’s Club – Revised

In regards to the previously submitted draft ordinance granting approval of a conditional use for off-site parking for the Nicor parcel (identified as Item 6 (c) in the original memo to the Village Manager), a discrepancy in the legal description was discovered. In said draft ordinance, the proper Property Identification Number (PIN) was identified, but the metes and bounds description did not include all of the geographic area to be covered by the approval. Attached is a revised draft ordinance for inclusion as part of the late agenda for the October 1, 2015 Village Board meeting.

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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE GRANTING A CONDITIONAL USE  
PURSUANT TO TITLE 15, CHAPTER 155, SECTION 155.415  
(C)(18) OF THE LOMBARD ZONING ORDINANCE**

**(PC 15-21: 611 E. Butterfield Road – Sam’s Club)**

(See also Ordinance No(s).\_\_\_\_\_)

WHEREAS, the President and Board of Trustees of the Village of Lombard have heretofore adopted the Lombard Zoning Ordinance, otherwise known as Title 15, Chapter 155 of the Code of Lombard, Illinois; and,

WHEREAS, the Subject Property, as described in Section 2 below, is zoned OPD Office Planned Development District; and,

WHEREAS, an application has been filed requesting approval of a conditional use for a planned development with companion conditional uses, deviations, and variations from the Lombard Sign Ordinance (Title 15, Chapter 153 of the Village Code) and Zoning Ordinance (Title 15, Chapter 155 of the Village Code) and a request for a conditional use for off-site parking, pursuant to Title 15, Chapter 155, Section 415 (C)(18) was among the companion conditional uses; and,

WHEREAS, a public hearing on the forgoing application was conducted by the Village of Lombard Plan Commission on August 17, 2015 pursuant to appropriate and legal notice; and,

WHEREAS, the Plan Commission has filed its recommendations with the President and Board of Trustees recommending approval of the conditional use described herein; and,

WHEREAS, the President and Board of Trustees approve and adopt the findings and recommendations of the Plan Commission 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 conditional use is hereby granted for the Subject Property, as described in Section 2 below, pursuant to Title 15, Chapter 155, Section 415 (C)(18) of the Lombard Village Code to provide for off-site parking.

SECTION 2: That this Ordinance is limited and restricted to the Subject Property legally described as follows:

THE LEASEHOLD ESTATE CREATED BY THE INSTRUMENT HEREIN REFERRED TO AS THE LEASE, EXECUTED BY: NORTHERN ILLINOIS GAS COMPANY, LESSOR, AND BANK OF RAVENSWOOD, AS TRUSTEE UNDER TRUST AGREEMENT DATED JANUARY 1, 1979 AND KNOWN AS TRUST NUMBER 25-3933, AS LESSEE, DATED JANUARY 1, 1979, A MEMORANDUM OF WHICH LEASE WAS MADE BY AND BETWEEN NICOR GAS, LESSOR AND BANK OF RAVENSWOOD, AS TRUSTEE UNDER TRUST AGREEMENT DATED NOVEMBER 30, 1982 AND KNOWN AS TRUST NUMBER 25-5502, SUCCESSOR LESSEE AND WAS RECORDED SEPTEMBER 22, 2000 AS DOCUMENT R2000-148055, WHICH LEASE DEMISES THE FOLLOWING DESCRIBED LAND FOR A TERM OF YEARS BEGINNING JANUARY 1, 1979 AND ENDING DECEMBER 31, 2013, WITH THE OPTION TO EXTEND THE LEASE FOR 12 TERMS OF 5 YEARS EACH AND AS ASSIGNED PURSUANT TO ASSIGNMENT OF INDENTURE OF LEASE MADE BY AND BETWEEN LOMBARD-FAIRFIELD, LCC TO 611 BUTTERFIELD ROAD LLC RECORDED AUGUST 24, 2014, AS DOCUMENT R2014-072883:

THAT PART OF THE SOUTHEAST 1/4 OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF LOT 3 IN NAEGELE'S RESUBDIVISION, BEING A RESUBDIVISION OF PARTS OF LOTS 2 AND 3 IN NAEGELE'S ASSESSMENT PLAT IN SECTIONS 29 AND 32, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO SAID PLAT OF RESUBDIVISION RECORDED SEPTEMBER 22, 1959 AS DOCUMENT 940835; THENCE SOUTHEASTERLY ALONG THE EASTERLY LINE OF SAID LOT 3 EXTENDED SOUTHERLY 83.07 FEET TO THE NORTH RIGHT OF WAY LINE OF THE ILLINOIS STATE TOLL HIGHWAY; THENCE SOUTHWESTERLY ALONG SAID NORTH RIGHT OF WAY LINE OF THE ILLINOIS STATE TOLL HIGHWAY TO A POINT IN THE EAST LINE OF FAIRFIELD AVENUE AS NOW PLATTED AND RECORDED AND VACATED BY DOCUMENT R71-61911; THENCE NORTHWESTERLY

ALONG SAID EAST LINE OF FAIRFIELD AVENUE TO THE SOUTHWEST CORNER OF SAID LOT 3; THENCE NORTHEASTERLY ALONG THE SOUTH LINE OF SAID LOT 3 A DISTANCE OF 410.23 FEET TO THE POINT OF BEGINNING, IN DU PAGE COUNTY, ILLINOIS

AND

LEASEHOLD ESTATE CREATED BY A CERTAIN INDENTURE OF LEASE MADE BY NORTHERN ILLINOIS GAS COMPANY, AN ILLINOIS CORPORATION TO J.R. GOTTLIEB AND ASSOCIATES, AN ILLINOIS CORPORATION, RECORDED AS DOCUMENT R79-51406 AND ASSIGNED TO THE FIRST NATIONAL BANK OF DES PLAINES AS TRUSTEE UNDER TRUST AGREEMENT DATED NOVEMBER 21, 1978 AND KNOWN AS TRUST NUMBER 90572442 BY ASSIGNMENT RECORDED AS DOCUMENT R79-51407 AND ASSIGNED TO K/B OPPORTUNITY FUND I, L. P., A DELAWARE LIMITED PARTNERSHIP BY ASSIGNMENT RECORDED JUNE 29, 1994 AS DOCUMENT R94-143186 AND ASSIGNED TO DUKE REALTY LIMITED PARTNERSHIP, AN INDIANA LIMITED PARTNERSHIP BY ASSIGNMENT AND ASSUMPTION OF GROUND LEASE RECORDED MAY 22, 1998 AS DOCUMENT R98-097831, AND FURTHER ASSIGNED TO 611 BUTTERFIELD ROAD LLC BY ASSIGNMENT AND ASSUMPTION OF GROUND LEASE RECORDED JUNE 22, 2000 AS DOCUMENT R2000-094961, DEMISING AND LEASING FOR A TERM OF YEARS BEGINNING JUNE 1, 1979 AND ENDING MAY 31, 2014 THE FOLLOWING DESCRIBED LAND TO WIT:

ALL THAT PART OF TRACT #5 OF PLAT OF SURVEY OF THE BOEGER FARM SOUTH OF BUTTERFIELD ROAD (RECORDED AS DOCUMENT 789439) IN THE EAST HALF OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS TO WIT: COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 29; THENCE SOUTH 88 DEGREES 40 MINUTES WEST ALONG THE SOUTH LINE OF SAID SECTION 29 A DISTANCE OF 1014.30 FEET TO THE WEST LINE OF SAID TRACT #5, BEING ALSO THE EAST LINE OF YORKSHIRE PRIVATE FARMS, YORK TOWNSHIP SUPERVISOR'S ASSESSMENT PLAT #3; THENCE NORTH 12 DEGREES 05 MINUTES WEST ALONG THE WEST LINE OF SAID TRACT #5, A DISTANCE OF 1702.74 FEET; THENCE NORTH 12 DEGREES 50 MINUTES WEST ALONG THE WEST LINE OF SAID TRACT #5, A DISTANCE OF 232.27 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREBY CONVEYED; SAID POINT BEING IN THE

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NORTHERLY LINE OF THAT CERTAIN TRACT OR PARCEL OF LAND CONVEYED TO THE ILLINOIS STATE TOLL HIGHWAY COMMISSION BY WARRANTY DEED DATED MARCH 1, 1957 RECORDED IN DUPAGE COUNTY, ILLINOIS ON MARCH 12, 1957 IN BOOK 871 ON PAGE 610 AS DOCUMENT 835250; THENCE NORTH 70 DEGREES 25 MINUTES 30 SECONDS EAST ALONG THE NORTHERLY LINE OF THE TRACT OF LAND SO CONVEYED BY DEED DATED MARCH 1, 1957 A DISTANCE OF 233.68 FEET TO A POINT OF CURVE; THENCE EASTERLY ALONG THE NORTHERLY LINE OF THE TRACT OF LAND SO CONVEYED BY DEED DATED MARCH 1, 1957 BEING A CURVE CONCAVE TO THE NORTH AND HAVING A RADIUS OF 11,334.19 FEET A DISTANCE OF 344.18 FEET TO THE EASTERLY LINE OF SAID TRACT #5, THENCE NORTH 12 DEGREES 05 MINUTES WEST ALONG THE EASTERLY LINE OF SAID TRACT #5, A DISTANCE OF 83.41 FEET MORE OR LESS, TO A POINT DISTANCE 82.5 FEET, MEASURED AT RIGHT ANGLES, NORTHERLY, FROM THE NORTHERLY LINE OF THE TRACT OF LAND SO CONVEYED BY DEED DATED MARCH 1, 1957 EXTENDED; THENCE WESTERLY PARALLEL WITH THE NORTHERLY LINE OF THE TRACT OF LAND SO CONVEYED BY DEED DATED MARCH 1, 1957, BEING A CURVE CONCAVE TO THE NORTH AND HAVING A RADIUS OF 11,251.69 FEET, A DISTANCE OF 353.97 FEET TO A POINT OF TANGENT; THENCE SOUTH 70 DEGREES 25 MINUTES 30 SECONDS WEST, TANGENT TO THE LAST DESCRIBED COURSE, A DISTANCE OF 223.94 FEET TO THE WESTERLY LINE OF SAID TRACT #5; THENCE SOUTH 12 DEGREES 50 MINUTES EAST ALONG THE WESTERLY LINE OF SAID TRACT #5, A DISTANCE OF 83.07 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

Parcel Number(s): 06-29-402-022 (part of), (the "Subject Property").

SECTION 3: The conditional use, as provided for in Section 1 of this Ordinance shall be granted subject to compliance with the conditions of approval established in Section 3 of Ordinance \_\_\_\_.

SECTION 4: 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 \_\_\_\_\_, 2015.

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First reading waived by action of the Board of Trustees this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2015,  
pursuant to a roll call vote as follows:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Keith T. Giagnorio, Village President

ATTEST:

\_\_\_\_\_  
Sharon Kuderna, Village Clerk

Published in pamphlet from this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Sharon Kuderna, Village Clerk