

1st

LEGISTAR # 190394
DISTRICT # 1

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


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

TO : PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE : September 11, 2019 **(BOT) Date:** September 19, 2019

SUBJECT: **BOT 19-01; Annexation Agreement – 600 W Pleasant Lane**

SUBMITTED BY: William J. Heniff, AICP, Director of Community Development 

BACKGROUND/POLICY IMPLICATIONS:

An Ordinance Authorizing the Execution of an Annexation Agreement
The petitioner requests annexation to the Village of Lombard and a map amendment (rezoning) from the R0 Single-Family Residence District to the R3 Attached Single-Family Residence District. Upon annexation, the petitioner intends demolish the current structure and build five (5) buildings each with four (4) units for a total of twenty (20) townhomes.

Please place this petition on the September 19, 2019 Board of Trustees agenda under Items for Separate Action.

Fiscal Impact/Funding Source:

Review (as necessary):

Finance Director _____ Date _____
Village Manager _____ Date _____

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: Scott R. Niehaus, Village Manager

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

DATE: September 19, 2019

SUBJECT: **BOT 19-01; Annexation Agreement – 600 W Pleasant Lane**

Please find the following items for Village Board consideration as part of the September 19, 2019 Board meeting:

1. An Ordinance Authorizing the Execution of an Annexation Agreement
The petitioner requests annexation to the Village of Lombard and a map amendment (rezoning) from the R0 Single-Family Residence District to the R3 Attached Single-Family Residence District. Upon annexation, the petitioner intends demolish the current structure and build five (5) buildings each with four (4) units for a total of twenty (20) townhomes.

Please place this petition on the September 19, 2019 Board of Trustees agenda under Items for Separate Action.

ORDINANCE _____

**AN ORDINANCE AUTHORIZING THE
EXECUTION OF AN ANNEXATION AGREEMENT**

(BOT 19-01: 600 W. Pleasant Lane)

(See also Ordinance No. (s) _____)

WHEREAS, it is in the best interest of the Village of Lombard, DuPage County, Illinois that a certain Annexation Agreement (hereinafter the "Agreement") pertaining to the property located at 600 W. Pleasant Lane, Lombard, Illinois to be entered into; and,

WHEREAS, the Agreement has been drafted and a copy is attached hereto and incorporated herein as Exhibit "A"; and,

WHEREAS, the developer and the legal owners of the lots of record, which are the subject of said Agreement, are ready, willing and able to enter into said Agreement and to perform the obligations as required thereunder; and,

WHEREAS, the statutory procedures provided in Chapter 65 ILCS 5/11-15.1-1 through 5/11-15.1-5, as amended, for the execution of said Agreement have been complied with; a hearing on said Agreement having been held, pursuant to proper notice, by the President and Board of Trustees on September 19, 2019.

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 the Village President and Village Clerk be and hererby are authorized to sign and attest to the Agreement attached hereto and marked Exhibit "A", by and between the Village of Lombard; and,

SECTION 2: This ordinance is limited and restricted to the property generally located at 600 W. Pleasant Lane, Lombard, Illinois, and legally described as follows:

LOT 1 AND 2 IN MILTON TOWNSHIP SUPERVISORS' ASSESSMENT PLAT NUMBER 1 (ALSO KNOWN AS PLEASANT HILLS WEST), OF PART OF THE EAST HALF OF SECTION 1, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1943 AS DOCUMENT NO. 452574, IN DUPAGE COUNTY, ILLINOIS

Parcel No. 05-01-204-068

Ordinance No. _____
Re: BOT 19-01
Page 2

SECTION 3: 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 _____, 2019.

First reading waived by action of the Board of Trustees this _____ day of _____, 2019.

Passed on second reading this _____ day of _____, 2019, pursuant to a roll call vote as follows:

Ayes: _____

Nays: _____

Absent: _____

Approved this _____ day of _____, 2019.

Keith T. Giagnorio, Village President

ATTEST:

Sharon Kuderna, Village Clerk

Published in pamphlet from this _____ day of _____, 2019.

Sharon Kuderna, Village Clerk

Exhibit A: Annexation Agreement

Space above reserved for Recorder's use

**ANNEXATION AGREEMENT DATED _____, 2019
FOR THE
MIA AND NINA SUBDIVISION, LOMBARD, IL**

Parcel No.: 05-01-204-068

Common Addresses: 600 West Pleasant Lane, Lombard, Illinois

AFTER RECORDING RETURN TO:

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

MIA AND NINA SUBDIVISION ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT (the “Agreement”) is made and entered into this _____ day of _____ 2019, by and between the **VILLAGE OF LOMBARD**, a municipal corporation (the “Village”) and; **West Suburban Bank Trust, Trust No. 14435 u/d/a February 14, 2019**, an Illinois limited liability company (the “Owner”). The Village and the Owner are hereinafter sometimes referred to herein individually as a “Party,” and collectively as the “Parties”.

WITNESSETH:

WHEREAS, the Owner is the legal owner of record of the property legally described in **EXHIBIT A**, attached hereto and made a part hereof (the “Subject Property”); and

WHEREAS, Owner proposes to develop the Subject Property; and

WHEREAS, the Subject Property is adjacent to and contiguous to the existing corporate boundaries of the Village; and

WHEREAS, the Village desires to annex the Subject Property and the Owner desires to have the Subject Property annexed to the Village, and each of the Parties desire to obtain assurances from the other Party as to certain provisions of the zoning and other ordinances of the Village for the Subject Property when the Subject Property has been annexed, and to other matters covered by this Agreement for a period of twenty (20) years from and after the execution of this Agreement; and

WHEREAS, the Subject Property is an approximate 2.20-acre parcel of land and there are zero (0) electors residing thereon; and

WHEREAS, all owners of record of, and at least fifty-one percent (51%) of the electors residing on the Subject Property have signed a petition for annexation of the Subject Property to the Village, (the “Annexation Petition”); and

WHEREAS, an application has heretofore been filed with the Village Clerk for zoning of the Subject Property as set forth herein; and

WHEREAS, said application was forwarded to the Plan Commission of the Village; and

WHEREAS, a public hearing was held on August 19, 2019, for the purpose of considering, upon the annexation of the Subject Property, a rezoning from the R-0 Single Family Residence District to the R-3 Attached Single-Family Residence District under Chapter 155 of the Lombard Village Code, (the “Zoning Ordinance”) for the Subject Property legally described in **EXHIBIT A** attached hereto and made part hereof; with zoning relief of a map amendment for the Subject Property, and the Plan Commission has submitted to the President and Board of Trustees of the Village (the “Corporate Authorities”) its findings of fact and recommendations with respect to said application; and

WHEREAS, a public hearing pursuant to proper notice, on this Agreement, was held by the

Corporate Authorities on September 19, 2019; and

WHEREAS, the Parties wish to enter into a binding agreement with respect to the said annexation, zoning and development of the Subject Property, and for other related matters, pursuant to the provisions of Division 15.1 of Article 11 of Act 5 of Chapter 65 of the Illinois Compiled Statutes, and upon the terms and conditions contained in this Agreement; and

WHEREAS, all public hearings and other actions required to be held or taken prior to the adoption and execution of this Agreement, in order to make the same effective, have been held or taken, including all hearings and actions required in connection with amendments to and classifications under the Zoning Ordinance and Chapter 154 of the Lombard Village Code (the "Subdivision Ordinance"), such public hearings and other actions having been held pursuant to public notice as required by law and in accordance with all requirements of law prior to adoption and execution of this Agreement; and

WHEREAS, the Corporate Authorities of the Village and the Owner deem it to be to the mutual advantage of the Parties and in the public interest that the Subject Property be annexed to and developed as a part of the Village as hereinafter provided; and

WHEREAS, the development of the Subject Property as provided herein will promote the sound planning and development of the Village as a balanced community and will be beneficial to the Village; and

WHEREAS, the Corporate Authorities of the Village have examined the proposed uses by the Owner and have determined that said uses and the development of the Subject Property in accordance with this Agreement comply with the Comprehensive Plan of the Village;

NOW THEREFORE, in consideration of the foregoing and the mutual promises herein set forth, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties, the Parties hereto agree as follows:

1. **INCORPORATION OF RECITALS.** The foregoing recitals are incorporated in this Agreement as if fully recited herein.

2. **DEVELOPMENT OF SUBJECT PROPERTY.** The Subject Property shall be developed in accordance with the terms of this Agreement and the exhibits attached hereto and made a part hereof. To the extent that any exhibit attached hereto and made a part of this Agreement is labeled as preliminary, the final documents shall be in substantial compliance with the preliminary documents attached hereto. The existing single-family home may remain on the Subject Property until Owner is prepared to develop the Subject Property.

3. **ANNEXATION.** Subject to the provisions of 65 ILCS 5/7-1-1 *et seq.*, as soon as reasonably practical, the Parties agree to do all things necessary or appropriate to cause the Subject Property to be duly and validly annexed to the Village. The Parties shall cause such annexation to be effected pursuant to the provisions of 65 ILCS 5/7-1-8.

4. **ZONING.** Upon annexation of the Subject Property to the Village as set forth herein, the Corporate Authorities shall, without further public hearings, immediately rezone and classify the Subject Property as referenced in **Exhibit B** from the R-0 Single Family Residence District to the R-3 Attached Single-Family Residence District.

5. **SITE PLAN APPROVAL.** The Owner shall develop the Subject Property in full compliance with the Site Plan entitled “Mia and Nina Subdivision”, prepared by Lambert & Associates, as last revised on February 25, 2019 attached hereto as **EXHIBIT B** and made part hereof (the “Site Plan”) and the plans and specifications, prepared by, Lambert & Associates, dated March 15, 2019 attached hereto as **EXHIBIT C** and made part hereof (the “Plans and Specifications”), both subject to changes based upon final engineering. In addition, the Subject Property shall be landscaped in full compliance with Village Code. Said landscaping shall be amended to incorporate any additional planting modifications as required by the Village as part of final engineering review and approval, and as conditioned within any Ordinance approving any requested planned development.

6. **PLAT OF SUBDIVISION.** The Village agrees to approve a preliminary and final plat of subdivision of the Subject Property substantially in conformance of the plat attached hereto as **EXHIBIT D**, and made part hereof.

7. **WATER UTILITIES.**

A. Village represents and warrants to Owner as follows:

- (1) That it owns and operates a water distribution system within the Village.
- (2) That the Village has sufficient capacity to provide and will provide potable water to the Subject Property, such service to be substantially the same as provided to other attached single-family residential areas in the Village being provided with water by the Village in terms of quantity, pressure, quality and cost.

B. Owner, at Owner’s sole expense, shall install water main extensions in accordance with the Subdivision Ordinance and substantially in compliance with the Plans and Specifications. The Parties agree that Owner shall pay all Village water connection charges as required by the Lombard Village Code (the “Village Code”) at the time of connection.

C. Owner shall grant or dedicate all easements reasonably required by the Village for the construction of the necessary water main extensions serving the Subject Property.

8. **SANITARY SEWER FACILITIES.**

A. Village represents and warrants to Owner as follows:

- (1) That it owns and operates a sanitary sewer system within the Village.
 - (2) That the Village system has sufficient capacity to provide and will provide sanitary sewer service to the Subject Property, such service to be substantially the same as provided to other attached single-family residential areas in the Village being provided with sanitary sewer by the Village.
- B. Owner, at Owner's sole expense, shall install sanitary sewer extensions necessary to serve the Subject Property in accordance with the Plans and Specifications. The parties agree Owner shall pay all Village sanitary sewer connection charges as required by the Village Code at the time of connection.
- C. Owner shall grant or dedicate all easements reasonably required by the Village for the construction of the necessary sanitary sewer extensions serving the Subject Property.

9. **STORM DRAINAGE FACILITIES.**

- A. Storm drainage facilities, and retention and/or detention areas (the "Storm Drainage Facilities") shall be provided and constructed by Owner, at Owner's sole expense, substantially in accordance with the Plans and Specifications within the Subject Property.

In addition, the Storm Drainage Facilities shall be maintained by the Owner and/or any subsequent owner(s) of record of the Subject Property. Such Storm Drainage Facilities shall be maintained by the Owner during the course of development, and thereafter shall be maintained by either the Owner or by the subsequent owner(s) of record of the Subject Property, all in accordance with a Declaration of Covenants to be recorded on the Subject Property, which Declaration of Covenants shall provide the Village with the right, but not the duty, to go upon any portion of the Storm Drainage Facilities to maintain and/or repair or replace such Storm Drainage Facilities if they are not suitably maintained so that they remain fully operational, and if the Village takes, after thirty (30) day written notice to the Owner, in its reasonable discretion, any such action, such Declaration of Covenants shall provide that the owner(s) of the Subject Property shall immediately upon demand reimburse the Village for all reasonable expenses incurred by the Village against the particular portion of the Subject Property, and if not promptly paid, the Declaration of Covenants shall provide the Village the right to record a lien for any such unpaid expenses against the Subject Property or any portion thereof, and to foreclose on any such lien. Prior written notice shall not be required in emergency situations, as determined in the sole discretion of the Village. In regard to the Storm Drainage Facilities, provisions specified by the Village's Director of Community Development

shall be set forth on the final Plat of Subdivision and in a Declaration of Covenants to be recorded relative to the Subject Property, with said Declaration of Covenants clearly indicating that the language cannot be amended or deleted from said Declaration of Covenants, without the prior written consent of the Village. Notwithstanding the forgoing, the Owner obligations shall cease upon conveyance of the Storm Drainage Facilities to the association created by the Declaration of Covenants, at which time said obligations shall be the obligations of the then current owner(s) of the Subject Property.

10. **DEVELOPMENT AGREEMENT.** The Owner and the Village shall enter into a development agreement governing development of the Subject Property, substantially in the form as set forth in **EXHIBIT E**, attached hereto and made part hereof, (the “Development Agreement”).

11. **UNDERGROUND UTILITIES.** All electrical, telephone, cable television and natural gas distribution facilities installed by Owner, except electrical transformers and meters for natural gas and electricity, shall be installed underground or located within buildings.

12. **EASEMENTS.** Owner shall provide all easements for public utilities, drainage and cable television as depicted on **EXHIBIT D**, attached hereto and made part hereof, and as required by final engineering plans.

13. **ILLINOIS DEPARTMENT OF TRANSPORTATION.** Owner recognizes utilities will be required to facilitate the development. Approval from the Illinois Department of Transportation (IDOT) will be required for any work in the IDOT rights-of-way. Owner shall provide the Village with a copy of said approvals prior to Village approval of final engineering.

14. **RECAPTURE AGREEMENT.** In the event, that a recapture agreement is entered into by the Parties, relative to any water or sanitary sewer mains extensions constructed by the Owner, the recapture agreement shall be in the form as attached hereto as **EXHIBIT F**, and made part hereof.

15. **CONSENT TO CREATION OF A SPECIAL ASSESSMENT OR SPECIAL SERVICE AREA:** Owner agree that they will not object to the creation of a Special Assessment incorporating the Subject Property with respect to the construction of any public improvements affecting the area of the Subject Property which may become necessary at a future date. The assessment formula for any such future Special Assessment(s) shall be determined as required by law, taking into account the relative benefit to the Subject Property as a result of the public improvements constructed.

16. **FEES.** In consideration of the impact of the development of the Subject Property on the Village, and in consideration of water mains, sanitary sewer mains and storm sewer mains previously installed by the Village to assist in the serving of the Subject Property with water and sewers, Owner agree to pay all applicable permit (including, but not limited to building permit) and utility connection fees as required by the Village Code at the time of application for the respective

permits.

17. **REASONABLENESS OF FEES AND CHARGES.** The Parties agree that the connection charges, fees, contributions, dedications and easements required by this Agreement are reasonable in amount, where applicable, and are reasonably related to and made necessary by the development of the Subject Property.

18. **DEDICATION OF PUBLIC IMPROVEMENTS.** When Owner has completed all required public improvements, in accordance with the Village's Subdivision Ordinance regulations, and said public improvements have been inspected and approved by the Village Engineer, the Village shall accept said public improvements subject to the two (2) year maintenance guaranty provisions of the Subdivision Ordinance.

19. **FINAL ENGINEERING APPROVAL.** All public improvements required to be constructed hereunder or under the Subdivision Ordinance of the Village shall be paid for, constructed and installed by the Owner in accordance with final engineering plans approved by the Director of Community Development.

20. **ANNEXATION TO THE HELEN PLUM MEMORIAL LIBRARY DISTRICT.** The Owner agrees to petition the Helen Plum Memorial Library District to have the Property annexed to the Helen Plum Memorial Library District upon its annexation to the Village.

21. **SOIL CONDITIONS.** In the event a preliminary soils exploration, relative to the Subject property, reveals the presence of organic and/or soft clay soils, the construction of the attached single-family home(s) on the Subject Property may require that the building foundation, any structure, and any porch, patio or deck be supported by either piles or caissons. At the time of the construction of any attached single family home(s) on the Subject Property, a minimum of four (4) soil borings, one (1) at each corner of the proposed attached single family home(s), will be required, with the recommendations of a geotechnical engineer, based thereon, being incorporated into the construction plans for said attached single family home(s), as submitted to the Village for approval as part of the building permit process. All flat work shall be installed pursuant to the geotechnical engineer's recommendation and shall include, at a minimum, an engineered fabric designed to support loading of said flat work.

In such case a notice shall be recorded in the form as set forth in **EXHIBIT G**, attached hereto and made part hereof.

22. **RESERVED**

23. **RESERVED.**

24. **LANDSCAPING.** Owner shall maintain fifteen feet (15') of transitional landscape yard improvements on the West side of the Subject Property as required by Section 155.707(B)(1) of Village Code. A transitional landscape yard of thirty feet (30') is required on the North side of the Subject Property per Section 155.707(A)(1) of the Village Code.

25. **GENERAL PROVISIONS.**

- A. **Notices.** Notice or other writings which either Party is required to, or may wish to, serve upon the other Party in connection with this Agreement shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the Village or
Corporate Authorities: President and Board of Trustees
 Village of Lombard
 255 East Wilson Avenue
 Lombard, Illinois 60148

With Copies to: Village Manager
 Village of Lombard
 255 East Wilson Avenue
 Lombard, Illinois 60148

 Director of Community Development
 Village of Lombard
 255 East Wilson Avenue
 Lombard, Illinois 60148

 Thomas P. Bayer
 Klein, Thorpe and Jenkins, Ltd.
 20 North Wacker Drive, Suite 1660
 Chicago, Illinois 60606

If to the Owners Brian Krause
Representative: 5277 Trillium Blvd
 Hoffman Estates, IL 60192

or to such other address as any part may from time to time designate in a written notice to the other parties.

B. **Continuity of Obligations.**

1. The provisions of this Agreement, except as to various covenants running with the land and the obligation to provide such and the further exception set forth below in this subsection, obligating Owner, shall not be binding upon the successors in title to the Owner who have purchased individual dwellings or improved individual lots as the ultimate consumers thereof (namely the individuals who actually own and reside in the attached single-family residences to be built on said lots). The provisions of this Agreement shall be binding, however, on any builders who purchase any of the lots for eventual

resale to the ultimate consumers thereof. Notwithstanding the foregoing, the provisions relating to Storm Drainage Facilities in Section 9 also Section 15 in regard to special assessments shall be binding on the ultimate consumers and any builders and shall be considered and are hereby declared as covenants running with the land.

2. In the event of any sale or conveyance by Owner of the Subject Property or any portion thereof, including Outlot B (Detention Pond), but excluding any sale or conveyance by Owner of any individual attached single-family residences while Owner is acting in the regular course of its business of a developer selling or transferring such dwellings to the ultimate consumers thereof, Owner shall notify the Village in writing, within thirty (30) working days after the closing of such sale or conveyance, of any and all successors in title to all or any portion of the Subject Property. Such written notice shall include identification of the names(s) of such successor(s), the date of such sale or conveyance, and a copy of the title opinion identifying the grantee, the real estate sold or conveyed, and such other information as is usually and customarily included in a title opinion for the sale or conveyance or real estate. Failure to give timely notice shall not constitute a default hereunder, but shall be governed by the remaining provisions of this subsection 25B.
3. Upon the condition that the requirements of this subsection 25B have been met, this Agreement shall inure to the benefit of and shall be binding upon Owner successors in any manner in title, and shall be binding upon the Village and the successor Corporate Authorities of the Village and any successor municipality. In the event that the requirements of this subsection 25B have not been met, this Agreement shall be binding upon, but shall not inure to the benefit of Owner successors in any manner in title until such time as Owner has given the Village the notice required by this subsection.
4. Notwithstanding any provision of this Agreement to the contrary, including but not limited to the sale or conveyance of all or any part of the Subject Property by Owner in accordance with subsection 25B(2) above, the Owner shall at all times during the term of this Agreement remain liable to Village for the faithful performance of all obligations imposed upon Owner by this Agreement until such obligations have been fully performed or until Village, in the exercise of its reasonable discretion, has otherwise released Owner from any and all such obligations.
5. Except as otherwise provided in this subsection 25B, all the terms and conditions of this Agreement shall constitute covenants running with

the land.

- C. **Court Contest.** In the event the annexation of the Subject Property, the classification of the Subject Property for zoning purposes or other terms of this Agreement are challenged in any court proceeding, the period of time during which such litigation is pending, including (without limitation) the appeal time therefor, shall not be included, if allowed by law, in calculating the twenty (20) year period mentioned in subsection 25T below.
- D. **Remedies.** The Village and Owner, and their successors and assigns, covenant and agree that in the event of default of any of the terms, provisions or conditions of this Agreement by either Party, or their successors or assigns, which default exists uncorrected for a period of thirty (30) days after written notice to the Party to such default, the Party seeking to enforce said provision shall have the right of specific performance and if said Party prevails in a court of law, it shall be entitled to specific performance. It is further expressly agreed by and between the Parties hereto that the remedy of specific performance herein given shall not be exclusive of any other remedy afforded by law to the Parties, or their successor or successors in title.
- E. **Dedication of Public Lands.** In no event, including (without limitation) the exercise of the authority granted in Section 5/11-12-8 of Division 11 of Act 5 of Chapter 65 of the Illinois Compiled Statutes, shall the Corporate Authorities require that any part of the Subject Property be designated for public purposes, except as otherwise provided in this Agreement or except as may be consented to in writing by Owner.
- F. **Conveyances.** Nothing contained in this Agreement shall be construed to restrict or limit the right of Owner to sell or convey all or any portion of the Subject Property, whether improved or unimproved, except as otherwise specifically set forth herein.
- G. **Survival of Representation.** Each of the Parties agrees that the representations, warranties and recitals set forth in the preambles to this Agreement are material to this Agreement and the parties hereby confirm and admit their truth and validity and hereby incorporate such representations, warranties and recitals into this Agreement and the same shall continue during the period of this Agreement.
- H. **Captions and Paragraph Headings.** The captions and paragraph headings used herein are for convenience only and are not part of this Agreement and shall not be used in construing it.
- J. **Reimbursement to Village for Legal and Other Fees and Expenses.**
 - 1. To the Effective Date of Agreement. The Owner concurrently with

annexation and zoning of the Subject Property or so much thereof as required, shall reimburse the Village for the following expenses incurred in the preparation and review of this Agreement, and any ordinances, letters of credit, plats, easements or other documents relating to the Subject Property:

- (a) the costs incurred by the Village for engineering services;
- (b) all reasonable attorneys' fees incurred by the Village in connection with this Agreement and the annexation and zoning of the Subject Property; and
- (c) miscellaneous Village expenses, such as legal publication costs, recording fees and copying expenses.

2. From and After Effective Date of Agreement. Except as provided in this subsection upon demand by Village made by and through its Director of Community Development, Owner from time to time shall promptly reimburse Village for all reasonable expenses and cost incurred by Village in the administration of this Agreement, including engineering fees, attorneys' fees and out-of-pocket expenses.

Such costs and expenses incurred by Village in the administration of the Agreement shall be evidenced to the Owner upon its request, by a sworn statement of the Village; and such mutually agreed upon costs and expenses may be further confirmed by the Owner at either's option from additional documents designated from time to time by the Owner relevant to determining such costs and expenses.

Notwithstanding the foregoing, Owner shall in no event be required to reimburse Village or pay for any expenses or costs of Village as aforesaid more than once, whether such are reimbursed or paid through special assessment proceedings, through fees established by Village ordinances or otherwise.

3. In the event that any third party or parties institute any legal proceedings against the Owner and/or the Village, which relate to the terms of this Agreement, then, in that event, the Owner, on notice from Village shall assume, fully and vigorously, the entire defense of such lawsuit and all expenses of whatever nature relating thereto; provided, however:
- (a) Owner shall not make any settlement or compromise of the lawsuit, or fail to pursue any available avenue of appeal of any adverse judgment, without the approval of the Village.

(b) If the Village, in its reasonable discretion, determines there is, or may probably be, a conflict of interest between Village and Owner and/or Developer, on an issue of importance to the Village having a potentially substantial adverse effect on the Village, then the Village shall have the option of being represented by its own legal counsel. In the event the Village exercises such option, then Owner shall reimburse the Village, from time to time on written demand from the Director of Community Development and notice of the amount due, for any expenses, including but not limited to court costs, reasonable attorneys' fees and witnesses' fees, and other expenses of litigation, incurred by the Village in connection therewith.

4. In the event the Village institutes legal proceedings against Owner for violation of this Agreement and secures a judgment in its favor, the court having jurisdiction thereof shall determine and include in its judgment against Owner all expenses of such legal proceedings incurred by Village, including but not limited to the court costs and reasonable attorneys' fees, witnesses' fees, etc., incurred by the Village in connection therewith (and any appeal thereof). Owner may, in its sole discretion, appeal any such judgment rendered in favor of the Village against Owner.

K. **No Waiver or Relinquishment of Right to Enforce Agreement.** Failure of either Party to this Agreement to insist upon the strict and prompt performance of the terms, covenants, agreements and conditions herein contained, or any of them, upon any other property imposed, shall not constitute or be construed as a waiver or relinquishment of any Party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

L. **Village Approval or Direction.** Where Village approval or direction is required by this Agreement, such approval or direction means the approval or direction of the Corporate Authorities of the Village unless otherwise expressly provided herein or required by law, and any such approval may be required to be given only after and if all requirements for granting such approval have been met unless such requirements are inconsistent with this Agreement.

M. **Recording.** A copy of this Agreement and any amendment thereto shall be recorded by the Village at the expense of the Owner.

N. **Authorization to Execute.** The officers of Owner executing this Agreement warrant that they have been lawfully authorized by Owners Board of Directors to execute this Agreement on behalf of said Owner. The President

and Clerk of the Village hereby warrant that they have been lawfully authorized by the Corporate Authorities to execute this Agreement. The Owner and Village shall deliver to each other upon request copies of all bylaws, joint venture agreements, resolutions, ordinances or other documents required to legally evidence the authority to so execute this Agreement on behalf of the respective entities.

- O. **Amendment.** This Agreement sets forth all promises, inducements, agreements, conditions and understandings between the Owner and the Village relative to the subject matter thereof, and there are no promises, agreements, conditions or understandings, either oral or written, express or implied, between them other than are herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties hereto unless authorized in accordance with law and reduced in writing and signed by them. This Agreement may be amended by the Village and the Owner of record of a portion of the Subject Property as to the provisions applying thereto, without the consent of the Owners of other portions of the Subject Property.
- P. **Counterparts.** This Agreement may be executed in two (2) or more counterparts, each of which taken together, shall constitute one and the same instrument.
- Q. **Conflict Between the Text and Exhibits.** In the event of a conflict in the provisions of the text of this Agreement and the Exhibits attached hereto, the text of the Agreement shall control and govern.
- R. **Definition of Village.** When the term Village is used herein it shall be construed as referring to the Corporate Authorities of the Village unless the context clearly indicates otherwise.
- S. **Execution of Agreement.** This Agreement shall be signed last by the Village and the President of the Village shall affix the date on which he/she signs this Agreement on Page 1 hereof, which date shall be the effective date of this Agreement.
- T. **Terms of Agreement.** This Agreement shall be in full force and effect for a term of twenty (20) years from and after date of execution of this Agreement.
- U. **Venue.** The Parties hereto agree that for purposes of any lawsuit(s) between them concerning this Agreement, its enforcement, or the subject matter thereof, venue shall be in DuPage County, Illinois, and the laws of the State of Illinois shall govern the cause of action.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals to this Agreement on the day and year first above written.

VILLAGE OF LOMBARD

ATTEST:

By: _____
Keith Giagnorio
Village President

Sharon Kuderna
Village Clerk

DATED: _____

OWNER
West Suburban Bank Trust,
Trust No. 14435 u/d/a February 14, 2019

ATTEST:

Sign Name: _____

Sign Name: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

DATED: _____, 2019

ACKNOWLEDGMENTS

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Keith Giagnorio, personally known to me to be the President of the Village of Lombard, and Sharon Kuderna, personally known to me to be the Village Clerk of said municipal corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such President and Village Clerk, they signed and delivered the said instrument and caused the corporate seal of said municipal corporation to be affixed thereto, pursuant to authority given by the Board of Trustees of said municipal corporation, as their free and voluntary act, and as the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this _____ day of _____, 2019.

Commission expires _____, 20____.

Notary Public

STATE OF ILLINOIS)
) SS.
COUNTY OF _____)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, do hereby certify that _____ and _____ being the _____ and _____ of West Suburban Bank, Trust No. 14435 u/d/a February 14, 2019, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such _____ and _____ of West Suburban Bank, Trust No. 14435 u/d/a February 14, 2019, they signed and delivered the said instrument as _____ and _____ of West Suburban Bank Trust No. 14435 u/d/a February 14, 2019 of the Subject Property.

Given under my hand and seal this _____ day of _____, 2019.

Notary Public

SCHEDULE OF EXHIBITS

EXHIBIT A: Legal Description of Subject Property

EXHIBIT B: Site Plan

EXHIBIT C: Plans & Specifications

EXHIBIT D: Plat of Subdivision

EXHIBIT E: Development Agreement

EXHIBIT F: Recapture Agreement

EXHIBIT G: Soil Notice

EXHIBIT A: Legal Description of Subject Property

LOTS 1 AND 2 IN MILTON TOWNSHIP SUPERVISORS' ASSESSMENT PLAT NUMBER 1 (ALSO KNOWN AS PLEASANT HILLS WEST), OF PART OF THE EAST HALF OF SECTION 1, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1943 AS DOCUMENT 452574, IN DUPAGE COUNTY, ILLINOIS.

Parcel Number: 05-01-204-068

EXHIBIT B: Site Plan



SCALE
1" = 20'

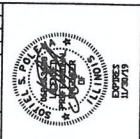
7 TUE
Civil
Engineering
Surveying
CONSULTING ENGINEER

LAMBERT & ASSOCIATES
683 N. LIBERTY DR
TREVISO, IL 60177
P: (630) 968-8888
F: (630) 968-8884
R: REVOLVA@LAMBERT.COM

LAND TECHNOLOGY
3823 N. WALK ST
MADERA, IL 60450
P: (616) 988-8800
F: (616) 988-8888
R: LANDTECH@LANDTECH.COM

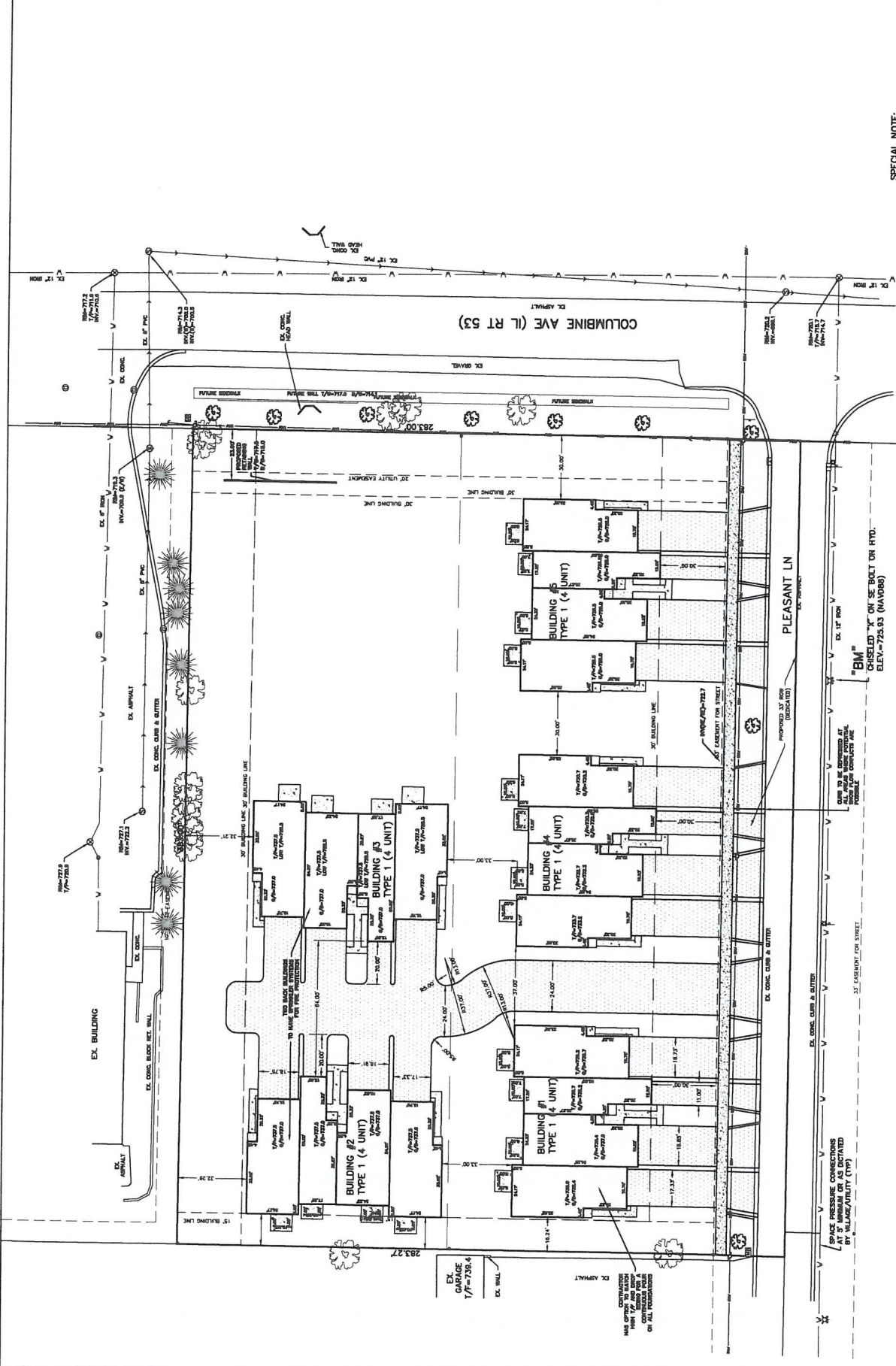
BLANCO PROFESSIONAL DESIGN FIRM
No. 18-000000

GEOMETRY PLAN:
600 W. PLEASANT LN, LOMBARD
CLIENT: OCCUPANTS, PETS
FIN: 05-01-20-088
LOTS 1 & 2 MILTON TOWNSHIP SUPERVISORS' ASSESS. PLAT 1



DATE: 3/15/15
DRAWN BY: DTH
CHECKED BY: BGP
SCALE: AS SHOWN

PAGE 3 OF 11
19-142L



SPECIAL NOTE:
THIS DESIGN IS NOT FOR CONSTRUCTION UNLESS APPROVAL STAMP FROM COUNTY, VILLAGE, OR CITY REGULATORY DEPARTMENT IS APPLIED HERETO

SITE DATA
TOTAL SITE AREA = 2.20 ACRES
TOTAL IMPERVIOUS SURFACE AREA = 0.99 ACRES
TOTAL IMPERVIOUS = 43.02%
TOTAL DISTURBED AREA = 2.18 ACRES

CONSTRUCTION SHALL BE PERFORMED IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, 2012 EDITION, AND ALL CITY, COUNTY, VILLAGE, AND STATE REGULATIONS.

CONSTRUCTION SHALL BE PERFORMED IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, 2012 EDITION, AND ALL CITY, COUNTY, VILLAGE, AND STATE REGULATIONS.

CONSTRUCTION SHALL BE PERFORMED IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, 2012 EDITION, AND ALL CITY, COUNTY, VILLAGE, AND STATE REGULATIONS.

CONSTRUCTION SHALL BE PERFORMED IN ACCORDANCE WITH THE ILLINOIS CONSTRUCTION CODE, 2012 EDITION, AND ALL CITY, COUNTY, VILLAGE, AND STATE REGULATIONS.

EXHIBT C: Plans & Specifications



SCALE
1" = 20'



LAMBERT & ASSOCIATES
343 W. LIBERTY DR
VEEVTON, IL 60187
P. (815) 480-0011
F. (815) 480-0012
WWW.LAMBERTANDASSOCIATES.COM

LAND TECHNOLOGY
3222 N. WALK STREET
MCGEEVILLE, IL 60050
P. (815) 368-8800
F. (815) 368-8828
WWW.LANDTECHNOLOGY.COM

LAND SURVEYING AND
LAND SURVEY SERVICES

600 W. PLEASANT LN. LOWLAND
CLIENT: OCCIDENTAL PLY
PH: 80-01-60-008

FILE	DATE	DESCRIPTION
FILE	04/22/19	EXHIBIT 12 - CONCEPT PLAN
FILE	04/22/19	EXHIBIT 13 - CONCEPT PLAN
FILE	04/22/19	EXHIBIT 14 - CONCEPT PLAN
FILE	04/22/19	EXHIBIT 15 - CONCEPT PLAN
FILE	04/22/19	EXHIBIT 16 - CONCEPT PLAN
FILE	04/22/19	EXHIBIT 17 - CONCEPT PLAN
FILE	04/22/19	EXHIBIT 18 - CONCEPT PLAN
FILE	04/22/19	EXHIBIT 19 - CONCEPT PLAN
FILE	04/22/19	EXHIBIT 20 - CONCEPT PLAN

600 W. PLEASANT LN. LOWLAND
CLIENT: OCCIDENTAL PLY
PH: 80-01-60-008



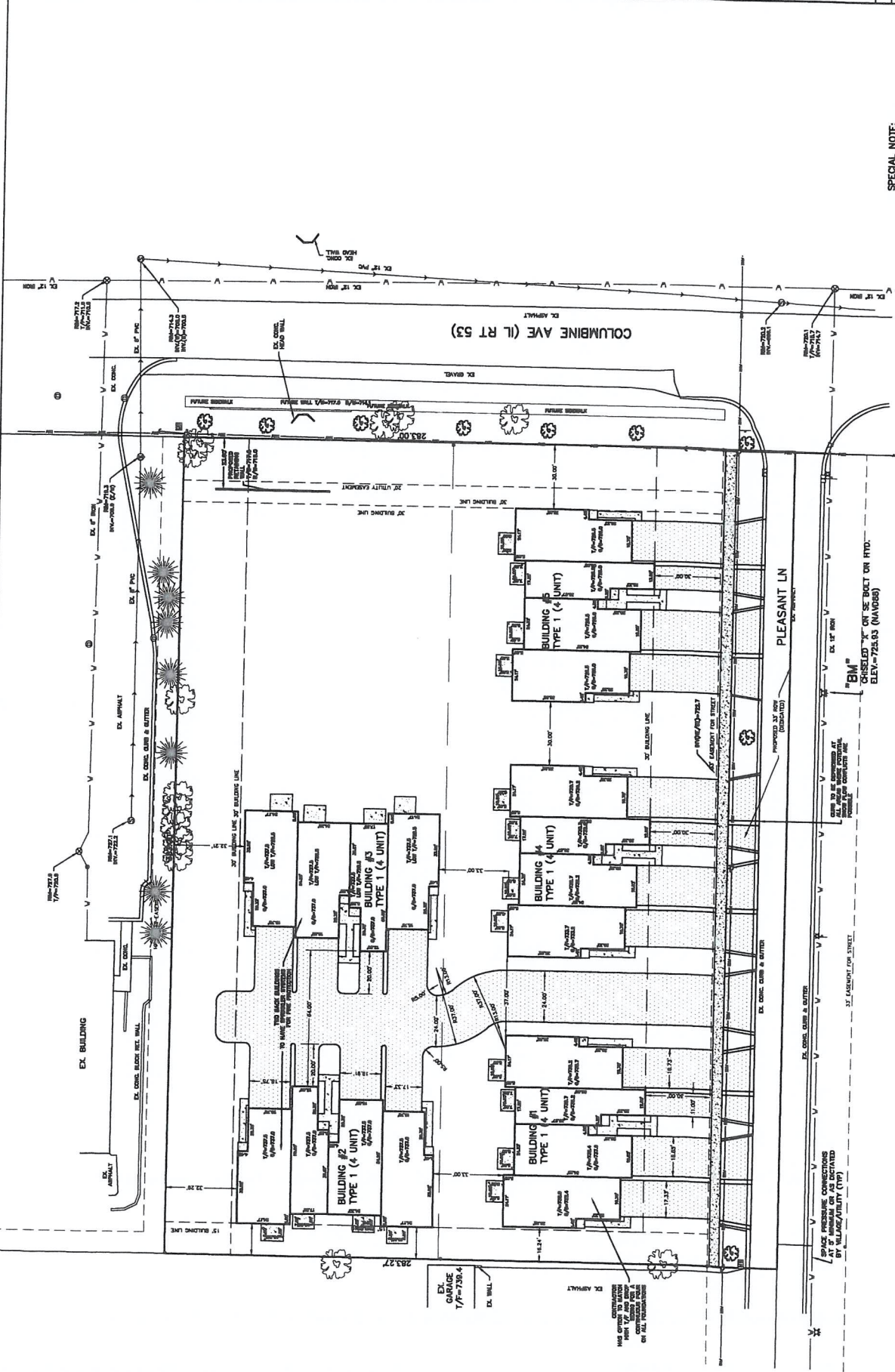
DRAWN BY: DTH
CHECKED BY: BIP
DATE: 3/16/19

PAGE 3 OF 11
TOTAL SHEETS: 19 - 142L

GEOMETRY PLAN:

SPECIAL NOTE:
THIS DESIGN IS NOT FOR CONSTRUCTION UNLESS APPROVAL STAMP FROM COUNTY, VILLAGE, OR CITY REGULATORY DEPARTMENT IS APPLIED HERETO

THE DESIGN IS PROVIDED BY CONTRACTOR'S REPRESENTATIVE AND THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF ALL DATA AND CONDITIONS OF THE SITE AND FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES.



SITE DATA
TOTAL SITE AREA = 2.28 ACRES
TOTAL BUILDING AREA = 0.09 ACRES
TOTAL IMPERVIOUS = 45,000
TOTAL DISTURBED AREA = 2.18 ACRES

CREATED BY: OT SE BOLT OR PTD.
ELEVATION: 723.63 (MVD088)

"BM"
ELEVATION: 723.63 (MVD088)

SPACE PRESERVE CONNECTIONS
AT 5' INTERVALS OR AS DETICATED
BY ILLINOIS/UTILITY (119)

EX. GARAGE
1/F = 735.4

EX. WALL
CONSTRUCTION PER 17.00 AND 17.05
CONSTRUCTION PER 17.05 AND 17.10
CONSTRUCTION PER 17.10 AND 17.15
CONSTRUCTION PER 17.15 AND 17.20
CONSTRUCTION PER 17.20 AND 17.25

EXHIBIT D: Plat of Subdivision

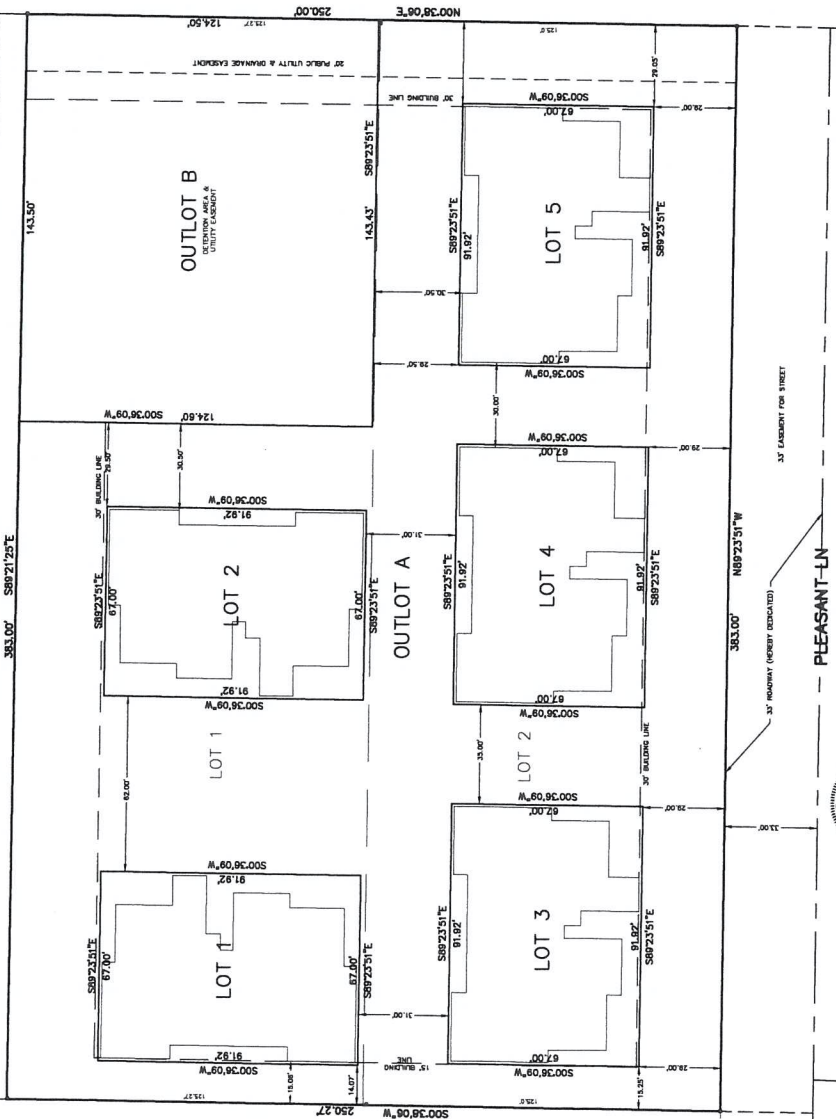
MIA AND NINA SUBDIVISION

P.I.N.: 05-01-204-068

OF PART OF THE EAST HALF OF SECTION 1, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DECATUR COUNTY, ILLINOIS

LOMNAZ HILL SUB.

17' UTILITY EASEMENT
383.00' S89°21'25"E



JOHN KOSEWICH
SURVEY OF LOTS
3 & 4

SEAL AND SIGNATURE OF SURVEYOR
DATE OF SURVEY

SEAL AND SIGNATURE OF COUNTY CLERK
DATE OF RECORDING

STATE OF ILLINOIS
COUNTY OF DECATUR

BEFORE ME, the undersigned authority, on this _____ day of _____, 2004, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

STATE OF ILLINOIS
COUNTY OF DECATUR

BEFORE ME, the undersigned authority, on this _____ day of _____, 2004, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

STATE OF ILLINOIS
COUNTY OF DECATUR

BEFORE ME, the undersigned authority, on this _____ day of _____, 2004, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

STATE OF ILLINOIS
COUNTY OF DECATUR

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STATE OF ILLINOIS
COUNTY OF DECATUR

BEFORE ME, the undersigned authority, on this _____ day of _____, 2004, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

STATE OF ILLINOIS
COUNTY OF DECATUR

BEFORE ME, the undersigned authority, on this _____ day of _____, 2004, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

STATE OF ILLINOIS
COUNTY OF DECATUR

BEFORE ME, the undersigned authority, on this _____ day of _____, 2004, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.



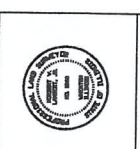
SCALE
1" = 20'

BASES FOR BEARINGS:
SOUTH MAGNETIC MERIDIAN IS
RIGHT OF WAY OF ILLINOIS
STATE HIGHWAY 150, AS SHOWN
ON THE PLAT OF THE
LOMNAZ HILL SUBDIVISION,
RECORDED IN DECATUR COUNTY,
ILLINOIS, BOOK 200-10327, IN
DECATUR COUNTY, ILLINOIS.

LAMBERT & ASSOCIATES
3022 W. MAIN STREET
MILWAUKEE, IL 60060
P: (616) 988-8800
F: (616) 988-8898
E: INFO@LAMBERT-ASSOCIATES.COM

TECHNOLOGY LAND
3022 W. MAIN STREET
MILWAUKEE, IL 60060
P: (616) 988-8800
F: (616) 988-8898
E: INFO@TECHNOLOGY-LAND.COM

PLAT OF SUBDIVISION:
600 W. PLEASANT LN., LOMBARD
CLINTY, OCCUPANTS, P&U
LOTS 1 & 2 MILTON TOWNSHIP SUPERVISOR'S ASS'NS., PLAT 1
REVISIONS



DATE: 6/17/04
PAGE 1 OF 1
19-142L

SUBMITTED BY AND RETURN TO:
VILLAGE OF LOMBARD
255 EAST MILSON AVENUE
LOMBARD, IL, 60148

An easement for utility lines and other property with electric and communication services is hereby reserved for the use of the public utility companies and other utility companies in the subdivision and to:

Code: TV, Co. Located by the Village, Decatur.

The easement shall be subject to the following conditions: (1) The easement shall be used only for the purposes stated herein and shall not be used for any other purpose. (2) The easement shall be used in accordance with the applicable laws and regulations of the State of Illinois and the local government. (3) The easement shall be used in a manner that does not interfere with the enjoyment of the property by the owners. (4) The easement shall be used in a manner that does not create a nuisance or other interference with the enjoyment of the property by the owners. (5) The easement shall be used in a manner that does not create a hazard to the public. (6) The easement shall be used in a manner that does not create a liability for the owners. (7) The easement shall be used in a manner that does not create a claim against the owners. (8) The easement shall be used in a manner that does not create a claim against the village. (9) The easement shall be used in a manner that does not create a claim against the State of Illinois. (10) The easement shall be used in a manner that does not create a claim against the United States of America. (11) The easement shall be used in a manner that does not create a claim against any other person or entity. (12) The easement shall be used in a manner that does not create a claim against any other government entity. (13) The easement shall be used in a manner that does not create a claim against any other public entity. (14) The easement shall be used in a manner that does not create a claim against any other private entity. (15) The easement shall be used in a manner that does not create a claim against any other individual. (16) The easement shall be used in a manner that does not create a claim against any other corporation. (17) The easement shall be used in a manner that does not create a claim against any other partnership. (18) The easement shall be used in a manner that does not create a claim against any other trust. (19) The easement shall be used in a manner that does not create a claim against any other estate. (20) The easement shall be used in a manner that does not create a claim against any other person or entity.

STATE OF ILLINOIS
COUNTY OF DECATUR

BEFORE ME, the undersigned authority, on this _____ day of _____, 2004, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

STATE OF ILLINOIS
COUNTY OF DECATUR

BEFORE ME, the undersigned authority, on this _____ day of _____, 2004, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

EXHIBIT E: Development Agreement

**AN AGREEMENT RELATING TO THE APPROVAL OF A
MAJOR DEVELOPMENT,
THE MAKING OF REQUIRED PUBLIC IMPROVEMENTS, AND PROVIDING FUNDS
THEREFORE FOR 600 W. PLEASANT LANE LOMBARD, IL**

This Agreement (the “Agreement”, made and entered into this ___ day of ___, 2019 by and between West Suburban Bank Trust, Trust No. 14435 u/d/a February 14, 2019 as the legal owner of record and Pete Occhipinti as the developer (collectively the "Owner"), and the VILLAGE OF LOMBARD, a municipal corporation, located in DuPage County, Illinois, (the "Village"). The Village and the Owner are hereinafter sometimes referred to herein individually as a “Party”, and collectively as the “Parties”.

WITNESSETH:

Whereas, the Owner is developing real estate situated within the corporate limits of the Village, legally described in **EXHIBIT A** attached and made a part hereof (hereinafter referred to as the “Subject Property”); and,

Whereas, plans and specifications for the making of the required public improvements within the boundaries of and outside the boundaries of the aforesaid Subject Property, as prepared by _____ dated _____ as approved by the Village, and copies thereof have been filed in the office of the Village Clerk of the said Village, which copies by reference thereto are hereby incorporated as a part hereof (hereinafter referred to as the “Public Improvements”); and,

Whereas, the Owner has entered into contracts or will enter into contracts for the work and Public Improvements required to be made within in conjunction with the development of the Subject Property pursuant to Lombard Village Code (the “Village Code”);

Now, Therefore, for and in consideration of the foregoing, premises and the mutual covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Village and the Owner, the Village and the Owner agree as follows:

Section 1: Commencement of construction of the Public Improvements detailed herein may begin only after the Owner has delivered one or more Irrevocable Letters of Credit or a surety bond issued by a surety company licensed to do business in Illinois (hereinafter referred to as the “Public Improvement Security”), in a form satisfactory to the Village and issued by a bank or financial institution approved by the Village or a surety company approved by the State of Illinois, in an amount equal to 115% of the Owner’s engineer’s estimate of cost of construction as approved by the Village’s engineer.

Section 2: The Owner agrees to cause to be made with due dispatch and diligence, such Public Improvements as are required under Chapter 154 of the Village Code. The Owner will, when required to bring about progress in the work with due dispatch, take aggressive steps to

enforce each contract connected with the construction of said Public Improvements, to the end that said Public Improvements will be duly and satisfactorily completed within the time or times herein mentioned. The Owner agrees that all work in the construction of said Public Improvements shall be done in a good, substantial and workmanlike manner, that all manufactured materials used therein shall be new and of good quality, that same shall at all times be subject to inspection by the Village, shall all be satisfactory to the Village and shall be subject to its approval. The Owner will at its expense furnish all necessary engineering services for said Public Improvements.

Section 3: The Public Improvements subject to the Public Improvement Security and engineering plans shall be completed within one year of the recording of the Annexation Agreement unless otherwise extended by amendment to this Agreement, consented to by the Corporate Authorities of the Village. All Public Improvement Security, assurances, guarantees, acceptances, and related matters shall comply with the Village Code. The construction of the Public Improvements by the Owner and issuance of approvals by the Village for the Subject Property shall comply with the following schedule:

A. Sediment and Erosion Control

Sediment and Erosion control measures shall be implemented as per Chapter 154 of the Village Code prior to the issuance of building permits or authorization to proceed with mass grading or other improvements to the Subject Property. Said measures shall be maintained during the entire construction process and shall be inspected and repaired as necessary after each significant rainfall. Failure to do so may result in the issuance of a stop work order for any outstanding Public Improvements or building permits.

B. Tree preservation measures

All necessary tree preservation measures including tagging of trees to be preserved and fencing around the tree drip lines shall be implemented prior to issuance of building permits, authorization to proceed with mass grading, or any other improvements to the Subject Property.

C. Authorization to proceed with Public Improvements

Upon approval of the final engineering plans, receipt of all required fees, approval of the Public Improvement Security, recording of this Agreement and the Annexation Agreement, and completion of items "A" and "B" above, authorization to begin the Public Improvements will be given by the Village.

D. Construction of Storm Water Control System

The storm water detention pond and a storm water management system for that portion of the Subject Property upon which construction activities have begun is to be operational prior to the issuance of any building permits. An operational storm

water detention pond and storm water management system means that the volume of the storm water detention pond is adequate for the flow being directed to it and the restrictor outlet is in place and that the system has been reviewed and approved by the Director of Community Development. Final grading and landscaping of the detention pond shall be completed in conjunction with final landscaping.

E. Issuance of Building Permits

1) Foundation-Only Permits

Foundation-only permits may be issued upon completion of adequate construction access to the corresponding building sites and the completion of underground utility work across the street frontage of the Subject Property. Adequate access shall mean a maintained gravel access road.

2) Building Permits

Building permits may be issued upon provision of adequate emergency access to the building site (gravel sub base) and an operational fire hydrant within 300 feet of the Subject Property.

F. Public Improvements to be completed along the frontages of Illinois Route 53 and Pleasant Road include sidewalks, street lights, and parkway trees.

G. Certificates of Occupancy

Issuance of a Certificate of Occupancy for a dwelling unit shall be issued upon satisfactory completion of the following:

- 1) Inspection and approval by the Village's Building Division
- 2) Completion of the water distribution system including testing and chlorination. No occupancy permits for dwelling units shall be granted by the Village until the water distribution system has been looped (through the development). This requirement shall not apply to the sales office and model building;
- 3) Completion of the sanitary and storm sewer system to the dwelling units.
- 4) Substantial completion of the public street system to the subject building and either a turnaround capability for a fire truck or a gravel base through the development in a manner to provide two means of emergency access for each building. Substantial completion shall include curbs, gutter, street lights, and the base course of asphalt.
- 5) Sidewalks must be installed across the frontage of the Subject Property or a fee in lieu of for the IDOT frontage.

- 6) Landscaping of the Subject Property must be substantially completed. This includes parkway trees, final grading and ground cover. This condition may be waived by the Department of Community Development if a hardship exists on account of winter conditions provided a Public Improvement Security in favor of the Village is posted by the Owner.
- 7) Record drawings (as built) of the detention pond and of the sanitary and storm sewer and domestic water facilities required to serve that building shall be submitted and approved prior to the Certificate of Occupancy.

H. Reserved

- 1) Reserved
- 2) Reserved

J. Acceptance of Public Improvements

- 1) Final Record Drawings (as built), including final grading and all utilities, shall be submitted for the review and approval of the Director of Community Development prior to acceptance of the Public Improvements.
- 2) Engineer's Certification. The Design Engineer is to certify that the detention and Best Management Practices (BMPs) (if applicable) was constructed in accordance with Chapter 151 of the Village Code, and that the project was constructed substantially to plan.
- 3) All deficiencies described in the final punch list shall be satisfactorily completed and approved by the Directors of Public Works and Community Development
- 4) A maintenance guarantee in the form of a Public Improvement Security shall be submitted and approved. Said guarantee and Public Improvement Security shall comply with Chapter 154 of the Village Code.
- 5) The Public Improvements to be dedicated to the Village shall be accepted by the Corporate Authorities of the Village. Upon acceptance by the Corporate Authorities of the Village, the installation guarantee (Public Improvement Security) shall be returned to the Owner.
- 6) The maintenance guarantee Public Improvement Security, upon inspection and determination that no deficiencies exist, shall be returned at the time of its expiration.

Section 4: Construction Damage to Public Improvements:

Care shall be taken to avoid damage to existing public improvements, including utilities and curbs, during construction. Any existing public improvement damaged during construction shall be repaired to the satisfaction of the Village and in substantial compliance with this Agreement and all relevant Village codes and ordinances.

Section 5: Dedication of Public Improvements:

Upon approval and acceptances of the aforesaid Public Improvements by the Village, said Public Improvements shall become the property of the Village and subject to its control, and if deemed necessary or desirable by the Corporate Authorities of the Village, a formal dedication or conveyance to the Village shall be made by the Owner.

Section 6: Letter of Credit:

It is expressly understood that this Agreement is conditional upon and subject to the delivery to the Village of the document provided for in Section 1 above from the Financial Institution approved by the Village, and subject to the Corporate Authorities of the Village approving same and placing same on file.

Section 7: Notices:

All notices or demands to be given hereunder shall be in writing, and served by either personal service or the mailing of such notice or demand by Certified or Registered Mail. Said notices shall be provided to the Owner's Representative at:

Brian Krause
5277 Trillium Blvd
Hoffman Estates, IL 60192

and to the Village at:

Village of Lombard
255 East Wilson Avenue
Lombard, IL 60148
Attn: Director of Community Development

or to such other place for any of them as it may in writing designate. Service of any such notice shall be deemed given on the date of personal service or three (3) days from the date of mailing.

Section 8: Site Access

Owner (and its contractors) shall keep all streets which provide access to the Subject Property reasonably clean from all mud, gravel and other debris, at all times during and after construction hours.

Section 9: Soil Conditions

In the event a preliminary soils exploration, relative to the Subject Property, reveals the presence of organic and/or soft clay soils, the construction of the attached single-family home(s) on the Subject Property may require that the building foundation, any structure, and any porch, patio or deck be supported by either piles or caissons. At the time of the construction of any attached single-family home(s) on the Subject Property, a minimum of four (4) soil borings, one (1) at each corner of the proposed attached single family home(s), will be required, with the recommendations of a geotechnical engineer, based thereon, being incorporated into the construction plans for said attached single family home(s), as submitted to the Village for approval as part of the building permit process. All flat work shall be installed pursuant to the geotechnical engineer's recommendation and shall include at a minimum, an engineered fabric designed to support loading of said flat work.

In such case a notice shall be recorded in the form as set forth in **EXHIBIT B**, attached hereto and made part thereof.

Section 10: Acceptance:

Public Improvements shall be accepted by the Corporate Authorities of the Village after certification by the Village Engineer and Director of Community Development that the Public Improvements are in compliance with previously approved plans, specifications, and relevant codes and ordinances. All required fees and procedures shall be provided prior to such acceptance. The Village shall not be liable for any damages that may occur on any dedicated road within a new subdivision that has not been accepted by the Village. The Owner shall hold the Village free and harmless and indemnify the Village, its agents, officers and, employees from any and all claims, damages, judgments, costs and settlements including, but not limited to attorneys' fees that may arise from construction, use, repair, or maintenance of said Public Improvements before they are accepted by the Village.

Section 11: Binding Effect and Term and Covenants Running with the Land:

This Agreement has been executed on behalf of the Village pursuant to action adopted by the Corporate Authorities of said Village at a meeting of said Corporate Authorities duly held on _____, 2019.

This Agreement has been executed by the Owner and shall be binding on the heirs and assigns of the Owner, but shall not be binding on a dwelling unit Owner subsequent to the issuance of an occupancy permit for that dwelling unit.

This Agreement shall automatically expire upon the expiration of the maintenance guarantee Public Improvement Security required at the time of acceptance of the Public Improvements as set forth in Section 3.J.4 above.

By: _____
West Suburban Bank Trust, Trust No. 14435 u/d/a February 14, 2019, as the legal owner of
record

By: _____
Pete Occhipinti, as the developer

Village of Lombard:

By: _____ (Village President)
Keith Giagnorio

Attest: _____ (Village Clerk)
Sharon Kuderna

EXHIBIT A: Legal Description

**DEVELOPMENT AGREEMENT DATED ____ 2019 FOR
600 W. Pleasant Lane, LOMBARD, ILLINOIS**

LOTS 1 AND 2 IN MILTON TOWNSHIP SUPERVISORS' ASSESSMENT PLAT NUMBER 1 (ALSO KNOWN AS PLEASANT HILLS WEST), OF PART OF THE EAST HALF OF SECTION 1, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1943 AS DOCUMENT 452574, IN DUPAGE COUNTY, ILLINOIS.

Parcel Number: 05-01-204-068

PROPERTY ADDRESS: 600 W. Pleasant Lane
 Lombard, Illinois 60148

EXHIBIT B: Special Construction Methods/Soil Conditions Notice

THIS NOTICE is being recorded in furtherance of; and as required by, the Development Agreement recorded on _____, 20____, and known as document number _____.

PLEASE TAKE NOTICE that borings taken as part of a preliminary soils exploration, relative to the below-described property (hereinafter the "Property"), revealed the presence of relatively deep organic and soft clay soils. As such, the construction of the attached single-family homes on the Property will require that the building foundation and any porch, patio or deck be supported by either piles or caissons. At the time of the construction of any attached single-family homes on the Property, a minimum of four (4) soil borings, one (1) at each corner of the proposed attached single-family home, will be required, with the recommendations of a geotechnical engineer, based thereon, being incorporated into the construction plans for said attached single-family home, as submitted to the Village of Lombard for approval as part of the building permit process. All flat work shall be installed pursuant to the geotechnical engineer's recommendation and shall include at a minimum, an engineered fabric designed to support loading of said flat work. Anyone desiring a copy of the soils report that was filed with the Village of Lombard, which resulted in the aforementioned requirements, can obtain a copy by contacting the Village's Community Development Department at 255 East Wilson Avenue, Lombard, Illinois, 60148, 630- 620-5700. This Notice applies to the following legally described property:

LOTS 1 AND 2 IN MILTON TOWNSHIP SUPERVISORS' ASSESSMENT PLAT NUMBER 1 (ALSO KNOWN AS PLEASANT HILLS WEST), OF PART OF THE EAST HALF OF SECTION 1, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1943 AS DOCUMENT 452574, IN DUPAGE COUNTY, ILLINOIS.

Parcel Number: 05-01-204-068

Common Address: 600 West Pleasant Lane, Lombard, Illinois

Dated this _____ date of _____, 200____.

VILLAGE OF LOMBARD

By: _____
Title: _____

Prepared by and Return to:
Village of Lombard
255 East Wilson Avenue
Lombard, IL 60148
Attention: Community Development Department

EXHIBIT F: Recapture Agreement Form

THIS RECAPTURE AGREEMENT (the "Agreement"), made and entered into this ___ day of ___, 2019, by and between the VILLAGE OF LOMBARD, a municipal corporation of the County of DuPage, in the State of Illinois (the "VILLAGE") and West Suburban Bank Trust, Trust No. 14435 u/d/a February 14, 2019 (the "OWNER");

WITNESSETH

WHEREAS, the VILLAGE owns and operates a sanitary and storm sewer collection system, storm water system, and water distribution system; and,

WHEREAS, the VILLAGE has jurisdiction over the construction, maintenance and repair of local streets and traffic control; and,

WHEREAS, the Owner is the owner of the following described property (hereinafter referred to as ("SUBJECT SITE")):

LOTS 1 AND 2 IN MILTON TOWNSHIP SUPERVISORS' ASSESSMENT PLAT NUMBER 1 (ALSO KNOWN AS PLEASANT HILLS WEST), OF PART OF THE EAST HALF OF SECTION 1, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1943 AS DOCUMENT 452574, IN DUPAGE COUNTY, ILLINOIS.

P.I.N.: 05-01-204-068

Commonly known as: 600 W. Pleasant Lane

and

WHEREAS, the Owner has developed the SUBJECT SITE in accordance with its zoning classification under the VILLAGE'S Zoning Ordinance for attached single family home(s) residential uses; and,

WHEREAS, the Owner has constructed the following public utilities relative to the development of the SUBJECT SITE: sanitary sewer construction (hereinafter referred to as the "PUBLIC UTILITY IMPROVEMENTS"); and,

WHEREAS, the construction of the PUBLIC UTILITY IMPROVEMENTS has been carried out and completed in strict compliance with all VILLAGE ordinances and codes, and plans and specifications approved by the VILLAGE; and,

WHEREAS, the cost for the aforesaid PUBLIC UTILITY IMPROVEMENTS is estimated at \$_____, which final cost has been reviewed and will be approved by the VILLAGE; and,

WHEREAS, the construction of the aforesaid PUBLIC UTILITY IMPROVEMENTS by the OWNER will, in addition to benefiting the SUBJECT SITE, also benefit the property located at 600 W. Pleasant Lane, Lombard, Illinois (hereafter referred to as the "BENEFITED PROPERTY") if and when said property connects to the sanitary sewer system of the Village; and,

WHEREAS, the OWNER should be reimbursed by the Owners of said BENEFITED PROPERTY if and when said BENEFITED PROPERTY connects to the Village's sanitary sewer system it is developed; and,

WHEREAS, the OWNER agrees to convey the title to all of the aforesaid PUBLIC UTILITY IMPROVEMENTS to the VILLAGE by a legally proper Bill of Sale;

NOW, THEREFORE, for and in consideration of the foregoing and the mutual promises and agreements herein contained, including, but not limited to, the construction of the aforesaid PUBLIC UTILITY IMPROVEMENTS, the adequacy and sufficiency of which is hereby acknowledged, the VILLAGE and the OWNER agree as follows:

1. That OWNER will, at its sole expense has, complete the construction of all the aforesaid PUBLIC UTILITY IMPROVEMENTS in conformance with the plans and specifications prepared by _____, dated the _____ day of _____, 2019, and to be approved by the VILLAGE.

2. Upon acceptance of all of the aforesaid PUBLIC UTILITY IMPROVEMENTS by the VILLAGE, the OWNER shall convey to the VILLAGE, by a legally proper Bill of Sale, all of said PUBLIC UTILITY IMPROVEMENTS and appurtenances incidental thereto. Such conveyance shall be free and clear of all liens or encumbrances relative to said improvements. Upon acceptance of said PUBLIC UTILITY IMPROVEMENTS by the VILLAGE, the VILLAGE shall have complete control thereof including the determination of all future use and connections thereto, and shall be responsible for the operation, maintenance, repair and replacement of said PUBLIC UTILITY IMPROVEMENTS.

3. OWNER'S actual costs for said PUBLIC UTILITY IMPROVEMENTS is made up of the following:

Sanitary Sewer Construction	\$ _____
TOTAL	\$ _____

Said \$ _____ is to be collected by the VILLAGE from the Owner(s) of said BENEFITED PROPERTY if and when said Owner(s) apply to the VILLAGE for a building permit to develop said BENEFITED PROPERTY, or any portion thereof, or at such time as said Owner(s) seek to connect to the sanitary sewers constructed by OWNER.

4. It is further understood and agreed to that under no circumstances will the General Fund of the VILLAGE be in any way obligated for said amount to be reimbursed to OWNER, nor shall the VILLAGE be liable for its failure or neglect to collect said \$ _____ from the Owner(s) of the BENEFITED PROPERTY described in Exhibit "A". The VILLAGE is only obligated to pay OWNER from those funds the VILLAGE actually collects from the Owner(s) of said BENEFITED PROPERTY.

5. This Agreement shall remain in full force and effect until the ____, 2029 (Note: Said date to be 10 years from the date of the Recapture Agreement) after said date the BENEFITED PROPERTY set forth in Exhibit "A" shall no longer be liable for payment of the \$ _____.

6. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the OWNER and the VILLAGE, provided, however, that OWNER shall not assign its interests under this Agreement without the prior written consent of the VILLAGE.

7. The VILLAGE is hereby authorized to record this Agreement with the Recorder of Deeds of DuPage County, Illinois.

IN WITNESS WHEREOF, the OWNER and the VILLAGE have hereunto caused this Agreement to be executed in duplicate by their duly authorized representatives all on the day and year first above written.

VILLAGE OF LOMBARD

By: _____
Keith Giagnorio, Village President

(Corporate Seal)

ATTEST:

Sharon Kuderna, Village Clerk

OWNER

By: _____

EXHIBIT G: Special Construction Methods/Soil Conditions Notice

THIS NOTICE is being recorded in furtherance of; and as required by, the Annexation and Development Agreement, recorded on _____, 20____, and known as document number _____.

PLEASE TAKE NOTICE that borings taken as part of a preliminary soils exploration, relative to the below-described property (hereinafter the "Property"), revealed the presence of relatively deep organic and soft clay soils. As such, the construction of the attached single-family homes on the Property will require that the building foundation and any porch, patio or deck be supported by either piles or caissons. At the time of the construction of any attached single-family homes on the Property, a minimum of four (4) soil borings, one (1) at each corner of the proposed attached single-family home, will be required, with the recommendations of a geotechnical engineer, based thereon, being incorporated into the construction plans for said attached single-family home, as submitted to the Village of Lombard for approval as part of the building permit process. All flat work shall be installed pursuant to the geotechnical engineer's recommendation and shall include at a minimum, an engineered fabric designed to support loading of said flat work. Anyone desiring a copy of the soils report that was filed with the Village of Lombard, which resulted in the aforementioned requirements, can obtain a copy by contacting the Village's Community Development Department at 255 East Wilson Avenue, Lombard, Illinois, 60148, 630- 620-5700. This Notice applies to the following legally described property:

LOTS 1 AND 2 IN MILTON TOWNSHIP SUPERVISORS' ASSESSMENT PLAT NUMBER 1 (ALSO KNOWN AS PLEASANT HILLS WEST), OF PART OF THE EAST HALF OF SECTION 1, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1943 AS DOCUMENT 452574, IN DUPAGE COUNTY, ILLINOIS.

P.I.N.: 05-01-204-068;

Common Address: 600 West Pleasant Lane, Lombard, Illinois

Dated this _____ date of _____, 2019.

VILLAGE OF LOMBARD

By: _____
Title: _____

Prepared by and Return to:
Village of Lombard
255 East Wilson Avenue
Lombard, IL 60148
Attention: Community Development Department