

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE: July 13, 2005 (BOT) Date: July 21, 2005

TITLE: PC 05-22: 1703 S. Main Street

SUBMITTED BY: Department of Community Development *GAH*

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration a petition requesting that the Village take the following actions on the property:

1. Ordinance approving an Annexation Agreement (2/3 of Corporate Authorities Vote Required);
 2. Ordinance annexing the property into the Village of Lombard; and
 3. Ordinance approving a map amendment to rezone the property from the R1 Single-Family Residence District to the R2 Single-Family Residence District.
- (UNINCORPORATED)

The Plan Commission recommended approval of this petition.

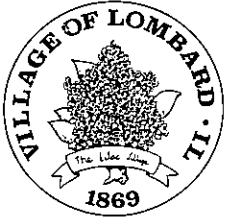
Staff is requesting waiver of first reading.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____	Date _____
Finance Director X _____	Date _____
Village Manager X <i>W. T. Lichter</i>	Date <i>7/13/05</i>

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



MEMORANDUM

TO: William T. Lichter, Village Manager

FROM: David A. Hulseberg, AICP, Director of Community Development *Delt*

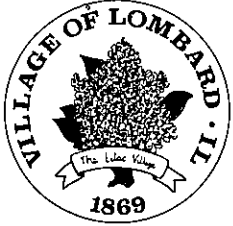
DATE: July 21, 2005

SUBJECT: PC 05-22; 1703 S. Main Street

Attached please find the following items for Village Board consideration as part of the July 21, 2005 Village Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 05-02;
3. An Ordinance approving an Annexation Agreement;
4. An Ordinance annexing the property into the Village;
5. An Ordinance approving a rezoning of the property to the R2 Single Family Residence District;
and
6. Site plans associated with the petition.

As the Village Board is canceling its scheduled August 4, 2005 meeting, staff is requesting a waiver of first reading of the aforementioned Ordinances.



VILLAGE OF LOMBARD

255 E. Wilson Avenue
Lombard, IL 60148-3926
(630) 620-5700 FAX: (630) 620-8222
TDD: (630) 620-5812
www.villageoflombard.org

Village President

William J. Mueller

July 21, 2005

Village Clerk

Brigitte O'Brien

Mr. William J. Mueller,
Village President, and
Board of Trustees
Village of Lombard

Trustees

Greg Alan Gron, Dist. 1
Richard J. Tross, Dist. 2
John "Jack" T. O'Brien, Dist. 3
Steven D. Sebby, Dist. 4
Kenneth M. Florey, Dist. 5
Rick Soderstrom, Dist. 6

Subject: PC 05-22: 1703 S. Main Street

Dear President and Trustees:

Village Manager

William T. Lichter

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner is requesting that the Village take the following actions on the subject property:

1. Approve an Annexation Agreement;
2. Annex the property into the Village of Lombard; and
3. Approve a map amendment to rezone the property from the R1 Single-Family Residence District to the R2 Single-Family Residence District.

"Our shared *Vision* for Lombard is a community of excellence exemplified by its government working together with residents and business to create a distinctive sense of spirit and an outstanding quality of life."

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on June 20, 2005. Petitioner Pete Gerardi (981 Danforth, Batavia) stated that the subject property is an approximately 0.65-acre parcel located at the southeast corner of 17th Street and Main Street. He is proposing to annex the property and have it rezoned for a three-lot subdivision. The lots will average 8,800 square feet and no variations will be necessary. They will be extending sanitary sewer from the corner to the Yorkshire Woods subdivision and water will be taken off the existing mains.

"The *Mission* of the Village of Lombard is to provide superior and responsive governmental services to the people of Lombard."

Chairperson Ryan then opened the meeting for public comment. There were no comments in favor or in opposition to the proposal. Chairperson Ryan then requested the staff report.

Jennifer Backensto, Planner I, reiterated the requested actions and summarized the project. She noted that the IDRC report had several engineering comments that must be addressed through the building permit process. The Comprehensive Plan calls for this area to be developed as Estate Residential (four units per acre). The petitioner's site plan proposes three single-family residential units on 0.61 acres, which is equivalent to 4.95 units per acre.

The proposed single-family subdivision is compatible with the existing single family residences surrounding the site. The lots on 17th Street will be nearly identical to those on the north side of the street and the average lot area of 8,800 square feet exceeds the minimum R2 requirement. Staff finds that the proposed development is compatible with adjacent land uses.

Ms. Backensto stated that upon annexation to the Village, properties are automatically classified as R1 Single-Family Residential properties. The petitioner is requesting a map amendment to zone the properties into the R2 District. Staff finds that this amendment can be supported as the abutting residences to the north, east and west of the project are or will be zoned R2. The zoning designation would be compatible with the adjacent residential properties and would be consistent with past zoning actions and the trend of development for properties abutting the subject property. The proposed lots meet the R2 minimum requirements of 60 feet in width and 7,500 square feet in area, and no variations are requested as part of the petition.

Ms. Backensto concluded by noting that the proposed three-lot subdivision meets the requirements for an Administrative Plat of Resubdivision and, as such, can be approved by staff.

Chairperson Ryan opened the public hearing for discussion and questions by the Plan Commission.

Commissioner Burke made a motion for approval of the petition, which was seconded by Commissioner Olbrysh.

After due consideration of the petition and the testimony presented, the Plan Commission found that the petition complies with the standards required by the Lombard Zoning Ordinance. Therefore, the Plan Commission, by a roll call vote of 4-0, recommended to the Corporate Authorities **approval** of the petition associated with PC 05-22.

Respectfully,

VILLAGE OF LOMBARD


Donald F. Ryan
Lombard Plan Commission

att-

c. Petitioner
Lombard Plan Commission

VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT

TO: Lombard Plan Commission

HEARING DATE: June 20, 2005

FROM: Department of
Community Development

PREPARED BY: Jennifer Backensto, AICP
Planner I

TITLE

PC 05-22; 1703 S. Main Street: The petitioner is requesting that the Village take the following actions on the subject property:

1. Approve an Annexation Agreement;
2. Annex the property into the Village of Lombard; and
3. Approve a map amendment to rezone the property from the R1 Single-Family Residence District to the R2 Single-Family Residence District.

GENERAL INFORMATION

Petitioner/Contract Purchaser: Gerardi & Sons Development, Inc.
170-A Alexandra Way
Carol Stream, IL 60188

Property Owner: James & Patricia Schweihs
1703 S. Main Street
Lombard, IL 60148

PROPERTY INFORMATION

Existing Land Use: Single-family residence

Size of Property: 26,400 sq. ft. (0.61 acres)

Comprehensive Plan: Recommends Estate Residential

Existing Zoning: DuPage County R-4 Single-Family Residence District

Surrounding Zoning and Land Use:

North: R2 Single Family Residence District – single-family homes

South: DuPage County R-4 Single-Family Residence District and R2 Single Family Residence District – single-family homes

East: R2 PD Single Family Residence District Planned Development – currently developed as single-family homes and to be redeveloped as the Yorkshire Woods single-family subdivision

West: R2 Single Family Residence District – single-family homes

ANALYSIS

SUBMITTALS

This report is based on the following documents filed with the Department of Community Development on May 26, 2005:

1. Petition for Public Hearing.
2. Response to Standards.
3. Topographic Survey prepared by Gentile & Associates and dated March 16, 2005.
4. Plat of Annexation, prepared by Gentile & Associates and last revised May 23, 2005.
5. Preliminary Plat of Resubdivision for Gerardi's 17th Street & Main Street Resubdivision, prepared by Gentile & Associates and last revised May 23, 2005.

DESCRIPTION

The petitioner is proposing a three-lot subdivision at the southeast corner of 17th Street and Main Street, immediately east of the Yorkshire Woods Planned Development. The petitioner requests that the properties be rezoned to the R2 Single-Family Residence District.

INTER-DEPARTMENTAL REVIEW COMMENTS

Fire and Building

The Fire Department/Bureau of Inspectional Services has no comments at this time.

Engineering – Public Works

The Public Works Engineering Division has the following comments related to drainage, utilities and the public right-of-way:

1. Sanitary sewer will have to be run to service these lots. As part of the Yorkshire Woods Subdivision a sanitary sewer is proposed to run across Main St. and down 17th Street, which would be able to service the two lots facing 17th St. A manhole will need to be set at the

Southeast corner of Main St. and 17th St. on the sanitary sewer line proposed by Yorkshire Woods in order to allow for the connection of the new sanitary sewer which will extend south to service the lot that will face Main St.

2. There is existing watermain that will be able to service all three lots.
3. Side and rear yard swales shall be designed to pitch run off to the right-of-way on Main St. and 17th St. These side and rear yard swales shall pick up stormwater discharge from the downspouts and the sump pumps.
4. Sidewalk will be required along the full frontage of both Main St. and 17th St. right-of-ways.
5. A retaining/landscape wall may be required for the lot facing Main St. in order to maintain the maximum pitch allowed for a driveways and aprons.

Engineering – Private Engineering

The Private Engineering Services Division has no comments on this petition.

Utilities

The Utilities Division of the Department of Public Works has no comments.

Planning

Compatibility with the Comprehensive Plan

The Comprehensive Plan calls for this area to be developed as Estate Residential (four units per acre). The petitioner's site plan proposes three single-family residential units on 0.61 acres, which is equivalent to 4.95 units per acre.

Compatibility with the Surrounding Land Uses

The proposed single-family subdivision is compatible with the existing single family residences surrounding the site. The lots on 17th Street will be nearly identical to those on the north side of the street and the average lot area of 8,800 square feet exceeds the minimum R2 requirement. Staff finds that the proposed development is compatible with adjacent land uses.

Compatibility with the Zoning Ordinance

Upon annexation to the Village, properties are automatically classified as R1 Single-Family Residential properties. The petitioner is requesting a map amendment to zone the properties into the R2 District.

Staff finds that this amendment can be supported as the abutting residences to the north, east and west of the project are or will be zoned R2. (See **Appendix A.**) The zoning designation would be compatible with the adjacent residential properties and would be consistent with past zoning actions and the trend of development for properties abutting the subject property. The proposed lots meet

the R2 minimum requirements of 60 feet in width and 7,500 square feet in area, and no variations are requested as part of the petition.

It is noteworthy that this property and two other lots south of the subject property are currently eligible for forcible annexation. If the Village chose to annex these properties, it is likely that the Village would rezone all of the properties to the R2 District to maintain consistency with the surrounding neighborhood. This would be in keeping with the 2003 annexation and rezoning of the properties at 1605-1621 S. Main Street.

Compatibility with the Subdivision and Development Ordinance

The proposed three-lot subdivision meets the requirements for an Administrative Plat of Resubdivision and, as such, can be approved by staff.

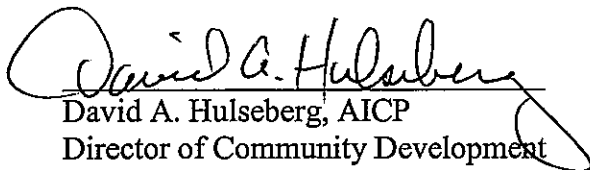
FINDINGS AND RECOMMENDATIONS

Based on the above findings, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion recommending **approval** of this petition:

Based on the submitted petition and the testimony presented, the requested relief complies with the standards required by the Lombard Zoning Ordinance; and,

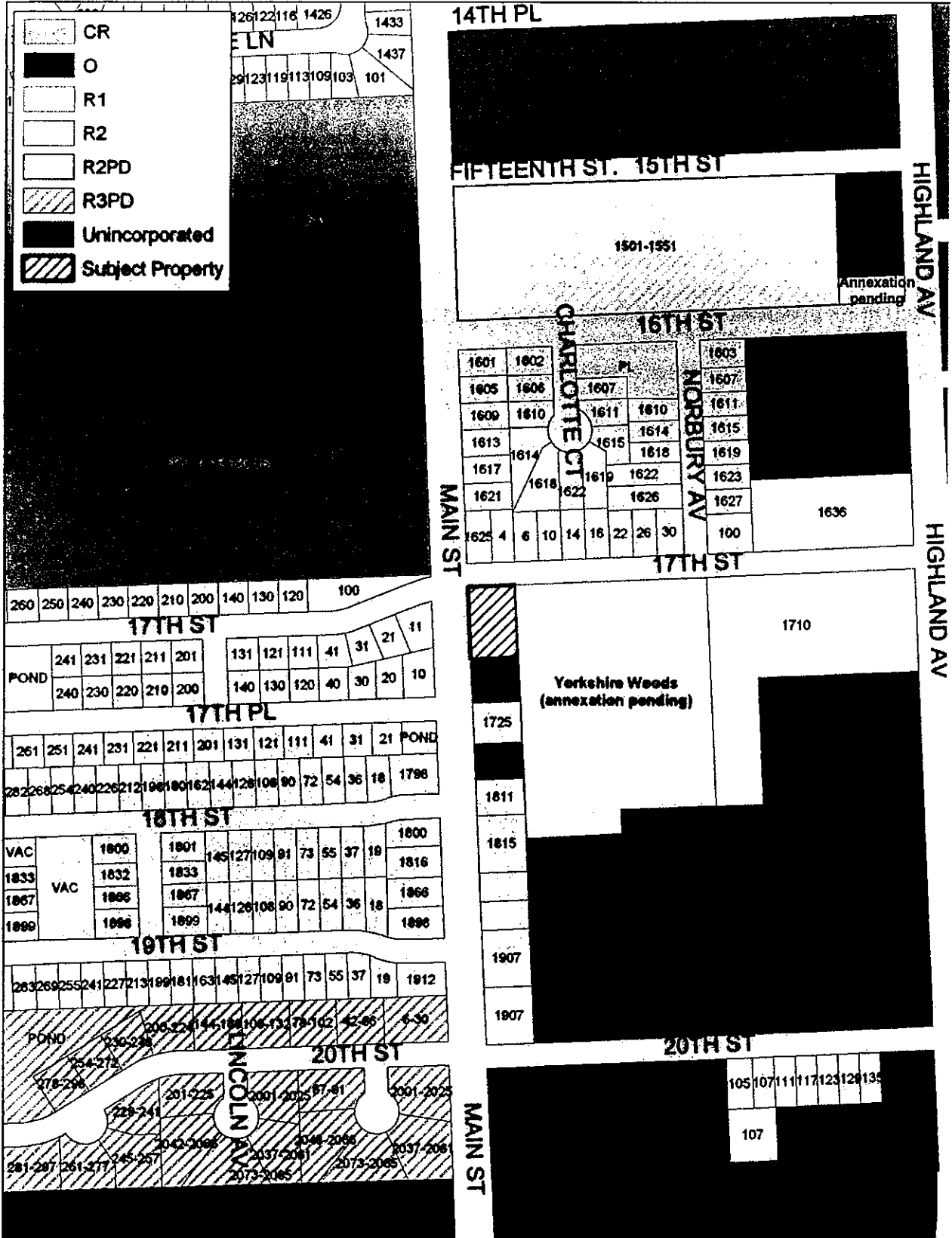
Therefore, I move that the Plan Commission accept the findings and recommendations of the Inter-Departmental Report as the findings of the Plan Commission and I recommend to the Corporate Authorities **approval** of PC 05-22.

Inter-Departmental Review Group Report Approved By:


David A. Hulseberg, AICP
Director of Community Development

DAH:JB;jd

Appendix A – Surrounding Zoning



Location Map

PC 05-22: 1703 S. Main Street



17th & Main Street - 3 Lot Subdivision Narrative

Gerardi & Sons Development, Inc., as represented by Peter Gerardi & Ray Kacirek, has effective control of approximately 0.61 acres of land contiguous to Lombard located at the southeast corner of 17th Street & Main Street. We propose to develop this single parcel into a 3-lot subdivision for single family homes. The development review process will include subdivision, re-zoning and annexation reviews.

Subdivision: The subdivision will consist of 3 single family homes which average 8800 square feet. The two northerly lots abut 17th Street and are proposed to have their main frontage and access onto 17th Street. The southerly lot is proposed to have access onto Main Street. The proposed subdivision is considered a minor subdivision and according to the Village Ordinance (and the DuPage County Storm water Ordinance) no storm water control is proposed. As sanitary sewer distribution system is limited in this area, approximately 170 lineal feet of sanitary sewer will be extended south from a proposed Village sewer on 17th Street to service Lot 3. Sidewalk and parkway trees are proposed along the parkways of both 17th Street and Main Street.

Variations: There are no variations requested as part of this proposal. This zoning is requested to comport with the surrounding land uses which mainly consist of the R-2 designation in Lombard.

Re-Zoning: The parcel in question is currently outside the Village limits. We are requesting this subdivision to be zoned R-2, Single Family Residential

Annexation: All of this project is currently outside the Village and therefore must be annexed in order to be developed as planned.

17th & Main Street – Standards for R-2 Single Family Residential Written Responses to Standards

Village of Lombard Zoning Regulations Sections 155.406 (A through F)

- A. Purpose Statement
This 3-lot subdivision will accommodate similar single-family neighborhoods that surround the proposed development.

- B. Permitted Uses
The proposed lot will be utilized for permitted detached single family dwellings.

- C. Conditional Uses
There are no conditional uses proposed with this development.

- D. Minimum Lot Area
The minimum lot area of this district (7,500 square feet) will be exceeded. The average lot size is 8,800 SF which equates to 5.0 DU/AC.

- E. Minimum Lot Width
The minimum lot width of the 3 proposed lots is 62' and the lots average 65.7 feet.

- F. Minimum Building Setbacks
All lots shall meet minimum setbacks from property lines in conformance with applicable codes.

17th & Main Street - 3 Lot Subdivision
Lot Data
May 25, 2005

LOT NUMBER	SQ. FT.	LOT WIDTH
1	9,450	70'
2	8,370	62'
3	8,580	65'
TOTAL	26,400	
AVERAGE	8,800	

Data Provided by Peter Gerardi, P.E. of Gerardi and Sons Development, Inc.

ORDINANCE _____

AN ORDINANCE AUTHORIZING THE
EXECUTION OF AN ANNEXATION AGREEMENT

(PC 05-22: 1703 S. Main Street)

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 properties located at 1703 S. Main Street, 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 July 21, 2005.

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 hereby 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 1703 S. Main Street, Lombard, Illinois containing 0.61 acres more or less and legally described as follows:

THE NORTH 200 FEET OF TRACT 30 IN FRED'K H. BARTLETT'S
HILLSDALE FARMS SUBDIVISION, BEING A SUBDIVISION OF THE

WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 20, AND THE EAST 50 FEET OF THE EAST HALF OF THE SOUTHEAST QUARTER IF SECTION 19, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 22, 1941 AS DOCUMENT 422592, IN DUPAGE COUNTY, ILLINOIS.

Parcel Index Numbers: 06-20-301-001

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 _____, 2005.

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

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

Ayes: _____

Nays: _____

Absent: _____

Approved this _____, day of _____, 2005.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

Space above reserved for Recorder's use

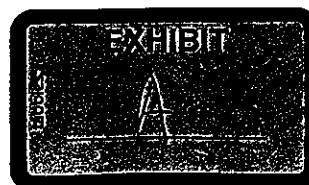
**ANNEXATION AGREEMENT DATED _____, 2005
FOR
GERARDI'S 17TH STREET & MAIN STREET RESUBDIVISION,
LOMBARD, IL**

Parcel No.: 06-20-301-001

Common Address: 1703 S. Main Street, Lombard, Illinois 60148

AFTER RECORDING RETURN TO:

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



**GERARDI'S 17TH STREET & MAIN STREET RESUBDIVISION
ANNEXATION AGREEMENT**

THIS ANNEXATION AGREEMENT (the "Agreement") is made and entered into this _____ day of _____, 2005, by and between the **VILLAGE OF LOMBARD**, an Illinois municipal corporation (hereinafter referred to as "Village"); _____ (hereinafter collectively referred to as "Owner"); and _____, an Illinois corporation (hereinafter referred to as "Developer").

WITNESSETH:

WHEREAS, the Owner is the record owner of the property legally described in EXHIBIT A, attached hereto and made a part hereof (hereinafter referred to as the "Subject Property"); and

WHEREAS, Developer 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 and the Owner and the Developer desire to have the Subject Property annexed to the Village and each of the parties desires to obtain assurances from the other as to certain provisions of the zoning and other ordinances of the Village for the Subject Property when the same 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 approximately 0.61 acre parcel of land and there are two (2) electors residing thereon; and

WHEREAS, all owner(s) of record of the Subject Property, and at least 51% of the electors residing thereon have signed a Petition for Annexation of the Subject Property to the Village, which Petition is hereinafter referred to as the "Annexation Petition"; and

WHEREAS, an application has heretofore been filed with the Village Clerk for zoning of the Subject Property as R2 Single Family Residence District; and

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

WHEREAS, a public hearing was held on June 20, 2005, for the purpose of considering whether the Subject Property should be rezoned, upon its annexation, from the R-1 Single Family

Residence District to the R-2 Single Family Residence District under the Lombard Zoning Ordinance (Chapter 155 of the Lombard Village Code hereinafter the "Zoning Ordinance"), and the Plan Commission has submitted to the Corporate Authorities of the Village (hereinafter referred to as the "Corporate Authorities") its findings of fact and recommendations with respect to said application; and

WHEREAS, a public hearing on this Annexation Agreement ("Agreement") has been held by the Corporate Authorities on the 21st day of July, 2005; and

WHEREAS, the parties wish to enter into a binding agreement with respect to the said annexation, zoning and development 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, 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, the Owner, and the Developer deem it 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 single-family residential use by the Developer 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; and

NOW THEREFORE, in consideration of the premises and the mutual promises herein set forth, the parties hereto agree as follows:

1. **Incorporation of Recitals**: The Village and Owner agree that the foregoing recitals are incorporated in this Agreement as if fully recited herein.

2. **Development of Subject Property:** Village, Owner, and Developer agree that 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 document is labeled as preliminary, the final documents shall be in substantial compliance with the preliminary documents attached hereto and subsequent to final subdivision plat approval by the Village.
3. **Annexation:** Subject to the provisions of Article 7 of Act 5 of Chapter 65 of the Illinois Compiled Statutes, the parties agree to do all things necessary or appropriate to cause the Subject Property to be duly and validly annexed to the Village as promptly as practicable after the execution of this Agreement. The parties shall cause such annexation to be effected pursuant to the provisions of Section 5/7-1-8 of Act 5 of Chapter 65 of the Illinois Compiled Statutes.
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 entire Subject Property from the R1 Single-Family Residence District to the R2 Single-Family Residence District under the Zoning Ordinance.
5. **Plat of Subdivision:** The Village agrees to approve a preliminary and final plat of subdivision of the Subject Property substantially in conformance with the plat attached hereto as EXHIBIT B and made a part hereof.
6. **Contributions:** There shall be no requirement for Owner and/or Developer to make any contributions to elementary school, middle school, high school, park, library or other service districts.
7. **Consent to Creation of a Special Assessment or Special Service Area:** Owner and Developer agree that they will not object to the creation of a Special Assessment or Special Service Area 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) or Special Service Area(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.
8. **Fees:** In consideration of the impact of the development of 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 and/or Developer agree to pay the following

fees to the Village in connection with the annexation, zoning and development of the Subject Property.

- A. Plat recording fees in the amount of \$125.00 paid at the time of the submittal of the plat of subdivision to the Village for approval.
- B. Glenbard Wastwater Authority fee in the amount of \$973.00 per connection to be paid at time of approval of the associated building permit connection(s).

In addition to these fees, the Owner and/or Developer agree to pay all applicable permit (including, but not limited to building permit) and utility connection fees as required by Village Ordinances at the time of application for the respective permits. Owner and Developer further agree that the connection charges and fees 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.

- 9. **Annexation to Lombard Park District:** The Owner agrees to petition the Lombard Park District to have the Subject Property annexed to the Lombard Park District upon its annexation to the Village.
- 10. **Fire District:** By operation of law and in accordance with Illinois Compiled Statutes Chapter 70, Section 705/20, the Subject Property shall be disconnected from the Glenbard Fire Protection District at no cost to the Village. The Village agrees to cooperate with the Developer in the disconnection. The Developer agrees to be responsible for the disconnection and shall reimburse the Village for any funds expended by the Village, including, but not limited to any legal fees and litigation costs, relative thereto.
- 11. **General Provisions:**
 - A. **Notices:** Notice or other writings which any party is required to, or may wish to, serve upon any 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:

- (1) 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

(2) If to the Owner/Developer: Gerardi & Sons Development, Inc.
170-A Alexandra Way
Carol Stream, IL 60188

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

- B. Binding Agreement:** This Agreement shall inure to the benefit of and shall be binding upon Owner's and Developer's 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.
- 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 11R below.
- D. Remedies:** The Village and Owner and Developer, and their respective successors and assigns, covenant and agree that in the event of default of any of the terms, provisions or conditions of this Agreement by any party, or their respective successors or assigns, which default exists uncorrected for a

period of ten (10) days after written notice to any 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 respective successor or successors in title.

- E. **Conveyances:** Nothing contained in this Agreement shall be construed to restrict or limit the right of Owner and/or Developer to sell or convey all or any portion of the Subject Property, whether improved or unimproved.
- F. **Survival of Representations:** 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.
- G. **Captions and Paragraph Headings:** The captions and paragraph headings used herein are for convenience only and are not a part of this Agreement and shall not be used in construing it.
- H. **Reimbursement of Village for Legal and Other Fees and Expenses:**
- (1) **To Effective Date of Agreement:** The Owner and/or Developer 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 expense.

- (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 and/or Developer from time to time shall promptly reimburse Village for all reasonable expenses and costs incurred by Village in the administration of this Agreement, including engineering fees, attorneys' fees and out-of-pocket expenses involving various and sundry matters such as, but not limited to, preparation and publication, if any, of all notices, resolutions, ordinances and other documents required hereunder, and the negotiation and preparation of letters of credit and escrow agreements to be entered into as security for the completion of public improvements.

Such costs and expenses incurred by Village in the administration of the Agreement shall be evidenced to the Owner and/or Developer upon its request, by a sworn statement of the Village; and such costs and expenses may be further confirmed by the Owner and/or Developer from additional documents designated from time to time by the Owner and/or Developer relevant to determining such costs and expenses.

Notwithstanding the foregoing, Owner and/or Developer 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.

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 and/or Developer, 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 and/or Developer 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 sole 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 and/or Developer 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.

- (3) In the event the Village institutes legal proceedings against Owner or Developer 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 or Developer 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 or Developer may, in its sole discretion, appeal any such judgment rendered in favor of the Village against Owner or Developer.

- I. **No Waiver or Relinquishment of Right to Enforce Agreement:** Failure of any 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 party 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.
- J. **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.

- K. **Recording:** A copy of this Agreement and any amendments thereto shall be recorded by the Village at the expense of the Owner and Developer.
- L. **Authorization to Execute:** The individuals on behalf of the Owner and Developer executing this Agreement warrant that they have, to the extent applicable and necessary, been lawfully authorized by Owner's and Developer's respective Boards of Directors to execute this Agreement on behalf of said Owner and Developer. The President and Clerk of the Village hereby warrant that they have been lawfully authorized by the Village Board of the Village to execute this Agreement. The Owner and Developer 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.
- M. **Amendment:** This Agreement sets forth all the promises, inducements, agreements, conditions and understandings between the Owner and Developer 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.
- N. **Counterparts:** This Agreement may be executed in two (2) or more counterparts, each of which taken together, shall constitute one and the same instrument.
- O. **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.
- P. **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.
- Q. **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.

- R. **Term of Agreement:** This Agreement shall be in full force and effect for a term of twenty (20) years from and after the date of execution of this Agreement.

- S. **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: _____
Village President

Village Clerk

DATED: _____

DEVELOPER:

ATTEST:

By: _____
Its _____

DATED: _____

OWNER:

ATTEST:

By: _____
Its _____

DATED: _____

OWNER:

ATTEST:

By: _____
Its _____

DATED: _____

SCHEDULE OF EXHIBITS

EXHIBIT A: Legal Description of Subject Property

EXHIBIT B: Preliminary Plat of Subdivision

EXHIBIT A

LEGAL DESCRIPTION OF SUBJECT PROPERTY

THE NORTH 200 FEET OF TRACT 30 IN FRED'K H. BARTLETT'S HILLSDALE FARMS SUBDIVISION, BEING A SUBDIVISION OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 20, AND THE EAST 50 FEET OF THE EAST HALF OF THE SOUTHEAST QUARTER IF SECTION 19, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 22, 1941 AS DOCUMENT 422592, IN DUPAGE COUNTY, ILLINOIS.

Parcel Numbers: 06-20-301-001

Annexation Agreement
1703 S. Main Street
Page 18

EXHIBIT B

**PLAT OF SUBDIVISION FOR 1703 S. MAIN STREET
(GERARDI'S 17TH STREET & MAIN STREET RESUBDIVISION)**

ORDINANCE _____

AN ORDINANCE ANNEXING CERTAIN TERRITORY
TO THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS

(PC 05-22: 1703 S. Main Street)

(See also Ordinance No.(s) _____)

WHEREAS, a written petition, signed by the legal owners and electors of record of all land within the territory hereinafter described, has been filed with the Village Clerk of the Village of Lombard, DuPage County, Illinois, requesting that said territory be annexed to the Village of Lombard; and,

WHEREAS, the said territory is not within the corporate limits of any municipality, but is contiguous to the Village of Lombard; and,

WHEREAS, all notices of said annexation, as required by (Chapter 65 ILCS 5/7-1-1), have been given to the appropriate parties in a timely manner as required by Statute (copies of said Notices being attached hereto as Exhibit "A", and made part hereof).

WHEREAS, it is in the best interest of the Village of Lombard that said territory be annexed thereto.

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 territory described in Section 2 below be and the same is hereby annexed to the Village of Lombard, DuPage County, Illinois, pursuant to (Chapter 65 ILCS 5/7-1-8).

SECTION 2: This ordinance is limited and restricted to the property indicated on the attached Plat of Annexation attached hereto as Exhibit "B", and generally located at 1703 S. Main Street, Lombard, Illinois containing 0.61 acres more or less and legally described as follows:

THE NORTH 200 FEET OF TRACT 30 IN FRED'K H. BARTLETT'S HILLSDALE FARMS SUBDIVISION, BEING A SUBDIVISION OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 20, AND THE EAST 50 FEET OF THE EAST HALF OF THE SOUTHEAST QUARTER IF SECTION 19, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 22, 1941 AS DOCUMENT 422592, IN DUPAGE COUNTY, ILLINOIS.

Parcel Index Numbers: 06-20-301-001

SECTION 3: The new boundary of the Village of Lombard shall extend to the far side of any adjacent rights-of-way, and shall include all of every right-of-way within the area annexed hereby.

SECTION 4: The Village Clerk is hereby directed to record with the Recorder of Deeds and to file with the County Clerk, a certified copy of this Ordinance, and the original Plat of Annexation.

SECTION 5: This ordinance shall be in full force and effect from and after its passage and approval as provided by law.

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

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

Passed on second reading this ____ day of _____, 2005.

Ayes: _____

Nayes: _____

Absent: _____

Ordinance No. _____
Re: PC 05-22 Annexation
Page 3

Approved this ____ day of _____, 2005.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

ORDINANCE _____

**AN ORDINANCE APPROVING A MAP AMENDMENT (REZONING)
TO THE LOMBARD ZONING ORDINANCE
TITLE XV, CHAPTER 155 OF THE CODE OF LOMBARD, ILLINOIS**

(PC 05-22: 1703 S. Main Street)

(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 XV, Chapter 155 of the Code of Lombard, Illinois; and,

WHEREAS, an application has heretofore been filed requesting a map amendment for the purpose of rezoning the property described in Section 2 hereto from the R1 Single-Family Residence District to R2 Single-Family District; and,

WHEREAS, a public hearing thereon has been conducted by the Village of Lombard Plan Commission on July 21, 2005 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 rezoning 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 Title XV, Chapter 155 of the Code of Lombard, Illinois, otherwise known as the Lombard Zoning Ordinance, be and is hereby amended so as to

rezone the property described in Section 2 hereof from the R-1 Single-Family Residence District to the R-2 Single-Family Residence District.

SECTION 2: This ordinance is limited and restricted to the property generally located at 1703 S. Main Street, Lombard, Illinois and legally described as follows:

THE NORTH 200 FEET OF TRACT 30 IN FRED'K H. BARTLETT'S HILLSDALE FARMS SUBDIVISION, BEING A SUBDIVISION OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 20, AND THE EAST 50 FEET OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 19, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 22, 1941 AS DOCUMENT 422592, IN DUPAGE COUNTY, ILLINOIS.

Parcel Index Numbers: 06-20-301-001

SECTION 3: That the official zoning map of the Village of Lombard be changed in conformance with the provisions of this 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 _____, 2005.

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

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

Ayes: _____

Nays: _____

Ordinance No. _____
Re: PC 05-22 Map Amendment
Page 3

Absent: _____

Approved this _____ day of _____, 2005.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk