

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: William T. Lichter, Village Manager

DATE: February 26, 2008 (BOT) Date: March 6, 2008

TITLE: PC 08-01: 1041 E. St. Charles

SUBMITTED BY: Department of Community Development *John*

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests conditional use approval for Contractor construction offices, shops, and yard within the B4 Corridor Commercial District. (DISTRICT #5)

The Plan Commission recommended denial of this petition.

Please place this item on the March 16, 2008 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X	_____	Date	_____
Finance Director X	_____	Date	_____
Village Manager X	_____	Date	2/27/08

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, Asst. Village Manager / Dir. of Community Development *DLH*

**DATE:** March 6, 2008

**SUBJECT:** PC 08-01: 1041 E. St. Charles Road

At the February 7, 2008 Village Board meeting, the Board remanded PC 08-01 back to the Plan Commission to allow the petitioner's counsel to provide additional information regarding the petition in a public hearing format. The Plan Commission considered the information at its meeting on February 18, 2008. In consideration of the additional information and staff's response to the petitioner's request, the Plan Commission unanimously recommended denial of the petition.

In addition to the previously provided reports and documents, attached for Village Board's reference are copies of the following information:

1. The petitioner's binder containing information prepared for the Plan Commission;
2. Correspondence from a neighboring resident regarding the petition;
3. An addendum Inter-departmental Review Report for the petition; and
4. A referral letter from the Plan Commission from the February 18, 2008 meeting recommending denial of the petition.

Per Village Counsel direction, specific language regarding the recommendation from denial is included within the March 6 Board agenda itself.



**VILLAGE OF LOMBARD**

255 E. Wilson Avenue  
Lombard, IL 60148-3931  
(630) 620-5700 FAX: (630) 620-8222  
TDD: (630) 620-5811  
www.villageoflombard.org

March 6, 2008

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

**Subject: PC 08-01; 1041 E. St. Charles Road**

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner requests conditional use approval for contractor construction offices, shops and yard within the B4 Corridor Commercial District.

Vice-Chairperson Flint called the order of the agenda. He indicated that this petition was being remanded back to the Plan Commission by the Village Board in order to provide the petitioner the opportunity to provide additional information regarding the petition in a public hearing format.

Steve Johnson, 311 S. County Farm Road, Wheaton, IL, attorney for the petitioner, stated that his client Jose Rodriguez was in attendance with his family and they are asking for a conditional use permit. He stated that the Rodriguez's would like to operate an office for their landscape business at 1041 E. St. Charles Road with a subsidiary use and having two retail spaces that front St. Charles Road and the opportunity to legally park three essential mid-size trucks and one small dump truck with four trailers behind the building in an open area fenced in with an eight-foot tall wooden fencing. He stated that their request is a reasonable one due to the current land uses along St. Charles both in the Village and outside the Village, particularly the Villa Park property across the street, which affords similar, less-obtrusive, uses than the conditional use permit that this petitioner is seeking.

Mr. Johnson added that the trucks are well maintained and not visible to surrounding properties. He stated that the buffering they have presented in their packet would completely visually obscure these trucks from the adjacent property owners. He added that the buffering would also offer protection from any potential for noise affecting adjacent property owners. He stated that the use is limited in that there will be no substantial increase in traffic on to or off of St. Charles Road because the petitioner will be picking up the vehicles at 7:00 a.m. and return them around 5:30 p.m. where they will remain parked overnight.

"Our shared *Vision* for Lombard is a community of excellence working together with residents and business to create a distinctive sense of spirit and an outstanding quality of life."  
"The *Mission* of the Village of Lombard is to provide superior and responsive governmental services to the people of Lombard."

Village President  
William J. Mueller  
Village Clerk  
Brigitte O'Brien  
Trustees  
Greg Alan Cron, Dist. 1  
Richard J. Tross, Dist. 2  
John "Jack" T. O'Brien, Dist. 3  
Dana L. Moreau, Dist. 4  
Laura A. Fitzpatrick, Dist. 5  
Rick Soderstrom, Dist. 6  
Village Manager  
William T. Lichter

Mr. Johnson added that some questioned the snow plowing use. He stated that the snow plow equipment is not being maintained at that site, nor will they ask for it to be maintained at that site. He stated that any snow plowing activities would consist of the petitioner taking their equipment from another site.

He stated that staff recommended denial in their original report and subsequent reply. He added that it fairly comes down to the Plan Commission and Board of Trustees for what he believes is a reasonable use for the petitioner to be able to park the trucks there overnight. He stated that it is absolutely integral to their continuous ownership of the property to be able to park those vehicles there. He added that if they are not able to do that, it would not make sense for them to continue owning the property.

Mr. Johnson stated that their headquarters is proposed to be located out of an office which is in back of the retail space. If they cannot put their vehicles there, they might as well relocate somewhere else. Referring to the petitioner's use in terms of traffic and noise, he stated that the evidence presented both in their written materials and common sense would suggest that the current uses along St. Charles is such that adding traffic caused by his client's business are minor and will not be noticed. He then gave some examples of the other businesses in the area, such as Burger King, which he feels adds much more noise and traffic. Mr. Johnson then made reference to Triumph Motorcycle in Villa Park, which is a retail establishment, but he mentioned that they do allow trailers to be stored. He also made reference to the bus parking lot further to the east in Villa Park that has over 75 buses that are parked there everyday and overnight that exit onto St. Charles Road. He added that the bus depot would generate more noise and traffic than the proposed use. He then made reference to Seamless Cutter to the west - a similarly zoned B4 property that has around 11 large vehicles, behind an eight foot privacy fence as the petitioner is proposing. He stated that he believes the buffer and landscape elements they have would eliminate any foreseeable problem created by this use. He ended by stating that they are asking for the Plan Commission's approval.

Vice-Chairperson Flint then opened the meeting for public comment. There was no one in favor or opposed to the petition.

William Heniff, Senior Planner, presented the addendum staff report and submitted it into the public record. He stated that as the report was finalized the day of the meeting and is in response to the petitioner's submittal that was provided to the Village the Friday before the meeting. As the addendum report was not readily available prior to the meeting, he read the report into the public record and reviewed the major elements in the report.

He stated that the petitioner's latest response includes a detailed discussion of the standards for conditional uses - the criteria set forth within the Zoning Ordinance to determine if such a use is warranted. He noted that the definition included within the Zoning Ordinance specifically notes that not all conditional uses are automatically appropriate within the respective zoning district - such uses must be considered in the context of their proposed location. It is this context that staff offers its comments to each of the petitioner's responses to the standards.

The petitioner noted a number of the existing business establishments located within the East St. Charles Road Corridor. While most of the businesses are within close proximity to the subject property and therefore relevant to the petitioner's discussion, the petitioner also mentions the Seamless Gutter property at 601-609 E. St. Charles Road. To ensure that the public record accurately reflects the nature of this site, in context to the subject property, staff notes the following:

1. Seamless Gutter is located almost 2,500 feet (0.47 miles) from the subject property.
2. The 601-609 E. St. Charles Road property was developed prior to annexation into the corporate limits of the Village is the 1960s.
3. It was zoned M-1 (manufacturing District) until the 1980s. A comprehensive map amendment reclassified the property into the current B4 District. Therefore, Seamless Gutter is a legal nonconforming use and activity.
4. While currently zoned B4, it abuts industrially zoned property.
5. The St. Charles Road Corridor Ad-Hoc Report also notes that the properties within the 600 block of East St. Charles Road were different in nature than the 1100 block.

If the intent was to identify all uses on the south side of St. Charles Road identified within the ad-hoc report, the petitioner failed to identify other existing uses such as a party goods store, a florist, a gas station, an electrician's office, an auto dealership, an insurance office building, a legal nonconforming parking lot, a hobby store, a fast-food restaurant and parks/open space. However, staff asserts the properties west of Westmore-Meyers Road are fundamentally different than the properties east of Westmore-Meyers Road (as identified within the Ad-Hoc Report) and should not be readily considered in the discussion about use applicability in this instance.

The petitioner's introductory response discussed how the business would be operated to minimize impacts, including providing new fencing and regulating operations on-site. However, with respect to regulating when the petitioner's trucks and equipment can enter and exit the property is a very difficult tool to regulate and would require significant monitoring and enforcement.

Mr. Heniff then noted each of the standards and staff's response. The petitioner notes that the majority of the building will be occupied by two storefront retail uses, one of which is vacant. Staff has no issue with those tenant spaces. The matter at hand is the proposed third business use and activity on the site. The Zoning Ordinance states that each use on a given property must be operated in a manner consistent with Village Code, not the majority of the property or square footage of a tenant space. Moreover, as the storefront is a tailor shop, it cannot be argued that that use is the principal use and the landscape contractor's office, shop and yard is the ancillary activity as the two are unrelated in use.

The petitioner notes that the office space on the subject property is about 100 square feet in size. As no Certificate of Occupancy/Zoning Certificate was applied for, staff cannot independently confirm whether the office space size or whether it meets all provisions Village code. However, when viewed in the context of what exactly is the principal use of the property, staff asserts that the yard function consisting of storage of vehicles and equipment is the predominant land use of the business, and not the 100 square foot office use.

Staff noted in the initial Inter-departmental Review Report that "the surrounding properties along St. Charles Road are retail commercial in nature, which by design are intended to service the local and community shopping needs of the community." While the petitioner refuses this item, staff uses the term "retail" to distinguish it from "wholesale" businesses, which are typically found in office or industrial districts. As the petitioner notes as well, the corridor is developed with a number of storefront establishments providing a wide variety of goods and services. Staff notes that these uses and activity are retail in nature as most of these businesses rely on customers traveling to the respective properties or their office presence is the predominant use of the site.

Referencing the Superior Chimney site, he noted that that business does have a few vans for their business operations. They are parking in the front as they do not have legal access to the rear of their property. Their business activity on the subject property is distinguished from the petitioner's proposed use as their principal use is office in nature. By working with Village staff, they have eliminated any outdoor storage functions and activities, which also distinguishes their use from the petitioner's use.

The petitioner's primary response to this standard described the business use, with representations on how they propose to minimize the impacts on the adjacent properties. Most of this description states the extent of their business operations and is generally consistent with the testimony provided at the initial public hearing. However, their claim that their use does not create any significant noise is challenged by an objector to the petition. From staff's perspective, we review the requested use in its entirety (considering noise, visual impacts, use impacts, and compatibility with adjacent uses and the Plan) and offer a recommendation as to whether the use is appropriate at a given location. As noted in earlier testimony staff does not support the request and believes this standard has not been met.

Mr. Heniff stated that staff recognizes the petitioner's existing fencing and proposed improvements, however, staff restates that such fencing places an at-grade visual barrier and does not address other impacts of such uses or activities, including additional truck traffic and noise.

Mr. Heniff noted that the petitioner represented that he is not operating a contractor's yard. However, staff notes that if the use is not a contractor's yard, then it is unclear as to what the use actually is and whether it could be permitted at all within the B4 District. Staff believes that the contractor's construction office, shop and yard use, while not specifically defined within the Ordinance, is the closest use listed within the Zoning Ordinance to describe the petitioner's use. Staff notes that the B4 and I District provide for parking of motor vehicles as a principal use is a permitted use and as a conditional use in the B5 District, but that use has been interpreted to reference larger vehicle storage lots like Enterprise Rent-a-Car or for general parking purposes, such as commuter parking, and not businesses that are using the spaces to as a storage/staging area. As noted previously by staff, the properties located to the south of the Great Western Trail are strictly residential and any noise or general disturbances could directly affect those properties. The adjacent property to the north, which is located in Villa Park, has multiple motor vehicles located on the property; however, those vehicles are for retail sale, resulting in a commercial land use

distinction. Staff notes that some of the aerial photographs depict properties within Villa Park and as such are not regulated by the Village of Lombard. However, staff does not believe that denoting compatibility with properties in an adjacent municipality automatically makes the argument that the Village of Lombard should approve the petition based upon this standard.

Mr. Heniff stated that the petitioner references that they met this infrastructure standard based upon the comments provided by the Engineering Division. However, it would not be correct to state that all necessary infrastructural improvements have already been provided. To the contrary, the rear of the property is currently unimproved and is either grass or gravel in nature. Should the petition be approved, the petitioner would be required to pave the rear of the property, per the submitted plans. This plan will also require the petitioner to meet the stormwater drainage provisions of Village Code and of the DuPage County Development and Stormwater Ordinance. Stormwater detention may need to be provided on-site, either in the form of a vault detention or detention facility. If the stormwater run-off is directed to the rear of the property, approvals by DuPage County will be required. Regarding traffic access issues, he did not offer any additional comments regarding this provision.

Mr. Heniff stated that the petitioner represented that the proposed use is in compliance with the Zoning Ordinance, the Comprehensive Plan and the St. Charles Road Ad-hoc Plan, but does not state how this is the case. He noted that neither document specifically references that landscape contractor's yards are desirable land uses within the East St. Charles Road Corridor. He also noted that the Comprehensive Plan established a policy within the plan that "Commercial areas should not adversely impact adjacent residential areas."

In the initial IDRC Report, staff noted that the Comprehensive Plan defines Community Commercial as a commercial area, which provides services extending beyond daily living needs and includes comparison-shopping goods. This area was also reviewed as part of the East St. Charles Road corridor plan in 1999. The Plans advise that the property be developed to include retail, commercial and office uses. The proposed use includes a contractor's yard with an ancillary (100 sq. ft.) office, lacking any retail use or principal office component. The primary land use does not consist of a retail component, and as such would be more consistent with a light industrial land use. Therefore, the use would be inconsistent with the Comprehensive Plan, as it clearly defines the subject property to be designated for commercial uses. As such, given that the petitioner has not offered testimony denoting compliance with the Plan and as staff offers testimony to the contrary, staff believes the standard has not been met. He believes that the proposed use could not be sufficiently conditioned to alleviate the negative impact of the use on the Corridor and the adjacent properties.

Mr. Heniff then discussed the LaSalle Factors. These factors are commonly relied upon by Illinois courts in reviewing municipal zoning decisions, when a zoning decision is challenged to be so unreasonable that it would be considered unconstitutional. They can also serve as a guide to the Village officials in considering the merit of evidence presented at the hearing.

As noted within the staff report and in previous testimony, the subject property and the St. Charles Road corridor is zoned B4 Corridor Commercial District. South of the subject property is the



Great Western Trail and single family detached and attached residences, located within residentially zoned districts. There are no industrially zoned properties within the Village along St. Charles Road east of Westmore-Meyers Road. Staff further notes that there are no contractor yards (legally established or otherwise) nor any business establishment in which the primary business activity is the parking and storage of vehicles located along East St. Charles Road within the corporate limits of the Village. Therefore, staff asserts that as the petitioner has not demonstrated that the use is compatible with the zoning of nearby property, this factor has not been met.

He noted that the B4 zoning is appropriate for the corridor. The corridor is improved with a mix of retail and service commercial uses. While St. Charles Road is not a higher-volume roadway, few vacancies exist within the corridor east of Westmore-Meyers Road. This observation is important as it demonstrates that the existing zoning regulations have resulted in a corridor that has been economically viable and the B4 zoning has not impacted the ability of businesses to grow and thrive in the corridor. Therefore, staff asserts that as the petitioner has not provided any testimony noting that without approval of the petition that the property values would be negatively impacted and staff notes that other business properties within the corridor have been able to successfully operate, this factor has not been met.

He stated that the B4 District provides for a wide variety of commercial uses. Staff notes that a denial of the petition would still afford the property owner with a significant and substantial ability to locate an alternative permitted land use on the subject property. Staff further notes that the existing contractor's use should not be considered a loss of use, as the petitioner never applied for or received a Certificate of Occupancy/Zoning Certificate for the use of the subject property and was therefore never legally established as a permitted use in the first place. However, as the testimony presented by the public and staff notes, the impacts of such a use cannot be dismissed. Therefore, staff asserts that the loss of the right to operate the intended use is offset by the overall benefits to the public, beyond those limitations of the Zoning Ordinance; this factor has not been met.

He stated that as the subject property is in close proximity to other residential uses, impacts from the landscape contractor's use on the adjacent properties must be recognized. As noted earlier, the B4 District provides for a wide variety of permitted uses that can operate in harmony with the adjacent commercial and residential land uses. The petitioner's request introduces a use activity that is not found within the corridor and would create impacts upon the neighboring residential land uses, as evidenced by the neighboring resident's testimony. Therefore, staff asserts that the benefits received by denying the use would be of overall greater benefit to the public, beyond those limitations of the Zoning Ordinance, this factor has not been met.

He noted that the petitioner has made representations that he purchased the property so that he could store his vehicles and equipment on the subject property. However, when one views his business activity compared to other businesses neighboring the subject property, one does note that the use is operated differently. Staff notes that although the rear portion of the subject property is not improved with buildings and structures, it does not automatically mean that it is an appropriate location for such an activity as proposed by the petitioner. This is evidenced within the staff report

and neighboring testimony. Therefore, staff asserts that as the petitioner has not demonstrated that the proposed use is suitable for the site, this factor has not been met.

He stated that the property has been improved with a principal building and use for decades. In this regard it is no different than any other property east of Westmore-Meyers Road. This petition is to request an additional use to be allowed on the property. Therefore, staff asserts that as no excessive vacancy has existed on the subject property, this factor has not been met.

He noted that the petitioner's landscape contractor use does provide a valuable need to the Lombard community. However, the petitioner's use is no different than other landscape contractor's uses that have been legally established within the community. In this case, the petitioner sought to operate his businesses without receiving appropriate Village approvals. As there are other locations in which the petitioner could meet the standards for conditional uses and/or legally operate the business, staff notes that this factor has not been met.

He then stated that the Village is regularly reviewing all provisions of its existing codes and policy documents. The Village's Comprehensive Plan (1998) and the St. Charles Road Ad-Hoc Report (1999) are two policy documents that reviewed the proposed uses within the corridor. These documents reaffirmed the established zoning district classification and desired uses within the corridor. Moreover, as evidenced by the numerous text amendments considered by the Corporate Authorities of the past decade, the Village regularly reviews its codes to determine the appropriate development regulations within the community. Based on these actions, staff asserts that the Village has properly planned and zoned its land and the factor has not been met and overall, staff recommends denial of the petition.

Vice-Chairperson Flint then opened the meeting for comment among the Commissioners.

Commissioner Sweetser stated that staff has done a thorough outline and documentation of the rationale, more so from the last Plan Commission hearing, and she cannot find anything to disagree with. She added that the solution may lay in the testimony of the petitioner who indicated that the office use was the primary use and parking for other kinds of vehicles is available in the vicinity. She mentioned that perhaps that would be an available option to the petitioner. She then stated that by that very testimony and the fact that the staff report is hard to refute, she was in agreement with staff's recommendation.

Commissioner Olbrysh stated that he agrees with Commissioner Sweetser. He added that staff did a good analysis. He stated that he has no problem with the petitioner's business, but it is just not the right location. He referred to Tab 9 of the petitioner's submitted information and stated that he was curious if the petitioner attempted to get any signatures of the residents on Kenilworth, which is the street right behind the petitioner's business. He noticed signatures from Grace and Edgewood, neither of which is very near St. Charles. He stated that he was curious as to whether the petitioner tried to get those residents signature and they refused to sign. He suspects that one of the petitioner's strongest arguments would have been to get those neighbors' signatures, not business neighbors.

Mr. Johnson stated that the petitioner had not attempted to get any signatures from the residents on Kenilworth Court because the petitioner doesn't know any of the residents who reside on Kenilworth. He then noted the significant distance between the back of his client's parcel with the 8 foot fence, the Great Western Trail with trees on each side, and the fence on back of those Kenilworth properties. He said that he is unsure of the height of the fences behind those Kenilworth properties, but he believes them to be six feet. He also stated that clearly the noise goes up. He then stated that unfortunately they don't have signatures from people in that area, but they have one person who had a voiced a complaint and his client has obtained eleven people who are in support of their request to the Village.

Commissioner Burke stated that when they first saw this petition it was a difficult decision with a split-decision going to the Board, but when taking the use into consideration in context with the surrounding uses the Plan Commission wasn't looking at it very clearly. He added that the staff report now carries more weight giving a much clearer thought process. He finds staff to be accurate.

Commissioner Burke made the motion to deny the petition and seconded by Vice-Chairperson Flint, stating that based on the findings, the Inter-Departmental Review Committee recommends that the petition as presented along with the supplemental information presented as part of the public hearing process cumulatively does not meet the standards set forth in the Zoning Ordinance and recommends that Plan Commission accept the findings of the Inter-departmental Review Report as the findings of the Plan Commission; and therefore the Plan Commission recommends to the Corporate Authorities denial of PC 08-01. The Plan Commission, by a vote of 4-0 recommended denial of the petition.

Respectfully,

**VILLAGE OF LOMBARD**

Stephen Flint, Vice Chairperson

Lombard Plan Commission

att-

c. Petitioner

Lombard Plan Commission

**VILLAGE OF LOMBARD  
INTER-DEPARTMENTAL REVIEW GROUP REPORT  
APPENDUM REPORT ONE**

**TO:** Lombard Plan Commission  
**FROM:** Department of Community Development  
**PREPARED BY:** William Heniff, AICP Senior Planner  
**HEARING DATE:** February 18, 2008

**TITLE**

**PC 08-01; 1041 E. St. Charles Road:** The petitioner requests conditional use approval for Contractor construction offices, shops, and yard within the B4 Corridor Commercial District.

**ANALYSIS**

**SUBMITTALS**

This report is based on the following information submitted to the public hearing file to date relative to this petition:

1. Petition for Public Hearing.
2. Response to Standards.
3. Plat of Survey, prepared by Preferred Survey, Inc., dated February 17, 2005 (includes site plan created by the petitioner).
4. Referral letter from the Plan Commission referencing the testimony presented and the recommendation of the Plan Commission at its January 28, 2008 meeting.
5. Correspondence received from a neighboring property owner, dated January 21, 2008.
6. Staff memorandum to Plan Commission stating that the petition was being remanded back to the Plan Commission.
7. Petitioner's additional submittal binder (includes additional narrative responding to the standards for conditional uses as well as supplemental information and photographs), prepared by Steve Johnson and Lisa Cursheilas of Langhenery, Gillen & Lundquist, dated February 15, 2008.

**DESCRIPTION**

At the January 28, 2008 Plan Commission public hearing, the Plan Commission voted 3-2 to deny and 3-2 to approve PC 08-01. As there were not four votes in favor of or in opposition to

the petition, it was forwarded to the Village Board with no recommendation. Immediately prior to consideration by the Village Board, the petitioner hired an attorney to represent him in this matter. As his Counsel wanted to be provided the opportunity to provide additional testimony, the Village Board remanded the petition back to the Plan Commission so that the additional information could be provided in a public hearing format. The petitioner's Counsel has submitted a response binder for Plan Commission consideration.

This addendum report is a response to the petitioner's latest request relative to the petition. Please note that this report supplements the previous IDRC report and previous public testimony presented as part of the public hearing process. All previous information and testimony provided as part of the January 28 meeting is still a part of the public record and part of this petition.

### Planning's Response to Petitioner's Additional Materials

The petitioner's latest response includes a detailed discussion of the standards for conditional uses – the criteria set forth within the Zoning Ordinance to determine if such a use is warranted. For reference purposes, staff offers the following definition included within the Zoning Ordinance:

**USE, CONDITIONAL** is a use - either public or private - which, because of its unique characteristics, cannot be properly classified as a permitted use in a particular district or districts. After due consideration, in each case, of the impact of such use upon neighboring land and of the public need for the particular use at the particular location, such "conditional use" may or may not be granted, subject to the terms of this ordinance.

The definition of a conditional use specifically notes that not all conditional uses are automatically appropriate within the respective zoning district – such uses must be considered in the context of their proposed location. It is this context that staff offers its comments to each of the petitioner's responses to the standards below.

### Introduction

The petitioner notes a number of the existing business establishments located within the East St. Charles Road Corridor. While most of the businesses are within close proximity to the subject property (and therefore relevant to the petitioner's discussion), the petitioner also mentions the Seamless Gutter property at 601-609 E. St. Charles Road. To ensure that the public record accurately reflects the nature of this site, in context to the subject property, staff notes the following:

1. Seamless Gutter is located almost 2,500 feet (0.47 miles) from the subject property.
2. The 601-609 E. St. Charles Road property was developed prior to annexation into the corporate limits of the Village is the 1960s.
3. It was zoned M-1 (manufacturing District) until the 1980s. A comprehensive map amendment reclassified the property into the current B4 District. Therefore, Seamless Gutter is a legal nonconforming use and activity.

4. While currently zoned B4, it abuts industrially zoned property.
5. The St. Charles Road Corridor Ad-Hoc Report also notes that the properties within the 600 block of East St. Charles Road were different in nature than the 1100 block.

If the intent was to identify all uses on the south side of St. Charles Road identified within the ad-hoc report, the petitioner failed to identify other existing uses such as a party goods store, a florist, a gas station, an electrician's office, an auto dealership, an insurance office building, a legal nonconforming parking lot, a hobby store, a fast-food restaurant and parks/open space. However, staff asserts the properties west of Westmore-Meyers Road are fundamentally different than the properties east of Westmore-Meyers Road (as identified within the Ad-Hoc Report) and should not be readily considered in the discussion about use applicability in this instance.

The petitioner's introductory response discusses how the business would be operated to minimize impacts, including providing new fencing and regulating operations on-site. However, with respect to regulating when the petitioner's trucks and equipment can enter and exit the property is a very difficult tool to regulate and would require significant monitoring and enforcement.

### Staff's Rebuttal to the Petitioner's Latest Response to Standards

For each of the petitioner's latest responses to standards for conditional uses, staff offers the following:

1. *That the establishment, maintenance, or operation of the conditional use will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare;*

The petitioner notes that the majority of the building will be occupied by two storefront retail uses, one of which is vacant. Staff has no issue with those tenant spaces. The matter at hand is the proposed third business use and activity on the site. The Zoning Ordinance states that each use on a given property must be operated in a manner consistent with Village Code, not the majority of the property or square footage of a tenant space. Moreover, as the storefront is a tailor shop, it cannot be argued that use is the principal use and the landscape contractor's office, shop and yard is the ancillary activity as the two are unrelated in use.

The petitioner notes that the office space on the subject property is about 100 square feet in size. As no Certificate of Occupancy/Zoning Certificate was applied for, staff cannot independently confirm whether the office space size or whether it meets all provisions Village code. However, when viewed in the context of what exactly is the principal use of the property, staff asserts that the yard function consisting of storage of vehicles and equipment is the predominant land use of the business, and not the 100 square foot office use.

Staff noted in the initial Inter-departmental Review Report that "the surrounding properties along St. Charles Road are retail commercial in nature, which by design are intended to service the local and community shopping needs of the community." While the petitioner refutes this item, staff uses the term "retail" to distinguish it from "wholesale" businesses, which are typically found in office or industrial districts. As the petitioner notes as well, the corridor is developed with a number of storefront establishments providing a wide variety of goods and services. Staff notes that these uses and activity are retail in nature as most of these businesses rely on customers traveling to the respective properties or their office presence is the predominant use of the site.

Referencing the Superior Chimney site, staff does note that that business does have a few vans for their business operations. They are parking in the front as they do not have legal access to the rear of their property. Their business activity on the subject property is distinguished from the petitioner's proposed use as their principal use is office in nature. By working with Village staff, they have eliminated any outdoor storage functions and activities, which also distinguishes their use from the petitioner's use.

The petitioner's primary response to this standard is to describe the business use, with representations on how they propose to minimize the impacts on the adjacent properties. Most of this description state the extent of their business operations and is generally consistent with the testimony provided at the public hearing. However, their claim that their use does not create any significant noise is challenged by an objector to the petition. From staff's perspective, we review the requested use in its entirety (considering noise, visual impacts, use impacts, and compatibility with adjacent uses and the Plan) and offer a recommendation as to whether the use is appropriate at a given location. As noted in earlier testimony staff does not support the request and believes this standard has not been met.

*2. That the conditional use will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the neighborhood in which it is to be located;*

Staff recognizes the petitioner's existing fencing and proposed improvements, however, staff restates that such fencing places an at-grade visual barrier and does not address other impacts of such uses or activities, including additional truck traffic and noise.

*3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;*

The petitioner notes that he is not operating a contractor's yard. However, staff notes that if the use is not a contractor's yard, then it is unclear as to what the use actually is and whether it could be permitted at all within the B4 District. Staff believes that the contractor's construction office, shop and yard use, while not specifically defined within the Ordinance, is the closest use listed

within the Zoning Ordinance to describe the petitioner's use. Staff notes that the B4 and I District provide for parking of motor vehicles as a principal use is a permitted use (and as a conditional use in the B5 District), but that use has been interpreted to reference larger vehicle storage lots (like Enterprise Rent-a-Car) or for general parking purposes, such as commuter parking, and not businesses that are using the spaces to as a storage/staging area.

As noted previously by staff, the properties located to the south of the Great Western Trail are strictly residential and any noise or general disturbances could directly affect those properties. The adjacent property to the north, which is located in Villa Park, has multiple motor vehicles located on the property; however, those vehicles are for retail sale, resulting in a commercial land use distinction. Staff notes that some of the aerial photographs depict properties within Villa Park and as such are not regulated by the Village of Lombard. However, staff does not believe that denoting compatibility with properties in an adjacent municipality automatically makes the argument that the Village of Lombard should approve the petition based upon this standard.

*4. That the adequate public utilities, access roads, drainage and/or necessary facilities have been or will be provided;*

The petitioner references that they met this standard based upon the comments provided by the Engineering Division. However, it would not be correct to state that all necessary infrastructural improvements have already been provided. To the contrary, the rear of the property is currently unimproved and is either grass or gravel in nature. Should the petition be approved, the petitioner would be required to pave the rear of the property, per the submitted plans. This plan will also require the petitioner to meet the stormwater drainage provisions of Village Code and of the DuPage County Development and Stormwater Ordinance. Stormwater detention may need to be provided on-site, either in the form of a vault detention or detention facility. If the stormwater run-off is directed to the rear of the property, approvals by DuPage County will be required.

*5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;*

Staff does not offer any additional comments regarding this provision.

*6. That the proposed conditional use is not contrary to the objectives of the current Comprehensive Plan for the Village of Lombard; and,*

The petitioner also notes that the proposed use is in compliance with the Zoning Ordinance, the Comprehensive Plan and the St. Charles Road Ad-hoc Plan, but does not state how this is the case. From staff's perspective we note that neither document specifically references that



landscape contractor's yards are desirable land uses within the East St. Charles Road Corridor. We also note that the Comprehensive Plan established a policy within the plan that "Commercial areas should not adversely impact adjacent residential areas."

In the initial IDR/C Report, staff noted that the Comprehensive Plan defines Community Commercial as a commercial area, which provides services extending beyond daily living needs and includes comparison-shopping goods. This area was also reviewed as part of the East St. Charles Road corridor plan in 1999. The Plans advise that the property be developed to include retail, commercial and office uses. The proposed use includes a contractor's yard with an ancillary (100 sq. ft.) office, lacking any retail use or principal office component. The primary land use does not consist of a retail component, and as such would be more consistent with a light industrial land use. Therefore, the use would be inconsistent with the Comprehensive Plan, as it clearly defines the subject property to be designated for commercial uses. As such, given that the petitioner has not offered testimony denoting compliance with the Plan and as staff offers testimony to the contrary, staff believes the standard has not been met.

7. *That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, shall be modified pursuant to the recommendations of the Plan Commission.*

Staff believes that the proposed use could not be sufficiently conditioned to alleviate the negative impact of the use on the Corridor and the adjacent properties.

### LaSalle Factors

The petitioner asserts that the petition meets the provisions set forth in *LaSalle National Bank v. County of Cook*, 12 Ill. 2d 40, 145 N.E.2d 65 (1957), commonly known as the LaSalle Factors. These factors are commonly relied upon by Illinois courts in reviewing municipal zoning decisions, when a zoning decision is challenged to be so unreasonable that it would be considered unconstitutional. They can also serve as a guide to the Village officials in considering the merit of evidence presented at the hearing.

The LaSalle Factors, with staff commentary, is as follows:

1. *The existing uses and zoning of nearby property;*

As noted within the staff report and in previous testimony, the subject property and the St. Charles Road corridor is zoned B4 Corridor Commercial District. South of the subject property is the Great Western Trail and single family detached and attached residences, located within residentially zoned districts. There are no industrially zoned properties within the Village along St. Charles Road east of Westmore-Meyers Road. Staff further notes that there are no contractor

yards (legally established or otherwise) nor any business establishment in which the primary business activity is the parking and storage of vehicles located along East St. Charles Road within the corporate limits of the Village. Therefore, staff asserts that as the petitioner has not demonstrated that the use is compatible with the zoning of nearby property, this factor has not been met.

*2. The extent to which property values are diminished by the particular zoning;*

Staff notes that the B4 zoning is appropriate for the corridor. The corridor is improved with a mix of retail and service commercial uses. While St. Charles Road is not a higher-volume roadway, few vacancies exist within the corridor west of Westmore-Meyers Road. This observation is important as it demonstrates that the existing zoning regulations have resulted in a corridor that has been economically viable and the B4 zoning has not impacted the ability of businesses to grow and thrive in the corridor. Therefore, staff asserts that as the petitioner has not provided any testimony noting that without approval of the petition that the property values would be negatively impacted and staff notes that other business properties within the corridor have been able to successfully operate, this factor has not been met.

*3. The extent to which the destruction of property values of the complaining party benefits the health, safety or general welfare of the public;*

The B4 District provides for a wide variety of commercial uses. Staff notes that a denial of the petition would still afford the property owner with a significant and substantial ability to locate an alternative permitted land use on the subject property. Staff further notes that the existing contractor's use should not be considered a "loss" of use, as the petitioner never applied for or received a Certificate of Occupancy/Zoning Certificate for the use of the subject property and was therefore never legally established as a permitted use in the first place. However, as the testimony presented by the public and staff notes, the impacts of such a use cannot be dismissed. Therefore, staff asserts that the loss of the right to operate the intended use is offset by the overall benefits to the public, beyond those limitations of the Zoning Ordinance; this factor has not been met.

*4. The relative gain to the public as compared to the hardship imposed on the individual property owner;*

As the subject property is in close proximity to other residential uses, impacts from the landscape contractor's use on the adjacent properties must be recognized. As noted earlier, the B4 District provides for a wide variety of permitted uses that can operate in harmony with the adjacent commercial and residential land uses. The petitioner's request introduces a use activity that is

not found within the corridor and would create impacts upon the neighboring residential land uses, as evidenced by the neighboring resident's testimony. Therefore, staff asserts that the benefits received by denying the use would be of overall greater benefit to the public, beyond those limitations of the Zoning Ordinance, this factor has not been met.

5. *The suitability of the property for the zoned purpose;*

The petitioner has made representations that he purchased the property so that he could store his vehicles and equipment on the subject property. However, when one views his business activity compared to other businesses neighboring the subject property, one does note that the use is operated differently. Staff notes that although the rear portion of the subject property is not improved with buildings and structures, that does not automatically mean that it is an appropriate location for such an activity as proposed by the petitioner. This is evidenced within the staff report and neighboring testimony. Therefore, staff asserts that as the petitioner has not demonstrated that the proposed use is suitable for the site, this factor has not been met.

6. *The length of time the property has been vacant as zoned, compared to development in the vicinity of the property;*

The property has been improved with a principal building and use for decades. In this regard it is no different than any other property east of Westmore-Meyers Road. This petition is to request an additional use to be allowed on the property. Therefore, staff asserts that as no excessive vacancy has existed on the subject property, this factor has not been met.

7. *The public need for the proposed use;*

Staff notes that the petitioner's landscape contractor use does provide a valuable need to the Lombard community. However, the petitioner's use is no different than other landscape contractor's uses that have been legally established within the community. In this case, the petitioner sought to operate his businesses without receiving appropriate Village approvals. As there are other locations in which the petitioner could meet the standards for conditional uses and/or legally operate the business, staff notes that this factor has not been met.

8. *The thoroughness with which the municipality has planned and zoned its land.*

The Village is regularly reviewing all provisions of its existing codes and policy documents. The Village's Comprehensive Plan (1998) and the St. Charles Road Ad-Hoc Report (1999) are two policy documents that reviewed the proposed uses within the corridor. These documents reaffirmed the established zoning district classification and desired uses within the corridor.

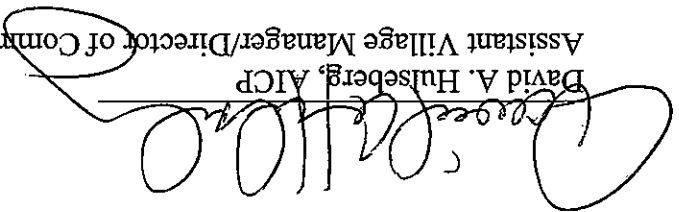
Moreover, as evidenced by the numerous text amendments considered by the Corporate Authorities of the past decade, the Village regularly reviews its codes to determine the appropriate development regulations within the community. Based on these actions, staff assets that the Village has property planned and zoned its land and the factor has not been met.

### FINDINGS AND RECOMMENDATIONS

Staff has reviewed the initial petition, the previously submitted testimony and the petitioner's additional information and finds that petition does not meet the standards set forth in the Zoning Ordinance. As such, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion to **deny** PC 08-01:

Based on the above findings, the Inter-Departmental Review Committee recommends that the petition as presented along with the supplemental information presented as part of the public hearing process cumulatively does not meet the standards set forth in the Zoning Ordinance and recommends that Plan Commission accept the findings of the Inter-departmental Review Report as the findings of the Plan Commission; and therefore the Plan Commission recommends to the Corporate Authorities **denial** of PC 08-01.

Inter-Departmental Review Group Report Approved By:

  
David A. Hulseberg, AICP  
Assistant Village Manager/Director of Community Development

DAH:WJH





**VILLAGE OF LOMBARD**

255 E. Wilson Avenue  
Lombard, IL 60148-3931  
(630) 620-5700 FAX: (630) 620-8222  
TDD: (630) 620-5811  
www.villageoflombard.org

February 7, 2008

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

**Subject: PC 08-01: 1041 E. St. Charles Road**

Dear President and Trustees:

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

The petitioner requests conditional use approval for Contractor construction offices, shops, and yard within the B4 Corridor Commercial District.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on January 28, 2008.

Chairperson Ryan asked if there was anyone to cross-examine the witnesses.

Edgar Rodriguez, 1041 E. St. Charles, presented the petition. He indicated that their proposal consists of an office with a storage yard for their landscaping business. Mr. Rodriguez stated that they have been working with staff to bring the property into compliance with Code. He explained that the storage yard would be gated and out of view. Mr. Rodriguez stated that they would only be there in the morning to pick up the truck and in the evening to drop them off. He then added that there would be no hazardous chemicals being stored on the site.

Chairperson Ryan then opened the meeting for public comment.

Christine Salinas, 1037 E. St. Charles owns the neighboring business to the west of the subject property. She stated that she is in favor of the conditional use being approved.

Bob Brunton (did not speak in favor or against the petition), 18 Kenilworth Ct lives behind the subject property and is concerned about the amount of possible noise that may be created. He asked the petitioner if they plan on acquiring any larger diesel vehicles.

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

"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."

Village Manager  
William T. Lichter

Trustees  
Greg Alan Gron, Dist. 1  
Richard J. Tross, Dist. 2  
John "Jack" T. O'Brien, Dist. 3  
Dana L. Moreau, Dist. 4  
Laura A. Fitzpatrick, Dist. 5  
Rick Soderstrom, Dist. 6

Village Clerk  
Bridgette O'Brien  
Village President  
William J. Mueller

Edgar Rodriguez replied by stating that they do have a number of dump trucks, but the noise from the trucks should be contained to the site by the fencing and perimeter landscaping. Mr. Rodriguez added that the landscaping will consist of trees and shrubs. Mr. Rodriguez also addressed Mr. Brunton's concern by stating that the trucks will only be operational on the site for a few minutes in the morning and evening. He then added that they come and go in short intervals throughout the day.

Commissioner Sweetser asked that the petitioner address Mr. Brunton's question of whether or not they plan on acquiring any larger vehicles.

Mr. Rodriguez replied that they had no plans to obtain any larger vehicles.

Chairperson Ryan then requested the staff report.

Michael Toth, Planner I, presented the staff report. The petitioner is proposing a contractor construction office/yard to be located behind an existing commercial building within the B4 zoning district. As contractor's construction offices, shops, and yard uses are listed in the Zoning Ordinance as a conditional use within the B4 zoning district, Village Board approval is required.

The proposed contractor's yard would occupy the southern portion of the subject property and would be used for the storage of industrial landscaping equipment including dump trucks, trailers, and a wood chipper. The office element is to be located within the existing commercial building, which is one story in height and of block construction. The proposed use will utilize all existing drive aisles to access the southern portion of the property.

Certain site improvements are also being proposed as an adjunct to the contractor's offices and yard. Relative to the contractor's yard, asphalt paving (along with the required storm water detention) is being proposed within the southern portion of the property. The addition of a wood gate, which would adjoin the existing eight (8) foot wood fence, is to be added to help conceal the yard. As the parking lot and yard area are located within required yards, a five (5) foot perimeter landscaping area shall be installed and is reflected on the plan.

The Village Code Enforcement staff undertook a comprehensive review of the commercial properties along East St. Charles Road in 2007 to ensure that the business uses were operating in compliance with code requirements.

Through this inspection effort, staff found that a number of landscape contractor trucks were being parked on the subject property in an unimproved area behind the strip center. Further investigation of this activity found that the petitioner has purchased the subject property and was using the rear of the property as a landscape contractor's yard. Landscape contractor's offices, shops and yards are listed as conditional uses within the B4 Corridor Commercial District.

Introducing a semi-industrial use into a neighborhood consisting of commercial and residential properties may have negative repercussions on adjacent properties due to possible visual blight and excessive noise and dirt. It is noted that the petitioner has gone to certain lengths to visually conceal the contractor's yard (per submitted plans) by erecting an eight (8) foot wood fence (with gate) and also plans to add aesthetically enhancing landscape elements to the property in its entirety. However, the fencing only serves as a basic screening element and does not address other impacts of such uses or activities, including additional truck traffic and noise.

The subject property is bordered to the east by a commercial retail strip center and to the west by a beauty shop. The existing tailor shop located on the subject property is compatible with those surrounding uses as it is commercial by nature. The proposed office that would utilize the southern portion of the existing building on the subject property would also be compatible with those surrounding land uses because there are already a number of office uses surrounding the subject property. The contractor's yard element is a light industrial use and is therefore incompatible due to a lack of commercial/retail components. Staff notes that the properties located to the south of Great Western Trail are strictly residential and any noise or general disturbances could directly affect those properties. The adjacent property to the north, which is located in Villa Park, has multiple motor vehicles located on the property; however, those vehicles are for retail sale, again, resulting in a commercial land use distinction.

The Comprehensive Plan identifies the site for Community Commercial Use. The Comprehensive Plan defines Community Commercial as a commercial area which provides services extending beyond daily living needs and includes comparison shopping goods. This area was also reviewed as part of the East St. Charles Road corridor plan in 1999. The Plans advise that the property be developed to include retail, commercial and office uses. The proposed use includes a contractor's yard with an ancillary office, lacking any retail use or principal office component. The primary land use does not consist of a retail component, and as such would be more consistent with a light industrial land use. Therefore, the use would be inconsistent with the Comprehensive Plan, as it clearly defines the subject property to be designated for commercial uses.

Concluding, Mr. Toth stated that staff recommended denial of the petition.

Chairperson Ryan then opened the meeting for discussion among the Commissioners.

Commissioner Sweetser asked staff what the difference was between a light industrial use and a semi industrial use.

William Heniff, Senior Planner, stated that the difference between the types of industrial uses in this case is the way they are being used. Mr. Heniff stated that the proposal is semi industrial because the main use is industrial with an ancillary office use. Had it been the other way around,



the use would be considered light industrial because the office would be the main function with an ancillary contractor's yard.

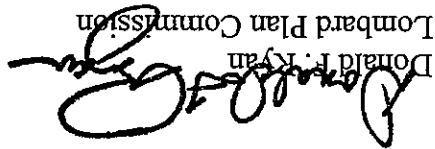
Commissioner Olbrysh made the motion to recommend denial, which was seconded by Commissioner Flint. Commissioner Burke also voted in favor of denial; however, Commissioner Sweeter and Chairperson Ryan voted against the denial.

Without the required four votes from the Plan Commission, Chairperson Ryan (with direction from Council) asked that the Plan Commission vote to uphold a 'no recommendation' vote.

The Plan Commission, by a roll call vote of 3-2, recommended to the Corporate Authorities no recommendation of the petition associated with PC 08-01.

Respectfully,

**VILLAGE OF LOMBARD**

Donald F. Ryan  
  
Lombard Plan Commission

c. Petitioner  
Lombard Plan Commission

**VILLAGE OF LOMBARD  
INTER-DEPARTMENTAL REVIEW GROUP REPORT**

**TO:** Lombard Plan Commission  
**FROM:** Department of Community Development  
**PREPARED BY:** Michael S. Toth  
**HEARING DATE:** January 28, 2008  
**Planner I**

**TITLE**

**PC 08-01; 1041 E. St. Charles:** The petitioner requests conditional use approval for Contractor construction offices, shops, and yard within the B4 Corridor Commercial District.

**GENERAL INFORMATION**

**Petitioner/Property Owner:**  
Jose Rodriguez  
411 S. Grace St.  
Lombard, IL 60148

**PROPERTY INFORMATION**

**Existing Land Use:** Retail commercial strip center  
**Size of Property:** 0.4 acres  
**Comprehensive Plan:** Community Commercial

**Existing Zoning:** B4 Corridor Commercial District

**Surrounding Zoning and Land Use:**

**North:** Property located within the Village of Villa Park; developed as a motor vehicle sales center, known as Motor Cycle Center, Inc.  
**South:** B4 Corridor Commercial District; developed as a the Great Western Trail (GWT) recreational trail  
**East:** B4 Corridor Commercial District; developed as a retail commercial strip center  
**West:** B4 Corridor Commercial District; developed as a beauty shop, known as Christine's Hair Salon.

## ANALYSIS

### SUBMITTALS

This report is based on the following documents filed with the Department of Community Development on December 16, 2008:

1. Petition for Public Hearing.
2. Response to Standards.
3. Plat of Survey, prepared by Preferred Survey, Inc., dated February 17, 2005 (includes site plan created by the petitioner).

### DESCRIPTION

The petitioner is proposing a contractor construction office/yard to be located behind an existing commercial building within the B3 zoning district. As contractor's construction offices, shops, and yard uses are listed in the Zoning Ordinance as a conditional use within the B4 zoning district, Village Board approval is required.

The proposed contractor's yard would occupy the southern portion of the subject property and would be used for the storage of industrial landscaping equipment including dump trucks, trailers, and a wood chipper. The office element is to be located within the existing commercial building, which is one story in height and of block construction. The proposed use will utilize all existing drive aisles to access the southern portion of the property.

Certain site improvements are also being proposed as an adjunct to the contractor's offices and yard. Relative to the contractor's yard, asphalt paving (along with the required storm water detention) is being proposed within the southern portion of the property. The addition of a wood gate, which would adjoin the existing eight (8) foot wood fence, is to be added to help conceal the yard. As the parking lot and yard area are located within required yards, a five (5) foot perimeter landscaping area shall be installed and is reflected on the plan.

### INTER-DEPARTMENTAL REVIEW COMMENTS

#### PUBLIC WORKS

Public Works has no comments regarding this petition.

#### PRIVATE ENGINEERING

The PES Division of Community Development has the following comments on the above petition:

1) Any new impervious surface (i.e., pavement) will require stormwater detention consistent with Village Code.

2) Separate approval from DuPage County will be required if the stormwater system is to discharge along the GWT.

3) Pavement section along drive lanes and loading areas shall be per VOL detail for "heavy duty" pavement section.

## FIRE AND BUILDING

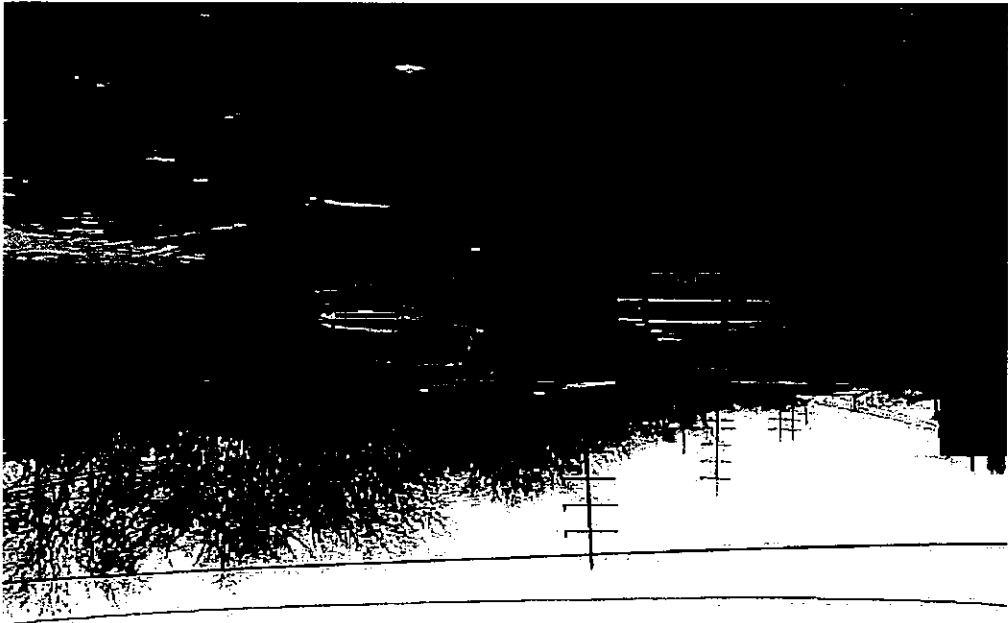
Upon review of the above referenced request for conditional use for a construction office and equipment yard, the Fire Department/Bureau of Inspectional Services has the following comment:

1) There shall be no storage of combustible/flammable materials or liquids on the premises, including in the yard, shed, and garage. The owner must also maintain proper access lanes for emergency equipment at all times.

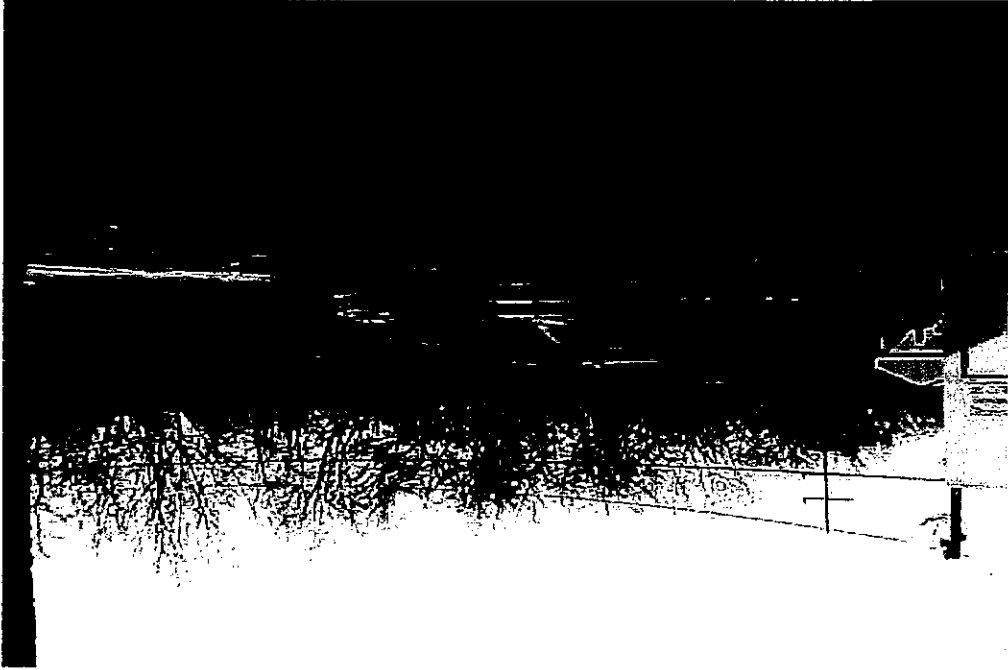
## PLANNING

The Village Code Enforcement staff undertook a comprehensive review of the commercial properties along East St. Charles Road in 2007 to ensure that the business uses were operating in compliance with code requirements. A number of properties were identified as being in violation in regard to use and/or other specific issues such as property maintenance. Through a cooperative effort between property/business owners and staff, a number of issues have been resolved.

Through this inspection effort, staff found that a number of landscape contractor trucks were being parked on the subject property in an unimproved area behind the strip center. Further investigation of this activity found that the petitioner has purchased the subject property and was using the rear of the property as a landscape contractor's yard. Landscape contractor's offices, shops and yards are listed as conditional uses within the B4 Corridor Commercial District. Since there were no prior Village approvals that could legally tie the landscape contractor's business use to any legal rights afforded to the property, the subject property was found to be in violation. Therefore, the petitioner is seeking conditional use approval to allow for the aforementioned use on the subject property.



Contractor's equipment currently being stored on subject property (to remain upon approval).



View of contractor's yard from neighboring property to the east (Christine's Hair Salon).

## Compliance with the Zoning Ordinance

### Zoning History

The existing one-story building located on the subject property was built in 1971 as an electronic store. The building has since seen a number of tenants, all of which have been commercial businesses. A tailor shop now situates one of the building's tenant spaces, while the other space remains vacant. Aside from the tenant spaces located along St. Charles Road, the building contains an additional office, storage space, and a garage. In this case, the office element is intended to be a subordinate activity to the principal use being proposed, which is the contractor's yard. Similar to other businesses that have come forward to utilize a portion of their property for a contractor's yard use, staff has required full Code compliance.

### Landscaping

A five (5) foot perimeter landscape aisle is required per Section 155.706(C) of the Zoning Ordinance. Additional grasses and plantings will be provided around the perimeter of the parking lot and yard area which are intended to screen and/or segregate parking and circulation areas from adjacent properties.

### Open Space

The subject property has an area of 17,250 square feet with a total 1,682 square feet of open space, just short of the required 10% open space at 9.5%. The addition of the required perimeter landscaping would also increase the amount of open space (as defined by Code) on the subject property by 1,575 square feet, which is almost 10% of the total lot area ( $1,575/17,250 = .091$ ). Thus, with the addition of the required perimeter landscaping, the total open space for the subject property would be around 19%.

## Standards for Conditional Uses

For a conditional use to be approved, the standards for conditional uses must be met. Staff has reviewed the petitioner's plan and the standards and offers the following comments:

1. *That the establishment, maintenance, or operation of the conditional use will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare;*

The conditional use process allows staff the opportunity to review each applicable petition in context with the surrounding area in regards to health, safety, and general welfare. In this case, the petitioner has come forth to receive the right to maintain, operate, and store large industrial equipment on the subject property. As the surrounding area consists of commercial, recreational, and residential properties, the operation of such large industrial equipment to and from the subject property could pose safety issues. The surrounding properties along St. Charles Road are retail commercial in nature, which by design are intended to service the local and community

shopping needs of the community. The petitioner's proposal is to permit a semi-industrial use, which differs in both function and impact on adjacent properties. The difference is significant as the proposed use would be primarily an outdoor use and activity and therefore the impacts of the use (noise, hours of operation, etc.) would also be greater.

*2. That the conditional use will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the neighborhood in which it is to be located;*

Introducing a semi-industrial use into a neighborhood consisting of commercial and residential properties may have negative repercussions on adjacent properties due to possible visual blight and excessive noise and dirt. It is noted that the petitioner has gone to certain lengths to visually conceal the contractor's yard (per submitted plans) by erecting an eight (8) foot wood fence (with gate) and also plans to add aesthetically enhancing landscape elements to the property in its entirety. However, the fencing only serves as a basic screening element and does not address other impacts of such uses or activities, including additional truck traffic and noise.

*3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;*

The subject property is bordered to the east by a commercial retail strip center and to the west by a beauty shop. The existing tailor shop located on the subject property is compatible with those surrounding uses as it is commercial by nature. The proposed office that would utilize the southern portion of the existing building on the subject property would also be compatible with those surrounding land uses because there are already a number of office uses surrounding the subject property. The contractor's yard element is a light industrial use and is therefore incompatible due to a lack of commercial/retail components. Staff notes that the properties located to the south of Great Western Trail are strictly residential and any noise or general disturbances could directly affect those properties. The adjacent property to the north, which is located in Villa Park, has multiple motor vehicles located on the property; however, those vehicles are for retail sale, again, resulting in a commercial land use distinction.

*4. That the adequate public utilities, access roads, drainage and/or necessary facilities have been or will be provided;*

Any necessary infrastructural improvements are already in existence or shall be provided per the approved plans. The Private Engineering comments provided within this report shall address all on-site infrastructural improvements.

*5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;*

The existing drive aisle is twenty-four (24) feet wide, which is the minimum requirement for a two-way drive aisle. No improvements to the existing ingress/egress are required, nor being proposed.

*6. That the proposed conditional use is not contrary to the objectives of the current Comprehensive Plan for the Village of Lombard, and,*

The Comprehensive Plan identifies the site for Community Commercial Use. The Comprehensive Plan defines Community Commercial as a commercial area which provides services extending beyond daily living needs and includes comparison shopping goods. This area was also reviewed as part of the East St. Charles Road corridor plan in 1999. The Plans advise that the property be developed to include retail, commercial and office uses. The proposed use includes a contractor's yard with an ancillary office, lacking any retail use or principal office component. The primary land use does not consist of a retail component, and as such would be more consistent with a light industrial land use. Therefore, the use would be inconsistent with the Comprehensive Plan, as it clearly defines the subject property to be designated for commercial uses.

Staff notes that a landscape yard in itself could theoretically be deemed compatible with a retail commercial corridor if the use was an ancillary component of a retail activity. An example could be a landscape garden center that may have outdoor sales of mulch products and with an ancillary nursery. However, this petition primarily consists of storage of larger trucks for landscaping field operations.

*7. That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified pursuant to the recommendations of the Plan Commission.*

Staff has reviewed the petition and if the petition was approved, the applicable code issues would be addressed during the permit review process. The only issue in question relating to the zoning district is the type use proposed on the subject property. However, staff believes that the proposed use could not be conditioned to alleviate the negative impact of the use on the Corridor and the adjacent properties.

## FINDINGS AND RECOMMENDATIONS

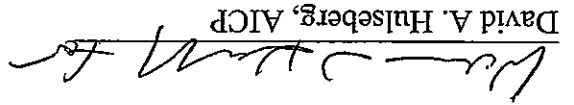
Staff has reviewed the petition and finds that petition does not meet the standards set forth in the Zoning Ordinance. As such, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion to deny PC 08-01:

Based on the above findings, the Inter-Departmental Review Committee recommends that the petition as presented does not meet the standards set forth in the Zoning Ordinance and recommends that Plan Commission accept the findings of the Inter-



departmental Review Report as the findings of the Plan Commission and therefore the Plan Commission recommends to the Corporate Authorities **denial** of PC 08-01.

Inter-Departmental Review Group Report Approved By:



David A. Hulseberg, AICP

Assistant Village Manager/Director of Community Development

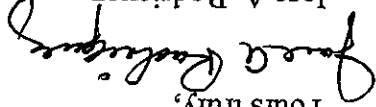
DAH:MT

H:\CD\WORDUSER\PC\CASES\2008\PC 08-01\Report PC 08-01.doc

To Whom It May Concern;

We propose to use our property at 1041 E. St. Charles Rd., as a conditional use for parking our trucks. We would like to set up our office facility in the premises, given we are granted our certificate of occupancy. We propose the following: Pave the remaining area of our lot with asphalt. In so creating a parking area for our trucks to be parked over night. The parking area would consist of five parking spaces for our trucks to be parked. Parking would occur over night and on non office hours. We would like to park four of our trucks in those spaces and three of our trailers as well as a wood chipper that we own. The sole purpose of the space would be for parking our vehicles. We do not plan on storing any hazardous materials of any kind. For we do not use such materials. Our company offers landscape services only!

We purchased the building in hopes that we could set up our office and have our trucks parked in the same area. We try to have our facility in top shape and look forward into being able to use our land for such use. We are willing to work with the village and its officers in achieving this goal.

Yours truly;  
  
Jose A. Rodriguez



**STANDARDS FOR CONDITIONAL USES**

1. The establishment, that we plan on having our office and parking lot as a conditional use would not endanger the public health, in such that we do not store any hazardous chemicals and do not intend any use of such kind. The parking lot on the back would be gated for both privacy and safety reasons. The gate would remain closed at all times. As we own the building and plan on using it as a conditional use, we strive our selves on having a clean, very comfortable facility.
2. The conditional use, that we ask for in our property would not diminish the enjoyment of the property, in which the use for it is already a commercial use. The trucks that we use would always be located on the back side of the property lot, and our office in the inside of the building. The area is planned on being gated and the trucks out of sight. Our plans include a renovation of the old landscape and a future more eye pleasing location than it is today. Giving the location a boost in the property value of the location.
3. I, believe the establishment that we intend on using as a conditional use, would not impede any normal development improvements that surround our property. We plan on having an up to date facility. We want to have a facility were our office, as well as our trucks would be on the same location. We are proud to say that our property is one of the nicest on the block.
4. Our establishment, has all the required public utilities that are in need. The inside office building is up to date as far as we know. The parking lot on the back is planned on being paved, connecting all the asphalt parking lot. The parking lot exits north to St. Charles Rd.
5. We, would take adequate measures to make sure we would add very little if any congestion traffic to St. Charles Rd. We only have four trucks that we use for our company.
6. I, believe that the proposed plan, for conditional use on the premises is not contrary to the objectives of the current Comprehensive Plan for the Village of Lombard.
7. I, believe that the conditional use that we ask for our property conforms to the applicable regulations. We plan on having an on sight office for our use in the building. We ask for the conditional use of the property for parking our trucks when they are not in use. Our building is located in a commercial district, and we look forward to getting a conditional use for our business.



WESTMORE AV

BIERMANN AV

2ND AV

ADDI

ST CHARLES RD

ST CHARLES RD

ST CHARLES RD

WESTMORE-MEYERS RD

1005

1015

1021

1033  
1037

1041

1089

1105  
1109

1107

1125

GREAT WESTERN TRAIL

KENILWORTH CT

23

27

31

37

39

6

4

2

8

10

12

14

16

18

20

22

24

26

28

30

32

34

36

38

40

42

44

46

48

50

52

54

56

58

60

62

64

66

68

1012

1020

1026

1032

1038

1044

1106

1112

1118

1124

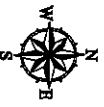
1128

1321

136

1144

1148



PC 08-01: 1041 E. St. Charles

1 in. = 133.0 feet

