

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

**AN ORDINANCE DENYING A CONDITIONAL USE FOR A PLANNED DEVELOPMENT WITH USE EXCEPTIONS, A CONDITIONAL USE FOR PERSONAL WIRELESS FACILITIES, AND A VARIATION FOR AN INDUSTRIAL USE EXCEPTION FOR A PLANNED DEVELOPMENT IN THE CONSERVATION RECREATION DISTRICT UNDER TITLE 15, CHAPTER 155 OF THE CODE OF LOMBARD, ILLINOIS**

PC 06-34: 543 E. Taylor Road (Madison Meadow Park)

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

WHEREAS, Madison Meadow Park, 543 E. Taylor Road, Lombard, Illinois, as legally described in Section 3 below (the "Subject Property"), is zoned CR Conservation Recreation District (the "CR District"); and

WHEREAS, an application has been filed with the Village of Lombard requesting approval of a conditional use for a planned development under Section 155.404(C)(6) of the Lombard Village Code, a use exception under Section 155.508(B) of the Lombard Village Code (Standards for Planned Developments with Use Exceptions), a conditional use to allow two (2) one hundred foot (100') high personal wireless facility monopoles within five hundred feet (500') of one another in the CR District on the Subject Property, where not permitted by Section 155.206 of the Lombard Village Code, and a variation from Section 155.508(B)(3) of the Lombard Village Code to permit a planned development with an industrial use exception (the personal wireless facility monopoles) in the CR District (the "Petition"); and

WHEREAS, a public hearing, being the subject of PC-06-34, was conducted by the Plan Commission on November 27, 2006, pursuant to appropriate and legal notice, and the Plan Commission recommended approval of the Petition; and

WHEREAS, the President and Board of Trustees reject the recommendation of the Plan Commission and have determined that it is in the best interests of the Village to deny the Petition;

**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:** The President and Board of Trustees, after considering all of the information submitted as part of the Plan Commission process, the Findings of Fact and Recommendation of the Plan Commission, the comments made at the December 7, 2006, Village Board meeting, and other matters properly before it, hereby finds as follows relative to the Petition:

- a. The Petition proposes that two (2) one hundred foot (100') high personal wireless facility monopoles, along with two (2) large control cabinets surrounded by eight foot (8') high

fencing (the “Wireless Facilities”), be located in a public park, in open view, in the outfield area of a baseball diamond.

- b. Approval of the Petition requires compliance with certain provisions of the Village of Lombard Code, as more specifically detailed below:
  - i. The Petition does not comply with the requirements of Section 155.206 of the Lombard Village Code (Regulations For Radio, Satellite & Television Antennas, Towers & Dishes), as ground mounted personal wireless service facility towers are only permitted in the I Limited Industrial District, pursuant to Section 155.206(B)(2)(a)(ii) of the Lombard Village Code. In addition, the Wireless Facilities are in excess of forty-five feet (45’) in height and closer than five hundred feet (500’) to one another, which is not permitted pursuant to Sections 155.206(B)(2)(b)(i) and 155.206(B)(2)(e)(i) of the Lombard Village Code. However, Section 155.206(A)(2) of the Lombard Village Code would permit the Petition to be granted, despite its noncompliance with the requirements of Section 155.206, so long as the Petition complies with the standards for a conditional use, as set forth in Section 155.103(F)(8) of the Lombard Village Code.
  - ii. Ground mounted personal wireless service facility towers are neither permitted nor conditional uses in the CR District under Section 155.404 of the Lombard Village Code. However, a planned development may be granted for the Wireless Facilities to be located within the CR District pursuant to Section 155.404(C)(6) of the Lombard Village Code. A planned development requires compliance with the standards for a conditional use (Section 155.103(F)(8) of the Lombard Village Code) and the standards for a planned development, pursuant to Section 155.508 of the Lombard Village Code.
  - iii. As the Wireless Facilities are not permitted or conditional uses in the CR District, the Petition must comply with Section 155.508(B) of the Lombard Village Code (Standards for Planned Developments with Use Exceptions) and a variation is required from Section 155.508(B)(3) of the Lombard Village Code, which does not permit industrial uses, such as the Wireless Facilities, in a planned development with use exceptions in the CR District.
- c. The Petition fails to meet the standards for a conditional use for a planned development and the standards for a conditional use to permit the Wireless Facilities, which do not comply with the requirements of Section 155.206 of the Lombard Village Code, for the following reasons:
  - i. The establishment, maintenance and operation of the Wireless Facilities would be detrimental to the morals, comfort and general welfare contrary to Section 155.103(F)(8)(a) of the Lombard Village Code for the following reasons:
    - (a) The Wireless Facilities are not compatible with the Subject Property’s use as a park, as they are not recreational uses or in any way associated with recreational uses, and they would create a negative visual impact on the park;

- (b) The Wireless Facilities are not appropriate in this park from an aesthetic perspective; and
    - (c) Locating two (2) one hundred foot (100') monopoles within five hundred feet (500') of one another is excessive and would create a negative visual impact on and from surrounding properties.
  - ii. The establishment, maintenance and operation of the Wireless Facilities would be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted contrary to the requirements of Section 155.103(F)(8)(b) of the Lombard Village Code for the same reasons as set forth in subparagraph c(i) above.
  - iii. The Wireless Facilities are not compatible with the Comprehensive Plan, which requires the Subject Property to be used as open space.
- d. The Petition fails to meet the general standards for a planned development pursuant to Section 155.508(A)(4) of the Lombard Village Code because it is not in the public interest or consistent with the purposes of the Lombard Zoning Ordinance for the following reasons:
- i. Public input and the Petitioner's documentation has not demonstrated a need sufficient to warrant placement of the Wireless Facilities on the Subject Property in the interest of the greater community;
  - ii. The Petitioner has not demonstrated that the Subject Property is the only suitable location for the Wireless Facilities to achieve the coverage being sought, and that there are no less-sensitive alternative sites available;
  - iii. The Petitioner has not demonstrated that there is a significant gap in coverage that requires the Wireless Facilities on the Subject Property; and
  - iii. For the other reasons set forth in subparagraph c above.
- e. The Petition fails to meet the standards for a planned development with use exceptions pursuant to Section 155.508(B) of the Lombard Village Code for the following reasons:
- i. The Wireless Facilities do not enhance the quality of the planned development, as required by Section 155.508(B)(1) of the Lombard Village Code, because they would have a negative effect on the character of the park, as they are not recreational uses or in any way associated with recreational uses, and they create a negative visual impact on the park;
  - ii. The Wireless Facilities are not compatible with the primary use of the Subject Property as a park, as required by Section 155.508(B)(2) of the Lombard Village Code, because they would have a negative effect on the character of the park, as they are not recreational uses or in any way associated with recreational uses, and they would create a negative visual impact on the park; and
  - iii. The Wireless Facilities would create a detrimental influence on the surrounding properties by their negative visual impact from those properties, contrary to Section 155.508(B)(2) of the Lombard Village Code.

- f. To permit industrial uses, such as the Wireless Facilities, in the CR District, a variation must be granted from the standards for planned developments with use exceptions in Section 155.508(B)(3) of the Lombard Village Code. The Petition fails to comply with the standards for a variation for the following reasons:
  - i. The physical surroundings, shape and topographical conditions of the Subject Property do not create a hardship to the owner, as distinguished from a mere inconvenience, if the letter of the standards for planned developments with use exception were to be applied, contrary to the requirements of Section 155.103(C)(7)(a) of the Lombard Village Code;
  - ii. Conditions described in the Petition are not unique to this Property contrary to the requirements of Section 155.103(C)(7)(b) of the Lombard Village Code;
  - iii. The standards for planned developments with use exceptions do not create a difficulty or hardship for this Petition, as it is caused by the owner of the Subject Property, contrary to the requirements of Section 155.103(C)(7)(d) of the Lombard Village Code.
  - iv. Granting of the variation would be detrimental to the public welfare and injurious to other property in the neighborhood, for the reasons set forth in subparagraphs c. and d. above, contrary to Section 155.103(C)(7)(e) of the Lombard Village Code; and
  - v. Granting of the variation will alter the essential character of the neighborhood contrary to the requirements of Section 155.103(C)(7)(f) of the Lombard Village Code, by creating a negative visual impact on the park and significantly detracting from the park's purpose of creating open space and providing recreational uses.

**SECTION 2:** Based upon the findings set forth in Section 1 above, the Petition is denied.

**SECTION 3:** This Ordinance is limited and restricted to the Subject Property, located at Madison Meadow Park, 543 E. Taylor Road, Lombard, Illinois, and legally described as follows:

Lot 1 in Madison Meadow Plat of Consolidation, being a resubdivision of the northwest quarter of Section 16 and the northeast quarter of Section 17 of Township 39 North, Range 11 East of the Third Principal Meridian, according to the plat recorded April 4, 2000 as document number R2000-047367, in DuPage County, Illinois.

Parcel Number: 06-16-100-002 and 06-17-212-007

**SECTION 4:** This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as required by law.

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

First reading waived by action of the Board of Trustees this 4<sup>th</sup> day of January, 2007.

Passed on second reading this 4<sup>th</sup> day of January, 2007, pursuant to a roll call vote as follows:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

APPROVED by me this \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
William J. Mueller  
Village President

ATTEST:

\_\_\_\_\_  
Brigitte O'Brien  
Village Clerk

Published by me in pamphlet form this \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Brigitte O'Brien  
Village Clerk