

VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT

TO: Lombard Plan Commission

HEARING DATE: June 20, 2005

FROM: Department of Community
Development

PREPARED BY: William J. Heniff, AICP
Senior Planner

TITLE

PC 05-16; 506 East St. Charles Place: The Village of Lombard is proposing an amendment to the conditions of approval associated with Ordinance Number 5324 granting approval of conditional use to allow for the re-establishment of the legal nonconforming status of an existing building in the B4 Corridor Commercial Shopping District.

GENERAL INFORMATION

Petitioner: Village of Lombard

Property Owner: Jeffrey Weinberg
124 West Jackson
Villa Park, Illinois 60181

PROPERTY INFORMATION

Existing Land Use: Hobby store and Scoop's ice cream parlor (vacant)

Size of Property: Approximately 20,600 sq. ft.

Comprehensive Plan: Recommends community commercial

Existing Zoning: B4 Corridor Commercial District

Surrounding Zoning and Land Use:

North: R4 General Residence District, Planned Development; under construction as the Oakview Estates condominium development.

South: CR Conservation/Recreation District; developed as Lombard Common Park

East: B4 Corridor Commercial District; developed as the Great Western Trail right-of-way and an office building

West: St. Charles Road and St. Charles Place rights-of-way

ANALYSIS

DESCRIPTION

A traffic accident substantially damaged the Scoop's ice cream building in 2001. The building location is deemed legal non-conforming as it was located within the required front yard of the subject property and was one of two principal buildings existing on the property. Because the estimated damage costs were greater than 50% of the value of the damaged building, any improvements would need to meet the full provisions of the Zoning Ordinance if it was to be repaired.

A petition was brought forth and approved in 2003 by the Village (PC 03-11, Ordinance 5324) that re-established the legal non-conforming status of the ice cream building and allowed the property owner to re-establish the business as it was prior to the auto accident. This approval was granted subject to conditions as outlined in the adopted Ordinance. (Appendix A consists of the IDRC Report for PC 03-11 and Appendix B is a copy of Ordinance 5324).

Since the time of initial approval, the property owner completed some improvements to the subject property and started the building restoration. The property owner also represented to the Village that the building was under lease by another party who intended to re-establish a business on the subject premises. However, two years has passed since the initial Ordinance was approved and four years has passed since the initial damage occurred.

Staff is concerned about the building remaining in a deleterious state. While Ordinance 5324 includes conditions of approval for granting the conditional use, it did not establish specific timetables for which the building needed to be occupied. This petition is intended to set forth additional conditions of approval requiring specific times for a lease agreement and for issuance of a Certificate of Occupancy and/or Zoning Certificate for the property. Ultimately, these conditions would help ensure the intent of Ordinance 5342 to establish a viable commercial development on the subject property is achieved.

PLANNING

PC 03-11 and Ordinance 5324 included a full discussion of the subject property. But for the removal of the fencing within the public right-of-way, the issues identified in this report still largely remain on the premises. As it was noted within the 2003 report, staff believes that the status of the building should be addressed as soon as possible, since the existing building creates a blighted appearance to the St. Charles Road corridor.

The proposed ordinance amendments would set specific timelines for development/improvement activity to occur on the premises. These amendments would consist of the following:

1. A lease signed within 60 days.
2. A building permit submitted within 120 days.
3. Issuance of a Certificate of Occupancy/Zoning Certificate within 180 days.

In the event that any of these timelines are not met, the conditional use granted through Ordinance 5324 shall be null and void and the full provisions of Section 155.305 of the Zoning Ordinance would be in effect. This would also require the property owner to be responsible for razing the structure.

FINDINGS AND RECOMMENDATIONS

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

Based on the submitted petition and the testimony presented, the proposal does comply with the standards required by the Lombard Zoning Ordinance, and, therefore, I move that the Plan Commission accept the findings of the Inter-departmental Review Report as the findings of the Lombard Plan Commission and therefore, recommends to the Corporate Authorities **approval** of PC 05-16, subject to the following conditions:

1. That the following conditions previously established in Ordinance 5324 shall be satisfactorily addressed and shall remain in full force and effect.
2. That the property owner shall provide the Village with a copy of a lease agreement between the property owner and a lessee for the Scoop's ice cream building. The property owner shall also provide any supplemental documentation from the lessee denoting the proposed use of the subject premises. Said

documentation shall be provided to the Village no later than sixty (60) days from the date of approval of this Ordinance.

3. That a building permit for any requisite interior or exterior improvements shall be applied for no later than one-hundred twenty (120) days from the date of approval of this Ordinance.
4. That a Certificate of Occupancy/Zoning Certificate shall be applied for and shall be approved by the Village within one-hundred eighty (180) days from the date of approval of this Ordinance.

Inter-Departmental Review Group Report Approved By:

David A. Hulseberg, AICP
Director of Community Development

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INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING

Private Engineering Services

The Private Engineering Services Division has no comments regarding the petition provided that the repairs/improvements fall within the footprint of the existing building.

Public Works

Public Works Engineering has no comments or changes.

FIRE AND BUILDING

The Fire Department/Bureau of Inspectional Services notes that any improvements to rehabilitate the building must present day building codes and that an updated fire alarm system must be installed, per the direction of the Fire Marshal.

PLANNING

The Scoop’s building is one of two buildings on the subject property. The building is about 600 square feet in size and is constructed of masonry block. The exterior walls on the north, south and east sides of the building are still intact, although the BIS staff is concerned about the structural integrity of the walls. A painted wall sign is located on the south side of the building.

Compatibility with the Zoning Ordinance

The subject property has the following existing characteristics:

	Code Requirements	Scoop’s building/property as constructed
Front Yard Setback (St. Charles Road)	30 feet	7.85 feet
Front Yard Setback (St. Charles Place)	30 feet	8.81 feet
Number of principal buildings on a lot	1 permitted; more than 1 permitted as a conditional use	2
Outdoor dining area	Conditional use	Partially located within St. Charles Road right-of-way

The relevant provisions of the Zoning Ordinance pertaining to non-conforming structures are as follows:

Section 155.302 (G). Damage or Destruction

In the event that any building or structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than fifty (50%) of the fair market value of such building or structure immediately prior to such damage, such building or structure shall not be restored unless such building or structure and the use thereof shall thereafter conform to all regulations of the zoning district in which such building or structure and use are located. When such damage or destruction is fifty (50%) or less of the fair market value of the building or structure immediately prior to such damage, such building or structure may be repaired and reconstructed and used for the same purposes as it was before the damage or destruction, provided that such repair or damage or reconstruction is commenced and completed within twelve (12) months of the date of damage or destruction. The fair market value shall be determined by the Director of Community Development based upon a real estate appraisal conducted by an independent and certified real estate appraiser.

Section 155.303 NONCONFORMING BUILDINGS AND STRUCTURES

C. Damage or Destruction

In the event that any nonconforming building or structure is damaged or destroyed, by any means, to the extent of more than fifty (50%) of the fair market value of such building or structure immediately prior to such damage, such building or structure shall not be restored unless such building or structure shall thereafter conform to all regulations of the zoning district in which such building or structure and use are located.

When such nonconforming building or structure is damaged or destroyed, by any means, by fifty (50%) or less of the fair market value of the building or structure immediately prior to such damage, such building or structure may be repaired and reconstructed, provided that such repair or restoration begin and is diligently pursued to completion within one (1) year of the date of such damage.

If the restoration is not started within one year of said calamity and diligently executed to completion, the building or structure shall be removed, and the area cleared by the owner, or at the owner's expense.

If the petitioner and the Village wish to reestablish the ice cream shop in its previous condition, two options are available – either grant zoning relief for the property or grant approval of a conditional use to reestablish the legal non-conforming status for the damaged building. Staff believes that if the Village is interested in allowing the building to be reoccupied as it was prior to the accident, reestablishing the non-conforming status would be preferred, as the request would only relate to the building at its present location and would not run with the land.

Staff feels that the status of the building should be addressed as soon as possible as a boarded-up building creates a deleterious and blighted appearance to the corridor. If the petition is approved, the property will be rehabilitated. If it is denied, the property owner will know that the building will need to be razed.

Compatibility with the Comprehensive Plan

The Comprehensive Plan recommends that the subject property be developed for commercial purposes. The ice cream sales activity on the premises would be consistent with the Comprehensive Plan.

FINDINGS AND RECOMMENDATIONS

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

Based on the submitted petition and the testimony presented, the proposal does comply with the standards required by the Lombard Zoning Ordinance, and, therefore, I move that the Plan Commission recommend to the Corporate Authorities **approval** of PC 03-11, subject to the following conditions:

1. That the rehabilitation activity shall consist of structural repairs and associated improvements within the existing footprint of the building.
2. That the rehabilitation work shall be substantially underway within twelve months from date of approval of the conditional use.
3. That the petitioner shall apply for and receive a building permit for the proposed improvements. Said improvements shall meet current building codes and shall include an upgraded fire alarm system as per the Fire Marshal.
4. That associated with the building improvements, the property owner shall relocate the fence surrounding the outdoor dining area off of the St. Charles Road right-of-way.

Inter-Departmental Review Group Report Approved By:

David A. Hulseberg, AICP
Director of Community Development

Plan Commission
Re: PC 05-16
Page 11

Appendix B

Ordinance 5324