

lm
3/25/04

MEMORANDUM

TO: William T. Lichter, Village Manager

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

DATE: April 1, 2004

SUBJECT: PC 04-04: 19W416 and 312 E. 18th Street (Regency Estates Subdivision) – Modified Site Plan for Board Consideration

At the February 19, 2004 Village Board meeting, the Board tabled consideration of all actions associated with PC 04-04. The petition was also continued at the March 4 and March 18, 2004 meetings. Staff has had ongoing meetings with the petitioner to address the concerns expressed by the Village Board regarding the lot widths and how the concerns could be satisfactorily addressed while still providing for a viable development. Additionally, the developer has been informed by DuPage County of wetland buffer encroachments into the subject property.

Through further discussion and review, the petitioner is proposing a modified plan for consideration by the Village Board. A copy of the original site plan discussed by the Village Board at the February 19 meeting is attached as well as the petitioner's latest proposal.

The original site plan provided for a 12-lot single-family subdivision with a detention outlet. The petitioner's revised site plan attempts to address the lot width issues raised by the Board as well as provide for twelve buildable lots. The original cul-de-sac right-of-way, the roadway profile and the sidewalks remain the same. The various internal lot lines are shifted through the project, which results in a reduction in the amount of relief that would be required for the subdivision, as follows:

Lot Number	Required by Code	Original Submittal	Latest Submittal
Lot 6	60 feet	45 feet	55.48 feet
Lot 7	60 feet	43.5 feet	55.48 feet
Lot 8	60 feet	42.5 feet	55.48 feet
Lot 9	60 feet	49.5 feet	60 feet (meets code)

As with the original proposal, the petitioner is willing to offset the lot width variation request by establishing the setback on the lots 7.5 feet further back, for a total of 37.5 feet from the front lot line. The houses will be spaced at least twelve feet away from each other, as is typically found for residences in the R2 District.

To address wetland buffer issues resulting from the Providence wetland pond immediately east of the subject property, the petitioner proposes to move the proposed facility from its original location at 18th Street and Regent Drive further north on the site to the proposed Lot 10. As with the initial

recommendation from the Plan Commission, the proposed detention facility would have 3:1 graded slopes on all sides. This design eliminates any retaining walls in close proximity to the neighboring houses or the public rights-of-way. Furthermore, the modified detention outlot has been reduced in overall size in order to provide for additional discharge into the wetland area, per the direction of DuPage County. Consequently, the petitioner was able to increase the overall size of several of the proposed lots in the development.

In consideration of this change, staff is also recommending an additional requirement that a post and rail be placed on the detention outlot along the front property line and the interior side property lines within the required front yard. The fence should also include a ten foot gap along the front lot line to allow for maintenance vehicles and equipment into the detention and wetland area for maintenance purposes.

Since the latest proposal will provide for twelve buildable lots, the petitioner is willing to fully improve 18th Street from Stewart Avenue to the Providence Subdivision. Staff sees this improvement as being quite desirable as it removes a future Village obligation of approximately \$175,000 to reconstruct the street.

The revised plan still provides the ability to further extend the proposed roadway to the west as depicted on the attached Phase II concept plan. Full review of this plan would be made should the petitioner have all the properties west under contract and submits a new application to the Plan Commission for the Phase II development. The Phase II plan could be designed so that all lots would conform to the R2 development standards in both Phase I & II.

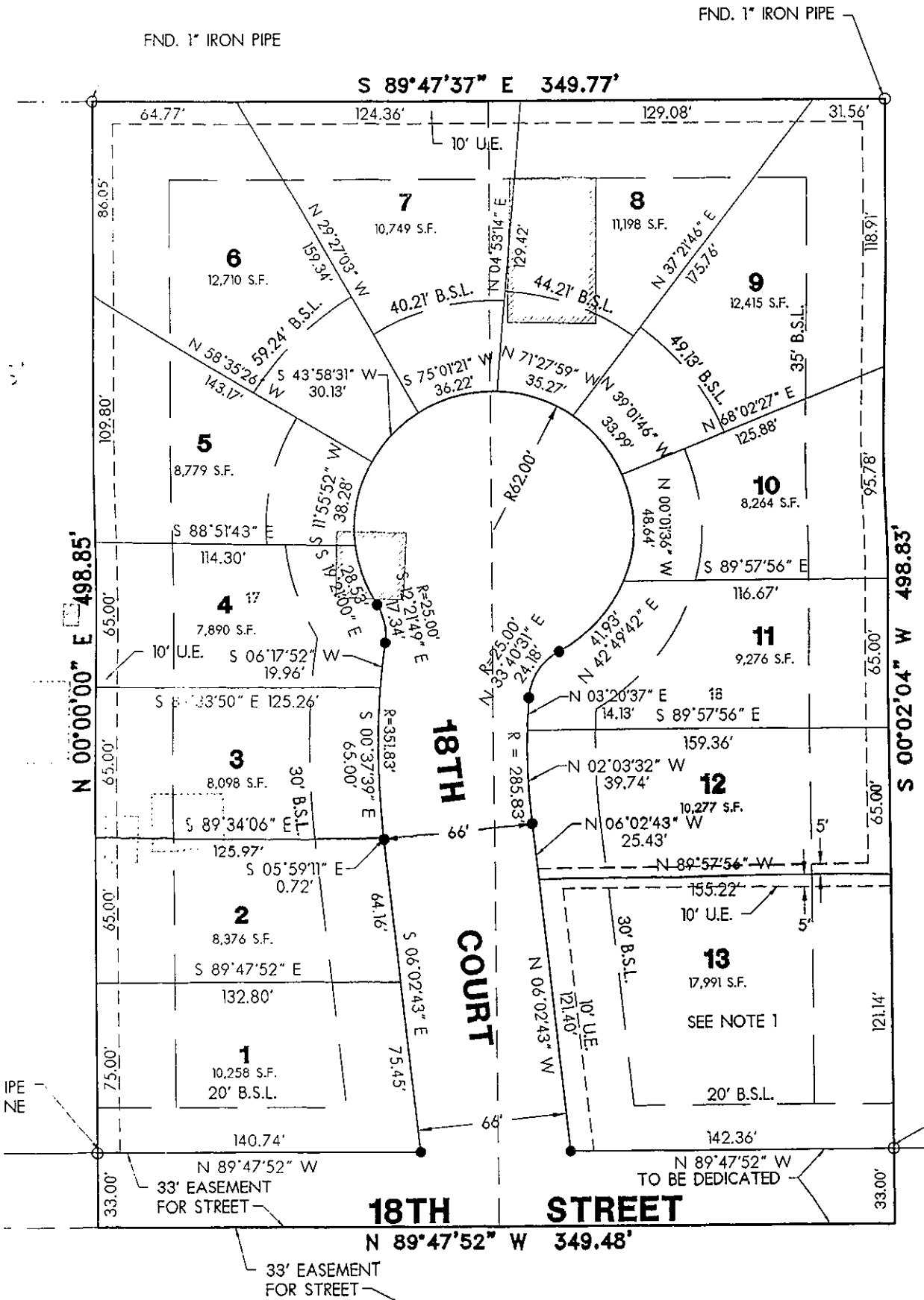
RECOMMENDATION

Staff believes that the latest plan provides the greatest flexibility for the developer, provides the Village with the greatest amount of public improvements and addresses the concerns addressed by the Providence Subdivision neighbors. Therefore, staff recommends approval of the petition as amended.

Attached is a copy of the latest version of the attached Annexation Agreement Ordinance (with an amended Annexation Agreement that depicts the changes in underline or strikeout), the Annexation Ordinance, the map amendment Ordinance and the amended planned development Ordinance, which modifies the lot width deviations requested by the petitioner.

The petitioner is also requesting a waiver of first reading of the associated Ordinances.

Original Plan



ORDINANCE _____

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

(PC 04-04: 19W416 and 312 E. 18th Street (Regency Estates Subdivision))

(See also Ordinance No.(s) _____)

WHEREAS, it is in the best interest of the Village of Lombard, DuPage County, Illinois that a certain Annexation Agreement (hereinafter the "Agreement") pertaining to the property located at 19W416 and 312 E. 18th Street, Lombard, Illinois to be entered into; and,

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

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

WHEREAS, the statutory procedures provided in Chapter 65 ILCS 5/11-15.1-1 through 5/11-15.1-5, as amended, for the execution of said Agreement have been complied with; a hearing on said Agreement having been held, pursuant to proper notice, by the President and Board of Trustees on February 19, 2004.

NOW, THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

SECTION 1: That the Village President and Village Clerk be and hereby are authorized to sign and attest to the Agreement attached hereto and marked Exhibit "A", by and between the Village of Lombard; and,

SECTION 2: This ordinance is limited and restricted to the property generally located at 19W416 and 312 E. 18th Street, Lombard, Illinois containing 4.0 acres more or less and legally described as follows:

LOTS 17 AND 18 IN YORK TOWNSHIP SUPERVISOR'S ASSESSMENT PLAT NO. 1
(ALSO KNOWN AS HIGHLAND ROAD FARMS) OF THE EAST HALF OF THE
SOUTHWEST QUARTER, THE WEST HALF OF THE SOUTHEAST QUARTER AND THE

Ordinance No. _____
Re: PC 04-04
Page 2

SOUTH 1332 FEET OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, DU PAGE COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1943 AS DOCUMENT NO. 45575, IN THE RECORDER'S OFFICE OF DU PAGE COUNTY, ILLINOIS.

Parcel Numbers: 06-20-306-013 and 014

SECTION 3: This ordinance shall be in full force and effect from and after its passage and approval as provided by law.

Passed on first reading this ____ day of _____, 2004.

First reading waived by action of the Board of Trustees this ____ day of _____, 2004.

Passed on second reading this ____ day of _____, 2004.

Ayes: _____

Nays: _____

Absent: _____

Approved this _____, day of _____, 2004.

William J. Mueller, Village President

ATTEST:

Barbara A. Johnson, Deputy Village Clerk

**REGENCY ESTATES
ANNEXATION AGREEMENT**

THIS ANNEXATION AGREEMENT (the "Agreement") is made and entered into this ____ day of ~~February~~ April, 2004, by and between the **VILLAGE OF LOMBARD**, a municipal corporation (hereinafter referred to as "Village"); **ANTONIO RENDINA, AS TRUSTEE OR HIS SUCCESSORS IN TRUST UNDER TRUST AGREEMENT DATED JUNE 28, 2001, F/B/O THE ANTONIO RENDINA FAMILY and MILLENNIUM TRUST COMPANY, LLC, SUCCESSOR TO INDEPENDENT TRUST CORPORATION, ORLAND PARK, ILLINOIS, AS TRUSTEE UNDER TRUST AGREEMENT DATED MARCH 31, 1987 AND KNOWN AS TRUST NO. 20200**, (hereinafter collectively referred to as "Owner"); and **FREEDOM DEVELOPMENT CORPORATION**, an Illinois corporation (hereinafter referred to as "Developer").

WITNESSETH:

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

WHEREAS, Developer proposes to develop the Subject Property; and

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

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

WHEREAS, the Subject Property is an approximate four-acre parcel of land and there are no electors residing thereon; and

WHEREAS, all owners of record of the Subject Property have signed a Petition for Annexation of the Subject Property to the Village, which Petition is hereinafter referred to as the "Annexation Petition"; and

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

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

WHEREAS, a public hearing was held on January 26, 2004, for the purpose of considering whether the Subject Property should be rezoned, upon its annexation, from the R-1 Single Family

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

WHEREAS, public hearings on this Annexation Agreement ("Agreement") were held by the Corporate Authorities on February 19, 2004; and

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

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

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

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

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

WHEREAS, the Developer desires to have the Subject Property rezoned to the R-2 Single Family Residence District under the Zoning Ordinance.

NOW THEREFORE, in consideration of the premises and the mutual promises herein set forth, the sufficiency of which is acknowledged by all parties, the parties hereto agree as follows:

1. **INCORPORATION OF RECITALS.** The Village, Owner and Developer agree that the foregoing recitals are incorporated in this Agreement as if fully recited herein.

2. **DEVELOPMENT OF SUBJECT PROPERTY.** Village, Owner and Developer agree that the Subject Property shall be developed in accordance with the terms of this Agreement and the exhibits attached hereto and made a part hereof. To the extent that any exhibit attached

hereto and made a part of this document is labeled as preliminary, the final documents shall be in substantial compliance with the preliminary documents attached hereto and subsequent to final approval by the Village.

3. **ANNEXATION.** Subject to the provisions of 65 ILCS 5/7-1-1 et sequitur, as soon as reasonably practical after the Developer shall acquire the Subject Property, the parties agree to do all things necessary or appropriate to cause the Subject Property to be duly and validly annexed to the Village. The parties shall cause such annexation to be effected pursuant to the provisions of 65 ILCS 5/7-1-8. In the event the Subject Property is not acquired by Developer on or before the date which is one hundred eighty (180) days after the date of execution hereof, and notification is not provided to the Village stating that the Developer has acquired ownership title to the Subject Property within two hundred (200) days after the date of execution hereof, this Agreement and the Development Agreement shall become null and void and shall be of no further force and effect and the parties shall have no further liability to each other.

4. **ZONING.** Upon annexation of the Subject Property to the Village as set forth herein, the Corporate Authorities shall, without further public hearings, immediately rezone and classify the entire Subject Property from the R-1 Single Family Residence District to the R-2 Single Family Residence District. In addition, the Corporate Authorities agree to approve a conditional use for planned development, with the following lot deviations:

- A. For Lot 6, reduce the minimum lot width from sixty (60) feet to ~~approximately forty five (45)~~ fifty-five and forty eight one hundredths feet (55.48') feet;
- B. For Lot 7, reduce the minimum lot width from sixty (60) feet to ~~forty three and one half (43.5)~~ fifty-five and forty eight one hundredths feet (55.48') feet; and
- C. For Lot 8, reduce the minimum lot width from sixty (60) feet to ~~forty two and one half (42.5)~~ fifty-five and forty eight one hundredths feet (55.48'); and
- D. ~~For Lot 9, reduce the minimum lot width from sixty (60) feet to forty nine and one half (49.5) feet.~~

5. **SITE PLAN APPROVAL.** The Developer shall develop the Subject Property in full compliance with the Site Plan entitled "Regency Estates", prepared by ARC Design Resources, Inc., as last revised on ~~February 3, 2004~~ March 24, 2004 (the "Site Plan") and the plans and specifications, prepared by ARC Design Resources, Inc., as last revised on ~~February 3, 2004~~ March 24, 2004 (the "Plans and Specifications"), attached hereto as **EXHIBIT B** and made part hereof, both subject to changes based upon final engineering. In addition, the Subject Property shall be landscaped in full compliance with the landscape plan attached hereto as **EXHIBIT C** and made part hereof and entitled "Landscape Plan" (hereinafter the "Landscape Plan"). ~~prepared by ARC Design Resources, Inc. as last revised on February 3, 2004.~~ Said landscape plan shall also amended to incorporate any additional planting modifications as required by the Village as part of final engineering review and

approval and as conditioned within the Ordinance approving the requested planned development.

Furthermore, the use and development of the subject property shall be subject to the following additional requirements:

- A. 18th Street shall be improved by the Developer to a fully improved right-of-way from the eastern boundary of the Subject Property, West until it meets the improved portion of 18th Street at Stewart Avenue. For purposes hereof “improved” shall mean installation of pavement, curb and gutter, street lights in accordance with the Village Code, sidewalks on the north side (only) of 18th Street, storm sewers and necessary landscaping. The Village represents and warrants to the Owner and the Developer that electricity for the street lights for 18th Street and for Regency Court can be obtained through the existing controller located on the property owned by DuPage Medical Center, at no cost to Developer or Owner.
- B. The Developer shall take the necessary steps, at such time as directed by the Village, to landscape the Subject Property with parkway trees planted at the ratio of one (1) for each forty feet (40') of frontage. This requirement shall extend to the right-of-way to be dedicated to the Village for the length of the newly constructed portion of 18th Street from Stewart Avenue to LaLonde Avenue (including around the detention outlot) and within the cul-de-sac street.
- C. Any obligations of current Owners as set forth herein (including but not limited to all financial obligations imposed on the current Owner) shall become the sole responsibility of the Developer as of the closing of Developer’s contemplated purchase of the Subject Property from the current Owner, provided the said transaction closes. Upon such closing, the current Owner shall be automatically released from compliance with such obligations to the Village, and the subsequent owner, whether the Developer or another entity, shall be responsible to fulfill all of the Owner’s obligations.

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

7. **WATER UTILITIES.**

- A. Village represents and warrants to Developer as follows:
 - (1) That it owns and operates a water distribution system within the Village.
 - (2) That the Village has sufficient capacity to provide and will provide potable water to the Subject Property, such service to be substantially

the same as provided to other residential areas in the Village being provided with water by the Village in terms of quantity, pressure, quality and cost.

- B. Owner and Developer, at their own expense shall install water main extensions in accordance with the Subdivision and Development Ordinance and substantially in compliance with the Plans and Specifications. The parties agree that Owner and Developer shall pay all Village water connection charges (at the lowest rate applicable to single-family residential properties in the Village at the time of connection.)
- C. Owner and Developer shall grant or dedicate all easements reasonably required by the Village for the construction of the necessary water main extensions serving the Subject Property.

8. SANITARY SEWER FACILITIES.

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

9. STORM DRAINAGE FACILITIES.

- A. Storm drainage facilities, and retention and/or detention areas (hereinafter, the "Storm Drainage Facilities") shall be provided and constructed and paid for by Owner and Developer substantially in accordance with the Plans and Specifications on Lots ~~13 and 14~~ 10 within the Subdivision. The area within the right-of-way of 18th Street shall be excluded from any calculation of the required Storm Drainage Facilities capacity, since that roadway improvement is less than one (1 acre of additional impervious area per DuPage County

Division of Transportation guidelines.

In addition, the Storm Drainage Facilities shall be maintained by the Owner and Developer and/or any subsequent lot owners. Such Storm Drainage Facilities shall be maintained by the Owner and Developer during the course of development, and thereafter shall be maintained by either the Owner and Developer or by the subsequent owner(s), all in accordance with a Declaration of Covenants to be recorded on the Subject Property, which Declaration of Covenants shall provide the Village with the right, but not the duty, to go upon any portion of the Subject Property to maintain and/or repair or replace such Storm Drainage Facilities if they are not suitably maintained so that they remain fully operational, and if the Village takes, after written notice to the Owner, in its reasonable discretion, any such action, such Declaration of Covenants shall provide that any such owner(s) or the Owner and/or Developer shall immediately upon demand reimburse the Village for all reasonable expenses incurred by the Village against the particular portion of the Subject Property, and if not promptly paid, the Declaration of Covenants shall provide the Village the right to record a lien for any such unpaid expenses against the Subject Property or any portion thereof, and to foreclose on any such lien. Prior written notice shall not be required in emergency situations. In regard to the Storm Drainage Facilities, provisions specified by the Village's Director of Community Development shall be set forth on the final Plat of Subdivision and in a Declaration of Covenants to be recorded relative to the Subject Property, with said Declaration of Covenants clearly indicating that the following language cannot be amended or deleted from said Declaration of Covenants, without the prior written consent of the Village.

- B. The East side of the detention basin shall have a four (4)-foot high board-on-board cedar fence installed along the entire length of the property line and along the interior lot line within the required front yard for the safety of the the public and the adjacent property owners. No fence shall be required if the wall is revised to an earthen slope. The fence shall also include a ten foot (10') opening along the front property line to allow for maintenance vehicles and equipment to enter the detention and wetland area.
- C. There shall be no direct tie-in of downspouts or sump pumps into any backyard storm sewers on the Subject Property.

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

11. **DEVELOPMENT AGREEMENT.** Once the Developer has acquired ownership title to the Subject Property and assumes the rights and responsibilities of the Owner, the Owner/Developer agrees to enter into a Development Agreement governing development of the

Subject Property, which shall be substantially in the form as set forth in EXHIBIT F, attached hereto and incorporated herein.

12. **CABLE TELEVISION.** The Owner and/or Developer shall provide necessary easements for cable television service as set forth in EXHIBIT D.

13. **EASEMENTS.** Owner and/or Developer shall provide all easements as depicted on EXHIBIT D and as required by final engineering plans.

14. **CONTRIBUTIONS.** There shall be no requirement for Owner and/or Developer to make any contributions to elementary school, middle school, high school, park, library or other service districts.

15. **SPECIAL ASSESSMENTS.** The Village agrees that no special assessments or special service area shall be made applicable to the Subject Property during the first three (3) years of this Agreement, without the prior written consent of the Owner.

16. **FEES.** In consideration of the impact of the development of Subject Property on the Village, and in consideration of water mains, sanitary sewer mains and storm sewer mains previously installed by the Village to assist in the serving of the Subject Property with water and sewers, Owner and Developer agree to pay all applicable permit (including, but not limited to building permit) and utility connection fees as required by Village Ordinances at the time of application for the respective permits. The parties agree that all such fees and charges shall be at the lowest rate applicable to single family residential properties in the Village at the time of permit issuance.

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

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

19. ***RESERVED***

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

21. **ANNEXATION TO LOMBARD PARK DISTRICT.** The Owner and Developer agree to petition the Lombard Park District to have the Subject Property annexed to the Lombard Park District upon its annexation to the Village.

22. **GENERAL PROVISIONS.**

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

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

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

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

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

If to the Owner: c/o Antonio Rendina
173 Saddlebrook Drive
Oak Brook, Illinois 60523

With a Copy to: Louis V. Pavone
Loss, Pavone & Orel
1920 South Highland Avenue
Suite 333
Lombard, Illinois 60148

If to the Developer: Jeffrey R. Brown
Freedom Development Corp.
P. O. Box 6150
Villa Park, Illinois 60181

With a Copy to: Richard Heidecke
Heidecke Law Offices
720 Enterprise Drive
Oak Brook, Illinois 60523

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

B. Continuity of Obligations.

- (1) The provisions of this Agreement, except as to various covenants running with the land and the obligation to provide such and the further exception set forth below in this subsection, obligating Owner and Developer, shall not be binding upon the successors in title to the Owner and/or Developer who have purchased individual dwellings or improved individual lots as the ultimate consumers thereof (namely the individuals who actually own and reside in the houses to be built on said lots). The provisions of this Agreement shall be binding, however, on any builders who purchase any of the lots for eventual resale to the ultimate consumers thereof. Notwithstanding the foregoing, the provisions relating to Storm Drainage Facilities in Section 9 shall be binding on the ultimate consumers and any builders and shall be considered and are hereby declared as covenants running with the land.
- (2) In the event of any sale or conveyance by Owner and/or Developer of the Subject Property or any portion thereof, excluding any sale or conveyance by Owner or Developer of any individual dwellings or individual residential lots while Owner or Developer is acting in the regular course of its business of a developer selling or transferring such dwellings or improved lots to the ultimate consumers thereof, Owner and/or Developer shall notify the Village in writing, within thirty (30) working days after the closing of such sale or conveyance, of any and all successors in title to all or any portion of the Subject Property. Such written notice shall include identification of the names(s) of such successor(s), the date of such sale or conveyance, and a copy of the title opinion identifying the grantee, the real estate sold or conveyed, and such other information as is usually and customarily included in a title opinion for the sale or conveyance or real estate. Failure to give timely notice shall not constitute a default hereunder, but shall be governed by the remaining provisions of this subsection 22B.
- (3) Upon the condition that the requirements of this subsection 22B have been met, this Agreement shall insure to the benefit of and shall be binding upon Owner and/or Developer's successors in any manner in title, and shall be binding upon the Village and the successor Corporate Authorities of the Village and any successor municipality. In the event that the requirements of this subsection 22B have not

been met, this Agreement shall be binding upon, but shall not inure to the benefit of Owner and Developer's successors in any manner in title until such time as Owner or Developer has given the Village the notice required by this subsection.

- (4) Notwithstanding any provision of this Agreement to the contrary, including but not limited to the sale or conveyance of all or any part of the Subject Property by Owner and/or Developer in accordance with subsection 22B(3) above, the Owner and Developer shall at all times during the term of this Agreement remain liable to Village for the faithful performance of all obligations imposed upon Owner and/or Developer by this Agreement until such obligations have been fully performed or until Village, in the exercise of its reasonable discretion, has otherwise released Owner and/or Developer from any and all such obligations.
- (5) Except as otherwise provided in this subsection 22B, all the terms and conditions of this Agreement shall constitute covenants running with the land.

- C. **Court Contest.** In the event the annexation of the Subject Property, the classification of the Subject Property for zoning purposes or other terms of this Agreement are challenged in any court proceeding, the period of time during which such litigation is pending, including (without limitation) the appeal time therefor, shall not be included, if allowed by law, in calculating the twenty (20) year period mentioned in subsection 22T below.
- D. **Remedies.** The Village and Owner and Developer, and their successors and assigns, covenant and agree that in the event of default of any of the terms, provisions or conditions of this Agreement by any party, or their successors or assigns, which default exists uncorrected for a period of thirty (30) days after written notice to any party to such default, the party seeking to enforce said provision shall have the right of specific performance and if said party prevails in a court of law, it shall be entitled to specific performance. It is further expressly agreed by and between the parties hereto that the remedy of specific performance herein given shall not be exclusive of any other remedy afforded by law to the parties, or their successor or successors in title.
- E. **Dedication of Public Lands.** In no event, including (without limitation) the exercise of the authority granted in Section 5/11-12-8 of Division 11 of Act 5 of Chapter 65 of the Illinois Compiled Statutes, shall the Corporate Authorities require that any part of the Subject Property be designated for public purposes, except as otherwise provided in this Agreement or except as may be consented to in writing by Owner and Developer.
- F. **Conveyance, Dedication and Donation of Real Estate and Certain**

Personal Property. Any conveyance, dedication or donation of real estate required of Owner and/or Developer (hereinafter collectively and individually referred to as "Grantor" in this subsection 22F) to the Village or other governmental authority under this Agreement (hereinafter referred to as "Grantee" in this subsection 22F) shall be made in conformance with the following requirements and any other applicable provisions of this Agreement.

- a. Fee Simple Title. The conveyance, dedication or donation shall be of a fee simple title.
- b. Merchantable Title. Title shall be good and marketable.
- c. Form and Contents of Deed. The conveyance, dedication or donation shall be by delivery of a good, sufficient and recordable deed, plat of dedication or appropriate dedication on a recorded plat of subdivision. The deed, conveyance or dedication may be subject only to:
 - (a) covenants, restrictions and easements of record, provided the same do not render the real estate materially unsuitable for the purpose for which it is conveyed, dedicated or donated;
 - (b) terms of this Agreement;
 - (c) general taxes for the year in which the deed, conveyance or dedication is delivered or made and for the prior year of the amount of the prior year's taxes is not determined at the time of delivery, conveyance or dedication; and
 - (d) such other exceptions acceptable to the Grantee.
- d. Title Insurance. Grantor shall provide to Grantee, not less than ten (10) days prior to the time for delivery of the deed, conveyance or dedication, a commitment for title insurance from the Chicago Title Insurance Company or such other title insurance company acceptable to the Grantee. The commitment for title insurance shall be in usual and customary form subject only to:
 - (a) the usual and customary standard exceptions contained therein;
 - (b) taxes for the year in which the deed is delivered and for the prior year if the amount of such prior year's taxes is not determinable at the time of delivery of the deed, conveyance or dedication; and

- (c) such other exceptions as are acceptable to the Grantee.

The commitment for title insurance shall be in the amount of the fair market value of the real estate and shall be dated not more than twenty (20) days prior to the time for delivery of the deed, conveyance or dedication. Grantor shall further cause to be issued within thirty (30) days after delivery of the deed, conveyance or dedication a title insurance policy in such amount from the company issuing the commitment for title insurance, subject only to the exceptions stated above.

All title insurance charges shall be borne by Owner and Developer.

- e. Taxes, Liens, Assessments, Etc. General taxes and all other taxes, assessments, liens and charges of whatever nature affecting the real estate shall be paid and removed prior to delivery of the deed, conveyance or dedication. To the extent that any such item cannot be removed prior to delivery of the deed, conveyance or dedication because the amount of the same cannot then be determined, Grantor hereby covenants that it will promptly pay the same upon determination of such amount and that it will indemnify, hold harmless and defend the Village and Grantee, if other than the Village, against any loss or expense, including but not limited to attorney's fees and expenses of litigation, arising as a result of a breach of the foregoing covenant.
- f. Delivery of Deed, Conveyance or Dedication. To the extent not provided in this Agreement, delivery of the deed, conveyance or dedication shall occur at a date, time and place mutually agreeable to Grantor and Grantee, otherwise at a date, time and place set by Grantee not less than thirty (30) days nor more than forty-five (45) days after notice thereof is given by Grantee to Grantor.
- G. **Conveyances.** Nothing contained in this Agreement shall be construed to restrict or limit the right of Owner and/or Developer to sell or convey all or any portion of the Subject Property, whether improved or unimproved, except as otherwise specifically set forth herein.
- H. **Survival of Representation.** Each of the parties agrees that the representations, warranties and recitals set forth in the preambles to this Agreement are material to this Agreement and the parties hereby confirm and admit their truth and validity and hereby incorporate such representations, warranties and recitals into this Agreement and the same shall continue during the period of this Agreement.

I. **Captions and Paragraph Headings.** The captions and paragraph headings used herein are for convenience only and are not part of this Agreement and shall not be used in construing it.

J. **Reimbursement to Village for Legal and Other Fees and Expenses.**

a. To the Effective Date of Agreement. The Owner and/or Developer concurrently with annexation and zoning of the Subject Property or so much thereof as required, shall reimburse the Village for the following expenses incurred in the preparation and review of this Agreement, and any ordinances, letters of credit, plats, easements or other documents relating to the Subject Property:

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

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

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

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

In the event that any third party or parties institute any legal

proceedings against the Owner and/or Developer and/or the Village, which relate to the terms of this Agreement, then, in that event, the Owner and/or Developer, on notice from Village shall assume, fully and vigorously, the entire defense of such lawsuit and all expenses of whatever nature relating thereto; provided, however:

- (a) Owner and Developer shall not make any settlement or compromise of the lawsuit, or fail to pursue any available avenue of appeal of any adverse judgment, without the approval of the Village.
- (b) If the Village, in its reasonable discretion, determines there is, or may probably be, a conflict of interest between Village and Owner and/or Developer, on an issue of importance to the Village having a potentially substantial adverse effect on the Village, then the Village shall have the option of being represented by its own legal counsel. In the event the Village exercises such option, then Owner and/or Developer shall reimburse the Village, from time to time on written demand from the Director of Community Development and notice of the amount due, for any expenses, including but not limited to court costs, reasonable attorneys' fees and witnesses' fees, and other expenses of litigation, incurred by the Village in connection therewith.

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

- K. **No Waiver or Relinquishment of Right to Enforce Agreement.** Failure of any party to this Agreement to insist upon the strict and prompt performance of the terms, covenants, agreements and conditions herein contained, or any of them, upon any other property imposed, shall not constitute or be construed as a waiver or relinquishment of any party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.
- L. **Village Approval or Direction.** Where Village approval or direction is required by this Agreement, such approval or direction means the approval or direction of the Corporate Authorities of the Village unless otherwise

expressly provided herein or required by law, and any such approval may be required to be given only after and if all requirements for granting such approval have been met unless such requirements are inconsistent with this Agreement.

- M. **Recording.** A copy of this Agreement and any amendment thereto shall be recorded by the Village at the expense of the Owner and Developer.
- N. **Authorization to Execute.** The officers of Owner and Developer executing this Agreement warrant that they have been lawfully authorized by Owner's and Developer's respective Boards of Directors to execute this Agreement on behalf of said Owner and Developer. The President and Deputy Clerk of the Village hereby warrant that they have been lawfully authorized by the Village Board of the Village to execute this Agreement. The Owner and Developer and Village shall deliver to each other upon request copies of all bylaws, joint venture agreements, resolutions, ordinances or other documents required to legally evidence the authority to so execute this Agreement on behalf of the respective entities.
- O. **Amendment.** This Agreement sets forth all promises, inducements, agreements, conditions and understandings between the Owner and Developer and the Village relative to the subject matter thereof, and there are no promises, agreements, conditions or understandings, either oral or written, express or implied, between them other than are herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties hereto unless authorized in accordance with law and reduced in writing and signed by them.
- P. **Counterparts.** This Agreement may be executed in two (2) or more counterparts, each of which taken together, shall constitute one and the same instrument.
- Q. **Conflict Between the Text and Exhibits.** In the event of a conflict in the provisions of the text of this Agreement and the Exhibits attached hereto, the text of the Agreement shall control and govern.
- R. **Definition of Village.** When the term Village is used herein it shall be construed as referring to the Corporate Authorities of the Village unless the context clearly indicates otherwise.
- S. **Execution of Agreement.** This Agreement shall be signed last by the Village and the President of the Village shall affix the date on which he/she signs this Agreement on Page 1 hereof, which date shall be the effective date of this Agreement.

T. **Terms of Agreement.** This Agreement shall be in full force and effect for a term of twenty (20) years from and after date of execution of this Agreement.

T. **Venue.** The parties hereto agree that for purposes of any lawsuit(s) between them concerning this Agreement, its enforcement, or the subject matter thereof, venue shall be in DuPage County, Illinois, and the laws of the State of Illinois shall govern the cause of action.

23. **RECAPTURE OF 18TH STREET CONSTRUCTION COSTS.** The parties recognize hereto that the Owner/Developer is obligated to fully improve 18th Street from Stewart Avenue to a point perpendicular with the Subject Property. Pursuant to Section 154.307 of the Subdivision Ordinance, the Village shall allow for a recapture agreement for public improvements in compliance with 65 ILCS 5/9-5-1. Owner/Developer and Village will enter into a Recapture Agreement under the terms of which Owner/Developer shall be entitled to recapture a portion of its costs concurrent with the subsequent development of properties adjacent to the portion of 18th Street which was improved by Owner/Developer, as identified in **EXHIBIT E** "the Recapture Agreement". Once the actual costs of construction are known for the 18th Street improvements, the Village shall enter into a recapture agreement with the Owner/Developer, with the dollar amount based upon the following formula:

$$\frac{\begin{array}{l} 18^{\text{th}} \text{ Street Frontage} \\ \text{(expressed in feet) for} \\ \text{Parcel to be newly Annexed} \end{array}}{\begin{array}{l} \text{Total Number of Feet of} \\ 18^{\text{th}} \text{ Street Improved by} \\ \text{Developer} \end{array}} \times \begin{array}{l} \text{Cost of Improvement of} \\ 18^{\text{th}} \text{ Street as} \\ \text{Certified by Developer's Engineer} \end{array}$$

Increased by a factor of ____% per annum, not cumulative, until paid.

For purposes hereof, the "Cost of Improvement of 18th Street" shall be defined as all of the Developer's Costs expended in compliance with Paragraph 5A hereof. A notice of this Right of Recapture shall be recorded against each of the three (3) parcels situated west of the Subject Property, at the expense of the Developer. The foregoing right of recapture shall be waived with respect to any of the three (3) parcels in question in the event the Developer, or any affiliate of the Developer, acquires title to such parcel.

24. **CURB CUTS.**

- A. The Village hereby agrees that the Developer may, irrespective of Village ordinances regarding frontage, construct driveways (with corresponding curb cuts) on each lot in the subdivision of the Subject Property having a width not to exceed twenty (20) feet.
- B. The Village agrees that Lot 1 in the subdivision of the Subject Property may

have one curb cut, of a width not to exceed twenty (20) feet onto 18th Street.

{THIS SPACE INTENTIONALLY LEFT BLANK—SIGNATURE PAGE TO FOLLOW}

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

VILLAGE OF LOMBARD

ATTEST:

By: _____
Name: Barbara Johnson
Its: Deputy Village
Clerk

By: _____
Name: William J., Mueller
Its: President, Village of Lombard

Dated: _____, 2004

DEVELOPER:

FREEDOM DEVELOPMENT CORPORATION

ATTEST:

By: _____
Its: _____

By: _____
Name: Jeffrey R. Brown
Its: President

Dated: _____, 2004

OWNER:

ANTONIO RENDINA, NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER A TRUST AGREEMENT DATED JUNE 28, 2001 FOR THE BENEFIT OF THE ANTONIO RENDINA FAMILY

ATTEST:

By: _____
Its: _____

By: _____
Name: Antonio Redina
Its: Trustee, as aforesaid

Dated: _____, 2004

MILLENNIUM TRUST COMPANY, NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER A TRUST AGREEMENT DATED MARCH 31, 1987 AND KNOWN AS TRUST NUMBER 20200

ATTEST:

By: _____
Its: _____

By: _____
Name: _____
Its: _____

Dated: _____, 2004

STATE OF ILLINOIS)
) SS.
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, **DO HEREBY CERTIFY** that **WILLIAM J. MUELLER**, personally known to me to be the President of the Village of Lombard, and **BARBARA A. JOHNSON**, personally known to me to be the Deputy Village Clerk of said municipal corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this _____ day of _____, 2004 in person and severally acknowledged that as such President and Deputy Village Clerk, they signed and delivered the said instrument and caused the corporate seal of said municipal corporation to be affixed thereto, pursuant to authority given by the Board of Trustees of said municipal corporation, as their free and voluntary act, and as the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this _____ day of _____, 2004.

{SEAL}

Notary Public
Print Name: _____
My Commission Expires: _____

STATE OF ILLINOIS)
) SS.
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, **DO HEREBY CERTIFY** that **ANTONIO RENDINA, NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER A TRUST AGREEMENT DATED JUNE 28, 2001 FOR THE BENEFIT OF THE ANTONIO RENDINA FAMILY**, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this _____ day of _____, 2004 in person and acknowledged that he signed and delivered the said instrument, as his free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this _____ day of _____, 2004.

{SEAL}

Notary Public
Print Name: _____
My Commission Expires: _____

STATE OF ILLINOIS)
) SS.
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, **DO HEREBY CERTIFY** that **JEFFREY R. BROWN** and _____ personally known to me to be the President and Secretary of **FREEDOM DEVELOPMENT CORPORATION, AN ILLINOIS CORPORATION**, appeared before me this ____ day of _____, 2004 in person and severally acknowledged that they signed and delivered the said instrument, as the free and voluntary act of said company for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this _____ day of _____, 2004.

{SEAL}

Notary Public
Print Name: _____
My Commission Expires: _____

SCHEDULE OF EXHIBITS

- EXHIBIT A: Legal Description
- EXHIBIT B: Site Plan and Plans & Specifications
- EXHIBIT C: Landscape Plan
- EXHIBIT D: Preliminary Plat of Subdivision
- EXHIBIT E: *Intentionally Deleted*
- EXHIBIT F: Preliminary Development Agreement

EXHIBIT A

LEGAL DESCRIPTION

REGENCY ESTATES

PARCEL 1.

THE WEST 175.0 FEET OF THE WEST 206.50 FEET OF THE SOUTH 499.0 FEET OF THE NORTH 1497.0 FEET OF THE SOUTHWEST ¼ OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS.

ALSO KNOWN AS LOT 18 IN YORK TOWNSHIP SUPERVISOR'S ASSESSMENT PLAT NO. 1 (HIGHLAND ROAD FARM) OF THE EAST ½ OF THE SOUTHWEST ¼; THE WEST ½ OF THE SOUTHEAST ¼ AND THE SOUTH 1332.0 FEET OF THE WEST ½ OF THE NORTHEAST ¼ OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1943 AS DOCUMENT 452575, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 2.

LOT 17 IN YORK TOWNSHIP SUPERVISOR'S ASSESSMENT PLAT NO. 1 (ALSO KNOWN AS HIGHLAND ROAD FARMS) OF THE EAST ½ OF THE SOUTHWEST ¼, THE WEST ½ OF THE SOUTHEAST ¼ AND THE SOUTH 1332 FEET OF THE WEST ½ OF THE NORTHEAST ¼ OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1943 AS DOCUMENT 452575, IN DUPAGE COUNTY, ILLINOIS.

PERMANENT INDEX NUMBER: 06-20-306-014
PERMANENT INDEX NUMBER: 06-20-306-013

PROPERTY ADDRESS: 19 W 416 East 18TH Street and
312 East 18TH Street
Lombard, Illinois 60148

EXHIBIT B

Site Plan and Plans & Specifications

EXHIBIT C
Landscape Plan

EXHIBIT D

Preliminary Plat of Subdivision

EXHIBIT E

RECAPTURE AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 20 __, by and between the VILLAGE OF LOMBARD, a municipal corporation of the County of DuPage, in the State of Illinois (hereinafter referred to as "VILLAGE'S and _____, a _____ (hereinafter referred to as "DEVELOPER");

WITNESSETH

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

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

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

P.I.N.:

Commonly known as:

and

WHEREAS, the DEVELOPER intends to develop/has developed the SUBJECT SITE in accordance with its zoning classification under the VILLAGE'S Zoning Ordinance for _____ uses; and,

WHEREAS, the DEVELOPER intends to construct/has constructed the following public utilities relative to the development of the SUBJECT PROPERTY: _____

(hereinafter referred to as the "PUBLIC UTILITY IMPROVEMENTS'); and,

WHEREAS, all of the aforesaid construction will be carried out/has been carried out and completed in strict compliance with all VILLAGE ordinances and codes, and plans, and specifications approved by the VILLAGE; and,

Exhibit E
Form Recapture Agreement
(Continued)

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

WHEREAS, the construction of the aforesaid PUBLIC UTILITY IMPROVEMENTS by the DEVELOPER will, in addition to benefiting the SUBJECT SITE, also benefit the property located at _____ if and when said property is developed; and,

WHEREAS, the DEVELOPER should be reimbursed by the owners of said benefited property if and when it is developed; and,

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

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

1. That DEVELOPER will, at its sole expense, complete the construction of all the aforesaid PUBLIC UTILITY IMPROVEMENTS in conformance with the plans and specifications prepared by _____, dated the _____ day of _____, 20 __, and approved by the VILLAGE.

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

Exhibit E
 Recapture Agreement
 (Continued)

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

1. Water Main Construction	\$ _____
2. Storm Sewer Construction	\$ _____
3. Sanitary Sewer Construction	\$ _____
4. Roadway Construction	\$ _____
5. Traffic Signal Construction	\$ _____
6. Construction of Traffic Related Improvements	\$ _____
7. Engineering and Inspection Fees	\$ _____
TOTAL	\$ _____

The VILLAGE agrees to reimburse DEVELOPER for a portion of said total amount not to exceed \$ _____, said \$ _____ to be payable by the VILLAGE to the DEVELOPER solely and exclusively from collections from the owners of the property described on Exhibit "A", attached hereto and made part hereof, which will be benefited by the construction of said PUBLIC UTILITY IMPROVEMENTS by DEVELOPER if and when said property is developed (hereinafter the "BENEFITED PROPERTY"). The amounts to be collected in relation to each individual parcel, tract or lot shall be as set forth on Exhibit "A".

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

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

5. This Agreement shall remain in full force and effect until the _____ day of _____, _____; after said date the BENEFITED PROPERTY set forth in Exhibit "A" shall no longer be liable for payment of the \$ _____.

Recapture Agreement
(Continued)

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

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

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed in duplicate by their duly authorized representatives all on the day and year first above written, pursuant to a proper resolution of the respective governing body of each party hereto.

VILLAGE OF LOMBARD

By: _____
Village President

(Corporate Seal)

ATTEST:

Village Clerk

DEVELOPER

By: _____

(Corporate Seal)

ATTEST:

Secretary

EXHIBIT F

**PRELIMINARY DEVELOPMENT AGREEMENT
REGENCY ESTATES SUBDIVISION**

**AN AGREEMENT RELATING TO THE APPROVAL OF A MAJOR PLAT
OF SUBDIVISION (OR MAJOR DEVELOPMENT),
THE MAKING OF REQUIRED IMPROVEMENTS
AND PROVIDING FUNDS, THEREFORE, FOR
REGENCY ESTATES SUBDIVISION, LOMBARD, ILLINOIS**

THIS AGREEMENT (hereinafter, the "Development Agreement") is made and entered into this ____ day of _____, 2004 by and between the **VILLAGE OF LOMBARD**, a municipal corporation (hereinafter referred to as "Village") and **FREEDOM DEVELOPMENT CORPORATION**, an Illinois corporation, (hereinafter referred to as "Developer").

WITNESSETH:

WHEREAS, the Developer is the owner and developer of the real estate situated within the corporate limits of the Village, legally described in Exhibit 1 attached hereto and made a part hereof and platted as a subdivision of the Subject Property known as Regency Estates Subdivision, as shown by prints of the final plats thereof placed on file in the office of the Deputy Village Clerk of said Village (hereinafter, the "Subject Property"), and intends to develop the Subject Property in accordance with the terms and provisions of this Development Agreement; and

WHEREAS, Developer has prepared final plats as referenced in this Development Agreement, which have been approved by the Plan Commission and the Village Board of Trustees of said Village and which, upon receipt by the Village of an irrevocable letter or letters of credit (hereinafter singularly referred to as "Irrevocable Letter of Credit" or collectively referred to as "Irrevocable Letter(s) of Credit") for an amount specified as security for subdivision public improvements, and for such other purpose or purposes herein mentioned, if any, and upon execution of this Development Agreement shall be recorded; and,

WHEREAS, a site plan and preliminary engineering plans and specifications for the construction and installation of the required public improvements within the boundaries of the aforesaid subdivision of the Subject Property and off-site public improvements, as prepared by ARC Design Resources, Inc., dated ~~February 3,~~ March 24, 2004, have been approved by the President and Board of Trustees of the Village (hereinafter, the "Corporate Authorities"), and copies thereof have been filed in the office of the Deputy Village Clerk of the said Village, which copies by reference thereto are hereby incorporated as a part hereof. A final version of the site plan and engineering plans and specifications (hereinafter, the "Plans and Specifications") will be submitted by the Developer to the Village for approval, which approval shall be a condition precedent to the issuance of any building or authorization to proceed with construction as discussed hereinafter; and,

WHEREAS, the developer has entered into contracts or will enter into contracts for the work and public improvements required to be made within said subdivision of the Subject Property

and off-site under the Village's Subdivision and Development Ordinance (Chapter 154 of the Village Code), this Development Agreement and the Annexation Agreement governing the annexation and zoning of the Subject Property, which Annexation Agreement is entered into between the parties hereto of even date herewith.

NOW, THEREFORE, for and in consideration of the foregoing and of the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

SECTION 1:

COMMENCEMENT OF CONSTRUCTION

Commencement of construction of the public improvements detailed herein may begin only after the Developer has delivered one or more Irrevocable Letter(s) of Credit in a form satisfactory to the Village and issued by a bank or financial institution approved by the Village in an amount equal to 115% of the Developer's engineer's estimate of cost of construction as approved by the Village's engineer for underground utilities (including water distribution system, sanitary sewer system, and storm sewers with appurtenances; storm water control systems (including retention or detention ponds, drainage ways and related facilities); right-of-way improvements, (streets, curbs, gutters, sidewalks, streetlights, and parkway landscaping); and all related grading improvements.

SECTION 2:

CERTAIN OBLIGATIONS OF DEVELOPER

The Developer agrees to cause to be made in such subdivision of the Subject Property with due dispatch and diligence, such improvements as are required under the aforesaid Subdivision and Development Ordinance, the Plans and Specifications, and the additional conditions approved by the Village's Plan Commission on January 26, 2004, and as modified by the Corporate Authorities on April 1, 2004, attached hereto and incorporated herein as Exhibit 2. The Developer will, when required to, bring about progress in the work with due dispatch, take aggressive steps to enforce each contract connected with the construction of said public improvements, to the end that said improvements will be duly and satisfactorily completed within the time or times herein mentioned.

The Developer agrees that all work in the construction of said public improvements shall be done in a good, substantial and workmanlike manner, that all manufactured materials used therein shall be new and of good quality, that same shall at all times be subject to inspection by the Village, shall all be satisfactory to the Village and shall be subject to its approval. The Developer will at its expense furnish all necessary engineering services for said public improvements.

SECTION 3:

COMPLETION OF PUBLIC IMPROVEMENTS

The public improvements subject to the Irrevocable Letter(s) of Credit and included within the Plans and Specifications shall be completed within twenty-four (24) months of recording of the final plat of subdivision of the Subject Property unless otherwise extended by amendment to this Development Agreement by the Corporate Authorities. All Irrevocable Letter(s) of Credit, assurances, guarantees,

acceptances, and related matters shall comply with the Village's Subdivision and Development Ordinance. The construction of public improvements by the Developer and issuance of approvals by the Village for Regency Estates Subdivision shall comply with the following schedule:

A. Sediment and Erosion Control.

Sediment and erosion control measures shall be implemented as per the Subdivision and Development Ordinance and the Plans and Specifications prior to the issuance of building permits or authorization to proceed with mass grading or other public improvements to the Subject Property. Said measures shall be maintained during the entire construction, process and shall be inspected and repaired as necessary after each significant rainfall. Failure to do so may result in the issuance of a stop work order for any outstanding public improvements or building permits.

B. Tree Preservation Measures.

The Village will not impose a tree preservation requirement as a condition of this development. The Developer, however, will use reasonable efforts to preserve as many trees as is reasonably possible around the perimeter of the Subject Property.

C. Authorization to Proceed with Public Improvements.

- 1) Upon approval of the Plans and Specifications, receipt of all required fees, approval of the Irrevocable Letter(s) of Credit, recording of this Development Agreement and the final plat of subdivision of the Subject Property, and completion of items "A" and "B" above, authorization to construct all public improvements will be given by the Village in accordance with the Plans and Specifications. However, a bituminous concrete base course shall not be installed in areas set aside for roadway construction until the storm water management facilities are constructed and storage volumes are verified.
- 2) Village represents it will not impose or collect any impact fees for said subdivision of the Subject Property, except as may be set forth in the Annexation Agreement for Regency Estates Subdivision, of even date herewith, and approved by the Corporate Authorities.

D. Construction of Storm Water Control System.

The storm water management system for the Subject Property is to be operational prior to the issuance of any building permits for private improvements for properties or installation of a bituminous concrete base course in areas set aside for roadway construction. An operational storm water management system means that the volume of the storm water detention/retention pond(s) designated for collection of stormwater runoff generated by the aforesaid subdivision of the Subject Property is adequate for the flow being directed to it and the restrictor outlet is in place and that the system has been reviewed and approved by the Village's Director of Community Development. There shall be excluded from the calculation of the required capacity of the storm water management system all land situated

within the right-of-way of 18th Street, as noted within the Annexation Agreement. Final grading and landscaping of the detention/retention pond(s) shall be completed in conjunction with final landscaping for each phase.

E. Issuance of Building Permits.

1) Foundation-Only Permits.

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

2) Building Permits.

Building permits may be issued upon provision of adequate emergency access to the building site, an operational fire hydrant within 300 feet of the subject building site, and the completion of underground utility work across the street frontage of the subject building site. Adequate emergency access shall mean a maintained roadway with a base course and first layer of asphalt that will support the Village's fire trucks as approved by the Village's fire chief.

3) Model Home.

Developer may commence construction of a model home on either of Lot 1 or Lot 12. Such construction may proceed simultaneously with infrastructure construction, provided that the model home may not be opened for viewing by the public until the following conditions have been satisfied:

- a) the storm water management system for the Subject Property shall be operational; and
- b) all standards applicable to the issuance of a certificate of occupancy by the Village shall have been complied with.

F. Certificates of Occupancy.

Issuance of a certificate of occupancy (hereinafter, a "Certificate of Occupancy") for a dwelling unit shall be issued upon satisfactory completion of the following:

- 1) Inspection and approval by the Village's bureau of inspectional services;
- 2) Completion of the water distribution system including testing and chlorination. No occupancy permits for dwelling units shall be granted by the Village until the water distribution system has been looped (through the development). This requirement shall not apply to a sales office and model building;

- 3) Completion of the sanitary sewer system to the building for which the Certificate of Occupancy is requested;
- 4) Substantial completion of the public street system to the building for which the Certificate of Occupancy is requested and either a turnaround capability for a fire truck or a bituminous roadway through the development in a manner to provide two means of emergency access for each such building. Substantial completion shall include curbs, gutter, street lights and the base course of asphalt;
- 5) Subject to the provisions of Section 3.F.8 below, sidewalks must be installed across the frontage of each lot;
- 6) Subject to the provisions of Section 3.F.8 below, landscaping of the subject building site must be substantially completed, weather permitting. This includes parkway trees, final grading and ground cover;
- 7) Record drawings (as-builts) of the sanitary sewer and domestic water facilities required to serve the building shall be submitted and approved prior to issuance of the first Certificate of Occupancy; and
- 8) A Certificate of Occupancy may be issued at the reasonable discretion of the Village's Director of Community Development during winter conditions notwithstanding the lack of 5) and 6) above provided cash or its equivalent in the amount of 115% of the estimated cost is posted to assure such completion.

G. Other Improvements.

- 1) All required landscaping and other public improvements shall be completed within 24 months of final plat of subdivision of the Subject Property approval or prior to acceptance of the public improvements, whichever date occurs first.
- 2) A buffering plan shall be implemented consistent with the alternatives set forth in the Plans and Specifications.

H. Acceptance of Public Improvements/Easements.

- 1) Final record drawings ("as-builts"), including final grading and all utilities, shall be submitted for the review and approval of the Village's Director of Community Development prior to acceptance of the public improvements.
- 2) Engineer's Certification. The Developer's engineer is to certify that the storm water management system were constructed in accordance with the Village's flood control ordinances, and that the project was constructed substantially to plan.
- 3) All deficiencies described in the final punch list shall be satisfactorily completed and approved by the Village's Directors of Public Works and Community Development.

- 4) A maintenance guarantee in the form of an irrevocable letter of credit shall be submitted and approved. Said maintenance guarantee and irrevocable letter of credit shall comply with the Village's Subdivision and Development Ordinance.
- 5) The public improvements to be dedicated to the Village shall be accepted by the Corporate Authorities. Upon acceptance by the Corporate Authorities, the public improvement installation guarantee (i.e., the Irrevocable Letter(s) of Credit) shall be returned to the developer.
- 6) Upon inspection and determination that no deficiencies exist, the maintenance guarantee (irrevocable letter of credit), shall be returned at the time of its expiration.

SECTION 4:

CONSTRUCTION DAMAGE TO PUBLIC IMPROVEMENTS

Care shall be taken to avoid damage to public improvements, including but not limited to, utilities and curbs during construction. Any public improvement damaged during construction shall be repaired by the Developer at no cost to the Village and to the satisfaction of the Village and in substantial compliance with this agreement and all relevant Village ordinances.

SECTION 5:

DEDICATION OF PUBLIC IMPROVEMENTS

Upon the Village's approval and acceptance of the public improvements, same shall become the property of the Village and subject to its control. A formal dedication or conveyance of the public improvements to the Village shall be made by the Developer, if deemed necessary by the Corporate Authorities.

SECTION 6:

IRREVOCABLE LETTER(S) OF CREDIT

It is expressly understood that this agreement is conditional upon and subject to (1) the delivery to the Village of the document provided for in Section 1 from a financial institution reasonably approved by the Village, (2) approval of same by the Corporate Authorities, and (3) placing same in the Village's files.

SECTION 7:

NOTICES

All notices or demands to be given hereunder shall be in writing, and the mailing of any such notice or demand by Certified or Registered Mail. Said notices shall be provided as follows:

If to the Village or
Corporate Authorities:

President and Board of Trustees
Village of Lombard
255 East Wilson Avenue
Lombard, Illinois 60148

With Copies to:

Village Manager
Village of Lombard
255 East Wilson Avenue
Lombard, Illinois 60148

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

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

If to the Developer:

Jeffrey R. Brown
Freedom Development Corp.
P. O. Box 6150
Villa Park, Illinois 60181

With a Copy to:

Richard Heidecke
Heidecke Law Offices
720 Enterprise Drive
Oak Brook, Illinois 60523

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

SECTION 8:

SITE ACCESS

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

SECTION 9:

TRAFFIC CONTROL

The Developer shall install traffic signs and other devices as required by the Village for the proper control of vehicles and pedestrians in the area. These control devices shall meet the specifications of the Village's engineer.

SECTION 10:

ACCEPTANCE

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

SECTION 11:

**BINDING EFFECT AND TERM AND
COVENANTS RUNNING WITH THE LAND**

- A. This Development Agreement has been executed on behalf of the Village pursuant to action adopted by the Corporate Authorities at a meeting of said Corporate Authorities duly held on ~~February~~ April 1_____, 2004.
- B. This Development Agreement has been executed by the Developer and shall be binding on the heirs and assigns of the Developer, but shall not be binding on a dwelling unit owner subsequent to the issuance of an occupancy permit for said dwelling unit.
- C. This Development Agreement shall automatically expire upon the expiration of the maintenance guarantee (irrevocable letter of credit) required at the time of acceptance of the public improvements as set forth in Section 3.H.4 herein.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed on their behalf respectively and have caused their respective Corporate Seals to be affixed hereto, all as of the date and year first above written.

DEVELOPER:

ATTEST:

FREEDOM DEVELOPMENT CORPORATION

By: _____
Its: _____

Dated: _____, 2004

By: _____
Name: Jeffrey R. Brown
Its: President

VILLAGE OF LOMBARD

ATTEST:

By: _____
Name: Barbara Johnson
Its: Deputy Village
Clerk

Dated: _____, 2004

By: _____
Name: William J. Mueller
Its: President, Village of Lombard

SCHEDULE OF EXHIBITS

EXHIBIT 1: Legal Description

EXHIBIT 2: Plan Commission Conditions of January 26, 2004, as Amended by the Corporate Authorities on April 1, 2004.

EXHIBIT 1

LEGAL DESCRIPTION

REGENCY ESTATES

PARCEL 1.

THE WEST 175.0 FEET OF THE WEST 206.50 FEET OF THE SOUTH 499.0 FEET OF THE NORTH 1497.0 FEET OF THE SOUTHWEST ¼ OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS.

ALSO KNOWN AS LOT 18 IN YORK TOWNSHIP SUPERVISOR'S ASSESSMENT PLAT NO. 1 (HIGHLAND ROAD FARM) OF THE EAST ½ OF THE SOUTHWEST ¼; THE WEST ½ OF THE SOUTHEAST ¼ AND THE SOUTH 1332.0 FEET OF THE WEST ½ OF THE NORTHEAST ¼ OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1943 AS DOCUMENT 452575, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 2.

LOT 17 IN YORK TOWNSHIP SUPERVISOR'S ASSESSMENT PLAT NO. 1 (ALSO KNOWN AS HIGHLAND ROAD FARMS) OF THE EAST ½ OF THE SOUTHWEST 1/4 , THE WEST ½ OF THE SOUTHEAST ¼ AND THE SOUTH 1332 FEET OF THE WEST ½ OF THE NORTHEAST ¼ OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1943 AS DOCUMENT 452575, IN DUPAGE COUNTY, ILLINOIS.

PERMANENT INDEX NUMBER: 06-20-306-014
PERMANENT INDEX NUMBER: 06-20-306-013

PROPERTY ADDRESS: 19 W 416 East 18TH Street and
312 East 18TH Street
Lombard, Illinois 60148

EXHIBIT 2

**PLAN COMMISSION CONDITIONS OF APPROVAL
JANUARY 26, 2004,
AS AMENDED BY THE CORPORATE AUTHORITIES ON APRIL 1, 2004.**

1. The site shall be developed in substantial compliance with the submitted Final Plat of Subdivision exhibit prepared by Arc Design Resources, Inc., revised March 24, 2004.
2. Final Engineering shall be approved prior to consideration of the Final Plat of Subdivision by the Board of Trustees.
3. That the front yard building setbacks for Lots 6 through 8 of the proposed subdivision shall be as depicted as part of the petitioner's preliminary plat submittal.
4. That in order to provide of appropriately graded slopes for the proposed detention facility, Lot 10 of the proposed subdivision shall be reserved for open space and detention purposes. The proposed detention facility shall be graded with at least three sides with not less than 3:1 slopes and shall be subject to the review and approval of the Director of Community Development.
5. That the petitioner shall fully improve 18th Street from the eastern end of the subject property to Stewart Avenue, consistent with the petitioner's submittal and the provisions of the annexation agreement for the subject property.
6. That the petitioner shall provide a solid 6-foot board-on-board fence along the western property line of the subject property.
7. That the petitioner shall provide a vegetation screen along the north and east property lines of the subject property.

ORDINANCE _____

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

(PC 04-04: 19W416 and 312 E. 18th Street (Regency Estates Subdivision))

(See also Ordinance No.(s) _____)

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

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

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

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

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS as follows:

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

SECTION 2: This ordinance is limited and restricted to the property indicated on the attached Plat of Annexation attached hereto as Exhibit "B", and generally located at 19W416 and 312 E. 18th Street, Lombard, Illinois containing 4.0 acres more or less and legally described as follows:

LOTS 17 AND 18 IN YORK TOWNSHIP SUPERVISOR'S ASSESSMENT PLAT NO. 1
(ALSO KNOWN AS HIGHLAND ROAD FARMS) OF THE EAST HALF OF THE

Ordinance No. _____

Re: PC 04-04

Page 2

SOUTHWEST QUARTER, THE WEST HALF OF THE SOUTHEAST QUARTER AND THE SOUTH 1332 FEET OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, DU PAGE COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1943 AS DOCUMENT NO. 45575, IN THE RECORDER'S OFFICE OF DU PAGE COUNTY, ILLINOIS.

Parcel Numbers: 06-20-306-013 and 014

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

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

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

Passed on first reading this ____ day of _____, 2004.

First reading waived by action of the Board of Trustees this ____ day of _____, 2004.

Passed on second reading this ____ day of _____, 2004.

Ayes: _____

Nayes: _____

Absent: _____

Approved this ____ day of _____, 2004.

Ordinance No. _____
Re: PC 04-04
Page 3

William J. Mueller, Village President

ATTEST:

Barbara A. Johnson, Deputy Village Clerk

ORDINANCE _____

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

(PC 04-04: 19W416 and 312 E. 18th Street (Regency Estates Subdivision))

(See also Ordinance Nos. _____)

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

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

WHEREAS, a public hearing thereon has been conducted by the Village of Lombard Plan Commission on January 26, 2004 pursuant to appropriate and legal notice; and,

WHEREAS, the Plan Commission has filed its recommendations with the President and Board of Trustees recommending approval of the rezoning described herein; and,

WHEREAS, the President and Board of Trustees approve and adopt the findings and recommendations of the Plan Commission and incorporate such findings and recommendations herein by reference as if they were fully set forth herein;

NOW, THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS as follows:

SECTION 1: That Title XV, Chapter 155 of the Code of Lombard, Illinois, otherwise known as the Lombard Zoning Ordinance, be and is hereby amended so as to

Ordinance No. _____
Re: PC 04-04
Page 2

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

SECTION 2: This ordinance is limited and restricted to the property indicated on the attached Plat of Annexation attached hereto as Exhibit "B", and generally located at 19W416 and 312 E. 18th Street, Lombard, Illinois containing 4.0 acres more or less and legally described as follows:

LOTS 17 AND 18 IN YORK TOWNSHIP SUPERVISOR'S ASSESSMENT PLAT NO. 1 (ALSO KNOWN AS HIGHLAND ROAD FARMS) OF THE EAST HALF OF THE SOUTHWEST QUARTER, THE WEST HALF OF THE SOUTHEAST QUARTER AND THE SOUTH 1332 FEET OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, DU PAGE COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1943 AS DOCUMENT NO. 45575, IN THE RECORDER'S OFFICE OF DU PAGE COUNTY, ILLINOIS.

Parcel Numbers: 06-20-306-013 and 014

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

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

Passed on first reading this _____ day of _____, 2004.

First reading waived by action of the Board of Trustees this _____ day of _____, 2004.

Passed on second reading this _____ day of _____, 2004.

Ayes: _____

Nayes: _____

Ordinance No. _____
Re: PC 04-04
Page 3

Absent: _____

Approved this _____ day of _____, 2004.

William J. Mueller, Village President

ATTEST:

Barbara A. Johnson, Deputy Village Clerk

ORDINANCE NO. _____

**AN ORDINANCE GRANTING A CONDITIONAL USE FOR
A PLANNED DEVELOPMENT WITH LOT WIDTH DEVIATIONS**

(PC 04-04: 19W416 and 312 E. 18th Street/Regency Estates Subdivision)

(See also Ordinance Nos. _____)

WHEREAS, the President and Board of Trustees of the Village of Lombard have heretofore adopted the Lombard Zoning Ordinance, otherwise known as Ordinance No. 3274; and,

WHEREAS, the subject property is zoned R2 Single-Family Residence District; and,

WHEREAS, an application has been filed requesting approval of a Conditional Use Planned Development to provide for the construction of a 13-lot detached single-family subdivision, commonly referred to as the Regency Estates Subdivision, on the property described in Section 2 below; and,

WHEREAS, said application also included deviations in the minimum lot width for Lots 6 through 9 within the proposed subdivision; and,

WHEREAS, public hearings on such application have been conducted by the Village of Lombard Plan Commission on January 26, 2004 pursuant to appropriate and legal notice; and,

WHEREAS, the President and Board of Trustees of the Village of Lombard have reviewed the request and find that based upon a review of the petitioner's initial submitted plan, it would not be in the best interest of the Village to grant said Conditional Use Planned Development; and

WHEREAS, the President and Board of Trustees of the Village of Lombard tabled consideration of the petition at their meeting of February 19, 2004 so that an alternate plan could be submitted for consideration; and

WHEREAS, the petitioner has filed a new plan for consideration that reduces the requested relief for the proposed single family lots and removes the need for a deviation in lot width for the proposed Lot 9 of the development; and

WHEREAS, the President and Board of Trustees of the Village of Lombard have reviewed the request and find it would be in the best interest of the Village to grant said Conditional Use Planned Development based upon the revised site plan submittal, subject to the terms and conditions established by this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

SECTION 1: That a Conditional Use for a Planned Development is hereby granted for the property described in Section 2 below, to provide for the construction of Regency Estates Subdivision, with minimum lot width deviations, as follows:.

- a. For Lot 6 of the proposed subdivision, a reduction in the minimum lot width from sixty (60) feet to fifty-five and forty eight one hundredths feet (55.48') is hereby granted;
- b. For Lot 7 of the proposed subdivision, a reduction in the minimum lot width from from sixty (60) feet to fifty-five and forty eight one hundredths feet (55.48') is hereby granted; and
- c. For Lot 8 of the proposed subdivision, a reduction in the minimum lot width from sixty (60) feet to fifty-five and forty eight one hundredths feet (55.48') is hereby granted.

SECTION 2: That this ordinance is limited and restricted to the property located at 19W416 and 312 E. 18th Street, Lombard, Illinois and legally described as follows:

LOTS 17 AND 18 IN YORK TOWNSHIP SUPERVISOR'S ASSESSMENT PLAT NO. 1 (ALSO KNOWN AS HIGHLAND ROAD FARMS) OF THE EAST HALF OF THE

SOUTHWEST QUARTER, THE WEST HALF OF THE SOUTHEAST QUARTER AND THE SOUTH 1332 FEET OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, DU PAGE COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1943 AS DOCUMENT NO. 45575, IN THE RECORDER'S OFFICE OF DU PAGE COUNTY, ILLINOIS.

Parcel Numbers: 06-20-306-013 and 014.

SECTION 3: This ordinance shall be granted subject to compliance with the following conditions, as amended:

1. The site shall be developed in substantial compliance with the submitted Final Plat of Subdivision exhibit prepared by Arc Design Resources, Inc., revised March 24, 2004.
2. Final Engineering shall be approved prior to consideration of the Final Plat of Subdivision by the Board of Trustees.
3. That the front yard building setbacks for Lots 6 through 8 of the proposed subdivision shall be as depicted as part of the petitioner's preliminary plat submittal.
4. That in order to provide of appropriately graded slopes for the proposed detention facility, Lot 10 of the proposed subdivision shall be reserved for open space and detention purposes. The proposed detention facility shall be graded with at least three sides with not less than 3:1 slopes and shall be subject to the review and approval of the Director of Community Development.
5. That the petitioner shall fully improve 18th Street from the eastern end of the subject property to Stewart Avenue, consistent with the petitioner's submittal and the provisions of the annexation agreement for the subject property.
6. That the petitioner shall provide a solid 6-foot board-on-board fence along the western property line of the subject property.

Ordinance No. _____
Re: PC 04-04
Page 4

7. That the petitioner shall provide a vegetation screen along the north and east property lines of the subject property.

SECTION 4: This ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed on first reading this ____ day of _____, 2004.

First reading waived by action of the Board of Trustees this ____ day of _____, 2004.

Passed on second reading this ____ day of _____, 2004.

Ayes: _____

Nays: _____

Absent: _____

Approved this _____, day of _____, 2004.

William J. Mueller, Village President

ATTEST:

Barbara A. Johnson, Deputy Village Clerk