

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

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

X

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE: August 1, 2007 (B of T) Date: August 9, 2007

TITLE: 100-104 W. St. Charles Road (Orchard Terrace Parking Lot)

SUBMITTED BY: Department of Community Development *Bob*

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration a resolution authorizing the signatures of Village President and Clerk on a License Agreement for purposes of allowing an adjacent property owner to use a portion of the lot for vehicle turnaround movements. (DISTRICT #1).

Staff recommends approval of this request.

Please place this item on the August 9, 2007 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X

Finance Director X

Village Manager X

Christa Hurlong

Date

8/1/07

Date

Date

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



MEMORANDUM

TO: William T. Lichter, Village Manager

FROM: David A. Hulseberg, AICP, Assistant Village Manager *DALH*

DATE: August 9, 2007

SUBJECT: Orchard Terrace/100-104 W. St. Charles Road License Agreement

The Village of Lombard is in the process of improving its property along Orchard Terrace, west of Park Avenue, for the purposes of constructing new downtown customer parking spaces.

The adjacent property owner at 100-104 W. St. Charles Road has a private parking lot that immediately abuts a landscaped portion of the Orchard Terrace lot. The property owner has requested that the Village enter into a license agreement allowing the property owner's tenants and customers to use a portion of the Orchard Terrace lot for vehicle turnaround movements on his property. This agreement would not have any negative impact on the public customer parking area.

The license agreement is modeled after license agreements approved by the Village Board in 2003 that allow property owners on Western Avenue to utilize the Village right-of-way for parking purposes. However, the currently proposed agreement is strictly for vehicle turnaround movements and would prohibit the licensee from using this space for private motor vehicle parking.

RECOMMENDATION:

Staff recommends that the Village Board approve a resolution authorizing the Village President and Village Clerk to sign the agreement with 100-104 W. St. Charles Road.

RESOLUTION

R _____ 08

**A RESOLUTION AUTHORIZING THE SIGNATURE OF THE
PRESIDENT AND CLERK ON A LICENSE AGREEMENT FOR
100-104 W. ST. CHARLES ROAD**

WHEREAS, the Corporate Authorities of the Village of Lombard have received a License Agreement for use of a portion of the Orchard Terrace customer parking lot, as attached hereto and marked as Exhibit A; and,

WHEREAS, the Corporate Authorities deem it to be in the best interest of the Village of Lombard to authorize these license agreements.

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

SECTION 1: That the Village President be and hereby is authorized to sign on behalf of the Village of Lombard said documents as attached hereto.

SECTION 2: That the Village Clerk be and is hereby authorize to attest said agreements as attached hereto.

Adopted this _____ day of _____, 2007.

Ayes: _____

Naves: _____

Absent: _____

Approved this _____ day of _____, 2007.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

1.1 **Grant of License.** The VILLAGE hereby grants to LICENSEE a revocable license (hereinafter referred to as the "License") to occupy and use, subject to all of the terms, conditions and restrictions contained herein, that portion of the VILLAGE'S property as shown on Exhibit "A" attached hereto and made part hereof, and marked on Exhibit "A" as the Licensed Premises (hereinafter referred to as the "Licensed Premises"), for vehicular parking and/or motor vehicle turn-

SECTION I: LICENSE AND LIMITATIONS

representations, and promises contained herein, the PARTIES hereto agree as follows:

NOW THEREFORE, in consideration of the foregoing and the mutual covenants,

terms and conditions.

purposes of allowing vehicle turn-around movements on LICENSEE'S property, subject to certain enter into an agreement to allow the LICENSEE to utilize the aforementioned paved area for

WHEREAS, the VILLAGE has determined that it is in the best interests of the PARTIES to

lot is a paved area immediately adjacent to the LICENSEE'S property, and

WHEREAS, included within the boundaries of the aforementioned Orchard Terrace parking

adjacent to the LICENSEE'S property; and

WHEREAS, the VILLAGE owns and maintains the public Orchard Terrace parking lot

WITNESSETH

(collectively referred to as the "PARTIES").

Illinois municipal corporation, and STEPHEN ELLIOTT (hereinafter referred to as "LICENSEE"),

by and between THE VILLAGE OF LOMBARD (hereinafter referred to as the "VILLAGE"), an

This License Agreement (hereinafter referred to as the "License Agreement") is entered into

LICENSE AGREEMENT

around purposes only.

1.2 Scope and Limitations of License. Said License shall permit LICENSEE to use and

occupy the Licensed Premises for motor vehicle parking and/or motor vehicle turn-around purposes only, subject to the restrictions and requirements imposed by this License Agreement, the Lombard Village Code and Lombard Traffic Code including, but not limited to, the following restrictions and requirements:

A. LICENSEE shall not construct, build, or place, or cause to be constructed, built, or placed, any structures, permanent or otherwise, on the Licensed Premises, including, but not limited to, buildings, houses, dwellings, garages, sheds, and/or other structures of a permanent or semi-permanent nature.

B. LICENSEE shall not use that portion of the Licensed Premises designated on Exhibit "A" as "Vehicle Turnaround Area" for temporary or permanent parking of motor vehicles.

C. LICENSEE shall be responsible for the following maintenance and repair costs within the LICENSED PREMISES:

1. All resurfacing, patching or cracksealing of the pavement surface area of the Licensed Premises;

2. All required reconstruction of the subbase underneath the Licensed Premises;

3. All patching or repair of any curbing abutting the Licensed Premises; and

4. Any striping or other pavement markings within the Licensed Premises.

The VILLAGE shall retain and reserves the right to require the LICENSEE to pay all costs for any

repairs performed by the VILLAGE and associated with the Licensed Premises during the term of the License Agreement. Said determination for the need for repairs shall be based upon a review of the Licensed Premises by the Village Engineer consistent with standard maintenance schedules used by the VILLAGE relative to the maintenance and repair of other rights-of-way under the jurisdiction of the VILLAGE. Any improvements within the Licensed Premises shall meet the standards established within the latest edition of the Village of Lombard Manual of Specifications for the Design of Public Improvements or Site Improvements.

D. LICENSEE shall refrain from using the Licensed Premises in any unreasonable, unsafe, and/or illegal manner, and shall at all times use the Licensed Premises in full compliance with all applicable provisions of this License Agreement, the Lombard Village Code and the Lombard Traffic Code.

1.3 Term of License. Said License provided for herein shall be granted by the VILLAGE for a period of ten (10) years from the date of approval of this License Agreement by the VILLAGE.

1.4 Nonassignability of License. Said License is personal and shall not be assigned and/or transferred to any other person or entity without the expressed written consent of the VILLAGE. Said consent shall not be unreasonable withheld by the VILLAGE.

SECTION 2: PAYMENTS AND APPORTIONMENT

2.1 Payment. In consideration of the Village's granting this License the LICENSEE

agrees to maintain the public sidewalk adjacent to the eastern and northern sides of LICENSEE'S

property by removing and clearing away or causing to be removed and cleared away snow and ice from a path at least 36 inches in width from so much of said sidewalk as abuts said commercial property. Snow and ice shall be so removed within 24 hours after the cessation of any fall of snow, sleet, or freezing rain; provided, however, in the event snow and ice on a sidewalk has become so hard that it cannot be removed without damaging the sidewalk, the person charged with its removal shall within said 24-hour period cause enough sand, salt, or other abrasive to be put on the sidewalk to make travel thereon reasonably safe and shall as soon thereafter as weather permits cause a 36-inch path in said sidewalk to be cleared.

SECTION 3: TERMINATION AND EXPIRATION

3.1 Termination. This License Agreement shall terminate by its terms at its effective date of expiration. Prior to its expiration, the License provided herein is revocable at will at the sole option and discretion of the VILLAGE, and may be revoked for any reason whatsoever. Said License is for the temporary permissive use of the Licensed Premises only and creates no property and/or other interest in the Licensed Premises on the part of, or for the benefit of, the LICENSEE.

3.2 Notice of Termination. No written or other notice of termination shall be required where this License Agreement terminates as a result of expiration. Where termination is sought by the VILLAGE prior to the expiration of this License Agreement, the VILLAGE shall provide LICENSEE with written notice of such revocation no less than ninety (90) days prior to the effective date of such revocation. Where termination is sought by the LICENSEE prior to the expiration of this License Agreement, the LICENSEE shall provide this License Agreement, the LICENSEE shall provide the VILLAGE with a written notice of such

Director of Community Development
VILLAGE OF LOMBARD
255 East Wilson Avenue
Lombard, Illinois 60148

And the Village of Lombard addressed as follows:

LICENSEE, addressed as follows:

Agreement, when said notice is mailed via certified mail, return receipt requested, to the deemed to have been effectively given, in accordance with the terms and conditions of this License

3.4 Delivery of Notices. All notices given in relation to this License Agreement shall be

shall be borne by the LICENSEE.

other rights-of-way under the jurisdiction of the VILLAGE. All costs associated with these repairs with standard maintenance schedules used by the VILLAGE relative to the maintenance and repair of Licensed Premises into compliance with all applicable Village Codes and Regulations consistent Licensed Premises, as determined to be necessary by the VILLAGE in its sole discretion, to bring the the expiration date, whichever comes first, the LICENSEE shall be required to make all repairs to the the VILLAGE or the LICENSEE terminate this License Agreement prior to the expiration date, or on

3.3 Improvements Required as Part of Termination or Expiration. In the event that

termination no less than ninety (90) days prior to the effective date of such termination.

License Agreement
100-104 W. St. Charles Road

SECTION 4: MISCELLANEOUS PROVISIONS

4.1. Indemnification and Insurance. LICENSEE hereby covenants and agrees to

indemnify and hold the VILLAGE, and its officers, agents, and employees, harmless with respect to any and all claims, losses, lawsuits, actions, injuries, accidents, costs, and/or expenses (including attorney's fees) of any type, nature, and/or variety arising out of this License Agreement or relating in any way to the Licensed Premises, including but not limited to any and all claims and/or causes of action incurred by persons injured on or around the Licensed Premises during the effective term of this License Agreement. LICENSEE shall maintain liability insurance in the amount of \$1,000,000 (one million dollars) per occurrence and \$2,000,000 (two million dollars) aggregate covering the Licensed Premises for the effective term of this License Agreement, and shall provide the VILLAGE with written proof thereof in the form of a certificate of insurance. Said certificate of insurance shall be provided to the VILLAGE within thirty (30) days following the effective date of this License Agreement and shall name the Village and its officers and agents and employees as additional insured LICENSEE'S failure to provide a valid certificate of insurance, in compliance with this subsection, to the VILLAGE within ten (10) days of the effective date hereof shall render this License Agreement null, void, and of no legal effect.

4.2 Severability of Agreement. The terms and conditions set forth in this License

Agreement shall be severable. In the event that any of the provisions contained herein are declared by a court of competent jurisdiction to be inconsistent with federal, state, or local law, or otherwise unenforceable for any reason whatsoever, the remaining provisions shall remain in full force and effect as to the PARTIES.

4.3. Merger Clause. This License Agreement constitutes the entire understanding

between the PARTIES and any other parties and supersedes any prior understandings and/or agreements between the PARTIES and any other parties. Any representations, agreements, promises, or understandings not expressly set forth herein are hereby rendered null, void, and of no legal effect.

4.4. Choice of Law. This License Agreement is entered into under, and shall be governed

for all purposes by, the laws of the State of Illinois, and venue in relation to any court action relating in any way to this License Agreement shall be in DuPage County, Illinois.

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ date of

_____, 2007.

LICENSEE:

By:

Title:

Date:

Attest:

VILLAGE OF LOMBARD


Approved this _____, day of _____, 2007.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

**Orchard Terrace Parking Lot
License Agreement
100-104 W. St. Charles Road
Exhibit A**

 = Turnaround Area

 = Licensed Premises

outside of turnaround area

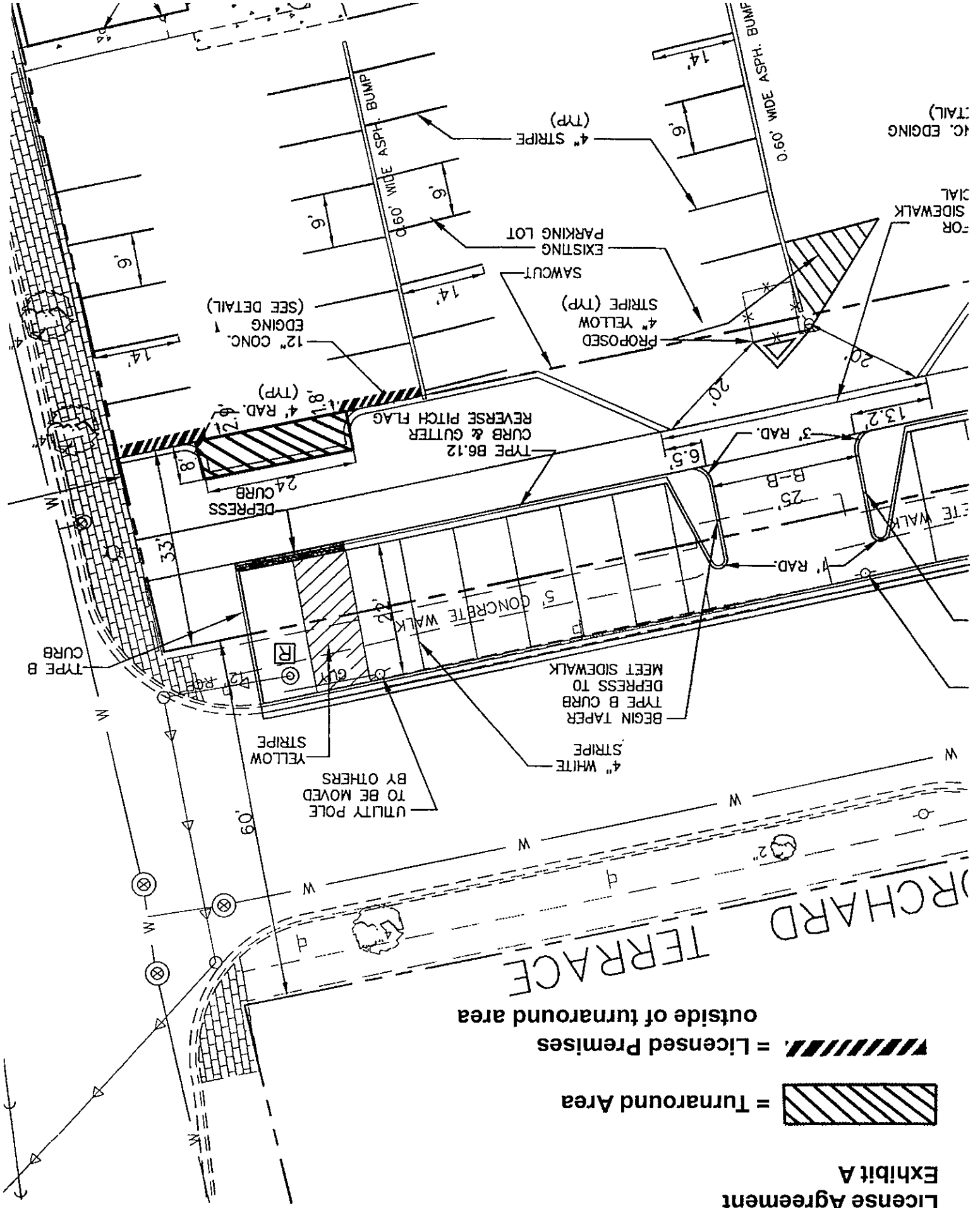


Exhibit A

License Agreement

Orchard Terrace Parking Lot
License Agreement
100-104 W. St. Charles Road
Exhibit A