

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE: July 6, 2005 (BOT) Date: July 21, 2005

TITLE: PC 05-16: 506 East St. Charles Place

SUBMITTED BY: Department of Community Development *WTL*

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration a petition requesting an amendment to the conditions of approval associated with Ordinance Number 5324 granting approval of conditional use to allow for the re-establishment of the legal nonconforming status of an existing building in the B4 Corridor Commercial Shopping District. (DISTRICT #5)

Staff is requesting waiver of first reading.

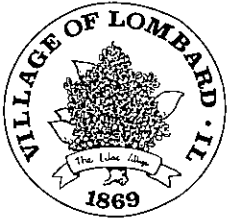
The Plan Commission recommended approval of this petition with amended conditions.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X *W. Lichter* _____ Date *7/12/05*

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, Director of Community Development *DH*

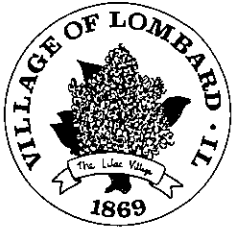
DATE: July 21, 2005

SUBJECT: **PC 05-16: 506 E. St. Charles Place (Scoop's Ice Cream)**

Attached please find the following items for Village Board consideration as part of the July 21, 2005 Village Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 05-16;
3. An Ordinance granting approval of an amendment to Ordinance 5324 granting approval of a conditional use to re-establish the nonconforming status of a n existing building.

As the first Board meeting in August will be cancelled, staff requests a waiver of first reading of the attached Ordinance.



VILLAGE OF LOMBARD

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Lombard, IL 60148-3926
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Village President
William J. Mueller

July 21, 2005

Village Clerk
Brigitte O'Brien

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

Trustees
Greg Alan Gron, Dist. 1
Richard J. Tross, Dist. 2
John "Jack" T. O'Brien, Dist. 3
Steven D. Sebby, Dist. 4
Kenneth M. Florey, Dist. 5
Rick Soderstrom, Dist. 6

Subject: PC 05-16: 506 E. St. Charles Place

Village Manager
William T. Lichter

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The Village of Lombard is proposing an amendment to the conditions of approval associated with Ordinance Number 5324 granting approval of conditional use to allow for the re-establishment of the legal nonconforming status of an existing building in the B4 Corridor Commercial Shopping District.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on June 20, 2005. As the petition was brought forward by the Village, William Heniff, Senior Planner presented the petition.

"Our shared *Vision* for Lombard is a community of excellence exemplified by its government working together with residents and business to create a distinctive sense of spirit and an outstanding quality of life."

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

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

A petition was approved in 2003 by the Village Board that re-established the legal non-conforming status of the ice cream building and allowed the property owner to re-establish the business as it was prior to the auto accident, subject to conditions as outlined in Ordinance 5324.

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

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

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

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

In the event that any of these timelines are not met, the conditional use granted through Ordinance 5324 shall be null and void and the full provisions of Section 155.305 of the Zoning Ordinance would be in effect. This would also require the property owner to be responsible for razing the structure. He noted that the property owner was aware of this petition being brought forward and did not object to it. He also noted in the findings and recommendations section of the IDRC report the word "following" should be struck from the conditions of approval.

Chairperson Ryan then opened the meeting for public participation. There was no one present to speak in favor of or against the petition. He then opened the meeting for discussion among the Commissioners.

Commissioner Burke asked if the time periods noted in the staff report were negotiated or did staff suggest them. Mr. Heniff said that the proposed dates are intended to be aggressive, but staff wanted to make sure that actions to get a business operating on the premises must occur at regular intervals. If the Village Board wanted to tighten up the timelines, they could do so, but staff has the three benchmark dates. He also clarified that the 180 day requirement for a certificate of occupancy does not require them operating a business on the premises, but rather requires the building to be in full compliance with the building codes so that a business could immediately go into the building.

Chairperson Ryan asked if the building could be razed if these conditions are not met. Mr. Heniff stated that if the amendment is adopted and the dates not met, the conditional use would become null and void. The Zoning Ordinance states the building would need to be razed at the expense of the property owner.

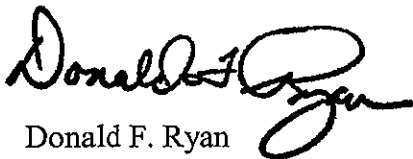
After due consideration of the petition and testimony presented, the Plan Commission found that the petition complies with the standards of the Zoning Ordinance. Therefore, the Plan Commission, by a roll call vote of 4 to 0, accepted the findings of the Inter-departmental Review Report as the findings of the Lombard Plan Commission and recommended to the Corporate

Authorities, **approval** of the petition associated with PC 05-16, subject to the following conditions as amended:

1. That the conditions previously established in Ordinance 5324 shall be satisfactorily addressed and shall remain in full force and effect.
2. That the property owner shall provide the Village with a copy of a lease agreement between the property owner and a lessee for the Scoop's ice cream building. The property owner shall also provide any supplemental documentation from the lessee denoting the proposed use of the subject premises. Said documentation shall be provided to the Village no later than sixty (60) days from the date of approval of this Ordinance.
3. That a building permit for any requisite interior or exterior improvements shall be applied for no later than one-hundred twenty (120) days from the date of approval of this Ordinance.
4. That a Certificate of Occupancy/Zoning Certificate shall be applied for and shall be approved by the Village within one-hundred eighty (180) days from the date of approval of this Ordinance.

Respectfully,

VILLAGE OF LOMBARD



Donald F. Ryan
Chairperson
Lombard Plan Commission

WJH:jd

c Petitioner
 Lombard Plan Commission

VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT

TO: Lombard Plan Commission

HEARING DATE: June 20, 2005

FROM: Department of Community
Development

PREPARED BY: William J. Heniff, AICP
Senior Planner

TITLE

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

GENERAL INFORMATION

Petitioner: Village of Lombard

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

PROPERTY INFORMATION

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

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

Comprehensive Plan: Recommends community commercial

Existing Zoning: B4 Corridor Commercial District

Surrounding Zoning and Land Use:

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

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

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

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

ANALYSIS

DESCRIPTION

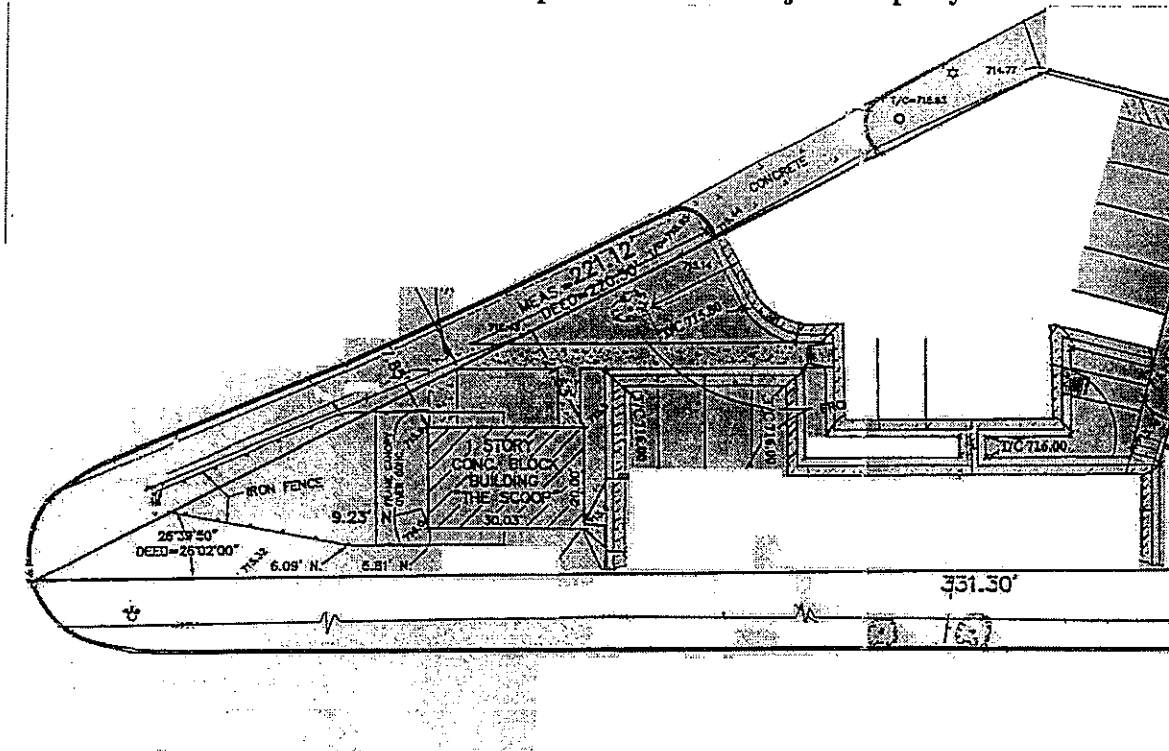
A traffic accident substantially damaged the Scoop's ice cream building in 2001. The building location is deemed legal non-conforming as it was located within the required front yard of the subject property and was one of two principal buildings existing on the property. Because the estimated damage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

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

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

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

Site Plan of Scoop's Portion of Subject Property



INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING

The Private Engineering Services Division has no comments regarding the proposed amendment.

Public Works

Public Works Engineering has no comments or changes.

FIRE AND BUILDING

The Fire Department/Bureau of Inspectional Services notes the following:

1. Prior to occupancy, outstanding building codes must be addressed.
2. DuPage County Health department has a list of violations that need to be addressed prior to their approval for use.
3. The Fire Department needs to have all Life Safety and Fire Code issues addressed as well.

PLANNING

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

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

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

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

FINDINGS AND RECOMMENDATIONS

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

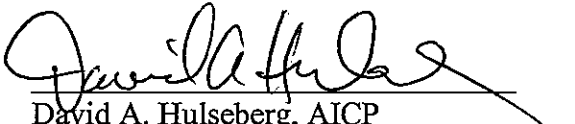
Based on the submitted petition and the testimony presented, the proposal does comply with the standards required by the Lombard Zoning Ordinance, and, therefore, I move that the Plan Commission accept the findings of the Inter-departmental Review Report as the findings of the Lombard Plan Commission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

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

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

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

Inter-Departmental Review Group Report Approved By:



David A. Hulseberg, AICP
Director of Community Development

DAH:WJH

att

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Appendix A

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

TO: Lombard Plan Commission

HEARING DATE: April 21, 2003

FROM: Department of Community
Development

PREPARED BY: William J. Heniff, AICP
Senior Planner

TITLE

PC 03-11; 506 East St. Charles Place: Pursuant to Section 155.305 of the Zoning Ordinance, the Village of Lombard, on behalf of the property owner, requests approval of conditional use to allow for the re-establishment of the legal nonconforming status of an existing building in the B4 Corridor Commercial Shopping District.

GENERAL INFORMATION

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

Petitioner: Village of Lombard

PROPERTY INFORMATION

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

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

Comprehensive Plan: Recommends community commercial

Existing Zoning: B4 Corridor Commercial District

Surrounding Zoning and Land Use:

North: B4 Corridor Commercial District; developed as a contractors office, shop and yard (Lombard Patio)

South: CR Conservation/Recreation District; developed as Lombard Common Park
East: B4 Corridor Commercial District; developed as the Great Western Trail right-of-way
West: St. Charles Road and St. Charles Place

ANALYSIS

SUBMITTALS

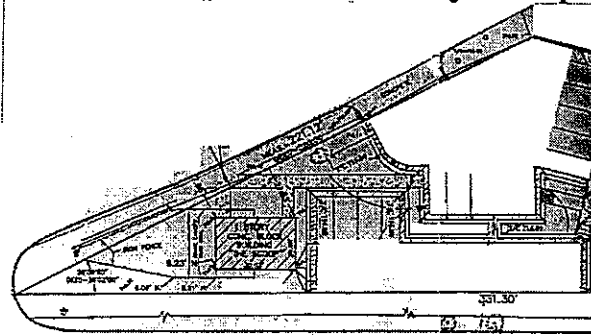
This report is based on the following documentation:

1. Petition for Public Hearing
2. Lombard Hobbies Parking Lot Plan, prepared by Gentile & Associates.

DESCRIPTION

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

Site Plan of Scoop's Portion of Subject Property



INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING

Private Engineering Services

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

Public Works

Public Works Engineering has no comments or changes.

FIRE AND BUILDING

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

PLANNING

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

Compatibility with the Zoning Ordinance

The subject property has the following existing characteristics:

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

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

Section 155.302 (G). Damage or Destruction

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

Section 155.303 NONCONFORMING BUILDINGS AND STRUCTURES

C. Damage or Destruction

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

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

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

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

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

Compatibility with the Comprehensive Plan

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

FINDINGS AND RECOMMENDATIONS

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

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

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

Inter-Departmental Review Group Report Approved By:

David A. Hulseberg, AICP
Director of Community Development

Plan Commission
Re: PC 05-16
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Appendix B

Ordinance 5324

(11)

ORDINANCE NO. 5324

**AN ORDINANCE GRANTING A CONDITIONAL USE PURSUANT TO
TITLE 15, CHAPTER 155, SECTION 155.305 OF THE
LOMBARD ZONING ORDINANCE**

(PC 03-11: 506 East St. Charles Place)

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

WHEREAS, the subject property is zoned B4 Corridor Commercial District; and,

WHEREAS, a legal non-conforming building located on the subject property was damaged greater than fifty percent of the value of the building as the result of a traffic accident in 1991; and

WHEREAS, Section 155.302 (G) of the Zoning Ordinance states that the legal non-conforming status of a building shall be lost if the damage or destruction caused by any means exceeds fifty percent of the market value of the building; and

WHEREAS, the Village, on behalf of the property owner has filed an application requesting a conditional use pursuant to Section 155.305 of the Zoning Ordinance to allow for the re-establishment of the legal nonconforming status of an existing building for the subject property; and

WHEREAS, the petition of the owner was subject to a public hearing before the Plan Commission on April 21, 2003 pursuant to appropriate and legal notice; and,

WHEREAS, the Plan Commission has recommended the granting of the conditional use, subject to certain terms and conditions; and,

WHEREAS, the President and Board of Trustees of the Village of Lombard hereby adopt the findings and recommendations of the Plan Commission as set forth herein, and make same part hereof, subject to certain revisions as more fully set forth below.

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 is hereby granted to allow for the re-establishment of the legal non-conforming status of the damaged structure, commonly referred to as Scoop's Ice Cream parlor, on the property described in Section 2 below and subject to the conditions noted in Section 3 below.

SECTION 2: That this ordinance is limited and restricted to the property generally located at 506 East St. Charles Place, Lombard, Illinois and legally described as follows:

THAT PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 5, AND THAT PART OF THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DU PAGE COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE NORTH LINE OF ST. CHARLES ROAD (NOW KNOWN AS ST. CHARLES PLACE) WHICH IS 726.1 FEET EAST OF THE EAST LINE OF GRACE STREET FOR A POINT OF BEGINNING; THENCE NORTHEASTERLY ALONG THE SOUTHEASTERLY LINE OF THE HIGHWAY (NOW KNOWN AS EAST ST. CHARLES ROAD), MAKING AN ANGLE OF 26 DEGREES 2 MINUTES WITH THE PROLONGATION OF THE LAST DESCRIBED COURSE FOR A DISTANCE OF 220.3 FEET TO AN IRON STAKE; WHICH IS ON THE SOUTH RIGHT OF WAY OF CHICAGO GREAT WESTERN RAILROAD; THENCE SOUTHEASTERLY ALONG THE SOUTH LINE OF SAID RAILROAD FOR A DISTANCE OF 138.2 FEET TO A STAKE; THENCE SOUTHEASTERLY ALONG A LINE WHICH FORMS AN ANGLE OF 75 DEGREES 26 MINUTES TO THE RIGHT WITH THE PROLONGATION OF THE LAST DESCRIBED COURSE A DISTANCE OF 62.6 FEET TO A STAKE ON THE NORTH LINE OF ST. CHARLES ROAD (NOW KNOWN AS ST. CHARLES PLACE); THENCE SOUTHWESTERLY ALONG THE NORTH LINE OF ST. CHARLES ROAD (NOW KNOWN AS ST. CHARLES PLACE) A DISTANCE OF 331.3 FEET, TO THE POINT OF BEGINNING, IN DU PAGE COUNTY, ILLINOIS.

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

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

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 1st day of May, 2003.

First reading waived by action of the Board of Trustees this 17th day of July, 2003.

Passed on second reading this 17th day of July, 2003.

Ayes: Trustees DeStephano, Tross, Koenig, Sebby, Florey, Soderstrom

Nays: None

Absent: None

Approved this 17th day of July, 2003.

Ordinance No. 5324


Re: PC 03-11

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William J. Mueller, Village President

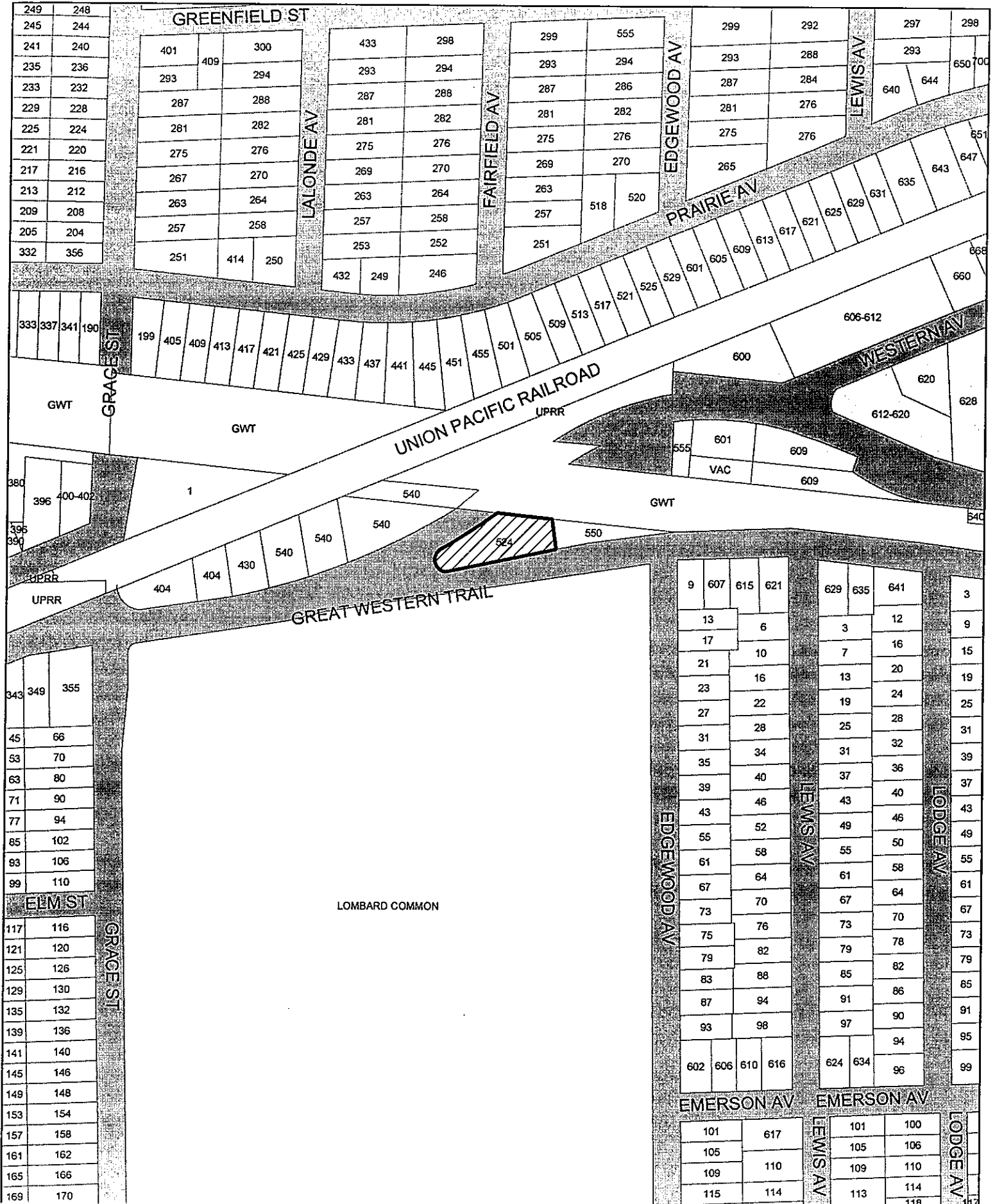
ATTEST:



Barbara A. Johnson, Deputy Village Clerk

Location Map

PC 05-16: 506 E. St. Charles Place



ORDINANCE NO. _____

**AN ORDINANCE GRANTING AN AMENDMENT TO ORDINANCE 5324,
ADOPTED JULY 17, 2003 GRANTING APPROVAL OF A CONDITIONAL USE TO
RE-ESTABLISH THE LEGAL NON-CONFORMING STATUS OF A BUILDING,
PURSUANT TO TITLE 15, CHAPTER 155, SECTION 155.305 OF THE
LOMBARD ZONING ORDINANCE**

(PC 05-16: 506 East St. Charles Place)

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

WHEREAS, the subject property is zoned B4 Corridor Commercial District; and,

WHEREAS, a legal non-conforming building located on the subject property was damaged greater than fifty percent of the value of the building as the result of a traffic accident in 1991; and

WHEREAS, Section 155.302 (G) of the Zoning Ordinance states that the legal non-conforming status of a building shall be lost if the damage or destruction caused by any means exceeds fifty percent of the market value of the building; and

WHEREAS, the Village adopted Ordinance 5324 on July 17, 2005 which granted a conditional use pursuant to Section 155.305 of the Zoning Ordinance to allow for the re-establishment of the legal nonconforming status of an existing building for the subject property; and

WHEREAS, since the date of approval of Ordinance 5324, minor improvements have been made to the building but the has remained unoccupied to date; and

WHEREAS, the Village finds that the existing building in its unoccupied state creates a deleterious appearance to the St. Charles Road corridor; and

WHEREAS, the Village proposes a petition to mend to the conditions of approval associated with Ordinance 5324, which would establish timeframes for completion of requisite building improvements on the subject property; and

WHEREAS, the petition was subject to a public hearing before the Plan Commission on June 20, 2005 pursuant to appropriate and legal notice; and,

WHEREAS, the Plan Commission has recommended the granting amendments to the approved conditional use; and,

WHEREAS, the President and Board of Trustees of the Village of Lombard hereby adopt the findings and recommendations of the Plan Commission as set forth herein, and make same part hereof, subject to certain revisions as more fully set forth below.

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 Ordinance 5324 is hereby amended to include the following conditions:

1. That the property owner shall provide the Village with a copy of a lease agreement between the property owner and a lessee for the Scoop's ice cream building. The property owner shall also provide any supplemental documentation from the lessee denoting the proposed use of the subject premises. Said documentation shall be provided to the Village no later than sixty (60) days from the date of approval of this Ordinance.
2. That a building permit for any requisite interior or exterior improvements shall be applied for no later than one-hundred twenty (120) days from the date of approval of this Ordinance.
3. That a Certificate of Occupancy/Zoning Certificate shall be applied for and shall be approved by the Village within one-hundred eighty (180) days from the date of approval of this Ordinance.

SECTION 2: That this ordinance is limited and restricted to the property generally located at 506 East St. Charles Place, Lombard, Illinois and legally described as follows:

THAT PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 5, AND THAT PART OF THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DU PAGE COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE NORTH LINE OF ST. CHARLES ROAD (NOW KNOWN AS ST. CHARLES PLACE) WHICH IS 726.1 FEET EAST OF THE EAST LINE OF GRACE STREET FOR A POINT OF BEGINNING; THENCE NORTHEASTERLY ALONG THE SOUTHEASTERLY LINE OF THE HIGHWAY (NOW KNOWN AS EAST ST. CHARLES ROAD), MAKING AN ANGLE OF 26 DEGREES 2 MINUTES WITH THE PROLONGATION OF THE LAST DESCRIBED COURSE FOR A DISTANCE OF 220.3 FEET TO AN IRON STAKE; WHICH IS ON THE SOUTH RIGHT OF WAY OF CHICAGO GREAT WESTERN RAILROAD; THENCE SOUTHEASTERLY ALONG THE SOUTH LINE OF SAID RAILROAD FOR A DISTANCE OF 138.2 FEET TO A STAKE; THENCE SOUTHEASTERLY ALONG A LINE WHICH FORMS AN ANGLE OF 75 DEGREES 26 MINUTES TO THE RIGHT WITH THE PROLONGATION OF THE LAST DESCRIBED COURSE A DISTANCE OF 62.6 FEET TO A STAKE ON THE NORTH LINE OF ST. CHARLES ROAD (NOW KNOWN AS ST. CHARLES PLACE); THENCE SOUTHWESTERLY ALONG THE NORTH LINE OF ST. CHARLES ROAD (NOW KNOWN AS ST. CHARLES PLACE) A DISTANCE OF 331.3 FEET, TO THE POINT OF BEGINNING, IN DU PAGE COUNTY, ILLINOIS.

Parcel Number: 06-05-427-001

SECTION 3: That the conditions previously established in Ordinance 5324 shall be satisfactorily addressed and shall remain in full force and effect.

Passed on first reading this _____ day of _____, 2005.

First reading waived by action of the Board of Trustees this _____ day of _____, 2005.

Passed on second reading this _____ day of _____, 2005.

Ayes: _____

Nayes: _____

Absent: _____

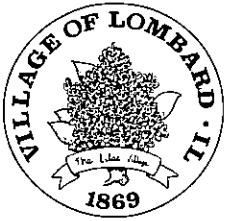
Ordinance No. _____
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Page 4

Approved this _____ day of _____, 2005.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Deputy Village Clerk

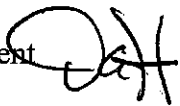


#050328

WR
8/3/05

MEMORANDUM

TO: William T. Lichter, Village Manager

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

DATE: July 21, 2005

SUBJECT: PC 05-16: 506 E. St. Charles Place (Scoop's Ice Cream)

At the July 21, 2005 Village Board meeting, the Board tabled consideration of PC 05-16 for the property at 506 East St. Charles Road, commonly known as the Scoop's Ice Cream building, to the August 18, 2005 meeting.

Since the last Board meeting, Trustee Florey contacted the property owner to review the proposed amendments to the Ordinance that was considered as part of this petition. Trustee Florey informed staff that the property owner has stated that he would support the following amendments to the conditions of approval:

1. Removal of the sixty (60) provision to sign a lease for the building;
2. Change the required time to secure a building permit from 120 days to 45 days; and
3. Change the time that the property owner/occupant complete the requisite improvements and receive a Certificate of Occupancy/Zoning Certificate from 180 days to 135 days from the date of approval of this Ordinance.

Staff has incorporated these changes into the attached revised Ordinance for the Board's consideration.

In order to expedite the improvements on the property, staff requests a waiver of first reading of the attached Ordinance.

ORDINANCE NO. _____

**AN ORDINANCE GRANTING AN AMENDMENT TO ORDINANCE 5324,
ADOPTED JULY 17, 2003 GRANTING APPROVAL OF A CONDITIONAL USE TO
RE-ESTABLISH THE LEGAL NON-CONFORMING STATUS OF A BUILDING,
PURSUANT TO TITLE 15, CHAPTER 155, SECTION 155.305 OF THE
LOMBARD ZONING ORDINANCE**

(PC 05-16: 506 East St. Charles Place)

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

WHEREAS, the subject property is zoned B4 Corridor Commercial District; and,

WHEREAS, a legal non-conforming building located on the subject property was damaged greater than fifty percent of the value of the building as the result of a traffic accident in 1991; and

WHEREAS, Section 155.302 (G) of the Zoning Ordinance states that the legal non-conforming status of a building shall be lost if the damage or destruction caused by any means exceeds fifty percent of the market value of the building; and

WHEREAS, the Village adopted Ordinance 5324 on July 17, 2005 which granted a conditional use pursuant to Section 155.305 of the Zoning Ordinance to allow for the re-establishment of the legal nonconforming status of an existing building for the subject property; and

WHEREAS, since the date of approval of Ordinance 5324, minor improvements have been made to the building but the has remained unoccupied to date; and

WHEREAS, the Village finds that the existing building in its unoccupied state creates a deleterious appearance to the St. Charles Road corridor; and

WHEREAS, the Village proposes a petition to mend to the conditions of approval associated with Ordinance 5324, which would establish timeframes for completion of requisite building improvements on the subject property; and

WHEREAS, the petition was subject to a public hearing before the Plan Commission on June 20, 2005 pursuant to appropriate and legal notice; and,

WHEREAS, the Plan Commission has recommended the granting amendments to the approved conditional use; and,

WHEREAS, the President and Board of Trustees of the Village of Lombard hereby adopt the findings and recommendations of the Plan Commission as set forth herein, and make same part hereof, subject to certain revisions as more fully set forth below.

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 Ordinance 5324 is hereby amended to include the following conditions:

1. That the property owner shall provide the Village with a copy of a lease agreement between the property owner and a lessee for the Scoop's ice cream building. The property owner shall also provide any supplemental documentation from the lessee denoting the proposed use of the subject premises.
2. That a building permit for any requisite interior or exterior improvements shall be applied for no later than forty-five (45) days from the date of approval of this Ordinance.
3. That a Certificate of Occupancy/Zoning Certificate shall be applied for and shall be approved by the Village within one-hundred thirty-five (135) days from the date of approval of this Ordinance.

SECTION 2: That this ordinance is limited and restricted to the property generally located at 506 East St. Charles Place, Lombard, Illinois and legally described as follows:

THAT PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 5, AND THAT PART OF THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DU PAGE

COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE NORTH LINE OF ST. CHARLES ROAD (NOW KNOWN AS ST. CHARLES PLACE) WHICH IS 726.1 FEET EAST OF THE EAST LINE OF GRACE STREET FOR A POINT OF BEGINNING; THENCE NORTHEASTERLY ALONG THE SOUTHEASTERLY LINE OF THE HIGHWAY (NOW KNOWN AS EAST ST. CHARLES ROAD), MAKING AN ANGLE OF 26 DEGREES 2 MINUTES WITH THE PROLONGATION OF THE LAST DESCRIBED COURSE FOR A DISTANCE OF 220.3 FEET TO AN IRON STAKE; WHICH IS ON THE SOUTH RIGHT OF WAY OF CHICAGO GREAT WESTERN RAILROAD; THENCE SOUTHEASTERLY ALONG THE SOUTH LINE OF SAID RAILROAD FOR A DISTANCE OF 138.2 FEET TO A STAKE; THENCE SOUTHEASTERLY ALONG A LINE WHICH FORMS AN ANGLE OF 75 DEGREES 26 MINUTES TO THE RIGHT WITH THE PROLONGATION OF THE LAST DESCRIBED COURSE A DISTANCE OF 62.6 FEET TO A STAKE ON THE NORTH LINE OF ST. CHARLES ROAD (NOW KNOWN AS ST. CHARLES PLACE); THENCE SOUTHWESTERLY ALONG THE NORTH LINE OF ST. CHARLES ROAD (NOW KNOWN AS ST. CHARLES PLACE) A DISTANCE OF 331.3 FEET, TO THE POINT OF BEGINNING, IN DU PAGE COUNTY, ILLINOIS.

Parcel Number: 06-05-427-001

SECTION 3: That the conditions previously established in Ordinance 5324 shall be satisfactorily addressed and shall remain in full force and effect.

Passed on first reading this _____ day of _____, 2005.

First reading waived by action of the Board of Trustees this _____ day of _____, 2005.

Passed on second reading this _____ day of _____, 2005.

Ayes: _____

Nayes: _____

Absent: _____

Approved this _____ day of _____, 2005.

Ordinance No. _____
PC Case 05-16 Final
Page 4

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk