



060504

To: Chairperson and Transportation and Safety Committee

Through: Wes Anderson, Director of Public Works

From: Nick Hatfield, PE, Civil Engineer NH

Date: October 31, 2006

Subject: Cambria Neighborhood - "No Parking"

At the October 19, 2006 meeting of the Board of Trustees, the Village Board tabled the Cambria Neighborhood parking issue until the Village Board meeting scheduled for November 16, 2006. The Village Board requests that the Transportation and Safety Committee review this issue further, as the Cambria Condominium Association formally stated their opposition to posting "No Parking 8AM to 5PM, Monday - Friday" along all roads within Cambria on the side that does not have fire hydrants. The Trustees and the Cambria Condominium Association are in agreement with posting the side of the road with fire hydrants as "No Parking."

Attached, please find a letter from the Cambria Condominium Association's attorney that states the position of the Association and argues that posting "No Parking Fridays 12:00 PM to 3:00 PM" is a reasonable response to the traffic situation present in the Cambria Neighborhood. For discussion purposes, there appears to be three basic options for this issue, all of which would sign the side with the fire hydrants as "No Parking," and then sign the other side of the road as:

- 1) "No Parking 8 AM to 5 PM, Monday - Friday"
- 2) "No Parking 12 PM to 3 PM, Friday"
- 3) Take no action on this side of the road

This item will be on the November 6, 2006 agenda. The meeting is held at the Village Hall in the Community Room at 7:00 PM. This is a public meeting and public participation is encouraged.

NH/nh  
attachment

cc: Cambria Condominium Association  
David Hulseberg, AICP, Asst. Village Mgr./Dir. of Community Development  
Islamic Foundation  
Trustee Soderstrom

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October 18, 2006

## ***VIA ELECTRONIC MAIL ONLY***

Board of Directors of the Cambria Association  
c/o Vanguard Community Management  
1251 North Plum Grove Road  
Schaumburg, IL 60173

***Re: Cambria Condominium Association  
Parking Issue***

Dear Board of Directors:

This letter comes in response to the Board's request for a legal opinion as to the Village of Lombard's authority to impose parking restrictions and the extent to which such restrictions can be adopted. It is my understanding that the Village Board is considering parking restrictions as it relates to the streets within the Association. It is also my understanding that one such restriction would completely prohibit parking on one side of the street, twenty-four (24) hours and seven (7) days a week. The next restriction would prevent parking on the other side of the street, Monday through Friday, during the hours of 8:00 a.m. to 5:00 p.m.. This second restriction is the result of a complaint by the Association that there is a serious traffic problem, when the Mosque is in service. For example, since there are not enough parking spots, the people attending the Mosque park on the streets within the Association and block driveways.

While the Association does not object to the first restriction, it does oppose this second restriction. The Association would like the Village to adopt the Village Staff's recommendation that a parking restriction simply be put in place on Fridays, the day the Mosque is in service, during the hours of 12:00 p.m. to 3:00 p.m.. I understand that this restriction was formulated based on the discussions between the Village, the Association and Mosque Leaders. At that time, all agreed that the restriction was appropriate and necessary. Yet, because at the last meeting a person alleged a violation of civil rights if this restriction took effect, the Village is considering a modification to the restriction to prevent parking on the street, Monday through Friday, during the hours of 8:00 a.m. to 5:00 p.m.. For the reasons stated in greater detail below, the parking restriction on Fridays is proper and not a violation of one's civil rights.

Illinois law allows a municipality to regulate traffic on the streets, sidewalks, public places and on municipal property. 65 ILCS 5/11-80-20. A municipality also has the right to exercise police

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power to enact regulations for the health, welfare, peace, safety or morals of the public. Rios v. Jones, 63 Ill. 2d 488, 348 N.E.2d 825 (1976). “The fact that [one] possess property rights and are entitled to due process protection, however, does not mean that those rights cannot be affected by State legislation.” 63 Ill.2d at 497. Only those regulations that are arbitrary, unreasonable and unrelated to the public purpose sought to be attained, will be invalidated as a denial of equal protection of the laws. People v. Toliver, 251 Ill. App. 3d 1092, 623 N.E.2d 880 191 Ill.Dec. 290 (2d Dist. 1993).

In People of Village of Cahokia v. Wright, the Court stated:

...[A] municipal corporation has the right to determine whether conditions or the public interests demand an exercise of the power to pass a zoning ordinance and to select the measures that are necessary for that purpose. . . . However, the municipal corporation cannot exercise its power to enact zoning measures in an unreasonable, oppressive, arbitrary or discriminatory manner. To do so, of course, would be a violation of due process and equal protection of the law. But the presumption is that reasonable zoning, especially where it is comprehensive, is constitutional and valid as a proper exercise of police power.

People of Village of Cahokia v. Wright, 11 Ill. App.3d 124, 296 N.E.2d 30, (5<sup>th</sup> Dist. 1973).

When reviewing an ordinance, a Court will look to the reasonableness of the ordinance and only if it is found to be unreasonable will the Court declare the ordinance invalid. Salomone v. City of Canton, 30 Ill. App.2d 474, 175 N.E.2d 663 (3d Dist. 1961). In Salomone, the Court stated that the right to travel is not absolute and regulations that are reasonable may be come necessary. 30 Ill. App.2d 480. The Salomone court also cited to other cases that stated that parking may be regulated as to time, when, place, where and length of time permitted. Id. At 482. The Salomone court found the “no parking” ordinance in that case to be valid as the exercise of power was unreasonable. Hence, so long as the ordinance is reasonable and serves a legitimate purpose it will be upheld.

In Commonwealth v. Petralia, the Defendant was convicted of a parking regulation that only authorized a resident of the city to park their vehicles in certain areas. 372 Mass. 452, 362 N.E.2d 513, 10 ERC 1093 (1977). The Defendant argued that the parking regulation discriminated against him as a nonresident and violated his right to equal protection of the laws. 362 N.E.2d at 516. The Court stated that the issue was whether the regulation was rationally related to further a legitimate State purpose. Id. The Court held that the case involved a congested urban area that had substantial traffic and parking problems for years. Id. At 517-18. The Court also held that distinguishing the residents of one area to another was not irrational and that the regulation is rational. Hence, the regulation was constitutional. Id. At 518. While this case was not decided by an Illinois Court and is not binding on our courts, the analysis is the same applied in Illinois and the argument is similar to that in this case.

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In this case, the parking restriction from 12:00 p.m. to 3:00 p.m. on Fridays will not violate one's constitutional rights. The restriction is reasonable as at that time, the flow of traffic increases. Further, the restriction is necessary to protect the residents and owners within the Association. It is also necessary to restrict the traffic congestion in this area, that creates a safety issue for all. It is my understanding that this restriction is no different than other parking restrictions near other religious buildings. This restriction is related to a safety concern. It is a reasonable restriction. It is not arbitrary just because it is during a time when a service is going on at the Mosque. It would only be arbitrary if only members of the Mosque were ticketed for the parking violation. That is, if there are several cars parked on the street, all cars that have not been approved to park in the area will be ticketed, not just those who are attending service. If only the members of the Mosque were going to be ticketed, that would certainly be discriminatory and arbitrary. Thus, the restriction is reasonable and legitimate and necessary to promote a state concern.

Whereas, the parking restriction that bans parking on one side of the street from 8:00 a.m. to 5:00 p.m., Monday through Friday is not reasonable and does not address the problem. During those times, no one will be able to park on the street. The Association simply does not have adequate parking. Presumably when the parking was created for the Association it was based on people being able to park in the streets. Hence, to deny the parking, would have an adverse affect on where Cambria owners can park. Further, it has been stated that this is done to address parking issues with baseball games. First, the baseball games are only played during certain months out of the year. Second, and most importantly, this restriction is not reasonably related to rectify the congestion during those times as the games are played after 5:00 p.m.. Thus, the restriction is not reasonably related to resolving that issue. Instead, the issue is being implemented to create a greater burden on the Association members. This restriction creates a greater restriction and burden on the members of the Association than any person attending the Mosque services on Friday. Further, the restriction is much more restrictive than necessary.

Accordingly, the Association should argue to the Village that there is a legitimate and reasonable purpose for the Friday, 12:00-3:00 restriction. This is a less restrictive regulation that furthers the municipality's legitimate concern for parking in this area.

I hope that this adequately addresses the Board's question. If any should remain, please do not hesitate to contact either Dawn Moody or myself.

Very truly yours,

/s/ Gabriella R. Comstock

GABRIELLA R. COMSTOCK