

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE: October 13, 2004 (B of T) Date: October 21, 2004

TITLE: Community Development Block Grant/St. Charles Road and Crescent Boulevard

SUBMITTED BY: Department of Community Development *DH/LH*

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration its recommendation regarding the above-mentioned matter. Attached for your consideration is a resolution authorizing the Director of Community Development to submit a Community Development Block Grant Application seeking financing assistance for a neighborhood project near St. Charles Road and Crescent Boulevard. The project involves the installation of a playground area on a Village owned lot between 410 and 442 W. St. Charles Road. (DISTRICT #1)

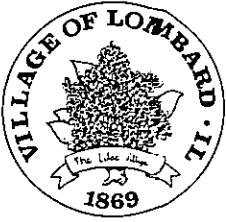
Staff recommends approval of this request.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X *W. T. Lichter* _____ Date 10/13/04

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 Lichter, Village Manager

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

DATE: October 13, 2004

SUBJECT: **St. Charles Road and Crescent Boulevard Tot-Lot Project**

Attached please find the proposed improvements for a vacant, Village owned lot located between 410 and 442 W. Crescent. The project consists of the installation of a tot lot on the Village's property. The estimated cost of the project is \$80,000. The Village will dedicate the land to the Lombard Park District. The Park District will install and maintain the improvements. The grant will cover the purchase of the necessary equipment. The Village will not be contributing any hard dollars to the project.

Staff has prepared an application for Community Development Block Grant funds to cover a portion of the costs related to this project. This tot lot will serve the immediate neighborhood. There is a high proportion of low to moderate income families that could benefit from the project. Please present this item to the Board of Trustees at their October 21, 2004.

DAH/adc

5.00'
FOUND IRON PIPE
0.97' N.W 'LY & 0.53' N.E 'LY
5' PUBLIC UTILITY AND
DRAINAGE EASEMENT
HEREBY GRANTED

LOT 4 IN BLOCK 1 IN
ANDERSON AND BURKE
SUBDIVISION PER. DOC.
NUMBER 175793
5' PUBLIC UTILIT
DRAINAGE EASEM
HEREBY GRANTEI

LOT 2

28,543.42 sq.ft.
0.6553 acres

LOT 5 IN BLOCK 1 IN
ANDERSON AND BURKE
SUBDIVISION PER. DOC.
NUMBER 175793

5' PUBLIC UTILITY AND
DRAINAGE EASEMENT
HEREBY GRANTED

CRESCENT BOND
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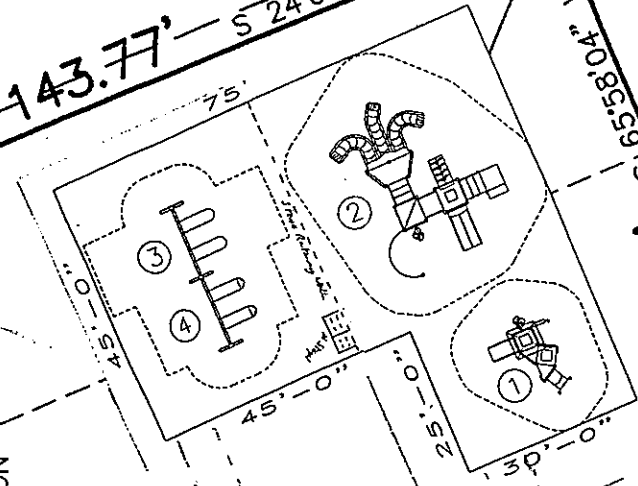
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LOT 6 IN BLOCK 1 IN
ANDERSON AND BURKE
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NUMBER 175793

LOT 3

55,907.69 sq.ft.
1.2835 acres

LOT 7 IN BLOCK 1
IN ANDERSON AND
BURKE SUBDIVISION
DOC. NO. 175793



FOUND IRON PIPE
ON LINE

FOUND CROSS NOTCH
3.60' S.E 'LY

WESTERLY LINE OF THE
NORTHEASTERLY 50.0 FEET
OF THE SOUTHWESTERLY
65.0 FEET OF LOT 7

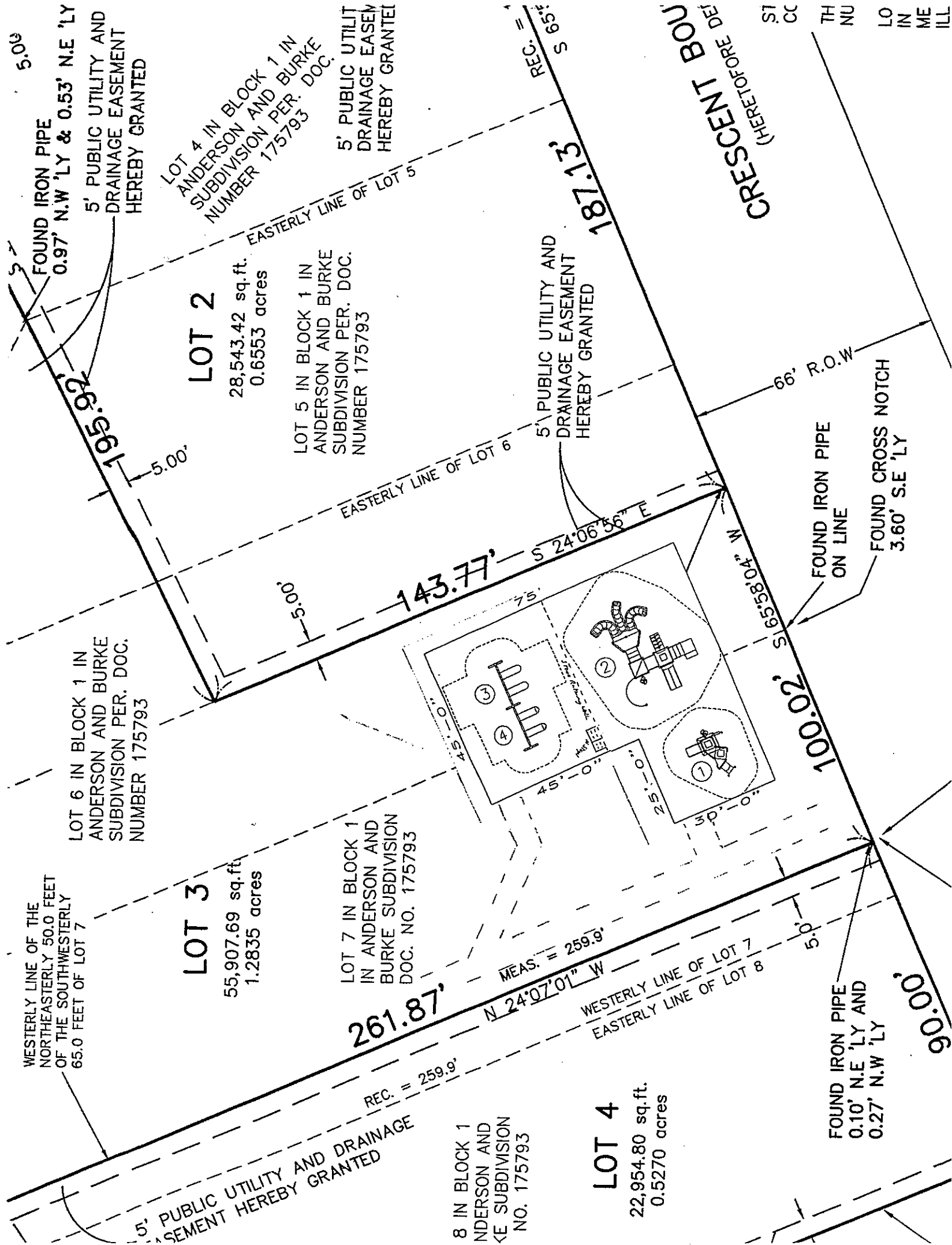
5' PUBLIC UTILITY AND DRAINAGE
EASEMENT HEREBY GRANTED

8 IN BLOCK 1
ANDERSON AND
BURKE SUBDIVISION
NO. 175793

LOT 4

22,954.80 sq.ft.
0.5270 acres

FOUND IRON PIPE
0.10' N.E 'LY AND
0.27' N.W 'LY



RESOLUTION _____

RESOLUTION AUTHORIZING THE DIRECTOR OF COMMUNITY DEVELOPMENT TO SUBMIT A COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION SEEKING FINANCING ASSISTANCE FOR A NEIGHBORHOOD PROJECT NEAR ST. CHARLES ROAD AND CRESCENT BOULEVARD

WHEREAS, the Village President and Board of Trustees believe and hereby declare that it is in the best interest of the Village and its residents to seek additional funding to facilitate and expedite the activities as detailed in the PLAN;

WHEREAS, there are funds available from DuPage County in the form of a grant for which the Village of Lombard may apply to assist in the funding of the activity;

WHEREAS, the grant is solely for financing infrastructure initiatives;

WHEREAS, the Village of Lombard has completed an income survey for the neighborhood as required in the application;

WHEREAS, the Village of Lombard has held a public hearing on its application on October 7, 2004, as required in the application;

WHEREAS, the Village of Lombard staff has completed the paperwork required to apply for the above-mentioned grant;

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

NOW, THEREFORE BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, THAT THE DIRECTOR OF COMMUNITY DEVELOPMENT TO SUBMIT A COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION SEEKING FINANCING ASSISTANCE FOR THE REDEVELOPMENT OF THE CRESCENT AND ST. CHARLES NEIGHBORHOOD as follows:

SECTION 1: That the Director of Community Development be and hereby is authorized to sign on behalf of the Village of Lombard said document as attached hereto.

Resolution No. _____
St. Charles & Crescent
Page 2

Adopted this _____ day of _____, 2004.

Ayes: _____

Nayes: _____

Absent: _____

Approved this _____ day of _____, 2004.

William J. Mueller, Village President

ATTEST:

Barbara Johnson, Deputy Village Clerk

FY 2005 APPLICATION FORM
DuPage County Neighborhood Investment, Community-Wide Benefit,
Accessibility Improvements, and Planning Projects

This application form is for proposals for Neighborhood Investment, Community-Wide Benefit, Accessibility Improvements, and Planning Projects as identified by the DuPage Community Development Commission (CDC). This application must be accompanied by adequate support documentation.

PART 1: INFORMATION ABOUT THE APPLICANT AND THE APPLICATION

Name of Applicant: Village of Lombard

Name of Project: Crescent and St. Charles Tot Lot

Type of Project: Neighborhood Investment Community-Wide Benefit Planning Project
 Accessibility Improvements

Contact Person: Name: David A. Hulseberg Title: Director of Community Development

Address: Street: 255 E. Wilson Avenue Zip: 60148

City: Lombard State: IL

Telephone: (630) 620-5756 **Fax:** (630) 629-2374

Total Project Cost of Activities Funded (in whole or in part) by this Application: \$80,000

Total of CDBG Funding Requested to Support These Activities: \$60,000

For NSA Projects, Year 2 CDBG Request Total Project Cost

For NSA Projects, Year 3 CDBG Request Total Project Cost

Project Abstract In the space below, briefly describe the activity for which you are requesting funds pursuant to this application.

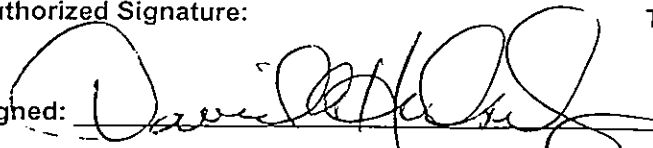
The Village of Lombard proposes to place a small playground area on a vacant, Village owned lot, in between two residential apartment buildings located at 410 and 442 W. Crescent.

Certification: *The undersigned certifies that to the best of his or her knowledge and belief, data in this application and its attachments are true and correct, the document has been duly authorized by the governing body of the organization, and the organization will comply with all regulations and guidelines applicable to DuPage County's Community Development Block Grant and/or Emergency Shelter Grant program, as applicable.*

Authorized Signature:

Title: Director of Community Development

Signed:



Date: 9/30/04

MINIMUM REQUIREMENTS (See Minimum Requirements in Project Ranking Criteria)



Governing Body Authorization: A resolution that this application was authorized by your governing body is included as Attachment _____ on Page _____

Public Hearing: In the space below, briefly describe methods used to solicit stakeholder input into the planning process for this application. List date of public hearing.

The Village of Lombard is holding a public hearing on the proposed project October 7, 2004. The Village is currently completing income surveys for the residents of the target area. The resolution authorizing the request as well as completed race/ethnic and income data will be forwarded after the public hearing date.

The public hearing notice and minutes are in Attachment _____ on Page _____

Capacity: Briefly describe the capacity of your organization to carry out the proposed activities.

The Village of Lombard staff has full capacity to carry out the proposed activity. The Village has both drafted plans for and overseen the construction of right-of-way improvements, parking lots, and landscape projects.

Fair Housing Action Plan: A fair housing action plan is a necessary prerequisite to apply for CDBG funding. Summarize the actions that you have taken, or plan to take, to further fair housing in your community.

The Fair Housing Action Plan is attached.

Fair Housing Action Plan is included in Attachment _____ on Page _____

Zoning Ordinance Compliance: Local policy requires that in order to receive funding a municipality must have a zoning ordinance that is consistent with the amended Civil Rights Act of 1988. These zoning amendments will address the issues of group homes and the definitions of family.

An attorney's letter of opinion regarding consistency is in Attachment _____ on Page _____

Location Map: This map is included in Attachment A _____ on Page 18

Budget: In the table below, provide information about the total project cost including information on each proposed activity (e.g., sewer, water, streets, landscaping, accessibility, planning, engineering costs, design fees, etc.) Each activity should be a separate line item in the budget. Please note that CDBG funds can only fund actual construction costs. Also note that multi-year funding is available only to Neighborhood Strategy Area Projects. Attach additional supporting information as necessary.

BUDGET SUMMARY for YEAR ONE					
Type of Activity and its Location	Amount of Non-CDBG Funding	Source of Non-CDBG Funding *	Commitment Date of Non-CDBG Funding	Amount of CDBG Funding	Total Cost of Activity
<p><i>(EXAMPLES)</i></p> <ul style="list-style-type: none"> • sanitary sewer • streets • sidewalks <p>installation on Garfield, Washington, and West Streets, Anytown, IL</p>	<p>*\$125,000</p> <p>*\$62,500</p> <p>*\$25,000</p>	<p>*Gen. Revenue</p> <p>*Gen. Revenue</p> <p>*Gen. Revenue</p>	<p>January 1999</p> <p>January 1999</p> <p>January 1999</p>	<p>*\$375,000</p> <p>*\$62,500</p> <p>*\$25,000</p>	<p>*\$500,000</p> <p>*\$125,000</p> <p>*\$50,000</p>
Tot Lot – includes equipment, rubber surface, and retaining wall	\$20,000	Gen. Revenue	June 2005	\$60,000	\$80,000
TOTAL PROJECT COSTS FOR YEAR ONE					

* If a special assessment is used, explain why and attach a resolution certifying that no other source of funding is available for use on this project. Explain the timing and availability of these funds.

BUDGET SUMMARY for YEAR TWO					
Type of Activity and its Location	Amount of Non-CDBG Funding	Source of Non-CDBG Funding *	Commitment Date of Non-CDBG Funding	Amount of CDBG Funding	Total Cost of Activity
(EXAMPLES)					
• sanitary sewer	*\$125,000	*Gen. Revenue	January 1999	*\$375,000	*\$500,000
• streets	*\$62,500	*Gen. Revenue	January 1999	*\$62,500	*\$125,000
• sidewalks	*\$25,000	*Gen. Revenue	January 1999	*\$25,000	*\$50,000
installation on Garfield, Washington, and West Streets, Anytown, IL					
TOTAL PROJECT COSTS FOR YEAR TWO					

* If a special assessment is used, explain why and attach a resolution certifying that no other source of funding is available for use on this project. Explain the timing and availability of these funds.

BUDGET SUMMARY for YEAR THREE					
Type of Activity and its Location	Amount of Non-CDBG Funding	Source of Non-CDBG Funding *	Commitment Date of Non-CDBG Funding	Amount of CDBG Funding	Total Cost of Activity
<p align="center"><i>(EXAMPLES)</i></p> <ul style="list-style-type: none"> • sanitary sewer • streets • sidewalks <p><i>installation on Garfield, Washington, and West Streets, Anytown, IL</i></p>	<p align="center">*\$125,000</p> <p align="center">*\$62,500</p> <p align="center">*\$25,000</p>	<p align="center"><i>*Gen. Revenue</i></p> <p align="center"><i>*Gen. Revenue</i></p> <p align="center"><i>*Gen. Revenue</i></p>	<p align="center"><i>January 1999</i></p> <p align="center"><i>January 1999</i></p> <p align="center"><i>January 1999</i></p>	<p align="center">*\$375,000</p> <p align="center">*\$62,500</p> <p align="center">*\$25,000</p>	<p align="center">*\$500,000</p> <p align="center">*\$125,000</p> <p align="center">*\$50,000</p>
TOTAL PROJECT COSTS FOR YEAR THREE					

* If a special assessment is used, explain why and attach a resolution certifying that no other source of funding is available for use on this project. Explain the timing and availability of these funds.

PART 1: MEETING NATIONAL OBJECTIVES (See Category One of Project Ranking Criteria)

1.1 Benefit to Low Income Persons: Indicate the number of low income persons benefited.

Income Range *MFI means Median Family Income.	No. of Persons Benefited	% of Persons Benefited
0-30% of MFI*	0	
31-50% of MFI*		
51-80% of MFI*		
81% + of MFI*		
TOTAL		

Please indicate the source of the income information:

Income Survey conducted by Applicant

Census Data, Block Group(s)

Tract(s)

Documentation: The source of the above information is in Attachment

on Page

1.2 Benefit to Minorities Describe benefit to minority populations in the table below.

Mono-racial

	No. of Persons Benefited	% of Persons Benefited
Race: White		
<i>Ethnicity:</i> Hispanic / Latino		
<i>Ethnicity:</i> Not Hispanic / Latino		
Race: Black / African American		
<i>Ethnicity:</i> Hispanic / Latino		
<i>Ethnicity:</i> Not Hispanic / Latino		
Race: Asian		
<i>Ethnicity:</i> Hispanic / Latino		
<i>Ethnicity:</i> Not Hispanic / Latino		
Race: American Indian / Alaskan Native		
<i>Ethnicity:</i> Hispanic / Latino		
<i>Ethnicity:</i> Not Hispanic / Latino		
Race: Native Hawaiian / Other Pacific Islander		
<i>Ethnicity:</i> Hispanic / Latino		
<i>Ethnicity:</i> Not Hispanic / Latino		

Bi-racial and Multi-racial

Race: Asian and White		
<i>Ethnicity:</i> Hispanic / Latino		
<i>Ethnicity:</i> Not Hispanic / Latino		
Race: Black / African American and White		
<i>Ethnicity:</i> Hispanic / Latino		
<i>Ethnicity:</i> Not Hispanic / Latino		
Race: American Indian/ Alaska native and Black / African American		
<i>Ethnicity:</i> Hispanic / Latino		
<i>Ethnicity:</i> Not Hispanic / Latino		
Race: Other Multi-racial		
<i>Ethnicity:</i> Hispanic / Latino		
<i>Ethnicity:</i> Not Hispanic / Latino		

1.3 Eliminating Conditions of Slums and Blight:

Indicate, in the boxes below, all that apply to the target area: Attach supporting documentation.

- Residential Area
- Nonresidential Area
- Area has been designated as blighted per State requirements
- Area has not been designated as blighted per State requirements
- Area is considered as blighted ___ percentage of structures are considered dilapidated or deteriorating and

Describe the conditions of slums and blight.

1.4 Other Benefits

Describe any direct emphasis the project will have on crime prevention, historic preservation, environmental protection, or energy conservation. Attaching supporting documentation.

PART 2: PROJECT IMPACT (See Category Two of Project Ranking Criteria)

2.1 Neighborhood Strategy Area (NSA) Improvements

Is the proposed project a part of a NSA approach to planning for neighborhood improvements?

yes or no If yes,

What is the completion date of the NSA plan? Not Applicable

Why is the information still valid? Not Applicable

Neighborhood Needs

The NSA plan must cover "1" or "2," and "3" or "4" of the needs lists below. Please check the appropriate boxes.

1. Infrastructure

2. Facilities and Services

3. Neighborhood Safety/Environmental Hazards

4. Housing Quality

1. Infrastructure Provide a summary description of the Infrastructure needs evaluated in the NSA plan.

Not Applicable

2. Facilities and Services Provide a summary description of the Facility and Service needs evaluated in the NSA plan.

Not Applicable

3. Neighborhood Safety/Environmental Hazards Provide a summary description of the Neighborhood Safety/Environmental Hazards needs evaluated in the NSA plan.

Not Applicable

4. Housing Quality Provide a summary description of the Housing Quality needs evaluated in the NSA plan.

Not Applicable

Housing Affordability Provide information on the affordability of housing in the affected neighborhood.

Affordability Category	Number of Units
Affordable to households at 0-50% of median income	NA
Affordable to households at 51%-80% of median income	NA
Affordable to households at 81%-100% of median income	NA
Affordable to households at over 100% of median income	NA

Documentation: The NSA plan is in Attachment

on Page

2.2 Neighborhood Infrastructure and Facilities

This category includes activities that fall into four types. These types are: (A) flood management; (B) water and sanitary sewer; (C) open space and recreation; and (D) streets, sidewalks, street lighting, and other miscellaneous neighborhood facilities. Please provide information on activities appropriate to your project.

A. Flood Management

Please indicate the condition of flooding in the target area. One or more boxes can be checked. Attach supporting documentation.

- Project has been denied for county storm water funding
- A substantial number of dwelling units are flooded on a regular basis and flooding is inside the house.
- A substantial number of dwelling units experience flooding in their yards and streets, with minor basement seepage.
- Residential properties are affected by flooding, but the number is not substantial.

Describe the on current problems, estimate the number of persons that will benefit, and summarize the project specifications.

Not Applicable

B. Water and Sanitary Sewer

Please indicate the condition of waters and sewers in the target area. Attach supporting documentation.

- A health or safety hazard exists affecting a substantial number of households
- A health or safety hazard exists, but does not affect a substantial number of households
- There is a need for water and/or sanitary sewer, but a health or safety hazard has not been demonstrated

Describe the current problems, estimate the number of persons that will benefit, and summarize the project specifications.

Not Applicable

C. Open Space and Recreation

Please check the box that best describes the proposed activity. Attach support documentation as needed.

- Project is in a high density area where there are no other facilities within a reasonable walk of the neighborhood.
- Project will be located in an area where there are no other facilities within a reasonable walk of the neighborhood.

Describe the current problems, estimate the number of persons that will benefit, and summarize the project specifications.

The proposed location of the playground area is in between two residential apartment buildings. Presently, there are no other play areas within immediate walking distance. The nearest park is located ____ blocks from the target area. The apartment buildings are located adjacent to St. Charles Road which experiences moderate to heavy traffic. The addition of a playground area between the two buildings will provide a much needed recreation area within a reasonable and safe distance for the residents and children of the target area.

D. Street Improvements, Sidewalks, Street Lighting, and Other Miscellaneous Neighborhood Facilities

Please check the box that best describes the proposed activity. Attach support documentation as needed.

- Current facilities, or lack thereof, significantly contributes to a neighborhood safety hazard
- There is a need for facilities, but a health or safety hazard has not been demonstrated

Describe the current problems, estimate the number of persons that will benefit, and summarize the project specifications.

Not Applicable

2.3 Accessibility Improvements for People with Disabilities

This category includes activities that will improve accessibility for people with disabilities through capital improvements to public or private facilities or structures.

Please check the box that best describes the proposed activity. Attach support documentation as needed.

- Improvement to a public facility that provides specific services to groups that would be expected to have a high percentage of persons with disabilities.

- Improvement to a public facility that would not be expected to have a higher than average use by persons with disabilities.
- Improvement to a private facility.

Describe the current problems, estimate the number of persons that will benefit, and summarize the project specifications.

Not Applicable

2.4 Community-Wide Benefit Activities

This category includes activities that fall into two types. These types are: (A) community-wide facilities, and (B) economic development.

A. Community-Wide Facility

Describe the current problems, estimate the number of persons that will benefit, and summarize the project specifications.

Not Applicable

Explain why the facility is not feasible as a need cluster activity because of its low priority and/or because of unavailability of funding in the need clusters.

Not Applicable.

B. Economic Development

Describe the current problems, estimate the number of persons that will benefit, and summarize the project design.

Not Applicable

2.5 Planning Studies

The role of a planning study is to implement the other objectives of the CDBG program. Please indicate below the type of plan to be done.

- Affordable housing plan
- Neighborhood planning related to multi-year Neighborhood Strategy Areas
- Multi-jurisdictional land use, growth management, and development control activities plan

Describe the proposed planning study and summarize the project design.

Not Applicable.

PART 3: PROJECT READINESS (See Category Three of Project Ranking Criteria)

3.1 Description of Readiness Describe how much planning work has been completed at the time of application, what work will be completed by the time agreement is executed, and what obstacles could remain in the way of completing each activity within one year.

The Village worked in conjunction with the Lombard Park District for project design and layout. The final layout and specifications of the playground are complete at this time.

Provide a schedule of activities for the project. For activities already completed, show the actual completion date and submit documentation.

Activity	Completion Date
Project team established ¹	Oct. 2004
Site control ²	
• Property acquired	NA
• Option acquired	NA
• All easements acquired	NA
• Other	NA
Other project authorization ³	
• Approval of Special Service Area	NA
• Facilities Planning Area (FPA) approval	NA
• Property annexation complete	NA
• Other	NA
Completion of preliminary engineering, or project design	Sept. 2004
Completion of final engineering, or project design	Sept. 2004
Advertise for bids	NA
Award of contracts	NA
Start of project	June 2005
Substantial project completion	June 2005
50% of Funds Expended	June 2005
100% of Funds Expended	June 2005

1. Describe the project team. Who will be responsible for each project component?

The Village has been working with the Lombard Park District for the design and layout of the project. The Lombard Park District will be responsible for final design and construction of the playground area.

2. Explain any site control issues and provide necessary documentation.

There are no site control issues related to this property. The land is presently owned by the Village of Lombard.

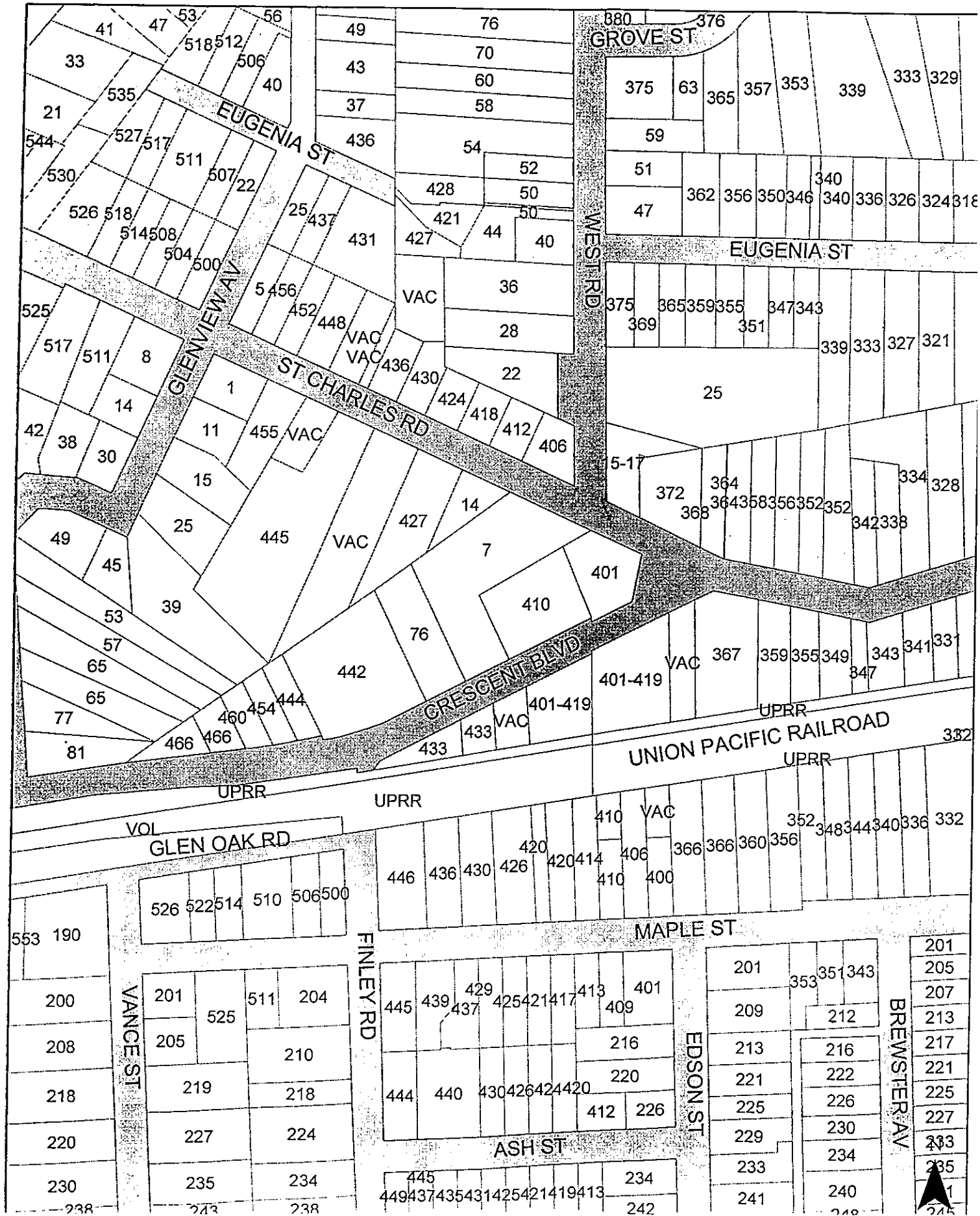
3. Explain any authorization issues and provide necessary documentation.

The project will necessitate building permits from the Village of Lombard for construction.

ATTACHMENT "A"

J:\COMDEV\Apps2001\Neighborhood investment\NeiApp01.doc

Location Map



FOUND IRON PIPE
0.08' S' LY & 0.03' E' LY

EAST LINE OF THE
WEST 40 FEET OF
LOT 6

WESTERLY LINE OF THE
NORTHEASTERLY 50.0 FEET
OF THE SOUTHWESTERLY
65.0 FEET OF LOT 7

LOT 6 IN BLOCK 1 IN
ANDERSON AND BURKE
SUBDIVISION PER. DOC.
NUMBER 175793

195.92'

LOT 3

55,907.69 sq.ft.
1.2835 acres

LOT 2

28,543.42 sq.ft.
0.6553 acres

LOT 5 IN BLOCK
ANDERSON AND BURKE
SUBDIVISION PER.
NUMBER 175793

LOT 7 IN BLOCK 1
IN ANDERSON AND
BURKE SUBDIVISION
DOC. NO. 175793

PUBLIC UTILITY AND DRAINAGE
EASIMENT HEREBY GRANTED

REC. = 259.9'

261.87'

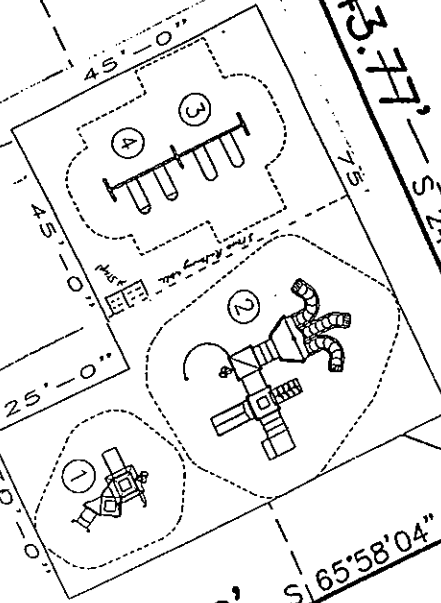
MEAS. = 259.9'
N 24°07'01" W

LOT 8 IN BLOCK 1
ANDERSON AND BURKE
SUBDIVISION
NO. 175793

LOT 4

22,954.80 sq.ft.
0.5270 acres

WESTERLY LINE OF LOT 7
EASTERLY LINE OF LOT 8



143.71'

EASTERLY LINE OF LOT 6

5' PUBLIC UTILITY
DRAINAGE EASIMENT
HEREBY GRANTED

100.02' S 65°58'04" W

FOUND IRON PIPE
0.10' N.E 'LY AND
0.27' N.W 'LY

FOUND IRON PIPE
ON LINE

FOUND CROSS NOTCH
3.60' S.E 'LY

90.00'

FOUND IRON PIPE
1.77' S.E 'LY AND
0.05' N.E 'LY

FOUND CROSS NOTCH
2.53' S.E 'LY AND 0.10' N.E 'LY

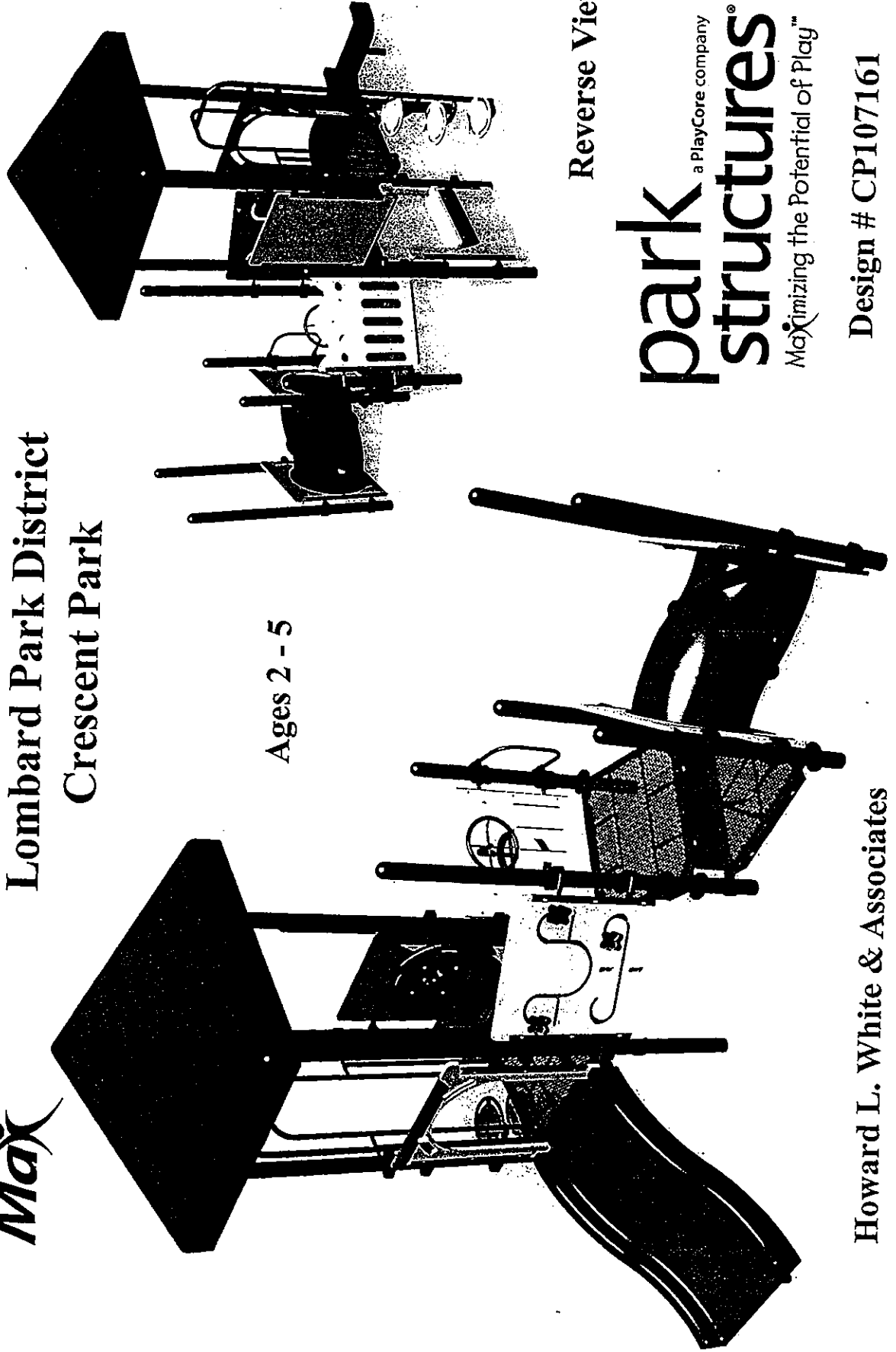
LOT 8
ANDERSON AND
BURKE SUBDIVISION

66' R.O.W.

Max

**Lombard Park District
Crescent Park**

Ages 2 - 5



Reverse View

park a PlayCore company
structures
Maximizing the Potential of Play™

Design # CP107161

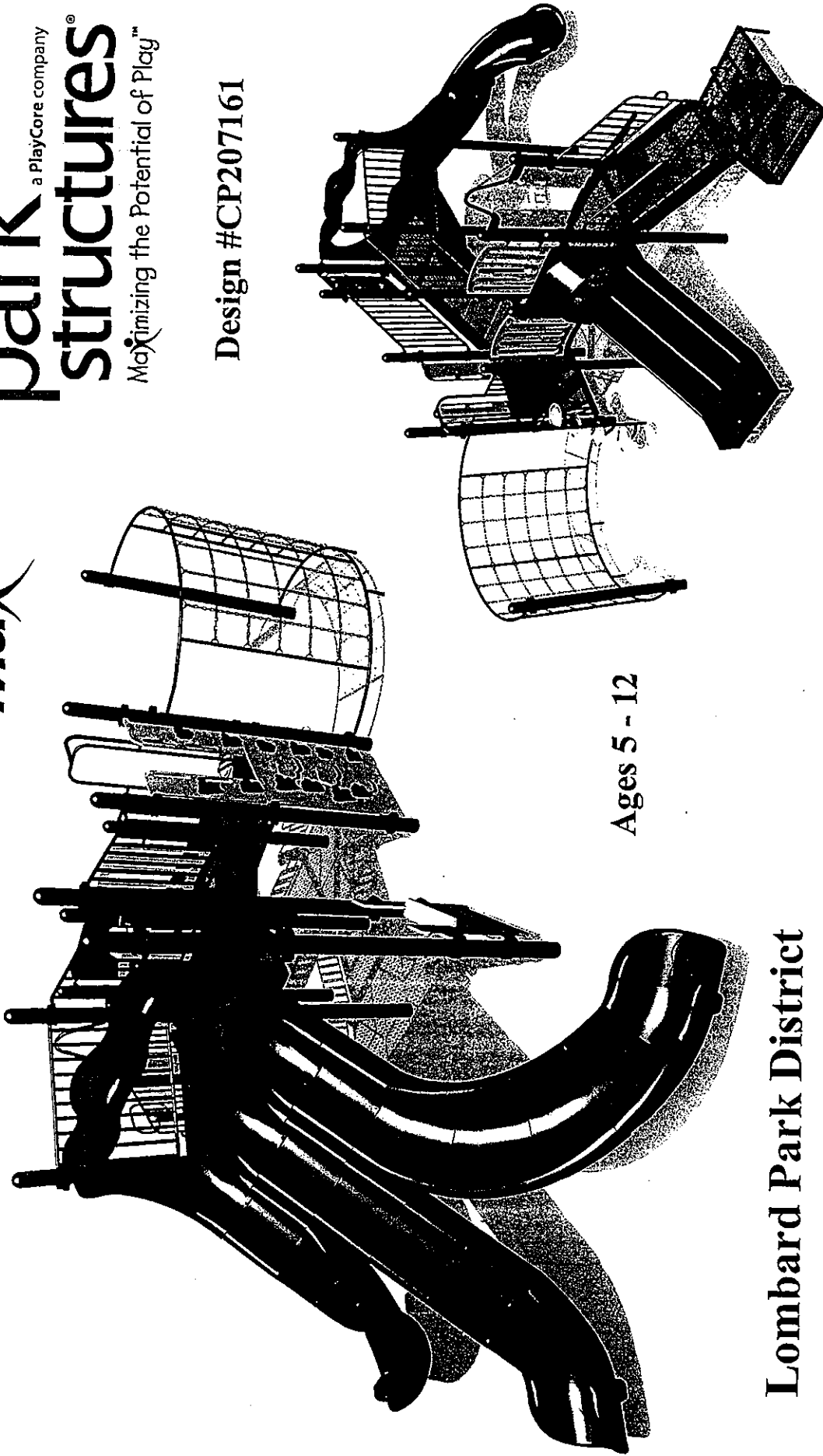
Howard L. White & Associates

Howard L. White & Associates



park a PlayCore company
structures
Maximizing the Potential of Play™

Design #CP207161



Ages 5 - 12

Lombard Park District
Crescent Park

Reverse View

75'-0"

30'-0"

25'-0"

45'-0"

45'-0"

Stone Retaining Wall

3 Steps

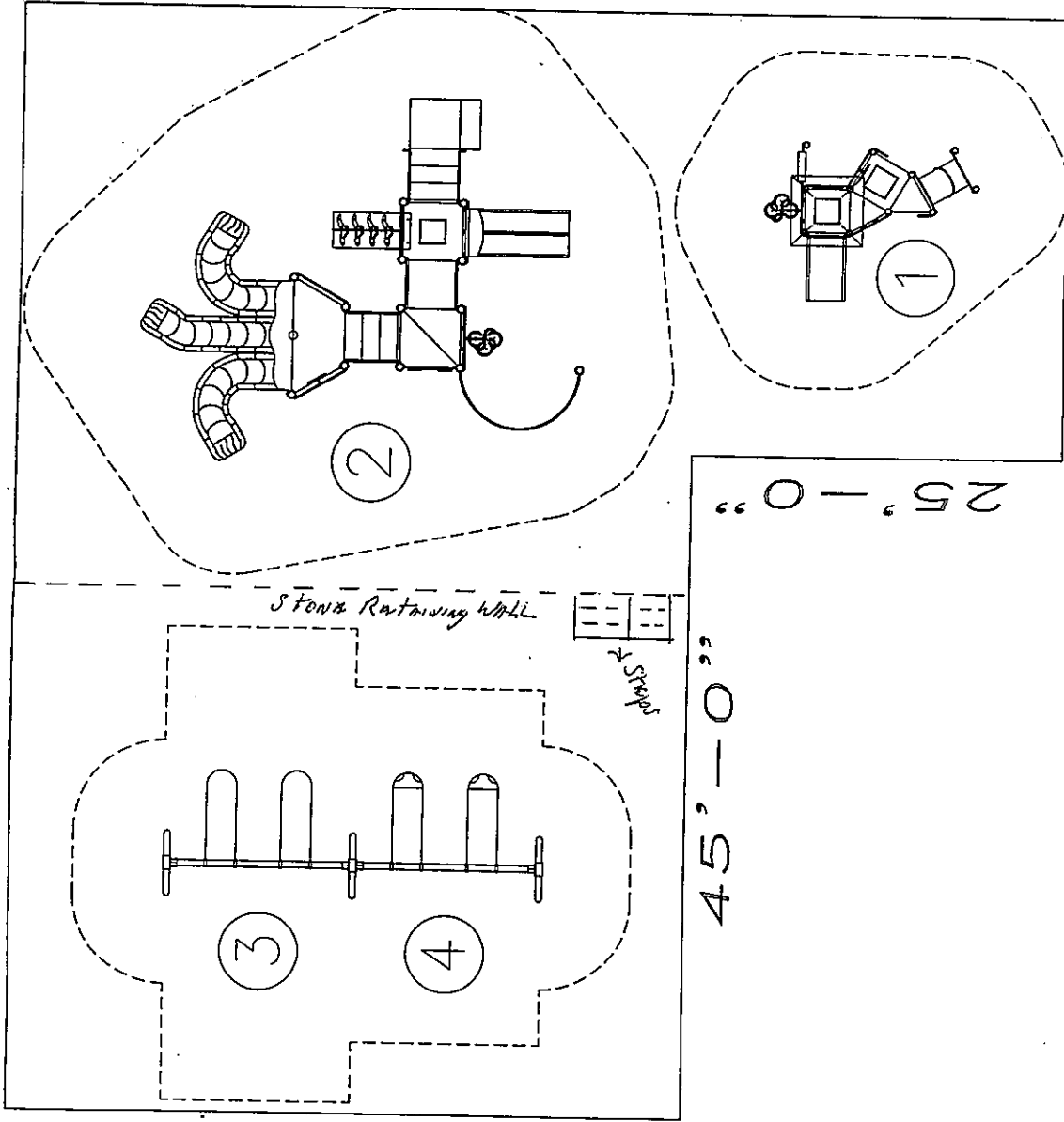
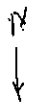
2

1

3

4

CRESSENT ST PARK
Map



ATTACHMENT "B"

ORDINANCE NO. 5429

AN ORDINANCE AMENDING TITLE 15, CHAPTER 155 OF THE LOMBARD VILLAGE CODE IN REGARD TO FAMILY AND GROUP CARE FACILITIES

BE IT ORDAINED by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

SECTION 1:

A. That on January 26, 2004, the Village of Lombard Plan Commission held a public hearing, pursuant to notice duly published in accordance with law, in connection with the zoning ordinance amendment set forth below.

B. That on January 26, 2004, the Village of Lombard Plan Commission recommended the zoning ordinance amendment hereinafter set forth to the President and Board of Trustees.

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

SECTION 2: That Title 15, Chapter 155 of the Lombard Village Code is amended by deleting Section 155.219 in its entirety and adding a new Section 155.219 thereto, which shall read in its entirety as follows:

155.219: REGULATIONS FOR FAMILY AND GROUP CARE FACILITIES

The purpose of these regulations includes the conserving of the taxable value of land and buildings, and the lessening and avoiding of congestion in the public streets, promotion of the public welfare, and securing and promoting the quiet, seclusion, clean air, and clean surroundings in residential areas. In order to provide for group housing and accomplish these purposes, the following group occupancies of family

care and group care facilities shall be permitted within any zone where residences occupied by families are permitted, provided that such facilities receive administrative approval from the Director of Community Development.

A. Administrative Approval of Permitted Use for Family Care Facilities.

The Director of Community Development shall give administrative approval to family care facilities, as a permitted use, provided that the following conditions are present:

1. No other family or group care facility is located within 300 feet.
2. The operator is licensed or certified by the appropriate state agency.
3. The facility has paid professional support staff, provided by a sponsoring agency.
4. The facility complies with the zoning regulations for the district in which the site is located.

The Director shall rescind any approval if the above conditions are not met.

B. Conditional Use Approval of Group Care Facilities.

Group care facilities are conditional uses in any zoning district where occupancy of a dwelling by a family is permitted and shall be subject to the same procedures and process for considering such conditional uses as all other conditional uses.

Approval of such conditional uses shall be given only when each of the following conditions are present:

1. No other family or group care facility is located within 300 feet.
2. The proposed use complies with all of the requirements and standards applicable for a conditional use under this Chapter 155.
3. The facility complies with the zoning regulations for the district in which the site is located.

The Director of Community Development shall grant administrative approval to any group care facility for which a conditional use has been granted and which is operated in conformance with any conditions and stipulations contained in the Conditional Use Ordinance.

SECTION 3: That Title 15, Chapter 155, Section 155.602, Table 6.3, of the Lombard Village Code is amended by inserting below "Fraternities and Dormitories" in "Use, Residential" the phrase "Group Care Facility" followed by "One (1) space per resident and staff, licensed to drive." in "Parking Requirements."

SECTION 4: That Title 15, Chapter 155, Section 155.802, of the Lombard Village Code is amended by revising the definition of "Family Care Facility" as contained therein to read in its entirety as follows:

FAMILY CARE FACILITY is a non-medical facility for housing no more than eight (8) unrelated persons who, due to advanced age, handicap, pregnancy, or status as a minor unable to live with parents or guardian, require assistance and/or supervision, and who reside together as a single housekeeping unit, plus paid professional support staff provided by a sponsoring agency. Excluded from the definition of family care facilities are homes in which non-handicapped residents are persons convicted by a court of competent jurisdiction of the manufacture or distribution of controlled substances (as this term is used in the United States Code and Illinois Statutes) or currently illegally using, or addicted to, controlled substances, and homes where resident tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.

SECTION 5: That Title 15, Chapter 155, Section 155.802, of the Lombard Village Code is amended by revising the definition of "Group Care Facility" as contained therein to read in its entirety as follows:

GROUP CARE FACILITY is a residential facility which is the same as Family Care Facility except that the operator is not licensed or certified by the appropriate state agency, or the facility is not supervised by paid professional support staff provided by a sponsoring agency, or, whether licensed and/or supervised or not, the facility has nine (9) or more persons plus staff.

SECTION 6: That Title 15, Chapter 155, Section 155.802, of the Lombard Village Code is amended by revising the definition of "Handicapped Person" as contained therein to read in its entirety as follows:

HANDICAPPED PERSON is a person who is handicapped pursuant to the

ORDINANCE 5429

provisions of the Fair Housing Act of 1988 or the Illinois Human Rights Act, and any subsequent amendments thereof.

SECTION 7: That 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 19~~th~~ day of February, 2004.


Passed on second reading this 19~~th~~ day of February, 2004, pursuant to a roll call vote as follows:

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

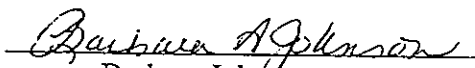
NAYS: None

ABSENT: None

APPROVED by me this 19~~th~~ day of February, 2004.

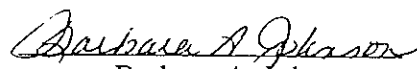

William J. Mueller
Village President

ATTEST:


Barbara Johnson
Deputy Village Clerk

Published by me in pamphlet form this 23~~rd~~ day of February, 2004.

ATTEST:


Barbara A. Johnson
Deputy Village Clerk

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September 26, 2003

Mr. David Hulseberg
Director of Community Development
Village of Lombard
255 East Wilson Avenue
Lombard, Illinois 60148-3931

Re: Zoning Code Compliance with the Fair Housing Act

Dear Dave:

This letter is in response to DuPage County's request for an attorney's opinion that the Village's Zoning Code ("Zoning Code") complies with the Federal Fair Housing Act, 42 U.S.C. 3601, et seq. (hereinafter the "FHA"). Based upon our research, four provisions must be changed. They involve the following: 1) a classification of family care facilities as a conditional use; 2) the structure must meet all applicable building, fire and health codes; 3) an off-street parking requirement; and 4) a parking prohibition in required front and rear yards. We have also proposed some additional changes to make the Zoning Code more defensible.

The following is a brief review of the FHA and pertinent case law:

The FHA prohibits discrimination based on race, color, religion, sex, handicap, familial status or national origin. Specifically, it imposes a duty of reasonable accommodation on the Village, stating that the following is unlawful:

(3) For purposes of this subsection, discrimination includes ... (B) *a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.*

42 U.S.C. 3604(f).

Reasonable local, state or federal restrictions, regarding the maximum number of occupants permitted to occupy a dwelling, are permissible. 42 U.S.C. 3607(b)(1). Further, discrimination in the sale or rental of housing excludes "an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others," 42 U.S.C. 3604(f)(9), and "conduct against a person because of a conviction for illegal manufacture or distribution of a controlled substance" is not prohibited. 42 U.S.C. 3607(b)(4).

"Handicap" is defined to exclude "current, illegal use of or addiction to controlled substance", 42 U.S.C. 3602(h), see also 42 U.S.C. 3607(b)(4), while discrimination for familial status is based upon the following definition:

... one or more individuals (who have not attained the age of eighteen years) being domiciled with - 1) a parent or another person having legal custody of such individual or individuals; or 2) the designee of such parent or other person having such custody, with the written permission of such parent or other person. The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or who is in the process of securing legal custody of any individual who has not attained the age of eighteen years.
42 U.S.C. 3602(k)

Such discrimination excludes certain housing intended and operated for persons 55 years of age or older, 24 C.F.R. 100.304, and certain housing intended for, and solely occupied by, persons 62 years of age or older. 24 C.F.R. 100.303.

A number of court cases have been decided in light of the FHA. The United States Supreme Court in *City of Edmonds v. Oxford House*, 514 U.S. 725 (1995), determined that building code maximum occupancy restrictions are exempt under Section 3607(b)(1), but "family composition" rules are not. In *Oxford House*, family, for the purpose of occupying single family dwelling units, was defined as persons "related by genetics, adoption or marriage, or a group of five or fewer (unrelated) persons". The Court found that this restriction was not exempt, though the Court did not otherwise rule on its validity. However, even if a building code maximum occupancy restriction is facially neutral, it can create a disparate impact in violation of the FHA. *United States v. Town of Cicero*, 1997 WL 337379 (N.D. Ill. 1997)

The Eighth Circuit in *Oxford House-C v. City of St. Louis*, 77 F.3d 249 (8th Cir. 1996), determined that a city zoning restriction limiting group homes to eight (8) residents was rational and did not violate the FHA. The refusal to seek a variance was fatal to the plaintiff's reasonable accommodation claim. *Id.* at 253. Further, the Seventh Circuit has determined that a claim was not ripe where a group home failed to utilize special use procedures to allow the Village to make reasonable accommodations. This decision was based upon a facially neutral law since the procedures were not solely required for the handicapped. *United States v. Village of Palatine*, 37 F.3d 1230 (7th Cir. 1994). (See also *City of St. Louis*, supra, refusal to apply for variance is fatal to reasonable accommodation claim). However, the Court in *Village of Palatine* noted that the group home would not be required to resort to those procedures, if the special use permit procedure was manifestly futile. *Id.* at 1234. An example of manifest futility is evidence that a municipality routinely grants or denies variances or conditional use approvals based upon neighbor and elected official support or opposition, though a village's record in responding to the

needs of the handicapped individuals and making zoning changes to accommodate the handicapped in the face of community opposition can demonstrate a lack of futility.

Where an ordinance is discriminatory on its face, it will not be saved from invalidity by the ability to seek variances. In *United States v. City of Chicago Heights*, 161 F.Supp.2d 819 (N.D. Ill. 2001), a zoning code, requiring groups of disabled persons to be lodged in detached single family homes, operated by nonprofit providers, with a maximum of one person per room, and requiring that existing building codes be complied with prior to occupancy or reoccupancy, was found to violate the FHA where there was no connection between the requirements and the needs of the disabled persons, and similar requirements were not imposed on nondisabled groups. In this case of facial discrimination, the zoning code was invalid despite the petitioner's ability to seek a variance for a reasonable accommodation. Facially discriminatory statutes must be warranted by the unique and specific needs and ability of those handicapped persons to whom the regulations apply. *Id.* at 844.

Restrictions in spacing group homes have been approved. (*City of Chicago Heights*, 161 F.Supp.2d at 838 (500 feet); *Family Style of St. Paul v. City of St. Paul, Minnesota*, 923 F.2d 91, 94 (8th Cir. 1991) (quarter mile unless approved as a conditional use or special use permit). Additionally, the denial of variations has been held not to violate the FHA under certain circumstances. *Brandt v. Village of Chebanse*, 82 F.3d 172 (7th Cir. 1996) (refusal of a variance to allow developer to erect wheelchair accessible multifamily housing in a single family housing zone). Further, required compliance with a municipality's home construction regulations does not necessarily violate the FHA (*Hemisphere Building Company, Inc. v. Village of Richton Park*, 171 F.3d 437, 441 (7th Cir. 1999) (village was not required to waive requirements for installation of sprinklers because they make homes more expensive for handicapped - as everyone else.)

In addition to other zoning codes that we reviewed, a review of the zoning code provisions addressed in some of the above cases is helpful for comparison purposes. In *Village of Palatine*, supra, a group home was a permitted use in the R-1B District, which permitted detached single family dwellings. It was limited to eight (8) unrelated persons plus staff, and was required to be licensed or certified by the state with paid professional support staff. A special use was required in the R-1B District if the group home was not licensed or certified by the state, if it was not professionally staffed, or, if it was licensed but had nine (9) or more residents. The Court found the ordinance to be facially neutral. Meanwhile, *City of St. Louis* involved an ordinance that limited group homes to 8 or fewer unrelated residents in the definition of single family dwelling. The Court stated that "(t)he City does not need to assert a specific reason for choosing eight as the cutoff point, rather than ten or twelve." *Id.* at 252. Therefore, the Court found the eight-person rule to be rational, in that it favored the handicapped on its face because the zoning ordinance otherwise allowed only three (3) unrelated non-handicapped persons to reside in a dwelling in a single family zone.

Based upon the FHA and the case law, we make the following conclusions regarding the Zoning Code's compliance with the FHA:

Section 155.219, Regulations For Group Care And Family Care Facilities, establishes the requirements of, and processes for these types of facilities. Each type of facility is addressed separately, as follows:

Family Care Facilities.

A family care facility (no more than eight (8) unrelated persons including staff) can be approved by the Director of Community Development if it meets certain conditions. Those conditions include the requirements and standards of a conditional use. If it does not meet the conditions, the Plan Commission can recommend to the Board of Trustees approval of a conditional use upon a finding that denial would violate state or federal laws.

Despite the initial ability to administratively approve this type of facility, family care facilities must be considered a conditional use as it requires compliance with conditional use standards. However, none of the cases support a conditional use for such a small facility. (*Village of Palatine* and *City of St. Louis* involved permitted uses for such facilities. See also "Recommendations to the Illinois General Assembly on Zoning for Community Residences," Illinois Planning Council on Developmental Disabilities, January 31, 1991, p. 10, "(r)equiring a special use permit for the smaller community residences of, say, four to eight residents plus staff to locate in a single-family zoning district, even the least dense district, is almost certainly illegal under the Fair Housing Act.") Therefore, it is recommended that the conditional use requirements be deleted, so that this will be a permitted use.

The following are additional observations regarding family care facilities:

1. General provisions:
 - a. The Director of Community Development has authority to give administrative approval, subject to compliance with certain conditions, and authority to rescind approval for failure to comply. The only similar provision is found in "Model" zoning language for community residences," *Community Residence Location Planning Act News*, August 17, 1990, p. 5, wherein the Illinois Planning Council on Developmental Disabilities recommends that such authority be granted for permitted uses. Therefore, it seems reasonable to couple this provision with the permitted use as recommended above, and, if the facility does not meet the conditions for a permitted use, it must apply for a conditional use permit.
 - b. There is a provision for a Plan Commission recommendation and Board approval, if the facility does not meet the conditions and denial would result in a violation of state or federal law. This provision is apparently intended to avoid running afoul of the FHA, though none of the other zoning codes that we reviewed had such a provision. This provision is not necessary, though it should be understood that the Village is required to make reasonable accommodations in accordance with the FHA.
2. Condition (1) prohibits a family care facility within 300 feet of a group care facility. This distance limitation is a valid restriction; however, it may be applied to other family care facilities as well. It seems reasonable to include both types of facilities, as the distance is less restrictive than those approved by the courts.
3. Condition (2) requires off-street parking for any vehicles owned or operated by its residents and staff. This requirement appears discriminatory as it is not required for a family. Therefore, it should be deleted and default to the general off-street parking provisions in Section 155.602.

4. Condition (3) requires the structure to meet the requirements of all applicable building, fire and health codes. There are no similar requirements for other permitted or conditional uses (conditional uses require the use to comply with applicable regulations, but is not specific to the structure). Therefore this provision appears discriminatory under *City of Chicago Heights*, and we recommend that it be deleted, though it goes without saying that compliance with other applicable codes is required.
5. Condition (4) states that "(n)o off-street parking is provided in required front or rear yards." However, Section 155.602(A)(3)(d) provides that off-street parking can be provided in any yard, except the front or corner side-yard in R-4, R-5, O and I. In R-1 and R-2, no more than 2 parking spaces are allowed in the required front and corner-side yards overnight and no more than 3 spaces in the required rear yard overnight. Condition 4 discriminates by prohibiting parking in the required front or rear yards and should be deleted to default to the general off-street parking provisions in Section 155.602.
6. Condition (5) requires family care facilities to comply with the requirements and standards for a conditional use. In effect, a family care facility is a permitted use in R-1 through R-6, subject to the conditions of a conditional use. This inconsistency should be resolved by deleting requirements of a conditional use, though it may be subject to certain other conditions.

Group Care Facilities.

Group care facilities are a special use in R-1 through R-6 and are treated as such in Section 155.219, which is appropriate. Similar comments apply as to Conditions 1, 3 and 4 for family care facilities. As to Condition 2, which requires off-street parking for vehicles of residents and staff, an argument can be made that these types of facilities are similar to rooming houses, which are required to provide 2 spaces plus 1 for each room for rent. However, there is no case law to support parking requirements and other zoning codes did not require additional parking. Therefore, the conservative approach would be to default to the present code requirements.

It is important to note that the Zoning Code does not discriminate against these facilities in regard to other similar uses, such as convalescent, nursing or rest home, rooming house or day care. Home day care allows from three (3) to eight (8) children and is a permitted use in R-1 through R-6, similar to family care facilities. Convalescent/nursing home is a conditional use in R-5 and R-6, while rooming house is a conditional use only in R-6. Meanwhile, group care facilities are special uses in R-1 through R-6. Therefore, there is no evidence of discrimination against family and group care facilities in that regard.

Definitions and Licensing

The Code's definition of "family" includes a maximum number of unrelated persons based upon the average family of related persons (3.14) and allows an unlimited number of persons related to one another by blood, marriage or adoption, in addition to relatives. Neither the FHA nor the cases specify the definition of family. The FHA defines familial status as stated above, and, while it could be incorporated into the definition of family, none of the cases have required it. The *Village of Palatine* Court did not question the validity of the definition of family, which included three (3) non-relatives, though it allowed a nuclear family plus not more than

three relatives. Similarly, in *City of St. Louis* the ordinance was found to be valid though it limited the number of non-related persons who could dwell in a single family residence to three (3), while up to eight (8) were allowed in group homes. However, in *City of Edmonds* the Court determined that building code maximum occupancy restrictions are exempt from the Fair Housing FHA, but not "family composition" rules. Further, none of the zoning codes that we reviewed incorporated the FHA's definition of familial status into its definition of family, though one specifically excepted group homes from the definition of family. Therefore, the Zoning Code's definition of family appears valid under the FHA, but the Village should rely on the building code for determining maximum occupancy.

The definition of "family care facility" also appears valid. Exclusions are valid under the FHA for residents convicted of manufacture and distribution of controlled substances, persons whose disability arise from current use or addiction to a controlled substance, and residents who constitute a direct threat to the health and safety of other individuals or the property of others, though other zoning codes did not incorporate that language. Additionally, the Zoning Code's restriction of eight (8) unrelated persons was approved in *City of St. Louis*, though eight (8) "plus staff" is recommended. ("Model zoning language for community residences", Community Residence Location Planning Act News, Illinois Planning Council on Development Disabilities, August 17, 1990, p. 7, "We strongly recommend that the smaller group home - family community residence - have a cap set at no less than eight residents plus support staff.") Therefore, it may be advisable to allow staff in addition to the maximum number of residents, though neither the statute nor the cases specifically require it.

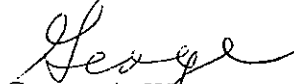
Finally, the Illinois Planning Council suggests a licensing requirement as one of the conditions for a permitted use, where the lack of such a requirement requires a special use permit. Such provisions, as in *Village of Palatine*, are worth considering.

I have drafted a letter to DuPage County stating that the Village Zoning Code is generally in compliance with the Fair Housing Act and that I have made recommendations to the Village to amend several sections to assure total compliance. Once the changes, as contained in the attached draft ordinance, have been approved, I will draft a follow up letter to DuPage County stating that the Village's Zoning Code is in total compliance with the FHA. A draft ordinance is also enclosed.

Please contact me if you would like to further discuss this matter.

Very truly yours,

KLEIN, THORPE & JENKINS, LTD.


George A. Wagner

Enclosures

cc: Thomas Bayer, Village Attorney

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