

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

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

TO : PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE : May 11, 2020 **(BOT) Date:** May 21, 2020

SUBJECT: Ordinance Amending Exhibit A, Attached to Ordinance 5695 Relative to a Vacation of the Lombard Road Right-of-Way

SUBMITTED BY: William J. Heniff, AICP, Director of Community Development *WJH*

BACKGROUND/POLICY IMPLICATIONS:

In 2006 as part of the establishment of the DuPage O'Hare Business Center Planned Development, the Village Board approved an ordinance vacating a portion of Lombard Road, near 1301 N. Lombard Road and abutting Commonwealth Edison utility rights-of-way. The ordinance vacated the right-of-way, but reserved the right for the Village to reacquire the vacated a portion of the right-of-way between 2026 and 2031, if so desired. On March 5, 2020 the Village Board voted to remove the reversion provision. However, similar language remained within Exhibit A of Ordinance. To reconcile the discrepancy, a further amendment to Ordinance 5695 to strike to reversion provisions in Exhibit A is offered.

Please find the ordinance attached for your consideration and placement on the May 21, 2020 Village Board meeting with a waiver of first reading.

Fiscal Impact/Funding Source:

Review (as necessary):

Finance Director _____ Date _____

Village Manager _____ Date _____



MEMORANDUM

TO: Scott R. Niehaus, Village Manager

FROM: William J. Heniff, AICP, Director of Community Development

MEETING DATE: May 21, 2020

SUBJECT: **Ordinance Amending Exhibit A, Attached to Ordinance 5695**

In 2006 as part of the establishment of the DuPage O'Hare Business Center Planned Development, the Village Board approved an ordinance vacating a portion of Lombard Road, near 1301 N. Lombard Road and abutting Commonwealth Edison utility rights-of-way. The ordinance vacated the right-of-way, but reserved the right for the Village to reacquire the vacated a portion of the right-of-way between 2026 and 2031, if so desired. On March 5, 2020 the Village Board voted to remove the reversion provision.

Upon further review, it was noted that the same provision was in Exhibit A of Ordinance 5695. This proposed ordinance would remove the reversion provision on Exhibit A. The Village received a development application for the subject property and it was approved by the Plan Commission. The vacated right-of-way area will be used for private parking and circulation purposes.

ACTION REQUESTED

Please find the ordinance attached for your consideration and placement on the May 21, 2020 Village Board meeting with a waiver of first reading.

ORDINANCE NO. _____

AN ORDINANCE AMENDING EXHIBIT A (AN AGREEMENT RELATING TO THE APPROVAL OF A MAJOR DEVELOPMENT, THE MAKING OF REQUIRED IMPROVEMENTS, AND PROVIDING FUNDS, THEREFOR, FOR 1301 NORTH LOMBARD ROAD, LOMBARD, IL), ATTACHED TO ORDINANCE NO. 5695, ADOPTED AUGUST 8, 2005, ENTITLED, "AN ORDINANCE GRANTING A CONDITIONAL USE FOR A PLANNED DEVELOPMENT IN THE I LIMITED INDUSTRIAL DISTRICT, GRANTING A CONDITIONAL USE TO ALLOW MORE THAN ONE PRINCIPAL BUILDING ON A LOT, AND GRANTING DEVIATIONS, VARIATIONS AND EXCEPTIONS FROM THE LOMBARD ZONING ORDINANCE, SUBDIVISION AND DEVELOPMENT ORDINANCE AND SIGN ORDINANCE", TO DELETE THE RIGHT-OF-WAY REDEDICATION OPTION PROVISION AS CONTAINED THEREIN

WHEREAS, pursuant to Section 10 of Exhibit A to Ordinance No. 5695, adopted August 8, 2005, entitled, "An Ordinance Granting A Conditional Use For A Planned Development In The I Limited Industrial District, Granting A Conditional Use To Allow More Than One Principal Building On A Lot, And Granting Deviations, Variations And Exceptions From The Lombard Zoning Ordinance, Subdivision And Development Ordinance And Sign Ordinance", and recorded with the DuPage County Recorder's Office as document number R2005-258919 on November 18, 2005, and as document number R2006-005724 on January 10, 2006, (the "Development Agreement Ordinance"), the President and Board of Trustees (the "Corporate Authorities") of the Village of Lombard (the "Village") agreed to vacate the following portions of Lombard Road:

THAT PART OF LOMBARD ROAD LYING SOUTH OF THE SOUTH LINE OF THE ILLINOIS CENTRAL RAILROAD RIGHT-OF-WAY AND NORTH OF THE NORTH LINE OF THE COMMONWEALTH EDISON RIGHT-OF-WAY, IN THE NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS; and

THAT PART OF LOMBARD ROAD LYING SOUTH OF THE NORTH LINE OF THE COMMONWEALTH EDISON RIGHT-OF-WAY AND NORTH OF THE SOUTH LINE OF THE COMMONWEALTH EDISON RIGHT-OF-WAY, IN THE NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS;

PIN: Pt. 03-31-204-007;
(the "Vacated Right-of-Way"); and

WHEREAS, pursuant to Ordinance No. 5759, adopted November 3, 2005, entitled, "An Ordinance Vacating a Portion of Lombard Road Right-of-Way North of the Commonwealth Edison Right-of-Way", and recorded with the DuPage County Recorder's Office as document number R2006-038983 on January 30, 2006, and Ordinance No. 5803, adopted January 19, 2006, entitled, "An Ordinance Vacating a Portion of Lombard Road Right-of-Way Abutting the Property at 1301 North Lombard Road", and recorded with the DuPage County Recorder's Office as document number R2006-038983 on March 3, 2006 (the "Vacation Ordinances"), the Corporate Authorities of the Village vacated the Vacated Right-of-Way; and

WHEREAS, Section 4.K. of each of the Vacation Ordinances contained the following provision, relative to a Village option to require the rededication of the Vacated Right-of-Way:

"Upon a written request to the GRANT PROPERTY OWNER from the Village, the GRANT PROPERTY OWNER agrees to rededicate the Subject Vacations right-of-way back to the Village, for public right-of-way purposes, at no cost to the Village (hereinafter referred to as the "Rededication"). The GRANT PROPERTY OWNER shall do all things necessary and appropriate to cooperate with the Village to effectuate the Rededication within six (6) months from the date of receipt of the request by the Village. The Village agrees that any such Rededication request shall only be made, if at all, between the first day of the twentieth (20th) year and the first day of the twenty-fifth (25th) year immediately following the date of this Agreement. The GRANT PROPERTY OWNER shall not be required to pay for or undertake any site improvements within the Subject Variations area as part of any such Rededication."

(the "Vacation Ordinance Rededication Provision"); and

WHEREAS, Section 10.F. of Exhibit A of the Development Agreement Ordinance contained the following provision, relative to a Village option to require the rededication of the Vacated Right-of-Way:

"Upon a written request to the Owner from the Village, the Owner agrees to rededicate the Subject Vacations right-of-way back to the Village, for public right-of-way purposes, at no cost to the Village (hereinafter referred to as the "Rededication"). The Owner and Developer shall do all things

necessary and appropriate to cooperate with the Village to effectuate the Rededication within six (6) months from the date of receipt of the request by the Village. The Village agrees that any such Rededication request shall only be made, if at all, between the first day of the twentieth (20th) year and the first day of the twenty-fifth (25th) year immediately following the date of this Agreement. The Owner and Developer shall not be required to pay for or undertake any site improvements within the Subject Variations area as part of any such Rededication. In the event that the Rededication takes place, any buildings and/or structures that would not meet the provisions of the Lombard Zoning Ordinance effective as of the date of this Agreement, as a direct result of the Rededication, shall be considered by the Village to be legal conforming buildings and/or structures.”

(the “Development Agreement Rededication Provision”); and

WHEREAS, the owner of the Vacated Right-of-Way (which is now part of Lot 2 in LFI Industrial Subdivision Lombard, a subdivision of part of the West 1/2 of the Northeast 1/4 of Section 31, Township 40, Range 11, East of the Third Principal Meridian, DuPage County, Illinois – PIN 03-31-204-007), has requested that the Village amend the Vacation Ordinances, to delete the Vacation Ordinance Rededication Provision, and amend Exhibit A to the Development Agreement Ordinance to delete the Development Agreement rededication Provision, so that the owner of the Vacated Right-of-Way can proceed with a multi-tenant office/warehouse development on the Vacated Right-of-Way and the property to the East of and adjacent thereto (the “Development”); and

WHEREAS, the Corporate Authorities have determined that it is in the best interests of the Village that the Development move forward; and

WHEREAS, the Corporate Authorities have determined that, based on the closure of Lombard Road at the Illinois Central Railroad right-of-way, the Village will not have any need for the rededication of the Vacated Right-of-Way, as the Village will not need to re-establish a roadway within the Vacated Right-of-Way; and

WHEREAS, pursuant to Ordinance No. 7787, entitled, “An Ordinance Amending Ordinance No. 5759, Adopted November 3, 2005, entitled, ‘An Ordinance Vacating A Portion Of Lombard Road Right-Of-Way North Of The Commonwealth Edison Right-Of-Way’, To Delete The Rededication Option Provision As Contained Therein”, and

Ordinance No. 7788, entitled, "An Ordinance Amending Ordinance No. 5803, Adopted January 19, 2006, Entitled, 'An Ordinance Vacating A Portion Of Lombard Road Right-Of-Way Abutting The Property At 1301 North Lombard Road', To Delete The Rededication Option Provision As Contained Therein", both adopted on March 5, 2020, the Corporate Authorities deleted the Vacation Ordinance Rededication Provision from each of the Vacation Ordinances; and

WHEREAS, the Corporate Authorities have determined that it is in the best interests of the Village to delete the Development Agreement Rededication Provision from Exhibit A to the Development Agreement Ordinance;

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

SECTION 1: That the recitals, as set forth above, are hereby incorporated herein by reference.

SECTION 2: That Exhibit A to the Development Agreement Ordinance is hereby amended by deleting Section 10.F. (the Development Agreement Rededication Provision) therefrom.

SECTION 3: That all other provisions of the Development Agreement Ordinance, not amended hereby, shall remain in full force and effect.

SECTION 4: That the Director of Community Development is hereby authorized and directed to record a certified copy of this Ordinance with the DuPage County Recorder's Office.

SECTION 5: 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 _____, 2020.

First reading waived by action of the Board of Trustees this ____ day of _____, 2020.

Passed on second reading this ____ day of _____, 2020, pursuant to a roll call vote as follows:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED by me this ____ day of _____, 2020.

Keith Giagnorio, Village President

ATTEST:

Sharon Kuderna, Village Clerk

Published by me in pamphlet form this ____ day of _____, 2020.

Sharon Kuderna, Village Clerk