

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: David A. Hulseberg, Village Manager *DAH*
DATE: November 9, 2011 (BOT) Date: November 17, 2011
TITLE: PC 11-21: 215 & 223 E. Roosevelt, 120-124 E. 13th Street (V-Land Planned Development)
SUBMITTED BY: Department of Community Development *[Signature]*

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests that the Village take the following actions on the subject properties:

1. Approve an amendment to an annexation agreement (2/3 of Corporate Authorities Vote Required);
2. Pursuant to Section 155.504(A) (major changes to a planned development), an amendment to Ordinance 5878 granting approval of a conditional use for a planned development, amending the maximum number of tenant spaces within the existing retail center;
3. A conditional use, per Section 155.417(G)(2)(b)(2) of the Village of Lombard Zoning Ordinance, for a financial institution in the B4A Roosevelt Road Corridor District.

The Plan Commission recommended approval of this request with conditions.

The petitioner is requesting a waiver of first reading.

Please place this item on the November 17, 2011 Board of Trustees agenda under Items for Separate Action.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X *David A. Hulseberg* _____ Date 11/10/11

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: David A. Hulseberg, Village Manager

FROM: William Heniff, AICP
Director of Community Development *WH*

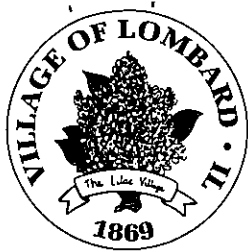
DATE: November 3, 2011

SUBJECT: **PC 11-21; 215 & 223 E. Roosevelt and 120 – 124 E. 13th Street (V-Land Planned Development)**

Attached please find the following items for Village Board consideration as part of the November 3, 2011 Village Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 11-21;
3. Plans associated with the petition;
4. An ordinance authorizing a third amendment to Ordinance 5122, adopted May 2, 2002, as amended by Ordinance 5559, adopted October 7, 2004, as amended by Ordinance 5878, adopted June 1, 2006, authorizing an annexation agreement;
5. An ordinance granting an amendment to a conditional use for a planned development, to increase the maximum number of tenant spaces within the existing retail center and granting approval for a conditional use, per Section 155.417(G)(2)(b)(2) of the Village of Lombard Zoning Ordinance, for a financial institution in the B4A Roosevelt Road Corridor District.

The Plan Commission recommended approval of an annexation agreement amendment, planned development amendment and a conditional use associated with the petition, subject to conditions.



VILLAGE OF LOMBARD

255 E. Wilson Ave.
Lombard, Illinois 60148-3926
(630) 620-5700 Fax (630) 620-8222
www.villageoflombard.org

November 3, 2011

Village President
William J. Mueller

Village Clerk
Brigitte O'Brien

Trustees

Greg Alan Gron, Dist. 1
Keith T. Giagnorio, Dist. 2
Zachary C. Wilson, Dist. 3
Peter Breen, Dist. 4
Laura A. Fitzpatrick, Dist. 5
William "Bill" Ware, Dist. 6

Village Manager
David A. Hulseberg

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

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

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

Subject: PC 11-21; 215 & 223 E. Roosevelt, 120-124 E. 13th Street (V-Land Planned Development)

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner requests that the Village take the following actions on the subject property:

1. Approve an amendment to an annexation agreement;
2. Pursuant to Section 155.504(A) (major changes to a planned development), an amendment to Ordinance 5878 granting approval of a conditional use for a planned development, amending the maximum number of tenant spaces within the existing retail center;
3. A conditional use, per Section 155.417(G)(2)(b)(2) of the Village of Lombard Zoning Ordinance, for a financial institution in the B4A Roosevelt Road Corridor District.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on October 17, 2011.

Presenting the petition were Steve Panko, V-Land Corporation 321 N. Clark, Suite 2440 Chicago, IL. Mr. Panko is the owner of the 215 & 223 E. Roosevelt properties. Since 2006 the center is leased up and doing quite well. The Buffalo Wild Wings is doing well and is one of the better Buffalo Wild Wings, along with Hair Cuttery also. Additionally, when the economy was good and we agreed upon a limitation of tenants. Since then we tried to find tenants for the last space, which has not happened in five years. We now have an opportunity on-hand and have two tenants interested in going into each individual space so we are asking the Plan Commission if they could give relief to the existing amendment.

George Maurdais, attorney for Axis Financial, one of the two tenants that want to relocate into the center. We have an existing location in Lombard about three blocks away. Because we make loans there, we are considered a financial institution. When we originally opened in 1998 we were not required to get a conditional use. The Zoning Ordinance has changed so because we are moving to this location, we are required to have a conditional use. We will have the same business operations as we did three blocks away. The hours of operation will be the same, the interior layout will basically be the same, we just this time we have to ask for a conditional use. We meet your criteria for you conditional uses.

Chairperson Ryan asked if anyone was present to speak in favor or against the petition. There was no one spoke in favor or against the petition.

Chairperson Ryan then requested the staff report.

Chris Stilling, Assistant Community Development Director, presented the staff report. Staff has prepared the IDRC report to submit to the public record in its entirety. The petitioner is requesting an amendment to an annexation and planned development agreement to allow for the reconfiguration of a multi-tenant building from five (5) tenants spaces to six (6) tenant spaces on the subject property located within the B4A Roosevelt Road Corridor District. The petitioner is also requesting a conditional use, per Section 155.417(G)(2)(b)(2) of the Village of Lombard Zoning Ordinance to allow for a financial institution (Check 'n Go). The proposed financial institution will occupy one of the tenant spaces created as part of the annexation agreement amendment.

The subject property is located at the southwest corner of Highland Avenue and Roosevelt Road and is known as the V-Land Planned Development. In 2002, the Village approved an annexation agreement for the property and created a planned development in order to provide for a new BP service station, mini-mart and a car wash. However, after BP acquired the property, they decided not to proceed with the project. BP did ultimately raze all the structures on the site.

In 2004, V-Land Corporation developed plans for the site and subsequently amended the original annexation agreement (PC 04-25) to reflect a phased development concept. The project was to be developed in phases. Phase I was to consist of the development of a retail center and a bank with a drive-through facility. Also included within Phase I was the requisite stormwater detention and infrastructure improvements. Phase II was to consist of a concept plan for a 6,600 square foot retail and/or restaurant building footprints with associated parking and landscape improvements.

In 2006, the annexation agreement was further amended (PC 06-13) as the V-Land Corporation wished to alter the site plan associated with the 2004 planned development approval (PC 04-25) for the planned development. The amended plan relocated the bank to the corner of Highland Avenue and Roosevelt Road, which in turn shifted the shopping center to the west. The overall size of the commercial center was expanded to provide for 19,629 square feet of retail space in a

single building. The southern end of the property along 13th Street would still consist of a stormwater detention outlot and associated parking for the development.

Their redevelopment plan included parcels not originally a part of the initial petition that encompassed all but one parcels on the block face. The entire development was completed in 2008 and now consists of a standalone bank, known as Chase Bank, a multi-tenant retail building that currently houses a mix of commercial uses including a Buffalo Wild Wings restaurant, T-Mobile cellular phone store, CD One Price Cleaners dry cleaning service, Hair Cuttery hair salon, a Career Education Corp. (CEC) office and a 3,335 square foot vacant tenant space.

When the development plans were altered in 2006, a condition of PC 06-13, which then became part of the annexation agreement, was amended for the second time to reflect the change in development plan. The condition stated the following: *The west-end tenant (currently Buffalo Wild Wings) was to be developed as a sit-down restaurant of at least 5,491 square feet. The remainder of the multi-tenant retail building shall not be subdivided or petitioned to have more than five (5) separate tenant or business establishments.*

As previously mentioned, there is one 3,335 square foot vacant tenant space remaining in the multi-tenant building. The V-Land Corporation is now petitioning to amend the annexation agreement to divide the vacant tenant space and allow six (6) separate tenant spaces. V-Land has two companies under contract to establish business within the multi-tenant building – Jet’s Pizza and Check ‘n Go. More specifically, Jet’s would occupy 1,801 square feet and Check ‘n Go would occupy 1,534 square of the divided tenant space.

The Jet’s Pizza would operate similarly to that of Domino’s Pizza whereas the business would function as a pick-up and delivery location only. The business would be classified as a restaurant, which is a permitted use in the B4A - Roosevelt Road Corridor District.

Check ‘n Go, which is currently operating in the High Point Shopping Center would be considered a financial institution per the Zoning Ordinance. Furthermore, financial institutions are listed as a conditional use in the B4A - Roosevelt Road Corridor District. As such, conditional use approval to allow for a financial institution is also being requested under this petition.

The original intent of the cap on the number of overall retail spaces was to minimize “soft” uses and service related businesses from carving the center into many spaces that would not be attractive to retail establishments. By capping the overall number of tenants, it would in theory force the owner to seek out tenants that would be more retail in nature, as opposed to many 1,000 sq. ft. service uses.

The petitioner/owner has stated that the remaining center for a single user has been difficult to find. He also has argued that market conditions and the fact that the space has sat idle since initial construction suggests that the condition be revisited.

Staff is supportive of the one additional tenant space in the multi-tenant building as the size of the tenant spaces would be undesirable for a larger/more-intense use that may negatively affect the planned development. Furthermore, the size of the retail building would not be increased, but rather allow for a greater number of businesses within the V-Land Planned Development.

Check 'n Go received a Certificate of Occupancy on May 5, 1998 to operate at its current location within the High Point Shopping Center. Check 'n Go is now proposing to relocate their business to the V-Land Planned Development. As Check 'n Go's primary business function is conducting financial transactions in the same manner as a bank, it is considered a Financial Institution per the Zoning Ordinance. Furthermore, 'Financial Institutions' are listed as a conditional use within the B4A Roosevelt Road Corridor District.

As previously mentioned, Check 'n Go would occupy 1,534 square feet within the multi-tenant building. The operations would be conducted entirely within the confines of the building with no external operational improvements being utilized. The hours of operation vary from 10:00 a.m. – 6 p.m. Monday through Thursday, 9:00 a.m. - 7:00 p.m. on Friday and 9 a.m. – 1:00 p.m. on Saturday.

The Roosevelt Road access drive is a right-in, right-out facility while the Garfield Street access is used for patrons desiring to turn left onto Roosevelt Road. Cross-access between the Chase Bank site and the retail strip center allows access to Highland Ave, Roosevelt Rd. and Garfield St. Furthermore, the internal circulation system reduces commercial traffic movements to/from 13th Street. Existing on-site parking facilities provide adequate off-street parking to accommodate any additional traffic demands, which are not anticipated to be significantly increased by the proposed uses.

The Comprehensive Plan recommends community commercial and high density residential for the planned development and community commercial for the subject property. As a supplement to the Comprehensive Plan, the Roosevelt Road Corridor Plan was adopted in 2007. A primary activity of the study was to determine which uses and activities best advance the overall goals of the Village and provide the greatest contribution to the corridor's success. Moreover, Goal #1 of the Roosevelt Road Corridor Plan was to *identify preferred land uses and activities along the corridor*. A policy recommendation that derived from Goal #1 states, *uses such as financial institutions (banks), may be beneficial if they are located within a planned development or as part of a unified redevelopment plan, but they are not as desirable as stand-alone establishments*. As the proposed financial institution is a commercial use and is located within a planned development, it is consistent with the Comprehensive Plan and the Roosevelt Road Corridor Plan.

The proposed use is compatible with the surrounding business uses. There are a number of Financial Institutions located along the Roosevelt Road Corridor and one currently located within the V-Land Planned Development.

Staff finds that the proposal meets the standards for conditional uses and planned developments, as submitted by the petitioner, and enhances the overall planned development in the best interest of the Village. Staff also finds that the proposed financial institution is consistent with past approvals and will not have any negative impacts on the surrounding area.

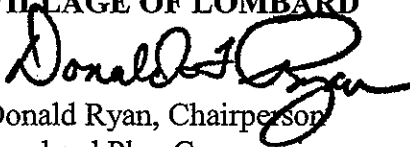
Chairperson Ryan then opened the meeting for comments among the Commissioners. The Commissioners had no comments.

On a motion by Commissioner Burke and a second by Commissioner Flint, the Plan Commission voted 5 to 0 that the Village Board approve the requested relief subject to the following conditions:

1. That the petitioner shall develop the site in accordance with the tenant plan, prepared by Mid-America and the Check 'n Go Floor Plan, prepared by RJL Architects, dated August 26, 2011
2. The petitioner shall apply for and receive a building permit for any improvements to the interior of the tenant space(s) prior to starting and build-out of the tenant spaces.
3. The petitioner shall satisfactorily address all comments noted within the IDRC report.
4. Excluding the existing 5,491 square foot sit down restaurant space to the west end of the center, the center shall not be further subdivided or partitioned to have more than six separate tenant spaces or business establishments.

Respectfully,

VILLAGE OF LOMBARD



Donald Ryan, Chairperson
Lombard Plan Commission

c. Petitioner
Lombard Plan Commission

Surrounding Zoning and Land Use:

North: OPD Office Planned Development; improved as the National University of Health Sciences
South: B4A - Roosevelt Road Corridor District; developed as a strip shopping center also unincorporated property zoned and developed as single-family residences
East: B4A - Roosevelt Road Corridor District; improved as a Walgreen's pharmacy
West: B4A - Roosevelt Road Corridor District; improved as a strip commercial center

ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development on September 6, 2011:

1. Petition for Public Hearing.
2. Standards for Conditional Uses.
3. Tenant Plan, prepared by Mid-America Inc.
4. Floor Plan (Check 'n Go), prepared by RJL Architects, dated August 26, 2011.

DESCRIPTION

The petitioner is requesting an amendment to an annexation and planned development agreement to allow for the reconfiguration of a multi-tenant building from five (5) tenants spaces to six (6) tenant spaces on the subject property located within the B4A Roosevelt Road Corridor District. The petitioner is also requesting a conditional use, per Section 155.417(G)(2)(b)(2) of the Village of Lombard Zoning Ordinance to allow for a financial institution (Check 'n Go). The proposed financial institution will occupy one of the tenant spaces created as part of the annexation agreement amendment.

INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING

Private Engineering Services has no comments.

PUBLIC WORKS

The Public Works Department has no comments.

BUILDING DIVISION

The Building Division offers the following comments:

1. A separate water line and water meter will need to be installed in the water meter room for the additional tenant space. In addition, a locking water valve will need to be installed at the water meter.
2. The proposed restaurant space will require fireproofing to be applied to the roof joists if not it is not already present.
3. An additional main electrical disconnect will need to be added for the additional space.
4. A fire-rated wall will be required between the two new spaces.

FIRE DEPARTMENT

The Fire Department has no comments.

PLANNING

History of the V-Land Planned Development

The subject property is located at the southwest corner of Highland Avenue and Roosevelt Road and is known as the V-Land Planned Development. In 2002, the Village approved an annexation agreement for the property and created a planned development in order to provide for a new BP service station, mini-mart and a car wash. However, after BP acquired the property, they decided not to proceed with the project. BP did ultimately raze all the structures on the site.

In 2004, V-Land Corporation developed plans for the site and subsequently amended the original annexation agreement (PC 04-25) to reflect a phased development concept. The project was to be developed in phases. Phase I was to consist of the development of a retail center and a bank with a drive-through facility. Also included within Phase I was the requisite stormwater detention and infrastructure improvements. Phase II was to consist of a concept plan for a 6,600 square foot retail and/or restaurant building footprints with associated parking and landscape improvements.

In 2006, the annexation agreement was further amended (PC 06-13) as the V-Land Corporation wished to alter the site plan associated with the 2004 planned development approval (PC 04-25) for the planned development. The amended plan relocated the bank to the corner of Highland Avenue and Roosevelt Road, which in turn shifted the shopping center to the west. The overall size of the commercial center was expanded to provide for 19,629 square feet of retail space in a single building. The southern end of the property along 13th Street would still consist of a stormwater detention outlot and associated parking for the development.

Their redevelopment plan included parcels not originally a part of the initial petition that encompassed all but one parcels on the block face. The entire development was completed in 2008 and now consists of a standalone bank, known as Chase Bank, a multi-tenant retail building that currently houses a mix of commercial uses including a Buffalo Wild Wings restaurant, T-Mobile cellular phone store, CD One Price Cleaners dry cleaning service, Hair Cuttery hair salon, a Career Education Corp. (CEC) office and a 3,335 square foot vacant tenant space.

Annexation & Planned Development Agreement Amendments

When the development plans were altered in 2006, a condition of PC 06-13, which then became part of the annexation agreement, was amended for the second time to reflect the change in development plan. The condition stated the following: *The west-end tenant (currently Buffalo Wild Wings) was to be developed as a sit-down restaurant of at least 5,491 square feet. The remainder of the multi-tenant retail building shall not be subdivided or petitioned to have more than five (5) separate tenant or business establishments.*

As previously mentioned, there is one 3,335 square foot vacant tenant space remaining in the multi-tenant building. The V-Land Corporation is now petitioning to amend the annexation agreement to divide the vacant tenant space and allow six (6) separate tenant spaces. V-Land has two companies under contract to establish business within the multi-tenant building – Jet’s Pizza and Check ‘n Go. More specifically, Jet’s would occupy 1,801 square feet and Check ‘n Go would occupy 1,534 square of the divided tenant space.

The Jet’s Pizza would operate similarly to that of Domino’s Pizza whereas the business would function as a pick-up and delivery location only. The business would be classified as a restaurant, which is a permitted use in the B4A - Roosevelt Road Corridor District.

Check ‘n Go, which is currently operating in the High Point Shopping Center would be considered a financial institution per the Zoning Ordinance. Furthermore, financial institutions are listed as a conditional use in the B4A - Roosevelt Road Corridor District. As such, conditional use approval to allow for a financial institution is also being requested under this petition.

The original intent of the cap on the number of overall retail spaces was to minimize “soft” uses and service related businesses from carving the center into many spaces that would not be attractive to retail establishments. By capping the overall number of tenants, it would in theory force the owner to seek out tenants that would be more retail in nature, as opposed to many 1,000 sq. ft. service uses.

The petitioner/owner has stated that the remaining center for a single user has been difficult to find. He also has argued that market conditions and the fact that the space has sat idle since initial construction suggests that the condition be revisited.

Staff is supportive of the one additional tenant space in the multi-tenant building as the size of the tenant spaces would be undesirable for a larger/more-intense use that may negatively affect the

planned development. Furthermore, the size of the retail building would not be increased, but rather allow for a greater number of businesses within the V-Land Planned Development.

Proposed Conditional Use for a Financial Institution

Check 'n Go received a Certificate of Occupancy on May 5, 1998 to operate at its current location within the High Point Shopping Center. Check 'n Go is now proposing to relocate their business to the V-Land Planned Development. As Check 'n Go's primary business function is conducting financial transactions in the same manner as a bank, it is considered a Financial Institution per the Zoning Ordinance. Furthermore, 'Financial Institutions' are listed as a conditional use within the B4A Roosevelt Road Corridor District.

As previously mentioned, Check 'n Go would occupy 1,534 square feet within the multi-tenant building. The operations would be conducted entirely within the confines of the building with no external operational improvements being utilized. The hours of operation vary from 10:00 a.m. – 6 p.m. Monday through Thursday, 9:00 a.m. - 7:00 p.m. on Friday and 9 a.m. – 1:00 p.m. on Saturday.

Traffic Analysis

The Roosevelt Road access drive is a right-in, right-out facility while the Garfield Street access is used for patrons desiring to turn left onto Roosevelt Road. Cross-access between the Chase Bank site and the retail strip center allows access to Highland Ave, Roosevelt Rd. and Garfield St. Furthermore, the internal circulation system reduces commercial traffic movements to/from 13th Street. Existing on-site parking facilities provide adequate off-street parking to accommodate any additional traffic demands, which are not anticipated to be significantly increased by the proposed uses.

Compatibility with the Comprehensive Plan

The Comprehensive Plan recommends community commercial and high density residential for the planned development and community commercial for the subject property. As a supplement to the Comprehensive Plan, the Roosevelt Road Corridor Plan was adopted in 2007. A primary activity of the study was to determine which uses and activities best advance the overall goals of the Village and provide the greatest contribution to the corridor's success. Moreover, Goal #1 of the Roosevelt Road Corridor Plan was to *identify preferred land uses and activities along the corridor*. A policy recommendation that derived from Goal #1 states, *uses such as financial institutions (banks), may be beneficial if they are located within a planned development or as part of a unified redevelopment plan, but they are not as desirable as stand-alone establishments*. As the proposed financial institution is a commercial use and is located within a planned development, it is consistent with the Comprehensive Plan and the Roosevelt Road Corridor Plan.

Compatibility with Surrounding Land Uses

The proposed use is compatible with the surrounding business uses. There are a number of Financial Institutions located along the Roosevelt Road Corridor and one currently located within the V-Land Planned Development.

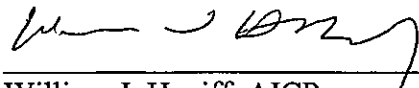
Staff finds that the proposal meets the standards for conditional uses and planned developments and enhances the overall planned development in the best interest of the Village. Staff also finds that the proposed financial institution is consistent with past approvals and will not have any negative impacts on the surrounding area.

FINDINGS AND RECOMMENDATIONS

Based on the submitted petition and the testimony presented, the proposal **complies** with the standards required by the Lombard Zoning Ordinance; and, therefore, I move that the Plan Commission find that the findings included as part of the Inter-departmental Review Report be the findings of the Plan Commission and that granting the associated relief enhances the overall planned development and is in the best interest of the Village. Therefore, I recommend to the Corporate Authorities **approval** of PC 11-21, subject to the following conditions:

1. That the petitioner shall develop the site in accordance with the tenant plan, prepared by Mid-America and the Check 'n Go Floor Plan, prepared by RJL Architects, dated August 26, 2011
2. The petitioner shall apply for and receive a building permit for any improvements to the interior of the tenant space(s) prior to starting and build-out of the tenant spaces.
3. The petitioner shall satisfactorily address all comments noted within the IDRC report.
4. Excluding the existing 5,491 square foot sit down restaurant space to the west end of the center, the center shall not be further subdivided or partitioned to have more than six separate tenant spaces or business establishments.

Inter-departmental Group Report Approved By:



William J. Heniff, AICP
Director of Community Development

att-

c. Petitioner

PC 11-21: 215 & 223 E. Roosevelt (V-Land Planned Development)



144 ft

This Amendment allows for the sixth space to exist for retail center at 201-223 East Roosevelt Road in Lombard beside Buffalo Wild Wings. By allowing this additional space, the establishment, maintenance, or operation of the conditional use will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare of the village people.

The conditional use will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The conditional use will be all interior (no drive-thru, outdoor storage, etc.).

The conditional use will not impede the normal and orderly development and improvement of the surrounding property. The two spaces are already built out into two tenants; ready for Check 'n Go and Jet's Pizza.

The conditional use will allow the exact same public utilities, access roads, and drainage of the existing center. The conditional use will not alter existing ingress and egress nor will it cause additional traffic concerns as we have adequate parking per Village requirements for the overall center.

The conditional use is not contrary to the objectives of the current Comprehensive Plan for The Village of Lombard, in fact, this will enhance the Village tax base, by allowing the space to be divided since two tenants are waiting for occupancy.

The Conditional use conforms to the applicable regulations of the district in which it is located, especially since the strip center has been built for several years.

The Amendment to the conditional use does comply with the regulations of the district which it is located.

The existing development currently has community sanitary sewage and portable water facilities connected to a central system.

The use in the existing planned development is consistent with the recommendations of the Comprehensive Plan of the Village.

The existing planned development is in the public's interest and is consistent with the purposes of the Zoning Ordinance and the development is suited with parking already per Village requirements. Therefore, this would not burden parks, schools, and other public facilities.

The proposed use is allowed within the current zoning and shall enhance the quality of the planned development by bringing more available uses to the community. The use shall not create a detrimental influence to the surrounding properties. Additionally, the Amendment shall not alter the site area or building area. The property shall remain the same.

The reduction or addition in the use of one additional unit shall keep within the existing Ordinance and of the public interest. This Amendment does not adversely impact the value or

use of any other property. This Amendment is to promote better development by allowing additional services and jobs, along with increased tax dollars. Furthermore, the overall floor area shall remain the same within the development.

The Amendment does not dissipate any adverse impact or adjoining buildings and does not invade the privacy of the occupants of such building as this structure currently exists. The setbacks, landscaping and open space directly have been established according to the existing PUD.

Downer, Janet

From: Steve Panko <spanko@vlandcorp.com>
Sent: Wednesday, October 26, 2011 4:04 PM
To: Toth, Michael
Cc: Heniff, William; Downer, Janet
Subject: Re: Third Amendment to the VLand Annexation Agreement

Follow Up Flag: Follow up
Flag Status: Flagged

Please waiver of reading and I'm asking for a continuance of pc so my attorney can review amendment. Is this ok?

From: Toth, Michael
To: Steve Panko
Cc: Heniff, William ; Downer, Janet
Sent: Tue Oct 25 08:44:33 2011
Subject: Third Amendment to the VLand Annexation Agreement
Steve-

Please see the attached documents. I have included one clean pdf version of the Third Amendment to the VLand Annexation Agreement and one Word document showing the edits from the Second Amendment. Our attorney has reviewed the document and I am forwarding it to you for attorney review and signature. I will need a signed version by tomorrow (10/26), otherwise this item will have to go to the next Board agenda, which would be November 17th.

Please let me know if you have any questions.

Respectfully,

Michael S. Toth
Planner I
Village of Lombard
255 E. Wilson Ave.
Lombard, IL 60148
P 630.620.5758
F 630.629.2374

ORDINANCE NO. _____

**AN ORDINANCE AUTHORIZING A THIRD AMENDMENT
TO ORDINANCE 5122, ADOPTED MAY 2, 2002,
AS AMENDED BY ORDINANCE 5878, ADOPTED JUNE 1, 2006 AS AMENDED BY
ORDINANCE 5559, ADOPTED OCTOBER 7, 2004,
AUTHORIZING AN ANNEXATION AGREEMENT**

(PC 11-21; 223 & 215 E. Roosevelt and 120 – 124 E. 13th Street
(V-Land Planned Development))

WHEREAS, VLAND LOMBARD HIGHLAND LLC, an Illinois Limited Liability Corporation, (hereinafter referred to as "the Developer") has petitioned the Village for an amendment to Ordinance Number 5122, adopted May 2, 2002; as amended by Ordinance 5559, adopted October 7, 2004; as amended by Ordinance 5878, adopted June 1, 2006 (hereinafter "the Third Amendment") to said Ordinance providing for an annexation agreement relative to the property described in Section 3 below (hereinafter the "Subject Property"); and

WHEREAS, said petition of the Developer requests an amendment to Ordinance Number 5878, amending Section (5)(b)(v) to read as follows:

- (v) The West end-cap tenant space within the multi-tenant retail building shall be developed as a single sit-down restaurant of at least 5,491 square feet in size. The remainder of the multi-tenant retail building shall not be subdivided or partitioned to have more than six (6) separate tenant spaces or business establishments.

WHEREAS, a public hearing was held by the Village's Plan Commission on October 17, 2011, pursuant to appropriate and legal notice, for the purpose of considering the petition of the Developer for the amended plan and the Plan Commission has submitted to the Corporate Authorities of the Village its findings and recommendations with respect to said petition; and

WHEREAS, the Third Amendment has been drafted and a copy is attached hereto and incorporated herein as Exhibit "A"; and,

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

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 5122, adopted May 2, 2002; and Ordinance 5559, adopted October 7, 2004 and Ordinance 5878, adopted June 1, 2006 is hereby further amended to include the Third Amendment attached hereto and marked Exhibit "A", by and between the Developer and the Village of Lombard.

SECTION 2: That the Village President and Village Clerk be and hereby are authorized to sign and attest to said Third Amendment.

SECTION 3: This Ordinance is limited and restricted to the properties generally located at 215 & 223 E. Roosevelt and 120 – 124 E. 13th Street (a.k.a., the V-Land Planned Development), Lombard, Illinois; legally described as follows:

LOTS 1 TO 3 IN V-LAND LOMBARD HIGHLAND RESUBDIVISION, BEING A SUBDIVISION OF PART OF THE WEST ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 12, 2006 AS DOCUMENT R2006-197358, IN DUPAGE COUNTY, ILLINOIS.

Parcel Numbers: 06-20-110-006, 007 & 008

SECTION 4: That all other portions of Ordinance Number 5122, adopted May 2, 2002, Ordinance Number 5559, adopted October 7, 2004, Ordinance Number 5878, adopted June 1, 2006 and not amended by this Ordinance, shall remain in full force and effect.

SECTION 5: This ordinance shall be in full force and effect from and after its passage and approval as provided by law.

Passed on first reading this _____ day of _____, 2011.

First reading waived by action of the Board of Trustees this _____ day of _____, 2011.

Passed on second reading this _____ day of _____, 2011.

Ayes: _____

Nays: _____

Absent: _____

Approved this _____ day of _____, 2011.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

Published by me this _____ day of _____, 2011.

Brigitte O'Brien, Village Clerk

Space Above This Line Is for the Recorder's Use Only

**THIRD AMENDMENT TO ANNEXATION AGREEMENT
BY AND BETWEEN
VLAND LOMBARD HIGHLAND, LLC
AND THE
VILLAGE OF LOMBARD**

After recording, please return to:
Village of Lombard
Department of Community Development
255 E. Wilson Avenue
Lombard, IL 60148

PERMANENT INDEX NUMBERS: 06-20-110-006, 007 & 008

COMMON STREET ADDRESS: **215 & 223 E. Roosevelt and 120 – 124 E. 13th Street
Lombard, Illinois**

THIRD AMENDMENT TO ANNEXATION AGREEMENT

THIS THIRD AMENDMENT TO ANNEXATION AGREEMENT (“The **Third Amendment**”) is made and entered into as of this _____ day of November, 2011, by and between the Village of Lombard, a municipal corporation (the “**Village**”) and Vland Lombard Highland LLC, an Illinois limited liability company (the “**Developer**”). (The Developer and the Village are hereinafter sometimes referred to herein individually as a “Party” and collectively as the “Parties”.)

WITNESSETH:

WHEREAS, Developer is the record owner of the property legally described in **EXHIBIT A** attached to the Amended Agreement, as defined below (the “**Property**”); and

WHEREAS, Developer is also the record owner of that certain property legally described on **EXHIBIT B** attached to the Amended Agreement, as defined below (the “**Adjacent Property**”); and

WHEREAS, Developer acquired the Property from BP Products North America Inc., a Maryland corporation (the “**Prior Owner**”); and

WHEREAS, the Village and the Prior Owner previously entered into an Annexation Agreement, dated May 2, 2002, that governs the annexation, zoning and development of the Property and that was recorded against the Property with the DuPage County Recorder on September 30, 2002 as Document Number R2002-252316 (the “**Agreement**”); and

WHEREAS, pursuant to the Agreement, the Property has been annexed to the Village and has been rezoned to the B-3 Community Shopping District with certain conditional uses as more fully set forth in the Agreement; and

WHEREAS, the Village and the Developer previously entered into a First Amendment to the Agreement, dated October 7, 2004, (the “**First Amendment**”) that governed the annexation, zoning and development of the Property and the Adjacent Property, and that was recorded against the Property and the Adjacent Property with the DuPage County Recorder on December 3, 2004 as Document Number R2004-305031; and

WHEREAS, the Village and the Developer previously entered into a Second Amendment to the Agreement, dated June 1, 2006, (the “**Second Amendment**”) that governed the annexation, zoning and development of the Property and the Adjacent Property , and that was recorded against the Property and the Adjacent Property with the DuPage County Recorder on October 31, 2006 as Document Number R2006-209821 (the Agreement, as amended by the First Amendment and the Second Amendment, being hereinafter referred to as the “Amended Agreement”); and

WHEREAS, the Developer desires to amend the development plans for the Property in a manner not allowed by the Amended Agreement, and also desires to develop the Property in a manner that is inconsistent with the provisions of the Amended Agreement, therefore, the Developer desires to amend the Amended Agreement in certain respects as hereinafter more fully set forth; including, without limitation, with respect to the provisions concerning (1) the conditional uses that were previously approved for the Property, (2) and a conditional use for a financial institution; and

WHEREAS, in furtherance of the foregoing, Developer has filed an application with the Village Clerk requesting (1) approval of a planned development amendment in the B4A Community Shopping District and (2) conditional use for a financial institution (the “**Developer’s Third Application**”); and

WHEREAS, the Developer’s Third Application was forwarded to the Plan Commission of the Village; and

WHEREAS, a public hearing on the Developer’s Third Application was conducted by the Village’s Plan Commission on October 17, 2011 pursuant to appropriate and legal notice, and the Plan Commission has submitted to the Corporate Authorities of the Village (the “**Corporate Authorities**”) its findings of fact and recommendations with respect to the Developer’s Third Application; and

WHEREAS, a public hearing on this Amendment was held by the Corporate Authorities on the ___ day of November, 2011; and

WHEREAS, the Parties wish to enter into a binding agreement with respect to the amendment of the Amended Agreement upon and subject to the terms and conditions contained in this Third Amendment; and

WHEREAS, all public hearings and other actions required to be held or taken prior to the adoption and execution of this Amendment, in order to make the same effective, have been held or taken, including all hearings and actions required in connection with amendments to, variations from and classifications under the Lombard Zoning Ordinance (Chapter 155 of the Lombard Village Code – hereinafter the “**Zoning Ordinance**”), the Lombard Subdivision and Development Ordinance (Chapter 154 of the Lombard Village Code – hereinafter the “**Subdivision Ordinance**”), and the Lombard Sign Ordinance (Chapter 153 of the Lombard Village Code – hereinafter the “**Sign Ordinance**”), such public hearings and other actions having been held pursuant to public notice as required by law and in accordance with all requirements of law prior to adoption and execution of this Amendment; and

WHEREAS, the Corporate Authorities of the Village and the Developer deem it to the mutual advantage of the Parties and in the public interest that the Property and the Adjacent Property be developed as a part of the Village as provided in the Amended Agreement as amended by this Third Amendment; and

WHEREAS, the development of the Property and the Adjacent Property as provided in the Amended Agreement, as amended by this Third Amendment, will promote the sound planning and development of the Village as a balanced community and will be beneficial to the Village; and

WHEREAS, the Corporate Authorities of the Village have examined the proposed uses by Developer and have determined that said uses and the development of the Property and the Adjacent Property in accordance with the terms of the Amended Agreement, as amended by this Third Amendment, comply with the Comprehensive Plan of the Village; and

WHEREAS, Corporate Authorities and the Developer desire to amend the Amended Agreement as hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and the mutual promises herein set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties hereto agree as follows:

1. **Incorporation of Recitals**: The Village and the Developer agree that the foregoing recitals are incorporated in this Third Amendment as if fully recited herein.

2. **Development of the Subject Property**: The Village and the Developer agree that the Property (hereinafter collectively referred to as the “**Subject Property**” and legally described in Exhibit J attached hereto and made part hereof) shall be developed in accordance with the terms of the Amended Agreement as amended by this Third Amendment.

3. **Certain Capitalized Terms**. All references in the Amended Agreement to the term “**Subject Property**” shall mean and refer to the Subject Property as defined in this Third Amendment.

4. **Site Plan Approval**: Section 5(b)(v) of the Amended Agreement is revised to read in its entirety as follows:

(v) "The West end-cap tenant space within the multi-tenant retail building shall be developed as a single sit-down restaurant of at least 5,491 square feet in size. The remainder of the multi-tenant retail building shall not be subdivided or partitioned to have more than six (6) separate tenant spaces or business establishments."

5. **Effectiveness of the Amended Agreement**. The Amended Agreement (including the exhibits that are a part thereof), except to the extent expressly amended by this Third Amendment, remains in full force and effect. In the event of any conflict between the expressly stated provisions of this Third Amendment and the expressly

stated provisions of the Amended Agreement, this Third Amendment shall govern and control.

IN WITNESS WHEREOF, the Parties hereto have set their hands and seals to this Third Amendment as of the day and year first above written.

VILLAGE OF LOMBARD, an Illinois

Municipal corporation

By: _____

Name: _____

Title: Its President

Name: _____

Title: Village Clerk

DEVELOPER

VLAND LOMBARD HIGHLAND, LLC

By:  _____

Name: Steven J. Panko

Title: Its Manager

EXHIBIT J

LEGAL DESCRIPTION OF THE SUBJECT PROPERTY

LOTS 1 TO 3 IN V-LAND LOMBARD HIGHLAND RESUBDIVISION, BEING A SUBDIVISION OF PART OF THE WEST ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 12, 2006 AS DOCUMENT R2006-197358, IN DUPAGE COUNTY, ILLINOIS.

Parcel Numbers: 06-20-110-006, 007 & 008

**215 & 223 E. Roosevelt and 120 – 124 E. 13th Street
Lombard, Illinois**

ORDINANCE NO. _____

**AN ORDINANCE GRANTING AN AMENDMENT TO
A CONDITIONAL USE FOR A PLANNED DEVELOPMENT AND AN ORDINANCE
GRANTING A CONDITIONAL USE PURSUANT TO
TITLE 15, CHAPTER 155, SECTION 155.417(G)(2)(b)(2)
OF THE LOMBARD ZONING ORDINANCE**

**(PC 11-21; 215 & 223 E. Roosevelt and 120 – 124 E. 13th Street
(V-Land Planned Development))**

(Also see Ordinance #5979)

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, an application has heretofore been filed requesting approval of an amendment to a previously approved conditional use for a planned development; and

WHEREAS, said application also requests approval of a conditional use for a financial institution within the planned development located in the B4A - Roosevelt Road Corridor District; and,

WHEREAS, a public hearing on such application has been conducted by the Village of Lombard Plan Commission on October 17, 2011 pursuant to appropriate and legal notice; and,

WHEREAS, the Plan Commission has filed its recommendations with the President and Board of Trustees recommending approval of the ordinance amendment and conditional use, subject to conditions; and,

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

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: Condition #8 of Ordinance 5879, adopted June 1, 2006 is hereby amended to read as follows:

8. The West end-cap tenant space within the multi-tenant retail building shall be developed as a single sit-down restaurant of at least 5,491 square feet in size. The remainder of the multi-tenant retail building shall not be subdivided or partitioned to have more than six (6) separate tenant spaces or business establishments.

SECTION 2: That a Conditional Use is hereby granted for the property described in Section 3 below and pursuant to Title 15, Chapter 155, 155.417(G)(2)(b)(2) of the Zoning Ordinance so as to allow for a financial institution, subject to the following conditions:

1. That the petitioner shall develop the site in accordance with the tenant plan, prepared by Mid-America and the Check 'n Go Floor Plan, prepared by RJL Architects, dated August 26, 2011
2. The petitioner shall apply for and receive a building permit for any improvements to the interior of the tenant space(s) prior to starting and build-out of the tenant spaces.
3. The petitioner shall satisfactorily address all comments noted within the IDRC report.
4. Excluding the existing 5,491 square foot sit down restaurant space to the west end of the center, the center shall not be further subdivided or partitioned to have more than six separate tenant spaces or business establishments.

SECTION 3: This Ordinance is limited and restricted to the properties generally located at 215 & 223 E. Roosevelt and 120 – 124 E. 13th Street (a.k.a., the V-Land Planned Development), Lombard, Illinois; legally described as follows:

LOT 1 TO 3 IN V-LAND LOMBARD HIGHLAND RESUBDIVISION, BEING A SUBDIVISION OF PART OF THE WEST ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 12, 2006 AS DOCUMENT R2006-197358, IN DUPAGE COUNTY, ILLINOIS.

Parcel Number: 06-20-110-006, 007 & 008

Ordinance No. _____
Re: PC 11-21
Page 3

SECTION 4: That all other portions of Ordinance Number 5879, adopted June 1, 2006 and not amended by this Ordinance, shall remain in full force and effect.

SECTION 5: This Ordinance, upon approval, shall be recorded by the Village with the Office of County Recorder.

SECTION 6: 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 _____, 2011.

First reading waived by action of the Board of Trustees this ____ day of _____, 2011.

Passed on second reading this ____ day of _____, 2011.

Ayes: _____

Nays: _____

Absent: _____

Approved this ____ day of _____, 2011.

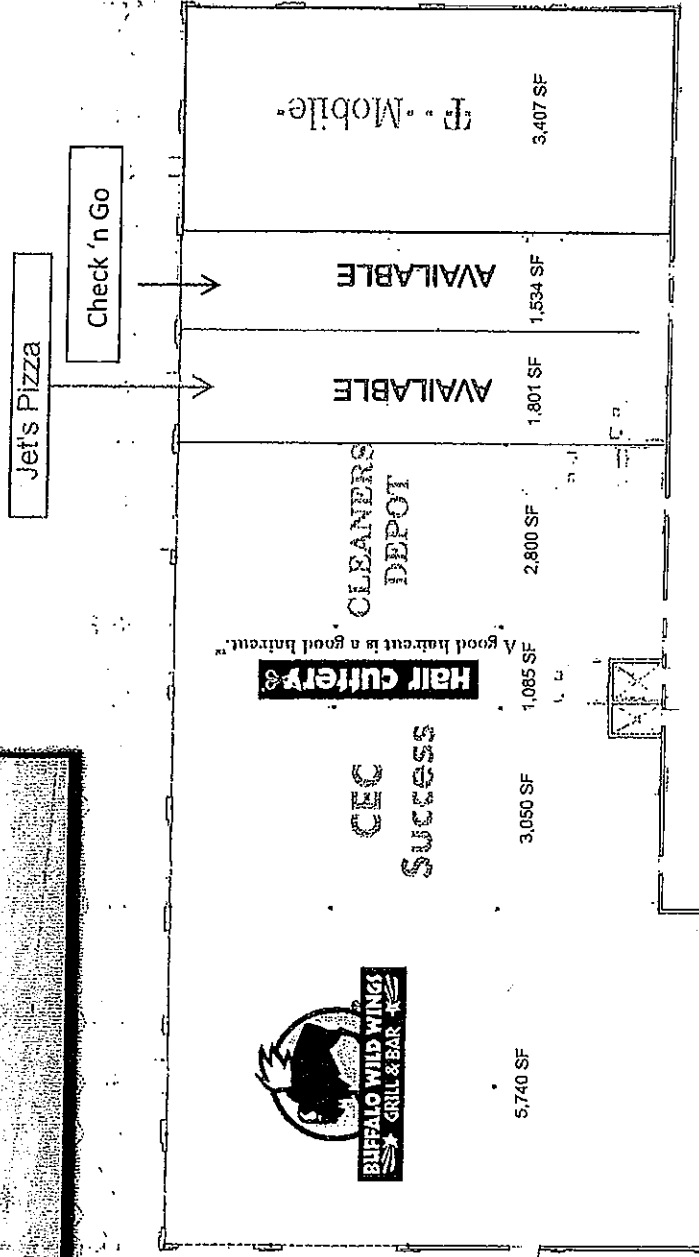
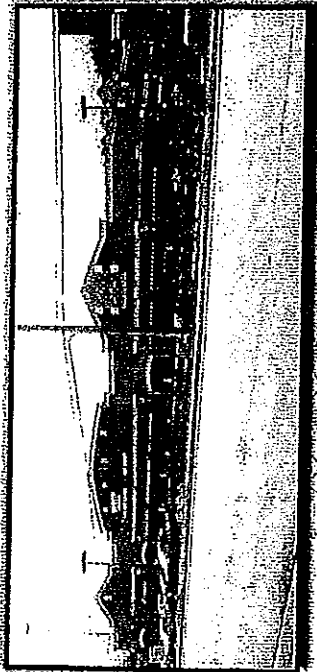
William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

LOMBARD

SWC HIGHLAND & ROOSEVELT, LOMBARD, IL



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ASSET MANAGEMENT

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