

Village of Lombard

*Village Hall
255 East Wilson Ave.
Lombard, IL 60148
villageoflombard.org*



Meeting Agenda

Thursday, September 3, 2009

7:30 PM

Village Hall Board Room

Village Board of Trustees

Village President: William J. Mueller

Village Clerk: Brigitte O'Brien

Trustees: Greg Gron, District One; Keith Giagnorio, District Two;

Zachary Wilson, District Three; Peter Breen, District Four;

Laura Fitzpatrick, District Five; and Bill Ware, District Six

I. Call to Order and Pledge of Allegiance**II. Roll Call****III. Public Hearings****IV. Public Participation**

[090552](#) Proclamation - Knights of Columbus Candy Days

[090553](#) Proclamation - National Payroll Week

[090554](#) Proclamation - Constitution Week

[090560](#) * Proclamation - Always Remember 9-11

Attachments: [proc91109.doc](#)

V. Approval of Minutes**VI. Committee Reports**

Community Relations Committee - Trustee Laura Fitzpatrick, Chairperson

Economic/Community Development Committee Trustee Bill Ware, Chairperson

Environmental Concerns Committee - Trustee Dana Moreau, Chairperson

Finance Committee - Trustee Zachary Wilson, Chairperson

Public Works Committee - Trustee Greg Gron, Chairperson

Transportation & Safety Committee - Trustee Dick Tross, Chairperson

Board of Local Improvements - Trustee Richard J. Tross, President

Community Promotion & Tourism - President William J. Mueller, Chairperson

Lombard Historical Commission - Clerk Brigitte O'Brien

VII. Village Manager/Village Board Comments

VIII Consent Agenda

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Payroll/Accounts Payable

- A. [090506](#) Approval of Accounts Payables
For the period ending August 14, 2009 in the amount of \$340,784.93.
- B. [090540](#) Approval of Village Payroll
For the period ending August 15, 2009 in the amount of \$803,086.54.
- C. [090541](#) Approval of Accounts Payable
For the period ending August 21, 2009 in the amount of \$1,514,294.54.
- D. [090549](#) Approval of Accounts Payable
For the period ending August 28, 2009 in the amount of \$747,897.59.

Ordinances on First Reading (Waiver of First Requested)

- E. [090558](#) Text Amendments to the Village Building Code
Approving Text Amendments to Title 3, Chapter 32 and Title 15, Chapter 150 of the Village Code of Lombard relative to the shift of roles and responsibilities of the Building staff to the Community Development Department.

Attachments: [BOT memo.doc](#)
[Cover Sheet.doc](#)
[Ordinance 6372.pdf](#)
[090558.pdf](#)

Other Ordinances on First Reading

- F. [090499](#) PC 09-24: 701 E. 22nd Street
 1. Repeal Ordinance 1915A, and as amended, which established a conditional use for a planned development, in their entirety.
 2. Approve a major plat of resubdivision for the subject property, with a variation from Section 154.506 (G) of the Subdivision and Development Ordinance requiring lot lines to be approximately at right angles or radial to the adjacent street.
 3. Approve a new conditional use for a planned development exclusively for the 701 E. 22nd Street property, with the following variations and deviations from the Zoning Ordinance:
 - a. A deviation from Section 155.412 (F) and a planned development variation from Section 155.508 (C)(6)(a), to reduce the east interior side yard setback from ten feet (10') to zero feet (0') to provide for an existing overhead corridor and foundation walls;
 - b. A deviation from Section 155.412 (H) to provide for an increase in the floor area ratio above the maximum allowed 0.35 for an existing four-story office building.

c. A deviation from Section 155.412 (G) to increase the maximum building height from forty-five feet (45') to fifty-five feet (55') for an existing four-story office building.

d. A deviation from Section 155.412 (I) to reduce the minimum required open space from thirty-five percent (35%) to approximately twenty seven percent (27%) of the lot area.

e. A planned development variation from Section 155.508 (C)(7) to allow for the property to not provide an additional twenty-five percent (25%) open space beyond that which is required in the underlying O Office Zoning District.

f. A variation from Section 155.602, Table 6.3 to allow for a reduction in the requisite parking requirements from 4 spaces to 2.5 spaces per 1,000 square feet of gross floor area, as originally set forth in Ordinance 2590.

g. A variation from Section 155.210 (A) to allow for an increase in the maximum height for two (2) accessory structure (existing parking garages), as originally set forth in Ordinance 2590.

h. A variation from Section 155.210 (A) and a planned development variation from Section 155.508 (C)(6)(a), to reduce the east interior side yard setback from ten feet (10') to zero feet (0') for an existing parking garage.

i. A deviation from Section 155.602 (A)(3)(e) to allow for a reduction in the parking lot front yard setback requirement from thirty feet (30') to twenty-seven feet (27') for an existing parking lot.

j. A variation from Section 155.706 (B) to not require interior parking lot landscaping for all existing parking lots.

k. A variation from Sections 155.706 (C) and 155.709 (B) to reduce the required perimeter parking lot and perimeter lot landscaping from five feet (5') to zero feet (0') to provide for shared vehicular cross-access.

l. A variation from Section 155.206 (B) (2) (b) to allow an existing monopole microwave tower to be one-hundred twenty foot (120') instead of the maximum allowed height of forty-five feet (45'), as originally set forth in Ordinance 2590.

m. A variation from Section 155.206 (A) (4) (b) to allow for two (2) existing ground mounted dishes and one (1) existing ground mounted antenna, for a total of three (3) instead of the maximum permitted one (1) ground mounted antenna tower or dish.

4. Grant any other relief necessary to memorialize previously granted development rights to allow for all existing improvements on the subject property.

5. Grant site plan approval authority to the Lombard Plan Commission, pursuant to Section 155.511 of the Lombard Zoning Ordinance.
(DISTRICT #3)

Attachments: [apoletter 09-24.doc](#)
[Cover Sheet.doc](#)
[DAH referral memo.doc](#)
[Referral Letter 09-24.doc](#)
[Report 09-24.DOC](#)
[PUBLIC NOTICE 09-24.doc](#)
[6387 Repeal.pdf](#)
[6388 Major Plat.pdf](#)
[6389 CU 701.pdf](#)
[6390 CU 747.pdf](#)
[DAH referral memo2.doc](#)
[Ordinance 6389.pdf](#)
[Ordinance 6387.pdf](#)
[Ordinance 6388.pdf](#)
[090499.pdf](#)

Michael Roth, 22300 Cabot Dr, Suite 455, Lisle, IL presented the petition. He stated that he represents the owners of the property at 747 E. 22nd Street, however he would be speaking on behalf of both property owners. He also introduced Dan Cobb, attorney representing the owners for 701 E. 22nd Street.

Mr. Roth outlined the request and indicated this is not to build new construction other than what has been here for 25 years. The 2 properties are at 701 and 747 E. 22nd. He stated that both properties are improved with a four story office building. He then directed everyone's attention to an aerial which highlights the current improvements.

Mr. Roth then explained the various ordinances that were approved over the last 25 years that granted the existing buildings. He started by saying that the original development was approved by an annexation agreement in 1975 under Ordinance 1915A. Over the years, the plan and ordinances were amended to allow for what currently exists today. In 1983 the parcel was divided via an assessment division and the single Planned Development currently governs both properties. He said that the 2 owners of the properties treat each parcel as separate lots. He stated that the Village and owners believe a separation should occur.

Mr. Roth explained that both owners are seeking to repeal all the original ordinances and grant 2 new planned developments for each parcel. He stated that the deviations were all originally granted and that the request is to just codify what was originally approved. He said that the deviations and variations are to merely allow the present improvements.

Mr. Roth explained that the only change would be for a new parking garage for the property at 747 E. 22nd Street. He stated that this was originally granted as part of the previous approvals. He indicated that currently, the parking is not shared and the owners of 747 E. 22nd Street are underparked. He agreed that any new structure proceed as site plan approval and that it would be aesthetically attractive.

Vice Chairperson Flint opened the meeting for public comment.

Gary Green, Vice President of Operations of Northern Baptist Seminary, spoke and stated their property is located directly south of the site. He said that he appreciates the opportunity to talk about the petition. He stated that Northern Baptist Seminary have been in Lombard since 1963 and have had a number of campus improvements and expansions and understands the process. He indicated that they have some questions, however most have been answered. He also mentioned the letter they provided to the Commissioners. He said that they have a few questions that have not been answered:

- 1. The first question relates to the new parking lot deck that may be built on the 747 E. 22nd Street property.*
- 2. The second question relates to the 0' perimeter landscaping and the closeness to their seminary. He asked that the Commissioners take a look at the issue and provide the 5' setback.*

Mr. Roth responded by stating that they are asking to locate the parking structure in the same location where the surface parking lot presently exists and would be immediately adjacent to the other parking structure. He also stated that there is a good deal of vegetation that exists between the parking lot and the seminary's property. He felt that matching the building lines and décor was more important than maintaining the 5' setback. This won't propose an undue hardship as they are only asking for the plan that was approved by the Village. A 0' setback is a better plan given there is sufficient screening.

Christopher Stilling, Assistant Director of Community Development, stated that the setback relief was for the western lot line and not the southern lot line, adjacent to the Northern Baptist Seminary property. Mr. Stilling said that the minimum 25' setback to the south would be provided as this meets Village Code.

Mr. Roth then responded to the standards for conditional use for a planned development and standards for variations. He stated that these properties existed well and fit in with the Comprehensive Plan and zoning rules and the same uses will continue. He said that they feel they meet the standards and are asking for a positive recommendation.

Commissioner Olbrysh asked what percentage of the 747 E. 22nd Street building represents 128,000 square feet. Mr. Stilling stated approximately 55%.

Vice Chairperson Flint then requested the staff report.

Christopher Stilling, Assistant Director, presented the staff report. Mr. Stilling asked that the Commissioners take separate action for each property. He then stated that staff drafted the IDRC report to submit to the public record in its entirety. The Subject Property, commonly known as the "Mid-Con Planned Development", is zoned OPD Office Business District Planned Development and was approved by Ordinance 1915A in 1975, as amended from time to time. The site is currently improved with 2 four (4) story office buildings and related surface parking and parking structures. Following the original approvals, the property was divided via an assessment division and two (2) different owners now control each property and their related buildings (701 E. 22nd Street & 747 E. 22nd Street). The original planned development was uniformly approved for both parcels. The current owners wish to repeal the original planned development ordinance and related zoning relief and create their own planned

developments for each building/parcel. This request is intended to allow each lot by itself to be in compliance with Village Code. No new structures or changes are being proposed, other than what was previously granted by the Village.

In order to facilitate this request, each property will be required to receive the necessary zoning approvals to memorialize previously granted development rights and to allow for all existing improvements on the subject property. Please note that the building at 747 E. 22nd Street may construct a three-story parking deck over the existing surface parking lot at the rear of the property, at a later date. As this improvement and zoning relief was previously granted under the original planned development, the proposed new planned development would include those same rights.

Mr. Stilling explained that on December 11, 1975 the Lombard Board of Trustees approved Ordinance No. 1915, which provided for the annexation of the site, a rezoning to the Office Business District (now O Office District) and planned development approval. Modifications to the initial planned development were approved over the years.

Mr. Stilling stated that the petitioners, owners of both properties, are seeking to repeal the original planned development ordinance and related zoning relief noted above; and create their own separate planned developments for each newly created lot. No new structures or changes are being proposed other than what was previously approved. The proposal is only intended to allow each property, with their respective improvements, the necessary Village Code approvals to allow each use to continue in its current condition. As such, this petition was reviewed in the context of the new development regulations. The petitioner is requesting numerous zoning actions to facilitate the development as proposed. Staff believes that the zoning actions set forth in this petition satisfactorily addresses outstanding zoning and property ownership issues for these properties.

Mr. Stilling explained that establishing a conditional use for a planned development for each property is an appropriate way to address the unique site constraints and address separate ownership issues that currently exist. As proposed, each property would receive their own planned development and be governed by new ordinances. This is necessary to memorialize previously granted development rights and to allow for all existing improvements on the subject property.

With reference to the 701 E. 22nd Street Property, Mr. Stilling outlined a few of the deviations and variations associated for the site. He stated that the proposed new lot is 278,784 square feet in area. Pursuant to the Zoning Ordinance, the maximum Floor Area ratio (FAR) is 0.35 or 97,574 square feet of principal building and accessory structures. The existing building is 214,000 square feet and the combined building area for both parking garages is 75,893 resulting in a total FAR of 1.04. Therefore a deviation from the maximum allowed FAR is required. Since the improvements already exist on site, staff supports this request.

Mr. Stilling explained the parking variation for 701 E. 22nd Street by stating that Ordinance 2590 allowed for the property to provide for one off-street parking space per 400 square feet of office space (or 2.5 spaces per 1,000 square feet). In 2000, the Village Board approved PC 00-27 (Ordinance 4837) for an amendment to the planned development to allow for a second parking

garage on the property. This was because the property owner at that time recognized that the existing parking supply for the site did not meet the actual demand for the existing office building. Prior to the amendment, there were 601 parking spaces on the site for a 214,000 square foot office building, which calculates to a parking ratio of 2.8 spaces per 1,000 square feet. With the addition of the new parking garage, the total number of on-site parking spaces is 903 spaces. This results in a ratio of 4.2 spaces per 1,000 square feet, meeting current code. Although the property currently meets the minimum parking requirements of the Zoning Ordinance, the property owner wishes to still maintain their rights to the 2.5 spaces per 1,000 square feet of building area, as previously established by Ordinance 2590. It is important to note that there is no shared parking for both buildings. As this relief was previously granted, staff has no objections to this relief.

Mr. Stilling then explained the requested deviations and variations associated with the 747 E. 22nd Street property. He said that the proposed new lot is 592,620 square feet in area. Pursuant to the Zoning Ordinance, the maximum FAR is 0.35 or 207,417 square feet of principal building and accessory structures. The existing building is 210,000 square feet. The property owner also has rights to construct a three-story parking garage where the current surface parking is located. In order to maintain those rights, the FAR relief includes the future parking structure. As a result, the combined building area for both the existing building and future parking garage is 498,750 resulting in a FAR of 0.84. Therefore a deviation from the maximum allowed FAR is required. Since the improvements already exist on site and the rights to construct the new garage were previously granted, staff has no objections to this request.

Mr. Stilling addressed the parking variation for the 747 E. 22nd Street property by stating that Ordinance 2590 allowed for the entire property to provide for one off-street parking space per 400 square feet of office space (or 2.5 spaces per 1,000 square feet). At the time the property was developed, it was under the same ownership and parking was shared. When the property was divided via an assessment division and sold to different owners, shared parking between both properties was no longer provided. As a result, the property at 747 E. 22nd Street has a total of 320 parking spaces resulting in a ratio of 1.52 spaces per 1,000 square feet of building area. Ordinance 2590 requires that a minimum of 2.5 spaces per 1,000 square feet of building area be provided. Therefore the existing property does not provide adequate parking to meet the previous relief granted. The original planned development approvals (Ordinance 1915, as amended by Ordinance 2189 & 2590) granted the rights to construct a parking deck on this property. The property owner is requesting to maintain the rights to have parking at the ratio of 2.5 spaces per 1,000 square feet of building area. Staff supports this request, provided that until a parking deck is constructed, the most the building can be occupied by a tenant is 128,000 square feet of floor area. This is to ensure that the minimum 2.5 spaces per 1,000 square feet is met.

With regards to the Sign Ordinance, Mr. Stilling said no additional signage is proposed as part of this request. The existing sign for 701 E. 22nd Street meets the Sign Code and the property at 747 E. 22nd Street currently has no signage. Previous signage relief had been granted in the past via Site Plan Approval. Those signs have since been removed. Staff recommends that any new signage meet the current provisions of the Sign Ordinance. Signage not meeting the Sign Ordinance shall be subject to Site Plan Approval.

Mr. Stilling talked about the development compatibility with the Subdivision and

Development Ordinance by stating that the existing development includes two tracts of land that were created by an assessment division in 1989. The proposed major plat of subdivision is intended to create 2 lots of record. The property owners for both properties are seeking a variation from Section 154.506 (G) of the Subdivision and Development Ordinance requiring lot lines to be approximately at right angles or radial to the adjacent street. This variation is necessary to accommodate the shared access between both lots. The proposed lot will exceed the minimum lot width and area requirements of the underlying zoning district. Staff recommends that the plat be approved.

Mr. Stilling said that staff finds that both requests meet the standards for conditional use, standards for conditional use for a planned development with deviations and standards for variations, and that staff recommends approval of both requests, subject to the conditions in the staff report.

Vice Chairperson Flint then opened the meeting for comments among the Commissioners.

Commissioner Sweetser wanted to confirm what the setback would be for a new parking deck. Mr. Stilling stated that code requires a minimum setback of 25 feet.

Commissioner Olbrysh stated that he agrees with the staff report. Initially, he thought the deviations seemed to be monumental until you realize that we are allowing the existing site to continue in its current condition. He asked if there are parking permits for the 701 E. 22nd Street property. Mr. Stilling stated that Village Code does not require permits.

Commissioner Cooper asked if they change the plan, can we require them to meet the landscaping requirements. Mr. Stilling stated that any major change would require Plan Commission review and that can be reviewed at that time.

G. [090500](#)

PC 09-24: 747 E. 22nd Street

1. Repeal Ordinance 1915A, and as amended, which established a conditional use for a planned development, in their entirety.
2. Approve a major plat of resubdivision for the subject property, with a variation from Section 154.506 (G) of the Subdivision and Development Ordinance requiring lot lines to be approximately at right angles or radial to the adjacent street.
3. Approve a new conditional use for a planned development exclusively for the 747 E. 22nd Street property, with the following variations and deviations from the Zoning Ordinance:
 - a. A deviation from Section 155.412 (F) and a planned development variation from Section 155.508 (C)(6)(a) and to reduce the west interior side yard setback from ten feet (10') to zero feet (0') to provide for an overhead corridor and foundation walls;
 - b. A variation from Section 155.602, Table 6.3 to allow for a reduction in the requisite parking requirements from 4 spaces to 2.5 spaces per 1,000 square feet of gross floor area, as originally set forth in Ordinance 2590.
 - c. A variation from Section 155.210 (A) to allow for an increase in the maximum height for an accessory structure from seventeen feet (17') to thirty-six feet (36') for parking garage(s) to be constructed on the subject

property, as previously granted through Ordinance 2590.

d. A variation from Sections 155.706 (C) and 155.709 (B) of the Zoning Ordinance reducing the required perimeter parking lot and perimeter lot landscaping from five feet (5') to zero feet (0') to provide for shared vehicular cross-access.

e. A variation from Section 155.210 (A) and a planned development variation from Section 155.508 (C)(6)(a), to reduce the west interior side yard setback from ten feet (10') to zero feet (0') for proposed new parking garage, as previously granted through Ordinance 2590.

f. A deviation from Section 155.412 (H) to provide for an increase in the floor area ratio above the maximum allowed 0.35 for an existing four-story office building and a future parking garage.

g. A deviation from Section 155.412 (G) to increase the maximum building height from forty-five feet (45') to sixty-nine feet (69') for an existing four-story office building.

4. Grant any other relief necessary to memorialize previously granted development rights to allow for all existing improvements on the subject property.

5. Grant site plan approval authority to the Lombard Plan Commission, pursuant to Section 155.511 of the Lombard Zoning Ordinance.

(DISTRICT #3)

Attachments: [apoletter 09-24.doc](#)
[Cover Sheet.doc](#)
[DAH referral memo.doc](#)
[PUBLIC NOTICE 09-24.doc](#)
[Referral Letter 09-24.doc](#)
[Report 09-24.DOC](#)
[6387 Repeal.pdf](#)
[6388 Major Plat.pdf](#)
[6389 CU 701.pdf](#)
[6390 CU 747.pdf](#)
[DAH referral memo2.doc](#)
[Ordinance 6390.pdf](#)
[Ordinance 6387.pdf](#)
[Ordinance 6388.pdf](#)
[090500.pdf](#)

- H. [090555](#) Title 3, Chapter 30, Section 30.24 (F) - Transportation & Safety Committee
Amending Title 3, Chapter 30, Section 30.24 (F) allowing the Transportation and Safety Committee the responsibility of reviewing, reporting upon and making recommendations on issues associated with the Circulator.

- Attachments:** [Ordinance 6391.pdf](#)
[Circulator-TandS.doc](#)
[Cover Sheet for T and S amending code.doc](#)
[090555.pdf](#)

Ordinances on Second Reading

- I. [060542](#) ZBA 06-21: 820 E. St. Charles Road
Granting a further time extension to Ordinance 5935, as amended by Ordinances 6094, 6247, 6373, and 6515 relative to the approval of a reduction in the minimum required lot area for the property located at 820 E. St. Charles Road. (DISTRICT #4)

Attachments: [apoletter 06-21.doc](#)
[coversheet.doc](#)
[ORDINANCE 06-21.doc](#)
[PUBLICNOTICE.doc](#)
[Referral Let 06-21.doc](#)
[Report 06-21.doc](#)
[WTL referral memo.doc](#)
[ORD 5935.pdf](#)
[coversheetextension.doc](#)
[Ord Extension.doc](#)
[Extension memo.doc](#)
[60940001.pdf](#)
[Ordinance 60940001.pdf](#)
[coversheetextension2.doc](#)
[Extension memo2.doc](#)
[Ordinance 6247.pdf](#)
[coversheetextension3.doc](#)
[Extension memo3.doc](#)
[Ordinance 6373.pdf](#)
[060542.pdf](#)
[060542.pdf](#)
[060542.pdf](#)
[Extension memo4.doc](#)
[coversheetextension4.doc](#)
[060542.pdf](#)
[060542.pdf](#)
[Ordinance 6515.pdf](#)
[060542BOT08_18_11.pdf](#)
[060542-CoverPage-9-1-11.pdf](#)
[Ordinance 6640.pdf](#)

Robert Mueller presented the petition. He described the location of the subject property as well as the surrounding zoning and land uses. There was previously a dilapidated residence on the property that has been removed. He became aware of the need for a lot area variation after submitting plans for a building permit. In this case there is no way to meet the lot area requirement because there is no available land.

Chairperson DeFalco then opened the meeting for public comment. There was no one present to speak for or against the petition.

Chairperson DeFalco then requested the staff report.

Jennifer Backensto, Planner II, presented the staff report. The subject property is currently a legal Lot of Record; however, it does not meet the minimum lot area requirements for the B4 District. The petitioner is requesting a lot area variation to allow for the redevelopment of the property as an office building. Aside from the lot area requirement, no other zoning relief is being requested.

When this property was developed as a single-family residence in 1927, there were no minimum lot area requirements. In 1986, the Village approved a rezoning of the western side of the block from B4 to R2, leaving two remainder B4 parcels that did not meet the minimum lot area requirements for that district.

Staff finds that the physical surroundings of the subject property create a hardship. Due to the configuration and zoning of the adjacent lots, there is no way this property could be redeveloped without some sort of zoning relief. There are three scenarios under which redevelopment could occur, all of which would require approval through the public hearing process: the proposed lot area variation, rezoning of at least three of the single-family residential properties to the north and consolidation with those properties, or a variation to the subdivision regulations regarding lot configuration. Staff feels that a lot area variation would be the most appropriate type of zoning relief in this case as it would avoid both the encroachment of commercial development into the neighboring residential area as well as setting a precedent to allow unusual, "L" shaped lots.

Although the B4 zoning within the East St. Charles Road corridor reflects the Village's general desire to see redevelopment of entire block faces within this corridor, the previous approval of R2 zoning at 806 E. St. Charles Road prevents such a consolidated development. The granting of the requested lot area variation would not alter the character of the neighborhood or negatively impact the surrounding properties as the subject property has maintained the same boundaries since its development in 1927. Furthermore, the granting of this variation would not grant a precedent for other properties within the corridor as the nearby R2 zoning and irregular lot configurations present a unique situation that is not found elsewhere in the corridor.

Chairperson DeFalco then opened the meeting for discussion by the Board Members.

Mr. Young asked if there were any other issues associated with the redevelopment. Ms. Backensto stated that the permit had already been reviewed and the lot area variation was the only relief necessary. All transitional yards and other B4 District requirements will be met.

- J. [060677](#) PC 05-42: 218-226 W. St. Charles Road (The Pointe at Lombard)
Granting a further time extension (September 18, 2012) to Ordinance 5816, as amended by Ordinances 5973, 6141, 6327, 6374 and 6510 relative to the property located at 218-226 W. St. Charles Road.
(DISTRICT #1)

- Attachments:** [WTL memo CU ext.doc](#)
[Submit Ordinance Extension.doc](#)
[O pointe at Lombard.pdf](#)
[ORD 5973.pdf](#)
[6141 Rec0001.pdf](#)
[CoverSheet 3rd extension.doc](#)
[DAH memo CU ext 3.doc](#)
[CoverSheet 4th extension.doc](#)
[DAH memo CU ext 4 petitioner letter.doc](#)
[DAH memo CU ext 4.doc](#)
[PC 05-42 Letter.pdf](#)
[Ordinance 6237.pdf](#)
[Ordinance 6374.pdf](#)
[060677.pdf](#)
[060677.pdf](#)
[060677.pdf](#)
[060677.pdf](#)
[060677.pdf](#)
[060677.pdf](#)
[Ordinance 6510.pdf](#)
[060677BOT09 15 11.pdf](#)
[060677 Cover Page.pdf](#)
[Ordinance 6645](#)

K. [080502](#)

ZBA 08-13: 1008 S. Lewis

Granting a time extension to Ordinance 6234 extending the time period for construction of the variation for an additional twelve month period (August 20, 2010). (DISTRICT #6)

Attachments: [apoletter.doc](#)

[Cover Sheet.doc](#)

[PUBLICNOTICE.doc](#)

[Referral Let 08-13.doc](#)

[Report 08-13.doc](#)

[WTL referral memo.doc](#)

[Ordinance 6234.pdf](#)

[BOT ext memo.doc](#)

[Cover Sheet extension.doc](#)

[Ordinance 6375.pdf](#)

[080502.pdf](#)

[080502.pdf](#)

The petitioner, Ricardo Alvarado, presented the petition. Mr. Alvarado began by stating that he is requesting the variance because he wishes to maintain the existing building line, otherwise his addition would have to be substantially altered. He added that he would like to keep the property aesthetically pleasing. Mr. Alvarado then stated that his neighbors all agreed that the addition would look best as planned.

Chairperson DeFalco asked if anyone was present to speak for or against the petition. There was nobody present to speak for or against the petition.

Chairperson DeFalco then requested the staff report. Michael Toth, Planner I, read the staff report. Mr. Toth stated that the property contains a two-story single family residence built (at the closest point) approximately 5.5 feet from the southern property line. The petitioner plans to construct a two-story addition from the rear of the residence expanding west and a one-story bedroom addition on the northwest portion of the residence on an existing concrete block patio. The rear addition would maintain the current building line of the existing residence. However, the residence does not run parallel to the southern property line. As such, the degree of encroachment would be increased into the interior side yard. As the residence already consists of an insufficient side yard setback and the house sits on an angle, the proposed addition would increase the level of non-conformity, thus requiring a variation. In an effort to bring the entire property into full Code compliance, staff recommends that the non-conforming side yard setback of the existing structure also be memorialized. Therefore, not only would the proposed addition be granted zoning rights in relation to the side yard setback, but the existing residence would also be afforded those same applicable rights.

Mr. Toth explained that the minimum interior side yard setback in the R2 - Single Family Residence District is six feet (6'). The existing residence currently maintains a 5.5 foot setback and does not run parallel with the southern property line. As the setback is less than six (6) feet, it is considered non-conforming. The addition will maintain the building line of the existing

residence; as such, the addition would further encroach into the required interior side yard setback. As the current residence is located 5.5 feet from the property line and the proposed addition will be 5.1 feet from the property line at the closest point, the increased degree of encroachment is roughly 4.5 inches. However slight the encroachment, the addition would still remain clear of the existing five foot (5') utility easement.

Mr. Toth mentioned that there are several ZBA cases that provide precedence for the requested variation where the addition holds the building line of the existing residence, but is located within the required side yard setback.

Mr. Toth stated that staff finds that this petition meets the Standards for Variations. A majority of the neighboring properties appear to be built directly on or in close proximity to the six (6) foot side yard setback lines. As such, the proposed addition would neither be out of character in the neighborhood nor detrimental to the welfare of the public or those neighboring properties.

Mr. Toth stated that staff is recommending approval of the side yard setback variation subject to the conditions outlined in the staff report.

Chairperson DeFalco then opened the meeting for discussion by the Board Members.

Mr. Young had asked if the 50% provision was necessary to include as a condition of approval (condition #2) because in the event that the house were to be destroyed they would utilize the same foundation.

Chairperson DeFalco replied by stating that the condition of approval would ensure that if the house were to be destroyed beyond 50% the house would need to come into conformance with Code. He also added that it would prevent the house or addition from being expanded deeper into the lot in the event that the house was to be destroyed.

Chairperson DeFalco asked staff if the five (5) foot utility easement is measured from the property line. Michael Toth responded that the five (5) foot utility easement is measured from the property line.

L. [090284](#)

PC 09-10: 404 East North Avenue

Requests that the Village grant a conditional use pursuant to Section 155.416(C)(4) and (5) of the Lombard Zoning Ordinance to allow automobile service and automobile repair in the B4 Corridor Commercial Shopping District. (DISTRICT #4)

Attachments: [apoletter 09-10.doc](#)
[Continuance MEMO 09-10-2.doc](#)
[Continuance MEMO 09-10.doc](#)
[Cover Sheet.doc](#)
[DAH referral memo.doc](#)
[PUBLICNOTICE.doc](#)
[Referral Letter 09-10.doc](#)
[Report 09-10.doc](#)
[Ordinance 6376.pdf](#)
[090284.pdf](#)

Chairperson Ryan stated that staff has received a request from the petitioner to continue the petition to the June 15, 2009 Plan Commission meeting.

Chairperson Ryan indicated that staff has requested a continuance of this petition. Mr. Heniff clarified that the petitioner was aware of outstanding items associated with deficiencies on the property that they needed to meet. The petitioner verbally expressed their intent to staff to have the petition continued to the next meeting in order to correct these deficiencies. Staff has no objection to their request.

Commissioner Sweetser asked if they would incur some type of penalty as this is the second time they have requested a continuance. Mr. Heniff answered no. Robert Labno, 404 E. North Avenue, presented the petition. He stated that they are currently trying to improve their business by adding a service area. He is present to ask for permission to open a service area. He stated that he did not have much else to say but that he would answer any questions.

Chairperson Ryan asked if anyone was present to speak in favor or against the petition.

Suzanne Gagliano, 2N130 LaLonde Avenue, stated that since the two dealerships opened up they use her street as drag strip. She has seen cars going more than 25 mph and has called the police. She is concerned about the safety of children in the neighborhood. They don't have sidewalks because they are unincorporated. She stated that she has asked the dealerships to stop but they have not. A few weeks ago, the police caught one employee driving without a driver's license. She stated that she would like the block capped off if necessary. She is worried that a service area would bring more traffic. She stated that she is just asking that they don't test drive cars in the neighborhood anymore.

Charles Marston, 2N040 LaLonde Avenue, stated that he had basically the same things to say. He stated that he has been down to confront them and has gotten no satisfaction. He stated that he lives close to the place and that they fix racing cars and the cars have no mufflers. At 10 p.m., they are firing them up and this wakes him up. He has called the Sherriff's Office and because it's a low priority call they are shut down by the time they arrive. He asked if the Plan Commission had received their letters.

Chairperson Ryan stated yes.

Mr. Labno responded to their concerns. Regarding driving in the street, they do not have a problem with the street being blocked. It is an open street, but he

admits the issues with fast cars in the area in the past. He stated that they are now under new management so he can't be sure what happened before. However, the issue has been addressed. He also mentioned that another dealership is across the street so there could be traffic generated from the other shop. He admitted that it is a small street with no sidewalks. He has heard that people have gone over the speed limit. He mentioned that the service area would be entered from Grace Street so there would be no need for anyone to go up the street.

Mr. Labno stated that the noise from the shop would be the same as any mechanic shop when working on cars. He stated that those living by North Avenue hear heavy traffic with loud trucks. He stated that they will try to limit such noise to before 9 p.m. and try to minimize other noise.

Chairperson Ryan ask if the business hours were until 9 p.m. Mr. Lando stated that the business closes at 9 p.m. but occasionally there could be a customer finalizing a deal. However, there is no need for them to race cars up and down the block. Most customers would want to go on North Avenue or the expressway and take a faster route.

Chairperson Ryan asked if the shop is under new ownership. Mr. Lando stated that the ownership is the same but they are under new management.

Chairperson Ryan then requested the staff report.

Stuart Moynihan, Associate Planner, presented the staff report. The petitioner is currently the operator of an automobile dealership at 404 E. North Avenue. The motor vehicle sales use was approved as a conditional use by Ordinance 6161 (PC 08-05) in October 2008. In a letter submitted during the staff review of PC 08-05, European Auto Exchange stated that no oil changes or major mechanical work would occur on the premises and that all major repair and body work would be done at another facility. Since that time, European Auto Exchange has performed some automotive service and minor repairs at the 404 E. North Avenue facility. To perform these services a vehicle lift has been installed within the building on the subject property. Therefore, staff informed the petitioner that conditional uses for automobile service and automobile repair would be necessary.

Conditional uses for the subject property were approved in March 1999 (PC 99-06 Ordinance 4599) and in November 2000 (PC 00-46, Ordinance 4907) for motor vehicle sales. However, since the approval was not acted upon within twelve months, the conditional use became null and void. In October of 2008, the current occupant of the property received a conditional use through PC 08-05 for motor vehicle sales.

On March 19, 2009, a Bureau of Inspection Services (BIS) inspector discovered that a vehicle lift had been installed inside the garage door at the northern side of building. The inspector was informed that the lift was being used for oil changes and minor vehicle service. As no permit had been issued, BIS notified European Auto Exchange that a permit was necessary for the lift.

Following the inspection, BIS notified Planning Services staff of the use of the lift. As the Zoning Ordinance lists automobile service and automobile repair as conditional uses in the B4 District, staff contacted the petitioner informing them that a conditional use for automobile service is required. The petitioner also acknowledged that some minor vehicle repairs were being performed at the

facility. Staff informed the petitioner that this would require a second conditional use for automobile repair. The petitioner has since applied for a permit for the lift.

The petitioner is proposing to service vehicles which are for sale on the lot and to service vehicles which have been sold and are under warranty. In addition, the petitioner has requested that they be permitted to service race cars which are sponsored by European Auto Exchange and are a hobby of the business owner.

As part of PC 08-05, the petitioner submitted a site plan and landscape plan which did not accurately reflect the features and dimensions of the property. The inaccuracies included a depiction of greater parkway width along North Avenue than is present at the site and a strip of grass approximately twelve feet (12') in width located along the northern property line that is not present at the site. Approximately one hundred feet (100') of this strip, beginning at the northeastern corner of the property and extending westward, is in fact asphalt parking. As a corrective measure, the petitioner has submitted a new landscape plan which accurately depicts the property.

The Comprehensive Plan recommends Community Commercial at this location. As the use on the property will remain commercial retail with an added service component, the proposed use complies with the recommendation of the Comprehensive Plan.

Staff notes that the service and repair of race cars is not representative of a commercial operation on the property. It is the opinion of staff that service and repair of automobiles should be limited to vehicles for sale by European Auto Exchange and the personal automobiles of their customers. Therefore, staff is not supportive of the petitioner's request to service and repair race cars on the subject property.

The proposed use is compatible with the surrounding land uses. The properties to the east, south, and west are zoned B4 or B4PD and are development for commercial purposes. The residential properties north of the site are screened by an eight-foot (8') board on board fence and will be further screened by the plantings to be installed by the petitioner along the northern property line.

As a condition of PC 08-05, the petitioner was required to install a "no left turn" sign on the LaLonde Avenue driveway, in order to prevent vehicles from being test driven within the adjacent residential neighborhood to the north. This sign has been installed on the property. Still, staff has received two letters from property owners to the north which express concern about test drives occurring within the residential neighborhood. It is the opinion of staff that should the Plan Commission make a motion for approval of this petition it should include a condition which expressly prohibits test drives in the residential neighborhood to the north.

As a condition of PC 08-05, the petitioner was required to submit a Plat of Consolidation to make the subject property a single lot of record. The petitioner has submitted the plat and received comments for revisions. To date, the petitioner has not submitted a final copy of the plat for recording.

The conditions in PC 08-05 also required the petitioner to install sidewalks along all surrounding public rights-of-way for the length of the property. The Subdivision and Development Ordinance requires that these sidewalks be

installed. Currently, only one sidewalk exists along North Avenue. Grace Street and LaLonde Avenue currently have no improved sidewalks. Staff is working with the petitioner to develop plans for the installation of the remaining sidewalks.

Staff is recommending approval of the petition subject to the conditions in the staff report.

Chairperson Ryan then opened the meeting for comments among the Commissioners.

Commissioner Olbrysh stated that the big issue is the vehicles being driven for testing purposes. He stated that one of the conditions in the staff report prohibits this. He mentioned that test driving in the parking lot should also be considered. However, this will only partially resolve the issue because of the other dealership across the street. He stated that there is nothing we can do with the other dealership. He stated that he assumed that both dealerships are using that circle to test cars. He stated that the neighborhood won't be free of this issue unless speed bumps are installed on LaLonde.

Commissioner Sweetser stated that she agreed and that the issue needs to be dealt with.

Christopher Stilling stated that the area to the north is unincorporated.

Commissioner Sweetser asked if the street could be blocked off or if this would be up to the County.

Mr. Stilling stated that the street and properties to the north are not within our ultimate planning jurisdiction. He stated that it was unlikely that the Village could initiate speed bumps being installed. Residents would need to approach the township but the Village cannot perform the work.

Commissioner Sweetser stated that 9 p.m. sounds reasonable for noise and there should be no repairs sounds after 9 p.m.

Chairperson Ryan suggested adding a ninth condition.

Commissioner Olbrysh stated that condition 3 should include the parking lot as part of the condition.

Commissioner Sweetser stated that she would like to direct staff to work with the County or Township. She asked how they would monitor the impact on the neighborhood.

Mr. Stilling stated that condition 5 states that the conditional use can be revoked if the conditions of approval are not followed. The residents will let us know so we can be proactive.

M. [090405](#)

PC 09-17: Text Amendments to the Zoning Ordinance

The petitioner (Lux Chateau) requests text amendments to Section 155.417(G)(2) and Section 155.802 of the Lombard Zoning Ordinance (and other sections where needed for consistency within the Zoning Ordinance, clarity with the Smoke Free Illinois Act or as deemed appropriate) to allow for "Smoking Establishments" to be listed as a

conditional use within the B4A - Roosevelt Road Corridor District.
(DISTRICTS #2 and #6)

Attachments: [apoletter 09-17_09-18.doc](#)
[DAH referral memo.doc](#)
[PUBLIC NOTICE 09-17_09-18.doc](#)
[Report 09-17.doc](#)
[Referral Letter 09-17 and 09-18.doc](#)
[Ordinance 6377.pdf](#)
[090405.pdf](#)

Chairperson Ryan noted that PC 09-17 will be combined with PC 09-18, but will have two separate votes.

Russell Rasche, 638 Olesen Drive, Naperville, IL, attorney for the petitioner, presented the petitions. Mr. Rasche stated that the testimony is appropriate for both so he is glad to see both petitions together. The legal issues are covered adequately in the paperwork that each Commissioner has. He added that there are two letters - one with his opinion on the compliance of the request, one with the process and also staff's comments. He will give the history of the business in order to bring some perspective to what this is all about.

The petitioner actually has been in business in this community for some time - a couple of years now - and there was a similar type of establishment there prior to that. What has brought this all about is the Illinois Clean Air Act, which became effective 1/1/08. At that point the requirements for smoking establishments changed. The State said smoking is prohibited everywhere except a couple of exempt locations, one of which is a retail tobacco shop. The Act said as of that date, any new shops had to be freestanding/single-use facilities. A lot of those establishments could be grandfathered in; this is one of those facilities.

Prior to the Act they served prepared food. One of the requirements for smoking in a tobacco shop is that you can neither prepare food nor serve alcohol. So at that time, while they were operating under a food service license, they stopped the preparation of food. They never did serve alcohol. They maintained themselves strictly as a tobacco location and offer soft drinks for their customers, but it is primarily a hookah lounge. Staff felt that the current statutory provisions were not proficient and felt that this is a different sort of operation, therefore, a special use and text amendment are required to cover this sort of activity. This is the purpose for us being here today. We're looking to work with the Village. To a large extent this use is similar to a cigar lounge, which is somewhat popular.

Mr. Rasche then described the cigar lounge experience. He gave his experience of how he went to a hookah lounge to check to see what his son was doing and he found it to be a gathering place for college kids. They come in groups; everyone is carded; there is adult supervision; and, as a parent, found this to be a fairly benign activity. It was an attractive place because of the supervision. They are popular on college campuses. Everyone is carded and has to be 18 to come in. It is supervised to make sure that nobody is bringing in alcoholic beverages. This establishment has operated for several years with absolutely no problems with the police, any arrests, or accusations or charges against them. It is a nice establishment with a lot of repeat customers.

Matthew Rasche, who was seated in the audience, displayed a hookah and the shishah that is used with the hookah. Russell Rasche discussed the hookah in detail while the shishah was passed around to the Commissioners so they could see and smell it. He stated that the shishah is very fruity and sweet - not what you'd expect from a tobacco product. The hookah is shared by 2 - 4 people, each with their own mouthpiece and hose for hygiene. If you have ever tried one of these, they are very light and are nothing like cigars or cigarettes. It is not inhaled and is a very sweet experience. The establishment attracts groups and gets a lot of people in visiting. It's a social experience.

The Village felt they needed to encapsulate this use into the statutes. Since the new State law passed and no other businesses can operate outside of a freestanding facility, it is his opinion that you won't see a bunch of these springing up. The financial aspects of the business are such that it is not financially feasible to have a stand alone building nor is it a high volume business. The chances of having another business such as this are fairly remote. It is more likely you might see a cigar lounge rather than another hookah lounge. It's a gathering place, it's safe, it's supervised and everyone is carded. This is not creating legions of hookah smokers it is really just a trendy thing.

Chairperson Ryan then opened the meeting for public comment.

There was no one to speak in favor or against the petition.

Bill Hall, 12 E 13th Street, stated he lives behind the business. Mr. Hall asked if the address is going to be Unit 1235. Mr. Rasche replied, no.

Mr. Hall asked what the hours of operation are. Chairperson Ryan requested that the petitioner address the Commission and the petitioner will answer the questions at the end.

Mr. Hall asked if liquor and prepared food would be provided. Mr. Rasche replied, no.

Mr. Hall asked if people would be carded. Mr. Rasche replied, yes.

Mr. Hall asked if liquids could be brought in. Mr. Rasche stated that liquids cannot be brought in and alcohol is not permitted on the premises.

Mr. Hall asked if drinks are served inside. Mr. Rasche stated that soft drinks, such as orange soda, grape crush, red bull and other standard types of soft drinks found in the supermarket would be available.

Mr. Hall asked if people would be allowed to go out the back door and smoke or have conversations. Mr. Rasche stated that they don't have tables out back nor is there an outdoor patio. He added that people don't enter or exit through the rear. The entrance is through the front. Mr. Rasche then stated that they won't allow people to walk out back with a hookah.

Mr. Hall asked if people can go out back to smoke a regular cigarette. Mr. Rasche stated that the whole point of the business is to be inside.

Referring to the actual hookah, Mr. Hall asked about the top part where the tobacco sits. He asked if it is made of clay or plastic. Matthew Rasche, 638 Olesen Drive, Naperville, IL, who was seated in the audience, stated that the top

part is ceramic.

Mr. Hall stated that the obvious concern here is someone mixing hashish with the tobacco. Russell Rasche stated that won't happen because there is always adult supervision and they are in business to sell their own product. He added that if people wanted to do illicit drugs, they would buy them and do it in their own home. Mr. Rasche stated that it has tobacco in it and it consists of mostly fruits and sweeteners. He added that there is some tar in it, but it is minimal and that it wouldn't have the same results as hashish. He added that their primary business is a gathering place - something exotic and trendy where kids who are not old enough to drink will visit.

Mr. Hall stated that the only reason he mentioned the hashish is because he was in North Africa in Tripoli and hashish was very convenient there. Mr. Rasche stated that they won't be allowed to do that there because they don't want their business destroyed. He added that this establishment has been there for several years and there has never been a complaint or any police action there so it is a very clean shop.

Chairperson Ryan asked the petitioner to address the hours of operation. Matthew Rasche stated that the hours are from 6 p.m. to 2 a.m. on weekends and from 6 p.m. to 12 a.m. on weekdays. Mr. Hall stated that he objects to these hours and asked if they could close at 10 p.m. Russell Rasche stated that won't happen.

Chairperson Ryan then requested the staff report.

William Heniff, Director of Community Development, indicated that staff has drafted the following IDRC reports to submit to the public record in their entirety.

PC 09-17

Mr. Heniff stated that the subject property is located at 1221 S. Main Street, within the Oxford Corners Shopping Center, within the B4A Roosevelt Road Corridor District. The petitioner is requesting that the Village Board, through the Plan Commission public hearing process, approve a text amendment to allow for smoking establishments (as described in the amendment) in the B4A District. As a companion to this request, the petitioner is also seeking conditional use approval for such an establishment). Should this petition be approved, the companion petition can be considered for approval as well.

In 2007, Lux Chateau applied for and received a Restaurant Food Handlers Business License and a Tobacco Dealer Business License. The petitioner applied for a CO/ZC for retail, restaurant and lounge. The text "hookah" or any reference to tobacco is not present in the application. Staff later received word from the property owner they are not going to open. Given this directive, the CO/ZC is no longer processed and it was presumed that the previous CO/ZC (for Sahara) was still in effect and no further actions were taken by staff until staff learned of the new business use.

In January, 2008, the Smoke Free Illinois Act provisions are enacted. Key elements of the Act are:

1. The State Statute sets significant limitations regarding tobacco use and consumption and prohibits smoking associated with any business with a food handler's license.

2. *The State Statute allows for tobacco establishments (businesses in which 80% of their operating revenue is derived from the sale of tobacco products) to provide for smoking within their premises, provided that the operator meets the provisions set forth within the State Statute.*

3. *New retail tobacco stores must be within free-standing stores.*

Staff notes that individuals may have been able to smoke in various establishments prior to January 1, 2008. Staff recognizes that the Smoke Free Illinois Act functionally created a new land use category, as the use could not be considered a coffee shop or a restaurant use. Therefore, if hookah use or other smoking activities was going to be the only activity on the premises, then it would be a principal use and function. Even if the petitioner's business establishment met the provisions set forth within the State Statute, the use would still be subject to the additional provisions included within the Lombard Zoning Ordinance, in order to legally operate.

With the Act provisions in place, the petitioner was informed by DuPage County of the requirement to cease serving food as part of their business activity. In subsequent discussions with the petitioner in later 2008 and early 2009, staff noted that restaurants and coffee establishments are listed as permitted uses within the Zoning Ordinance, hookah establishments as the principal use of the property (or for that matter any smoking establishments) are not listed as permitted or conditional uses. The Director made the interpretation that the petitioner's use is separate and distinct from the retail tobacco shop listing.

Staff notes that the principal use of the premises as a hookah establishment (a type of smoking establishment) is a use that is not expressly permitted or permitted through the conditional use process within the B4A District. Approval of the use can only be achieved through a text amendment to the Lombard Zoning Ordinance. The Director notes that the term "tobacco shop" is not specifically listed within the definitions within the Lombard Zoning Ordinance.

The petitioner states that the use is primarily a gathering place for people at least 18 years of age to enjoy the hookah experience. Based upon a visual inspection of the property and in review of the most recent building plans for the site, the business operation and floor plan consists of several tables and chairs arranged in a manner similar to a coffee house or restaurant.

The Director reviewed the B4A District provisions and noted that the Zoning Ordinance does make a distinction in the use lists regarding uses that are associated with purchasing products and consuming products. The following examples are offered:

1. *Food stores, grocery stores, meat markets and delicatessens (the purchase of edible goods for consumption elsewhere) are listed and treated differently than restaurants (a business establishment within which food is offered for sale for consumption only within the structure on the premises).*

2. *Liquor stores, packaged goods is listed as one type of business establishment, while a bar/tavern use (an establishment where alcoholic liquor is sold to be generally consumed on the premises) is listed as a separate type of use.*

3. *Clubs and lodges, meeting halls recreation and community centers are also*

listed as separate and distinct land uses.

These analogous examples can also be applied to the application of the hookah use, a cigar bar or any other like establishment and as part of an assembly gathering function.

Staff has made the interpretation that the hookah use being operated by the proprietor is not clearly compatible with the listed uses (tobacco shop) in the following respects:

- 1. The use has much more in common with a restaurant or tavern use (congregations of individuals assembling for the purpose of consuming products on the premises).*
- 2. If the principal function is to provide for the congregation of individuals, such a use is more similar to the aforementioned taverns, clubs and lodges and meeting halls and the like, which are listed as conditional uses, not permitted uses.*
- 3. Given this listing, a conservative but fair interpretation can be made that the intent of the Zoning Ordinance is to distinguish between traditional mercantile and assembly uses.*

In the crafting of the proposed text amendment and in applying the Zoning Ordinance, if a business was specifically for the consumption of cigarettes or cigars (a smoking lounge), a similar assertion that it is not the same as the retail sales of tobacco products would be presented by the Director.

Staff notes that the smoking establishment use is not dissimilar to other types of conditional uses listed in the existing Zoning Ordinance, such as taverns and meeting halls. Therefore, staff recommends that the use be listed as a conditional use as well, for consistency.

It is important to note that should this text amendment be approved it would allow the existing establishment to continue its operation. It would also allow the use on all other B4A properties, provided that conditional use approval is granted by the Village. However, pursuant to the Smoke Free Illinois Act, future establishments would have to be located within single-occupant freestanding stores only. The references to the Smoke Free Illinois Act are referenced in the proposed definitions for tobacco shops and smoking establishments.

Staff finds that the standards for text amendments have been met. Furthermore, staff is recommending approval of PC 09-17.

PC 09-18

Mr. Heniff stated that the Smoke Free Illinois Act prohibits the establishment or operation of smoking establishments within strip centers. This provision was established to minimize impacts of second-hand smoke on employees and patrons of other establishments. However, in this case, an argument can be made that as the petitioner's establishment was operating on the premises prior to January 1, 2008 (albeit not legally established). Therefore, if the text amendment and the conditional use are approved, staff would be able to sign off on the Zoning Certificate.

The property is surrounded by commercial uses to the north, west and northeast.

Residential uses are located to the southeast and south. The building is oriented toward the commercial properties to the west. The use operates completely within the confines of the existing strip-center building. The past operation of the use finds that the use has not presented a negative impact on adjacent properties, in the following respects:

- 1. The use operates outside the hours of many other uses within the retail center.*
- 2. The use does not generate noise beyond levels associated with other types of retail establishments.*
- 3. The use will not generate traffic levels at levels greater than other types of like uses.*
- 4. The use will not generate excessive waste or deliveries.*

For a conditional use to be approved, the standards for conditional uses must be met. The petitioner has provided a response to the standards for conditional uses and staff states that the use as proposed would meet the standards for conditional uses.

Staff finds that the standards for conditional uses have been met. Furthermore, staff is recommending approval of PC 09-18 subject to the 3 conditions noted in the staff report.

Mr. Hall asked if there would be entertainment that would be conducted at the business or if a television would be the only source of entertainment. Russell Rasche stated that there would be sporting events on television and music.

Mr. Hall asked if there would be belly dancing. Mr. Rasche stated that belly dancing is not a regular part of their business. He added that he can't speak to the future but belly dancing is not a regular part of their business.

Mr. Hall asked if the noise level was going to be monitored. Mr. Rasche asked Mr. Hall if he has ever heard them before. Mr. Hall replied that he has heard them. Mr. Rasche asked when. Mr. Hall replied that he heard them when it was the Sahara. Mr. Rasche responded by stating that was a different owner. He added that you won't have a problem with these guys because they won't have bands or anything else of the sort. People are just sitting there talking, which is why people go there. He stated that all the business activities are to the front of the building and there are other businesses in the strip center that could generate noise.

Chairperson Ryan then opened the meeting for comments among the Commissioners.

Commissioner Sweetser stated that when a motion is made to pass or approve, it includes the IDRC comments. She stated Fire and BIS IDRC comments are subjunctive. In regard to the ventilation system outlined in the IDRC Report, she asked if they are saying something has to be there or might be there. Mr. Heniff stated that the business is in compliance with the Smoke Free Act and the second comment was items that could be done to clean the air. One reason the Illinois Smoke Free Act doesn't allow smoking establishments in multi-tenant buildings is because they can sometimes share ventilation systems. The comments made in the report were recommended as ways or mechanics so that

the smoke from the business establishment could be mitigated on the site itself. It was not mandated but rather offered as a comment. It is good information to have so if an abutting property owner has an issue, they could reconcile the ventilation issue.

Commissioner Nelson asked if the minimum age is 21. Russell Rasche replied that the minimum age is 18; however, there are individuals over 21 who still come here for the experience. He again added that the minimum age is 18.

Referring to the hookah device, Commissioner Nelson asked if you would get a separate mouthpiece. Mr. Rasche stated that there are units with multiple hoses. He added that the plastic mouthpiece fits into the wooden end and everyone has their own.

Commissioner Cooper wanted clarification as to why its okay for this establishment to be in a multi-tenant building but a new business could not. Russell Rasche explained that they are grandfathered in.

Commissioner Cooper asked if this was a hookah bar before that. Russell Rasche stated that this was a hookah bar before that. Mr. Heniff stated that for clarification purposes, staff did have counsel review this issue. The language states that any business established operating prior to 1/1/08 could continue to operate. Mr. Heniff stated that they do not have a Certificate of Occupancy. He added that they did receive a license prior to the Act and it says that anyone operating prior to the deadline, it doesn't say that it has to be "lawfully established". He added that if the zoning comes through, it can be considered as a legal nonconforming tenant space.

Commissioner Cooper questioned the ventilation asking if the use was approved would it cover a future tobacco use, such as a cigar lounge. Mr. Heniff replied that the approval would apply only to this particular location.

Commissioner Cooper asked if the ventilation would have to be changed. Mr. Heniff replied that the issue would have to be reviewed by the tenant/landlord. George Wagner, Village Attorney, mentioned that any new smoking use would have to be located in a freestanding building.

Chairperson Ryan confirmed that if another business wanted to open up a cigar shop in one of the other tenant spaces it couldn't because of the State law which states it has to be in a freestanding building. Mr. Rasche and Mr. Heniff both responded, yes.

Chairperson Ryan then stated they would take two separate votes, one for each petition. The first vote would be for PC 09-17 text amendments to the Lombard Zoning Ordinance to allow "Smoking Lounge" to be listed as a conditional use within the B4A-Roosevelt Road Corridor District.

N. [090406](#)

PC 09-18: 1221 S. Main (Lux Chateau)

**Requests that the Village grant a conditional use, pursuant to amended Section 155.417(G)(2) of the Zoning Ordinance to allow a "Smoking Establishment" within the B4A - Roosevelt Road Corridor District.
(DISTRICT #6)**

Attachments: [Cover Sheet.doc](#)
[Report 09-18.doc](#)
[apoletter 09-17_09-18.doc](#)
[DAH referral memo.doc](#)
[PUBLIC NOTICE 09-17_09-18.doc](#)
[Referral Letter 09-17 and 09-18.doc](#)
[Ordinance 6378.pdf](#)
[090406.pdf](#)

O. [090410](#)

PC 09-22: 555 E. Butterfield Road (Comar Offices Planned Development)

Requests that Village grant approval of the following actions for the subject property located within the O-Office District:

1. A conditional use to establish the subject property as a planned development, pursuant to Section 155.502(F)(3), with the following deviations:
 - a. A deviation from Section 153.502(B)(5)(b) of the Sign Ordinance to increase the maximum allowable area of a freestanding sign from thirty (30) square feet to ninety-eight (98) square feet.
 - b. A deviation from Section 153.502(B)(5)(c) of the Sign Ordinance to increase the maximum allowable height of a freestanding sign from six (6) feet to twenty (20) feet.
 - c. A deviation from Section 153.502(B)(5)(f) of the Sign Ordinance to decrease the minimum allowable distance of a freestanding sign from a property line from ten (10) feet to two (2) feet. (DISTRICT #3)

Attachments: [apoletter.doc](#)
[Cover Sheet.doc](#)
[DAH referral memo.doc](#)
[PUBLIC NOTICE 09-22.doc](#)
[Referral Letter 09-22.doc](#)
[REPORT 09-22.doc](#)
[Ordinance 6379.pdf](#)
[090410.pdf](#)

George Kourafas, 1S660 Midwest Road, Oakbrook Terrace, presented the petition. He stated that he is asking for permission to take down a multi-tenant sign at 555 E. Butterfield Road and replace it. The original sign was built in 1984 and times have changed. He stated that they are looking to have a modern sign, upgrade it, and give a face lift. He thinks that the sign is too large right now and they want to reduce it to 96 square feet. Granting this variation would be significant to other businesses in the nearby area. He stated that they will be building this sign with a stone base bottom and stone columns to match the building more closely. Times in the office/retail markets are tough and landlords need to make sure things are fresh. The new sign will not interfere with any property values or create obstructions to vehicles driving on Butterfield Road.

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

Chairperson Ryan then requested the staff report.

Stuart Moynihan, Associate Planner, presented the staff report. The petitioner, Comar Properties, is proposing to replace a freestanding sign near the northeastern corner of the property located at 555 E. Butterfield Road. The proposed new sign will replace the larger existing sign in the same location. The Zoning Ordinance limits freestanding signs located in the O - Office District to thirty (30) square feet in area and six (6) feet in height. The proposed sign is ninety-eight (98) square feet in area and is twenty (20) feet in height. Therefore, deviations for sign height and area are required.

The petitioner had originally proposed to install the new sign in the same location as the existing sign which is setback two feet (2') from the northern property line. The Zoning Ordinance requires a minimum setback of ten feet (10') from all property lines. Since the submittal, the petitioner has agreed to meet the required setback of ten feet (10'). Therefore, the third deviation is not necessary.

Staff has researched the history of the subject property and has found no records of zoning relief granted to the property. Therefore, any structures, uses, or other situations on the subject property which are not in compliance with the Zoning Ordinance and which were lawfully established at the time can be considered legal non-conforming. The petitioner has decided not to apply for additional zoning relief on the subject property as part of this petition. However, future development activity may require that any such items be brought into compliance or granted the requisite zoning relief.

Section 155.503(F)(3) of the Zoning Ordinance requires that a planned development be established with any variation request on a property which is zoned O - Office District and meets the minimum requirements for lot area and frontage for a planned development. In the O District, the minimum lot area is 45,000 square feet and the minimum frontage is three hundred feet (300'). The subject property is approximately 78,000 square feet and has approximately five hundred thirty-six feet (536') of frontage. Therefore, the petitioner is requesting approval of a planned development on the property.

The Zoning Ordinance encourages and/or requires the establishment of planned developments for large-scale developments. Staff believes establishing a planned development will provide the Village Board with an instrument for managing the multiple uses on the property and encouraging high quality development. Office District Planned Developments have been established on many nearby properties south of Butterfield Road, including the two properties directly east of the subject property. Staff supports the establishment of a planned development on the subject property.

The petitioner is proposing to install a new freestanding sign on the subject property. At ninety-eight (98) square feet in area, the proposed sign would exceed the maximum of thirty (30) square feet permitted by the Zoning Ordinance.

The petitioner and the sign contractor have cited several reasons for the size of the proposed sign. The size of the sign is necessary to provide sufficient room to advertise each of the tenants which occupy the building on the subject

property. In addition, each sign cabinet must be large enough to be visible from Butterfield Road.

At twenty feet (20') in height, the sign would exceed the maximum of six feet (6') permitted by the Zoning Ordinance. Arguments similar to those made for the sign's area can be made for the sign's height. The additional sign height will allow the petitioner to provide advertising space for each tenant. The height is also requested to allow for a stone base and a decorative roof.

Staff notes that if the property were zoned B3, B4, or B4A no deviations for the proposed signage would be needed. As the property fronts on a state right-of-way (Illinois 56), the Sign Ordinance would allow a freestanding sign up to one hundred twenty-five (125) square feet in area and up to twenty-five feet (25') in height. As the building contains multiple tenants, including a bank which draws customers to the site, it is reasonable to consider that the property may have similar signage needs to those in the B3, B4, or B4A zoning districts.

The existing freestanding sign on the property, permitted in 1984, is larger in both height and area than the proposed sign. Staff estimates the area of the existing sign to be two hundred two and one-half (202.5) square feet. The estimated height of the sign is twenty-two and one-half feet (22.5').

Staff supports the requested signage deviations, with the exception of a reduced setback, due to site considerations, multiple uses on the property, aesthetic enhancements, and size reductions from the existing sign which brings it into closer compliance with Village code.

Chairperson Ryan then opened the meeting for comments among the Commissioners.

Commissioner Olbrysh stated that the new sign is being reduced in overall size and is much more attractive. He stated that he noticed that the old sign has the address and the new proposal does not. He asked if they will rely on the address being on the building.

Mr. Kourafas stated that they have not ruled out putting the address on the new sign. He stated that right now they are in talks with the designer and architect to remodel the building. So the address would be on the building if not on the pylon.

- P. [090415](#) Going Out Of Business Sales
Amending Title 11, Chapter 120 of the Lombard Village Code with regard to Going Out of Business Sales.
Attachments: [Ordinance 6380.pdf](#)
[090415.pdf](#)
- Q. [090426](#) Oak Creek Drive, No Parking
Committee recommendation to establish a No Parking zone on the "outside" curve to reduce a vehicular line of sight issue. (DISTRICT #3)
Attachments: [090426.pdf](#)
[Ordinance 6381.pdf](#)
[090426.pdf](#)

- R. [090427](#) North Chase Avenue, Parking Issue
Committee recommendation to remove No Parking restrictions on the east side of the street for the length of the business at 730 E. St. Charles Road. (DISTRICT #4)
Attachments: [090427.pdf](#)
[Ordinance 6382.pdf](#)
[090427.pdf](#)
[090427 Letter.pdf](#)
- S. [090428](#) St. Charles Rd. East of Garfield, Additional Parking
Committee recommendation to allow on-street parking on the north side of the 100 block of E. St. Charles Road. (DISTRICT #4)
Attachments: [090428.pdf](#)
[Ordinance 6383.pdf](#)
[090428.pdf](#)

Resolutions

- T. [090507](#) 2S350 Glen Avenue - DuPage County ZBA Case Z09-037 (Shah)
Resolution of Objection
Request for a variation to reduce the interior side yard setback to 0.38 feet from the required 6.1 feet to allow for an existing shed in an R-4 Single Family Residence District. (UNINCORPORATED)
Attachments: [BOT Memo Z09-037.doc](#)
[Referral Letter DuPage County ZBA 09-037.doc](#)
[SUBMITresolutionofobjection.doc](#)
[PC Memo Z09-037 shah.doc](#)
[R 27-10.pdf](#)
[090507.pdf](#)
- Michael Toth, Planner I, presented the petition. Mr. Toth stated that DuPage County has received a filing for a public hearing for a variation to reduce the interior side yard setback to 0.38 feet from the required 6.1 feet to allow for an existing shed in an R-4 Single Family Residence District. The petition is for the property at 2S350 Glen Ave. in the Butterfield East Subdivision (DuPage County ZBA Case Z09-037). As the subject property is located within the ultimate municipal boundaries of the Village of Lombard, the Village has received notice of the public hearing from the County and has been asked to provide comments or concerns regarding this petition.*
- Mr. Toth stated that staff would like to solicit the input and a recommendation of the Plan Commission regarding this petition. Staff has informed the County that this matter is being brought forward to the Plan Commission and the Village Board for consideration.*
- While DuPage County has officially classified the subject variation as a variation to reduce the side yard setback for an existing shed, Mr. Toth stated that Village staff believes that the case may have additional variations*

associated with the proposed project. These additional elements may have a greater impact on the surrounding neighborhood than a setback variation for a shed. The submitted plat of survey from October 10, 1994 depicts the 'frame shed' connected to the house during the time of the survey. As the structure the County refers to as a 'shed' is connected to the house, tied to the foundation of the house and constructed from the same materials as the house, the shed should be considered an addition to the principal structure. Therefore, the side yard setback for the principal structure would now be recognized at 0.38 feet. Mr. Toth stated that while on a site visit to the subject property, Village staff discovered that there was also a deck constructed on top of the subject addition. Under the Village Zoning Ordinance, the subject deck must also maintain a six foot (6') setback from the property line as the Village does not permit decks over three feet in height as permitted encroachments in the interior side yard. Therefore, the Village recognizes two variations in this matter:

1. A setback variation for the principal structure; and,
2. Setback variation for the deck located above the addition.

Mr. Toth then made reference to the setback variation. According to discussions with the County representatives, the addition on the property does not achieve code compliance concerning County and Village Codes.

Mr. Toth then made reference to the deck variation. As the deck is located directly on top of the addition, the deck also encroaches into the required side yard; therefore, relief would be required to allow the deck to remain at its present location. Staff notes that neither the County nor Village Code recognizes the deck (as constructed) as a permitted encroachment in the interior side yard.

Mr. Toth stated that staff finds that both the building addition and the deck in their current locations may present a negative impact upon the adjacent property owners. Based upon established County and Village codes, there are alternative locations to construct both the shed and the deck within the buildable area of the lot. Staff also finds that the need for the variation is created by the petitioner and is not unique to the property. Moreover, the variation may also establish a precedent for yard setback relief for other properties in the area. As a practical matter, reductions in side yard setbacks can give an appearance of overcrowding within a subdivision.

Lastly, Mr. Toth stated that based upon this review, the petition would be inconsistent with established Village policies. Additionally, the petition would be inconsistent with the objectives included as part of the Comprehensive Plan, creates an adverse impact on a neighboring property, and constitutes an excessive encroachment into a required yard. Therefore, staff recommends that the Plan Commission adopt a Resolution of Objection for DuPage County ZBA Case Z09-037.

Vice Chairperson Flint then opened the meeting for comments among the Commissioners.

Commissioner Olbrysh agreed with staff. If something like this was approved it could set a precedent. The shed could have been placed in a different location and to make matters worse, they put a deck on top of the shed. This petition does not meet the standards for a variation.

Commissioner Sweetser questioned the practical result of adopting a Resolution

of Objection. Mr. Toth answered that since the property could ultimately become part of the Village, we will forward our objection to the County, once approved by the Village Board. By doing so, our objection will be noted disputing the case and become part of the County's public hearing process which is similar to what happens here.

Commissioner Sweetser asked if the petitioner would have to take these things down should they become part of the Village. Mr. Toth answered yes. Mr. Stilling stated that when the County votes on the issue it will require a ¾ majority of the voting members in order to approve the petition.

- U.** [090548](#) Intergovernmental Agreement with Regard to the Expansion of the Parking Lot in Sunset Knoll Park
Authorizing the signatures of the Village President and the Village Clerk on an Intergovernmental Agreement with the Lombard Park District and Glenbard High School District No. 87. (DISTRICT #2)

Attachments: [090548.pdf](#)
 [R 28-10.pdf](#)
 [Intergovernmental Agre..pdf](#)

- V.** [090551](#) Intergovernmental Agreement - Sidewalk Segment Project - Community Development Block Grant (CDBG)
Authorizing the signature of the Village Manager on an Agreement with the County of DuPage regarding the installation of certain sidewalk segments in the 1100 S. Block west side of Westmore-Meyers Road, the 1100 S. Block east side of Westmore-Meyers Road and the 1000 E. Block north side of Roosevelt Road. (DISTRICT #6)

Attachments: [Agreement Memo.doc](#)
 [CDBG.grant -Intergovernmental agreement sidewalk segments.doc](#)
 [R 29-10.pdf](#)
 [090551.pdf](#)

Other Matters

- W.** [090550](#) Watermain Connection Services 1218, 1310, and 1314 S. School Street; 831 E. 13th Street and 828 E. 14th Street (BOT 08-01 through BOT 08-05)
Request for a waiver of bids and approval of a contract with Russ's Plumbing & Sewer in the amount of \$20,750. (DISTRICT #6)

Attachments: [Cover sheet for watermain connection.DOC](#)
 [DAH memo Russ Plubling Contract.doc](#)
 [090550.pdf](#)

- X.** [090556](#) FY2010 Road Salt Purchase
Request for a waiver of bids and award of a contract to North American Salt Company in the amount of \$352,038.00. Public Act 85-1295 does not apply.

Attachments: [090556.pdf](#)
[Change Order 1 - North American Salt.pdf](#)

- Y.** [090557](#) 2009 Civic Center Reservoir Facility Pump & Motor Rehabilitation Award of a contract to Water Well Solutions, the lowest responsible bidder of four bids, in the amount of \$212,197.50. Bid in compliance with Public Act 85-1295. (DISTRICT #6)
- Attachments:** [090557.pdf](#)
 [Contractor's Cert. and Cert. of Insurance.pdf](#)
 [Contract # PWU 10-22.pdf](#)
 [Contract Bond WW.pdf](#)
- Z.** [090511](#) Recycling Extravaganza, Recycler Agreements
Request to approve agreements with Acme Refining, Exide Technologies and CRI of Tennessee to provide recycling services.
- Attachments:** [090511.pdf](#)
 [Agreement with Acme.pdf](#)
 [Agreement with Exide Technoloiges.pdf](#)
 [Agreement With CRI of Tennessee.pdf](#)
- AA.** [090547](#) Appointments - Community Relations Committee
Request for concurrence in the appointment of Barbara Jo Johnson and Griselda Corral.
- Attachments:** [appointmentmemo82409.doc](#)
 [SUBMIT.DOC](#)
 [090547.pdf](#)
- BB.** [090559](#) Appointments - Economic & Community Development Committee
Request for concurrence in the appointment of Brenda Gannon and David Irion.
- Attachments:** [SUBMIT.DOC](#)
 [appointmentmemo82409.doc](#)
 [090559.pdf](#)
- *CC.** [090561](#) Appointments - Environmental Concerns Committee
Request for concurrence in the appointment of Jason Cooper and Stef Durdic.
- Attachments:** [SUBMIT.DOC](#)
 [appointmentmemo83109.doc](#)
 [090561.pdf](#)
- *DD.** [090563](#) Appointments - Finance Committee
Request for concurrence in the appointment of Michael Corso and Barbara Alverado.

Attachments: [SUBMIT.DOC](#)
[appointmentmemo9109.doc](#)
[090563.pdf](#)

IX. Items for Separate Action

Ordinances on First Reading (Waiver of First Requested)

Other Ordinances on First Reading

Ordinances on Second Reading

Resolutions

Other Matters

X. Agenda Items for Discussion

XI. Executive Session

Reconvene

XII. Adjournment