

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE: July 2, 2014 (B of T) Date: July 17, 2014

TITLE: Vacation of Technology Drive Public Right-of-Way; Second Vacation

SUBMITTED BY: Department of Community Development *WNA*

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration a Plat of Vacation for a portion of Technology Drive. This vacation is an obligation of a previously approved Intergovernmental Agreement, Resolution R93-13. 3/4 vote of the Trustees required (5 of 6) (DISTRICT #3)

Staff recommends approval of this request.

Staff recommends waiver of first reading.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X \_\_\_\_\_ Date \_\_\_\_\_


Finance Director X \_\_\_\_\_ Date \_\_\_\_\_

Village Manager X \_\_\_\_\_ Date \_\_\_\_\_

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:** Scott R. Niehaus, Village Manager

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

**DATE:** July 17, 2014

**SUBJECT:** **Vacation of Technology Drive Right-of-Way; Second Vacation (Parcel D)**

Technology Drive is a publicly dedicated right-of-way under the maintenance jurisdiction of the Village of Lombard. Located south of Butterfield Road and north of Interstate 88, the roadway provides access to and serves the Embassy Suites and Extended Stay Hotels, Chick-fil-A and DuPage Medical Group (DMG) offices. The roadway also extended further east and provided a secondary access point to the former Waste Management offices in the Village of Oak Brook. However, with that property redeveloped as the Oak Brook Promenade development and given that access is no longer provided to the site from Technology Drive, the need for the right-of-way access is no longer necessary.

The Village of Lombard adopted Resolution R93-13 on March 7, 2013 which approved an Intergovernmental Agreement by and between Oak Brook Promenade, LLC, DMG Real Estate Holdings, LLC, the Village of Oak Brook and Lombard, relative to Technology Drive. The Lombard Village Board adopted Ordinance 6964 on June 17, 2014, which vacated a portion of Technology Drive to Oak Brook Promenade LLC. With the recording of the vacation and the placement of a restrictive covenant limiting billboards on the vacated tract, the Village can now proceed to vacate an additional portion of the Technology Drive right-of-way in its entirety, commonly referred to within the Agreement as Parcel D, to DMG Real Estate Holdings LLC. A copy of the vacation plat is attached.

The right-of-way also no longer serves the transportation needs of the Village and with the previous dedication and construction of a new cul-de-sac bulb in place in front of the DMG medical office, the right-of-way depicted on the plat is deemed to be surplus property.

### **ACTION REQUESTED**

Per the provisions of the agreement, a Plat of Vacation for a portion of Technology drive is being transmitted to the Village Board for approval. Please place this item on the July 17, 2014 Village Board meeting for approval, with a waiver of first reading. Per State Statute provisions, the action requires the approval of 3/4ths of the Village Board (5 of 6 members of the Village Board, excluding the Village President).

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE VACATING A PORTION OF THE TECHNOLOGY DRIVE  
PUBLIC RIGHT-OF-WAY**

(Parcel D Vacation)

**WHEREAS**, the Village of Lombard (hereinafter the “Village”) maintains publicly dedicated rights-of-way of varying widths which are located within the corporate limits of the Village; and

**WHEREAS**, the President and Board of Trustees of the Village of Lombard (hereinafter the “Corporate Authorities”) adopted Resolution R93-13 on March 7, 2013, which approved an Intergovernmental Agreement between Oak Brook Promenade, LLC, DMG Real Estate Holdings, LLC, the Village of Oak Brook and the Village of Lombard, (hereinafter the “Agreement”), relative to Technology Drive; (the four (4) entities that are party to the Agreement bring hereinafter referred to as the “Parties”) and

**WHEREAS**, the Agreement sets forth actions for each of the Parties to undertake associated with Technology Drive that are beneficial to each of the Parties; and

**WHEREAS**, Section 6 (G) of the Agreement obligates the Village of Lombard to vacate the portion of the Technology Road right-of-way, commonly referred to within the Agreement as Parcel D, (hereinafter the “Subject Right-of-Way), with ownership thereof going to DMG Real Estate Holdings LLC after the vacation; and

**WHEREAS**, the Corporate Authorities find that no abutting property owners currently take access from the Subject Right-of-Way; and

**WHEREAS**, the Corporate Authorities adopted Ordinance 6964 on June 19, 2014 which vacated portions of the Technology Drive public right-of-way public immediately east of the Subject Right-of-Way; and

**WHEREAS**, the Corporate Authorities have determined that the Subject Right-of-Way would primarily be for the use and benefit of the owner of the parcel to the North of the Subject Right-of-Way, and would not serve the transportation needs of the Village; and

**WHEREAS**, the Corporate Authorities find that the existing lot, to the South of the Subject Right-of-Way, is land owned by the Illinois State Toll Highway Authority, and is improved with an interstate tollway (Interstate 88); and

**WHEREAS**, the Village would benefit by transferring the future ownership and maintenance responsibilities, relative to the Subject Right-of-Way, from the Village to the owner of the property to the North of the Subject Right-of-Way; and

**WHEREAS**, the Corporate Authorities have received a Plat of Right-of-Way Vacation for the Subject Right-of-Way, a copy of which is attached hereto as “Exhibit A” and made part hereof (hereinafter the “Plat of Vacation”); and

**WHEREAS**, the Corporate Authorities deem it to be in the best interests of the Village to vacate the Subject Right-of-Way, as set forth herein, subject to the provisions set forth within the Agreement;

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

**SECTION 1:** It is hereby determined that the public interest will be served by vacating the portion of the Technology Drive Right-of-Way as shown in Exhibit A, as hereinafter more fully described in Section 3 below.

**SECTION 2:** The Corporate Authorities find as follows:

- A. Pursuant to 65 ILCS 5/11-91-1, an ordinance vacating a right-of-way can provide that it shall not become effective until the owner of a particular parcel of property abutting upon the right-of-way to be vacated pays compensation to the municipality in an amount which, in the judgment of the Corporate Authorities, shall be the fair market value of the property acquired or of the benefits which will accrue to said owner by reason of the vacation.
- B. Pursuant to 65 ILCS 5/11-91-1, if the ordinance vacating a right-of-way provides that only the owner of a particular parcel abutting upon the right-of-way to be vacated shall make the aforementioned compensation payment, then said owner of said particular parcel shall acquire title to the entire vacated right-of-way.
- C. That the owner of the property commonly known as 2725 Technology Drive, Lombard, Illinois; permanent tax index numbers 06-28-103-016, (hereinafter the “Abutting Property Owner”) shall make payment to the Village for the entire compensation due relative to the right-of-way vacation referenced in Section 3 below, as more specifically set forth in Section 4 below.

**SECTION 3:** The following described portion of the public Right-of-Way:

THAT PART OF HERETOFORE DEDICATED TECHNOLOGY DRIVE, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 1, 1998 AS DOCUMENT R98-179522, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF SAID TECHNOLOGY DRIVE WITH THE SOUTHEASTERLY EXTENSION OF THE SOUTHWESTERLY LINE OF LOT 1 IN NAI HIFFMAN BUTTERFIELD ROAD SUBDIVISION, ACCORDING TO THE PLAT THEREOF

RECORDED JULY 14, 2006 AS DOCUMENT NUMBER R2006-134912; THENCE EASTERLY, SOUTHERLY AND WESTERLY ALONG THE NORTHERLY, EASTERLY AND SOUTHERLY LINES OF SAID TECHNOLOGY DRIVE THE FOLLOWING SEVEN COURSES AND DISTANCES: 1) NORTH 65 DEGREES 20 MINUTES 01 SECONDS EAST, 340.28 FEET; 2) NORTH 13 DEGREES 07 MINUTES 04 SECONDS EAST, 20.78 FEET; 3) NORTH 65 DEGREES 25 MINUTES 33 SECONDS EAST, 4.75 FEET; 4) NORTH 24 DEGREES 34 MINUTES 27 SECONDS EAST, 15.00 FEET; 5) NORTH 65 DEGREES 25 MINUTES 33 SECONDS EAST, 80.00 FEET; 6) SOUTH 24 DEGREES 34 MINUTES 27 SECONDS WEST, 97.29 FEET; 7) SOUTH 65 DEGREES 20 MINUTES 01 SECONDS WEST, 432.87 FEET TO THE INTERSECTION WITH SAIDSOUTHERLY EXTENSION OF THE SOUTHWESTERLY LINE OF LOT 1; THENCE NORTH 28 DEGREES 48 MINUTES 00 SECONDS WEST ALONG SAID SOUTHEASTERLY EXTENSION, 66.17 FEET TO THE PLACE OF BEGINNING, IN DUPAGE COUNTY ILLINOIS.

as shown on the plat of vacation attached hereto as Exhibit "A", and designated "hereby vacated", be and the same hereby is vacated, (hereinafter the "Vacated Right-of-Way").

SECTION 4: That in lieu of the payment of monetary compensation by the Abutting Property Owner, the Abutting Property Owner shall perform all of the obligations and provide all of the improvements, as set forth within Agreement relative to Oak Brook Promenade, LLC.

SECTION 5: The owner of the following parcel shall acquire title to the Vacated Right-of-Way:

PIN: 06-28-103-016                      Commonly known as DMG Real Estate Holdings LLC  
(DuPage Medical Group),  
2725 Technology Drive, Lombard, Illinois.

SECTION 6: That the Village's Department of Community Development is hereby directed to record a certified copy of this Ordinance, along with the original Plat of Vacation, with the DuPage County Recorder of Deeds.

SECTION 7: That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_ 2014.

First reading waived by action of the Board of Trustees this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2014, pursuant to a roll call vote as follows:

AYES \_\_\_\_\_

NAYS \_\_\_\_\_

ABSENT \_\_\_\_\_

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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Keith T. Giagnorio  
Village President

ATTEST:

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Sharon Kuderna  
Village Clerk

Published by me in pamphlet form this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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Sharon Kuderna  
Village Clerk

