

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES
FROM: Scott R. Niehaus, Village Manager
DATE: August 4, 2015 (B of T) Date: August 13, 2015
TITLE: BOT 15-02: 207-221 & 223 E. Roosevelt Rd. and 120 – 124 E. 13th Street (V-Land Planned Development)
SUBMITTED BY: Department of Community Development *W*

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests approval of an Ordinance authorizing an amendment to an annexation agreement (2/3 of Corporate Authorities Vote required), and Ordinance authorizing an amendment to a conditional use for a planned development of the Lombard Zoning Ordinance pertaining to the maximum number of tenant spaces within the existing retail center.

The Plan Commission recommended approval of this petition by a vote of 4-0.

Please place this request under Items for Separate Action.

The petitioner requests a waiver of first reading of the Ordinances.

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: August 13, 2015

SUBJECT: PC 15-17; 207-221 & 223 E. Roosevelt Rd. and 120 – 124 E. 13th Street (V-Land Planned Development)

Please find the following items for Village Board consideration as part of the August 13, 2015 Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 15-17;
3. An Ordinance granting approval of an amendment to an existing annexation agreement; and
4. An Ordinance granting approval of an amendment to an existing planned development pertaining to the maximum number of tenant spaces within the existing retail center.

The Plan Commission recommended approval of this petition by a vote of 4-0. Please place this petition on the August 13, 2015 Board of Trustees agenda under Items for Separate Action, as annexation agreements require 2/3 of the Corporate Authorities (i.e. 5 of 7) to approve. A waiver of first reading is requested by the petitioner in order for the petitioner to execute a pending lease.



VILLAGE OF LOMBARD

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

August 13, 2015

Village President
Keith T. Giagnorio

Village Clerk
Sharon Kuderna

Trustees
Dan Whittington, Dist. 1
Michael A. Fugiel, Dist. 2
Reid Foltyniewicz, Dist. 3
Bob Johnston, Dist. 4
Robyn Pike, Dist. 5
William "Bill" Ware, Dist. 6

Village Manager
Scott R. Niehaus

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

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

Mr. Keith T. Giagnorio,
Village President, and
Board of Trustees
Village of Lombard

Subject: PC 15-17; 207-221 & 223 E. Roosevelt Rd. and 120 – 124 E. 13th Street (V-Land Planned Development)

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner, requests a fourth amendment of their planned development ordinance.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on July 20, 2015. Sworn in to present the petition was Jennifer Ganser, Assistant Director, and the petitioner Steve Panko.

Chairperson Ryan read the Plan Commissions procedures and asked if anyone other than the petitioner intended to cross examine, and, hearing none, he proceeded with the petition.

Mr. Panko stated he is the property owner and asked for one space of 3,050 square feet to be broken into two spaces. He has one tenant lined up with letters of intent for the second space. The prior tenant left in October 2014. In 2011 a similar request was granted.

Chairperson Ryan asked if any person would like to speak in favor or against this petition, or for public comment. Hearing none, Chairperson Ryan asked for the staff report.

Ms. Ganser presented the staff report, which was submitted to the public record in its entirety. She stated the petitioner is requesting an amendment to an annexation and planned development agreement to

allow for the reconfiguration of a multi-tenant building at six (6) tenant spaces on the subject property located within the B4A Roosevelt Road Corridor District. The annexation agreement will be reviewed by the Village Board of Trustees. Staff proposes to strike that condition from the agreements as the V-Land shopping center has made multiple requests in the past to increase the number of tenant spaces. The size of the building would be not increased, but rather allow for a greater number of businesses within the V-Land shopping center. There were no comments from the IDRC group and staff feels this would be consistent with the Zoning Ordinance and the Comprehensive Plan. The neighboring retail centers do not have a provision on the number of tenant spaces.

Chairperson Ryan asked for public comment, and, hearing none, opened the meeting for comments among the Commissioners.

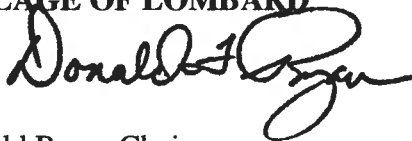
Commissioner Mrofcza asked if the unit in question was the unit at 3,050 square feet and asked if it could be subdivided into three units. Mr. Panko said the intent is to divide it into two units since it is costly to do. Ms. Ganser noted this amendment would allow future spaces to be divided.

On a motion by Commissioner Sweetser, and a second by Chairman Ryan, the Plan Commission voted 4-0 that the Village Board approve the petition associated with PC 15-04, subject to the following two (2) conditions:

1. The petitioner shall apply for and receive a building permit for any improvements to the interior of the tenant space(s) prior to starting and build-out of the tenant spaces.
2. That the petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report.

Respectfully,

VILLAGE OF LOMBARD



Donald Ryan, Chairperson
Lombard Plan Commission

c. Lombard Plan Commission

H:\CD\WORDUSER\PCCASES\2015\PC 15-17\PC 15-17_Referral Letter.docx

PLAN COMMISSION

INTER-DEPARTMENTAL REVIEW COMMITTEE REPORT

VLand Planned Development – 207-221 & 223 E. ROOSEVELT ROAD

July 20, 2015

Title

PC 15-17

Petitioner

VLand Lombard Highland LLC
Steve Panko
515 N. State Street #2660
Chicago, IL 60654

Property Owner

Same as petitioner

Property Location

207-221 & 223 E. Roosevelt
Road, and 120-124 E. 13th Street
(06-20-110-006, -007, and -008)
Trustee District #6

Zoning

B4APD – Roosevelt Road
Corridor District Planned
Development

Existing Land Use

Retail strip center and financial
institution

Comprehensive Plan

Community Commercial

Approval Sought

Amendment to the annexation
agreement and to Ordinances
5122, 5559, and 5878.

Prepared By

Jennifer Ganser
Assistant Director



LOCATION MAP

DESCRIPTION

The petitioner is requesting an amendment to an annexation and planned development agreement to allow for the reconfiguration of a multi-tenant building at six (6) tenant spaces on the subject property located within the B4A Roosevelt Road Corridor District. Staff proposes to strike that condition from the agreements as the V-Land shopping center has made multiple requests in the past to increase the number of tenant spaces. The size of the building would be not increased, but rather allow for a greater number of businesses within the V-Land shopping center.

APPROVAL(S) REQUIRED

The petitioner requests that the Village:

1. Approve an amendment to an annexation agreement; and
2. Pursuant to Section 155.504(A) (major changes to a planned development), an amendment to Ordinances 5122, 5559, and 5878 granting approval of a conditional use for a planned development, amending the maximum number of tenant spaces within the existing retail center.

PROJECT STATS

Lot & Bulk

Parcel Size: 3.47 acres

Submittals

1. Petition for a public hearing, submitted;
2. Response to Standards for a Planned Development; and
3. Marketing brochure from CBRE.

EXISTING CONDITIONS

The subject property is currently improved as a multi-tenant retail center and a stand-alone bank, completed in 2008.

INTER-DEPARTMENTAL REVIEW

Building Division:

The Building Division has no comments regarding the project.

Fire Department:

The Fire Department has no comments regarding the project.

Private Engineering Services (PES):

PES has no comments regarding the project.

Public Works:

The Department of Public Works has no comments regarding the project.

Planning Services Division (PSD):

The Planning Services Division notes the following:

1. Surrounding Zoning & Land Use Compatibility

	Zoning Districts	Land Use
North	OPD	National University of Health Sciences
South	B4A	Retail
East	B4A	Retail
West	B4A	Retail

In consideration that the B4A Roosevelt Road Corridor District is intended to provide a wide variety of retail sales activity required to meet the demands of a developing local market, staff finds the project is consistent with the zoning and land use of the surrounding properties.

2. *Comprehensive Plan Compatibility*

The Comprehensive Plan recommends community commercial for the planned development. As a supplement to the Comprehensive Plan, the Roosevelt Road Corridor Plan was adopted in 2007 which also supports the center.

3. *Annexation & Planned Development Agreement Amendments*

When the development plans were altered in 2006, a condition of PC 06-13, which then became part of the annexation agreement, was amended for the second time to reflect the change in development plan. The condition stated the following: *The west-end tenant (currently Buffalo Wild Wings) was to be developed as a sit-down restaurant of at least 5,491 square feet. The remainder of the multi-tenant retail building shall not be subdivided or petitioned to have more than five (5) separate tenant or business establishments.* This was amended in 2011 to allow for six (6) separate tenant spaces.

The original intent of the cap on the number of overall retail spaces was to minimize “soft” uses and service related businesses from carving the center into many spaces that would not be attractive to retail establishments. By capping the overall number of tenants, it would in theory force the owner to seek out tenants that would be more retail in nature, as opposed to many 1,000 sq. ft. service uses. The petitioner has stated that the remaining space for a single user has been difficult to find. He also has argued that market conditions and the fact that the space has sat idle since initial construction suggests that the condition be revisited.

Staff is supportive of removing that condition on the number of tenant spaces. This is a unique condition that is not usually found in planned development and/or annexation agreements. Furthermore, the size of the retail building would not be increased, but rather allow for a greater number of businesses within the V-Land Planned Development.

4. *Standards for a Planned Development*

As noted, the petitioner amended the number of tenant spaces in the V-Land Planned Development and annexation agreement in the past. Included in the report are the Standards from 2011 and in addition, staff offers the following comments.

- 1. Except as modified by and approved in the final development plan, the proposed development complies with the regulations of the district or districts in which it is to be located.*

The B4A Zoning District does not regulate the number of tenants in a building and no changes to the site are being proposed. Therefore the development still complies with the Zoning Ordinance.

- 2. Community sanitary sewage and potable water facilities connected to a central system are provided.*

These facilities are already provided.

- 3. The dominant use in the proposed planned development is consistent with the recommendations of the Comprehensive Plan of the Village for the area containing the subject site.*

The development still complies with the Comprehensive Plan and the number of tenant spaces will not alter that. The Comprehensive Plan does not discuss the appropriate number of tenant spaces per retail center.

4. *That the proposed planned development is in the public interest and is consistent with the purposes of this Zoning Ordinance.*

The development will still be consistent with the Zoning Ordinance, regardless of the number of tenant spaces.

5. *That the streets have been designed to avoid:*

- a. *Inconvenient or unsafe access to the planned development;*
- b. *Traffic congestion in the streets which adjoin the planned development;*
- c. *An excessive burden on public parks, recreation areas, schools, and other public facilities which serve or are proposed to serve the planned development.*

The street network is in place and will not be altered. Traffic congestion is not projected to increase with the addition of one tenant space. Staff does not anticipate an excessive burden on other public facilities due to the change in tenant numbers.

SITE HISTORY

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

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

In 2006, the annexation agreement was further amended (PC 06-13) as the V-Land Corporation wished to alter the site plan associated with the 2004 planned development approval (PC 04-25) for the planned development. The amended plan relocated the bank to the corner of Highland Avenue and Roosevelt Road, which in turn shifted the shopping center to the west. The overall size of the commercial center was expanded to provide for 19,629 square feet of retail space in a single building. The southern end of the property along 13th Street consisted of a stormwater detention outlot and associated parking for the development. When the development plans were altered in 2006, a condition of PC 06-13, which then became part of the annexation agreement, was amended for the second time to reflect the change in development plan. The condition stated the following: *The west-end tenant (currently Buffalo Wild Wings) was to be developed as a sit-down restaurant of at least 5,491 square feet. The remainder of the multi-tenant retail building shall not be subdivided or petitioned to have more than five (5) separate tenant or business establishments.*

The redevelopment plan included parcels not originally a part of the initial petition that encompassed all but one parcels on the block face. The entire development was completed in 2008 and now consists of a standalone bank, known as Chase Bank, a multi-tenant retail building that currently houses a mix of commercial uses including a Buffalo Wild Wings restaurant, T-Mobile store, CD One Price Cleaners, Hair Cuttery, Check n' Go, Jet's Pizza, and 3,050 square feet of vacant tenant space.

In 2011 (PC 11-21) the annexation agreement and planned development agreement were amended again to allow for an increase in tenant spaces, this time allowing six (6) tenants. Check 'n Go also received conditional use approvals to occupy in the newly divided tenant space.

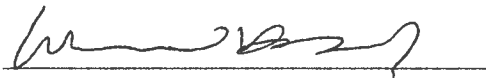
FINDINGS & RECOMMENDATIONS

The Inter-Department Review Committee has reviewed the standards for the requested amendment and finds that, the requested amendment **complies** with the standards established by the Village of Lombard Zoning Ordinance, subject to conditions of approval based on the above considerations. As such, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion for **approval** of PC 15-17:

Based on the submitted petition and the testimony presented, the proposed amendments do comply with the standards required by the Village of Lombard Zoning Ordinance and, therefore, I move that the Plan Commission accept the findings of the Inter-Departmental Review Report as the findings of the Plan Commission, and recommend to the Village Board **approval** of PC 15-17, subject to the following conditions:

1. The petitioner shall apply for and receive a building permit for any improvements to the interior of the tenant space(s) prior to starting and build-out of the tenant spaces.
2. That the petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP
Director of Community Development

c. Petitioner

H:\CDA\WORDUSER\APCCASES\2015\PC 15-17\PC 15-17_IDRC Report.docx

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FOR
LEASE

Retail 24/7.

SWC ROOSEVELT RD & HIGHLAND AVE 207-221 E. ROOSEVELT RD

:: LOMBARD, IL 60148

www.cbre.com/roosevelthighland



FEATURES

- :: Center Size: ±19,417 SF
- :: Available Size: ±1,500 SF to ±3,050 SF
- :: Zoning: B4APD
- :: Excellent traffic counts
- :: Located at a signalized intersection
- :: Good access off of Roosevelt Rd

2015 ESTIMATED DEMOGRAPHICS

	1 mile	3 miles	5 miles
POPULATION:	14,068	100,268	270,030
MEDIAN HH INCOME:	\$74,081	\$76,433	\$77,832

TRAFFIC COUNTS

ROOSEVELT ROAD	41,600 VPD
HIGHLAND AVE	13,900 VPD



FOR MORE
INFORMATION
PLEASE
CONTACT

Lynne M. Brackett
First Vice President
+1 630 573 7035
lynne.brackett@cbre.com

Pam Miskowicz
Senior Associate
+1 630 573 1274
pam.miskowicz@cbre.com

Marisa Roussel
Associate
+1 630 573 7043
marisa.roussel@cbre.com

CBRE

FOR
LEASE

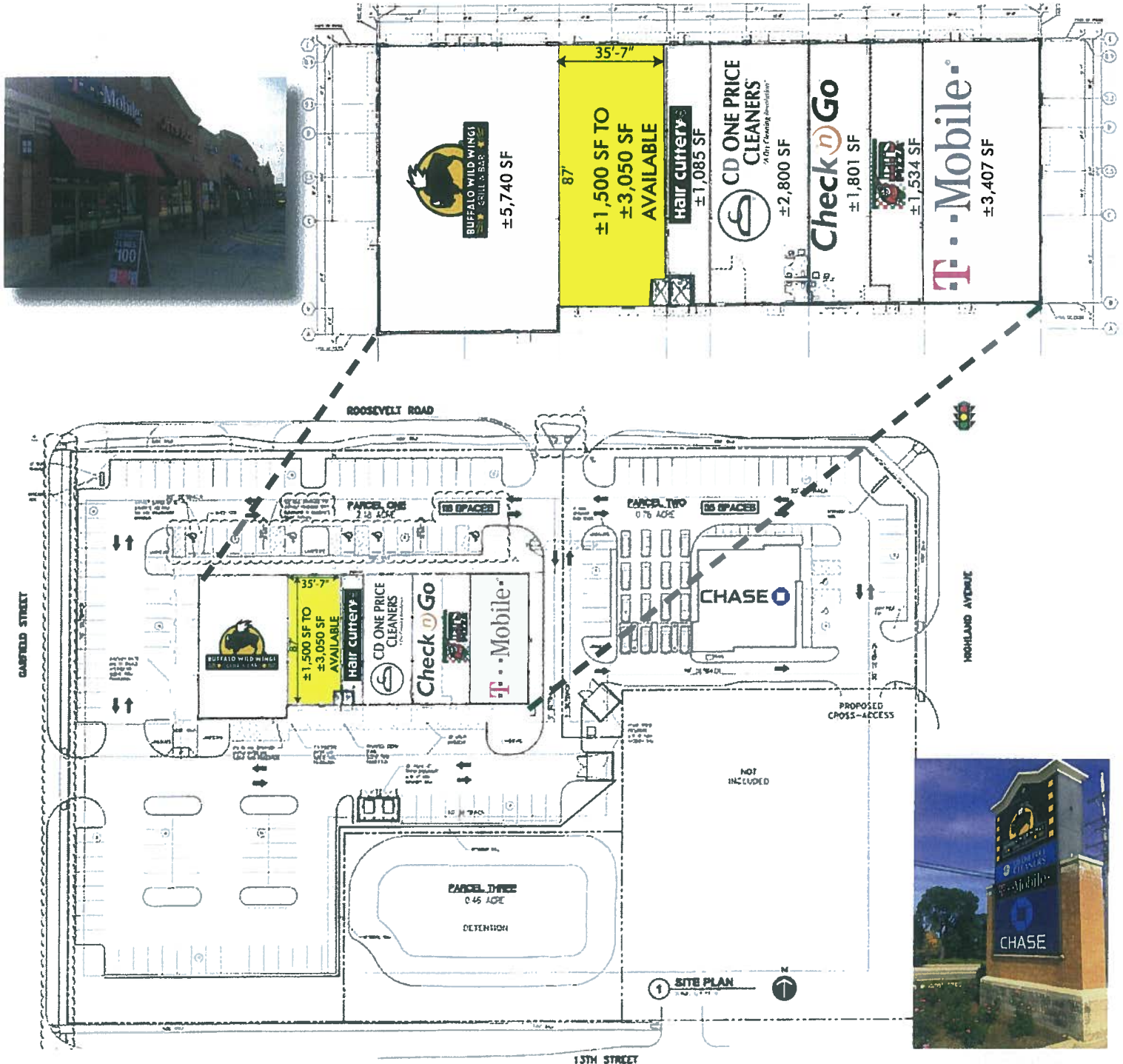
Retail 24/7.

SWC ROOSEVELT RD & HIGHLAND AVE 207-221 E. ROOSEVELT RD

:: LOMBARD, IL 60148

www.cbre.com/roosevelthighland

SITE PLAN



Nowakowski, Tamara

From: Ganser, Jennifer
Sent: Friday, July 24, 2015 12:21 PM
To: Nowakowski, Tamara
Subject: FW: PC 15-17

He would like a waiver of first.

From: Steve Panko [<mailto:spanko@kdp-llc.com>]
Sent: Friday, July 24, 2015 8:44 AM
To: Ganser, Jennifer
Subject: Re: PC 15-17

Yes.

Also, who owns the center where Quiznos went out of on Roosevelt?

Sent from my iPhone

On Jul 24, 2015, at 8:35 AM, Ganser, Jennifer <GanserJ@villageoflombard.org> wrote:

Steve,

FYI, we are publishing for the amendment to the annexation agreement to be heard on August 13th which is the same day as the amendment to the planned development ordinance. Please let me know if you would like a waiver of first reading.

Jennifer

Jennifer Ganser

Assistant Director of
Community Development
Village of Lombard
255 E Wilson Ave. Lombard, IL 60148

<image001.png>

Phone: (630) 620-5717
Fax: (630) 620-2374
Email: ganserj@villageoflombard.org
Web: www.villageoflombard.org

Follow us:

<image002.png> <image003.png> <image004.png>

ORDINANCE NO. _____

**AN ORDINANCE AUTHORIZING A FOURTH AMENDMENT
TO ORDINANCE 5122, ADOPTED MAY 2, 2002,
AS AMENDED BY ORDINANCE 5559, ADOPTED OCTOBER 7, 2004,
ORDINANCE 5878, ADOPTED JUNE 1, 2006 AND ORDINANCE 6663, ADOPTED
NOVEMBER 17, 2011 AUTHORIZING AN ANNEXATION AGREEMENT**

(BOT 15-02; 207-221 & 223 E. Roosevelt and 120 – 124 E. 13th Street
(V-Land Planned Development))

WHEREAS, VLAND LOMBARD HIGHLAND LLC, an Illinois Limited Liability Corporation, (hereinafter referred to as "the Developer") has petitioned the Village for an amendment to Ordinance Number 5122, adopted May 2, 2002; as amended by Ordinance 5559, adopted October 7, 2004; as amended by Ordinance 5878, adopted June 1, 2006; as amended by Ordinance 6663, adopted November 17, 2011 (hereinafter "the Fourth Amendment") to said Ordinance providing for an annexation agreement relative to the property described in Section 3 below (hereinafter the "Subject Property"); and

WHEREAS, said petition of the Developer requests an amendment to Ordinance Number 6663, deleting Section (5)(b)(v) in its entirety;

WHEREAS, a public hearing was held by the Village's Plan Commission on July 20, 2015, pursuant to appropriate and legal notice, for the purpose of considering the petition of the Developer for the amended plan and the Plan Commission has submitted to the Corporate Authorities of the Village its findings and recommendations with respect to said petition; and

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

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

NOW, THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

SECTION 1: That Ordinance 5122, adopted May 2, 2002, and Ordinance 5559, adopted October 7, 2004, Ordinance 5878, adopted June 1, 2006, and Ordinance 6663, adopted November 17, 2011 is hereby further amended to include the Fourth Amendment attached hereto and marked Exhibit "A", by and between the Developer and the Village of Lombard.

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

SECTION 3: This Ordinance is limited and restricted to the properties generally located at 207-221 & 223 E. Roosevelt and 120 – 124 E. 13th Street (a.k.a., the V-Land Planned Development), Lombard, Illinois; legally described as follows:

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

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

SECTION 4: That all other portions of Ordinance Number 5122, adopted May 2, 2002, Ordinance Number 5559, adopted October 7, 2004, Ordinance Number 5878, adopted June 1, 2006, Ordinance Number 6663, adopted November 17, 2011 and not amended by this Ordinance, shall remain in full force and effect.

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

Passed on first reading this _____ day of _____, 2015.

First reading waived by action of the Board of Trustees this _____ day of _____, 2015.

Passed on second reading this _____ day of _____, 2015.

Ayes: _____

Nayes: _____

Absent: _____

Approved this _____ day of _____, 2015.

Keith T. Giagnorio, Village President

ATTEST:

Sharon Kuderna, Village Clerk

Published by me this _____ day of _____, 2015.

Sharon Kuderna, Village Clerk

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

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

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

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

COMMON STREET ADDRESS: **207-221 & 223 E. Roosevelt and 120 – 124 E. 13th Street
Lombard, Illinois**

FOURTH AMENDMENT TO ANNEXATION AGREEMENT

THIS FOURTH AMENDMENT TO ANNEXATION AGREEMENT (“**The Fourth Amendment**”) is made and entered into as of this 13 day of August, 2015, by and between the Village of Lombard, a municipal corporation (the “**Village**”) and Vland Lombard Highland LLC, an Illinois limited liability company (the “**Developer**”). (The Developer and the Village are hereinafter sometimes referred to herein individually as a “**Party**” and collectively as the “**Parties**”).)

WITNESSETH:

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

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

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

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

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

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

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

WHEREAS, the Village and the Developer previously entered into a Third Amendment to the Agreement, dated November 17, 2011, (the “**Third Amendment**”) that governed the annexation, zoning and development of the Property and the Adjacent Property, and that was recorded against the Property and the Adjacent Property with the DuPage County Recorder on December 29, 2011 as Document Number R2011-159683 (the Agreement, as amended by the First Amendment, the Second Amendment, and the Third Amendment, being hereinafter referred to as the “Amended Agreement”); and

WHEREAS, the Developer desires to amend the development plans for the Property in a manner not allowed by the Amended Agreement, and also desires to develop the Property in a manner that is inconsistent with the provisions of the Amended Agreement, therefore, the Developer desires to amend the Amended Agreement in certain respects as hereinafter more fully set forth; and

WHEREAS, in furtherance of the foregoing, Developer has filed an application with the Village Clerk requesting approval of a planned development amendment in the B4A Community Shopping District (the “**Developer’s Fourth Application**”); and

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

WHEREAS, a public hearing on the Developer’s Fourth Application was conducted by the Village’s Plan Commission on July 20, 2015 pursuant to appropriate and legal notice, and the Plan Commission has submitted to the Corporate Authorities of the Village (the “**Corporate Authorities**”) its findings of fact and recommendations with respect to the Developer’s Fourth Application; and

WHEREAS, a public hearing on this Fourth Amendment was held by the Corporate Authorities on the 13 day of August, 2015; and

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

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

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

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

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

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

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

1. **Incorporation of Recitals**: The Village and the Developer agree that the foregoing recitals are incorporated in this Fourth Amendment as if fully recited herein.
2. **Development of the Subject Property**: The Village and the Developer agree that the Property and the Adjacent Property (hereinafter collectively referred to as the “**Subject Property**” and legally described in Exhibit J attached hereto and made part hereof) shall be developed in accordance with the terms of the Amended Agreement as amended by this Fourth Amendment.
3. **Certain Capitalized Terms**. All references in the Amended Agreement to the term “**Subject Property**” shall mean and refer to the Subject Property as defined in this Third Fourth Amendment.
4. **Site Plan Approval**: Section 5(b)(v) of the Amended Agreement is hereby deleted in its entirety.
5. **Effectiveness of the Amended Agreement**. The Amended Agreement (including the exhibits that are a part thereof), except to the extent expressly amended by this Fourth Amendment, remains in full force and effect. In the event of any conflict between the expressly stated provisions of this Fourth Amendment and the expressly stated provisions of the Amended Agreement, this Fourth Amendment shall govern and control.

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

VILLAGE OF LOMBARD, an Illinois

Municipal Corporation

By: _____

Name: _____

Title: Its President

Name: _____

Title: Village Clerk

DEVELOPER

VLAND LOMBARD HIGHLAND, LLC

By: _____

Name: Steven J. Panko

Title: Its Manager

EXHIBIT J

LEGAL DESCRIPTION OF THE SUBJECT PROPERTY

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

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

**204-221 & 223 E. Roosevelt and 120 – 124 E. 13th Street
Lombard, Illinois**

ORDINANCE NO. _____

**AN ORDINANCE AUTHORIZING AN AMENDMENT TO A CONDITIONAL USE FOR
A PLANNED DEVELOPMENT OF THE LOMBARD ZONING ORDINANCE**

**PC 15-17; 207-221 & 223 E. Roosevelt and 120 – 124 E. 13th Street
(V-Land Planned Development)**

WHEREAS, the President and Board of Trustees of the Village of Lombard have heretofore adopted the Lombard Zoning Ordinance, otherwise known as Title 15, Chapter 155 of the Code of Lombard, Illinois; and,

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

WHEREAS, a public hearing on such application has been conducted by the Village of Lombard Plan Commission on July 20, 2015 pursuant to appropriate and legal notice; and,

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

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

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

SECTION 1: Condition #8 of Ordinance 5879, adopted June 1, 2006 is hereby deleted, subject to the following conditions:

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

SECTION 2: That this amendment is hereby granted for the property described in Section 3 below, subject to the following conditions:

Ordinance No. _____

Re: PC 15-17

Page 2

1. The petitioner shall apply for and receive a building permit for any improvements to the interior of the tenant space(s) prior to starting and build-out of the tenant spaces.
2. That the petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report.

SECTION 3: This Ordinance is limited and restricted to the properties generally located at 207-221 & 223 E. Roosevelt and 120 – 124 E. 13th Street (a.k.a., the V-Land Planned Development), Lombard, Illinois; legally described as follows:

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

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

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

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

SECTION 6: This ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

Passed on first reading this ____ day of _____, 2015.

First reading waived by action of the Board of Trustees this ____ day of _____, 2015.

Passed on second reading this ____ day of _____, 2015.

Ayes: _____

Nayes: _____

Absent: _____

Approved this ____ day of _____, 2015.

Ordinance No. _____
Re: PC 15-17
Page 3

Keith T. Giagnorio, Village President

ATTEST:

Sharon Kuderna, Village Clerk