

JUNE 15, 2015

**Title**

PC 15-15

**Petitioner/ Property Owner**

Mark Anderson  
338 S. Martha Court  
Lombard, IL 60148

**Property Location**

338 S. Martha Court  
(06-08-302-032)  
Trustee District #5

**Zoning**

R2 – Single Family Residential

**Existing Land Use**

Single Family Residential

**Comprehensive Plan**

Low Density Residential

**Approval Sought**

A variation to reduce the required minimum lot area for two lots.

**Prepared By**

Tami Urish  
Planner I



LOCATION MAP

**DESCRIPTION**

The petitioner proposes to subdivide the lot located at 338 S. Martha Court into two (2) separate lots. The proposed new lots are less than the minimum required lot area however the proposal is to re-establish the dimensions of the lots as originally delineated in the Bretsnyder Subdivision in 1971. Both lots meet the width requirement of sixty feet (60') for the R2 Single Family Residential Zoning District. As the relief is associated with the division of land, the resubdivision would be deemed a major plat of subdivision and subject to Plan Commission review.

**APPROVAL(S) REQUIRED**

Pursuant to Section 154.203 (E) of the Lombard Subdivision and Development Ordinance, the petitioner requests that the Village grant approval of a plat of resubdivision with a variation from Section 155.407 (D) of the Lombard Zoning Ordinance to reduce the required minimum lot area from 7,500 square feet to 6,660 square feet for both proposed Lot 1 and proposed Lot 2.

According to Section 155.209 Minimum Lot Size: Every building hereafter erected shall provide a lot in accordance with the lot size requirement of the district within which it is located. However, in any Residence District, if a lot of record was established prior to the effective date of this ordinance, a single-family dwelling may be constructed on such lot if it consists of sufficient width and area to provide at least 80 percent of the width and area required for lots

**PROJECT STATS**

**Lot & Bulk**

<b>-Proposed</b>	<b>Lot 1</b>	<b>Lot 2</b>
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Parcel Size (sq. ft.):	6,660	6,660
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Lot Coverage:	vacant	46%
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**Reqd Setbacks & Lot Dimensions**

<b>-Proposed</b>	<b>Lot 1</b>	<b>Lot 2</b>
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Front 30':	vacant	30'
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Side 6' (north):	vacant	6'
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Side 6' (south):	vacant	6'
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Rear 35':	vacant	32'
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Lot Width 60':	60'	60'
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**Submittals**

1. Petition for a public hearing, submitted May 19, 2015;
2. Response to Standards for a Variation, submitted May 19, 2015;
3. Plat of Survey, prepared by Gentile & Associates, Inc., dated and submitted May 26, 2015; and
4. Existing Conditions, Neighborhood Photographs, submitted May 19, 2015.

in the applicable zoning district. The intent of Section 155.209 is to allow the development of lots within subdivisions created and established prior to the existence of a zoning code or the current zoning code. There are several older subdivisions within the Village of Lombard that maintain lots that are smaller by area and/or width than the current zoning code allows.

When the two lots located at 338 S Martha Court were consolidated in 1988, the nonconformity was remedied. Therefore, Section 155.209 no longer applied for staff to approve administratively.

**EXISTING CONDITIONS**

The subject property was consolidated in 1988 in order to accommodate an accessory structure, a swimming pool, on a separate lot of record. The existing consolidated dimensions of the lot are 120 feet wide and 111 feet deep with an area of 13,320 square feet. The north half of the lot maintains the two-story frame and brick single family residence with attached garage. An in-ground swimming pool occupies the southern half of the lot. The property owner intends to remove the in-ground swimming pool.

**INTER-DEPARTMENTAL REVIEW**

**Building Division:**

The Building Division has no issues or concerns regarding the proposed resubdivision.

**Fire Department:**

The Fire Department has no issues or concerns regarding the proposed resubdivision.

**Private Engineering Services (PES):**

PES has no issues or concerns regarding the proposed resubdivision.

**Public Works:**

The Department of Public Works has no issues or concerns regarding the proposed resubdivision.

**Planning Services Division (PSD):**

Minimum Lot Area

The Zoning Ordinance requires a minimum lot area of 7,500 square feet (5.8 DU/AC) for properties within the R2 Single Family Residential Zoning District, Section 155.407 (D). The proposed lot area for each lot is 6,660 square feet.

Minimum Lot Size

The eighty percent provision of Section 155.209 of the pre-existing

lots is greater than the 6,000 square foot minimum requirement at 6,660 square feet each.

Accessory Uses, Activities, Building and Structures

According to Section 155.210, no accessory building or structure shall be constructed on any lot prior to the time of construction of the principal to which it is accessory. Therefore the current property owners of the two lots in 1988 were required to consolidate them into one lot in order to construct the accessory structure to their house, the in-ground swimming pool.

The subject property is bounded by R2 single family residential uses in the Village of Lombard.

**1. Surrounding Zoning & Land Use Compatibility**

The single-family residence and lot size is consistent with the surrounding zoning and land uses of the surrounding properties.

**2. Comprehensive Plan Compatibility**

Staff finds that the single-family residence is consistent with the Comprehensive Plan's recommendation of low density residential.

**3. Zoning Ordinance & Planned Development Compatibility**

Aside from the requested lot size variance, the site complies with all other lot and setback standards established by the Zoning Ordinance R2 Single Family Residential District.

The circumstance that the property once existed for many years in the requested two lot configuration is unique. Prior to the consolidation in 1988 of the property, both lots were available for the development of a single-family residence on each.

A variation may only be granted if there is a demonstrated hardship that distinguishes the subject property from other properties in the area. Staff finds that the hardship for the requested variation is due to the floor plan of the existing single family home and the standards have been affirmed.

1. *That because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner has been shown, as distinguished from if the strict letter of the regulations were to be applied.*

Staff finds that the petitioner's lot does have unique physical limitations in that the lots were once established as proposed in the Bretsnyder resubdivision created in 1971.

2. *The conditions upon which an application for a variation is based are unique to the property for which the variation is sought, and are not generally applicable to other properties within the same zoning classification.*

The circumstance that the property once existed for many years in the requested two lot configuration is unique. Prior to the consolidation in 1988 of the property due to addition of the accessory structure (swimming pool), both lots were available for the development of a single-family residence on each.

3. *The purpose of the variation is not based primarily upon a desire to increase financial gain.*

This standard is affirmed.

4. *The alleged difficulty or hardship is shown to be caused by this ordinance and has not been created by any person presently having an interest in the property.*

Staff finds that the hardship has not been caused by the ordinance and has instead been created by the petitioner's desire to re-establish the lots in their original form since the need (the accessory structure of the swimming pool) for the consolidation is being removed.

5. *The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.*

Staff finds that granting the request would not be injurious to neighboring properties. The intent of the ordinance is to maintain an adequate lot size and the past subdivision approval was based on a determination that the lots sizes were appropriate for the area. Re-establishing the lots exceeds the eighty-percent provision by nine percent.

6. *The granting of the variation will not alter the essential character of the neighborhood.*

This standard is affirmed.

7. *The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood*

This standard is affirmed.

Staff finds that the variation request meets the standards for variation and is supportive of the variation for the following reasons. The proposed lot size of each lot of 6,660 square feet meets the eighty- percent provision (minimum of 6,000 square feet) of Section 155.209 of the Zoning Code for lots platted before the 7,500 square foot minimum lot area requirement. The lots were originally established in 1971, and the petitioner seeks to re-establish the lots as they existed prior to the consolidation.

This eighty-percent provision of Section 155.209 also includes lot width with a permissible lot width of forty-eight feet (48'). The width of each proposed lot is sixty feet (60') and meets the minimum requirement for lot width in the R2 Single Family Zoning District. At any time prior to the consolidation of the lots in 1988, the properties as established separate lots could have had a residence constructed on each lot per code without a variance. The petitioner is simply requesting to revert back to the conditions prior to the installation of the swimming pool which is to be removed.

The petitioner's neighborhood was developed and has evolved with residences on similar lots on both Martha Court and the 300 block of Garfield Terrace directly to the west of Martha Court. Granting the request would not be injurious to neighboring properties, as the requested relief would not change the visual and aesthetic character of the neighborhood.

## **SITE HISTORY**

- ZBA 98-15: Request for a rear yard setback variance for an addition. Ordinance 4562 was approved by the Village Board of Trustees on 11/5/1998. The property owner decided not to construct the project.

## **FINDINGS & RECOMMENDATIONS**

Staff finds the proposed amendment to the planned development to be consistent with the objectives of the Zoning Ordinance and the intent of the Comprehensive Plan in general.

Based on the above findings, the Inter-Departmental Review Committee has reviewed the petition and finds that it meets the standards required by the Zoning Ordinance. As such, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion recommending **approval** of this petition:

Based on the submitted petition and the testimony presented, the requested conditional use amendment **complies** with the standards required by the Village of Lombard Zoning Ordinance; and, therefore, I move that the Plan Commission accept the findings and recommendations of the Inter-Departmental Report as the findings of the Plan Commission and I recommend to the Corporate Authorities **approval** of PC 15-15 subject to the conditions:

1. The petitioner shall remove the in-ground swimming pool within one year of the approval of the requested variance;
2. Prior to the recording of any plats or ordinance of approval, the petitioner shall provide a bond to cover the anticipated costs for the removal of the in-ground swimming pool. Said costs are determined by the Director of Community Development based upon the anticipated costs to perform the requisite pool removal. Utilizing recent Village records for like pool removals, this bond shall be in the amount of \$25,000 (\$22,000 plus 15% contingency). The bond shall be returned upon the petitioner's satisfactory completion of the requisite pool removal.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP  
Director of Community Development

c. Petitioner

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## RESPONSE TO STANDARDS FOR A VARIATION

### STANDARDS FOR VARIATIONS

of the Lombard Zoning Ordinance and Lombard Sign Ordinance

The following is an excerpt from the Lombard Zoning Ordinance. A **detailed response** to all of these standards should be provided for all variations of the Lombard Zoning Ordinance and Lombard Sign Ordinance.

#### SECTION 155.103.C.7 OF THE LOMBARD ZONING ORDINANCE:

The regulations of this ordinance shall not be varied unless findings based on the evidence presented are made in each specific case that affirms each of the following standards:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be applied.

**Response:** This property, 338 Martha Court, was previously two separate, buildable lots. Our house was on one lot, and the lot to the south of the house was vacant. We consolidated the two lots into one lot in order to install an in-ground swimming pool in 1988. Our goal is to now deconsolidate the lots, and remove the pool in connection with the sale of the vacant lot and the assumed construction of a new home there. We understand that the Lombard minimum lot size was changed during the period the lots were consolidated. It would be a hardship to us if we were not able to deconsolidate the lots at this time. We just want to return the property to the legal status it had before the 1988 consolidation.

2. The conditions upon which an application for a variation is based are unique to the property for which the variation is sought, and are not generally applicable to other property within the same zoning classification.

**Response:** Our lot is on a cul-de-sac. While some of the lots are bigger, none of them are really big. We believe that one or more other homes in the cul-de-sac are approximately the same size as our two lots would be after the deconsolidation. This situation is unique to the cul-de-sac, and not generally applicable to the average lot in Lombard.

3. The purpose of the variation is not based primarily upon a desire to increase financial gain.

**Response:** The purpose of the variation is to return the property to the same legal status it had during our early years of ownership, prior to the 1988 consolidation.

4. The alleged difficulty or hardship is caused by this ordinance and has not been created by any person presently having an interest in the property.

**Response:** The requested variation relates to lot size. Obviously we have done nothing to change the size of the two lots. We simply want to return to the same two lots we previously had.

5. **The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.**

**Response:** One more house in the cul-de-sac will not reduce the property values or otherwise be injurious to the neighborhood. Arguably, a new home on the lot may be more desirable to the neighborhood than our current pool.

6. **The granting of the variation will not alter the essential character of the neighborhood; and,**

**Response:** This is a residential neighborhood. The deconsolidation and the construction of a new home will not alter the character of the neighborhood.

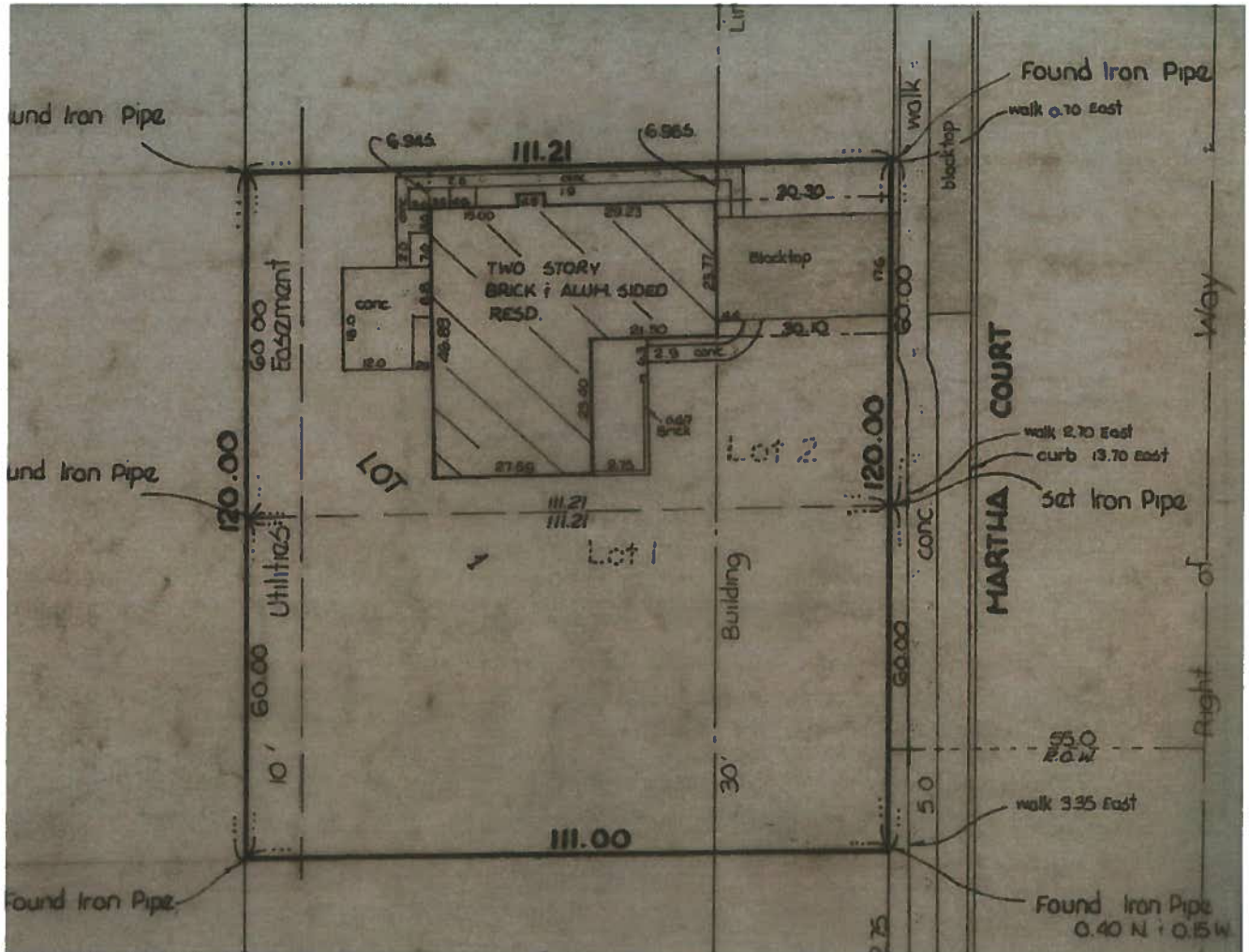
7. **The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.**

**Response:** The proposed variation in minimum lot size from 7,500 square feet to approximately 6,611 square feet will not impact the light and air supply to adjacent property. It will have only a marginal impact on traffic in the court, since it could only add one home, and the number of homes will finally be the number that was originally approved for the cul-de-sac when it was originally developed. It will not increase the danger of fire. Drainage will be consistent with the original development plans for the cul-de-sac. We believe it is as or more likely to enhance values in the neighborhood rather than diminish values.

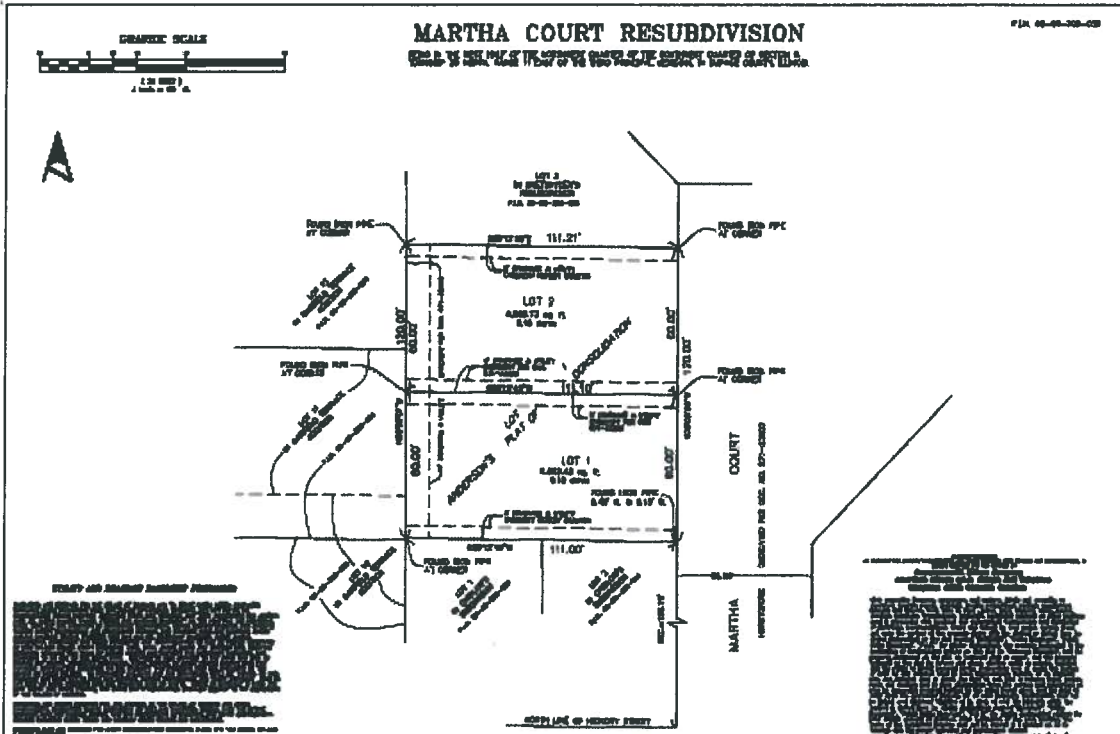




**EXHIBIT B – EXISTING PLAT OF CONSOLIDATION, 1988**



# EXHIBIT C – PROPOSED PLAT OF RESUBDIVISION



**STATE AND RELATED BUSINESS PURPOSES**

THIS PLAT IS SUBMITTED TO THE COUNTY CLERK OF ALABAMA FOR RECORDATION AND TO BE MADE A PART OF THE PUBLIC RECORDS OF THE COUNTY OF ALABAMA. THE PURPOSE OF THIS PLAT IS TO RESUBDIVIDE THE LAND SHOWN HEREON INTO LOTS AS SHOWN ON THIS PLAT FOR THE PURPOSES OF THE ALABAMA SUBDIVISION ACT.

**Authorizes the filing of this plat with the County Clerk**

I, the undersigned, being duly qualified and sworn to as a Notary Public for the County of Blount, Alabama, do hereby certify that the foregoing is a true and correct copy of the original plat of the land shown hereon, and that the same has been filed for record in the office of the County Clerk of Blount County, Alabama, on this 5th day of May, 2014.

**VALERIE CLARK CRENSHAW**  
 STATE OF ALABAMA ) S.S.  
 COUNTY OF BLOUNT )  
 APPROVED BY THE PROPERTY AND BOARD OF TRUSTEES OF THE VILLAGE OF LEBANON, ALABAMA  
 THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 2014.

**DIRECTOR OF COMMUNITY DEVELOPMENT OFFICE**  
 STATE OF ALABAMA ) S.S.  
 COUNTY OF BLOUNT )  
 APPROVED BY THE COMMISSIONER OF COMMUNITY DEVELOPMENT OF THE VILLAGE OF LEBANON, ALABAMA  
 THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 2014.

**VALERIE BELLEW CRENSHAW**  
 STATE OF ALABAMA ) S.S.  
 COUNTY OF BLOUNT )  
 I, THE COUNTY CLERK, DO HEREBY CERTIFY THAT THE ORIGINAL PLAT OF THE LAND SHOWN HEREON WAS FILED FOR RECORD IN THE OFFICE OF THE COUNTY CLERK OF BLOUNT COUNTY, ALABAMA, ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 2014.

**DEBRAE CROTTY CRENSHAW**  
 STATE OF ALABAMA ) S.S.  
 COUNTY OF BLOUNT )  
 I, THE COUNTY CLERK, DO HEREBY CERTIFY THAT THE ORIGINAL PLAT OF THE LAND SHOWN HEREON WAS FILED FOR RECORD IN THE OFFICE OF THE COUNTY CLERK OF BLOUNT COUNTY, ALABAMA, ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 2014.

**DEBRAE CROTTY CRENSHAW**  
 STATE OF ALABAMA ) S.S.  
 COUNTY OF BLOUNT )  
 THE NECESSARY RECORDS FOR THIS PLAT FOR RECORD IN THE OFFICE OF THE COUNTY CLERK OF BLOUNT COUNTY, ALABAMA, ARE HEREBY APPROVED BY THE COUNTY CLERK OF BLOUNT COUNTY, ALABAMA, ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 2014.

**STATE COUNTY REGISTER OF DEEDS**

**CRENSHAW & ASSOCIATES, INC.**  
 REGISTERED LAND SURVEYOR  
 1000 N. HIGHWAY 205  
 SUITE 100  
 PRICHARD, ALABAMA 36137  
 PHONE: 205-366-1000  
 FAX: 205-366-1001

**GENEVA WHEAT STANTON**  
 STATE OF ALABAMA ) S.S.  
 COUNTY OF BLOUNT )  
 APPROVED TO RESUBDIVIDE THE PLAT AND THE LAND SHOWN ON THE COUNTY SHALL BECOME THE PROPERTY OF THE COUNTY OF BLOUNT, ALABAMA, FOR THE PURPOSES OF THE ALABAMA SUBDIVISION ACT.

**GENEVA WHEAT STANTON**  
 STATE OF ALABAMA ) S.S.  
 COUNTY OF BLOUNT )  
 THIS IS TO CERTIFY THAT THE APPROVED PLAT OF THE LAND SHOWN HEREON IS THE ORIGINAL PLAT OF THE LAND SHOWN HEREON, AND THAT THE SAME HAS BEEN FILED FOR RECORD IN THE OFFICE OF THE COUNTY CLERK OF BLOUNT COUNTY, ALABAMA, ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 2014.

**GENEVA WHEAT STANTON**  
 STATE OF ALABAMA ) S.S.  
 COUNTY OF BLOUNT )  
 I, THE COUNTY CLERK, DO HEREBY CERTIFY THAT THE ORIGINAL PLAT OF THE LAND SHOWN HEREON WAS FILED FOR RECORD IN THE OFFICE OF THE COUNTY CLERK OF BLOUNT COUNTY, ALABAMA, ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 2014.

**GENEVA WHEAT STANTON**  
 STATE OF ALABAMA ) S.S.  
 COUNTY OF BLOUNT )  
 THE NECESSARY RECORDS FOR THIS PLAT FOR RECORD IN THE OFFICE OF THE COUNTY CLERK OF BLOUNT COUNTY, ALABAMA, ARE HEREBY APPROVED BY THE COUNTY CLERK OF BLOUNT COUNTY, ALABAMA, ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 2014.

**GENEVA WHEAT STANTON**  
 STATE OF ALABAMA ) S.S.  
 COUNTY OF BLOUNT )  
 ALL RECORDS ARE KEPT IN THE OFFICE OF THE COUNTY CLERK OF BLOUNT COUNTY, ALABAMA, AND ARE AVAILABLE FOR PUBLIC INSPECTION AT ANY TIME.

**GENEVA WHEAT STANTON**  
 STATE OF ALABAMA ) S.S.  
 COUNTY OF BLOUNT )  
 THIS PLAT IS HEREBY APPROVED BY THE COUNTY CLERK OF BLOUNT COUNTY, ALABAMA, ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 2014.

June 8, 2015

**Petition PC 15-15**

Dear Village of Lombard Plan Commission,

We are against the proposed petition to reduce the minimum lot area from 7500 square feet to 6660 square feet for the following reasons:

- **Child Safety** – The parking is already very sparse in the cul-du-sac, and adding another house will add an unknown number of vehicles and further reduce the available space on the street, making it even more dangerous for children to play on the block.
- **Emergency Access** – The added vehicles will make it very difficult for emergency vehicles to get into the cul-du-sac. In the winter, when village snow plows pile the snow into a mound in the middle of the cul-du-sac, this will be an even bigger issue.
- **The beauty of Lombard** – If the minimum lot size is reduced from 7500 square feet to 6660 square feet, that will set a precedent that will cause houses to be built far too close together and reduce the appeal of Lombard.

Thank you for your time and consideration on this matter.

Sincerely,

Anthony and Michelle Silvestri

325 Martha Court, Lombard