

VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT

TO: Lombard Plan Commission

HEARING DATE: April 15, 2013

FROM: Department of Community
Development

PREPARED BY: William J. Heniff, AICP
Director

TITLE

PC 13-06; 927-931 East Roosevelt Road: The petitioner requests that the Village grant a conditional use pursuant to Section 155.305 of the Lombard Zoning Ordinance to allow for the re-establishment of an existing building (gas station) on the subject property located in the B4A Roosevelt Road Corridor District.

GENERAL INFORMATION

Petitioner/Property Owner: BAPA LLC & PP LLC
 dba State Oil Company
 31366 Highway 45
 Libertyville, Illinois 60048

PROPERTY INFORMATION

Existing Land Use: Gas station/small convenience store (vacant)

Size of Property: Approximately 32,000 sq. ft.

Comprehensive Plan: Recommends community commercial – Roosevelt Rd. corridor

Existing Zoning: B4A Roosevelt Road Corridor Commercial District

Surrounding Zoning and Land Use:

North: B4A Roosevelt Road Corridor District; developed as a Shell gas station.

South: B4A Roosevelt Road Corridor District; developed as a legal
 nonconforming residence

East: B4A Roosevelt Road Corridor District; developed as a CVS Pharmacy

West: B4A Roosevelt Road Corridor District; developed as a home improvement
 business

ANALYSIS

DESCRIPTION

The property owner, has sub-leased the subject property for the gasoline sales and convenience mart activity. However, the sub-lessee abandoned the store and the property owner has been proceeding through legal proceedings to re-establish their ability to re-utilize the establishment. Throughout 2012 and early 2013 they have been making repairs and improvements to the property, including new asphalt surface, fencing, roofing and interior building repairs to get it ready for a new operator. Several of the exterior repairs were delayed due to winter conditions, but they intend to complete the improvements, and companion signage package, this Spring.

However, as the use has not operated for a period of over twelve months, the existing legal non-conforming use status of the property has expired. As such, they are seeking conditional use approval to allow for them to continue the requisite work and re-open the establishment accordingly. If this action is approved, it will only re-establish the legal nonconforming status of the property when the Village involuntarily annexed the property back in 2003; it will not grant conditional use approval for the gas station use.

INTER-DEPARTMENTAL REVIEW COMMENTS

PUBLIC WORKS

The Department of Public Works recommends that should the petition be approved, the petitioner shall install an ADA-compliant sidewalk ramp and sidewalk from north edge of the northern driveway apron on Meyers Road to the existing sidewalk ramp at the corner of Roosevelt Road and Meyers Road. At such time in the future that the northern driveway apron is reconstructed, it shall continue the sidewalk across the apron per standard Village specification.



PRIVATE ENGINEERING

Private Engineering Services notes that the eastern driveway onto Roosevelt Road is poorly located and exits into a right turn lane. Motorists would have to make an awkward driving maneuver across the turn lane to access a through lane – all within a matter of feet before the signaled intersection. As such, staff recommends as a condition of approval that the eastern most driveway onto Roosevelt Road be closed, in order to facilitate better overall traffic movements at the Roosevelt/Meyers intersection. Private Engineering also concurs with Public Works' comments.

FIRE DEPARTMENT

The Fire Department does not have any comments on the petition.

BUILDING DIVISION

The Building Division does not have any comments on the petition. Per code, the petitioner shall be required to apply for and receive a zoning certificate and any other requisite licenses before the facility re-opens.

PLANNING

Compliance with the Zoning Ordinance

Section 155.300 et. seq. provides the regulations for nonconforming uses and structures. Within this section, staff notes the following relevant text:

§155.302 NONCONFORMING USES

F. Abandonment or Discontinuance

When a nonconforming use of land or a nonconforming use of part or all of a building or structure is discontinued or abandoned for a period of 365 consecutive days (regardless of any reservation of an intent not to abandon and to resume such use), such use shall not thereafter be re-established or resumed (unless a conditional use is granted as per Section 155.305, below). Any subsequent use of such land, building or structure shall comply with the regulations of the zoning district in which such land, building or structure is located.

§155.305 RELIEF

The owner of any building, structure or use which is subject to elimination under the terms of this ordinance may apply to the Plan Commission for a conditional use to allow such building, structure or use to continue or be re-established.

The gas station was a legal nonconforming use, as the property was involuntarily annexed in 2003. In 2007, the Village rezoned the property to the B4A District but did not grant any zoning relief (i.e., conditional use) for the use itself.

As noted, the property owner never intended to directly to abandon the subject property and took a number of steps to demonstrate their intent to re-establish the gas station use on the property after the sub-lessee abandoned his operations. However, legal delays to get the matter resolved as well as their action to re-start the business in 2012 did take longer than expected and as such, the facility passed the one year period in which the legal nonconforming use was not operating.

The petitioner intends to re-open the business in 2013, either on their own or through a new lessee. It will be operated in a similar manner as it was prior to its closing. However, the property owner is working on providing enhanced signage for the premises (within code) and will complete the required building improvements.

Staff believes that allowing the current property owner to complete the physical improvement on the property and allowing for the station to re-open is in the best interest of the Village. Without the conditional use approval, the property itself would have to be razed or adaptively re-used to another use within the existing structure. Such repurposing activities for gas station can be deemed to be visually undesirable and an operating station would be an asset to the intersection and the corridor.

Compatibility with the Comprehensive Plan

The Comprehensive Plan recommends that the subject property be developed and utilized for commercial purposes, consistent with the recommendation of the Roosevelt Road Corridor study. By allowing the use to be re-established, it will provide for a viable retail commercial business enterprise within the corridor to remain.

Compatibility with Adjacent Uses

The gas station has been a long standing use on the premises and its continued use should not be a detriment to the area, provided that it is operated in the same manner as it has in the past. Having the facility closed may, in fact, create a greater negative impact upon the adjacent land uses, as it has encouraged fly-dumping.

FINDINGS AND RECOMMENDATIONS

Based on the above findings, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion recommending **approval** of this petition subject to the conditions as outlined:

Based on the submitted petition and the testimony presented, the proposal does comply with the standards required by the 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 Lombard Plan Commission and therefore, recommends to the Corporate Authorities **approval** of PC 13-06, subject to the following conditions:

1. That the petitioner shall apply for and receive a Certificate of Occupancy/Zoning Certificate and any other requisite licenses before the facility re-opens.
2. The eastern most driveway onto Roosevelt Road be physically closed with a barrier approved by the Village and IDOT, in order to facilitate better overall traffic movements at the Roosevelt/Meyers intersection.
3. The petitioner shall install an ADA-compliant sidewalk ramp and sidewalk from north edge of the northern driveway apron on Meyers Road to the existing sidewalk ramp at the corner of Roosevelt Road and Meyers Road. At such time in the future that the northern driveway apron is reconstructed, it shall continue the sidewalk across the apron per standard Village specification.
4. This relief shall be valid for a period of one year from the date of approval of the ordinance. If the gas station is not operating by said date, this relief shall be deemed null and void.

Inter-Departmental Review Group Report Approved By:



William J. Heniff, AICP
Director of Community Development

WJH:

att

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PT, LLC / BAPA, LLC
d/b/a STATE OIL COMPANY
31366 N. Hwy. 45
Libertyville, IL 60048
(847) 680-5831/James E. Peters

April 1, 2013

VILLAGE OF LOMBARD
Department of Community Development
255 E. Wilson Avenue
Lombard, IL 60148-3926

Re: Request for Conditional Use Zoning
Marathon Gas Station
931 E. Roosevelt Road
Lombard, IL 60148

Planning services of the Community Development
II Standards for Conditional Uses – Responses

Item 1) This is an existing gas station that we purchased July 15, 1987 and has been a gas station since then and still remains a gas station. (See attached letter of explanation and history of site.)

Item 2) Due to the current gas station existing for the last 26 years we do not see any effect to the properties in the immediate neighborhood. (See attached letter of explanation and history of site.)

Item 3) Due to the current gas station existing for the last 26 years we do not see any effect to the surrounding property for uses permitted in this district. (See attached letter of explanation and history of site.)

Item 4) Due to this being an existing developed site for the past 26 years we believe that the adequate public facilities, access roads, drainage is sufficient for this site. (See attached letter of explanation and history of site.)

Item 5) Due to this being an existing developed property we believe the ingress and egress is adequate with the exception of the easterly ingress/egress along Roosevelt Road closest to the stop light at Meyer Road could be closed off if the Village would require it.

Item 6) We believe this existing gas station is not contrary to the objectives of the current comprehensive plan for the Roosevelt Road corridor in that area.

Item 7) The existing development should conform to the applicable regulations of the district. (See attached detailed letter of explanation and history of site.)

Sincerely,



BAPA, LLC & PT, LLC
d/b/a State Oil Company
James E. Peters,
General Manager



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Lombard, IL 60148

Planning Services of the Community Development
Detailed Letter of Explanation & History of Site

State Oil Company has been in the petroleum business since 1968. The owners are Bill Anest and Peter Anest. We currently own 59 gas station/convenience stores. I, James E. Peters, am the General Manager of State Oil Company and have been with State Oil Company since 1968 as well. The 59 sites are titled to BAPA, LLC and PT, LLC, Bill Anest and Peter Anest (Partners) d/b/a State Oil Company.

In 1994 we leased 35 locations to Clark Refining for a long-term lease of 20 years, plus a 20 year option. In 2004 Valero Refining purchased the Clark refinery and Valero took over all of the leases from Clark Refining. As part of the lease agreements State Oil Company did not have much control of the operations as far as maintenance and such, as stated in the lease agreement. Valero decided to sub-lease the locations to single independent operators and the operators would send the rent check to Valero and we received our rents directly from Valero.

The location at 931 E. Roosevelt Road, Lombard, IL is one of the sites Valero sub-leased to an independent operator, under the name of BNB Investments. Valero contacted us and told us that the operator, BNB Investments had decided to close the facility and walk away from the location and their obligations to the lease and basically disappeared from contact. We are not sure when the facility actually closed, however, we believe it was around January of 2012.

Shortly after Valero contacted State Oil Company and asked if they could terminate State Oil's lease with them in the form of a buyout termination agreement. State Oil Company agreed to this agreement. Due to the fact that we visited the location after we found out BNB left and saw the condition of the facility and we were very frustrated of the results we observed and the condition of the property.

We received the Termination Agreement on May 7, 2012, and signed the document. Valero ran into a legal problem that Valero could not turn the site over as they needed to track down the owner of BNB and have them sign an eviction of BNB sub-lease. All of this took several months due to the legalities that were required to finalize the agreement.

Meanwhile, State Oil Company started to perform the improvements to the facility to try to get the facility cleaned up and in compliance and open faster. From the time we actually gained full possession of the facility we have made several repairs and upgrades to the facility, such as new blacktopping and seal coating, new concrete work to the drive, sidewalks, etc. new perimeter fencing, new dumpster area fencing, building repairs, removed debris and rubbish inside the store, etc.

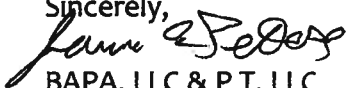
State Oil Company contacted the Office of the State Fire Marshal to see what they would need us to do to be able to open the tanks back up and put back in service. There were several repairs and upgrades we did to the entire tank system. We have installed a new electronic tank system monitoring unit that does all the required testing for the entire tank system. We also had third party testing performed on the complete tank system. The OSFM has passed us for inspections as we performed the repairs and upgrades and the OSFM has approved all the work and we have the proper documentation and are in complete compliance with the OSFM regulations and we are allowed to operate.

Additional repairs and upgrades include repair to exterior of building, paint building, new Marathon fascia on the building, the two canopies, fuel dispensers, paint perimeter fencing, upgraded the lighting inside and outside of store, updated signage. Also, in November of 2012 we found that the roof to the building was leaking and could not be repaired due to the winter weather conditions and that a new roof was needed and that work was finally completed this month. Now we can start the improvements to the interior of the facility that include cleaning, upgrades on equipment, new modern lighting, new ceiling, painting and patching walls, new image graphics, etc. and we have contractors lined up to permit and do the work once the zoning issue gets resolved.

Due to all the delays with all of the legal issues between Valero, BNB Investments, State Oil's termination agreements, and the roof leaking to prevent us from working on the interior, winter weather conditions, etc. this has taken a long time to try to get the facility open before the one year period for the zoning which we did not know was required. We have been in contact with Bill Heniff for the past several months to give updates, we just could not get it all completed on time due to all the delays.

State Oil Company respectfully requests that the Village approves our request for the conditional use zoning that we are requesting so we can open the facility soon in order to get some revenue in not only for State Oil Company, also for the Village of Lombard. We are very anxious to proceed with the work and move forward.

Sincerely,



BAPA, LLC & P T, LLC
d/b/a State Oil Company
James E. Peters
General Manager