

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

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

TO:                      PRESIDENT AND BOARD OF TRUSTEES

FROM:                  David A. Hulseberg, Village Manager *Dah*

DATE:                  September 28, 2010                                      (B of T) Date: October 7, 2010

TITLE:                  Community Development Block Grant (CDBG) – Morris Pond Stormwater  
                                 Detention Improvements

SUBMITTED BY:      Department of Community Development *ML*

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration a resolution authorizing the Village Manager to submit a Community Development Block Grant Application seeking financing assistance for the Morris Pond stormwater detention improvements.

Staff recommends approval of this request.

Please place this item on the October 7, 2010 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X \_\_\_\_\_ Date \_\_\_\_\_  
Finance Director X \_\_\_\_\_ Date \_\_\_\_\_  
Village Manager X *Dahulseberg* \_\_\_\_\_ Date 9/29/10

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:** David A. Hulseberg, Village Manager

**From:** William Heniff, AICP, Director of Community Development *WH*

**Date:** October 7, 2010

**Subject:** FY 11 CDBG - Morris Pond Stormwater Detention Improvements

The Morris Pond stormwater detention improvements are intended to help alleviate chronic flooding by providing for additional stormwater detention enhancements that will serve and benefit the residents within the Roosevelt Crest Subdivision area. The project scope would consist of reengineering an existing retention area to provide for approximately 4.4 additional acre-feet of stormwater storage volume. This additional storage would lower the flood elevation for those homes without any detriment to others. In addition, the pond would be improved with an aerator and the edge of the pond would be improved with long, native grasses to enhance the aesthetics and dissuade resident geese. Alternatively, a wetland bottom could be chosen, wherein plantings would be installed and monitored for a two-year period or until established.

### DUPAGE COUNTY

DuPage County provides FY 11 Community Development Block Grant allocated funding matches for a number of different community improvements. As stated above, the Village of Lombard is proposing stormwater detention enhancements to Morris Pond, which would qualify as a "Neighborhood Infrastructure Project" under the DuPage County CDBG criterion.

### PROJECT BUDGET

The CDBG would provide a 50% match for those qualifying improvements. According to the Letter of Intent that was submitted to DuPage County, the accessibility portion of the project is estimated at \$430,000; as such, the Village is requesting a 50% match that would total \$215,000. The following is a preliminary cost estimate of the proposed improvements:

**Preliminary Cost Estimate:**

Resident Engineering	\$ 40,000
Dewatering	\$ 15,000
Excavating (5,000 CY @ \$34)	\$170,000
Hauling & Disposal (5,000@ \$35)	\$175,000
One Flared End Section & Riprap	\$ 5,000
Aerator & Electrical Service	\$ 5,000
Plantings & Seeding	\$ 15,000
Erosion Control	<u>\$ 5,000</u>
<b>TOTAL</b>	<b>\$430,000</b>

**PUBLIC HEARING**

The Village of Lombard must hold a public hearing regarding the project. The Village must also pass a resolution authorizing the application for funds. The public meeting was held Thursday, September 23, 2010. Due to the Board of Trustees meeting date scheduling, we will be unable to provide a signed resolution prior to the October 1, 2010 application deadline. However, the County has informed us that we may provide a draft resolution as long as it is signed shortly after the application deadline. As such, this item must be on the October 7, 2010 Board meeting agenda.

**REQUIRED ITEMS**

1. Letter of Intent 2010 Neighborhood Investment CDBG. The Letter of Intent was submitted to DuPage County prior to the September 3, 2010 deadline.
2. Complete CDBG Application due October 1, 2010. The public hearing and subsequent Board resolution (exhibit 'A') will be required to proceed with the CDBG application. The CDBG application is attached as part of this correspondence.

**RECOMMENDATION**

Staff recommends that the Village Board approve a resolution authorizing the Village Manager to submit a Community Development Block Grant Application seeking financing assistance for the Morris Pond stormwater detention improvements.



## Letter of Intent

### 2011 DuPage County Neighborhood Investment, Community-Wide Benefit, Accessibility Improvements, and Planning Projects CDBG

Agency: Village of Lombard

Project Name: Morris Pond Stormwater Detention Improvements

Does this project serve an approved Neighborhood Strategy Area?  Yes  No

Date NSA Approved by CDC: \_\_\_\_\_

#### Project Type (Check One)

- Neighborhood Infrastructure and Facilities
- Accessibility Improvements
- Community Wide Benefit
- Planning Studies

Amount Requested: \$ 215,000 Total Project Cost: \$ 430,000

Contact Person: William J. Heniff, Director of Community Development

Phone: (630)620-3599 Contact E-mail: heniffw@villageoflombard.org

#### Brief Project Description:

This project is intended to help alleviate chronic flooding by providing for additional stormwater detention enhancements that will serve and benefit the residents within the Roosevelt Crest Subdivision area. The project scope would consist of reengineering and existing retention area to provide for approximately 4.4 additional acre-feet of stormwater storage volume. This additional storage would lower the flood elevation for those homes without any detriment to others. In addition, the pond would be improved with an aerator and the edge of the pond would be improved with long, native grasses to enhance the aesthetics and dissuade resident geese. Alternatively, a wetland bottom could be chosen, wherein plantings would be installed and monitored for a two-year period or until established.

Signature: 

Title: Director of Community Development

**Due Friday, September 3, 2010 by 4:30 p.m. (via fax, e-mail, or mail)**

Fax to: (630) 407-6601  
Email to: [Thomas.Schwertman@dupageco.org](mailto:Thomas.Schwertman@dupageco.org)  
Mail to: Community Development Commission  
421 N. County Farm Road  
Wheaton, IL 60187



RESOLUTION \_\_\_\_\_ 11

**RESOLUTION AUTHORIZING THE VILLAGE MANAGER TO SUBMIT A  
COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION FOR  
NEIGHBORHOOD INFRASTRUCTURE IMPROVEMENTS**

WHEREAS, the Village President and Board of Trustees believe and hereby declare that it is in the best interest of the Village and its residents to seek funding to facilitate and expedite the activities associated with the fore mentioned neighborhood infrastructure improvements; and

WHEREAS, there are funds available from DuPage County in the form of a Community Development Block Grant (CDBG) for which the Village of Lombard may apply for full funding of the activity; and

WHEREAS, the grant is for financing neighborhood infrastructure initiatives proposed for stormwater drainage and detention improvements at Morris Pond within the Village of Lombard; and

WHEREAS, the Village of Lombard staff has completed any necessary paperwork required at this time to apply for the above-mentioned grant;

WHEREAS, the Application has been drafted and a copy is attached hereto and incorporated herein as Exhibit "A, B, C and D"; and,

NOW, THEREFORE BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, THAT THE VILLAGE MANAGER SUBMIT A COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION as follows:

SECTION 1: That the Village Manager be and hereby is authorized to sign on behalf of the Village of Lombard said document as attached hereto.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2010.



Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
William J. Mueller, Village President

ATTEST:

\_\_\_\_\_  
Brigitte O'Brien, Village Clerk

## 2011 APPLICATION FORM

### DuPage County Neighborhood Investment, Community-Wide Benefit, Accessibility Improvements, and Planning Projects

This application form is for proposals for Neighborhood Investment, Community-Wide Benefit, Accessibility Improvements, and Planning Projects as identified by the DuPage Community Development Commission (CDC). This application must be accompanied by adequate support documentation.

#### INFORMATION ABOUT THE APPLICANT AND THE APPLICATION

Applicant: Village of Lombard

Name of Project: Morris Pond Stormwater Detention Improvements

Contact Person: William J. Heniff

Title: Director of Community Development

Address : 255 E. Wilson Ave

City: Lombard

State: IL

Zip: 60148

Telephone/Ext: 630.620.3599

Fax: 630.629.2374

E-mail Address: heniffw@villageoflombard.org

DUNS #: 160992199

FEIN: 36-6005975

#### Type of Project:

Accessibility Improvements for People with Disabilities

Planning Studies

Neighborhood Strategy Area Improvements\*

Neighborhood Infrastructure & Facilities

Community-Wide Benefits

\*Project is located in a CDC approved NSA area. Date NSA Approved by CDC: \_\_\_\_\_

Location of Project: Census Tract: 8442.01

Block Group: 2 & 5

Total Project Cost of Activities Funded (in whole or in part) by this Application: \$430,000

Total of CDBG Funding Requested to Support These Activities: \$215,500

If NSA Project, Year 2 CDBG Request \_\_\_\_\_ Total Project Cost Year 2 \_\_\_\_\_

If NSA Project, Year 3 CDBG Request \_\_\_\_\_ Total Project Cost Year 3 \_\_\_\_\_

**Project Abstract** In the space below, briefly describe the activity for which you are requesting funds pursuant to this application.

This project is intended to help alleviate chronic flooding by providing for additional stormwater detention enhancements that will serve and benefit the residents within the Roosevelt Crest Subdivision area. The project scope would consist of reengineering and existing retention area to provide for approximately 4.4 additional acre-feet of stormwater storage volume. This additional storage would lower the flood elevation for those homes without any detriment to others. In addition, the pond would be improved with an aerator and the edge of the pond would be improved with long, native grasses to enhance the aesthetics and dissuade resident geese. Alternatively, a wetland bottom could be chosen, wherein plantings would be installed and monitored for a two-year period or until established.

**Certification:** The undersigned certifies that to the best of his or her knowledge and belief, data in this application and its attachments are true and correct, the document has been duly authorized by the governing body of the organization, and the organization will comply with all regulations and guidelines applicable to DuPage County's Community Development Block Grant and/or Emergency Shelter Grant program, as applicable.

#### Person Authorized to Sign Application and Agreement (if funded):

Printed Name: Dave Hulseberg

Title: Village Manager

Authorized Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**PART 1: MINIMUM REQUIREMENTS**

- 1.1 **Governing Body Authorization:** A resolution that this application was authorized by your governing body as well as authorization to sign an Agreement if funding is granted is included as Attachment A on Page 17.
- 1.2 **Public Hearing:** In the space below, briefly describe methods used to solicit stakeholder input into the planning process for this application. List the date of public hearing.

**Village staff conducted a public hearing meeting to address accessibility enhancements to the Village Board Room, Morris Pond Project and the Westmore Sidewalk Segment Project on September 23, 2010. Staff advertised the meeting by placing ads in the Daily Herald. Although the public hearing was advertised in regional media sources, there was no public attendance.**

**1.2 Documentation:** The public hearing notice and minutes are in Attachment B on Page 21

- 1.3 **Capacity:** Briefly describe the capacity of your organization to carry out the proposed activities.

**The planning and due diligence portion of the project has been a dual effort in part by the Village Department of Public Works and Community Development. As the desired improvements have been finalized, the Village of Lombard will appoint contracted agencies to design and install the proposed sidewalk improvements. The Department of Public Works will oversee all activities implemented by the contracted agencies.**

- 1.4 **Fair Housing Action Plan:** A fair housing action plan is a necessary prerequisite to apply for CDBG funding.
- a. Fair Housing Action Plan: is included in Attachment C on Page 24
- b. Zoning Ordinance Compliance: Local policy requires that in order to receive funding a municipality must have a zoning ordinance that is consistent with the amended Civil Rights Act of 1988. These zoning amendments will address the issues of group homes and the definitions of family.
- An attorney's letter of opinion regarding consistency is in Attachment D on Page 38

- 1.5 **Location Map:** Identify both the exact location of the proposed project and the service area of the proposed project.

This map is included in Attachment E on Page 40

- 1.6 **Budget:** In the table below, provide information about the total project cost including information on each proposed activity (e.g., sewer, water, streets, landscaping, accessibility, planning, engineering costs, design fees, etc.) Each activity should be a separate line item in the budget. **Please note that CDBG funds can only fund actual construction costs.** Also note that multi-year funding is available only to Neighborhood Strategy Area Projects. Attach additional supporting information as necessary.

**BUDGET SUMMARY for YEAR ONE**

Type of Activity	Amount of Non-CDBG Funding	Source of Non-CDBG Funding *	Commitment Date of Non-CDBG Funding	Amount of CDBG Funding	Total Cost of Activity
Flood Drainage Improvements					
Water/Sewer Improvements					
Street Improvements					
Sidewalks					
Tree Planting					
Planning					
Senior Centers					
Youth Centers					
Neighborhood Facilities					
Parks, Recreational Facilities					
Other Public Facilities/Improvements					
Handicapped Centers					
Homeless Facilities (not operating costs)					
Child Care Centers					
Health Facilities					
Facilities for Abused and Neglected Children					
Other:					
Other: Engineering					
Other: Design Fees					
<b>TOTAL PROJECT COSTS FOR YEAR ONE</b>					

\* If a special assessment is used, explain why and attach a resolution certifying that no other source of funding is available for use on this project. Explain the timing and availability of these funds.

**As the proposed project is not a Neighborhood Strategy Area Project, a multi-year timeline does not apply.**

**BUDGET SUMMARY FOR YEAR TWO**  
 (Only to be used by applicants with CDB approved NSA plans)

Type of Activity	Amount of Non-CDBG Funding	Source of Non-CDBG Funding *	Commitment Date of Non-CDBG Funding	Amount of CDBG Funding	Total Cost of Activity
Flood Drainage Improvements					
Water/Sewer Improvements					
Street Improvements					
Sidewalks					
Tree Planting					
Planning					
Senior Centers					
Youth Centers					
Neighborhood Facilities					
Parks, Recreational Facilities					
Other Public Facilities/Improvements					
Handicapped Centers					
Homeless Facilities (not operating costs)					
Child Care Centers					
Health Facilities					
Facilities for Abused and Neglected Children					
Other:					
Other: Engineering					
Other: Design Fees					
<b>TOTAL PROJECT COSTS FOR YEAR TWO</b>					

\* If a special assessment is used, explain why and attach a resolution certifying that no other source of funding is available for use on this project. Explain the timing and availability of these funds.

**BUDGET SUMMARY FOR YEAR THREE**  
 (Only to be used for applicants with CDB approved NSA plans)

Type of Activity	Amount of Non-CDBG Funding	Source of Non-CDBG Funding *	Commitment Date of Non-CDBG Funding	Amount of CDBG Funding	Total Cost of Activity
Flood Drainage Improvements					
Water/Sewer Improvements					
Street Improvements					
Sidewalks					
Tree Planting					
Planning					
Senior Centers					
Youth Centers					
Neighborhood Facilities					
Parks, Recreational Facilities					
Other Public Facilities/Improvements					
Handicapped Centers					
Homeless Facilities (not operating costs)					
Child Care Centers					
Health Facilities					
Facilities for Abused and Neglected Children					
Other:					
Other: Engineering					
Other: Design Fees					
<b>TOTAL PROJECT COSTS FOR YEAR THREE</b>					

\* If a special assessment is used, explain why and attach a resolution certifying that no other source of funding is available for use on this project. Explain the timing and availability of these funds.

**PART 2: MEETING NATIONAL OBJECTIVES**

For the service area identified in Item 1.5, identify the total number of persons benefited by income range and the % of low-mod persons benefited by income range.

**2.1 Benefit to Low-Income Persons**

Income Range	Number of Persons Benefited	% of Persons Benefited
0-30% of MFI*		
31-50% of MFI*		
51-80% of MFI*	1172	100%
81% + of MFI*		
<b>TOTAL:</b>	1172	100%

\*MFI = Median Family Income.

Please indicate the source of the income information:

- Income Survey conducted by Applicant
- Census Data

Identify Census Tract(s) and Block Group(s) of the service area identified in Item 1.5

Census Tract 8442.01 Block Group 2 & 5  
 Census Tract \_\_\_\_\_ Block Group \_\_\_\_\_  
 Census Tract \_\_\_\_\_ Block Group \_\_\_\_\_

**2.1 Documentation:** The source of the above information is in Attachment E on Page 40

**2.2 Eliminating Conditions of Slums and Blight**

Indicate, in the boxes below, all that apply to the target area: Attach supporting documentation.

- Residential Area
- Nonresidential Area
- Area has been designated as blighted per State requirements
- Area has not been designated as blighted per State requirements
- Area is considered as blighted \_\_\_ percentage of structures are considered dilapidated or deteriorating

Describe the conditions of slums and blight.

n/a

**2.3 Urgent Community Development Needs:** Describe the urgent community development needs.

n/a

**PART 3: PROJECT IMPACT**

**3.1 Neighborhood Strategy Area (NSA) Improvements**

Is the proposed project a part of a NSA approach to planning for neighborhood improvements?

Yes or  No

If yes, what is the completion date of the NSA plan? \_\_\_\_\_

Why is the information still valid?

Neighborhood Needs

The NSA plan must cover "1" or "2," **and** "3" or "4" of the needs lists below. Please check the appropriate boxes.

- |   |   |
|---|---|
| <input type="checkbox"/> 1. Infrastructure                            | <input type="checkbox"/> 2. Facilities and Services |
| <input type="checkbox"/> 3. Neighborhood Safety/Environmental Hazards | <input type="checkbox"/> 4. Housing Quality         |

1. Infrastructure: Provide a summary description of the Infrastructure needs evaluated in the NSA plan.

n/a

2. Facilities and Services: Provide a summary description of the Facility and Service needs evaluated in the NSA plan.

n/a



3. Neighborhood Safety/Environmental Hazards: Provide a summary description of the Neighborhood Safety/Environmental Hazards needs evaluated in the NSA plan.

n/a

4. Housing Quality: Provide a summary description of the Housing Quality needs evaluated in the NSA plan.

n/a

**3.2 Housing Affordability (Applies only to applicants using NSA approach.)**

Provide information on the affordability of housing in the affected neighborhood.

Affordability Category	Number of Units
Affordable to households at 0-50% of median income	n/a
Affordable to households at 51%-80% of median income	n/a
Affordable to households at 81%-100% of median income	n/a
Affordable to households at over 100% of median income	n/a

**3.2 Documentation:** The NSA plan is in Attachment \_\_\_\_\_ on Page \_\_\_\_\_

**3.3 Consolidated Plan Priority Rating**

Refer to Selection Criteria. Enter the Priority Need Level that applies to the project.

Priority Community Development Need	Priority Need Level

**3.4 Neighborhood Infrastructure and Facilities**

This category includes activities that fall into four types. These types are: (a) flood management; (b) water and sanitary sewer; (c) open space and recreation; and (d) streets, sidewalks, street lighting, and other miscellaneous neighborhood facilities. Please provide information on activities appropriate to your project.

a. Flood Management

Please indicate the condition of flooding in the target area. One or more boxes can be checked. Attach supporting documentation.

- Project has been denied for county storm water funding.
- A substantial number of dwelling units are flooded on a regular basis and flooding is inside the house.
- A substantial number of dwelling units experience flooding in their yards and streets, with minor basement seepage.
- Residential properties are affected by flooding, but the number is not substantial.

Describe the current problems, estimate the number of persons that will benefit, and summarize the project specifications.

**This project is intended to help alleviate chronic flooding by providing for additional stormwater detention enhancements that will serve and benefit the residents within the Roosevelt Crest Subdivision area. The project scope would consist of reengineering and existing retention area to provide for approximately 4.4 additional acre-feet of stormwater storage volume. This additional storage would lower the flood elevation for those homes without any detriment to others. In addition, the pond would be improved with an aerator and the edge of the pond would be improved with long, native grasses to enhance the aesthetics and dissuade resident geese. Alternatively, a wetland bottom could be chosen, wherein plantings would be installed and monitored for a two-year period or until established.**

**The pond improvements will have a direct effect on the entire neighborhood. Morris Pond is a retention pond that is responsible for detaining stormwater for the Roosevelt Crest Subdivision area. The greater stormwater storage capacity of Morris Pond, the less water that will be relieved into other areas of the subdivision. Attachment 'F' illustrates the improvements and also provides detail on the last major storm event and how it impacted that area. Please note, only those properties who filed formal complaints with the Village are shown on the storm event map - other properties were affected.**

b. Water and Sanitary Sewer

Please indicate the condition of waters and sewers in the target area. Attach supporting documentation.

- A health or safety hazard exists affecting a substantial number of households.
- A health or safety hazard exists, but does not affect a substantial number of households.
- There is a need for water and/or sanitary sewer, but health or safety hazard has not been demonstrated.

Describe the current problems, estimate the number of persons that will benefit, and summarize the project specifications.

n/a

c. Open Space and Recreation

Please check the box that best describes the proposed activity. Attach support documentation as needed.

- Project is in a high density area where there are no other facilities within a reasonable walk of the neighborhood.
- Project will be located in an area where there are no other facilities within a reasonable walk of the neighborhood.

Describe the current problems, estimate the number of persons that will benefit, and summarize the project specifications

n/a

d. Street Improvements, Sidewalks, Street Lighting, and Other Miscellaneous Neighborhood Facilities

Please check the box that best describes the proposed activity. Attach support documentation as needed.

- Current facilities, or lack thereof, significantly contributes to a neighborhood safety hazard.
- There is a need for facilities, but a health or safety hazard has not been demonstrated.

Describe the current problems, estimate the number of persons that will benefit, and summarize the project specifications.

n/a

**3.5 Accessibility Improvements for People with Disabilities**

This category includes activities that will improve accessibility for people with disabilities through capital improvements to public or private facilities or structures.

Please check the box that best describes the proposed activity. Attach support documentation as needed.

- Improvement to a public facility that provides specific services to groups that would be expected to have a high percentage of persons with disabilities.
- Improvement to a public facility that would not be expected to have a higher than average use by persons with disabilities.
- Improvement to a private facility.

Describe the current problems, estimate the number of persons that will benefit, and summarize the project specifications.

n/a

**3.6 Community-Wide Benefit Activities**

This category includes activities that fall into two types. These types are: (a) community-wide facilities, and (b) economic development.

a. Community-Wide Facility

Describe the current problems, estimate the number of persons that will benefit, and summarize the project specifications.

n/a

a. Community-Wide Facility (continued)

Explain why the facility is not feasible as a need cluster activity because of its low priority and/or because of unavailability of funding in the need clusters.

n/a

b. Economic Development

Describe the current problems, estimate the number of persons that will benefit, and summarize the project design.

n/a

3.7 **Planning Studies**

The role of a planning study is to implement the other objectives of the CDBG program. Please indicate below the type of plan to be done.

- Affordable housing plan
- Neighborhood planning related to multi-year Neighborhood Strategy Areas
- Multi-jurisdictional land use, growth management, and development control activities plan

Describe the proposed planning study and summarize the project design.

n/a

3.8 **Other CDBG Objectives**

- a. Benefit to Minorities: Describe benefit to minority populations in the table below.

Mono-racial	No. of Persons Benefited	% of Persons Benefited
<b>Race: White</b>		
Ethnicity: Hispanic / Latino		
Ethnicity: Not Hispanic / Latino	36,829	87%
<b>Race: Black / African American</b>		
Ethnicity: Hispanic / Latino		
Ethnicity: Not Hispanic / Latino	1,411	2.7%
<b>Race: Asian</b>		
Ethnicity: Hispanic / Latino		
Ethnicity: Not Hispanic / Latino	2,982	7%
<b>Race: American Indian / Alaskan Native</b>		
Ethnicity: Hispanic / Latino		
Ethnicity: Not Hispanic / Latino	62	0.1%
<b>Race: Native Hawaiian / Other Pacific Islander</b>		
Ethnicity: Hispanic / Latino		
Ethnicity: Not Hispanic / Latino	7	0.0%

Bi-racial and Multi-racial	No. of Persons Benefited	% of Persons Benefited
<b>Race: Asian and White</b>		
Ethnicity: Hispanic / Latino		
Ethnicity: Not Hispanic / Latino		
<b>Race: Black / African American and White</b>		
Ethnicity: Hispanic / Latino		
Ethnicity: Not Hispanic / Latino		
<b>Race: American Indian/ Alaska native and Black / African American</b>		
Ethnicity: Hispanic / Latino		
Ethnicity: Not Hispanic / Latino		
<b>Race: Other Multi-racial</b>		
Ethnicity: Hispanic / Latino		
Ethnicity: Not Hispanic / Latino	695	1.6%

**3.8a Documentation:** The source of the above information is in Attachment \_\_\_\_\_ on Page \_\_\_\_\_

b. Benefit for crime prevention/reduction

Describe any direct emphasis the project will have on crime prevention.

**The proposed project is not anticipated to have a direct impact on crime prevention.**

**3.8b Documentation:** The source of the above information is in Attachment E on Page 40

c. Benefit for historic/environmental protection/energy conservation

Describe any direct emphasis the project will have on these items.

**The project will have beneficial environmental implications. In an effort to improve water quality, the edge of the pond will be improved with long, native grasses to dissuade resident geese. To improve oxygenation, an aerator would also be installed. Attachment 'F' describes the project in greater detail.**

**3.8c Documentation:** The source of the above information is in Attachment E on Page 46

- d. Leveraging of funds (See explanation page 7 of Project Ranking Criteria)
- e. Distribution Equity Adjustment for Municipal Projects (See explanation page 8 of Project Ranking Criteria)

**PART 4: PROJECT READINESS**

- 4.1 **Description of Readiness:** Describe how much planning work has been completed at the time of application, what work will be completed by the time agreement is executed, and what obstacles could remain in the way of completing each activity within one year

**The subject project area is owned by the Village of Lombard and the engineering and construction can be fast-tracked with the use of Village personnel. The only foreseen obstacle at this time would be financial resources.**

Provide a schedule of activities for the project. For activities already completed, show the actual completion date and submit documentation.

Activity	Completion Date
Project team established	
Site control	
• Property acquired	n/a
• Option acquired	n/a
• All easements acquired	n/a
• Other	n/a
Other project authorization	
• Approval of Special Service Area	n/a
• Facilities Planning Area (FPA) approval	n/a
• Property annexation complete	n/a
• Other	n/a
Completion of preliminary engineering, or project design	Fall 2010
Completion of final engineering, or project design	Spring 2011
Advertise for bids	Spring 2011
Award of contracts	Summer 2011
Start of project	Summer 2011
Substantial project completion	Fall 2011
50% of Funds Expended	Summer 2011
100% of Funds Expended	Fall 2011

1. Describe the project team. Who will be responsible for each project component?

**The Village Public Works and Community Development Departments have been coordinating efforts to try and successfully obtain the necessary funding for the proposed pond project. If such grant funding were to be made available to the Village, the Department of Public Works would coordinate the required schedule of activities.**

2. Explain any site control issues and provide necessary documentation

**The Village of Lombard owns all of the land necessary for the construction of the proposed pond improvements. The Public Works Department would supervise site safety and control of the project from the time of inception to project completion.**



3. Explain any authorization issues and provide necessary documentation.

**If funds are provided for the project, a grant acceptance resolution may have to be adopted by the Village Board of Trustees. The Village Board of Trustees will also have to approve all contracts associated with the sidewalk improvements. The Public Works Committee will have to provide a recommendation on any change orders.**

**PART 5: FAIR HOUSING**

If any actions regarding Fair Housing have taken place in the past 12 months, please detail. Refer to Selection Criteria.

n/a

# **ATTACHMENT “A”**

**Governing Body Authorization**





**VILLAGE OF LOMBARD**

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

**Village President**  
William J. Mueller

September 20, 2010

**Village Clerk**  
Brigitte O'Brien

DuPage County  
Department of Community Services  
421 N. County Farm Rd.  
Wheaton, IL 60187

**Trustees**  
Greg Alan Gron, Dist. 1  
Richard J. Tross, Dist. 2  
Zachary C. Wilson, Dist. 3  
Dana L. Moreau, Dist. 4  
Laura A. Fitzpatrick, Dist. 5  
William "Bill" Ware, Dist. 6

**RE: Authorizing Resolution – Morris Pond Improvements**

To Whom It May Concern::

**Village Manager**  
David A. Hulseberg

Due to a meeting date scheduling conflict with the Village of Lombard Board of Trustees, we are unable to provide a signed resolution prior to the October 1, 2010 application deadline. However, our Village Board is aware of our intentions with the CDBG application and has not conveyed any objections. Moreover, this item has already been placed on the October 7, 2010 Board of Trustees meeting for further action. It is our understanding that this course of action is acceptable in lieu of an official signed resolution. Lastly, we have provided a draft resolution as a place marker within our official application submittal.

*"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."*

**REQUEST**

Please accept the draft authorization resolution as part of our official CDBG application submittal for the subject improvements.

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

If you have any questions, please feel free to contact me at (630) 620-5758.

Sincerely,

**VILLAGE OF LOMBARD**

Michael S. Toth  
Planner I

(Attachment)



RESOLUTION \_\_\_\_\_ 11

**RESOLUTION AUTHORIZING THE VILLAGE MANAGER TO SUBMIT A  
COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION FOR  
NEIGHBORHOOD INFRASTRUCTURE IMPROVEMENTS**

WHEREAS, the Village President and Board of Trustees believe and hereby declare that it is in the best interest of the Village and its residents to seek funding to facilitate and expedite the activities associated with the fore mentioned neighborhood infrastructure improvements; and

WHEREAS, there are funds available from DuPage County in the form of a Community Development Block Grant (CDBG) for which the Village of Lombard may apply for full funding of the activity; and

WHEREAS, the grant is for financing neighborhood infrastructure initiatives proposed for stormwater drainage and detention improvements at Morris Pond within the Village of Lombard; and

WHEREAS, the Village of Lombard staff has completed any necessary paperwork required at this time to apply for the above-mentioned grant;

WHEREAS, the Application has been drafted and a copy is attached hereto and incorporated herein as Exhibit "A, B, C and D"; and,

NOW, THEREFORE BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, THAT THE VILLAGE MANAGER SUBMIT A COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION as follows:

SECTION 1: That the Village Manager be and hereby is authorized to sign on behalf of the Village of Lombard said document as attached hereto.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
William J. Mueller, Village President

ATTEST:

\_\_\_\_\_  
Brigitte O'Brien, Village Clerk

# **ATTACHMENT “B”**

**Public Hearing Notice and Minutes**





Notice of Public Hearing

The Village of Lombard hereby provides notice that a public meeting will be conducted to consider Community Development Block Grant applications for the following projects:

- 1. Village Hall Restroom Accessibility Enhancements
- 2. Morris Pond Stormwater Detention Improvements
- 3. Westmore-Meyers Road Sidewalk Improvements

The public hearing is scheduled for:  
Date: Thursday, September 23, 2010  
Time: 3:00 P.M.

Location:  
Lombard Village Hall  
255 E. Wilson Avenue  
Lombard, IL 60148

For more information, please visit or call the:  
Department of Community Development  
255 East Wilson Avenue  
Lombard, Illinois 60148  
630 620 5749 (TDD No. 630 873-4595)

All persons desiring to comment on the proposal will be given an opportunity to do so at the public hearing. Written statements are also encouraged and should be sent before September 23, 2010. All interested parties are encouraged to attend the public hearing.

Michael S. Toft; Planner I  
Published in Daily Herald Sept. 13, 2010 (4231622)S

CERTIFICATE OF PUBLICATION

Paddock Publications, Inc.

Daily Herald

Corporation organized and existing under and by virtue of the laws of the State of Illinois, DOES HEREBY CERTIFY that it is the publisher of the DAILY HERALD. That said DAILY HERALD is a secular newspaper and has been circulated daily in the Village(s) of Addison, Bensenville, Bloomingdale, Carol Stream, Glendale Heights, Glen Ellyn, Itasca, Keeneyville, Lisle, Lombard, Medinah, Naperville, Oak Brook, Oakbrook Terrace, Roselle, Villa Park, Warrenville, West Chicago, Wheaton, Winfield, Wood Dale

County(ies) of DuPage  
and State of Illinois, continuously for more than one year prior to the date of the first publication of the notice hereinafter referred to and is of general circulation throughout said Village(s), County(ies) and State.

I further certify that the DAILY HERALD is a newspaper as defined in "an Act to revise the law in relation to notices" as amended in 1992 Illinois Compiled Statutes, Chapter 7150, Act 5, Section 1 and 5. That a notice of which the annexed printed slip is a true copy, was published September 13, 2010 in said DAILY HERALD.

IN WITNESS WHEREOF, the undersigned, the said PADDOCK PUBLICATIONS, Inc., has caused this certificate to be signed by, this authorized agent, at Arlington Heights, Illinois.

PADDOCK PUBLICATIONS, INC.  
DAILY HERALD NEWSPAPERS

BY Kathleen Egan  
Authorized Agent

Control # 4231622





## **Meeting Minutes**

Public Hearing  
2011 Village of Lombard CDBG Proposals  
September 23, 2010

Present: Michael S. Toth, Planner I

Start Time: 3:00 p.m.

Although the public hearing was advertised in regional media sources, there was no public attendance. As such, the meeting was adjourned at exactly 4:15 p.m.



# **ATTACHMENT “C”**

## **Fair Housing Action Plan**



ORDINANCE NO. 3721A

AN ORDINANCE AMENDING TITLE 13 OF THE  
VILLAGE OF LOMBARD CODE OF ORDINANCES  
TO ESTABLISH FAIR HOUSING PRACTICES AND PROCEDURES

WHEREAS, pursuant to 65 ILCS 5/11-11.1-1 et seq. the Corporate Authorities of any municipality may enact ordinances prescribing fair housing practices and prohibiting unfair housing practices based on race, color, religion, sex, creed, ancestry, national origin, familial status, or physical or mental handicap in the listing, sale, assignment, exchange, transfer, lease, rental or financing of real property for the purpose of the residential occupancy thereof; and,

WHEREAS, the President and Board of Trustees of the Village of Lombard believe and hereby declare that it is in the best interests of the Village of Lombard and its residents to prescribe fair housing practices, to assist in the expeditious resolution of complaints, and to refer complainants to appropriate agencies charged with the enforcement of fair housing practices.

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: The foregoing recitals shall be and are hereby incorporated as if said recitals were fully set forth within this Section One.

Section 2: Title 13 of the Lombard Village Code is amended by adding a new Chapter 135 which shall read in its entirety as follows:

CHAPTER 135

FAIR HOUSING PRACTICES

135.01: DEFINITIONS: For the purpose of this Chapter, the following words and phrases shall have the meaning respectively assigned to them:

FAMILIAL STATUS

Means one or more individuals (who have not attained the age of 18 years) being domiciled with:

- A. A parent or other person having legal custody of such individual or individuals or
- B. The designee of such parent or other person having such custody, with the written permission of such parent or other person.



The protections afforded by this Chapter against discrimination on the basis of familial status apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

#### HOUSING ACCOMMODATIONS

Includes any improved or unimproved real property, or part thereof, which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home or residence of one or more individuals.

#### LEASE

Includes sub-lease, assignment, and rent (or rental) and includes any contract to do any of the foregoing.

#### LENDING INSTITUTION

Means any bank, insurance company, savings and loan association, other person in the business of lending money or guaranteeing loans, any person in the business of obtaining, arranging or negotiating loans or guarantees as agent or broker, and any person in the business of buying loans or instruments for the payment of money which are secured by title to or a security interest in real property, but shall not include any religious institution or organization nor any charitable or educational organization operated, supervised or controlled by a religious institution or organization.

#### NATIONAL ORIGIN

Includes national origin and ancestors.

#### OWNER

Means any person who holds legal or equitable title to, or owns any beneficial interest in, any real property or who holds legal or equitable title to shares of, or holds any beneficial interest in, any real estate cooperative which owns any real property.

#### PURCHASE

Includes any contract to purchase

#### REAL ESTATE BROKER OR SALESMAN

Means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself or herself out as engaged in these.

#### REAL ESTATE TRANSACTION

Includes the sale, exchange, rental or lease of real property and also includes the brokering or appraising of residential real property and the making or purchasing of loans or providing other financial assistance:

- A. For purchasing, constructing, improving, repairing or maintaining a dwelling; or,
- B. Secured by residential real estate.

#### REAL PROPERTY

Includes buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein.

#### SALE

Includes any contract to sell, exchange or convey, transfer or assign legal or equitable title to or beneficial interest in real property.

#### SOLICITATION

Means any conduct designed or intended to induce the owner of any real property to sell, rent, exchange, convey, transfer or list for sale or rental such real property.

#### 135.02: DISCRIMINATION IN REAL ESTATE TRANSACTIONS PROHIBITED

- A. No owner, lessee, or sublessee of real property, real estate broker or salesman, lender, financial institution, advertiser, or agent of any of the foregoing, shall discriminate against any person because of that person's race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental handicap, familial status, or unfavorable discharge from military service with respect to any real estate transaction.

Ordinance No. 3721A

Re: Fair Housing Practices and Procedures

Page 4

- B. Any act of discrimination in a real estate transaction shall be considered an unfair housing practice, including but not limited to the following:
1. Refusal to engage in a real estate transaction with a person or discriminate in making available such a transaction.
  2. Altering the terms, conditions or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith.
  3. Refusal to receive or failure to transmit a bona fide offer to engage in a real estate transaction from a person.
  4. Refusal to negotiate for a real estate transaction with a person.
  5. Representing to a person that real property is not available for inspection, sale, rental, or lease when, in fact, it is so available, or failure to bring a property listing to his or her attention, or refusal to permit him or her to inspect real property.
  6. Printing, circulating, posting, mailing, publishing or causing to be published a written or oral statement, advertisement or sign, or using a form of application for a real estate transaction, or making a record in inquiry in connection with a prospective real estate transaction, which expresses any limitation founded upon, or indicating, directly or indirectly an intent to engage in unlawful discrimination.
  7. Offering, soliciting, accepting, using or retaining a listing of real property with knowledge that unlawful discrimination or discrimination on the basis of familial status in a real estate transaction is intended.
  8. Soliciting for sale, leasing, listing or purchasing any residential real estate within the City on the grounds of loss of value due to the present or prospective entry into the vicinity of the property involved of any person or persons of any particular race, color, religion, national origin, ancestry, age, sex, marital status, familial status, or handicap.

9. Distributing or causing to be distributed, written material or statements designed to induce any owner of residential real estate in this City to sell or lease his or her property because of any present or prospective changes in the race, color, religion, national origin, ancestry, age, sex, marital status, familial status or handicap of residents in the vicinity of the property involved.
10. Intentionally creating alarm, among residents of any community, by transmitting communications in any manner, including a telephone call whether or not conversation thereby ensues, with a design to induce any owner of residential real estate in this Village to sell or lease his or her property because of any present or prospective entry into the vicinity of the property involved of any person or persons of any particular race, color, religion, national origin, ancestry, age, sex, marital status, familial status or handicap.
11. Discriminating or participating in discrimination in connection with borrowing or lending money, guaranteeing loans, accepting mortgages or otherwise obtaining or making available funds for the purchase, acquisition, construction, rehabilitation, repairs or maintenance of any real property in the City.

For the purpose of this subsection, discrimination in lending shall include:

- a. Refusal to make loans; or,
- b. Differentiation in the type of loans, including interest rates, charges to buyer or seller, duration and amount of loan; or,
- c. Influencing appraisals in connection with loans; or,
- d. Delaying processing loan applications.

135.03: COMPLAINT PROCEDURES:

- A. The Village shall act as a local source for assistance and information for persons who have complaints related to unfair housing practices.

Ordinance No. 3721A  
Re: Fair Housing Practices and Procedures  
Page 6

- B. The Village shall provide assistance and information to any such person, which shall include, but is not limited to:
1. The rights and remedies available to a person who has been discriminated against by virtue of an unfair housing practice;
  2. The types of discrimination which are considered to be unfair housing practices;
  3. The names, addresses, and phone numbers of county, state and federal agencies where such person may file formal complaints; and,
  4. Such other relevant information or assistance as the Village may have available to assist such person.
- C. The Village Manager or his officially appointed representative shall be responsible for coordinating and directing the Village's fair housing procedures.

Section 3: Any and all policies, resolutions, or ordinances of the Village of Lombard in conflict with the provisions of this ordinance shall be, and they are hereby, repealed.

Section 4: This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 1993.

First reading waived by action of the Board of Trustees this 1st day of July, 1993.

Passed on second reading this 1st day of July, 1993.

Ayes: TRUSTEES BIRD, GATZ, MACKETT, CARLSON, TROSS & KOENIG

Nayes: NONE

Absent: NONE

Approved this 1st, day of July, 1993.

Ordinance No. 3721A  
Re: Fair Housing Practices and Procedures  
Page 7

  
William J. Mueller  
Village President

ATTEST:

  
Lorraine G. Gerhardt  
Village Clerk

APPROVAL AS TO FORM:

\_\_\_\_\_  
Thomas P. Bayer  
Village Attorney

Published by me in pamphlet form this 8th day of July,  
1992.

  
Lorraine G. Gerhardt  
Village Clerk



COMMUNITY DEVELOPMENT

LAW OFFICES

KLEIN, THORPE AND JENKINS, LTD.

RECEIVED SEP 26 2003

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E. KENNETH FRIKER  
GERARD E. DEMPSEY  
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JAMES P. BARTLEY  
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WRITER'S E-MAIL

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[gawagner@ktinet.com](mailto:gawagner@ktinet.com)

September 26, 2003

Mr. David Hulseberg  
Director of Community Development  
Village of Lombard  
255 East Wilson Avenue  
Lombard, Illinois 60148-3931

Re: Zoning Code Compliance with the Fair Housing Act

Dear Dave:

This letter is in response to DuPage County's request for an attorney's opinion that the Village's Zoning Code ("Zoning Code") complies with the Federal Fair Housing Act, 42 U.S.C. 3601, et seq. (hereinafter the "FHA"). Based upon our research, four provisions must be changed. They involve the following: 1) a classification of family care facilities as a conditional use; 2) the structure must meet all applicable building, fire and health codes; 3) an off-street parking requirement; and 4) a parking prohibition in required front and rear yards. We have also proposed some additional changes to make the Zoning Code more defensible.

The following is a brief review of the FHA and pertinent case law:

The FHA prohibits discrimination based on race, color, religion, sex, handicap, familial status or national origin. Specifically, it imposes a duty of reasonable accommodation on the Village, stating that the following is unlawful:

(3) For purposes of this subsection, discrimination includes ... (B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

42 U.S.C. 3604(f).



Reasonable local, state or federal restrictions, regarding the maximum number of occupants permitted to occupy a dwelling, are permissible. 42 U.S.C. 3607(b)(1). Further, discrimination in the sale or rental of housing excludes "an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others," 42 U.S.C. 3604(f)(9), and "conduct against a person because of a conviction for illegal manufacture or distribution of a controlled substance" is not prohibited. 42 U.S.C. 3607(b)(4).

"Handicap" is defined to exclude "current, illegal use of or addiction to controlled substance", 42 U.S.C. 3602(h), see also 42 U.S.C. 3607(b)(4), while discrimination for familial status is based upon the following definition:

... one or more individuals (who have not attained the age of eighteen years) being domiciled with - 1) a parent or another person having legal custody of such individual or individuals; or 2) the designee of such parent or other person having such custody, with the written permission of such parent or other person. The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or who is in the process of securing legal custody of any individual who has not attained the age of eighteen years.  
42 U.S.C. 3602(k)

Such discrimination excludes certain housing intended and operated for persons 55 years of age or older, 24 C.F.R. 100.304, and certain housing intended for, and solely occupied by, persons 62 years of age or older. 24 C.F.R. 100.303.

A number of court cases have been decided in light of the FHA. The United States Supreme Court in *City of Edmonds v. Oxford House*, 514 U.S. 725 (1995), determined that building code maximum occupancy restrictions are exempt under Section 3607(b)(1), but "family composition" rules are not. In *Oxford House*, family, for the purpose of occupying single family dwelling units, was defined as persons "related by genetics, adoption or marriage, or a group of five or fewer (unrelated) persons". The Court found that this restriction was not exempt, though the Court did not otherwise rule on its validity. However, even if a building code maximum occupancy restriction is facially neutral, it can create a disparate impact in violation of the FHA. *United States v. Town of Cicero*, 1997 WL 337379 (N.D. Ill. 1997)

The Eighth Circuit in *Oxford House-C v. City of St. Louis*, 77 F.3d 249 (8th Cir. 1996), determined that a city zoning restriction limiting group homes to eight (8) residents was rational and did not violate the FHA. The refusal to seek a variance was fatal to the plaintiff's reasonable accommodation claim. *Id.* at 253. Further, the Seventh Circuit has determined that a claim was not ripe where a group home failed to utilize special use procedures to allow the Village to make reasonable accommodations. This decision was based upon a facially neutral law since the procedures were not solely required for the handicapped. *United States v. Village of Palatine*, 37 F.3d 1230 (7th Cir. 1994). (See also *City of St. Louis*, supra, refusal to apply for variance is fatal to reasonable accommodation claim). However, the Court in *Village of Palatine* noted that the group home would not be required to resort to those procedures, if the special use permit procedure was manifestly futile. *Id.* at 1234. An example of manifest futility is evidence that a municipality routinely grants or denies variances or conditional use approvals based upon neighbor and elected official support or opposition, though a village's record in responding to the

needs of the handicapped individuals and making zoning changes to accommodate the handicapped in the face of community opposition can demonstrate a lack of futility.

Where an ordinance is discriminatory on its face, it will not be saved from invalidity by the ability to seek variances. In *United States v. City of Chicago Heights*, 161 F.Supp.2d 819 (N.D. Ill. 2001), a zoning code, requiring groups of disabled persons to be lodged in detached single family homes, operated by nonprofit providers, with a maximum of one person per room, and requiring that existing building codes be complied with prior to occupancy or reoccupancy, was found to violate the FHA where there was no connection between the requirements and the needs of the disabled persons, and similar requirements were not imposed on nondisabled groups. In this case of facial discrimination, the zoning code was invalid despite the petitioner's ability to seek a variance for a reasonable accommodation. Facially discriminatory statutes must be warranted by the unique and specific needs and ability of those handicapped persons to whom the regulations apply. *Id.* at 844.

Restrictions in spacing group homes have been approved. (*City of Chicago Heights*, 161 F.Supp.2d at 838 (500 feet); *Family Style of St. Paul v. City of St. Paul, Minnesota*, 923 F.2d 91, 94 (8th Cir. 1991) (quarter mile unless approved as a conditional use or special use permit). Additionally, the denial of variations has been held not to violate the FHA under certain circumstances. *Brandt v. Village of Chebanse*, 82 F.3d 172 (7th Cir. 1996) (refusal of a variance to allow developer to erect wheelchair accessible multifamily housing in a single family housing zone). Further, required compliance with a municipality's home construction regulations does not necessarily violate the FHA (*Hemisphere Building Company, Inc. v. Village of Richton Park*, 171 F.3d 437, 441 (7th Cir. 1999) (village was not required to waive requirements for installation of sprinklers because they make homes more expensive for handicapped - as everyone else.)

In addition to other zoning codes that we reviewed, a review of the zoning code provisions addressed in some of the above cases is helpful for comparison purposes. In *Village of Palatine*, supra, a group home was a permitted use in the R-1B District, which permitted detached single family dwellings. It was limited to eight (8) unrelated persons plus staff, and was required to be licensed or certified by the state with paid professional support staff. A special use was required in the R-1B District if the group home was not licensed or certified by the state, if it was not professionally staffed, or, if it was licensed but had nine (9) or more residents. The Court found the ordinance to be facially neutral. Meanwhile, *City of St. Louis* involved an ordinance that limited group homes to 8 or fewer unrelated residents in the definition of single family dwelling. The Court stated that "(t)he City does not need to assert a specific reason for choosing eight as the cutoff point, rather than ten or twelve." *Id.* at 252. Therefore, the Court found the eight-person rule to be rational, in that it favored the handicapped on its face because the zoning ordinance otherwise allowed only three (3) unrelated non-handicapped persons to reside in a dwelling in a single family zone.

Based upon the FHA and the case law, we make the following conclusions regarding the Zoning Code's compliance with the FHA:

Section 155.219, Regulations For Group Care And Family Care Facilities, establishes the requirements of, and processes for these types of facilities. Each type of facility is addressed separately, as follows:

### Family Care Facilities.

A family care facility (no more than eight (8) unrelated persons including staff) can be approved by the Director of Community Development if it meets certain conditions. Those conditions include the requirements and standards of a conditional use. If it does not meet the conditions, the Plan Commission can recommend to the Board of Trustees approval of a conditional use upon a finding that denial would violate state or federal laws.

Despite the initial ability to administratively approve this type of facility, family care facilities must be considered a conditional use as it requires compliance with conditional use standards. However, none of the cases support a conditional use for such a small facility. (*Village of Palatine* and *City of St. Louis* involved permitted uses for such facilities. See also "Recommendations to the Illinois General Assembly on Zoning for Community Residences," Illinois Planning Council on Developmental Disabilities, January 31, 1991, p. 10, "(r)equiring a special use permit for the smaller community residences of, say, four to eight residents plus staff to locate in a single-family zoning district, even the least dense district, is almost certainly illegal under the Fair Housing Act.") Therefore, it is recommended that the conditional use requirements be deleted, so that this will be a permitted use.

The following are additional observations regarding family care facilities:

1. General provisions:
  - a. The Director of Community Development has authority to give administrative approval, subject to compliance with certain conditions, and authority to rescind approval for failure to comply. The only similar provision is found in "Model" zoning language for community residences," Community Residence Location Planning Act News, August 17, 1990, p. 5, wherein the Illinois Planning Council on Developmental Disabilities recommends that such authority be granted for permitted uses. Therefore, it seems reasonable to couple this provision with the permitted use as recommended above, and, if the facility does not meet the conditions for a permitted use, it must apply for a conditional use permit.
  - b. There is a provision for a Plan Commission recommendation and Board approval, if the facility does not meet the conditions and denial would result in a violation of state or federal law. This provision is apparently intended to avoid running afoul of the FHA, though none of the other zoning codes that we reviewed had such a provision. This provision is not necessary, though it should be understood that the Village is required to make reasonable accommodations in accordance with the FHA.
2. Condition (1) prohibits a family care facility within 300 feet of a group care facility. This distance limitation is a valid restriction; however, it may be applied to other family care facilities as well. It seems reasonable to include both types of facilities, as the distance is less restrictive than those approved by the courts.
3. Condition (2) requires off-street parking for any vehicles owned or operated by its residents and staff. This requirement appears discriminatory as it is not required for a family. Therefore, it should be deleted and default to the general off-street parking

4. Condition (3) requires the structure to meet the requirements of all applicable building, fire and health codes. There are no similar requirements for other permitted or conditional uses (conditional uses require the use to comply with applicable regulations, but is not specific to the structure). Therefore this provision appears discriminatory under *City of Chicago Heights*, and we recommend that it be deleted, though it goes without saying that compliance with other applicable codes is required.
5. Condition (4) states that "(n)o off-street parking is provided in required front or rear yards." However, Section 155.602(A)(3)(d) provides that off-street parking can be provided in any yard, except the front or corner side-yard in R-4, R-5, O and I. In R-1 and R-2, no more than 2 parking spaces are allowed in the required front and corner-side yards overnight and no more than 3 spaces in the required rear yard overnight. Condition 4 discriminates by prohibiting parking in the required front or rear yards and should be deleted to default to the general off-street parking provisions in Section 155.602.
6. Condition (5) requires family care facilities to comply with the requirements and standards for a conditional use. In effect, a family care facility is a permitted use in R-1 through R-6, subject to the conditions of a conditional use. This inconsistency should be resolved by deleting requirements of a conditional use, though it may be subject to certain other conditions.

### **Group Care Facilities.**

Group care facilities are a special use in R-1 through R-6 and are treated as such in Section 155.219, which is appropriate. Similar comments apply as to Conditions 1, 3 and 4 for family care facilities. As to Condition 2, which requires off-street parking for vehicles of residents and staff, an argument can be made that these types of facilities are similar to rooming houses, which are required to provide 2 spaces plus 1 for each room for rent. However, there is no case law to support parking requirements and other zoning codes did not require additional parking. Therefore, the conservative approach would be to default to the present code requirements.

It is important to note that the Zoning Code does not discriminate against these facilities in regard to other similar uses, such as convalescent, nursing or rest home, rooming house or day care. Home day care allows from three (3) to eight (8) children and is a permitted use in R-1 through R-6, similar to family care facilities. Convalescent/nursing home is a conditional use in R-5 and R-6, while rooming house is a conditional use only in R-6. Meanwhile, group care facilities are special uses in R-1 through R-6. Therefore, there is no evidence of discrimination against family and group care facilities in that regard.

### **Definitions and Licensing**

The Code's definition of "family" includes a maximum number of unrelated persons based upon the average family of related persons (3.14) and allows an unlimited number of persons related to one another by blood, marriage or adoption, in addition to relatives. Neither the FHA nor the cases specify the definition of family. The FHA defines familial status as stated above, and, while it could be incorporated into the definition of family, none of the cases have required it. The *Village of Palatine* Court did not question the validity of the definition of family

three relatives. Similarly, in *City of St. Louis* the ordinance was found to be valid though it limited the number of non-related persons who could dwell in a single family residence to three (3), while up to eight (8) were allowed in group homes. However, in *City of Edmonds* the Court determined that building code maximum occupancy restrictions are exempt from the Fair Housing FHA, but not "family composition" rules. Further, none of the zoning codes that we reviewed incorporated the FHA's definition of familial status into its definition of family, though one specifically excepted group homes from the definition of family. Therefore, the Zoning Code's definition of family appears valid under the FHA, but the Village should rely on the building code for determining maximum occupancy.

The definition of "family care facility" also appears valid. Exclusions are valid under the FHA for residents convicted of manufacture and distribution of controlled substances, persons whose disability arise from current use or addiction to a controlled substance, and residents who constitute a direct threat to the health and safety of other individuals or the property of others, though other zoning codes did not incorporate that language. Additionally, the Zoning Code's restriction of eight (8) unrelated persons was approved in *City of St. Louis*, though eight (8) "plus staff" is recommended. ("Model zoning language for community residences", Community Residence Location Planning Act News, Illinois Planning Council on Development Disabilities, August 17, 1990, p. 7, "We strongly recommend that the smaller group home - family community residence - have a cap set at no less than eight residents plus support staff." ) Therefore, it may be advisable to allow staff in addition to the maximum number of residents, though neither the statute nor the cases specifically require it.

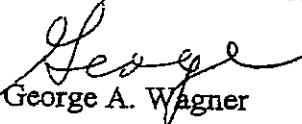
Finally, the Illinois Planning Council suggests a licensing requirement as one of the conditions for a permitted use, where the lack of such a requirement requires a special use permit. Such provisions, as in *Village of Palatine*, are worth considering.

I have drafted a letter to DuPage County stating that the Village Zoning Code is generally in compliance with the Fair Housing Act and that I have made recommendations to the Village to amend several sections to assure total compliance. Once the changes, as contained in the attached draft ordinance, have been approved, I will draft a follow up letter to DuPage County stating that the Village's Zoning Code is in total compliance with the FHA. A draft ordinance is also enclosed.

Please contact me if you would like to further discuss this matter.

Very truly yours,

KLEIN, THORPE & JENKINS, LTD.

  
George A. Wagner

Enclosures

cc: Thomas Bayer, Village Attorney

@PFDesktop::ODMA/MHODMA/CH2KDC01;iManage;118741;1

# **ATTACHMENT “D”**

**Zoning Ordinance Compliance**



**K T J**

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Attorneys at Law

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September 24, 2010

Mr. William Heniff  
Director of Community Development  
Village of Lombard  
255 East Wilson Avenue  
Lombard, Illinois 60148-3931

Re: Village of Lombard Application for Community Development Block Grant

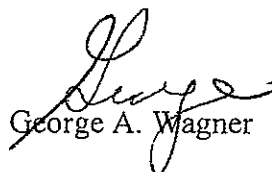
Dear Bill:

In light of the Village's anticipated applications for Community Development Block Grants, Michael Toth requested that we review applicable Village Code provisions for compliance with the Federal Fair Housing Act. In response to that request, we have reviewed the Zoning Code, applicable statutory provisions and court decisions, and it is our opinion that the Zoning Code does comply with the Federal Fair Housing Act.

If you have any questions or would like to discuss this further, please contact me.

Very truly yours,

KLEIN, THORPE & JENKINS, LTD.

  
George A. Wagner

cc: David Hulseberg, Village Manager  
Michael Toth, Planner  
Thomas P. Bayer, Village Attorney



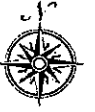


# **ATTACHMENT “E”**

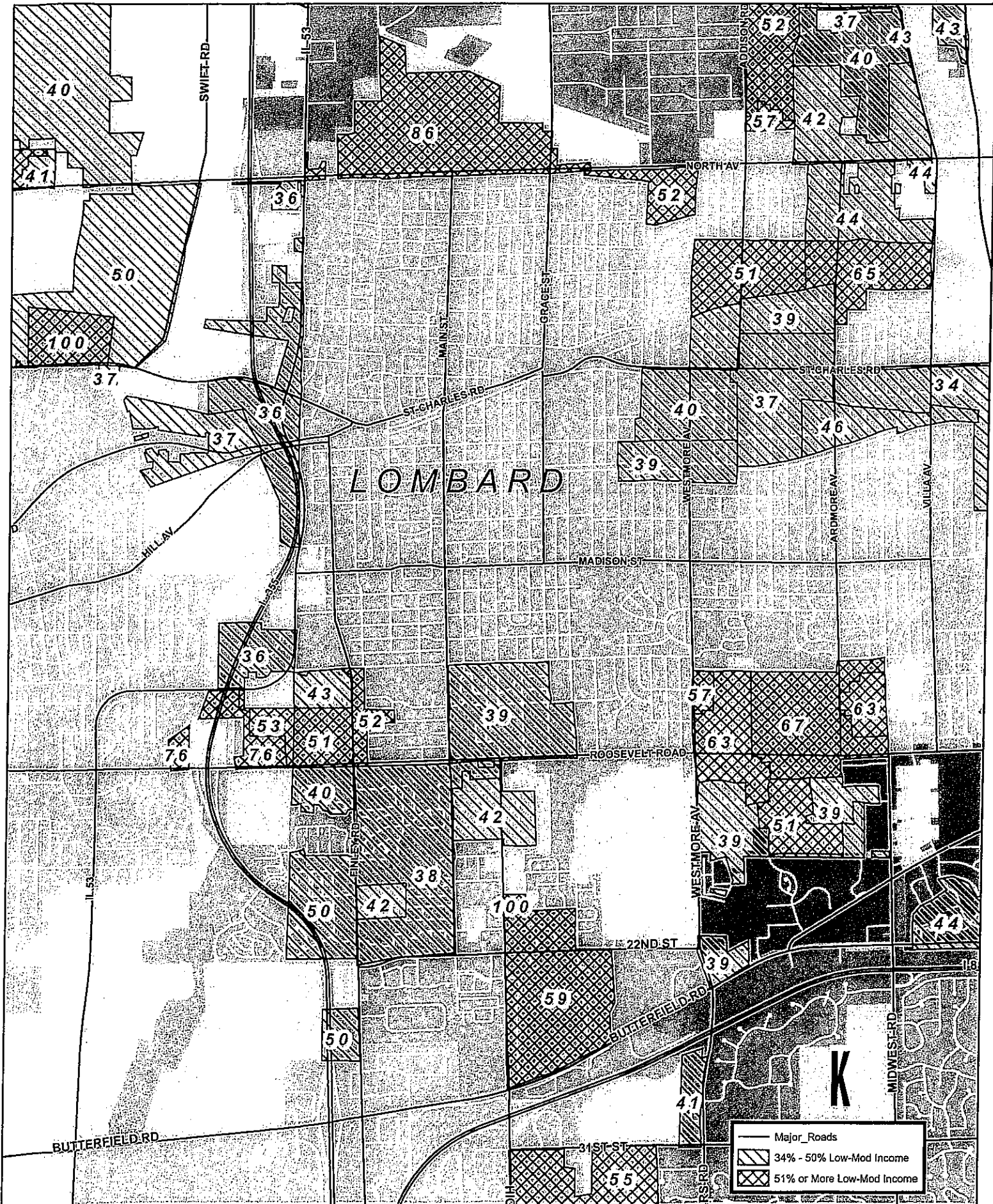
**Location & Demographic Information**



# Location Map: Morris Pond



# LOW-MOD INCOME AREAS - Village of LOMBARD

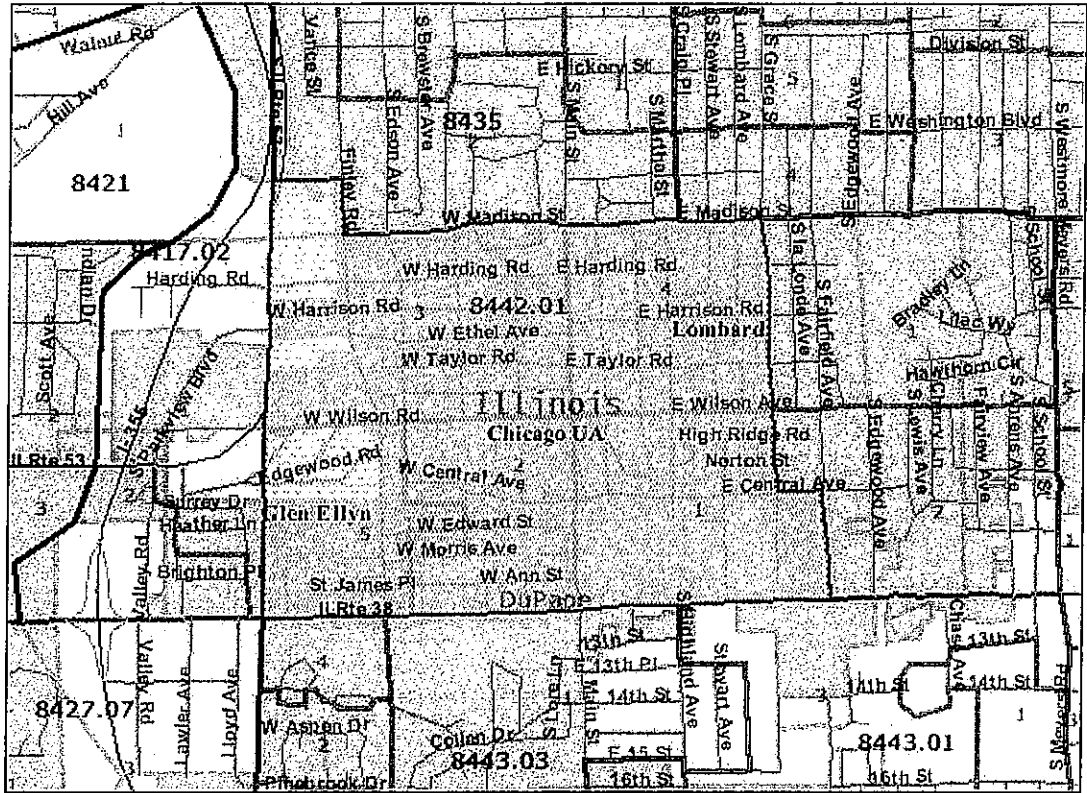


DuPage County's Low-Mod Income Figures by Census Tract and Block Group

CDBG Name	Township	Municipality	Tract	Blk grp	# of Low-mod	Total	Low-mod %
DU PAGE	Lisle township	Lisle	846104	3	0	0	
DU PAGE	Lisle township	Lisle	846202	1	556	2948	18.9
DU PAGE	Lisle township	Lisle	846202	2	100	1014	9.9
DU PAGE	Lisle township	Lisle	846301	1	121	791	15.3
DU PAGE	Lisle township	Lisle	846301	2	116	470	24.7
DU PAGE	Lisle township	Lisle	846301	3	103	641	16.1
DU PAGE	Lisle township	Lisle	846301	4	73	856	8.5
DU PAGE	Lisle township	Lisle	846301	5	30	465	6.5
DU PAGE	Lisle township	Lisle	846302	3	75	123	61.0
DU PAGE	Lisle township	Lisle	846302	5	0	0	
DU PAGE	Lisle township	Lisle	846102	3	68	68	100.0
DU PAGE	Lisle township	Lisle	846102	4	0	0	
DU PAGE	Milton township	Lisle	842705	4	31	143	21.7
DU PAGE	Addison township	Lombard	840400	1	6	7	85.7
DU PAGE	Bloomington township	Lombard	840903	1	0	33	0.0
DU PAGE	Milton township	Lombard	841702	1	143	395	36.2
DU PAGE	Milton township	Lombard	842100	1	0	0	
DU PAGE	Milton township	Lombard	842707	3	613	1925	31.8
DU PAGE	York township	Lombard	843300	1	79	408	19.4
DU PAGE	York township	Lombard	843300	2	359	1298	27.7
DU PAGE	York township	Lombard	843300	3	414	1238	33.4
DU PAGE	York township	Lombard	843300	4	362	1480	24.5
DU PAGE	York township	Lombard	843300	5	261	1004	26.0
DU PAGE	York township	Lombard	843400	1	181	847	21.4
DU PAGE	York township	Lombard	843400	2	266	1133	23.5
DU PAGE	York township	Lombard	843400	3	342	1555	22.0
DU PAGE	York township	Lombard	843500	1	239	834	28.7
DU PAGE	York township	Lombard	843500	2	497	1742	28.5
DU PAGE	York township	Lombard	843500	3	230	753	30.5
DU PAGE	York township	Lombard	843500	4	525	1959	26.8
DU PAGE	York township	Lombard	843600	1	314	788	39.8
DU PAGE	York township	Lombard	843600	2	418	1076	38.8
DU PAGE	York township	Lombard	843600	3	307	1641	18.7
DU PAGE	York township	Lombard	843600	4	232	797	29.1
DU PAGE	York township	Lombard	843600	5	139	916	15.2
DU PAGE	York township	Lombard	843600	6	200	676	29.6
DU PAGE	York township	Lombard	843600	7	171	917	18.6
DU PAGE	York township	Lombard	844201	1	354	899	39.4
DU PAGE	York township	Lombard	844201	2	132	815	16.2
DU PAGE	York township	Lombard	844201	3	490	1796	27.3
DU PAGE	York township	Lombard	844201	4	228	1169	19.5
DU PAGE	York township	Lombard	844201	5	184	357	51.5
DU PAGE	York township	Lombard	844202	1	454	1427	31.8
DU PAGE	York township	Lombard	844202	2	143	1224	11.7
DU PAGE	York township	Lombard	844301	1	0	0	
DU PAGE	York township	Lombard	844301	2	790	1346	58.7
DU PAGE	York township	Lombard	844301	3	33	525	6.3
DU PAGE	York township	Lombard	844301	4	365	1567	23.3
DU PAGE	York township	Lombard	844302	1	145	255	56.9
DU PAGE	York township	Lombard	844302	5	192	772	24.9
DU PAGE	York township	Lombard	844303	1	1084	2891	37.5
DU PAGE	York township	Lombard	844303	2	257	962	26.7
DU PAGE	York township	Lombard	844303	3	241	478	50.4

Census Tract 8442.01, DuPage County, Illinois

- Boundaries**
- State
  - '00 County
  - '00 Census Tract
  - '00 Block Group
  - '00 Block
  - '00 Place
  - '00 Place
  - '00 Urban Area
  - '00 Urban Area
- Features**
- Major Road
  - Street
  - Stream/Waterbody
  - Stream/Waterbody



2.8 miles across



## FACT SHEET

## Lombard village, Illinois

View a Fact Sheet for a race, ethnic, or ancestry group

## Census 2000 Demographic Profile Highlights:

## General Characteristics - show more &gt;&gt;

	Number	Percent	U.S.		
Total population	42,322				
Male	20,537	48.5	49.1%	map	brief
Female	21,785	51.5	50.9%	map	brief
Median age (years)	38.7	(X)	35.3	map	brief
Under 5 years	2,588	6.1	6.8%	map	
18 years and over	32,806	77.0	74.3%		
65 years and over	6,138	14.5	12.4%	map	brief
One race	41,827	98.4	97.6%		
White	36,829	87.0	75.1%	map	brief
Black or African American	1,141	2.7	12.3%	map	brief
American Indian and Alaska Native	62	0.1	0.9%	map	brief
Asian	2,982	7.0	3.6%	map	brief
Native Hawaiian and Other Pacific Islander	7	0.0	0.1%	map	brief
Some other race	806	1.4	5.5%	map	
Two or more races	695	1.6	2.4%	map	brief
Hispanic or Latino (of any race)	2,012	4.8	12.5%	map	brief
Household population	40,881	96.8	97.2%	map	brief
Group quarters population	1,341	3.2	2.8%	map	
Average household size	2.49	(X)	2.59	map	brief
Average family size	3.13	(X)	3.14	map	
Total housing units	17,019			map	
Occupied housing units	16,487	96.9	91.0%		brief
Owner-occupied housing units	12,342	74.9	66.2%	map	
Renter-occupied housing units	4,145	25.1	33.8%	map	brief
Vacant housing units	532	3.1	9.0%	map	

## Social Characteristics - show more &gt;&gt;

	Number	Percent	U.S.		
Population 25 years and over	29,144				
High school graduate or higher	26,353	90.4	80.4%	map	brief
Bachelor's degree or higher	10,494	36.0	24.4%	map	
Civilian veterans (civilian population 18 years and over)	3,515	10.8	12.7%	map	brief
Disability status (population 5 years and over)	5,406	14.0	19.3%	map	brief
Foreign born	4,850	11.6	11.1%	map	brief
Male, Now married, except separated (population 15 years and over)	9,644	58.4	56.7%		brief
Female, Now married, except separated (population 15 years and over)	9,780	56.0	52.1%		brief
Speak a language other than English at home (population 5 years and over)	5,903	15.0	17.9%	map	brief

## Economic Characteristics - show more &gt;&gt;

	Number	Percent	U.S.		
In labor force (population 16 years and over)	23,370	69.9	63.9%		brief
Mean travel time to work in minutes (workers 16 years and over)	27.6	(X)	25.5	map	brief
Median household income in 1999 (dollars)	60,015	(X)	41,994	map	
Median family income in 1999 (dollars)	69,686	(X)	50,046	map	
Per capita income in 1999 (dollars)	27,667	(X)	21,587	map	
Families below poverty level	213	2.0	9.2%	map	brief
Individuals below poverty level	1,560	3.8	12.4%	map	

## Housing Characteristics - show more &gt;&gt;

	Number	Percent	U.S.		
Single-family owner-occupied homes	10,405				brief
Median value (dollars)	168,500	(X)	119,600	map	brief
Median of selected monthly owner costs	(X)	(X)			brief
With a mortgage (dollars)	1,382	(X)	1,088	map	
Not mortgaged (dollars)	438	(X)	295		

(X) Not applicable.

Source: U.S. Census Bureau, Summary File 1 (SF 1) and Summary File 3 (SF 3)





# **ATTACHMENT “F”**

**Proposed Plans**



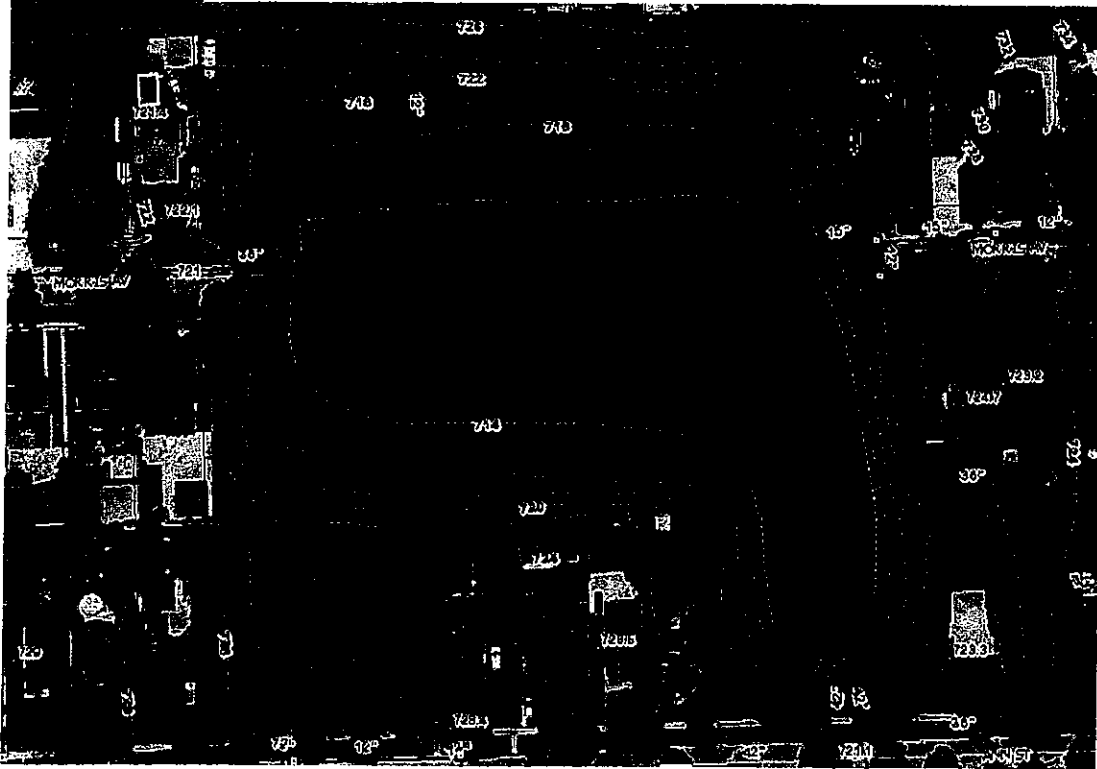
## **Proposal for Additional Flood Storage and Enhancements at Morris Pond**

**Concept:** The area next to the pond could be excavated to expand the pond to provide additional stormwater detention. The end result could be either a larger wet-bottom basin or a wetland (dry) bottom basin. The type of basin would be based on costs, grant opportunities and neighborhood preference.

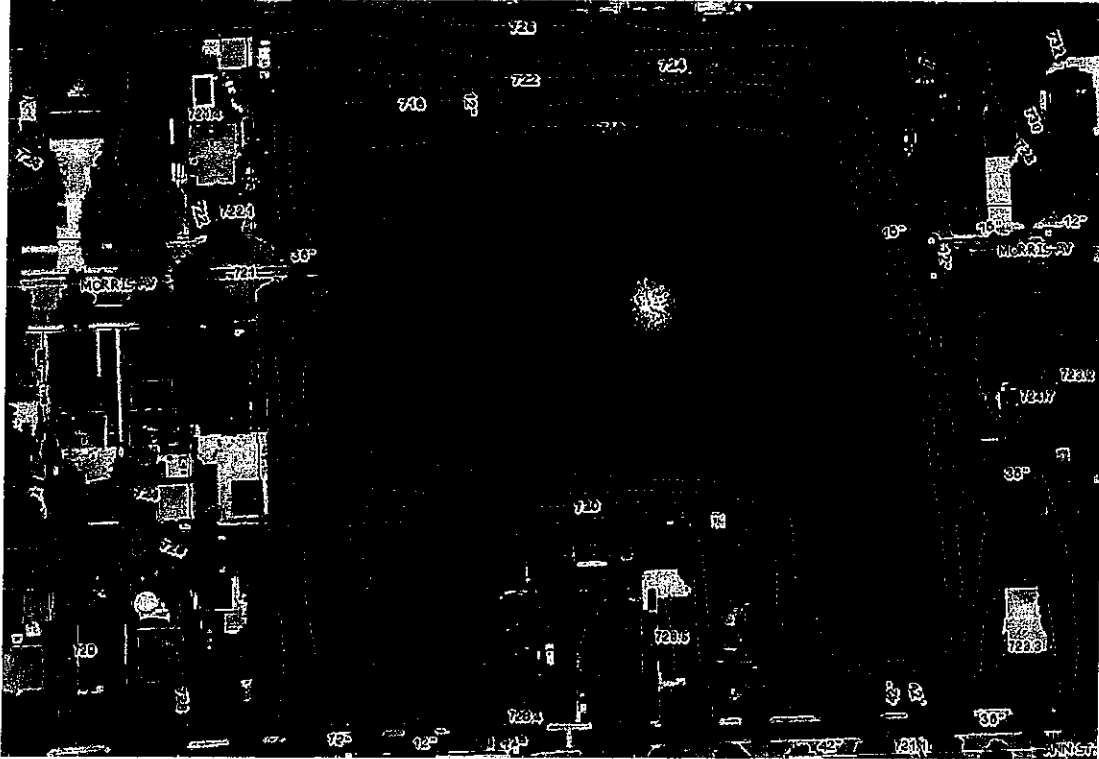
**Benefits:** Approximately 4.4 additional acre-feet of stormwater storage volume would be created under elevation 716, which is where houses start to flood near Elizabeth and Morris and Ann Street. This additional storage would lower the flood elevation for those homes without any detriment to others. In addition, the pond would be improved with an aerator and the edge of the pond would be improved with long, native grasses to enhance the aesthetics and dissuade resident geese. Alternatively, a wetland bottom could be chosen, wherein plantings would be installed and monitored for a two-year period or until established.

**Next Steps:** PW staff would create a bathymetric and topographic survey of the pond. The survey would then be used to assess the possibility for a wetland based on the mass balance and then to draft a grading plan. The project costs would be tallied to include the excavation, hauling, planting, aerator installation, wetland maintenance & monitoring and engineering. Potential funding sources would then be identified. It is anticipated that a wetland-type project would be eligible for some amount of grant funds. The preliminary cost estimate for the project is \$430,000.

### **Existing Pond:**

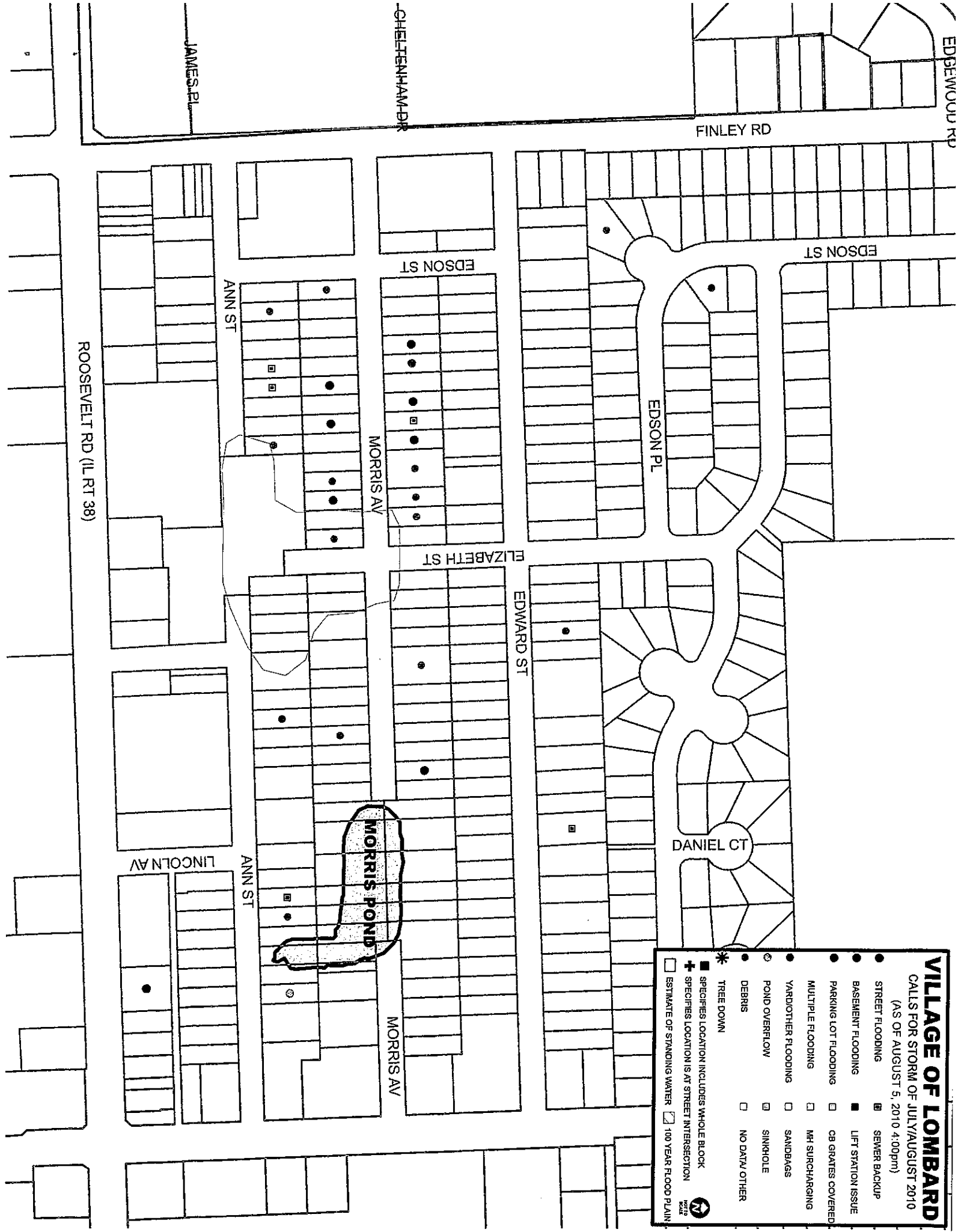


**Proposed Improvements:**



**Preliminary Cost Estimate:**

Resident Engineering	\$40,000
Dewatering	\$15,000
Excavating (5,000 CY @ \$34)	\$170,000
Hauling & Disposal (5,000@ \$35)	\$175,000
One Flared End Section & Riprap	\$5,000
Aerator & Electrical Service	\$5,000
Plantings & Seeding	\$15,000
Erosion Control	\$5,000
TOTAL	<u>\$430,000</u>



**VILLAGE OF LOMBARD**

CALLS FOR STORM OF JULY/AUGUST 2010  
(AS OF AUGUST 5, 2010 4:00pm)

- STREET FLOODING
- BASEMENT FLOODING
- PARKING LOT FLOODING
- MULTIPLE FLOODING
- YARD/OTHER FLOODING
- POND OVERFLOW
- DEBRIS
- TREE DOWN
- SPECIFICS LOCATION INCLUDES WHOLE BLOCK
- ⊕ SPECIFICS LOCATION IS AT STREET INTERSECTION
- ESTIMATE OF STANDING WATER
- SEWER BACKUP
- LIFT STATION ISSUE
- CB GRATES COVERED
- MH SURCHARGING
- SANDBAGS
- SINKHOLE
- NO DATA/OTHER
- ☑ 100 YEAR FLOOD PLAN



2010