

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE: June 11, 2014 (B of T) Date: June 19, 2014

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

SUBMITTED BY: Department of Community Development *MS*

BACKGROUND/POLICY IMPLICATIONS:

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

Staff recommends approval of this request.

Staff recommends waiver of first reading.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____ Date _____


Finance Director X _____ Date _____

Village Manager X _____ Date _____

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.

MEMORANDUM

TO: Scott R. Niehaus, Village Manager

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

DATE: June 19, 2014

SUBJECT: **Vacation of Technology Drive Public Right-of-Way; First Vacation**

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

To facilitate the ownership transfer and future development opportunities, Village of Lombard adopted Resolution R93-13 on March 7, 2013 which approved an Intergovernmental Agreement by and between Oak Brook Promenade, LLC, DMG Real Estate Holdings, LLC, the Village of Oak Brook and Lombard, relative to Technology Drive. This agreement set forth a series of actions for each of the Parties to undertake associated with Technology Drive that are beneficial to each party. Among the actions to be taken by Lombard is an obligation to vacate the portion of the Technology Road right of way in its entirety, commonly referred to within the Agreement as Parcel E, to Oakbrook Promenade LLC. A copy of the vacation plat is attached.

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

ACTION REQUESTED

Per the provisions of the agreement, a Plat of Vacation for a portion of Technology drive is being transmitted to the Village Board for approval. Please place this item on the June 19, 2014 Village Board meeting for approval, with a waiver of first reading. Per State Statute provisions, the action requires the approval of 3/4ths of the Village Board (5 of 6 members of the Village Board, excluding the Village President).

ORDINANCE NO. _____

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

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

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

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

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

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

WHEREAS, the Corporate Authorities find that the existing lot, to the North of the Subject Right-of-Way, is an improved commercial property, owned by Oak Brook Promenade LLC, and can be accessed from Butterfield Road; and

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

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

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

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

hereof (hereinafter the “Plat of Vacation”); and

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

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

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

SECTION 2: The Corporate Authorities find as follows:

- A. Pursuant to 65 ILCS 5/11-91-1, an ordinance vacating a right-of-way can provide that it shall not become effective until the owner of a particular parcel of property abutting upon the right-of-way to be vacated pays compensation to the municipality in an amount which, in the judgment of the Corporate Authorities, shall be the fair market value of the property acquired or of the benefits which will accrue to said owner by reason of the vacation.
- B. Pursuant to 65 ILCS 5/11-91-1, if the ordinance vacating a right-of-way provides that only the owner of a particular parcel abutting upon the right-of-way to be vacated shall make the aforementioned compensation payment, then said owner of said particular parcel shall acquire title to the entire vacated right-of-way.
- C. That the owner of the property commonly known as 3041 Butterfield Road, Oak Brook, Illinois; permanent tax index numbers 06-28-103-020 and 022, (hereinafter the “Abutting Property Owner”) shall make payment to the Village for the entire compensation due relative to the right-of-way vacation referenced in Section 3 below, as more specifically set forth in Section 4 below.

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

THAT PART OF HERETOFORE DEDICATED TECHNOLOGY DRIVE, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 1, 1998 AS DOCUMENT R98-179522, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF SAID TECHNOLOGY DRIVE WITH THE SOUTHEASTERLY EXTENSION OF THE SOUTHWESTERLY LINE OF LOT 1 IN NAI HIFFMAN BUTTERFIELD ROAD SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED JULY 14, 2006 AS DOCUMENT NUMBER R2006-134912; THENCE EASTERLY, SOUTHERLY AND WESTERLY ALONG THE NORTHERLY, EASTERLY

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

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

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

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

PIN: 06-28-103-020 and 022 Commonly known as Oakbrook Promenade LLC,
3041 Butterfield Road, Lombard, Illinois.

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

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

Passed on first reading this _____ day of _____ 2014.

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

Passed on second reading this _____ day of _____, 2014, pursuant to a roll call vote as

Ordinance _____
June 19, 2014
Page 4

follows:

AYES _____

NAYS _____

ABSENT _____

Approved by me this ____ day of _____, 2014.

Keith T. Giagnorio
Village President

ATTEST:

Sharon Kuderna
Village Clerk

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

Sharon Kuderna
Village Clerk

