

Village of Lombard

*Village Hall
255 East Wilson Ave.
Lombard, IL 60148
villageoflombard.org*



Meeting Agenda

Thursday, September 2, 2010

7:30 PM

Village Hall Board Room

Village Board of Trustees

Village President: William J. Mueller

Village Clerk: Brigitte O'Brien

Trustees: Greg Gron, District One; Keith Giagnorio, District Two;

Zachary Wilson, District Three; Peter Breen, District Four;

Laura Fitzpatrick, District Five; and Bill Ware, District Six

I. Call to Order and Pledge of Allegiance**II. Roll Call****III. Public Hearings****IV. Public Participation**

[100429](#) Swearing-in of Firefighter Candidate Scott Marshall

Attachments: [SwearingInMarshall.pdf](#)
[100429.pdf](#)

[100343](#) President's Community Service Award
Request to present the President's Community Service Award to Marilyn Flanagan for her contributions and support of RRAF.

Attachments: [100343.pdf](#)
[Memo Award.pdf](#)

Trustee Fitzpatrick distributed an agency report summary sheet from RRAF which explained that the Executive Director of RRAF, Marilyn Flanagan, has given up her salary to keep the doors open. This is giving above and beyond and asked for consensus to present Marilyn Flanagan with the President's Community Service Award at the September Board of Trustees meeting.

[100449](#) Proclamation - George E. Seagraves

Attachments: [procseagraves2010.doc](#)

[100450](#) Proclamation - Always Remember 9-1-1

Attachments: [proc91110.doc](#)

[100451](#) Proclamation - Knights of Columbus

Attachments: [procknightsofcolumbus2010.doc](#)

[100469](#) * Proclamation - Christ the King 50 Year Anniversary

Attachments: [procchristtheking50yranniv2010.doc](#)

V. Approval of Minutes**VI. Committee Reports**

Community Relations Committee - Trustee Laura Fitzpatrick, Chairperson

Economic/Community Development Committee - Trustee Bill Ware, Chairperson

Environmental Concerns Committee - Trustee Dana Moreau, Chairperson

Finance Committee - Trustee Zachary Wilson, Chairperson

Public Works Committee - Trustee Greg Gron, Chairperson

Transportation & Safety Committee - Trustee Keith Giagnorio, Chairperson

Board of Local Improvements - Trustee Greg Gron, President

Community Promotion & Tourism - President William J. Mueller, Chairperson

Lombard Historical Commission - Clerk Brigitte O'Brien

VII. Village Manager/Village Board Comments

VIII Consent Agenda

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Payroll/Accounts Payable

- A. [100439](#) Approval of Village Payroll
For the period ending August 14, 2010 in the amount of \$829,280.08
- B. [100440](#) Approval of Accounts Payable
For the period ending August 20, 2010 in the amount of \$551,637.44.
- C. [100448](#) Approval of Accounts Payable
For the period ending August 27, 2010 in the amount of \$792,232.68.

Ordinances on First Reading (Waiver of First Requested)

- D. [060677](#) PC 05-42: 218-226 W. St. Charles Road (The Pointe at Lombard)
Granting a further time extension (September 18, 2012) to Ordinance
5816, as amended by Ordinances 5973, 6141, 6327, 6374 and 6510
relative to the property located at 218-226 W. St. Charles Road.
(DISTRICT #1)

Attachments: [WTL memo CU ext.doc](#)
[Submit Ordinance Extension.doc](#)
[O pointe at Lombard.pdf](#)
[ORD 5973.pdf](#)
[6141 Rec0001.pdf](#)
[CoverSheet 3rd extension.doc](#)
[DAH memo CU ext 3.doc](#)
[CoverSheet 4th extension.doc](#)
[DAH memo CU ext 4 petitioner letter.doc](#)
[DAH memo CU ext 4.doc](#)
[PC 05-42 Letter.pdf](#)
[Ordinance 6237.pdf](#)
[Ordinance 6374.pdf](#)
[060677.pdf](#)
[060677.pdf](#)
[060677.pdf](#)
[060677.pdf](#)
[060677.pdf](#)
[060677.pdf](#)
[Ordinance 6510.pdf](#)
[060677BOT09 15 11.pdf](#)
[060677 Cover Page.pdf](#)
[Ordinance 6645](#)

- E. [100447](#) Sale of Surplus Equipment
Declaring five (5) Village-owned vehicles as surplus property and authorizing their sale at the Tri State Automobile Auction. Staff is requesting a waiver of first reading.
Attachments: [Ordinance 6511.pdf](#)
[100447.pdf](#)
- F. [100456](#) Supplemental Act Assessment Bonds (Special Assessment 217C)
Providing for the amendment of Ordinance #6422 reducing the interest rate to property owners for Special Assessment #217C from 9% to 5.3773%.
Attachments: [KT&J Memo w Ord Amending Ord No 6422 8 19 10.DOC](#)
[Agenda Item - Reducing SA Interest Rate.doc](#)
[KT&J Ord Amending Ord 6422 8 19 10.DOC](#)
[Ordinance 6512.pdf](#)
[100456.pdf](#)
- G. [100457](#) Aggregate \$6,700,000 General Obligation Limited Tax Debt Certificates,

Series 2010

Authorizing and providing for an Installment Contract, the Issuance of an Aggregate \$6,700,000 General Obligation Limited Tax Debt Certificate, Series 2010 for the Village of Lombard (Special Assessment 217C, Olde Towne East, Phase 5, Meter Replacement, North Industrial Park Pavement. (DISTRICTS - ALL)

Attachments: [Agenda Item GO Debt Certificates Series 2010.doc](#)

[Draft Bond Ordinance-00001311.doc](#)

[Bids Memo Legistar.pdf](#)

[Bond Ordinance-00001311.doc](#)

[Agenda Item Supplement GO Debt Cert Series 2010.doc](#)

[Ordinance 6513.pdf](#)

[Geberal Obligation Debt Certificates Series 2010.pdf](#)

[General Obligation Debt Certificates misc.pdf](#)

[100457.pdf](#)

H. [100458](#)

Liquor License Amendment - Tom & Eddie's Better Burgers Amending Title 11, Chapter 112 of the Village Code reflecting a change to Tom & Eddie's corporate structure. (DISTRICT #3)

Attachments: [Ord Corporation Change.doc](#)

[memo corporation change.doc](#)

[Agenda Form.doc](#)

[Ordinance 6514.pdf](#)

[100458.pdf](#)

Other Ordinances on First Reading**I. [100345](#)**

PC 10-08: Text Amendments to the Zoning Ordinance (Green Code)
The Village of Lombard is proposing text amendments to the Lombard Zoning Ordinance, amending Section 155.200 to establish provisions for geothermal systems, rain barrels, cisterns, Small Scale Wind Energy Systems and solar panels, Section 155.212 to establish geothermal systems, rain barrels, cisterns and solar panels as permitted obstructions in certain required yards and Section 155.800 establishing definitions for Small Scale Energy Systems while amending the definition of "Rooftop Mechanical Equipment". (DISTRICTS - ALL)

Attachments: [PUBLICNOTICE 10-08.doc](#)
[Referral Letter.doc](#)
[Report 10-08.doc](#)
[DAH referral memo.doc](#)
[Cover Sheet.doc](#)
[Ordinance 6523.pdf](#)
[100345.pdf](#)
[Memo.pdf](#)

Michael Toth, Planner I, presented the petition. The Zoning Ordinance does not specifically address alternative energy structures. However, one can place such structures on their property as they are considered "accessory structures" to principal uses and regulated as such. Due to increased energy costs and the demand for alternative energy solutions, the Village wishes to take a proactive stance and update the Zoning Ordinance to allow these structures to be placed in their niche locations. Through text amendments to the Zoning Ordinance, solar panels, wind turbines, rain barrels and cisterns would all been given special consideration in order to encourage residents to utilize their beneficial attributes.

During the April 19, 2010 workshop session, the Plan Commission raised a number of issues relative to the proposed text amendments. While the Plan Commission did not raise any issues with geothermal systems, rain barrels and cisterns, there were a number of issues raised pertaining to solar panels and wind turbines (Small Scale Wind Energy Systems). More specifically, the Plan Commission was concerned of the impact that solar panels and wind turbines could have on residential neighborhoods. With regard to solar panels, it was the Plan Commission's opinion that ground mounted solar panels could produce excessive bulk on a property and roof mounted solar panels could also become an aesthetic issue - if placed too high above the principal structure. The Plan Commission felt that wind turbines could produce unwanted noise, which could have a detrimental impact on surrounding properties. The Plan Commission also instructed staff to look into placing a cap on the permitted number of these devices.

The Plan Commission also recommended that staff research the topic based upon findings of surrounding communities. The proposed text amendments are a result of the Plan Commission comments and findings from surrounding communities. Those communities include: Oswego, IL; Lincolnshire, IL; and, the Wind Energy Task Force of Lake County Communities. Please note, staff did originally propose text amendments relative to ground mounted Small Scale Wind Energy Systems; however, those amendments are no longer being proposed. Text amendments particularly relating to ground mounted Small Scale Wind Energy Systems may come at a later date, when more information is available on the structures and when there is an increased demand for such structures.

Mr. Toth indicated that he prepared a PowerPoint presentation in order to provide a visual image for the proposed amendments.

The first slide shows solar panel application examples. For a single family application a five foot (5') pitch would be allowed to accommodate flat roofs. For commercial, industrial, office and multiple family dwellings, a ten foot (10')

pitch would be allowed to accommodate flat roofs.

The second slide shows that solar panels having a five foot (5') maximum pitch would be acceptable for single family, attached and two-family dwellings. This pitch allows for the structure itself to be pitched toward the sun.

The third slide shows a ten foot (10') maximum pitch which would be acceptable for solar panels on commercial, industrial, office and multiple-family dwellings. As these structures are not located in residential neighborhoods, the allowable pitch would not be an aesthetic issue.

The next few slides address small scale wind energy systems or wind turbines as it relates to their allowable location, size, height and sound levels. As previously mentioned, ground mounted structures are not being proposed at this time and possibly could resurrect at a later date when more information is available and there is an increased demand.

The first slide shows a few examples of the technology being used. The horizontal wind turbine type is primarily used on wind farms. The vertical type is popular with residential and business uses and does not have the same impact as the horizontal type.

Location - This slide shows the acceptable location for roof mounted small scale wind energy systems which will be permitted in all zoning districts as accessory structures. It shall not project into any requisite yard and would have to stay within the buildable area of the lot.

Size - This slide illustrates the allowable size. The maximum rotor diameter will be capped at ten feet (10').

Mr. Toth mentioned that the amendments being proposed are a culmination of the different languages found. There wasn't much language found from adjacent communities so in order to be proactive, we used language from the Village of Oswego for the ten feet (10').

Height - This language came from Lincolnshire in regard to the allowable height of ten feet (10') above the maximum building height. To capture the essence of the technology, it is crucial to have the structure project above the tree lines in order for it to operate successfully.

Sound Levels - This was taken from the Village of Lincolnshire. On the left of the slide shows what we are proposing and to the right a sound comparison chart was provided from the City of Naperville's Zoning Ordinance. It gives an example of what decibel levels are on the property.

Appearance and lighting standards were taken from the Oswego model. This allows our building department to have access to these devices for maintenance.

The permitted structures remain the same from the workshop itself as it relates to geothermal systems, rain barrels and cisterns, and solar panels.

We added a definition for small scale energy systems and had to amend the definition for rooftop mechanical equipment to exclude these energy systems.

Concluding, Mr. Toth stated that staff finds that the proposed text amendments meet the standards for text amendments and is recommending approval.

Chairperson Ryan asked if anyone was present to speak in favor or against the petition. There was no one to speak in favor or against the petition.

Chairperson Ryan then opened the meeting for comments among the Commissioners.

Commissioner Olbrysh asked staff to repeat the numbers associated with the amount of sound that comes from air conditioner units versus the wind turbines. Mr. Toth stated that the example gave 60 decibels at 10 feet away. It would be comparable to the number used for setbacks. These structures cannot be placed in interior yards but set back just like an air condenser can.

Commissioner Olbrysh commented that he did not have a problem with solar panels but was concerned about wind turbines. His research indicates that roof mounted wind turbines would have to be a 100' high tower to do its job; otherwise, with these types of home units it is like prepaying your electric bill for 20 years. On average the cost is \$7,000 - \$10,000 and it would take a long time in order to recoup your investment. He questioned whether any one in Lombard had one. Mr. Toth answered that he wasn't aware of any residential applications but there are industrial applications. The height regulation goes back to 30-40' tall so there is clearance from the ground for them to be effective.

Commissioner Olbrysh stated that his research indicates that to be effective they need to be at least 30' above the tree line. He stated that it is good to be proactive but questioned if this type of energy is useful or just for show. He was also concerned about vibration and noise as most of lot widths in Lombard average 60' whereas most of the western communities have larger lots. Mr. Toth answered that was why we excluded ground mounted types. We found that the information pertained to larger lots with different characteristics than Lombard's. We found that what they allowed didn't work here. The technology might evolve in the future to where it can accommodate the smaller lot areas.

Commissioner Olbrysh asked what happens if someone wants to mount one today. Mr. Toth answered that it would be considered an accessory structure and would follow those regulations. Mr. Stilling noted that staff is taking a baby step as we do not know where the technology is going. We would rather take our research and make it available should inquiries arise. As time goes by, we can assess this and if we need to change our code, we can take it into consideration.

Commissioner Olbrysh asked if it was staff's opinion that it was better to do this as a text amendment rather than on a case-by-case basis. Mr. Stilling stated that right now we are being proactive with building provisions and are comfortable with what we have come up with by meeting the intent of the Zoning Ordinance. If someone wants to go beyond that, for instance, have two units instead of one, they would have to get a variation. Mr. Toth added that this would be similar to a pilot program and staff will see where the market takes us. If we find that we have a lot of variations coming through, we can evolve (along with the market) and allow something above and beyond classifying it as an accessory structure.

Commissioner Sweetser stated that this is a great first step and is in favor of it as there is no definitive information about height and cost effectiveness. She suggested that when staff begins to get requests for this technology, that there be as much information available to inform people about statistics and background

information. Mr. Toth referenced the green building handbook that was introduced earlier. He added that some municipalities are being reactionary and scrambling to incorporate these elements into their code. He is hoping to see more commitment between the municipalities to share this information with each other. CMAP is currently working to get communities to cull information, but topography will ultimately be the determining factor of what is in demand and what is not.

Commissioner Cooper referred to the table in the staff report, page 3 Section 155.212, water collection, about rain barrels and cisterns. She asked for clarification in that they are not permitted in the front and corner side yards. Mr. Toth answered that it is true, that is in the yard itself a rain barrel or cistern could be put on the side of your house. The more buildable area you have the larger the barrel you can have. He explained that the structure cannot encroach more than two feet into the side yard. In the front and corner side yards we do not list it as a permitted encroachment due to aesthetics but there is no specification in the rear yard. Mrs. Stilling added that it depends on the setback of your house - you are allowed a 2' encroachment.

Commissioner Cooper stated that she did not see a problem in having them located within the 30' front yard setback because now you are minimizing and prohibiting water collection points around the home.

Commissioner Olbrysh commented that it is good that the Village is taking a proactive approach. He is hoping that everyone will do research to determine if a roof mounted wind turbine is right for them. His research does show that for this area, size does matter. The bigger it is, the better chance of recouping your investment in a shorter period of time.

J. [100378](#)

PC 10-11: 600 W. North Ave (Shell Gas Station)

Requests amendments to Ordinance #4920 to provide for the following variations from the Lombard Sign Ordinance for the property located within the B4 Corridor Commercial District:

1. A variation from Section 153.210 to allow for an Automatic Changeable Copy Sign to be located on a property with less than 500 lineal front footage;
2. A variation from Section 153.210(D) to allow for a changeable message board of an Automatic Changeable Copy Sign to exceed two (2) feet in height;
3. A variation from Section 153.210(D) to allow for a display screen of an Automatic Changeable Copy Sign to exceed eighteen (18) inches in height;
4. A variation from Section 153.210(F) to allow for a changeable message board of an Automatic Changeable Copy Sign to be located outside of the twelve (12) foot to fifteen (15) foot height range;
5. A further variation to Section 153.505(B)(19)(a)(2)(a) to increase the total number of wall signs on the subject property to a total of ten (10) signs. (DISTRICT #1)

Attachments: [apoletter 10-11.doc](#)
[Continuance MEMO 10-11.doc](#)
[PUBLIC NOTICE 10-11.doc](#)
[Ordinance 6524.pdf](#)
[100378.pdf](#)
[Ordinance 6524.pdf](#)

Chairperson Ryan stated that the petitioner has requested a continuance to the August 16, 2010 meeting.

Auna Foote, 5308 N. Northwest Highway, Chicago, presented the petition. Due to a revenue split with Circle K, Shell is proposing signage changes to two of their gas stations, one located on North Avenue and the other located on Roosevelt Road. The food and the car wash revenue would go to Circle K and Shell would get the revenues from the sale of gasoline.

Chairperson Ryan requested that she limit her presentation to the North Avenue location as the Roosevelt Road location is a separate petition and would be discussed following this petition and voted on separately.

Continuing, Ms. Foote acknowledged that the property size is below the minimum for an LED price board. Their signage package includes the price board being part of the LED sign. They are requesting this type of sign not only for structural reasons but also for safety, accuracy, environmental and technological reasons. The LED boards are changed automatically the evening before, by plugging in the new gas prices. These new prices are then displayed the following morning. As gas prices can fluctuate daily, this method ensures accuracy as to the current gas price. This method also eliminates the possibility of the wind blowing price cards away. As such, there is no possibility of damage to vehicles from price cards falling onto them. It is mandatory that the gas stations have the right price at all times, which is why they want to convert all stations over to LED. The LED boards will use lower power consumption and are environmentally efficient compared to fluorescent bulbs. The LED sign will not blink, flash, flutter or give the appearance of movement. It will just display the price. She noted that price boards are moving toward this type of technology and there will be a point in time when the price cards will become obsolete. Ms. Foote referred to the table in the staff report which outlines requests from other petitioners for LED signs. She stated that their sign is proposed to be static and just relay the price and will not contain a message.

Lastly, she noted that the sign did not meet the 12 to 15 feet height range so they reduced the square footage by 21.7 square feet from their initial proposal in order to bring the LED up higher and reduce the square footage. This reduction brings the sign into closer compliance with code.

Chairperson Ryan asked if anyone was present to speak in favor or against the petition. No one spoke in favor or against.

Chairperson Ryan then requested the staff report.

Michael Toth, Planner I, presented the staff report. The subject property is located at the northwest corner of North Avenue (IL Route 64) and IL Route 53 and improved with a Shell gas station. Shell is currently in the process of reimagining their Circle K corporate identity standard in conjunction with the carwash and building signage. As part of their corporate reimagining process, the

petitioner is requesting approval of a unified signage package.

The proposed signage package will include the expansion of existing signage, the addition of new signage on the car wash and the integration of an automatic change copy element on the existing freestanding sign. There were a number of past approvals associated with signage on the subject property. As part of this petition, signage associated with the past approvals will be further amended and the remaining signs will require additional signage relief, where applicable.

There are a total of four (4) variations associated with the proposed Automatic Changeable Copy sign - the first relates to the insufficient size of the property and the remaining three variations pertain to the design of the sign.

The Sign Ordinance limits automatic changeable copy signs to properties in the CR, B3, B4, B4A and B5 zoning districts on lots with a minimum of 500 lineal front footage. The subject property is located in the B4 Corridor Commercial District, but has a linear front footage of only 433 feet, a deficiency of 67 feet. Therefore, the Automatic Changeable Copy Sign automatically cannot be done as-of-right.

The Sign Ordinance restricts the message board component of an Automatic Changeable Copy Sign to two (2) feet tall and the display screen to 18-inches in height. The proposed Automatic Changeable Copy Sign message board is three-and-one-half (3.5) in height (see Exhibit 'A'). The intent of the height provision is to ensure that the automatic changeable copy element does not become the principal component of the freestanding sign.

The proposed display screen is twenty-six (26) inches in height where only a maximum of eighteen (18) inches is permitted. Since 2000, the Village has had four requests for automatic changeable copy signs exceeding code and he referred to Table 1.1. The Village has historically not supported variations relative to the size of Automatic Changeable Copy Sign message screens. Staff supported the variation request for Heritage Cadillac (PC 03-40) because of the unique characteristics and history of the subject property.

Section 153.210(F) of the Sign Ordinance states that the changeable message board of an Automatic Changeable Copy Sign must be located between twelve (12) feet to fifteen (15) feet above grade. The subject message board is proposed to be between ten (10) feet and thirteen-and-a-half (13.5) feet above grade. As such, the message board extends one (1) foot below the required height range.

Staff recognizes that the proposed Automatic Changeable Copy Sign would only advertise motor fuel rates; however, the Sign Ordinance is not intended not regulate the actual message displayed on the signage, but rather the medium that the message is displayed upon. In the Standards for Variations, the petitioner states that LED is more aesthetically pleasing than the traditional manual copy change. The petitioner also indicated that manual copies can blow away in the wind, which can be costly to repair. Lastly, safety is cited as a basis for the variation - stating that changing a manual copy sign can be dangerous. While staff recognizes these issues, the proposed signage is a matter of preference and the indicated hardships do not constitute a physical hardship associated with the property. Moreover, there are four variations associated with a sign that cannot be done as-of-right, which also demonstrates that the construction of the sign is also a matter of preference.

Ordinance #4920 granted signage relief to increase the number of permitted

wall signs on the subject property from two (2) to five (5). The original approval specifically allowed one sign on each building (carwash and gas station) and a sign on each of three sides of the canopy. Through the petitioner's reimagining efforts, the existing fifty (50) square foot wall sign on the gas station will be replaced with a twenty-five (25) foot sign (see Exhibit 'B'). The fueling canopy will retain the three (3) original wall signs and the number of wall signs associated with the carwash would be increased from four (4) to six (6) (see Exhibit 'C'). Staff notes that all six (6) signs on the carwash will be new and are intended to accommodate corporate standards.

Staff notes that there are no past approvals associated with the three (3) additional wall signs that are currently located on the carwash. They are all shown on the approved elevations plans, but are not specifically mentioned in the approvals. As they are all less than ten (10) inches in height, they may have been perceived to be Valance Signs. However, these signs are not attached to the valance of an awning or canopy and are affixed directly to the building; therefore, they are considered Wall Signs. As such, approval is now being requested to allow six (6) signs where only one (1) wall sign was approved. Therefore, the request for additional wall signage in this case pertains only to the proposed signage associated with the carwash.

As the submitted plans indicate, a red and white banding element has also been included around the gas station building and carwash. Staff notes that the proposed banding is not considered wall signage and is not factored into the overall calculation of the proposed wall signage. The banding is considered only to be a design aesthetic.

As Table 1.2 depicts, the proposed signage is a significant increase from the existing signage. When observing the raw numbers the signage is larger; however, without any quantifiable numbers to tie to any past approvals, staff examined the Sign Ordinance requirements. The Sign Ordinance requires that wall signs on properties with multiple tenant buildings be no more than one times the lineal foot frontage of tenant space. Staff referenced this provision as an example because the Sign Ordinance establishes a direct correlation between façade size and the square footage of wall signs.

When factoring the lineal foot frontage of each carwash elevation, none of the proposed wall signs are larger in area than the respective lineal footage of each building elevation. Also, due to the number of structures and on-site activities, gas stations provide rather unique signage issues. Staff has supported additional signage for gas stations in the past and believes that the proposed wall signage request is reasonable.

Staff has reviewed the standards for variations and finds that the proposed wall signs meet the standards for variations, but the proposed automatic changeable copy sign and freestanding sign do not meet the standards for variations and therefore recommends partial approval of this petition.

Chairperson Ryan then opened the meeting for comments among the Commissioners.

Commissioner Sweetser stated that the idea of the changeable message board has come up before. She noted that there is a difference between a message that repeats and runs continually versus something static. She suggested that it would be useful, due to the evolution of these signs, to differentiate between a message board and a changeable copy panel that would only be changed once

every 24 hours and just show a price. She understands why staff would not want a running message, but she was inclined to permit one that would not change frequently and just display a price.

Chairperson Ryan agreed with Commissioner Sweetser about the difference between a running message versus a static one, but indicated the height of the sign is also not in compliance with code.

Commissioner Sweetser stated that there possibly could be some consideration given if there is no running message and the sign was brought up to an acceptable height range. If the panel needs to be a certain size in order to be readable, the smaller height size for a running message should not dominate the sign. It might be helpful to sort it out. Mr. Toth stated that the message board and screen have two separate height requirements.

Commissioner Burke clarified the issues at hand. He referred to the staff report, which stated that the proposed message board is 3.5 feet tall, but looking at the drawings, it appears that the LED display is much smaller than that 3.5 foot panel. He asked the petitioner what the size of the message was. Ms. Foote answered that she thought it to be 18" or 24" tall. Commissioner Burke then asked staff if that fell into the desired range. Mr. Stilling answered that 18" is the maximum allowed. Mr. Toth stated that the plans show the LED portion to be 26" in height.

Commissioner Burke stated if the petitioner had the ability to reduce it to an acceptable standard, it wouldn't be a big issue. He sees this in other communities and feels that it is a better way to display gas pricing than the current way. The other issue at hand is the height. He confirmed with staff that the height was lower than code, which is just the opposite of what is usually proposed. He felt that was more an issue of Village ordinance and he doesn't see the height they are proposing as being objectionable.

Commissioner Burke stated he doesn't have an objection to the petition other than the size of the display itself.

Chairperson Ryan referred to the two pictures of the automatic changeable copy signs. He noted that it appeared that the existing price board sign was larger than what was being proposed and asked staff if that was the case. He also noted that the allowable square footage of the proposed sign is smaller due to it being a message sign. Mr. Stilling answered that the existing manual copy change sign is larger.

Commissioner Flint asked if that was within code. Ms. Stilling noted that the matter at hand was that the property did not have the required 500' frontage as well as the size of the message board. He stated that nothing prevents the petitioner from having the sign, except the lack of frontage of the subject property.

Commissioner Burke stated that variances are granted to make signs more efficient, attractive and practical. He noted that the pricing portion was now smaller because of the Circle K logo and if we are specifically talking about the pricing portion only, it is smaller, more attractive and practical.

Chairperson Ryan noted that they have to address the issue of the 500' lineal frontage. If the Plan Commission agrees that it is okay to have the sign, we are saying it is acceptable even though it doesn't meet the 500'.

Commissioner Sweetser stated that the basic reason for using the 500' delineation is that it provides a physical buffer between message boards. Having less than 500' could be confusing as the messages would be difficult to process because it is constantly moving. She noted that is not the case in this situation as the message board is not changing and therefore would not apply.

Commissioner Flint agreed with Commissioner Sweetser.

Commissioner Burke suggested that if the petitioner could make the actual price size smaller, it would be acceptable. Ms. Foote thought that if she went back to Circle K she thought they might fluctuate on the size, especially if the LED sign was approved.

Commissioner Burke then questioned if it would be visible if it were made smaller.

Chairperson Ryan thought that since the proposed flexible sign was smaller than the existing sign and by allowing the proposed 26" sign we would be cleaning it up, he doesn't have a problem with it, but would have trouble with having them bring it down to 18".

After some discussion about the wording of the motion, Attorney Wagner suggested that the Commissioners make two votes, one for the LED sign and one for the wall signs. He also suggested that they have discussion to address the wall signs before that particular vote.

Chairperson Ryan then opened the meeting for discussion to address the ten wall signs.

Commissioner Sweetser stated that if staff recommended approval of the number of wall signs and had good reason for it, then she had no objection.

K. [100379](#)

PC 10-12: 930 E. Roosevelt Rd. (Shell Gas Station)

Requests amendments to Ordinance #5120 to provide for the following variations from the Lombard Sign Ordinance for the property located within the B4A Roosevelt Road Corridor District:

1. A variation from Section 153.210 to allow for an Automatic Changeable Copy Sign to be located on a property with less than 500 lineal front footage;
2. A variation from Section 153.210(F) to allow for a changeable message board of an Automatic Changeable Copy Sign to be located outside of the required twelve (12) foot to fifteen (15) foot height range;
3. A variation from Section 153.505(B)(6)(e) to allow more than one freestanding sign on the subject property.
4. A further variation to Section 153.505(B)(19)(a)(2)(a) to increase the total amount of wall signs on the subject property to a total of nine (9) signs. (DISTRICT #6)

Attachments: [apoletter 10-12.doc](#)
[Continuance MEMO 10-12.doc](#)
[PUBLIC NOTICE 10-12.doc](#)
[100379.pdf](#)
[Ordinance 6525.pdf](#)

Chairperson Ryan stated that the petitioner has requested a continuance to the August 16, 2010 meeting.

Auna Foote, 5308 N. Northwest Highway, Chicago, presented the petition. Ms. Foote stated that this petition's information is basically the same as the previous petition, PC 10-11. Circle K would be responsible for the building and car wash. The signage package for the building and car wash has been reduced 73.21 square feet than what was originally proposed. All things are the same for the LED message board in that it cannot flash, flicker or change messages, but instead display the price. The price will switch over at 2 a.m. every day. This automatic changeable copy sign has the same square footage as mentioned in the previous petition. We did not reduce the sign itself.

Chairperson Ryan asked if anyone was present to speak in favor or against the petition.

Chairperson Ryan then requested the staff report.

Michael Toth, Planner I, presented the staff report. He stated that the subject Shell Gas Station is located at the northwest corner of Roosevelt Road and Westmore-Meyers Road. Shell is currently in the process of reimagining their Circle K corporate identity standard in conjunction with the carwash and building signage. As part of their corporate reimagining process, the petitioner is requesting approval of a unified signage package.

The proposed signage package will include the expansion of existing signage, the addition of one freestanding sign and the addition of new signage on the car wash. An Automatic Changeable Copy element is also being proposed to be integrated into the existing freestanding sign. There were a number of past approvals associated with signage on the subject property. As part of this petition, signage associated with the past approvals will be further amended and the remaining signs will require additional signage relief, where applicable.

There are a total of two (2) variations associated with the proposed Automatic Changeable Copy sign - the first relates to the insufficient size of the property and the remaining variation relates to the design of the sign.

The Sign Ordinance limits automatic changeable copy signs to properties in the CR, B3, B4, B4A and B5 zoning districts on lots with a minimum of 500 lineal front footage. The subject property is located in the B4A Roosevelt Road Corridor District, but has a linear front footage of only 385 feet, a deficiency of 115 feet. Therefore, the Automatic Changeable Copy Sign automatically cannot be done as-of-right.

Section 153.210(F) of the Sign Ordinance states that the changeable message board of an Automatic Changeable Copy Sign must be located between twelve (12) feet to fifteen (15) feet above grade. The subject message board is proposed to be between ten (10) feet and eleven (11) feet above grade (as seen in Exhibit 'A'). As such, the message board extends one (1) foot below the

required height range

Staff recognizes that the proposed Automatic Changeable Copy Sign would only advertise motor fuel rates; however, the Sign Ordinance is not intended to regulate the actual message displayed on the signage, but rather the medium that the message is displayed upon. In the Standards for Variations, the petitioner states that LED is more aesthetically pleasing than the traditional manual copy change. The petitioner also indicates that manual copies can blow away in the wind, which can be costly to repair. Lastly, safety is cited as a basis for the variation - stating that changing a manual copy sign can be dangerous. While staff recognizes these issues, the proposed signage is a matter of preference and the indicated hardships do not constitute a physical hardship associated with the property.

The petitioner is proposing to remove directional signage associated with the car wash and increase the size of double-sided "vacuum" sign, which are located above the actual vacuum cleaners located on site. The existing vacuum signs are three (3) square feet in area and the petitioner is proposing to increase the size of each sign to thirty-seven (37) square feet. As the previous signs were only three (3) feet in area, they were classified as "Incidental Signs" because they were small in size and informed the public of services available on the premises. However; as the new sign is thirty-seven (37) square feet and is used to advertise the vacuums to off-site patrons, it is classified as a Freestanding Sign. According to the Sign Ordinance, no more than one freestanding sign shall be maintained on any one parcel of land in the B4A - Roosevelt Road Corridor District. Staff believes that placing an additional Freestanding Sign on the property to advertise the on-site vacuums is excessive. An incidental sign is currently being displayed over the vacuums, which staff believes is appropriate.

Ordinance #5120 (PC 02-16) granted signage relief to allow for more than one (1) wall sign per street front exposure. Moreover, the staff report associated with PC 02-16 specifically states that the variation granted an increased number of permitted wall signs from two (2) to seven (7). According to the PC 02-16 staff report, the fueling canopy had two (2) wall signs and the convenience mart located under the canopy had one (1) sign. The separate building containing the car wash had a total of four (4) signs, two of which distinguish the points of ingress and egress. For purposes of clarity, staff notes that the carwash is currently only displaying a total of three (3) wall signs, for a total of six (6) wall signs on the subject property.

Through the petitioner's reimagining efforts, the existing "Food Mart" wall sign on the gas station building would be replaced with two (2) 'Circle K' logo wall signs - one on the north elevation of the building and the other on the south (see Exhibit 'C'). The fueling canopy would retain the two (2) original wall signs. The number of wall signs associated with the carwash would be increased from three (3) to five (5) (see Exhibit 'D'). As such, there are a total of nine (9) wall signs proposed for the subject property as part of the submitted signage plan.

As the submitted plans indicate, a red and white banding element has also been included around the gas station building and carwash. Staff notes that the proposed banding is not considered wall signage and is not factored into the overall calculation of the proposed wall signage. The banding is considered only to be a design aesthetic.

As Table 1.1 depicts, the proposed signage is a significant increase from the

current signage. When observing the raw numbers the signage is larger; however, without any quantifiable numbers to tie to any past approvals, staff examined the Sign Ordinance requirements. The Sign Ordinance requires that wall signs on properties with multiple tenant buildings be no more than one times the lineal foot frontage of tenant space. Staff referenced this provision as an example because the Sign Ordinance establishes a direct correlation between façade size and the square footage of wall signs.

When factoring the lineal foot frontage of each carwash elevation, none of the proposed wall signs are larger in area than the respective lineal footage of each building elevation. Also, due to the number of structures and on-site activities, gas stations provide rather unique signage issues. Staff has supported additional signage for gas stations in the past and believes that the proposed wall signage request is reasonable. Furthermore, Ordinance #5120 granted signage relief to allow for more than one (1) wall sign per street front exposure on the subject property. Without any specified limitation with regard to the number of signs mentioned in the approving ordinance, it could be interpreted that an unlimited number of wall signs could be permitted on the subject property. As such, staff would like to take this opportunity to establish a specified number of permissible wall signs on the subject property

Staff has reviewed the standards for variations and finds that the proposed wall signs meet the standards for variations, but the proposed automatic changeable copy sign and freestanding sign do not meet the standards for variations and therefore recommends partial approval of this petition.

Chairperson Ryan then opened the meeting for comments among the Commissioners.

Commissioner Sweetser stated that the discussion from the prior petition would pertain to this one, but she wondered if staff wanted a specified number of permissible signs on the property and asked if that has been done. Mr. Toth answered they are proposing nine signs, which includes the existing and proposed signage. Commissioner Sweetser asked if that number needed to be stated. Mr. Toth answered that it would tie back to the approval of the variation for the nine signs.

Commissioner Burke stated he was agreeable to the automatic changeable copy sign.

Chairperson Ryan stated that along with the changeable copy sign there is also a request for a freestanding sign known as the vacuum sign. They are proposing to increase its size from 3' to 37', which he thought is excessive. He cautioned that this signage package is different than the previous petition and the motions needed to be adjusted accordingly.

Commissioner Burke clarified the types of signs being proposed mentioning the automatic changeable copy sign, freestanding vacuum sign and the wall signs.

Attorney Wagner stated that it would be easier to address each sign and make three separate motions.

***L. SPA 10-02ph: 215 E. Roosevelt (V-Land Highland/Roosevelt Planned Development) (Moved to IX-A1)**

- M.** [100442](#) Liquor License Amendment - Beacon Hill, 2400 S. Finley Road
Amending Title 11, Chapter 112 of the Village Code reflecting an
increase in the Class "I" liquor license category. (DISTRICT #3)
Attachments: [Agenda Form.doc](#)
 [memoincrease.doc](#)
 [ordincrease.doc](#)
 [Ordinance 6526.pdf](#)
 [100442.pdf](#)
- N.** [100453](#) Amending Title 9, Chapter 98 of the Village Code (Amusement Tax)
Further amending Title 9, Chapter 98, Section 98.114(A)(1) of the
Lombard Village Code to include archery, shooting galleries and
shooting ranges with the list of sport or games subject to the
amusement tax. (DISTRICTS - ALL)
Attachments: [Ordinance 6527.pdf](#)
 [100453.pdf](#)

Ordinances on Second Reading

- O.** [060542](#) ZBA 06-21: 820 E. St. Charles Road
Granting a further time extension to Ordinance 5935, as amended by
Ordinances 6094, 6247, 6373, and 6515 relative to the approval of a
reduction in the minimum required lot area for the property located at
820 E. St. Charles Road. (DISTRICT #4)

Attachments: [apoletter 06-21.doc](#)
[coversheet.doc](#)
[ORDINANCE 06-21.doc](#)
[PUBLICNOTICE.doc](#)
[Referral Let 06-21.doc](#)
[Report 06-21.doc](#)
[WTL referral memo.doc](#)
[ORD 5935.pdf](#)
[coversheetextension.doc](#)
[Ord Extension.doc](#)
[Extension memo.doc](#)
[60940001.pdf](#)
[Ordinance 60940001.pdf](#)
[coversheetextension2.doc](#)
[Extension memo2.doc](#)
[Ordinance 6247.pdf](#)
[coversheetextension3.doc](#)
[Extension memo3.doc](#)
[Ordinance 6373.pdf](#)
[060542.pdf](#)
[060542.pdf](#)
[060542.pdf](#)
[Extension memo4.doc](#)
[coversheetextension4.doc](#)
[060542.pdf](#)
[060542.pdf](#)
[Ordinance 6515.pdf](#)
[060542BOT08_18_11.pdf](#)
[060542-CoverPage-9-1-11.pdf](#)
[Ordinance 6640.pdf](#)

Robert Mueller presented the petition. He described the location of the subject property as well as the surrounding zoning and land uses. There was previously a dilapidated residence on the property that has been removed. He became aware of the need for a lot area variation after submitting plans for a building permit. In this case there is no way to meet the lot area requirement because there is no available land.

Chairperson DeFalco then opened the meeting for public comment. There was no one present to speak for or against the petition.

Chairperson DeFalco then requested the staff report.

Jennifer Backensto, Planner II, presented the staff report. The subject property is currently a legal Lot of Record; however, it does not meet the minimum lot area requirements for the B4 District. The petitioner is requesting a lot area variation to allow for the redevelopment of the property as an office building. Aside from the lot area requirement, no other zoning relief is being requested.

When this property was developed as a single-family residence in 1927, there were no minimum lot area requirements. In 1986, the Village approved a rezoning of the western side of the block from B4 to R2, leaving two remainder B4 parcels that did not meet the minimum lot area requirements for that district.

Staff finds that the physical surroundings of the subject property create a hardship. Due to the configuration and zoning of the adjacent lots, there is no way this property could be redeveloped without some sort of zoning relief. There are three scenarios under which redevelopment could occur, all of which would require approval through the public hearing process: the proposed lot area variation, rezoning of at least three of the single-family residential properties to the north and consolidation with those properties, or a variation to the subdivision regulations regarding lot configuration. Staff feels that a lot area variation would be the most appropriate type of zoning relief in this case as it would avoid both the encroachment of commercial development into the neighboring residential area as well as setting a precedent to allow unusual, "L" shaped lots.

Although the B4 zoning within the East St. Charles Road corridor reflects the Village's general desire to see redevelopment of entire block faces within this corridor, the previous approval of R2 zoning at 806 E. St. Charles Road prevents such a consolidated development. The granting of the requested lot area variation would not alter the character of the neighborhood or negatively impact the surrounding properties as the subject property has maintained the same boundaries since its development in 1927. Furthermore, the granting of this variation would not grant a precedent for other properties within the corridor as the nearby R2 zoning and irregular lot configurations present a unique situation that is not found elsewhere in the corridor.

Chairperson DeFalco then opened the meeting for discussion by the Board Members.

Mr. Young asked if there were any other issues associated with the redevelopment. Ms. Backensto stated that the permit had already been reviewed and the lot area variation was the only relief necessary. All transitional yards and other B4 District requirements will be met.

- P. [100352](#) ZBA 10-05: 208 S. Westmore-Meyers Rd
Requests a variation from Section 155.212 of the Lombard Zoning Ordinance to allow two (2) central air-conditioning units as a permitted obstruction within an interior side yard in the R2 Single-Family Residence District. (DISTRICT #5)

Attachments: [apoletter 10-05.doc](#)
[DAH referral memo.doc](#)
[PUBLICNOTICE 10-05.doc](#)
[Referral Let.doc](#)
[Report 10-05.doc](#)
[Cover Sheet.doc](#)
[100352.pdf](#)
[Ordinance 6516.pdf](#)

Mohammed I. Mohiuddin, 208 S. Westmore-Meyers, presented the petition. Mr. Mohiuddin stated that he is requesting a variation for two existing air conditioning condensers. He stated that the location of the units is not a problem because the adjacent property is commercial and the business is setback roughly thirty-five (35) feet from the property that they share. Mr. Mohiuddin then stated that he called about five contractors to see what it would take to have the units moved. The contractors told him that the units would be required to move about one hundred (100) feet away from the current location, which might not allow the units to function properly. He also added that the cost would be around \$2400 to have the units moved.

Mr. Mohiuddin stated that the commercial property to the north does not have an issue with the location of the air conditioning condensers. He added the adjacent business is unable to hear the units. He then stated that the neighbor to the south does not have a problem with the units. Lastly, Mr. Mohiuddin stated that he plans to erect a fence that would conceal the air conditioning condensers.

Michael Toth, Planner I, presented the staff report.

As part of the construction of a new single family residence, two (2) existing air conditioning condensers were placed three (3) feet from the northern property line on the subject property, located within the interior side yard. As new air conditioning condensers are not listed as a permitted encroachment in the interior side yard, a variation is needed.

The petitioner purchased the home under construction on the subject property in 2009. The previous property owner had been advised by the Village that the placement of new air conditioning condensers was not permitted in the interior side yard. The air conditioning units were not depicted on the approved plans for the new residence. In conducting the final inspection for the Certificate of Occupancy, the Building Division noticed that the air conditioning units were placed in the interior side yard and notified the Planning Services Division. When the property owner requested a Certificate of Completion for the project, he was notified that the Community Development Department could not sign off on a final Certificate of Completion unless the new air conditioning condensers were relocated or a variation was granted.

The Zoning Ordinance lists new air conditioning condensers as permitted encroachments only within a certain portion of the rear yard, but does not list them as permitted encroachments within interior side, corner side or front yards. The intent was that air conditioning condensers within interior side yards could become a noise nuisance if it is placed too close to the windows of an adjacent residence.

The subject air conditioning condensers are located in the interior side yard along the northern side yard. The subject property shares the northern property line with a property in the B2 zoning district (Marberry Cleaners). The subject business is setback over thirty (30) feet from its southern property line (the northern property line of the subject property).

Pertaining to lots in the R2 zoning district, the Zoning Ordinance states that those lots shall have a minimum lot area of 7,500 square feet and a minimum lot width of sixty (60') feet. The subject lot has a total lot area of 16,000 square feet; however, the lot width is only 50.00 feet. Because the lot width is smaller than most typical R2 lots, the efficient areas for the condensers to be located are significantly reduced. There is adequate space behind the residence, but the petitioner has indicated in the Standards to Variations that moving the units would be costly and would diminish the efficiency of the units.

Staff finds that the air conditioning condensers are in a suitable location as the property to the north is a commercially zoned property. While economic hardship does not constitute a hardship associated with the physical composition of a property, relocating the condensers to the rear yard would be costly and would not be recommended because the efficiency of the units could be greatly reduced.

Concluding, Mr. Toth stated that the Standards for Variations have been affirmed and staff is recommending approval of ZBA 10-05, subject to the three conditions outlined in the staff report. Mr. Toth then made reference to the Private Engineering Service comment, which states that the air conditioning condensers are to be elevated out of the drainage swale.

Chairperson DeFalco then opened the meeting for public comment and discussion by the ZBA members.

Chairperson DeFalco asked how the units were placed in the interior sideyard when the Village had notified the homebuilder about the prohibited locations.

Mr. Toth stated that the specifics are outlined in the staff report. He added that the situation (as to how this issue came about) was put in the staff report to illustrate that the petitioner was not responsible for the location of the condensers.

Mr. Young asked about the status of the home purchase. He indicated that the plat of survey leads him to believe that the property is bank owned. He asked the petitioner if the home was in fact bank owned.

Mr. Mohiuddin replied, yes, it was bank owned.

Mr. Bartels asked if you need a permit to move an air conditioning unit.

Mr. Toth stated that you would need a permit to move an air conditioning unit as there is electrical work involved in such an undertaking.

Mr. Tap asked the petitioner had an issue with raising the air conditioning condensers.

Mr. Mohiuddin replied, no.

Mr. Tap asked how staff would handle this.

Mr. Toth stated that the raising of the air conditioning condensers would be addressed during the permit process.

Mr. Young asked the petitioner if he was residing in the home.

Mr. Mohiuddin replied, yes.

Mr. Young then asked whether the petitioner had a full occupancy license.

Mr. Toth stated that the petitioner has a conditional occupancy license, which will become a full occupancy license, once the air conditioning unit issue is resolved.

- Q. [100373](#) Harding East of Fairfield
Resident request to install No Parking signage. (DISTRICT #6)

Attachments: [100373 bot.pdf](#)
[Ordinance 6517.pdf](#)

Kalisik reviewed the item. The Resident has no objection to No Parking year round. Mr. Tufo suggested that the south side be signed because if people park there they will use the resident driveway to turn around. Schwarz asked if there was a concern about the width of the road. Kalisik answered that there is, the road is only 26' and emergency traffic will not have the ability to get in there if there is parking on both sides. Snead asked where the traffic will move if that area is no parking on both sides, are there parking restrictions on Fairfield and Harding west of Fairfield? Kalisik said there is no parking on the north side of Harding west of Fairfield. Johnson answered that there are not any parking restrictions on Fairfield. Kuehl asked if the issue is that the parking lot is full. She suggested that perhaps the Park District could come up with something. Schwarz asked how many parking spots there are. Sherretz pointed out that there is another parking lot that people could use if they would walk a little further. Corbino commented that it is a safety issue and there is parking elsewhere. He suggested that the committee agree with the staff recommendation of no parking on both sides. Mr. Tufo agreed that he would like no parking on both sides. He further added that any given week there are probably 100 cars that pull in his driveway, therefore, if everybody was facing west, that would help. In his opinion if it's not on the south side, it makes no difference. Difino asked if Fairfield is 26' wide as well, because if there is overflow parking on Fairfield we may create more problems. Snead suggested that at the least there should be a recommendation to sign the south side and the committee can revisit the issue if it doesn't solve the problem. Difino suggested that perhaps traffic could be informed of additional parking with signage and then sign no parking 6-8 p.m. Kalisik pointed out that it would be difficult to enforce. Difino explained that at least it would give some direction. Johnson suggested that the softball league could hand out a map of the park showing the parking lots and ask them to park in parking lots. Difino suggested that if someone is parking on the street because the lot is full, perhaps they could put a sign in the park saying where additional parking is. There was a consensus among the committee members to sign the south side of Harding from Fairfield to Madison Meadows Park No Parking.

- R. [100376](#) PC 10-10: 1150 E. Jackson Street
Requests that the Village grant a conditional use, pursuant to Section 155.206 (A)(2) of the Lombard Zoning Ordinance, to allow an antenna associated with a personal wireless service facility for the subject property located within the R4 - Limited General Residential District. (DISTRICT #6)

Attachments: [apoletter 10-10.doc](#)
[Cover Sheet.doc](#)
[DAH referral memo.doc](#)
[PUBLIC NOTICE 10-10.doc](#)
[Referral Letter 10-01.doc](#)
[Report 10-10 final version.doc](#)
[100376.pdf](#)
[Ordinance 6518.pdf](#)

Mike Howley, 2210 Midwest Road, Suite 213, Oak Brook, stated he was representing T-Mobile and requesting a conditional use permit to allow construction of a rooftop wireless facility on the Jackson Terrace Condominiums located at 1150 E. Jackson Street.

Prior to giving site specifics, Mr. Howley indicated he would like to visually clarify what is being proposed. Using the overhead projector he displayed a number of photographs:

** A winter snapshot of the Jackson Terrace Condominium building showing how it currently looks from Jackson Street looking east.*

** A rendering of the building and roofline showing what is being proposed. He explained that on the penthouse elevator shaft T-Mobile would be placing six antennas.*

** A photograph looking west from Jackson toward the building. This shot was again taken in winter and he noted that the building was hard to see even with no leaves on the trees.*

** A photograph taken at the intersection of Jackson and Addison looking slightly northwesterly. The building is a five-story condominium complex located in the R4 district.*

He further explained that on the east side of the building they were proposing to place three antennas on a sled mount and on the penthouse elevator shaft they are proposing six antennas which would be directly affixed to the brick. Mr. Howley then continued showing photographs of other building rooftop installations:

· A hotel building on the north side shows 2 antennas on sled mounts which is similar to what is being proposed for the east side of the Jackson Terrace facility.

· Photograph of an actual installation of a sled mount of 3 antennas similar to what is being proposed on the east side of the building.

In an effort to explain their request for a conditional use, Mr. Howley stated he would talk about the telecommunications industry and how wireless technology works. He mentioned his 12 years experience in the industry and noted how subscription rates have grown to more than 244 million subscribers today. He mentioned other applications subscribers are looking to have, which require an increased need for more transmitter locations. Wireless technology operates in a low power line of sight and is extremely safe. The sites for wireless carriers are set up on a honeycomb pattern. Each site is close enough, but far enough away to cover an area. When there is a gap in coverage it is the result of one site being too far away from another.

On the overhead projector he displayed a propagation map and explained how it shows the current coverage in the area as well as the location of the adjacent transmitter sites which were denoted in blue. The next map shows the change in coverage should the Jackson Terrace site be approved. He explained that the industry rates coverages into several different levels: excellent in-building, excellent in-vehicle and excellent outdoor. He noted that their goal is to improve service to their subscribers by trying to achieve excellent in-building coverage which is denoted on the map in the green areas.

T-Mobile searched for other suitable structures in the area that could potentially serve as a transmitter site. These structures would have to be tall so their first search was to look for water towers or monopoles in the area. As this is primarily a residential area, those types of structures do not exist. The Jackson Terrace building was one of the taller structures in the area which would give a coverage boost to area users and be an improvement for wireless subscribers. Because the proposed site is zoned R4 and not R5 or R6, the construction of a rooftop wireless facility would not be permitted outright and would involve the conditional use process.

Lastly, Mr. Howley indicated that along with the rooftop structures, there is also other equipment needed to make the site functional, such as radio cabinets and cables that run to the antennas. These cabinets would not be placed on the roof but located on the ground level in a nook in the back of the building on the north side. He showed a photograph of a 21' x 6' area where this auxiliary equipment would be placed. He noted the cement pad the equipment would be placed on and showed how it will run in a straight line about one (1') foot north of the foundation wall in an east/west direction. A wood fence would enclose all the equipment so it would not be visible.

Chairperson Ryan asked if there were any questions of the petitioner.

Commissioner Sweetser asked the petitioner to explain the level of radio frequency waves coming from these antennas.

Mr. Howley explained radio frequency emission. He noted that the FCC developed guidelines that are strict and quite conservative and contain the maximum permissible exposure limits. He noted how sophisticated the technology has gotten in that an independent engineer can review via computer, results of a study to show the radio frequencies. Pertaining to the proposed site, we find that at the ground level the exposure is thousands times the levels below the FCC limit. The level of radio frequency is diminished by distance. These rooftop facilities are lower powered line of sites and because they operate at low power per antenna by the time you get to the ground level, the exposure is minimal.

Attorney Wagner stated that under federal law, the Village cannot consider issues related to exposure or affects of radio frequency emissions. The purview of the Commission is to review the petition based on the standards in the Village Code as to a conditional use. We can listen to concerns about radio frequency emission but cannot consider it when making a decision.

Chairperson Ryan then opened the meeting for public comment. There was no one spoke in favor of the petition.

To speak against the petition was Shameen Habiba, 1146 E. Cambria Lane, Lombard. She explained how her unit is a three-bedroom located on the second

floor and faces across from where they are proposing to put the antennas on the east end of the condominium building. As the antennas will be clearly visible from her unit, she wouldn't be able to enjoy the scenery and her surroundings. She was confused by the petitioner's scientific explanations and noted that people distrust corporations especially as it relates to the environment. She was worried about radiation effects and decreased property values and was not in support of the petition.

Ms. Habiba mentioned she had a letter from her neighbor, Rubina Hafeez, 1140 N. Cambria Lane, Lombard, who was unable to attend the meeting. Ms. Hafeez was also against the petition and she wanted to read her reasons:

- 1. The tower is going to be across the street from her house in a residential area.*
- 2. The view will be obstructed. She does not want to look at a metal structure while trying to enjoy the nature and beauty of the landscape.*
- 3. Building the tower will decrease property values and give off radiation waves 24/7 365 days in and out.*

Ms. Hafeez requested that the Committee consider her objection.

Mr. Howley rebutted. He displayed on the overhead projector a photograph of the northerly view as well as an illustration showing how it would look to the east side. He stated that the antennas would be painted to match the brick so they would blend in. Village Code allows for personal wireless structures to be placed up to 15' above the building itself. He added that they are only proposing that the antennas be 7' above the roofline, which is only half of what could be allowed by Code. Lastly, he noted that what is being proposed are antennas not towers. He requested that the Commission respectfully uphold the recommendation of the planning staff for a conditional use permit. Given the location and the coverage needed, it is a minimally intrusive structure. With the acknowledged coverage problem in this section of the town, their request is consistent with the intent of the code. For the record, he requested that their answers to the standards for conditional use be entered into the record.

Chairperson Ryan then requested the staff report.

Michael Toth, Planner I, indicated that he had made amendments to the staff report and will note the changes when he gets to the portion that has been amended. The amended report has been distributed to the Commissioners.

T-Mobile is proposing to install a rooftop wireless antenna facility at the Jackson Terrace Condominiums, which is located on the northwest corner of Jackson Street and Addison Avenue. Any personal wireless service facility that does not comply with the associated requirements of the Zoning Ordinance may be authorized only in accordance with the procedures for conditional uses. The subject property is located in the R4 - Limited General Residential District. As personal wireless service facilities are only allowed (as-of-right) in the R5 - General Residence District and R6 - Central Residence District, conditional use approval is required.

The petitioner is proposing to install three (3) structures with three (3) antenna panels on each structure for a total of nine (9) cellular antenna panels as part of their personal wireless service facilities plan. The proposed antennas are designed to fill a coverage gap in T-Mobile's network.

The subject property was selected due to the height opportunity of the existing

5-story multi-family building. All nine (9) antennas would be installed on the roof of the five (5) story multi-family dwelling. The subject property is located within the R4 - Limited General Residential District. As previously stated, personal wireless service facilities are only allowed (as-of-right) in the R5 - General Residence District and R6 - Central Residence District.

Mr. Toth noted that this section was amended. The proposed personal wireless service facility meets all other requirements of the Zoning Ordinance. More specifically, personal wireless service facilities shall not add more than fifteen (15) feet to the height of the structure. The highest portion of the subject dwelling unit is forty eight feet and two inches (48'2") in height. Only three (3) of the nine (9) antennas will be mounted on a ballasted antenna frame, which will extend seven and a half (7.5) feet above a different portion of roof. Staff notes that the other six antennas will be located on the tallest portion of the building; however, the proposed panels only extend an additional six feet and two inches (6'2") over the highest portion of the building. According to the petitioner, the personal wireless service facility will be designed in a manner that will blend in with the current physical environment of the Jackson Terrace Condominium Complex. Staff also notes that the antennas will be the only appurtenances that will be located on the roof - all other associated equipment will be housed within a leased area on the ground, directly adjacent to the building, and screened by a six (6) foot fence.

As the zoning restrictions are the only cause for needing conditional use approval, staff has examined the subject property in accordance with the surrounding area and pertinent zoning regulations. The subject property is predominantly surrounded by single-family residential properties and attached single-family dwellings. The intent of allowing personal wireless service facilities as-of-right in the R5 - General Residence District and R6 - Central Residence District is largely contributed to the height restrictions within those districts. Essentially, the higher the personal wireless service facility is located, the less of a visual impact it will have on adjacent properties. The maximum height restriction in the R5 - General Residence District is five (5) stories or 65 feet, whichever is less and eight (8) stories (or 100 feet) in the R6 - Central Residence District. Conversely, the maximum building height in the R4 - Limited General Residential District is only three (3) stories (or 36 feet). As the multi-family building on the subject property is five (5) stories in height, the height of the structure is similar to that of the height restrictions of the R5 - General Residence District; and, therefore would have a minimal visual impact on the surrounding properties than a standard structure in the R4 - Limited General Residential District. Staff notes that ground mounted antennas (monopoles) are only permissible in the I - Limited Industrial District. The closest I District property is located one-and-a-half (1.5) miles from the subject property, which further demonstrates that a monopole tower is not a practical solution to address a gap in coverage for this area.

Aside from the zoning requirement, the proposed personal wireless service facility meets all other provisions of the Zoning Ordinance. Moreover, the subject property is currently improved with a 5-story multi-family dwelling; therefore, it is more aligned with properties in the R5 - General Residence District and R6 - Central Residence District. Furthermore, staff finds that the proposed personal wireless service facility meets the intent of the Zoning Ordinance. As previously mentioned, the proposed antennas are designed to fill a coverage gap in T-Mobile's network. The Village acknowledges a cellular service issue as residents have voiced a number complaints, more specifically relating to poor cellular service on the east side of the Village.

Mr. Toth noted that the second paragraph under the findings and recommendation section has been updated. Staff recommends approval of this petition subject to the three conditions noted in the staff report.

An unidentified female audience member from 1150 E. Jackson, Lombard, referred to the petitioner's comments that radio frequency emissions would not be troublesome at lower levels. She asked how they would affect people at higher levels, specifically people who are living on the top floors. Mr. Howley explained that the sites are designed to project the energy outward in order to be effective not downward toward the roof. The unidentified female then asked if this proposal was similar to the one that was proposed to be on clips. Mr. Howley indicated that this petition includes 3 sectors of antennas, 2 sets are affixed to the penthouse wall and the other set is on a sled mount located on top of the far east end of the building. He displayed an illustration depicting their locations.

Doreen Natalino, 809 S. Addison Avenue, Lombard, asked if the equipment would interfere with televisions, phones, internet, satellite dishes or wireless fire alarms. Mr. Howley answered there would be no interference with any of them. They are all different wireless providers and each carrier operates within a certain spectrum of radio frequency.

Chairperson Ryan then opened the meeting for comments among the Commissioners.

The Commissioners had no comments or questions.

S. [100377](#)

PC 10-06: 229 W. St. Charles Road
Requests that the Village grant a conditional use amending Ordinance 3623 to allow for an expansion and changes to the existing outdoor dining area and amendments to the original conditions of approval pursuant to Section 155.103 (F) (13) of the Lombard Zoning Ordinance. (DISTRICT #1)

Attachments: [apoletter.doc](#)
[PUBLIC NOTICE 10-06.doc](#)
[Cont. Memo.doc](#)
[Cover Sheet.doc](#)
[Referral Letter.doc](#)
[REPORT 10-06.doc](#)
[100377.pdf](#)
[Ordinance 6519.pdf](#)

Pavel Tykvart, 1600 Ohvie Court, Wheaton, presented the petition. He stated that he is the owner of the Praga Restaurant and Bon Ton Wine Bar and has been living in this country for 23 years. He reminisced about his parents as well as his childhood and family experiences prior to coming to this country. He stated that he does not value any personal or financial goals just personal freedom in his life and as a business owner. He told about a movie that he had seen as a boy that is similar to his situation today. The movie was about an old town trying to revitalize itself and the challenges that the developer and townspeople faced in doing so.

In Lombard that is what we are experiencing today. Prior to his business, there was nothing beforehand. He commented that Downtown Lombard will not continue to prosper and thrive if things don't change. In order for a restaurant business to survive, there are certain components needed. These components include what you serve, the price of what you serve, and having an atmosphere in perfect harmony, a part of which is having music. He believes that people should be walking in the streets, laughing, smiling and enjoying what the town offers for them. Progress is being made and we should not be trying to stop progress.

Chairperson Ryan asked if there were any questions of the petitioner.

Richard Pearson, 212 W. St. Charles Road, Lombard, asked Mr. Tykvart how long he has owned Praga Restaurant. Mr. Tykvart answered 8 years in December. Mr. Pearson asked if he had outdoor dining at that time. Mr. Tykvart answered that he did. Mr. Pearson asked how many tables there were. Mr. Tykvart answered that the experience is not how many tables you have but whether or not they are filled. This is the measure of success. Mr. Pearson noted that the approved ordinance states that you can have 6 tables. Currently you are not complying with the ordinance. You attempt to justify the noise that emits from your restaurant and you are not considerate of the people that live in the area. There is a condominium building across the street and two others to the east and you continue to let patrons sit outside until the wee hours of the morning. He mentioned how the business has been cited for serving underage patrons and for serving alcohol after closing time. Mr. Pearson asked for a response.

Chairperson Ryan then opened the meeting for other public comments prior to the petitioner rebutting. To speak in favor of the petition were:

Art Frerichs, 248 West Road, Lombard, noted he is a non-solicited third party. He indicated that he has some hands-on experience with Praga Restaurant. A few years ago he was the President of the Chamber of Commerce and they were located next door. At that time, Praga had outdoor dining and he realized that they were an expanding and growing business. The Chamber realized they were smothering Praga's business and decided to relocate so Praga could expand into the area they currently existed in. He mentioned that when the Chamber was located next door they were never inconvenienced by Praga and to his knowledge there were never any negative impacts as a result of Praga using the patio area. He also noted that since he considers the area dead space, there is no better use for it. Mr. Frerichs stated that, in his capacity as a member of the Chamber of Commerce and being a business member of the Lombard Town Centre, in these times when small businesses are closing rather than expanding, he encouraged the Commission to allow him to expand and use his business as a model for more businesses in the downtown instead of empty spaces.

Dan Harris, 386 Stonewood Circle, Carol Stream, stated he is the owner of the building. He commented that Mr. Tykvart has done a great job in contributing toward making the town vibrant. He is in support of the expansion and commented that if people buy a house in a residential area that is part commercial, they have to be acceptable of the fact that there has to be some noise from traffic or pedestrians. This might only be an issue 6 months out of the year. He noted they are hard working people and likes the appearance of the business. He hasn't had any other negative feedback from other tenants in the building.

Joseph Wanders noted that he is a dentist located in the suite next to Praga Restaurant, 233 W. St. Charles Road. He stated that the only concern he has is visibility. He has asked the petitioner that the tables in front of his office be cleared when he is open for business to allow patients to go in and out. This request has not been honored. He submitted photographs to the Commissioners and explained them. He noted that one picture shows how Mr. Tykvart maintains access to his restaurant so why can't he do the same for him. Other than that he does not have any other concerns. He stated he cannot address the noise issue as this happens after he is gone.

Speaking against the petition were:

Nancy Pearson, 212 W. St. Charles Road, Lombard. She explained that she lives in the condominium located across from Praga. She mentioned that they started having problems with loud music in May, 2007 which could be heard until midnight or 1 a.m. She mentioned how she has requested the assistance of Village officials and while it helps initially, the loud music is played again after a few days. She stated that Village officials also came to a meeting at the condominium in 2008 to discuss the problem and indicated that they would review the summer hours and the time the music be turned off. They also suggested that the two speakers used by the restaurant be turned in a downward position, rather than an outward position, in order to minimize the music from traveling. Ms. Pearson indicated that they now have three speakers instead of two and they are all directed in an outward position. She stated that this goes on all year except on Monday when they are not there. In reviewing Ordinance 3623 and 3622, it allows for outside dining and 6 tables along with certain hours. Currently there are 30 tables and they serve until 2 a.m. She asked how the beer garden is allowed to operate without an ordinance. She commented that the abutting residents have rights also and asked where the cooperation was as it is hard to live under these conditions. Ms. Pearson recalled on August 6, 2008 she was awakened by yelling and commotion and realized the noise was coming from Praga. It was 2:45 a.m. and she called 911. When the police arrived at the restaurant to investigate they were told it was the waitress's fault. She questioned how it could be the waitress's fault. Ms. Pearson mentioned the Texan BBQ and how they requested outdoor dining. At their public hearing, residents from the nearby condominiums were present and it was agreed to have the dining end at 10 or 11 p.m. She asked why that can't be a standard in town. She distributed pictures to the Commissioners and explained them. Lastly, Ms. Pearson commented that it's nice to have a restaurant in town but they must be considerate of the residents.

Richard Pearson, 212 W. St. Charles Road, Lombard, stated that a comment was made earlier that if you live in the downtown you have to expect noise. When we moved in, we have had the noise from the railroad and the St. Charles Road traffic, among other things, but did not have a bar across the street. As far as the Village ordinances are concerned, the petitioner has been violating them since he took over the restaurant. His opinion of the restaurant is that it is the most inconsiderate, self-centered neighbor he has ever had to put with. He shared his experiences on how he has had to call 911 three times after 10 p.m. to complain about the noise and they complied. Then after a few days it would be the same.

Mr. Pearson then commented on the Zoning Ordinance enforcement. After all these years the petitioner has had excess tables and late hours. Other businesses in the area have had to comply with ordinances and questioned why

some are enforced and others are not. Lastly, he requested that the petitioner be denied the right to expand their outside service and be required to purchase permits for all the previous years they have been violating the ordinance.

Nancy Pearson, 212 W. St. Charles Road, Lombard, added that Village officials have indicated that their only recourse is to call 911 after 10 p.m. and reference the noise ordinance. She asked what they can do as it doesn't seem to work.

Mr. Tykvart rebutted. He indicated that since they started having the outdoor patio, every year and thereafter they have paid for outdoor seating permits and renewal fees. He mentioned that the restaurant is located on property that is privately owned by Mr. Harris, therefore, that might be the reason why the Village enforced the other zoning ordinances. In answer to the hours of operation, he proposes that every business have the right in Downtown Lombard to have hours of operation to the last second allowed on their alcohol permit because that is the only reason to stay in the business. He mentioned how they received a grant from the Village in the amount of \$100,000 to build a bar and used \$150,000 of his own money to add a state-of-the art, most modern bar he wants people to enjoy. He suggested that times have changed and the zoning ordinances also need to be changed to allow life, dancing and entertainment. If I knew before what I know now, I never would have built the business. Now is the time to make changes that are up to par with the times as that is the only way to move forward. He thanked the Pearsons for coming tonight to express their views but just as they are here, there are a thousand more people who feel the same way as Praga and want to help them out. Lastly, he stated that he is an employee who works hard 7 days a week and gives people jobs. As they are the only restaurant/bar open later, the spotlight is on them and only them. If there were 5 more restaurants and 5 more bars, this lifestyle would become part of normal everyday life.

Chairperson Ryan then requested the staff report.

Christopher Stilling, Assistant Director of Community Development, presented the staff report. The subject property, Praga/Bon Ton Restaurant, is located at the southeast corner of Elizabeth Street and St. Charles Road. The petitioner requests that the Village grant a conditional use amending Ordinance 3623 to allow for an expansion and changes to the existing outdoor dining area and amendments to the original conditions of approval in the B5 Central Business District. The original outdoor dining area was approved in 1992 by Ordinance 3623 for the former Lorica Restorante. In 2002, the current restaurant operator for Praga took over the space and has increased the total area of the existing outdoor dining space from what was originally approved. Since they are seeking to maintain its current layout, an amendment to Ordinance 3623 is required.

Inter-Departmental comments were noted from the Building Division. The outdoor seating as shown requires the removal of any open flame lighting (tiki torches) and/or any temporary lighting such as strings of lights run overhead from the building. Permanent lighting shall be installed to provide minimum code light levels. This shall include emergency lights to provide an illuminated pathway to the public way.

The Fire Department commented that the petitioner shall provide/maintain unimpeded egress out of the structure and out of the patio to a public way (sidewalk). Table and seating layouts shall not block egress paths.

In 1992, the Village Board approved Ordinance 3623 granting a conditional

use for outdoor seating for the former Lorica Restorante. A copy of Ordinance 3623 and the approved layout are attached as Exhibit A. The Village Board also approved Ordinance 3622 granting a variation to not require the petitioner to pay into the Lombard B5 Public Parking Fund. As this provision no longer exists in the Zoning Ordinance, an amendment to Ordinance 3622 is not required.

Ordinance 3623 granted the outdoor seating subject to 6 conditions. In addition, the ordinance was tied to a specific site plan showing no more than 6 tables. Over the years the outdoor seating area had been expanded beyond what was originally approved. In 2002, the current restaurant operator for Praga took over the space and in 2007 expanded its use to include the Bon Ton Wine Bar. With the addition of Bon Ton, the petitioner increased the total area of the existing outdoor dining space from 6 tables to 12-14 tables. To allow for the expansion, staff determined that the 6 additional tables could be allowed as part of an "Outdoor Café" for Bon Ton, which is permitted in the B5 Central Business District. An "Outdoor Café" is defined as an accessory use to a restaurant when no more than six tables, with a maximum of twenty-four chairs, are located between the restaurant building and the public right-of-way, provided said area is either a front yard or a corner side yard as defined in this Section.

Staff recently became aware that the outdoor dining area had been expanded to its current layout of 25 tables with a total of 64 seats. Since this expansion is greater than what is allowed by the Zoning Ordinance and by conditional use Ordinance 3623, an amendment is required. Furthermore, the petitioner has been operating the outdoor seating area to match their current hours of operation (Sunday through Thursday - 4:30 PM to 1 AM and Friday & Saturday- 4:30 PM to 2 AM). These hours are also consistent with their current liquor license. While doing our initial research, staff found that not only did Ordinance 3623 restrict their total number of seats, it also restricted the hours to no later than 11:30 p.m. In an effort to memorialize how they have been operating, an amendment to Ordinance 3623 related to the hours for the outdoor seating area is also required

The petitioner wishes to operate the outdoor seating area in accordance to what currently exists today. As Illustration 1 shows, the outdoor seating area is located completely outside of the public right-of-way and extends along the entire north elevation of the building (approximately 100 feet) along St. Charles Road. The outdoor area has 25 tables with a total of 64 seats and is approximately 1,700 square feet in area. Typically staff requires some type of fencing separating the outdoor seating area from the public right-of-way. In lieu of the fencing, the petitioner has provided several wooden planter boxes along the perimeter of the area. The planter boxes are approximately 3 feet in height. Furthermore, as Illustration 2 shows, the petitioner also provides black colored boards in between each planter box with the name and website of the establishment. Staff has determined that this type of signage is incidental to the outdoor seating and can be considered as part of the conditional use request, similar to how drive-thru signage is considered as part of that process. Should the Plan Commission and/or the Village Board decide not to approve the signage on the boards, they could be turned around. It should be noted that the petitioner does have an existing A-frame sign located in front of the establishment. Staff has noticed that the sign is not removed when the business is closed. Pursuant to the existing Sign Ordinance, the sign shall be brought inside once the business has closed, however no later than 9:00 PM. The pending text amendments, if approved by the Village Board, will allow the sign

to be placed outside until 2:00 AM.

The existing Praga/Bon Ton and the outdoor dining area require 36 parking spaces based on the parking requirements of the B5 district. The existing site has 64 spaces along with on street parking along St. Charles. Staff finds that sufficient parking is being provided.

The petitioner is requesting that the hours of the outdoor seating area be memorialized to match the restaurant's current hours of operation. The hours are Sunday through Thursday - 4:30 PM to 1 AM (They are typically closed on Mondays) and Friday and Saturday- 4:30 PM to 2 AM

Mr. Stilling noted the amendments being requested by the petitioner

- 1. The petitioner is seeking approval to have the outdoor seating area extend along the entire north elevation of the building (approximately 100 feet) along St. Charles Road. Staff has been in contact with the tenant located directly east at 233 W. St. Charles (Dentist Office). He has expressed a concern that his customers cannot see his establishment with the expanded outdoor seating area. Since their area is on private property, staff has let the landlord know about the concerns of the tenant.*
- 2. The petitioner is seeking approval to have the outdoor seating area to include 25 tables with a total of 64 seats, as shown on the attached site plan showing the existing conditions.*
- 3. The petitioner is seeking to maintain their current layout showing several 2-person and 4-6 person tables as shown in illustration #1.*
- 4. The petitioner is seeking to maintain their outdoor seating hours as follows:
* Monday through Thursday and Sunday- 4:30 PM to 1 AM
* Friday and Saturday- 4:30 PM to 2 AM*
- 5. A condition will remain that the outside service area shall be kept free from all litter and debris.*
- 6. The tables and chairs provided by the petitioner are not permanently attached. Historically, the petitioner has removed the tables and chairs during cold weather months.*

The Comprehensive Plan denotes this area as Central Business District Mixed Use Area. The outdoor dining concept is appropriate to a Central Business District and is considered an enhancement to downtown development, provided that it operates in compliance with Village Code.

The subject property is bounded by mostly commercial uses on all sides, with the exception of Lincoln Terrace Condominiums located across the street (approximately 90' to the north). Staff has received a letter signed by 18 residents located in the Lincoln Terrace Condominiums concerned about the hours of operation for the outdoor seating area. Specifically, they would like to see the original hours that were set in Ordinance 3623 maintained. Furthermore, they are concerned about the existing music that is played on the speakers located outside. Staff has also received 2 letters in support of the project from residents located in the Lincoln Terrace Condominiums.

Given the unique nature of Downtown Lombard as a mixed use business district, staff can support the petitioners request to have the hours for the outdoor seating area memorialized to match how they have been operating for the last several years. Although other outdoor dining areas have been restricted to 11:30 PM, those areas were within mixed use buildings that have residential units directly above. Staff does recommend that a condition be added that limits

any outdoor music and entertainment (TVs, etc) to the hours outlined in Ordinance 3623. Staff also suggests a condition that all customers must be leave the outdoor dining area no later than thirty minutes after the outdoor dining area is scheduled to close. Therefore staff will be recommending that the outdoor seating area officially close 30 minutes earlier (12:30 PM for Sunday through Thursday and 1:30 AM for Friday & Saturday). This will allow patrons time to finish their food and beverages.

The petitioner has represented that they meet the standards for the conditional use. Staff offers the following response to the standards:

a. That the establishment, maintenance, or operation of the conditional use will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare;

Staff believes that the outdoor dining area is an enhancement for the downtown area. In addition the business helps improve commerce for the surrounding downtown businesses. The petitioner will still be required to maintain the use so as not to be a nuisance to the surrounding area.

b. That the conditional use will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood in which it is to be located.

Staff finds that the outdoor seating area is an overall benefit to the downtown area. Throughout all of the recent downtown planning and visioning events, residents have expressed a strong desire for a place to gather. The Praga/Bon Ton restaurant plays an important role for the downtown by drawing people from all areas.

c. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

Staff finds that the outdoor seating area will not impact overall redevelopment activity along St. Charles Road. In fact, the use could be considered an asset to the corridor.

d. That adequate public utilities, access roads, drainage and/or necessary facilities have been or will be provided;

The use will not require permanent connections to municipal utilities.

e. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;

Staff finds that the proposal is a suitable location for the market. The site has ample parking with good access to St. Charles Road.

f. That the proposed conditional use is not contrary to the objectives of the current Comprehensive Plan for the Village of Lombard; and

The use serves as an enhancement to the downtown area as it is an attraction for visitors to the area. Staff finds that the use is consistent with the retail objectives in the Comprehensive Plan.

g. That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified pursuant to the recommendations of the Plan Commission.

Staff finds that the use will be consistent with Village Codes. Should the use become a nuisance or create noise levels greater than allowed by Code, the Village will have the opportunity to enforce those Ordinances to ensure minimal impact.

Lastly, Mr. Stilling noted that staff recommended approval of the petition subject to the conditions in the staff report with conditions #3 and #4 being amended to read:

- 3. The outdoor dining activity shall not be open past 12:30 AM on Sunday through Thursday and 1:30 AM on Friday and Saturday.*
- 4. All patrons shall leave the outdoor dining area no later than thirty minutes after the time in which the outdoor seating area is scheduled to close.*

Chairperson Ryan then opened the meeting for comments among the Commissioners.

Commissioner Burke referred to the Standards for Conditional Use, specifically item b. He asked if staff's answer was incomplete as it doesn't address the enjoyment of other properties in the vicinity as the testimony presented tonight indicates otherwise. Mr. Stilling answered that staff cannot respond to the values of the property but from staff's prospective, this is a mixed use district and the use is appropriate.

Commissioner Sweetser stated that she likes what staff has done and with certain stipulations the Commission could speak to Commissioner Burke's concern, which she agreed with, about enjoyment of other property in the vicinity. She felt that the Commissioners can come close to meeting the needs of both parties as to the hours and the new regulations that allow things by right. As the Village is changing and growing, there has to be the realization that things do not stay the same and we have to get along. If there is a way to mitigate sound, especially music, then that needs to be taken into consideration.

Commissioner Sweetser noted that while she lives near the area, although not in the immediate vicinity, she hasn't experienced anything that she finds objectionable. If it meets code, the speakers are turned down, the hours are met and activity is regulated by law, she is amenable to that. She recommended that a condition be added that clear access be maintained to the dentist office at all times.

Mr. Tykvart commented on the access to the dentist office. He indicated that he changed the entrance due to the amount of dust which resulted from the construction on St. Charles Road. He believed that prior to the construction clear access was maintained.

Commissioner Olbrysh stated that he agreed with the staff report and Commissioner Sweetser. For years we have heard comments on how boring Downtown Lombard is compared to other communities. Praga has now brought excitement and growth to the downtown area but needs some restrictions and enforcement of the sound problem. Lastly, he commented it was good to have

Praga in the downtown.

Commissioner Flint addressed the petitioner and asked if he had reviewed the staff report and was in agreement with it. Mr. Tykvard answered yes.

Commissioner Nelson stated that the petitioner should keep his neighbors in mind with the noise late at night.

Commissioner Burke stated he was reluctant to approve a petition asking for expansion when the petitioner is currently not operating under approved conditions and is being less than cooperative with his neighbors and enforcement officials. He questioned how the petitioner will be able to avoid future conflicts if the petition is approved as well as how the Commissioners could ensure that these new conditions are enforced - would it require the residents to keep calling the police? Mr. Stilling answered that we have a nuisance ordinance and the residents need to call the Police Department as that is what they are there for. The Police Department can enforce the ordinance and can do random checks during their shifts.

Commissioner Burke asked what can be done if these conditions are continuously violated. Mr. Stilling answered that staff could ask for a hearing to review the meaning of the standards and repeal the conditional use.

Attorney Wagner stated that the immediate answer is that the business would be cited each and every day for violating those conditions and would have to appear in the Circuit Court. That is the strongest enforcement method we have.

Mr. Stilling clarified his earlier statement by stating that there is a repeal provision in the ordinance which would be considered by the Village Board.

Chairperson Ryan added that even before it gets to that point of revocation, the business would be cited and there would a court order for charges brought up against them.

Attorney Wagner answered that there is a provision for revocation in the Zoning Ordinance which states that a conditional use permit may be revoked if the conditional use as established or constructed on the site does not conform to the established conditions for approval. The Village Board would be advised and authorize the Plan Commission to schedule a public hearing to consider revoking the conditional use permit. It would go from the Plan Commission to the Board of Trustees for revocation. The most immediate method would be enforcement through citation.

Referring to the music that is being directed toward surrounding properties, Commissioner Sweetser asked if there is a certain decibel level allowed by code and if we know what decibel level the music is being played at. She noted that until we have that specific information we will not know if anything is actually being violated or if it is just a perception. She suggested that a standard be determined so that when enforcement needs to occur, it can be enforced and a citation can be issued. Mr. Stilling answered that a police officer can also determine if there is music playing past the stipulated hours and that would result in a citation being written. He also referred to the nuisance ordinance that all residents are subject to regardless of the hours. We encourage people to call the Police Department if they feel it is not being adhered to. Commissioner Sweetser stated that while the nuisance ordinance can be enforced, it is not as specific as providing a certain decibel level.

Chairperson Ryan stated that a decibel level can be violated not only at night but also during the day. Mr. Stilling stated that our nuisance ordinance doesn't have a decibel level attached to it.

Commissioner Sweetser stated she thought this standard should be something different and separate from the nuisance ordinance. Chairperson Ryan added that in the past the Commissioners have put a condition on decibel levels for other restaurants along Roosevelt Road when the neighbors were complaining. Part of Code Enforcement was that it was randomly checked.

Commissioner Burke asked what noise requirement level should be used tonight and questioned how the Commission could move forward with the petition.

Attorney Wagner stated that the provision in Village code refers to violation of noise emission standards adopted by the Illinois Control Board to implement the Environmental Protection Act. He added that he does not know what those numbers might be.

Commissioner Burke added that whoever was going to conduct the noise reading would have to know where to read it, how to read it and how high to read it. The person would have to be well versed in doing so.

Chairperson Ryan stated that there are standards that inspectors should know or be trained in but those are codes we have enforced in other parts of the town.

Attorney Wagner stated that the easiest way to enforce a noise nuisance is to make it subject to certain hours.

T. [100395](#)

ZBA 10-08: 322 E. Elm Street

Requests that the Village take the following actions for the subject property located within the R2 Single-Family Residence District:

1. A variation from Section 155.407(F)(2) of the Lombard Zoning Ordinance to reduce the corner side yard setback to (17.68) feet where 20 feet is required to allow for a second-story addition.
2. A variation from Section 155.407(F)(2) of the Lombard Zoning Ordinance to reduce the corner side yard setback to (13.69) feet where 20 feet is required to allow for the enclosure of an existing roofed-over porch, which was granted per Ordinance 5033. (DISTRICT #4)

Attachments: [apoletter.doc](#)

[Cover Sheet.doc](#)

[DAH referral memo.doc](#)

[PUBLICNOTICE.doc](#)

[Referral Let 10-08.doc](#)

[Report 10-08.doc](#)

[100395.pdf](#)

[Ordinance 6520.pdf](#)

The petitioners, Larry and Jodi Coveny of 322 E. Elm Street were present. Mr. Coveny stated that he was before the ZBA two years ago for the same variations. He stated that the addition plans were to remain the same as they did two years ago. Mr. Coveny reiterated that the 2nd story addition is on the existing house

and would not encroach any further into the setback and the enclosed porch on the side of the house is the main entrance to the house. He added that the enclosure of the porch would allow for safe entrance into the home.

Chairperson DeFalco asked if anyone was present to speak for or against the petition. There was nobody in the audience to speak for or against the petition.

Chairperson DeFalco then requested the staff report. Michael Toth, Planner I, stated that the property contains a one-story single family residence built approximately 17.7 feet from the side property line along Stewart Avenue. The petitioner's request has been separated into two separate approvals as each poses its own unique land use issues. The first action requiring relief is to erect a second-story addition above the existing structure that will hold the same setback that the house currently maintains. The second action is to enclose an existing covered side stoop/porch, also located within the required corner side yard. As the house is legal non-conforming due to the insufficient corner sideyard setback, a variation is required for both proposals. All other setback requirements relating to the principal structure are presently conforming.

The petitioner had already received prior approval of both of the aforementioned variations in 2008, per Ordinance 6159. However, construction had not commenced on the subject property within one year of approval. As such, Ordinance 6159 subsequently expired March 20, 2009.

As part of ZBA 08-01, staff originally recommended denial of the corner side yard porch enclosure, due to a lack of hardship. However, the Zoning Board of Appeals overturned staff's recommendation and recommended approval. Subsequently, the Village Board approved the variation. Staff believes that precedence has been established that the porch enclosure in the corner side yard is appropriate for the subject property. As such, staff is now recommending approval of the porch enclosure. Also, staff still supports the variation for the second-story addition.

Chairperson DeFalco then opened the meeting for discussion by the Board Members.

Mr. Bartels asked the Zoning Board of Appeals what was the hardship associated with the porch enclosure. He stated that he was not on the ZBA during the first petition and was just curious.

Mr. Bedard stated that the hardship was associated with the lack of space provided to get into the home (at that entrance). He added that the enclosure is only a small platform, but due to the configuration of the internal staircases, it allows the family enough space to get into the home safely.

Mr. Tap added that the enclosure is not usable space. He added that there isn't enough room there to place any furniture.

Larry Coveny confirmed that the enclosure area is only four (4) feet by five (5) feet.

Mr. Tap asked the petitioner if the plans were to remain the same as they were in 2008.

Mr. Coveny replied, yes.

- U. [100408](#) Title 15, Chapter 150, Section 150.141 - Overtime Building Inspection Fees
Amending Title 15, Chapter 150, Section 150.141 of the Lombard Village Code to add a subsection for overtime building inspection fees. (DISTRICTS - ALL)

Attachments: [BOT Memo.doc](#)
[Cover Sheet.doc](#)
[BOT Memo 2.doc](#)
[Ordinance 6521.pdf](#)
[100408.pdf](#)

Village Manager Hulseberg indicated that this item had been removed from the Consent Agenda by Trustee Wilson.

Trustee Wilson questioned if the staff work day can be adjusted to accommodate residents and inspections outside of the normal workday so that an additional fee is not charged to them.

Director of Community Development Heniff indicated that staff is very willing to try and accommodate residents and developers regarding inspections. He noted the major renovation at VonMaur and how inspectors have adjusted their work days to accommodate them. He stated that this is intended more toward developers and if they are put in a pinch that this ordinance can be used. He stated that time is money. He stated that weekend inspections are rare for residential improvements and that staff is willing to work with residents and developers to accommodate their schedules.

Trustee Wilson stated he did not want to charge the residents additional fees. Director Heniff stated that additional resources could be made to accommodate any weekend inspections.

Trustee Wilson stated he did not want a resident who works a 9-5 job to be charged additional for an inspection.

Director Heniff indicated staff will work with residents and adjust schedules.

Trustee Ware concurred with Trustee Wilson's comments. He did not feel the ordinance was written that way. He did not want to charge residents an additional fee for inspections. He asked if the ordinance could be amended.

Director Heniff indicated the ordinance could be amended to exclude residential inspections.

Trustee Ware indicated he would be more comfortable with that.

Trustee Moreau questioned the language and asked about residential and commercial inspections.

Director Heniff stated that it was very rare that inspections were requested outside the normal work day. He stated commercial inspections are more common outside of the regular work day. He noted that this was recommended to cover the emergency inspections after hours.

Trustee Giagnorio questioned the frequency of these after hour inspections and a flexible work schedule. He felt staff could not be available 24/7, but felt it was important to be flexible. He asked if the ordinance was necessary if there were not many instances.

Director Heniff felt there should be a provision in place and noted a developer closing out a project and having deadlines to meet.

Trustee Gron questioned charging an overtime rate for after hours inspections and asked how that would work.

Director Heniff indicated this ordinance would address that. He stated there are three inspectors - building, plumbing and electrical. He indicated staff does try and work with residents.

President Mueller questioned if staff was bringing this up and where there is not already a problem. He inquired about immediate response issues.

Director Heniff indicated this ordinance was recommended so that the Village and the residents were not borne with the costs.

President Mueller suggested removing the request for a waiver of first, to pass the ordinance on first reading and have staff come back with a revised ordinance.

Trustee Fitzpatrick felt there may be more weekend warriors due to the flooding. She stated Home Depot sales were up and that this was not a time that she wanted to pinch the homeowner.

Resolutions

- V. [100444](#) 323 N. Elizabeth
Authorizing signatures of the Village President and Clerk on a Plat of Easement Abrogation for the property located at 323 N. Elizabeth. (DISTRICT #1)
Attachments: [100444.pdf](#)
[R 21-11.pdf](#)
- W. [100454](#) County-Wide Emergency Radio Interoperability Ten Year Cost Estimate
The Village Board requested that this item be sent back to the Finance Committee for further review. Attached is a ten year estimate for costs that the Village of Lombard may incur with the switch to ETSB radios. Brian Tegtmeier from DuComm will be in attendance to review this project with the Committee.
Attachments: [pdESTBletterofintent8252010.doc](#)
[pdESTBmemo8252010.doc](#)
[pdESTBres8252010.doc](#)
[pdESTBcover8252010.doc](#)
[R 22-11.pdf](#)
[100454.pdf](#)
[ETSB Radio Estimate.doc](#)
[DUCOMM STARCOMM.xls](#)
- X. [100455](#) 100 S. Main Street
Authorizing the signatures of the President and Clerk on a Parking Lot Lease with West Suburban Bank for the property located at 100 S. Main Street. (DISTRICT #1)
Attachments: [R 23-11.pdf](#)
[Parking Lot Lease Agreement 100 S. Main.pdf](#)
[100455.pdf](#)
- Y. [100460](#) Discovery Benefits Flexible Spending Plan
Authorizing an Amendment to the Discovery Benefits Flexible Spending Plan to include the Genetic Information Nondiscrimination Act.

Attachments: [Village of Lombard_GINA Cafeteria Plan Amendment.doc](#)
[CafeteriaPlanGINAAmendment2010.doc](#)
[R 24-11.pdf](#)
[100460.pdf](#)

Other Matters

Z. [100244](#)

Alley Maintenance Program

Recommendation from the Public Works Committee to approve an Alley Maintenance Policy.

Attachments: [100244.pdf](#)
[100244 June BOT packet.pdf](#)
[100244 memo - workshop.pdf](#)
[100244 PPT presentation.pdf](#)
[100244 proposed alley improvements Lombard-Elm.pdf](#)
[minsstratplan10192010.doc](#)

Goldsmith introduced Dana Moreau, Trustee for District 4. Many of the alley locations are within her district. Goldsmith gave an explanation of the background and the map with alley locations. Discussed the vacation of some of the alleys and maintenance of others. Kaforski: have any of the people been notified of this? Goldsmith: no, we are bringing this here first. Discussion ensued regarding the size of alleys, utility easements, etc. Dratnol: as part of the vacation, we would address each property owner. Kaforski: have you looked at each of these yourself? Goldsmith: yes. Bochner: according to state statute is the fair market value for tax purposes only? Arnold: are any of these areas we are looking at vacating are they gravel/concrete/asphalt and if they are, are we going to put them back to grass? Are there any rain water run off problems? Goldsmith: yes there is one area. Preins: we cannot just have one blanket policy since there are different situations. Committee is in favor of investigating and going forth with this issue. L. George, 78 S. Lombard: provided photos of her property and the alley. Has lived in this home for 7 1/2 years. Constantly has water coming into her garage due to the pitch in the alley. Goldsmith: not to put the horse before the cart - but if we decide to go forward with this plan - we would like to look at different designs that could be used in the alleys that we are going to maintain. This way we could address some of these problems in the CIP. What we are looking for is direction from the committee as to what we can vacate and then we can look at maintenance. Goldsmith: this whole alley (on S. Lombard) is a problem - there is no sewer to hook up to. M. Bell, 68 S. Lombard: also provided photographs for the committee to view. The water collection is bad in the winter and even worse in the spring. Also, there are runoffs from different properties. There has been a plan to create a wedge and remove the crown. There is a hazard here with the icing situation. Goldsmith: need to come up with a design that is not only safe but is effective. Kaforski: let's try to come up with a short term fix until we can come up with an effective long term fix. Goldsmith: we are looking at worst first and funding is always going to be an issue. Kaforski: possibly perform engineering in house for these 2-3 properties. Goldsmith: we would like to perform a long term fix - we can start looking at a permanent solution and costs. We do need to draw attention to this issue. Moreau: I am starting to get more and more calls on the alley issue. Most of them are from Lombard Ave., but I

am also getting calls from Maple St. Kaforski: would like to get a dollar figure so that we know what we are talking about. Preins: don't want to make a knee jerk decision. Goldsmith: we need to make a long term plan. M. Bell: what is going to be the next step? Can the committee keep us informed and talk with us and our neighbors about the course of action? Goldsmith: we will work with Community Development for the next few weeks and find out what areas should be addressed first. Some of these we have no solutions for. By June we will have the ranking on these, and then we can start incorporating some of these projects into the CIP. Anything that will require a sizable amount of \$\$ will need to go into the CIP. Goldsmith: it will take at least 2 months to assess which alleys are in greatest need. Then staff needs to sit down with the Trustees involved and Community Development and engineering firms. We can start with FY2012 budget. We will do everything that we can to supply some temporary fixes. Frerichs: alley is in the people's backyards. We already have a backyard flooding grant program. Goldsmith: we have no sewer in this area for the water to go to. Preins: we are going to have to prioritize and will not be able to fix these all at once. We will have to pick the worst ones and fit them into the CIP as funds are available.

- AA.** [100452](#) Lombard Town Centre - Temporary Signage
Motion granting approval to place temporary signage on Village-owned properties for the purpose of promoting the Swap Meet on September 12 and Golf Outing on September 25, 2010. (DISTRICTS #3, #4 & #6)
Attachments: [100452.pdf](#)
- BB.** [100462](#) Overhead Sewer Grant Program
Staff request for additional funding in the amount of \$50,000.00 to fund increased resident participation.
Attachments: [100462.pdf](#)
- *CC.** [100464](#) Appointment - Economic and Community Development Committee
Request for concurrence in the appointment of Joe Glazier to fill a vacancy on the Economic and Community Development Committee to May 2011.
Attachments: [appointmentsECDC2010.doc](#)
[submitecdc2010.doc](#)
[appointmentlettereCDC2010.doc](#)
[Joe Glazier Letter.pdf](#)
[100464.pdf](#)

IX. Items for Separate Action

Ordinances on First Reading (Waiver of First Requested)

Other Ordinances on First Reading

- *A1.** [100425](#) SPA 10-02ph: 215 E. Roosevelt (V-Land Highland/Roosevelt Planned Development)
Requests site plan approval of a deviation from Section 153.505(B)(19)

(b)(1)(a) of the Lombard Sign Ordinance to increase the maximum allowable area of a wall sign from thirty-two and one-half (32.5) square feet to no larger than forty-eight (48) square feet in the B4APD Roosevelt Road Corridor District, Planned Development. (DISTRICT #6)

Attachments: [apoletter.doc](#)

[Cover Sheet.doc](#)

[DAH referral memo.doc](#)

[DAH referral memo2.doc](#)

[DAH referral memo3.doc](#)

[PH notice SPA 10-02ph.doc](#)

[Referral Letter SPA 10-02ph.doc](#)

[Report SPA 10-02ph.doc](#)

[100425.pdf](#)

[Ordinance 6535.pdf](#)

Terry Doyle of Doyle Signs, 232 Interstate Road, Addison, IL, is representing the contract for CD One Price Cleaners. CD One Price Cleaners opened their 215 E. Roosevelt location in April 2008. The location is a high profile location and should generate a reasonable amount of business. This location has been struggling to survive. The people that operate CD One Price Cleaners have 30 stores in the metro area. This particular location is 18% below average revenue than the 5 other stores that are located closest to the Lombard area. The most apparent difference is that the Lombard store has the smallest exterior identification sign of all 30 locations. When considering that this location is in the Roosevelt Road Corridor, is set back 75 feet from the property line and has a façade area of 837 square feet you would expect that this business would be allowed a sign that is somewhat larger than the Village Code permits. The Village Code states that if your business is located in the B4A District, the size and scale is greater than what is permitted in other districts. This sounds reasonable and appropriate. If you are a small business with 32'6" of frontage on Roosevelt Road and are setback 75 feet from the property line, the same ordinance restricts your wall sign area to the same size sign of that of a business (on the sidewalk) of the B5 District. This does not make sense and is the complete opposite of what the ordinance states. The existing sign for CD One Price Cleaners is less than 4% of the façade area of the storefront façade. It's too small. It should be larger than a sign permitted in the downtown with the same frontage. The proposed replacement sign is composed of a 3'6" opaque logo with silhouette illumination and a set of individual "CD One Price Cleaners" illuminated letters. The Village interpretation is that the sign is 88.4 square feet of area (in a rectangle). This includes 42.3 square feet of blank brick wall. If you measure the area of the actual sign it is only 46.1 square feet. Is that too much to ask for if the sign is in the Roosevelt Road Corridor and set back 75 feet? The 75 foot setback is 62% of the 120 foot setback where the ordinance allows the sign to automatically double in size. The ordinance agrees that the further the sign is set back the more difficult it is to read. If the sign area permitted in the B5 downtown (for businesses located at the sidewalk) is the same size that is allowed for a business on Roosevelt Road, it makes sense to allow an increase in sign area and not restrict every business that doesn't have a 120 setback to the size allowed in the B5. It doesn't make any sense and the ordinance is an imperfect guideline for sign sizes, especially wall signs.

Mr. Doyle stated that the staff report indicates that we have not met the standards for variations, more specifically 1, 2 and 4. He referred to standard #1 and stated that it is unfair that the signage is more restricted at their location than it is in the downtown central core. It is a hardship to a business located on Roosevelt Road. Referring to standard #2, he mentioned another sign variation that was granted to the business to the west. He stated that the variation was granted for a 160 square foot sign with only 60 feet of frontage. The CD building façade is 28' in height and the sign is lost in the façade. Referring to standard #4, he stated that the hardship is caused by the ordinance because it limits the size of a sign on Roosevelt Road to that of a sign in the downtown business core (located at the sidewalk), obviously contradicting statements of both zoning districts.

Mr. Doyle then referred to the photos and architect line drawings of the sign and stated that the photos are all in scale and that you can see the existing and proposed signs. It's the same size sign that exists on another CD One Price Cleaners on Roosevelt Road about 5 miles to the west. We believe that it is a reasonable request based upon the setback, size of the façade and surrounding conditions on the Roosevelt Road location. Unfortunately, CD One Price Cleaners has a handicap because their name is long, but all other conditions are reasonable for the variation request.

Chairperson Ryan asked if anyone was present to speak in favor or against the petition.

Chairperson Ryan then requested the staff report.

Christopher Stilling, Assistant Community Development Director, presented the staff report. Doyle Signs is proposing to replace an existing wall sign and install a larger wall sign for the tenant space being occupied by CD One Price Cleaners located at 215 E. Roosevelt Road. The proposed sign on the building's front façade is approximately eighty-eight and four-tenths (88.4) square feet where a maximum of thirty-two and one half (32.5) square feet is permitted by the Sign Ordinance. Therefore, a site plan approval with a deviation for sign size is required.

The existing CD One Price Cleaners is seeking to replace their existing wall sign with a larger sign of similar design. The existing sign is approximately 32.5 square feet in area which is the maximum allowed by code. The petitioner is seeking to increase the size of the sign to 88.4 square feet in area.

In the B4A Roosevelt Road Corridor District, when a tenant's wall sign is less than one-hundred twenty feet (120') from the nearest property line, the maximum size of a wall sign for a multi-tenant unit is one times the lineal front footage of the tenant space. As the proposed wall sign will be approximately seventy feet (70') from the front property line along Roosevelt Road and the tenant space is approximately thirty-two and one half (32.5) lineal feet, the tenant would be entitled to thirty-two and one half (32.5) feet of signage area.

The petitioner's proposed wall sign on the building's front façade is approximately eighty-eight and four-tenths (88.4) square feet. In the Standards to Variations, the petitioner states that the request for additional square footage is to allow the wall sign to be more legible as thirty-two and one half (32.5) feet of signage area is not effective or easily readable from Roosevelt Road.

In 2006, staff initiated PC 06-26, which proposed text amendments to the Sign

Ordinance to clarify that the area of a wall sign should be calculated as the smallest rectangular shape that could completely enclose the sign. Staff had historically performed the calculations of signage area in the same manner. These amendments were proposed and adopted to prevent applicants from using another geometric shape, such as a polygon, as the basis for additional signage area.

The proposed sign contains the business' name "CD One Price Cleaners" as well as the corporate logo. The logo itself is three-and one-half feet in height, while the text is twenty (20) inches in height. The relative size of the logo is the direct cause of the excessive square footage. Wall signage relief had been granted to the Buffalo Wild Wings located to the west at 207 E Roosevelt (SPA 08-02ph). In that case, the wall signage was supported because the actual size of the illuminated sign was less than what was allowed by the Sign Ordinance. The relief was granted to address the trade dress, consisting of the yellow and black/white checkerboard painted on the building itself. In that case both staff and the Plan Commission felt that relief did not have the same visual effect as standard signage. Another notable case in the Village includes the recently closed Hollywood Video within the High Point Shopping Center, which consisted of several unique color schemes unique to their building prototype. When viewed in that context, the proposed sign package was deemed not to be intrusive and was approved.

Staff finds that the existing sign is already legible from Roosevelt Road and the proposed signage is a matter of preference. Also, the indicated hardships do not constitute a physical hardship associated with the property as all businesses along Roosevelt Road are required to meet the same wall sign size provisions. The Plan Commission recently denied a request by Cricket Wireless for a wall sign deviation in the High Pointe Shopping Center. As in this case, the Cricket sign exceeded code because of the corporate "K" logo.

The Comprehensive Plan identifies the site for Community Commercial uses. The existing use is therefore consistent with the Comprehensive Plan.

The subject property is bordered on the east and west by other existing retail commercial uses. Roosevelt Road has traditionally included a substantial number of stand-alone and integrated shopping center developments. While selected establishments within the corridor have received signage variations, the petitioner's request would not be consistent with the planned development in which it exists.

Staff offers the following responses to the Standards for Variation:

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

Staff finds that there are no conditions related to the property that prevent compliance with the signage size regulations. The subject tenant space does not have physical surroundings, shape, or topographical features that differ substantially from other corner tenant spaces within the planned development or those otherwise in close proximity. Furthermore, each tenant spaces in the planned development are located within close proximity to Roosevelt Road. Other tenants located in this building have successfully operated with wall signs of twenty-five (25) square feet or less.

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

Staff finds that there are no conditions unique to the subject property. There are many tenant spaces within the planned development and nearby on Roosevelt Road that have the similar configurations and are subject to the same signage regulations.

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

Staff finds that the sign could be constructed per the ordinance requirements either by reducing the overall size of the sign or reducing the height of the logo. The hardship has been created by the tenant as a result of the preference for a particular letter in this sign's design.

Staff has concerns about the precedent that would be established if the proposed request was to be granted. Multiple other tenants within the planned development, including those adjacent to the subject tenant space and others located further away from Roosevelt Road, have been able to meet the established signage size regulations. Should this request be granted, it would strengthen the case of similar requests for other such tenant spaces.

Staff also notes that if this request were granted, future occupants of the subject tenant space would maintain the rights to a larger wall sign. Future signs could potentially have greater bulk than the one proposed as future tenants could make use of surface area that the CD One Price Cleaners sign would leave vacant.

The Department of Community Development has determined that the information presented has not affirmed the Standards for Variations. Based on the above considerations, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion denying the aforementioned deviation.

Mr. Stilling noted that the Plan Commission has the final decision in this case, unless the petitioner files an appeal, at which point it would go to the Village Board.

Chairperson Ryan then opened the meeting for comments among the Commissioners.

Commissioner Burke stated he agreed with the staff report.

Commissioner Flint stated he understood the petitioner's position and situation but felt that this would be setting a precedence.

Commissioner Sweetser questioned what the square footage of the sign would be without the logo. Mr. Stilling stated that even if the logo were to be removed, the sign would be around forty-seven square feet, which is still too large.

Ordinances on Second Reading

Resolutions

- A. [100330](#) 300-310 S. Main Street (Prairie Path Villas) (Tabled September 2, 2010)
Authorizing the Village of Lombard to notify the Illinois Environmental Protection Agency that the Village will no longer agree to have certain right-of-ways act as an engineered barrier. (DISTRICT #1)

Attachments: [BOT memo TACO void cont.doc](#)
[BOT memo TACO void.doc](#)
[Cover SheetTACO agreement.doc](#)
[Memo 9-2.pdf](#)
[BOT memo TACO void 10-7 report.doc](#)
[100330.pdf](#)

Village Manager David Hulseberg gave an overview of the property. He noted that prior to development of the property there was a gas station located on the south end of the property. He reported the petroleum had leaked into the right-of-way. He noted that some had been captured, but felt there was a portion that was still contaminated. This portion is under the high fiber ducts owned by AT&T that are located on the property. If any work had to be performed and disturbed the high fiber ducts, the Village would be subject to very high fines of \$10,000 per ten minutes. He reported the developer of the property tried to vacuum the contamination, but they were unsuccessful. The Village has a highway authority agreement and this area was to serve as a barrier. The Village and developer had hoped that in time the contamination would dissipate. He felt the Village should request \$100,000 from the developer to protect the interests of the Village in this matter. The IEPA has issued a no remediation order for the property. The Letter of Credit has been called and no longer exists to protect the Village from any costs that may arise. He indicated that if any units at the development were sold they would not come with a clear title. He noted staff had met with legal counsel regarding this matter. It is staff's recommendation that the developer and property owners should be responsible. He noted a unit could be purchased and the purchaser not be aware of this issue. He indicated staff continued to work with the property owner, but felt the Village was potentially looking at being liable for expenses. He stated that since the Village Board would not be meeting in the summer, he felt this matter should be addressed since no compromise had been reached. He was looking for authorization from the Village Board to send a letter to the IEPA to put the property on notice. He felt staff could continue to work with the property owner. He indicated staff was looking at the best interests of the Village.

Katy Hurst, 310 S. Main Street, stated she is a resident and President of the Association Board. She indicated the residents want to resolve this issue and wanted to work with the Village to do so. She requested the Village give the owners some additional time to resolve the outstanding environmental issues. She noted the association did not have the money to reinstate the Letter of Credit. If the Village pursued this, they would have to look at a special assessment and she was concerned that some residents may have to walk away from the units.

Steve Kalke, 4425 Ponce de Leon Boulevard, Coral Gables, FL, spoke and requested the Village Board and staff continue to work with the developer and property owners in this matter until it can be resolved.

President Mueller spoke regarding the contamination of the property and gave

some further background of the property. He spoke of the gas station, the body shop and the dairy that were located on the site years ago. He noted that the current contamination problems go back 50 years. He spoke of the improvements that had been done and the remediation that had occurred. He noted that a lot of money had been spent to clean up the site over the years. Trustee Gron questioned where this left the property owners.

Manager Hulseberg noted this was a quandary and refinancing or selling would be an issue. He indicated that staff was willing to continue to work with the property owners and developer. He stated the Village does not need to move forward on this immediately. Staff felt it was in the best interests of the Village to bring this to the Board.

Trustee Gron questioned how the Village would document this.

Manager Hulseberg indicated the property could be re-tested and reinspected. He talked about a possible extension of the agreement. He felt by moving forward with the letter to the IEPA, the Village would be protected as the owners would have to pay the Village the \$100,000 that would be put into a fund in the event it was needed.

Trustee Ware inquired what would happen if the Village Board did not approve moving forward on this matter.

Manager Hulseberg indicated some of the 19 units could be sold to unsuspecting individuals.

Trustee Wilson questioned if there would not have to be a disclosure if a unit was sold.

Attorney Tom Bayer indicated if the remediation is filed, it will show up at closing. He stated if the Village Board approved moving forward, a letter would be sent to the IEPA.

Trustee Wilson questioned the contaminated area.

Attorney Bayer stated this is a portion under the sidewalk under the high fiber lines located in the right-of-way. He indicated if any of the utility companies such as AT&T, ComEd, or NICOR had to do repairs, the workers would need to have special equipment due to the contamination. The Village would be billed for this expense and would not have recourse at this time as there is no valid Letter of Credit. He noted the area is approximately 12 feet by 4-1/2 feet on Main Street at the south end of the property.

Trustee Wilson asked if this was a problem only if the utility companies needed to work in that area.

Manager Hulseberg indicated that was true. He stated staff could work with the property owners and developer and if they agreed not to transfer title to any units, the Village could continue discussion regarding this matter.

Trustee Gron inquired about continuing to work with the owners and developer.

Trustee Moreau stated she had pulled this item from the Consent Agenda as she had just recently been made aware of it. She questioned if the primary purpose was to make certain that any potential buyers would be made aware of this issue.

Attorney Bayer stated if the Village did not move forward with sending the letter to the IEPA, there would be no remediation listed on the title for the properties. He stated the IEPA does not move quickly. He noted if the Village approved moving forward and sent the letter to the IEPA, it would take months for the IEPA to act. He stated this would then alert any potential buyer to this problem. Trustee Moreau stated this did not just occur.

Trustee Ware questioned costs.

Manager Hulseberg stated costs were unknown as it would depend on the amount of time and how many times any repairs would need to be made. He also noted access to the lines was difficult.

President Mueller noted that the Letter of Credit had been revoked and thus the Village was responsible for any costs. He stated if the Village proceeded, that

the developer and property owners would be responsible for any costs. Attorney Bayer stated there was no Letter of Credit and nothing to reimburse the Village for any costs incurred. He noted that Village Board can approve staff's recommendation regarding the letter and the Village can hold off sending the letter to the IEPA. This will allow staff additional time to work with the property owners and developer. This will also provide some pressure to the owners and developer to work with staff to resolve the matter. That way the property owners will not be hurt immediately. He noted that the cost for removal of the contaminated soil is far more because of the location of the contaminated area being located under the utility cables.

Trustee Wilson questioned if the Village moved forward with the letter to the IEPA, if properties would still be able to be sold.

Manager Hulseberg noted that specialists had expected the contamination to dissipate. The letter would make it more difficult for a buyer to obtain financing.

Attorney Bayer stated if the letter were filed and if work had to be done in the contaminated area, the cost would be up to the property owners.

Trustee Moreau questioned the \$100,000 amount.

Manager Hulseberg indicated the Village looked at the risk. In all likelihood, the contamination will dissipate in time.

Trustee Moreau questioned tabling the item to the next Village Board meeting.

Attorney Bayer stated the Village can have a condition included in the agreement that as long as staff is having productive negotiations with the property owners and developer, that the letter will not be sent to the IEPA. He noted the Village can determine a length of time for the resolution of the problem. He asked if the Village Board was comfortable with using the date of the next scheduled Village Board meeting of August 19th. He noted if the issue was not resolved by a date certain, the Village can proceed with the letter.

President Mueller asked that staff be given time to work with the association and the residents.

Trustee Wilson questioned tabling the item.

Steve Kalke indicated the association has no funds to replace the Letter of Credit. He noted things were tough in this economy. He spoke of possible smaller assessments over a longer period of time.

Trustee Gron indicated he would defer this to Trustee Moreau as she had pulled it off the Consent Agenda. He indicated he would like to see them move as quickly as possible as he was sure they wanted to sell the remaining condos.

Trustee Moreau asked about an additional meeting the following week. She moved to table this matter to the August 19th Village Board meeting and have staff meet with the residents.

President Mueller indicated this was an unfortunate issue, but he wanted to protect the Village and felt the Board had an obligation to protect the residents from the financial burden this may cause. He spoke of the developer, the project and the economy. He felt the project was great and it was unfortunate that the economy took a toll.

Trustee Giagnorio asked about meeting or negotiating.

Manager Hulseberg stated staff can continue dialog with the residents and staff can report back to the Village Board at the August 19th meeting.

Trustee Wilson indicated he would like to attend the meeting with the residents.

Trustee Moreau indicated that most of the trustees would want to attend.

Attorney Bayer stated this would result in the posting of a special meeting to be in compliance with the Open Meetings Act.

President Mueller suggested that staff meet with the residents along with the trustee for that district. The trustee can then report back to the rest of the Village Board. This way there is no conflict.

Trustee Gron asked that this item be tabled to September 2.

- B. [100445](#) Technology Drive (Four-Party Intergovernmental Agreement)(3/4 Vote of the Trustees Required 5 of 6)

Authorizing the signatures of the Village President and Clerk on an Agreement relative to future actions to be undertaken relative to Technology Drive. (DISTRICT #3)

Attachments: [R 26-11.pdf](#)

[Intergovernmental Agreement Technology Dr.pdf](#)

[100445.pdf](#)

Other Matters

- *C. [100409](#) First Amendment to the First Amendment to the Agreement Between RedSpeed Illinois, LLC and the Village of Lombard
Reconsideration of the Motion to Reject the First Amendment to the First Amendment to the Agreement between RedSpeed Illinois, LLC and the Village.

Attachments: [pdredsfirstamend822010.doc](#)

[pdredsfirstamendmentcover822010.doc](#)

[pdredsfirstamendmentres822010.doc](#)

[pdredsfirstamendmentmemo822010.doc](#)

[100409.pdf](#)

Trustee Wilson stated this is another item that he pulled from the Consent Agenda and that he does not want to pay RedSpeed for the upgrade to the lights at North Avenue and Route 53.

Village Manager Hulseberg indicated that the Illinois Department of Transportation requested an upgrade to the signals and this amendment is recommended for the repairs which would reimburse RedSpeed.

Chief Byrne noted the Village Board held a workshop in April regarding RedLight enforcement. He stated the Village would not be paying for the upgrade to the signals. The cost of the upgrade would be deducted from the proceeds of any RedLight enforcement. He indicated RedSpeed would be taking the risk.

President Mueller questioned if there were no proceeds coming, if the Village would be required to pay.

Chief Byrne stated that the Village share of the upgrade is \$12,111 and the July proceeds were \$3,000.

President Mueller noted that at that rate it would take four months to pay RedSpeed.

Trustee Ware stated that as he said in April he is not a fan of RedSpeed. He felt the numbers were skewed at best and that most violations are issued for right turn on red. He moved to terminate the agreement with RedSpeed.

Trustee Gron seconded the motion.

Attorney Bayer stated that the Village Board can not change what is listed on the agenda. The Board needs to vote for or against the amendment. The Board can direct staff to place the termination of the agreement on the next agenda for action. He indicated it will take time to prepare the notices for the agreement to be terminated.

Trustee Ware moved to not authorize the amendment to the agreement with RedSpeed and to direct staff to prepare an agenda item for termination of the

agreement with RedSpeed for the September 2 meeting.

Trustee Moreau questioned the process.

Chief Byrne stated IDOT would mandate the removal of the cameras.

Trustee Giagnorio questioned the payment process for the upgrade. He asked if monies that would have come to the Village would go to RedSpeed to pay for the upgrades. He noted that he has seen potential accidents at RedSpeed intersections where vehicles slam on their brakes when they realize it is a RedSpeed intersection.

Manager Hulseberg noted that the proceeds to the Village would go to help pay for the upgrade.

President Mueller stated that the State is going to be taking MFT funds from the Village and spoke about the upgrades to the traffic signals.

Trustee Giagnorio stated that he goes to Restaurant Depot five days a week and sees cement trucks lock up their brakes at North Avenue and Rt. 53. He stated that in his opinion, RedLight enforcement is dangerous and he is against it.

Trustee Moreau stated the Village entered into an agreement with RedSpeed and questioned the ramifications of terminating the agreement.

Village Manager Hulseberg indicated there is a provision in the agreement for termination.

Trustee Fitzpatrick requested clarification on the motion.

President Mueller indicated the motion is to not approve the amendment and to direct staff to proceed with termination of the contract.

Trustee Gron questioned the removal of the cameras.

Village Manager Hulseberg indicated the cameras will be removed and that the necessary paperwork will be generated terminating the agreement. He noted that IDOT was requiring the upgrade to the lights.

***D.** [100465](#) First Amendment to the First Amendment to the Agreement Between RedSpeed Illinois, LLC and the Village of Lombard
New vote on the Motion to Reject the First Amendment to the First Amendment to the Agreement between RedSpeed Illinois, LLC and the Village of Lombard.

***E.** [100466](#) First Amendment to the First Amendment to the Agreement Between RedSpeed Illinois, LLC and the Village of Lombard
Motion to approve a Resolution approving the First Amendment to the First Amendment to the Agreement between RedSpeed Illinois, LLC and the Village of Lombard with regard to upgrading the signals at North Avenue and Route 53. (DISTRICT #1)

Attachments: [First Amendment Redspeed Agrmt.pdf](#)

[R 25-11.pdf](#)

[100466.pdf](#)

X. Agenda Items for Discussion

XI. Executive Session

XII. Reconvene

XIII Adjournment

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