

August 21, 2008

Mr. William J. Mueller,  
Village President, and  
Board of Trustees  
Village of Lombard

**Subject: PC 08-09: 1050 & 1051 N. Garfield (SGS Logistics)**

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner is requesting a conditional use to allow outside storage of motor vehicles and a conditional use to allow off-site parking for the subject properties located in the I – Limited Industrial District.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on June 16, 2008. Chairperson Ryan asked if there was anyone to cross-examine the witnesses. Hearing none, he requested that the petitioner begin their presentation.

John Clery, 1111 Plaza Drive, Suite 580, Schaumburg, IL, stated he is representing Greg Pawlak and SGS Logistics (1051 N. Garfield Lombard, IL). Seated to his left is Greg Pawlak whose office is at 1051 N. Garfield and the other subject property across the street at 1050 N. Garfield. Mr. Clery stated that he read through the staff report and was disappointed with its conclusion and unfavorable recommendation made by staff. He then mentioned his previous experience as a mayor and how they dealt with petitions. Mr. Clery then stated he wanted to make sure that the Plan Commissioners read the staff report so they could draw their own conclusions and then proceeded to give his opinion on how the Plan Commissioners should handle the case. He then asked the Plan Commission to put themselves in the petitioners' shoes as this will put Greg Pawlak and his employees out of business. Mr. Clery then stated that his client loves Lombard and is proud to be part of the community. He then added that Mr. Pawlak has brought business to Lombard. Mr. Clery asked that the Plan Commission read the report for the facts and not put SGS Logistics out of business. Mr. Clery stated that there are two separate issues to discuss - 1051 N. Garfield (outside storage of motor vehicles) and 1050 N. Garfield (freight containers being stored across the street).

Mr. Clery stated that he wants to refute illogical conclusions. Mr. Clery added that he hopes the Plan Commission visited the site today. He stated that the grass has been trimmed and the landscaping blocks the cars. He also stated that the building looked great and was an asset to Lombard. Mr. Clery stated that at the back of property all cars are aligned neatly. Referring to the adjoining properties to the east and to west of the subject property, Mr. Clery stated that he saw piles of steel beams that were behind the buildings. Mr. Clery added that none of that is on the SGS Logistics property. Mr. Clery mentioned the Code Enforcement citations that were given for failure to maintain fire access around the facility. He added that this was a wake up call to his client and that issue was resolved. He stated that there were no further complaints from the Village. Mr. Clery added that his client did what he was told. Mr. Clery asked the Plan Commission the right to allow him to operate his business as he needs the storage of outside vehicles, which is ninety percent of his business. Mr. Clery stated that it is true that the Certificate of Occupancy did not allow outside parking; however he thinks there was a miscommunication between his client and staff. Mr. Clery stated that they worked out plan to store vehicles outside within a section north of the building and staff expressed concerns about following the plan. Mr. Clery added that Greg Pawlak only makes money when he moves his freight and if he didn't that would inhibit his business. Mr. Clery stated that staff has pictures of the property littered with cars, but that was due to the snow and terrible winter, which Mr. Clery said won't happen again. Referring to the staff report, Mr. Clery stated that on page six staff concluded that the petitioner demonstrated that he couldn't adhere to the plan. He then added that on the next sentence staff notes that they have shown significant improvement. Mr. Clery stated that the petitioner has done everything he can. Referring again to the staff report, Mr. Clery asked why there is a concern with aesthetics when this is a light industrial district and the cars would be screened or blocked. Mr. Clery stated that there are no more safety issues. Referring to staff and Plan Commissioners, Mr. Clery stated that safety concerns are not brought up while aesthetics are which can be taken care of through the process.

Mr. Clery stated that in part of the staff report, it notes that it would be a problem to keep an eye on the property. He then mentioned that if it's screened and it if takes Code Enforcement to get out of the car and walk around the property, he has no problem with that. Mr. Clery stated that if it is a matter of aesthetics, they will do whatever screening is necessary to be compliant. He noted that the outside parking could shield cars from the street and he would continue to move freight in order not to have negative aesthetics. He stated that his client's property looked like a gem compared to others. Referring to 1135 N. Garfield, Mr. Clery noted the screened in area which has piles of dirt, metal and other material in excess of 10 feet (in height).

Referring to the 1050 N. Garfield site, Mr. Clery stated that staff mentioned on page 7 of the staff report that "trailers deviated from more than 25 to less than 15" - he added that today there were only 5 trailers on site. Mr. Clery stated that another concern is that the trailers were not on hard surfaces, but those were the landlord's trailers that screened his client's trailers. He added that there was a complaint about the thoroughfare and it is clear but not clear when they are moving trucks.

Mr. Clery stated that they have provided staff with a 5-year lease but there still is a concern whether it is considered a long-term lease. He added that that's all the time the landlord has. Mr. Clery stated that you can't convey to someone more time than you have. He added that in these economic times, who wants to go beyond 5 years. Mr. Clery stated that they are committed until 2013. Mr. Clery then explained Webster's' Dictionary definition of long-term. He added that it could be around 10 years for bonds but for rent it could be 6 months. He suggested that 5 years is a long time in this climate.

Mr. Clery stated that page 7 of the staff report states that the 5-year lease is insufficient. Mr. Clery asked what this assumption was based upon. He added that page 7 also concludes that if the 1050 N. Garfield site becomes unavailable they would have to be relocated outside of the Village or to a new offsite area. Mr. Clery then stated that if his client could not extend the lease, they would look elsewhere, which he hopes would satisfy the Commissioners' concerns. Referring again to the staff report, Mr. Clery quoted the portion that states "if the off-site parking became unavailable, the business would falter due to the lack of storage". He stated that they would find another site for parking the containers if necessary. He added there could be other alternatives. Mr. Clery again quoted pages 7 and 8 of the staff report which stated "if there were no automobiles then there would not be a need for the storage of the cargo containers." Mr. Clery explained that this statement it is not plausible as 90 percent of his client's business is shipping automobiles. Referring to Page 8 of the staff report, Mr. Clery mentioned the impact on adjoining properties as a "visual and traffic nuisance." Mr. Clery asked for proof of this statement. He mentioned that the trailers sit back far from the road. As for the traffic nuisance, Mr. Clery stated that "having trailers off-site" clears traffic off and away from the street. Because he has the area across the street it clears traffic. He mentioned staff's concerns about safety issues, but added that there are no complaints or incidents that occurred because of trucks going across the street. He explained that it appears that under this recommendation, he would be unable to operate business the way he has done today.

Mr. Clery stated in staff's report staff talks about standards for conditional uses on page 8. On page 9 the report indicates that "the operation of one business across the span of two non-contiguous properties could pose safety issues". He noted that that there is no one in the audience to speak negatively about the petition to make sure it is denied which indicates that if there was such a great concern, somebody would be here.

Mr. Clery stated that on page 9 of the staff report it states "staff is unaware of any business operating from two sites in that area". Mr. Clery explained that just because there aren't any businesses there that run off two sites yet, he finds that hard to deny the petitions for that reason. He then added that there are other areas locally besides Lombard where this occurs.

Referring to staff's comments to the Standards of Conditional Uses on page 9 Mr. Clery made comment regarding the following specific Standards:

- Standard #2 of the staff report - Mr. Clery asked if the concern is too many cars on the site or the viewing or screening of property. He explained that if it is the extra cars, screening would take care of that. Mr. Clery added that his client is happy at that property.
- Standard #3 of the staff report - Mr. Clery stated that he is not sure how staff based their conclusion that his client would still be able to conduct business without the approval.
- Standard #5 of the staff report - Mr. Clery stated that he was not sure where staff's comment came from. Mr. Clery stated that he expects that the drive aisle might be blocked for a few minutes while they are moving vehicles but then afterward it is clear.
- Standard #6 of the staff report - Mr. Clery addressed the 2nd italicized heading by stating that his client is doing good things with the property and it looks great. He added that it is one of the nicer properties in the area.
- Standard #7 of the staff report - Mr. Clery explained that his client has the lease for 5 years. He added that Greg Pawlak is a successful businessman and asked why he would extend a lease on his business and not for the off-site parking. Mr. Clery mentioned that the building looks great, Mr. Pawlak works hard and progress has been made. He then explained that in staff's view the property may appear as a salvage yard, but he argued that his client doesn't make money if he doesn't move the cars. Mr. Clery stated that his client does need off site parking. He added that it doesn't aesthetically bother anyone and it improves traffic because the trucks are not in the street. He then stated that there had been no other complaints made by anyone else.

Chairperson Ryan then opened the meeting for public comment. No one spoke in favor or in opposition to the petition.

Chairperson Ryan then requested the staff report.

Michael Toth, Planner I, presented the staff report by stating that the following report supersedes the original staff report submitted as part of this petition. The petitioner is seeking approval for the outdoor storage of motor vehicles to be stored in an enclosed area on the subject property within the I Limited Industrial District. The petitioner is also seeking approval to store freight containers across the street from the subject property, which is considered to be off-site parking. As the outdoor storage of motor vehicles and off-site parking are both listed in the Zoning Ordinance as a conditional use within the I - Limited Industrial District, Village Board approval is required.

The proposed motor vehicle storage yard would occupy the northern portion of the subject property and would be used for the storage of automobiles on a rotating basis, as not to become a salvage yard. The automobile storage yard will serve as an ancillary staging area with the principal warehousing/storage/distribution use being conducted within the existing commercial

building. The automobiles being stored outside will eventually be circulated through the building where they will be driven into cargo containers and shipped to the customer.

The petitioner applied for and received a final Zoning Certificate on November 7, 2007 to conduct warehousing/storage/distribution activities. As a condition of the final Zoning Certificate, there was to be no outdoor storage of automobiles.

During a routine inspection effort, staff found that a number of automobiles were being parked throughout the entire subject property. Further investigation of this activity found that the petitioner has leased the subject property and was using a majority of the property for the storage of motor vehicles, contrary to the conditions of the final Zoning Certificate. The outdoor storage of automobiles is listed as a conditional use within the I - Limited Industrial District. As the Zoning Certificate specifically prohibited the outdoor storage of automobiles and there were no prior Village approvals that could legally tie that specific use to any legal rights afforded to the subject property, the property was found to be in violation.

After meeting with the petitioner and discussing the logistics of their business, staff also learned that the petitioner had been utilizing a portion of the property across the street (1050 N. Garfield) for the off-site parking of freight containers.

Staff continually worked with the petitioner to create a plan which designates specific areas of the site for the outdoor storage of motor vehicles. The compromise plan allowed for the outdoor storage of motor vehicles within a 9,680 square foot area north of the building and within four (4) parking spaces on the southeast corner of the parking lot. The plan also specified that the area in which the motor vehicles were to be stored should be screened with an eight (8) foot solid fence. The mandated eight (8) foot solid fence will provide screening of the storage area from Garfield Street and also the adjacent property to the north.

Had the outdoor storage of motor vehicles occurred within the confines of designated parking areas, the subject site would have been suitable for motor vehicle storage. After a number of site visits, staff concluded that the petitioner demonstrated that they could not regularly adhere to the submitted plan if approved. Staff would like to note that both properties have shown significant improvement as shown in Appendices A, B & C since the initial visits from Code Enforcement earlier this year. The operations of the business over the past few months have shown that during peak periods, the storage element would expand beyond the plan's design, further suggesting that continued operations of the use could lend itself to be non-compliance with the submitted plan.

The rear 25,600 square feet of the off-site parking area, which is located directly across the street from the subject property, will be reserved as an ancillary staging area for the freight containers needed for the exporting of goods from the subject property. SGS Logistics employee and visitor parking shall be prohibited at the off-site parking area. The plan submitted for the off-site parking area designates fifteen (15) spaces for the parking of the cargo containers; however,

during a routine staff inspections, the number of trailers deviated at times from more than twenty (20) to less than fifteen (15) freight containers at any given time.

The original lease agreement submitted by the petitioner represented that subleasing for the off-site parking area (1050 N. Garfield) had began January 1, 2008 and continued on a month-to-month basis only. On June 10, 2008 the petitioner submitted an updated lease agreement to which they had entered with the subleasing party of 1050 N. Garfield. The new lease establishes a definitive time period - commencing on February 1, 2008 with an expiration date of February 28, 2013 (five years). The duration of a long-term lease is to be determined by the Village Board; however it is staff's opinion that a five-year lease of the off-site parking area is an insufficient 'long-term' timeframe.

The petitioner has stated that the off-site parking area is an integral function of their business as that location serves as a staging area for the cargo containers that are used to deliver goods from the 1051 N. Garfield site, directly across the street. Currently, there is inadequate space to store any such cargo containers on the 1051 N. Garfield site based on their operations model. Should the 1050 N. Garfield site become unavailable after the said five-year lease expiration date, the cargo containers (which are a vital part of their business) would have to be either relocated outside of the Village or a new off-site parking area would have to be established under a new petition for conditional use.

As the off-site parking of cargo containers is directly linked to the outside storage of automobiles across the street at the 1051 N. Garfield site, both conditional uses are being evaluated as one conjoined case. Essentially, if the off-site parking element were to become unavailable, the business model for the entire operation could falter due to lack of storage area and if there were no automobiles be shipped from the 1051 N. Garfield site; there may not be the need for the off-site parking area for the cargo containers in the first place

The Comprehensive Plan recommends Light Industrial at this location. The definition of Light Industrial includes areas used for manufacturing, assembly, production, storage, distribution and warehousing. The Certificate of Occupancy/Zoning Certificate issued to the petitioner allows a storage, distribution and warehousing use for the subject property, which complies with the recommendation of the Comprehensive Plan.

As a policy goal in the Plan, new businesses are encouraged to maintain and enhance the overall condition of existing industrial developments. Staff believes that in addition to screening provisions, the overall use of the property must be considered. While the use itself may meet the designation noted on the Plan map, concerns remain as to whether the use will be compatible with the Plan's stated goals.

Some staff interjections included:

- Mr. Toth mentioned that he visited with Greg Pawlak on site and there were cars outside of the staging area but cars were being moved on site and sometimes they were parking on the eastern portion of the site.

- Mr. Toth referred to the petitioner's counsel note about the off-site parking area stating that there were originally between 20-25 trailers on the 1050 N. Garfield site but that number had diminished and the trailers were moved onto hard surface.

- Referring to the long-term lease issue, Mr. Toth stated that over the last few years there was a required 20-year off-site parking lease term in the downtown at the Parkview Pointe condos.

Concluding, Mr. Toth indicated that staff recommended denial of both conditional use requests.

Chairperson Ryan then opened the meeting for questions and comment among the Commissioners.

Commissioner Nelson asked what the petitioner's main business is. Greg Pawlak responded that it is international freight forwarding. He added that all the automobiles are immediately placed in containers and shipped to other countries.

Commissioner Sweetser stated that it seems there are two main issues and asked for collaboration - one with the Comprehensive Plan and the other a record of non-compliance or violation of the Certificate of Occupancy. She added that there are other things that trace back to these root causes and she is interested to see if the other Commissioners agree. She mentioned such things like screening and traffic and the other issues to see if they could be dealt with.

Chairperson Ryan stated that the Certificate of Occupancy clearly stated no outside storage of automobiles. He then asked the petitioner how he would respond to that.

Greg Pawlak replied that he is not storing them because they are moved on a constant basis. He added that they would be on the property a maximum of time for 2-3 days. In response to Greg Pawlak's comment, Chairperson Ryan asked him "isn't that the meaning of storage?". He added that even if it is 1-2 days, it is still considered storage. Chairperson Ryan stated that the storage tends to lead to the whole problem - you are in violation of your Certificate of Occupancy. He added that the storage timing issues don't resolve the Certificate of Occupancy issue.

John Clery explained that he thinks there was a lack of communication; it may be part of a language barrier. Mr. Clery added that he can't dispute what the Certificate of Occupancy says, but now we know what his business is and that the Village is willing to work with him.

Commissioner Sweetser stated that if staff was willing to work with him, the weight of the violation of the Certificate of Occupancy is lessened. She added that if the Certificate of

August 21, 2008

PC 08-09

Page 8

Occupancy was violated in a way that could not be tolerated, he would have to move. She then stated that she sees this as less of a factor as there was a way to go forward with a blessing from staff. She mentioned that if the other piece of noncompliance is with the Comprehensive Plan, which is an issue that violates standards, we should take that into consideration.

William Heniff stated that if we do find a business operating without a Certificate of Occupancy or find a situation where they are not operating consistent with one, we inform property owners of the concern. He added that this is one of the venues they would look at. He mentioned other cases that have come forward to the Plan Commission whereas some were supported and some not.

Chairperson Ryan stated that the Certificate of Occupancy is in violation right now and asked how the issue get resolved. He also asked if there would be a new Certificate of Occupancy with outdoor storage if the petition is approved. William Heniff stated that if the petition were to be approved by the Board of Trustees the petitioner would have the legal right to store vehicles and conduct that business activity so the Certificate of Occupancy could be amended to remove that statement.

Commissioner Nelson asked if the petitioner could operate his business properly without the Certificate of Occupancy. William Heniff explained that staff has been holding off on violations pending this approval.

Commissioner Nelson asked if he will be out of business. William Heniff responded by stating that if denied, he cannot do that business activity on the property.

Commissioner Flint stated the alternative is if we don't agree with what the petitioner is proposing, he cannot operate his business and it then becomes a vacant piece of property. He added that there are other businesses in that area that have outdoor storage. Mr. Toth answered that Enterprise Rent A Car has a similar use but a different function. Commissioner Burke stated that there is a U-Haul rental place further west on North Ave that has outdoor storage. William Heniff responded that they do; however it is an ancillary function. He added that Penske truck rental also has outdoor storage, but that is a legal non conforming use.

Commissioner Olbrysh indicated that this is not a clear cut issue but after listening to both sides he understands that the petitioner has been working with staff to come to an agreement. He added that the safety issue is not a critical issue in that it was mentioned in the staff report but nothing that raised a red flag. He visited the property again and saw other properties in worse shape than the petitioners. The screening would help and the petitioner is willing to work with staff on this issue.

Mr. Toth added that in the event that the petition was to be approved, a condition would be to screen the outdoor storage element. He added that the entire property should not be screened in



case of fire. Mr. Toth explained that staff only wants the north side of the building to be screened.

Commissioner Sweetser stated that as logically as we all identify with the idea of denial, going out of business based on the objections is counterproductive to what is expected to go on. She mentioned the Certificate of Occupancy, and stated that the departures are not out of the normal and it seems that the violation of the Certificate of Occupancy occurred, but can be rectified. She mentioned the other issues, which include: safety, traffic and screening. She stated that she thought it was pushing it to screen the property from Code Enforcement. In any case, Commissioner Sweetser thought that staff took the lead in helping the business owner abide by the terms of the Certificate of Occupancy. Referring to the lease of the off-site parking area, Commissioner Sweetser added that with respect to the lease they have no option to extend it further than 5 years because the property owners have only 5 years. She stated that it is out of their control.

Commissioner Burke agreed with the petitioner's comments that a 5-year term in today's real estate market is long. He explained how a parking lot rental would be on a yearly or month-to-month basis but mentioned that with the DuPage Theater parking leases the Village was looking for something long term. The petitioner is a lessee and we know he has it available for the next 5 years. Commissioner Burke then asked if they can tie to the Certificate of Occupancy to those 5 years so the Certificate of Occupancy can be terminated at the time the lease expires.

William Heniff stated that one of the clauses they had relative to the issue is that the petitioner made representations that the two conditional uses are conjoined. He added that staff is hesitant of any relief on a time period because after it expires, then what happens. Mr. Heniff explained that the petitioner would have to leave or significantly alter their plans.

Commissioner Burke stated at that time, the petitioner may have the ability to enter into a long term lease.

Referring to the off site parking of trailers, Chairperson Ryan stated that if the property owner sells the land, then it's up to the petitioner to find another place, which becomes a business decision. He then added that if the petitioner has a 5 year lease after that he loses the off-site parking then it's a business decision, which might mean a bigger piece of property somewhere else.

Commissioner Burke agreed and indicated he is not concerned about the 5 years. Commissioner Burke stated that it's all over the staff report and conditions of approval. He added that it is a lengthy period of time and after that time it is his chance to change his business plan. Commissioner Burke explained that today he need not make that decision, if we can change the Certificate of Occupancy.

August 21, 2008

PC 08-09

Page 10

Chairperson Ryan stated that if this petition is approved, the Certificate of Occupancy will be changed.

Commissioner Burke asked if it makes sense to terminate the Certificate of Occupancy or have the Certificate of Occupancy changed to be terminated at time of lease expiration across the street.

William Heniff responded that we could make the Certificate of Occupancy effective until 2013, and then the petitioner shall provide the Village with a new lease agreement. He added that this way, the Certificate of Occupancy would have been granted so you are free and clear.

Chairperson Ryan stated that he doesn't see it necessary to tie both together and that it is really unnecessary to make the petitioner come back he has 5 years for the off site parking. He added that is his why are we adding to this dilemma. Chairperson Ryan mentioned that by us tying it to the Certificate of Occupancy, it now becomes a gun to his head to get an extension or we make him move out of town.

Commissioner Sweeter asked if the Certificate of Occupancy would be valid if the Board of Trustees approves the petition.

If the petition is to be considered, William Heniff stated that the off site parking use should be conditioned to state that the parking agreement should be covered.

Lance Malina stated that analytically you have to look at the two requests separately. He then stated that you have someone who has a piece of property and running a business out of it, but operating in a way that posed some problems with Village Code. He added that one is on-site itself and the other is the business owner using another piece of property that had a problem with another Village Code requirement. If the Board of Trustees grant the conditional use #2, the Board of Trustees is allowing a conditional for this business at 1050 N. Garfield, which is the off-site parking. If the business owner loses that lease, they don't have problem anymore, because the code concern goes away as he would not be using 1050 N. Garfield at all. In Mr. Malina's opinion, no conditions are needed at all.

Referring to the 1051 N. Garfield site, Lance Malina stated that if the Commission were to give him a break because with the off site parking, he can run his business consistently even if he lost 1050 N. Garfield site (if you put that condition on it). Mr. Malina stated that if you do have a condition to for conditional use #1 by allowing the use of the outside storage contingent with the plan. Mr. Malina added that the petitioner might find a better off-site parking location or a solution without any problem to satisfy any concerns.

Commissioner Sweetser asked if there were a motion with conditions - would they have to be tied with the address or property. She then added that if they are conjoined, the conditions should be per property.

August 21, 2008

PC 08-09

Page 11

Lance Malina concurred with Commissioner Sweetser. He then added that the concern should not be both conditional uses as there would be no need to worry about the off-site parking if he they were not granted the conditional use for the outside storage of automobiles. The conditions should be to maintain adequate storage at 1050 N. Garfield and preserve the legal and conforming status.

William Heniff stated that if this is approved it is recommended for the petition be tied to a site plan so both properties are operating in conformance and to also ensure that there is no vehicular conflict with both properties. Mr. Heniff added that when we talk about off site parking, this is making reference to 1050 N. Garfield. He then stated that if they found another property within the Village, they would need another conditional use for that site.

Lance Malina stated that they wouldn't have to if they didn't have that site - as long as they have adequate parking and comply with code.

Commissioner Burke asked if the petitioner provided a drawing and asked which one it was.

William Heniff explained that the 1050 N. Garfield site is illustrated on the graphic and aerial.

Commissioner Sweetser made a motion without conditions based on Chairperson Ryan's statement that the off-site parking would be a business decision, which was seconded by Commissioner Olbrysh.

William Heniff asked if there are any conditions. Lance Malina stated that there are no conditions under the current motion.

Respectfully,

**VILLAGE OF LOMBARD**

Donald F. Ryan  
Lombard Plan Commission

c. Petitioner  
Lombard Plan Commission