

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

Resolution or Ordinance (Blue) _____
 Recommendations of Boards, Commissions & Committees (Green) _____
 Other Business (Pink) _____

TO: PRESIDENT AND BOARD OF TRUSTEES

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

DATE: October 27, 2008 (B of T) Date: November 6, 2008

TITLE: PC 08-30: 1162 S. Luther Avenue

SUBMITTED BY: Department of Community Development *MA*

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests that the Village take following actions on the subject property:
 1. Ordinance Authorizing the Execution of an Annexation Agreement (2/3 of Corporate Authorities Vote required)
 2. Ordinance Annexing Certain Territory to the Village of Lombard.
 3. Ordinance approving a map amendment from the R0 Single-Family Residence District to the R1 Single-Family Resident District. (UNINCORPORATED)

The Plan Commission recommended approval of this request with one condition.

The petitioner is requesting a waiver of first reading.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney

Finance Director

Village Manager *Ronald M. ...*

Date _____

Date _____

Date 11/29/08

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

D. ...



MEMORANDUM

TO: David A. Hulseberg, Village Manager

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

DATE: October 27, 2008

SUBJECT: PC 08-30: 1162 S. Luther Avenue

Attached please find the following items for Village Board consideration as part of the November 6, 2008 Village Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 08-14;
3. An Ordinance Authorizing the Execution of an Annexation Agreement;
4. The property owner wishes to construct a single-family home on the property but does not wish to build a septic system as would be required under DuPage County regulations. The Annexation Agreement allows the property owners, at their own expense, to connect to the Village's sanitary sewer system. The subject property is more than 250 feet from the Village's watermain system and is therefore unable to connect at this time. The property will connect to Village water at such time as a public watermain is constructed within the Luther Avenue right-of-way. The Luther Avenue right-of-way adjacent to the property is already within the Village's corporate limits.
4. An Ordinance Annexing Certain Territory to the Village of Lombard;
5. An Ordinance approving a map amendment from the R0 Single-Family Residence District to the R1 Single-Family Resident District; and
6. Plans associated with the petition.

The Plan Commission recommended approval of the petition subject to one condition. The petitioner is also requesting a waiver of first reading of the Ordinance.

VILLAGE OF LOMBARD
255 E. Wilson Ave.
Lombard, Illinois 60148-3931
(630) 620-5700 Fax (630) 620-8222
www.villageoflombard.org



November 6, 2008

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

Village of Lombard

Subject: PC 08-30; 1162 S. Luther Ave

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner requests that the Village take following actions on the subject property:

1. Approval of an Annexation Agreement;
2. Annexation to the Village of Lombard; and
3. Approval of a map amendment from the R0 Single-Family Residence District to the R1 Single-Family Resident District.

Hugh Michael, 206 Travers Ave, Glen Ellyn, presented the petition. He stated that his wife has owned the property for fifteen years and have been waiting for the opportunity to connect to Village water and sewer. They would prefer R2 zoning but can meet the R1 District requirements. They will connect to the Village's sanitary sewer system at their own cost. He then summarized his response to the standards for variations.

Chairperson Ryan then opened the meeting for public comment.

Pat Spahn, 1163 S. Church, stated that she has had a problem with flooding since Discount Tire redid their parking lot. The proposed home and septic tank will increase flooding problems.

Tim Welter, 1158 S. Luther, asked if the entire neighborhood will be incorporated and provided with water and sewer.

Harold Wood, 1162 S. Luther, said that he has no trouble with flooding and stated that the lot is not large enough to accommodate a septic field.

"Our shared Vision for

Lombard is a community of

excellence exemplified by its

government working together

with residents and businesses to

create a distinctive sense of

spirit and an outstanding

quality of life."

"The Mission of the Village of

Lombard is to provide

superior and responsive

governmental services to the

people of Lombard."

Village Manager
David A. Hulseberg

Trustees
Greg Alan Cron, Dist. 1
Richard J. Tross, Dist. 2
John "Jack" T. O'Brien, Dist. 3
Dana L. Moreau, Dist. 4
Laura A. Fitzpatrick, Dist. 5
Rick Soderstrom, Dist. 6

Village President
William J. Mueller
Village Clerk
Brigitte O'Brien

Mr. Michael stated that although septic systems are required in the County, as an incorporated property his home will not have a septic tank and will instead be connected to the Village's sanitary sewer system.

Chairperson Ryan then requested the staff report.

Jennifer Henaghan, Senior Planner, presented the staff report. The petitioner wishes to construct a single-family residence on the property, which is currently unincorporated. To accomplish this, the petitioner is requesting annexation into the Village of Lombard and a map amendment from the R0 District to the R1 District. The Private Engineering Services Division and the Utilities Division of the Department of Public Works had a number of comments regarding the construction of the proposed sanitary sewer which will be addressed through the building permit process.

The Comprehensive Plan recommends Low Density Residential land uses at this location. The proposed single family use and lot size is consistent with this recommendation. As of October 2007, newly annexed properties are given R0 Single Family Residence zoning by default. Prior to the creation of the R0 District, properties were automatically assigned to the R1 Single Family Residence District. The petitioner is requesting R1 zoning, which is the zoning classification that was applied to the annexations along Meyers Road that occurred in 2002. Staff has no objection to the proposed map amendment as it is consistent with existing zoning classifications in the neighborhood.

The minimum required lot width for R1 properties is 75 feet and the minimum lot area is 10,000 square feet. The subject property is only 65 feet wide and 9,100 square feet. However, Section 155.209 of the Zoning Ordinance allows construction of a single-family dwelling on an existing lot of record provided that the lot has at least 80 percent of the width and area required in the applicable zoning district. The subject property provides 86.7 percent of the required width and 91 percent of the required area, thereby allowing for the construction of a residence with no zoning variations. The proposed residence will meet all setback and open space requirements of the R1 District.

The subject property is bordered by residential properties to the north and west and commercial uses to the south and east. The subject property is currently utilized as a single family residence; therefore there is no change in the property's compatibility with existing land uses.

The petitioner wishes to obtain Village utilities. A sanitary sewer will be installed as part of the construction of the proposed single-family home. The subject property is currently unable to connect to Village water because it is more than 250 feet from the nearest Village watermain. However, as part of the annexation agreement the property will be required to connect to the Village's public watermain system at such time that a public watermain is constructed within the Luther Avenue right-of-way. Also, a sidewalk will be required as part of the single-family home permit. The petitioner is preparing a companion annexation agreement for the subject property.

This agreement will be considered by the Village Board in conjunction with the final consideration of Ordinances.

Ms. Henaghan concluded by stating that, for the aforementioned reasons, staff finds that the petition meets the standards for map amendments and staff recommends approval.

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

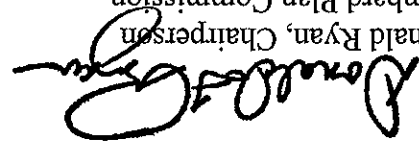
Commissioner Nelson asked if Discount Tire has Village water. William Heniff, Director of Community Development, stated that although Discount Tire is connected to the Village's water system, the subject property is more than 250 feet away from the nearest watermain and is therefore unable to connect at this time.

After due consideration of the petition and the testimony presented, the Plan Commission found that the proposal **complies** with the standards required by the Lombard Zoning Ordinance; and, therefore, moved that the Plan Commission find that the findings included as part of the Inter-departmental Review Report be the findings of the Plan Commission and therefore, recommended to the Corporate Authorities **approval** of the zoning actions associated with PC 08-30 for the subject properties, subject to the following condition:

1. That the rezoning request shall be contingent upon the Village and the property owner entering into an Annexation Agreement.

Respectfully,

VILLAGE OF LOMBARD


Donald Ryan, Chairperson
Lombard Plan Commission

c. Petitioner
Lombard Plan Commission

**VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT**

TO: Lombard Plan Commission
FROM: Department of Community Development
PREPARED BY: Jennifer Henaghan, AICP Senior Planner

HEARING DATE: October 20, 2008

TITLE

PC 08-30; 1162 S. Luther Avenue: The petitioner requests that the Village take the following actions on the subject property:

1. Approval of an Annexation Agreement;
2. Annexation to the Village of Lombard; and
3. Approval of a map amendment from the R0 Single-Family Residence District to the R1 Single-Family Resident District.

GENERAL INFORMATION

Petitioner: Hugh Michael
206 Traver
Glen Ellyn, IL 60137

Property Owner: Shalmaz Sultana
206 Traver
Glen Ellyn, IL 60137

PROPERTY INFORMATION

Existing Zoning: Unincorporated DuPage County (zoned R-3 Residential)

Existing Land Use: Single-Family Residential

Size of Property: 9,100 square feet

Comprehensive Plan: Recommends Low Density Residential

Surrounding Zoning and Land Use:

North: Unincorporated DuPage County zoned R-3 Single-Family Residential; developed as Single-Family Residences

South: B4A Roosevelt Road Corridor District; developed as Discount Tire

East: B4A Roosevelt Road Corridor District; developed as NTB

West: Unincorporated DuPage County zoned R-3 Single-Family Residential; developed as Single-Family Residences

ANALYSIS

SUBMITTALS

This report is based on the following documents:

1. Petition for Public Hearing.

2. Plat of Survey, prepared by Lambert & Associates, dated October 3, 2008.

3. Site Plan, Building Elevations, and Floor Plans, prepared by Suber F. Zummerwala & Associates, dated April 8, 2008.

DESCRIPTION

The petitioner wishes to construct a single-family residence on the property, which is currently unincorporated. To accomplish this, the petitioner is requesting annexation into the Village of Lombard and a map amendment from the R0 District to the R1 District.

INTER-DEPARTMENTAL REVIEW COMMENTS

PRIVATE ENGINEERING/UTILITIES

The Private Engineering Services Division and the Utilities Division of the Department of Public Works have the following comments:

- If the proposed sanitary sewer is placed in a ditch, manholes may not obstruct flow and rim elevation must be about high water level.
- The proposed sanitary sewer must be installed deep enough to allow additional properties to the north the ability to connect without a lift station.

Once engineering plans are submitted, additional comments will be provided.

PUBLIC WORKS ENGINEERING

Public Works Engineering will want to review the sanitary sewer construction documents.

BUILDING AND FIRE

The Fire Department/Bureau of Inspectional Services has no comments.

PLANNING

Compliance with the Comprehensive Plan

The Comprehensive Plan recommends Low Density Residential land uses at this location. The proposed single family use and lot size is consistent with this recommendation.

Compliance with the Zoning Ordinance

As of October 2007, newly annexed properties are given R0 Single Family Residence zoning by default. Prior to the creation of the R0 District, properties were automatically assigned to the R1 Single Family Residence District. The petitioner is requesting R1 zoning, which is the zoning classification that was applied to the annexations along Meyers Road that occurred in 2002 (1145 S. Meyers Road). Staff has no objection to the proposed map amendment as it is consistent with existing zoning classifications in the neighborhood.

The minimum required lot width for R1 properties is 75 feet and the minimum lot area is 10,000 square feet. The subject property is only 65 feet wide and 9,100 square feet. However, Section 155.209 of the Zoning Ordinance allows construction of a single-family dwelling on an existing lot of record provided that the lot has at least 80 percent of the width and area required in the applicable zoning district. The subject property provides 86.7 percent of the required width and 91 percent of the required area, thereby allowing for the construction of a residence with no zoning variations. The proposed residence will meet all setback and open space requirements of the R1 District.

Compatibility with Surrounding Land Uses

The subject property is bordered by residential properties to the north and west and commercial uses to the south and east. The subject property is currently utilized as a single family residence; therefore there is no change in the property's compatibility with existing land uses.

Compatibility with Subdivision and Development Ordinance

The petitioner wishes to obtain Village utilities. A sanitary sewer will be installed as part of the construction of the proposed single-family home. The subject property is currently unable to connect to Village water because it is more than 250 feet from the nearest Village watermain. However, as part of the annexation agreement the property will be required to connect to the Village's public watermain system at such time that a public watermain is constructed within the Luther Avenue right-of-way. Also, a sidewalk will be required as part of the single-family home permit.

Annexation Agreement

The petitioner is preparing a companion annexation agreement for the subject property. This agreement will be considered by the Village Board in conjunction with the final consideration of Ordinances.

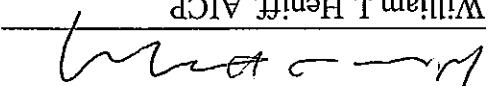
FINDINGS AND RECOMMENDATIONS

The proposed annexation and companion variations are compatible with the surrounding land uses and zoning. Based on the above, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion recommending approval of this petition:

Based on the submitted petition and the testimony presented, the proposal **complies** with the standards required by the Lombard Zoning Ordinance; and, therefore, I move that the Plan Commission find that the findings included as part of the Inter-Departmental Review Report be the findings of the Plan Commission and therefore, I recommend to the Corporate Authorities **approval** of the zoning actions associated with PC 08-30 for the subject properties, subject to the following condition:

1. That the rezoning request shall be contingent upon the Village and the property owner entering into an Annexation Agreement.

Report Approved By:



William J. Heniff, AICP

Director of Community Development

at-

c. Petitioner

A detailed response for all variations of the Lombard Zoning Ordinance and Lombard Sign Ordinance

1. We seek re-zoning of our lot from R0 to R1. While our plot size is only 9100 sq ft. I would prefer to have the R2 zoning as my plots width is only 65ft while as the width for R1 zoning is 75 ft. However, I gather that the village would prefer it to be R1 for uniformity and hence have recommended R1.
2. All the properties along Luther Ave are of same width of 65 ft and almost same area and are unincorporated. While some lots have already been annexed to adjacent businesses, mine is the first lot seeking annexation for building my own home.
3. We have waited the last 15 years hoping that the zoning law may change and we would have city sewage and water connections. However, since there is no chance of this happening in the next 10 yrs we have decided to go ahead and build our own home on the lot and have requested for approval to connect to the Lombard Village sewage line at our cost at a financial loss.
4. The present difficulty and hardship is due to the fact that we are still unincorporated and has not been caused by any individual having any interest in the property.
5. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located. In fact it may be a benefit to my neighbors as they can get the same zoning I am seeking.
6. The granting of the variation will not alter the essential character of the neighborhood. I am hoping with my new house built it may even enhance it.
7. The proposed variation will not impair an adequate supply of light and air to the adjacent property or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

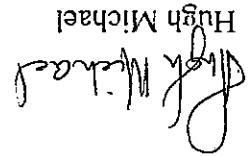
October 24, 2008

Jennifer Henagan, AICP
Senior Planner
Village of Lombard
255 E. Wilson Avenue
Lombard, IL 60148

Sub: Waiver of First Reading - Annexation to Village of Lombard Case - No PC 08-30

Dear Ms Henagan,

I wish to request for a waiver of the First Reading for Annexation of 1162 S. Luther Ave to the Village of Lombard. I shall attend the Board Meeting on 6 Nov 08 to answer any questions which may arise at the board meeting.



Hugh Michael

Address:
206 Travers Ave
Glen Ellyn IL 60137
Tel 630 858 5831

ORDINANCE

**AN ORDINANCE AUTHORIZING THE
EXECUTION OF AN ANNEXATION AGREEMENT**

(PC 08-30: 1162 S. Luther Ave)

(See also Ordinance No.(s) _____)

WHEREAS, it is in the best interest of the Village of Lombard, DuPage County, Illinois that a certain Annexation Agreement (hereinafter the "Agreement") pertaining to the properties located at 1162 S. Luther Ave, Lombard, Illinois to be entered into; and,

WHEREAS, the Agreement has been drafted and a copy is attached hereto and incorporated herein as Exhibit "A"; and,

WHEREAS, the legal owners of the lots of record, which are the subject of said Agreement, are ready, willing and able to enter into said Agreement and to perform the obligations as required thereunder; and,

WHEREAS, the statutory procedures provided in Chapter 65 ILCS 5/11-15.1-1 through 5/11-15.1-5, as amended, for the execution of said Agreement have been complied with; a hearing on said Agreement having been held, pursuant to proper notice, by the President and Board of Trustees on November 6, 2008.

NOW, THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

SECTION 1: That the Village President and Village Clerk be and hereby are authorized to sign and attest to the Agreement attached hereto and marked Exhibit "A", by and between the Village of Lombard; and,

SECTION 2: This ordinance is limited and restricted to the property generally located at 1162 S. Luther Ave, Lombard, Illinois containing 0.72 acres more or less and legally described as follows:

Lot 11 in York Center Subdivision, being a subdivision of part of Section 16, Township 39 North, Range 11, East of the Third Principal Meridian, according to the plat thereof recorded January 10, 1927, as Document No. 227804, in DuPage County, Illinois.

PIN: 06-16-317-013

SECTION 3: This ordinance shall be in full force and effect from and after its passage and approval as provided by law.

Passed on first reading this _____ day of _____, 2008.

First reading waived by action of the Board of Trustees this _____ day of _____, 2008.

Passed on second reading this _____ day of _____, 2008.

Ayes: _____

Nays: _____

Absent: _____

Approved this _____ day of _____, 2008.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk



are no electors residing thereon; and

WHEREAS, the Subject Property is an approximately 0.209 acre parcel of land and there

period of twenty (20) years from and after the execution of this Agreement; and

Property, when the same has been annexed, and to other matters covered by this Agreement, for a

as to the application of certain provisions of the ordinances of the Village, in regard to the Subject

Property annexed to the Village and each of the Parties desires to obtain assurances from the other

WHEREAS, the Village desires to annex and the Owner desires to have the Subject

boundaries of the Village; and

WHEREAS, the Subject Property is adjacent to and contiguous to the existing corporate

̄A, attached hereto and made a part hereof (hereinafter referred to as the "Subject Property"); and

WHEREAS, the Owner is the record owner of the property legally described in EXHIBIT

W I T N E S S E T H :

individually as a "Party" and collectively as the "Parties.")

referred to as "Owner"; (The Village and the Owner being sometimes referred to herein

corporation (hereinafter referred to as "Village"); and Shahnaz Sultana (hereinafter collectively

this _____ day of _____, 2008, by and between the Village of Lombard, a municipal

THIS AGREEMENT (hereinafter referred to as the "Agreement") made and entered into

1162 S. Luther Avenue, Lombard, IL

ANNEXATION AGREEMENT

WHEREAS, all owner(s) of record of the Subject Property have signed a petition for annexation of the Subject Property to the Village (hereinafter referred to as the "Annexation Petition"); and

WHEREAS, a public hearing on this Annexation Agreement has been held by the Corporate Authorities on the 6th day of November, 2008; and

WHEREAS, the Parties wish to enter into a binding agreement with respect to the said annexation, zoning and development and for other related matters pursuant to the provisions of Division 15.1 of Article 11 of Act 5 of Chapter 65 of the Illinois Compiled Statutes, and upon the terms and conditions contained in this Agreement; and

WHEREAS, all public hearings and other actions required to be held or taken prior to the adoption and execution of this Agreement, in order to make the same effective, have been held or taken, and other actions having been held pursuant to public notice as required by law and in accordance with all requirements of law prior to adoption and execution of this Agreement; and

WHEREAS, the President and Board of Trustees of the Village (hereinafter referred to as the "Corporate Authorities") and the Owner deem it to the mutual advantage of the Parties and in the public interest that the Subject Property be annexed to and developed as a part of the Village as hereinafter provided; and

WHEREAS, the development of the Subject Property as provided herein will promote the sound planning and development of the Village as a balanced community and will be beneficial to the Village; and

WHEREAS, the Corporate Authorities of the Village have examined the proposed uses by Owner and have determined that said uses and the development of the Subject Property in accordance with this Agreement comply with the Comprehensive Plan of the Village;

NOW THEREFORE, in consideration of the premises and the mutual promises herein set forth, the Parties hereto agree as follows:

1. **Incorporation of Recitals:** The Village and Owner agree that the foregoing recitals are incorporated in this Agreement as if fully set forth herein.

2. **Development of Subject Property:** Village and Owner agree that the Subject Property shall be developed in accordance with the terms of this Agreement.

3. **Annexation:** Subject to the provisions of Article 7 of Act 5 of Chapter 65 of the Illinois Compiled Statutes, the VILLAGE and the OWNER shall cause the annexation of the SUBJECT PROPERTY to occur pursuant to the provisions of Section 5/7-1-8 of Act 5 of Chapter 65 of the Illinois Compiled Statutes.

4. **Zoning:** Upon annexation of the Subject Property to the Village as set forth herein, the Subject Property shall be zoned R1 Single Family Residence District.

5. **Sanitary Sewer Connection:** Village represents and warrants to Owner that the Subject Property is located within the Facilities Planning Area (FPA) of the Glenbard Sanitary Authority (hereinafter referred to as the "Authority"). Owner, at its sole cost and expense, shall install and/or maintain sanitary sewer service to the Subject Property in accordance with the lawful regulations of the Authority, and the Lombard Village Code, or as modified by any final engineering plans hereafter approved by the Village and/or the Authority for any future

improvements to the Subject Property. Said connection shall be made substantially in accordance with the plans hereafter approved by the Village for the Subject Property. Owner shall grant or dedicate all easements reasonably required by the Authority or the Village for the construction of the necessary sanitary sewers serving the Subject Property. Owner further agrees to pay the Authority for any future tap-on, connection, and service fees imposed upon the Subject Property by the Authority. Upon the payment by the Owner to the Village of all applicable fees and charges as required for sanitary sewer connection under the applicable codes and ordinances of the Village, the Village will issue a permit authorizing the Owner to connect the proposed residence on the Subject Property to the Village's public sanitary sewer line; thereby allowing the Owner to access the sanitary sewer system.

6. Water Utilities:

Village represents and warrants to Owner as follows:

A. That Village owns and operates a water distribution system within the Village for water distribution.

B. That water utility lines and infrastructure are not located within two hundred fifty (250) feet of the Subject Property.

Village agrees that the Owner shall not be required to connect to the Village's public watermain system until such time that a public watermain is constructed within the Luther Avenue right-of-way providing public water to the Subject Property. Upon occurrence of the foregoing event, the Owner shall connect the Subject Property to a public watermain within ninety (90) days after receiving a notice from the Village to do so. Owner, at its own expense, shall then install and/or maintain a water service line to the Subject Property in accordance with the regulations of the Village and the Lombard Village Code, or as modified by any final engineering plans hereafter

approved by the Village for the Subject Property. Owner shall grant or dedicate all easements required for the construction of the necessary watermain serving the Subject Property. Owner further agrees to pay the Village for any future tap-on, connection, and service fees imposed upon the Subject Property. Nothing contained within this agreement shall be construed to mean that the Village is obligated to construct said watermain improvements within the Luther Avenue in the future.

7. Fees: In consideration of the impact of the development of Subject Property on the Village, the Owner agrees to pay all applicable permit (including, but not limited to building permit) and utility connection fees as required by Village Ordinances at the time of application for the respective permits. Owner further agrees that the connection charges and fees required by this Agreement are reasonable in amount, where applicable, and are reasonably related to and made necessary by the development of the Subject Property.

8. Annexation to Lombard Park District: The Owner agrees to petition the Lombard Park District to have the Subject Property annexed to the Lombard Park District upon its annexation to the Village.

9. Fire District: By operation of law and in accordance with Illinois Compiled Statutes Chapter 70, Section 705/20, the Subject Property shall, upon its annexation to the Village, be disconnected from the fire protection district in which it is located at no cost to the Village. The Village agrees to cooperate with the Owner in said disconnection. Owner and/or the successor owner of the Subject Property shall be responsible for the disconnection and shall reimburse the Village for any funds expended by the Village, including, but not limited to any payments required

by 70 ILCS 705/20(e), any legal fees and litigation costs, relative thereto. The Village shall provide notice to the fire protection district in the manner required by law.

10. Consent to Creation of a Special Assessment or Special Service Area: Owner

agrees that it will not object to the imposition of a Special Assessment or Special Service Area incorporating the Subject Property with respect to the construction of any public improvements affecting the area of the Subject Property and which may become necessary at a future date. The assessment formula for any such future Special Assessment(s) or Special Service Area(s) shall be determined as required by law, taking into account the relative benefit to the Subject Property as a result of the public improvements constructed.

11. General Provisions:

A. Notices: Notice or other writings which either Party is required to, or

may wish to, serve upon the other Party in connection with this Agreement shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

(1) If to the Village or

Corporate Authorities:

President and Board of Trustees

VILLAGE OF LOMBARD

255 East Wilson Avenue

Lombard, Illinois 60148

With a copy to:

Village Manager

VILLAGE OF LOMBARD

255 East Wilson Avenue

Lombard, Illinois 60148

Director of Community Development

VILLAGE OF LOMBARD

255 East Wilson Avenue

Lombard, Illinois 60148

Thomas P. Bayer

KLEIN, THORPE AND JENKINS, LTD.

20 North Wacker Drive

Suite 1660

Chicago, Illinois 60606

(2) If to the Owner:

Shahmaz Sultana

206 Travers Ave

Glen Ellyn, IL 60137

With a copy to:

or to such other address as any Party may from time to time designate in a written notice to the

other parties.

B. Binding Agreement This Agreement shall insure to the benefit of and

shall be binding upon Owner's successors in any manner in title, and shall be binding upon the

Village and the successor Corporate Authorities of the Village and any successor municipality.

C. Court Contest: In the event the annexation of the Subject Property,

the classification of the Subject Property for zoning purposes or other terms of this Agreement are

challenged in any court proceeding, the period of time during which such litigation is pending,

including (without limitation) the appeal time therefor, shall not be included, if allowed by law, in

calculating the twenty (20) year period mentioned in subsection 11R below.

D. Remedies: The Village, Owner and their successors and assigns,

covenant and agree that in the event of default of any of the terms, provisions or conditions of this

Agreement by either Party, or their successors or assigns, which default exists uncorrected for a

period of ten (10) days after written notice to the defaulting Party, the Party seeking to enforce said

provision shall have the right of specific performance and if said Party prevails in a court of law, it

shall be entitled to specific performance. It is further expressly agreed by and between the Parties hereto that the remedy of specific performance herein given shall not be exclusive of any other remedy afforded by law to the Parties, or their successor or successors in title.

F. Conveyances: Nothing contained in this Agreement shall be

construed to restrict or limit the right of Owner to sell or convey all or any portion of the Subject Property, whether improved or unimproved.

F. Survival of Representations: Each of the Parties agrees that the

representations, warranties and recitals set forth in the preambles to this Agreement are material to this Agreement and the Parties hereby confirm and admit their truth and validity and hereby

incorporate such representations, warranties and recitals into this Agreement and the same shall

continue during the period of this Agreement.

G. Captions and Paragraph Headings: The captions and paragraph

headings used herein are for convenience only and are not a part of this Agreement and shall not be used in construing it.

H. Reimbursement of Village for Legal and Other Fees and Expenses:

(I) To Effective Date of Agreement: The Owner concurrently with

annexation and zoning of the Subject Property or so much thereof as required, shall reimburse the Village for the following expenses incurred in the preparation and review of this Agreement, and any ordinances, letters of credit, plats, easements or other documents relating to the Subject

Property:

(a) the costs incurred by the Village for engineering services;

(b) all reasonable attorneys' fees incurred by the Village in connection with this Agreement and the annexation of the Subject Property; and

(c) miscellaneous Village expenses, such as legal publication costs, recording fees and copying expense.

(2) From and After Effective Date of Agreement: Except as provided in this

subsection upon demand by Village made by and through its Director of Community Development, Owner from time to time shall promptly reimburse Village for all reasonable expenses and costs incurred by Village in the administration of this Agreement, including engineering fees, attorneys' fees and out-of-pocket expenses involving various and sundry matters such as, but not limited to, preparation and publication, if any, of all notices, resolutions, ordinances and other documents required hereunder, and the negotiation and preparation of letters of credit and escrow agreements to be entered into as security for the completion of public improvements.

Such costs and expenses incurred by Village in the administration of the Agreement shall be evidenced to the Owner upon its request, by a sworn statement of the Village; and such costs and expenses may be further confirmed by the Owner at Owner's option from additional documents designated from time to time by the Owner relevant to determining such costs and expenses.

Notwithstanding the foregoing, Owner shall in no event be required to reimburse Village or pay for any expenses or costs of Village as aforesaid more than once, whether such are reimbursed

or paid through special assessment proceedings, through fees established by Village ordinances or otherwise.

(3) In the event that any third party or parties institute any legal proceedings against the Owner and/or the Village, which relate to the terms of this Agreement, then, in that event, the Owner, on notice from Village shall assume, fully and vigorously, the entire defense of such lawsuit and all expenses of whatever nature relating thereto; provided, however:

(a) Owner shall not make any settlement or compromise of the lawsuit, or fail to pursue any available avenue of appeal of any adverse judgment, without the approval of the Village.

(b) If the Village, in its sole discretion, determines there is, or may probably be, a conflict of interest between Village and Owner, on an issue of importance to the Village having a potentially substantial adverse effect on the Village, then the Village shall have the option of being represented by its own legal counsel. In the event the Village exercises such option, then Owner shall reimburse the Village, from time to time on written demand from the Director of Community Development and notice of the amount due, for any expenses, including but not limited to court costs, reasonable attorneys' fees and witnesses' fees, and other expenses of litigation, incurred by the Village in connection therewith.

(4) In the event the Village institutes legal proceedings against Owner for violation of

this Agreement and secures a judgment in its favor, the court having jurisdiction thereof shall determine and include in its judgment against Owner all expenses of such legal proceedings incurred by Village, including but not limited to the court costs and reasonable attorneys' fees, witnesses' fees, etc., incurred by the Village in connection therewith (and any appeal thereof). Owner may, in its sole discretion, appeal any such judgment rendered in favor of the Village against Owner.

I. No Waiver or Relinquishment of Right to Enforce Agreement:

Failure of either Party to this Agreement to insist upon the strict and prompt performance of the terms, covenants, agreements and conditions herein contained, or any of them, upon the other Party imposed, shall not constitute or be construed as a waiver or relinquishment of said Party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

J. Village Approval or Direction:

Where Village approval or direction is required by this Agreement, such approval or direction means the approval or direction of the Corporate Authorities of the Village unless otherwise expressly provided herein or required by law, and any such approval may be required to be given only after and if all requirements for granting such approval have been met unless such requirements are inconsistent with this Agreement.

K. Recording: A copy of this Agreement and any amendments thereto shall

be recorded by the Village at the expense of the Owner.

L. Authorization to Execute: The Owner executing this Agreement warrant

that they have been lawfully authorized to execute this Agreement. The President and Clerk of the Village hereby warrant that they have been lawfully authorized by the Village Board of the Village to execute this Agreement. The Owner and Village shall deliver to each other upon request copies of all bylaws, joint venture agreements, resolutions, ordinances or other documents required to legally evidence the authority to so execute this Agreement on behalf of the respective entities.

M. Amendment: This Agreement sets forth all the promises, inducements,

agreements, conditions and understandings between the Owner and the Village relative to the subject matter thereof, and there are no promises, agreements, conditions or understandings, either oral or written, express or implied, between them, other than are herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the Parties hereto unless authorized in accordance with law and reduced in writing and signed by them.

N. Counterparts: This Agreement may be executed in two (2) or more

counterparts, each of which taken together, shall constitute one and the same instrument.

O. Conflict Between the Text and Exhibits: In the event of a conflict in the

provisions of the text of this Agreement and the Exhibits attached hereto, the text of the Agreement shall control and govern.

P. Definition of Village: When the term Village is used herein it shall be

construed as referring to the Corporate Authorities of the Village unless the context clearly indicates otherwise.

Q. Execution of Agreement: This Agreement shall be signed last by the

Village and the President of the Village shall affix the date on which he/she signs this Agreement

on Page 1 hereof, which date shall be the effective date of this Agreement.

R. Term of Agreement: This Agreement shall be in full force and effect for a

term of twenty (20) years from and after the date of execution of this Agreement.

S. Venue: The Parties hereto agree that for purposes of any lawsuit(s)

between them concerning this Agreement, its enforcement, or the subject matter thereof, venue

shall be in DuPage County, Illinois, and the laws of the State of Illinois shall govern the cause of

action.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals to this

Agreement on the day and year first above written.

VILLAGE OF LOMBARD

ATTEST:

By: _____

Village President

Village Clerk

DATED:

OWNER

By: Shelby Sillman
Its _____

Its _____

DATED: 10-28-08

ATTEST:

ACKNOWLEDGMENTS

STATE OF ILLINOIS)

) SS

COUNTY OF DUPAGE)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO

HEREBY CERTIFY that William J. Mueller, personally known to me to be the President of the

Village of Lombard, and Brigitte O'Brien, personally known to me to be the Village Clerk of said

municipal corporation, and personally known to me to be the same persons whose names are sub-

scribed to the foregoing instrument, appeared before me this day in person and severally

acknowledged that as such President and Village Clerk, they signed and delivered the said

instrument and caused the corporate seal of said municipal corporation to be affixed thereto,

pursuant to authority given by the Board of Trustees of said municipal corporation, as their free and

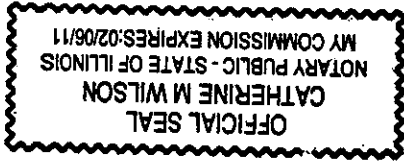
voluntary act, and as the free and voluntary act and deed of said municipal corporation, for the uses

and purposes therein set forth.

GIVEN under my hand and official seal, this _____ day of _____,

Commission expires _____, 20_____.

Notary Public



Notary Public

Catherine M. Wilson

Commission expires *2/6, 2011.*

GIVEN under my hand and Notary Seal this *28th* day of *October*, *2008*.

and purposes therein set forth.

Person and severally acknowledged that they signed and delivered the said instrument, for the uses names are subscribed to the foregoing instrument, and that they appeared before me this day in _____, are personally known to me to be the same persons whose

HEREBY CERTIFY that the above-named *SHAHNAZ SULTANA* and I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO

COUNTY OF DUPAGE)

) SS

STATE OF ILLINOIS)

EXHIBIT A - LEGAL DESCRIPTION

LOT 11 IN YORK CENTER SUBDIVISION, BEING A SUBDIVISION OF PART OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JANUARY 10, 1927, AS DOCUMENT NO. 227804, IN DUPAGE COUNTY, ILLINOIS.

**AN ORDINANCE ANNEXING CERTAIN TERRITORY
TO THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS**

(PC 08-30: 1162 S. Luther Ave)

(See also Ordinance No.(s) _____)

WHEREAS, a written petition, signed by the legal owners and electors of record of all land within the territory hereinafter described, has been filed with the Village Clerk of the Village of Lombard, DuPage County, Illinois, requesting that said territory be annexed to the Village of Lombard; and,

WHEREAS, the said territory is not within the corporate limits of any municipality, but is contiguous to the Village of Lombard; and,

WHEREAS, all notices of said annexation, as required by (Chapter 65 ILCS 5/7-1-1), have been given to the appropriate parties in a timely manner as required by Statute (copies of said Notices being attached hereto as Exhibit "A", and made part hereof).

WHEREAS, it is in the best interest of the Village of Lombard that said territory be annexed thereto.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS as follows:

SECTION 1: That the territory described in Section 2 below be and the same is hereby annexed to the Village of Lombard, DuPage County, Illinois, pursuant to (Chapter 65 ILCS 5/7-1-8).

SECTION 2: This ordinance is limited and restricted to the property indicated on the attached Plat of Annexation attached hereto as Exhibit "B", and generally located at 1162 S. Luther Ave, Lombard, Illinois and legally described as follows:

Lot 11 in York Center Subdivision, being a subdivision of part of Section 16, Township 39 North, Range 11, East of the Third Principal Meridian, according to the plat thereof recorded January 10, 1927, as Document No. 227804, in DuPage County, Illinois.

PN: 06-16-317-013

SECTION 3. The new boundary of the Village of Lombard shall extend to the far side of any adjacent rights-of-way, and shall include all of every right-of-way within the area annexed hereby.

SECTION 4. The Village Clerk is hereby directed to record with the Recorder of Deeds and to file with the County Clerk, a certified copy of this Ordinance, and the original Plat of Annexation.

SECTION 5. This ordinance shall be in full force and effect from and after its passage and approval as provided by law.

Passed on first reading this _____ day of _____, 2008.
First reading waived by action of the Board of Trustees this _____ day of _____, 2008.
Passed on second reading this _____ day of _____, 2008.

Ayes: _____
Naves: _____
Absent: _____

Approved this _____ day of _____, 2008.

ATTEST:

William J. Mueller, Village President

Brigitte O'Brien, Village Clerk

ORDINANCE NO. _____
**AN ORDINANCE APPROVING A MAP AMENDMENT (REZONING)
TO THE LOMBARD ZONING ORDINANCE
TITLE 15, CHAPTER 155 OF THE CODE OF LOMBARD, ILLINOIS**
(PC 08-30: 1162 S. Luther Ave)

(See also Ordinance No.(s) _____)

WHEREAS, the President and Board of Trustees of the Village of Lombard have heretofore adopted the Lombard Zoning Ordinance, otherwise known as Title 15, Chapter 155 of the Code of Lombard, Illinois; and,

WHEREAS, concurrent with a request for annexation into the Village of Lombard, an application has heretofore been filed requesting a map amendment for the purpose of rezoning the property described in Section 2 hereto from R0 Single Family Residence District to the R1 Single Family Residence District; and,

WHEREAS, a public hearing on such application has been conducted by the Village of Lombard Plan Commission on October 20, 2008 pursuant to appropriate and legal notice; and,

WHEREAS, the Plan Commission has filed its recommendations with the President and Board of Trustees recommending approval of the map amendment described herein; and,

WHEREAS, the President and Board of Trustees approve and adopt the findings and recommendations of the Plan Commission and incorporate such findings and recommendations herein by reference as if they were fully set forth herein;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

SECTION 1: That Title 15, Chapter 155 of the Code of Lombard, Illinois, otherwise known as the Lombard Zoning Ordinance, be and is hereby amended so as to

rezone the property described in Section 2 hereof to the R1 Single Family Residence District.

SECTION 2: That this ordinance is limited and restricted to the property generally located at 1162 S. Luther Ave, Lombard, Illinois and legally described as follows:

Lot 11 in York Center Subdivision, being a subdivision of part of Section 16, Township 39 North, Range 11, East of the Third Principal Meridian, according to the plat thereof recorded January 10, 1927, as Document No. 227804, in DuPage County, Illinois.

PIN: 06-16-317-013

SECTION 3: The map amendment set forth in Section 1 above shall be granted subject to compliance with the following condition:

1. That the rezoning request shall be contingent upon the Village and the property owner entering into an Annexation Agreement.

SECTION 4: This ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

Passed on first reading this _____ day of _____, 2008.

First reading waived by action of the Board of Trustees this _____ day of _____, 2008.

Passed on second reading this _____ day of _____, 2008.

Ayes: _____

Nayes: _____

Absent: _____

Ordinance No. _____
Re: PC 08-30
Page 3

Approved this _____, day of _____, 2008.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk