

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

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

DATE: February 23, 2010 (BOT) Date: March 4, 2010

TITLE: PC 10-02: 1010 E. North Broadway

SUBMITTED BY: Department of Community Development *MD*

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests the following actions on the property located within the R2 Single-Family Residence District:

1. Approval of a Comprehensive Plan amendment from Low-Density Residential to Medium-Density Residential;
2. Approval of a map amendment (rezoning) from the R2 Single Family Residence District to the R4 Limited General Residence District;
3. A variation from Section 155.409(F)(4)(c) to reduce the required minimum interior side yard from 15 feet to 9 feet;
4. A variation from Section 155.409(I) to reduce the required minimum transitional building setback from 50 feet to 9 feet; and
5. Variations from Section 155.409(J) and Section 155.707 to eliminate the required 30-foot transitional landscape yard and associated landscaping.

The Plan Commission recommended denial of this petition and that the Village work with the property owner and the existing tenant to ease the transition from an illegal non-conforming 3-unit apartment to a conforming 2-unit apartment.

Please place this item on the March 4, 2010 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____	Date _____
Finance Director X _____	Date _____
Village Manager X _____	Date 2-24-10

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



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



March 4, 2010

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

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

**Subject: PC 10-02: 1010 E. North Broadway**

Dear President and Trustees:

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

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner requests the following actions on the property located within the R2 Single-Family Residence District:

Village Manager  
 David A. Hulseberg

1. Approval of a Comprehensive Plan amendment from Low-Density Residential to Medium-Density Residential;

2. Approval of a map amendment (rezoning) from the R2 Single Family Residence District to the R4 Limited General Residence District;
3. A variation from Section 155.409(F)(4)(c) to reduce the required minimum interior side yard from 15 feet to 9 feet;
4. A variation from Section 155.409(I) to reduce the required minimum transitional building setback from 50 feet to 9 feet; and

"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."

5. Variations from Section 155.409(J) and Section 155.707 to eliminate the required 30-foot transitional landscape yard and associated landscaping.

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

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on February 15, 2010.

Gina Rukower, 4501 Black Partridge Lane, Lisle, IL, presented the petition. She stated that she and her husband are in the process of selling the property. The property was in its current state when they took ownership in 2003 and they were unaware of the zoning issue. They discovered the zoning issue upon applying for an electric permit. They immediately contacted the Village to resolve the matter and were told what they needed to do and what the process was, and they allowed the Village to access the third unit for review.

They want to be approved to move from R2 to R4. They believe the use to be compatible as it is adjacent to multifamily and commercial property. The use will not jeopardize anyone, has been in this condition for 30 years and there is sufficient parking on the property. She noted that once they were made aware of the problem, they took all the necessary steps on their own to ensure that they are working to be compliant and safe. They have hired an architect and verified that should they receive approval, the project is workable.

Commissioner Olibrysh asked if there is a tenant living in the basement apartment. The petitioner confirmed that there is.

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.

Jennifer Henaghan, Senior Planner, presented the staff report. The subject property is a nonconforming residential three-flat that was built in 1972-1973. At that time, the property was zoned R2 Single Family. However, building permit records indicate that a court order was issued to permit the construction of a two-family residence. At some point following construction, likely during the 1980s, the basement of the building was built-out into a third dwelling unit. No building permit applications were ever submitted in conjunction with this work. The third dwelling unit was discovered by the Village in January 2010 when the current owners applied for an electrical permit.

The third unit is not permitted by the underlying zoning (which permits detached single-family residences only) or the court order (which permits a two-flat). Therefore, in order to achieve compliance with Village Code, the third unit would need to be removed or zoning relief would need to be granted to address the nonconforming use and bulk nonconformities.

The Private Engineering Services Division noted that the change in zoning will trigger the need for stormwater detention for any future site improvements. The Building Division noted that there is one set of requirements if the rezoning is approved and two options if the rezoning is not approved. Both of these scenarios have been reviewed with the petitioner.

The Comprehensive Plan recommends Low-Density Residential uses at this location. Low density is defined within the Comprehensive Plan as a net density of six or fewer dwelling units per acre. The proposed three-flat use would have a net density of 14.6 units per acre, placing it into the Medium-Density Residential category. (The court-ordered two-family use has a net density of 9.8 units per acre, placing it in the Low-Medium Density category.)

The plan states that "medium-density residential environments are appropriate within or near high activity centers including commercial and business areas." With the exception of the two Neighborhood Commercial properties at the corner of Westmore/Meyers Road and North Broadway, the entirety of the block on which the subject property is located is recommended for Low-Density Residential uses. The proposed use and proposed relief are therefore inconsistent with the recommendations of the Comprehensive Plan.

In addition, the Comprehensive Plan sets forth specific criteria for any Plan amendments. The proposed change is clearly at odds with the Plan recommendation for the neighborhood of Low-Density Residential uses as it would result in a single property being recommended for Medium-Density Residential uses. Furthermore, the proposed plan does not meet the housing and residential land use objectives outlined in the Plan. The proposed Medium-Density Residential area would not be near a high activity center (as called for in the Comprehensive Plan) and would instead be located upon a local street with single-family and two-family land uses.

Of the 27 properties on this block, only one property appears to be used legally for multiple-family residences. There is one commercial use and the remaining 25 properties appear to be either single-family residences, two-family residences, or undeveloped. Along North Broadway there are zero properties zoned for multiple-family uses. The proposed use is therefore incompatible with the surrounding land uses.

Although the conversion of the subject property into a multiple-family dwelling was not done by the petitioners, the consideration of this petition must be based upon the standards set forth within the Zoning Ordinance. The proposed Comprehensive Plan amendment, map amendment, and associated variations are inconsistent with previous Village actions. They would also set a precedent for allowing additional single-family properties in the neighborhood to be converted to multiple-family uses, thereby altering the essential character of the neighborhood.

The R4 District is significantly different from the R2 District in that it has specific setback regulations for each permitted land use. While the subject building was built under the more permissive R2 regulations, the change of zoning and change of use to the R4 District kick in the need for greater side yard setbacks, additional transitional building setbacks, and transitional landscape yards. These provisions are in place to ensure that there is adequate separation located in such close proximity to single-family would be a significant departure from the desired separation of uses that is set forth within the Zoning Ordinance.

With regard to the Standards for Map Amendments, staff finds that although there is an abutting property with multiple-family uses, the predominant land use on the block is single-family with some two-family. The proposed multiple-family use is incompatible with the general area. The subject property abuts a property to the north that is zoned R4 and fronts directly on Westmore-Meyers Road. There is a clear demarcation between the multiple-family zoned area on Westmore-Meyers Road and the single-family neighborhood along North Broadway. As currently zoned, the property meets all setback requirements for a single-family residence. It has approximately 46 percent open space, which is slightly below the minimum required 50 percent. The remaining properties along North Broadway are of the same size of the subject property. They are suitable for single-family uses, but none are large enough to accommodate the transitional yards and setback requirements for multiple-family uses. As detailed previously, the proposed rezoning is inconsistent with the recommendations of the Comprehensive Plan. The property is not sufficiently large to accommodate the required 50-foot transitional building setbacks and 30-foot transitional landscape yard. These provisions are in place to ensure that there is adequate separation between single-family

and multiple-family uses. Waiving or reducing these requirements places an undue burden upon the neighboring single-family property.

With regard to the Standards for Variations, staff finds that the subject property is not physically unique or substantially different from its neighboring properties. The stated hardship is of a financial nature. The petitioner has created the need for the variation for their own financial gain. The reduction of required setbacks and landscaping improvements would set a precedent to allow further zoning relief on neighboring properties, creating a denser environment than that allowed by the underlying zoning or recommended by the Comprehensive Plan. The reduction of required setbacks and landscaping improvements would set a precedent to allow further zoning relief on neighboring properties, creating a denser environment than that allowed by the underlying zoning or recommended by the Comprehensive Plan.

Staff is recommending denial of this petition.

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

Commissioner Olbrysh asked when the conversion was done. Ms. Henaghan stated that, based upon their inspection of the basement unit, the Building Division estimated that it was converted sometime during the 1980s.

Commissioner Olbrysh asked why there was a court order issued instead of the property coming before the Plan Commission. Ms. Henaghan stated that we don't have information on what happened in that court case. The court order could not be found by the Clerk of Court although they are currently searching their archives. Since we don't know what the compliant was, we don't know what the process was at that time.

Commissioner Burke stated that he was sympathetic to the petitioner especially since they were not aware of the problem. However, he agreed with staff that the quantity and the size of the relief for building setbacks, landscaping and transitional setbacks was too great and they would have to deny the petition.

Commissioner Olbrysh stated that this is a bureaucratic nightmare for the petitioners because when they purchased the property they assumed it was a legal three-unit complex. If the petitioner were denied, there would be a hardship on two innocent parties, the petitioner and the tenant in the basement. He asked if, aside from the zoning, there was some equitable relief that could be granted. He didn't see anyone in the audience that was objecting to the petition.

Chairperson Ryan stated that approving this petition would set precedents for other neighbors. The Village can give the petitioners some time to come into compliance, and the petitioner can go back to the realty company that sold them the property under false pretenses. They need to think for the future of the neighbors in the area.

Commissioner Olbrysh asked how Division Street is zoned. Ms. Henaghan stated that Division Street is south of the Illinois Prairie Path and is zoned for multiple-family uses, but she did not know the precise designation.

Commissioner Olbrysh stated that there are apartments north of Westmore Liquors, Ms. Henaghan confirmed that those apartments are zoned R4.

Commissioner Cooper asked if the property could be grandfathered in. Looking at the site, it fits in nicely with the current land use plan to fit in with the higher density plan. She stated that she sees both sides of coin and the stormwater and landscaping relief is a big issue.

Commissioner Burke asked when the lease is up. The petitioner stated that the lease runs through July.

Commissioner Burke asked what flexibility the Village Board and staff gave with transitioning this property from three-family to two-family. Chris Stilling, Assistant Director of Community Development, stated that the building matters need to be resolved regardless of the zoning actions. If the petition is denied, the petitioner will need to draw up revised plans, which will take some time. The permit review itself will also take time. Staff can work with the petitioner on a reasonable timeline to accommodate them. George Wagner stated that enforcement is a staff issue. The Plan Commission's flexibility lies in granting the requested relief or not. Unless the property is in compliance with zoning the Village cannot issue a permit for the basement to be compliant with building regulations.

Commissioner Burke stated that the petitioner is looking to sell the property and any delay in enforcement will complicate the sale as well as the enforcement.

Commissioner Olbrysh stated that he did not wish to see the zoning change but wished there was some sort of relief for the petitioner, perhaps something only the Village Board can approve.

Chairperson Ryan asked if the Plan Commission recommended denial, could they recommend for staff to work with the petitioner and tenant to achieve a July compliance date.

The petitioner stated that she knows that financial burden isn't the Village's concern, but they do not wish to proceed with any of the two-family solutions recommended by the Building Division. She understands the concern with setting a precedent, but her property is unique because it has been this way for years and has not caused any problems. She doesn't believe a precedent would be set because the situation is extreme. They are doing their best to comply with a situation they didn't create.

Commission Olbrysh stated that he sympathizes with the petitioner but doesn't think that the Plan Commission can grant any relief.

Commissioner Cooper asked if this was not a unique scenario to not set a precedent, given the length of time the use has been in place.

Chairperson Ryan stated that approving a rezoning request in violation of the Comprehensive Plan recommendations would open the Village up for others to come in and ask for similar relief.

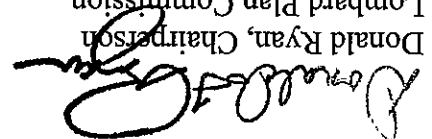
Commissioner Burke stated that, if approved, the sheer scale and significance of the requested variations could be applied piecemeal to other cases as the Plan Commission has seen in other zoning petitions.

On a motion by Commissioner Burke and a second by Chairperson Ryan, the Plan Commission voted 4 to 0 that the Village Board **deny** the rezoning, variations and Comprehensive Plan amendment based on the finding that the petitioner had met not the required Standards as set forth in the Zoning Ordinance and the Comprehensive Plan.

In addition, the Plan Commission recommended that the Village work with the property owner and the existing tenant to ease the transition from an illegal non-conforming three-unit apartment to a conforming two-unit apartment.

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

**HEARING DATE:** February 15, 2010

**FROM:** Department of  
Community Development

**PREPARED BY:** Jennifer Henaghan, AICP  
Senior Planner

**TITLE**

**PC 10-02; 1010 E. North Broadway:** The petitioner requests the following actions on the property located within the R2 Single-Family Residence District:

1. Approval of a Comprehensive Plan amendment from Low-Density Residential to Medium-Density Residential;

2. Approval of a map amendment (rezoning) from the R2 Single Family Residence District to the R4 Limited General Residence District;

3. A variation from Section 155.409(F)(4)(c) to reduce the required minimum interior side yard from 15 feet to 9 feet;

4. A variation from Section 155.409(I) to reduce the required minimum transitional building setback from 50 feet to 9 feet; and

5. Variations from Section 155.409(J) and Section 155.707 to eliminate the required 30-foot transitional landscape yard and associated landscaping.

**GENERAL INFORMATION**

**Petitioner/Property Owner:**

Peter & Gina Rukower  
4501 Black Partridge Lane  
Lisle, IL 60532

**PROPERTY INFORMATION**

**Existing Zoning:** R2 Single-Family Residence District

**Existing Land Use:** Nonconforming three-flat dwelling

**Size of Property:** Approximately 8,925 Square Feet

**Comprehensive Plan:** Recommends Low-Density Residential

Surrounding Zoning and Land Use:

North: R4 Limited General Residence District; developed as two apartment buildings

South: R2 Single-Family Residence District; developed as the Illinois Prairie Path

East: R2 Single-Family Residence District; developed as single-family residences

West: B2 General Neighborhood Shopping District; developed as Westmore Liquors and a single-family residence

ANALYSIS

SUBMITTALS

This report is based on the following documents:

1. Petition for Public Hearing.

2. Plat of Survey, prepared by Professional Land Surveying, dated January 3, 2010.

3. Response to Standards for Map Amendments and Variations.

DESCRIPTION

The subject property is a nonconforming residential three-flat that was built in 1972-1973. At that time, the property was zoned R2 Single Family. However, building permit records indicate that a court order was issued to permit the construction of a two-family residence. At some point following construction, likely during the 1980s, the basement of the building was built-out into a third dwelling unit. No building permit applications were ever submitted in conjunction with this work. The third dwelling unit was discovered by the Village in January 2010 when the current owners applied for an electrical permit.

The third unit is not permitted by the underlying zoning (which permits detached single-family residences only) or the court order (which permits a two-flat). Therefore, in order to achieve compliance with Village Code, the third unit would need to be removed or zoning relief would need to be granted to address the nonconforming use and bulk nonconformities.

## INTER-DEPARTMENTAL REVIEW COMMENTS

### PRIVATE ENGINEERING SERVICES DIVISION

The change in zoning will trigger the need for stormwater detention for any future site improvements.

### BUILDING DIVISION

There is one set of requirements if the rezoning is approved and two options if the rezoning is not approved. Both of these scenarios have been reviewed with the petitioner.

If the rezoning is approved, the building owner will need to:

1. Apply for a permit for the basement apartment that was built without benefit of a permit. This will require three sets of plans by a licensed architect. The plans will need to include details of all of the work performed such as plumbing, electric, HVAC, and framing.
2. Some areas of drywall will need to be opened up for inspection of the electric, plumbing, HVAC, and framing.
3. Following approval of all plans and inspections, a certificate of occupancy will need to be applied for and all fees paid for to obtain the certificate of occupancy.

If the rezoning is not approved the building owner will have two options:

1. Remove all construction related to the basement apartment that was built without benefit of a permit, or

2. Submit plans and a permit application to connect the basement apartment and the first floor apartment. This would involve installing an additional interior set of stairs to connect the two apartments without any locks between the two floors. This would be similar to a house with two floors. All of the same requirements would apply such as hiring an architect to draw plans, opening up drywall for inspection, and passing all inspections.

### PUBLIC WORKS

The Engineering Division and Utilities Division of the Public Works Department have no comments at this time.

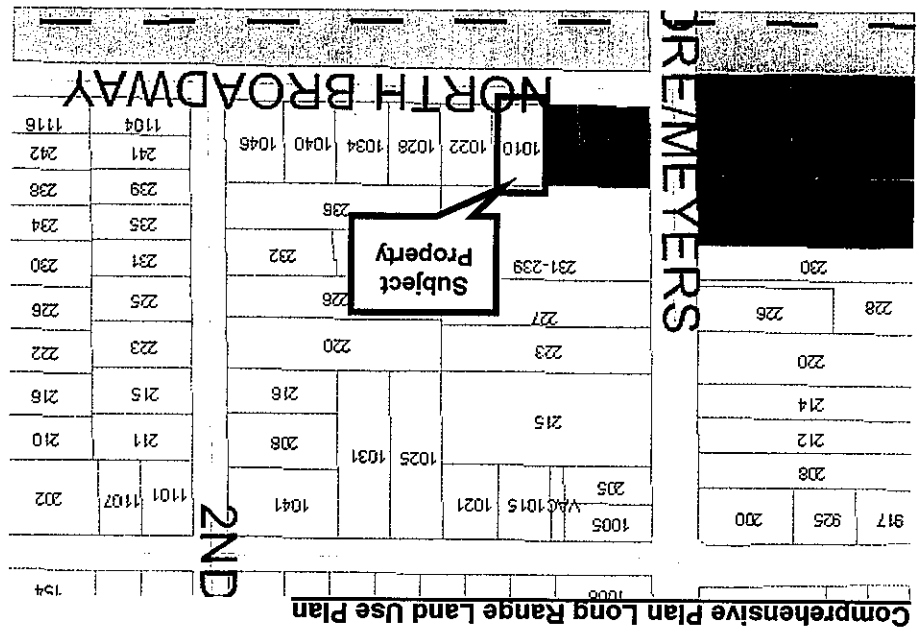
### FIRE

The Fire Department has no comments.

**PLANNING**

**Compliance with the Comprehensive Plan**

The Comprehensive Plan recommends Low-Density Residential uses at this location. Low density is defined within the Comprehensive Plan as a net density of six or fewer dwelling units per acre. The proposed three-flat use would have a net density of 14.6 units per acre, placing it into the Medium-Density Residential category. (The court-ordered two-family use has a net density of 9.8 units per acre, placing it in the Low-Medium Density category.)



The plan states that "medium-density residential environments are appropriate within or near high activity centers including commercial and business areas." With the exception of the two Neighborhood Commercial properties at the corner of Westmore/Meyers Road and North Broadway, the entirety of the block on which the subject property is located is recommended for Low-Density Residential uses. The proposed use and proposed relief are therefore inconsistent with the recommendations of the Comprehensive Plan.

In addition, the Comprehensive Plan states that because the Land-Use Plan Map culminates many policies, recommendations and programs of the Village, any amendment shall be based upon findings that each of the following criteria are met.

1. *The proposed change is consistent with the Goals, Objectives and Policies and the overall Comprehensive Plan.*

The proposed change is clearly at odds with the Comprehensive Plan recommendation for the neighborhood of Low-Density Residential uses as it would result in a single property being recommended for Medium-Density Residential uses. Furthermore, the proposed plan does not

meet the objectives outlined in Part II, Section C, *Housing and Residential Land Use*, outlined in the Comprehensive Plan. Specifically staff finds that it does not meet the following objectives:

1. Protect residential areas from encroachment by land uses which are incompatible or which may create adverse impacts.

2. Continue to emphasize the low-density character of Lombard.

3. Encourage new development and infill development which is complementary with the scale and character of surrounding residential uses.

2. *The proposed amendment does not affect the adequacy of existing or planned facilities and services of the Village or planning area generally.*

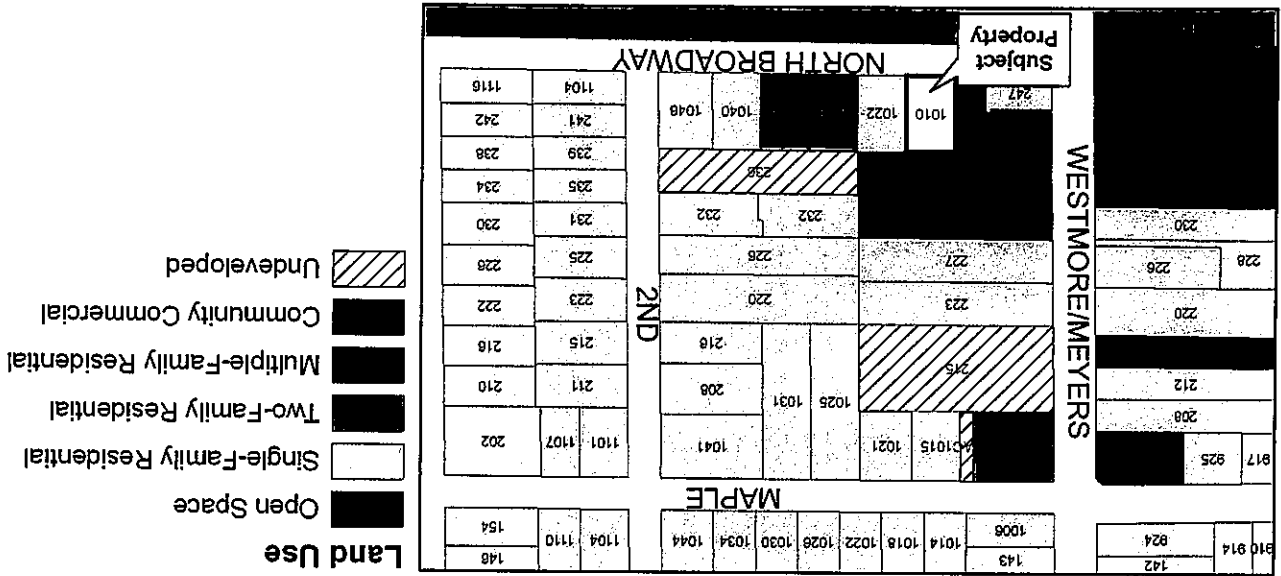
The proposed change does not significantly impact the above.

3. *The proposed change results in reasonably compatible land-use relationships.*

The proposed Medium-Density Residential area would not be near a high activity center (as called for in the Comprehensive Plan) and would instead be located upon a local street with single-family and two-family land uses.

**Compatibility with Surrounding Land Uses**

Of the 27 properties on this block, only one property (fronting on Westmore/Meyers Road immediately north of the subject property) appears to be used legally for multiple-family residences. There is one commercial use (Westmore Liquors) and the remaining 25 properties appear to be either single-family residences, two-family residences, or undeveloped. Along North Broadway there are zero properties zoned for multiple-family uses. The proposed use is therefore incompatible with the surrounding land uses.



**Compliance with the Zoning Ordinance**

Although the conversion of the subject property into a multiple-family dwelling was not done by the petitioners, the consideration of this petition must be based upon the standards set forth within the Zoning Ordinance. The proposed Comprehensive Plan amendment, map amendment, and associated variations are inconsistent with previous Village actions. They would also set a precedent for allowing additional single-family properties in the neighborhood to be converted to multiple-family uses, thereby altering the essential character of the neighborhood.

The R4 District is significantly different from the R2 District in that it has specific setback regulations for each permitted land use. While the subject building was built under the more permissive R2 regulations, the change of zoning and change of use to the R4 District kick in the need for greater side yard setbacks, additional transitional building setbacks, and transitional landscape yards (see table below, with nonconformities highlighted). These provisions are in place to ensure that there is adequate separation between single-family and denser, multiple-family uses. Allowing a high-density use to be located in such close proximity to single-family would be a significant departure from the desired separation of uses that is set forth within the Zoning Ordinance.

Maximum number of dwelling units (8,925 sq. ft. lot)	3	1	3
Minimum Front Yard Setback	30 feet	30 feet	30 feet
Minimum Interior Side Yard Setback	38 feet (west) 9 feet (east)	9 feet (west) 6 feet (east)	15 feet (west) 15 feet (east)
Minimum Rear Yard Setback	35 feet	35 feet	30 feet
Maximum Building Height	2 stories	2 stories or 30 feet	3 stories or 36 feet
Minimum Open Space	46%	50%	40% (for multiple-family dwellings)
Transitional Building Setback	9 feet	n/a	50 feet
Transitional Landscape Yard	9 feet	n/a	30 feet

**Standards for Map Amendments**

The regulations of the Zoning Ordinance shall not be amended unless findings based on the evidence presented are made in each specific case that affirm each of the following standards. Where a map amendment is proposed, the Plan Commission shall make findings based upon the evidence presented to it in each specific case with respect to, but not limited to, the following matters:

1) *Compatibility with existing uses of property within the general area of the property in question*

Staff finds that although there is an abutting property with multiple-family uses, the predominant land use on the block is single-family with some two-family. The proposed multiple-family use is incompatible with the general area.

2) *Compatibility with the zoning classification of property within the general area of the property in question.*

Staff finds that the subject property abuts a property to the north that is zoned R4 and fronts directly on Westmore-Meyers Road. There is a clear demarcation between the multiple-family zoned area on Westmore-Meyers Road and the single-family neighborhood along North Broadway.

3) *The suitability of the property in question to the uses permitted under the existing zoning classification.*

Staff finds that, as currently zoned (R2 Single Family), the property meets all setback requirements for a single-family residence. It has approximately 46 percent open space, which is slightly below the minimum required 50 percent.

5) *The compatibility of the surrounding property with the permitted uses listed in the proposed zoning classification.*

Staff finds that the remaining properties along North Broadway are of the same size of the subject property. They are suitable for single-family uses, but none are large enough to accommodate the transitional yards and setback requirements for multiple-family uses.

6) *The objectives of the current Comprehensive Plan for the Village of Lombard and the impact of the proposed amendment on the said objectives.*

Staff finds that, as detailed previously, the proposed rezoning is inconsistent with the recommendations of the Comprehensive Plan.

7) *The suitability of the property in question for permitted uses listed in the proposed zoning classification.*

Staff finds that the property is not sufficiently large to accommodate the required 50-foot transitional building setbacks and 30-foot transitional landscape yard. These provisions are in place to ensure that there is adequate separation between single-family and multiple-family uses. Waiving or reducing these requirements places an undue burden upon the neighboring single-family property.

### *Standards for Variations*

The regulations of the Zoning Ordinance shall not be varied unless findings based on the evidence presented are made in each specific case that affirm each of the following standards:

(a) 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 the subject property is not physically unique or substantially different from its neighboring properties. The stated hardship is of a financial nature.

(b) 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 the subject property is not physically unique or substantially different from the neighboring properties. The petitioner has created the need for the variation for their own financial gain.

(c) The purpose of the variation is not based primarily upon a desire to increase financial gain.

Staff finds that the relief necessary to accommodate a third rental unit is primarily related to financial gain.

(e) 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.

Staff finds that the reduction of required setbacks and landscaping improvements would set a precedent to allow further zoning relief on neighboring properties, creating a denser environment than that allowed by the underlying zoning or recommended by the Comprehensive Plan.

(f) The granting of the variation will not alter the essential character of the neighborhood.

Staff finds that the reduction of required setbacks and landscaping improvements would set a precedent to allow further zoning relief on neighboring properties, creating a denser environment than that allowed by the underlying zoning or recommended by the Comprehensive Plan.

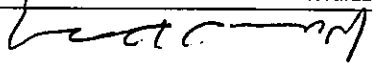
## FINDINGS AND RECOMMENDATIONS

The Department of Community Development finds that the information presented **does not** meet the Standards for Map Amendment and Standards for Variations as set forth in the Zoning Ordinance. In addition, staff finds that the petition does not meet the criteria for a Comprehensive Plan Amendment as set forth in the Comprehensive Plan. Based on the above considerations, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion recommending **denial** of this petition:



Based on the submitted petition and the testimony presented, the proposal **does not comply** 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 **denial** of PC 10-02.

Report Approved By:

  
\_\_\_\_\_  
William J. Heniff, AICP

Director of Community Development

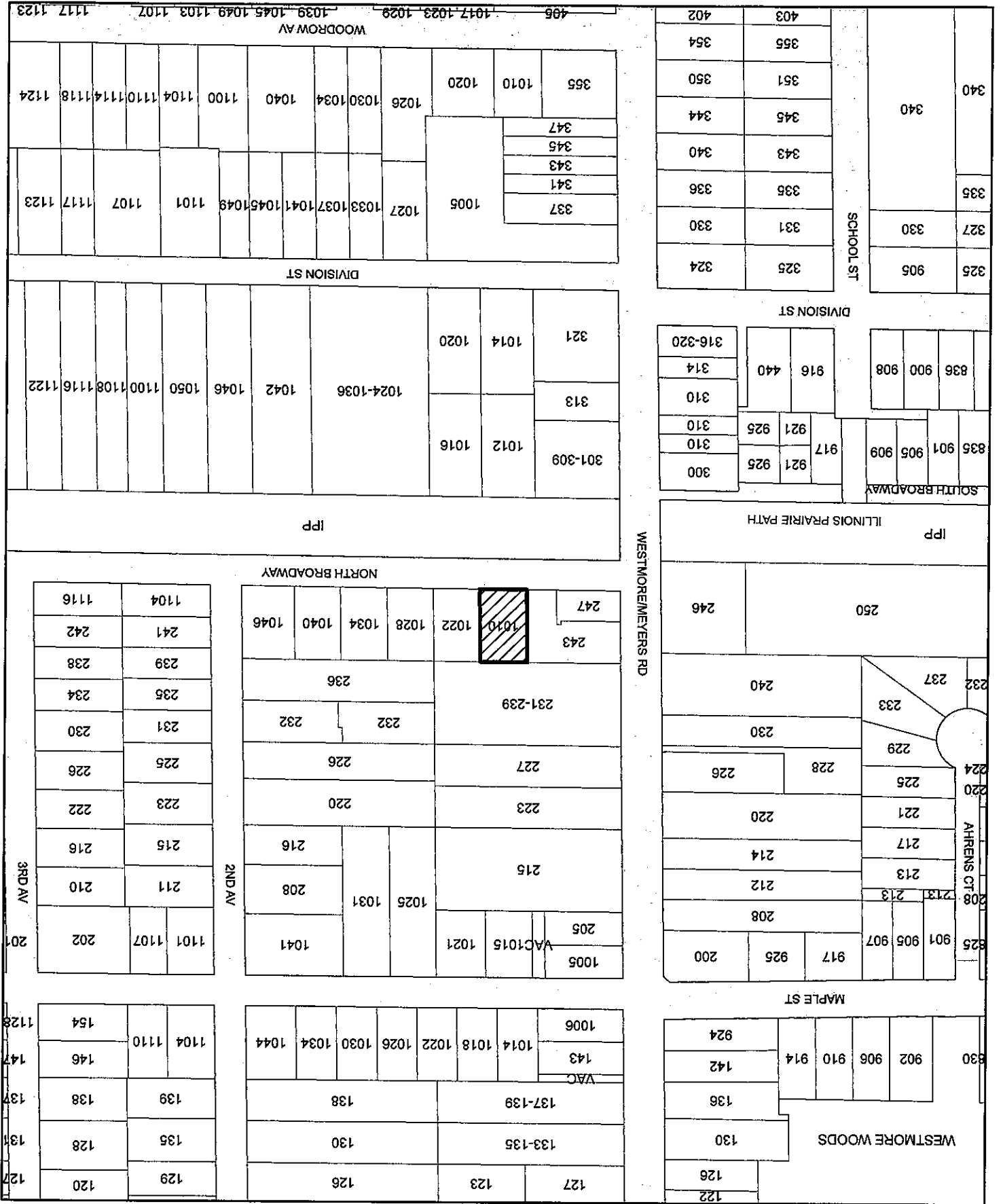
JBH:

at-

c. Petitioner

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# Location Map PC 10-02



*Peter & Gina Rukower respectfully petition the Village of Lombard for the rezoning of property located at 1010 E. North Broadway, Lombard IL.*

Property owners Peter & Gina Rukower are in process of selling property located at 1010 E. North Broadway. Upon applying for Village permit for electrical work, it was discovered that property is not zoned for three-unit apartment building that currently exists. When owners were notified of the zoning conflict, they immediately contacted the Village to resolve matter. Upon meeting with Village of Lombard representatives, it was explained to the property owner rezoning petition is the only route to resolve zoning conflict. Property owner explained to Village representatives that property was in current state when Peter & Gina Rukower took ownership of property in 2003, no structural changes or additions have been made by owners since 2003. Upon taking ownership, property was presented to them as three-unit apartment building. At no time were Peter & Gina Rukower aware of zoning conflict. All documents in their possession note three unit apartment building (documents include Property Record Card from York Township Assessors Office, multiple bank appraisals, real estate documents and mortgage certificates). Property owners immediately allowed Village of Lombard access to third apartment unit at 1010 E. North Broadway, for review of current status of unit and requested notice of any immediate need issues to be addressed to insure safety of all tenants.

Time Line:

January 2009 – 1010 E. North Broadway is put up for sale.  
January 2003 – Peter & Gina Rukower take ownership of 1010 E. North Broadway  
January 4, 2010 – Electrical contractor hired by Peter & Gina Rukower applied for electrical work permit with Village of Lombard.  
January 7, 2010 – Village of Lombard notified Electrical Contract & Peter & Gina Rukower that property at 1010 E. North Broadway is not zoned for multi-unit building. Property is zoned, by court order, for two-family dwelling.  
January 7, 2010 – Gina Rukower contacts Village of Lombard for additional information and guidance on how to proceed to resolution of zoning conflict.

January 8, 2010 – Gina Rukower speaks to Jennifer Henaghan, receives information on status of property and options for resolution. Gina confirmed appointment to meet with Jennifer Henaghan and Keith Steiskal on January 11, 2010.

January 11, 2010 – Gina Rukower met with Jennifer Henaghan and Keith Steiskal to discuss current status of zoning conflict for 1010 E. North Broadway. Jennifer and Keith explain process of rezoning to Gina. Gina received petition packet. Gina was given a copy of letter dated January 1972, from Village of Lombard Building & Zoning to S. H. Delgatto Real Estate Company noting approval of zoning for two-family dwelling at Lot 17 in Home Acres, now 1010 E. North Broadway.

January 11 & 12, 2010 – Gina Rukower makes significant efforts to locate copy of court order that was issued to confirm zoning of 1010 E. North Broadway property, as suggested by Village of Lombard representatives. DuPage County Circuit Court Clerk is unable to locate court order as Village does not have any case number to reference; documents are 30+ years old and not found.

January 14, 2010 – Gina & Peter Rukower submit petition for rezoning & variances of 1010 E. North Broadway to Village of Lombard.

Response to applicable Standards:

1. **Compatibility with existing uses of property within the general area of the property in question:** Should rezoning be granted, the property will remain compatible with the existing uses of the property; i.e. rental of apartment units. No use of the property will change with proposed zoning. 1010 E. North Broadway is compatible with other properties in general area, said property is a three-unit apartment building adjacent to other multi-unit apartment complexes, and in the area of other multi-family dwellings.
2. **Compatibility with the zoning classification of property within the general area of the property in question:** Should rezoning be granted, the property will be compatible with the zoning classification of the general area. 1010 E. North Broadway is adjacent to 231-239 S. Westmore Avenue, a 24-unit apartment building complex. In addition, multiple multi-family dwellings exist along Westmore Avenue in the general area of 1010 E. North Broadway.
3. **The suitability of the property in question to the uses permitted under the existing zoning classification:** 1010 E. North Broadway is currently zoned for two-family dwelling; the property is suitable for this use. Property has two separate 3 bedroom/2 bathroom apartment units built and approved for two-family occupancy.
4. **Consistency with the trend of development, if any, in the general area of the property in question, including changes, if any which have taken place in its present zoning classification:** The general area of the property is established, if rezoned the property would not inhibit or interfere with any existing R-2, R-4 or commercial properties which are all adjacent to the 1010 E. North Broadway property.
5. **The compatibility of the surrounding property with the permitted uses listed in the proposed zoning classification:** 1010 E. North Broadway would be compatible with surrounding property with the permitted uses in the proposed zoning classification as no use of the property would change, the rezoning request is to allow for existing third apartment unit to remain and be utilized. The proposed zoning classification would not disrupt the general area in any way.
6. **The objectives of the current Comprehensive Plan for the Village of Lombard and the impact of the proposed amendment of the said objectives:** The Comprehensive Plan for the Village of Lombard was done in 1998, at which time the 1010 E. North Broadway property was already built and in its current state for some time. Then and now the property in no way compromises Comprehensive Plan for the Village of Lombard.
7. **The suitability of the property in question for permitted uses listed in the proposed zoning classification:** The 1010 E. North Broadway property is suitable for the uses in the proposed zoning classification; petitioners have been working with the Village of Lombard Building Department for review of current state of unit in question and are following guidelines to become compliant with all proposed zoning requirements.

**Variances Requested Should Proposed Zoning Classification be granted:**

- Minimum Building Setbacks
- Transitional Building Setbacks
- Minimum Open Space Allowance

**Variances Requested Should Proposed Zoning Classification be granted:**

- Minimum Building Setbacks
- Transitional Building Setbacks
- Minimum Open Space Allowance

**Response to Standards for Variations:**

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:  
All variations being requested for the 1010 E. North Broadway property are conditions the owners cannot change as physical building is already existing and in current state when owners took possession of property.

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:  
The variation requests are unique in regards to the rezoning of the property due to the original court order.

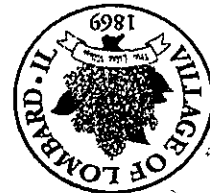
3. The purpose of the variation is not based primarily upon a desire to increase financial gain:  
The primary purpose of the variation request is to make property compliant with proposed rezoning.

4. The alleged difficulty or hardship is caused by this ordinance and has not been created by any person presently having an interest in the property:  
The difficulty with the ordinance has been placed on the owners of the property as the property was in its current state when owners took possession of property in 2003. The owners of the property had no involvement in creating the current status needing the variances.

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:  
The granting of the variations will in no way be detrimental to public welfare or injurious to other property or improvements in the neighborhood. The requested variations are on items that have been in existence for many years and majority since the original construction of the property in 1973.

6. The granting of the variation will not alter the essential character of the neighborhood:  
The granting of the variation will in no way alter the essential character of the neighborhood, the requests are acceptance of the current placement of main building and surrounding structures on the property that have been in place for many years.

7. The proposed variation will not impair an adequate supply of light and air to 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:  
The proposed variation will in no way impair an adequate supply of light and air to adjacent property, will in no way substantially increase the congestion of the public streets, will in no way increase the danger of fire, will in no way impair natural drainage, will in no way create drainage problems on adjacent properties, will in no way endanger the public safety, will in no way substantially diminish or impair property values within the neighborhood. The proposed variations are to make existing property compliant with proposed rezoning. Nothing will be added or changed to existing property or structures, no impact would be made to surrounding property or overall neighborhood in any way with proposed variations.



MEMORANDUM

**TO:** David A. Hulseberg, Village Manager

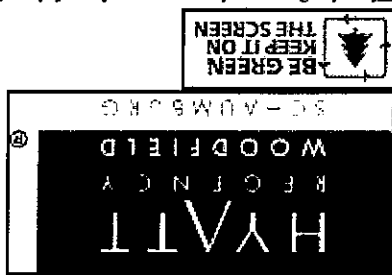
**FROM:** William Heniff, AICP *WH*  
 Director of Community Development

**DATE:** March 18, 2010

**SUBJECT:** PC 10-02; 1010 E. North Broadway - Request for Continuance

The above mentioned petition is scheduled to be heard at the March 18, 2010 Village Board meeting. The petitioner has requested that this item be continued to the April 1, 2010 Village Board meeting because their attorney is out ill and could not attend tonight's meeting (please see attached email from the petitioner).

The information contained in this communication is confidential and intended only for the use of the recipient named above, and may be legally privileged and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please resend it to the sender and delete the original message and copy of it from your computer system. Opinions, conclusions and other information in this message that do not relate to our official business should be understood as neither given nor endorsed by the company.



**Gina Rukower**  
*Director of Group Sales*  
*Hyatt Regency Woodfield Schaumburg*  
1800 East Golf Rd.  
Schaumburg, IL 60173  
Direct 847.517.6955  
Cell 630.715.1501  
Fax 847.605.8641  
gina.rukower@hyatt.com

Sincere thanks for your assistance.

Please confirm receipt of this email.

Per my conversation with you, I am respectfully requesting to have our re-zoning review & vote at tonight's (3/18/10) Village Trustee meeting continued to the April 1, 2010 meeting. I have retained Tom Breen as our Attorney, and Tom has taken very ill and cannot appear with us at the meeting tonight due to his illness.

Hello Bill,

**From:** gina.rukower@hyatt.com  
**Sent:** Thursday, March 18, 2010 2:52 PM  
**To:** Heniff, William  
**Subject:** Continuance for Re-Zoning of 1010 E. North Broadway

**Heniff, William**



#100066

**MEMORANDUM**

**TO:** David A. Huliseberg, Village Manager *[Signature]*

**FROM:** William Heniff, AICP *[Signature]*  
 Director of Community Development

**DATE:** March 4, 2010

**SUBJECT:** PC 10-02; 1010 E. North Broadway - Request for Continuance

The above mentioned petition is scheduled to be heard at the March 4, 2010 Village Board meeting. The petitioner has requested that this item be continued to the March 18, 2010 Village Board meeting to allow them additional time to work with staff to try and come up with an agreeable resolution.

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Thank you for your assistance.

Please let me know what the next step/needs are.

As I explained in our conversation with Bill, we are desperate for a resolution to this situation, with extenuating circumstances that we did not create. We will do whatever it takes and whatever the village asks of us to keep the unit in tact and bring the status to legal non-conforming for a three-unit building.  
Per our phone discussion, I am requesting to postpone our agenda item for re-zoning off this week's village board meeting and re-schedule it to the meeting on March 18, waiving the second reading. This request comes after a phone discussion with Laura Fitzpatrick today. She suggested doing this to give us two additional weeks for further discussion with the village on coming to an agreeable resolution to our re-zoning need.

Hello Chris,

**From:** gina.rukower@hyatt.com  
**Sent:** Tuesday, March 02, 2010 1:58 PM  
**To:** Stilling, Christopher  
**Subject:** 1010 East North Broadway Apartment Building Re-Zoning

**Stilling, Christopher**