

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

 X

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

TO: PRESIDENT AND BOARD OF TRUSTEES
FROM: William T. Lichter, Village Manager
DATE: May 24, 2004 (B of T) Date: June 3, 2004
TITLE: PC 04-16: 929 S. Main Street
SUBMITTED BY: Department of Community Development *WTL/WST*

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration a petition requesting approval of a conditional use for a planned development with a use exception per Section 155.508 (B)(3) of the Zoning Ordinance (Standards for Planned Developments with Use Exceptions) to allow for massage establishment(s) (as defined and regulated by Chapter 12, Section 122 of the Code of Ordinances), located within the B1 Limited Neighborhood Commercial District. (DISTRICT #6)

The petitioner is requesting a waiver of first reading.

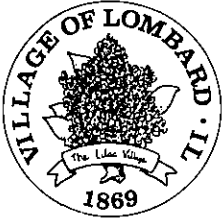
The Plan Commission recommended approval of this petition with conditions.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X *W. T. Lichter* _____ Date 5/25/04

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



MEMORANDUM

TO: William T. Lichter, Village Manager

FROM: David A. Hulseberg, AICP, Director of Community Development *DH/wst*

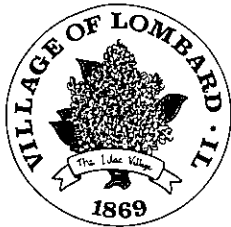
DATE: June 3, 2004

SUBJECT: PC 04-16: 929 S. Main Street

Attached please find the following items for Village Board consideration as part of the May 6, 2004 Village Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 04-16;
3. An Ordinance granting approval of a conditional use for a planned development with a use exception for a massage establishment, subject to conditions.
4. Plans associated with the petition.

The petitioner is also requesting a waiver of first reading of the Ordinance.



VILLAGE OF LOMBARD

255 E. Wilson Ave.

Lombard, Illinois 60148

630/620-5700 FAX: 630/620-8222

TDD: 630/620-5812

www.villageoflombard.org

June 3, 2004

Village President

William J. Mueller

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

Trustees

Joan DeStephano, Dist. 1
Richard J. Tross, Dist. 2
Karen S. Koenig, Dist. 3
Steven D. Sebby, Dist. 4
Kenneth M. Florey, Dist. 5
Rick Soderstrom, Dist. 6

Subject: PC 04-16; 929 S. Main Street

Dear President and Trustees:

Village Manager

William T. Lichter

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner requests approval of a conditional use for a planned development with a use exception per Section 155.508 (B)(3) of the Zoning Ordinance (Standards for Planned Developments with Use Exceptions) to allow for massage establishment(s) (as defined and regulated by Chapter 12, Section 122 of the Code of Ordinances), located within the B1 Limited Neighborhood Commercial District.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on May 17, 2004.

Vince Hill, 216 W. Campus Drive, Suite 201, Arlington Heights, IL, building manager for the property presented the petition. He discussed the history of the massage tenants that are located in the building. Pamela Myers, a masseuse in the building for the past thirteen years, was seeking a larger office space within the building for her practice. When Ms. Meyers applied for the requisite Village licensing, they were informed that her license could only be approved if the zoning issues were addressed – either through a text amendment or through a planned development approval with a use exception.

"Our shared *Vision* for Lombard is a community of excellence exemplified by its government working together with residents and business to create a distinctive sense of spirit and an outstanding quality of life."

Chairperson Ryan opened the meeting for public comment. No one spoke for or against the petition. He then requested the staff report.

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

William Heniff, Senior Planner, stated that earlier this year as part of our routine business licensing process, staff noted that a new masseuse was applying for approval to occupy a tenant space within the 929 S. Main Street building. As massage establishments are not listed as permitted or conditional uses within the B1 District, staff informed the applicant accordingly.

Upon further review, staff found out she was seeking to occupy a 200 square foot tenant space within Suite 103A1 of the building. Until this past year that space was used as a legal nonconforming massage establishment and noted the tenant space as Suite 103A. However, last year she relocated her massage practice into the office next door in Suite 103A2, a 300 square foot space. The Suite 103A2 space was previously occupied by a permitted office use.

As the massage establishment is a legal non-conforming use, it cannot be expanded or relocated. Therefore, the property owner/building manager is now seeking approval of actions that would allow both masseuses to operate their individual practices within the building.

He then referenced and explained the non-conforming provisions in the Village Code. The legal non-conforming status is tied to the Suite 103A1 tenant space. When the masseuse moved from the Suite 103A1 tenant space to the Suite 103A2 space that action constitutes a violation of the Zoning Ordinance. A new massage establishment could move into the Suite 103A1 space as a matter of right. However, in order for the previous massage establishment to continue its operation in Suite 103A2, zoning actions would be required.

Staff noted two options with the property manager to address the massage establishment. The first option would be to create an amendment to the Zoning Ordinance to provide for such uses by right or as part of a conditional use application. Staff was hesitant to have the petitioner pursue this option as such an amendment would have much greater applicability throughout the Village than what is really attempting to be addressed within the office building on the subject property. Alternatively, staff suggested that the petitioner consider applying for a conditional use for a planned development with a use exception for the massage establishments.

The subject property meets the minimum width and area requirement for a planned development. Staff believes that by creating planned development for the property, the proposed uses can be considered in the context for the standards for planned development.

He noted that the massage establishments as a use exception can supported based upon the following considerations:

1. The petitioner notes that the two massage establishment would occupy 500 square feet of 12,000 square feet of office space (4.2%) in the building.
2. No external modifications will be needed to the exterior of the building that would negatively affect the subject property or the properties abutting the subject property.
3. The business activity would be operated consistent with operations of other business in the building (e.g., medical and dental practices).
4. One establishment has occupied space within the building for over thirteen years without any negative impacts on the development or neighboring properties.

The principal use of the site will still be an office building. As the massage establishment will operate similar to other users in the building, negative impacts on surrounding uses are not

anticipated. The Comprehensive Plan recommends that the property be used as office use. The massage establishment use will still be an ancillary activity within the office building. Therefore, staff recommends approval of the petition subject to the conditions noted within the report.

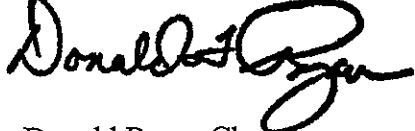
Chairperson Ryan then opened the meeting for discussion among the Commissioners. Commissioner Sweetser asked about the conditions of approval and wondered if the proposed conditions limiting the square footage and number of establishments are necessary and appropriate as written. Mr. Heniff noted that the reason the petitioner find themselves in a position that they have to apply to the Village for zoning actions is because they were unaware of the limitations of nonconforming uses. The proposed language specifically defines both the number and square footage of the establishments so that there is no confusion in the future.

After due consideration of the petition and the testimony presented, the Plan Commission found that the proposed conditional use amendment complies with the standards of the Zoning Ordinances. Therefore, the Plan Commission, by a roll call vote of 5 to 0, recommended to the Corporate Authorities, **approval** of PC 04-16; subject to the following conditions:

1. That no more than two massage establishment businesses shall operate within the existing office building – one establishment within Suite 103A1 and one in Suite 103A2, as depicted in the petitioner's submitted building plan made a part of this petition. The total permitted square footage for all massage establishments within the office building shall not exceed 500 square feet of office area.
2. Any massage establishments to be located on the premises shall apply for and receive a license from the Village of Lombard. Said establishments shall meet all provisions of Chapter 12, Section 122 of the Village Code and shall keep their license in good standing.

Respectfully,

VILLAGE OF LOMBARD



Donald Ryan, Chairperson
Lombard Plan Commission

att-

c. Petitioner
Lombard Plan Commission

VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT

TO: Lombard Plan Commission HEARING DATE: May 17, 2004
FROM: Department of PREPARED BY: William J. Heniff, AICP
 Community Development Senior Planner

TITLE

PC 04-16; 929 S. Main Street: The petitioner requests approval of a conditional use for a planned development with a use exception per Section 155.508 (B)(3) of the Zoning Ordinance (Standards for Planned Developments with Use Exceptions) to allow for massage establishment(s) (as defined and regulated by Chapter 12, Section 122 of the Code of Ordinances), located within the B1 Limited Neighborhood Commercial District.

GENERAL INFORMATION

Petitioner: Vincent Hill
 216 W. Campus Drive, Suite 201
 Arlington Heights, IL 60004

Property Owner: Jill Hill
 25605 Arrowhead Drive
 Mundelein, IL 60060

PROPERTY INFORMATION

Existing Zoning: B1 Limited Neighborhood Commercial District

Existing Land Use: Office building

Size of Property: Approximately 38,412 square feet (0.88 acres)

Comprehensive Plan: Recommends office use

Surrounding Zoning and Land Use:

North: B1 Limited Neighborhood Commercial District; developed as offices
South: B1 Limited Neighborhood Commercial District; developed as a strip center
East: R2 Single-Family Residence District; developed as Single-Family Residences
West: R2 Single-Family Residence District; developed as Single-Family Residences

ANALYSIS

SUBMITTALS

This report is based on the following documents:

1. Public Hearing Application, dated April 12, 2004
2. Response to the Standards for Conditional Uses for Planned Developments with Use Exceptions
3. Plat of Survey, prepared by Glen D. Krisch Land Surveyor, Inc. dated March 26, 2004.
4. Building Floor Plans, prepared by petitioner, submitted April 30, 2004

DESCRIPTION

Earlier this year as part of our routine business licensing process, staff noted that a new masseuse was applying for approval to occupy a tenant space within the 929 S. Main Street building. As massage establishments are not listed as permitted or conditional uses within the B1 District, staff informed the applicant accordingly. Upon further exploration of this issue with the masseuse, staff found out she was seeking to occupy a 200 square foot tenant space within Suite 103A1 of the building. Until this past year that space was used as a legal-non-conforming massage establishment, who in previous applications noted the tenant space as Suite 103A. However, last year she relocated her massage practice into the office next door in Suite 103A2, a 300 square foot space. The Suite 103A2 space was previously occupied by a permitted office use.

As the massage establishment is a legal non-conforming use, it cannot be expanded or relocated. Therefore, the property owner/building manager is now seeking approval of actions that would allow both masseuses to operate their individual practices within the building.

INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING

The Private Engineering Services Division has reviewed the petition and does not have any comments.

PUBLIC WORKS

Public Works has reviewed the petition and does not have any comments.

BUILDING AND FIRE

The Bureau of Inspectional Services has reviewed the petition and does not have any comments.

PLANNING

Compliance with the Zoning Ordinance

Massage establishments are listed as conditional uses within the B3 and B4 Districts. Staff notes that the 1994 text amendments to the Zoning Ordinance further regulating massage establishments was intended to better differentiate the massage activity from adult uses. Moreover, they are subject to licensing provisions included within the Village Code. The licensing provisions ensure that the business activity is being operated consistent with Village Code – if an establishment does not meet the code provisions, their license application would not be extended or could be revoked.

Non-Conforming Provisions

Section 155.302 A through C: Nonconforming Uses reads as follows (underline added for emphasis):

A use located within a building or structure, or on open land, which is not authorized in the list of permitted uses in the zoning district in which such use is located shall be subject to the provisions of Section 155.302 (A) through (H), below.

A. Authority to Continue

Any lawfully nonconforming use of part or all of a building or structure, or any lawfully existing nonconforming use of land not involving a building or structure or involving a building or structure which is accessory to such use of land, may be continued, so long as it remains otherwise lawful, subject to the provisions of Section 155.302 (B) through (H). The existence of a nonconforming use on part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

B. Repair and Maintenance

Normal maintenance and incidental repair or replacement, and installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any building or structure that is devoted in whole or in part to a nonconforming use, provided however, that this subsection shall not be deemed to authorize any violation of Sections 155.302 (C) through (G) hereunder.

C. Expansion

A nonconforming use shall not be extended, expanded, enlarged or increased in intensity. Such prohibited activity shall include, without being limited to:

1. Expansion of such use to any building, structure or land area other than that occupied by such nonconforming use at the time such use became nonconforming.
2. Expansion of such use within a building or other structure to any portion of the floor area that was not occupied by such nonconforming use at the time such use became nonconforming.
3. Operation of such nonconforming use in such a manner which conflicts with, or further conflicts with any requirement or standard established for the district in which such use is located.

In review of these provisions, the legal non-conforming status is tied to the Suite103A1 tenant space. When the masseuse moved from the Suite 103A1 tenant space to the Suite 103A2 space that action constitutes a violation of Section 155.302 C 2 of the Zoning Ordinance. A new massage establishment could move into the Suite 103A1 space as a matter of right (the space has not been vacant for more than one year). However, in order for the previous massage establishment to continue its operation in Suite 103A2, zoning actions would be required.

Staff noted two options with the property manager to address the massage establishment. The first option would be to create an amendment to the Zoning Ordinance to provide for such uses by right or as part of a conditional use application. Staff was hesitant to have the petitioner pursue this option as such an amendment would have much greater applicability throughout the Village than what is really attempting to be addressed within the office building on the subject property.

As an alternate, staff suggested that the petitioner consider applying for a conditional use for a planned development with a use exception for the massage establishments. The petitioner is now bringing an application forward in this manner.

Conditional Use for a Planned Development

The subject property meets the minimum width and area requirement for a planned development. Staff believes that by creating planned development for the property, the proposed uses can be considered in the context for the standards for planned development.

Use Exceptions

Section 155.508 B provides for the establishment of uses within a planned development that are not permitted by the underlying Zoning Ordinance.

Staff notes that the massage establishments can supported based upon the following considerations:

1. The petitioner notes that the two massage establishment would occupy 500 square feet of 12,000 square feet of office space (4.2%) in the building.

2. No external modifications will be needed to the exterior of the building that would negatively affect the subject property or the properties abutting the subject property.
3. The business activity would be operated consistent with operations of other business in the building (e.g., medical and dental practices).
4. One establishment has occupied space within the building for over thirteen years without any negative impacts on the development or neighboring properties.

Compatibility with Surrounding Uses

The principal use of the site will still be an office building. As the massage establishment will operate similar to other users in the building, negative impacts on surrounding uses are not anticipated.

Compliance with the Comprehensive Plan

The Long-Range Plan Map of the Comprehensive Plan recommends that the property be used as office use. The massage establishment use will still be an ancillary activity within the office building.

FINDINGS AND RECOMMENDATIONS

The proposed conditional uses 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 requested conditional use for a planned development with a use exception for a massage establishment complies with the standards required by the Lombard Zoning Ordinance; and, therefore, I move that the Plan Commission accept the findings and recommendations of the Inter-Departmental Report as the findings of the Plan Commission and I recommend to the Corporate Authorities **approval** of PC 04-16, subject to the following conditions:

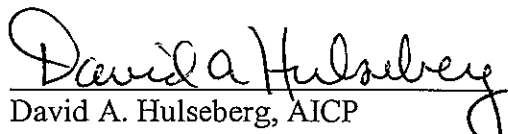
1. That no more than two massage establishment businesses shall operate within the existing office building – one establishment within Suite 103A1 and one in Suite 103A2, as depicted in the petitioner's submitted building plan made a part of this petition. The total permitted square footage for all massage establishments within the office building shall not exceed 500 square feet of office area.
2. Any massage establishments to be located on the premises shall apply for a receive a license from the Village of Lombard. Said establishments shall meet all provisions of Chapter 12, Section 122 of the Village Code and shall keep their license in good standing.

Plan Commission

Re: PC 04-16

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Report Approved By:


David A. Hulseberg, AICP
Director of Community Development

DAH/WJH:

att-

c. Petitioner

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Location Map

PC 04-16: 929 S. Main Street



41	37	33	29	27	21	17	804
							806
							810
							816
42	36	32	28	24	20	16	822
							826
							832

815	820
825	826
829	830
835	836
845	840
	846

821	826
827	830
831	836
835	842
841	110
VAC	846

TAYLOR RD

43	39	31	25	900			
				908			
40	36	32	30	26	22	16	912
							6

901-919	55
	910
	914
928	920
	924
	930
931-939	936
	940
949	946

CHARLOTTE ST

903	135
909	910
915	914
919	920
927	926
931	930
939	936
941	940
943	946

GRAHAM AV

41	37	33	29	25	21	19	5
							930
							936
							940
							940
42	38	34	28	24	20	16	944
44							948

WILSON RD

1014

MAIN ST

1011	25
	1004
	1008
	1012
	1016
1025	1020
1025	1024
1029	1028

1001	109	113	117
31	108	112	
1017	109	1021	116
1021	1024	1028	

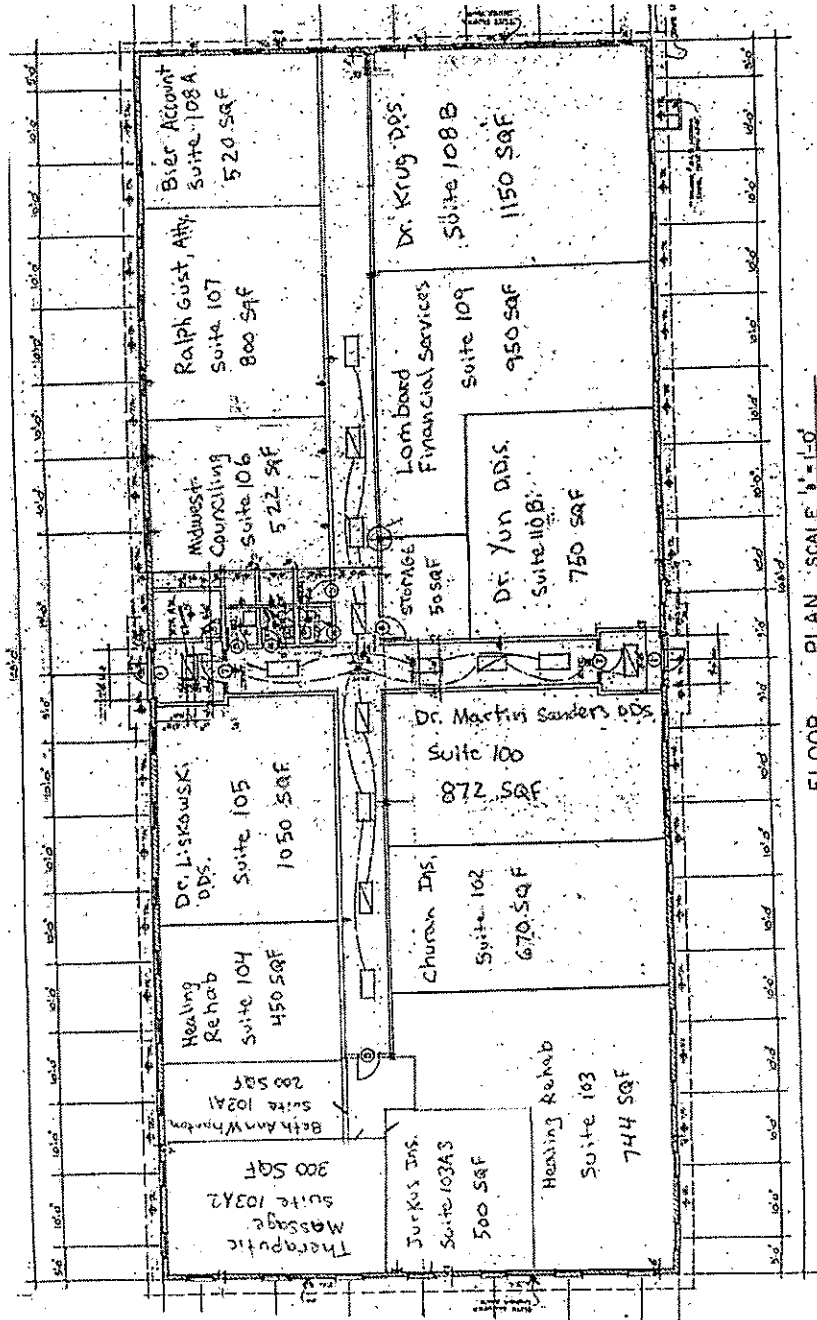
IX. STANDARDS FOR PLANNED DEVELOPMENTS

A. General Standards

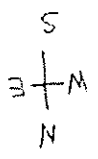
1. Except as modified by and approved in the final development plan the Development complies with the regulation of the district or districts in which it is to be located.
2. Community sanitary sewage and potable water facilities connected to a central system are provided. ***929 S. Main Street is connected to the village utilities.***
3. The dominant use in the proposed planned development is consistent with the recommendations of the Comprehensive Plan of the Village for the area containing the subject site. ***All uses of the 929 S. Main Street are permitted uses, except for the message establishment.***
4. That the proposed planned Development is in the public interest and is Consistent with the purposes of this Zoning Ordinance.

B. Standards for Planned Developments with Use Exceptions

1. Proposed use exceptions enhance the quality of the planned development and are compatible with the primary uses. ***Massage Therapy is considered a preventative and curative method of healing. Clients come in to relieve symptoms, from chronic to acute situations. Together, we support healing efforts with breathing techniques and hands on (and off) modalities, promoting stress release as well as energy balancing. Lombard Medical and Professional Center houses other types of health care such as Physical Therapy and dentistry, which also provides preventative and curative methods of healing.***
2. Proposed use exceptions are not of a nature, nor located, so as to create a detrimental influence in the surrounding properties. ***Therapeutic Massage been in the healing arts business for 13 years and has been located 8 years in the 929 S. Main street location. Other related healing methods provided at this location are Yoga therapy & classes, Reiki therapy & classes, including prenatal. Hours of operation: Monday – Sunday by appointment only. 8am – 8pm.***
3. Proposed use exceptions shall not represent more than 40% of the site area or more than 40% of the total floor area, whichever is less. However, in a residential planned development are no more than 10% of the site area or the total floor area shall be devoted to commercial use; furthermore, no industrial use shall be permitted. ***The 929 S. Main Street building has a total square footage of 12,000 square feet. The total square footage for the exception is 500 square feet.***



FLOOR PLAN SCALE 1/8" = 1'-0"



PAMELA K. MYERS, Inc. CMT, RYT
929 S. Main Street
Lombard, IL 60148
630/495-8988

5/19/04

Bill Hennis
Village of Lombard
Lombard, IL

This is a request for Waiver of First Reading of the plan commission for case PC04-16 in order to expedite licensing for 929 S. Main Street.

Thank you,


Pamela K. Myers CMT, RYT

ORDINANCE NO. _____

**AN ORDINANCE APPROVING A CONDITIONAL USE
FOR A PLANNED DEVELOPMENT
WITH A USE EXCEPTION FOR MASSAGE ESTABLISHMENTS
UNDER TITLE 15, CHAPTER 155 OF THE CODE OF LOMBARD, ILLINOIS**

PC 04-16: 929 South Main Street

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 Lombard Village Code; and

WHEREAS, an application has been filed with the Village of Lombard requesting approval of a conditional use for a planned development with a use exception per Section 155.508 (B)(3) of the Zoning Ordinance (Standards for Planned Developments with Use Exceptions) to allow for massage establishment(s) (as defined and regulated by Chapter 12, Section 122 of the Code of Ordinances), located within the B1 Limited Neighborhood Commercial District; and

WHEREAS, a public hearing was conducted by the Plan Commission on May 17, 2004, pursuant to appropriate and legal notice, and the Plan Commission recommended approval of the Petition, subject to conditions; and

WHEREAS, the President and Board of Trustees concur with the recommendation of the Plan Commission and have determined that it is in the best interest of the Village to approve the Petition.

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 ordinance is limited and restricted to the property generally located at 929 South Main Street, Lombard, Illinois, and legally described as follows:

LOTS 13, 14 AND 15 IN BLOCK 1 OF ARTHUR T. MCINTOSH AND COMPANY'S LOMBARD GARDENS SUBDIVISION, BEING A SUBDIVISION OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 8, 1924 AS DOCUMENT 174113, IN DUPAGE COUNTY, ILLINOIS.

Parcel Number: 06-17-118-019
(hereinafter the "Subject Property")

SECTION 2: The President and Board of Trustees, hereby finds that the petition does meet the standards for conditional uses for planned developments with use exceptions per Section 155.508 (B)(3) of the Zoning Ordinance for massage establishments, located within the B1 Limited Neighborhood Commercial District, and therefore the petition is hereby granted for the Subject Property, subject to the conditions set forth as follows:

1. That no more than two massage establishment businesses shall operate within the existing office building – one establishment within Suite 103A1 and one in Suite 103A2, as depicted in the petitioner’s submitted building plan made a part of this petition. The total permitted square footage for all massage establishments within the office building shall not exceed 500 square feet of office area.
2. Any massage establishments to be located on the premises shall apply for and receive a license from the Village of Lombard. Said establishments shall meet all provisions of Chapter 12, Section 122 of the Village Code and shall keep their license in good standing.

SECTION 3: This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as required by law.

Passed on first reading this ____ day of _____, 2004.

First reading waived by action of the Board of Trustees this ____ day of _____, 2004.

Passed on second reading this ____ day of _____, 2004, pursuant to a roll call vote as follows:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED by me this ____ day of _____, 2004.

Ordinance _____
PC 04-16
Page 3

William J. Mueller
Village President

ATTEST:

Barbara A. Johnson
Deputy Village Clerk

Published by me in pamphlet form this _____ day of _____, 2004.

Barbara A. Johnson
Deputy Village Clerk