

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE: February 24, 2015 (B of T) Date: March 5, 2015

TITLE: PC 15-02; Text Amendment to the Subdivision and Development
Definition of Improvement, Public

SUBMITTED BY: Department of Community Development *WJL*

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner requests an amendment to Section 154.703 (and any other relevant sections for clarity) of the Lombard Subdivision and Development Ordinance regarding the definition for "improvement, public." (DISTRICTS - ALL)

The Plan Commission recommended approval of this petition by a vote of 5-0.

Staff requests a waiver of first reading of the Ordinance.

Fiscal Impact/Funding Source:

Review (as necessary):
Village Attorney X _____ Date _____

Finance Director X _____ Date _____

Village Manager X _____ Date _____

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: Scott R. Niehaus, Village Manager

FROM: William J. Heniff, AICP, Director of Community Development *WJH*

DATE: March 5, 2015

SUBJECT: **PC 15-02; Text Amendment to the Subdivision and Development Ordinance**

Please find the following items for Village Board consideration as part of the March 5, 2015 Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 15-02; and
3. An Ordinance granting approval of a text amendment.

This petition amends the definition of public improvements. If approved, it would reduce the surety amount necessary to be held by the Village for selected development projects and would provide developers greater access to capital for other projects.

The Plan Commission recommended approval of this petition by a vote of 5-0. Please place this petition on the March 5, 2015 Board of Trustees agenda. A waiver of first is requested.

H:\CD\WORDUSER\PCCASES\2015\PC 15-02\PC 15-02_Village Manager Memo.docx



VILLAGE OF LOMBARD

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

March 5, 2015

Village President
Keith T. Giagnorio

Village Clerk
Sharon Kuderna

Trustees
Dan Whittington, Dist. 1
Michael A. Fugiel, Dist. 2
Reid Foltyniewicz, Dist. 3
Vacancy, Dist. 4
Laura A. Fitzpatrick, Dist. 5
William "Bill" Ware, Dist. 6

Village Manager
Scott R. Niehaus

"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."

Mr. Keith T. Giagnorio,
Village President, and
Board of Trustees
Village of Lombard

Subject: PC 15-02; Text Amendment to the Subdivision and Development Ordinance of Improvement, Public

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner requests an amendment to Section 154.703 (and any other relevant sections for clarity) of the Lombard Subdivision and Development Ordinance regarding the definition for "improvement, public."

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on February 16, 2015. Sworn in to present the petition was Jennifer Ganser, Assistant Director and Jana Bryant, Private Development Engineer.

Acting Chairperson Flint read the Commissions Procedures and asked if anyone other than the petitioner intends to cross examine, and, hearing none, he proceeded with the petition.

Ms. Bryant began by explaining the definition of surety. Surety is a guarantee of completion and compliance of public improvements. The guarantee is provided by an instrument of credit such as a letter of credit, bond, or cash bond at 115% estimated cost of public improvements. If a developer fails to provide all public improvements or repairs associated with a development within a specified time, the Village can pull the funds in order to have the work completed. There are a number of different costs associated with a development that could include property acquisition costs, development rights, design consultants, permitting, construction and management.

Changing the definition of “improvements, public” is a huge policy change for the Village. Staff researched other municipalities and they had varying definitions of public improvements. In the past fifteen to twenty years under the current definition of “improvements, public” the Village has pulled surety for private property improvements only once or twice. This was because of an absentee developer who walked out on a project. It is not likely that the Village would ever pull funds for an improvement on private property that the Village wouldn’t ultimately own such as a parking lot or parking lot lighting. It could be pulled for stormwater management items which are required to have surety per the DuPage Countywide Stormwater Ordinance.

Ms. Bryant referred to the projects on the overhead and discussed the lending capacity and the overall dollar savings to the developer.

Acting Chairperson Flint asked if any person would like to speak in favor or against this petition, or for public comment. Hearing none, he asked for the staff report.

Ms. Ganser presented the staff report, which was submitted to the public record in its entirety. The Village of Lombard, requests to amend the definition of “improvement, public.” The current definition is found in the Subdivision and Development Ordinance.

The revised definition is intended to allow for the required cost estimate and subsequent guarantees to be based off of what the Village would actually pull the guarantee funds in order to fix an issue with a public improvement associated with a development when a developer/contractor fails to fix it in a timely fashion. The current definition includes the wording “or benefit” which has been interpreted as including privately owned and maintained improvements that the Village would never go onto private property to maintain, such as a private parking lot or private parking lot lighting. The definition is also being revised to add “stormwater management facility”, which is required to have surety per the DuPage Countywide Stormwater Ordinance.

This change may help save developers money by reducing the amount they have to pay for the extra surety amount.

Ms. Ganser said the Inter-Departmental Review committee had no issues or concerns regarding the project at this time. The Public Works Department said they are in support of the proposed amendment.

Ms. Ganser summarized that the petition meets the standards for text amendments therefore staff recommends approval to the Plan commission.

Acting Chairperson Flint asked for public comment, and, hearing none, opened the meeting for comments among the Commissioners.

Commissioner Sweetser said the petition seems to make sense and asked if there were any negative aspects. Ms. Bryant responded she didn’t see there being any negatives.

Commissioner Burke said this amendment is very positive and brings the Village in line with other communities and municipalities in the area.

Commissioner Mrofcza asked if by lowering the amount of the bonds does the Village need to assume any potential additional contingent liability. Ms. Bryant said no because as a private property improvements the Village wouldn't be liable.

On a motion by Commissioner Olbrysh, and a second by Commissioner Sweetser, the Plan Commission voted 5-0 that the Village Board approve the petition associated with PC 15-02.

Respectfully,

VILLAGE OF LOMBARD

Steve Flint, Acting Chairperson
Lombard Plan Commission

c. Lombard Plan Commission

H:\CD\WORDUSER\PCCASES\2015\PC 15-02\PC 15-02_Referral Letter.docx

PLAN COMMISSION

INTER-DEPARTMENTAL REVIEW COMMITTEE REPORT

TEXT AMENDMENTS TO THE ZONING ORDINANCE – IMPROVEMENT, PUBLIC

February 16, 2015

Title

PC 15-02

Petitioner

Village of Lombard

Property Location

Village-wide

Approval Sought

An amendment to Section 154.703 (and any other relevant sections for clarity) of the Lombard Subdivision and Development Ordinance regarding the definition for "improvement, public."

Submittals

1. Petition for a public hearing; and
2. Response to Standards for a Text Amendment.

Prepared By

Jennifer Ganser
Assistant Director

DESCRIPTION

The petitioner, the Village of Lombard, requests to amend the definition of "improvement, public." Upon research, staff learned that other municipalities had varying definitions of public improvements. The current definition is found in Section 154.703, in the Subdivision and Development Ordinance.

The revised definition is intended to allow for the required cost estimate and subsequent guarantees to be based off of what the Village would actually pull the guarantee funds in order to fix an issue with a public improvement associated with a development when a developer/contractor fails to fix it in a timely fashion. The current definition includes the wording "or benefit" which has been interpreted as including privately owned and maintained improvements that the Village would never go onto private property to maintain, such as a private parking lot or private parking lot lighting. The definition is also being revised to add "stormwater management facility", which is required to have surety per the DuPage Countywide Stormwater Ordinance.

This change may help save developers money by reducing the amount they have to pay for the extra surety amount.

INTER-DEPARTMENTAL REVIEW

Building Division:

The Building Division has no comments.

Fire Department:

The Fire Department has no issues or concerns.

Private Engineering Services:

Private Engineering Services has no comments.

Public Works:

The Department of Public Works is in support of the proposed amendment.

EXISTING & PROPOSED REGULATIONS

New Text Deleted Text

§154.703 – Definitions

Improvement, public. Any sanitary sewer, storm sewer, drainage ditch, detention area, water main, roadway, public lighting, traffic control, parkway, sidewalk, pedestrian or bicycle path, planting strip, landscaping, parking lot, pavement, curb/gutter, signage, pavement marking, grading, **stormwater management facility**, retaining walls or any improvement which is intended for public use ~~or benefit~~, or any improvement ~~which is intended for public use or benefit, or any improvement for which the village may ultimately assume the responsibility for maintenance or operation~~ **that the Village may ultimately assume either ownership of, or have the right, but not necessarily the primary responsibility, to maintain, repair, reconstruct and/or operate, pursuant to an easement.**

STANDARDS FOR TEXT AMENDMENTS

The petitioner has provided responses to the standards for a text amendment.

1. *The degree to which the proposed amendment has general applicability within the Village at large and not intended to benefit specific property;*
This text amendment would apply to all Village properties and not a specific property.
2. *The consistency of the proposed amendment with the objectives of this ordinance and the intent of the applicable zoning district regulations;*
This text amendment would be applied in every zoning district of the Village.
3. *The degree to which the proposed amendment would create nonconformity;*
This text amendment would not create any nonconformity as it still would allow for development to occur. Provisions when a development does not meet code (i.e. setbacks) would still follow the same process as now.
4. *The degree to which the proposed amendment would make this ordinance more permissive;*
This text amendment would not be more permissive, as it still would allow for development to occur. Provisions when a development does not meet code (i.e. setbacks) would still follow the same process as now.
5. *The consistency of the proposed amendment with the Comprehensive Plan; and*
The Comprehensive Plan does not specifically mention public improvements. The Comprehensive Plan does support development in the Village, and the proposed text amendment is meant to assist rather than hinder development.
6. *The degree to which the proposed amendment is consistent with village policy as established in previous rulings on petitions involving similar circumstances.*
The Village reviews its Codes and makes amendments, when necessary.

FINDINGS & RECOMMENDATIONS

Staff finds the proposed amendments to be consistent with the objectives of the Lombard Subdivision and Development Ordinance. The proposed amendments are also consistent with the intent of the Comprehensive Plan in general.

Based on the above findings, the Inter-Departmental Review Committee has reviewed the petition and finds that it meets the standards required by the Subdivision and Development Ordinance. As such, 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 text amendments **comply** with the standards required by the Village of Lombard Subdivision and Development 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 15-02.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP
Director of Community Development

c. Petitioner

H:\CD\WORDUSER\PCCASES\2015\PC 15-02\PC 15-02_IDRC Report.docx

ORDINANCE _____

AN ORDINANCE APPROVING TEXT AMENDMENTS
TO THE LOMBARD SUBDIVISION AND DEVELOPMENT ORDINANCE
TITLE 15, CHAPTER 154, SECTIONS 154.703,
OF THE LOMBARD VILLAGE CODE

PC 15-02: Text Amendments

WHEREAS, the Village of Lombard maintains a Subdivision and Development Ordinance which is found in Title 15, Chapter 154 of the Lombard Code; and,

WHEREAS, the Board of Trustees deem it reasonable to periodically review said Subdivision and Development Ordinance and make necessary changes; and,

WHEREAS, a public hearing to consider text amendments to the Subdivision and Development Ordinance has been conducted by the Village of Lombard Plan Commission on February 16, 2015 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 text amendments 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 154, Section 154.703 of the Lombard Village Code is hereby amended as follows:

Improvement, public. Any sanitary sewer, storm sewer, drainage ditch, detention area, water main, roadway, public lighting, traffic control, parkway, sidewalk, pedestrian or bicycle path, planting strip, landscaping, parking lot, pavement, curb/gutter, signage, pavement marking, grading, **stormwater management facility**, retaining walls or any improvement which is intended for public use ~~or benefit, or any improvement which is intended for public use or benefit, or any improvement for which the village may ultimately assume the responsibility for maintenance or operation~~ **that the Village may ultimately assume either ownership of, or have the right, but not necessarily the primary responsibility, to maintain, repair, reconstruct and/or operate, pursuant to an easement.**

Ordinance No. _____
Re: PC 14-18
Page 2

SECTION 2: That 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 _____, 2015.

First reading waived by action of the Board of Trustees this ____ day of _____, 2015.

Passed on second reading this ____ day of _____, 2015.

Ayes: _____

Nays: _____

Absent: _____

Approved this ____ day of _____, 2015.

Keith T. Giagnorio, Village President

ATTEST:

Sharon Kuderna, Village Clerk

Published in pamphlet from this ____ day of _____, 2015.

Sharon Kuderna, Village Clerk