

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

DATE: August 26, 2008 (BOT) Date: September 4, 2008

TITLE: PC 08-24: 117 W. St. Charles Road

SUBMITTED BY: Department of Community Development *dmh*

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration its recommendation relative to the above-mentioned petition. The petition requests approval of a conditional use pursuant to Section 155.416 (C) for an outside service area and a variation from the parking requirements (Section 155.602, Table 6.3), located in the B5 Central Business District. (DISTRICT #1)

The Plan Commission recommended approval of this petition with amended conditions.

Please place this item on the September 4, 2008 Board of Trustees agenda under Items for Separate Action as staff is suggesting a minor change in the sixth condition of approval for clarity purposes as well as the addition of a seventh condition.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____
Finance Director X _____
Village Manager X *David A. Hulseberg* _____
Date _____
Date *8/28/08* _____

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



MEMORANDUM

TO: David A. Hulseberg, AICP, Village Manager

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

DATE: September 4, 2008

SUBJECT: PC 08-24; 117 West St. Charles Road (The Texan BBQ)

Attached please find the following items for Village Board consideration as part of the September 4, 2008 Village Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 08-24;
3. An Ordinance granting approval of a conditional use for an outdoor service area and a companion variation from the parking requirements, located in the B5 District; and
4. Plans associated with the petition.

The Plan Commission recommended approval of the zoning actions associated with the petition with conditions.

Staff suggests that condition no. 6 be modified to require review and approval of a plan showing vehicle barriers and handicap access/seating (as opposed to mere submittal of such a plan). This modified condition is contained within the attached Ordinance.

Also, attached is an aerial view of the property illustrating the two parking spaces in the northeast corner of the parking lot that would be used for the outdoor service area. Although the petitioner had originally represented that only two parking spaces would be occupied, the petitioner revised that number to three parking spaces during the August 18, 2008 public hearing. However, the parking lot does not currently meet the Illinois Accessibility Code requirements pertaining to accessible parking (i.e., an 8-foot wide diagonally-striped access aisle adjacent to the accessible space). Therefore, the parking spaces immediately adjacent to the accessible spaces shall be required to be properly striped (see condition no. 7). This requirement leaves only two parking spaces available for the outdoor service area.



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

September 4, 2008

Mr. William J. Mueller,

Village President, and

Board of Trustees

Village of Lombard

Subject: PC 08-24; 117 W. St. Charles Road (The Texan BBQ)

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner requests approval of a conditional use pursuant to Section 155.416 (C) for an outside service area and a variation from the parking requirements (Section 155.602, Table 6.3), located in the B5 Central Business District.

James Madden, Jr. presented the petition. Mr. Madden stated that the restaurant had previously obtained a conditional use for an outdoor service area in the rear of the building, which they now propose to move to the front of the property where it will be more visible.

Commissioner Nelson asked how many tables would be in the service area. Mr. Madden stated that there would be seven tables.

Chairperson Ryan then opened the meeting for public comment.

Matt Helm, 105 W. St. Charles Road, stated that he is vice president of the Park West Homeowners Association. He stated that he is concerned that the conditional use will exacerbate current parking disputes between the parking lot owner and the association. He is also concerned about the use of a portable fence because an existing fence has fallen on cars during high winds. He would support the petition if the outdoor area were to be used Friday and Saturday nights only, and if owner provides the association with a written commitment that Park West residents will not be towed from the lot.

Kevin Kelley, 123 W. St. Charles Road, stated that he wants to make sure there is a plan in place for the removal of additional garbage on the site.

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

"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."

David A. Hulseberg
Village Manager

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

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

Mr. Madden stated that the fence is now weighed down with concrete block rather than with sandbags. With regard to the towing of cars, the restaurant is allowed a certain number of spaces in the lot and the condominiums have an easement for parking. The outdoor service area will occupy three spaces. The area would operate Thursday through Sunday, as the rear area had done. He stated that we would take care of any garbage in the lot.

Chairperson Ryan asked about the issue of a parking lease. Mr. Madden stated that the condominiums have a lease for the garage, but not for the parking lot. Mr. Helm stated that the condominiums have an irrevocable lease, but there is no documentation as to a certain number of spaces.

Sean Kelley, 105 W. St. Charles Road, asked if the fence would be removed each night and put up the following day. Mr. Madden stated that it would, with the fence going up around 4:00 p.m. or 5:00 p.m. on Thursdays and Fridays, all day on Saturday, then down Saturday night and back up Sunday night. Mr. Kelley asked if there would be bands playing outdoors. Mr. Madden stated that there would not be bands, only food. Mr. Kelley asked about the transfer of the light control. Mr. Madden stated that the two parking lot lights in the island are controlled off the Village's power because the Village originally planned to take over the parking lot. Mr. Kelly asked if the lights would be transferred to the homeowner's association's power. William Heniff, Acting Director of Community Development, stated that if the parking lot is not transferred to the Village, the lights should have a private connection. Mr. Kelley asked about a timeline. Mr. Heniff stated that staff is currently working on and addressing the issue. Mr. Kelley stated that he is all for the beautification of the downtown but doesn't want parking to become an issue. He stated concerns regarding noise, especially on Thursday nights. Chairperson Ryan stated that the operations will be limited to no later than 9:00 p.m. on Thursdays. Mr. Kelley stated that was fine.

Chairperson Ryan then requested the staff report.

Jennifer Henaghan, Planner II, presented the staff report, which was submitted to the public record in its entirety. The Texan BBQ is seeking conditional use approval for an outdoor dining area and food sales tent and a variation from the parking standards that requires parking for outdoor dining establishments. The dining area will occupy three parking spaces in the northeast corner of the parking lot.

The Private Engineering Services Division has no comment on the proposed outdoor dining plan; however, the parking lot lights should be removed from the Village's controller and connected to a new controller that is installed/constructed to Village specifications and requirements. Public Works Engineering had concerns regarding the amount of parking taken up and how the seating area would be separated from parking lot traffic. The Building Department and Fire Prevention Bureau had comments regarding vehicle barriers, handicap access/seating, and handicap parking.

In May, 2003, the petitioner applied for and received conditional use approval for outdoor dining associated with The Texan BBQ and a variation from the parking standards that requires parking for outdoor dining establishments. The request was made so that the Texan could provide outdoor dining on selected weekend nights during the summer. The location of the outdoor dining area was to the rear of the restaurant site on the abutting property at 10-12 S. Park Avenue. The restaurant no longer uses this area for dining purposes. Over the past few years, the petitioner has noted that they have used the property at 117 W. St. Charles Road parking lot during the summer with seating and food serving purposes. Village Code provides such outdoor activities through the special event permit approval process or through the conditional use process. As they seek to have the event on a number of occasions, a conditional use is sought.

The Comprehensive Plan denotes this area as Central Business District Mixed Use Area. The outdoor dining concept is appropriate to a Central Business District and is considered an enhancement to downtown development, provided that it operates in compliance with Village Code. The subject property is bounded by commercial/condominium uses on all sides. To ensure compatibility with adjacent residential uses and in keeping with the time periods established for with other downtown events, staff recommends that the hours of operation be limited as proposed by the petitioner and as provided through their 2003 zoning approval. Staff also suggests a condition that all customers must be leave the outdoor dining area no later than thirty minutes after the outdoor dining area is scheduled to close. Furthermore, staff recommends that the outdoor dining area be segregated from parking lot traffic by a wrought iron-style fence, as was used in the former outdoor dining area behind 10-12 S. Park Avenue. (All of these conditions were included in the most recent outdoor dining conditional use approval for The Texan BBQ.)

One letter was submitted in opposition to the petition. This letter, from a resident at Parkview Pointe, stated concerns that the requested relief would allow the petitioner to avoid snow removal and parking lot resurfacing costs. However, these issues are not directly related to the requested relief because the outdoor area would be temporary and removable. At the time that the outdoor dining was not operating, the area shall be made available for parking purposes.

The outdoor dining activity will meet all code requirements during its limited hours of operation. It is expected to provide a positive effect on downtown revitalization as it creates a visual impact of life and vitality. The outdoor dining component is similar to other outdoor dining activities such as those at Praga. However, given that the petitioner's plan is immediately adjacent to and below residential units, additional conditions restricting the hours of operation are warranted.

Staff supports the requested parking variation as it is only for the four parking spaces that would be required for the outdoor dining area (at a ratio of one parking space per 125 sq. ft. of floor area) and not a variation for the larger Texan BBQ Restaurant. The limited hours and temporary nature of the outdoor dining and sales area should not generate a substantial amount of additional traffic or parking demand on the downtown area above and beyond existing conditions.

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

Commissioner Burke stated that discussion of who has what rights in the parking lot is not within the purview of the Plan Commission. He then clarified the language in condition no. 2 and condition no. 3 to remove an apparent conflict.

George Wagner stated that the Plan Commission can discuss parking if it is a concern. Commissioner Burke stated that there is conflicting information on the existence of a lease. Mr. Heniff stated that the lease agreements are a private, civil matter.

Commission Nelson asked if the former outdoor dining area would be used for parking. Mr. Madden stated that the spaces will be available for parking whenever the outdoor dining area is not set up.

Commissioner Sweetser asked if the commissioners wished to require the removal of the fence during the day on Friday and Saturday.

Commissioner Olybrysh asked if the fence could be secured using the hardware from the French Market tents. Mr. Madden stated that those locations are in the middle of the drive aisle, but new sleeves for the fence could be inserted where necessary. Commissioner Burke stated that sandbags and concrete blocks are not a reasonable solution. Mr. Madden stated that the concrete blocks are not unattractive.

Commissioner Burke made the following motion for approval, which was seconded by Commissioner Flint:

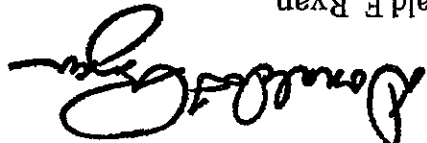
Based on the submitted petition, accompanying plans and the testimony presented, the proposed relief complies with the provisions set forth in the Zoning Ordinance, and, therefore, I move that the Plan Commission accept the findings of the Inter-departmental Review Report as the findings of the Plan Commission, and therefore recommend to the Corporate Authorities approval of PC 08-24, subject to the following conditions:

1. The outdoor dining activity shall be limited to Thursdays, Fridays, Saturdays, Sundays, or federal holidays between April 1 and October 31.
2. The outdoor dining service shall not be open past 11:00 p.m. on Fridays and Saturdays and 9:00 p.m. on Thursdays and Sundays.
3. That all patrons shall leave the outdoor dining area no later than thirty minutes after the time in which the outdoor dining service is scheduled to close.

4. The petitioner shall erect a removable wrought iron-style fence along the south and west sides of the dining area. Said fence shall be in place during any outdoor dining periods.
5. The parking lot lights shall be removed from the Village controller and connected to a new controller that is installed and constructed to Village specifications and requirements. The disconnection of the lighting shall occur prior to the establishment of the outdoor dining activity.
6. Prior to the establishment of the outdoor dining activity, the petitioner shall provide the Building Department with a plan showing vehicle barriers and handicap access/seating.

Respectfully,

VILLAGE OF LOMBARD



Donald F. Ryan

Lombard Plan Commission

c. Petitioner

Lombard Plan Commission

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

TO: Lombard Plan Commission
FROM: Department of Community Development
PREPARED BY: Jennifer Henaghan, AICP
Planner II
HEARING DATE: August 18, 2008

TITLE

PC 08-24, 117 W. St. Charles Road (The Texan BQ): The petitioner requests approval of a conditional use pursuant to Section 155.416 (C) for an outside service area and a variation from the parking requirements (Section 155.602, Table 6.3), located in the B5 Central Business District.

GENERAL INFORMATION

Petitioner:
The Texan BQ
105 W. St. Charles Road
Lombard, IL 60148

Property Owner:
117 Driveway Corp.
530 Main Street
West Chicago, IL 60185

Relationship of Petitioner to Property Owner: Owner

PROPERTY INFORMATION

Existing Zoning: B5 Central Business District

Existing Land Use: Parking lot and detached garage

Size of Property: 4,542 sq. ft.

Comprehensive Plan: Central Business District – Mixed Use Area

SURROUNDING ZONING AND LAND USE

North:	B5 Central Business District; developed as various mixed uses
South:	Union Pacific Railroad
East:	B5PD Central Business District Planned Development; developed as first floor office uses and upper story condominiums
West:	B5PD Central Business District Planned Development; developed as first floor office uses and upper story condominiums

ANALYSIS

SUBMITTALS

This report is based on the following documents filed with the Department of Community Development:

1. Public Hearing Application.
2. Response to Standards for Conditional Uses.
3. Site plan, prepared by the petitioner.

DESCRIPTION

The Texan BBO is seeking conditional use approval for an outdoor dining area and food sales tent and a variation from the parking standards that requires parking for outdoor dining establishments. The dining area will occupy two (2) parking spaces in the northeast corner of the parking lot.

INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING

The Private Engineering Services Division has no comment on the proposed outdoor dining plan; however, please note that the parking lot lights are connected to the Village's controller. These lights should be removed from the Village controller and connected to a new controller that is installed/constructed to Village specifications and requirements.

Public Works Engineering had concerns regarding the amount of parking taken up and how the seating area would be separated from parking lot traffic.

The Utilities Division of the Public Works Department has no comments. Cross connection certifications are up to date and Village will begin tracking grease trap maintenance in the future.

FIRE AND BUILDING

The Building Department and Fire Prevention Bureau have the following comments:

- This petitioner must provide a plan that shows vehicle barriers, handicap access/seating, handicap parking.
- The proposed outdoor service area, barriers or tent can not impeded exiting for the outdoor seating, restaurant or building exits.
- This petition does not address the installation of any outdoor cooking, lighting or heaters.

PLANNING

In May, 2003, the petitioner applied for and received conditional use approval for outdoor dining associated with The Texan BBQ and a variation from the parking standards that requires parking for outdoor dining establishments. The request was made so that the Texan could provide outdoor dining on selected weekend nights during the summer. The location of the outdoor dining area was to the rear of the restaurant site on the abutting property at 10-12 S. Park Avenue. The restaurant no longer uses this area for dining purposes.

Over the past few years, the petitioner has noted that they have used the property at 117 W. St. Charles Road parking lot during the summer (and frequently done in conjunction with Cruise Nights activities) with seating and food serving purposes. Village Code provides such outdoor activities through the special event permit approval process (with a limitation of four annual events) or through the conditional use process. As they seek to have the event on a number of occasions, a conditional use is sought.

Compliance with the Comprehensive Plan

The Comprehensive Plan denotes this area as Central Business District Mixed Use Area. The outdoor dining concept is appropriate to a Central Business District and is considered an enhancement to downtown development, provided that it operates in compliance with Village Code.

Compatibility with Surrounding Land Uses

The subject property is bounded by commercial/condominium uses on all sides. To ensure compatibility with adjacent residential uses and in keeping with the time periods established for other downtown events, staff recommends that the hours of operation be limited as proposed by the petitioner and as provided through their 2003 zoning approval. Staff also suggests a condition that all customers must be leave the outdoor dining area no later than thirty minutes after the outdoor dining area is scheduled to close. Furthermore, staff recommends that the outdoor dining area be segregated from parking lot traffic by a wrought iron-style fence, as was used in the former outdoor dining area behind 10-12 S. Park Avenue. (All of these conditions were included in the most recent outdoor dining conditional use approval for The Texan BBQ.)

One letter was submitted in opposition to the petition. This letter, from a resident at Parkview Pointe, stated concerns that the requested relief would allow the petitioner to avoid snow removal and parking lot resurfacing costs. However, these issues are not directly related to the requested relief because the outdoor area would be temporary and removable. At the time that the outdoor dining was not operating, the area shall be made available for parking purposes.

Compliance with the Zoning Ordinance

The outdoor dining activity will meet all code requirements during its limited hours of operation. It is expected to provide a positive effect on downtown revitalization as it creates a visual impact of life and vitality. The outdoor dining component is similar to other outdoor dining activities such as those at Praga. However, given that the petitioner's plan is immediately adjacent to and below residential units, additional conditions restricting the hours of operation are warranted.

Staff supports the requested parking variation as it is only for the three parking spaces that would be required for the outdoor dining area (at a ratio of one parking space per 125 sq. ft. of floor area) and not a variation for the larger Texan BBQ Restaurant. The limited hours and temporary nature of the outdoor dining and sales area should not generate a substantial amount of additional traffic or parking demand on the downtown area above and beyond existing conditions.

FINDINGS AND RECOMMENDATIONS

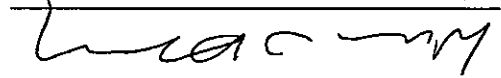
The Inter-Departmental Review Committee has reviewed the standards for variations for the requested variations and finds that the standards have been met, subject to one condition. As such, the Committee recommends that the Plan Commission make the following motion recommending approval of PC 08-24:

Based on the submitted petition, accompanying plans and the testimony presented, the proposed relief **complies** with the provisions set forth in the Zoning Ordinance and granting the relief is in the public interest, and, therefore, I move that the Plan Commission accept the findings of the Inter-departmental Review Report as the findings of the Plan Commission, and therefore recommend to the Corporate Authorities **approval** of PC 08-24, subject to the following conditions:

1. The outdoor dining activity shall be limited to Thursdays, Fridays, Saturdays, Sundays, or federal holidays between April 1 and October 31.
2. The outdoor dining activity shall not be open past 11:00 p.m. on Fridays and Saturdays and 9:00 p.m. on Thursdays and Sundays.
3. That all patrons shall leave the outdoor dining area no later than thirty minutes after the time in which the establishment is scheduled to close.

4. The petitioner shall erect a removable wrought iron-style fence along the south and west sides of the dining area. Said fence shall be in place during any outdoor dining periods.
5. The parking lot lights shall be removed from the Village controller and connected to a new controller that is installed and constructed to Village specifications and requirements. The disconnection of the lighting shall occur prior to the establishment of the outdoor dining activity.
6. Prior to the establishment of the outdoor dining activity, the petitioner shall provide the Building Department with a plan showing vehicle barriers and handicap access/seating.

Inter-Departmental Review Group Report approved by:



William J. Heniff, AICP

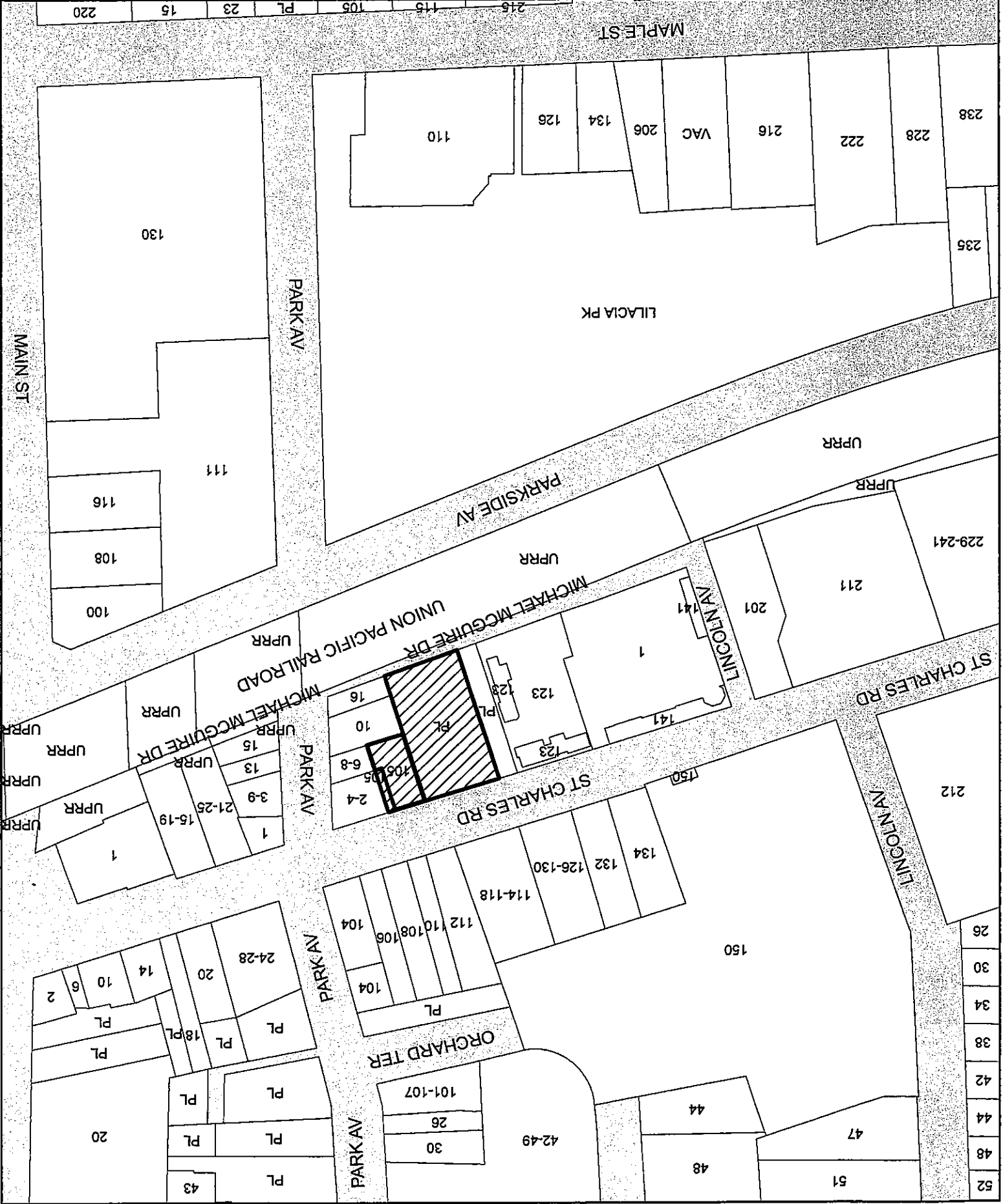
Acting Director of Community Development

c: Petitioner

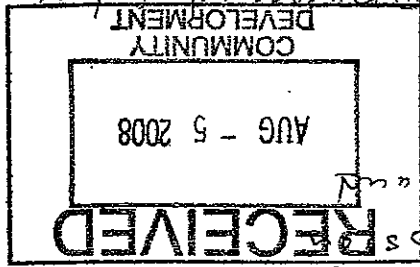
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Location Map

PC 08-24



Aug, 4, 2008



To Plan Comm's Village of Lakeland
Gentlemen?
I oppose the proposed change
at the parking lot at
117 St. Charles Rd. I believe
the petition is trying to
avoid show removal of re-
surfacing costs to said park-
ing lot.

There is always ample parking
on St. Charles Rd. for tax-
payers.

Should this proposal go
through, would not Village
then bear the cost of
the maintenance?

Sincerely,
Gloria P-Wyatt
123 W. St. Chas.
Unit 202

ORDINANCE NO. _____

**AN ORDINANCE GRANTING A CONDITIONAL USE PURSUANT TO
TITLE 15, CHAPTER 155, SECTION 155.418 (C) AND GRANTING A VARIATION
FROM 155.602 OF THE LOMBARD ZONING ORDINANCE**

(PC 08-24: 117 W. St. Charles Road)

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

WHEREAS, the subject property is zoned B5 Central Business District,

WHEREAS, an application has heretofore been filed requesting approval of a conditional use for an outside service area on the subject property located within the B5 Central Business District; and,

WHEREAS, said application also requests approval of variation from Section 155.602 (C), Table 6.3 reducing the number of requisite parking spaces.

WHEREAS, a public hearing on such application has been conducted by the Village of Lombard Plan Commission on August 18, 2008 pursuant to appropriate and legal notice; and,

WHEREAS, the Plan Commission has filed its recommendations with the President and Board of Trustees recommending approval of the conditional use and variation described herein, subject to conditions; 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 a Conditional Use is hereby granted for the property described in Section 3 below and pursuant to Title 15, Chapter 155, Section 418 (C) of the Zoning Ordinance so as to allow an outside service area.

SECTION 2: That a variation is hereby granted for the property described in Section 3 below and pursuant to Title 15, Chapter 155, Section 155.602 (C), Table 6.3 of the Zoning Ordinance to reduce the number of requisite parking spaces.

SECTION 3: That the Ordinance is limited and restricted to the property generally located at 117 W. St. Charles Road, Lombard, Illinois, and legally described as follows:

LOT 2 IN BLOCK 19 IN ORIGINAL TOWN OF LOMBARD, BEING A
SUBDIVISION IN SECTIONS 5, 6, 7, 8 AND 18, TOWNSHIP 39 NORTH, RANGE
11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT
THEREOF RECORDED APRIL 23, 1868 AS DOCUMENT 9483, IN DUPAGE
COUNTY, ILLINOIS.

Parcel Number: 06-07-209-009

SECTION 4: This ordinance shall be granted subject to compliance with the following conditions:

1. The outdoor dining activity shall be limited to Thursdays, Fridays, Saturdays, Sundays, or federal holidays between April 1 and October 31.
2. The outdoor dining service shall not be open past 11:00 p.m. on Fridays and Saturdays and 9:00 p.m. on Thursdays and Sundays.
3. That all patrons shall leave the outdoor dining area no later than thirty minutes after the time in which the outdoor dining service is scheduled to close.
4. The petitioner shall erect a removable wrought iron-style fence along the south and west sides of the dining area. Said fence shall be in place during any outdoor dining periods.
5. The parking lot lights shall be removed from the Village controller and connected to a new controller that is installed and constructed to Village specifications and requirements. The disconnection of the lighting shall occur prior to the establishment of the outdoor dining activity.
6. The petitioner shall provide the Building Department with a plan showing vehicle barriers and handicap access/seating for review and approval prior to the establishment of the outdoor dining activity.
7. The petitioner shall provide an eight-foot wide diagonally striped access aisle adjacent to each accessible parking space.

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

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

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

Ayes: _____

Nays: _____

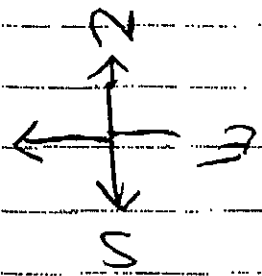
Absent: _____

Approved this _____ day of _____, 2008.

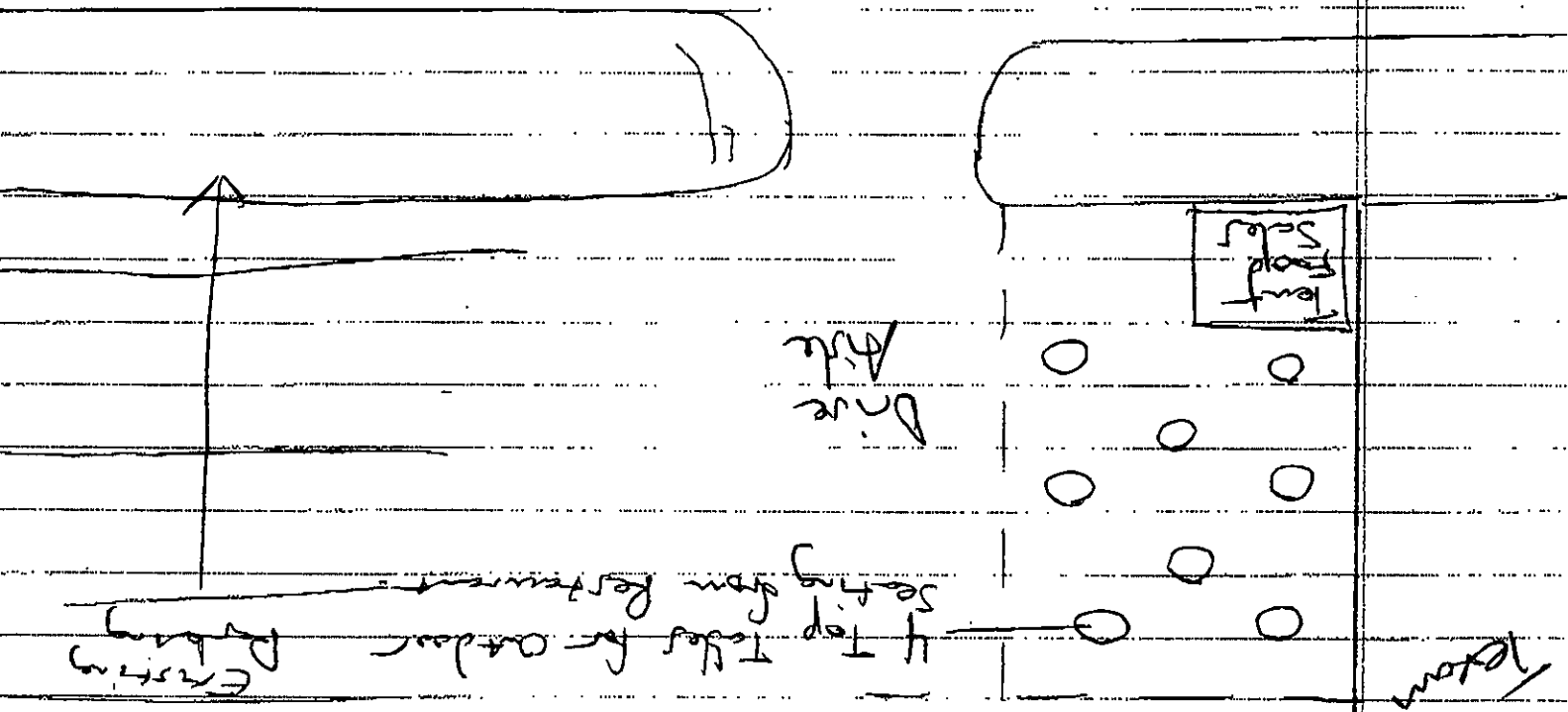
William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk



St. Charles Rd.





ST CHARLES

117 W. St. Charles Road
Outdoor service area

123

123

123

PL

PL

Proposed outdoor
serving area

Required striped
access aisles

105

105

2-4

6-8

UPRR

MICHAEL MCGUIRE

1 inch = 100 feet

