







## MEMORANDUM

**TO:** Scott R. Niehaus, Village Manager

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

**MEETING DATE:** September 7, 2017

**SUBJECT:** **PC 17-29, 783 E. Butterfield Road**

Please find the following items for Village Board consideration as part of the September 7, 2017 Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 17-29;
3. An Ordinance granting approval of an amended conditional use for outdoor seating associated with a proposed Anthony's Coal Fired Pizza Restaurant.

The Plan Commission recommended approval of this petition by a vote of 4-0. Please place this petition on the September 7, 2017 Board of Trustees agenda with a waiver of first reading as requested by the petitioner.



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## VILLAGE OF LOMBARD

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

September 7, 2017

**Village President**  
Keith T. Giagnorio

**Village Clerk**  
Sharon Kuderna

**Trustees**  
Dan Whittington, Dist. 1  
Michael A. Fugiel, Dist. 2  
Reid Foltyniewicz, Dist. 3  
Bill T. Johnston, Dist. 4  
Robyn Pike, 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 17-29, Outdoor Seating – 783 E. Butterfield Road**

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition, the petitioner requests that the Village grant a conditional use pursuant to Section 155.415 (C)(20) of the Lombard Zoning Ordinance for outside service areas (outdoor dining) for other permitted or conditional uses in this district within the B3 Community Shopping District, amending a previous conditional use for outdoor dining approved as Ordinance 7150.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on August 21, 2017. Sworn in to present the petition were the petitioner Redmond McGrath, and Jennifer Ganser of the Village of Lombard.

Chairperson Ryan read the Plan Commission procedures and asked if anyone other than the petitioner intended to cross examine and, hearing none, he proceeded with the petition.

Mr. McGrath said Anthony's Coal Fired Pizza has over sixty locations and is expanding into Illinois. They wish to add a small additional area for twenty-two seats and believe they meet all the standards for a conditional use.

Chairperson Ryan asked if any person would like to speak in favor or against this petition, or for public comment.

Mr. Tim Hague spoke as property owner in support. He said they are thrilled to have this tenant and believe the additional outdoor seating

will enhance the area.

Chairperson Ryan 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 petitioner requests approval for additional outdoor seating in front of their restaurant space of Anthony's Coal Fired Pizza. In 2015 (PC 15-26), approval was granted to build two retail buildings and rezone the property to B3. A conditional use for outdoor seating was granted for the area in between the two buildings. As this is additional outdoor seating, an additional conditional use is being required.

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

Commissioner Sweetser asked if the petitioner was aware of the IDRC comments and Mr. McGrath said yes.

On a motion by Commissioner Flint, and a second by Commissioner Mrofcza, the Plan Commission voted 4-0 to recommend that the Village Board approve the petition associated with PC 17-29, subject to four (4) conditions.

1. The petitioner shall develop the site in accordance with the plans submitted as part of this petition and referenced in the Inter-Departmental Review Committee Report;
2. That the petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report specifically the comments from the Building and Engineering Division;
3. Pursuant to the Zoning Ordinance, outdoor dining shall commence within one (1) year from the date of approval of the ordinance, unless a time extension been granted by the Village Board. This conditional use approval shall become null and void twelve (12) months from the date of approval if the proposed outdoor seating is not completed or an extension has been granted; and
4. The petitioner shall be required to apply for and receive building permits for any improvements to the site.

Respectfully,

**VILLAGE OF LOMBARD**

Donald Ryan, Chairperson  
Lombard Plan Commission  
c. Lombard Plan Commission

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE GRANTING A CONDITIONAL USE PURSUANT TO SECTION 155.415 (C)(20) OF THE LOMBARD ZONING ORDINANCE FOR OUTSIDE SERVICE AREAS (OUTDOOR DINING) FOR OTHER PERMITTED OR CONDITIONAL USE IN THIS DISTRICT, AMENDING A PREVIOUS CONDITIONAL USE FOR OUTDOOR DINING APPROVED AS ORDINANCE 7150;**

(PC 17-29; 783 E. Butterfield 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 783 E. Butterfield Road, the Subject Property, is zoned B3 Community Shopping District; and,

WHEREAS, an application has been filed requesting approval of a conditional use pursuant to Section 155.415 (C)(20) of the Lombard Zoning Ordinance for outside service areas (outdoor dining) for other permitted or conditional use in this district, amending a previous conditional use for outdoor dining approved as Ordinance 7150; and

WHEREAS, a public hearing on such application has been conducted by the Village of Lombard Plan Commission on August 21, 2017 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 petition as 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 follow:

SECTION 1: That the following relief is hereby granted for the Subject Property, as described in Section 2 below:

1. A conditional use pursuant to Section 155.415 (C)(20) of the Lombard Zoning Ordinance for outside service areas (outdoor dining) for other permitted or conditional use in this district, amending a previous conditional use for outdoor dining approved as Ordinance 7150;

SECTION 2: That this Ordinance is limited and restricted to the property located at 783 E. Butterfield Road, Lombard, Illinois and legally described as follows:

LOT 2 IN FREED SUBDIVISION, BEING A SUBDIVISION IN SECTION 29, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 29, 1982 AS DOCUMENT R82-44604, IN DUPAGE COUNTY, ILLINOIS

Parcel Identification Number(s): 06-29-201-007; (the "Subject Property")

SECTION 3: The relief, as provided for in Section 1 of this Ordinance shall be granted subject to compliance with the following conditions:

1. The petitioner shall develop the site in accordance with the plans submitted as part of this petition and referenced in the Inter-Departmental Review Committee Report;
2. That the petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report specifically the comments from the Building and Engineering Division;
3. Pursuant to the Zoning Ordinance, outdoor dining shall commence within one (1) year from the date of approval of the ordinance, unless a time extension been granted by the Village Board. This conditional use approval shall become null and void twelve (12) months from the date of approval if the proposed outdoor seating is not completed or an extension has been granted; and
4. The petitioner shall be required to apply for and receive building permits for any improvements to the site.

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

Ordinance No. \_\_\_\_\_  
Re: PC 17-29  
Page 3

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

First reading waived by action of the Board of Trustees this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017, pursuant to a roll call vote as follows:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Keith T. Giagnorio, Village President

ATTEST:

\_\_\_\_\_  
Sharon Kuderna, Village Clerk

Published in pamphlet from this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Sharon Kuderna, Village Clerk



## Ganser, Jennifer

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**From:** Redmond McGrath <[rmcgrath@lawwp.com](mailto:rmcgrath@lawwp.com)>  
**Sent:** Wednesday, August 23, 2017 3:27 PM  
**To:** Ganser, Jennifer  
**Subject:** RE: Plan Commission

Hi Jennifer,

Anthony's Coal Fired Pizza would like to waive the first reading before the Board of Trustees, as they would like to begin construction on the outdoor seating as soon as possible.

Thank you,

Redmond T. McGrath  
Webster Powell, P.C.  
320 W. Ohio St., Suite 501  
Chicago, IL 60654

[rmcgrath@lawwp.com](mailto:rmcgrath@lawwp.com)  
Tel: 312-587-8800  
Fax: 312-587-8808

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**From:** Ganser, Jennifer [<mailto:GanserJ@villageoflombard.org>]  
**Sent:** Tuesday, August 22, 2017 11:12 AM  
**To:** Redmond McGrath <[rmcgrath@lawwp.com](mailto:rmcgrath@lawwp.com)>  
**Subject:** Plan Commission

Since your petition was recommended with approval by the Plan Commission last night with no objections, you can request a waiver of first reading. This means that your petition can be heard by the Board of Trustee once on September 7<sup>th</sup>. Without this waiver, your petition would have to be heard at two meetings: September 7<sup>th</sup> and September 21<sup>st</sup>. Please respond to this email if you wish to request a waiver of first reading with a reason (such as starting the work earlier). Requesting a waiver is not required.

Jennifer



**Jennifer Ganser, AICP**  
Assistant Director of Community Development  
Village of Lombard  
255 E. Wilson Ave. Lombard, IL 60148

Phone: (630) 620-5717  
Fax: (630) 629-2374  
Email: [ganserj@villageoflombard.org](mailto:ganserj@villageoflombard.org)  
Web: [www.villageoflombard.org](http://www.villageoflombard.org)

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# PLAN COMMISSION

## INTER-DEPARTMENTAL REVIEW COMMITTEE REPORT

### Outdoor Seating – 783 E. Butterfield Road

August 21, 2017

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**Title**

PC 17-29

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**Petitioner**

Anthony's Coal Fired Pizza of  
Lombard LLC

200 W Cypress Creek Road  
Suite 220

Fort Lauderdale, FL 33309

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**Property Owner**

777 Butterfield LLC

418 Clinton Place

River Forest IL 60305

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**Property Location**

783 E. Butterfield Road

(06-29-201-007 ) District #3

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**Zoning**

B3

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**Existing Land Use**

Restaurant - under construction

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**Comprehensive Plan**

Mixed Commercial and Office

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**Approval Sought**

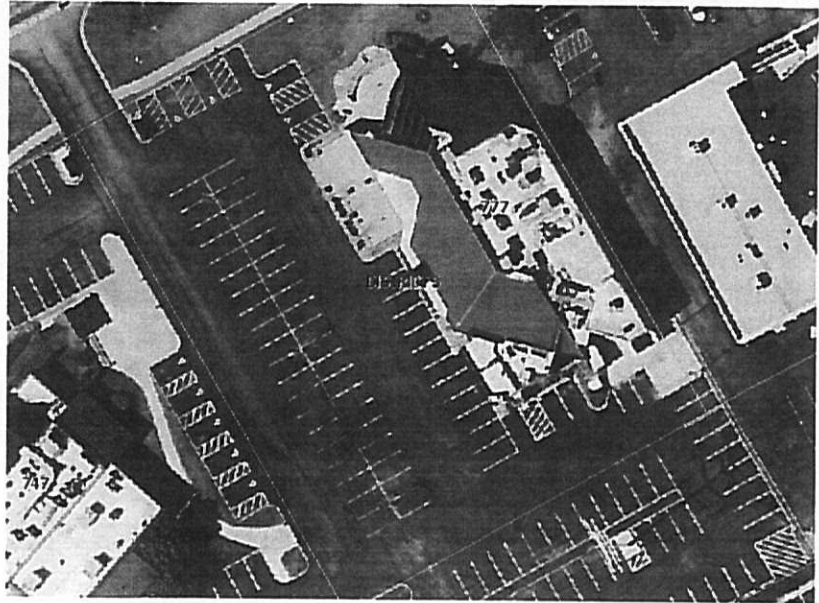
A conditional use for an outdoor  
service area

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**Prepared By**

Jennifer Ganser, AICP

Assistant Director



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**DESCRIPTION**

The petitioner requests approval for additional outdoor seating in front of their restaurant space.

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**LOCATION MAP**

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**APPROVAL(S) REQUIRED**

The petitioner requests that the Village grant a conditional use pursuant to Section 155.415 (C)(20) of the Lombard Zoning Ordinance for outside service areas (outdoor dining) for other permitted or conditional uses in this district within the B3 Community Shopping District, amending a previous conditional use for outdoor dining approved as Ordinance 7150.

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**EXISTING CONDITIONS**

The subject property is currently under construction with two retail buildings and was approved as PC 15-26.

**PROJECT STATS**

**Lot & Bulk**

Parcel Size: 1.09 acres

**Submittals**

1. Petition for a public hearing;
2. Response to Standards;
3. Outdoor Seating Site Plan, by RJS Architects, dated by 8/27/16;
4. Aerial photograph, by Hague Architecture;
5. Site Plan, by Hague Architecture;
6. Perspective View, by Hague Architecture; and
7. Plat of Survey, by Krisch Land Surveying, LLC.

**INTER-DEPARTMENTAL REVIEW**

**Building Division:**

The Building Division notes that Building and ADA Codes will need to be further reviewed. The petitioner should check with the Health Department for regulations on outdoor dining. Additional comments may be forthcoming during permit review.

**Fire Department:**

The Fire Department has no comments regarding the project. Additional comments may be forthcoming during permit review.

**Private Engineering Services (PES):**

PES has the following comments:

1. The extra outdoor seating may block the required ADA route from the permitted ADA parking stalls as shown on the approved engineering plans to the front door.
2. As-builts have not been submitted; therefore more information is needed regarding ADA requirements and a possible relocation of parking spaces.

Additional comments may be forthcoming during permit review.

**Public Works:**

The Department of Public Works has no comments on the subject petition. Additional comments may be forthcoming during permit review.

**Planning Services Division (PSD):**

The Planning Services Division notes the following:

*Surrounding Zoning & Land Use Compatibility*

	<b>Zoning Districts</b>	<b>Land Use</b>
<b>North</b>	O	Northern Baptist Theological Seminary and office buildings
<b>South</b>	OPD	Nicor property, used for parking
<b>East</b>	B3	Retail
<b>West</b>	O	Retail/restaurant

Staff finds that the request for additional outdoor seating is consistent with the zoning and land use of the surrounding properties. In 2015 a conditional use for outdoor seating in between the two buildings was granted. Due to the location near parking, a fence will be added when the outdoor seating is in use.



### ***Comprehensive Plan Compatibility***

The Comprehensive Plan recommends mixed commercial and office for the site. The retail development with an outdoor service area meets the Comprehensive Plan goals for the area. The Comprehensive Plan notes that Butterfield Road is the Village's most prominent retail destination.

### **SITE HISTORY**

The property at 777 E. Butterfield Road was annexed into the Village in 1981 and granted development approvals together with the restaurant to the west (Benihana). The Village rezoned the property to the O District and granted a conditional use for two restaurants. At that time, the Plan Commission specifically chose to zone the subject property to the O District instead of the B3 District because it felt that Office zoning would better maintain the overall character of the corridor.

The property at 777 E. Butterfield Road was developed as a restaurant in 1983, The Rusty Pelican. The restaurant was later operated as Magnum's Prime Steakhouse, Topo Gigio, and Trademark.

The Nicor parcel to the south has been used for off-site parking for the restaurant since 1982, pursuant to a lease agreement that runs through June 2024. In 2011 (PC 11-22) a conditional use was granted for off-site parking. In 2015 (PC 15-26), approval was granted to build two retail buildings and rezone the property to B3. A conditional use for outdoor seating was granted for the area in between the two buildings.

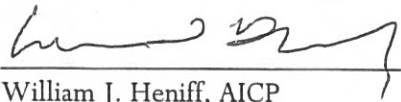
### **FINDINGS & RECOMMENDATIONS**

The Inter-Departmental Review Committee has reviewed the Standards for the conditional uses and map amendment and finds that the petition **complies** with the standards established by the Village of Lombard Zoning Ordinance, and that granting the relief is in the public interest. As such, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion for **approval** of PC 17-29:

Based on the submitted petition and the testimony presented, the proposed conditional use for an outdoor service area (outdoor dining), do comply with the standards required by the Village of Lombard Zoning Ordinance and that granting the relief is in the public interest and, therefore, I move that the Plan Commission accept the findings of the Inter-Departmental Review Committee Report as the findings of the Plan Commission, and recommend to the Village Board **approval** of PC 17-29, subject to the following conditions:

1. The petitioner shall develop the site in accordance with the plans submitted as part of this petition and referenced in the Inter-Departmental Review Committee Report;
2. That the petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report specially the comments from the Buildnig and Engineering Division;
3. Pursuant to the Zoning Ordinance, outdoor dining shall commence within one (1) year from the date of approval of the ordinance, unless a time extension been granted by the Village Board. This conditional use approval shall become null and void twelve (12) months from the date of approval if the proposed outdoor seating is not completed or an extension has been granted; and
4. The petitioner shall be required to apply for and receive building permits for any improvements to the site.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP  
Director of Community Development

c. Petitioner

H:\CD\WORDUSER\PCCASES\2017\PC 17-29\PC 17-29\_IDRC Report.docx

**VILLAGE OF LOMBARD  
757 E BUTTERFIELD RD, SUITE B2  
ANTHONY'S COAL FIRED PIZZA OF LOMBARD LLC**

**STANDARDS FOR CONDITIONAL USES (OUTDOOR DINING)**

Section 155.03(F)(8) OF THE LOMBARD ZONING ORDINANCE:

- 1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare;***

The proposed outdoor seating, which is in addition to the outdoor seating located in-between the two buildings on site, is to be located at the northwest corner of Retail Space "B" within a designated area. The outdoor seating is designed to ensure its presence and operation will not be detrimental to, or endanger the public health, safety, morals, or general welfare. The Applicant's lease requires the tenant to properly maintain and operate the outdoor seating, and also to provide landlord/owner appropriate corrective remedies to ensure that the outdoor seating will be properly maintained and operated as to not endanger public health, safety, comfort, or general welfare.

- 2. That the conditional use will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the neighborhood in which it is to be located;***

The proposed outdoor seating is located at the northwest corner of Retail Space "B" within a designated area. The proposed outdoor seating will enhance the aesthetics of the applicant's business and will not be injurious to the uses and enjoyment of other property in the immediate vicinity, and will not substantially diminish nor impair property values within the neighborhood.

- 3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;***

The proposed outdoor seating is located at the northwest corner of Retail Space "B" within a designated area. This is not inconsistent with recent development trends of the surrounding property (Chick-fil-a, Champps Americana, Uncle Julio's Fine Mexican, Starbucks, The Capital Grille, Rock Bottom Restaurant and Brewery) and will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

- 4. That the adequate public utilities, access roads, drainage and/or necessary facilities have been or will be provided;***

Adequate facilities will be provided to support a designated and protected outdoor seating area.

- 5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;**

The proposed outdoor seating to be located at the northwest corner of Retail Space "B" within a designated area is not located contiguous to the main points of ingress and egress and is designed to minimize traffic congestion in the public streets.

- 6. That the proposed conditional use is not contrary to the objectives of the current Comprehensive Plan for the Village of Lombard; and,**

The proposed conditional use is consistent with recent development trends in the surrounding area and is not contrary to the objectives of the current Village of Lombard Comprehensive Plan 2014. That document makes reference to the desire of the Village of Lombard to attract retail businesses and maintain viable commercial districts throughout the Village by encouraging aesthetically pleasing and functionally-well designed retail and commercial shopping area environments. The proposed conditional use is not contrary to these objectives.

- 7. That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified pursuant to the recommendations of the Plan Commission.**

The proposed outdoor seating to be located at the northwest corner of Retail Space "B" within a designated area conforms to the applicable regulations of the district in which it is located.