

February 17, 2011

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

Subject: PC 11-01; 455 & 477 East 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 take the following actions on the subject property located within the O Office District:

1. A variation from Section 155.602 (C), table 6.3 of the Lombard Zoning Ordinance, to reduce the required number of parking spaces for a sit down restaurant.
2. A variation from section 155.412 (F) of the Lombard Zoning Ordinance to reduce the required front yard setback.
3. A conditional use, per Section 155.412 (C) (9), for off-site parking.
4. An amendment to Ordinances 5917 and 6162 for a new conditional use, per Section 155.412 (C) (15), for a restaurant establishment.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on January 24, 2011.

Rob Northrup, RPC Design Firm, 248 Levy Road, Atlantic Beach, Florida presented the petition on behalf of Millers Ale House at 455 E Butterfield Road. He said they are seeking approval for a new patio addition that will encroach into the front yard setback. He said to allow for the additional restaurant space, they will be entering into an agreement to use 26 parking spaces from the office building to the east.

Ray Holden, President of Miller Ale House, 612 North Orange Avenue, Jupiter, Florida spoke about the request and indicated that they have been in Lombard for over 3 years. He said this seating will not only be used when the weather is nice but will have windows that open and close and have atmosphere people can enjoy. He stated that their Lombard location is underperforming and they think it is because they do not have this patio addition like their other locations. He said it will be first class, give that store a shot in the arm and show what the Ale House can do to make it a successful business in Lombard.

Chairperson Ryan asked if anyone was present to speak in favor or against the petition.

No one spoke in favor or against the petition.

Chairperson Ryan then requested the staff report.

Christopher Stilling presented the staff report. The subject property at 455 East Butterfield Road is currently developed with a sit-down restaurant establishment. Ordinance 5917 (PC 06-17) granted approval of the companion zoning relief required by this development. In 2008, additional relief was granted for an additional wall sign (Ordinance 6162). As part of their 2006 approvals, the restaurant was permitted to have an outdoor seating area. Such approval was subject to them entering into an agreement to use the existing parking spaces located on the Nicor Property to the south. Unfortunately Miller's was unable to reach an agreement with Nicor and never proceeded with constructing the outdoor dining area. The petitioner is now seeking to construct a 1,500 square foot addition to the north elevation of their existing building, where the previously approved outdoor dining area was located. A portion of the addition will encroach into the front yard setback.

Mr. Stilling highlighted the following past approvals associated with the subject property:

Conditional Use for a sit down restaurant

The existing restaurant is 7,230 square feet in area and is improved with 123 parking spaces

Conditional Use for outdoor dining associated with a restaurant

As part of their approvals, the petitioner did receive relief from the parking requirements for a 1500 square foot outdoor seating area. Such approval was subject to them entering into an agreement to use the existing parking spaces located on the Nicor Property to the south. Unfortunately Miller's was unable to reach an agreement with Nicor and never proceeded with constructing the outdoor dining area.

Conditional Use for off site parking

As previously noted, Millers was required to have off-site parking to accommodate the parking demand for the proposed outdoor dining area. Since Miller's was unable to reach an agreement with Nicor, they never proceeded with constructing the outdoor dining area.

A variation to reduce the required open space below the thirty-five percent (35%) requirement

The existing site, including the proposed outdoor dining area, has 21% open space. Since the proposed addition is the same size as the previously approved outdoor dining area, open space will remain unchanged.

A variation to allow for parking spaces within the required front yard

This approval will remain unchanged as the proposed addition will not impact the location of parking.

Variations to eliminate the perimeter parking lot landscaping and to reduce the perimeter lot landscaping requirements

This approval will remain unchanged as the proposed addition will not impact the parking lot landscaping.

Mr. Stilling stated that the petitioner is now seeking a number of additional zoning actions for the site to facilitate the construction of the 1,500 square foot addition on a property located within the O Office District. As previously mentioned, the proposed addition would be the same size as the previously granted outdoor dining area. However, unlike the outdoor dining area, a portion of the addition will encroach into the front yard setback and the addition will be fully enclosed. To address the required parking, Miller's has a tentative agreement with the office property to the east to provide the required 25 parking spaces during the evening hours. The following is a summary of the zoning actions associated with this petition:

An amendment to Ordinances 5917 and 6162 for a new conditional use for a restaurant establishment

The existing restaurant has previously received approvals for a restaurant at this location, through Ordinance 5917. In 2008, Ordinance 6162 was approved providing for an increase in sign size for a wall and increased the total number of permitted walls signs to three (3). Because the proposal constituted a change from what was previously approved, a new conditional use is required. The proposed addition would accommodate a new enclosed patio/lounge area that is consistent with some of the other Miller's Ale Houses located throughout the country. Although the addition would be approximately 1,500 square feet in area, the net increase in total seats is 22. The addition will be fully enclosed, although there will be sliding windows along the north elevation that can be completely opened during the warmer months. The exterior will be consistent with the original materials and colors previously approved as part of Ordinance 5917.

The Butterfield Road corridor is already improved with a number of restaurant type uses within the O District, including the Carlisle Banquet Hall abutting the subject property, Friday's, Taylor Brewing and Benihana. Such uses are considered complementary to the numerous office uses within the corridor. The petitioner has provided a response to the standards for conditional use. Staff finds that those standards have been met and supports the request.

A variation to reduce the required front yard setback

The proposed addition would encroach into the required 30' front yard setback in the O Office District. At its closest point, the addition would be setback approximately 17' from the Butterfield Road right of way. The petitioner indicates that due to the shape of the property, only 220 square feet or 15% of the new addition would encroach into the setback. Although the original plan did meet the required front yard setback for the outdoor dining area, the petitioner has indicated that since this will be a permanent addition to the existing structure, the encroachment is necessary to make the space more usable.

Staff finds that there are several other properties directly to the west of the site that are closer than the proposed 17' setback. The Carlisle to the west has their canopy and gazebo area setback approximately 14 from the right-of-way (legal nonconforming). Further west is the Highland Point office building which has setbacks as close as 1 foot. In addition, setback relief was granted for the parking structure (1' setback) for Highland Pointe in 2001. As noted in the past case, staff is supportive of this variation as the existing right of way line does not properly relate to the built environment found on the site and does not correlate to the functional bounds of the public roadway. The frontage road provides an additional 60' from Butterfield Road. Furthermore, there are no curb cuts from Butterfield Road directly to the subject property; access to the site is provided by the frontage roadway that terminates about ¼ mile east of the subject property.

A variation to reduce the required number of parking spaces for a sit down restaurant & conditional use for off-site Parking Spaces

The existing restaurant has 123 parking spaces, which meets the requirements for the existing 7,320 square foot sit-down restaurant itself. However, to accommodate the 1,500 square foot addition, which must meet the parking provisions for sit-down restaurants as well; twenty-five (25) additional spaces are required. The petitioner will be entering into a lease with the adjacent property to the west, located at 477 E Butterfield Road, to be used to meet their parking needs for the addition. As the 477 E Butterfield Road property is improved with an existing office building, the shared parking agreement only allows the use of 26 parking spaces on Friday and Saturday evenings from 6PM to 2AM when the office building is not in use. Because the agreement is for the use on Friday and Saturday evenings only, the petitioner is required to get a variation from the parking requirements. The petitioner has submitted a parking analysis conducted in July, August & September of 2010 and in January of 2011 (attached) showing their total number of available parking spaces during their lunch and evening rush. Based on the information provided, the petitioner indicates that Friday and Saturday evenings, from 6PM to close, are the only times where less than 25 parking spaces are provided.

Staff is supportive of the conditional use and variation. As shown in their parking analysis, parking demand is highest on Friday and Saturday evenings. The proposed agreement with 477 E Butterfield Road provides the necessary parking to accommodate their demand. Furthermore, staff finds that the shared parking will not impact the uses at 477 E Butterfield Road since they are office in nature and most businesses will be closed by 6PM. Lastly, if the petitioner were to terminate the agreement with the property owners at 477 E Butterfield Road, there are other locations the petitioner may consider for shared parking. As a condition of approval, staff will be

recommending that the petitioner always maintain an agreement for the use of 25 parking spaces for Friday and Saturday evenings.

Mr. Stilling said that the petition is consistent with the Comprehensive Plan and surrounding land uses and therefore staff recommends approval, subject to the 4 conditions in the staff report.

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

Commissioner Olbrysh asked about the terms of the agreement. Mr. Stilling stated that the petitioner's agreement only covers Friday and Saturday evenings and that staff feels comfortable given the findings of their parking analysis. He said final determination of the terms is subject to Village Board approval.

Commissioner Burke expressed a concern about the 30 day termination provision. He felt that it should be extended. He was also concerned that if the agreement was terminated and the petitioner was unable to lease space from the adjacent Nicor property, the building would be non conforming. Mr. Stilling stated that they could come in with a revised floor plan and close off areas to meet the parking provisions. Mr. Stilling also clarified that the property owner did sign the petition and is aware of the off site parking request.

Mr. Holden said that they would prefer to use the Nicor property but their cost is too high. He said if they had to get a deal done with them, they would agree to all their terms.

Commissioner Sweetser stated that the petitioner is aware of the risks and they assume that responsibility. Mr. Stilling agreed and stated that there are alternatives for them including revisions to the floor plan. Mr. Holden stated that they would remove tables and close areas off if they had to.

On a motion by Commissioner Olbrysh and a second by Commissioner Sweetser, the Plan Commission voted 4 to 0 that the Village Board **approves** the conditional uses and variations based on the finding that the petitioner had met the required Standards as set forth in the Zoning Ordinance, subject to the following conditions:

1. The petitioner shall develop the site in substantial conformance with the site plan, floor plan and elevation plan, prepared by RPC General Contractors, dated August 26, 2010, last revised December 21, 2010, except where modified by the conditions of approval.
2. All other conditions approved by Ordinance 5917 and 6162 shall remain in full force and effect.
3. Prior to the issuance of a building permit, the petitioner shall enter into a shared parking agreement with the property owner of 477 E Butterfield Road, for the use of a

minimum of 25 parking spaces upon terms acceptable to the Village Board. In the event that the shared parking agreement is terminated, the petitioner shall secure the rights to minimum of 25 parking spaces on the property located at 477 E Butterfield Road or the abutting Nicor property. If neither location is available, an amendment to the conditional use and any corresponding variations shall be required.

4. The petitioner shall satisfactorily address all IDRC comments.

Respectfully,

VILLAGE OF LOMBARD

Donald Ryan, Chairperson
Lombard Plan Commission

c. Petitioner
Lombard Plan Commission