

South: Union Pacific Railroad ROW and R2 Single Family Residential developed as single family residences
East: B5 Central Business District – developed as Fifth Third Bank.
West: B5APD Downtown Perimeter District Planned Development – developed as Walgreens pharmacy

ANALYSIS

SUBMITTALS

This report is based on the following documentation, which was filed with the Department of Community Development on April 10, 2010:

1. Petition for Public Hearing.
2. Site plan prepared by Village staff depicting the existing conditions on July 1, 2010.
3. Photos taken by Village staff on July 1, 2010.

DESCRIPTION

The subject property, Praga/Bon Ton Restaurant, is located at the southeast corner of Elizabeth Street and St. Charles Road. The petitioner requests that the Village grant a conditional use amending Ordinance 3623 to allow for an expansion and changes to the existing outdoor dining area and amendments to the original conditions of approval in the B5 Central Business District. The original outdoor dining area was approved in 1992 by Ordinance 3623 for the former Lorica Restorante. In 2002, the current restaurant operator for Praga took over the space and has increased the total area of the existing outdoor dining space from what was originally approved. Since they are seeking to maintain its current layout, an amendment to Ordinance 3623 is required.

INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING

The Private Engineering Services Division of Community Development has no comments.

PUBLIC WORKS

Public Works has no comments.

BUILDING DIVISION

The Building Division offers the following comments:

1. The outdoor seating as shown requires the removal of any open flame lighting (tiki torches) and/or any temporary lighting such as strings of lights run overhead from the building. Permanent lighting shall be installed to provide minimum code light levels. This shall include emergency lights to provide an illuminated pathway to the public way.

FIRE DEPARTMENT

The Fire Department has the following comments:

1. The petitioner shall provide/maintain unimpeded egress out of the structure and out of the patio to a public way (sidewalk). Table and seating layouts shall not block egress paths.

PLANNING

Zoning History of the Outdoor Seating Area

In 1992, the Village Board approved Ordinance 3623 granting a conditional use for outdoor seating for the former Lorica Restorante. A copy of Ordinance 3623 and the approved layout are attached as Exhibit A. The Village Board also approved Ordinance 3622 granting a variation to not require the petitioner to pay into the Lombard B5 Public Parking Fund. As this provision no longer exists in the Zoning Ordinance, an amendment to Ordinance 3622 is not required.

Ordinance 3623 granted the outdoor seating subject to 6 conditions. In addition, the ordinance was tied to a specific site plan showing no more than 6 tables. Over the years the outdoor seating area had been expanded beyond what was originally approved. In 2002, the current restaurant operator for Praga took over the space and in 2007 expanded its use to include the Bon Ton Wine Bar. With the addition of Bon Ton, the petitioner increased the total area of the existing outdoor dining space from 6 tables to 12-14 tables (attached as Exhibit B). To allow for the expansion, staff determined that the 6 additional tables could be allowed as part of an "Outdoor Café" for Bon Ton, which is permitted in the B5 Central Business District. An "Outdoor Café" is defined as follows:

***OUTDOOR CAFE** as an accessory use to a restaurant when no more than six tables, with a maximum of twenty-four chairs, are located between the restaurant building and the public right-of-way, provided said area is either a front yard or a corner side yard as defined in this Section.*

Staff recently became aware that the outdoor dining area had been expanded to its current layout of 25 tables with a total of 64 seats. Since this expansion is greater than what is allowed by the Zoning Ordinance and by conditional use Ordinance 3623, an amendment is required.

Furthermore, the petitioner has been operating the outdoor seating area to match their current hours of operation (Sunday through Thursday - 4:30 PM to 1 AM and Friday & Saturday- 4:30 PM to 2 AM). These hours are also consistent with their current liquor license. While doing our initial research, staff found that not only did Ordinance 3623 restrict their total number of seats, it also restricted the hours. In an effort to memorialize how they have been operating, an amendment to Ordinance 3623 related to the hours for the outdoor seating area is also required.

Compatibility with the Zoning Ordinance

Existing Improvements

The petitioner wishes to operate the outdoor seating area in accordance to what currently exists today. As Illustration 1 shows, the outdoor seating area is located completely outside of the public right-of-way and extends along the entire north elevation of the building (approximately 100 feet) along St. Charles Road. The outdoor area has 25 tables with a total of 64 seats and is approximately 1,700 square feet in area. Typically staff requires some type of fencing separating the outdoor seating area from the public right-of-way. In lieu of the fencing, the petitioner has provided several wooden planter boxes along the perimeter of the area. The planter boxes are approximately 3 feet in height. Furthermore, as Illustration 2 shows, the petitioner also provides black colored boards in between each planter box with the name and website of the establishment. Staff has determined that this type of signage is incidental to the outdoor seating and can be considered as part of the conditional use request, similar to how drive-thru signage is considered as part of that process. Should the Plan Commission and/or the Village Board decide not to approve the signage on the boards, they could be turned around. It should be noted that the petitioner does have an existing A-frame sign located in front of the establishment. Staff has noticed that the sign is not removed when the business is closed. Pursuant to the existing Sign Ordinance, the sign shall be brought inside once the business has closed, however no later than 9:00 PM. The pending text amendments, if approved by the Village Board, will allow the sign to be placed outside until 2:00 AM.

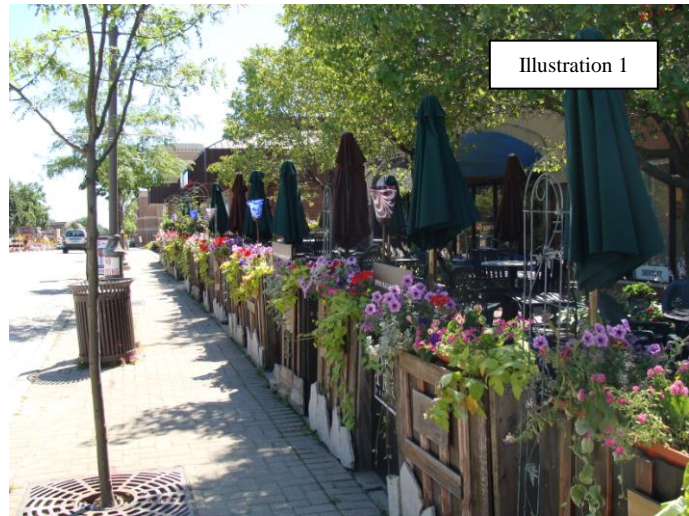


Illustration 1

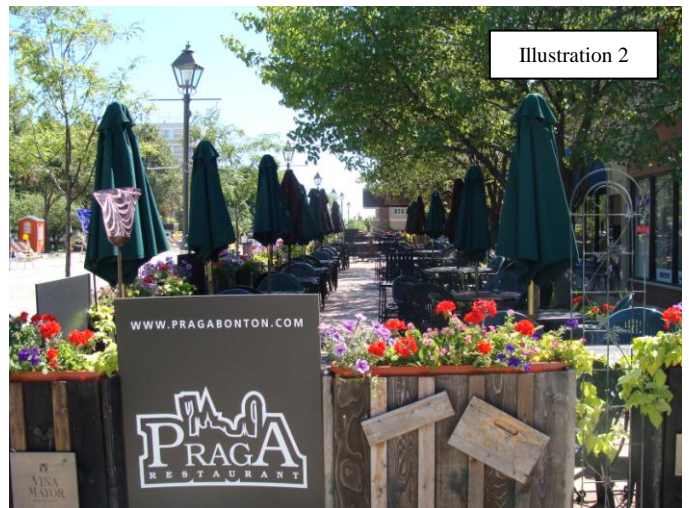


Illustration 2

Parking

The existing Praga/Bon Ton and the outdoor dining area require 36 parking spaces based on the parking requirements of the B5 district. The existing site has 64 spaces along with on street parking along St. Charles. Staff finds that sufficient parking is being provided.

Hours

The petitioner is requesting that the hours of the outdoor seating area be memorialized to match the restaurant's current hours of operation. The hours are as follows:

- Sunday through Thursday - 4:30 PM to 1 AM (They are typically closed on Mondays)
- Friday and Saturday- 4:30 PM to 2 AM

Amendments to Ordinance 3623

As previously mentioned, Ordinance 3623 granted a conditional use for outdoor seating for the site, subject to six (6) conditions. The petitioner is requesting amendments to some of those conditions. The comments in italics were conditions of Ordinance 3623. The comments in bold reflect the amendments requested by the petitioner:

1. *The approval of this conditional use shall be limited to outside service for the Lorica Restorante located in the tenant space commonly known as 229 W St. Charles Road.* **The petitioner is seeking approval to have the outdoor seating area extend along the entire north elevation of the building (approximately 100 feet) along St. Charles Road. Staff has been in contact with the tenant located directly east at 233 W. St. Charles (Dentist Office). He has expressed a concern that his customers cannot see his establishment with the expanded outdoor seating area. Since their area is on private property, staff has let the landlord know about the concerns of the tenant.**
2. *Outside service shall be limited to the 6 tables depicted on the sketch plan marked as Exhibit A and dated November 2, 1992 by the Department of Community Development.* **The petitioner is seeking approval to have the outdoor seating area to include 25 tables with a total of 64 seats, as shown on the attached site plan showing the existing conditions.**
3. *The types of tables and chairs shall comply substantially with the photograph marked Exhibit B and dated October 9, 1992 by the Department of Community Development.* **The petitioner is seeking to maintain their current layout showing several 2-person and 4-6 person tables as shown in illustration #1.**
4. *Hours of operation for the outside service area shall be limited to:*
11:30 AM to 10:30 PM; Mondays through Thursdays
11:30 AM to 11:30 PM; Fridays

4:00 PM to 11:30 PM; Saturdays
4:30 PM to 11:30 PM; Sundays

As mentioned above, the petitioner is seeking to maintain their outdoor seating hours as follows:

- **Monday through Thursday and Sunday- 4:30 PM to 1 AM**
- **Friday and Saturday- 4:30 PM to 2 AM**

The requested hours are consistent with how they have been operating for the last several years.

5. *The outside service area shall be kept free from all litter and debris. This will remain as a condition.*
6. *The outside tables and chairs shall not be permanently attached and shall be removed when the business is closed and when not in use during cold weather months (generally October through March). The tables and chairs provided by the petitioner are not permanently attached. Historically, the petitioner has removed the tables and chairs during cold weather months.*

Compatibility 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 mostly commercial uses on all sides, with the exception of Lincoln Terrace Condominiums located across the street (approximately 90' to the north). Staff has received a letter signed by 18 residents located in the Lincoln Terrace Condominiums concerned about the hours of operation for the outdoor seating area. Specifically, they would like to see the original hours that were set in Ordinance 3623 maintained. Furthermore, they are concerned about the existing music that is played on the speakers located outside. Staff has also received 2 letters in support of the project from residents located in the Lincoln Terrace Condominiums.

Given the unique nature of Downtown Lombard as a mixed use business district, staff can support the petitioners request to have the hours for the outdoor seating area memorialized to match how they have been operating for the last several years. Although other outdoor dining areas have been restricted to 11:30 PM, those areas were within mixed use buildings that have

residential units directly above. Staff does recommend that a condition be added that limits any outdoor music and entertainment (TVs, etc) to the hours outlined in Ordinance 3623. 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. Therefore staff will be recommending that the outdoor seating area officially close 30 minutes earlier (12:30 PM for Sunday through Thursday and 1:30 AM for Friday & Saturday). This will allow patrons time to finish their food and beverages.

Standards for Conditional Use

The petitioner has represented that they meet the standards for the conditional use. Staff offers the following response to the standards:

- a. *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;*

Staff believes that the outdoor dining area is an enhancement for the downtown area. In addition the business helps improve commerce for the surrounding downtown businesses. The petitioner will still be required to maintain the use so as not to be a nuisance to the surrounding area.

- b. *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, nor substantially diminish and impair property values within the neighborhood in which it is to be located.*

Staff finds that the outdoor seating area is an overall benefit to the downtown area. Throughout all of the recent downtown planning and visioning events, residents have expressed a strong desire for a place to gather. The Praga/Bon Ton restaurant plays an important role for the downtown by drawing people from all areas.

- c. *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;*

Staff finds that the outdoor seating area will not impact overall redevelopment activity along St. Charles Road. In fact, the use could be considered an asset to the corridor.

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

The use will not require permanent connections to municipal utilities.

- e. 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;*

Staff finds that the proposal is a suitable location for the market. The site has ample parking with good access to St. Charles Road.

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

The use serves as an enhancement to the downtown area as it is an attraction for visitors to the area. Staff finds that the use is consistent with the retail objectives in the Comprehensive Plan.

- g. 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.*

Staff finds that the use will be consistent with Village Codes. Should the use become a nuisance or create noise levels greater than allowed by Code, the Village will have the opportunity to enforce those Ordinances to ensure minimal impact.

FINDINGS AND RECOMMENDATIONS

Staff believes that the proposed conditional use is compatible with the surrounding area and is appropriate for the site. Staff has also reviewed the standards for conditional use and finds that the outdoor seating area does meet those provisions as well. 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 **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 10-06; subject to the following conditions:

1. The subject property shall be developed and maintained in substantial compliance with the site plan prepared by Village staff depicting the existing conditions on July 1, 2010, except as they may be changed to meet Village Codes and the following conditions below.
2. The petitioner shall satisfactorily address all IDRC comments.

3. The outdoor dining activity shall not be open past 12:30 PM on Mondays through Thursday & Sunday and 1:30 AM on Friday and Saturday.
4. That all patrons shall leave the outdoor dining area no later than thirty minutes after the time in which the outdoor seating area is scheduled to close.
5. The outside service area shall be kept free from all litter and debris.
6. All tables, chairs and umbrellas shall be removed from the outdoor seating area during the cold weather months (generally the end of October to March).
7. All outside music and/or entertainment shall cease at 10:30 PM on Sundays through Thursday and 11:30 PM on Friday and Saturday.

Inter-Departmental Review Group Report Approved By:

William J. Heniff, AICP
Director of Community Development

att

c: Petitioner