

September 1, 2005

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

Subject: PC 05-32: 912-916 E. Roosevelt Road

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner requests approval of a map amendment rezoning the subject property from the R1 Single-Family Residence District to the B3 Community Shopping District. The petitioner also requests that the Village approve the following actions in order to allow for two separate restaurant/food preparation establishments, as set forth below:

1. To allow for a proposed sit-down restaurant at 912 E. Roosevelt Road and an existing fast-food restaurant at 916 E. Roosevelt Road, approve a variation from Section 155.602 (C), Table 6.3 Off-Site Parking Requirements reducing the requisite number of parking spaces on the subject property from 43 spaces to 21 spaces;
2. To allow for a proposed fast-food restaurant (without seating) at 912 E. Roosevelt Road and an existing fast-food restaurant at 916 E. Roosevelt Road, approve a variation from Section 155.602 (C), Table 6.3 Off-Site Parking Requirements reducing the requisite number of parking spaces on the subject property from 36 spaces to 21 spaces; and/or
3. To allow for a catering service establishment to be located in the building at 912 E. Roosevelt Road, grant a conditional use, pursuant to Section 155.414 (C)(5) of the Zoning Ordinance.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on August 15, 2005. Kenneth Miller, 815 Kings Pointe Drive, Addison, owner of the subject property, presented the petition. He opened his presentation by noting that he was withdrawing his request for a parking variation for a 12-table sit-down restaurant. However, he would like to continue with the other requests included as part of the petition.

September 1, 2005

PC 05-32

Page 2

Mr. Miller then discussed various provisions within the Zoning Ordinance. He noted that restaurants and delicatessens are listed as permitted uses in the Ordinance. Prior to annexation, the property was zoned B2 General Business by DuPage County. With the proposed change of use for the 912 E. Roosevelt Road building, he understands that he needs to apply for parking relief for a restaurant establishment and/or a conditional use for a catering establishment.

He stated his proposed fast-food and catering establishments will not impact the parking area. He referred to staff's proposed site plan included as part of the staff report and stated that he has no objections to the plan. He understands that the parking spaces that are adjacent to School Street may be removed when School Street is improved. For now, it will remain as is. The proposed plan is acceptable - his only recommendation would be that the curb line and parking island off of School Street be reduced from 5 feet to 3 feet. The site will have two handicapped parking spaces – one by each front entrance. He also referenced that the York Township Assessor's office also assessed the property as a restaurant land use and discussed how the property would be assessed.

Lastly, Mr. Miller expressed concerns regarding cross-access provisions for the property to the west. He does not see any benefit for him and cited cases where trucks from the adjacent use parked on his property.

Chairperson Ryan then opened the meeting for public comment. Speaking in opposition of the petition was John Tuene, 1148 S. School Street. He said the property was previously an army surplus store and is currently used by Steve's Gyros. His property was also annexed into Lombard in 2003. His understanding is that the Village will be providing public water and sanitary sewer service to the neighborhood next year.

He raised concerns regarding the existing parking along School Street. Along School, a residential street, between 11 a.m. to 2 p.m., there are commercial vehicles parking on School due to inadequate parking for Steve's Gyros. He is concerned about additional traffic on residential streets and the parking of Waste Management garbage trucks and other commercial traffic along School Street. He stated he continually picks up trash from Zelly's and Steve's Gyros. He is concerned about vehicles attempting to make a left turn onto Roosevelt. He said the existing buildings on the property do not meet code. He stated the recent businesses on the property that have since closed. He stressed the need to keep commercial traffic off of residential streets.

Mr. Miller made a specific point that customers would be coming to the site and picking up their food and they are not parking for long periods – this would lessen the parking impact. They have not had one recorded incident dealing with traffic on this property. Parking along School Street might be impacted on lunch hour but there is a lower parking demand for other parts of the day.

Chairperson Ryan then requested the staff report. William Heniff, Senior Planner, referenced the IDRC report and noted that as the petitioner is withdrawing his request for a parking variation associated with a sit-down restaurant, he would not discuss that request.

He described the property noting that is improved with two commercial buildings, one of which is vacant, and the remainder of the property is covered by an asphalt surface. The property was involuntarily annexed into 2003 and was automatically classified into R1 District. That zoning designation would remain until such time that it makes sense to reclassify the property and the existing uses could remain as legal nonconforming. Therefore, the Steve's Gyros use constitutes a legal non-conforming use and the 912 East Roosevelt Road building would be acceptable for generic retail uses.

The property owner is looking for prospective tenants for the building at 912 E. Roosevelt Road. As previous prospective tenants have made significant improvements to the building to accommodate a restaurant and/or food preparation use, the property owner is seeking approvals to allow the building to be occupied by one of three types of restaurant uses as set forth in the public hearing request. As the parking requirements differ for restaurant uses, as compared to other retail uses, staff views this as a change of use which would necessitate a map amendment and parking relief, if warranted.

He noted that the Comprehensive Plan recommends that the property be used for community commercial uses. The existing uses and proposed B3 zoning comply with the recommendations of the Comprehensive Plan. The property is located within the Roosevelt Road corridor and is surrounded on three sides by other commercial properties and a single-family residence to the north, which has been used as a legal non-conforming office use. Retail uses and some restaurant uses on the property can be compatible with the surrounding land uses. However, there are site specific improvements that should be addressed as part of this petition to ensure compatibility with adjacent properties.

He stated that staff believes that the request for rezoning is appropriate for the site. Referencing a table in the staff report, the property is deficient in meeting most other the provisions of the Lombard Zoning Ordinance. He noted the petitioner is not proposing any building expansions at this time – the only proposed work would be associated with the tenant build out of the proposed food service use. As such, the Village can consider all of the bulk regulation non-conformities to be legal non-conforming and hence do not need to be considered for relief as part of this petition. Moreover, given the extent of the non-conformities on the site, staff believes it is would be appropriate to keep the legal non-conforming status of these structures rather than granting relief for the structures. In the event the property is redeveloped, the new uses would meet the full bulk regulation provisions of the Ordinance, or as varied by a future zoning petition.

The primary purpose of this petition is to address parking issues associated with the proposed food establishment uses. With respect to the restaurant activities, the Steve's Gyros business can be considered legal non-conforming as it existed prior to annexation of the property into the Village. Regarding the 912 E. Roosevelt building, the building was not being used as a restaurant use. At the time of the annexation, the 912 E. Roosevelt Road building was considered a generic retail building. However, with the change from a generic retail building, which requires parking at 4 spaces per 1000 square feet of gross floor area, to a restaurant use which has higher parking

requirements, the non-conforming provisions would no longer apply. As the property does not have the physical space to accommodate parking per Village Code, relief will be required.

Staff reviewed the property to determine the available supply of parking that can functionally exist on the property. Staff also proposes a concept parking plan for the site that should be followed if this petition is approved. Staff's concept plan attempts to address number of site deficiencies as noted in the report.

Referencing parking along School Street, most of the parking for Steve's Gyros is located on the east side of the building. This existing perpendicular parking area is partially on the subject property and partially within the School Street right-of-way. This configuration existed prior to the annexation of the property and the adjacent roadway into the Village. In discussions with York Township Highway Department, the property owner and the Township did not have any executed agreements relative to parking in this area.

Staff is proposing modifications that remove much of the parking and would place it on the private property. The proposed plan identifies parking spaces within the right-of-way, which can remain until such time that the Village considers full right-of-way improvements along School Street and requests that these spaces be removed. Staff notes that if these spaces are removed, customers could parallel park at this location, but these spaces cannot be counted toward meeting the Village parking requirement. Additionally, staff based the public hearing petition on those spaces that are located exclusively on the subject property – if the School Street spaces are removed, the zoning actions are already in place to allow the restaurant uses to remain if approved.

Catering establishments do not have separate parking requirements – this use would be required to meet the 4 spaces per 1000 square feet of gross floor area requirement. However, this land use is a conditional use in the B3 District. With respect to the conditional use for the catering use, the petitioner would also like to have the flexibility to utilize the 912 building for catering purposes. This could be done either as an ancillary function of the permitted restaurant use or as a separate use. Staff is conceptually supportive of this use as the parking demands for the catering use will not be as great as other restaurant uses. However, staff recommends as a condition of approval that any catering vehicles associated with the business activity be parked and stored immediately behind the 912 E. Roosevelt Road building.

In the petitioner's request for a fast-food option, he would like the option to lease the building for a fast-food establishment without seating. The proposed use would consist of preparation of fast-food for customer pick-up or delivery. No in-store seating would be provided. Staff notes that the Zoning Ordinance does not distinguish between fast-food establishments with or without seating. However, if no customer seating is provided the anticipated parking demand for the use would be more characteristic of other generic retail uses. Staff is supportive of the fast-food use provided that there is no on-site dining associated with the 912 E. Roosevelt Road building.

He also referenced staff's desire to require cross-access and dumpster screening provisions. He also referenced a letter from the adjacent property owners regarding parking issues.

Mr. Miller stated that cross access would be detrimental to his property and not would not benefit Steve's or 912 East Roosevelt, but only Johnson Fish and Shrimp. Fences have been put up along the property line which were designed to prevent truck traffic onto his property. The trucks have destroyed his fence, which had to be replaced, as well as the pavement. The adjacent restaurant has also had food and beer delivery trucks park on his lot. Cross access provisions would create a liability on his part and he won't be able to get insurance.

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

Commissioner Sweetser stated that it sounds as if the petitioner has worked with staff to make the most of the site. If the cross access agreement is more trouble, is that something staff would still insist on? Mr. Heniff stated that staff has historically sought cross-access provisions.

Chairperson Ryan stated that enforcement of a conditioned cross-access agreement for automobiles and not trucks would create an enforcement problem.

Commissioner Burke stated that it seems that by the petitioner's testimony it would be beneficial to the neighbor but not the petitioner. This is not mutually beneficial, as nothing is in it for the petitioner.

Mr. Heniff stated that the cross-access is not an inherent condition that must occur immediately. If you want staff to look at it, it could stay as a condition of approval and leave to staff's discretion. If the provision is not added now, this provision may be difficult to get in the future.

Commissioner Flint stated that if the properties are improved with the proper pavement design to handle the truck traffic, it might take care of itself.

George Wagner, Village Counsel, stated that as written, the condition works because it doesn't become operative until the Village makes the request. The petitioner is required to comply with it and staff won't request until it makes sense. The Village is protected as well as the petitioner.

After due consideration of the petition and the testimony presented, the Plan Commission found that the petition complies with the standards required by the Lombard Zoning Ordinance.

Therefore, the Plan Commission, by a roll call vote of 4-0, recommended to the Corporate Authorities **approval** of the petition associated with PC 05-32, subject to the following conditions:

1. That the subject property be modified to incorporate all of the parking and site improvements as depicted on the site plan prepared by the Village, attached as an exhibit and made a part of the recommendation of approval.
2. That upon a written request of the Village the petitioner shall remove the perpendicular parking spaces along the east side of the subject property and/or within the School

Street right-of-way as depicted on the exhibit made a part of the Ordinance approving the petition.

3. Accessible parking spaces shall be provided in compliance with the provisions of the Illinois Accessibility Code. One space shall be provided immediately in front of the 912 E. Roosevelt Road building while the second space shall be provided at the entrance to the Steve's Gyros restaurant.
4. Upon a request by the Village, the petitioner shall provide a cross-access agreement between the subject property and the property immediately to the west and that the petitioner shall remove the fence barrier to the adjacent property.
5. Refuse disposal areas for both business establishments located on the subject property shall be screened in accordance with Section 155.710 of the Lombard Zoning Ordinance.
6. That any business vehicles associated with the existing business establishment at 912 E. Roosevelt Road shall be parked behind the building at all times.
7. That the petitioner shall satisfactorily address the comments included within the IDRC report.
8. That the provisions included within the Ordinance of approval shall be satisfactorily addressed and all provisions of Village Code associated with the proposed restaurant/food preparation uses shall be met prior to issuance of a Certificate of Occupancy for any restaurant/food preparation use on the subject property.

The Commissioners also directed staff to consider the comments raised by the property owner if the Village chooses to enact the cross-access requirement included within the conditions of approval.

Respectfully,

VILLAGE OF LOMBARD

Donald Ryan, Chairperson
Lombard Plan Commission

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c. Petitioner
Lombard Plan Commission