

December 4, 2008

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

Subject: PC 08-31: 801 E. Roosevelt Road (Riley's American Cafe)

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner is requesting a conditional use to allow a restaurant, which includes entertainment, dancing, and/or amusement devices for the subject properties located in the B4A – Roosevelt Road Corridor District.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on November 17, 2008. Chairperson Ryan asked if there was anyone to cross-examine the witnesses. Hearing none, he requested that the petitioner begin their presentation.

Katie Wasserman, 801 E. Roosevelt, J. Riley, thanked the Plan Commission for consideration of a conditional use entertainment license. She stated that she reviewed the IDRC report and appreciates the efforts of the report, but one assumption being made is that granting the license will make J. Riley's become a tavern or cocktail lounge. Ms. Wasserman added that J. Riley's is a restaurant and the business plan is based on that. She stated that she knows the importance of creating a business plan and sticking to it, which is what they are doing with J. Riley's. Their menu, décor and floor plan support that proposition. She mentioned what they offer. Ms. Wasserman stated that their desire for the conditional use is to provide an opportunity for home-style meals with entertainment because people are looking for affordable ways to entertain themselves. She mentioned that their lunch business is the biggest profit center and has the most growth potential. Ms. Wasserman added that J. Riley's sustained financial hardship since opening their doors. She added that they are a restaurant (not a tavern) and they are not altering the building. Referring to the IDRC report, Ms. Wasserman quoted "the integration of live music into the existing establishment would intensify the existing restaurant use which could be construed as a change of use to a more appropriately labeled "tavern &

cocktail lounge” use, which is neither permitted nor conditional in the B4A District.” is inaccurate statement. She added that they are not asking for a capital drain on the Village budget, but just a way to add patrons. She finished by stating that nobody wants another empty storefront.

Chairperson Ryan then opened the meeting for public comment. No one spoke in favor of the petition.

Doris Dorberger, 19W020 13th Street, lives in the backyard of this restaurant and spoke against the petition. She stated that she appreciates the staff report and she referred to the letter her neighbor issued, which is included in IDRC report. Ms. Dorberger stated that she shares those concerns. She mentioned that the music would start late at night and based on other operations that have occurred there, there are already problems that occur in that parking lot late at night. She added that there are also problems sometimes during the day. Ms. Dorberger stated that there have been car accidents back there and she is also very concerned about people being outside talking and fighting. She stated that she appreciates this restaurant making a go of it, but has concerns being able to sleep in her house uninterrupted.

James Allman, 801 E. Roosevelt, responded to the concerns about music and stated that it will stay the same as the current jukebox levels and the bands that perform won't be different than before this time. He mentioned that he has been in bands before, so when he hires his bands, he knows to keep the music at a level so talking can be heard. Mr. Allman added that he would personally monitor the music levels.

Chairperson Ryan then requested the staff report.

Michael Toth, Planner I, presented the staff report. The petitioner currently operates a restaurant (J. Riley's American Café) in the B4A zoning district, which is a permitted use. The petitioner wishes to integrate live entertainment into the establishment. Pursuant to the B4A zoning district, restaurants, which include entertainment, dancing, and/or amusement devices, require conditional use approval.

The petitioner is proposing to designate forty-eight (48) square feet of floor area along the western wall of the interior of the building for live entertainment. The petitioner has indicated that there would be no new construction to the interior or exterior of the building. The petitioner has also indicated that live entertainment will occur only on Saturday nights with an occasional Friday performance. Any performances would take place from approximately 10:30 pm to 1:00 am.

Restaurants, not including entertainment and dancing are listed as a permitted use in the B4A zoning district; however, restaurants which include entertainment, dancing, and/or amusement devices are listed as a conditional use. Although the entertainment (i.e. live music) is intended to be a subordinate activity to the principal use (restaurant), as a conditional use they merit a more critical review.

When the petitioner applied for their business and liquor license in 2007, staff worked closely with them to ensure that the proposed use operates as a sit down restaurant (a permitted use) versus a tavern or bar, which is no longer listed as a conditional use (or permitted) in the B4A District. As a result, the petitioner made certain improvements to the menu offering “home cooked” meals and provided a partition wall between the dining area and the bar. Staff feels that the integration of live music into the existing establishment would intensify the existing restaurant use which could be construed as a change of use to a more appropriately labeled “tavern & cocktail lounge” use, which is neither permitted nor conditional in the B4A District.

Compatibility with adjacent residential properties was also identified as a primary concern within the recently adopted Roosevelt Road Corridor Report, adopted in 2007 as a supplement to the Comprehensive Plan. The Roosevelt Road Corridor Report ranked 143 different land uses from “highly desirable” to “highly undesirable”. As previously mentioned, the integration of live music into the existing establishment could constitute a change of use more appropriately labeled as a “tavern & cocktail lounge” use. According to the Roosevelt Road Corridor Report a “tavern & cocktail lounge” is a less-desirable use within the Roosevelt Road Corridor. The Report lists taverns and cocktail lounges as 109th out of 143 uses.

Referring to the public health, safety and morals portion of the standards for conditional uses, the implications imposed by a change of use could place more of a burden on the health, safety, and general welfare than the previous restaurant use. Enjoyment of other property in the vicinity could also be affected by the intensification of the existing use through the integration of live music and could adversely affect those residential properties in a negative manner by increasing noise and traffic volumes. Objectives of the current Comprehensive Plan are not satisfied as compatibility with adjacent residential properties was also identified as a primary concern within the recently adopted Roosevelt Road Corridor Report. The Roosevelt Road Corridor Report lists taverns and cocktail lounges as 109th out of 143 uses.

Staff has reviewed the petition and finds that petition does not meet the standards set forth in the Zoning Ordinance. Therefore, staff is recommending denial of PC 08-31.

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

Commissioner Cooper asked if the hours of the restaurant will change and asked the owner if they still serve food until 1 a.m.

Jim Allman replied by stating that all hours will stay the same.

Chairperson Ryan indicated other establishments in Lombard that have music and exemplified Casey’s and Brio in Yorktown. He asked what makes them any different.

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William Heniff replied that Brio is part of the Yorktown Planned Development, which through the 1965 Yorktown Planned Development provides for entertainment there. Mr. Heniff stated that he does not have a ready answer for Casey's and is not sure whether it was granting as a conditional use or if it is a non-conforming activity.

Jim Allman stated that the live entertainment would not be every day - just a couple times a month. Mr. Allman added that during the summer, they will not have a use for it.

Commissioner Olbrysh asked what types of local bands and type of music will be playing.

Jim Allman stated that most of the bands will be local and some of those bands will have members old enough to bring grandkids or other the way around. He added that these will not be touring bands.

Commissioner Sweetser was curious as far as what an occasional Friday means.

Jim Allman stated that there may be one Friday a month.

Commissioner Sweetser stated that she understands it's approximate.

Jim Allman stated that it's just to generate more attention to the place other than lunch.

Commissioner Sweetser stated that there have more comments from neighbors and residents and that the current activity without music has been a disturbance for them.

Chairperson Ryan asked Ms. Dorberger if the issues have been in the past or over the recent past.

Ms. Dorberger stated that she has not personally had any recent issues, but her neighbor has.

Chairperson Ryan asked if the issues have occurred since J. Riley's came in.

Ms. Dorberger stated that prior to J. Riley's coming in and as well as now, there are periodic issues. She added that the noise from people out there is inappropriate and people are racing cars in the parking lot. She stated that when you have music it can invite different kinds of people. She added that when people drink late, they are noisier.

Commissioner Flint asked if it was this establishment or is it just the whole complex in general.

Ms. Dorberger stated that she has concerns about what has happened in the past and this makes it more of a nuisance.

Commissioner Olbrysh stated that he recalls another restaurant being at that location. He added that this issue is the parking lot and not the business. He mentioned that it is an enclosed parking lot.

Commissioner Sweetser asked if it possible to condition the live entertainment for a certain time period. She mentioned that if they want music, we could allow a trial period of six months, that way to see how it works out. She added that it would be a pilot situation.

William Heniff stated that his only concern is that when time expires, the question then is what standards are looked at as an approval or denial for the future. He mentioned one suggestion to the Plan Commission would be to reference the site plan itself or the parking lot in front and rear. Mr. Heniff stated that staff cautions this approach because relief runs with the land.

Commissioner Olbrysh stated that the parking lot in front doesn't meet the required number of spaces so you need the one in back.

Michael Toth stated that the front provides 48, but you have a situation where those adjacent businesses are closed (with the exception of the Mexican restaurant). He added that you could block off the back lot and share the front lot with the Mexican restaurant.

Jim Allman stated that he doesn't know how much parking they'll need, but he thinks they will need some of the additional spaces in the back.

William Heniff mentioned that managing the site better might alleviate some of the issues.

Jim Allman stated that he will monitor the parking lot and if something does happen and he finds out who it is, they will be banned.

Commissioner Sweetser added that managing the parking lot is a good preventive measure.

Chairperson Ryan asked the petitioner if he is locked into the proposed hours or if it would be a problem if the music ended at midnight.

Jim Allman replied that he didn't think this would be a problem. He added that it usually takes people a while to leave, especially on a Saturday night.

Commissioner Nelson motioned to approve PC 08-31 subject to two (2) conditions. The motion was seconded by Commissioner Olbrysh.

Based on the submitted petition and the testimony presented, the proposal does comply with the standards required by the Lombard Zoning Ordinance; and, therefore, recommends that the Plan Commission recommend to the Corporate Authorities approval of the conditional use associated with PC 08-31 with the following conditions:

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1. Live entertainment shall only take place from 9:00 p.m. and 12:00 a.m. on Friday and Saturday nights.
2. The proprietor shall manage the parking lots on event nights.

Respectfully,

VILLAGE OF LOMBARD

Donald F. Ryan
Lombard Plan Commission

c. Petitioner
Lombard Plan Commission

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