



**Meeting Date:** July 22, 2013  
**Agenda Item:** #10

**VILLAGE OF HOWARD STAFF REPORT**

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**REPORT TO:** President Burt McIntyre  
 Village Plan Commission

**REPORT FROM:** Dave Wiese, Executive Director of Community Development

**AGENDA ITEM:** **Action on tabled Conditional Use to allow live bands to play on the outdoor patio at 792 Riverview Drive**

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**THIS ITEM WAS TABLED AT THE JUNE PLAN COMMISSION MEETING IN ORDER TO HEAR FROM THE APPLICANT.**

**POLICY ISSUE**

Should the Village approve the conditional use permit thereby allowing live bands to play on the outdoor patio at 792 Riverview Drive?

**RECOMMENDED ACTION BY PLAN COMMISSION**

It is recommended that the Plan Commission open the public hearing and ask the applicant to explain the request in detail. Subsequently, the Plan Commission should invite comments from the public and then close the public hearing. After the public hearing is closed, the Plan Commission should review the applicant's request, including how the Conditional Use standards will be met. Finally, if satisfied with the proposal, the Plan Commission should recommend approval to the Village Board with any specific conditions as may be necessary to address concerns voiced by the public, staff or Commission members.

**BASIC INFORMATION**

|                      |                          |
|----------------------|--------------------------|
| Project Name         | Rivers Bend CUP          |
| Applicant            | Lyn Luevanos             |
| Phone                | 920-434-5466             |
| Consultant/Engineer  | N/A                      |
| Parcel Size          | 1.37 acres               |
| Existing Zoning      | Highway Commercial (B-2) |
| Proposed Zoning      | Highway Commercial (B-2) |
| Land Map Designation | Neighborhood Commercial  |

**ADJACENT LAND /ZONING MATRIX**

|       | LAND USE                                      | ZONING    |
|-------|---|-----------|
| North | Duck Creek/Single Family Homes                | R-1       |
| South | VFW   | B-2       |
| East  | Duck creek                                    | R-1       |
| West  | Ball Diamond/Mixed commercial and Residential | B-2 & R-1 |

## **POLICY ALTERNATIVE(S)**

The Plan Commission could take the following action:

- Approve the request without conditions.
- Approve the request with conditions.
- Deny the request
- Table the request until a later meeting date

## **BACKGROUND INFORMATION**

A previous applicant was granted approval for outdoor music at Rivers Bend Restaurant for a maximum of 20 weekend events in 2011. The conditional use approval was good for a 12-month period. The restaurant is under new ownership and management. The new applicant is requesting approval for music and bands on Wednesday evenings from 5:00 p.m. to 10:00 p.m. and one Saturday a month.

Section 50-500(4) requires that *“Except for permitted off-street parking and loading, and except as specifically allowed as a conditional use in accordance with the regulations specified in division 9 of article II of this chapter, all business, servicing, processing, sales and storage shall be conducted within completely enclosed buildings.”*

## **EXECUTIVE ANALYSIS**

1. **Zoning:** The property is zoned Business (B-2). The proposed use is a conditional use in the B-2 zone.
2. **Setbacks:** N/A (no new construction is proposed)
3. **Parking:** N/A
4. **Floodplain, Shoreland Zoning & Stormwater Management:** N/A
5. **Land Division:** N/A
6. **Lighting:** No new exterior lighting is being proposed with this request.
7. **Fire Protection:** This property is served by municipal water and sewer and is located approximately 1 mile from the nearest fire station.

## **CONDITIONAL USE STANDARDS**

The Village Plan Commission shall not recommend and the Village Board shall not approve a conditional use unless findings are first made, based on evidence presented, that the following standards are met:

1. The conditional use shall not be detrimental to or endanger the health, safety, morals, comfort or general welfare of the public.
2. The conditional use shall not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted, nor shall it substantially diminish or impair property values within the neighborhood.
3. The conditional use shall not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district.
4. The exterior architectural appeal and functional plan of proposed buildings and structures shall not be so at variance with existing buildings and structures, or buildings and structures under construction in the immediate area, or the character of the zoning district, as to cause a substantial depreciation in property values within the neighborhood.
5. Adequate utilities, access roads, drainage and necessary facilities are in place or will be provided.
6. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
7. The conditional use shall, in all other respects, conform to applicable regulations of the zoning district in which it is located, except as such regulations may be modified by the village board pursuant to village plan commission recommendations.

### **CONDITIONS SUGGESTED BY STAFF**

1. Outdoor bands and music will be permitted 5-10 p.m. on Wednesdays
2. Outdoor music will be allowed between the hours of 12-10 p.m. on Saturdays for no more than four hours on each day and a maximum of 20 weekend events during the permit period.
3. The consumption of alcohol shall be limited to the patio area within the confines of the existing fence.
4. The outdoor patio area shall be monitored and supervised by staff personnel at all times.
5. No additional lighting shall be added.
6. Access to the smoking and drinking area is required from the tavern only and the existing gate will be used as an exit only.
7. Installation of a pressurized stored water fire extinguisher is required.
8. All speakers will be directed toward the parking lot corner of the patio to use the masonry wall of the building as an acoustic buffer.
9. Direct performers shall lower their volume so decibel level on Riverview Drive adjacent to the residential homes is less than 90 DB (level of a lawn mower.)
10. The Conditional Use approval shall be allowed for a five-year period.

**LINK TO AERIAL VIEW --- <http://data.mashedworld.com/dualmaps/map.htm?x=-88.0625502667&y=44.5618195547=16&gm=2&ve=5&gc=0&bz=16&bd=0&mw=1&sv=1&svb=0&svp=0&svz=0&svm=1&svf=1>**

### **ATTACHMENTS**

- |            |                                       |
|------------|---------------------------------------|
| <b>I</b>   | Completed Conditional Use Application |
| <b>II</b>  | Site plan                             |
| <b>III</b> | Minutes from Plan Commission May 2011 |



2456 Glendale Ave  
Green Bay, WI 54313

**CONDITIONAL USE PERMIT  
APPLICATION**

See Following Pages  
for Materials to be  
submitted with this  
application

Application Fee: \$250.00  
Date: REC'D MAY 29 2011  
Initials: \_\_\_\_\_  
Application #: \_\_\_\_\_

**Applicant** Lyn Luevano  
Name: Rivers Bend-FNB, LLC

Address: 792 Riverview Dr.  
Phone: 920-434-5466 Email: Lyn@riversbendsteakandseafood.com  
Business Name: Rivers Bend  
Conditional Use Site Address: 792 Riverview Dr.  
Landowner of Record: Fidelity Bank  
Address: 288<sup>th</sup> Medford, WI 54451  
Phone: (715)-742-5333 Email: thegeholtz@fidelitybnk.com

**Consultant(s)**

**Architect**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: ( ) - - - - - Email: \_\_\_\_\_

**Contractor/Engineer**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: ( ) - - - - - Email: \_\_\_\_\_

**Parcel/Building Information**

Lot Size: \_\_\_\_\_ Acres/Sq. Ft      Current Zoning: \_\_\_\_\_      Parcel Number: VH - \_\_\_\_\_  
Lot Dimensions: \_\_\_\_\_      Does Current Zoning Permit Intended Use: \_\_\_\_\_  
Bldg. Sq. Footage: \_\_\_\_\_      Street Frontage: \_\_\_\_\_

**Describe Specifically the Nature of the Request:**

On outside patio.  
permit for music & Band  
Wednesday evenings 5-10pm & possible 1 Saturday  
private fenced in patio  
a month.

**REQUIRED**

**(Check the Box to Signify Your Submittal of Listed Items Which Apply to Your Request)**

- A plat of survey or the equivalent thereof depicting the location, dimensions, boundaries, uses and size of the site.
- A site plan including the following:
  - Density and floor area ratio
  - Building heights and setbacks
  - Size & location of lots
  - Screening and fencing
  - Location of sanitary and storm sewer lines
  - Location of water mains
  - Site drainage
  - Location of roads, driveways and walks
  - Existing and proposed structures, parking, loading areas, ingress/egress points
  - Location of recreational and open space areas reserved or dedicated for public uses
  - Percentage of green space & impervious surface
- Landscape plan including table depicting quantity, size and name of species.
- Lighting plan showing photometrics and a specification sheet of all fixtures to be used.
- Full-color rendering of building facades and large samples of colors and building materials that will be used on the project.
- An attachment stating the methods and hours of operation.
- Sign plan with dimensions of sign.

**Submit 10 copies of all color documents. If possible, provide electronic versions (pdf, word, excel, etc) of plans.**

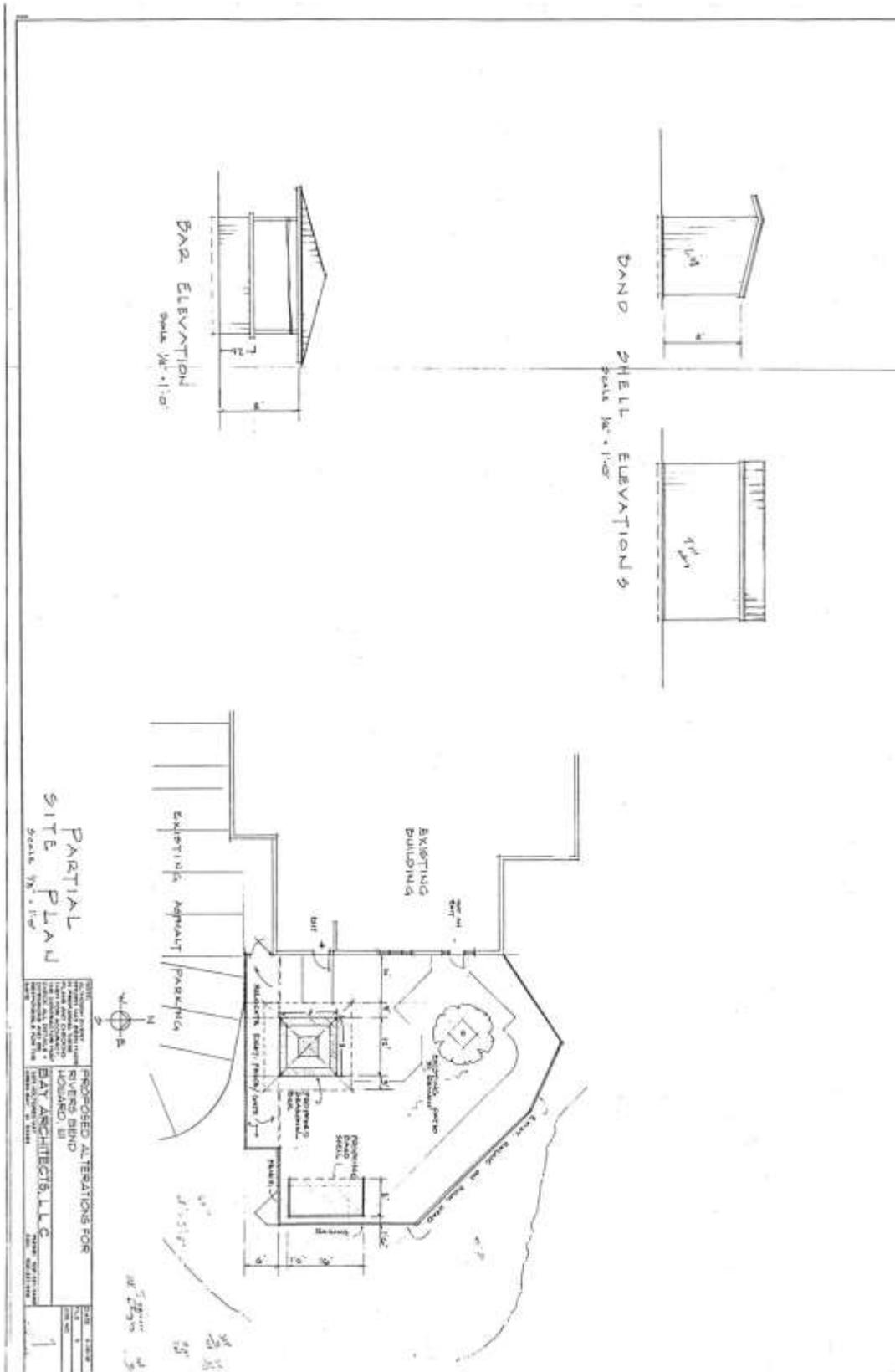
With this signature, I certify that all required materials above have been submitted. Furthermore, I understand any required materials not submitted will result in an incomplete application. Incomplete applications will be returned to the applicant until all required materials are submitted.

X  
Applicant Signature

5/28/13  
Date

Please direct all questions to Dave Wiese at 434-4640 or [dwiese@villageofhoward.com](mailto:dwiese@villageofhoward.com)

ATTACHMENT II





**Minutes of the Plan Commission Meeting  
May 16, 2011 at 6:30 p.m.  
Village Hall Board Room**

**Call to Order** Village President Burt R. McIntyre called the meeting to order at 6:30 p.m.

**Roll Call** Present: Plan Commission members Burt R. McIntyre, Village President; Jim Priewe, Jay Faikel, Nathan Prodell, Bob Strazishar, Dan Roarty.

Excused: Ray Suennen, Trustee Wards 11 & 12

Also (staff): Dave Wiese, Bob Bartelt, Leigh Ann Wagner Kroening

**The Commission recited the Pledge of Allegiance.**

**Approve Agenda** J. Faikel moved to approve the agenda. B. Strazishar seconded the motion. **The motion carried unanimously.**

**Approve 4/18/11 Meeting Minutes** J. Priewe motioned and N. Prodell seconded to approve the minutes from the April 18, 2011 Plan Commission meeting. **The motion carried unanimously.**

**#6 Public Hearing** D. Wiese reported on the request from Jess Senn, representing River's Bend Supper Club, for a Conditional Use Approval to allow live bands to play on the outdoor patio at 792 Riverview Drive, VH-403.

Jess Senn from River's Bend said he spent \$2,000 last year to put carpet on the band stand, to purchase a surround for around the drummer, and to mount the speakers so the sound travels from the building out to the highway and not across the water. He also said he will be very particular about which bands he hires to play.

B. McIntyre opened the public hearing. Greg Henderson, 921 Riverview Drive, said he thinks the changes to the sound system probably will help prevent the amplification off the water. However, he said now he is concerned about the request to allow four days of outdoor concerts each week from April to October. He said that is a burden to the homeowners in that area. He said he would like to have a trial period to see if the sound issues are resolved before the village approves a five-year conditional-use permit.

Jess Senn said he would not have bands booked all day for four days each week. He said he just wants the option and flexibility when booking a band to offer the venue for an afternoon or evening performance. He said so far he only has three concerts planned, and they are each for a few hours on Saturdays. He said he doesn't solicit bands or performances, but just offers it as an option for those who come to him to use the venue. B. McIntyre closed the public hearing.

**#7 Action**

B. McIntyre made a motion to approve the Conditional Use for River's Bend Supper Club to allow live bands to play on the outdoor patio at 792 Riverview Drive, VH-403, with the following conditions:

1. Outdoor concerts will be permitted 5-9 p.m. on Wednesdays and Thursdays
2. Outdoor music will be allowed between the hours of 12-10 p.m. on Saturdays and 12-6 p.m. on Sundays for no more than four hours on each day and a maximum of 20 weekend events during the permit period.
3. The permit period is 12 months.
4. The consumption of alcohol shall be limited to the patio area within the confines of the existing fence.
5. The outdoor patio area shall be monitored and supervised by staff personnel at all times.
6. No additional lighting is added.
7. Safety and police personnel have asked for a condition that will require access to the smoking and drinking area from the tavern only and that the existing gate be used as an exit only.
8. Installation of pressurized stored water fire extinguisher.
9. Direct all speakers toward the parking lot corner of the patio to use the masonry wall of the building as an acoustic buffer.
10. Direct performers to lower their volume so decibel level on Riverview Drive adjacent to the Residential homes is less than 90 DB (level of a lawn mower.)

J. Faikel seconded the motion. **The motion carried unanimously.**