Meeting Date: May 23, 2011
Agenda Item: #5i (i)

Mission Statement
Delivering quality services in a courteous, cost-effective and efficient manner

VILLAGE BOARD STAFF REPORT

REPORT TO: President Burt McIntyre and Village Board

REPORT FROM: Dave Wiese, Executive Director of Community Development

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

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

The Plan Commission unanimously recommended approval 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 that access to the smoking and drinking area be 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.)

POLICY ALTERNATIVE(S)

The Village Board 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

Last year, the applicant was granted approval for outdoor music at Rivers Bend Restaurant from July 1 to October 1. The music was only allowed on Wednesday and Thursday evenings and one Saturday a month. The applicant is requesting the same timeframe during the week but would like to expand the use of the patio on Saturdays and Sundays from 12:00 p.m. to 10:00 p.m. 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."* The applicant has made improvements to the area since last year. He has carpeted the shelter to help absorb noise and installed speakers that face the east toward U.S. 41 and away from the river corridor. After the approval was granted last year, the Community Development office did not receive any complaints regarding the Conditional Use approval.

BASIC INFORMATION

Project Name	Rivers Bend CUP
Applicant	Jess Senn
Phone	920-434-1383
Consultant/ Engineer	N/A
Parcel Size	1.37 acres
Existing Zoning	Highway Commercial (B-2)
Proposed Zoning	Highway Commecial (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

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.
8. **Lot Width and Area:** N/A
9. **Driveway Locations:** N/A
10. **Signage:** N/A
11. **Garbage:** N/A
12. **Landscape:** N/A

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. The consumption of alcohol shall be limited to the patio area within the confines of the existing fence.
2. The outdoor patio area shall be monitored and supervised by staff personnel at all times.
3. Electronically amplified sounds shall be permitted on Wednesday and Thursday evenings from 5:00 -10:00 p.m. from April 1 to October 31 and on Saturdays and Sundays from 12:00-10:00 p.m.
4. No additional lighting is added.
5. Safety and police personnel have asked for a condition that will require that access to the smoking and drinking area be from the tavern only and that the existing gate be used as an exit only.
6. Installation of pressurized stored water fire extinguisher.
7. Direct all speakers toward the parking lot corner of the patio to use the masonry wall of the building as an acoustic buffer.
8. 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.)
9. The Conditional Use approval shall be allowed for a five-year period.

ATTACHMENTS

I	Completed Conditional Use Application
II	Site plan
III	Photos
IV	Minutes from last year's Village Board action on the Conditional Use application

HOWARD WISCONSIN
www.villageofhoward.com

2456 Glendale Ave
Green Bay, WI 54313

See Following Pages for Materials to be submitted with this application

Application Fee: $250.00
Date: 4-7-11
Initials: JS
Application #: _____

Applicant

Name: J Senn Properties
Address: 792 Riverview Dr.
Phone: (920) - 434 - 1383 Email: Jess@Riversbendgb.com
Business Name: Rivers Bend
Conditional Use Site Address: Same
Landowner of Record: Jess Senn
Address: 792 Riverview Dr.
Phone: (920) - 265 - 7900 Email: _____

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: Permit for music + Bands on outDoor patio. Installed Sound System + sound Barriers to ~~Ham~~ Harness the Noise.

Starting April 15th thru Oct 31st

Wednesday + Thursday 5:00 pm - 10:00 pm
Sat + Sun 12:00 Noon - 10:00 pm

All Noise to be at 90 DB (Lawn mower)

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.

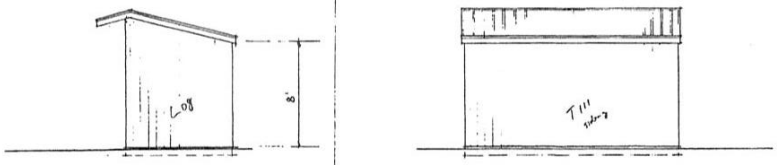
Submit 10 copies of all color documents. If possible, provide electronic versions (pdf, word, excel, etc) of plans.

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.

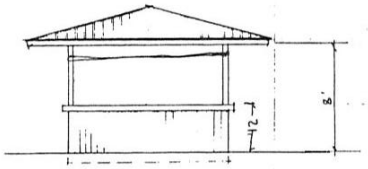
X _____ 4-7-11

Applicant Signature Date

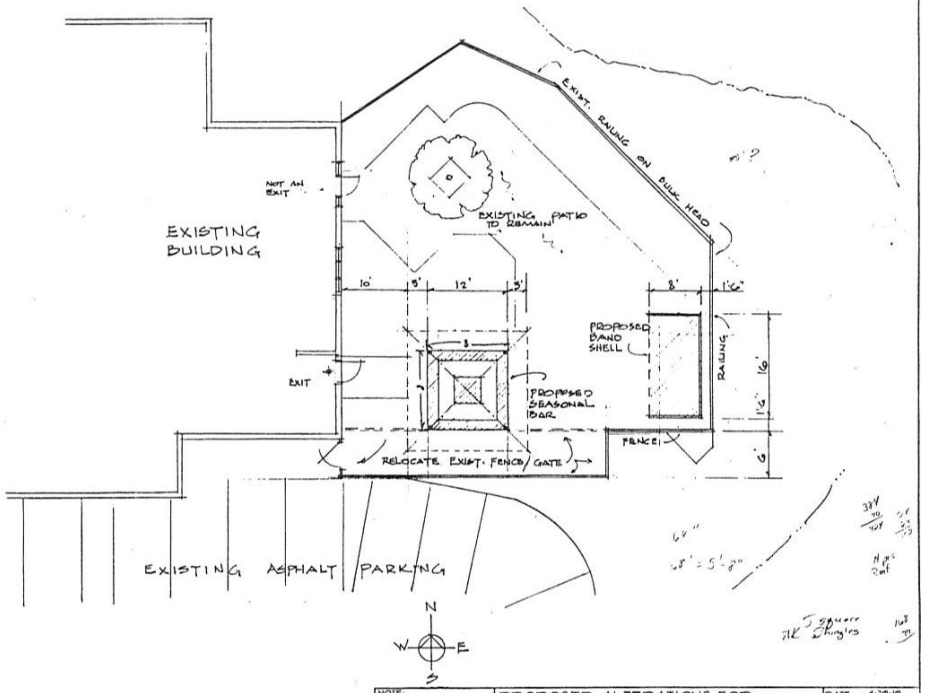
Please direct all questions to Dave Wiese at 434-4640 or dwiese@villageofhoward.com



BAND SHELL ELEVATIONS
SCALE 1/4" = 1'-0"



BAR ELEVATION
SCALE 1/4" = 1'-0"



PARTIAL SITE PLAN
SCALE 1/8" = 1'-0"

NOTE: ALTHOUGH EVERY EFFORT HAS BEEN MADE IN PREPARING THESE PLANS AND CHECKING THEM FOR ACCURACY, THE CONTRACTOR MUST CHECK ALL DETAILS & DIMENSIONS AND BE RESPONSIBLE FOR THE SAME

PROPOSED ALTERATIONS FOR
RIVERS BEND
HOWARD, WI

BAY ARCHITECTS, L L C
3015 HOLMGREN WAY
GREEN BAY, WI 54304
PHONE: 920-337-9400
FAX: 920-337-9416

DATE 4-20-10
FILE
JOB NO.

1

#5h (iii)
River's Bend CUP

C. Hughes moved to approve a request for a conditional use permit from Jess Senn of 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. The consumption of alcohol shall be limited to the patio area within the confines of the existing fence.
2. The outdoor patio area shall be monitored and supervised by staff personnel at all times.
3. Electronically amplified sounds shall be permitted on one Saturday a month from 5:00-9:00 p.m. from July 1st 2010 until October 1st, 2010.
4. No additional lighting is added.
5. Safety and police personnel have asked that a condition be placed on the CUP which will require that access to the smoking and drinking area be from the tavern only and that the existing gate be used as an exit only.
6. Installation of pressurized stored water fire extinguisher.
7. Insulate the interior of the band shell with sound absorbent foam.
8. Direct all speakers toward the parking lot corner of the patio to use the masonry wall of the building as an acoustic buffer.
9. 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.)

R. Bredael seconded the motion. The Board discussed the motion. **The motion failed on a 3 to 5 vote with J. Widiger, B. McIntyre, J. Lemorande, D. Steffen and D. Deppeler dissenting.**

J. Widiger moved to approve with the following conditions: The consumption of alcohol shall be limited to the patio area within the confines of the existing fence.

1. The outdoor patio area shall be monitored and supervised by staff personnel at all times.
2. Electronically amplified sounds shall be permitted on Wednesday and Thursday evenings from 5:00-9:00 p.m. from July 1st 2010 until October 1st, 2010 and on one Saturday a month from 5:00-10:00 p.m.
3. No additional lighting is added.
4. Safety and police personnel have asked that a condition be placed on the CUP which will require that access to the smoking and drinking area be from the tavern only and that the existing gate be used as an exit only.
5. Installation of pressurized stored water fire extinguisher.
6. Insulate the interior of the band shell with sound absorbent foam.
7. Direct all speakers toward the parking lot corner of the patio to use the masonry wall of the building as an acoustic buffer.
8. 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.)

D. Deppeler seconded the motion. **The motion failed on a 4 to 4 vote with R. Bredael, C. Hughes, G. Speaker and J. Lemorande dissenting.**

J. Lemorande moved to approve with the following conditions:

1. The consumption of alcohol shall be limited to the patio area within the confines of the existing fence.
2. The outdoor patio area shall be monitored and supervised by staff personnel at all times.
3. Electronically amplified sounds shall be permitted on Wednesday and Thursday evenings from 5:00 -10:00 p.m. from July 1st 2010 until October 1st, 2010 and on one Saturday a month from 5:00-10:00 p.m.
4. No additional lighting is added.
5. Safety and police personnel have asked that a condition be placed on the CUP which will require that access to the smoking and drinking area be from the tavern only and that the existing gate be used as an exit only.
6. Installation of pressurized stored water fire extinguisher.
7. Insulate the interior of the band shell with sound absorbent foam.
8. Direct all speakers toward the parking lot corner of the patio to use the masonry wall of the building as an acoustic buffer.
9. 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.)

D. Steffen seconded the motion. **The motion carried on a 5 to 3 vote with R. Bredael, G. Speaker and C. Hughes dissenting.**