

MEMORANDUM

To: Mr. Don Johnson, City Manager

From: Gordon Young, Deputy Chief of Police

Cc: Corrigan O'Donohue, Chief of Police *CW*

Date: 6/28/2013

**Re: REQUEST TO CHANGE PLAN OF OPERATION AND EXPAND
OUTDOOR PATIO**

Lily's, located at 410 S. Washington St., has requested to expand their outdoor patio from 12 seats to 30 seats. This request is being made in conjunction with the Café Muse's patio expansion request because the public walkway route in front of their business will change (see attached drawing).

Their outdoor patio is currently located adjacent to their building facade. The proposed patio will be wider than their building façade on both sides and located five feet from the building.

The business located to the south of Lily's is "Blu Jeans Bar." I spoke with the business owner, Monica Wilson, and she approves of the proposed patio layout. I also contacted the business north of Lily's. The business is called JW Design Architectural Studio's. I spoke with Dan DeRemer, Architect, and he approves of the proposed patio layout. JW Design is the architectural company that designed the patio layout for Lily's and Café Muse.

Lily's is also requesting to open their business earlier on Saturday and Sunday. Currently, they open at 10:00 a.m. They are requesting to open at 9:00 a.m.

The format of the business will not change and the interior patron seating will not change (148 interior).

Lily's is a well run establishment with no significant calls for police service. Over the past year, this department responded to five (5) calls-for-service. The Royal Oak Police Department does not object to the requested changes.

However, the Planning Department (see attachment) and Engineering Department are opposed to this proposal. The Engineering Department recommends that the

purpose and intent of the City's public sidewalks is to favor pedestrians and pedestrian safety over the desires to block areas for use by private businesses. The proposed "Cross Access" inhibits optimal pedestrian use and safety, especially with parking access. Should this current concept be considered, Engineering recommends a minimum of 7'-8' of clearance between building and patio/ seating area fencing.

Approval for this change in the Plan of Operation is subject to the approval or denial of the Royal Oak City Commission.

Respectfully,

A handwritten signature in black ink, appearing to read "Gordon Young", with a stylized flourish extending to the right.

Gordon Young
Deputy Chief of Police
Royal Oak Police Department

COMMENTS
SIDEWALK CAFES PROPOSED @
CAFÉ MUSE & LILY'S SEAFOOD
MAY 2013

Standard policy has been to require sidewalk cafes to be located adjacent (next) to the building façade of the petitioner (eligible business) and not in front of other building/business facades. Based upon this well established policy both of the sidewalk café designs being proposed by Café Muse and Lily's Seafood would be rejected by the Planning Department as part of any sidewalk café application.

The policy referenced above along with all other minimum criteria starts with the recognition that the primary purpose of any public sidewalk is for safe pedestrian traffic not to accommodate the biggest possible sidewalk cafe for an adjacent private business.

While the Planning Department supports the concept of sidewalk cafes in the downtown and the very positive added impacts/benefits they provided to both the businesses and the downtown in general we do not support the designs purposed by Café Muse or Lily's Seafood. These configurations add unnecessary conflicts, issues and safety concerns to users of the public sidewalk.

Yes, Ann Arbor and other communities may allow sidewalk cafés to be placed away from the building façade. That does not mean Royal Oak should or needs to allow such configurations. A visit to any of those communities will provide clear evidence that such arrangements create unnecessary additional points of conflict between users of the public sidewalk and servers/wait staff/busboys moving between the building and the sidewalk café to deliver/remove food and/or drink to customers as well as customers exiting the café and/or moving back and forth to use restrooms as well for other reasons. The required five (5) clear path is not truly clear of the business activity.

In addition, to the conflicts one issue with current sidewalk cafes is cleanliness and this proposed configuration will expose even larger areas of the sidewalk to spills and other debris.

The proposed configuration also impacts the ability of people to have direct access to the public sidewalk from a parking space forcing them to walk around the sidewalk café and possibly having to use the traffic travel lane to do so creating additional unnecessary safety concerns.

Allowing eligible businesses to extend sidewalk cafes in front of other businesses also creates it own set of unnecessary issues, including confirmation that the adjacent business or businesses do not object now or in the future, are there different financial and/or insurance issues/requirements, access, maintenance and services issues. How far should an eligible business be allowed to purpose extending a sidewalk café?

The current set of well established policies gives potential sidewalk café applicants clear directions and keeps city staff reviews to a minimum.

The Planning Department can not identify any reason or justification to revise the long standing policies and/or further inconvenience users of the public sidewalk.

Keep in mind that the public sidewalk also includes a variety of other elements; decorative lights, trees/tree grates, flower barrels and boxes, bicycle racks, trash receptacles, directional and traffic control signs/equipment, sandwich board signs, and parking meters.

The Engineering Department also recommends that the “cross access” not be permitted however if the City Commission were to grant the purposed configuration has provided the following design recommendations;

- 1) A minimum of three (3) feet between back of curb and café railing
- 2) The minimum five (5) foot clear pedestrian path should be increased to seven (7) or eight (8) feet when located adjacent to building façade (between building & café railing). If the City Commission were to approve less signage prohibiting loitering should be required.
- 3) All cafés on the same block shall follow a single or same configuration; either adjacent to building façade or away from building façade, so clear pedestrian path is consistent.
- 4) There shall be a minimum clear path of six (6) feet from the street to the building between each sidewalk café.
- 5) The proposals from Lily’s Seafood and Café Muse will need to incorporate additional dimensions and depicted the right-of-way lines. Further, the “rope” railing purposed by Lily’s Seafood should not be allowed, standard railing only.

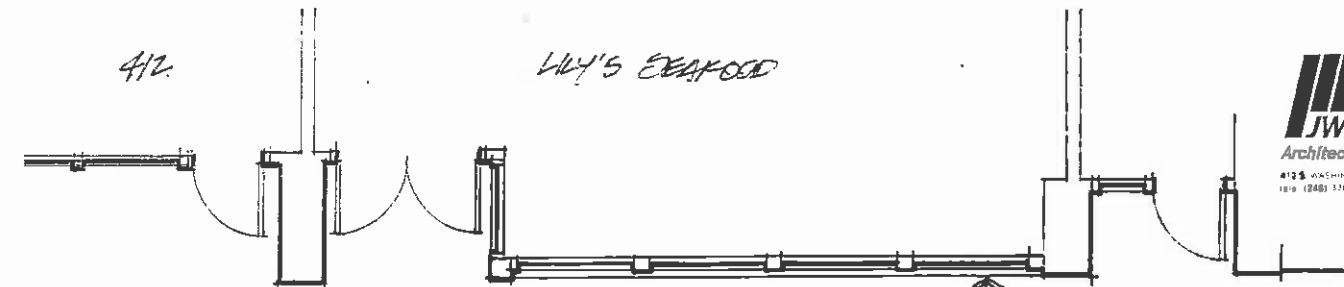
*The City Commission may also wish to establish a maximum length (travel distance) between these clear paths.

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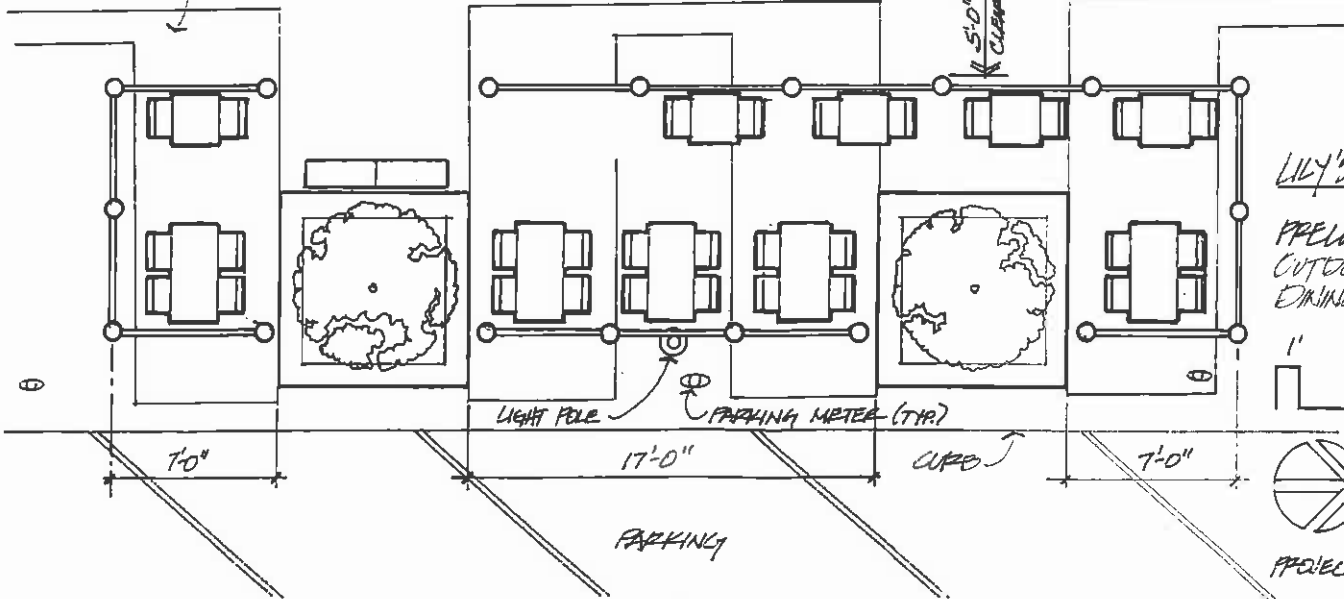
LILY'S SEAFOOD



4125 WASHINGTON AVENUE SUITE 100 • ROYAL OAK, MI • 480
194 (248) 330-2501 • fax (248) 230-2107 • www.jwdesign.com



BRICK FINISH



LILY'S SEAFOOD

PRELIMINARY
OUTDOOR
DINING PLAN.



PROJECT NO. 12050

JUNE 12, 2012

Google





PLAN OF OPERATION
LILY'S SEAFOOD GRILL & BREWERY
410 S. WASHINGTON
ROYAL OAK, MI. 48067
MAY 1, 2013

We have received a copy of Royal Oak City Ordinance #90-3 Liquor Control Ordinance for issuance/transfer for Class C Liquor license, understand it's provisions and will be governed by it. The following Plan of Operation is developed in keeping with the spirit and intent of this Ordinance.

- I. HOURS OF OPERATION: At present our planned hours of operation will be:
- | | |
|-----------------------|----------------------------|
| Saturday and Sunday | 9:00 a.m. until 2:00 a.m. |
| Monday through Friday | 11:00 a.m. until 2:00 a.m. |

Last call will be 30 minutes prior to closing and last service will be 20 minutes before closing.

II. FORMAT: The premises will be primarily operated as a full service restaurant and brewery, offering a full service bar for clientele: a full service kitchen facility for 148 seated patrons which includes 9 bar seats. The premises will include seasonal outside patio seating for up to 30 guests operating under an annual permit from the City of Royal Oak. The business will pay all required fees and comply with all provisions required to obtain and operate under the permit.

We will occasionally offer small acoustical combos and jazz performers on Saturdays and Sundays from 11:00 a.m. until 4 p.m. and Thursday, Friday and Saturday evenings from 7 p.m. until Midnight.

The gross square footage of this establishment is calculated as approx. 6,689 square feet and consists of approx. 4,778 square feet on the 1st floor and approx. 1,911 square feet on the lower level. The gross square footage encompasses all leased areas including mechanical, food preparation, storage, and employee areas as well as entrance, egress, walkways and dining areas.

We agree to adhere to the provisions of the Entertainment Agreement, which has been signed. It is agreed that we will not change the format or type of business without written approval of the City Commission. This includes changing from a full-service restaurant to a bar where food service is reduced, etc. The ratio of food sales to alcohol sales is anticipated to be 65 / 35.

III. CODE COMPLIANCE: Architectural plans have been submitted and approved by the Building Inspection Department. The Planning Department has approved the sight plan. The premises fully comply with all applicable health, building, zoning and fire codes. Concerns regarding barrier free accessibility have been addressed in the plans and have been implemented.

The Outdoor service Area will operate in accordance with and consistent with all city policies, practices and procedures regulating outdoor service, including, but not limited to:

- a) The Outdoor service Area will not be permanently enclosed;

b) The fence and or barricades or rail surrounding the Outdoor Service Area should be anchored in accordance with the Uniform Engineering Anchoring System, as promulgated by the Engineering Department of the City of Royal Oak;

c) The manner in which the Outdoor Service Area is enclosed shall be subject to inspection by the Police and Engineering Departments;

d) The use of alcohol will be allowed in accordance with the rules of the Michigan Liquor Control Commission from April 15 to October 31st;

e) Wait staff shall transport all alcoholic beverages to/from the Outdoor Service Area.

f) The Outdoor Service Area will be clean, free of debris and trash, and shall be cleaned at the close of each business day; and

g) Morton Brothers Inc. d.b.a. Lily's Seafood Grill & Brewery will pay fees in accordance with the City's Sidewalk Cafe License Agreement

IV. **PLAN OF OPERATION:** It is acknowledged that under Ordinance 90, Section 3, the business shall be operated in accordance with an approved Plan of Operation. Changing the operation of the business in any manner inconsistent with the approved Plan of Operation is a violation of the ordinance and the rules of the Liquor Control Commission. Any change to the Plan of Operation must be approved by the City Commission prior to it being placed into effect on the business premises.

V. **SECURITY:** Security for the guest, building and community is the first priority for the corporation, and as such, we will undertake whatever measures are necessary to maintain and supervise the expected level.

VI. **PARKING:** Parking shall be provided as follows:

Monthly parking passes will be purchased.

Employees will be instructed to park in the 6th & Lafayette Structure.

Employees may not park at metered street spaces.

Employees who do not adhere to this policy will face disciplinary actions.

VII. **ALCOHOL MANAGEMENT:** The establishment will strictly obey all rules and regulations promulgated by the City of Royal Oak and the State of Michigan Liquor Control Commission. There will be neither service to nor consumption of alcoholic beverages by minors at any time. No alcohol will be sold, or permitted to be sold, on a commission basis by any person.

The following policies will be enforced at the establishment:

1. No alcoholic beverages will be allowed on the premise, other than what is dispensed by the establishment.

2. All staff will pay attention and be alert to observable clues displayed by an intoxicated individual such as: impaired reflexes, impaired coordination, reduced judgment and inhibitions, impaired vision, slurred speech, aggressive behavior, etc.
3. All staff will be alert to potential problems at their respective areas of the facility.
4. Be polite and courteous to the intoxicated individual. Be knowledgeable as to when to request assistance from additional facility staff.
5. Patrons who appear to be 30 years of age or younger will be asked to show proper State of Michigan Identification. Signage will be posted at service locations. Patrons must produce proper identification to obtain service. The following procedures will be followed:
 - 5.1 All patrons under 21 years of age will be refused alcohol service.
 - 5.2 Check State Seal and other markings. Check I.D. for damage or alterations.
 - 5.3 Do not return falsified I.D. cards. Notify management immediately.
6. If a patron shows signs of intoxication, service will be refused, policy will be politely explained. Non alcoholic alternatives will be offered. Management will be contacted as necessary.
7. A patron may not purchase alcoholic beverages on behalf of another patron unless staff has already verified that both patrons are of legal age. Refuse service to minors. Inform all parties involved that policy allows for ejection off of premise if illegal activity has occurred.
8. Alcohol dispensing may be restricted to one of the following practices or any combination thereof:
 - No sales to intoxicated persons.
 - No sales without proper identification.
 - Limited alcoholic choices, if necessary
 - When in doubt, do not serve, consult with management.
9. Observed all patrons leaving property. No open alcoholic beverages are allowed to leave the facility or property.
10. Approach any patron appearing to be impaired and leaving premises. Determine if they are driving, if so, attempt to persuade them not to drive and request a non-impaired companion to drive. If unable, refer patron to bus or taxi service.
11. Supervisory and management personnel will complete documentation of any alcohol related incidents at the end of the event. Information will be disseminated accordingly.
12. Lily's will provide non alcoholic beverages at reduced prices to patrons identifying themselves as designated drivers.
13. The establishment fully participates and will continue to participate in the T.I.P.S. program. T.I.P.S. (or a similarly recognized program approved by the Royal Oak Chief of Police) certification for all service staff must be completed within 30

days from date of hire. A record of each front of the house employee's T.I.P.S. certification card will be kept on file and available for inspection by the Royal Oak Police Department within 35 days after the date of hire

- VIII. REFUSE DISPOSAL: The establishment will dispose of refuse in an enclosed dumpster with lid. Pick up will be a minimum of 3 times per week. A water line and spigot will be provided to clean the dumpster area as necessary.
- IX. GENERAL: Every effort will be made to maintain positive relationships with adjacent and nearby businesses, neighbors as well as cooperation with the City. Every reasonable effort will be made to solve problems that may arise.
- X. EMERGENCY CONTACTS:
Robert Morton @ (H) 248.398.2964 (C) 248.797.8156
Scott Morton @ 248.336.2063

Date 5.01.2013
Morton Brothers Inc.
D.B.A. Lily's Seafood Grill & Brewery

By: _____
Robert K. Morton
President / Morton Brothers Inc.

PLAN OF OPERATION
LILY'S SEAFOOD GRILL & BREWERY
410 S. WASHINGTON
ROYAL OAK, MI. 48067
March 8, 2011

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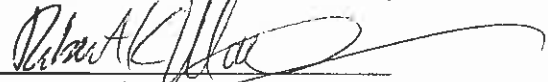
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Date 3.08.2011

Morton Brothers Inc.

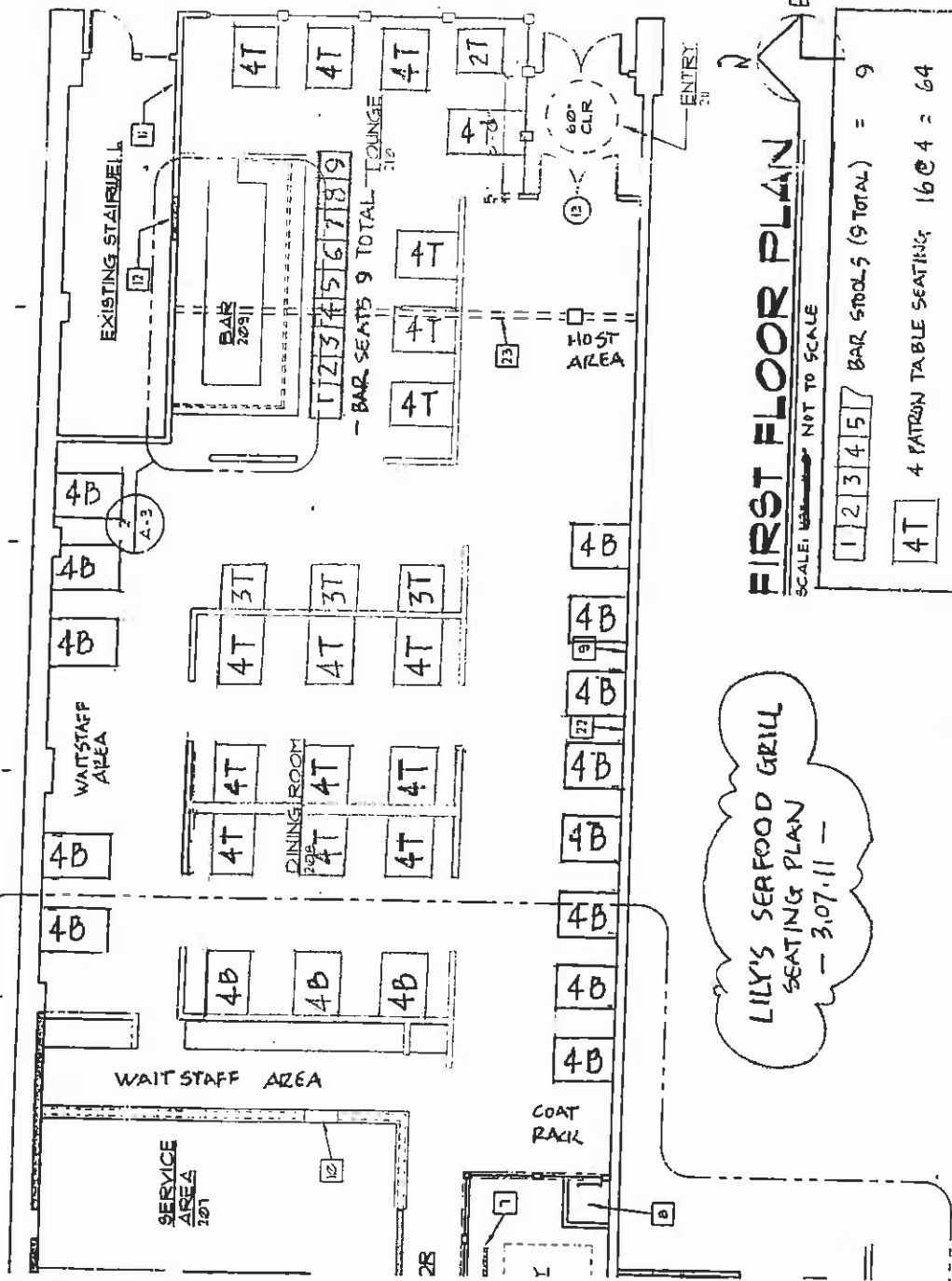
D.B.A. Lily's Seafood Grill & Brewery

By:



Robert K. Morton

President / Morton Brothers Inc.



FIRST FLOOR PLAN

SCALE: 1/8" = 1'-0" NOT TO SCALE

1	2	3	4	5	7	BAR STOOLS (9 TOTAL) = 9
4T	4 PATRON TABLE SEATING: 16 @ 4 = 64					
4B	4 PATRON BOOTH SEATING: 16 @ 4 = 64					
3T	3 PATRON TABLE SEATING: 3 @ 3 = 9					
2T	2 PATRON TABLE SEATING: 1 @ 2 = 2					
TOTAL SEAT: 148						

LILY'S SEAFOOD GRILL
SEATING PLAN
- 3.07.11 -



THE CAPACITY OF THIS ROOM IS LIMITED TO 148 PERSONS

Royal Oak Police Department

Address 410 S. Washington

Date Issued 2/9/05

Location/Room Lily's Seafood

Issued By Lt. D. Welch

Lt. D. Welch, Liquor License Coordinator



Theodore H. Quisenberry, Chief of Police



This occupant capacity placard is to be posted in a conspicuous location.

LILY'S SEAFOOD
410 S. WASHINGTON

TOTAL CALLS FOR SERVICE – 05/01/2012 – 05/01/2013 = 5

<u>DATE</u>	<u>REPORT/D-CARD</u>	<u>COMPLAINT</u>	<u>SYNOPSIS</u>
9/1/2012	12-24329D	Welfare Check	Male subject is passed on in a men's bathroom stall. Bar called back to say that he left. No report.
11/22/2012	12-32355D	Disorderly Person	Manager requested officers. Sent on way. No report.
3/19/2013	13-7547D	Open Alarm	Right rear entry doors. Cancel per alarm company. No report.
5/6/2013	13-12658D	Suspicious Persons	Female subject was taking food off of customer's plates. When asked to leave threatened to get a gun. Gone on arrival. Checked area. No report.
5/18/2013	13-13874D	Open Alarm	Male subject on scene unable to get name or password. Cancel per alarm company. No report.