

**BOROUGH OF RIVER EDGE MUNICIPAL LAND USE BOARD**

**RESOLUTION GRANTING SITE PLAN APPROVAL FOR A  
FOOD HANDLER'S LICENSE FOR PATDOM, L.L.C.**

**259 JOHNSON AVENUE  
BLOCK 1417, LOT 3  
RIVER EDGE, NEW JERSEY  
APPLICATION NO. 2020-\_\_**

**WHEREAS**, the Municipal Land Use Board of the Borough of River Edge (the "Borough") is a duly constituted body as authorized by statute with responsibility to supervise and be concerned with the orderly development and planning of the Borough, as authorized by the statutes and ordinances made and provided; and

**WHEREAS**, PatDom, L.L.C. (hereinafter referred to as the "Applicant") has filed an application with the Municipal Land Use Board (the "Board") of the Borough of River Edge for property known as Block 1417, Lot 3 on the tax map of the Borough of River Edge, located at 259 Johnson Avenue (the "Property"), for site plan approval for a food handler's license; and

**WHEREAS**, the Board deemed the application complete on April 15, 2020 and a public hearing was also conducted on April 15, 2020; and

**WHEREAS**, the Applicant was represented by Aiyana Gallardo, Esq., Waters, McPherson, McNeill, P.C., 300 Lighting Way, Secaucus, New Jersey 07096; and

**WHEREAS**, Carmine Teta ("Mr. Teta"), the owner/operator of the Applicant, was duly sworn and provided testimony in support of the application; and

**WHEREAS**, James Miaoulis ("Mr. Miaoulis"), the owner/operator of Paragon Parking Management, a valet parking service, was duly sworn and provided testimony in support of the application; and

**WHEREAS**, the public was given notice of the application and had an opportunity to participate in the hearing and no one appeared to be heard; and

**WHEREAS**, the Applicant submitted proof of notification, by mail or personal service at least 10 days prior to the date set forth for public hearing on all persons owning properties within 200 feet from the extreme limits of the Property for the subject application, as set forth on a certified list of said owners furnished to the Applicant by the Tax Assessor of the Borough of River Edge and provided proof of service of such notice in accordance with the Zoning Ordinance of the Borough of River Edge, as amended and supplemented, and the Municipal Land Use Law (the öMLULö), N.J.S.A. 40:55D-1 to -163; and

**WHEREAS**, the Applicant submitted proof that a copy of said notifications were published at least 10 days prior to the date set forth for public hearing in the official newspaper of the Borough of River Edge in accordance with the Zoning Ordinance of the Borough of River Edge as amended and supplemented, and the MLUL; and

**WHEREAS**, all jurisdictional requirements of the applicable state statutes and local ordinance were met; and

**WHEREAS**, pursuant to §350-4(e) of the Code of the Borough of River Edge, site plan approval shall be required for any building or structure (regardless of its previous use) which is to be used as a restaurant for sit-down service or take-out service, or as a fast food establishment, or any other intended use where a beverage or food handler's license is required; and

**WHEREAS**, the Applicant submitted a Site Plan prepared by Thomas A. Crimmins, PE, and Bernard Tomulich, PLS, of Garden State Engineering Surveying & Planning, 25 East Spring Valley Avenue, Maywood, New Jersey 07607, dated December 7, 2000; and

**WHEREAS**, the Applicant submitted a Location Survey prepared by Robert J. Mueller, PLS, of Hubschman Engineering, 263 South Washington Avenue, Bergenfield, New Jersey 07621, dated October 29, 2014; and

**WHEREAS**, the Applicant submitted a Letter of Noncompliance issued by Thomas Behrens, PP, AICP (Mr. Behrens), the Board Planner, dated February 13, 2020; and

**WHEREAS**, at the public hearing held on April 15, 2020, the Applicant presented the following, which were marked and made part of the record:

- Exhibit 1: Rendering of signage on front of building consisting of one (1) page;
- Exhibit 2: Parking plan prepared by Paragon Parking Management, consisting of four (4) pages; and
- Exhibit 3: Floor plan consisting of one (1) page;

**WHEREAS**, after carefully considering the evidence and testimony presented by the Applicant, as well as the February 13, 2020 Letter of Noncompliance, the Board has made the following factual findings and conclusions:

The Proposal

1. The Board reviewed the application and deemed it complete on April 15, 2020 during its work session. The Board held a public hearing on the application immediately following the work session.

2. The Applicant is seeking site plan approval for the proposed change in ownership of the former Rugova Restaurant space on the Property in accordance with §350-4E of the Borough Code, which states notwithstanding the provisions of Section 350-5B(3), site plan

approval shall be required for any building or structure (regardless of its previous use) which is to be used as a restaurant for sit-down service or take-out service or as a fast-food establishment, or any other intended use where a beverage or food handlers license is required.

3. The Applicant intends to operate a restaurant called "Sonny Tö" on the Property. The application indicated that the purpose was to obtain site plan approval for change of ownership of a food handlers license and no additional changes would occur on the Property.

4. The Property is located in the C-2 Commercial Zoning District, where the restaurant is a permitted use.

5. The Property, identified as Block 1417, Lot 3, is a 0.3148 acre tract developed with a two-story restaurant building with frontage on Johnson Avenue. There are 15 parking spaces on-site and the Applicant has arranged agreements for approximately 50 off-site parking spaces and valet services for additional parking beyond what is required in prior approvals.

6. The Applicant proposes to operate the new restaurant in accordance with prior Board approvals for the site, including any signage. The proposed number of seats is 100, based on prior Resolutions of the River Edge Planning Board dated February 11, 2016 and February 23, 2017. The restaurant will operate from 12 p.m. to 2 a.m. and will have approximately eight (8) employees. The Applicant has obtained a liquor license from the Borough.

#### Public Hearing

7. The Board considered the February 13, 2020 Letter of Noncompliance by Mr. Behrens. Pursuant to Mr. Behrens letter, in accordance with Borough Code §350-4E, notwithstanding the provisions of §350-5B(3), site plan approval shall be required for any building or structure (regardless of its previous use) which is to be used as a restaurant for sit-

down service or take-out service or as a fast-food establishment, or any other intended use where a beverage or food handlers license is required.

8. The Board considered testimony from Carmine Teta (Mr. Teta), owner/operator of the Applicant, who was duly sworn and provided testimony in support of the application.

9. Mr. Teta testified that there would be a sign on the front of the building with three barn lights above as indicated in Exhibit 1, the signage rendering.

10. Mr. Behrens advised that any signage and lighting must be in conformance with the Borough's Zoning Ordinance. The Applicant agreed to such condition.

11. The Board raised concerns about a possible ADA accessible lift that Mr. Teta had testified would be installed at the front of the building and would possibly encroach on the Borough's right of way. Mr. Behrens and the Board Engineer, Robert L. Costa, P.E., P.P. & C.M.E., (Mr. Costa) advised that the application before the Board did not include the construction of the ADA accessible lift and the Board does not have jurisdiction to permit any encroachment into the Borough's right of way. In addition, Mr. Costa and Mr. Behrens advised that if any construction were to occur over the property line, the Applicant would be required to go before the Borough Council for approval. The Applicant agreed that any construction would occur within the property line or the Applicant would have to come back for additional approvals.

12. The Board heard testimony from Mr. Miaoulis, owner and operator of Paragon Parking Management (Paragon), regarding the Applicant's agreement with Paragon to provide valet parking off-site for restaurant patrons. Paragon has entered into parking agreements with two nearby businesses, as identified in Exhibit 2, for shared parking totaling fifty (50) spaces.

The application did not require additional parking of a parking variance. Mr. Miaoulis' testimony was received for information purposes only and not as a condition of approval.

13. The Board raised questions about the accuracy of plans submitted and any additional construction on the Property. Mr. Teta testified that everything would remain the same with the exception of the installation of the ADA lift in the front of the building to provide access. Mr. Behrens and Mr. Costa advised that new plans with reference to the ADA lift and any encroachments of the Borough's right of way must be submitted for review.

14. The Board also raised concerns about outdoor seating indicated in Exhibit 3, the floor plan. Mr. Behrens advised that the application was only for a change in ownership for a food handler's license and did not provide details regarding seating or parking changes. The Applicant agreed that parking and seating on the Property would remain unchanged and would conform to prior Board approvals or the Applicant would have to come back before the board with a new application.

15. The meeting was opened to members of the public for comment but no one appeared to be heard.

16. The Board then entertained a motion to grant the application, with conditions, requesting site plan approval for a food handler's license. A motion to grant the application was made by Michael Krey and seconded by Ryan Gibbons. A vote was taken and the application was granted by the Board by a vote of 9 to 0.

#### Justification for Relief

17. The application met the requirements of the Borough Ordinance, prior Board Resolutions associated with the Property and did not require variance relief. Any changes to seating or parking on the Property that do not align with the Borough Ordinance or prior Board

Resolutions associated with the Property would require the filing of a new application with the Board.

18. The Board determined that the Applicant addressed all issues raised by Mr. Behrens in his February 13, 2020 Letter of Noncompliance to the satisfaction of the Board.

**NOW THEREFORE, BE IT RESOLVED** that the Municipal Land Use Board of the Borough of River Edge hereby grants the Applicant site plan approval for food handler's license, with the following conditions:

1. The Applicant shall post all required application fees and provide sufficient funds with the Borough to satisfy any deficiency in the Applicant's escrow account. No permits or certificates will be issued, nor will any work be performed by Board professionals or staff at any time that the Applicant's escrow account balance is not paid current, which shall be set forth by certification of the Board Planner. The Applicant will have a continuing duty to maintain a positive balance in all escrow accounts until all conditions have been satisfied and all charges have been paid.

2. Completion of the proposed development and subsequent use of the Property shall be consistent with testimony offered at the public hearing, the findings and conclusions of the Board herein, and the conditions set forth in this Resolution.

3. The Board's approval is expressly subject to all State, County and Borough statutes, ordinances, rules, regulations and requirements affecting development in the Borough, County and State.

4. The Applicant's obtaining of approvals from all outside agencies shall be a prerequisite for issuance of a building permit, including but not limited to, obtaining written final approval from the Bergen County Planning Board, Bergen County Soil Conservation District,

New Jersey Department of Environmental Protection, and the Borough of River Edge, if applicable.

5. The Applicant shall apply for and obtain a soil movement permit, to the extent as may be required.

6. Any construction for an ADA lift shall be within the property line or the Applicant must obtain additional approvals from the Borough.

7. The Applicant shall maintain existing parking spaces and seating numbers in conformance with the requirements of any prior approvals or the Applicant must submit a new application to the Board.

8. The proposed sign shall fit within the existing sign box, will conform to the requirements of any prior approvals and will match the depiction provided in the application and renderings.

9. The Applicant shall submit a revised survey and/or plans for the front of the property line for approval by the Building Department.

10. If necessary, an escrow account shall be established for the Borough Engineer, in order that the Engineer can do a pre-construction inspection of the premises.

11. The Applicant shall comply with all requirements of Costa Engineering, subject to the reasonable satisfaction and approval of Costa Engineering and the Board.

12. The Applicant shall comply with all comments and conditions imposed by the Board, the Board Engineer and the Borough Engineer, as stated on the record and as may be stated in this Resolution.



**Vote On the Application**

MEMBER	M	2D	YES	NO	ABSTAIN	ABSENT	INELG
Mayor Thomas Papaleo			X				
Councilman Chinigo			X				
James Arakelian			X				
Eileen Boland			X				
Louis Grasso			X				
Alphonse Bartelloni						X	
Michael Krey	X		X				
Richard Mehrman						X	
Chris Caslin			X				
Ryan Gibbons [Alternate #1]		X	X				
Gary Esposito [Alternate #2]			X				

**Vote on the Memorialization**

MEMBER	M	2D	YES	NO	ABSTAIN	ABSENT	INELG
Mayor Thomas Papaleo							
Councilman Chinigo							
James Arakelian							
Eileen Boland							
Louis Grasso							
Alphonse Bartelloni							X
Michael Krey							
Richard Mehrman							X
Chris Caslin							
Ryan Gibbons [Alternate #1]							
Gary Esposito [Alternate #2]							

BE IT FURTHER RESOLVED that the Resolution adopted on this \_\_\_\_\_ day of \_\_\_\_\_, 2020 memorialized the action taken by the Board in accordance with N.J.S.A. 40:55D-10.g, as set forth above, at its April 15, 2020 meeting, and that a copy of this Resolution be provided to the Applicant, the Construction Code Official of the Borough of River Edge, and a notice of this decision shall be published in the official newspaper of the Borough of River Edge.

\_\_\_\_\_  
James Arakelian, Chairman

Dated: \_\_\_\_\_

### **CERTIFICATION**

I, Louis Grasso, Secretary of the Board, do hereby certify that the above Resolution was adopted by the Board at its meeting held on \_\_\_\_\_, 2020. This Resolution memorializes the Board's approval of this matter at its meeting held on April 15, 2020.

\_\_\_\_\_  
Louis Grasso, Secretary  
Borough of River Edge  
Municipal Land Use Board