

TO: Committee of the Whole

FROM: Drew Rackow AICP, Planner

DATE: April 17, 2020

RE: Ordinance 20-31: Granting a Conditional Use Permit for a Video Gaming Establishment in the DMU Downtown Mixed Use District, 142 West Wilson Street
RP3 Group, LLC dba Riverside Pizza and Pub, Applicant

Summary: The Plan Commission held a Public Hearing on April 15th to consider an application to grant a Conditional Use Permit to allow Video Gaming at Riverside Pizza & Pub, 142 West Wilson Street. The request would allow for five video gaming (gambling) machines at the rear of the establishment. The Plan Commission recommended approval of the Conditional Use, subject to conditions as specified in attached draft Ordinance 20-31.

Background: The Conditional Use requirement for gaming was added to allow for an additional level of oversight for proposed gaming establishments in the City. The Conditional Use allows for a review of each new location, with the ability to impose reasonable operational conditions unique to each business. Riverside Pizza would locate a gaming area behind already constructed partition walls near the pool tables at the rear of the restaurant space. The walls would limit access and provide necessary separation from other activities on the premises, consistent with state and local regulations. The gaming area would be monitored by bar staff and be under monitoring by security camera. Riverside Pizza currently operates video gaming at their South Elgin and St. Charles locations.

Plan Commission Review and Action: The Plan Commission conducted a Public Hearing during their remote meeting on April 15th. No members of the public spoke. Brian Panozzo, applicant, answered questions from the Plan Commission. He explained that the gaming area would consist of five machines and there would be 2 cocktail tables in the gaming area. Commissioners discussed hours of liquor service. The applicant noted that hours of operations conform with the State and Local liquor codes. The Commission agreed that the proposed use would be compatible with the present use and the Downtown area. The Plan Commission made positive findings for the Conditional Use as stated in the draft Ordinance. By a vote of 5-0 (2 absent) the Commission recommended approval, subject to the conditions specified in Ordinance 20-31.

Alternatives: The Committee can recommend approval or denial of Ordinance 20-31 as presented or consider amendments to the Ordinance before taking action.

Impacts: Approval would establish the zoning necessary to grant a local gaming license for Riverside Pizza. The City would receive the local share of gaming revenue from these terminals from the state, benefiting the General Fund. No impact to staff or City services is anticipated, other than the issuance of licensing is anticipated by this action.

Timeline for Actions: COW action will allow for final City Council action on May 3rd.

Recommendation: Staff recommends approval of Ordinance 20-31 as presented.

Attachments: Ordinance 20-31
Plan Commission Report

- c Mayor and City Council
 - Department Heads
 - Brian Panozzo, Applicant
 - Steven Nilles, Applicant
 - Media

**CITY OF BATAVIA, ILLINOIS
ORDINANCE 20-31**

**GRANTING A CONDITIONAL USE PERMIT FOR A
VIDEO GAMING ESTABLISHMENT IN THE DMU DOWNTOWN MIXED USE
DISTRICT**

**RP3 GROUP LLC DBA RIVERSIDE PIZZA & PUB, APPLICANT
(142 WEST WILSON STREET)**

**ADOPTED BY THE
MAYOR AND CITY COUNCIL
THIS 4th DAY OF MAY, 2020**

Published in pamphlet form
by authority of the Mayor
and City Council of the City of Batavia,
Kane & DuPage Counties, Illinois,
This 5th day of May, 2020

Prepared by:
City of Batavia
100 N. Island Ave.
Batavia, IL 60510

**CITY OF BATAVIA, ILLINOIS
ORDINANCE 20-31**

**CONDITIONAL USE PERMIT FOR A
VIDEO GAMING ESTABLISHMENT IN THE DMU DOWNTOWN MIXED USE DISTRICT**

RP3 Group LLC dba Riverside Pizza & Pub, Applicant
(142 West Wilson Street)

WHEREAS, RP3 Group LLC dba Riverside Pizza & Pub, has submitted an application for a Conditional Use Permit to the City of Batavia authorized by Batavia Enterprises Inc. owner of 142 West Wilson Street, located on the property legally described as:

LOT 3 IN THE FINAL PLAT OF BATAVIA PLAZA RESUBDIVISION, BEING A RESUBDIVISION OF THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED AUGUST 5, 2015 AS DOCUMENT 2015K041957, IN THE CITY OF BATAVIA, KANE COUNTY, ILLINOIS

COMMONLY KNOWN AS 142 WEST WILSON STREET, BATAVIA, ILLINOIS.

WHEREAS, said Applicant is requesting a Conditional Use Permit to allow the operation of a Video Gaming Establishment in the DMU Downtown Mixed Use zoning district; and

WHEREAS, notice was duly executed, and the Batavia Plan Commission held a public hearing on April 15, 2020; and

WHEREAS, following said hearing, the Plan Commission made the following findings required for approval:

1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general.

FINDING: The proposed use would be complimentary to food and liquor service uses occurring on the premises and subordinate to those activities. The proposed use would not negatively affect persons working or living in the vicinity or adjacent or nearby properties, provided that adequate access, control and supervision are utilized for the video gambling area

2. The proposed use, as conditioned, conforms with the purposes, intent, and policies of the Comprehensive Plan and any applicable area, neighborhood, or other plan adopted by the City Council.

FINDING: Goal 6, Policy A of the Land Use Element encourage focusing on the Downtown as a focal point within the community where more intense development/activity can occur. Additional use of the lease space for gaming would be consistent with that policy. The Comprehensive Plan also seeks to maintain and

strengthen retail areas. As conditioned, the proposed use, would provide an entertainment activity on the subject property, which may spur additional economic activity.

3. The proposed use conforms with the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements.

FINDING: The proposed use is an allowed use in the DMU District with approval of a conditional use permit. As conditioned, it would conform to requirements of the Zoning Code and applicable government requirements, including seeking necessary licensing subsequent to this action.

4. The proposed use, as conditioned, would conform generally to the Zoning Code and applicable government requirements.

FINDING: As conditioned, the proposed use would not interfere with the use and enjoyment of nearby properties and lease spaces, provided that adequate access, control, and supervision are utilized for the video gambling area.

WHEREAS, after making its findings, the Plan Commission recommended to the City Council approval of a Conditional Use Permit being granted to RP3 Group LLC dba Riverside Pizza & Pub subject to the following conditions:

1. The applicant shall at all times be in compliance with Title 3, Chapter 26 of the Batavia Municipal Code and State Licensing Requirements. Failure to comply shall be grounds for revocation of the Conditional Use.
2. The Conditional Use be granted solely to RP3 Group LLC dba Riverside Pizza and Pub in the existing lease space at 142 West Wilson Street, so long as the use remains subordinate to the Eating and Drinking Establishment use.
3. That the video gaming area be in compliance with the floor plan as submitted as part of this application. Any relocation of the gaming area shall require review and approval by the City Council.
4. Operation of the gaming area shall only occur during hours when liquor service is available.

WHEREAS, on April 28, 2020, the City Council's Committee of the Whole reviewed the application, the record of the public hearing, and the actions and findings of the Plan Commission and recommended approval of a Conditional Use Permit being granted to RP3 Group LLC dba Riverside Pizza & Pub, subject to conditions; and

WHEREAS, the City Council of the City of Batavia has considered the recommendations of both the Plan Commission and the Committee of the Whole.

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Batavia, Kane and DuPage Counties, Illinois:

SECTION 1: The application for a Conditional Use Permit submitted by RP3 Group LLC, to allow the operation of a Video Gaming Establishment at 142 West Wilson Street in the DMU Downtown Mixed Use District, under City Code Title 10, Chapter 5.4, whose application included a floor plan attached hereto as **Exhibit "A"** is hereby approved with the following conditions:

CITY OF BATAVIA, ILLINOIS ORDINANCE 20-31

1. The applicant shall at all times be in compliance with Title 3, Chapter 26 of the Batavia Municipal Code and State Licensing Requirements. Failure to comply shall be grounds for revocation of the Conditional Use.
2. The Conditional Use be granted solely to RP3 Group LLC dba Riverside Pizza and Pub in the existing lease space at 142 West Wilson Street, so long as the use remains subordinate to the Eating and Drinking Establishment use.
3. That the video gaming area be in compliance with the floor plan as submitted as part of this application. Any relocation of the gaming area shall require review and approval by the City Council.
4. Operation of the gaming area shall only occur during hours when liquor service is available.

SECTION 2: That this Ordinance 20-31 shall be in full force and effect upon its presentation, passage and publication according to the law.

PRESENTED to the City Council of the City of Batavia, Illinois, this 4th day of May, 2020.

PASSED by the City Council of the City of Batavia, Illinois, this 4th day of May, 2020.

APPROVED by me as Mayor of said City of Batavia, Illinois, this 4th day of May, 2020.

Jeffery D. Schielke, Mayor

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	O'Brien					Baerren				
2	Callahan					Wolff				
3	Meitzler					Chanzit				
4	Malay					Knopp				
5	Uher					Beck				
6	Cerone					Russotto				
7	McFadden					Miller				
Mayor Schielke										
VOTE:		Ayes	Nays	Absent	Abstention(s)					
Total holding office:		Mayor and 14 aldermen								

ATTEST:

Ellen Posledni, City Clerk

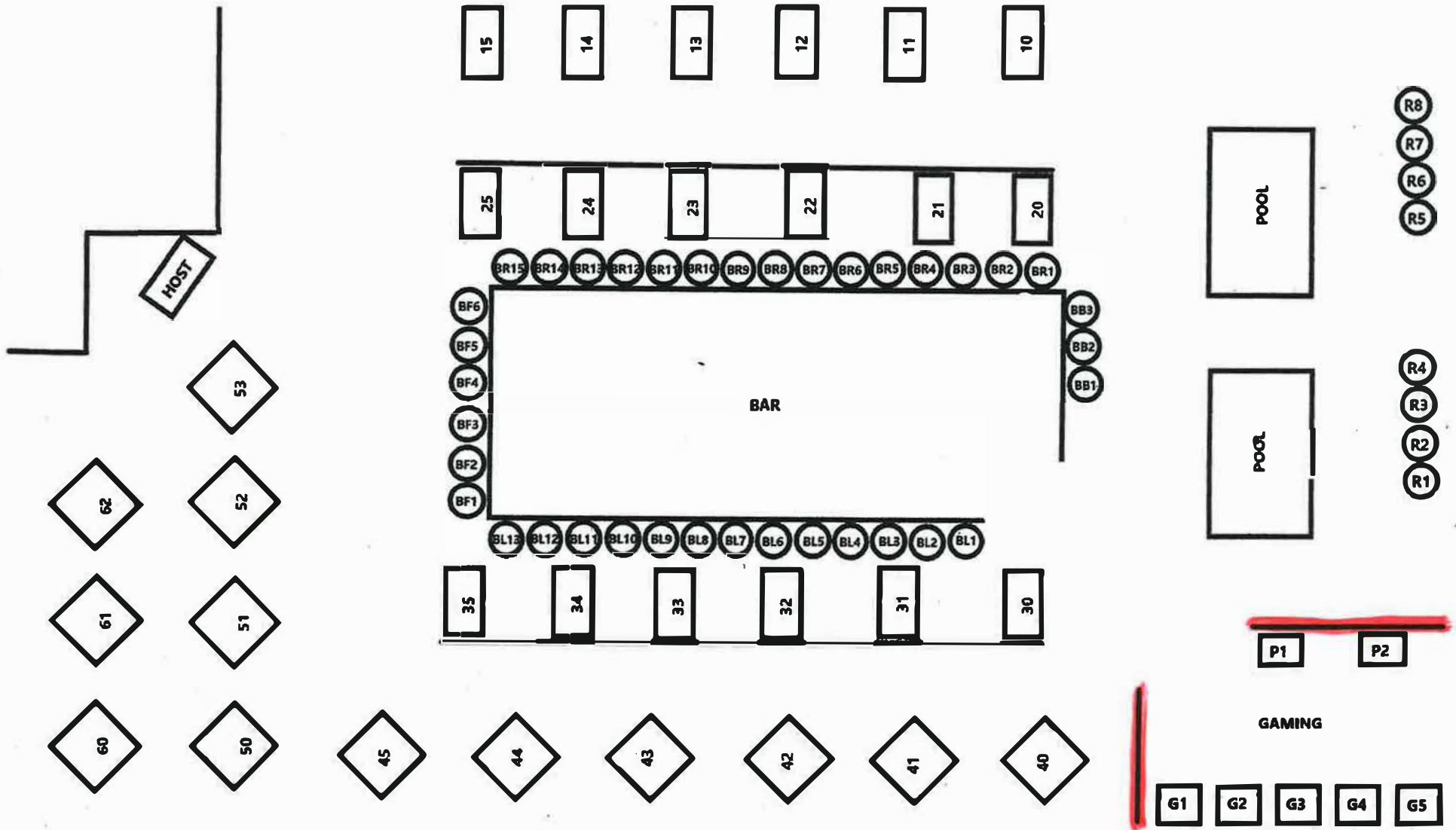


Exhibit "A" of Ordinance 20-31

TO: Batavia Plan Commission

FROM: Drew Rackow AICP, Planner

DATE: March 10, 2020

RE: **Public Hearing:** Conditional Use for a Video Gaming Establishment in the DMU, Downtown Mixed Use District - Riverside Pizza and Pub, 142 West Wilson Street
RP3 Group, LLC dba Riverside Pizza and Pub, Applicant

Background and Information Provided by the Applicant: A Public Hearing is scheduled for the March 18th Plan Commission meeting to review a Conditional Use for a Gaming Establishment in the DMU, Downtown Mixed-Use District. Riverside Pizza and Pub opened in 2019 and now is seeking to operate 5 gaming terminals in a dedicated area near the pool tables (see the attached floor plan). In their narrative, Riverside envisions that gaming would be for entertaining guests that may be waiting for tables. The application notes the presence of security cameras in the gaming area and the monitoring of the area by restaurant staff. The application indicates restaurant staff would be trained on policies for gaming and age check will be made on those using the machines.

Staff Analysis: The Conditional Use requirement for gaming was added in 2018 to allow for an additional level of oversight for proposed gaming establishments in the City. The City Code requires that establishments have a liquor license in good standing for a period of one year prior to application for a gaming license. The conditional use allows for a review of each new location, with the ability to impose reasonable operational conditions unique to each business.

Riverside would use partition walls (already constructed) to define a gaming area which would help limit access to gaming machines. This also provides necessary separation from other activities on the premises, consistent with state and local regulations. The gaming area is also close to the bar for monitoring by staff, providing necessary oversight of patrons. Gaming would only be permitted during hours of liquor service (10:30 AM-1AM and Friday and Saturday nights until 2 AM). Staff believes that gaming can be compatible with the other activities in this establishment, when controlled and monitored appropriately.

Staff proposes conditions consistent with the recent approval of Video Gaming at Funway. In addition to the local gaming license, such conditions can assure that the standards of both the state and local video gaming regulations are met. Staff notes that several restaurants and bars in the downtown area already have video gaming that pre-date the conditional use requirements. Riverside Pizza is looking to be competitive. Riverside offers gaming at their South Elgin and St. Charles locations. The application notes use of neon and LED signage. These must meet the Zoning Code limit of a maximum of 6 square feet per sign, with an overall widow sign area limitation of 25% of the area of the windows. The Plan Commission may impose other standards as part of the conditional use review.

In reviewing and recommending a Conditional Use, the Plan Commission must review and make findings, as required under [Section 5.403](#) of the Zoning Code. Below are the findings that include staff's analysis of each.

Findings

1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general;

FINDING: The proposed use would be complimentary to food and liquor service uses occurring on the premises and subordinate to those activities. The proposed use would not negatively affect persons working or living in the vicinity or adjacent or nearby properties, provided that adequate access, control and supervision are utilized for the video gambling area.

2. The proposed use, as conditioned, conforms with the purposes, intent, and policies of the Comprehensive Plan and any applicable area, neighborhood, or other plan adopted by the City Council;

FINDING: Goal 6, Policy A of the Land Use Element encourage focusing on the Downtown as a focal point within the community where more intense development/activity can occur. Additional use of the lease space for gaming would be consistent with that policy. The Comprehensive Plan also seeks to maintain and strengthen retail areas. As conditioned, the proposed use, would provide an entertainment activity on the subject property, which may spur additional economic activity.

3. The proposed use conforms with the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements;

FINDING: The proposed use is an allowed use in the DMU District with approval of a conditional use permit. As conditioned, it would conform to requirements of the Zoning Code and applicable government requirements, including seeking necessary licensing subsequent to this action.

4. The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties.

FINDING: As conditioned, the proposed use would not interfere with the use and enjoyment of nearby properties and lease spaces, provided that adequate access, control, and supervision are utilized for the video gambling area.

Staff Recommendation: Staff recommends the Plan Commission open and conduct the Public Hearing. Once all members of the public have spoken, and no further testimony or information is necessary for the Plan Commission, it may close the Public Hearing. At the conclusion of the Public Hearing, the following actions are recommended:

1. Adopt Findings for the Conditional Use Permit
2. Recommend approval of the requested Conditional Use Permit, subject to the following conditions:
 - a. The applicant shall at all times be in compliance with Title 3, Chapter 26 of the Batavia Municipal Code and State Licensing Requirements. Failure to comply shall be grounds for revocation of the Conditional Use.

- b. The Conditional Use be granted solely to RP3 Group LLC dba Riverside Pizza and Pub in the existing lease space at 142 West Wilson Street, so long as the use remains subordinate to the Eating and Drinking Establishment use.
- c. That the video gaming area be in compliance with the floor plan as submitted as part of this application. Any relocation of the gaming area shall require review and approval by the City Council.
- d. Operation of the gaming area shall only occur during hours when liquor service is available.

Attachment: Conditional Use Application Package

- c Mayor and City Council
Department Heads
Brian Panozzo, Applicant
Steven Nilles, Applicant
Media

Riverside Pizza Batavia Responsible Gaming Outline

- 5 MACHINES TOTAL
- HOURS OF OPERATION-SUN-THUR 10:30AM-1AM FRI-SAT10:30AM-2AM
- SIGNAGE-NEON AND LED

Riverside Pizza Batavia is seeking to add gaming to our current business. It is not our main purpose for business but will provide additional entertainment to guests waiting for their dinner table as well as additional revenue to help with the increasing costs of running an establishment such as ours. Additionally, there will be revenue for the city and state. We are committed to empowering customers and employees to recognize, understand, and prevent problem gambling. Through customer awareness, we aim to reduce the risk of problem gambling by educating customers about the risks of gambling, helping our customers understand how to adopt healthy play habits, and directing those with a gambling problem to the help they need. Our employees receive comprehensive training to identify problem gambling and to direct guests to available resources. To further our responsible gaming objectives, we strive to serve alcoholic beverages responsibly and prevent underage gambling in our gaming area.

OUR COMMITMENT TO YOU

To promote responsible gambling, Riverside Pizza has a strict policy against underage gambling. We take all reasonable steps to prevent minors from gambling and loitering within the gaming areas. We have established policies that prevent our adult guests from bringing their children into gaming areas or leaving them unattended anywhere on-property. Failure to comply with our clear-cut policies may result in a guest losing his/her privilege to game. Employees are trained annually on rules and regulations provided by the Illinois gaming board. Employees will card all players and remind anyone with children they are not allowed in or around set gaming area. Gold Rush will provide adequate signage for 21 and over and cameras located in gaming area in and around will provide surveillance and be monitored by employees and at all times. Slot machines will be active for our current liquor license hours and shut down when liquor license hours expire. Gaming will only occur during our current business hours.

AVOIDING PROBLEM GAMBLING

Casual gambling with affordable wagers can be a harmless and enjoyable pastime. Individuals can take steps to ensure they do not develop a gambling problem.

Know your limits:

- Set predetermined responsible limits with gambling funds you can afford to lose.
- Avoid gambling when feeling lonely, angry, depressed, stressed, or when coping with the death of a loved one.
- Do not use gambling as a way to solve personal problems or to impress others.
- Do not gamble if you are recovering from an addictive disorder or dependency.
- Do not allow gambling to interfere with work or family responsibilities.
- Avoid excessive use of alcohol when gambling. Alcohol can affect your judgment and interfere with your ability to adhere to predetermined gambling limits.

• **HELP IS AT YOUR FINGERTIPS**

- If you or someone you know has a gambling problem, call 1-800-GAMBLER or log on to 800GAMBLER.org. The Problem Gambling Helpline offers confidential, non-judgmental assistance 24 hours a day, 7 days a week. Signage provided by Gold Rush will also provide this info for players as well.

R8 R7 R6 R5

R4 R3 R2 R1



P1 P2

GAMING

G1 G2 G3 G4 G5

