

**COMMON COUNCIL
SPECIAL MEETING
May 12, 2015
5:00 P.M.**

**ADJOURNED
PUBLIC HEARINGS:**

1. Public Hearing in relation to an application submitted on behalf of Ichiro Asian Fusion, Inc., ("Applicant"), for a Special Permit to operate a Cabaret at Ichiro Restaurant, located at 80 Mamaroneck Avenue.
2. Communication from Commissioner of Building
3. Public Hearing in relation to the application submitted on behalf of Red Plum 888 ("Applicant") for a Special Permit to operate a Cabaret at The Red Plum Restaurant, located at 91 Mamaroneck Avenue.
4. Communications from Commissioner of Building
5. Acting Commissioner of Planning
6. Planning Board
7. Police Chief
8. Commissioner of Public Works
9. Deputy Commissioner, Traffic Division
10. Transportation Commission
11. Commissioner of Parking
12. Westchester County Planning Board
13. Environmental Officer
14. Environmental Findings Resolution
15. Resolution of the Common Council of the City of White Plains approving the application submitted on behalf of Red Plum 888 Inc., ("Applicant"), for a one year Special Permit to operate an Accessory Cabaret at The Red Plum Restaurant situated at 91 Mamaroneck Avenue (Section 125.76, Block 5, Lot 20) subject to certain conditions contained herein.

**FIRST READING
ORDINANCE:**

16. Communication from Corporation Counsel in relation to the settlement of a claim.
17. Ordinance authorizing the settlement of the action of Daniel Behan and Anne Behan against the City of White Plains.

ITEM FOR INFORMATION:

18. Communication from Acting Commissioner of Planning in relation to the potential reallocation of Community Development Block Grant Funding for Fiscal Year 2015-2016.

THOMAS M. ROACH
MAYOR



DEPARTMENT OF BUILDING

70 Church Street, White Plains, New York 10601
Phone: (914) 422 - 1269 * Fax: (914) 422 - 1471

Damon A. Amadio, P.E.
Commissioner

Kevin M. Hodapp, P.E.
Deputy Commissioner

**TO THE HONORABLE THOMAS M. ROACH, MAYOR
AND MEMBERS OF THE COMMON COUNCIL OF THE
CITY OF WHITE PLAINS**

Dear Mayor and Council Members:

Please refer to the attached email from Mr. G. Alexander Jenkins, Esq., attorney for Ichiro Asian Fusion, Inc. requesting an adjournment to their special permit application for a cabaret at Ichiro restaurant located at 80 Mamaroneck Avenue.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Damon A. Amadio".

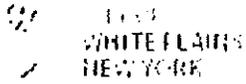
Damon A. Amadio P.E.
Commissioner of Building

Dated: May 11, 2015
(for May 12, 2015 Common Council meeting)

Submission: Copy of email from Mr. G. Alexander Jenkins, Esq. dated May 11, 2015

5/11/2015

The City of White Plains Mail - Ichiro



Amadio, Damon <damadio@whiteplainsny.gov>

Ichiro

lawofficesgaj@gmail.com <lawofficesgaj@gmail.com>
To: "Amadio, Damon" <damadio@whiteplainsny.gov>

Mon, May 11, 2015 at 2:59 PM

Please be advised that Ichiro requests an adjournment until next meeting of the Common council.

**Yours;
G.Alexander Jenkins, Esq.**

Sent from my iPhone
[Quoted text hidden]

THOMAS M. ROACH
MAYOR



DEPARTMENT OF BUILDING

70 Church Street, White Plains, New York 10601
Phone: (914) 422 - 1269 * Fax: (914) 422 - 1471

Damon A. Amadio, P.E.
Commissioner

Kevin M. Hodapp, P.E.
Deputy Commissioner

**TO THE HONORABLE THOMAS M. ROACH, MAYOR
AND MEMBERS OF THE COMMON COUNCIL OF THE
CITY OF WHITE PLAINS**

The Department of Building has reviewed an application, filed on May 29, 2014 and updated on May 6 2015, on behalf of Red Plum 888 Inc., for a Special Permit to allow for a "Cabaret" use at "The Red Plum" 91 Mamaroneck Avenue, White Plains, New York. The present and future use of the property is a restaurant / bar - C5 use group and is located within a CB -2 Zoning District.

Type of Business

The Red Plum occupies approximately 3,000 square feet (total gross floor area) on the ground floor and mezzanine level of 91 Mamaroneck Avenue. The ground floor space houses a kitchen, a sushi bar (with 5 seats), a dining area with 26 seats and a bar with seating for 12. The mezzanine level has seating to accommodate 42 persons. The business operates seven days a week and is engaged in preparing both cooked and raw Asian food which is served to patrons seated at tables. Patrons select food from a full menu and table service is accommodated via a wait staff. Please refer to the attached business operation letter from Mr. Peter Chen dated May 6 2015.

Type of Cabaret

The Zoning Ordinance now categorizes a cabaret as two types: (1) an "Accessory Cabaret" in which the entertainment and/or dancing, do not, in the aggregate, occupy more than 40% of the net floor area of the principal business of a restaurant; or (2) a "Primary Cabaret," in which the Entertainment and/or dancing, in the aggregate, occupy more than 40% of the Net Floor Area of the principal business of a "restaurant." The net floor area is defined as being the floor area of a premises open to the public but excluding the bathrooms.

Based upon the applicants drawing, dated July 23, 2014, the net floor area of the

"THE BIRTHPLACE OF THE STATE OF NEW YORK"

<http://www.cityofwhiteplains.com>

4

THOMAS M. ROACH
MAYOR



DEPARTMENT OF BUILDING

70 Church Street, White Plains, New York 10601
Phone: (914) 422 - 1269 * Fax: (914) 422 - 1471

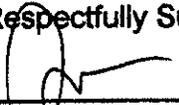
Damon A. Amadio, P.E.
Commissioner

Kevin M. Hodapp, P.E.
Deputy Commissioner

restaurant is calculated to be approximately 1,040 square feet of which approximately 415 square feet maybe dedicated for cabaret use. We have calculated that the applicant is proposing to dedicate approximately 375 square feet of the grade level net floor area for entertainment/dancing when in the cabaret mode of operation. This equates to approximately 36% of the net floor area. As the establishment is principally a restaurant with entertainment and/or dancing that occupies less than 40% of the net floor area, it qualifies as an "Accessory Cabaret".

Based upon the above and the applicants submission of compliant documentation we have no objection to a special permit for an accessory cabaret being granted.

Respectfully Submitted

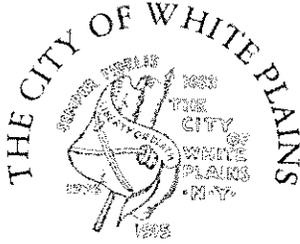


Damon A. Amadio P.E.
Commissioner of Building

Date: May 8, 2015
(for the May 12, 2015 Common Council meeting)

"THE BIRTHPLACE OF THE STATE OF NEW YORK"

<http://www.cityofwhiteplains.com>



PLANNING DEPARTMENT
Thomas M. Roach, Mayor
Linda Puoplo, Acting Commissioner

May 4, 2015

TO: TO THE HONORABLE MAYOR AND MEMBERS OF THE COMMON COUNCIL

RE: RED PLUM - 91 MAMARONECK AVENUE - SPECIAL PERMIT FOR CABARET USE

Application

By letter dated May 29, 2014, Mr. Peter Chen submitted an application on behalf of Red Plum 888 Inc. (the "Applicant") for a Special Permit for Cabaret Use. Red Plum is an existing restaurant/bar located at 91 Mamaroneck Avenue. At the time the application was submitted, the City of White Plains was in the process of reviewing its cabaret laws and had enacted a temporary moratorium on the approval, renewal, and modification of Special Permits for cabarets. The City has since updated its Zoning Ordinance to better protect and preserve the safety and welfare of the public and to simplify and streamline the application process for "cabarets."

This is the Applicant's first request for a Special Permit for a Cabaret Use. The Planning Department has reviewed the application with regard to the compatibility with the Zoning Ordinance and the Comprehensive Plan, and offers the following analysis and recommendations for Common Council consideration.

Because the application was submitted prior to adoption of the ordinance amending cabaret definitions, it is a request for a general cabaret permit. No determination has been provided about whether it is a "primary cabaret" or an "accessory cabaret."

Project Summary

Red Plum is located mid-block between Mitchell Place and East Post Road on the east side of Mamaroneck Avenue in the CB-2 (Core Business-2) zoning district in the downtown Central Parking Area (CPA). The existing restaurant occupies 2,292sf of ground floor space with a kitchen, sushi bar with 5 seats, dining area with 26 seats, and a bar with seating for 12. In addition there is a mezzanine level at the rear of the restaurant with 669sf of additional seating for 42 persons. According to the Cabaret Plan, all twelve (12) of the ground floor tables and chairs will be moved to the basement when the cabaret is in operation. The Mezzanine Area will remain a 42-seat restaurant and will not be used for cabaret purposes.

Zoning Compliance Review

This section summarizes the findings of the Planning Department with regard to conformance of the project with all applicable sections of the Zoning Ordinance as amended to update regulations related to cabarets, including relevant special permit standards.

Section 5.2, Schedule of Use Regulations and Zoning Map

"Cabarets" are allowable by a Special Permit in the CB-2 district. There are two types of cabaret uses, as follows:

"Cabaret, Accessory" – a "cabaret" in which the Entertainment and/or dancing do not, in aggregate, occupy more than 40% of the Net Floor Area¹ of the principal business of a "restaurant".

"Cabaret, Primary" – a "cabaret" in which the Entertainment and/or dancing, in the aggregate occupy more than 40% of the Net Floor Area of the principal business of a "restaurant".

Based on the analysis completed by the Building Department, the proposed cabaret meets the criteria for Cabaret, Accessory.

Section 6.5 General Special Permit Standards

All special permit "uses" shall comply with the following standards:

6.5.1: The location and size of the special permit "use," the nature and intensity of the operations involved in it or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to "streets" giving access to it are such that it will be in harmony with the appropriate and orderly development of the area in which it is located.

The size of the proposed cabaret use is similar to existing cabarets in the area. The location of the use on Mamaroneck Avenue, a major commercial thoroughfare, is "in harmony with the appropriate and orderly development of the area." The cabaret is proposed to be on the ground floor (at grade level) of the restaurant. No site plan changes are proposed.

6.5.2 The location, nature and "height" of "buildings," walls and fences and the nature and extent of existing or proposed plantings on the site are such that the special permit "use" will not hinder or discourage the appropriate development and "use" of adjacent land and "buildings."

No construction is proposed in connection with the cabaret. As a result, the cabaret use will not alter any building or structural exteriors and will not change any plantings on site. Exterior views of the site will remain unaltered from conditions with the existing permitted restaurant use. Neither use will "hinder or discourage appropriate development and use of adjacent property."

6.5.3: Operations in connection with any special permit "use" will not be more objectionable to nearby properties by reason of noise, traffic, fumes, vibration or other characteristics than would be the operations of permitted "uses" not requiring a special permit.

As gathering places that attract large numbers of patrons, the City of White Plains was concerned about the effects that cabarets have on adjacent residential neighborhoods. These include the potential for high ambient noise levels generated by sound systems, vehicles, and patrons' voices; the potential for idling vehicles to cause localized negative impacts to air quality; the potential for negative impacts related to queuing outside the cabaret and affecting pedestrian traffic on the sidewalk; and the potential for issues of public safety to arise both within and outside of the cabaret use.

Consequently, the amendments made to Section 6.7.10 of the Zoning Ordinance serve to better address these concerns, improve enforcement measures, and streamline the renewal process.

6.5.4: "Parking lots" will be of adequate size for the particular special permit "use," properly located and suitably screened from adjoining residential "uses," and the entrance and exit drives shall be laid out so as to achieve maximum convenience and safety.

The building in which Red Plum is located is in the CPA and is legally non-conforming with respect to parking. Public parking is available on-street and in nearby public parking lots.

Section 6.7 Special Permit Standards for Cabaret Uses

The Individual Standards and Requirements for "Cabarets" as a Special Permit Use have been augmented in order to streamline the application and enforcement processes and to protect surrounding residential neighborhoods. These new provisions include (1) the exact application requirements needed for submission, (2) a new requirement precluding a "primary cabaret" from locating within 300 feet of any "dwelling unit", (3) requiring cabarets to be located at grade level, (4) enabling the Commissioner of Building to renew special permit requests and (5) permitting the suspension or revocation of a special permit to operate a "cabaret" if there is a violation.

6.7.10.1 - The applicant's plans indicate the proposed square footages for the dance floor areas and the DJ band area, as well as the egress paths (which do not traverse areas identified for entertainment) and seating areas, in compliance with Section 6.7.10.1.1-5 of the Zoning Ordinance. Occupancy calculations are provided for the both the restaurant and cabaret configuration, as required by Section 6.7.10.1.6. The applicant also

states that the existing tables and chairs will be stored in the cellar when the cabaret is in use, as required by Section 6.7.10.1.7 of the Zoning Ordinance.

6.7.10.2 - "Cabarets" shall not be located within 150 feet of any residential district, nor within 200 feet of any "lot line" of a place of worship, hospital, "domiciliary care facility" or "community residence," nor shall any "primary cabaret" be located within 300 feet of any "dwelling unit."

There are no places of worship, hospitals, domiciliary care facilities or community residences located within 200 feet of the site. Although, Red Plum is approximately 250 feet from the RM-0.35 Residential District along Mitchell Place, Red Plum has proposed an accessory cabaret and, therefore, complies with this section.

6.7.10.3 – "Cabarets" shall only be located at grade level.

The proposed cabaret at Red Plum is at grade level and therefore the application complies with this section.

Recommended Conditions of Approval

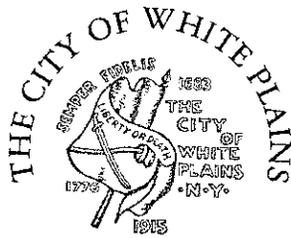
The Planning Department recommends the following additional conditions to ensure that the use will be in harmony with the appropriate and orderly development of the downtown:

1. Permit Term. As has been standard City practice for a first request for a Special Permit for a cabaret use, the Planning Department recommends that the special permit approval shall be for a period of one year. Pursuant to Section 6.7.10.4 of the Zoning Ordinance, the special permit may be renewed by the Commissioner of Building, provided the cabaret has operated in a manner that is consistent with any conditions and controls set forth in the Common Council approval resolution.
2. Compliance with Zoning Ordinance Section 6.5.3. To ensure that "operations in connection with any special permit use will not be more objectionable to nearby properties by reason of noise, traffic, fumes, vibration or other characteristics than would be the operations of permitted uses not requiring a special permit," the Applicant should be responsible for maintaining adequate sidewalk space in front of the cabaret. Any queuing of persons seeking to enter the facility should not obstruct the flow of pedestrians on the sidewalk and should be controlled by the Applicant in a manner satisfactory to the Commissioner of Public Safety.

Respectfully submitted,



Linda Puoplo
Acting Commissioner



PLANNING BOARD

MUNICIPAL BUILDING · 70 CHURCH STREET · WHITE PLAINS, NEW YORK 10601
(914) 422-1300 · FAX: (914) 422-1301

THOMAS M. ROACH
MAYOR

MICHAEL QUINN
CHAIRMAN

ELIZABETH CHETENY, AICP
COMMISSIONER OF PLANNING

LINDA PUOPLO, LMSW
DEPUTY COMMISSIONER OF PLANNING

EILEEN McCLAIN
SECRETARY

August 21, 2014

TO THE HONORABLE MAYOR AND MEMBERS OF THE COMMON COUNCIL

SUBJECT: THE RED PLUM - 91 MAMARONECK AVENUE - SPECIAL PERMIT FOR
CABARET USE AT ICHIRO RESTAURANT

At its meeting of August 19, 2014, the Planning Board reviewed the application for a Special Permit for a Cabaret Use at Red Plum Restaurant, which is located at 91 Mamaroneck Avenue.

The Planning Board was informed by the Building Department that there are no outstanding violations for the business.

The Planning Board finds that the proposed cabaret use is consistent with the Comprehensive Plan, which recommends encouraging entertainment uses in the Mamaroneck Avenue Central Business District. The Planning Board voted unanimously in favor of a motion to find no objection to issuance of the Special Use Permit for a Cabaret.

Planning Board members voting in favor of the motion to find no objection to issuance of the Special Use Permit for a Cabaret: M. Quinn, A. Cabrera, J. Durante, J. Ioris, L. Oliva, R. Stackpole, and J. Westlund (7); Opposed: None (0); Absent: None (0).

Respectfully submitted,

MICHAEL QUINN
Michael Quinn, Chairman
White Plains Planning Board

6



DEPARTMENT OF PUBLIC SAFETY
77 SOUTH LEXINGTON AVENUE • WHITE PLAINS, NEW YORK 10601
(914) 422-6400 • FAX: (914) 422-6373

DAVID E. CHONG
Commissioner
422-6350

JAMES M. BRADLEY
Chief of Police
422-6230

RICHARD L. LYMAN
Fire Chief
422-6360

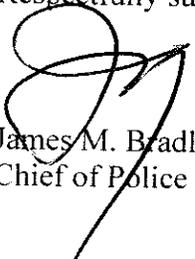
TO THE HONORABLE MAYOR AND MEMBERS OF THE COMMON COUNCIL OF
THE CITY OF WHITE PLAINS.

Dear Mayor and Common Council Members;

The Department of Public Safety has reviewed the application of the Red Plum 888 Inc., at 91 Mamaroneck Avenue, White Plains, New York.

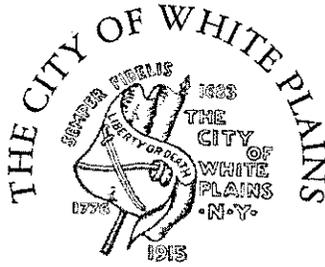
Please be advised that the Department of Public Safety has no objections to the application.

Respectfully submitted,



James M. Bradley
Chief of Police

DATED: May 5, 2015



DEPARTMENT OF PUBLIC WORKS

MUNICIPAL BUILDING • 255 MAIN STREET • WHITE PLAINS, NEW YORK 10601
(914) 422-1206 • FAX: (914) 422-1469

THOMAS M. ROACH
MAYOR

RICHARD G. HOPE
1ST DEPUTY COMMISSIONER

JOSEPH J. NICOLETTI, Jr., P.E.
COMMISSIONER / CITY ENGINEER

BRIAN M. MURPHY
2ND DEPUTY COMMISSIONER

TO THE HONORABLE MAYOR AND MEMBERS OF THE COMMON COUNCIL

We have reviewed an application for a Special Permit to allow a cabaret "use" for the indoor space located on the first floor only, submitted by Red Plum 888 Inc. located at 91 Mamaroneck Avenue. Readings with music playing must fall within the allowable maximum at the public property line.

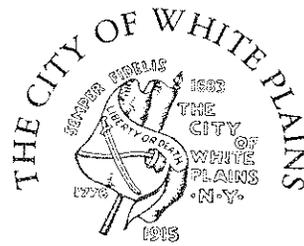
We have no objection to the approval of this application for a Special Permit.

Respectfully Submitted,

Joseph J. Nicoletti, Jr., P.E.
Commissioner of Public Works

Dated: September 2, 2014

THOMAS M. ROACH
MAYOR



JOHN P. LARSON
COMMISSIONER

JOHN FUERST
DEPUTY COMMISSIONER

DEPARTMENT OF PARKING
255 MAIN ST. - ANNEX BUILDING
WHITE PLAINS, NEW YORK 10601

THOMAS J. SOYK, P.E., PTOE
DEPUTY COMMISSIONER/
CITY TRANSPORTATION ENGINEER

(914) 422-1232 Phone
(914) 422-1274 Fax

TO THE HONORABLE MAYOR THOMAS M. ROACH AND MEMBERS
OF THE COMMON COUNCIL OF THE CITY OF WHITE PLAINS

The Department of Parking/ Traffic Division has reviewed the application from Red Plum 888, Inc. at 91 Mamaroneck Avenue for a Special Permit to operate a Cabaret which was referred by the Common Council on August 4, 2014.

The Department of Parking/ Traffic Division has no objection to approving this Special Permit.

Thomas J. Soyk, PE, PTOE
Deputy Commissioner
City Transportation Engineer

Dated: August 5, 2014
(for the September 2, 2014 Common Council Meeting)



TRANSPORTATION COMM.

MUNICIPAL BUILDING • 255 MAIN STREET • WHITE PLAINS, NEW YORK 10601
(914) 422-1316 • FAX: (914) 422-1422

THOMAS M. ROACH
MAYOR

THOMAS J. SOYK, P.E., PTOE
DEPUTY COMMISSIONER

TO THE HONORABLE MAYOR AND MEMBERS OF THE
COMMON COUNCIL OF THE CITY OF WHITE PLAINS

The Transportation Commission, at its meeting held on August 20, 2014, reviewed the request from Red Plum888 Inc. at 90 Mamaroneck Avenue for a special permit to operate a "cabaret" as referred by the Common Council on August 4, 2013.

The Transportation Commission has no objection to approving this special permit.

Thomas Soyk
Acting Chairman

Dated: August 21, 2014 (for the September 2, 2014 Common Council Meeting)

10

THOMAS M. ROACH
MAYOR



DEPARTMENT OF PARKING
255 MAIN ST. - ANNEX BUILDING
WHITE PLAINS, NEW YORK 10601

(914) 422-1232 Phone
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JOHN P. LARSON
COMMISSIONER

JOHN FUERST
DEPUTY COMMISSIONER

THOMAS J. SOYK, P.E., PTOE
DEPUTY COMMISSIONER
CITY TRANSPORTATION ENGINEER

**TO THE HONORABLE MAYOR AND COMMON COUNCIL
OF THE CITY OF WHITE PLAINS**

**Re: #75 – The Red Plum – 91 Mamaroneck Avenue
Application for Special Permit for Cabaret Use**

The Department of Parking has received and reviewed the above-noted application.

The Parking Department has no objection to this application for a special permit for cabaret use.

Respectfully submitted,

John P. Larson
Commissioner of Parking

Date: September 2, 2014

//

**Submission Form to the Westchester County Planning Board
For Planning and Zoning Referrals
REQUIRING NOTIFICATION ONLY**

County Ref. No. **WHP N14-022**

The Westchester County Planning Board has predetermined that certain categories of planning and zoning applications are matters for local determination only. For any application listed below, submission of this completed form will satisfy the requirements of NYS General Municipal Law and the Westchester County Administrative Code that the local board provided adequate notification to the County Planning Board in accordance with Planning Board procedures. No other material need be sent. Upon receipt, the County Planning Board will complete the bottom section of this form and return it to you to for your records to indicate compliance with referral requirements.

When completed save this form and e-mail to: muniref@westchestergov.com or print and fax to 914-995-3780.

Municipality: **White Plains**

Referring Agency (check one): Planning Board or Commission
 Zoning Board of Appeals
 City or Common Council/Town Board/Village Board of Trustees

Application Name and Local Case Number: **The Red Plum Cabaret License**

Address: **91 Mamaroneck Avenue**

Section: **125.76** Block: **5** Lot: **20**

Submitted by (name and title): **Anne McPherson**

E-mail address (or fax number): **AMcPherson@whiteplainsny.gov**

The above referenced application qualifies for the notification only procedure to the County Planning Board because it falls within the category of action checked below:

- Zoning Area Variance** to decrease front yard setback, decrease minimum street frontage or decrease average lot width for property abutting a State or County road or park
- Special Use Permit or Use Variance** to allow less than 5,000 square feet of new or renovated floor area and less than 10,000 square feet of land disturbance.
- Site Plan** to allow less than 5,000 square feet of new or renovated floor area and less than 10,000 square feet of land disturbance on property within 500 feet of:
- The boundary of a city, town or village
 - The boundary of an existing or proposed state or county park, recreation area or road right-of-way
 - An existing or proposed county drainage channel line
 - The boundary of state- or county-owned land on which a public building/institution is located or
 - The boundary of a farm located in an agricultural district.

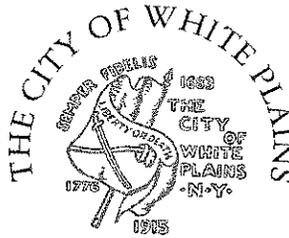
(Please note: All applications given a Positive Declaration pursuant to SEQOR must be referred as a complete application. Do not use this form.)

Do not write below this line.

Date received by the Westchester County Planning Board: **8/11/14**

Notification acknowledged by (name and title): **Kay Eisenman, Planner**

12



ENVIRONMENTAL OFFICER

PLANNING DEPARTMENT • 70 CHURCH STREET • WHITE PLAINS, NEW YORK 10601

(914) 422-1252 • FAX: (914) 422-1301

THOMAS M. ROACH
MAYOR

ROD JOHNSON
ENVIRONMENTAL OFFICER

May 8, 2015

TO THE HONORABLE MAYOR AND MEMBERS OF THE COMMON COUNCIL

SUBJECT: RED PLUM 888
91 MAMARONECK AVENUE
SPECIAL PERMIT TO OPERATE AN ACCESSORY CABARET

The application submitted on behalf of Red Plum 888 ("Applicant") for a Special Permit to operate an Accessory Cabaret at The Red Plum Restaurant, located at 91 Mamaroneck Avenue ("Proposed Action") has been reviewed for compliance with the New York State Environmental Quality Review (SEQR) regulations.

At its May 4, 2015 meeting the Common Council adopted an ordinance entitled:

AN ORDINANCE AMENDING AN ORDINANCE ENTITLED "THE ZONING ORDINANCE OF THE CITY OF WHITE PLAINS" WITH RESPECT TO SPECIAL PERMIT USES IN NON-RESIDENTIAL DISTRICTS, REVISING THE DEFINITION OF "CABARET" AND ADDING THE DEFINITION OF "PRIMARY CABARET" AND "ACCESSORY CABARET"

In summary, this amendment revises the definition of "cabaret" uses and creates two "cabaret" classes – a "primary cabaret" and "accessory cabaret" which are distinguished by the percentage of the net floor area proposed for "cabaret" uses as opposed to restaurant use when the "cabaret" is in operation. Each class will have unique standards.

The Common Council is now considering the subject application for a Special Permit to operate a Cabaret applying the newly codified standards for "Cabaret" and "Accessory Cabaret" Special Permit Uses adopted May 4, 2015.

The primary environmental concern is the assurance that noise emanating from the cabaret will not have any adverse effects to the surrounding land uses and community. The general standards for all special permit uses in Section 6.5 and the individual standards specifically for cabaret uses in Section 6.7.10 of the Zoning Ordinance, as well as any additional conditions applicable to the Proposed Action, will serve to avoid potential impacts.

Based on the recommendations of the City departments, it is recommended that the following conditions be adopted by the Common Council as part of the Proposed Action to avoid potential adverse noise impacts ("Conditions"):

1. The special permit shall be for one (1) year, and shall expire on May 2, 2016, subject to renewals, upon a demonstration that the cabaret has operated consistent with the conditions and controls as set forth in the approval resolution herein.
2. The cabaret special permit use granted by this approval resolution herein is solely limited to the indoor area, first floor only. Any cabaret use beyond such stated permitted area shall constitute a violation of this special permit herein and render the special permit approved herein null and void. No amplified music shall be permitted as part of any outdoor dining application approval.
3. The hours for operation of the cabaret use shall be no later than 3:00 a.m., to be consistent with other cabaret requirements in proximity to the proposed use; the facility may continue to operate as a restaurant or bar use after these hours.
4. The Applicant is prohibited from operating a cabaret without food service available from a printed menu.
5. The Applicant shall be responsible for maintaining adequate sidewalk space in front of the cabaret. Any queuing of persons seeking to enter the facility shall not obstruct the flow of pedestrians on the sidewalk and shall be controlled by the Applicant in a manner satisfactory to the Commissioner of Public Safety.
6. Since a cabaret is not a private club but is an accessory use to a restaurant, no entry fee may be charged for access to the cabaret.
7. The sound level of either live or recorded music or other attendant noise as measured from the exterior of the cabaret premises shall not exceed 85 decibels (dB) at any time as measured at a reasonable distance not less than seven (7) nor more than fifteen (15) feet from the premises of the cabaret establishment. A noise level evaluation of operation of the cabaret use, paid for by the Applicant, shall be conducted by the Department of Building every three (3) months of operation of the cabaret use, with the results to be submitted to the Common Council within two (2) weeks of said evaluation and made available to the public.
8. A sound meter shall be permanently installed by the Applicant to continuously monitor the sound source.
9. No "Sound Amplification Equipment" (speakers, amplifiers, audio systems, radios, televisions, or any other device that can produce or reproduce sound) shall be installed or operated indoors with the intent to amplify the sound outdoors and/or within any temporary structures(s).
10. Whenever the premises fire alarm system is activated all "Sound Amplification Equipment" within the premises shall be shut off.

11. All doors related to the premises and the cabaret use shall be equipped with automatic self-closers, remain closed during operation of the cabaret use, and shall not be permitted to be propped open at any time. Doors may be used for ingress and egress only and must seal tightly when closed. All windows or window walls shall be maintained and secured in the closed position during the operation of any cabaret use.
12. The Commissioner of Public Safety shall be required to notify the Commissioner of Building if there is a change in the licensee under the cabaret license issued by the Commissioner of Public Safety annually, pursuant to the applicable provisions of the White Plains Municipal Code.
13. During the course of the operation of the cabaret use, and at not less than intervals of three (3) months, the Commissioner of Building shall report to the Common Council on the operation of same. If it is to be determined by the Common Council that the public health, safety and welfare is being jeopardized by said operation, the Common Council's finding shall be submitted to the Commissioner of Public Safety, who, at least three (3) days before suspending and/or revoking said cabaret license, shall cause to be mailed to the holder of the special permit at the address at which said cabaret is being conducted, a notice, stating the time and place of a hearing concerning the suspension and/or revocation at which time the permittee shall be entitled to be heard and introduce the testimony of witnesses. The action of the Commissioner of Public Safety relative to such suspension or revocation shall be final. After each year of operation and prior to consideration of the renewal of the special permit, the Commissioner of Building shall report to the Common Council on the operation of the cabaret.

Based on the above, it is recommended that the Common Council (a) designate itself as the Lead Agency for the environmental review; (b) find the Proposed Action to be an Unlisted Action; under SEQRA regulations; and (c) find that the Proposed Action will not have a significant effect on the environment for the following reasons:

- (a) The proposal is consistent with the Comprehensive Plan and the White Plains Zoning Ordinance.

The Comprehensive Plan recommends entertainment uses for the Mamaroneck Avenue Central Business District, in which the subject property is located.

The 1997 Comprehensive Plan and 2006 Plan Comprehensive Plan Update state:

- The Comprehensive Plan envisions a vibrant, mixed use Core Area, with its three unique sub-areas linked through pedestrian, streetscape, transit, and signage improvements; and land uses that complement one another. (1997)
- Downtown residential development has become, and will continue to be, a major economic tool for the city to create a truly livable, "walkable" urban environment with a 24/7 character which supports the other two major economic generators - office and retail. (2006)

The Comprehensive Plan also includes the following Strategies to balance the goal of providing greater activity in the downtown with preserving the quality of existing and encouraging additional residential development in the area:

- Encourage the development of cultural and entertainment uses in this section of the Core Area and build on these to attract restaurants, cafes and entertainment uses.

- Recognize the area around the Main/Mamaroneck intersection as the focus for the Mamaroneck Avenue Central Business District revitalization efforts by encouraging a mixture of retail, office, housing, restaurant and entertainment uses. Opportunities for revitalization in the vicinity of the intersection of Main Street and Mamaroneck Avenue will be pursued to strengthen this prominent area.
- Strictly control Core Area uses that would detract from the residential quality of the Core Area.

Based on the above, the Proposed Action conforms to the recommendations of the Comprehensive Plan.

Zoning Compliance Review

The Red Plum Restaurant is located in a CB-2 Core Business Zoning District where a cabaret use is permitted use subject to the use subject to Section 6.5 General Special Permit Standards and Section 6.7 Special Permit Standards for Cabaret Uses.

There are two types of cabaret uses, as follows:

“Cabaret, Accessory” – a “cabaret” in which the Entertainment and/or dancing do not, in aggregate, occupy more than 40% of the Net Floor Area of the principal business of a “restaurant .”

“Cabaret, Primary” – a “cabaret” in which the Entertainment and/or dancing, in the aggregate occupy more than 40% of the Net Floor Area of the principal business of a “restaurant.”

Based on the analysis completed by the Building Department, the proposed cabaret use occupies approximately 36% of the Net Floor Area of the principal business of a “restaurant” and therefore meets the criteria for an Accessory Cabaret.

The existing restaurant occupies approximately 3,000 sf of ground floor space with a kitchen, sushi bar with 5 seats, dining area with 26 seats, and a bar with seating for 12. In addition there is a mezzanine level at the rear of the restaurant with 700 sf of additional seating for 42 persons. The total restaurant seating is 85 seats.

Conformance with Section 6.5 General Special Permit Standards

6.5.1: The location and size of the special permit "use," the nature and intensity of the operations involved in it or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to "streets" giving access to it are such that it will be in harmony with the appropriate and orderly development of the area in which it is located.

The size of the proposed cabaret use is similar to existing cabarets in the area. The location of the use on Mamaroneck Avenue, a major commercial thoroughfare, is “in harmony with the appropriate and orderly development of the area.” The cabaret is proposed to be on the ground floor (at grade level) of the restaurant. No site plan changes are proposed.

6.5.2 The location, nature and "height" of "buildings," walls and fences and the nature and extent of existing or proposed plantings on the site are such that the special permit "use" will not hinder or discourage the appropriate development and "use" of adjacent land and "buildings."

No construction is proposed in connection with the cabaret. As a result, the cabaret use will not alter any building or structural exteriors and will not change any plantings on site. Exterior views of the site will remain unaltered from conditions with the existing permitted restaurant use. Neither use will "hinder or discourage appropriate development and use of adjacent property."

6.5.3: Operations in connection with any special permit "use" will not be more objectionable to nearby properties by reason of noise, traffic, fumes, vibration or other characteristics than would be the operations of permitted "uses" not requiring a special permit.

As gathering places that attract large numbers of patrons, the City of White Plains was concerned about the effects that cabarets have on adjacent residential neighborhoods. These include the potential for high ambient noise levels generated by sound systems, vehicles, and patrons' voices; the potential for idling vehicles to cause localized negative impacts to air quality; the potential for negative impacts related to queuing outside the cabaret and affecting pedestrian traffic on the sidewalk; and the potential for issues of public safety to arise both within and outside of the cabaret use.

The principal impacts from the cabaret will be noise emanating from the cabaret onto the street and potential noise caused by patrons leaving the establishment. The City will regulate the maximum decibel level permitted outside the establishment. This limitation is consistent with promoting evening activity in the downtown. To ensure that the appropriate noise levels are maintained, the cabaret permit shall be granted for a one year period with the controls set forth above.

Consequently, the amendments made to Section 6.7.10 of the Zoning Ordinance serve to better address these concerns, improve enforcement measures, and streamline the renewal process.

6.5.4: "Parking lots" will be of adequate size for the particular special permit "use," properly located and suitably screened from adjoining residential "uses," and the entrance and exit drives shall be laid out so as to achieve maximum convenience and safety.

The building in which Red Plum is located is in the CPA and is legally non-conforming with respect to parking. Public parking is available on-street and in nearby public parking lots.

Section 6.7 Special Permit Standards for Cabaret Uses

The Individual Standards and Requirements for "Cabarets" as a Special Permit Use have been augmented in order to streamline the application and enforcement processes and to protect surrounding residential neighborhoods. These new provisions include (1) the exact application requirements needed for submission, (2) a new requirement precluding a "primary cabaret" from locating within 300 feet of any "dwelling unit", (3) requiring cabarets to be located at grade level, (4) enabling the Commissioner of Building to renew special permit requests and (5) permitting the suspension or revocation of a special permit to operate a "cabaret" if there is a violation.

6.7.10.1 The applicant's plans indicate the proposed square footages for the dance floor areas and the DJ band area, as well as the egress paths (which do not traverse areas identified for entertainment) and seating areas, in compliance with Section 6.7.10.1.1-5 of the Zoning Ordinance. Occupancy calculations are provided for the both the restaurant and cabaret configuration, as required by Section 6.7.10.1.6. The applicant also states that the existing ta-

bles and chairs will be stored in the cellar when the cabaret is in use, as required by Section 6.7.10.1.7 of the Zoning Ordinance.

6.7.10.2 "Cabarets" shall not be located within 150 feet of any residential district, nor within 200 feet of any "lot line" of a place of worship, hospital, "domiciliary care facility" or "community residence," nor shall any "primary cabaret" be located within 300 feet of any "dwelling unit."

There are no places of worship, hospitals, domiciliary care facilities or community residences located within 200 feet of the site. Although, Red Plum is approximately 250 feet from the RM-0.35 Residential District along Mitchell Place, Red Plum has proposed an accessory cabaret and, therefore, complies with this section.

6.7.10.3 "Cabarets" shall only be located at grade level.

The proposed cabaret at Red Plum is at grade level and therefore the application complies with this section.

- (b) The Proposed Action should not cause a substantial adverse change in existing air quality, ground or surface water quality, traffic or noise levels, solid waste production levels or potential for erosion, flooding, leaching or drainage problems.

The proposed cabaret use is located within an existing restaurant and building in the Central Business District of White Plains.

The site is fully served by municipal and private utility services.

There is no additional parking requirement because the capacity of the existing restaurant is not increased by the establishment of a cabaret.

With appropriate limitations on noise levels, the operation of the proposed cabaret should not be more objectionable to nearby properties by reason of noise, traffic, fumes, vibrations or other characteristics than would be the operations of permitted uses not requiring a special permit.

- (c) No large quantities of vegetation or fauna will be removed by the Proposed Action. No endangered species of plant or animal should be adversely affected by the Proposed Action. No other significant adverse impacts to natural resources will result from the Proposed Action.

The existing restaurant, including the existing cabaret use, are located in the downtown area of White Plains. There are no natural landscape conditions on the site or in the nearby area.

- (d) The character or quality of important historical, archeological, architectural or aesthetic resources of the City or any neighborhood will not be adversely affected by the Proposed Action.

The Proposed Action conforms to the Comprehensive Plan recommendation to promote mixed uses in the Mamaroneck Avenue Corridor.

The proposed cabaret use is similar to the other cabaret uses that are located in the nearby Downtown area.

Other cabaret uses have been approved in the nearby area along Mamaroneck Avenue. The proposed conditions regarding the operation of the cabaret that have been applied to the other cabaret uses located in the nearby downtown area will assure that appropriate noise levels will be maintained.

Additional requirements for the cabaret use can be determined by the City departments in regard to any future renewals of the special permit to assure compliance with the Noise Ordinance.

Cabaret uses are regulated by two separate municipal authorities: the Common Council approves special permits for a Cabaret use under Sections 6.5 and 6.7.10 of the Zoning Ordinance and the Department of Public Safety issues Cabaret Licenses under Section 4-4 of the Municipal Code in regard to ownership and operational standards. The proposed conditions to the Proposed Action assure that the monitoring functions of the Departments of Building and Public Safety will be coordinated with the Common Council's consideration of any future renewals.

There are no places of worship, hospitals, domiciliary care facilities or community residences located within 200 feet of the site. The Red Plum restaurant is approximately 250 feet from the RM-0.35 Residential District along Mitchell Place.

- (e) No major change in type or quantity of energy used will result from the Proposed Action.
- (f) No hazard to health or human safety will be created.

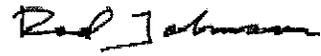
The Proposed Action involves the Common Council's approval of a cabaret use in accordance with the requirements of the Zoning Ordinance. The Applicant must also apply for a Cabaret License to the White Plains Department of Public Safety. This license must be renewed annually by that Department.

There is no reason to expect any hazard to human health or safety resulting from this Proposed Action. All development is subject to the appropriate municipal safety codes and applicable approvals by the Departments of Building and Public Safety.

- (g) The Proposed Action will not create a substantial change in the use, or intensity of use, of land or other natural resources or the area's capacity to support existing uses. It will not attract a significantly large number of people to the place, neighborhood or community.
- (h) The Proposed Action will not result in the creation of a material demand for other actions which would result in one of the above consequences.
- (i) The Proposed Action will not result in changes in two or more elements of the environment, no one of which has a significant effect on the environment, but which when taken together, result in a substantial adverse impact on the environment.
- (j) The Proposed Action does not represent change in two or more related actions that, when considered cumulatively, would result in substantial environmental impacts.
- (k) No significant impacts have been identified as a result of the Proposed Action when assessed in connection to its setting, duration, geography scope, magnitude and number of people affected.

A resolution which adopts these findings is offered for the Common Council's consideration.

Respectfully submitted,

A handwritten signature in black ink that reads "Rod Johnson". The signature is written in a cursive style with a prominent initial "R" and a long, sweeping underline.

Rod Johnson
Environmental Officer

ENVIRONMENTAL FINDINGS RESOLUTION REGARDING APPLICATION SUBMITTED ON BEHALF OF RED PLUM 888 (“APPLICANT”) FOR A SPECIAL PERMIT TO OPERATE AN ACCESSORY CABARET AT THE RED PLUM RESTAURANT, LOCATED AT 91 MAMARONECK AVENUE

WHEREAS, the application submitted on behalf of Red Plum 888 (“Applicant”) for a Special Permit to operate an Accessory Cabaret at The Red Plum Restaurant, located at 91 Mamaroneck Avenue (“Proposed Action”) has been reviewed for compliance with the New York State Environmental Quality Review (SEQR) regulations; and

WHEREAS, at its May 4, 2015 meeting the Common Council adopted an ordinance entitled:

AN ORDINANCE AMENDING AN ORDINANCE ENTITLED “THE ZONING ORDINANCE OF THE CITY OF WHITE PLAINS” WITH RESPECT TO SPECIAL PERMIT USES IN NON-RESIDENTIAL DISTRICTS, REVISING THE DEFINITION OF “CABARET” AND ADDING THE DEFINITION OF “PRIMARY CABARET” AND “ACCESSORY CABARET”

In summary, this amendment revises the definition of “cabaret” uses and creates two “cabaret” classes – a “primary cabaret” and “accessory cabaret” which are distinguished by the percentage of the net floor area proposed for “cabaret” uses as opposed to restaurant use when the “cabaret” is in operation. Each class will have unique standards; and

WHEREAS, the Common Council is now considering the subject application for a Special Permit to operate a Cabaret applying the newly codified standards for “Cabaret” and “Accessory Cabaret” Special Permit Uses adopted May 4, 2015; and

WHEREAS, the Applicant has submitted the following materials in support of the Proposed Action:

1. An application letter from Peter Chen, President- Owner, dated May 23, 2014.
2. A letter from Josephine Perriello, Nicjo Realty Company, dated April 30, 2014.
3. A Building Department Special Permit Application, prepared by Peter Chen, dated May 27, 2014.
4. A Short Environmental Assessment Form, prepared by Peter Chen, submitted with the application letter.
5. Drawing No OC-1, entitled “Red Plum Restaurant, First Floor Plan, Mezzanine Plan, prepared by Sir James L. Robinson, R.A., dated 10/23/12
6. Drawing No OC-2, entitled “Red Plum Restaurant, Cabaret Plan, First Floor Plan, Mezzanine Plan, prepared by Sir James L. Robinson, R.A., dated 7/23/14; and

WHEREAS, the Proposed Action represents an Unlisted Action under SEQR regulations for which an environmental review is required prior to approval; and

WHEREAS, the primary environmental concern is the assurance that noise emanating from the cabaret will not have any adverse effects to the surrounding land uses and community; and

WHEREAS, the general standards for all special permit uses in Section 6.5 and the individual standards specifically for cabaret uses in Section 6.7.10 of the Zoning Ordinance, as well as any additional conditions applicable to the Proposed Action, will serve to avoid potential impacts; and

WHEREAS, under the New York State Environmental Quality Review (SEQR) regulations (6 NYCRR 617) the Common Council is required to incorporate environmental considerations in approval actions by a) identifying environmental issues; (b) taking a "hard look" at relevant environmental concerns; and c) making a "reasoned elaboration" as a basis for an environmental determination; and

WHEREAS, based on the recommendations of the City departments, it is recommended that the following conditions be adopted by the Common Council as part of the Proposed Action to avoid potential adverse noise impacts ("Conditions"):

1. The special permit shall be for one (1) year, and shall expire on May 2, 2016, subject to renewals, upon a demonstration that the cabaret has operated consistent with the conditions and controls as set forth in the approval resolution herein.
2. The cabaret special permit use granted by this approval resolution herein is solely limited to the indoor area, first floor only. Any cabaret use beyond such stated permitted area shall constitute a violation of this special permit herein and render the special permit approved herein null and void. No amplified music shall be permitted as part of any outdoor dining application approval.
3. The hours for operation of the cabaret use shall be no later than 3:00 a.m., to be consistent with other cabaret requirements in proximity to the proposed use; the facility may continue to operate as a restaurant or bar use after these hours.
4. The Applicant is prohibited from operating a cabaret without food service available from a printed menu.
5. The Applicant shall be responsible for maintaining adequate sidewalk space in front of the cabaret. Any queuing of persons seeking to enter the facility shall not obstruct the flow of pedestrians on the sidewalk and shall be controlled by the Applicant in a manner satisfactory to the Commissioner of Public Safety.
6. Since a cabaret is not a private club but is an accessory use to a restaurant, no entry fee may be charged for access to the cabaret.
7. The sound level of either live or recorded music or other attendant noise as measured from the exterior of the cabaret premises shall not exceed 85 decibels (dB) at any time as measured at a reasonable distance not less than seven (7) nor more than fifteen (15) feet from the premises of the cabaret establishment. A noise level evaluation of operation of the cabaret use, paid for by the Applicant, shall be conducted by the Department of Building every three (3) months of operation of the cabaret use, with the results to be submitted to the Common Council within two (2) weeks of said evaluation and made available to the public.
8. A sound meter shall be permanently installed by the Applicant to continuously monitor the sound source.
9. No "Sound Amplification Equipment" (speakers, amplifiers, audio systems, radios, televisions, or any other device that can produce or reproduce sound) shall be installed or operated indoors with the intent to amplify the sound outdoors and/or within any temporary structures(s).

10. Whenever the premises fire alarm system is activated all "Sound Amplification Equipment" within the premises shall be shut off.
11. All doors related to the premises and the cabaret use shall be equipped with automatic self-closers, remain closed during operation of the cabaret use, and shall not be permitted to be propped open at any time. Doors may be used for ingress and egress only and must seal tightly when closed. All windows or window walls shall be maintained and secured in the closed position during the operation of any cabaret use.
12. The Commissioner of Public Safety shall be required to notify the Commissioner of Building if there is a change in the licensee under the cabaret license issued by the Commissioner of Public Safety annually, pursuant to the applicable provisions of the White Plains Municipal Code.
13. During the course of the operation of the cabaret use, and at not less than intervals of three (3) months, the Commissioner of Building shall report to the Common Council on the operation of same. If it is to be determined by the Common Council that the public health, safety and welfare is being jeopardized by said operation, the Common Council's finding shall be submitted to the Commissioner of Public Safety, who, at least three (3) days before suspending and/or revoking said cabaret license, shall cause to be mailed to the holder of the special permit at the address at which said cabaret is being conducted, a notice, stating the time and place of a hearing concerning the suspension and/or revocation at which time the permittee shall be entitled to be heard and introduce the testimony of witnesses. The action of the Commissioner of Public Safety relative to such suspension or revocation shall be final. After each year of operation and prior to consideration of the renewal of the special permit, the Commissioner of Building shall report to the Common Council on the operation of the cabaret; and

WHEREAS, the Environmental Officer has recommended that the Common Council, as approving agency of the Proposed Action, declare itself as Lead Agency for the Environmental review of the Proposed Action; and

WHEREAS, the Environmental Officer has recommended that the Common Council find the Proposed Action to be an Unlisted Action under SEQR regulations; and

WHEREAS, the Environmental Officer has recommended that the Proposed Action, when compared to the SEQR criteria of environmental effect, will not have a significant effect on the environment; and

WHEREAS, the Common Council has considered the application, supporting materials, Conditions, and reports from the various City departments, boards or commissions and involved agencies, and public comments which, when considered together, constitute the Environmental Review Record which serves as a basis for the SEQR determination; now, therefore, be it

RESOLVED, based on the foregoing reasons, that the Common Council hereby designates itself Lead Agency for the environmental review of the Proposed Action; and be it further

RESOLVED, based on the foregoing reasons, that the Common Council hereby determines that the Proposed Action is an Unlisted Action under SEQR; and be it further

RESOLVED, that the Common Council has examined the potential environmental effects of the Proposed Action and makes the following environmental findings:

- (a) The proposal is consistent with the Comprehensive Plan and the White Plains Zoning Ordinance.

The Comprehensive Plan recommends entertainment uses for the Mamaroneck Avenue Central Business District, in which the subject property is located.

The 1997 Comprehensive Plan and 2006 Plan Comprehensive Plan Update state:

- The Comprehensive Plan envisions a vibrant, mixed use Core Area, with its three unique sub-areas linked through pedestrian, streetscape, transit, and signage improvements; and land uses that complement one another. (1997)
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The Comprehensive Plan also includes the following Strategies to balance the goal of providing greater activity in the downtown with preserving the quality of existing and encouraging additional residential development in the area:

- Encourage the development of cultural and entertainment uses in this section of the Core Area and build on these to attract restaurants, cafes and entertainment uses.
- Recognize the area around the Main/Mamaroneck intersection as the focus for the Mamaroneck Avenue Central Business District revitalization efforts by encouraging a mixture of retail, office, housing, restaurant and entertainment uses. Opportunities for revitalization in the vicinity of the intersection of Main Street and Mamaroneck Avenue will be pursued to strengthen this prominent area.
- Strictly control Core Area uses that would detract from the residential quality of the Core Area.

Based on the above, the Proposed Action conforms to the recommendations of the Comprehensive Plan.

Zoning Compliance Review

The Red Plum Restaurant is located in a CB-2 Core Business Zoning District where a cabaret use is permitted use subject to the use subject to Section 6.5 General Special Permit Standards and Section 6.7 Special Permit Standards for Cabaret Uses.

There are two types of cabaret uses, as follows:

“Cabaret, Accessory” – a “cabaret” in which the Entertainment and/or dancing do not, in aggregate, occupy more than 40% of the Net Floor Area of the principal business of a “restaurant .”

“Cabaret, Primary” – a “cabaret” in which the Entertainment and/or dancing, in the aggregate occupy more than 40% of the Net Floor Area of the principal business of a “restaurant.”

Based on the analysis completed by the Building Department, the proposed cabaret use occupies approximately 36% of the Net Floor Area of the principal business of a "restaurant" and therefore meets the criteria for an Accessory Cabaret.

The existing restaurant occupies approximately 3,000 sf of ground floor space with a kitchen, sushi bar with 5 seats, dining area with 26 seats, and a bar with seating for 12. In addition there is a mezzanine level at the rear of the restaurant with 700 sf of additional seating for 42 persons. The total restaurant seating is 85 seats.

Conformance with Section 6.5 General Special Permit Standards

6.5.1: The location and size of the special permit "use," the nature and intensity of the operations involved in it or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to "streets" giving access to it are such that it will be in harmony with the appropriate and orderly development of the area in which it is located.

The size of the proposed cabaret use is similar to existing cabarets in the area. The location of the use on Mamaroneck Avenue, a major commercial thoroughfare, is "in harmony with the appropriate and orderly development of the area." The cabaret is proposed to be on the ground floor (at grade level) of the restaurant. No site plan changes are proposed.

6.5.2 The location, nature and "height" of "buildings," walls and fences and the nature and extent of existing or proposed plantings on the site are such that the special permit "use" will not hinder or discourage the appropriate development and "use" of adjacent land and "buildings."

No construction is proposed in connection with the cabaret. As a result, the cabaret use will not alter any building or structural exteriors and will not change any plantings on site. Exterior views of the site will remain unaltered from conditions with the existing permitted restaurant use. Neither use will "hinder or discourage appropriate development and use of adjacent property."

6.5.3: Operations in connection with any special permit "use" will not be more objectionable to nearby properties by reason of noise, traffic, fumes, vibration or other characteristics than would be the operations of permitted "uses" not requiring a special permit.

As gathering places that attract large numbers of patrons, the City of White Plains was concerned about the effects that cabarets have on adjacent residential neighborhoods. These include the potential for high ambient noise levels generated by sound systems, vehicles, and patrons' voices; the potential for idling vehicles to cause localized negative impacts to air quality; the potential for negative impacts related to queuing outside the cabaret and affecting pedestrian traffic on the sidewalk; and the potential for issues of public safety to arise both within and outside of the cabaret use.

The principal impacts from the cabaret will be noise emanating from the cabaret onto the street and potential noise caused by patrons leaving the establishment. The City will regulate the maximum decibel level permitted outside the establishment. This limitation is consistent with promoting evening activity in the downtown. To ensure that the appropriate noise levels are maintained, the cabaret permit shall be granted for a one year period with the controls set forth above.

6.5.4: "Parking lots" will be of adequate size for the particular special permit "use," properly located and suitably screened from adjoining residential "uses," and the entrance and exit drives shall be laid out so as to achieve maximum convenience and safety.

The building in which Red Plum is located is in the CPA and is legally non-conforming with respect to parking. Public parking is available on-street and in nearby public parking lots.

Section 6.7 Special Permit Standards for Cabaret Uses

The Individual Standards and Requirements for “Cabarets” as a Special Permit Use have been augmented in order to streamline the application and enforcement processes and to protect surrounding residential neighborhoods. These new provisions include (1) the exact application requirements needed for submission, (2) a new requirement precluding a “primary cabaret” from locating within 300 feet of any “dwelling unit”, (3) requiring cabarets to be located at grade level, (4) enabling the Commissioner of Building to renew special permit requests and (5) permitting the suspension or revocation of a special permit to operate a “cabaret” if there is a violation.

6.7.10.1 The applicant’s plans indicate the proposed square footages for the dance floor areas and the DJ band area, as well as the egress paths (which do not traverse areas identified for entertainment) and seating areas, in compliance with Section 6.7.10.1.1-5 of the Zoning Ordinance. Occupancy calculations are provided for the both the restaurant and cabaret configuration, as required by Section 6.7.10.1.6. The applicant also states that the existing tables and chairs will be stored in the cellar when the cabaret is in use, as required by Section 6.7.10.1.7 of the Zoning Ordinance.

6.7.10.2 "Cabarets" shall not be located within 150 feet of any residential district, nor within 200 feet of any "lot line" of a place of worship, hospital, "domiciliary care facility" or "community residence," nor shall any “primary cabaret” be located within 300 feet of any “dwelling unit.”

There are no places of worship, hospitals, domiciliary care facilities or community residences located within 200 feet of the site. Although, Red Plum is approximately 250 feet from the RM-0.35 Residential District along Mitchell Place, Red Plum has proposed an accessory cabaret and, therefore, complies with this section.

6.7.10.3 – “Cabarets” shall only be located at grade level.

The proposed cabaret at Red Plum is at grade level and therefore the application complies with this section.

- (b) The Proposed Action should not cause a substantial adverse change in existing air quality, ground or surface water quality, traffic or noise levels, solid waste production levels or potential for erosion, flooding, leaching or drainage problems.

The proposed cabaret use is located within an existing restaurant and building in the Central Business District of White Plains.

The site is fully served by municipal and private utility services.

There is no additional parking requirement because the capacity of the existing restaurant is not increased by the establishment of a cabaret.

With appropriate limitations on noise levels, the operation of the proposed cabaret should not be more objectionable to nearby properties by reason of noise, traffic, fumes, vibrations or other characteristics than would be the operations of permitted uses not requiring a special permit.

- (c) No large quantities of vegetation or fauna will be removed by the Proposed Action. No endangered species of plant or animal should be adversely affected by the Proposed Action. No other significant adverse impacts to natural resources will result from the Proposed Action.

The existing restaurant, including the existing cabaret use, are located in the downtown area of White Plains. There are no natural landscape conditions on the site or in the nearby area.

- (d) The character or quality of important historical, archeological, architectural or aesthetic resources of the City or any neighborhood will not be adversely affected by the Proposed Action.

The Proposed Action conforms to the Comprehensive Plan recommendation to promote mixed uses in the Mamaroneck Avenue Corridor.

The proposed cabaret use is similar to the other cabaret uses that are located in the nearby Downtown area.

Other cabaret uses have been approved in the nearby area along Mamaroneck Avenue. The proposed conditions regarding the operation of the cabaret that have been applied to the other cabaret uses located in the nearby downtown area will assure that appropriate noise levels will be maintained.

Additional requirements for the cabaret use can be determined by the City departments in regard to any future renewals of the special permit to assure compliance with the Noise Ordinance.

Cabaret uses are regulated by two separate municipal authorities: the Common Council approves special permits for a Cabaret use under Sections 6.5 and 6.7.10 of the Zoning Ordinance and the Department of Public Safety issues Cabaret Licenses under Section 4-4 of the Municipal Code in regard to ownership and operational standards. The proposed conditions to the Proposed Action assure that the monitoring functions of the Departments of Building and Public Safety will be coordinated with the Common Council's consideration of any future renewals.

There are no places of worship, hospitals, domiciliary care facilities or community residences located within 200 feet of the site. The Red Plum restaurant is approximately 250 feet from the RM-0.35 Residential District along Mitchell Place.

- (e) No major change in type or quantity of energy used will result from the Proposed Action.
- (f) No hazard to health or human safety will be created.

The Proposed Action involves the Common Council's approval of a cabaret use in accordance with the requirements of the Zoning Ordinance. The Applicant must also apply for a Cabaret License to the White Plains Department of Public Safety. This license must be renewed annually by that Department.

There is no reason to expect any hazard to human health or safety resulting from this Proposed Action. All development is subject to the appropriate municipal safety codes and applicable approvals by the Departments of Building and Public Safety.

- (g) The Proposed Action will not create a substantial change in the use, or intensity of use, of land or other natural resources or the area's capacity to support existing uses. It will not attract a significantly large number of people to the place, neighborhood or community.
- (h) The Proposed Action will not result in the creation of a material demand for other actions which would result in one of the above consequences.
- (I) The Proposed Action will not result in changes in two or more elements of the environment, no one of which has a significant effect on the environment, but which when taken together, result in a substantial adverse impact on the environment.
- (j) The Proposed Action does not represent change in two or more related actions that, when considered cumulatively, would result in substantial environmental impacts.
- (k) No significant impacts have been identified as a result of the Proposed Action when assessed in connection to its setting, duration, geography scope, magnitude and number of people affected; and be it further

RESOLVED, that, based on the foregoing findings, the Common Council determines that the Proposed Action will not have a significant effect on the environment; and be it further

RESOLVED that the Environmental Officer is directed to file the appropriate notice as required by SEQR.

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF WHITE PLAINS APPROVING THE APPLICATION SUBMITTED ON BEHALF OF RED PLUM 888 INC. ("APPLICANT") FOR A ONE YEAR SPECIAL PERMIT TO OPERATE AN "ACCESSORY CABARET" AT "THE RED PLUM" RESTAURANT SITUATED AT 91 MAMARONECK AVENUE (SECTION 125.76, BLOCK 5, LOT 20) SUBJECT TO CERTAIN CONDITIONS CONTAINED HEREIN.

WHEREAS, the Common Council of the City of White Plains, after conducting a public hearing, adopted a local law at a meeting held on July 7, 2014, establishing a four (4) month moratorium on the approval, renewal and modification of "cabarets," to enable the City to review the present laws and regulations pertinent to "cabarets," and have the opportunity to enact laws to better protect and preserve the safety and welfare of the public and those who work, patronize, visit or conduct business with "cabarets;" and

WHEREAS, the Common Council of the City of White Plains, at a meeting held on August 4, 2014, received a communication from the Commissioner of Building, dated July 29, 2014, forwarding an application submitted on behalf of Red Plum 888 Inc. ("Applicant") for the Red Plum Restaurant, for approval by the City of White Plains of a one year special permit to allow a cabaret use at 91 Mamaroneck Avenue; and

WHEREAS, the premises is designated on the Official Tax Assessment Map of the City of White Plains as Section 125.76, Block 5, Lot 20; and

WHEREAS, the premises is situated in the CB-2 (Core Business-2) Zoning District in which a cabaret is a special permit use; and

WHEREAS, pursuant to Section 6.2.1.16 of the Zoning Ordinance of the City of White Plains (“Zoning Ordinance”), the Common Council is the approving agency for cabarets; and

WHEREAS, the Application included the following documents:

A. A cover letter from Mr. Peter Chen, on behalf of the Applicant, dated May 23, 2014, requesting a special permit to operate a cabaret at 190 Mamaroneck Avenue; and

B. A Building Permit Short Form application received by the Building Department on May 29, 2014; and

C. A letter dated April 30, 2014, from Josephine Perriello, President, Nicjo Realty Company LLC, owner of the property located at 91 Mamaroneck Avenue, granting permission to its tenant, Red Plum 888 Inc. (d/b/a Red Plum Restaurant), to apply for the instant Special Permit for a cabaret use for the Red Plum Restaurant; and

D. A short form Environmental Assessment Form (EAF) received by the Building Department on May 29, 2014, certified by Mr. Peter Chen on behalf of the Applicant; and

E. Architectural plans, drawings OC-1 and OC-2, entitled, respectively, “First Floor Plan Mezzanine Plan Legend,” and “Cabaret Plan First Floor Plan Mezzanine Plan Legend,” as prepared by Sir James L. Robinson, R.A., last dated, respectively, October 23, 2012 and July 23, 2014; and

F. A copy of a MapQuest map showing the building location; and

G. A copy of the Cabaret License Application for the Department of Public Safety, dated May 27, 2014; and

WHEREAS, at its August 4, 2014 meeting, the Common Council referred the application for a special permit to operate a cabaret to various City departments, boards, commissions, officers, and the Westchester County Planning Board for review, comments and recommendations, in accordance with the Zoning Ordinance; and

WHEREAS, at its September 2, 2014 meeting, the Common Council received a communication from the Corporation Counsel, dated August 14, 2014, and also unanimously adopted a resolution scheduling a public hearing on the Special Permit application for the October 6, 2014 meeting of the Common Council; and

WHEREAS, at its October 6, 2014 meeting, the Common Council opened the duly noticed public hearing, afforded the Applicant and the public the opportunity to present testimony in relation to the Special Permit application, and then adjourned the public hearing to November 3, 2014; and

WHEREAS, at its November 3, 2014 meeting, the Common Council opened the duly noticed public hearing, afforded the Applicant and the public the opportunity to present testimony in relation to the Special Permit application, and then adjourned the public hearing to December 1, 2014;

and

WHEREAS, at its December 1, 2014 meeting, the Common Council opened the duly noticed public hearing, afforded the Applicant and the public the opportunity to present testimony in relation to the Special Permit application, and then adjourned the public hearing to January 5, 2015; and

WHEREAS, at its January 5, 2015 meeting, the Common Council opened the duly noticed public hearing, afforded the Applicant and the public the opportunity to present testimony in relation to the Special Permit application, and then adjourned the public hearing to February 2, 2015; and

WHEREAS, at its February 2, 2015 meeting, the Common Council opened the duly noticed public hearing, afforded the Applicant and the public the opportunity to present testimony in relation to the Special Permit application, and then adjourned the public hearing to March 2, 2015; and

WHEREAS, the Common Council, at a meeting held on February 2, 2015, also received a communication from the Commissioner of Building dated January 23, 2015, transmitting proposed amendments to the City's Municipal Code codifying the standard conditions that have been imposed by the Common Council in "cabaret" special permit resolutions and to the City's Zoning Ordinance regarding "cabarets;" and

WHEREAS, among the changes proposed for the Zoning Ordinance, included an updating of the definition of “cabaret” and the creation of two “cabaret” classes - a “primary cabaret” and “accessory cabaret” which are distinguished by the percentage of the net floor area proposed for “cabaret” uses as opposed to “restaurant” uses; a definition of the term “net floor area;” a revised definition of “restaurant;” and an augmentation of Section 6.7.10 of the Zoning Ordinance, pertaining to the Individual Standards and Requirements for “Cabarets,” to contain provisions, *inter alia*, (1) stating the exact application requirements needed for submission; (2) a new requirement precluding a “primary cabaret” from locating within 300 feet of an “dwelling unit;” (3) mandating cabarets to be located at grade level; (4) authorizing the Commissioner of Building to renew special permit requests for “cabarets; and (5) codifying the suspension or revocation of a special permit to operate a “cabaret” if there is a violation of any provisions of a cabaret approval; and

WHEREAS, the aforementioned proposed amendments to the Zoning Ordinance were referred to the appropriate City departments, boards, commissions, officers, and the Westchester County Planning Board for review, comments and recommendations, in accordance with the Zoning Ordinance; and

WHEREAS, the proposed amendments to the Municipal Code were also referred to various City departments, boards, commissions, officers for review, comments and recommendations; and

WHEREAS, at its March 2, 2015 meeting, the Common Council opened the duly noticed public hearing, afforded the Applicant and the public the opportunity to present testimony in

relation to the Special Permit application, and then adjourned the public hearing to April 6, 2015; and

WHEREAS, at its March 2, 2015 meeting, the Common Council received a communication from the Commissioner of Building dated February 26, 2015 forwarding revisions to the proposed Zoning Ordinance amendment and Municipal Code regarding “cabarets;” and

WHEREAS, at its March 2, 2015 meeting, the Common Council also received a communication from the Chair of the Planning Board dated February 13, 2015 finding the proposed amendment to the Zoning Ordinance regarding “cabarets,” to be in appropriate form and recommending the scheduling of a public hearing regarding same; and

WHEREAS, the Common Council, at its March 2, 2015 meeting, adopted a resolution scheduling a public hearing on the proposed Zoning Ordinance amendment for April 6, 2015; and

WHEREAS, at its April 6, 2015 meeting, the Common Council opened the duly noticed public hearing, afforded the Applicant and the public the opportunity to present testimony in relation to the Special Permit application, and then adjourned the public hearing to May 4, 2015; and

WHEREAS, at its April 6, 2015 meeting, the Common Council opened the duly noticed public hearing on the proposed Zoning Ordinance amendment regarding “cabarets,” afforded the public the opportunity to present testimony with regard to same, and then adjourned the public hearing to May 4, 2015; and

WHEREAS, at its May 4, 2015 meeting, the Common Council opened the duly noticed public hearing, afforded the Applicant and the public the opportunity to present testimony in relation to the Special Permit application, and then adjourned the public hearing to May 12, 2015; and

WHEREAS, at its May 4, 2015 meeting, the Common Council opened the duly noticed public hearing on the proposed Zoning Ordinance amendment regarding “cabarets,” afforded the public the opportunity to present testimony with regard to same, and then closed the public hearing; and

WHEREAS, at its May 4, 2015 meeting, after having conducted a duly noticed public hearing on the Zoning Ordinance legislation and adopting environmental findings, the Common Council adopted legislation amending the Zoning Ordinance regarding “cabarets,” and tabled an ordinance amending the Municipal Code regarding “cabarets” to June 1, 2015; and

WHEREAS, at its May 12, 2015 special meeting, the Common Council opened the duly noticed public hearing, afforded the Applicant and the public the opportunity to present testimony in relation to the Special Permit application, and then closed the public hearing on the application; and

WHEREAS, the Common Council, at its May 12, 2015 meeting, received communications in relation to the Special Permit application from the Commissioner of Building dated May 8, 2015; the Acting Commissioner of Planning, dated May 4, 2015; the Commissioner of Public Safety, dated May 5, 2015; the Commissioner of Parking, dated September 2, 2014; the

Commissioner of Public Works, dated September 2, 2014; the Deputy Commissioner of Parking for Transportation Engineering, dated August 5, 2014; the Acting Chair of the Traffic Commission, dated August 21, 2014; the Chair of the Planning Board, dated August 21, 2014; the Westchester County Planning Board, dated August 11, 2014; and the Environmental Officer, dated May 8, 2015; and

WHEREAS, the Commissioner of Building, in a communication dated May 8, 2015, noted that the Red Plum Restaurant occupies approximately 3,000 square feet (total gross floor area) on the ground floor and mezzanine level of 91 Mamaroneck Avenue; the ground floor spaces houses a kitchen, a sushi bar (with 5 seats), dining area with 26 seats, and a bar with seating for 12; the mezzanine level has seating to accommodate 42 persons; and

WHEREAS, the Commissioner of Building also stated in a communication dated May 8, 2015, in conformance with the new Zoning Ordinance provisions, that the business operates seven (7) days a week and is engaged in preparing both cooked and raw Asian food which is served to patrons seated at tables and that patrons select food from a full menu and table service is accommodated via a wait staff; and

WHEREAS, the Commissioner of Building in a communication dated May 8, 2015, attached a business operation letter from Mr. Peter Chen dated May 6, 2015, setting forth the following information:

- (1) Restaurant Hours of Operation - Monday -Thursday from 11:30 a.m. to 9:45 p.m.;
Friday - Saturday from 11:30 a.m. to 10:45 p.m.; and Sunday from 4:30 p.m. to 9:30

p.m.; and

(2) Cabaret Hours of Operation - Thursday, Friday and Saturday from 11:00 p.m. to 3:00 a.m.; and

(3) A statement that food selected from Red Plum Restaurant's printed menu will be available whenever the cabaret is in operation; and

(4) A statement that Red Plum Restaurant will be featuring a live DJ from around the world, live bands from top artists and the funniest comedians in Westchester County; and

(5) A statement that Red Plum Restaurant's state of the art security company is fully licensed and bonded at all times during the restaurant's events; and

WHEREAS, the Commissioner of Building notes in the communication dated May 8, 2015, that the Zoning Ordinance now categorizes a cabaret as one of two types: (1) an "Accessory Cabaret" in which the entertainment and/or dancing, do not, in the aggregate, occupy more than 40% of the net floor area of the principal business of a restaurant; or (2) a "Primary Cabaret," in which the entertainment and/or dancing, in the aggregate, occupy more than 40% of the "Net Floor Area" of the principal business of a "Restaurant;" the "Net Floor Area" is defines as the "floor area of a premises open to the public excluding bathroom facilities; and

WHEREAS, the Commissioner of Building states in a communication dated May 8, 2015, that in accordance with the newly adopted Zoning Ordinance amendments, at Section 2.4, Definitions, “Cabaret, Accessory,” based upon the Applicant’s drawing submission dated July 23, 2014, the net floor area of Applicant’s restaurant space is calculated to be approximately 1,040 square feet of which approximately up to a maximum of 415 square feet (40%) may be dedicated for cabaret use to qualify as an “Accessory Cabaret;” and

WHEREAS, the Commissioner of Building further states in a communication dated May 8, 2015, that the Department of Building has calculated that the Applicant is proposing to dedicate approximately 375 square feet of the grade level net floor area for entertainment/dancing when in the cabaret mode of operation, equating to approximately 36% of the net floor area; and

WHEREAS, the Commissioner of Building concludes in the May 8, 2015 communication that as the Applicant’s establishment is principally a restaurant with entertainment and/or dancing that occupies less than 40% of the net floor area, it qualifies as an “Accessory Cabaret” under the Zoning Ordinance; and

WHEREAS, Section 6.7.10 of the Zoning Ordinance requires that “cabarets shall not be located within 150 feet of any residential district line, nor within 200 feet of any lot line of a place of worship, hospital, domiciliary care facility or community residence, nor shall any cabaret;” and

WHEREAS, Section 6.7.10 of the Zoning Ordinance also requires that any “primary cabaret” shall not be located within 300 feet of any “dwelling unit;” and

WHEREAS, the premises within which the cabaret is proposed to be established is not located within 150 feet of any residential district; and

WHEREAS, the premises within which the cabaret is proposed to be established is not within 200 feet of any place of worship, hospital, “domiciliary care facility” or “community residence; ” and

WHEREAS, although Red Plum is approximately 250 feet from the RM-0.35 Residential Zoning District along Mitchell Place, Red Plum has proposed an “Accessory Cabaret”, and therefore complies with Section 6.7.10 of the Zoning Ordinance; and

WHEREAS, in any event, when the Common Council is acting as the approving agency for an application for a special permit, it need only give consideration to and be generally guided by the special permit requirements contained in Section 6.7.10 of the Zoning Ordinance; and

WHEREAS, the proposed cabaret use is in compliance with the applicable requirements in the CB-2 Zoning District; and

WHEREAS, on May 12, 2015, the Common Council adopted a resolution declaring itself as Lead Agency for the environmental review of the cabaret at 91 Mamaroneck Avenue (“Proposed Action”) pursuant to the New York State Environmental Quality Review Act and its accompanying regulations (“SEQRA”), determined that the Proposed Action constitutes an Unlisted Action, and adopted an environmental findings resolution in connection with the Application; and

WHEREAS, the cabaret “use” is consistent with the City’s Comprehensive Plan and Plan Update adopted July 14, 2006 in that “the Plan emphasizes that the Core Area should remain the commercial and retail hub of Westchester County while also containing vibrant residential areas and limiting negative impacts on surrounding Close-In Area neighborhoods;” and

WHEREAS, the objective and strategies of the Comprehensive Plan for the Core Area encourage and support cabaret use at the Red Plum Restaurant and it is appropriate that the Common Council, in the granting of special permit uses which are essentially leisure uses, place appropriate controls to ensure that these uses remain desirable for the patrons as well as for downtown and Close-In neighborhood residents; and

WHEREAS, due to the nature and intensity of cabaret uses, both as to the number of people attracted to the use and sound levels associated with such uses, the Common Council has regularly limited the duration of cabaret special permit uses and attached certain conditions to the operation of such uses; and

WHEREAS, the principal concerns raised by the operation of cabarets are the impacts of people queuing outside the cabarets and affecting pedestrian traffic on the sidewalks, sound emanating from the cabarets onto the surrounding sidewalks and streets and surrounding uses, and the potential for issues of public safety to arise both within and outside of the cabaret use; and

WHEREAS, based on sound level controls and sound testing requirements established by the Common Council as part of the cabaret special permit approval process, the Common Council

hereby believes that appropriate controls will be in place to ensure that the cabaret does not become more objectionable by reason of noise; and

WHEREAS, as previously stated above, the Common Council has conducted a duly noticed in connection with the instant Special Permit application, has reviewed and considered the comments and recommendations from the various City departments, boards, commissions, officers and the plans and other documents submitted by the Applicant, as well as the comments from the public, and has reviewed and considered the application in light of the 1997 Comprehensive Plan and Plan Update adopted July 14, 2006, the standards set forth in the Zoning Ordinance, including, but not limited to, Sections 6.5, 6.7, 7.5 and 8.

NOW, THEREFORE, be it

RESOLVED, that the following findings are hereby adopted in accordance with the Zoning Ordinance:

Section 6.5

1. Subject to the Applicant's compliance with the applicable conditions set forth in this approval resolution herein, in accordance with Section 6.5.1 of the Zoning Ordinance, the Common Council finds that the size of the proposed cabaret use is similar to existing cabarets in the area. The location of the special permit " use" on Mamaroneck Avenue, a major commercial thoroughfare, will be "in harmony with the appropriate orderly development of the area in which it is located." The cabaret is proposed to be on the ground floor (at grade level) of the restaurant. No site plan changes are proposed.

2. Subject to the Applicant's compliance with the condition set forth in this approval resolution, in accordance with Section 6.5.2 of the Zoning Ordinance, the Common Council finds that there are no changes proposed to the building and its facade or plantings such that the proposed special permit for cabaret use at 91 Mamaroneck Avenue "would not hinder or discourage the appropriate development and use of adjacent property." Exterior views of the site will remain unaltered from conditions with the existing permitted restaurant use.

3. In accordance with Section 6.5.3 of the Zoning Ordinance, and subject to the Applicant's compliance with the applicable conditions stated in this approval resolution herein, the operations in connection with the proposed cabaret use at 91 Mamaroneck Avenue will not be more objectionable to nearby properties by reason of noise, traffic, fumes, vibration or other characteristics than would be the operation of other uses not requiring a special use permit in the CB-2 Zoning District.

4. In accordance with Section 6.5.4 of the Zoning Ordinance, the Common Council finds that the building in which Red Plum is located in the Central Parking Area (CPA) and is legally non-conforming with respect to parking. Public parking is available on-street and in nearby public parking lots.

Section 7.5

5. In accordance with Section 7.5.1 of the Zoning Ordinance, the proposed cabaret use at 91 Mamaroneck Avenue conforms with the CB-2 Zoning District's height, bulk and density requirements.

6. In accordance with Section 7.5.2 of the Zoning Ordinance, the vehicular and traffic circulation both within and without the site will not be adversely affected by the approval of the Special Permit application.

7. The design of the proposed cabaret at 91 Mamaroneck Avenue is in harmony with the uses in the neighboring area and will preserve the property values, and protect the quality of the environment in accordance with Section 7.5.3 of the Zoning Ordinance.

8. In accordance with Section 7.5.4 of the Zoning Ordinance, the architectural design of the proposed cabaret use at 91 Mamaroneck Avenue will enhance and protect the character and property values of the neighborhood.

Section 6.7.10

9. The Applicant's plans indicate that the proposed square footages for the dance floor and the DJ band area, as well as the egress paths (which do not traverse areas identified for entertainment) and seating areas, in compliance with Section 6.7.10.1.1-5 of the Zoning Ordinance. Occupancy calculations are provided for both the restaurant and cabaret configuration, as required by Section 6.7.10.1.6. The Applicant also states that the existing tables and chairs will be stored in the cellar when the cabaret is in use, as required by Section 6.7.10.1.7 of the Zoning Ordinance. The proposed cabaret at Red Plum is at grade level and complies with Section 6.7.10.3; and be it further

RESOLVED, that based upon the above findings, the Common Council determines

that the standards of Sections 6.5, 6.7.10, 7.5 and 8 of the Zoning Ordinance have been satisfied, and approval of the special permit be and it is hereby granted, subject to the following conditions:

1. The special permit shall be for one (1) year, and shall expire on May 2, 2016, subject to renewals, upon a demonstration that the cabaret has operated consistent with the conditions and controls as set forth in the approval resolution herein.

2. The cabaret special permit use granted by this approval resolution herein is solely limited to the indoor area, first floor only. Any cabaret use beyond such stated permitted area shall constitute a violation of this special permit herein and render the special permit approved herein null and void. No amplified music shall be permitted as part of any outdoor dining application approval.

3. The hours for operation of the cabaret use shall be no later than 3:00 a.m., to be consistent with other cabaret requirements in proximity to the proposed use; the facility may continue to operate as a restaurant or bar use after these hours.

4. The Applicant is prohibited from operating a cabaret without food service available from a printed menu.

5. The Applicant shall be responsible for maintaining adequate sidewalk space in front of the cabaret. Any queuing of persons seeking to enter the facility shall not obstruct the flow of pedestrians on the sidewalk and shall be controlled by the Applicant in a manner satisfactory to the Commissioner of Public Safety.

6. Since a cabaret is not a private club but is an accessory use to a restaurant, no entry fee may be charged for access to the cabaret.

7. The sound level of either live or recorded music or other attendant noise as measured from the exterior of the cabaret premises shall not exceed 85 decibels (dB) at any time as measured at a reasonable distance not less than seven (7) nor more than fifteen (15) feet from the premises of the cabaret establishment. A noise level evaluation of operation of the cabaret use, paid for by the Applicant, shall be conducted by the Department of Building every three (3) months of operation of the cabaret use, with the results to be submitted to the Common Council within two (2) weeks of said evaluation and made available to the public.

8. A sound meter shall be permanently installed by the Applicant to continuously monitor the sound source.

9. No "Sound Amplification Equipment" (speakers, amplifiers, audio systems, radios, televisions, or any other device that can produce or reproduce sound) shall be installed or operated indoors with the intent to amplify the sound outdoors and/or within any temporary structures(s).

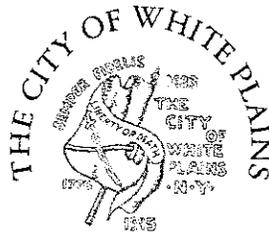
10. Whenever the premises fire alarm system is activated all "Sound Amplification Equipment" within the premises shall be shut off.

11. All doors related to the premises and the cabaret use shall be equipped with automatic self-closers, remain closed during operation of the cabaret use, and shall not be permitted

to be propped open at any time. Doors may be used for ingress and egress only and must seal tightly when closed. All windows or window walls shall be maintained and secured in the closed position during the operation of any cabaret use.

12. The Commissioner of Public Safety shall be required to notify the Commissioner of Building if there is a change in the licensee under the cabaret license issued by the Commissioner of Public Safety annually, pursuant to the applicable provisions of the White Plains Municipal Code.

13. During the course of the operation of the cabaret use, and at not less than intervals of three (3) months, the Commissioner of Building shall report to the Common Council on the operation of same. If it is to be determined by the Common Council that the public health, safety and welfare is being jeopardized by said operation, the Common Council's finding shall be submitted to the Commissioner of Public Safety, who, at least three (3) days before suspending and/or revoking said cabaret license, shall cause to be mailed to the holder of the special permit at the address at which said cabaret is being conducted, a notice, stating the time and place of a hearing concerning the suspension and/or revocation at which time the permittee shall be entitled to be heard and introduce the testimony of witnesses. The action of the Commissioner of Public Safety relative to such suspension or revocation shall be final. After each year of operation and prior to consideration of the renewal of the special permit, the Commissioner of Building shall report to the Common Council on the operation of the cabaret.



DEPARTMENT OF LAW

MUNICIPAL BUILDING • 255 MAIN STREET • WHITE PLAINS, NEW YORK 10601

(914) 422-1241 • FAX (914) 422-1231

JOHN G. CALLAHAN
Corporation Counsel

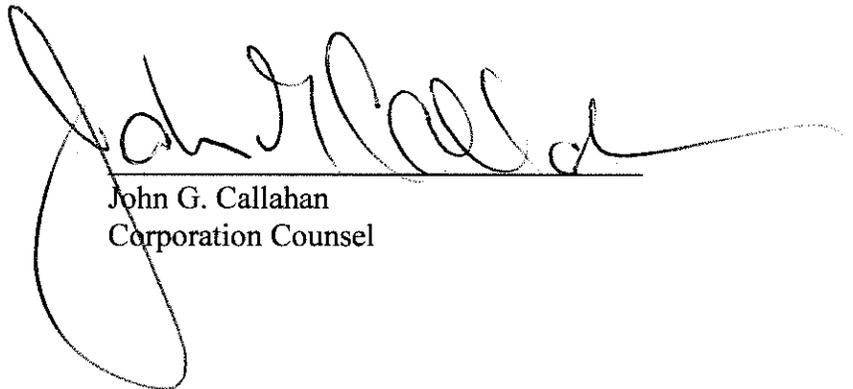
CAROL L. VAN SCOYOC
Chief Deputy Corporation Counsel

DANIEL K. SPENCER
Deputy Corporation Counsel

**TO THE HONORABLE MAYOR AND MEMBERS OF THE COMMON COUNCIL
OF THE CITY OF WHITE PLAINS.**

Authorization is requested to settle the claim of Daniel Behan and Anne Behan against the City of White Plains for the amount of \$65,000.00. Mr. Behan allegedly suffered injuries as a result of a fall caused by a defective condition on the Library Plaza on April 4, 2011. In my opinion, the proposed settlement is in the best interests of the City.

Submitted for your consideration is an ordinance authorizing the aforementioned settlement.



John G. Callahan
Corporation Counsel

Dated: May 11, 2015

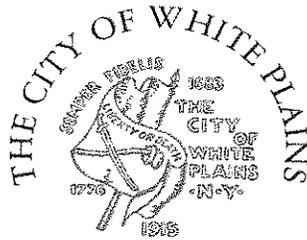
**AN ORDINANCE AUTHORIZING THE SETTLEMENT OF THE ACTION
OF DANIEL BEHAN AND ANNE BEHAN AGAINST
THE CITY OF WHITE PLAINS.**

The Common Council of the City of White Plains ordains and enacts as follows:

Section 1. The settlement of the action of Daniel Behan and Anne Behan against the City of White Plains in the amount of sixty-five thousand dollars (\$65,000.00) is hereby authorized.

Section 2. The Mayor is authorized to direct the Commissioner of Finance to pay the sum of sixty-five thousand dollars (\$65,000.00) from the City's Self-Insurance Fund.

Section 3. This ordinance shall take effect immediately.



PLANNING DEPARTMENT

70 Church Street, White Plains, New York 10601
(914) 422-1300 Fax: (914) 422-1301
E-Mail: Planning@whiteplainsny.gov

THOMAS M. ROACH
MAYOR

LINDA K. PUOPLO
ACTING COMMISSIONER

TO: THE HONORABLE MAYOR AND MEMBERS OF THE COMMON COUNCIL

Re: POTENTIAL REALLOCATION OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING
FOR FISCAL YEAR 2015-2016

The Department of Housing and Urban Development's (HUD) Community Development Program annually provides funding to the City of White Plains as an Entitlement Community to operate the Community Development Block Grant Program. On May 4, 2015 the Common Council approved a resolution for the adoption of the 2015-2019 Consolidated Plan and 2015-2016 Annual Action Plan and acceptance of the Community Development Block Grant (CDBG) allocation for FY 2015-2016 in the amount of \$915,692.00.

The allocation for FY 2015-2016 was provided by HUD to the City of White Plains on February 13, 2015. The award letter indicated that the allocation of \$915,692.00 was a firm amount with no other indication that the allocation level would change. On May 5, 2015 the Director of HUD's Community Planning and Development Program informed the Acting Commissioner of Planning that the total allocation of \$915,692.00 included \$106,880.00 of reallocated funds from the County of Westchester's CDBG program. The letter is attached for your reference.

As you may know, the County of Westchester's CDBG program is currently under federal litigation resulting in denial of their annual CDBG allocation. HUD intended to redistribute the County's denied funding to entitlement cities in this region. However, as stated earlier, the Acting Commissioner of Planning was never informed or notified that the allocation for FY 2015-2016 also included part of the County's reallocated funds.

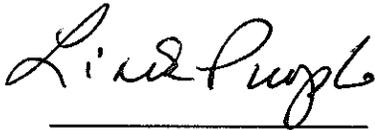
The County appealed the U.S. Court of Appeals for an injunction to prohibit the reallocation of its denied CDBG funds until the County's litigation over fair housing is settled. The Court has ruled in favor of the County and the City of White Plains can only legally accept an allocation of \$808,812.00 for FY 2015-2016 until the injunction is resolved.

18

The City of White Plains will now only seek to accept \$808,812.00 in CDBG allocation for FY 2015-2016 with the understanding that the additional allocation of \$106,880.00 can potentially be accepted at a later date. The Community Development Program has amended the Consolidated Plan and Annual Action Plan to include language reflecting the change of the CDBG allocation and also provide a funding contingency plan in the Annual Action Plan.

If the City of White Plains does not receive the additional CDBG allocation redirected from the County, the funding contingency plan will reduce funding for parks infrastructure and allocate only \$18,120 instead of \$125,000 for FY 2015-2016.

Respectfully submitted,

A handwritten signature in cursive script that reads "Linda Puoplo". The signature is written in black ink and is positioned above a horizontal line.

Linda Puoplo
Acting Commissioner
Department of Planning

DATED: May 7, 2015

For the May 12th 2015 Common Council Meeting