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January 28, 2004

VIA FACSIMILE TRANSMISSION and U.S. MAIL

Ms. Beverly A. Jasinski, City Clerk
City of Rochester Hills
1000 Rochester Hills Drive
Rochester Hills, Michigan 48309-3033

Re: ***Alcoholic Liquor Ordinance Amendment***

Dear Ms. Jasinski:

For the AIS Committee's next meeting, I have prepared and enclose a revised version of the proposed amendment to City Code Sec. 6-38 concerning the processing of liquor license applications. Please note:

- I have added several more review factors concerning proximity to residences, schools and churches; the applicant's management experience; and the applicant's moral character.
- In subsection 6-38(c), I have parenthetically inserted a provision that for purposes of the review factors, the term, "applicant" refers to officers, partners, members and managers of the business, as well.
- Building Code compliance is always part of the application review process, but to clarify this, I have inserted a reference to Building Code in 6-38(c)(4).
- I have clarified, in 6-38(c)(8), that the 50% of gross revenue benchmark for the sale of food refers to food for on-site consumption.
- In 6-38(c)(18), I have re-worked the prior language that referred to the amount to be invested in the premises to make it clearer that what we are evaluating is the adequacy of the applicant's financial resources to operate the proposed business. I am reluctant to be any more specific than that because it would go beyond my realm of knowledge, and because what is adequate will vary based on time, place and type of business.

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The foregoing changes were intended to address the comments reflected in the minutes of the AIS Committee's December meeting. There were several other comments, not resulting in an ordinance change, that I would like to address as well. There was a question about whether ordinance provisions should be added to deal with the renewal or revocation process. The City's ordinance does, at 6-41, contain procedural requirements and review criteria for revocation or non-renewal. Moreover, the state liquor law strictly governs the renewal and revocation process. I do not think it is necessary or beneficial to repeat those state law provisions in our local ordinance.

A question also arose about Farmington Hills' requirement that Class C liquor licensees sign an agreement that says licenses will be returned to the City in the event the licensee goes out of business. For your convenience, I am enclosing a copy of the August 8, 2003 letter I sent to you on this subject which, perhaps, you should share with the AIS Committee. I do not think such an agreement would be enforceable, but if the AIS Committee believes such an agreement should be required, nonetheless, we can attempt to do so. I am skeptical, however, that such an agreement would be beneficial since it is clear, in my opinion, that state law supercedes any such agreement, and the MLCC would not abide by it.

Very truly yours,

BEIER HOWLETT, P.C.

John D. Staran

JDS/lh
Enclosures