



Rochester Hills Agenda Report

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File Number: 2006-0335

File Number: 2006-0335 **File Type:** Project **Status:** To Council
Version: 2 **Reference:** 85-562 **Controlling Body:** City Council
Regular Meeting
Requester: Planning/Development **Cost:** **Introduced:** 04/26/2006
File Name: C. J. Mahoney's **Final Action:**

Title: Request for Conditional Land Use Approval - City File No. 85-562 - C. J. Mahoney's, to allow outdoor seating for the sale of food and beverages in its restaurant located in Oakridge Plaza, on the west side of Rochester Road, north of Nawakwa, zoned B-3, Shopping Center Business, Parcel No. 15-34-226-038, Thomas Everson, applicant.

Notes: Thomas Everson
3260 S. Rochester Road
Rochester Hills, MI 48307
(248) 293-2800

Code Sections: **Agenda Date:** 05/16/2006
Indexes: Conditional Land Use **Agenda Number:**
Sponsors: **Enactment Date:**
Attachments: Agenda Summary.pdf, Map aerial.pdf, Report Staff **Enactment Number:**
05-16-06.pdf, Plans.pdf

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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1	Planning Commission	05/16/2006	Recommended for Approval	City Council Regular Meeting			Pass
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Notes: *(Reference: Staff Report prepared by Derek Delacourt, dated May 16, 2006, had been placed on file and by reference became part of the record thereof.)*

Present for the applicant were Thomas Everson, co-owner, and Curtis Pagels, owner-operator, 3260 S. Rochester Road, Rochester Hills, MI 48307.

Mr. Delacuort stated that the Conditional Land Use request pertained to adding seasonal outdoor seating at the Oakridge Plaza. The Planning Commission would review the request against the discretionary standards outlined in the Ordinance and make a recommendation to City Council. The plans were reviewed by the Planning, Building and Fire Department. He noted that the request was made last year, but at the time, the applicant had problems related to parking on Nawakwa. The Traffic Board had received

complaints, and Staff recommended that the applicant delay the request until the next year and make necessary adjustments. The Traffic Safety Board requested that Nawakwa have "No Parking" signs posted. Since that time, the complaints have stopped. Mr. Delacourt advised that the plan was reviewed for compliance to all current parking codes and ordinances and was in conformance with the existing approved Site Plan. In the past, the Planning Commission has not generally required additional parking for the seasonal seating, but had ensured that the site conformed to the parking requirements.

Mr. Dettloff asked what the time frame was for seasonal seating. Mr. Delacourt replied that it was not defined by the Ordinance, but that past practice dictated dates in the summer season. Mr. Dettloff confirmed that there was not a definitive start and end date. Mr. Delacourt said that could certainly be a condition of an approval. Mr. Dettloff felt that would make sense.

Mr. Pagels stated that they felt outdoor seating would be an important part of their business. The summer months were brief in Michigan and residents liked to be outside. Most of their business was based around the food sales, and sports were a big part of the business, but they could not rely on them in the summer months. They desired to be competitive and offer the community another dimension.

Mr. Boswell opened the Public Hearing at 8:04 p.m. Seeing no one come forward, he closed the Public Hearing. He asked Mr. Dettloff what dates he thought would be acceptable for seasonal seating.

Mr. Dettloff said that based on his experience in other communities, he thought May 15 through October 1 would be reasonable. Mr. Pagel said he would be agreeable to that.

Ms. Brnabic asked how far the seating would go onto the existing sidewalk. Mr. Pagels said there was an awning covering the front to the boundary of their building. There was an existing access door. Ms. Brnabic asked if they planned to go to the parking lot or if they would cut it off by the bricked pillars. Mr. Everson said it would cut off just beyond the pillars. It would allow a sidewalk access for people to walk in front of the seating. Ms. Brnabic noted the emergency exit to the north and clarified that no tables would be in front of that. Mr. Everson said the overhand would cover all but a very small area of the outdoor seating. Ms. Brnabic asked how many tables they proposed. Mr. Everson said 13, explaining that some sat four people and some sat two. Mr. Pagels advised that there would only be access to the outdoor seating from inside the building. People would have to enter through the normal entrance and they could only exit from the gateway on the patio.

Mr. Kaltsounis asked if they owned the property or whether the landlord

knew they were adding the seating to another's property. Mr. Pagel said that the landlord had agreed to it. Mr. Kaltsounis asked if they had that in writing, which was confirmed. Mr. Pagel said they also had letters from other tenants in the plaza showing no objection to the proposal. They had letters from residents who were in close proximity who did not object, and he offered to provide them.

Ms. Hardenburg asked the hours of operation. Mr. Pagel said that the kitchen hours were from 11 a.m. until 12 a.m. They would at least like to offer that, and to give people ample time to finish eating. He added that the hours of operation were 11 a.m. until 2 a.m. Mr. Hardenburg noted the communication received from one of the neighbors, who had complained about noise, and it said they could not sleep. Mr. Pagel said they just had the opportunity to review that, but they were not aware of who it was. They had several neighbors close by who had never expressed any concerns. He stated that they would be happy to discuss it with them to try and rectify the problem. They would be happy go over and clean the yard if that was necessary. He noted that they purchased a power washer for the site and to maintain the dumpster area.

Ms. Hardenburg said the letter mentioned beer bottles were being left on their property. She did not think that type of item should even leave the establishment. Mr. Pagel agreed, and noted that they had security at the door and did their best to prevent that. They could only assume people were bringing them into the lot and disposing of them before they entered the restaurant. They were very diligent in trying to prevent anyone from removing things from the premises.

Ms. Hardenburg referred to the parking and said she had gone to the plaza before and tried to get a parking spot at one of the other businesses but had a hard time finding one. She asked if the other tenants had mentioned encountering a problem. Mr. Pagel said that they agreed to allow designated parking for the other locations, which occurred during their business hours. He had tried to find spaces and recently contracted with a valet service for free of charge.

Mr. Dettloff said that since there would be alcohol consumption outside, he assumed they would monitor the outdoor area. Mr. Everson said there would be someone outside during the hours of operation. The area would be fence in, and no one could go in and out except in an emergency. Mr. Dettloff said he was glad they had purchased a power washer, because he realized the sediment and fluids could really create an odor problem. He asked if they would wash as needed or if they had a schedule set up. Mr. Everson said they had someone in seven days a week to do general cleaning and anytime it was necessary to power wash the areas, they would take care of it right then. Mr. Pagel added that if it were dirty, it was reflective of the operation. Mr. Dettloff asked if their current insurance carrier had amended the policy so they had sufficient coverage during the seasonal period. Mr. Everson said

that if they were approved it would get taken care of immediately. The State would require proof of that before they could serve alcohol.

Mr. Boswell reiterated that two letters had been received regarding the request, one from a resident who lived behind the restaurant and one from Council member Linda Raschke, and noted that they would be placed on file and made part of the record.

Ms. Holder related that she had been in C. J. Mahoney's and observed that it was a very clean and respectable establishment. She felt it was an asset to the City. She noted that Mr. Everson lived in Rochester Hills and that he was well aware of the high standards the City expected.

Mr. Schroeder advised that in a restaurant, the water charges were based on seating. When seating was added, there were no charges added, which put everyone on an uneven playing field. It was not a new concern, but he felt it was something that should be looked at.

Mr. Kaltsounis commented that the Commissioners did not see anyone regarding valet parking, but he urged that the valet parking not be closest to the door. Mr. Pagel advised that they would not reserve any parking for valet. Mr. Everson said that all the valet parking would start in the rear of the building and work toward the front. They were trying to keep the front open, and they did not want the valet employees to park cars in front of other tenants' buildings. Mr. Kaltsounis asked if the other tenants complained about restaurant people parking in front of their buildings. Mr. Pagel felt that had been rectified.

MOTION by Kaltsounis, seconded by Schroeder, in the matter of City File No. 85-562, the Planning Commission **Recommends City Council Approve the Conditional Land Use** for outdoor sales and service of food for C. J. Mahoney's, located at 3260 Rochester Road, based on the site plans dated received by the Planning Department January 30, 2006 with the following five (5) findings and subject to the following one (1) condition:

Findings:

1. The existing development does promote the intent and purpose of this chapter.
2. The subject site has been designed, constructed, operated, maintained and managed so as to be compatible, harmonious and appropriate in appearance with the existing or planned character of the general vicinity, adjacent uses of land, the natural environment, the capacity of public services and facilities affected by the land use, and the community as a whole.
3. The subject site is served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainageways, refuse disposal, or that the persons or agencies responsible for the establishment of the land use or activity shall be

able to provide adequately any such service.

4. *The subject site is not detrimental, hazardous, or disturbing to existing or future neighboring uses, persons, property or the public welfare.*
5. *The subject site does not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.*

Condition:

1. *Dates of operation shall be from May 15 through October 1st.*

Mr. Boswell asked if anyone objected to the hours of operation, noting that the kitchen closed at midnight, and the restaurant closed at 2:00 a.m.

Ms. Holder thought that there could be an issue if the seating was in the rear of the building, but since it was in the front, she did not see a problem. Mr. Pagel added that the covering would act as a sound barrier.

Ms. Hardenburg thought it would be open only as long as the kitchen, but they were discussing that it would be open until the operation was closed. Mr. Pagel said they would prefer to have the outdoor seating open during regular business hours for their patrons. Mr. Everson said they would be cooking until midnight, so people would still be eating. Mr. Schroeder thought the weather would control things, and people would probably not stay out very late in the evening.

Voice Vote:

Ayes: Boswell, Brnabic, Dettloff, Hardenburg, Holder, Kaltsounis, Reece, Schroeder

Nays: None

Absent: None

MOTION CARRIED

Mr. Boswell stated for the record that the motion had passed unanimously.

Text of Legislative File 2006-0335

..Title

Request for Conditional Land Use Approval - City File No. 85-562 - C. J. Mahoney's, to allow outdoor seating for the sale of food and beverages in its restaurant located in Oakridge Plaza, on the west side of Rochester Road, north of Nawakwa, zoned B-3, Shopping Center Business, Parcel No. 15-34-226-038, Thomas Everson, applicant.

..Body

Resolved, that the Rochester Hills City Council hereby approves the Request for Conditional Land Use for outdoor sales and service of food for C. J. Mahoney's, City File No. 85-562, located at 3260 Rochester Road, based on the site plans dated received by the Planning Department January 30, 2006

with the following five (5) findings and subject to the following one (1) condition:

Findings:

1. The existing development does promote the intent and purpose of this chapter.
2. The subject site has been designed, constructed, operated, maintained and managed so as to be compatible, harmonious and appropriate in appearance with the existing or planned character of the general vicinity, adjacent uses of land, the natural environment, the capacity of public services and facilities affected by the land use, and the community as a whole.
3. The subject site is served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainageways, refuse disposal, or that the persons or agencies responsible for the establishment of the land use or activity shall be able to provide adequately any such service.
4. The subject site is not detrimental, hazardous, or disturbing to existing or future neighboring uses, persons, property or the public welfare.
5. The subject site does not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.

Condition:

1. Dates of operation shall be from May 15 through October 1st.