

**City of Rochester Hills  
Department of Planning**

**STAFF REPORT TO THE PLANNING COMMISSION  
May 16, 2006**

<b>Conditional Land Use Recommendation</b>	
<b>APPLICANT</b>	C. J. Mahoney's 3260 S. Rochester Road Rochester Hills, MI 48307
<b>AGENT</b>	Thomas Everson
<b>LOCATION</b>	West side of Rochester Road, North of Nawakwa (in Oakridge Plaza)
<b>PARCEL NO.</b>	15-34-226-038
<b>FILE NO.</b>	85-562
<b>ZONING</b>	B-3 (Shopping Center Business)
<b>STAFF</b>	Derek L. Delacourt, Deputy Director
<b>REQUEST</b>	Conditional Land Use Recommendation

**SUMMARY**

The applicant is proposing to add seasonal outdoor seating for the sale and service of food and beverages at their existing location. The site is located within a retail plaza at the northwest corner of Rochester Road and Nawakwa. Section 138-568(12) of the City's Ordinance requires that the outdoor sale and service of food receive Conditional Land Use approval from City Council.

The subject use is a bar/restaurant within the existing building. The applicant proposes to add temporary railing and seating, located on the existing sidewalk in front of the building, to allow for outdoor dining. The proposed use would not require any modification to the existing site plan based on its seasonal use. The site plan conforms to the current City Code and all previous approvals.

The applicant has submitted a proposed plan for the location of the seating. The plan has been reviewed by the City's Fire and Building Departments and has been recommended for approval. The applicant will, if approved, be required to submit plans to the City's Building Department prior to issuance of a permit.

Previously there was a parking issue related to the site. The City received complaints from residents living on Nawakwa regarding patrons of the restaurant utilizing the residential street for parking when the lot was busy at the subject site. Subsequent to that the City's Traffic Engineer, after review from the Traffic Safety Board, posted Nawakwa with "No parking Signs" in June of 2005. Staff is not aware of additional complaints after the street was posted.

### Conditional Land Use Approval

Sec. 138-1306. Special and conditional land uses; discretionary decisions of the City's Ordinance identify the process and review criteria for CLU approval. Identified below are the review criteria for CLU approval as listed in the Ordinance:

For decisions on special land uses referred to in subsection (a) of this section and in all other instances in this chapter where discretionary decisions must be made by a board, commission or official, including decisions on site plans, the requirements and standards as particularly set forth in this chapter concerning the matter for decision shall be followed, and such discretionary decision shall also be based upon the findings that the special land use will:

- (1) Promote the intent and purpose of this chapter.
- (2) Be 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) Be 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) Not be detrimental, hazardous, or disturbing to existing or future neighboring uses, persons, property or the public welfare.
- (5) Not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.

The City Council shall grant the requested approval only upon determination of compliance with the standards in this subsection. In granting the requested approval, the City Council shall impose such requirements or conditions, as it deems necessary to protect the public interest of the city and the surrounding property and to achieve the objectives of this chapter.

## RECOMMENDATION

**Staff recommends that the proposed use either meets or has no impact on the above stated criteria. Therefore, Staff recommends the following motion.**

**MOTION** by \_\_\_\_\_, seconded by \_\_\_\_\_, 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 findings:

## 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.

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References: Sheets SP (Site Plan) and A-1 (Patio Plan), prepared by Serra & Associates, received by the Planning and Development Department January 30, 2006; Fire Dept. memo dated 07/11/2005; Section 138-568 of Rochester Hills Zoning Ordinance; Notice of Public Hearing.

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