

NEW BUSINESS

2015-0094

Public Hearing and request for Ordinance Amendment Recommendation - An Ordinance to amend Sections 138-4.300, 138-4.302 and 138.8-200 of Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to add alcoholic beverage sales (for on-premises consumption) to the Table of Permitted Uses by District, repeal inconsistent provisions and prescribe a penalty for violations thereof.

(Reference: Letter prepared by John Staran, dated April 16, 2015 and draft Ordinance amendment had been placed on file and by reference became part of the record thereof).

Mr. Staran explained that there had been a change in the way the Michigan Liquor Control Commission (LCC) processed liquor licensing. For many years, before the LLC would issue an approval for a new liquor license or for a transfer in to the community, local approval was required. It would go before City Council and the City's Liquor Committee. In most cases, the LCC would go along with the decision. As part of the streamlining of governmental processes that had occurred over the last couple of years, the LCC had revised its procedures. One of the revisions, unfortunately for the City, was that for a license to transfer into the community, it was not required to be submitted for local approval before the State would act. He commented that bistros and restaurants came and went, and in many cases the licenses coming into the community were those that the proprietors had purchased from somewhere else. The City would like to have a say in those matters, for reasons including land uses and public policy, but it could now not be done under the current liquor Ordinance. A number of communities had decided to try using their zoning power to require a Conditional Use approval for liquor related businesses. The City would not be directly reviewing a liquor license transfer, but it would be reviewing the businesses as a Conditional Use as they came into the City. That was upheld in Bloomfield Twp. The LCC and all the liquor licensing attorneys that he had spoken with, and from attending seminars, seemed to accept it as a valid process. He hoped the Planning Commission would recommend the Ordinance to City Council. The changes were relatively simple in that it added a line item for alcoholic beverage sales to the Table of Permitted Uses under Commercial and Retail Uses as a Conditional Use in virtually every zoning district. He added that it was for onsite consumption, not for party stores or packaged liquor. It was not expanding where alcoholic beverage sales could take place, but rather it would be recognizing where they already did take place. When he initially drafted it, he was considering the B zoning districts, where restaurants

were, but after talking about it, he realized that there were licenses associated with hotels, golf courses and other uses. The State kept inventing new categories of liquor licenses, such as resort or downtown development licenses, and he wanted to make sure the City had full coverage. The only district where there would be no on-premise liquor consumption establishments would be B-5. He recalled that Staff was presenting an Ordinance to require businesses involving alcoholic beverage sales to submit for a Conditional Use approval before they could establish in the City.

Mr. Dettloff asked Mr. Staran if there was an establishment that served alcohol and it went out of business with a license in escrow, and a business wanted to come that would serve alcohol, if it would have to get a Conditional Use approval. Mr. Staran explained that the business would not be grandfathered in. The Ordinance would not affect any existing businesses, but if a business wanted to get a new license or wanted to transfer in a license that had been escrowed, it would be considered a new license which would be subject to the Conditional Use process. Mr. Dettloff said that he understood it to a degree; it just seemed like it would be one more bureaucratic step. Mr. Staran said that it was not meant to create further hurdles. It would restore the level of regulation the City had before. In the past, that same person would have had to come to Council to obtain approval before going to the LCC.

Mr. Kaltsounis noted that he previously owned a day care center, and he asked if the City would be allowing alcohol consumption in nursery schools, child care centers, adult foster care and so on.

Mr. Anzek pointed to Commercial and Retail uses. The second item was a specific category called Alcoholic Beverage Sales for On-premise Consumption Accessory to a Permitted Use. There were Conditional Uses across the board. A nursery school was a Conditional Use in a residential district. Mr. Staran agreed, and said that none of that had changed. The only change was the addition of alcoholic beverage sales under Commercial and Retail. Mr. Anzek remarked that someone would not have to get a license to consume in his house. Mr. Staran added that it was not changing where the sales could be located - that was already established.

Mr. Kaltsounis commented that he had a bit of an issue on page three, Lumber and Planning Mills. Mr. Anzek said that it was a typo that never got corrected. Mr. Kaltsounis recalled that Mr. Staran said that what was out there today was permitted. He wondered if the law should say that or if

it was understood. Mr. Staran called it lawful, nonconforming use. If something was lawfully established before the Ordinance changed, it could continue as a matter of law. Mr. Kaltsounis observed that it would be grandfathered.

Mr. Yukon asked if a license would go with the location if a restaurant changed ownership, or if it was considered a transfer. Mr. Staran said that it depended. A lot of times if a restaurant changed owners, the owner would have to go through a process at the State level for a change of ownership. He did not know if it was a 50% threshold change in ownership or if it was different. He noted that there would be a companion Ordinance with a few minor changes to the Liquor Control Ordinance, because the proposed Ordinance would only deal with the transfers in.

Mr. Dettloff said that in reference to Mr. Yukon's question, if there was a transfer of a license to a new owner, and the previous owner already got a Conditional Use, he wondered if the new owner would be required to get one too, or if it would be part of the transfer. Mr. Staran advised that if someone was transferring a license in, it would mean that there was not an existing license. Mr. Dettloff understood, but if the owner was selling and he was transferring to a new owner, and the current owner already had a Conditional Use, he wondered if that would automatically go to the new owner. He wondered if the new owner would have to also obtain a Conditional Use. Mr. Staran said that a change of ownership of the business would not be affected by the proposed Ordinance. That was different than a transfer in. For a transfer in, someone would be bringing another liquor license into the community and adding to the total.

Mr. Schroeder asked what the process would be if there was an existing restaurant that decided to move to a larger facility and the new facility had different hours of operation, for example. Mr. Staran said that it would be like applying for a new liquor license. He said that liquor licenses were not portable; they were tied to a location. If there were a liquor license approved for Pine Trace, for example, it could not just be moved somewhere else without going through the process for a transfer in, which would be covered under the proposed Ordinance.

Ms. Granthen considered temporary liquor licenses, and she asked if there was any relevance with the issuance of temporary licensing.

Mr. Staran advised that the proposed Ordinance would not cover that. It just covered the permanent, on-premises licensing. Temporary licenses for an event or a banquet or something like that did require a permit. Ms.

Granthen asked if he had ever had any input regarding temporary licenses or if it was outside of the City's parameters. Mr. Staran believed that the City always got police and public safety input. The City Council did not weigh in on that, and he thought that the Clerk's office had some involvement. It never arose to the level where City Council or the Mayor approved them. He added that it would apply to weddings at the museum.

Chairperson Boswell opened the Public Hearing at 7:23 p.m. Seeing no one come forward, he closed the Public Hearing.

Hearing no further discussion, Mr. Kaltsounis moved the following, seconded by Mr. Schroeder.

MOTION *by Kaltsounis, seconded by Schroeder, that the Rochester Hills Planning Commission hereby recommends to City Council an Ordinance to amend Sections 138-4.300, 138-4.302 and 138-8.200 of Chapter 138, Zoning, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan to add alcoholic beverage sales (for on-premises consumption) to the Table of Permitted Uses by district, repeal inconsistent provisions and prescribe a penalty for violations.*

A motion was made by Kaltsounis, seconded by Schroeder, that this matter be Recommended for Approval to the City Council Regular Meeting. The motion carried by the following vote:

Aye 9 - Boswell, Brnabic, Dettloff, Granthen, Hooper, Kaltsounis, Reece, Schroeder and Yukon

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

2015-0156

Public Hearing and Request for Approval of the 2016-2021 Capital Improvement Plan (CIP)

(Reference: Memo prepared by Keith Sawdon, dated April 21, 2015 and draft 2016-2021 Capital Improvement Plan had been placed on file and by reference became part of the record thereof).

Mr. Anzek summarized that it was the annual event to review CIP projects submitted, and he hoped that the Planning Commission would approve the document. It would help the Fiscal Department move the budget forward. He noted that everyone but Ms. Granthen had been through the process. He explained that the CIP was a program to identify the needs now and into the future, so they could be organized with other projects. They tried to avoid things like paving a road one year and the next having to dig it up to put in a water main, and the CIP had been very effective in avoiding that type of situation.