J-06

CITY COUNCIL AGENDA ITEM

Date: May 20, 2011

To: John Szerlag, City Manager

From: Gary Mayer, Chief of Police
Captain Gerard Scherlinck
Lieutenant Robert Redmond

Subject: Application for New Outdoor Service Area for Capital Grille Holdings, Inc.

Background

Capital Grille Holdings, Inc. (a North Carolina Corporation) requests a New Outdoor Service (1 Area) to be held in conjunction with 2010 Class C & SDM Licensed Business with Official Permit (Food), located at Somerset Collection North, 2800 West Big Beaver, Space #Q 123, Troy, Michigan, 48084, Oakland County {MLCC Req. #569015}.

Attorney John Carlin was present to answer questions from the Liquor Advisory Committee on April 11, 2011. Mr. Carlin informed the Committee that Capital Grille would like to build an outdoor service patio at their Somerset Collection location. It will be similar to the temporary outdoor service area they built when the Ryder Cup was in Michigan in 2004. The area will be fully fenced, including decorative flower boxes and seating for 42 at tables with umbrellas. No smoking will be allowed in this outdoor area. The fencing will be removed during the winter months.

The Police Department did not find any disqualifying factors for this request. In addition, the Liquor Advisory Committee unanimously approved their request.

The request complies with all applicable Troy City Ordinances and Michigan Liquor Control Commission Rules.

Recommendation

Recommend approval of the request from Capital Grille Holdings for New Outdoor Service Area, pending Fire Department and Oakland County Health Department final inspections.

Prepared by: Jeff Oberski

A regular meeting of the Liquor Advisory Committee was held on Monday, April 11, 2011 in the Lower Level Conference Room of Troy City Hall, 500 West Big Beaver Road. Chairman Max K. Ehlert called the meeting to order at 6:57 p.m.

ROLL CALL:

PRESENT: Max K. Ehlert, Chairman
W. Stan Godlewski
Patrick C. Hall
Andrew Kaltsounis
David S. Ogg
Timothy P. Payne

ABSENT: Bohdan L. Ukrainec

ALSO PRESENT: Officer James Feld
Lori Grigg Bluhm, City Attorney
Dane Lepola, student representative
Pat Gladysz

Resolution to Excuse Committee Member Ukrainec

Resolution #LC2011-04-008
Moved by Hall
Seconded by Kaltsounis

RESOLVED, That the absence of Committee member Ukrainec at the Liquor Advisory Committee meeting of April 11, 2011 be **EXCUSED**.

Yes: 6
No: 0
Absent: Ukrainec

Resolution to Approve Minutes of March 14, 2011 Meeting

Resolution #LC2011-04-009
Moved by Hall
Seconded by Godlewski

RESOLVED, That the Minutes of the March 14, 2011 meeting of the Liquor Advisory Committee be **APPROVED**.

Yes: 6
No: 0
Absent: Ukrainec

Agenda Items

1. **Woodberry Wine, LLC** requests a new Wholesale License to be located at 1307 East Maple, Suite B, Troy, MI, 48083, Oakland County {MLCC Req. #607285}.

Present to answer questions from the Committee was Jack Bourget.

Mr. Bourget explained to the Committee that he has operated as a wine importer and a wholesaler in Troy since 2004. A new MLCC regulation prohibits one person from holding both an importer license and a wholesaler license. Due to this recent law change, Mr. Bourget has formed a new business, Woodberry Wine, LLC, of which he is the principal manager. His wife will act as the import license holder for J & J Importers and he will act as the wholesale license holder for Woodberry Wine.

Resolution #LC2011-04-010
Moved by Godlewski
Seconded by Hall

RESOLVED, That the Liquor Advisory Committee recommends that the request of Woodberry Wine, LLC for a new Wholesale License to be located at 1307 East Maple, Suite B, Troy, MI, 48083, Oakland County be **APPROVED**.

Yes:	6
No:	0
Absent:	Ukrainec

2. **Capital Grille Holdings., Inc**. (A North Carolina Corporation) requests New Outdoor Service (1 Area) to be held in conjunction with 2010 Class C and SDM Licensed Business with Official Permit (Food), located at Somerset Collection North, 2800 West Big Beaver, Space #Q 123, Troy, MI 48084, Oakland County. {MLCC Req. #569015}.

Present to answer questions from the Committee was attorney John Carlin.

Mr. Carlin informed the Committee that Capital Grille would like to build an outdoor service patio at their Somerset Collection location. It will be similar to the temporary outdoor service area they built when the Ryder Cup was in Michigan in 2004. The area will be fully fenced, including decorative flower boxes and seating for 42 at tables with umbrellas. No smoking will be allowed in this outdoor area. The fencing will be removed during the winter months. They have received plan approval from the Planning, Building, and Fire Departments.

Resolution #LC2011-04-011
Moved by Hall
Seconded by Godlewski

RESOLVED, That the Liquor Advisory Committee recommends that the request of Capital Grille Holdings., Inc. (A North Carolina Corporation) for a New Outdoor Service (1 Area) to be held in conjunction with 2010 Class C and SDM Licensed Business with Official Permit (Food), located at Somerset Collection North, 2800 West Big Beaver, Space #Q 123, Troy, MI 48084, Oakland County be **APPROVED**.

Yes: 6
No: 0
Absent: Ukrainec

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3. **Sanctuary Lake Golf Management, LLC** (a wholly owned subsidiary of Billy Casper Golf, LLC) and the City of Troy request to Transfer Ownership of 2010 Class C Licensed Business with Official Permit (Food/Golf) & Outdoor Service (1 Area), located at 1450 East South Boulevard, Troy, MI 48085, Oakland County, from Kosch Special Events, LLC. Sanctuary Lake Golf Management, LLC (a wholly owned subsidiary of Billy Casper Golf, LLC) also request that, as an alternative to a transfer of the 2010 Class C Licensed Business (Food/Golf) & Outdoor Service (1 Area) to Sanctuary Lake Golf Management, LLC that the license be issued to the City of Troy with the understanding that Sanctuary Lake Golf Management, LLC will request a Participation Permit under the City of Troy's Class C (Food/Golf) Liquor License.

   Due to time constraints, a resolution approving both of these actions as alternatives is requested. Troy City Council will make the final determination of which alternative to pursue.

Present to answer questions from the Committee was attorney John Carlin.

Mr. Carlin informed the Committee there have been changes in the liquor laws regarding concessionaires and hotels. The new law allows for a participation permit to be attached to the license. In the present case, the City of Troy would be the license holder and a participation permit would be issued to the concessionaire. The participation permit can be cancelled at any time by the license holder by way of a letter to the MLCC.

City Attorney Lori Grigg Bluhm advised the Committee that there are some risks associated with participation permits. One risk is that if the City of Troy is the license holder, then they hold the liability and would need to have insurance. The City Attorney's office is researching all the facets of participation permits and the associated risks, and they will advise City Council.

As is set forth above, the City Attorney's office is proposing two alternatives to the resolution on this agenda item due to time constraints. Ms. Bluhm advised that this Committee can definitely make their recommendation to City Council as to which alternative they feel would be best.

Resolution #LC2011-04-012
Moved by Hall
Seconded by Ogg

RESOLVED, That the Liquor Advisory Committee recommends that the request of Sanctuary Lake Golf Management, LLC (a wholly owned subsidiary of Billy Casper Golf, LLC) to transfer the 2010 Class C Licensed Business (Food/Golf) & Outdoor Service (1 Area) to Sanctuary Lake Golf Management, LLC and the license be issued to the City of Troy with the understanding that Sanctuary Lake Golf Management, LLC will request a Participation Permit under the City of Troy's Class C (Food/Golf) Liquor License be **APPROVED**. Also, as an alternative, the Liquor Advisory Committee recommends that the request of Sanctuary Lake Golf Management, LLC (a wholly owned subsidiary of Billy Casper Golf, LLC) and the City of Troy to Transfer Ownership of 2010 Class C Licensed Business with Official Permit (Food/Golf) & Outdoor Service (1 Area), located at 1450 East South Boulevard, Troy, MI 48085, Oakland County, from Kosch Special Events, LLC be **APPROVED**.

Yes: 6
No: 0
Absent: Ukrainec

Officer Feld advised the Committee on the following:

Hollywood Super Market No. 3
This request for transfer should appear on next month's Agenda.

The St. Andrews Society of Detroit
This request for dance permit should appear on next month's Agenda.

Cameron Mitchell Restaurants (Ocean Prime)
This request will be held off until next year.

Smoker's Express
After being denied by City Council, the applicant appealed to the MLCC and they were successful. City Attorney Lori Grigg Bluhm mentioned that a copy of the MLCC opinion will be sent to members of this Committee.

City Attorney Ms. Bluhm advised that the decision to not hold liquor violation hearings this year was due in part to staff reductions in many city departments. While she acknowledged the value of the hearings, she stated that the forceful letter sent from

the Police Department required those businesses with violations to re-train their employees in either TIPS or TAMS, and forward verification of that training to Officer Feld.

Ms. Bluhm also informed the Committee that Crank's Catering has withdrawn from consideration to be awarded the catering contract at the Community Center. There are other applicants that are now being considered.

The meeting adjourned at 7:50 p.m.

_____
Max K. Ehlert, Chairman

_____
Patricia A. Gladysz, Secretary II

AGREEMENT REGARDING LIQUOR LICENSE REQUEST

Re: Applicant: Capital Grille Holdings, Inc.
Address: 2800 W. Big Beaver, Space Q123
City/State/Zip: Troy, MI 480 84

Date: March 21, 2011
Type of License/s: Class C/SDM
MLCC Request ID: 569015

This Agreement, made by and between the CITY OF TROY, MICHIGAN, a municipal corporation, with offices located at 500 W. Big Beaver Road, Troy, Michigan, 48084, hereinafter known as THE CITY, and the Applicant as indicated above, hereinafter known as APPLICANT.

1. The City Council of the City of Troy, for and in consideration of the following covenants and conditions, agrees to recommend to the Michigan Liquor Control Commission Approval of the requested Liquor License to be located as indicated above in Troy Michigan.
2. In consideration of the City of Troy's recommendation for approval of the request, the applicant hereby agrees that:
   (a) It has read and is aware of the provisions of City of Troy Ordinances, Chapter No. 67, Chapter No. 68, Chapter No. 98 and Chapter No. 101, and agrees that it shall be deemed to have knowledge of any subsequent amendments to said Chapters which may become effective during the term of this agreement.
   (b) It agrees to observe and comply with all laws, statutes, ordinances, rules, regulations or resolutions of the United States government, State of Michigan, and the City of Troy, or any department or agency of the governmental entities, as well as the rules and regulations of the Michigan Liquor Control Commission as they pertain to the operation of a liquor licensed business in the City of Troy.
   (c) It agrees to immediately require all employees who serve/sell alcohol to attend a recognized alcohol awareness program, and forward the names of each certified employee to the Troy Police Department. The alcohol awareness program must either be recognized by the Troy Police Department (i.e. TIPS,TAMS), or the program must be reviewed by the Troy Police Department to insure that the program is comparable to the recognized programs.
3. Applicant agrees that the recommendation for Approval agreed upon by the City Council is not a property right and is approved upon the express and continuing condition that no violation as set forth in paragraph 2 of this agreement shall occur.
4. Applicant agrees that the recommendation for Approval agreed upon by the City Council is approved upon the express and continuing condition that the physical characteristics (including but not limited to the inside layout, building design and engineering, seating capacity, parking space allocations, fire exits, and other physical attributes); and also the nature and type of business intended to be conducted remain virtually the same.
5. Applicant agrees that upon such violation, after full investigation and an opportunity for said applicant to be heard, upon a finding by the City Council that a violation as set forth in paragraph 2 of this agreement has occurred, the City Council shall have just cause for revocation of said recommendation for approval.

LICENSEE AUTHORIZED REPRESENTATIVE

Witnesses: Joyce Crosier - Joyce Crosier
LeeAnn Cain - LeeAnn Cain

By: Joseph G. Kern, Vice President @w

Subscribed and sworn to before me this 21 day of March 200 2011
Notary Public, ORANGE County, MI FLORIDA
Acting in the County of Orange
My commission expires: 6-21-2013

NOTARY PUBLIC-STATE OF FLORIDA
Anne Wyre
Commission # DD886896
Expires: JUNE 21, 2013
BONDED THRU ATLANTIC BONDING CO., INC.

CITY OF TROY

Witnesses: _____

By: _____
Louise Schilling, Mayor

By: _____
Tonni Bartholomew, City Clerk

Subscribed and sworn to before me this _____ day of _____ 200 ____
Notary Public, _____ County, MI
Acting in the County of Oakland
My commission expires: _____

Michigan Department of Energy, Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
7150 Harris Drive, P.O. Box 30005
Lansing, Michigan 48909-7505

FOR MLCC USE ONLY
Request ID # 569015
Business ID # 132719

LAW ENFORCEMENT RECOMMENDATION

[Authorized by MCL 436.1916, R 436.1105(2)(d) and R 436.1403]

AUGUST 31, 2010

TO: TROY POLICE DEPARTMENT
CHIEF OF POLICE
500 W BIG BEAVER ROAD
TROY, MI 48084-5285

Re: CAPITAL GRILLE HOLDINGS, INC. (A NORTH CAROLINA CORPORATION) REQUESTS NEW OUTDOOR SERVICE (1 AREA) TO BE HELD IN CONJUNCTION WITH 2010 CLASS C & SDM LICENSED BUSINESS WITH OFFICIAL PERMIT (FOOD), LOCATED AT SOMERSET COLLECTION NORTH, 2800 W BIG BEAVER, SPACE #Q 123, TROY, MI 48084, OAKLAND COUNTY

CONTACT: J. PATRICK HOWE, 2855 COOLIDGE HIGHWAY, SUITE 203, TROY, MI 48084, B(248) 816-3175

We have received a request from the above licensee for the type of permit indicated below. Please make an investigation and submit your recommendation to the offices of the MLCC at the above address. Questions about this request should be directed to Unit 3 of the Retail Licensing Division at (517) 636-0204.

☐ OFFICIAL PERMIT FOR EXTENDED HOURS OF OPERATION FOR:

Weekdays _____ A.M. to _____ A.M.

Sundays _____ A.M. to _____ A.M./P.M.

☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

NOTE: If the applicant is requesting two separate extended hours permits and the permits are for **different hours** you must complete the box below. If additional space is needed please use reverse side of this form.

☐ OFFICIAL PERMIT FOR EXTENDED HOURS OF OPERATION FOR:

Weekdays _____ A.M. to _____ A.M.

Sundays _____ A.M. to _____ A.M./P.M.

☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

☐ DANCE PERMIT

☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

☐ ENTERTAINMENT PERMIT

☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

☐ TOPLESS ACTIVITY PERMIT	
☐ Recommended	☐ Recommended, subject to final inspection ☐ Not Recommended
☒ OUTDOOR SERVICE (1 AREA)	
☐ Recommended	☐ Recommended, subject to final inspection ☐ Not Recommended
☐ PARTICIPATION PERMIT	
☐ Recommended	☐ Recommended, subject to final inspection ☐ Not Recommended
☐ ADDITIONAL BAR PERMIT	
☐ Recommended	☐ Recommended, subject to final inspection ☐ Not Recommended
☐	
☐ Recommended	☐ Recommended, subject to final inspection ☐ Not Recommended

Signed:

_____
Signature and Title

_____
Print Name and Title

TROY POLICE DEPARTMENT

Date: _____

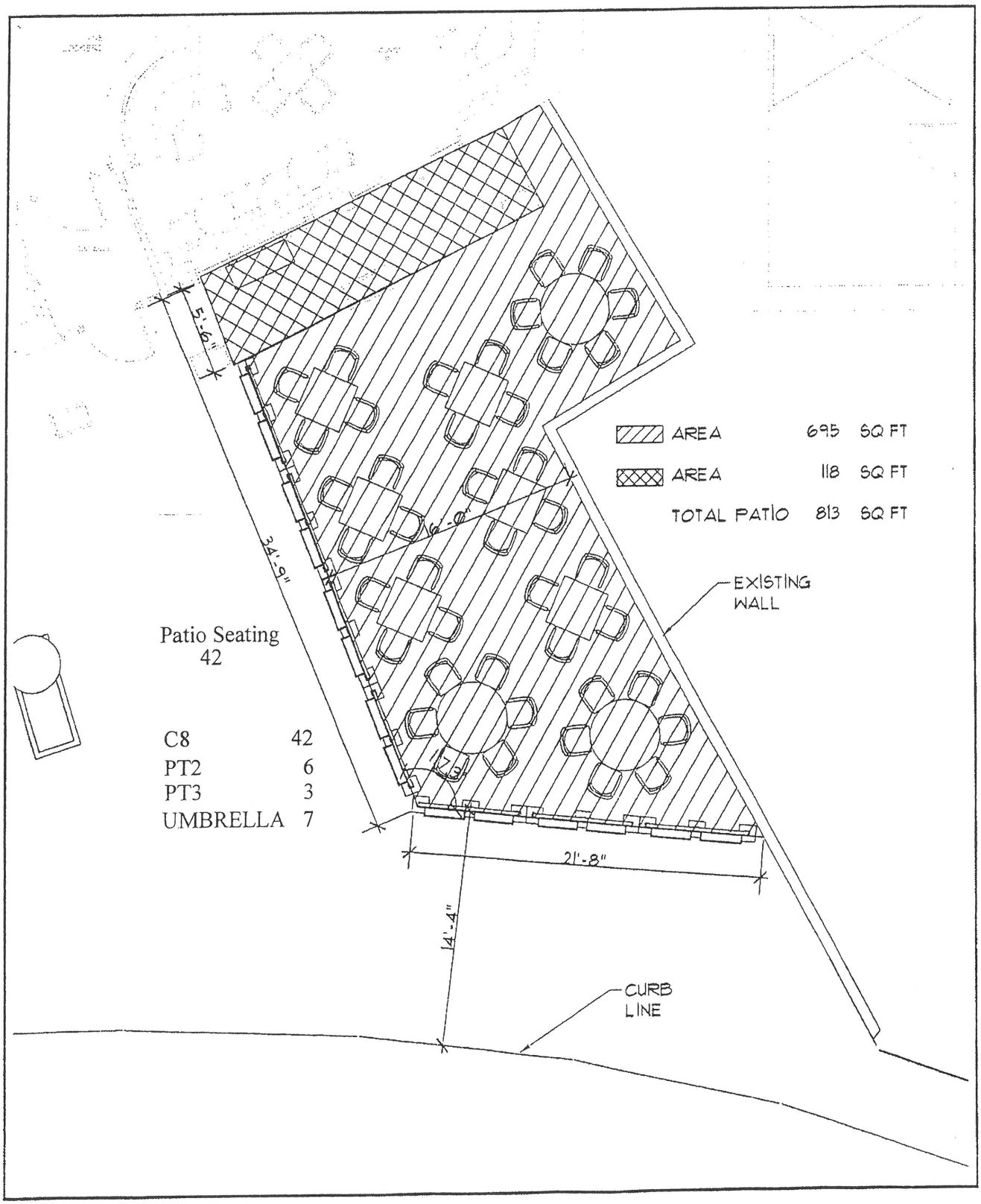
dl

Niemitz Design Group
1 Design Center Place - STE 644
Boston, Massachusetts 02210
617.345.9323 p 617.330.7980 f

Project: THE CAPITAL GRILLE - TROY, MI #8005 Sheet: 1 of 1

Description: PATIO SEATING AREA DIAGRAM ID-SK03

Scale: 1/8"=1'-0" Date: 08/18/10



Received March 1, 2011