



CITY COUNCIL AGENDA ITEM

Date: September 13, 2012

To: Michael W. Culpepper, Acting City Manager

From: Gary Mayer, Chief of Police *GOM*
 Lieutenant Thomas Gordon *th*
 Sergeant George Zielinski *GZ*

Subject: Application regarding SDM Liquor License for 7-Eleven

Background

7-Eleven, Inc. requests a new SDM liquor license with Sunday Sales (AM) Permit, to be located at 4060 Rochester Road, Troy, MI 48084 {MLCC Request #665539}.

On September 10, 2012, Jason Canvasser, attorney for applicant, and Jim Carline, field consultant for applicant, were present to answer questions from the Liquor Advisory Committee. Applicant's representatives advised the Committee that this will be the fifth 7-Eleven store in Troy. There has been one violation in the past four years. Applicant's parent company has a comprehensive, computer-based alcohol training program that all employees must complete with a 100% score. All employees must repeat this training on an annual basis. This location is currently a corporate store, but will eventually be franchised. The liquor license will be in the corporation's name with the franchisee as the co-licensee.

The Police Department conducted an investigation into this application. The investigation did not reveal any issues that would cause us to recommend against this request based upon the guidelines outlined by the MLCC and the Troy City Ordinance Chapter 101. In addition, the Liquor Advisory Committee unanimously approved the request.

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

Recommendation

Recommend approval of the request from 7-Eleven, Inc., pending the approval of the fire inspection, building inspection, and health inspection.

Prepared by: Jeff Oberski

A regular meeting of the Liquor Advisory Committee was held on Monday, September 10, 2012 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 7:05 p.m.

ROLL CALL:

PRESENT: Max K. Ehlert, Chairman
Patrick C. Hall
Andrew Kaltsounis
Bohdan L. Ukrainec

ABSENT: W. Stan Godlewski
David S. Ogg
Timothy P. Payne

ALSO PRESENT: Julie Dufrane, Assistant City Attorney
Jeffrey Oberski, Analyst/Planner
Jesse Pappas, Student Representative
Pat Gladysz

Resolution to Excuse Committee Members Godlewski, Ogg, Payne

Resolution #LC2012-09-021

Moved by Hall

Seconded by Kaltsounis

RESOLVED, That the absence of Committee members Godlewski, Ogg, and Payne at the Liquor Advisory Committee meeting of September 10, 2012 be **EXCUSED**.

Yes: 4

No: 0

Absent: Godlewski, Ogg, Payne

Resolution to Approve Minutes of August 13, 2012 Meeting

Resolution #LC2012-09-022

Moved by Hall

Seconded by Ukrainec

RESOLVED, That the Minutes of the August 13, 2012 meeting of the Liquor Advisory Committee be **APPROVED**.

Yes: 4
No: 0
Absent: Godlewski, Ogg, Payne

Agenda Items

1. **7-Eleven, Inc.** requests a new SDM liquor license with Sunday Sales (AM) Permit, to be located at 4060 Rochester Road, Troy, MI 48084. *This is at the northeast corner of Rochester Road and Wattles.*

Present to answer questions from the Committee were Jason Canvasser, attorney for applicant, and Jim Carline, field consultant for applicant.

Applicant’s representatives advised the Committee that this will be the fifth 7-Eleven store in Troy. There has been one violation in the past four years. Applicant’s parent company has a comprehensive, computer-based alcohol training program that all employees must complete with a 100% score. All employees must repeat this training on an annual basis. This location is currently a corporate store, but will eventually be franchised. The liquor license will be in the corporation’s name with the franchisee as the co-licensee.

The Police Department had no adverse findings to report.

Resolution #LC2012-09-023
Moved by Hall
Seconded by Kaltsounis

RESOLVED, That the Liquor Advisory Committee recommends that the request of 7-Eleven, Inc. for a new SDM liquor license with Sunday Sales (AM) Permit, to be located at 4060 Rochester Road, Troy, MI 48084 be **APPROVED**, pending approval of all final inspections.

Yes: 4
No: 0
Absent: Godlewski, Ogg, Payne

2. **Sakura of Troy, Inc.** requests a new Class C Quota License “above all others” and new SDM license with new Sunday Sales Permit (PM), and new Sunday Sales Permit (AM) to be located at 3635 Rochester Road, Troy, MI 48098. *This is just north of Colebrook Street.*

Present to answer questions from the Committee were Joseph Shallal, attorney for applicant, and applicants Ho Yin Yip and Li Zhang.

Mr. Shallal advised the Committee that the applicants currently own the Golden Harvest Restaurant in Warren. They have 20 years of experience in the Asian food business. They plan to open a Japanese hibachi-style steak house utilizing the “teppanyaki” cooking method. As is the practice in the Warren restaurant, there will be monthly staff meetings to reinforce all liquor license laws. The restaurant will be open seven days a week, from 11:00 a.m. to 10:00 p.m.

Building permits have been issued for interior renovations. The façade on the south side will be removed which will add parking spaces. However, the entire building will not be utilized for the restaurant since there would not be enough parking spaces for the square footage.

Mr. Shallal stated that the applicants would be willing to agree in advance to return the Class C license to the city’s quota system if they fail at their endeavor and a restaurant is not operated at this location. Assistant City Attorney Dufrane stated that she is unfamiliar with such an agreement and would research the concept.

Mr. Ukrainec expressed concerns about the inability to view plans for exterior improvements prior to making a decision. The Committee briefly discussed this issue in view of the fact that the applicants state that they will be investing a considerable amount of money in the façade on the south side of the building.

The Police Department reports that there are unpaid personal property taxes. There have been no final inspections.

Also, the Police Department located two incidents that occurred at the Golden Harvest Restaurant in Warren in March of 2000 and July of 2000 involving Li Zhang. Both incidents involved contact with the Warren Police Department, no citations were issued, and they do not appear on the records of the Michigan Liquor Control Commission.

Resolution #LC2012-09-024

Moved by Hall

Seconded by Kaltsounis

RESOLVED, That the Liquor Advisory Committee recommends that the request of Sakura of Troy, Inc. for a new Class C Quota License “above all others” and new SDM license with new Sunday Sales Permit (PM), and new Sunday Sales Permit (AM) to be located at 3635 Rochester Road, Troy, MI 48098 be **APPROVED** pending approval of all final inspections and with a request to City Council to consider applicant’s offer to return liquor license to the city’s quota system if they fail at their endeavor and a restaurant is not operated at this location.

Yes: Ehlert, Hall, Kaltsounis

No: Ukrainec

Absent: Godlewski, Ogg, Payne

Assistant City Attorney Dufrane advised the Committee that on September 20, 2012 a meeting will be held of the Michigan Association of Municipal Attorneys. One of the topics of discussion will be the changes of the MLCC regulations. She will report findings after that meeting.

The meeting adjourned at 8:20 p.m.

Max K. Ehlert, Chairman

Patricia A. Gladysz, Secretary II

AGREEMENT REGARDING LIQUOR LICENSE REQUEST

Re: Applicant: 7-Elaven, Inc. Date: 7/18/12
Address: 4060 ~~4054~~ Rochester Rd Type of License/s: SPM
City/State/Zip: Troy, MI 48084 MLCC Request ID: 665539

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.

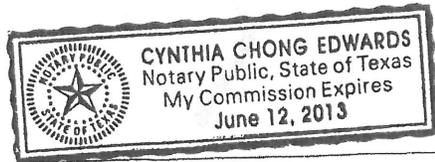
1. The City Council of the City of Troy, for and in consideration of the following covenants and conditions, agrees to recommend to the Michigan Liquor Control Commission Approval of the requested Liquor License to be located as indicated above in Troy Michigan.
2. In consideration of the City of Troy's 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: Ashley Soderstrom By: Janifer Bridges
Aida Ellingson Janifer Bridges, Asst Secretary

Subscribed and sworn to before me this 17th day of August 20 12
Notary Public, Texas/Dallas County, MI
Acting in the County of Dallas
My commission expires: 6/12/13

Cynthia Chong Edwards



CITY OF TROY

Witnesses: _____ By: Janice Daniels, Mayor
_____ By: M. Aileen Bittner, City Clerk

Subscribed and sworn to before me this _____ day of _____ 20 ____
Notary Public, _____ County, MI
Acting in the County of Oakland
My commission expires: _____

Administrative rule R 436.1105(2) provides that the Commission shall consider all of the following factors in determining whether an applicant may be issued a license or permit:

- (a) The applicant's management experience in the alcoholic liquor business.
- (b) The applicant's general management experience.
- (c) The applicant's general business reputation.
- (d) The opinions of the local residents, local legislative body, or local law enforcement agency with regard to the proposed business.
- (e) The applicant's moral character.
- (f) The order in which the competing initial application forms are submitted to the commission; however, this subdivision shall not apply to an application for a resort license authorized by section 531 of 1998 PA 58, MCL 436.1531.
- (g) Past convictions of the applicant for any of the following:
 - (i) A felony.
 - (ii) A crime involving the excessive use of alcoholic liquor.
 - (iii) A crime involving any of the following:
 - (a) Gambling.
 - (b) Prostitution.
 - (c) Weapons.
 - (d) Violence.
 - (e) Tax evasion.
 - (f) Fraudulent activity.
 - (g) Controlled substances
 - (iv) A misdemeanor of such a nature that it may impair the ability of the applicant to operate a licensed business in a safe and competent manner.
 - (v) Sentencing for any of the offenses specified in this subrule after a plea of nolo contendere.
- (h) The applicant's excessive use of alcoholic liquor.
- (i) The effects that the issuance of a license would have on the economic development of the area.
- (j) The effects that the issuance of a license would have on the health, welfare, and safety of the general public.

Part 3 - Recommendation

Do you have any concerns about the applicant, under this rule, at this time? Yes No

If you answered yes, please provide an explanation on this form, or attach a separate page if more space is needed.

Are the permits requested by the applicant recommended by your department at this time? Yes No

If you answered no, please provide an explanation as to why your department does not recommend this application. (List your reasons on this form, or attach a separate sheet if more space is needed.)

Name of law enforcement agency: _____

Name and title of approving officer (please print): _____

Signature and date of approving officer: _____

Phone number and e-mail of approving officer: _____