



CITY COUNCIL AGENDA ITEM

Date: September 27, 2010

To: John Szerlag, City Manager

From: Gary Mayer, Chief of Police *GM*
Captain Gerard Scherlinck, Services Division *GS*
Sergeant Russell Harden *RH*
Officer James Feld *JMF*
Jeff Oberski *J.O.*

Subject: Application for Outdoor Dining Area for Marico, Inc. (Big Beaver Tavern)

Background

Marico, Inc. requests an Outdoor Dining Area to be located at 645 East Big Beaver Road, Troy, MI 48083, Oakland County {MLCC Req. #565601} for the Big Beaver Tavern.

On September 13, 2010, Mr. Mark Larco, owner answered questions for the Liquor Advisory Committee. Mr. Larco explained to the Committee that a fenced outdoor patio has been constructed on the west side of the building. The area will seat 25-30 patrons and will be serviced by the interior bar.

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 Marico, Inc. for Outdoor Dining Area.

LIQUOR ADVISORY COMMITTEE MINUTES – DRAFTSEPTEMBER 13, 2010

A regular meeting of the Liquor Advisory Committee was held on Monday, September 13, 2010 in the Lower Level Room of Troy City Hall, 500 West Big Beaver Road. Chairman Max K. Ehlert called the meeting to order at 6:58 p.m.

Roll Call

PRESENT: Max K. Ehlert, Chairman
W. Stan Godlewski
Patrick C. Hall
Andrew Kaltsounis
Bohdan L. Ukraineec

ABSENT: David S. Ogg
Timothy P. Payne

ALSO PRESENT: Officer James Feld
Susan Lancaster, Assistant City Attorney
Dane Lepola, student representative
Pat Gladysz

Resolution to Excuse Committee Members Ogg & Payne

Resolution #LC2010-09-022
Moved by Hall
Seconded by Ukraineec

RESOLVED, That the absence of Committee members Ogg & Payne at the Liquor Advisory Committee meeting of September 13, 2010 be **EXCUSED**.

Yes: 5
No: 0
Absent: Ogg, Payne

Resolution to Approve Minutes of August 9, 2010 Meeting

Resolution #LC2010-09-023
Moved by Hall
Seconded by Ukraineec

RESOLVED, That the Minutes of the August 9, 2010 meeting of the Liquor Advisory Committee be **APPROVED**.

Yes: 5
No: 0
Absent: Ogg, Payne

Agenda Items

1. **Marico, Inc.**, 645 East Big Beaver Road Troy, MI 48083 (*Big Beaver Tavern*) requests New Outdoor Service (1 Area) to be held in conjunction with 2010 Class C Licensed Business with Dance Permit, Entertainment Without Dressing Rooms, and 2 Bars {MLCC Req. #565601}.

Present to answer questions from the Committee was Mark Larco. Mr. Larco explained to the Committee that a fenced outdoor patio has been constructed on the west side of the building. The area will seat 25-30 patrons and will be serviced by the interior bar.

Officer Feld advised the Committee that there was no research that determined that this request should not be approved.

Resolution #LC2010-09-024
Moved by Kaltsounis
Seconded by Ukrainec

RESOLVED, That the Liquor Advisory Committee recommends that the request of Marico, Inc., 645 East Big Beaver Road Troy, MI 48083 (*Big Beaver Tavern*) for a New Outdoor Service (1 Area) to be held in conjunction with 2010 Class C Licensed Business with Dance Permit, Entertainment Without Dressing Rooms, and 2 Bars be **APPROVED**.

Yes: 5
No: 0
Absent: Ogg, Payne

Informational Items

Officer Feld advised the Committee on the following:

Quantity of Class C/SDM Licenses in Troy

- 58 Class C
- 9 Class C/Resort
- 3 Class B/Hotel
- 27 Class C/SDM

Violations at CVS

The following is a violation history for sales to minors at 4963 John R:

- 07/19/10
- 02/21/08
- 05/03/07
- 07/25/00

Directed Patrol Unit Decoy Operation

The Police Department's Directed Patrol Unit recently performed compliance checks of licensed establishments within the City. Three sale-to-minor violations occurred: (1) Kroger at 1237 North Coolidge Highway; (2) Camp Ticonderoga at 5725 Rochester Road; and (3) Mr. B's at 3946 Rochester Road.

Inventory Verification

It has not been decided who in the City will conduct \$250,000 inventory verification on retail establishments with SDM licenses. Also, the frequency of these inspections has not been determined. Assistant City Attorney Lancaster stated she will check with the Building Department as to their involvement.

Smoker's Express

City Council accepted the Liquor Advisory Committee's recommendation and denied the applicant's request for an SDM license. The applicant indicated he will appeal to the MLCC.

Numan Troy, Inc.

This business indicates it is still interested in pursuing the SDM license.

Space Station of Troy, Inc.

This business indicates it is still interested in pursuing the SDM license.

Square Lake Diner, LLC

This business has purchased a liquor license from Pontiac.

Simbad, Inc.

This business is changing the hours of food service.

Mr. Bootleg Pizza, Inc.

This was merely a paperwork issue and the matter has been resolved.

Embassy Suites

MLCC Hearing is scheduled for 09/20/10 at 11:00 a.m. at the Sterling Heights Civic Center, 40555 Utica Road, Sterling Heights for the disturbance on 12/31/09.

Capital Grille

This business is requesting an outdoor service area.

Additional Items

October Meeting

There was a brief discussion regarding scheduling next month's meeting for October 4, 2010 instead of October 11, 2010.

Resolution #LC2010-09-025

Moved by Ehlert

Seconded by Hall

RESOLVED, That the Liquor Advisory Committee meeting be scheduled for October 4, 2010 instead of October 11, 2010 and this change is **APPROVED**.

Yes: 5

No: 0

Absent: Ogg, Payne

Assistant City Attorney Lancaster advised the Committee that research was done after a clothing store at the Somerset Collection was observed serving champagne to their customers. Ms. Lancaster stated that our City criminal ordinance prohibits serving alcohol in a public place. The alcohol service would be allowed if the business was closed for a private event. Officer Feld stated he planned to visit the store and inform them of the City ordinance.

The meeting adjourned at 7:25 p.m.

Max K. Ehlert, Chairman

Patricia A. Gladysz, Secretary II

AGREEMENT REGARDING LIQUOR LICENSE REQUEST

Re: Applicant: MARICO INC, DBA BIG BEAVER TAVERN Date: 8-11-10
Address: 645 E. BIG BEAVER Type of License/s: EXISTING TYPE C #9053
City/State/Zip: Troy, MI 48063 MLCC Request ID: #9053

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: Cindy Karadish
Sally Zbori

By: Matthew R Godwin

Subscribed and sworn to before me this 11th day of August
Notary Public, Macomb County, MI
Acting in the County of Oakland
My commission expires: July 10, 2014

200-10
MATTHEW R GODWIN
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF MACOMB
My Commission Expires: July 10, 2016
Acting in the County of Oakland

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 # 565601
 Business ID # 5907

LAW ENFORCEMENT RECOMMENDATION

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

JULY 19, 2010

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

Re: MARICO, INC. REQUESTS NEW OUTDOOR SERVICE (1 AREA) TO BE HELD IN CONJUNCTION WITH 2010 CLASS C LICENSED BUSINESS WITH DANCE PERMIT, ENTERTAINMENT WITHOUT DRESSING ROOMS, & (2) BARS, LOCATED AT 645 E BIG BEAVER, TROY, MI 48083, OAKLAND COUNTY.

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 the MLCC Licensing Division at (517) 322-1400.

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

Law Enforcement Recommendation (cont'd)

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<input type="checkbox"/> TOPLESS ACTIVITY PERMIT <input type="checkbox"/> Recommended <input type="checkbox"/> Recommended, subject to final inspection <input type="checkbox"/> Not Recommended
<input checked="" type="checkbox"/> OUTDOOR SERVICE (1 AREA) <input type="checkbox"/> Recommended <input type="checkbox"/> Recommended, subject to final inspection <input type="checkbox"/> Not Recommended
<input type="checkbox"/> PARTICIPATION PERMIT <input type="checkbox"/> Recommended <input type="checkbox"/> Recommended, subject to final inspection <input type="checkbox"/> Not Recommended
<input type="checkbox"/> ADDITIONAL BAR PERMIT <input type="checkbox"/> Recommended <input type="checkbox"/> Recommended, subject to final inspection <input type="checkbox"/> Not Recommended
<input type="checkbox"/> <input type="checkbox"/> Recommended <input type="checkbox"/> Recommended, subject to final inspection <input type="checkbox"/> Not Recommended

Signed:

Signature and Title

Print Name and Title

TROY POLICE DEPARTMENT

Date: _____

dl