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CITY of NOVI CITY COUNCIL

Agenda Item F August 26, 2013

SUBJECT: Approval of adoption of a revised resolution to rescind the City's October 8, 2012 local approval of a quota liquor license for Grace Sharing Club, LLC (d/b/a Fifth Avenue Club and Restaurant), given the failure of the applicant to take sufficient steps to secure occupancy permits and issuance of such license by the Michigan Liquor Control Commission, and to comply with representations with regard to the use.

SUBMITTING DEPARTMENT: City Clerk *M.C.*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION: The City Council granted local approval to issue one of its two remaining (at the time) Class C liquor licenses to Grace Sharing Club, LLC (d/b/a Fifth Avenue Club and Restaurant). Among the Council's considerations was the representation that the license, as a Class C license, would be used in a timely manner.

The applicant has not secured all of the necessary building permits for required renovations to the building and is not at this point close to securing occupancy and other required permits for the building.

At its July 8, 2013 meeting, Council adopted a resolution to rescind its local approval of the liquor license. That resolution gave the applicant 30 days to secure the license from the state and all occupancy permits. The 30 days has passed, without compliance. The LCC has suggested that the City pass a separate resolution without the condition/restriction of the 30-day compliance period.

Attached for Council's consideration is a proposed revised resolution to *rescind* the Council's previous approval of issuance of the Liquor License. As previously explained, there is no statutory provision for "rescinding" a prior local approval. The Liquor Control Code and the City's ordinance talk about "revocation" of a license once it has been issued. However, since the LCC has not formally issued this license yet to the applicant (it has approved the license but actual issuance is waiting additional information from the applicant), a copy of the revised resolution would be sent to the LCC with a request that the license not be issued. If the LCC issues the license despite the resolution, then the City can commence more formal revocation proceedings under the process set forth in the ordinance.

RECOMMENDED ACTION: Approval of adoption of a revised resolution to rescind the City's October 8, 2013 local approval of a quota liquor license for Grace Sharing Club, LLC (d/b/a Fifth Avenue Club and Restaurant), prior to issuance by the Liquor Control Commission given the failure of the applicant to take steps to secure occupancy permits and issuance of such license by the Michigan Liquor Control Commission, and to comply with representations to the City with regard to its use.

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Casey				
Council Member Fischer				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Wrobel				

CITY OF NOVI

COUNTY OF OAKLAND, MICHIGAN

**REVISED RESOLUTION RESCINDING LOCAL GOVERNMENTAL APPROVAL OF
UN-ISSUED CLASS C LIQUOR LICENSE**

Minutes of a Meeting of the City Council of the City of Novi, County of Oakland, Michigan, held in the City Hall of said City on _____, 2013, at 7:00 P.M. Prevailing Eastern Time.

PRESENT: Councilmembers _____

ABSENT: Councilmembers _____

The following preamble and Resolution were offered by Councilmember _____ and supported by Councilmember _____.

RECITALS:

1. Grace Sharing Club, LLC (d/b/a Fifth Avenue Club and Restaurant) applied to the City of Novi for approval of a Class C quota liquor license with related permits for the facility located at 25750 Novi Road, Novi, MI 48375.

2. During the application process and at the hearing conducted by the City Council on October 8, 2012, Grace Sharing Club represented that, if the City Council approved the issuance of the quota liquor license, the facility would be renovated and opened for use by the public in a timely manner.

3. At the time the City Council approved issuance of the Class C quota liquor license, the City had available only two quota licenses; the City now has no quota licenses available.

4. Without the expectation that the facility receiving the quota liquor license would open for use within a reasonable time, the City Council would not have granted its local approval of the Class C quota liquor license.

5. Although the Council approval was granted on October 8, 2012, the license has not been put into use; that is, it has not been issued to the applicant by the Liquor Control Commission. Based upon information from the applicant and from the observations of City staff, it appears that the building requires substantial renovations beyond those represented to the City at the time of the approval.

6. On January 13, 2013, the City sent the applicant a letter stating that the applicant had made no progress on the building and requested a response. The applicant informally indicated that the building was listed for sale. On May 31, 2013, the City sent the applicant a second letter stating that no progress had been made and there was no indication of any renovations in the building. On June 6th, 2013, the City of Novi Building Official and City of Novi Fire Marshal inspected the building and saw no significant improvements underway. On June 7th, 2013, the City of Novi Building Official provided the applicant with a list of improvements that would be required in order to secure an occupancy permit.

7. On July 1st, 2013, the applicant received a notice from the Oakland County Health Department (dated June 28, 2013) indicating that the building was not ready for occupancy.

8. On July 8, 2013, the City Council approved a resolution that rescinded its local approval, given the lack of progress toward use of the quota license, unless within 30 days of that date the applicant had secured an occupancy permit for the building.

9. On July 30, 2013, the County sent the applicant a letter with a list of deficiencies in their paperwork. On August 13, 2013, the applicant received notice from the Oakland County Health Department indicating that review of any plans

cannot continue until missing information has been submitted; therefore, construction cannot begin until such time as Oakland County provides a plan review approval.

10. As of August 22, 2013, the applicant has made only minimal progress on the list of deficiencies that were noted by the Building Official on June 6, 2013.

Outstanding issues from that list are significant [an excerpt from that letter follows]:

- a) The fire suppression system needs to be inspected and certified by a licensed fire suppression contractor. Additional work to the system will most likely be required, and permits will be needed based on the scope of work.
- b) The fire alarm system needs to be evaluated by a licensed fire alarm contractor – permits may be required for this scope of work also.
- c) There are many open electrical outlets, boxes and fixtures missing throughout the space. Have a licensed electrical contractor go through the space and evaluate the system – it may be beneficial to have the electrical contractor walkthrough the space with our electrical inspector before pulling permits. Permits will be required for this work, including the installation of the new light fixtures, bar equipment and kitchen equipment.
- d) All emergency lights and exit signs will need to be tested and many of them replaced. An emergency light test will need to be performed by the building inspector once the building permit is obtained.
- e) The existing elevator is not currently operational. Have a licensed elevator contractor evaluate the condition of the elevator and get it back to operating condition. An inspection from the State of Michigan will be required prior to any TCO or C of O being issued from the City of Novi.
- f) The installation of the new kitchen and bar equipment will require additional plans, permits and inspections from the Oakland County Health Department. Do not install any of the equipment with first obtaining the required permits from Oakland County and the City of Novi.
- g) Several bathroom fixtures and parts of fixtures are missing in the separate bathroom facilities. The replacement or reinstallation of bathroom fixtures requires a plumbing permit for the work that needs to take place.

- h) A plumbing permit will also be required for the installation of the new bar and kitchen equipment.
- i) The kitchen hood fire suppression system is not in working condition. A separate set of plans and permit must be obtained by a licensed kitchen hood suppression contractor. Please have the contractor contact Fire Marshall Joe Shelton if they have any questions on what will be required.
- j) Fire extinguishers are missing throughout the space. All fire extinguishers will be required to be tagged and dated in accordance with the International Fire Code.
- k) The south west corner of the building has a large section of glass that is cracked and needs to be replaced.
- l) The coolers have been removed from the basement level of the space. If the coolers are not being replaced, the fire suppression system and ceiling need to be repaired and evaluated.
- m) The existing exit stairwells have a significant amount of debris underneath the stairs. All storage and debris needs to be removed prior to a TCO being issued.
- n) All Gas fired mechanical equipment needs to be certified by a licensed mechanical contractor. A letter will be required stating that all gas fired equipment is safe to operate.
- o) All work requiring permits should not be started until the required permits have been obtained by the licensed contractors. The following work will require permits: installation of kitchen and bar equipment, bathroom fixtures, electrical lighting and repairs, elevator, kitchen hood suppression, replacement of fire alarm devices, signs, seating, interior finishes.
- p) The only work that should be occurring in the space at this time is cleaning of existing facilities and minor repairs to finishes and fixtures.

11. The City's Class C quota license is therefore in a state of uncertainty—a situation that is not benefiting the City as represented by the applicant.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Novi finds as follows:

A. That the applicant, Grace Sharing Club, LLC (d/b/a Fifth Avenue Club and Restaurant), has not diligently pursued, as it represented it would, issuance of a Class C quota liquor license in accordance with the City's motion to approve its application for same.

B. That the City would not have approved issuance by the Liquor Control Commission of the Class C quota liquor license for the Grace Sharing Club facility in the absence of the representation and the belief that the license would be timely utilized, since the City at the time had only a limited number of Class C quota liquor licenses remaining. In particular, it does not appear that the use—even if it came into technical compliance with the requirements noted above—would be of the high quality represented by the applicant.

C. That it is not in the best interests of the City of Novi to have approved issuance of one of its last remaining Class C quota liquor licenses to a facility that has no specific timeline for opening, since the issuance from the Liquor Control Commission is pending without a specific timeframe for resolution and the applicant does not appear near to completing the building improvement necessary for issuance of an occupancy permit.

D. That the City on May 20, 2013, adopted an amendment to its Zoning Ordinance requiring that issuance of any liquor license shall require a special land use approval under a new provision, Section 2525. The applicant has not applied for or secured special land use approval under such provision.

E. That under Section 3-15 of the City Code, the Council's approval of a license is expressly conditional, and is further "contingent upon the applicant obtaining any required building permits and any other necessary permits, licenses, or approvals

from the City or other regulatory agencies within sixty (60) days of such conditional approval." While the applicant has recently submitted an application for building and other permits, no permits have yet been issued, and nine (9) months have passed with no significant work on the building.

F. That since the Liquor Control Commission has yet **issued** the license, rescission of the City Council's prior motion to approve the issuance is permissible and authorized.

NOW, THEREFORE, on the basis of the foregoing findings, the City Council of the City of Novi hereby **rescinds** its local governmental approval of the Class C quota liquor license of October 8, 2012, and hereby requests that the Liquor Control Commission **deny** and **not issue** the requested license.

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

RESOLUTION DECLARED ADOPTED.

Maryanne Cornelius, City Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Novi at a regular meeting held this _____ day of _____, 2013.

Maryanne Cornelius, City Clerk
City of Novi