

**DOWNERS GROVE LIQUOR COMMISSION  
VILLAGE HALL COUNCIL CHAMBERS  
801 BURLINGTON AVENUE**

Thursday, April 5, 2018

**I. CALL TO ORDER**

Chairman Strelau called the April 5, 2018 Liquor Commission meeting to order at 6:30 p.m.

**II. ROLL CALL**

**PRESENT:** Mr. Clary, Ms. Flanagan, Mr. Jacobson, Mr. Krusenoski (6:35 p.m.), Ms. Pietrucha, Chairman Strelau

**ABSENT:** Ms. Toerpe

**STAFF:** Carol Kuchynka, Liaison to the Liquor Commission, Assistant Village Attorney Dawn Didier

**OTHERS:** Kamlesh Shah, Birju Shah, Bindal Shah, Dhen Patel, Erick Schmidt, Court Reporter

**III. APPROVAL OF MINUTES**

Chairman Strelau asked for approval of the minutes for the March 1, 2018 Liquor Commission meeting and asked members if there were any corrections, changes or additions.

Hearing no changes, corrections or additions, the March 1, 2018 minutes of the Liquor Commission meeting were approved as written.

Chairman Strelau reminded those present that this evening's meeting was being recorded on Village-owned equipment. Staff was present to keep minutes for the record and a court reporter was present taking the minutes verbatim.

**IV. APPLICATION FOR LIQUOR LICENSE**

Chairman Strelau made the following statements:

"The first order of business is to conduct a public hearing for a liquor license application. For the benefit of all present, I would like to state that this Commission does not determine the granting or denial of the issuance of any license. We may at the end of each hearing, make a finding or recommendation with respect to the application. If necessary, the Commission may adjourn a hearing to a later date in order to have benefit of further information."

"At the conclusion of the hearing, the Commission will summarize its findings and determine any recommendations it wishes to make to the Liquor Commissioner."

"The Liquor Commissioner, who is the Mayor of Downers Grove, will, pursuant to Section 3-12 of the Ordinance, render decisions regarding issuance of available liquor licenses within 60 days."

"Hearings by this Commission are held according to the following format: 1) reading of information pertinent to the application, 2) comments from the applicant, 3) discussion by the Commission, 4) comments from staff, 5) comments from the public, and 6) motion and finding by the Commission."

**Maple Food & Liquor - 2263-2265 Maple Avenue**

Chairman Strelau stated that the next order of business was an application hearing for Shree Maha, Inc. d/b/a Maple Food & Liquor located at 2263-2265 Maple Avenue. She stated that the applicant was seeking a Class "P-1", full alcohol, off-premise consumption liquor license.

Chairman Strelau asked that any individual(s) representing the applicant step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Mr. Birju Shah and Mr. Kamlesh Shah were sworn in by the court reporter. Birju Shah introduced his father as the liquor manager and owner of Maple Food & Liquor. He stated they were seeking a full alcohol, off-premise liquor license.

Chairman Strelau asked the applicant to present its case.

Birju Shah stated that the plan is to open a full service convenience store in the strip mall at the corner of Maple Avenue and Belmont Road, behind the Family Video. He stated that this will be their third location. He stated that they plan to have 3,600 square feet and estimate a 70-30 percent split in general merchandise and liquor sales, respectively.

Chairman Strelau asked for comments from the Commission.

Mr. Clary asked if this is their third location. Birju Shah replied yes.

Mr. Clary asked if they ever had any violations. Kamlesh Shah replied no. Birju Shah noted that his father has 25 years of liquor handling experience and has owned and operated licensed convenience stores and currently holds licenses in the City of Chicago and the City of Elgin.

Mr. Jacobson asked them about the location. Birju Shah replied it is currently two vacant storefronts with a total of 3,600 square feet which will need a build out.

Mr. Jacobson stated that the manual was a bit lacking. He asked them to be clear on the types of identification they will accept. Birju Shah stated that they will not accept the vertical under 21 identification. Mr. Jacobson encouraged them to keep up their clean record.

Ms. Flanagan asked what type of security system they will have. Birju Shah replied that they will have 16 cameras throughout the store with the ability to monitor it remotely 24/7. He noted that a camera will be over the register and they will have ADT monitoring the site.

Ms. Pietrucha asked what brings them to the Downers Grove area. Birju Shah replied that they moved to Darien and have been driving through town and liked the location. He noted that there are no grocery stores in the area and felt that a convenience store would be beneficial in this area.

Mr. Krusenoski noted that this will be their third store that will be open approximately 18 hours a day and asked who would be working. Birju replied his mother and father will be operating the store. He stated that they may hire additional employees when they gauge their hours of operation. He noted that they may also change their business hours after they are open as they are not sure how busy they may be.

Mr. Krusenoski noted that many hours will be difficult to divide amongst three stores. Birju replied that they will run the Downers Grove location for 1 year and as they grow, expand the employees. He stated that the other two operations have store managers and personnel that tend to them.

Mr. Krusenoski stated that they should set a tone and tenor for the employees to follow. He stated that the best systems can fail them and they should not be lackadaisical when following the rules. He advised that they will be tested through the Village's control buy operation.

Chairman Strelau noted the 18 hour a day operation. She asked how they plan to ensure that no alcohol is sold outside of allowable sales hours. Birju replied that the cooler doors will be locked and signage posted about the allowable sales hours. He added that all of the hard liquor will be behind the cashier at the front counter where customers will not have access to it.

Chairman Strelau was glad they chose Downers Grove for their third location and wished them luck.

Chairman Strelau asked staff for recommendations or comments pertinent to this application. Ms. Kuchynka replied that issuance of the license is contingent upon receipt of satisfactory background checks, insurance, employee certifications, Certificate of Occupancy and the annual fee.

Chairman Strelau asked for comments from the public. There were none.

Hearing the testimony given in this case, Chairman Strelau asked for a recommendation from the Commission concerning its finding of "qualified" or "not qualified" with respect to the applicant with regard to their Class "P-1" liquor license application.

**MS. PIETRUCHA MOVED TO FIND SHREE MAHA, INC. D/B/A MAPLE FOOD & LIQUOR LOCATED AT 2263-2265 MAPLE AVENUE QUALIFIED FOR A CLASS "P-1", FULL ALCOHOL, OFF-PREMISE CONSUMPTION LIQUOR LICENSE. MR. KRUSENOSKI SECONDED.**

**VOTE:**        **Aye:**            Ms. Pietrucha, Mr. Krusenoski, Mr. Clary, Ms. Flanagan, Mr. Jacobson, Chairman Strelau

**Nay:**            None

**Abstain:**        None

**MOTION CARRIED: 6:0:0**

Motion carried.

## VII. NEW BUSINESS

Chairman Strelau asked if there was any discussion, update from staff or comments from the Commission regarding any new business.

Ms. Kuchynka advised that staff prepared a draft ordinance change requested by Erick Schmidt, Orange & Brew, for an amendment to the Class W-I Wine Boutique liquor license classification. She stated the draft ordinance amends the license classification to eliminate a kitchen requirement and the provision that the primary business is the on-site consumption of wine.

Ms. Kuchynka noted that discussion will be limited to the ordinance change and testimony concerning details of his operation should be held for application hearing discussion if the amendment is adopted.

Ms. Kuchynka advised that the Village has a Wine Boutique liquor license which authorizes the sale of beer and wine in original packages and on-site consumption of beer and wine where the sale of wine is the primary business. She stated that the "primary business is the sale of wine" clause will need to be reworded in order to accommodate Mr. Schmidt's request for a craft beer boutique.

Ms. Kuchynka advised that Erick Schmidt was present to discuss his request.

Mr. Erick Schmidt was sworn in by the court reporter. Mr. Schmidt introduced himself as the owner/operator of Orange & Brew.

Mr. Schmidt stated that he is proposing a craft beer concept which will have on-site consumption and packaged craft beer to go. He stated that there are a few of these independent facilities popping up in the area.

Mr. Krusenoski asked if it will serve as a craft beer tasting room. Mr. Schmidt stated that customers will be able to try some of the craft brews before they make a purchase. He would also like to have 10-12 craft beers on tap for on-site consumption.

Mr. Krusenoski asked if the Cellar Door holds this license. Ms. Kuchynka replied yes. She stated that their business is the primary sale of wine. She noted that Cellar 406 holds the same license. She stated that it is limited in that the primary business is the sale of wine. She added that the amendment would be so the primary business is the sale of beer and/or wine.

Chairman Strelau asked how this differs from the license held by Alter. Mr. Schmidt replied that he will not brew any of his own beer. She asked how the license differs from brewing on-site. Ms. Kuchynka replied that on-site brewing is a large component of that operation. She stated that food service is not required, however the brewing facility license limits the number of ounces that can be served to a patron on any given day.

Mr. Krusenoski asked what the difference is from how Cellar Door operates. Ms. Kuchynka stated that the "primary" business is the sale of wine, although beer sales are allowed.

Mr. Schmidt stated that he would offer some wine on the premises, but the primary business would not be the sale of wine.

Mr. Clary asked if the change was primarily semantics. Chairman Strelau stated that there were other strikeouts and did not see where the primary business was the sale of wine. Ms. Didier stated that in the definition and class sections, the license is limited to locations in which the primary sales are wine.

Chairman Strelau stated that the license classification does not need to be reinvented. She also noticed the strikeout and that there will not be food prepared on the premises.

Mr. Schmidt stated that half of the space will be devoted to retail sales. He stated that he plans to have tables for on-site consumption. He stated that they are located across from the commuter lot on Burlington. He stated that they do not want to prepare food or have a kitchen on-site. He stated that he would support selling pre-packaged food and encourage food to be brought in.

Chairman Strelau noted that with the food service component gone, the Village limited the amount someone could consume. Ms. Didier stated that the only classification where the amount of alcohol is limited is in the brewing facility license which has no food service component. Ms. Didier stated that the boutique will require them to have food available, but the food will not have to be *prepared* on the premises.

Mr. Krusenoski stated that Alter has snacks on the premises. Ms. Kuchynka stated that any licensee can have food on the premises, it is just not a requirement in order to sell alcohol.

Chairman Strelau believed that the Village could accommodate his request by amending the class. She wondered if the preparation of food was more important than the availability of it. She asked *what* are they required to have by way of food.

Mr. Clary asked if this was going to resemble a tavern. Mr. Schmidt stated that the typical customer will have 1-2 beers and take craft beer home. He stated that craft beer is a higher gravity and higher alcohol beer. He stated it is a different consumer.

Ms. Pietrucha asked about the number of licenses proposed. Ms. Kuchynka replied that the increase by two would accommodate Mr. Schmidt's request and give the opportunity for another applicant to apply.

Mr. Clary asked if it mattered whether food was prepared on site or brought in and wondered what the difference is. Ms. Kuchynka stated that if food is prepared on the premises, additional Health Department requirements kick in.

Mr. Clary asked why the Liquor Commission would be concerned as to whether food was prepared on site or not. He noted that just because food is prepared there, does not guarantee food is bought there. Ms. Kuchynka added that there is no requirement for any license holder to make a customer order food if they want a drink.

Mr. Clary asked if there were any down sides to putting "beer" in the boutique license classification. Ms. Kuchynka stated that there are strict parameters in place. She noted that the license class is limited in number and that food shall be provided.

Mr. Clary asked if this license class was created for the Cellar Door. Ms. Kuchynka replied yes. She recalled at the time of their application, they had a very small offering of food on the premises. She noted that their menu has grown substantially since. She stated that the small preparation area that they have offers a fair amount of options.

Chairman Strelau asked if this amendment would cause a disadvantage to Alter if their requirements are more onerous than what is being allowed under the revised boutique provisions. She wanted to be fair. Mr. Clary noted that manufacturing on the premises is a majority of Alter's business. Mr. Krusenoski stated that Alter patrons are limited to consuming 48 ounces.

Mr. Jacobson asked if the Commission should move to review the brewing facility license requirements and see if they have any issues with the ounce limitation. Mr. Clary asked staff if they have complained about the limits. Ms. Kuchynka replied mostly on the limits when they have special events, but she noted those special event licenses to not have a limit on the number of drinks allowed.

Chairman Strelau stated that she has heard that they have a more difficult burden. Mr. Clary stated that the licensee should request a change and not necessarily tell them to come and complain. Mr. Krusenoski stated that Mr. Schmidt will be competing with Alter and he will not have a limit on the number of ounces he serves and could be at an advantage.

Mr. Jacobson asked if the change is good and if the Commission should revisit the Alter license. He stated that they should come and address their needs to be fair. Mr. Clary did not believe that the boutique license would give any advantage over Alter or any other license holder.

Chairman Strelau stated that those establishments that have to meet Health Department requirements have a different burden. She stated that has changed how the Commission has considered license amendments. Mr. Clary stated that the Commission should be concerned about the liquor part of the operation. He stated that the Cellar Door, too, then will have an advantage over Alter.

Ms. Kuchynka stated that the requirements of the brewing facility license were taken from other communities which have similar ounce service limitations. She noted that craft beer is distinctly higher alcohol per volume than a regular beer. Mr. Schmidt stated that the alcohol per volume can range from 4.5%-10%. He stated theoretically 16 oz. of 5% alcohol per volume equates to a 10-12 ounce craft beer.

Mr. Clary asked how the serving size is regulated State wide. Ms. Kuchynka stated size limitations are regulated locally.

Chairman Strelau suggested that the Commission review the brewing facility license. Ms. Kuchynka pulled up the Code from the website and addressed the Village's regulations. The group noted the 48 ounce limit. Mr. Krusenoski recalled staff surveying surrounding communities with similar regulations when the ordinance was being drafted. Ms. Kuchynka noted that although the limits are in place, staff is required to be trained to recognize signs of intoxication and expected to cut off service if they believe a customer has been over served. She stated that 48 ounces is a large amount and a component of training would be to know when to cut off a patron if they exhibit signs of intoxication, regardless if they consume that much.

Ms. Kuchynka stated that when the direction moves away from food service, there is a desire to at least have some food available on the premises. She stated that the mere availability of food does not mean that a patron has to order it, which goes for any establishment, including restaurants.

Chairman Strelau thought that Alter had to have some food. Ms. Kuchynka replied no, which was why the ounce limitations were put in place. Mr. Krusenoski recalled Alter being ok with the limitations so long as they did not have to have food on the premises. Mr. Clary noted that food service was no part of their business and that they mentioned partnering with area restaurants and having food trucks supply food.

Mr. Jacobson stated that he made amendments to the draft ordinance that staff provided. He stated that they remove the food requirement and had other changes to clarify the code. He stated that if the

establishment is not going to force food, it becomes a business decision not to offer it. Chairman Strelau felt that this operation is different from the proverbial "watering hole".

Mr. Krusenoski stated that Alter painted themselves as a true tap room and people would not come in and drink all day. He stated that the purpose was to come in and taste the beer, but noted that it has become a quasi-bar by the activities that go on there.

Chairman Strelau stated that the Commission seems to be in agreement with Mr. Jacobson to remove the food requirement and change the boutique definition to include beer.

Mr. Jacobson stated that he made changes to add wine and beer. He stated that he preferred the wording of "wine, beer or the combination thereof" when referring to types of service. He added a provision to include that it is a violation of State and "municipal law" concerning tastings. Chairman Strelau asked if the Village had laws on tastings. Ms. Didier noted that the Village adopts the State law with regard to tastings but has some provisions for classes and seminars. Mr. Jacobson stated that it would not hurt anything to add a provision about the violation of local laws. He felt that a defendant could argue against a violation if adherence to local laws are not mentioned. Chairman Strelau noted that a home rule can adopt stricter codes than the State, but cannot be less restrictive under home rule authority.

Ms. Kuchynka asked the Commission if they were in agreement with the elimination of the food service requirement. She stated that a licensee can choose to provide food, but does not have to in accordance with serving beer or wine in this license category. She noted that this license will be limited in number and noted that there are no limits in the number of restaurant licenses. Ms. Kuchynka stated that beer or wine service would be the primary business of this license class. The Commission concurred.

Ms. Didier asked the Commission if they wanted to eliminate all food service or replace the wording of "shall provide" to "may provide" food service. Chairman Strelau and Mr. Clary agreed that "may provide" would be appropriate. Mr. Jacobson asked what type of food service would they provide. Ms. Kuchynka replied perhaps keeping consistent with existing provisions of tapas, hot/cold sandwiches, etc. Mr. Jacobson stated that tapas is an ethnic food. Ms. Kuchynka noted that they are appetizers. Mr. Jacobson stated why not just leave it out as they can sell t-shirts too and the Village would not regulate that. Ms. Didier asked if they wanted to take out any reference to food completely. Chairman Strelau replied yes, no reference to any specific food.

**MR. JACOBSON MOVED TO REMOVE ANY FOOD SERVICE REFERENCES IN THE REVISED WINE/BEER BOUTIQUE LICENSE CLASSIFICATION REVISIONS. MR. CLARY SECONDED.**

**VOTE:**           **Aye:**           Mr. Jacobson, Mr. Clary, Mr. Krusenoski, Ms. Pietrucha, Chairman Strelau

**Nay:**           Ms. Flanagan

**Abstain:**       None

**MOTION CARRIED: 5:1:0**

Motion carried.

Ms. Kuchynka stated that staff will revise the ordinance based on the Commission's discussion. Ms. Didier stated that another motion is needed to forward the amended draft to the Village Council for consideration.

**MR. JACOBSON MOVED TO FORWARD THE AMENDED WINE/BEER BOUTIQUE AMENDMENT TO THE VILLAGE COUNCIL FOR CONSIDERATION. MR. KRUSENOSKI SECONDED.**

**VOTE:**       **Aye:**           Mr. Jacobson, Mr. Krusenoski, Mr. Clary, Ms. Flanagan, Ms. Pietrucha, Chairman Strelau

**Nay:**           None

**Abstain:**       None

**MOTION CARRIED: 5:1:0**

Motion carried.

Ms. Kuchynka hoped to get this on an upcoming Village Council agenda and encouraged Mr. Schmidt to attend the meeting. She stated that the Liquor Commission is a recommending body and could not guarantee that the exact changes proposed would be adopted by the Village Council. Mr. Schmidt thanked the Liquor Commission and appreciated their consideration.

## **VI. OLD BUSINESS**

Chairman Strelau asked if there was any discussion, update from staff or comments from the Commission regarding any old business.

Ms. Kuchynka discussed the month end report. She included a copy of the Findings & Order from Bed Bath and Beyond. She noted that the license for Outback was issued on March 7th. She stated that she provided the Commission with an updated license classification chart.

Ms. Kuchynka advised the Commission that she will begin preparing the annual renewal applications. She advised that they are mailed to licensees in May with a June 8<sup>th</sup> return deadline.

Ms. Kuchynka stated that she expected to hold a May Liquor Commission meeting.

Mr. Jacobson asked about the status of Cadence Kitchen and Pierce's Tavern. Ms. Kuchynka replied that Cadence is scheduled to open April 19<sup>th</sup> and she stated that Pierce's Tavern ran into a build-out issue and did not expect them to open until June. She stated that she will be placing their outdoor liquor license application on an upcoming agenda. Ms. Kuchynka advised that Capri has opened for lunch.

## **VIII. COMMENTS FROM THE PUBLIC**

There were none.

## **IX. ADJOURNMENT**

Concluding business for the evening, Chairman Strelau called for a motion to adjourn.

Mr. Clary moved to adjourn the April 5, 2018 meeting. The meeting was adjourned by acclamation at 7:25 p.m.