



## CITY of NOVI CITY COUNCIL

**Agenda Item 4**  
**April 23, 2012**

**SUBJECT:** Consideration of request from AC Restaurants, LLC, d/b/a Tilted Kilt Pub & Eatery, for a new Class C quota license with Sunday Sales Permit to be located at 44175 Twelve Mile Road, Suite F139, Novi, Michigan 48377.

**SUBMITTING DEPARTMENT:** City Clerk *me*

**CITY MANAGER APPROVAL:** *[Signature]*

### **BACKGROUND INFORMATION:**

The City currently has four new Class C quota liquor licenses available. Sean Cahill of Cincinnati, Ohio and Daniel Allen of Hinsdale, Illinois have applied for a new Class C quota liquor license and intend to open Tilted Kilt Pub and Eatery within Fountain Walk at Twelve Mile Crossing. Chapter 3 of the City Code contains the review criteria for considering a new license.

Section 3-13 establishes the City's **general licensing policy**, which considers whether the facility will:

- (a) Will provide a service, product, or function that is not presently available within the city or that would be unique to the city or to an identifiable area within the city;
- (b) Is of a character that will foster or generate economic development or growth within the city, or an identifiable area of the city, in a manner consistent with the city's policies; or,
- (c) Represents an added financial investment on the part of a long-term business or resident with recognized ties to the city and the local community.

In addition, Section 3-15 (g) establishes **specific criteria**, evaluating the application with regard to:

**The applicant** (subsection [g][1]), such as:

- the applicant's management experience in the alcohol/liquor business

**The facility** (subsection [g][2]), such as:

- compliance with building, zoning, and other code requirements
- effects on traffic
- effects on surrounding businesses and neighborhood

- proximity of the proposed business facility to other similarly situated licensed liquor facilities

**Benefits to the community** (subsection [g][3])

- effects upon the economic development of the city
- effects on the health, welfare and safety of the general public
- whether the applicant has demonstrated a public need or convenience for the issuance of the liquor license for the business facility at the location proposed, taking into consideration, among other things:
  1. total number of licenses for similar establishments and/or operations in the city; and
  2. proximity of the establishment to other licensed liquor establishments
- The uniqueness of the facility contrasted with other existing or proposed facilities
- The permanence of the proposed facility in the community.

While the applicants have not owned and operated a Tilted Kilt Pub and Eatery, they do have experience with national restaurant chains and franchises. Mr. Allen has owned 30 Burger Kings and 15 Popeye's Chicken franchises, while Mr. Cahill has assisted national restaurant chains with location strategy and real estate. Tilted Kilt Pub and Eatery has franchise locations in at least 19 other states; however this would be the first to open in Michigan.

The Police Department has no objection to the request. The Fire Department has no objection, pending compliance with State regulations. The Building Division has no objection to the approval, assuming approved building permits and inspections upon built-out. Per the Planning Division, the use is permitted, subject to site plan review and outdoor seating permit review.

**RECOMMENDED ACTION:** Consideration of request from AC Restaurants, LLC, d/b/a Tilted Kilt Pub & Eatery, for a new Class C quota license with Sunday Sales Permit to be located at 44175 Twelve Mile Road, Suite F139, Novi, Michigan 48377.

|                        | 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   |   |   |   |   |

## MEMORANDUM



**TO:** MAYOR GATT AND CITY COUNCIL MEMBERS  
**FROM:** CLAY J. PEARSON, CITY MANAGER  
**SUBJECT:** TILTED KILT STAFF REVIEW  
**DATE:** APRIL 16, 2012

*Clay  
MP*

Staff has reviewed the application for a quota license by AC Restaurants (Tilted Kilt) and does not support granting the license. The application is for one of the City's four remaining Class C "quota" liquor licenses, for the sale of beer, wine, and spirits to the general public on premises. As a reminder, the City gets a certain number of licenses to grant, without reimbursement by the business that is granted the license. The number of licenses available to the City to grant is based on its population. The City has four of these "quota" licenses remaining. (If an applicant is not granted a "quota" license that does prohibit the applicant to open and operate its proposed business. A license can be purchased from someone else who owns one and is not using it, buying "out of escrow.")

From staff's perspective, the application doesn't meet the "General Policy" (Part II Code of Ordinances, Chapter Three) for the granting of licenses, particularly for a quota license. Under that policy (relatively recently reviewed by the City Council and adopted into ordinance form), set forth at Sec 3-13 of the City Code, an applicant must demonstrate in particular that the proposed facility:

- (a) Will provide a service, product, or function that is not presently available within the city or that would be unique to the city or to an identifiable area within the city. ***The Applicant proposes a "pub" that does not provide any particularly unique service, product, or experience. The food and drink appear to be standard pub fare, and the atmosphere of a sports bar exists elsewhere not just in the City but in the immediate area.***
- (b) Is of a character that will foster or generate economic development or growth within the city, or an identifiable area of the city, in a manner consistent with the city's policies. ***There is nothing in the application to suggest that this proposed use will generate any more or greater economic development than a similar use, or that it is likely to meet the City's goals to a greater extent than another similar use.***
- (c) Represents an added financial investment on the part of a long-term business or resident with recognized ties to the city and the local community. ***The business would be new to the area and to***

**Michigan, and the use represents no particular special or long-term investment by the property owner.**

While the application does not disclose any difficulty in gaining technical compliance with building, zoning, or other codes (i.e., for a restaurant use), that does not obligate the City to award one of its quota licenses. When reviewed against the specific Review Criteria in subsection 3-15(g), in the context of the above Policy, there are numerous deficiencies, in Staff's opinion, including the following specific subsections:

(g) **Review criteria.** In making its determination pursuant to subsection (f), the city council shall consider whether the applicant's proposal is reasonable when measured against the criteria listed below. For purposes of this review, an "applicant" shall be considered to include all officers, partners, members, and managers of an entity applying for a license.

(1) **General information regarding applicant:**

a. The applicant's management experience in the alcohol/liquor business. **The Applicants have not run a licensed establishment, and therefore have no history to review for compliance with such license requirements over a period of time.**

(2) **Information related to the facility/building to which the license would apply:**

f. The proximity of the proposed business facility to other similarly situated licensed liquor facilities. **There are a number of other licensed establishments in the immediate area--it is not "underserved" as far as such uses are concerned. And, as noted above, the other existing uses are not substantially different than the Applicant's proposed use.**

(3) **Benefits to community:**

a. The effects that the issuance of a license would have upon the economic development of the city or the surrounding area. **This particular style and character of pub is not critical to the accomplishment of the City's economic development goals for the area. Other similar uses already exist; the granting of a quota license is not required to complete occupancy of a critical part of the development at issue.**

c. Whether the applicant has demonstrated a public need or convenience for the issuance of the liquor license for the business facility at the location proposed, taking into consideration the following, together with other factors deemed relevant by the council: ***There is no demonstrated public need for this particular license to be issued in this particular location***

1. The total number of licenses for similar establishments and/or operations in the city, considered both in terms of whether such number of similar establishments is needed and whether there may be a need for other types of establishments that could go unmet if the requested license were granted. ***As noted above, the food and drinks at the proposed facility (or similar varieties) are generally available elsewhere in the City--including in the very development where the Applicant proposes to locate. No specific need for a particular form of restaurant will go unmet if the quota license is not awarded.***

2. The proximity of the establishment to other licensed liquor establishments, the type of such establishments, whether such other establishments are similar to that proposed, and the anticipated impact of all such determinations. ***Again, there are similar uses and restaurant bar experiences available in the very immediate area of the Fountainwalk development.***

3. Whether the proposed location is in an area characterized as developed, redeveloping, or undeveloped, and the anticipated impact of approving the newly proposed establishment in light of such character, taking into consideration the need for any type of additional licensed establishment in the area, and the need the particular type of establishment proposed. ***There is nothing in the application to suggest that this particular use is critical to the success or failure of this development.***

d. The uniqueness of the proposed facility when contrasted against other existing or proposed facilities, and the compatibility of the proposed facility to surrounding architecture and land use. ***Again, there are other similar restaurants both in the immediate***

**area and in the rest of the City. This is standard pub food, pub drinks, and a sports bar theme.**

e. The permanence of the establishment in the community, as evidenced by the prior or proposed contributions to the city or community by the applicant or business, and the extent to which the issuance of the license will assist in the further investment of the applicant or business in the city or the community. **This is a business that is new to the City and to the State, and does not represent a specific expansion of the existing development that would warrant special consideration.**

f. The character and extent of investment in improvements to the building, premises, and general area. **There is nothing special or unique about the proposed improvements from a land use or architectural perspective.**

In sum, there appears to be very little that is unique or generally beneficial to the community as a whole--as compared to other existing or potential uses--that would suggest that the City should grant a quota license to the Applicants.