



CITY OF NOVI CITY COUNCIL
AUGUST 14, 2023

SUBJECT: Consideration of a request from BKYK, Inc (Hotaru Japanese Restaurant) for a new Class C quota license to be located at 39723 Grand River Ave, Novi, MI 48375, and Agreement on the Prohibition on Profiteering by Class C Liquor License Holders.

SUBMITTING DEPARTMENT: City Clerk

BACKGROUND INFORMATION:

The City currently has five new Class C quota liquor licenses available. 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:

- 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.
- 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.

Section 3-17 of the City Code allows for an agreement on the prohibition on profiteering by Class C liquor license holders. Under the terms of the agreement, the City Council shall not approve the transfer of a Class C liquor license within three (3) years of the date of the original issuance of the license. A draft agreement is included in this packet.

Hotaru has been owned and operated by owner Byeongju Kang for the past 3 years. By improving the menu, interior, and service, the restaurant has seen a steady increase in business and regular customers. Hotaru intends to fulfill its customer's request of serving Asian alcoholic beverages such as sake and a selection of beer, which will make this location stand out from others with their unique beverage options.

The Police Department has no objection to the request. Approvals from the Fire Department and Community Development are conditional, pending compliance with City regulations.

RECOMMENDED ACTION: Consideration of the request from BKYK, Inc (Hotaru Japanese Restaurant) for a new Class C quota license to be located at 39723 Grand River Ave, Novi, MI 48375 and Agreement on the Prohibition on Profiteering by Class C Liquor License Holders because the addition of the license to this business will improve the diners experience by allowing them to offer unique beverage selections consistent with theme of the restaurant. Other businesses in the same shopping center operate with a liquor license and such use is not incompatible with other uses in the area, the use will not adversely affect surrounding uses, because the use provides for a unique dining experience, and because the applicant appears to qualify for a license under the City's ordinance.

Questionnaire A – Applicant Cover Information and Procedures for Liquor License

The Novi City Council will consider whether an applicant's proposal for a liquor license is reasonable when measured against the information contained within this completed application. Please answer each question thoroughly. All answers should be typed or printed legibly and neatly in black ink. If the space provided is insufficient for a complete answer, use additional sheets of paper, following the same format used in the questionnaire and attach to that part of the application. Failure to provide all required information or attachments could result in delay or denial of liquor license. All liquor license applications are subject to final approval by the Novi City Council. Please refer to Novi Alcoholic Liquor Ordinance, Articles I-II.

1(a). Name, address and phone number of applicant:

Byeongju Kang

1(b). Name, address and phone number of business:

BKYK INC (DBA NAME: HOTARU)
39723 Grand River Ave
Novi, MI 48375
248-442-7788

NOTE: If the applicant is a partnership, you must include the name and address of each partner and attach a copy of the partnership agreement. If the applicant is a privately held corporation, you must include the name and address of each corporate officer, member of the board of directors and/or stockholders. Attach a copy of the articles of incorporation.

2. Type of liquor license applying for (circle all those that apply):

Class C Resort Tavern Club Hotel A B Quota Transfer Microbrewery/Brewpub

Theme of Proposed Business:

Japanese Restaurant

3. Street address and legal description of the property where liquor license is to be located:

39723 Grand River Ave

Parcel number : 50-99-00-017-060

Questionnaire B – Administrative Background Information for Liquor License

The Novi City Council will consider whether an applicant's proposal for a liquor license is reasonable when measured against the information contained within this completed application. Please answer each question thoroughly. All answers should be typed or printed legibly and neatly in black ink. If the space provided is insufficient for a complete answer, use additional sheets of paper, following the same format used in the questionnaire and attach to that part of the application. Failure to provide all required information or attachments could result in delay or denial of liquor license. All liquor license applications are subject to final approval by the Novi City Council.

1. What is the applicant's management experience in the alcohol/liquor business?

N/A

2. What is the applicant's general business management experience?

The applicant managed a kitchen for 4 years prior to purchasing this establishment. He has owned, managed, cooked and operated HOTARU for 3 years

3. What is the applicant's general business reputation?

By improving the menu, interior, and service for the past 3 years, our restaurant has consistently received good reviews on Google, Yelp and Instagram comments. In addition, with friendly service and menu development, regular customers have steadily increased.

4. What is the applicant's financial status and ability to build and/or operate the proposed facility on which the proposed liquor license is to be located?

Annual gross incomes have steadily increased over the past 3 years. Last year, our gross income was about \$590,000. This year, we expect 90,000 - 100,000 more than last year.

5. What are the applicant's past criminal convictions involving moral turpitude, violence or alcoholic liquors?

N/A

6. Does the applicant use alcoholic beverages to excess?

NO

7. What is the effect that the issuance of a license would have upon the economic development of the surrounding area?

Based on Novi's large asian population, We would like to contribute to the local economy by providing a variety of alcohol beverages that go well with authentic Japanese food. In addition, as a long term business plan, we plan to open additional unique authentic Asian restaurants in Novi that cannot be found in other cities.

8. What effect would the issuance of a license have on the health, welfare and safety of the general public?

The availability of alcohol can contribute to socializing and relaxation for some individuals, and can also have a positive effect on local businesses and communities. However, we know excessive consumption of alcohol can lead a variety of negative consequences. If we have strict policies and place, we can reduce or help to avoid these consequences.

9. Has the applicant received responses from the Police Department, Building Department and/or Fire Department with regard to the proposed facility?

Not at this time.

10. What is the public need or convenience for issuance of a liquor license for this facility at the proposed location?

We often get requests for asian type alcohol from our customers and feel there is a demand to serve with our food options.

11. What is 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?

We will offer a unique variety of Japanese authentic alcohol.

12. Does the facility to which the proposed liquor license is to be issued comply with the applicable building, plumbing, electrical and fire prevention codes and zoning statutes and ordinances applicable to the City of Novi? Has applicant received information from the appropriate departments?

Yes. We confirmed with both the building department and our landlord in regards to adding liquor license and they both approved

13. What effect will the facility to which the proposed liquor license is to be issued have upon vehicular and pedestrian traffic in the area?

We don't expect adding a liquor license to have any added traffic to the area.

14. What is the proximity of the proposed business facility to other similarly situated licensed liquor facilities?

Directly adjacent in our same shopping center is a Korean restaurant with a class C license. Additionally, there are multiple other similar use cases within a 5-mile radius along

15. What is the proximity of the proposed facility to complimentary uses such as office and commercial development?

We are located in the middle of a 30,000 sq ft retail shopping center adjacent to similar commercial development; including retail, office, dealerships, storage, etc...

Haggerty, 10 mile and Grand River.

16. What effect would the proposed facility have upon the surrounding neighborhood and/or business establishments, including impacts upon residential areas, church and school districts?

Being a restaurant, we don't think it will effect the areas in question as we are going to be offering alcohol along with meals.

17. What proposed or actual commitments are being made by the applicant to establish permanency in the community?

Although we are a new business to Novi, we specifically targeted Novi as a community we want to be part of for the future. There is a variety of customers of all races that we serve and we feel that Novi offers a diverse community that we would like to grow with.

18. What utilities are available to serve the facility?

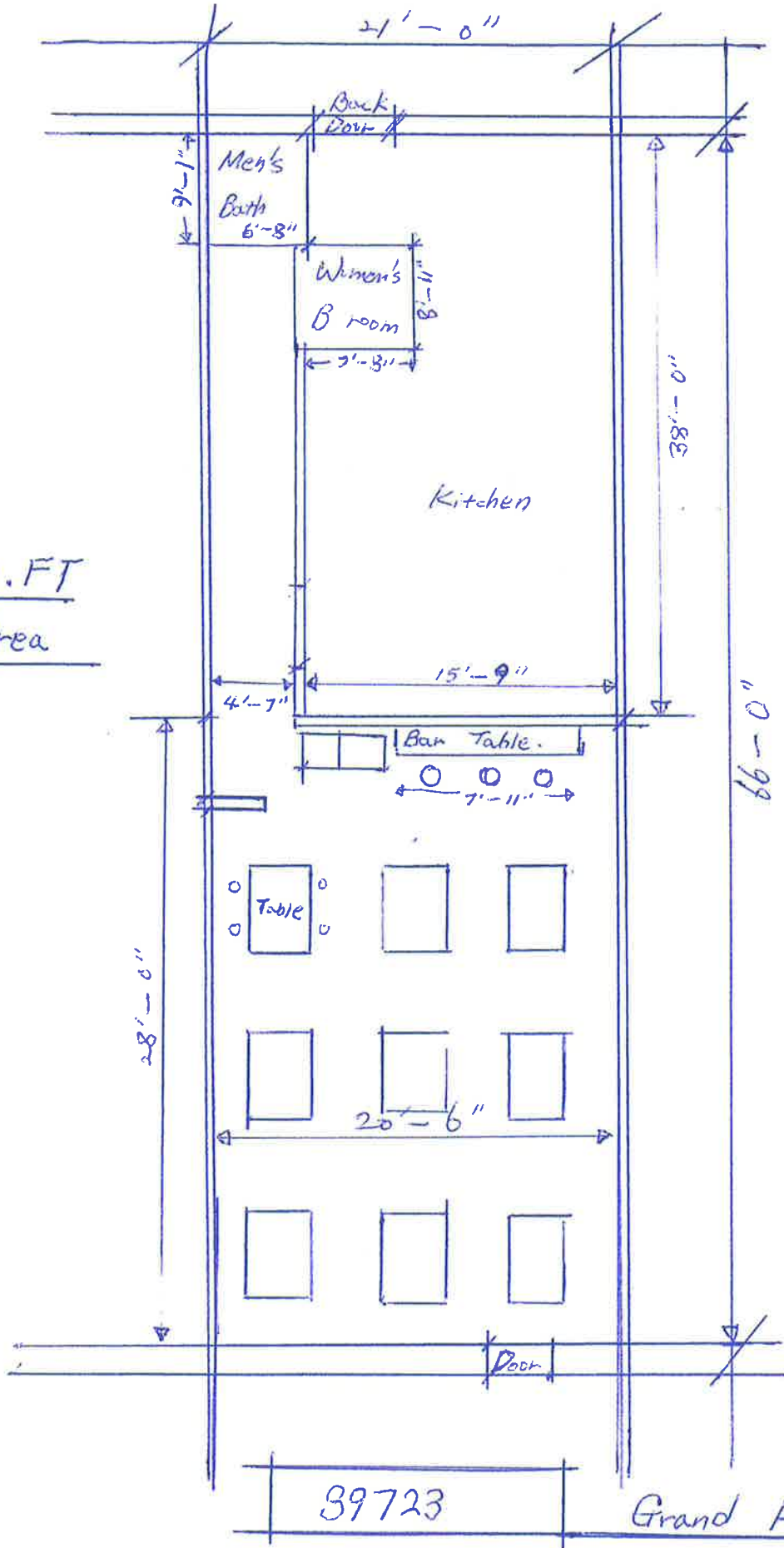
Gas, Water, Internet, Electricity.

19. What other factors should the Novi City Council consider?

The city of Novi council has done a great job creating an outstanding safe environment for not only residents but businesses as well. It is a community I am proud to be a part of and would like to grow and improve the community in providing a quality food and service.

Pheasant Run Plaza

1365' SQ. FT
Leasehold Area



39723

Grand River

Dear City of Novi,

I am writing to request an exemption from the requirement of a liquor license for our business, specifically regarding the Site Plan and Building Façade Plan.

Our business is a small restaurant that aims to provide a unique and enjoyable dining experience for our customers. We take pride in offering a variety of delicious dishes that are complemented by a selection of high-quality alcoholic beverages. However, we have recently encountered an obstacle in obtaining a liquor license due to the requirement of providing a Site Plan and Building Façade Plan.

While we understand the importance of complying with local regulations, we would like to request an exemption from this requirement for the following reasons:

Firstly, our business is located in a small building that has limited outdoor space, making it challenging to provide a detailed Site Plan that meets all the necessary requirements. Additionally, the Building Façade Plan is equally challenging due to the unique architectural design of our building, which does not conform to the traditional guidelines.

Secondly, we believe that the Site Plan and Building Façade Plan requirements were intended for larger businesses with more extensive outdoor spaces, and we do not believe that they are necessary or applicable to our small establishment.

Therefore, we kindly request that an exemption be granted for our business regarding the Site Plan and Building Façade Plan requirements for obtaining a liquor license. We are committed to operating our business in compliance with all other relevant regulations, and we hope that this exemption will enable us to continue providing our customers with an exceptional dining experience.

Thank you for considering our request.

Sincerely,

Byeongju Kang

Drink Menu
Concept.


HOTARU




[DRINK MENU]

Bottle Beer

Asahi	S- \$7	L- \$12
Sapporo	S- \$7	L- \$12
Kirin	S- \$7	L- \$12

 Cold Sake S- \$7 L- \$12

 Hot Sake S- \$7 L- \$12

Special Sake- MP

Five different traditional bottles or cups of sake

*It changes every two months.

HOTARU



LUNCH(11:00-2:30)

Appetizers

• Takoyaki	7	• Agedashi Tofu	6	• Shrimp Tempura	7
• Shrimp Shumai	6	• Gyoza	6	• Chicken Karaage	7
• Pork Katsu	6	• Chicken Katsu	6	• Squid Karaage	7
• Vegetable Spring Roll	6	• Vegetable Croquettes	6		

Lunch special

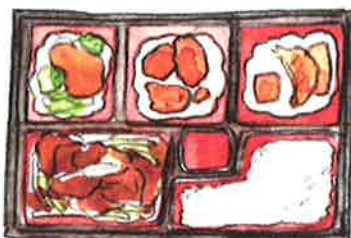


1. Demi-glace Katsu	Choice of pork or chicken katsu with house special sweet demi-glace sauce served with cabbage salad, sweet corn, rice and miso soup.	13
2. Curry Rice + Mini Udon	Japanese style beef curry over rice served with house salad.	12
3. Ramen Combo	Choice of mini Tonkotsu, Shoyu, or Miso ramen with 3 pieces of Gyoza, mini Fried rice, and house salad.	14
4. Udon Combo	Mini Udon with 3 pieces of Gyoza, mini Fried rice, and house salad.	13
5. Chicken Mayo Ramen Combo	Choice of mini Tonkotsu, Shoyu, or Miso ramen with 3 pieces of Gyoza, mini chicken mayo don, and house salad.	16
6. Tuna Mayo Ramen Combo	Choice of mini Tonkotsu, Shoyu, or Miso ramen with 3 pieces of Gyoza, mini tuna mayo don, and house salad.	16

Bento box

served with miso soup

House salad, White Rice, Gyoza, Shrimp shumai, Vegetable spring roll, Chicken Karaage



• Bulgogi Bento	Thin sliced beef marinated in Korean BBQ sauce	13
• Spicy Pork Bento	Thin sliced pork marinated in house spicy sauce	13
• Spicy Chicken Bento	Pan fried chicken with house spicy sauce (*May substitute tofu for chicken)	13
• Chicken Teriyaki Bento	Pan fried chicken with teriyaki sauce (*May substitute tofu for chicken)	13
• Pork Katsu Bento	Deep fried breaded pork	13
• Chicken Katsu Bento	Deep fried breaded chicken	13

HOTARU



Ramen / Udon

served with house salad



- **Tonkotsu Ramen** 13
Pork broth with Chashu pork, vegetables, fish cake, and egg
- **Shoyu Ramen** 13
Soy sauce-based chicken broth with Chashu pork, vegetables, fish cake, and egg
- **Miso Ramen** 12
Miso based chicken broth with vegetables, fish cake, and egg
- **Chick-Chick Ramen** 14
Chicken broth, vegetables, fish cake, and egg with chicken katsu
- **Ton-Ton Ramen** 14
Pork broth with vegetables, fish cake, and egg with pork katsu
- **Nagasaki Ramen** 14
Chicken broth with seafood and vegetable with Ramen noodle (*May substitute udon noodles for ramen noodles)
- **Champon Ramen** 14
Spicy chicken broth with seafood and vegetables with Ramen noodle (*May substitute udon noodles for ramen noodles)
- **Tempura Udon** 11
House Dashi-shoyu udon noodle soup with 2 pieces of shrimp tempura
- **Simple Udon** 9
House Dashi-shoyu udon noodle soup

Curry Bowl

served with miso soup

- **Pork Katsu Curry** 13
Deep fried breaded pork with beef curry over rice
- **Chicken Katsu Curry** 13
Deep fried breaded chicken with beef curry over rice
- **Curry Rice** 10
Japanese style beef curry over rice

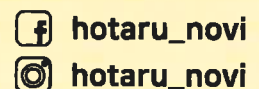
Sides

- **Mini Udon** 5
- **Mini Fried Rice** 5
- **House Salad** 2
- **Miso Soup** 2
- **White Rice** 2
- **House Chili Oil** 1

Beverages

- **Green Tea** 4
- **Oolong Tea** 4
- **Calpico Bottle** 5
- **Milk Tea** 4
- **Japanese Soda** 4

Follow us on social media
and get the latest news!





Appetizers

• Takoyaki	7	• Agedashi Tofu	6	• Shrimp Tempura	7
• Shrimp Shumai	6	• Gyoza	6	• Chicken Karaage	7
• Pork Katsu	6	• Chicken Katsu	6	• Squid Karaage	7
• Vegetable Spring Roll	6	• Vegetable Croquettes	6		

Ramen / Udon

served with house salad



• Tonkotsu Ramen	15
Pork broth with Chashu pork, vegetables, fish cake, and egg	
• Shoyu Ramen	15
Soy sauce-based chicken broth with Chashu pork, vegetables, fish cake, and egg	
• Miso Ramen	14
Miso based chicken broth with vegetables, fish cake, and egg	
• Chick-Chick Ramen	16
Chicken broth, vegetables, fish cake, and egg with chicken katsu	
• Ton-Ton Ramen	16
Pork broth with vegetables, fish cake, and egg with pork katsu	
• Nagasaki Ramen	16
Chicken broth with seafood and vegetable with Ramen noodle (*May substitute udon noodles for ramen noodles)	
• Champon Ramen	16
Spicy chicken broth with seafood and vegetables with Ramen noodle (*May substitute udon noodles for ramen noodles)	
• Asari Ramen	18
Light soy bonito broth with clams and green onions	
• Tempura Udon	12
House Dashi-shoyu udon noodle soup with 2 pieces of shrimp tempura	
• Simple Udon	10
House Dashi-shoyu udon noodle soup	

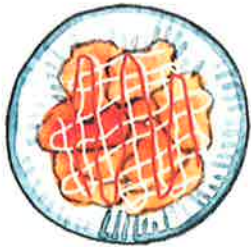
Dinner Menu
#2

HOTARU



Kitchen Entrée

served with miso soup



- ◆ **Demi-glace Katsu** 20
 Choice of pork or chicken katsu with house special sweet demi-glace sauce served with cabbage salad, sweet corn, and rice.
- ◆ **Chicken Teriyaki Don** 15
 Pan fried chicken with teriyaki sauce over rice
 (*May substitute tofu for chicken)
- ◆ **Spicy Chicken Don** 15
 Pan fried chicken with house spicy sauce over rice
 (*May substitute tofu for chicken)
- ◆ **Bulgogi Don** 15
 Thin sliced beef marinated in Korean BBQ sauce over rice
- ◆ **Spicy Pork Don** 15
 Thin sliced pork marinated in house spicy sauce over rice
- ◆ **Chicken Mayo Don** 15
 Chicken karaage with mayo over rice
 (*May add sweet and hot sauce for \$1)
- ◆ **Shrimp Tempura** 17
 8 pieces of deep-fried shrimp with rice
- ◆ **Pork Katsu Curry** 15
 Deep fried breaded pork with beef curry over rice
- ◆ **Chicken Katsu Curry** 15
 Deep fried breaded chicken with beef curry over rice
- ◆ **Curry Rice** 12
 Japanese style beef curry over rice

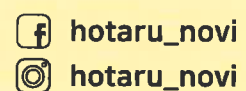
Sides

- ◆ **House Salad** 2
- ◆ **Miso Soup** 2
- ◆ **White Rice** 2
- ◆ **House Chili Oil** 1

Beverages

- ◆ **Green Tea** 4
- ◆ **Oolong Tea** 4
- ◆ **Calpico Bottle** 5
- ◆ **Milk Tea** 4
- ◆ **Japanese Soda** 4

Follow us on social media
and get the latest news!





cityofnovi.org

Receipt: 12475

05/15/23

Page

The sum of: \$1,000.00

BYEONGIU KANG

LIQUOR

1,000.00

Total 1,000.00

TENDERED:

CHECKS

616

1,000.00

Signed: _____



cityofnovi.org

Receipt: 12474

05/15/23

Page

The sum of: \$210.00

BYEONGIU KANG

LIQUOR

210.00

Total

210.00

TENDERED:

CREDIT CARD

ee6346ba-7525-49dc-81f0-965

210.00

Credit Card Fee



ee6346ba-7525-49dc-81f0-965

6.30

Signed: _____

MEMORANDUM



TO: MELISSA MORRIS, DEPUTY CITY CLERK
FROM: ERICK W. ZINSER 
DIRECTOR OF PUBLIC SAFETY / CHIEF OF POLICE
INITIATED BY: ERIC LINDBLADE, DETECTIVE 
SUBJECT: CLASS C QUOTA LCC APPLICATION,
BKYK INC. (DBA: HOTARU)
DATE: JUNE 01, 2023

Liquor License Request:

BKYK Inc. is requesting a Class C Quota License for their Japanese restaurant operating as Hotaru located at 39723 Grand River Ave., Novi, Michigan.

Applicant/Background Information:

Byeongju Kang, owner of Hotaru, is requesting a Class C Quota License from the City of Novi. This location has been used as a restaurant for over three years and now would like to apply for a liquor license to serve alcohol to their customers. The Michigan Liquor Control Commission (MLCC) has allocated additional Class C Quota Licenses to the City of Novi due to the population increase in the city. Hotaru has not yet filed their application with the MLCC, as this is a quota application. If the Novi City Council approves this quota license for Hotaru, they will apply to the MLCC.

Criminal History/Police Contacts:

ICHAT and CLEMIS returned with no records for Byeongju Kang or Hotaru.

Delinquent Tax Search

There are no delinquent taxes for this address.

Michigan Liquor Control Commission (MLCC):

There are no active violations.

Summary:

Based on the information provided and the subsequent liquor investigation, I find no reason to deny the applicant's request. This request requires the approval of the Novi City Council.

C: Victor Cardenas, City Manager



MEMORANDUM

TO: MELISSA MORRIS, DEPUTY CITY CLERK

FROM: CHARLES BOULARD, DIRECTOR OF COMMUNITY DEVELOPMENT *CB*

SUBJECT: HOTARU – LIQUOR LICENSE

DATE: JUNE 26, 2023

The property located at **39723 GRAND RIVER AVE** with the business name of **Hotaru** has received Special Land Use permit **PSLU23-0002** for the purpose of:

- Auctions
- Liquor License: Hotaru**
- Arcade License
- Massage License
- Outdoor Gathering
- Outdoor Seating
- Other:

From building safety standpoint, the Building Division does not object to the proposed license. Should you have any further questions with regards to this matter please feel free to contact me at (248) 347-0423.

PSLU23-0002 – 39723 Grand River – Parcel Number 50-22-24-476-025

A public hearing was held on June 21, 2023, at 9:30 AM in the Novi Civic Center for consideration of the Special Land Use (SLU) request for approval for service of alcoholic beverages at the existing restaurant Hotaru, in accordance with section 4.89 of the Novi Zoning Ordinance. The Planning staff had previously reviewed the required application and Site Plan and found the documents to be complete. Jan Zozios, Deputy Assessor, Charles Boulard, Community Development Director and Ben Croy, City Engineer (designee of Jeff Herczerg, Director of Public Works), considered the request in accordance with the standards for review specified in Section 4.89 of the Zoning Ordinance and determined to forward a recommendation to City Council for approval of the Special Land Use.



MINUTES
SPECIAL LAND USE HEARING
CITY OF NOVI
June 21, 2023, 9:30 AM
Mayor's Conference Room | Novi Civic Center
45175 Ten Mile Road

Present: Charles Boulard, Director of Community Development; Ben Croy, City Engineer, Jan Ziozios, Deputy Assessor; Nina Schaffrath, Recording Secretary; Byeongou Kong, Owner of Hotaru; Michael Makki, Plaza Owner

Applicant: Hotaru

Hearing called to order at 09:30 A.M.

Correspondence Received: None

Public Participation:
None

1. PSLU23-0002 – 39723 Grand River PARCEL NUMBER 50-22-24-476-025

The applicant **Hotaru** is requesting Special Land Use approval for **39723 Grand River** parcel number **50-22-24-476-025**. The applicant is requesting approval to use a portion of the parcel for service of alcoholic beverages in accordance with Section 4.89 of the Zoning Ordinance.

Hotaru is asking for a Special Land Use approval for the service of alcoholic beverages. The owner of Hotaru, Byeongou Kong, states that they serve authentic Japanese food and that during lunch time hours they have a line out the door and would like to try and bring in as big of a crowd during dinner hours. Mr. Kong states that the hours of his restaurant are from 11:30 A.M. – 2:30 P.M and then from 5 P.M. – 9 P.M. for dinner hours. Michael Makki, the owner of the plaza where Hotaru is located says that everyone who visits loves Hotaru, and they have had nothing but a positive experience with Mr. Kong since the opening of the restaurant. Ben Croy asks, what kind of alcohol they plan on serving. Mr. Kong states that they plan on serving Japanese beer and Sake. Jan Ziozios asks how many tables are located in the restaurant. Mr. Kong states there is currently 9 tables and if business during dinner picks up, they would consider adding more but as of right now they do not plan to increase the number of tables. Charles Boulard asks if their staff is going to properly trained to handle alcoholic beverages? Mr. Kong confirms that all staff will be properly trained and be certified to serve alcoholic drinks. Mr. Makki added that Hotaru has been great to have in his plaza and Mr. Kong is great to work with and his restaurant has brought a lot of business to the plaza during the day, and he thinks adding the liquor license will really help boost dinner sales and hopefully keep customers coming throughout the day. Mrs. Ziozios has no objection and made a motion to approve the Special Land Use for a liquor license for Kura Sushi in accordance with sections 4-A, 4-B, and 4-C of the City of Novi Zoning Ordinance. Mr. Boulard seconds the motion. The motion passed 3-0.

IN CASE NO. PSLU23-0002, Motion to recommend approval.

- 1. The proposed establishment will promote the City's economic development goals and objectives and will be consistent with the City's master plan and zoning ordinance.**
- 2. Given the character, location, development trends and other aspects of the area in which the proposed use or change in use is requested, it is demonstrated that the use 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 and that the addition of the use or proposed change in use will be an asset to the area.

3. The use or change in use as constructed and operated by the applicant is compatible with the area in which it will be located, and will not have any appreciable negative secondary effects on the area, such as:
 - a. Vehicular and pedestrian traffic, particularly during late night or early morning hours that might disturb the area residents.
 - b. Noise, odors, or lights that emanate beyond the site's boundaries onto property in the area on which there are residential dwellings.
 - c. Excessive number of persons gathering outside the establishment.
 - d. Peak hours of use that add to congestion or other negative effects in the neighborhood.
 - e. Fighting, brawling, outside urination or other behavior that can accompany intoxication.

Motion approved 3-0 Voice Vote.

Meeting was adjourned at 9:41 AM.



May 19, 2023

CITY COUNCIL

Mayor

Bob Gatt

Mayor Pro Tem

Dave Staudt

Laura Marie Casey

Hugh Crawford

Justin Fischer

Brian Smith

Ericka Thomas

Interim City Manager

Victor Cardenas

City Clerk

Cortney Hanson

TO: Cortney Hanson, City Clerk

FROM: Fire Marshal – Kevin Pierce

SUBJECT: -Liquor Business License –
Hotaru
39723 Grand River Ave., Novi MI 48375

The request for a liquor license has a "CONDITIONAL APPROVAL", that Hotaru shall have approval on all plans that need to be turned into the City of Novi. Also, Hotaru shall pass all inspections that are required for the renovations being done to the building to accommodate the new business. Liquor License for 2023 is recommended **Approval with Conditions.**

Novi Public Safety Administration

45125 Ten Mile Road
Novi, Michigan 48375
248.348.7100
248.347.0590 fax

cityofnovi.org

AGREEMENT REGARDING LIQUOR LICENSE

This Agreement made as of the date of the last signature on _____,
by and between THE CITY OF NOVI, a municipal corporation, with offices located at
45175 W. Ten Mile Road, Novi, Michigan 48375, hereinafter known as "THE CITY", and
_____, owners of _____, whose address is _____, Novi,
Michigan _____, hereinafter known as "APPLICANT."

RECITALS:

A. The City Council of THE CITY, approved a Resolution to recommend to the Michigan Liquor Control Commission, approval of the issuance of THE CITY'S Class C Liquor License (hereinafter "License") from THE CITY'S quota for the APPLICANT, to be located at _____, Novi, Michigan _____ (hereinafter "PREMISES").

B. To assure that APPLICANT'S representations that were made to and relied upon by the City Council of THE CITY in approving the Resolution were honored and enforceable by THE CITY, its City Council separately directed that the signing and delivery of the Resolution be deferred until the City Attorney had approved one or more agreements guaranteeing the License would stay in THE CITY, with this Agreement and the PREMISES.

IT IS THEREFORE AGREED:

1. In the event APPLICANT should cease operating its restaurant and/or cease to use the License at the PREMISES for any reason whatsoever for a period in excess of ninety (90) consecutive days without the written consent of THE CITY, then APPLICANT shall immediately proceed to place the License in escrow as provided in subsection (a), or return and request termination of the License under subsection (b) if it

has not been removed from escrow as provided in subsection (a) within five (5) years of being placed in escrow. In recognition that notwithstanding the requirements of this Agreement, the Michigan Liquor Control Commission could approve a transfer of the License to a location outside of THE CITY as currently provided in MCL 436.1521(1), as amended, if the License is required to be placed in escrow by this Agreement or the Michigan Liquor Control Act, APPLICANT agrees that after notice and an opportunity for APPLICANT to be heard, the City Council may object to renewal of the License by the Michigan Liquor Control Commission in accordance with the provisions of the Michigan Liquor Control Act and specifically MCL 436.1501(2), as amended.

- a. APPLICANT shall place the License into escrow with the Michigan Liquor Control Commission and maintain same in good standing with the Michigan Liquor Control Commission, conditioned on and with APPLICANT agreeing to take whatever steps are necessary to cause the License to remain in THE CITY, by APPLICANT using the License itself at another location within THE CITY, selling or transferring the License to the OWNER or a successor tenant for use at the PREMISES as provided in the attached Lease or selling or transferring the License to another entity for use at another location in THE CITY.
- b. APPLICANT shall return the License to the Michigan Liquor Control Commission and request that its rights to the License be terminated and that the License not be placed or continued in escrow but instead be returned to THE CITY to be added to its available quota Class C Licenses.

2. The parties also agree that in the event of a fire loss or some other type of event causing physical damage to the APPLICANT'S restaurant at the PREMISES and which results in a temporary closing of the APPLICANT'S business exceeding the ninety (90) consecutive days stated herein while the premises are being repaired or renovated, then same shall not be considered a violation of any of the conditions of this Agreement.

3. APPLICANT agrees that the City Council shall not approve the transfer of the License within three (3) years of the date of the original issuance of the License. The City Council may, but is not required to, excuse the above limitation for any of the following reasons:

- (1) If the License holder is a natural person, he or she dies or becomes incapacitated.
- (2) If the License holder is a corporation, the majority shareholder dies or becomes incapacitated, or the corporation dissolves for reasons other than to transfer the License.
- (3) If the License holder is a limited liability company, the company dissolves for reasons other than to transfer the License.
- (4) The License holder and the proposed License transferee establish that the transfer of the class License shall not result in profiteering.
- (5) The application of this limitation will subject the APPLICANT to financial hardship due to no fault of the APPLICANT, such as a change in the business climate, illness or death, labor or supply problems, and/or other factors outside the APPLICANT'S control.

Unless excused by the City Council as provided above, in the event a License is proposed for transfer within three (3) years from the date of issuance, the APPLICANT agrees that the Michigan Liquor Control Commission shall terminate the License and the City Council may approve the issuance of a new License to a new Applicant without any compensation to the Licensee who placed the License into escrow; provided, however, prior to the approval of such issuance to a new Applicant, the person or entity who placed the License into escrow shall be afforded written notice and an opportunity to be heard, and all objections raised at the hearing shall be resolved (at the Michigan Liquor Control Commission or in the circuit court if necessary) prior to issuance of the License to a new Applicant.

4. APPLICANT agrees that the recommendation of approval agreed upon by the City Council is not a property right and was approved upon the express and continuing condition that the requirements and conditions set forth in this Agreement shall be maintained and not violated by APPLICANT.

5. APPLICANT agrees that after notice and an opportunity for APPLICANT to be heard, a finding by the City Council that a violation of a requirement or condition set forth in this Agreement has occurred, shall be grounds for the City Council to request revocation and/or object to renewal of the License by the Michigan Liquor Control Commission in accordance with the provisions of the Michigan Liquor Control Act and specifically MCL 436.1501(2), as amended.

6. APPLICANT acknowledges that the agreements contained herein are unique and in the event it violates one or more of those agreements, THE CITY would not be adequately compensated by damages or resorting to the remedies described in Paragraph 5, and therefore agrees that the terms and conditions of this Agreement

shall be specifically enforceable by THE CITY by action for such relief in the Oakland County Circuit Court for the State of Michigan and that if THE CITY prevails in such an action, it shall be entitled to an award and judgment that APPLICANT pay THE CITY'S costs and attorney fees incurred.

Witnesses:

APPLICANT:

By:
Its:

Subscribed and sworn to before me
this ____ day of _____, 20__

Notary Public
_____ County, Michigan
Acting in _____ County, Michigan
My Commission expires: _____

Witnesses:

THE CITY:

By: Robert J. Gatt, Mayor

By: Cortney Hanson, Clerk

Subscribed and sworn to before me
this ____ day of _____, 20__

Notary Public
_____ County, Michigan
Acting in _____ County, Michigan
My Commission expires: _____