



Roll Call Number

14-1917

Agenda Item Number

5

Date December 22, 2014

RESOLUTION CONSIDERING APPLICATION BY KHANNA FAMILY INVESTMENTS, INC., D/B/A PROSPECT PARK MARKET AT 2917 PAYNE ROAD FOR A CLASS C BEER PERMIT AND A CLASS B WINE PERMIT

WHEREAS, Khanna Family Investment, Inc., doing business as Prospect Park Market (formerly known as the Oasis Wine & Spirits) at 2917 Payne Road, filed for a new Class C Beer Permit and Class B Wine Permit on December 3, 2014 which application came before the City Council for consideration on December 8, 2014 and was continued to December 22, 2014; and,

WHEREAS, on November 19, 2014, the Zoning Board of Adjustment approved issuance of a Conditional Use Permit allowing the sale of beer and wine upon the Property at 2917 Payne Road subject to various conditions which approval was memorialized in a Decision and Order which became effective on November 25, 2014, and constitutes the Conditional Use Permit for the Property; and

WHEREAS, the Zoning Enforcement Officer has determined that the operation of the Prospect Park Market has violated the conditions set forth in the Decision and Order, in the following manner:

1. Condition No. 2 of the Decision and Order prohibits the sale of alcoholic liquor. The business has violated this condition by continuing to sell alcoholic liquor. City staff purchased Kahlua at the business on December 9 and December 10, 2014. The Iowa Alcoholic Beverages Division has confirmed that Kahlua is classified as an alcoholic liquor.
2. Condition No. 8 of the Decision and Order requires the construction of a decorative wrought iron fence extending around the perimeter of the parking to the satisfaction of the City's Planning Administrator. The business has violated this condition by installing a chain link fence, without extending the fence around the perimeter of the parking; and without consultation with the City's Planning Administrator.
3. Condition No. 11 of the Decision and Order requires: "A security guard shall be on the premises between 6:00 PM and 11:00 PM daily." The 11:00 PM closing time corresponds to the limits on the business hours under Condition No. 7. The business has violated this condition by failing to maintain a security guard on the premises between 6:00 p.m. and 11:00 p.m. daily. City staff have received reports that on December 3, 2014 at 9:00 p.m., December 4, 2014 at 7:44 p.m. and December 5, 2014 at 10:30 p.m., there was no security guard present on the property.

WHEREAS, the Zoning Enforcement Officer has also determined that the actions identified above constitute a pattern of violating the conditions set forth in the Conditional Use Permit, and has applied to the Zoning Board of Adjustment seeking reconsideration of the issuance of the Conditional Use Permit for the Property; and,

WHEREAS, the city council has options concerning the license as set forth below.



Roll Call Number

14-1917

Agenda Item Number

5

Date December 22, 2014

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines that the application for a new Class C Beer Permit and Class B Wine Permit for the Prospect Park Market at 2917 Payne Road, is:

- A. Approved and will be subject to potential civil penalty, and/or suspension or revocation pending the outcome of the decision of the Zoning Board of Adjustment concerning the conditional use permit;
- B. Continued pending the outcome of the decision of the Zoning Board of Adjustment concerning the conditional use permit; or
- C. Denied for failing to comply with zoning requirements of section 134-954 of the Municipal Code of the City of Des Moines.

MOVED by Gray to adopt.

Approved as to form by:

Douglas P. Philip
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
TOTAL	7			

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

T. M. Franklin Mayor

Diane Rauh City Clerk