



Legislation Details (With Text)

File #: 21-1376 **Version:** 1
Type: Ordinance **Status:** Passed
File created: 10/21/2021 **In control:** City Council
On agenda: 11/2/2021 **Final action:** 11/2/2021
Title: Pass the ordinance approving a variance to Title 3 (Business and License Regulations) Chapter 3 (Liquor and Tobacco Control) Section 11:2 (Liquor License and Permit Classifications: Off-Premises Consumption Liquor Licenses) to allow the issuance of a Class S - Specialty Wine Shop liquor license for a premise greater than 1,500 square feet to Jefferson St Development LLC at 30 West Jefferson

Sponsors:

Indexes:

Code sections:

Attachments: 1. Variance .pdf, 2. DRAFT Liquor Commission Minutes 100721.pdf, 3. Mollys_Cupcakes_Naperville_Specialty_Wine_Variance_V2.pdf, 4. Final Liquor Commission Meeting Minutes - August 5, 2021.pdf

Date	Ver.	Action By	Action	Result
11/2/2021	1	City Council	passed	Pass

CITY COUNCIL AGENDA ITEM

ACTION REQUESTED:

Pass the ordinance approving a variance to Title 3 (Business and License Regulations) Chapter 3 (Liquor and Tobacco Control) Section 11:2 (Liquor License and Permit Classifications: Off-Premises Consumption Liquor Licenses) to allow the issuance of a Class S - Specialty Wine Shop liquor license for a premise greater than 1,500 square feet to Jefferson St Development LLC at 30 West Jefferson

DEPARTMENT: Legal Department

SUBMITTED BY: Jennifer Lutzke, Senior Assistant City Attorney

BOARD/COMMISSION REVIEW:

The Liquor Commission considered this matter on October 7, 2021 and voted unanimously to recommend approval of the variance.

BACKGROUND:

The Class S - Specialty Wine Shop liquor license allows for off-premises sale of craft beer and wine along with on-premises consumption of no more than 18 ounces of wine per person/per day. At present, the City has four Class S Specialty Wine Shop licensees:

1. Angeli's, located at 1478 East Chicago Avenue
2. Cooper's Hawk Winery & Restaurant, located at 1740 Freedom Drive
3. Le Chocolat du Bouchard, located at 127 South Washington Street
4. SixtyFour - Wine Bar & Kitchen, located at 123 South Water Street, Suite 105

There is no cap on the Class S - Specialty Wine Shop liquor license but requires that the premises of the business not exceed 1,500 square feet and not less than 20% of the premises shall be designated for the sale of specialty foods.

On August 5, 2021, Molly's Cupcakes (located at 30 West Jefferson street in the downtown area) petitioned the Liquor Commission to allow for the limited service of specialty wine, by the glass, with the option to dip into a dessert rim (e.g. caramel, dark/milk chocolate, white chocolate). Molly's Cupcakes proposed offering wine for sale during business hours from Thursday to Sunday, which will include a small offering of wine for consumption off-premises.

The Liquor Commission considered designating the business as a restaurant, creating a new liquor license, or directing the business to apply for a variance. After considering the square footage of the kitchen, Molly's Cupcakes was directed to file a request for a variance to the square footage requirement.

DISCUSSION:

On September 6, 2016, Council approved repealing and replacing the Liquor Code. The new code created a procedure for processing variances to liquor license requirements.

The variance process for liquor licensing sets forth the following factors for consideration of a variance:

1. The variance is in harmony with the general purpose and intent of the Liquor Control Ordinance and the variance is not precedent setting; and
2. Strict enforcement of the Liquor Control Ordinances would result in practical difficulties due to special and/or unusual circumstances surrounding the party and circumstances substantially outside the petitioner's control; and
3. The variance, if granted, will not alter the essential character of the liquor establishment or underlying liquor license requirements and will not a substantial detriment to adjacent property.

Molly's Cupcakes is in a unique position in that, due to its extensive kitchen equipment, it is slightly larger, at 2,200 square feet than the 1,500 square feet limitation required for the Class S - Specialty Wine Shop liquor license. It has four high efficiency commercial ovens operated by their local kitchen - it produces scratch-made cupcakes, frosting, batters, cookies, pies, and other baked goods. The kitchen contains a large hood exhaust fan, with gas oven used to make the batters/frostings. Due to their full-service kitchen, Molly's Cupcakes has difficulty meeting the square footage requirements. Without the kitchen area, the front of house service area meets the square footage requirement.

Molly's Cupcakes has submitted the \$400 fee for processing the variance. If the variance is granted, Molly's Cupcakes is still required to comply with all the conditions of the Class S - Specialty Wine Shop liquor license and the Naperville Municipal Code. The only exception would be as to the size of the premises.

The variance request, minutes from the August 5, 2021 Liquor Commission meeting and draft minutes from the October 7, 2021 Liquor Commission meeting are appended hereto.

FISCAL IMPACT:

Receipt of annual liquor license fee and corresponding sales tax.