

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL WORKSHOP
NOVEMBER 11, 2008 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
Ordinance Amendments: Liquor Provisions	Resolution ✓ Ordinance Motion Discussion Only	Enza I. Petrarca Village Attorney

SYNOPSIS

An ordinance has been prepared amending the Liquor Code which would allow outside consumption of alcoholic liquor at certain facilities and making certain technical amendments.

STRATEGIC PLAN ALIGNMENT

The Downers Grove Vision for 2021 provides for *Businesses to Thrive* and a principle for that vision is *Unique, Quality Restaurants Serving Residents and Corporations*.

FISCAL IMPACT

N/A

RECOMMENDATION

Approval on the November 18, 2008 active agenda.

BACKGROUND

Based upon a request from the Alexander Bradley Burns Post 80, the Downers Grove Liquor Commission discussed amending the Class “C” Club liquor license classification which would allow the consumption of alcoholic liquor in an outdoor area. Currently, the Village allows outdoor liquor service, but a food service component is required.

Class “C” clubs are private in nature, require membership and do not have regular food service. The Post is seeking to promote rental of the facility’s outdoor gazebo and pavilion. With this amendment, liquor service will be allowed in the outdoor area provided that it is limited to private party rentals where food service is available. A manager will be on duty to oversee these events.

In 2006, the Village re-categorized and re-named liquor license classifications. There are additional technical amendments to this ordinance which make outdoor licenses consistent with license classifications that are currently in use.

The Liquor Commission discussed this matter at their meetings of June 5th, August 7th and September 4th. On September 4, 2008 they recommended that the ordinance be forwarded to the Council for their consideration and approval.

ATTACHMENTS

Draft Ordinance

Request from Alexander Bradley Burns Post 80

Liquor Commission Recommendation & Minutes – June 5th, August 7th and September 4th

DGPD Correspondence

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE PROVISIONS OF THE
CLASS "C" CLUB LIQUOR LICENSES**

BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County, Illinois, as follows: (Additions are indicated by **shading/underline**; deletions by ~~strikeout~~):

Section 1. That Section 3.13 is hereby amended to read as follows:

3.13 Classification of licenses.

Such licenses shall be, and are hereby, divided into the following classes:

Class "B" Brew Pub Licenses

"B-1" Brew pub licenses shall authorize the retail sale of alcoholic liquor and beer produced on the premises for on-site consumption. The retail sale of beer in original packages, unopened only, produced on the licensed premises shall be allowed for off-premise consumption. Provided, the business shall operate as a restaurant and bar seating shall be limited to twenty percent (20%) of the entire seating for the establishment.

Class "C" Club (Private) Licenses

"C-1"- Private club licenses shall authorize the retail sale of alcoholic liquor for consumption on the premises where the business is that of a club as defined herein.

Class "E" Entertainment/Recreational Facility Licenses

"E-1" Entertainment/Recreational Facility licenses shall authorize the retail sale of alcoholic liquor for consumption on the licensed premises where the major and primary business is that of a Theater as defined herein, subject to the following conditions:

1. Sales of alcoholic beverages shall be limited to contracted theater rentals.
2. Alcoholic beverage sales shall not be allowed during regularly scheduled motion pictures or films.
3. Sales shall be made from portable bars containing alcoholic liquor, mixes and related preparation materials. Such portable bars shall not have seats or stools for patrons at which to sit.
4. Portable bars shall be removed and/or stored out of view during all regularly scheduled motion pictures.
5. No alcoholic liquor shall be served at a single contracted theater rental for more than six (6) consecutive hours.
6. Food service must be available during contracted theater rentals in which alcoholic liquor service exceeds two (2) consecutive hours. However, should there be a suspension of liquor service for a main event or attraction (at a minimum duration of one (1) hour), such food service shall not be required.
7. The licensee shall submit a report to the Village within thirty days following each July 1 and January 1 setting forth each contracted theater rental and the number of hours for which liquor was served during the six months prior. In addition, such report shall describe any planned events currently scheduled by the ~~L~~licensee.

Club License

"E-2" Entertainment/Recreational Facility licenses shall authorize the retail sale of alcoholic liquor for consumption on the premises where the major and primary business is that of a Comedy Club as defined herein. Provided, the sale of alcoholic beverages shall be authorized only during or one (1) hour before the regularly scheduled performances. The performances shall consist of one or more comedians and shall be not less than one and a half (1.5) hours in length with patrons paying a separate admission charge for each performance. At the end of each performance, patrons shall be required to exit before the next group of patrons are admitted. Provided, performances shall be done by professional comedians except that amateur performances (open mike) shall be permitted not more than two (2) nights per week.

"E-3-A" Entertainment/Recreational Facility licenses shall authorize the retail sale of beer and wine for consumption on the licensed premises operated by the Downers Grove Park District. Sales shall be authorized in the clubhouse, an outdoor area and upon the golf course. Sales of beer and wine from a motorized food and beverage cart operating on the public golf course are authorized provided not more than fifty percent (50%) of the designated storage/display capacity shall be devoted to the display and sale of beer and wine. No more than one (1) such motorized food and beverage cart shall be on the course and in operation at any one time. Non-alcoholic beverages and food shall at all times be stocked and available for sale in such cart.

"E-3-B" Entertainment/Recreational Facility licenses shall authorize the retail sale of beer and wine for consumption on the licensed premises in a recreational facility, as defined herein, having a guest seating capacity, excluding outdoor areas, of not less than thirty-five (35).

"E-3-C" Entertainment/Recreational Facility licenses shall authorize the retail sale of alcoholic liquor for consumption on the licensed premises in a recreational facility as defined herein, of not less than sixteen thousand (16,000) square feet and having a guest seating capacity, excluding outdoor areas, of not less than one hundred twenty-five (125).

"E-4" Entertainment/Cultural/Performing Arts Facility licenses shall authorize the retail sale of beer and wine for consumption on the licensed premises where the major and primary business is that of a Cultural/Performing Arts Facility as defined herein, subject to the following conditions:

1. Sale of beer or wine shall be limited to regularly scheduled art shows, exhibits, theatrical, musical or live performances or during contracted rentals that are not open to the general public.
2. The facility may not be promoted as a drinking establishment. Sale of beer or wine shall not be allowed at any time a regularly scheduled performance or activity is not in actual operation.
3. Sale of beer or wine shall be made from a service bar only. Such service bar shall not have seats or stools for patron seating.
4. Lounge area or theater seating may be altered to accommodate performances, art exhibitions and/or classes, however the service bar area shall not be expanded in any manner.
5. No portable bars and/or stations shall be allowed at the facility.
6. Food service must be available during all hours of operation that beer and wine is served.
7. The Village may request the licensee to submit a report setting forth any planned events currently scheduled by the Licensee and the activities during the twelve months prior.

"E-5" Entertainment/Restaurant Facility licenses shall authorize the sale of alcoholic liquor for consumption on the licensed premises, where meals are regularly served and entertainment is provided. Bar/lounge seating shall be no more than twenty percent (20%) of the total seating provided for patrons of the establishment. The area devoted to dancing and/or entertainment shall be limited to twenty percent (20%) of the square footage of the establishment, excluding kitchen facilities, storage and office areas. Food service shall be available at all times.

Club License

Class "H" Hotel Licenses

"H-1" Hotel licenses shall authorize the retail sale of alcoholic liquor for consumption on the premises of a hotel as defined herein, and the retail packaged sale of beer and wine in original packages to hotel patrons. This shall include sales occurring at facilities, or as part of activities, normally operated as an integral part of the hotel, such as, but not necessarily limited to, restaurants, cocktail lounges, room service and banquets. Provided, the licensed premises shall have at least one restaurant with a seating capacity of not less than one hundred twenty-five (125) operated as an integral part of the hotel.

Class "K" Catering Licenses

"K-1" Catering licenses shall authorize the sale of alcoholic liquor in connection with the operation of an off-site catering business as defined herein that serves alcoholic liquor in connection with the catering of foods for private functions and for consumption only on the premises where the food is catered. The sale of alcoholic liquor shall be incidental to the food service and if the catered event does not qualify as a private function, a special event license shall also be required for the location of the catered event. No cash bar shall be permitted. No alcoholic liquor shall be served at a single location for more than eight (8) consecutive hours. A licensee shall submit a report to the Village within thirty days following each July 1 and January 1 setting forth the location of each event the licensee has catered within the Village and the number of hours for which liquor and food were served at such events during the six months prior. In addition, such report shall describe any planned events currently scheduled by the licensee.

"K-2" Catering licenses shall authorize the sale of beer and wine at the Downers Grove Park District Recreation Center located at 4500 Belmont Road. Provided, a catering license may be issued to a sub-contractor who solely provides beer and wine service on behalf of and in conjunction with an off-site food catering business under contract with the Downers Grove Park District. The sub-contractor may not utilize the Class K-2 catering liquor license in any other facility in the Village, operate independently at the Recreation Center or provide beer and wine without food service being available. Service of beer and wine shall be limited to service from a designated portable bar area. No table service of wine or beer shall be allowed. In all instances, the sale of alcoholic liquor shall be incidental to the food service. No cash bar shall be permitted. No alcoholic liquor shall be served at a facility rental for more than six (6) consecutive hours. The licensee shall submit a report to the Village within thirty days following each July 1 and January 1 setting forth the date, time and type of any planned events currently scheduled by the licensee in order for the Village to monitor compliance. In addition, the Village may request that the licensee include information on the dates, times and types of events at the Center during the six months prior.

Class "O" On Premise Consumption, Outdoor Licenses

"O-1" Outdoor licenses shall authorize the sale and consumption of alcoholic liquor in an enclosed outdoor seating area. This license may only be issued to establishments holding a valid Class B, C, E, R or a ~~Class W~~ license and shall be limited to the conditions of the Class B, C, E, R or a ~~Class W~~ license issued to the establishment. The main and principal operation of the outdoor area for Class B, E, R or W license holders shall be for dining purposes and food must be available in the outdoor dining area at all times and shall be subject to the provisions set forth in Section 3-30. Operation of the outdoor area for a Class C license is limited to private party rentals and shall be subject to the provisions set forth in Section 3.32.

Class "P" Off Premise Consumption Licenses

Club License

"P-1" Packaged liquor licenses shall authorize the retail sale on the premises specified, which shall not include premises of less than three thousand six hundred (3,600) square feet, of alcoholic liquor in packages with the seals unbroken, only, and not for consumption on the premises, except that tastings shall be permitted on such premises in accordance with State law. Such licenses shall be only authorized in locations where the sale of packaged liquor is the main or principal business and/or in locations where the principal business is that of a drug store, grocery store or convenience store as defined herein.

"P-2" Packaged liquor licenses shall authorize the retail sale on the premises specified, of beer and wine in original packages, unopened only, and not for consumption on the premises. Such licenses shall be only authorized in locations where the main or principal business is that of a drug store, grocery store or convenience store as defined herein. No more than twenty-five percent (25%) of the retail sale square footage area shall be devoted to the sale of beer/wine and tobacco products.

"P-3" Packaged liquor licenses shall authorize the retail sale of beer and wine in original packages, unopened only, and not for consumption on the premises, except that wine tastings, classes or seminars shall be permitted on such premises in accordance with State law. Such licenses shall be only authorized in locations where the sale of wine is the main or principal business, commonly referred to as "wine shops", as defined herein.

Class "R" Restaurant, On Premise Consumption, Indoor Licenses

"R-1" restaurant licenses shall authorize the sale of alcoholic liquor for consumption on the licensed premises, where the major and primary business is that of a restaurant, as defined herein. In addition, bar seating shall be limited to twenty percent (20%) of the entire seating for the establishment.

"R-2" restaurant licenses shall authorize the retail sale of beer and wine for consumption on the licensed premises, where the major and primary business is that of a restaurant, as defined herein. In addition, bar seating shall be limited to twenty percent (20%) of the entire seating for the establishment.

Class "S" Special Event Licenses

"S" special event licenses shall be issued for the temporary sale of alcoholic liquor during special events.

(a) It shall be unlawful for any person who does not hold a valid liquor license pursuant to the provisions of this Chapter, to dispense or cause to be dispensed alcoholic beverages at a grand opening, wine tasting, open house or other special event open to the public, without first having obtained a special event license from the Local Liquor Commissioner. It shall be unlawful for any person holding a valid liquor license to conduct a special event which exceeds the limitations on liquor sales or otherwise fails to meet the requirements inherent in the applicable license classification without first having obtained a special event license from the Local Liquor Commissioner.

(b) Applications for a license under the provisions of this section shall be filed on forms provided by the Village. The general application procedures set forth in Sections 3-9 and 3-12 shall not apply to licenses issued under this section except for the requirement under Section 3-9(c)(9) concerning dram shop insurance coverage. Provided, the Commissioner may refer any application under this section to the Commission for review and comment. The application shall include such information as the Commissioner determines is necessary to process such application and may include, but is not limited to, the estimated number of persons attending the event, the location and layout of liquor sales at the event and at the premises, the persons responsible for dispensing of alcoholic liquor, steps to be taken by applicant to protect against any violations of the Village's ordinances and information regarding the manner in which and what type of liquor shall be dispensed and consumed. Additional information and material may be required during the processing of such

Club License

application related to applicant's qualifications and information provided in the original submittal, including attachments. In the event the applicant is made aware that any information or document submitted as part of this application process is inaccurate or incomplete, the applicant shall immediately notify the Village and provide appropriate corrections. Failure to accurately and completely provide, or as necessary update, required information may delay the processing of such application or result in its denial.

(c) A fee shall be paid along with the application submittal as follows:

(1) "S-1" Licenses shall be issued if a public hearing before the Downers Grove Liquor Commission is required:

\$ 375.00

(2) "S-2" Licenses shall be issued if a public hearing is waived and the Downers Grove Liquor Commissioner issues the license administratively:

\$ 90.00

(d) Where the applicant is a governmental unit and/or charitable organization, the Liquor Commissioner may waive the fee otherwise required by this section.

(e) Upon submittal of a properly completed application and payment of fee, the Commissioner may issue a special events license subject to such reasonable restrictions as the Liquor Commissioner may require to protect the public health, safety and welfare, including, but not limited to the following:

(1) No more than three (3) such special event licenses shall be issued for the same location within any calendar year.

(2) The special event license holder shall take proper precautions and fully comply with the applicable provisions of this Chapter during the special event.

(3) The special event will last no longer than two (2) days, provided that three consecutive licenses can be utilized for an event which shall not exceed six (6) days.

(4) The provisions of Section 3-11(b) regarding proximity of the proposed special event shall not apply to licenses issued under this section.

(5) The following restrictions apply to community special events sponsored by a governmental entity:

(i) At least two persons over the age of twenty-one shall be present at all times in the liquor consumption area to monitor compliance with applicable regulations and laws of the Village and State of Illinois regarding the consumption of liquor.

(ii) The licensee shall incorporate such other measures as the Liquor Commissioner may direct to protect the public health safety and welfare, including measures to protect against violations of the regulations and laws of the Village and State of Illinois regarding the consumption of liquor.

(6) The provisions of Section 3-30 regarding outdoor sales shall not apply to special event licenses issued under this section and a special event may include outdoor sales, service and consumption as approved by the Liquor Commissioner.

(7) Except as otherwise provided in this section, the applicant shall comply with all applicable provisions of the Downers Grove Municipal Code, including but not limited to, zoning, building, health and safety regulations.

(f) The Commissioner may issue a special events license as provided under this section to permit the sale and consumption of alcoholic liquor on public property. Provided, except for Village sponsored or co-sponsored community-wide celebrations, special events and other similar activities or functions, a special commercial event license as provided in Chapter 19 of the Downers Grove Municipal Code shall be required for any special event conducted wholly or partially upon Village controlled property. An application shall be completed as provided in subsection (b) above and submitted to the Commissioner for decision. Provided, in addition to any other requirements which may be imposed, issuance of any special events license involving public property shall be contingent upon proof of dram shop insurance, up to the statutory limit, and such other liability insurance as the Village may from time to time direct, listing the Village, its officers and employees, as named insured.

(g) It is recommended that at least one (1) person on-site shall possess a certified training certificate

Club License

pursuant to Section 3.33.3.

Class "W" Wine Boutique.

"W-1" Packaged liquor licenses shall authorize the retail sale of beer and wine in original packages and for consumption of wine or beer on the premises. Free wine tastings, classes or seminars shall be permitted on such premises in accordance with State law. Such licenses shall be only authorized in locations where the sale of wine is the main or principal business, commonly referred to as "wine boutiques", as defined herein.

The sale of wine and beer shall be permitted for consumption on the premises subject to the following conditions:

- a. The premises shall not exceed three thousand six hundred (3,600) square feet.
- b. The seating/serving area for customers ordering wine or beer within the premises shall be limited to forty percent (40%) of the gross retail square footage, but shall not exceed seven hundred fifty (750) square feet.
- c. Such facilities shall include an area in which preparation of food is provided and food is served on the premises, including hot or cold sandwiches, appetizers, tapas or other similar foods.
- d. It is intended that the service of wine or beer is merely an adjunct to the sale of beer and wine in original packages and that the wine shop shall not be advertised or otherwise held out to be a drinking establishment and/or a "wine bar". (Ord. No. 244, § 6; Ord. No. 279, § 1; Ord. No. 356, § 1; Ord. No. 634, § 1; Ord. No. 635, § 1; Ord. No. 1059, § 1; Ord. No. 1200, § 1; Ord. No. 1465, § 1; Ord. No. 1741, §§ 15 to 17; Ord. No. 2246, § 1; Ord. No. 2388, § 7; Ord. No. 2541, § 6; Ord. No. 2735, § 1; Ord. No. 2945, § 1; Ord. No. 2996, § 1; Ord. No. 3050, § 1; Ord. No. 3164, § 2.)

Section 2. That Section 3.30. is hereby amended to read as follows:

3.30. Outdoor sales.

(a) Subject to receipt of a Class "O" outdoor license, the sale, service and consumption of alcoholic liquor in an outdoor seating area may be permitted adjacent to premises licensed to sell alcoholic liquor for consumption on the premises; subject to the following conditions:

- (1) The outdoor area is enclosed; and
- (2) The outdoor area is owned or leased by the licensee; and
- (3) The outdoor area is included as part of the regular food service business located on the licensed premises with the exception of Class "C" Club licensees that do not provide regular food service; and
- (4) Access to the outdoor area shall be limited through the licensed premises or, if not practicable, through monitored entrances that are controlled by employees and/or reasonable fencing of the licensed premises during all operating hours and/or while alcohol is being served.
- (5) Seating in the outdoor area shall not be included in the overall seating calculation or by any way utilized to expand the number of seats that are allowed in the interior bar/lounge area.

(6) A sidewalk cafe license as provided in Chapter 19 of the Downers Grove Municipal Code shall be required for any outdoor seating area conducted wholly or partially upon Village controlled property.

(b) Applications for the establishment an outdoor seating area, or the amendment of an existing outdoor seating area, shall be filed on such forms and with such information as may be directed by the Local Liquor Commissioner. The Local Liquor Commissioner may refer an outdoor seating area application to the Local Liquor Commission for review and comment. (Ord. No. 2735, § 1; Ord. No. 2945, § 2.)

Section 3. That Section 3.32. is hereby amended to read as follows:

3.32. Restrictions on club licenses.

It shall be unlawful for any licensee holding a Class "C" license to sell or offer for sale any alcoholic

Club License

liquor for any event which is open to the general public, except as follows:

(1) Private party rentals, or ~~An~~ event open to the public which is for the benefit of a not-for-profit or charitable organization and which is sponsored by a member of the club shall be permitted.

(2) Private party rentals shall be permitted in an outdoor seating area and alcohol may be served in conjunction therewith, provided that food service is made available and the area is appropriately monitored. The licensee shall submit a report to the Village within thirty days following each July 1 and January 1 setting forth the date, time and type of any private party rentals currently scheduled by the licensee in order for the Village to monitor compliance. In addition, the Village may request that the licensee include information on the dates, times and types of private party rentals at the Club during the six months prior.

(~~2~~3) An event open to the public which is not for the benefit of a not-for-profit or charitable organization or which is not sponsored by a member of the club may be held as a special event, subject to the restrictions of Class "S" liquor licenses.

(~~3~~4) An event open to the public held for the purpose of gambling as defined in Section 3.33(a). (Ord. No. 2586, § 1; Ord. No. 2735, § 1.)

Section 5. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 6. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Mayor

Passed:
Published:
Attest: _____
Village Clerk

ALEXANDER BRADLEY BURNS POST 80

4000 SARATOGA AVENUE
DOWNERS GROVE, ILLINOIS 60515



Mayor Ronald Sandack

May 29, 2008

Alexander Bradley Burns Post 80 would like an amended liquor license to allow for outdoor liquor service at our pavilion with the ability for the customer to consume the liquor anywhere on our grounds (11 acres). We would only allow bar service outdoors at events where food is served. The grounds are currently fenced and shielded from neighbors by shrubbery and trees at the fence line. We anticipate serving the liquor at the pavilion using a portable bar.

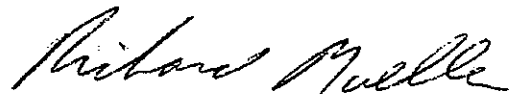
We plan to rent to PTAs, weddings, family picnics, corporate picnics, charitable fund raisers, and Legion functions which would require service to the general public as well as Post 80 members.

We discussed the current ordinance with Carol Kuchynka and she stated we would need an amended ordinance or an amended license to provide for our unique situation.

We would appreciate anything that can be done to expedite the needed variance.

Thank you for your assistance in this matter.

Sincerely,



Richard Mueller
Commander

Cc Carol Kuchynka
Joe Pappalardo

6/8

Plan:

Here is

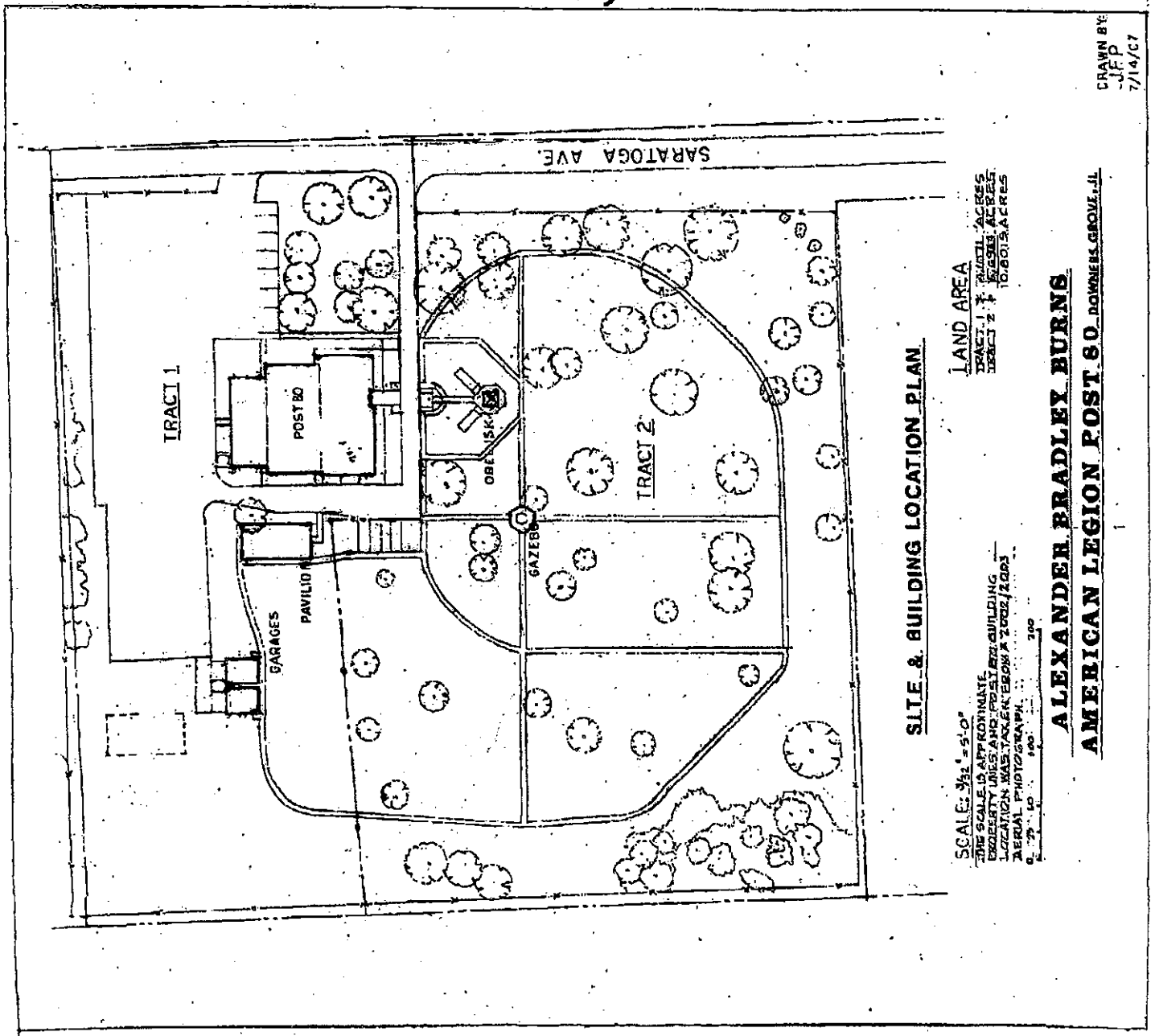
American Legion
Site plan.

-C

I am assuming
that they will
want to be able to
serve beer in both
the pavilion &
gazebo.

Gazebos
192 sqft.

Free Standing
Pavilion
1700 sqft.



DRAWN BY:
JFP
7/14/67

SITE & BUILDING LOCATION PLAN

SCALE: 1/2" = 5'-0"
THE SCALE IS APPROXIMATE
PROPERTY LINES AND POST BQ BUILDING
LOCATION WAS TAKEN FROM A 1963
AERIAL PHOTOGRAPH.

LAND AREA
TRACT 1 7.7 ACRES
TRACT 2 10.603 ACRES

**ALEXANDER BRADLEY BURNS
AMERICAN LEGION POST 60, DOWNS GROVE, IL**

Mr. McInerney noted that there is some value in having some enforcement procedures well known. He felt that the licensees being aware of the Control Buy Program drives licensees behavior.

Ms. Kuchynka noted that licensees can be advised that they can be checked on at any time and are well advised of the Control Buy Program. She stated that she could not advise the Commission of specific tactical unit activity as each response to a particular incident will vary depending on the nature or complaint or compliance violation. Ms. Strelau stated the Commission has simply asked for the fact that the Police Department will send in a tactical unit if there is an issue. Ms. Kuchynka confirmed and guaranteed that a tactical unit will be sent into an establishment if a problem or complaint arises.

Mr. Cawthorne believed that staff was doing a good job and realized that they cannot disclose everything to the Commission. He felt that there are activities taking place that are not disclosed. Ms. Kuchynka noted that she will be working with the Police Department in the future to determine if any funds will be needed for additional activities when the Cost Center Analysis is reviewed. Chairman McInerney noted his experience in doing cost center analyses and volunteered to help.

Ms. Strelau asked about Omega and what license was surrendered. Ms. Kuchynka replied that the original owners' license was forfeited as the new license was just issued. Ms. Strelau noted that the Commission heard the Omega application months ago. Ms. Kuchynka confirmed that the transfer was finally complete. She stated that there was an issue with a final inspection and receipt of their Certificate of Occupancy. Mr. Cawthorne asked about Kyoto. Ms. Kuchynka replied that it was the same situation.

Ms. Strelau stated that Omega had a DUI Notification from a .08 test result. Ms. Kuchynka noted that a DUI can be charged for any BAC over .05. Ms. Perez confirmed that an individual can be charged with a DUI from a .05+ BAC, and noted that the prosecution would have to prove that the driver was unable to control the vehicle based on the fact there was alcohol in their system. Ms. Kuchynka noted that the manager of Omega contacted the Police Department and discussed the issue with the Sergeant.

Ms. Kuchynka stated that she provided the Commission with the new floor plan of the Cellar Door. She stated that they had a final walk through and were issued a Certificate of Occupancy. She noted that the floor plan was amended a bit and that there were a few less seats than previously submitted. Ms. Kuchynka noted that the wine boutique license was issued and advised that they still have to finalize approval of the Temporary Use Permit for the outdoor area.

Mr. Cawthorne asked Ms. Kuchynka if anyone from the Moose Lodge contacted her regarding an outdoor license. She replied that she has to speak with the Mayor about the issue. She stated that the Moose had built a pavilion and gazebo, but did not realize that their current license does not allow outdoor liquor sales. She stated that she needed to discuss what the Village will allow them to do such as whether to allow members to bring drinks outdoors or only allow those that rent the facility to allow sales in the outdoor areas. Ms. Kuchynka noted that they have a Class "C" club license but stated that the ordinance as written does not permit Class "O" licenses to be issued to Class "C" club license holders. She stated that either a provision has to be included in the club license definition or the Class "O" license has to be amended to allow outdoor events. She stated that she still needs information from the Lodge and to determine exactly what activities they are planning at the facility.

Mr. Cawthorne noted that a few Commissioners are Moose members and he hoped that there was no conflict of interest.

Ms. King referred to the vertical under 21 license and noted its unique feature and liked the fact that they highlighted in the manual for their employees to be on the look out for it. She wished the applicant luck.

Chairman McInerney stated that he was pleased that Capri was locating to Downers Grove and it will be nice to have this type of establishment right at the center of town and at that location. He advised the licensee to be on the lookout for Village conducted controlled buys and minors in general who attempt liquor purchases. He wished the applicant luck.

Chairman McInerney asked if there were any comments from staff. Ms. Kuchynka stated that factors affecting the finding or recommendation include receipt of satisfactory background findings on the liquor manager and officer/stockholders from the Downers Grove Police Department, receipt of the annual fee, receipt of a Certificate of Occupancy and receipt of dram shop insurance.

Chairman McInerney asked if there were any comments from the public. There were none.

Hearing the testimony given in this case, Chairman McInerney requested a recommendation from the Commission concerning its finding of "qualified" or "not qualified" with respect to the applicant with regard to their liquor license application.

MS. KING MOVED TO FIND GIGI'S BELLAMIA RESTORANTE, INC. D/B/A CAPRI RESTORANTE LOCATED AT 5105 MAIN STREET, QUALIFIED FOR A CLASS "R-1" FULL ALCOHOL, ON-PREMISE CONSUMPTION LIQUOR LICENSE. MR. KUBES SECONDED.

VOTE:

Aye: Ms. King, Mr. Kubes, Mr. Krusenoski, Mr. Cawthorne, Ms. Strelau, Chairman McInerney

Nay: None

Abstain: None

MOTION CARRIED: 6:0:0

The Motion carried.

The Commission took a 5 minute break.

V. OLD BUSINESS

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

Ms. Kuchynka stated that she provided the Commission with a draft ordinance amendment regarding the Class "O", outdoor license classification to allow clubs and other facilities the ability to have liquor service outdoors. Mr. Kuchynka advised that she received a request from Alexander Bradley Burns Post 80. She stated that they recently built a pavilion and gazebo on the property. She stated that they did not

realize that their current license does not allow outdoor liquor sales. She stated that they want to allow those that rent the facility the ability to have liquor service in the outdoor areas. Ms. Kuchynka noted that once the license is created, they will then have to appear before the Commission to apply for the license. She stated that outdoor liquor service will be limited to private party rentals and noted that food service must be available. She stated that the perimeter of the property is enclosed. She stated that the ordinance also contains technical amendments that were not addressed when the license classifications were amended.

Chairman McInerney stated that outdoor licensees are required to have food service. He was concerned about entertainment class licensees. Ms. Kuchynka advised that North Beach has a Class O license which is under that condition that food service is available. She advised that although they have created entertainment licenses, food service could continue being required.

Mr. Cawthorne thought that access had to be through the establishment. Ms. Kuchynka stated that in some instances it is impossible and/or impractical to have access through the establishment. She advised that most outdoor license holders do have access through the restaurant. She stated that there are provisions in Chapter 3 which regulate outdoor activities. She stated that the Village requires an enclosure of some sort. She stated that those licensees that do not have access to the outdoor typically post a sign that guests see the hostess to be seated and have an employee responsible for monitoring the area.

Mr. Cawthorne was concerned if other clubs want to serve alcohol outdoors and noted that their setups are different. Ms. Kuchynka noted the restrictions on the license would limit the service to private parties with food service. She stated that their setup and methods of service would need to be discussed at application.

Ms. Strelau asked how many establishments have a Class "C" club license. Ms. Kuchynka replied three - the American Legion, Moose Lodge and VFW.

Ms. King asked if the Village specifies how the licensee is to enclose the area. Ms. Kuchynka replied that there were discussions about what type of enclosures are required. She stated that in some instances it was impractical to have a 6-foot solid wood fence. She stated that sight lines and aesthetics were taken into consideration when outdoor cafés are located in the front of the establishment. She stated that public safety is also taken into consideration. She noted there are no height regulations in place.

Chairman McInerney noted that there were also discussions on the use of public property. Ms. Kuchynka replied a Sidewalk Café License is required for those that operate on public property. She stated that use of such property is regulated by the Village and can only be approved by the Village Council. She stated that Emmett's and Ballydoyle are the only two establishments that have such a license. She stated that there are stricter guidelines contained in their license agreement. She stated that they pay for use of the property and that their seasonal use is limited from April 1st - October 31st.

Ms. Strelau stated that there was some concern with the Park District and the service of alcohol from the beverage cart. She stated that the Post's property is quite large and she was concerned that there would be no supervision. She felt that there may be oversight on the part of the Post, as they are not in the regular business of selling alcohol. She felt that they should have more stringent enclosure requirements and noted the 8-acre size of their property. Ms. Kuchynka noted that the Post hire bartenders/servers and have certified trained staff. She stated that the club members and volunteers are not the ones selling

liquor and felt that their employees could adequately monitor guests. She stated that their monitoring procedures and service provisions would need to be discussed at their application hearing. She stated that this ordinance is simply allowing them to have the ability to apply for the outdoor license. She stated that a provision could be added that an event manager be present during the outdoor activities to monitor and observe alcohol service.

Mr. Kubes stated that there are no regimented policing private activities. He agreed with Ms. Strelau and her concerns as to whether or not the Post will be monitoring. He felt that the Commission should discuss different means of enforcement. He was concerned about the monitoring of the golf course beverage cart, hotel party rooms and other private events.

Chairman McInerney stated that they may want to consider some regulations similar to the catering license where they report activities. He stated that they are changing the scope of what they will allow at clubs, however, there is no method set for regulation or enforcement. Ms. Kuchynka asked if they would like to have a provision for the clubs to report their rentals. Chairman McInerney replied yes and stated that would be consistent with what is required from the catering license at the Park District. The Commission agreed.

Mr. Kubes asked if the Post wanted outdoor service on a daily basis. Ms. Kuchynka replied no. She stated that the gazebo area and patio areas would only be utilized for pre-arranged functions.

Ms. Strelau stated that she had less concern with the recreation center events because the area is contained. She stated the Post's activities will be taking place in a middle of a field with no oversight. Ms. Strelau stated that the Village needs different enforcement for the different types of licenses. She stated she had no difficulty allowing them to sell if the Village had a way to enforce and monitor the licensee.

Ms. Strelau felt that the Commissions should discuss how policing activities will take place, how they will be funded. She felt that licensees who have special needs should pay accordingly for the license. She felt that although new classifications were created, there has been no progress about enhancing or expanding policing activities.

Ms. Kuchynka asked if they were comfortable with presenting the draft ordinance to the Village Council for consideration. Ms. Strelau wanted the presentation to the Council that the Commission would like to see additional enforcement. Chairman McInerney stated that the draft could be forwarded that includes provisions for self-reporting requirement. Ms. Kuchynka asked if they wanted separate policing activities for these licensees. Ms. Strelau stated that they are not picking on any particular licensee but there are certain classifications where the current controlled buy policing is not feasible. She wants it to be acknowledge to the Council that the current enforcement processes needs to be re-worked for these instances.

Ms. King asked if the draft should include particular areas where the Post's outdoor activities take place. Ms. Kuchynka replied that they would not want require specific areas to be designated by ordinance, but discussion as to where the outdoor activities take place and the layout would be provided at application. Ms. King asked if the applicant would be required to show the Commission what specific areas they are going to utilize. Ms. Kuchynka replied yes. She stated that the Commission would get greater detail during the application along with a layout and policy information.

Ms. Kuchynka noted the Commission's concerns with monitoring issues at private functions. Chairman McInerney wanted to be sure that, as the scope of licenses is expanding, that the Village should be sure that licensees are complying with the ordinance. He noted the hesitancy of some members in creating licensees as the stepping up of policing activities and preventive enforcement has not been discussed.

Ms. Kuchynka advised the Commission that the Class "O" outdoor seating requirements can be found in Section 3-30 of the Code. She stated that (i) the outdoor area must be enclosed; (ii) the outdoor area must be owned or leased by the licensee; (iii) the outdoor area is included as part of the regular food service business located on the licensed premises; (iv) access to the outdoor area shall be limited through the licensed premises or, if not practicable, through monitored entrances that are controlled by employees and/or reasonable fencing of the licensed premises during all operating hours and/or while alcohol is being served; (v) seating in the outdoor area shall not be included in the overall seating calculation or by any way utilized to expand the number of seats that are allowed in the interior bar/lounge area. Ms. Strelau was comfortable with those restrictions, but still was uncomfortable with the monitoring situation.

Ms. Strelau asked if staff required a motion. Mr. Kubes stated that motion could be for staff to forward the draft to the Council, including amendments, along with the notion that the Commission is seeking better monitoring and policing activities at these facilities.

Ms. Strelau stated that the Commission wants clear direction from the Council as to how an expanded controlled buy program or if other actions can be taken to monitor licensees that are outside the current scope of the program. She stated that once they get direction, they can continue discussions and find a means to pay for additional policing services. She stated that the Police Department could tell the Commission what they need to monitor the licensees.

Ms. Kuchynka stated that she would revise the ordinance and bring it back to the Commission next month and would be ready to discuss monitoring issues. Chairman McInerney asked if the Post had a time frame in which they were seeking approval. Ms. Kuchynka replied that there was not a big rush now that the season is almost over. She stated that the Post has the option to apply for a Special Event license if they need approval for an event. She felt that by the time the ordinance was passed and they applied for the license, it would be winter and at a time where they could not use the pavilion and gazebo. Mr. Kubes would prefer that the Commission had more time to consider monitoring issues.

Ms. Strelau requested that the discussion of the monitoring issue be placed on the September agenda regardless if there is an application or disciplinary hearing. There was consensus by the Liquor Commission for the Police Department to attend the September Liquor Commission meeting to discuss possible changes to the existing control buy program. Ms. Kuchynka advised that she has an application on file and there would be a September meeting. She would re-draft the ordinance and place it on the agenda for the next meeting.

Ms. Kuchynka asked the Commission if they had any questions on the monthly reports. Ms. Strelau asked about the DUI Notifications. She asked if the establishments are contacted in the instances where the BAC is high. Ms. Kuchynka replied no, they only receive the notification letter from the Police Department. Ms. Strelau stated that the Commission received the annual DUI Notification list. She wondered why the data is being collected if there is nothing done with it. She stated that the Commission cannot enforce upon it. Ms. Kuchynka stated that she monitors the number of DUI Notifications that are received. Ms. Strelau stated that these should be taken into consideration before renewal each year. Ms. Kuchynka replied that they are taken into consideration by staff and the Mayor. Ms. Strelau stated that

VOTE:

Aye: Ms. Strelau, Mr. Adank, Mr. Clary, Chairman McInerney

Nay: None

Abstain: None

MOTION CARRIED: 4:0:0

~~The Motion carried.~~

V. OLD BUSINESS

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

Ms. Kuchynka stated that she provided the Commission with a re-draft of the ordinance amending the Class "O", outdoor license provisions to allow clubs and other facilities the ability to have liquor service outdoors. She stated that she had made the changes requested from the previous meeting. She stated that she added a reporting requirement. She asked the Commission for any further comments or questions concerning the ordinance.

Ms. Strelau stated that she was fine with the Class "O" provisions, however, commented on Section 3-32 which requires the club licensee to submit a report concerning activities. She wondered for what reasons would the report be utilized. Ms. Kuchynka stated that the reports could be utilized to have advance notice of activities so that the Village could monitor them. She stated that in some instances such as a baby shower or wedding, it would be very difficult to send in an agent to conduct a controlled buy. She advised that private functions in general are very difficult to monitor.

Ms. Strelau was very concerned about the inability and/or lack of monitoring at private functions. She wondered what, if anything, the Village was going to do to monitor compliance. She asked if the Police Department had a written policy on how to handle these situations. Ms. Kuchynka replied there is no written policy, or directive as there is with the controlled buy program. She stated that there are actions that the police take, but since the functions vary on a case by case basis, a written directive is not practical.

Chairman McInerney felt that it would be appropriate for the Police Department to expand beyond the current routine when looking at the monitoring situation. He thought not only under 21 liquor service should be checked but checking that food service is available, allowable sales hours are adhered to and that over service matters are addressed. He had a high regard for the Police Department and was confident that they will properly deal with each situation and do their job by whatever means they feel is appropriate.

Ms. Strelau wondered if the Commission could receive a memo from the Police Department stating that they will monitor Class O and Class E licensees as the Village's current control buy program does not work well with these types of licensees. Ms. Strelau stressed that there is no need for the memo from the Police Department to specify how the program would be administered, but rather simply that the

Police Department has a program for monitoring the Class O and Class E licensees. She felt if additional funding was necessary that the Liquor Commission would help provide that funding to the Department through licensee fees.

Mr. Adank had no questions about the ordinance but noted some concern about the monitoring of private parties.

Mr. Clary agreed with Ms. Strelau.

Ms. Kuchynka requested a motion whether to forward the ordinance to the Village Council for consideration.

MS. STRELAU MOVED TO FORWARD THE ORDINANCE TO THE VILLAGE COUNCIL FOR CONSIDERATION ALONG WITH CORRESPONDENCE FROM THE POLICE DEPARTMENT THAT THEY HAVE A POLICY IN PLACE TO MONITOR THE LICENSEE. MR. ADANK SECONDED.

VOTE:

Aye: Ms. Strelau, Mr. Adank, Mr. Clary, Chairman McInerney

Nay: None

Abstain: None

MOTION CARRIED: 4:0:0

The Motion carried.

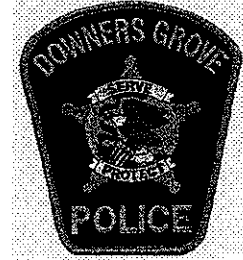
Ms. Kuchynka noted that the Liquor Commission had sent letters of intent regarding the issuance of licenses to Capri, Brick House and Gatto's. She stated that as of today, she issued copies of licenses to Brick House, so that they can obtain a State license while they are completing build out. She stated that she also issued a copy of a license to Stardust. She noted that they need final inspection prior to issuance of the original license. She stated that she planned to accompany the inspector on September 9th to be sure that their floor plan matches what was submitted to the Liquor Commission. Mr. Adank asked when they planned to open. Ms. Kuchynka replied that they hoped to be open by September 13th. She noted that she notified other Village Departments and they advised that that date may not be possible with the number of items that still need to be completed.

Ms. Kuchynka stated that she provided correspondence concerning Mr. Cawthorne's voluntary resignation from the Commission. She stated that a new member should be appointed to fill his vacancy by next month's meeting.

Ms. Kuchynka stated that she conducted an on-site training seminar at North Beach on August 24th as a result of the rising concern with the number of DUI Notification Letters that have been sent to the licensee. She noted that there were a few new employees who had not been certified and noted that they have four months from their date of hire in which to have the training completed.

**DOWNERS GROVE POLICE DEPARTMENT
DEPARTMENTAL CORRESPONDENCE**

DATE: **October 10, 2008**
TO: **Chief Robert Porter**
FROM: **Lieutenant Bill Budds**
SUBJECT: **Enforcement Plan for Class O Liquor License**



The police department is aware of the creation of the Class O Liquor License which authorizes the sale and consumption of alcoholic liquor in an outdoor seating area.

The police department continues to proactively conduct liquor enforcement operations at all licensed establishments within the village. Although private functions will present a challenge to conducting undercover or covert enforcement operations, the police department will be able to take other appropriate enforcement measures if needed.

The police department will monitor any complaints of possible violations from these establishments and conduct the appropriate enforcement operation.