



City of Aurora

44 East Downer Place
Aurora, Illinois 60505
www.aurora-il.org

Legistar History Report

File Number: 18-0698

File ID: 18-0698	Type: Petition	Status: Draft
Version: 2	General Ledger #:	In Control: Planning & Development Committee
File Name: TW Café / 4430 Fox Valley Center Drive, Unit 108 / Special Use - Video Gaming		File Created: 08/08/2018
		Final Action:

Title: An Ordinance Granting a Special Use Permit for a Video Gaming Terminals License on the Property Located at 4430 Fox Valley Center Drive, Unit 108 (TW Café - 18-0698 / NA21/4-18.141-Su - SB - Ward 10) (PUBLIC HEARING)

Notes:

Agenda Date: 09/13/2018

Agenda Number:

Sponsors:

Enactment Date:

Attachments: Exhibit "A" - Legal Description - 2018-08-30 - 2018.141.pdf, Exhibit "B" - Memorandum of Agreement - 2018-08-03 - 2018.141.pdf, Floor Plan - 2018-08-07 - 2018.141.pdf, Land Use Petition with Supporting Documents - 2018-08-07 - 2018.141.pdf, Property Research Sheet - 2017-09-11 - 2018.141.pdf, Legistar History Report - 2018-08-29 - 2018.141.pdf, Findings of Facts - 2018-08-28 - 2018.141.pdf

Enactment Number:

Planning Case #: NA21/4-18.141-Su

Hearing Date:

Drafter: sbroadwell@aurora-il.org

Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	08/14/2018	referred to	Planning Council			
	Action Text:	This Petition was referred to to the Planning Council					
1	Planning Council	08/21/2018					
	Notes:	<i>Representatives Present: Steve Dellis and Tim Axarides</i>					

My name is Tim Axarides. This is my father-in-law Steve Dellis. Thank you for having us here. Our company is called TW Restaurant Group. We are looking to get into that strip mall over by Naf Naf. We are a full service restaurant. We have from pastas to fish to specialty menus. We are looking to do video gaming in there. We haven't established it right now. Tracy's is in the same mall you guys

were talking about, which we do pretty well there. Our food growth has grown 10% to 12% monthly, so we are pretty happy. We have been in business for 30 years. We love the 59 corridor. Our business right now is about 75% all Naperville. In that area, it would be more targeted for that area just because of the strip mall there it really kind of helps.

Mr. Sieben said and the reason for that, do you want to explain why?

Mr. Axarides said Naperville does not allow video gaming at this point. Plainfield doesn't either. It is not a core of our business, but it does help pay the bills. I'm not going to tell you any different. But we found out through our marketing and everything else that we've done through special events. Like I said before, right now Tracy's in Aurora, we're at 69% to 73% Naperville/Plainfield. We predict 80% to 85% total Naperville coming in for that. There are not a lot of players, but my biggest thrill is to see our food growing. It is all profit after that.

Mr. Sieben said so even though you are within a half mile of your own establishment, this is a different business?

Mr. Axarides said it is a different menu set, more high end. We have a lot of salmon, a lot of lasagnas and pastas. We really don't have bar food, just more of a sit down restaurant.

Mr. Sieben said Steve I believe, the other Steve Broadwell, the other establishments that have video gaming within a half mile, I think one is Hooters, which is on the ring road, and is there one other one besides Tracy's?

Mr. Axarides said that was it. Hooters has 3 machines. It is just a different animal. They do more of a bar food and our location will be high end.

Mr. Sieben said this has already been vetted with the City Clerk. This meets all the requirements. You are going for what class?

Mr. Axarides said it is a full liquor license.

Mr. Sieben said a full class E liquor license. The minimum is 75 seats.

Mr. Axarides said correct.

Mr. Beneke said I think we looked at it and I think we are in pretty good shape with it. You just need to, whenever you are ready, get a permit into us.

Mr. Axarides said we are picking up the public notice sign today.

Mr. Sieben said Steve do you want to indicate where this goes from here?

Mr. Broadwell said we are working through the public notice. Right now we are working towards a September 5th Planning Commission date. Then it goes to P&D, COW and City Council.

Mr. Sieben said you'll be done at the end of September then.

1	Planning Council	08/28/2018	Forwarded	Planning Commission	09/05/2018	Pass
---	------------------	------------	-----------	---------------------	------------	------

Action Text: A motion was made by Mr. Broadwell, seconded by Mrs. Morgan, that this agenda item be Forwarded to the Planning Commission, on the agenda for 9/5/2018. The motion carried by voice vote.

Notes: Mr. Broadwell said this is the video gaming terminal. I believe we have everything we need. The public notice requirement, I think the signs are up, so I think we have everything we need. We are looking at the September 5th Planning Commission. I make a motion to move this forward to the September 5th Planning Commission. Mrs. Morgan seconded the motion. The motion carried unanimously.

2 Planning Commission 09/05/2018 Forwarded Planning & Development Committee 09/13/2018 Pass

Action Text: A motion was made by Mr. Pilmer, seconded by Mr. Chambers, that this agenda item be Forwarded to the Planning & Development Committee, on the agenda for 9/13/2018. The motion carried.

Notes: *Mr. Broadwell said the Petitioner is here to tonight, TW Restaurant Group. They are requesting approval of a Special Use for getting a Video Gaming Terminal License at this location. A little bit of background, the subject property is there at the Fox Valley Mall. It is located near the mall and near Route 59. The building itself is a multi-tenant building, which is currently being utilized for retail and restaurant use. You can see more details regarding the legislative history and also the property itself in your Property Research Sheet. With this Special Use, the Petitioner is requesting the addition of 5 new video game terminals to a future restaurant use in Unit 108 of this building. The restaurant will maintain 78 seats in a sit down dining area and will provide full menu options for customers. The unit itself, Unit 108, is approximately 1,900 square feet. The Petitioner owns other successful restaurants in Aurora, which operate on a similar business model. A little bit of background, this Special Use comes from the Aurora Municipal Code, which requires that no new video gaming terminal licenses may be issued to any establishment that is less than a half mile from another licensed established without a Special Use. The measurement is made from the property line in which the business is located.*

Mrs. Head said what is the distance to the next one?

Mr. Broadwell said it has to be within a half mile, 2,640 feet.

Mr. Sieben said you had a question where the other ones are. I believe actually the Petitioner can answer this, but they actually have another facility that is within a half a mile of the one they are proposing and they can explain why that is. Hooters just to the south of this, I believe is about within a quarter mile on Route 59, is the other one and I believe the Foundry is the third one. The Foundry is at the southwest corner of the mall.

Ms. Tidwell said I guess I have the same question as before. Is this recommendation consistent with prior similar actions or have there ever been any other prior similar actions?

Mr. Sieben said this is all new territory. The City of Aurora just enacted this as part of the Municipal Code. Previously, as long as they met the requirements of the liquor ordinance and the city's ordinance on this they would be issued. Really the Zoning or the Planning Commission had nothing to do with video gaming licensing. So this was a restriction that was recently put in the city, I think, to kind of slow down a little bit of the proliferation of these in certain area. That was the reason for the half mile separation.

Ms. Tidwell said so the new part is the separation by a half mile?

Mr. Sieben said the brand new part is a half mile separation for any new requests. In order for a new one to be allowed within a half mile of another one they have to go through a Special Process like this.

Ms. Tidwell said so there have been no other requests?

Mr. Sieben said this is the very first one because the ordinance, I want to say, was just changed within the last 2 to 4 months, so this is the first one.

The Petitioners were sworn in.

Hi. My name is Tim Axarides. I'm from 2123 Feldott in Naperville. First of all, thank you for having us here. This is my father-in-law, Steve Dellis.

Mr. Dellis said hello. I live at 2971 Henry Lane in Naperville.

Mr. Axarides said my father-in-law, Steve, a little background on him, he has been in the City of Aurora for 50 years. He owns Oakhurst Plaza Mall. He also is a barber. I think a lot of people know him as Steve the Greek. We all have been profound in Aurora, so we've done a lot of business up here. We are looking forward to doing more. We have a location right now called Tracy's in the mall you were just talking about, Yorkshire Mall, so we are one of the tenants there. We have a location in that plaza and we look forward to the new look. I think it needs it and it is going to be a pretty exciting time. We've been very successful there. Our food business right now is about \$19,000 to \$20,000 a month, which is growing. Our video gaming, 70% of our video gaming comes from the Naperville area. We are excited about that. That pays our rent and everything else included in that. So everything that we've done through our concept has been profitable. Tracy's is more of a bar food, burgers, wings. This new concept is called TW Restaurant. If you look into it, we do have upper scale food. We believe that area by Naf Naf is just more a prestigious area. The rent surely shows it is a prestigious area. We believe at that point we have raised our prices a little higher there. We believe 80% or 85%, I'm talking about the video gaming, we figured that high will be from the Naperville area. Not just from Naperville, but from Plainfield also. We have done our homework through previous business to just understand the marketing, what we need to do and what needs to be done, especially the food part of it. From our salmon to our mac and cheese to everything else that we have in there as we look through it is part of what we believe in that area. It is just a higher end. We've done a great job. We've been in the business for a long time. We know what we are doing. We respect everything that we've done. That's who we are.

Chairman Truax said I think there was a question about why was it important to have this one as close to the video gaming.

Mr. Axarides said that's a great location, just period. With Naf Naf and looking at the numbers there, McDonalds is next door. The traffic that that creates is just incredible. I look at the market. That basically tells me where I would go. When we look at that market, Naf Naf does really well there and everything else is more upscale. The restaurants from McDonalds, you've got the mall. We know Carsons closed, so that's going to hurt a little bit of the traffic area, but I think we bring people in. That's the only reason. It is just a great market for that area right there. If it was another market somewhere else close they wouldn't matter to me. The numbers for me speak for themselves. We just like that mall. We have a pretty good relationship with the landlord there, so that's why we chose it.

Mrs. Anderson said what will be the business hours of this establishment?

Mr. Axarides said it would be from 8 until 1 in the morning.

Mr. Cameron said this is subject to the new ordinance and is the first request. Why should we violate the new ordinance? What reasons do you have for making us decide on a new ordinance to violate it the first time out of the box?

Mr. Axarides said we thought about that too as we've been through a number of meetings, a number of conversations that we've had internally just understanding what's the right thing to do, what makes us successful. No matter what, we are all here to make money. We want to do it the right way. We want to be good community service members of Aurora, which we are. What we think that we've done is not just, video gaming is here, so for us to say well we just need video gaming, we're not a café, we're a restaurant. We have a really pretty darn good menu, but for us to do that it just makes more sense. It pays our rent. We need to be .5 miles, so anyone that we looked at through our whole neighborhood was Hooters really was the main one that we are pretty close to, .2 miles. Tracy's, which is my other location, my father-in-law's location, it is exactly a half mile. The other one, the Foundry is pretty much a half mile. Hooters has 3 machines. That's just the only reason we took it. I don't think that's going to affect anything. 80% to 85% of the gaming area for us is through Naperville and Plainfield. It just makes more sense to bring more business in.

Mrs. Anderson said so you are seeing a huge demand for these gaming systems in restaurants?

Mr. Axarides said I don't see a huge demand. When I look at the numbers and what we did in the

Yorkshire Mall, it pays the rent. Our rent right now is over \$40 a square foot. You are talking about \$5,000 to \$6,000 a month. Somewhere it's got to get paid. So for us, if we can get that through the gaming area everything else is pretty much profitable. We are successful. That's the only reason we ask for that.

Mrs. Anderson said where are these gaming units typically placed in your restaurants?

Mr. Axarides said they are placed in the closed wall, so it is separate space.

Chairman Truax said do you see any downside to having video gaming in your establishment?

Mr. Axarides said in the beginning when we started opening restaurants, we were like perception. It was like the old days, somewhere in the back and we think how are families going to react. It is a different world now, especially the way we've done it. We've done it the right way. Our establishments, or this on especially too, is high end. From the look of it, from everything else, the seclusion of the gaming area, it doesn't affect that much. I feel very comfortable from our previous experience through establishments that we've done it the right way. Our numbers, pound for pound, we're the best operators out there just because we care. We are family owned. We go to all our stores. We make sure that we train and we take care of our employees. That's the difference between us and everybody else and I say that with confidence. We have great food and a great look, but our employees make the difference. Our community makes the difference. We buy into that and they buy into us, so we are loyal to our customers, to the City of Aurora, and to the Mayor as they are loyal to us. That's how we run business. I feel really confident about it.

Mrs. Head said do you know how much right now you actually are giving in taxes in your video gaming at Yorkshire?

Mr. Axarides said we probably give at this point right now it averages about \$50,000 to \$55,000 a year annually, which is a lot for one location.

Mrs. Head said I'm very familiar with the rules and regulations and actually the entire operation of video gaming. So that area that I noticed, is that roped? Is that half walled?

Mr. Axarides said it is all blocked off.

Mrs. Head said so that's a permanent wall?

Mr. Axarides said that's a permanent wall. That's one thing we've done. We're not with the rope thing and tape. It is a perfectly symmetrical wall. We do have windows in there so people can see through. We are not trying to hide anything from anybody. I don't want to say it is entertainment, but in a way it is. We know there are others out there, but nobody does it better than we do and our numbers, just from Aurora and everything else, prove it. We do it right. We don't try to hide anything. We don't try to say we're going to do this and do that. We tell you something we are going to and we've done it. We've proved it at our location at Yorkshire. It is beautiful store. We never had an issue. We've been open over a year, not one. Never over-served, never had issues with alcohol. Our food is pretty dam good, so we have been successful and we are proud of it. Again, we're not trying to say anything different.

Mrs. Anderson said now do you prohibit folks just walking in for gaming or do you not have a policy on that?

Mr. Axarides said our policy is just like everything else. The only time you can gamble is you have to be 21 years and older, period. It is just like having a drink. We card everybody. We don't we card 30 years old. I don't care if you are 40 or 50 we are going to card just to protect ourselves.

Mr. Sieben said real quick two comments. I don't know if Tim stated, but Naperville does not allow video gaming, so that was, I think, one of the main reasons as this is right on the border. The other thing I wanted to mention is, and I work closely with the City Clerk and the Building Department when

proposed liquor licenses come in, we have certain requirements for liquor licenses. For example, to get a video gaming license you have to have a Class E Restaurant Full Liquor License. If you are in a shopping center like this is, you have to have a minimum of 75 seats, which is quite an investment. We get a lot of requests from businesses, you've probably seen them in other communities where they want to go in a hole in the wall and have a few tables and have liquor and have video gaming because it is mostly gaming. That's not the intent with Aurora's liquor license. They have to have the investment of the 75 seats to start with to even apply for the video gaming license. So that is a difference with the City of Aurora compared to maybe half the other suburbs around the area.

Mr. Axarides said and with our build outs, even the one in Yorkshire, is a \$300,000 investment for us and the thing that we look at too is exactly it. It is a Naperville area. It is what it is. It is that border that helps us out tremendously. We get a lot of people from Naperville to eat at our store. Why not play at our store? That's why we want to be on Route 59. Our requirements are 40,000 square feet. We feel again, not to pat ourselves on the back, we think we've done a good job for the City of Aurora and for ourselves.

Mr. Sieben said so the intent again is that these are a restaurant first and the video gaming is just an accessory use.

Chairman Truax said I'm just curious Ed, other than the mall area, are there other video gaming establishments in Aurora?

Mr. Sieben said I want to say there are like 50 or more. They are all over the city.

Ms. Tidwell said I would like to understand the rationale behind staff's recommendation for this given the recent ordinance and the fact that this does not comply with that.

Mr. Sieben said this is after discussion with the City Clerk and the Administration, even though this is not Tracy's, which is their other restaurant that they've done, it is actually as described more upscale than their other one. They do have a very good reputation in town. Mr. Dellis here has other commercial developments in town, which have been extremely high quality. We've gone over all the recommendations. We've been in Tracy's. It is a very good addition to the community and we feel being on the border of the town, I think one of the reasons that the half mile was put in place was some concern of saturation in certain areas and also I think maybe something to do with the areas near the Casino, so I think this being on Route 59, it's, I think, the second largest retail corridor in the Chicago region and based on the history of their other facility we didn't feel that this would be an issue with saturation out on Route 59.

Ms. Tidwell said can you again tell me the difference in distance? How close is this to not violating the ordinance?

Mr. Sieben said maybe if I can pull up the aerial again and I'll zoom in who has it. If you see in the blue, that's the retail center where they are proposing to go. The Hooters, which is to the south, is the one right on the corner here. It is not quite a half mile, but it is a little ways to the south there down at McCoy and Route 59. To be honest with you, I think they are actually closer to themselves. This is the retail center where Tracy's is at in what we just stated the Yorkshire Square of the proposed Pacifica Square Shopping Center to the north. Those are the only 2 there on Route 59 in Aurora. Obviously, there are none in Naperville that have them. Actually further to the west is the Foundry and I believe it is beyond a half mile. I think it was just their own facility and Hooters.

Ms. Tidwell said so it is within the half mile?

Mr. Sieben said it is within a half mile, correct.

Ms. Tidwell said of 2 establishments?

Mr. Sieben said of 2 establishments, correct.

The public input portion of the public hearing was opened. No witnesses came forward. The public input portion of the public hearing was closed.

Mr. Broadwell said staff would recommend approval of the Ordinance granting a Special Use Permit for a Video Gaming Terminals License on the property located at 4430 Fox Valley Center Drive, Unit 108.

MOTION OF APPROVAL WAS MADE BY: Mr. Pilmer

MOTION SECONDED BY: Mr. Chambers

AYES: Mrs. Anderson, Mr. Chambers, Mr. Divine, Mrs. Head, Mr. Pilmer, Mr. Reynolds

NAYS: Mr. Cameron, Mr. Hull, Ms. Tidwell

Ms. Tidwell said my concern is the ordinance that was recently passed and which this approval would violate. I can see clearly that this is a good establishment and that these folks know what they are doing and that is not my objection. From what I understand, not having read the ordinance, but it sounds as though as it is a hard and fast one half mile with the background not wanting saturation, so in other words, the standard is a half a mile, not whether or not the area is saturated, so I am voting no for those reasons.

FINDINGS OF FACT

1. Is the proposal in accordance with all applicable official physical development policies and other related official plans and policies of the City of Aurora?

Mr. Chambers said those are listed in the staff report.

2. Does the proposal represent the logical establishment and/or consistent extension of the requested classification in consideration of the existing land uses, existing zoning classifications, and essential character of the general area of the property in question?

Mr. Cameron said it is in violation of a recently passed ordinance prohibiting spacing too close to other similar uses.

3. Is the proposal consistent with a desirable trend of development in the general area of the property in question, occurring since the property in question was placed in its present zoning classification, desirability being defined as the trend's consistency with applicable official physical development policies and other related official plans and policies of the City of Aurora?

Mr. Reynolds said the proposal will enhance the appeal and the marketability of the subject property.

4. Will the proposal maintain a compatible relationship with the traffic pattern and traffic volume of adjacent streets and not have an adverse effect upon traffic or pedestrian movement and safety in the general area of the property in question?

Mr. Pilmer said this is a high traffic retail area designed for that and it should have no impact.

5. Will the proposal allow for the provision of adequate public services and facilities to the property in question and have no adverse effect upon existing public services and facilities?

Chairman Truax said I believe they are all in place in this area.

6. Does the proposal take adequate measures or will they be taken to provide ingress and egress so designed as to maximize pedestrian and vehicular circulation ease and safety, minimize traffic congestion, and not substantially increase the congestion in the public streets?

Mrs. Anderson said there should be no issues with this.

9a. Will the Special Use not preclude the normal and orderly development and improvement of

surrounding properties due to the saturation or concentration of similar uses in the general area?

Mr. Pilmer said based on the testimony tonight, I think we've heard that there could be saturation in the area. However, there is a large market to the east of the subject property that mitigates that potential saturation.

9b. Is the Special Use in all other respects in conformance to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the City Council pursuant to the recommendations of the Plan Commission?

Mr. Cameron said it is a violation of an ordinance just passed by the City Council.

Mr. Broadwell said this will next be heard at the Planning and Development Committee on Thursday, September 13, 2018, at 4:00 p.m. on the fifth floor of this building.

Aye: 6 At Large Pilmer, Aurora Twnshp Representative Reynolds, At Large Anderson, Fox Metro Representative Divine, Fox Valley Park District Representative Chambers and SD 129 Representative Head

Nay: 3 At Large Cameron, SD 131 Representative Hull and At Large Tidwell
