

Suburban Journals – Newspaper Clipping

A lawsuit might be brought against the city of Clayton by operators of the proposed Custom Brew Haus, a microbrewery, after the business failed to get the required votes for a conditional-use permit.

Clayton residents have submitted several petitions over the last several months protesting the Custom Brew Haus' request for a conditional-use permit. In the last petition, residents took steps that required a 5-2 vote by the city's Board of Aldermen to approve the microbrewery's permit, instead of a 4-3 vote. The board voted 4-3 Tuesday to approve the permit - not enough to pass.

Jeff Gershman, an attorney for the microbrewery operators, said they are considering litigation but are hoping the city will review the ordinance that called for a 5-2 vote. "I'm expecting the city to do the right thing here, which is to let the majority of the Board of Aldermen make the decision," Gershman said.

Clayton law says if residents who make up 30 percent of the property within 185 feet of a commercial building are protesting that building, the votes needed to pass the permit increases to 5-2.

The microbrewery wants to open at 6701 Clayton Road, by the Esquire Theater. The petitioning residents live on Tuscany Park, Concordia Avenue and Alamo Avenue. Just to the south of the location is Richmond Heights.

Gershman said the residents do not have 30 percent of the property, because they have not included all of the circumference from the brewery. To do so would include land in Richmond Heights. But Clayton City Manager Steve Hoffner disagrees.

"We believe our interpretation is correct, and if there is another interpretation, that would have to be made by the court," Hoffner said. "We cannot impose our zoning requirements on another municipality."

Hoffner later said if Gershman did pursue the matter in court and was successful, the permit would be given for the business. He wasn't sure if the board would have to vote on it again.

Another problem Gershman has with the petition is with the validity of the signatures. Some of the residents who live in the homes have not signed the petition, but the owners - one of whom lives in Chicago, another in Ladue and another in Richmond Heights - have signed the petition.

"If it makes sense only to listen to Clayton residents on this issue, then you certainly shouldn't consider what people who live outside of Clayton say about it," Gershman said. Immediately after the board blocked the conditional-use permit, it passed by a 7-0 vote a request by the operators for a liquor license.

Gershman said the operators, Jeff Alvater and John and Nancy Ross, would not consider moving their business. He said the site is ideal because of its proximity to Highway 40 (Interstate 64), its parking capacity and the configuration of the building that would house the business.

Alderman Susan Korsmeyer, who voted against the permit, said location is the main problem. She said she thought the microbrewery would be better suited for the business district in downtown Clayton.

Mayor Ben Uchitelle, who voted for the microbrewery, called complaints against it "a closed issue." Uchitelle said the restrictions on the microbrewery were very strict, and violation of any of them would be a reason to shut it down. "The regulations that we agreed to if it passes wouldn't permit odor, wouldn't permit waste, has limitations on the hours, limitations on the number of barrels and the amount of beer it can brew," Uchitelle said.

The brewer could sell cold beer, but no drinking on the premises would be allowed, other than that of samples. In addition, no one under the age of 21 would be allowed on the brewery grounds without an adult, and samples would be limited to no more than six 2-ounce tastes per person within 24 hours. Additionally, production could never begin earlier than 11 a.m. or later than 11 p.m.