

**LIQUOR AND BEER MEETING
LOCAL LICENSING AUTHORITY
CITY OF GRAND JUNCTION, COLORADO
CITY/COUNTY AUDITORIUM, 520 ROOD AVENUE**

M I N U T E S

WEDNESDAY, APRIL 6, 1994, 8:00 A.M.

I. **CALL TO ORDER** - The meeting convened at 8:04 a.m. Those present were Hearing Officer Philip Coebergh, Assistant City Attorney John Shaver, and City Clerk Stephanie Nye.

II. **APPLICATIONS TO RENEW LIQUOR AND BEER LICENSES**

- A. Suehiro Japanese Restaurant, 541 Main Street (Hotel-Restaurant)
The application was in order, and approved.
- B. Loco Food Store #8, 1904 N. 12th Street (3.2% Beer)
The application was in order, and approved.
- C. Silver House, 2886 North Avenue (Beer-Wine)
The application was in order, and approved.
- D. River City Cafe, 748 North Avenue (Hotel-Restaurant)
The application was in order. The applicant filed a modification of premises on April 5, which is scheduled for the April 20, 1994, meeting. The location of its bar is being moved one foot (minor). The renewal application was approved. The application for modification of premises will be reviewed at the next meeting of the Licensing Authority.
- E. St. Regis Restaurant & Lounge, 359 Colorado Avenue (Hotel-Restaurant)
The application was in order, and approved.
- F. Diamond Shamrock, 2498 F Road (3.2% Beer)
The application was in order, and approved.
- G. Diamond Shamrock, 2525 Broadway (3.2% Beer)
The application was in order, and approved.
- H. Diamond Shamrock, 2903 North Avenue (3.2% Beer)
The application was in order, and approved.
- I. Diamond Shamrock, 201 North Avenue (3.2% Beer)
The application was in order, and approved.
- J. Grand Junction Athletic Club, 2505 Foresight Circle (Tavern)
The application was in order, and approved.

III. **APPLICATIONS FOR NEW LICENSES**

- A. Application for a Hotel-Restaurant Liquor License by Rockslide Brew Pub, Inc., dba Rockslide Brew Pub, 401 Main Street

Officers of the corporation are:

President/Trustee/Stockholder: Sean K. Forey, Lakewood, CO
Secretary/Trustee/Stockholder: Hayden S. Howard, Grand Jct., CO

A hearing was held after proper notice. The report of survey results was read into the record by the City Clerk (copy attached).

Scott Howard (Hayden S. Howard) spoke stating the he proposes an up-scale restaurant in the downtown area. He is the current owner of Dos Hombres restaurant. He clarified that this establishment will not be a bar. He expects the liquor to be approximately 25% of gross sales. He has hired a chef from the Hilton Hotel. Steaks, burgers, ribs, pastas, small pizzas will be served. It will be an establishment serving high quality food and fresh beer.

The brewer license is a separate license and has been applied for and approved by the State of Colorado. Mr. Howard estimated that the business can open in July.

There was no one present in opposition to the issuance of the license. A Resolution of Decision is scheduled for the next regularly scheduled meeting on April 20, 1994.

- B. Application for a Beer-Wine License by Wayne J. Smith and Lisa R. Smith dba Grits Restaurant, 2704 Highway 50

A hearing was held after proper notice. The report of survey results, which was conducted by the applicants, was read into the record by the City Clerk (copy attached).

Wayne and Lisa Smith were present. They have both worked in the food industry for approximately 8 years. They intend to open a restaurant serving mostly American food, but also international foods, home cooking style for lunch and dinner. The beer and wine will be used as an augmentation to the foods, to enhance meals, not as a primary source of revenue. The remodeling should be complete within two to three weeks.

There was no one present in opposition to the issuance of the license. A Resolution of Decision is scheduled for the next regularly scheduled meeting on April 20, 1994.

- C. Application for a Hotel-Restaurant Liquor License (Extended Hours) by Steven Warner Smidt and Jeanine Marie Smidt dba Blondies, 509 28-1/2 Road

A hearing was held after proper notice. The report of survey results, which was conducted by the applicants and Jeff Flannery, was read into the record by the City Clerk (copy attached).

Mr. John Williams, attorney representing the applicants, was present and introduced the applicants Steve and Jeanine Smidt.

Mr. Smidt read into the record two letters in favor of the issuance of the license from Edna Hunt, 512 28-1/2 Road and Gerald Goodman/ Michael Cuzman, resident of the subject area. He also presented letters of recommendation for the record. Mr. Smidt stated that new carpeting has been installed, new paint, and he is adding an exterior deck for afternoon/evening dining. He and

Jeanine have been in the service industry over 9 years running a limousine service. Their chef will be Don Ingrams with 20 years experience

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working for the country club and Sweetwaters Restaurant. They plan to run a restaurant over and above the liquor. They also plan to stay open for D.J. dancing, special events, and televised football games. The remodel should be completed within two weeks.

Mr. Smidt discussed the survey he conducted. The 21 individuals that voted against the license were simply against drinking, in general. They were not against Mr. Smidt's planned establishment. There has been some opposition to the issuance of this license from residents of the Creekside Apartments located to the north of the establishment. The owner of the Creekside Apartments, Tony Perry, has viewed the establishment recently, and is more concerned with what has happened in the past than what is planned for the future. Mr. Smidt talked to approximately 10-15 individuals in the Creek-side Apartment building, and none of them would sign his survey either way. Some stated that they did not want to sign the survey because their landlord was not in favor of a liquor establishment next door to them. Mr. Smidt attached a statement to his survey results stating that he did approach the residents of the Creekside Apartments but did not receive any signatures.

Ms. Jeanine Smidt stated that some of the remodeling has been accomplished to accommodate no activity on the north side of the building next to the Creekside Apartments. Jack Perrin, owner of the property, has installed a deck on the south side of the property to alleviate any activity going on the north side. The City staff has recommended shutting down the north side from any activity. The applicant has agreed to do that.

Mr. Jack Perrin, property owner of 509 28-1/2 Road, has been involved with this property since 1988 as an owner and operator. He feels that during this time it has been meeting the needs of the neighborhood, and he feels that the past approval of licenses supports this. He stated that the record will show that there have been no major complaints in regards to businesses at this location during the period up to 6-28-93. The last lessee of the property created problems for the properties next to the building at 509 28-1/2 Road. He feels that the majority of the problems are a result of excessive drinking on the part of the last lessee, and poor management. When Mr. Perrin was advised of these problems they were addressed by Mr. Perrin and resolved. As a property owner Mr. Perrin has done everything possible to accommodate the residents directly across from the ditch, and at quite an expense (approximately \$5,000, including fences, insulating walls, windows, changing the patio from the north side to the south side). He stated that he has made a sincere effort to listen to the concerns of the neighboring residents. Since 1988 there has been a major transient problem directly behind his building. It has involved excessive drinking by the transients, fights, fires, theft, assaults, and property damage. He feels that police patrols removing the transients from the area will

solve the problem.

Mr. Perrin continued that the new lease, no matter who will inhabit the building, now states that any lessee that jeopardizes the liquor license or its renewal will be terminated immediately.

This property has been in business since 1977, and he thinks it will continue to meet the needs and desires of the neighborhood with the proper management. He requested that the neighboring residents contact him personally with any real problems that are related to this business, and he will take care of the problems. He is convinced that Mr. and Mrs. Smidt will run a respectable business, and manage it properly.

Others speaking in favor of the issuance of the license:

1. Harry Tucker, owner of motel located at 2858 North Avenue, whose wife owns the house directly across the street from the subject location, stated that the establishment has been an asset for his motel business. There is not a similar establishment anywhere within walking distance of his motel, and a number of people who stay at his motel are looking for a place where they can get a drink, or a meal. The subject property has met that need. He stated that it is an enhancement to the economic conditions of the neighborhood. He was not contacted by the counter survey group, and certainly is in the area that they claimed was their survey area. He felt the restaurant will be a definite asset to the neighborhood;
2. Bud Lovato, 804 Jamaica Drive, advised he was instrumental in conducting a survey for a license at El Escondido Restaurant which was located at subject address in 1977. He felt there is still a need for this establishment, in fact, there is much more demand now than there was years ago;
3. Tom Covington, patron of former business at subject location, stated that he has enjoyed the former businesses at this location. He felt it is a good place to meet friends, eat and watch football;

Those speaking in opposition to the issuance of the license:

Mr. Fred Aldrich, attorney representing Tony Perry, the owner of Creekside Apartments directly north of 509 28-1/2 Road, was present. His client is having to oppose the application outright since he is unable to obtain conditions from the Planning Commission. Mr. Aldrich pointed out that this establishment originally obtained its license in 1977 as a restaurant, the El Escondido. It was a nice restaurant. The problems that have been posed today are a result of the evolution of use from what was truly a restaurant into what has been more likely termed as a tavern. With that has come an enormous number of problems that

have heavily impacted those people who are most affected by the operation of this establishment. Mr. Aldrich addressed the extended hours license which has been applied for by the applicant. He felt that ordinarily a true restaurant that serves alcoholic beverages would have hours until approximately 9-11 p.m. He is presuming that extended hours means midnight, 1:00 a.m., 1:30 a.m.

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City Clerk Stephanie Nye clarified that an extended hours liquor license allows the licensee to serve after 8:00 p.m. on Sundays, and on Christmas Day. Mr. Aldrich stated that had this application gone before the local Planning Commission, they would have imposed a limitation of 10:00 p.m. during week days and 11:00 p.m. during weekends. He understands that part of the remodeling is to allow for dancing, either live or recorded music through loud speakers, etc. In effect, you have a gathering place where dancing and loud music will take place. In order to compare what is a tavern liquor license versus what is a hotel-restaurant liquor license, one would have to audit the books. His client does not know how it is going to be operated in the future. He only knows that in the past, under the same type of license, under the same type of conditions, it has been operated very poorly. The best demonstration of that is to hear from some of the other residents of the area. He introduced Mr. Tony Perry.

Mr. Tony Perry, president of Star Corporation, was present. Star Corporation is the owner of the Creekside Apartments located at 515 28-1/2 Road. He submitted a letter from one of the inhabitants of the area. He also submitted some past correspondence directed to Jack Perrin, correspondence directed to the Grand Junction Police Department, and correspondence from Assistant City Attorney John Shaver. He found it difficult to oppose an ongoing business because he has been a real estate broker for 12 years. He has been the owner of Creekside Apartments since 1987.

Mr. Perry gave a history of the property as follows: When El Escondido was in business, they did run a true restaurant under a hotel-restaurant liquor license. When the restaurant was closed, Jack Perrin picked up the restaurant at that time. Mr. Perry stated that it eventually opened under the same type of license as El Escondido, although it was run as a bar, and not a restaurant. At the time that Mr. Perrin purchased the property, he changed the entire motif. He removed the booths that were used for dining, and then it began to evolve into a full blown bar under a hotel-restaurant license. When Rich Robidoux moved his license under the Double RR Bar, it was truly a bar, not a restaurant and had 75% of their gross receipts coming from liquor, not from food items. When Ron Young owned it, the problems became worse. There were numerous problems with the type of clientele there. The clientele became loud and boisterous. There was known drug use. There were fights, assaults, vandalism, etc. There was no real regard as to what the neighborhoods would endure because of the bands, the obnoxious behavior, the topless dancing, the poker games that were taking place. That certainly is not a need of the

neighborhood as they have purported it to be. Jim Benton finally took over the place, and it was downhill from there. The last straw was an assault that took place on Mr. Perry's property.

Mr. Perry stated that some of the individuals that have spoken in favor of the license do not live next door to this kind of activity. They don't have a band start up at 9:00 at night, and the management/owner has no regard for the neighbors or the neighborhood. Mr. Perry emphasized that he can only go by the past. The past has shown this not to be a restaurant, yet it has

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the facade that it is, in fact, a restaurant because it has a menu. He requested that any of the past licensees at this location show him receipts for food items. He felt this business is a tavern and it wants to operate as on, although the application is for a hotel-restaurant liquor license. Mr. Perry said he made Mr. Perrin aware of the problems at 509 28-1/2 Road, Mr. Perrin did not show up at the meeting with City management. His response to Mr. Perry's letter where he was asking Mr. Perrin for help, was basically that "If I did not want to be next to a bar, I should not have bought Creekside apartments." Mr. Perry did not feel that is helping with the problem. Mr. Perrin has built a fence, but during that period of time the problems continued. Mr. Perry has received no help from the owner. Mr. Perry does not know Steve and Jeanine Smidt. Perhaps they will be good operators for a "restaurant." He would have no problems with them managing a restaurant. When Mr. Perry went over to look at the property at the invitation of Jack Perrin and Steve Smidt, he did ask what the new area that was built up was for. They indicated initially it was for elevated seating. He noticed there were spotlights being installed and speakers, as well. They told Mr. Perry that would be for the bandstand. They also indicated there would be a D.J. area for disco type music. The dance floor is still there. He noted that is the bandstand and stage is being placed on the north side of the building which is approximately 50 feet away from Mr. Perry's apartment complex. He believes they are going to do what they can to limit the amount of noise, but bands and that kind of activity cannot be located in a residential area. If this were a land use hearing, and their application had been different, we would be opposing it as well. He expressed opposition to this application. The 72 individuals that have signed the counter petition are within 200 yards of the property.

There are approximately 50-60 families within 150 yards of the subject property. Mr. Perry was recently involved in a counter petition when Mr. Jim Benton was planning to file for a tavern license at 509 28-1/2 Road but did not participate in the most recent counter petitions as he was out-of-town.

Mr. Perry agrees with the March 16, 1994, recommendations of the City Planning Commission and Community Development Department staff, and the March 24, 1994, letter from Assistant City Attorney John Shaver to Attorney John Williams. The City Police Chief Darold Sloan has said that he does not know how a "bar" can be compatible in such close proximity to residential areas. He stated that the biggest problem has been the noise, the obnoxious and boisterous noise that you get with bars at 1:30 in the

morning, then the fights, then the traffic. The traffic has been horrendous. Since the bar has closed, there are no fights, assaults, the trespassing, the vandalism, the noise, the verbal abuse. At one time he tried to work with the licensees that were there. He did call the establishment if the noise got too loud. The bartenders they talked to disregarded their complaints.

Assistant City Attorney John Shaver explained that conditions were developed through the process of a conditional use application that was filed by Steve and Jeanine Smidt for a conditional use permit, which was subsequently withdrawn.

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Some of the conditions have been made part of the requirements for the conditional use of this business through negotiations with Mr. Williams on behalf of the applicant. The question is whether or not a new conditional use permit is required. Based upon some of the history that has been described in this hearing, he advised the applicant that they would have to submit to the conditional use hearing. However, due to evidence that the conditional use permit that was issued to El Escondido Restaurant had not expired for more than a year, as required under the Zoning and Development Code, the applicant withdrew the request for a conditional use permit. It was the City's conclusion that this statutory requirements had not been met for purposes of declaring the conditional use to be invalid. So there is a conditional use permit in place for a restaurant use based upon the original approval in 1977. It has been agreed that there will be made certain site related improvements made as a condition of not requiring a hearing to proceed. The only restrictions on the present conditional use are site related conditions, not conditions relating to the operation of this particular business.

Others speaking in opposition to the issuance of this license:

1. Ralph Kuhn, manager of Creekside Apartments, stated that his survey was of the immediate neighborhood, not two or three blocks away from the establishment. He goes to work at 6:00 a.m., and the vibration of the band and its drums playing until 2:00 a.m. causes him to lose sleep. The noise and traffic are unbearable. Since the bar has closed down the traffic is practically nil at night. Those living in the immediate area are the ones impacted by the business. There is a creek between the bar and the apartments. He tries to keep the area clean. He is continually picking up trash. The patrons of the bar are always throwing trash over the fence, bottles break against the concrete in the creek, and he goes over and cleans it up.
2. Don Paintnee, who resides at Elm Avenue and 28-1/2 Road, questioned if there is any way to cut down the hours of service. He has been awakened from his sleep many times. A serious accident has taken place at his corner, and the Police Department has a record of that accident. He has talked to the City trying to get 28-1/2 Road improved with

sidewalks. There are 3 indigent houses in the area and Nisley School with individuals walking along 28-1/2 Road. He feels there is a real traffic problem in the area. He feels it is not a good location for a tavern.

3. Betty Goble, 529 28-1/2 Road, has lived in the area for 2 years and supports Mr. Kuhn's comments. She has put up with noise, trash in her yard, horrendous traffic. She felt it is a bad location for a bar.
4. Gene Pinkerton, 519 28-1/2 Road, north of the bar and apartments, stated that he is opposed to having the establishment reopened. He feels that the needs of the community are being met with the existing outlets in the area. He does not really see a "need" for this establishment. He

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has tolerated so much in the past with the noise, the traffic, the pick-ups going by with the boom boxes in the back, motor-cycles going by all hours of the night. Since the bar has closed down, it has been a pleasure to live in the area. It has made a big difference. He has lived there for 28 and 1/2 years, and has seen the changes. Every morning he picks up beer bottles and glasses and trash that has been tossed on his lawn. He felt he should not have to put up with it.

5. Andrea Christensen, 515 28-1/2 Road, Creekside Apartments, stated that her apartment is right next to the bar that was previously Rafters. She moved to Grand Junction expecting a certain quality of life. This type of business does not belong in a residential area. She is tired of vehicles peeling out in the middle of the night, worrying about someone getting hit, getting awakened at all different hours, the loud music shakes her apartment building, the fights, especially when windows are open in the summer time, the foul language. Her child and she cannot sleep at night. She hopes that it does not take something serious taking place before this matter is taken seriously. She questioned what control the managers have over their clientele and the previous problems that have existed. She asked why a bar is being allowed in a residential area. She noted an incident last winter, with a person moaning below her window. The Police were called. She is strongly opposed to this type of business in her neighborhood.
6. Dorothy Pinkerton, 519 28-1/2 Road, stated that she has lived in Grand Junction for 28-1/2 years. Her neighborhood is now quiet because the bar has been shut down. There are more residents and children walking to and from school on 28-1/2 Road. She stated that the noise and activity from the bar goes on during the day as well as the night. Vehicles use her driveway to turn around. They have hit mailboxes. There was glass and beer bottles in the ditch. All the neighbors go out and clean up the glass in their yards and in the streets.

7. Kathy Mace, 515 28-1/2 Road, Creekside Apartment #3, stated that her bedroom faces 28-1/2 Road. The bar may close early morning, but the parking lot does not close down. There are patrons in the area from 1:30 a.m. to 4:00 a.m. She is concerned about the extended hours license. She felt it will make no difference who is manager or owner of such a business, they cannot stop the patrons from coming in. Without the bar, the traffic, it is now very pleasant to live there. Now residents can get out and walk - before the bar closed down she was afraid to walk on 28-1/2 Road. She was concerned about the patrons driving drunk along 28-1/2 Road with so many pedestrians in that area also.
7. Ann P. Gore, 526 28-1/2 Road, stated that she is not in opposition to a restaurant, but feels a bar is not needed.

Mr. Williams stated that the opposition relates everything to the past and has not looked forward or to the testimony of Mr. Smidt

at all. They talk about bars, taverns, drunks, late hours, the term extended hours as meaning something like 1:00 or 2:00 in the morning when, in fact, it has a very different legal meaning. He stated that it was a hotel-restaurant liquor license application which was granted in 1977 and everyone since then has been hotel-restaurant. One of the requirements of a hotel-restaurant liquor license is the 25% of the dollars generated be from food sales. Mr. Smidt certainly intends to do that. Mr. Smidt does not to intend to add bands every night, does not intend to have the D.J. dancing every night. It is an occasional thing, but something he thinks he needs to promote his restaurant business periodically. Mr. Smidt also testified concerning improvements that he made. The bandstand that is on the north end of the building is intentionally there so that the speakers direct south, away from the Creekside Apartments. He also testified about the chef that he has hired with the restaurant experience that he has. Mr. Perry and Mr. Aldrich would have people believe that the business is going to run microwave ovens there. That is not the intent. It may have been operated like that at one time, but it is not Mr. Smidt's intent in the future. He pointed out that this is not entirely a residential neighborhood as this restaurant backs up to the Eastgate Shopping Center Mall which is heavily trafficked day and night. It is frequented by the transient population, by kids, and all hours of the day and night. That is part of that neighborhood, as well. It is not entirely a residential neighborhood. It is in a C-1 zone. It is not a residentially zoned part of town.

Mr. Williams continued that the City's position was that a new conditional use permit be obtained. Through negotiations with Mr. Shaver it was concluded that the conditional use permit that was issued for this location is still valid. It was issued for a hotel-restaurant liquor license. The conditions imposed with that conditional use permit are still valid, still being fulfilled. During some of the discussions, Mr. Smidt and Mr. Perrin agreed to do a few more things, all aimed at directing sound, noise, traffic, humanity away from the ditch and the Creekside

Apartments. That includes fencing, any outside food service would be on the south side of the building away from the residential area. Mr. Williams discussed letters from Jack Perrin regarding the establishment. In early June, 1993, there were discussions between Mr. Perrin, Mr. Perry, and the Grand Junction Police Chief Darold Sloan. Mr. Perry is the owner of the apartments that have put up with all kinds of problems for a number of years, and finally last June wrote to the Police Department and contacted the City. Attached to Mr. Perrin's letter of March 30, 1994, directed to the Hearing Officer is a series of letters that came out of that transaction. There is a letter regarding a previous hearing.

There is a letter from Mr. Perry to Mr. Perrin, a letter from Chief Darold Sloan to Mr. Perry, a letter from Jack Perrin to Mr. Perry, all in the same time period, early summer, 1993. It concludes with a memorandum from the Grand Junction Police Department stating the activity over a two month period of time spent checking out the establishment then known as Rafters. Mr. Williams's conclusion from the said memorandum was that there were one or two serious incidents or incidents at all, complaints at all, about noise or anything else during that period of time. If there was a problem in early June, the memorandum shows that there was discussions between Mr. Perry,

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Mr. Perrin, and the Police Department, and that, in fact, some efforts were made to correct it, and in spite of poor management, according to Mr. Perrin, a poor manager and a poor tenant in there, it would appear that corrections were made and they were successful in their efforts together. It is not that there was an uncaring building owner or someone who did nothing. There is no written record introduced today of anything before June of 1993. Mr. Perrin's testimony stated that it was a poor tenant who happened to be a bad manager of a restaurant business that caused many, many of these problems. It is not the case with Mr. Smidt.

Mr. Williams felt that the Hearing Officer's legal responsibility is set forth under Colorado Revised Statutes 12-47-137. It has to do with an investigation of the Smidts, whether they are of good moral character, or have criminal records. The Police report has come back stating that is not a problem in this instance. It has to do with what the reasonable requirements of the neighborhood are as far as whether the residents requirements for a liquor outlet of this type are being met. There is only one other outlet of this type within one mile. It also has to do with the desires of the inhabitants, and the reasonable requirements of the neighborhood being met, Mr. Smidt took a survey. The neighborhood that he surveyed was suggested by the City. He used the City questionnaire, and did a lot of it personally, with 97% of those he contacted saying that the requirements were not being met, and 98% said they desired the issuance of this license. He actually went to the Creekside Apartments, and the people there did not want to participate in the survey one way or the other. It is Mr. Smidt's feeling that the apartment residents were instructed not to participate. The similar-type outlets in the area are also to be considered. There is one other hotel-restaurant liquor license within one mile. There are 4 beer and wine licenses. Mr. Williams reiterated that this restaurant is right off of North Avenue in a Commercial Zone, and very close to Eastgate Shopping

Center.

Mr. Williams stated that he thinks this can be a positive experience, not a negative experience. That is what Mr. Smidt, Mr. Perrin and Mr. Williams have talked about. Mr. Williams understood the concerns of the neighbors. If this hearing serves no other purpose, certainly the message is loud and clear that there are certain neighbors that are not happy with past management, and it gives Mr. Smidt the opportunity to manage in a much better fashion.

Mr. Williams stated that Mr. Smidt has suggested that if there is early morning parking lot problems, the rules would be that everything gets off the premises and then put a chain across the ingress and egress curb cuts.

Mr. Williams concluded by requesting that Mr. Smidt not be judged by previous months of bad management.

Mr. Fred Aldrich stated that going back to 1977 when the Planning Commission approved the conditional use the language used by Don Warner, on behalf of the City staff, said "This is for a restaurant which is an allowed use in this area." In conjunction with that representation a hotel-restaurant liquor license was issued and the establishment, El Escondido, was opened and operated in complete

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compatibility with the neighborhood. Since that time there has been a change. The change has come about for whatever reason. There is now, in effect, a restaurant/bar which has late hours of operation which go beyond normal food service hours that would be expected, with the resultant type of noise, traffic, and problems that the surrounding neighbors have described in this hearing. There is an inherent incompatibility with that type of use. When you have late night patrons who have been drinking and partying, they are going to be boisterous in the parking lot. They are perhaps going to be abusing their vehicles and roaring up and down the street with noise. Mr. Aldrich has played in bands for approximately 7 years and stated that it does not matter which way the bandstand speakers are facing, they shake the building. The speakers are designed for presence. They will project noise a long way, way more than 200 yards. The low, bass notes seem to really travel. If they are going to have dancing music, either by live bands or by D.J., loud noise cannot be avoided. That is not what happened at that location originally. It has evolved into that. What is being heard today is nothing different in quality or kind. Mr. Aldrich did not doubt that Mr. Smidt has every good intention. It is not known how he can operate this restaurant/bar, but Mr. Aldrich suggested that he will have the same problems that have occurred in the past. He will have the same kind of clientele. The same people who frequented before are going to go there again. He questioned how can a person judge what is going to happen in the future if there is no perspective based on past operation. The perspective on these past operations is a nightmare. There is no other basis in which to judge. If the residents had the ability to impose conditions, limiting hours, and things of that nature, providing some of the

protections that the residents would like to see, then it would be fine to open a true restaurant. But when it comes to a bar/restaurant operation, which is clearly what this is, then you have the problems. Mr. Aldrich had a hard time believing that Mr. Smidt is going to be able to do that much better. Mr. Smidt is still proposing activities at his business that are offensive from the ample testimony given today.

Mr. Aldrich stated that the testimony given today by the immediate neighbors of the proposed location of the license makes good record of the problems encountered by the residents.

There was no others present in opposition to the issuance of the license. A Resolution of Decision is scheduled for the next regularly scheduled meeting on April 20, 1994.

- D. Application for a 3.2% Beer License (Off-Premise) by Thriftway Marketing Corp., dba Plateau #191, 2712 South Highway 50

Officers of the corporation are:

President/Trustee/Stockholder: Jerry D. Clayton, Farmington, NM
Vice Pres/Trustee: Ronald J. Dalley, Farmington, NM
Treasurer/Trustee: Terry R. Hamilton, Farmington, NM
Secretary/Trustee: Phyllis Jane Clayton, Farmington, NM
Local Manager: Lisa Schmittel, Grand Junction, CO

A hearing was noticed as required. The Hearing Officer opened the hearing. The report to the Local Licensing Authority was read into the record by the City Clerk (copy attached).

Mr. Robert Moss, general counsel of Thriftway Marketing Corp., was present. He apologized for not returning the survey to the City Clerk's office by the deadline. Mr. Moss submitted the survey at the hearing. The circulator of the petition still needs to sign the affidavit supporting the survey. It will be submitted later that day.

The Hearing Officer stated that evidence is not to be submitted after the hearing. If the circulator has not signed the affidavit as circulator, then the survey results cannot be presented as evidence today.

Assistant City Attorney John Shaver stated that the circulator's affidavit is a condition precedent to accepting the survey which shows the needs of the neighborhood and the desires of the inhabitants. He suggested that the survey results need to be provided for the record prior to accepting any additional testimony based on the survey document.

There was no one present in opposition to the license.

The survey results were returned to Mr. Moss for completion, and subsequent return to the City Clerk. The results will be compiled by the City Clerk's office and included in a supplemental report

to the Local Licensing Authority.

The hearing will be continued to the April 20, 1994, Local Licensing Authority meeting, at which time presentation of evidence will be accepted.

IV. **ADJOURNMENT** - The meeting was adjourned at 10:00 a.m.

NEXT REGULAR MEETING - April 20, 1994