

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, SEPTEMBER 3, 1997, 8:00 A.M.

I. **CALL TO ORDER** - The meeting was called to order at 8:05 a.m. Those present were Hearing Officer Phil Coebergh, Assistant City Attorney John Shaver and Acting City Clerk Christine English.

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

1. RCI Denver Inc., dba Applebee's Neighborhood Grill & Bar, 711 Horizon Drive, Hotel-Restaurant

The application was in order and approved.

2. Loco Inc., dba Loco Food Store No. 12, 107 Grand Avenue, 3.2% Beer

The application was in order and approved.

3. LeBlanc Ltd., dba LeBlancs at the St. Regis, 359 Colorado Avenue, Hotel-Restaurant

Rita LeBlanc was present. The application was in order and approved.

4. SAF Enterprises Inc., dba Quincy Bar & Grill, 609 Main Street, Tavern

The application was in order and approved.

5. Grand Junction London Pub Inc., dba Chelsea London Pub, 2424 US Highway 6 & 50, Hotel-Restaurant

The application was in order and approved.

6. Leiford Darien dba Go Fer Foods No. 10, 2515 Highway 6 & 50, 3.2% Beer

The application was in order and approved.

7. Feather Petroleum Company dba Stop N Save No. 2, 2050 North Avenue, 3.2% Beer

The application was in order and approved.

III. **REPORT OF CHANGE IN CORPORATE STRUCTURE**

1. Albertson's, Inc., dba Albertson's Food Center, 1830 North 12th Street, 3.2% Beer

Markus Stiftung Trust increased percent of stock owned from 11.57% to 11.62%

The application was in order and approved.

IV. APPLICATION FOR NEW LICENSE

1. College Liquors, Inc., dba College Liquors, 1133 Patterson Road, Unit 11, Retail Liquor

President/Director
Registered Agent: Joseph A. Hambright, 740 Golfmore Drive,
Grand Junction

Joe Hambright was present. Acting City Clerk English read into the record the report to the Local Licensing Authority (see attached). Mr. Hambright stated he posted the sign on August 22. The expanded area of the survey was to include the Spring Valley area. There is no store currently in the area of 12th Street and Patterson Road. For years Centennial Liquors was located in this area. It was started in 1976 by Mr. Hambright and another gentlemen who formed a corporation. Subsequently, Mr. Hambright's wife acquired this license in 1977 and remained the owner until 1987. At that time it was transferred to Don Adams, who in turn transferred it to Pat Tugman. Ms. Tugman owned it until approximately 18 months ago when the lease ran out when St. Mary's acquired the property. Ms. Tugman intended to buy some property west of Quizno's and to transfer the license there. She elected not to buy the property and the license expired earlier this year. Mr. Hambright stated, through his prior knowledge of this location, there is adequate business in this area to support this type of license and in fact is needed in this area. This has proven to be a profitable location. He has obtained a lease in the Village Square Shopping Center. It will not be a big store but will provide for the needs of the neighborhood.

Hearing Officer Coebergh questioned if this new location would be across the street from the prior Centennial Liquors location? Mr. Hambright stated it would be in the Village Square Shopping Center just west of the Blockbuster store.

Hearing Officer Coebergh opened the hearing to any opposition at 8:20 a.m.

Mike Haldeman came forward to speak. Mr. Haldeman stated Mr. Hambright's family is currently involved in three other liquor stores: Mt. Garfield, Fruitvale and Bookcliff. These may all be listed separately under different individuals or corporations, but this creates a financial conflict in having financial interest in more than one store.

Mr. Hambright stated he has no financial interest in any other liquor license since 1984. At one time he owned half of Fruitvale Liquors and in 1976 he owned half of Centennial. Mr. Hambright's wife has a license at Bookcliff Liquors, and his mother is the principal stockholder in Mt. Garfield Liquors. Fruitvale Liquors has no immediate member of his family involved in it.

Pat Tugman, former owner of Centennial Liquors, came forward to speak. Ms. Tugman stated she is still interested in opening a store in this area. She is currently working on a lease for this. She has picked up the

paperwork for an application but has not filed it. Ms. Tugman is in opposition to this license as it would be only 200 to 300 feet from her proposed site.

Mr. Hambright stated Ms. Tugman's objection is not valid. Ms. Tugman had an opportunity to have a license in this area before and choose not to do so. Apparently she is still considering this same location but has had a year to pursue it and has not done so. She also had the opportunity to go into this same space that College Liquors will occupy prior to the expiration of her lease.

Assistant City Attorney Shaver stated Mr. Don Comte, Crown Liquors, submitted photocopies of the former law pertaining to this matter particularly section 12-47-129 specifically citing unlawful financial assistance questions. For Mr. Comte's benefit Mr. Shaver stated that the cited section is no longer the relevant law in the State of Colorado by virtue of House Bill 97-1076, the Colorado Liquor and Beer Code was recodified with an effective date of July 1, 1997. The former section of 12-47-129 is now codified at 12-47-308 and many of the provisions that were in the former code are no longer replicated in the current code. The gist of the new legislative action is that the primary concern, relating to unlawful financial assistance, concerns company stores that a particular vendor of a particular beverage or beverages may have undue influence over the type of merchandise or beverages that are sold. There is nothing that would specifically preclude any common interest in licenses. There is a fundamental change in the way the State of Colorado is viewing financial assistance matters. The survey results are certainly favorable and other than the opposition from Ms. Tugman and also the question of financial assistance, there doesn't appear to be any significant opposition. The legal requirements have been met and there is no legal impediment to the issuance of the license.

Hearing Officer Coebergh asked Mr. Shaver what the statute was that was changed? Mr. Shaver stated the former statute was 12-47-129 it is now 12-47-308 which pertains to unlawful financial assistance. The former law was very general concerning any kind of relation between a licensed premise and its owner or corporation or any financial participation. Section 12-47-308 has specifically limited direct financial interest for multiple licenses to hotel-restaurant licenses and retail gaming tavern licenses. There has been a clarification relating to the financial assistance by proprietors or vendors of merchandise. The statute is much more well defined. It is not directly applicable to the situation here this morning.

Hearing Officer Coebergh asked for clarification as to whether one person can own more than one liquor store? Mr. Shaver stated the law says yes.

(See attached memo from Assistant City Attorney John Shaver).

Hearing Officer Coebergh stated there was no evidence showing Mr. Hambright owns more than one liquor store, but from Mr. Shaver's reading of the statute, that would not preclude the issuance of this license even if Mr. Hambright did have ownership in another store. Mr. Coebergh acknowledged the opposition to the issuance of this license, but the survey has clearly come in favorably. Based on the presented evidence, the application was approved and a resolution was ordered prepared to this effect.

V. CONTINUED HEARING TO VERIFY COMPLIANCE WITH LOCAL REGULATIONS

1. Q.S. Inc., dba Shanghai Gardens Restaurant North, 1037 North Avenue,
Hotel- Restaurant- **Continued from August 20, 1997 Meeting**

Occupancy seating versus parking spaces.

Shiou Ching Kwan was present. Ms. English read into the record the memo from the Community Development Department (see attached). Ms. Kwan did submit a new seating diagram showing the seating being reduced from 110 to 96.

Mr. Shaver stated based upon the diagram, the seating has been limited. He recommend the issuance of the license with the admonition to the licensee that the seating cannot be expanded unless there is a concurrent expansion of the parking as required by the Zoning Code as discussed at the last meeting. The Code requires that local law be met and it is conditional to any license being issued.

Hearing Officer Coebergh approved the application.

VI. ADJOURNMENT - The meeting was adjourned at 8:40 a.m.

NEXT REGULAR MEETING - September 17, 1997

MEMO TO: Local Licensing Authority

From: Christine English, Acting City Clerk

Date: August 29, 1997

Subject: Application by College Liquors, Inc., for a Retail Liquor License at 1133 Patterson Road, Unit 11, under the name of College Liquors

College Liquors Inc., a corporation, filed an application with the Local Licensing Authority on August 4, 1997, for a retail liquor I license, for the sales of malt, vinous and spirituous liquors in sealed containers. for consumption off the premises at 1133 Patterson Road, Unit 11, under the trade name of College Liquors. The application and supplementary documents were reviewed, found to be in order, accepted and were forwarded to the State for a concurrent review. The hearing date was set for September 3, 1997. The Notice of Hearing was given by posting a sign on the property on August 22, 1997 and by publishing a display ad in The Daily Sentinel on August 22, 1997.

In order to address the reasonable requirements of the neighborhood and the desires of the adult inhabitants of the neighborhood, the applicant conducted a survey. The defined the neighborhood was the area bounded by F 1/2 Road on the north, Orchard Avenue on the south, 7th Street on the west and 18th Street on the east and included both sides of the streets as the outer boundaries. The applicant expanded the given boundaries to G Road on the north, Orchard Avenue on the south, 28th Street on the east and 7th Street on the west and included both sides of the streets as the outer boundaries. The results of that survey are as follows:

1. As an owner of property in the neighborhood, an employee of or business lessee of property in the neighborhood, and/or an inhabitant residing in the neighborhood for more than six months each year, I believe the reasonable requirements of the neighborhood are already being met by existing outlets.

YES: 108
NO: 602

2. As an inhabitant residing in the neighborhood more than six months each year, it is my desire that the license be issued.

YES: 551
NO: 85
NOT APPLICABLE: 43

Twenty-one (21) signatures could not be counted as they were outside of the survey area, invalid signature or address.

No letters of opposition or counterpetitions have been filed to date.

The applicant, College Liquors, Inc., is a corporation with one director. Local criminal history has been completed and the fingerprints have been forwarded to the Colorado Bureau of Investigation for further processing. The Grand Junction Police Department found no local criminal history on Joseph Hambright.

The Code Enforcement Department will review the diagram submitted and conduct an inspection prior to opening.

The Community Development Department has determined that no Conditional Use Permit is required and the use proposed is an allowed use in this zone district.

The number of similar-type outlets in the survey area is as follows:

Retail Liquor - None

The number of similar type outlets in a one mile area in addition to the above are:

Retail Liquor - 2 (North Avenue Liquor, Earl's House of Spirits)

That concludes this report.

CC: John Shaver, Assistant City Attorney
Amy Clymer, Grand Junction Police Department Applicant
File

To: Stephanie Nye
Cc: Chris English, Dan Wilson
From: John Shaver
Subject: September 3, 1997 Liquor and Beer Hearing
Date: 9/8/97
Time: 12:07PM

Stephanie,

This message is written concerning the September 3, 1997 hearing of the Local Licensing Authority for Liquor and Beer.

It has come to my attention that there may be a question about a comment that I made at that hearing concerning financial interests in licenses and multiple licenses. It is the purpose of this memo to clarify for the record the comment and its applicability to other licensing matters.

When the Authority was considering the application for College Liquor there was testimony concerning the applicant's purported financial interest in other licenses. When asked for an opinion I stated to the Authority that I had received a photocopy of 12-47-129 C.R.S. provided to me by Mr. Don Comte, the licensee of Crown Liquors. I described for the authority that the Liquor Code was recently recodified and that the law cited by Mr. Comte was no longer valid.. Specifically I stated that HB 97-1076 revamped the entire liquor and beer code. The effective date of the new law was July 1, 1997.

Furthermore I described that the former 12-47-129 C.R.S. is now codified at 12-47-308 C.R.S. In the recodification process significant changes were made to the former law concerning financial interests in licenses among them that multiple licenses are not precluded by the new section. After some of the changes to the law were described by me for the authority the Hearing Officer, Phil Coebergh, asked whether it was my opinion that multiple licenses could issue. In response to that question I answered "yes". The answer should have been qualified to refer to the specific section that we were discussing-the opinion was not reflective of the entirety of the Code.

It is my understanding that persons in the audience took my response to Mr. Coebergh's question to mean that there was no other prohibition to multiple licensure. The fact is that 12-47-308 C.R.S does not now preclude multiple licensure. Such does not however mean that multiple licensure is not precluded elsewhere in the Code. Multiple licensure is

precluded and the statute specifically references such in the various license categories see for example 12-47-407 C.R.S. Retail Liquor Store License, at subsection (4), "it is unlawful to own either in whole or in part... any other business licensed pursuant to this article".

Please note this clarification in the meeting minutes and accept my apology for any inconvenience that may have been created.

Should you or any licensees have questions please let me know.

jps

MEMO

Received
August 28, 1997

TO: Chris English
FROM: Michael Drollinger

Our staff has determined that the seating and parking of Shanghai Gardens is in compliance with the Zoning Code regulations.