

**LIQUOR AND BEER MEETING
LOCAL LICENSING AUTHORITY
CITY OF GRAND JUNCTION, COLORADO
MUNICIPAL HEARING ROOM, CITY HALL, 250 NORTH 5TH STREET**

MINUTES

WEDNESDAY, FEBRUARY 21, 2001, 9:00 A.M.

I. **CALL TO ORDER** – The meeting was convened at 9:04 a.m. Those present were Hearing Officer Phil Coebergh, Assistant City Attorney John Shaver and Senior Administrative Assistant Christine English.

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

1. Super Mart Convenience Stores Incorporated dba Super Mart, **5 locations**, 3.2% Beer Off Premise

1. Super Mart, 2494 Highway 6 & 50
2. Super Mart, 2903 North Avenue
3. Super Mart, 201 North Avenue
4. Super Mart, 2525 Broadway
5. Super Mart, 2498 F Road

The applications were in order and approved.

2. Michael E. and Kathleen L. Haldeman dba Horizon Liquors, 715 Horizon Drive, Retail Liquor Store

Michael Haldeman was present. The application was in order and approved.

3. Zamner Incorporated dba Teller Arms Liquor, 2353 Belford Avenue, Retail Liquor Store

The application was in order and approved.

4. Harley and Caryl Rudofsky dba Crystal Café & Bake Shop, 314 Main Street, Hotel and Restaurant

The application was in order and approved.

5. GMRI Incorporated dba Red Lobster #685, 575 24 ½ Road, Hotel and Restaurant

The application was in order and approved.

6. Carrie L. Kellerby dba Paradise, 1310 Ute Avenue, Hotel and Restaurant – **Continued from February 7, 2001**

Carrie Kellerby was present. A letter was submitted on the cause for late filing (see attached). Ms. Kellerby stated there had been a problem with her bookkeeper, which has been corrected, and arrangements have been made with the City Sales Tax to get caught up on the outstanding balance. This should be accomplished within 6 weeks. Mr. Shaver recommended approval at this time with the possibility of suspension or revocation of the

license if the sales tax is not in compliance. Mr. Coebergh concurred and the application was found to be in order and approved.

III. APPLICATION FOR TRANSFER OF OWNERSHIP

1. Nelson Ventures LLC dba Pancho's Villa Restaurant, 801 North 1st Street, Hotel and Restaurant

Transfer of Ownership from ACE Ventures Incorporated dba Pancho's Villa to Nelson Ventures LLC dba Pancho's Villa Restaurant

Applicant: Nelson Ventures LLC
Managing Members: Thomas J. Nelson, 321 S. Redlands Road, Grand Junction
Irene Nelson, 321 S. Redlands Road, Grand Junction

Tom and Irene Nelson were present. The application was in order and approved.

IV. RESOLUTION OF FINDINGS AND DECISION RE: APPLICATION FOR NEW LICENSE

1. Walterscheid Investment & Consulting Incorporated dba All Pro Liquor, 2913 F Road #104, Retail Liquor Store

Applicant: Walterscheid Investment & Consulting Incorporated
President: Leonard Walterscheid, 2312 I Road, Grand Junction

Leonard Walterscheid and attorney Tom LaCroix were present. Ms. English read into the record the results of the survey conducted by the applicant (see attached).

Mr. LaCroix stated there is not another similar outlet within a mile of this location. Mr. Walterscheid polled the entire neighborhood himself and there were ten (10) houses where he was unable to get a response. The proposed application is located in a strip mall adjacent to the Safeway store making it convenient for the neighborhood. Mr. LaCroix asked that the license be approved.

Mr. Shaver asked Mr. Walterscheid if Korine Walterscheid and Shannon Secrest, signers on the letter submitted with the survey (see attached), were also circulators of the survey. Mr. Walterscheid responded they were present with him one afternoon during the survey process, that the survey was in his possession at all times and that the results of the report on the survey were true and accurate.

Kimberly Moore, 588 Redwing Lane, spoke in favor of the issuance of the license.

Sandra Midgley, 612 E. Indian Creek Drive, Ron Touve, 582 29 3/8 Road, Geraldine Newman, 29 1/4 Road, spoke in opposition of the issuance of the license.

Ron Smith, Western Investigations of Grand Junction, was employed by College Liquor, Crown Liquors, Bookcliff Liquor and Fruitvale Liquor to conduct a random verification of signatures on the applicant's survey. Mr. Smith submitted a letter outlining his findings (see attached).

Sheila Vann, 589 29 3/8 Road, spoke in opposition to the issuance of the license.

Pam Hambright, owner of Bookcliff Liquor, circulator of an opposition survey, spoke in opposition of the issuance of the license. Ms. Hambright submitted the survey (on file in

the City Clerk's office). Ms. Hambright also submitted several letters of opposition from people in the neighborhood (on file in the City Clerk's office). Ms. Hambright stated if she was asked she told people she was the owner of a liquor store. Ms. Hambright stated some of the signatures were gathered outside of the survey area and she had highlighted those in yellow on the survey form.

Solomon Lovato, 2923 F ¼ Road, spoke in opposition to the issuance of the license.

Jeanne Bristol, 1181 19 Road, Fruita, spoke in opposition to the issuance of the license. Ms. Bristol's husband is the owner of Fruitvale Liquor. Ms. Bristol submitted a survey she circulated in opposition of the issuance of the license (on file in the City Clerk's office).

Joe Hambright, 740 Golfmore Drive, owner of College Liquor, spoke in opposition to the issuance of the license. Mr. Hambright stated there are all ready several liquor stores within the area. The needs of this neighborhood are all ready being met

Attorney John Williams, representing Don Compte owner of Crown Liquors, spoke in opposition to the issuance of the license. Crown Liquors is not in the neighborhood but is spacially near the neighborhood. In looking over Mr. Walterscheid's petitions, there are several signatures, which are currently customers of Mr. Compte.

Mr. Coebergh asked if there was any case law indicating that if there are more petition signatures presented against the issuance of the license, then the license should not be issued. Mr. Williams stated he had not found such a case but there is a case where the local licensing authority's decision was overturned for failure to grant a license because the licensing authority felt that 26% against was significant enough to turn the license down.

Mr. Williams addressed Mr. Smith's submitted report and asked that Mr. Walterscheid's petitions be discounted. Mr. Williams stated he was asked by Mr. Hambright to submit some counter petitions which were circulated showing that 198 signers believe the needs of the neighborhood are being met, 12 voted no, and 30 desired issuance of the license and 181 did not favor issuance of the license.

Mr. Coebergh asked if Mr. Williams had an explanation for the contradiction in the numbers presented by these petitions and the applicant's petition. Mr. Williams stated no. Mr. Williams asked that the survey conducted by Mr. Jim Lindsey in November 2000 (applicant for Pat's Liquor in the same location) be considered. These results also indicate the needs of the neighborhood were all ready being met. Mr. Williams submitted the counter petitions, which were circulated by the opposition at the time of Mr. Lindsey's application (on file at the City Clerk's office). Mr. Williams stated the needs of the neighborhood are all ready being met and asked that this application be denied.

Mr. Shaver recommended this matter be continued to give the City Clerk's office time to review the petitions submitted today.

There was no further opposition to the issuance of the license.

Mr. LaCroix addressed Mr. Smith's report. Mr. LaCroix stated Ms. Walterscheid and Shannon Secrest did participate in the petition process but only went to 4 houses, did not obtain any signatures and did not do any more. The only verified survey presented today is Mr. Walterscheid's that shows 343 to 10 on question 1 indicating the needs of the neighborhood are not being met.

Mr. Coebergh asked Mr. LaCroix to address the inconsistency between the petitions presented by the applicant and the alleged results of the counter petitions conducted in the same area. Mr. LaCroix stated the difference in the methods used in conducting the petitions, the miscommunication by the counter petitioners could be considered. Mr. Walterscheid stated his petition was conducted according to the City's time frame and that he went to nearly every home within the area.

Ms. Walterscheid stated she and Shannon Secrest only went to 4 houses and did not obtain any signatures.

Mr. Walterscheid stated he has been a local resident for 15 years and he has been a business owner in the area. Competition and free enterprise is the American system. He should have the opportunity to run this business.

The hearing was closed at 10:15 a.m.

Mr. Shaver recommended continuing this matter to the next regularly scheduled meeting. This would give the City Clerk's office time to review the petitions submitted today and to prepare a prima facie report. Mr. Coebergh concurred and stated the only evidence, which would be heard at that time, would be from people who conducted the petitions.

The decision on this matter was continued to the March 7, 2001 meeting.

V. ADJOURNMENT – The meeting was adjourned at 10:35 a.m.

NEXT REGULAR MEETING – March 7, 2001

Received Feb 21 2001

PARADISE
1310 UTE AVENUE
Address Line 2
GRAND JUNCTION, CO 81501
County

Phone 970/241-8104
Fax 970/241-8126

February 21, 2001

To whom it may concern:

regarding the timeliness and forms for the liquor license for Paradise.

On January 4th 2001 we called the city to inform them that we had not received a renewal form for the liquor license of Paradise at 1310 Ute Ave. in Grand Junction. We left a voice message. That afternoon someone returned our call and said that they had "something on file" and would call us back.

The next day we received a call and were told to call the state regarding our liquor license. We did so, and left a voice message. The following Monday we received a call from the state (this is the 8th) they told us to get the form from the city to renew the liquor license. We went to the city on Tuesday the 9th of January to get the form and pay our occupational tax. The city then told us that as long as we turned the application in on the following day, we would be in compliance with the regulations. We did so, and have a receipt for the 10th of January for our application for renewal being filed (45 days exactly from its date of expiration). Since that time Christine English asked me to call the state to make certain that our address was correct with them and that they had sent the original form to Paradise. I spoke to Sabrina, at the State and she said that they should have sent the form to us at the end of November or beginning of December, but that they had no record of it, precisely and that the non receiving of this form was fairly common and that although the city form was longer it would suffice. Not to worry, the problem was common and our action was standard and acceptable and that they had our correct address on file. This conversation with Sabrina at the state took place on Monday, 19 February, 2001.

It is our understanding and has been from the beginning that we filed our renewal according to procedure and regulation and it has never been indicated that we have done other than what was required by this regulatory body's stipulations.

Thank you for you consideration.
Regards,

Carrie L. Kellerby
Paradise

Memo to: Local Licensing Authority
From: Christine English, Sr. Administrative Assistant
Date: February 12, 2001
Subject: Application by Walterscheid Investment & Consulting Incorporated for a Retail Liquor Store liquor license at 2913 F Road #104 under the name of All Pro Liquor

Walterscheid Investment & Consulting Incorporated filed an application with the Local Licensing Authority on January 17, 2001, for a retail liquor store liquor license, for the sales of malt, vinous and spirituous liquors in sealed containers for consumption off the premises at 2913 F Road #104 under the trade name of All Pro Liquor. The application and supplementary documents were reviewed, found to be in order and accepted. The application has been forwarded to the state for a concurrent review. The hearing date was set for February 21, 2001. The Notice of Hearing was posted on the proposed premises on February 9, 2001. A display ad was published in The Daily Sentinel on February 9, 2001.

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 ½ Road on the north, Orchard Avenue on the south, 28 ½ Road on the west and 29 ½ Road on the east 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:	16
NO:	336

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

YES:	343
NO:	10
NOT APPLICABLE:	1

One (1) signature could not be counted, as the signer did not give an address.

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

A report was requested from the Grand Junction Police Department on the corporate officer's background. No local criminal history was found. The fingerprints have been forwarded to the Colorado Bureau of Investigation for further processing. The building is currently under construction. A final inspection report has been requested from the Grand Junction Fire Department. A Certificate of Occupancy from the Mesa County Building Department will need to be filed in this office prior to the issuance of the license. The Code Enforcement Department reported the Notice of Hearing was posted in a timely manner.

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

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

Retail Liquor – 0

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

Retail Liquor – 0

That concludes this report.

cc: John Shaver, Assistant City Attorney
Julia Marston, Grand Junction Police Department
Applicant
File

Received
Feb 08 2001

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February 7, 2001

To: Christine English, Sr. Administrative Assistant
Office of the City Clerk

From: Leonard Walterscheid, Liquor License Applicant for All Pro Liquor
Korine Walterscheid & Shannon Secrest Survey Canvassers

As applicant and surveyors for All Pro Liquor at 2913 F Road #104. We feel it is necessary to inform you of the issues we encountered while surveying the area. Although the overwhelming positive results from the inhabitants was encouraging there were some negatives that needed to be noted.

1. Several residents commented that we were the 5th or 6th person to knock on their door with a survey for a liquor store license. They felt abused and harassed, and several of them did not want to sign anything again.
2. Several residents claimed the other surveys looked exactly like the survey the city issued to the applicant. They felt deceived and concerned about the validity of our survey.
3. Several residents said the opposing petitioners said they were from the City of Grand Junction and that they had to sign their survey. We were told they were very pushy and persistent.
4. Opposition petitioners misrepresented themselves as being residents of the neighborhood with the intent to prevent any future liquor stores being developed in the area.
5. Several residents in the area said that they had been contacted personally by Attorney Joe Hambright and were asked to vote against any future liquor stores in the area.

A true survey of the residents was made very difficult by the number of petitioners in the neighborhoods prior to the applicant being issued a survey by the city to be conducted for All Pro Liquor.

Thank you,

Leonard Walterscheid
Korine Walterscheid
Shannon Secrest

Received Feb 21 2001

Western Investigations

216 North Spruce Street
Grand Junction, Colorado 81505

telephone (970) 242-3130 fax (970) 242-5624

INVESTIGATIVE REPORT

Date of Report. February 21, 2001
Subject: Retail Liquor Store Liquor License

Assignment: Random Interviews within target area to verify signatures on Survey documents

The afternoon of Monday, February 19, 2001 I received copies of two sets of forms entitled Survey and appearing to contain signatures of people residing within an area in and around 29 Road and F Road, Grand Junction, Mesa County, Colorado. My initial examination of the furnished forms indicated the Survey forms had been circulated within a target area bounded on the North by F ½ Road, on the South by Orchard Avenue, on the East by 29 ½ Road and on the West by 2S 1/2 Road. The last page of each set of the above referenced documents contained a sworn verification by Leonard Waltersheid stating the Survey forms had been signed in his presence.

I began a canvas of homes in the 2900 block of Dawn Drive and the 500 block of Dawn Court at approximately 6:05 p.m., February 19, 2001, speaking with people at residences on Dawn Court and on both sides of Dawn Drive. The homes in this neighborhood consist of a series of two story buildings, with each building containing 4 apartment units. During my canvas of the homes, I came to the conclusion two different people had been circulating the Surveys and obtaining the signatures contained on the forms. In all cases, the people I spoke with identified the signatures and stated they had either signed the form, witnessed the form being signed or recognized the signature contained on the form. The people I spoke with on Dawn Court and on the north side of Dawn Drive described the person contacting them and obtaining the signatures as being a male in his early to mid twenties. The people on the south side of Dawn Drive described the person contacting them as a male in his early forties, clean cut and wearing a brown colored leather type dress jacket. The people I contacted on the south side of Dawn Drive told me they were under the impression the person contacting them was the person who was planning on opening and operating the proposed liquor establishment.

I began a canvas of the homes in the 600 block of Cris Mar and in the 600 block of Wagon Way at approximately 5:30 p.m. on February 20, 2001, speaking with people on both side of each Street. The homes in this neighborhood are single-family residences. During my canvas of these homes, some of the people being interviewed identified a male canvassing and other people identified a female canvassing. One resident on Cris Mar Drive told me he was acquainted with Lenny Waltersheid and that Lenny was the person that approached him and obtained his signature. This gentleman told me Lenny Waltersheid was at his residence, by himself and he did not see a female. All but one person told me either a lone male or a lone female approached them, seeking signatures on the Survey form. The one exception was a resident on Wagon Way that told me he was acquainted with both Lenny Waltersheid and his wife and that he signed the Survey form for Lenny and his wife, who were both at his residence at the same time.

Ron Smith, Investigator

02/21/2001
Date Prepared and Signed