

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

**MINUTES**

**WEDNESDAY, January 21, 2004, 9:00 A.M.**

I. **CALL TO ORDER** - The meeting convened at 9:00 a.m. Those present were Hearing Officer Jim Majors, Acting City Attorney John Shaver and Deputy City Clerk Juanita Peterson.

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

1. L & B, Inc. dba Fast Eddy's, 2650 North Avenue #114, Tavern

This application was found to be in order and approved with the final inspection from Mesa County Health Department being in order.

2. Mimosa, Inc. dba Fairground Wine & Liquor, 2771 B ½ Road, Retail Liquor Store

This application was found to be in order and approved.

3. Los Reyes Restaurant, Inc. dba Los Reyes, 811 S. 7<sup>th</sup> St., Hotel and Restaurant

This application was found to be in order and approved.

4. Junct'n Ribs, LLC dba Bennett's Bar-B-Que, 2440 Hwy. 6 & 50, Hotel and Restaurant

This application was found to be in order and approved.

5. The Pinion Grill, Inc. dba The Pinon Grill at Tiara Rado, 2057 S. Broadway, Hotel and Restaurant with 3 Optional Premises

This application was found to be in order and approved.

6. Albertson's, Inc. dba Albertson's Food Center No. 886, 1830 N. 12<sup>th</sup>, 3.2% Beer (Off Premises)

This application was found to be in order and approved.

7. Loco, Inc. dba Loco Food Store No. 14, 2902 F Road, 3.2% Beer (Off Premises)

This application was found to be in order and approved.

III. **APPLICATION FOR TRANSFER OF OWNERSHIP**

1. Boomers, LLC dba Boomers, 436 Main Street, Grand Junction, CO 81501

Transfer of Ownership of a Tavern Liquor License from Chester L. Allen and Janet Gardner dba Boomers to Boomers, LLC dba Boomers, 436 Main Street

Managing Member: Chester L. Allen, 2067 Rim Shadow Ct., Grand Junction, CO  
Member: Janet Gardner, 2067 Rim Shadow Ct., Grand Junction, CO

Mr. Chester Allen was present. The application was found to be in ordered and approved.

**IV. APPLICATION FOR TRANSFER OF OWNERSHIP – AND REGISTRATION OF NEW MANAGER**

1. MSPA ACQUISTION II, L.P. dba Adam's Mark Hotel, 743 Horizon Drive, 81506

Transfer of Ownership of a Hotel and Restaurant Liquor License from Seven Seventeen HB Corporation dba Adam's Mark Hotel to MSPA Acquisition II, L.P. dba Adam's Mark Hotel, 743 Horizon Drive

President/Treasurer: Richard Kelleher, 47 Crooked Ln., Duxbury, MA

VP/Secretary: Michael Quinn, 1 Independence Way, Apt. PH14, Hoboken, NJ

Registration of a New Manager:

Ron Pasqual replaces Richard Kelleher

Allen Dill, Attorney with Dill and Dill, and Mr. Ron Pasqual, the new General Manager, were present. Mr. Dill stated Mr. Pasqual has been the manager at Adams Mark since May 2003 and has over 25 years of experience in the food industry. The application was found to be in order pending the sales tax report being provided. Mr. Dill had a copy of it and presented it to Ms. Peterson. The application was approved along with the registration of the new manager, Mr. Pasqual.

**V. RESOLUTION OF FINDINGS AND DECISION RE: APPLICATION FOR NEW LICENSE - Continued**

1. Crossroads Wine & Spirits, LLC, dba Crossroads Wine & Spirits, 2546 Rimrock Avenue, Suite A, Rimrock Shopping Center, Retail Liquor Store

Applicant: Crossroads Wine & Spirits, LLC

President: Helen V. Sica, 676 Independence Valley Drive, Grand Junction, CO 81503

Vice President: Gerald C. Sica, 676 Independence Valley Drive, Grand Junction, CO 81503

Mr. Majors recognized that this application was continued from the January 7, 2004 hearing. Mr. Bret Mansur with Liquor Petitioning Professionals called on the phone as part of the hearing. Mr. John Williams, an attorney, is present and has a client who he is representing contesting the issuance of this license. Mr. Michael Burke, attorney, is present and representing the Sica's.

Mr. Majors asked Ms. Peterson what is the status of the application. The local police report is in; the report from C.B. I. is still pending. The premise was posted in a timely manner. The sales tax is not available at this time as they are not conducting business and the building and fire departments will inspect once the building is completed. If the license is approved, the city would hold the license contingent on obtaining a CO. Ms. Peterson read the survey letter into the record; which is quit lengthy as the City Clerk's office received several counterpetitions along with the petitions. (See attached report)

Mr. Majors asked Ms. Peterson how the neighborhood was defined. Ms. Peterson responded that the City Clerk's office usually uses a ½ mile radius but since this is in the same area as two recently approved liquor licenses, the same defined area was used. The area was enlarged beyond ½ mile due to the location in order to include more residential areas. Mr. Majors made note that the authority has a larger survey area than normal.

Mr. Burke started the interview with Mr. Mansur since he was on the phone. Mr. Burke asked Mr. Mansur what his involvement was. Mr. Mansur stated he was hired by the Sica's to perform the survey of the needs and desires of the neighborhood. Mr. Burke asked Mr. Mansur how long he has been in this line of business and what his profession was. Mr. Mansur responded that he has had Liquor Petitioning Professionals for 7 years and he has a law degree. Mr. Mansur stated his firm was hired by Crossroads Wine & Spirits to conduct the survey. The results of his survey being question 1. yes – 13 no – 85 which is 86% and question 2. yes – 65 no – 13 being 83%. Mr. Mansur stated they followed procedures required by the City Clerk's office.

Mr. Shaver asked how the petitions were circulated. Mr. Mansur stated he and his wife, who work together, performed the survey, they approached a door and introduced themselves, explained they are circulating a petition for Crossroads Wine & Spirits and showed the petition and a copy of the map of the area. Mr. Shaver asked if Mr. Mansur was comfortable with the defined neighborhood. Mr. Mansur stated they were and that he did the survey for the new Red Robin Restaurant which used the same defined neighborhood. Mr. Shaver asked how they were paid. Mr. Mansur said a flat fee. Mr. Shaver asked how negative responses are treated, are they recorded in the same manner. Mr. Mansur stated yes and that he is neutral whenever he performs these surveys.

Mr. Williams introduced himself to Mr. Mansur. Mr. Williams stated he was representing Cottonwood Liquors. Mr. Williams asked Mr. Mansur if he presented the documents as a petition when he talked to people in the neighborhood. Mr. Mansur said yes. Mr. Williams asked if Mr. Mansur identified that he was working for Crossroads. Mr. Mansur stated that they are doing a petition, but if someone asked who they were working for they would identify that. Mr. Williams asked if it is his experience that the first entity into the neighborhood carries a lot of weight? Mr. Mansur replied that he wasn't sure how much weight it carried but that typically one doesn't have to worry about going somewhere someone has already signed a petition. Mr. Mansur stated he believed the first people out usually get the truest results of the neighborhood. Mr. Williams asked if Mr. Mansur had anything to do with the petitions circulated by the Sica's. Mr. Mansur stated he explained to them the procedures. Mr. Williams asked if Mr. Mansur had any knowledge that they followed these procedures. Mr. Mansur said he had no knowledge if they did. Mr. Williams had no further questions.

Mr. Majors asked Mr. Mansur when he conducted his survey. Mr. Mansur stated they surveyed the businesses on Friday, December 12<sup>th</sup> and the residents on Saturday, December 13<sup>th</sup>.

Mr. Shaver asked how they kept track of the "not at homes". Mr. Mansur stated they used "tick marks" and they had a total of 133 "not at homes". They did not attempt to recontact them.

Mr. Burke stated for the record that these surveys were filed with the City Clerk's office in a timely manner.

The phone conversation was terminated with Mr. Mansur at 9:38 a.m.

Mr. Burke had a few items to ask Mr. Sica. Mr. Sica gave his name for the record being Gerald Sica, one of the members on the application. Mr. Burke asked Mr. Sica if his background check would reveal anything on himself or Mrs. Sica. Mr. Sica stated none. Mr. Burke asked Mr. Sica if they have broken ground yet and if they had secured this space. Mr. Sica stated they are just getting ready to break ground and they have an agreement with consent from Wal-mart and Lowe's. Mr. Burke asked if Mr. Sica went out and conducted his own survey and did they follow the procedures described by Mr. Mansur. Mr. Sica stated they did. The only thing different in how the Sica's presented the petitions were that they introduced themselves as the owners of the liquor store. Mr. Sica has several points he would like to bring out. The area they are going into is the fastest growing area in the City. The tax records 1991-2002 show 1500% growth in the area. In the last 5 years it is 250%. This is the fastest growing area in Western Colorado. It is just not a destination for local traffic; it is literally a designation shopping center for people 150 miles in every direction. Mr. Sica drove on North Avenue and clocked two liquor stores within 2/10<sup>th</sup> of a mile of each other and then another one 7/10<sup>th</sup> of a mile away. No other liquor stores that have been mentioned are in a destination shopping center that will see 7-8,000 people a day. The store they are building will meet a broader segment than is currently being met by other locations. Mr. Sica described that he and Mrs. Sica have a long history of being good employers and they will be a good partner for the City.

Mr. Majors asked the size of the establishment. Mr. Sica stated that it will be about 6,000 sq. ft. Mr. Major asked if the Sica's had experience in retail liquor sales. Mr. Sica stated no but they have been retail consultants and suppliers for over 20 years with manufacturers of products from Florida and all over Colorado. Mr. Burke stated that Mrs. Sica was present and her testimony would be the same as Mr. Sica's. Mr. Majors asked when Mr. Sica conducted the additional surveys. Mr. Sica stated January 13<sup>th</sup> and 14<sup>th</sup>.

Mr. Shaver asked how the refusals were kept track of and was this noted on the petitions submitted to the Clerk's office. The Sica's responded it was kept track as a separate document and not submitted to the Clerk's office.

Mr. Williams disclosed that Mr. Wilson has joined their firm and he took this case before that happened and doesn't believe there is a conflict. Mr. Williams has kept the file in his office. Mr. Williams disclosed this at the last hearing.

Mr. Majors asked if anyone in opposition was present to speak.

Merritt Sixby, Owner of Merritt Construction which is located on Motor Street, was present. His wife owns Grand Central Liquor. Mr. Sixby feels like the needs have been met. Mr. Majors clarified that Mr. Sixby was not a member of Grand Central Liquors.

Fred Pierce, Energy Equipment and Supply located at 2067 Commerce Blvd., managed liquor stores in the 80's and he feels that the pie is already cut up and even more liquor stores in the area are not needed.

Mr. Williams stated he does not have testimony prepared with his client. He would like to take the opportunity to explain the surveying process that went on and introduce the young gentleman who conducted most of the survey. Mr. Williams' client is Cottonwood Liquors Inc. Mr. Dennis Barbour is the sole share holder. The gentlemen who conducted the surveys are Brian Barbour and Andrew Harriston but Andrew is back in college. Mr. Barbour on the 22<sup>nd</sup> of December, after he seen the publication for a new liquor store in the Daily Sentinel which was published on December 19<sup>th</sup> contacted Mr. Williams. Mr.

Williams explained to Mr. Barbour that the burden is on the applicant and that the applicant must show that the needs are not being met by existing locations and the inhabitants desire a new location. Mr. Barbour decided to do nothing until after the petitions would be turned in and they might show the needs of the neighborhood are already being met. After examining the petitions that were conducted, Mr. Barbour decided to get surveys of his own. Mr. Williams stated the surveyors identified who they were and they were hired by Cottonwood Liquors. Mr. Williams stated they concentrated on areas that Mr. Mansur or the Sica's did not get too.

Mr. Majors asked Mr. Williams to ask Brian Barbour questions instead of Mr. Williams presenting a summation of his testimony.

Brian Barbour, 547 West Greenwood Drive, was hired by Cottonwood Liquors and which Brian's father owns. Mr. Barbour stated the area they concentrated on was the areas which the Sica's did not have in their surveys. Their survey forms were the same as the City used. Mr. Barbour introduced himself as doing a survey in their area regarding a liquor license. Mr. Barbour did not identify himself as who they were working for unless they asked. Mr. Barbour determined the area he was going to conduct the survey after review of the Sica's surveys. The people Mr. Barbour surveyed believed the needs of the neighborhood were already being met. Mr. Williams asked how Mr. Barbour was paid. Mr. Barbour responded by saying he was paid by the hour to conduct this survey.

Mr. Shaver asked Ms. Peterson if the two surveys were reflective on the totals. Ms. Peterson stated yes, the City Clerk's office looked at the petitions Mr. Williams submitted as one set, even though there were two sets of petitions turned in; one by Mr. Barbour and one by Mr. Harriston.

Mr. Burke asked who conducted the survey with Mr. Barbour. His girlfriend was with him, but just walked along and did not conduct the survey. Mr. Burke asked what Mr. Barbour's connection to Cottonwood Liquors was. Mr. Barbour stated he was the owner's son. Mr. Burke asked Mr. Barbour if he had experience doing these surveys. Mr. Barbour stated no. Mr. Burke asked what Mr. Barbour did for a living. Mr. Barbour is currently installing satellite dishes. Mr. Burke asked what type of training Mr. Barbour received. Mr. Barbour stated he received about 15 minutes from his dad and a woman who worked for his dad. Mr. Burke asked how much of the surveying was his and how much was Mr. Harriston's. Mr. Barbour indicated Andrew's was about 20-30%. Mr. Burke asked how Mr. Harriston got involved with the survey. Mr. Barbour believed Andrew was employed by Cottonwood. Did Mr. Harriston get any training? Mr. Barbour wasn't sure about it that, but he did not receive any training when Mr. Barbour did.

The rest of Mr. William's presentation is legal argument but before that he stated he is an employer and lessee at 2454 Patterson, and it is his opinion that the needs of this neighborhood are being met by the existing establishments.

Ms. Cindy Alberts, 1051 Lake Avenue, would like to speak in favor of the issuance of this applicant obtaining the retail liquor license they have applied for, but she doesn't live in the area.

Mr. Burke requested a break at 10:15 a.m. Mr. Williams asked if there was any objection to Mr. Barbour leaving, there being none, Mr. Barbour left.

The hearing resumed at 10:20 a.m.

Mr. Williams started off by stating the Clerk's office explained the procedures for verifying the signatures on the surveys they receive in their office. Mr. Williams stated the circulators affidavit had the incorrect dates from Mr. Mansur. Mr. Williams felt the surveys are flawed depending on who is doing the surveys and asking the questions. Mr. Williams believes the applicant has not proved the needs are not already being met and there are enough outlets in the area. Mr. Williams cited 12-47-312 (2) (a) C.R.S. The most solid evidence is the existing outlets. The applicant has not sustained their burden.

Mr. Burke stated this is about competition and they want to protect their turf. The summary Ms. Peterson provided, information that the file is in order and that Mr. Burke's clients' background is impeccable. There was one survey that was done by a professional with years of experience and was filed timely and it was done prior to the battle of the surveys and Mr. Burke believes this is the best and true findings of the needs of the neighborhood and inhabitants. This area is not like any other neighborhood in the city. Mr. Burke's feeling is the applicants have met the burden of proof.

Mr. Majors asked Mr. Shaver if provision 12-47-312 (2) (a) C.R.S. applies to optional premises? Mr. Shaver stated that he believed it applied to all licenses.

As hearing officer Mr. Majors stated after hearing the testimony and evidence, the applicant has met the requirements and the liquor license can be issued. Mr. Mansur's survey would be the truest findings, not discounting the counterpetitions, they were not conducted by persons with experience. The City Clerk's office has computed the total results of both the petitions and the counterpetitions and by that evidence the needs are not being met. The applicant has met the evidence and he authorized the issuance of this license with the final requirements from the building and fire departments being met once the building is completed. Mr. Majors thanked everyone who was present.

**VI. ADJOURNMENT** – The meeting was adjourned at 10:47 a.m.

**NEXT REGULAR MEETING – February 4, 2004**

MEMO: Local Licensing Authority  
 FROM: Juanita Peterson, Deputy City Clerk  
 DATE: January 20, 2004  
 SUBJECT: Application by Crossroads Wine & Spirits, LLC, for a Retail Liquor Store Liquor License at 2546 Rimrock Avenue, Suite A, under the trade name of Crossroads Wine & Spirits

Crossroads Wine & Spirits, LLC filed an application with the Local Licensing Authority on December 2, 2003, for a new retail liquor store liquor license for the sales of malt, vinous and spirituous liquors in sealed containers not for consumption at place where sold at 2546 Rimrock Avenue, Suite A under the trade name of Crossroads Wine & Spirits. The application and supplementary documents were reviewed, found to be in order and accepted. The hearing date was set for January 7, 2004. The Notice of Hearing was given by posting a sign on the property on or before December 27, 2003 and by publishing a display ad in The Daily Sentinel on December 19, 2003.

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 and defined the neighborhood as the area bounded by the Colorado River to the South (including the Riverside Area) then extending west along Highway 340 to the Redlands Canal and west to 24 1/2 Road; 1<sup>st</sup> Street to the East and Patterson Road to the North and includes both sides of the street as the outer boundaries. The results of that survey are as follows:

- As an owner of property in the neighborhood, an employee or a 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 other existing outlets.

Yes	13
No	85
N/A	1
DISQUALIFIED	1

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

Yes	65
No	13
N/A	20
DISQUALIFIED	2

On January 6, 2004 counterpetitions were filed with the City Clerk's Office and presented January 7, 2004 at the hearing. Hearing Officer Phil Coebergh assigned the review of this application to Hearing Officer Jim Majors and directed staff to compile the results of the counterpetitions. The results of those counterpetitions are as follows:

- As an owner of property in the neighborhood, an employee or a 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 other existing outlets.

Yes	122
No	1
N/A	0
DISQUALIFIED	15

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

Yes	4
No	59
N/A	60
DISQUALIFIED	15

On January 14, 2004 additional petitions were filed with the City Clerk's Office from the applicant. The results of those petitions are as follows:

1. As an owner of property in the neighborhood, an employee or a 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 other existing outlets.

Yes	4
No	110
N/A	0
DISQUALIFIED	4

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

Yes	100
No	2
N/A	14
DISQUALIFIED	2

On January 20, 2004 additional counterpetitions were filed with the City Clerk's Office from the applicant. The results of those petitions are as follows:

1. As an owner of property in the neighborhood, an employee or a 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 other existing outlets.

Yes	19
No	0
N/A	0
DISQUALIFIED	1



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

Yes	2
No	17
N/A	0
DISQUALIFIED	1

The disqualified in the above numbers submitted on January 20<sup>th</sup> was due to one person signing two surveys, this one and one submitted by the petitioner on December 26<sup>th</sup>. Those numbers also have been revised to reflect this.

**Compiling all the data received to date, the results are as follows:**

1. As an owner of property in the neighborhood, an employee or a 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 other existing outlets.

Yes	158
No	196
N/A	1
DISQUALIFIED	21

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

Yes	171
No	91
N/A	94
DISQUALIFIED	20

The large number of N/A on questions 2. was die to businesses who answered this question or ones who checked the N/A column and the DISQUALIFIED are not respondents in the survey area, did not list an address or are signatures that were not able to be read.

The Grand Junction Police Department has investigated the individuals for local criminal history and none was found. The fingerprints have been forwarded onto CBI for further processing. The premises will be inspected by the Grand Junction Fire Department and the Mesa County Building Department for compliance prior to the issuance of a license.

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

Retail Liquor Store – 3 (Andy’s Liquor Mart, Grand Central Liquor and Cottonwood Liquor)

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

Retail Liquor Store – 1 (Redlands Liquor)

That concludes this report.

C: Applicant  
 John Shaver, Assistant City Attorney  
 John Williams, Attorney

Craig Campbell, Grand Junction Police Department  
File