

## RESOLUTION NO. 11-00

### DECISION ON APPLICATION FOR A NEW RETAIL LIQUOR STORE LIQUOR LICENSE BY KOKOPPELLI LIQUORS LLC UNDER THE TRADE NAME OF KOKOPELLI LIQUORS TO BE LOCATED AT 2996 D ROAD, GRAND JUNCTION, COLORADO,

Public hearings were held on September 6 and September 20, 2000, by the Local Licensing Authority for the City of Grand Junction (hereinafter "Authority"), on the application submitted by Kokopelli Liquors LLC, (hereinafter "Applicant") for a new Retail Liquor Store liquor license under the trade name of Kokopelli Liquors to be located at 2996 D Road, Grand Junction, Colorado. The Authority having duly considered the evidence adduced at said hearings and having reviewed the evidence and statements of legal counsel, FINDS:

1. That the hearings on September 6, 2000 and September 20, 2000, on the application were held after proper notice thereof, as required by 12-47-336 C.R.S., *et. seq.*
2. That Section 12-47-301(2)(a), C.R.S., establishes the legal basis for review of any application, and that before granting any license all licensing authorities shall consider, except where this article and article 46 of this title specifically provide otherwise, the reasonable requirements of the neighborhood, the desires of the adult inhabitants as evidenced by petitions, remonstrances or otherwise and all other reasonable restrictions that are or may be placed upon the neighborhood by the local licensing authority.
3. That the petitions, surveys, remonstrances and other evidence, including but not limited to statements of the Applicant and those in opposition, demonstrate that the Applicant has shown that the needs of the neighborhood are not already being met by existing licenses and that the adult inhabitants do desire that the license issue.
4. That Section 12-47-312(2)(a) C.R.S. requires (in relevant part) that before entering any decision approving or denying the application, the local licensing authority shall consider ... the facts and evidence adduced as a result of it's investigation, as well as any other facts (emphasis added). Other facts and evidence which the Authority considered and found in the totality of the circumstances supports issuance of the license are:
  - a) That the needs of the Neighborhood described as the area of D $\frac{1}{2}$  Road on the North, C $\frac{1}{2}$  Road on the South, 29 $\frac{1}{2}$  Road on the West and 30  $\frac{1}{2}$  Road on the East, including the outer boundaries of the streets, are not being met by existing outlets. It is the finding of the Authority that Exhibit 1 prepared by and submitted by the Applicant accurately depicts the existing conditions and in conjunction with the survey demonstrates that the reasonable requirements of the neighborhood are not being met.
  - b) 12-47-301(2)(b) C.R.S. provides that in order for an authority to deny a retail liquor store license on the basis of *undue concentration* that the Authority

must find that issuance of the license must result in or add to undue concentration of the same class of license and as a result require the use of additional law enforcement resources. The opposition testimony and counter petitions included no reference to the use of additional law enforcement resources as required by statute.

- c) That the counter petitions manifest procedural defects which the Authority finds make them unreliable. Specifically none of the counter petitions had circulator's affidavits attached; while affidavits were filed with the Authority the affidavits, as required by the terms thereof, do not relate to the petition signatures. (In the affidavit the circulator swears or affirms that he/she "circulated the foregoing survey". A copy of the affidavit of Pam Hambright, which is representative of all affidavits filed with the Authority in consideration of this application, is attached).
- d) The fact that other licensees advanced the opposition to this license is notable. The opposition that testified and circulated petitions are licensed by Mesa County as retail liquor stores; none of the stores are within the City of Grand Junction or within the applicants defined neighborhood. 12-47-301(2)(a) C.R.S. provides that only when considering a second or additional Hotel-Restaurant license is the effect of competition considered.
- e) That even taking due consideration to all evidence presented in opposition to this application, the evidence supports the conclusion that the applicant made a sufficient showing as to the needs of the neighborhood and the desires of the inhabitants for this application to be approved by the Authority.


5. That the application for a new Retail Liquor Store liquor license be approved.

**NOW, THEREFORE, BE IT RESOLVED BY THE LOCAL LICENSING AUTHORITY OF THE CITY OF GRAND JUNCTION:**

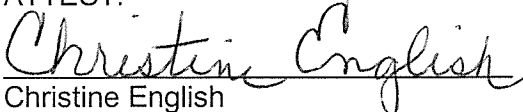
That the application submitted by Kokopelli Liquors LLC under the trade name of Kokopelli Liquors to be located at 2996 D Road, Grand Junction, Colorado, for a new Retail Liquor Store liquor license is approved.

DONE, this 27<sup>th</sup> day of September 2000.



  
Philip Coebergh, Hearing Officer  
Local Licensing Authority for the  
City of Grand Junction

ATTEST:

  
Christine English  
Senior Administrative Assistant

CIRCULATOR'S AFFIDAVIT

I, Pamela Lambright, who reside at 740 Golfmore Dr,  
(print name)

Grand Set CO do hereby swear or affirm that I circulated the foregoing survey for a Retail Liquor license application within the area described as the neighborhood, on the date(s) of Aug 4-22, 2000, and that each signature thereon was affixed in my presence, that each signature thereon is the signature of the person whose name it purports to be, that to the best of my knowledge and belief each of the persons signing was, at the time of signing an owner of property in the neighborhood, an employee or business lessee of property in the neighborhood for more than six months each year, and that the signers were not paid and will not be paid, directly or indirectly, any money or other thing of value for the purpose of inducing or causing signature of this survey.

Pamela Lambright

The foregoing instrument was executed before me this 5th day of September, ~~2000~~ 2000

My commission expires 2/22/04.

Witness my hand and official seal.

[Signature]