



MINUTES

LOCAL LICENSING AUTHORITY

Thursday November 21, 2024 – 8:30 A.M.

**City Council Chambers – 500 E. Third Street
Loveland, Colorado**

In Attendance:

Brandi Nieto, Local Licensing Authority

Michael Bailey, Assistant City Attorney

Sterling Wilson, LLA Secretary

CONSENT AGENDA

- A. Approval of Minutes from LLA Meeting on October 17th, 2024.**

There were no protests filed in response to any item on the consent agenda. The minutes were approved in their current form.

2. PUBLIC HEARING

A. Renewal Application – Dillon Companies, LLC dba King Soopers #44

An application for the renewal of the Fermented Malt Beverage and Wine Retailer License issued to Dillon Companies, LLC dba King Soopers #44 was filed on October 24, 2024. The licensee has been required to appear regarding the late filing of this application.

In Attendance: Adam Stapen, Attorney 27506, Dill Dill Carr Stonbraker and Hutchings, Alina Brusilovsky, King Soopers and City Market Regional Adult Beverage and DSD Manager

Findings and Action Taken:

Mr. Stapen provided an apology on behalf of Dillon Companies LLC and ensured that the company is actively taking measures to ensure that the late filing of alcohol beverage license applications does not happen. There is a significant distance between corporate/LLC leadership and store management. In 2024, a policy change in the license renewal application process occurred in Cincinnati – normally the Kroger offices in Cincinnati file applications, however in this instance, between time of notification and the renewal deadline, the application was mistakenly sent to Nevada. The application was otherwise complete and filed with correct payments supplied, including late fees.

The licensees provided an explanation of why the application was filed late and have addressed the issues within their company structure that resulted in the error. Ms. Brusilovsky was not involved in the filing of this application. She provided a description of the company's procedure going forward: renewal notices will be forwarded by Ms. Brusilovsky to the corporate office for payment 90 days in advance of the expiration

date, after which point payments will be forwarded to the regional office for filing with the local authority. After approval, the license copies will be sent to the corporate office and forwarded back to the location upon receipt with a deadline 45 days prior to the expiration date.

The Authority found that there is good cause for the late filing of this application. The City is in the position to hold all licensees to an equal standard, thus an appearance was requested.

The licensee provided public notice of a hearing upon application for renewal. Pursuant to Colorado Revised Statute 44-1-302 as amended, a public notice was posted on November 8th, 2024 by Ms. Brusilovsky. Publication in the Loveland Reporter Herald was made on November 9th. The licensee is entitled to possession of the premises and complies with the zoning regulations of the City of Loveland. The Location possesses both a valid City and State Sales Tax License in good standing. The preliminary report from the Fire Marshal establishes that the sale of alcohol is in compliance with the zoning regulations of the City of Loveland. The preliminary report from the Chief Building Official indicates that the licensee complies with the building and zoning regulations applicable to this class of establishment.

The Authority approved this application for renewal.

B. Transfer of Ownership – Annie Sushi LLC dba Sushirito

An application was filed on October 16, 2024, for the transfer of Hotel and Restaurant Liquor License currently issued to Sushibox, LLC d/b/a Sushirito by Annie Sushi, LLC d/b/a Sushirito. A temporary transfer permit was issued on October 17, 2024, and is valid for 120 days thereafter. A notice of public hearing was posted on site and published in the Loveland Reporter Herald as the law requires.

In Attendance: Annie Nugn Sui, Owner/Manager

Appearing with the assistance of a Burmese Language interpreter working through Propio One language service.

Ms. Nugn Sui stated her intent to transfer this license from the previous owner. She submitted an acknowledgement of assumption of liabilities as provided by the City Clerk's Office and this form was submitted with a completed liquor licensing transfer application. There is a section of this form that was not initialed by the applicant: there is an option to apply for a *new license* that would not be subject to any liabilities of the previous owner. The interpreter assisted in clarification and Ms. Nugn Sui provided her initials on the incomplete section. The Authority identified several items on the application that required amendment – the labeling of the premises diagram lacked dimensions and a clear label for the restaurant's kitchen, and questions 3 and 17 on form DR8404 were also answered unclearly or left blank due to the language barrier. The translator assisted and the applicant expressed understanding.

On the application, Ms. Nugn Sui indicated that she obtained informal alcohol server training from the previous owner. She is aware that customers should not leave her

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restaurant's premises with alcohol beverages and does not provide alcohol for takeout or delivery. All patrons are asked for ID when ordering, but they are only screened visually.

Ms. Nugn Sui has registered for the City of Loveland Alcohol Server Training Course on December 10th, 2024, but has not obtained any additional training in alcohol service. Her business partner/boyfriend Biak Thang will also attend this class and works in the establishment. Ms. Nugn Sui established that she would like translation assistance, however it may not be possible or practical to use City services at the December 10th class. While a phone interpreter could be made available, the pace of the course may not provide adequate services for successful completion of the test – all applicants must receive a passing score to receive a certificate. Ms. Nugn Sui does not have any companions who can attend the class with her but would be willing to attend the course or attend an online training course.

Officer Loomis expressed that she will coordinate and conduct an inspection of the premises with translation assistance and will also be present at the server training course and will assist in providing resources to Ms. Nugn Sui; the applicant may also access Burmese interpreters through the Colorado Judicial Branch at a reasonable rate.

The City Attorney expressed concerns regarding the applicant's understanding of the English Language application that she filed. The Authority shares these concerns. The concern lies in 44-3-307(3)(C)(4) – pursuant to that section of C.R.S. and 44-3-312(2)(a), the Authority finds concerns that the record submitted to the Clerk's Office and in understanding of Colorado Liquor and Beer laws is insufficient and the applicant's understanding of the applicable laws for serving of alcohol beverages is insufficient.

No one in the gallery was present to speak about this item and no protests were filed with the City Clerk's Office. The public hearing was closed.

Pursuant to 44-3-201, with respect to this transfer of ownership application, the Authority finds that this application was filed October 16, 2024 with a temporary transfer permit issued October 21, 2024. A temporary transfer permit is valid for 120 days after it is issued pursuant to Title 44 and will be valid until February 18, 2025. Today's public hearing was posted on October 19th, and publication in the Reporter Herald was made on November 9th.

The Authority finds that the applicant has been subject to a complete criminal history and background check. It appears from the evidence submitted that the applicant is legally entitled to the premises and that selling liquor in the manner proposed is in compliance with the Zoning regulation of the City of Loveland. The business does not appear to be within 500 feet of any parochial school, college, university or seminary. The applicant holds City and State Sales Tax Licenses in good standing. The preliminary report from the Fire Marshal indicates that the premises comply with the fire code. The preliminary report from the Chief Building Official indicates that the premises comply with the

building code. As stated previously, the criminal history is complete and there is nothing prohibiting the applicant from holding the liquor license.

Based on the deficiencies in understanding established at this hearing, the Authority will not deny this application, but will allow the operation under the temporary permit issued to the applicant, until February 18, 2024. The item was continued to the January 16, 2025 Meeting of the Local Licensing Authority. The applicant must meet the following conditions prior to this date:

1. Successfully complete the December 10th Server Training Course or other certified training by that date.
2. The applicant must complete a police inspection scheduled with Officer Loomis.
3. The City Clerk's Office will make the applicant's application available and provide a translated document for revision. Ms. Nugn Sui can obtain these copies after this meeting and will amend the application to correct any remaining misinterpretations.

C. Transfer of Ownership – Los Diablos LLC dba El Diablo Taco Bar

An application was filed on September 12th, 2024, for the transfer of Hotel and Restaurant Liquor License currently issued to Riki's Mexican Grill, LLC, d/b/a Riki's Mexican Grill, to Los Diablos LLC d/b/a El Diablo Taco Bar, for the license located at 1473 E. Eisenhower Boulevard in Loveland. A temporary transfer permit was issued on September 30th, 2024, and is valid for 120 days thereafter. A notice of public hearing was posted on site and published in the Loveland Reporter Herald as the law requires.

In Attendance: Cindy Lopez, Owner/Manager

The applicant took ownership of the establishment in October of 2024. No substantial changes to the interior of the restaurant formerly occupied by Riki's Mexican grill were made. Ms. Lopez has been operating liquor licensed restaurants for one year, approximately, and has 7 years of experience serving alcohol, but she does not have more than one year of procurement experience related to alcohol. She has not obtained any formal training in the serving of alcohol and intends to schedule herself and employees for a Spanish Language Server Training Class provided by Loveland Police Department; a date will be determined and coordinated with Officer Loomis. Three staff members serve alcohol at the Loveland Location including Ms. Lopez. Her husband and one additional employee will serve and have access to alcohol beverage inventory.

An inspection was made by Officer Loomis on November 18. The premises matched the diagram, however City Sales tax License was not posted, a Certificate of Occupancy was not posted, and no point of sale system for tracking receipts was not available. Officer Loomis spoke with Ramses and one additional employee. The applicants stated that they will obtain a copy of the C.O. from development services after the hearing.

A follow-up inspection was scheduled for November 25. The City recommends that the applicant pass a police inspection prior to submittal of an approved application to the State of Colorado LED. No one in the gallery was present to speak about this item and no protests were filed with the City Clerk's Office, and the public hearing was closed.

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The Authority will grant this application for a transfer of ownership on the condition that the applicant complete a follow-up police inspection to address the missing items identified at the hearing.

The Authority finds that the applicant has been subject to a complete criminal history and background check. It appears from the evidence submitted that the applicant is legally entitled to the premises and that selling liquor in the manner proposed is in compliance with the Zoning regulation of the City of Loveland. The business does not appear to be within 500 feet of any parochial school, college, university or seminary. The applicant holds City and State Sales Tax Licenses in good standing. The preliminary report from the Fire Marshal indicates that the premises comply with the fire code. The preliminary report from the Chief Building Official indicates that the premises comply with the building code. As stated previously, the criminal history is complete and there is nothing prohibiting the applicant from holding the liquor license.

The applicant is advised to obtain and review a copy of the Colorado Beer Wine and Liquor Codes.

D. Tasting Permit Application – Loveland Liquor

An application was filed on November 1st, 2024, for a new Tasting Permit for the Retail Liquor Store License issued to B&B Liquor LLC, dba Loveland Liquor. The application will be considered by the Local Licensing Authority.

In Attendance: Devi Baral, Owner

The application was submitted with a diagram that identified points of sampling. The application did not contain a schedule of tasting events as established by the City. Only one date was provided on an attached log form. The licensees intend to operate for the full calendar year, with only one tasting event planned for 2024 if approved. The Licensee provided a control plan with a signature indicating understanding of the policies related to tasting permits, however it was noted that the number of samples a patron could receive is limited to 4 – this is limited to serving size depending on Beer or Wine (1oz), and Spirits at 1/2oz. The applicant did not provide evidence of the container size being used for sampling in the control plan; this was corrected during the meeting.

The application must include a schedule of tasting events and a log that can be completed as these are conducted. The application must also provide proof that samples can be accounted for in alcohol beverage inventory. Wholesaler affidavits of compliance are contained within the licensee's file in the clerk's office and indicate all accounts used; invoices will be provided upon renewal; the store's inventory is tracked.

The store is located in an area with a significant homelessness issue; Mr. Baral confirmed that he has a plan for contending with problems related to that during sampling events. This was not written out in the application.

The Authority raised a concern and found that Loveland Municipal Code 8.8.020 (D) and 44-1-143(4) – notice must be published on the premises prior to a public hearing; the City must uphold stricter requirements for tasting permits as they are issued only at the local level. Due an oversight with this application, public notice requirements were not met, however the applicant was not provided with adequate information to allow for approval of this permit.

The Authority will not approve this application for a tasting permit, however the applicant may re-submit the application with a waiver of the fee provided. This should include any planned tasting events for the end of the year, in addition to the following:

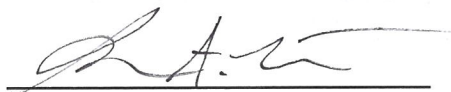
1. Complete a public notice posting with notarized affidavit.
2. Amend the application control plan to address discrepancies in sampling sizes
3. Provide a calendar of dates or timeframe of proposed tasting events in addition to application materials already submitted.
4. Attend the December 19, 2024 Meeting for consideration.

3. STAFF REPORT

- A. City Clerk's Office: The City Clerk's Office must revise our local Tasting Permit application to include public notice posting requirements. Website revisions are also necessary to ensure proper communication.
- B. City Attorney's Office:
 - a. Posting and hearing requirements should be part of the tasting permit application.
 - b. Title 8 Revisions are slated for reading at a late March City Council meeting and have been added to the rolling calendar.
- C. Officer Loomis: Now full-time as Liquor, Tobacco, and future Marijuana Enforcement Officer.

THE MEETING WAS ADJOURNED

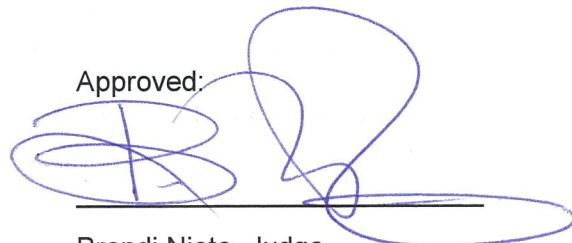
Respectfully Submitted,



Sterling Wilson, Assistant City Clerk

Local Licensing Authority Secretary

Approved:



Brandi Nieto, Judge

Local Licensing Authority

