



MINUTES
LOCAL LICENSING AUTHORITY
Thursday July 18th, 2024 – 8:30 A.M.
City Council Chambers – 500 E. Third Street
Loveland, Colorado

In Attendance:

Judge Brandi Nieto, Local Licensing Authority
Michael Bailey, Assistant City Attorney
Sterling Wilson, Local Licensing Authority Secretary

1. CONSENT AGENDA

Approval of Minutes:

A. Minutes from LLA Meeting on June 27th, 2024 – approved in their current form.

2. PUBLIC HEARING

A. Transfer of Ownership – KT Enterprises LLC dba Food Mart

An application was filed on May 15th, 2024, for the transfer of the Fermented Malt Beverage and Wine Retailer License currently issued to Corner Market 63, LLC, dba Corner Market 63 to KT Enterprises LLC, dba Food Mart, for the license located at 3675 N Garfield Ave in Loveland. A temporary transfer permit was issued on June 27th, 2024, and is valid for 120 days thereafter. Notice was published in the Reporter Herald as the law requires.

In Attendance: Binod Thapa, owner/manager, and Sam Harden, Messner Reeves, Registration #58018

Mr. Harden provided a brief presentation: Binod Thapa and Arpan Shrestha are each 50% owners of KT Enterprises LLC, dba Food Mart. They have been operating the establishment under a temporary transfer permit without incident for three and a half months. The store is open for 16 hours per day, 6am to 11pm. Alcohol sales begin at 8am as state law requires, and product inventory remains inaccessible prior to 8am. The owners are currently the only staff operating the gas station.

Mostly beer will be available, but some wine will be sold in the future. The beer is in dedicated coolers; however, wine was not explicitly identified on the diagram. After clarification with assistance from Mr. Harden, it was established that the wine inventory will be located next to the beer inventory in the same coolers designated on the diagram. Mr. Tharpa confirmed that the business owners initially took ownership of the existing wine inventory in addition to beer, but they have not re-ordered wine. They intend to sell both wine and beer. Wine inventory will be sold from the cooler and will not be in any room temperature display. The diagram was amended to reflect what was established on the record (exhibit A in the Clerk's Records).

Security cameras monitor the entire premises, however most of the store can be monitored from the front counter. Mr. Thapa stated that he has nearly two years of experience selling alcohol in gas stations. Mr. Thapa and Mr. Shrethsa intend to hire additional employees, and alcohol server/TIPS training is planned as a requirement for new employees. Currently, the owners have not completed Alcohol Server Training/TIPS training.

Mr. Thapa described that the store's policy is not to sell alcohol to visibly intoxicated patrons. The store uses a scanner to check identification, and Mr. Thapa initially described that he and his partner have established a policy not to accept vertical IDs. While answering questions from the City Attorney, Mr. Thapa clarified that the store *will accept* vertical IDs if the patron's birthdate can be verified either through the scanner or point of sale system.

During the hearing it was found that question number 12 on the state transfer application form was answered incorrectly, and Question 18 was incomplete; Mr. Harden clarified that these were mis-checks and unintentional.

There were some language difficulties during the hearing, and it was necessary to clarify understanding before moving forward with this item and complete the public hearing.

Mr. Bailey asked if the owners intend to hire additional staff; thus far they only have plans to hire one additional employee. Mr. Tharpa seemed to have a difficult time either hearing or understanding when Mr. Bailey asked if they have alcohol training for new staff members, to which the applicant eventually responded affirmatively.

During his testimony, Mr. Thapa clarified that the owners only accept driver's licenses or state issued IDs when selling beer and wine. They use a point-of-sale scanner system to verify each ID. If the ID does not scan properly, the customer's date of birth can be entered into the POS system to verify. If an ID is not in good condition or is a vertical ID, it will not be accepted.

The applicants' criminal history reports were determined to be complete, however the results were not present in the Clerks' official files during this hearing. Mr. Wilson indicated that the applicants' criminal history reports were complete and returned no record of arrest.

The applicant follows building and fire codes. A police inspection has been completed and approved by Liquor and Tobacco Enforcement Unit.

No one present in the gallery spoke in favor or opposition to this application and the public hearing was closed.

Action Taken:

The application is complete; however, the Authority and the City Attorney require that the applicants both complete TIPS training courses prior to the expiration date of their temporary permit; the City recommends that Loveland Police Department's class, offered quarterly, be completed, or an independent training program. The applicants'

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temporary transfer permit is valid to October 24th, 2024, with an option to extend for 60 days if needed. The applicants must provide evidence of successful completion of TIPS/Alcohol Server Training prior to full approval of this application. The Authority approved this application provided that these conditions are met.

B. Special Event Permit – NOCO Unify – Suitcase Party, 2024

An application for a Special Event Permit was submitted on June 7th, 2024, to take place at 5017 Lindbergh Drive on Tuesday, August 16th, 2024. Suitcase Party will take place from 6 p.m. to 11:30 p.m., presented by Northern Colorado United for Youth, a nonprofit Corporation in the State of Colorado. The event ticketed and will feature food and drink included in the price of the ticket; alcohol proceeds will benefit youth charity organizations in Northern Colorado.

There was some confusion on behalf of the applicant as to whether an appearance was required at today's meeting. The Clerk's Office contacted the applicant, and the matter was considered at the end of the agenda.

In Attendance: Brent Duggar, Event Manager

Mr. Duggar explained that he had been out of town and his intended representative from NOCO Unify failed to appear.

The event will have the exact same format as the previous two years. The "Suitcase Party" is a raffle during which two private plane tickets are offered as a prize, and at the end of the party, the prize recipients will board the flight to a vacation destination, this year being Jackson Hole, WY. The party will have a theme referencing the popular Paramount TV Series *Yellowstone*. Past years have featured themes such as *Top Gun* and other classic movies.

Physical barriers will be present at the Discovery Air hangar at FNL. Barriers will be present between the airport taxiway and the hangar, a 6-foot metal fence that connects the hangar space to outdoor tarmac where the event will take place. This was not entirely clear on the attached diagram and Mr. Duggar amended the document during the hearing to clarify the fencing, distinguishing with multicolored ink between the outdoor and indoor spaces.

When asked about volunteers staffing the event, Mr. Duggar expressed that approximately 40 will be present. They are all members of the charity youth committee that comprises the 501c3 NOCO Unified for Youth, which raises money to contribute to other youth-centered charities, with a mission to provide experience and get younger men involved with charity work.

Alcohol service will be provided by TIPS Trained bartenders contracted via a bartending service. Attendance is expected to be below 800 participants. Alcohol has been donated through High Country Beverage. Any unused alcohol will be handled by High Country and disposed of/collected accordingly. Volunteers will verify ID with wristbands issued after ID checks at the event entrance. IDs will be checked at the point of service.

It is advisable to ensure that participants under the age of 21 will not be allowed to attend the event, although some of the volunteers may be under age 21 themselves. In the event's history, there have been no reported violations or incidents to Mr. Duggar's knowledge.

The Authority had no further comments or questions but expressed that the clarification on the application diagram was appreciated and remarked that the applicants follow the application checklist more closely to avoid any confusion in the future.

Action Taken:

The diagram is now considered to be sufficient, and the application is complete. The applicant holds permission to use the space and adequate documentation of beverage donation has been received. The Authority will approve this application for a Special Event Permit.

C. New Retail Establishment and Art Gallery Permit – Wild Posies, LLC dba Wild Posies

An application for a new Retail Establishment and Art Gallery Permit was filed on June 18th, 2024, by Wild Posies LLC dba Wild Posies, located at 436 N. Cleveland Ave. The applicant wishes to serve malt, vinous, and spiritous liquors gratuitously by the drink to support and drive retail business. Notice was posted on site on July 9th and published in the Reporter Herald as the law requires.

In Attendance: Alex VanLemmeren, Owner/Manager

Ms. VanLemmeren briefly described her reason for applying for this permit; it is a gesture of convenience and luxury to customers to offer them a glass of wine or serving of beer during small floral arranging classes. Most of these classes are by invite and ticket sale only. Large crowds are not expected.

Ms. VanLemmeren has worked in the bar and restaurant industry for fifteen years, and began working in the alcohol beverage industry at Loveland's Henry's Pub. She is TIPS certified and plans to hire additional bartending services for larger events.

Wild Posies is a full-service floral boutique with revenue below one million dollars per year, and only one part-time employee.

Only wine and beer will be served if a permit is granted. Ms. VanLemmeren intends have a guestbook available for patrons participating; events are small enough to closely monitor the number of drinks consumed by participants. All drinks will be personally dispensed by Ms. VanLemmeren, either a 4oz glass of wine or beer served from the can or bottle.

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All alcohol will be stored in a locked storage room marked as “employees only” and behind the cash register/service counter – this is the only area where alcohol will be served. The entire premises will be monitored and marked with signage indicating “no alcohol beyond this point” and alcohol will not be allowed outside of the establishment. Opened beverages abandoned by patrons will be emptied in the shop’s sink and unconsumed product will be stored and later removed from the premises.

All alcohol dispensed will be purchased from local retailers (either retail liquor stores or grocery stores) and purchased for specific event dates. Ms. VanLemmeren will only purchase amounts of alcohol beverages specific to planned events and does not intend to store excess product.

Regarding the service dates, Ms. VanLemmeren will need to restate additional event dates; after August 7th, she will have 30 days to complete these changes as opposed to 15 if she were to submit this amendment in the month of July.

No one in the gallery expressed opposition or favor for this application and the public hearing was closed.

Action Taken:

The applicant is qualified to hold and operate a permit of this type based on previous experience in the industry. The applicant holds a valid City Sales Tax License and holds documented, legal possession of the premises by lease agreement. The Authority will consent to the submittal of this application to the state. All changes to service dates must be made via the appropriate regulatory processes and can be coordinated through the City Clerk’s Office.

D. Renewal Application – Sunflower 1225, LLC dba Smashburger Loveland

A renewal application for the Beer & Wine License issued to Sunflower 1225 LLC, dba Smashburger was received on July 5th. The Beer & Wine license issued to Sunflower 1225 LLC expires on April 9th. The licensee has been asked to appear regarding sales tax compliance and late filing of a renewal application.

In Attendance: Taek Lee, franchise owner/manager

Mr. Lee was asked about the late filing of his application; while the Authority has experienced previous jurisdictions that require immediate cease & desist of alcohol sales when a license has expired and expressed that this municipality’s practices are considerably more generous than other related areas.

The Authority asked Mr. Lee for an explanation as to why his license renewal was filed late. Mr. Lee explained that he misunderstood his filing date. When he contacted the City

Clerk's Office after a site inspection from Loveland Police Department, it was explained to him that he owed the statutory fines for late license renewal.

Mr. Lee explained that he was experiencing theft from employees and manages multiple businesses, and the expiration date had slipped his mind. He also expressed that sales tax payments to the City have also been missed due to approximately \$7000 in theft from the franchise by employees.

The City's sales tax division has established that the applicant is not yet in compliance.

Numerous notices were sent to Mr. Lee's business address on file. Mr. Lee asked if these renewal notices and late liquor notices were sent to his home address, where he does not check his mail. Mr. Lee also does not regularly check his mail at the location, the registered mailing address for the business. Mr. Lee provided his wife's email address on his renewal application, indicating that she, "likes to see what his business is doing" and has continuously listed this email on renewal applications.

The City Attorney was not satisfied by this answer to the question, and further inquired as to why expired licenses were displayed in the establishment during and inspection that took place on March 15th, 2024. The licenses in question expired on April 9, 2023, posted during the time of Sgt. Jeff Mayers' visit on March 15, 2024. Mr. Lee stated that they did not have any space for the renewed copies and needed to place their health department licenses in the available frames.

Mr. Lee lives in Greenwood Village, and the location is not convenient to his home address. The Authority expressed understanding that difficulties were mounting and interfering with Mr. Lee's business – this is no excuse for losing track of statutory deadlines and accepting that things do not always go as planned, better practices need to be involved in upholding and operating an alcohol beverage license.

Additionally, regarding sales tax compliance, the City Manager can administratively revoke a noncompliant sales tax license should an applicant fail to maintain a current license in good standing.

The applicant must refrain from selling alcohol until a state license is received after local approval. The applicant must also complete a change of mailing address form with the City Clerk's Office to be filed with the state licensing authority.

3. STAFF REPORT

A. City Clerk's Office

- a. Tobacco Code Changes: The City Attorney's Office will provide an update on the proposed municipal code changes related to the tobacco licensing process.
 - i. Title 8 of the COL Muni. Code will pertain to controlled substances outright.
 - ii. Liquor code updates will be included in this language, more closely mirroring Title 44 and HB 24-2201 changes.

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1. Lodging and Entertainment license classes have been split into two distinct license classes, requiring licensees to make a distinction upon renewal after the changes in the bill go into effect.
2. The City may consider granting 2-year licenses, however no changes have been proposed enabling this change.
- iii. Changes are intended to be brought to council by late August or early September.
- b. Local Rules Review: to be scheduled with the Licensing Authority and the City Attorney's Office. Current updates and changes to the local rules are being coordinated by the Clerk's Office.

ADJOURN

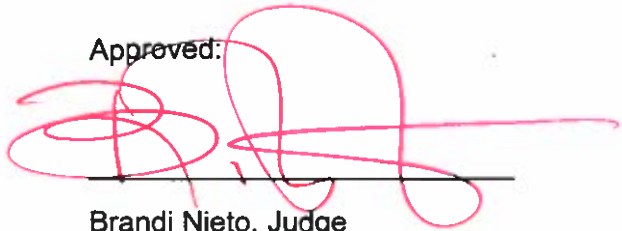
The next regularly scheduled Local Licensing Authority Meeting will be held on Thursday, August 15th, 2024, at 9:00 AM, in the City Council Chambers.

Respectfully submitted,



Sterling Wilson, Assistant City Clerk
Local Licensing Authority Secretary

Approved:



Brandi Nieto, Judge
Local Licensing Authority

