

**COLORADO SPRINGS, COLORADO  
COUNCIL CHAMBERS – CITY HALL  
107 NORTH NEVADA AVENUE  
OCTOBER 19, 2012 – 9:00 A.M.**

The Liquor and Beer Licensing Board met in regular session.

There were present: Chairman Stephens, Mr. Bursell, Ms. Frias, Mr. Kouba, and Mr. Nemeth.  
Members Absent: Mr. Clauss. Also present: Board Legal Advisor Kyle Sauer.

**COMMUNICATIONS**

1. There was no action taken on this item.

**MINUTES**

2. Motion by Kouba, second by Nemeth, that the Minutes of the Board meetings of September 7, 2012, September 21, and October 5, 2012 be approved as written. The motion unanimously carried. Absent, Mr. Clauss.

**CONSENT CALENDAR**

3. The City Clerk's Office reports that boundaries were set and Temporary Permits were issued for the following applications:

- A-1. Rocky Mountain Restaurant Group, Inc. dba Sonterra Innovative Southwest Grill, 28 South Tejon Street, #B:

North: South side of Boulder Street extended  
South: North side of Rio Grande Street extended  
East: West side of El Paso Street extended  
West: East side of Walnut Street extended

- A-2. Wal-Mart Stores, Inc. dba Walmart Market #3082, 1622 South Academy Boulevard:

North: South side of Fountain Boulevard extended  
South: North side of Sierra Springs Drive extended  
East: West side of Halstead Circle extended  
West: East side of Ventura Drive extended

- A-3. The Noodle Shop Co – Colorado, Inc. dba Noodles & Company, 2455 Montebello Square Drive:

North: South side of Vickers Drive extended  
South: North side of Diablo Valley Court extended  
East: West side of Del Rey Drive extended  
West: East side of Appalachian View extended

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- B-1. Nidan, Inc.  
dba Mighty Culture Sports Bar & Grill  
2351 to 2361 Platte Place
- B-2. Apple Colorado, LLC  
dba Applebee's Neighborhood Grill & Bar  
495 Garden of the Gods Road
- B-3. Apple Colorado, LLC  
dba Applebee's Neighborhood Grill & Bar  
3708 East Galley Road
- B-4. Apple Colorado, LLC  
dba Applebee's Neighborhood Grill & Bar  
7625 Goddard Street

Motion by Bursell, second by Nemeth, that the Consent Calendar be approved. The motion unanimously carried. Absent, Mr. Clauss.

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**TRANSFER APPLICATIONS**

- 4. **Application of A & S, LLC dba Austin Bluffs Wine & Liquor, to transfer the Retail Liquor Store License currently issued to Austin Bluffs Wine & Liquor, LLC dba Austin Bluffs Wine & Liquor, 4535 Austin Bluffs Parkway.**

Anoop Singh was sworn and stated that he is sole owner and member; that he and his staff have attended formal alcohol training; that \$146,600 is being invested in the business of which said funds were derived from a \$116,600 promissory note in the amount of \$116,600 and a \$30,000 from personal savings; that the lease terms of the 2400 square foot premises is for by three years; that he has no previous experience and no criminal history; that he has been operating with a temporary permit for the past three months.

Motion by Kouba, second by Frias, that the application of A & S, LLC dba Austin Bluffs Wine & Liquor, to transfer the Retail Liquor Store License currently issued to Austin Bluffs Wine & Liquor, LLC dba Austin Bluffs Wine & Liquor, 4535 Austin Bluffs Parkway, be approved as it appears all criteria has been met. The motion unanimously carried. Absent, Mr. Clauss.

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5. **Application of Moore & Sons dba Whiskey Dick's, to transfer the Hotel and Restaurant Liquor License currently issued to Conscious Table, LLC dba Conscious Table, 26 E Kiowa Street.**

Attorney Vince Linden entered his appearance on behalf of the applicant.

Brian Moore was sworn and stated that he is the sole owner and member; that the lease term is for five years; that he has invested approximately \$15,000 which was derived from personal savings. He stated he is also 46% owner in Loyal T's, LLC dba Bar V, 19 E Kiowa located across the street from this proposed location; that Bar V received a 5 day suspension in 2010, with all days held in abeyance, for removal of alcohol from the premises; that he has had no other violations of the Liquor Code; that he and the restaurant employees have previously attended formal alcohol training. He stated he is aware of the requirement by the Land Use Department that the restaurant maintain at least 50% of gross sales from food sales; that the operating concept is to cook most of the food with whiskey or beer; that they are more focused on the restaurant than the sale of alcohol beverages; that the establishment is approximately 1125 square feet and seats 26; that there is no bar, but a service area only. He stated he has owned and operated Westside Tattoo for the past seven years; that he is currently serving about 55% in food sales calculated on a weekly basis.

In response to questions from the Board, Mr. Moore addressed the restaurant's menu; that the venue has no live entertainment, but has three large screen televisions and a dart board; that all meals include a beverage including the option of alcohol; that customer demographics are an adult crowd.

Tim O'Donnell was sworn and stated he is representing the Downtown Residents Coalition; that there is a concern that the establishment will not be a restaurant, but a bar with an entertainment theme; that the applicant has tried to organize block parties in the location; that the \$10 meal including a drink is problematic; that the premises is not large enough to sustain a restaurant; and the license should be either denied or have a certification of an audit both on the food sales and inventory to ensure compliance with the 50% requirement.

In response to questions from the Board, Mr. O'Donnell stated the major concern is that there are enough problems in the area already, and yet another bar in the neighborhood that fits the profile of other establishment close by is too much; that they do not want another bar in the downtown area.

Mr. Linden stated Mr. Moore is aware of the resident concerns and the food sales restrictions; that these issues have been discussed with Land Use Department prior to submitting the application; that the needs and desires have already been met and are not to be considered; that the neighborhood concerns are noted and will be honored within the rules; that Mr. Moore is attempting to bring in a new and innovative concept for a downtown restaurant; that they will work cooperatively with the Land Use Department to monitor food sales percentage compliance; that the applicant has met the burden of proof outlined for a transfer of a liquor license.

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Mr. Nemeth expressed a concern about the enticement of alcoholic beverage included with the meal as well as the accounting of food and beverage sales; that the space involved for darts and other entertainment may not be sufficient.

Chairman Stephens stated that the zoning requirements are a part of the approval process for liquor licensing including any conditions placed on the applicant by the Land Use Department; that the needs and desires of the neighborhood have already been met and cannot be considered for a transfer; and that any violations of conditions or any other violation are speculative and would be addressed in the standard enforcement policies and procedures.

Motion by Bursell, second by Frias, that the application of Moore & Sons dba Whiskey Dick's, to transfer the Hotel and Restaurant Liquor License currently issued to Conscious Table, LLC dba Conscious Table, 26 E Kiowa Street, be approved as it appears all criteria has been met. The motion unanimously carried. Absent, Mr. Clauss.

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**MODIFICATION OF THE PREMISES**

**6. Request by E & C Enterprises, Inc. dba Rudy's Little Hideaway to Modify the Premises of the Hotel and Restaurant Liquor License at 945 South 8<sup>th</sup> Street.**

This item was postponed from the meeting of September 21, 2012.

Rebecca Escobedo was sworn and stated that she is co-owner and Secretary and her husband, Rodolfo Escobedo, is co-owner and President of the company; that the modification is to add a patio to the premises.

Sue Duffy Schwall, Liquor Licensing Professionals, was sworn and stated her company conducted the petition survey which resulted in 89 favoring, 0 opposing, and 0 no opinion signatures.

Ms. Escobedo stated the lease is valid through May 5, 2020; that the approximate \$21,000 cost for the expansion is coming from the existing business savings account.

Rodolfo Escobedo was sworn and stated the patio expansion is approximately 900 square feet, and that there will be a 42" high stucco wall with gate and 12" plexiglass windbreak above.

In response to questions from the Board, Mr. Escobedo stated the only entrance to the patio is from the restaurant; that a video camera will be installed on the patio; that servers will be dedicated to the patio area; that the patio is elevated above the parking and street area.

Motion by Bursell, second by Frias, that the request by E & C Enterprises, Inc. dba Rudy's Little Hideaway to Modify the Premises of the Hotel and Restaurant Liquor License at 945 South 8<sup>th</sup> Street, be approved as it appears all criteria has been met. Absent, Mr. Clauss.

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**Mr. Kouba was excused.**

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7. **Request by Sodexo America, LLC dba Sodexo to Modify the Premises of the Hotel and Restaurant Liquor License at 1420 Austin Bluffs Parkway.**

Russell Saunkeah was sworn and stated that he is the General Manager of Sodexo, the concessionaire and operator of the food and beverage service at UCCS; that Sodexo has maintained the agreement with UCCS over 15 years which includes the outlet of Clyde's and the proposed patio expansion.

Sue Duffy Schwall, Liquor Licensing Professionals, was sworn and stated her company conducted the petition survey which resulted in 56 favoring, 12 opposing, and 4 no opinion signatures.

Mr. Saunkeah stated Sodexo has a contract with UCCS through 2017; that the financing of the \$250,000 project was provided by the University; that the expanded area of approximately 1600 square feet of new space will be enclosed on all sides, providing approximately 50 seats; that there will be a metal fence on the west side with locking gates; that the area proposed will be monitored from inside the restaurant, and a server will be stationed to monitor the area; that an outdoor grill attendant will also be available to monitor the area; that they have formal alcohol training for all employees; that the Fire Department has already approved the patio and emergency exits.

In response to questions from the Board, Jeff Davis, Executive Director of Auxiliary Services at UCCS, was sworn and stated the wedge shaped area on the after diagram includes more than the area requested for the patio, and the overview diagram will be amended to more accurately show the extent of the patio as reflected in the close up version.

Motion by Nemeth, second by Frias, that the request by Sodexo America, LLC dba Sodexo to Modify the Premises of the Hotel and Restaurant Liquor License at 1420 Austin Bluffs Parkway, be approved as it appears all criteria has been met. Absent, Mr. Clauss and Mr. Kouba.

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**Mr. Kouba returned.**

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**APPLICATION HEARINGS**

**8. Application of Da Mo A, LLC dba Da Mo A for a Tavern Liquor License at 2030 South Academy Boulevard.**

Attorney Vince Linden entered his appearance on behalf of the applicant.

Cheol Lee was sworn as interpreter for the applicant.

Mi Cha Brimberry was sworn and through the interpreter stated that she is sole owner and member; that she will also be the registered manager; that the lease term is for three years; that she had a DWAI in 2003, but completed all requirements and has had no other charges; that she has invested \$20,000 derived from her personal savings; that she took over the lease which includes existing furniture and fixtures; that she previously worked for a Korean grocery store and market, and then for Club Tomorrow tavern as a cook and bartender; that she has never had a liquor violation; that she will attend formal alcohol training prior to opening the business; and that she will have five to seven employees which will also attend formal alcohol training.

Mr. Linden stated the applicant will submit an amended diagram to include an additional karaoke room and relocation of the cooler from the originally submitted diagram.

Ms. Brimberry stated the karaoke rooms are 10'x10' and 10'x12'; that the hours of operation will be 4pm to 2am, with a doorman to check identification; that no one under the age of 21 will be allowed in or employed at the business; that the entire premises is visible from all areas of the interior, with windows into the doors of the karaoke rooms; that the 3200 square foot business seats about 45 and includes a dance floor; that she is knowledgeable of the Liquor Code.

Mr. Linden submitted photos of the interior of the premises depicting various views to indicate the view and control of the premises.

Sue Duffy Schwall, Liquor Licensing Professionals, was sworn and stated her company conducted the petition survey which resulted in 130 favoring, 16 opposing, and 8 no opinion signatures.

In response to questions from the Board, Ms. Brimberry stated the karaoke rooms have only a window in the doors, and not the walls; that the small karaoke rooms seat four to five people each, and will be monitored; that the customers will control the machines in the small karaoke rooms, but the DJ will control the karaoke machine in the main room.

Motion by Kouba, second by Frias, that the application of Da Mo A, LLC dba Da Mo A for a Tavern Liquor License at 2030 South Academy Boulevard, be approved as it appears all criteria has been met. The motion unanimously carried. Absent, Mr. Clauss.

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9. **Application of Kum & Go LC dba Kum & Go #658 for a 3.2% Beer Off Premises License at 6125 Barnes Road.**

Kelly Wisbrock, District Supervisor, was sworn and stated that the corporate testimony is relevant to both Item Nos. 9 and 10; that she has been employed by the company 14 years and acting supervisor for the last five years; that she has attended formal training multiple times, and has also attended training conducted by the Colorado Department of Revenue; that all employees will be required to attend corporate in-house training; that the company owns the properties and buildings and leases the 4884 square foot premises to the related applicant entity; that the company owns 435 stores in 10 states, including 39 operations in Colorado, 38 of which hold beer licenses; that approximately \$3 Million is being invested in each store, of which said funds were derived from corporate funds. She stated each location will have a registered manager responsible for all inventory of the store; and that the registers are programmed to require information be entered from identification cards before a beer sale can be transacted.

Carol Johnson, Esquire Petitioning, was sworn and stated her company conducted the petition survey which resulted in 124 favoring, 18 opposing, and 9 no opinion signatures.

Motion by Bursell, second by Frias, that the application of Kum & Go LC dba Kum & Go #658 for a 3.2% Beer Off Premises License at 6125 Barnes Road, be approved as it appears all criteria has been met. The motion unanimously carried. Absent, Mr. Clauss.

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10. **Application of Kum & Go LC dba Kum & Go #663 for a 3.2% Beer Off Premises License at 5771 N. Carefree Circle.**

Carol Johnson, Esquire Petitioning, was sworn and stated her company conducted the petition survey which resulted in 145 favoring, 17 opposing, and 4 no opinion signatures.

See testimony presented in Item No. 9.

Motion by Frias, second by Bursell, that the application of Kum & Go LC dba Kum & Go #663 for a 3.2% Beer Off Premises License at 5771 N. Carefree Circle, be approved as it appears all criteria has been met. The motion unanimously carried. Absent, Mr. Clauss.

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At 11:15 A.M., there being no further business, the

BOARD ADJOURNED

Lee McRae  
License Enforcement Officer