

**COLORADO SPRINGS, COLORADO
COUNCIL CHAMBERS – CITY HALL
107 NORTH NEVADA AVENUE
MAY 17, 2013 – 9:00 A.M.**

The Liquor and Beer Licensing Board met in regular session.

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

COMMUNICATIONS

1. There was no action taken on this item.

MINUTES

2. Motion by Frias, second by Nemeth, that the Minutes of the Board meeting of May 3, 2013 be approved as written. Mr. Clauss stated that he did not receive the mailing of the minutes and should therefore abstain from voting on this item. The motion unanimously carried. Abstention: Clauss, Absent: Davis.

CONSENT CALENDAR

3. The City Clerk's Office reports that boundaries were set for the following applications:
 - A. Saveur, LLC dba Paris Crepe & Couture's Bistro, 218 N. Tejon Street, #100, 110, &120:

North:	South side of Dale Street extended
South:	North side of Vermijo Avenue extended
East:	West side of El Paso Street extended
West:	East side of Walnut Street extended
 - B. Red Cellar Door Wine & Spirits, LLC dba Red Cellar Door Wine & Spirits, 5903 Delmonico Drive:

North:	South side of Mesedge Drive extended
South:	North side of Golden Hills Road extended
East:	West side of Pulpit Rock Drive extended
West:	East side of Vail Circle extended

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Motion by Frias, second by Nemeth, that the Consent Calendar be approved. The motion unanimously carried. Absent: Davis.

TRANSFER APPLICATIONS

4. **Application of Big Daddy D's, LLC dba Big Daddy D's to transfer the Hotel and Restaurant Liquor License with Optional Premises currently issued to A.K.A. Wilson, LLC. dba Willy's Pub, 2894 Resnik Drive.**

Derek DePoy was sworn and stated that he is the 100% owner and member of LLC; that he has previous experience in the industry owning and managing other restaurants in Colorado Springs; that he has made an \$8,000 investment, of which said funds were derived from personal banking accounts; that he has a two year concession agreement and lease with the City of Colorado Springs for possession of the 10.88 acres, including a 1500 square foot building, 300 square foot patio, and adjoining sports fields; that he and all employees have received certified training; that there will be 3-4 employees monitoring the ball fields, who will also receive certified training; that the facility will only be open during scheduled games or other events; that there are currently no plans for any roving or mobile sales, but all customers will need to go to the point of sale to purchase the alcohol beverages; and that wristbands will be used to identify of age patrons.

Motion by Clauss, second by Nemeth, that the application of Big Daddy D's, LLC dba Big Daddy D's to transfer the Hotel and Restaurant Liquor License with Optional Premises currently issued to A.K.A. Wilson, LLC. dba Willy's Pub, 2894 Resnik Drive, be approved as it appears all criteria has been met. The motion unanimously carried. Absent: Davis.

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5. **Application of Free Spirits Corp. dba Austin Bluffs Wine & Liquor to transfer the Retail Liquor Store License currently issued to A and S, LLC. dba Austin Bluffs Wine & Liquor, 4535 Austin Bluffs Parkway.**

Sharwan Hanumant Nambiar was sworn and stated that he is the 100% owner and president of the company; that he has invested \$ 208,000, of which said funds were derived from a \$108,000 loan from prior licensee and \$100,000 from personal retirement and bank accounts; that he has a 2 year lease for the 2400 square foot premises; that he has no previous experience in the industry, but has received certified training as well as training from the previous owner; and that he asks for ID for anyone appearing under 40 years of age.

Motion by Holmes, second by Frias, that the application of Free Spirits Corp. dba Austin Bluffs Wine & Liquor to transfer the Retail Liquor Store Liquor License currently issued to A and S, 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: Davis.

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6. **Application of BKAA, LLC dba Bluffs Wine & Liquor to transfer the Retail Liquor Store Liquor License currently issued to Jiwon Jeong dba Bluffs Wine & Liquor, 3609 Austin Bluffs Parkway, #26.**

Kumar Kulwinder was sworn and stated that he is the 100% owner and member of the LLC; that he has a 6 year lease for the 2505 square foot premises; that has invested \$ 508,500, of which said funds were derived from a \$355,500 bank loan and \$153,000 from personal bank accounts; that he has received certified training; that he has no criminal record; that he was previously in the floral business in New York; and that he is retaining the same employees from the former owner, which have all received certified training.

Motion by Clauss, second by Frias, that the application of BKAA, LLC dba Bluffs Wine & Liquor to transfer the Retail Liquor Store Liquor License currently issued to Jiwon Jeong dba Bluffs Wine & Liquor, 3609 Austin Bluffs Parkway, #26, be approved as it appears all criteria has been met. The motion unanimously carried. Absent: Davis.

NEW APPLICATION HEARING

7. **Application of TJ Liquor, LLC dba TJ Liquor for a Retail Liquor Store Liquor License at 5158 Centennial Boulevard.**

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

Gurdish Singh was sworn and stated that she is the 100% owner and member of the LLC; that she is relocating from New Mexico to Colorado Springs and will be the onsite manager; that she has a 5 year lease for the 3834 square foot premises; that she has made a \$225,000 investment, of which said funds were derived from personal banking accounts, with no loans or debts; that she has 12 years previous experience with alcohol sales in Nevada, with no liquor violations; that she will attend a certified training course on the service of alcohol; that the store will be open from 9:00 A.M. to 11:00 P.M., except Christmas Day; that she will be purchasing a point of sale system that will require a valid ID to allow any sale; and that there will be a 100% ID policy in force.

Sue Duffy Schwall, Liquor Licensing Professionals, was sworn and stated the company conducted the petition survey which resulted in 119 favoring, 32 opposing, and 7 no opinion signatures; that there is one other Retail Liquor Store License in the defined neighborhood boundary; that there was a previously licensed liquor store in this same location, but that store closed a couple of years ago; that she was approached by a competitor licensee to conduct an opposition petition, but that her petition would be unbiased and there would, therefore, be no differences in the method or outcome regardless of who commissions the survey; and that in the past, she has conducted needs and desires surveys for both applicants and opposition parties alike.

In response to questions from the Board, Ms. Singh stated that there will be three employees when the store opens; that she hopes to open the store in June; and that those employees will also receive certified training.

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Attorney Damon Cassens entered his appearance on behalf of the collected parties in opposition and Canyon Crest Liquors, and indicated that there are approximately 9 people here to speak in opposition of the granting of the license.

In response to questions from Mr. Cassens, Ms. Schwall stated that she attempted contact to 466 business owners and residences in the defined neighborhood boundary with 218 actual contacts and a total of 158 signature responses.

In response to questions from Mr. Cassens, Ms. Singh stated that she is only interested in serving the immediate neighborhood, however she would certainly serve to anyone of legal age who would come to her store.

Daniel Kim was sworn and stated that he is the sole owner of Canyon Crest Liquors; that the business is in the defined neighborhood boundary; that he transferred the liquor license less than two years ago; that there was a store at the applicant location during the time of a prior licensee at his location, but not during the two years he has been open; that he feels his store is adequately serving the needs of the neighborhood and another liquor store is not needed; that his customer base is generally a mix of people from within and outside the neighborhood; and that there are 4 additional liquor stores in the zip code area.

Mr. Cassens introduced Exhibit A, an aerial view of the general 80919 zip code.

Mr. Linden stated objection to the introduction of testimony and evidence considering liquor stores and residences outside the defined boundary, and Chairman Stephens sustained the objection.

Mr. Kim stated that he has had no complaints on not being able to serve or even special order items for customer requests; that he did inquire of Ms. Schwall to conduct an opposition, but did not hire her; that he did sign the survey petition in opposition; that he believed Ms. Schwall when she stated that any petition would have the same results regardless of who commissioned the survey; and that when he was approached in the store by the surveyor, he felt that the surveyor was not interested in obtaining his signature.

In response to questions from the Board, Mr. Kim stated that he is concerned about the possibility of a new store taking away his customers, and that there is no need for an additional store in the neighborhood, even though the survey does indicate a need.

Steve Land was sworn and stated that he lives in the defined neighborhood boundary; that he lives between the existing liquor store and the proposed location; that he believes there are more than enough liquor stores in the area; that he opposed the Canyon Crest license as well; that two stores have closed in the area because they were not able to make it; that the lack of new growth in this area means there should be no new license issued; that there are plenty of stores including 3.2% beer in the area; that he shops by convenience, in or out of the boundary area; and that if needed, he is able to get what he needs from the existing outlets.

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Barbara Sabol was sworn and stated that she lives in the defined neighborhood boundary near to the existing Canyon Crest liquor store; that she believes the existing store in the area meets her family's needs; that she has lived in the area for about 12 years; and that she never shopped at the now closed store at the applicant's location.

Wesley Santino was sworn and stated that he is the assistant manager at Black Jack's Pizza next door to Canyon Crest. Chairman Stephens stated that since Mr. Santino was not an owner or the manager of the business, he would not be deemed a party in interest.

Mr. Nemeth stated that he felt the testimony in opposition appeared to be repetitive and more toward supporting Mr. Kim and not speaking to the need of another license in the area.

Clinton Rivers was sworn and stated that he is the manager of the Bamboo Court restaurant next to Canyon Crest in the defined neighborhood boundary; that due to the nature of the intersection and traffic patterns, he does not believe there is a need for a liquor license in that location; that he is concerned with traffic and accessibility; and that he would prefer no other additional business be in that location unless there is something to accommodate safe access.

Steve Slattery was sworn and stated that he lives in the defined neighborhood boundary; that he believes there is no need for an additional liquor store in the area; and that the strip mall is mostly vacant as there is inappropriate access to the location.

Mr. Linden stated that applicant has established all of the required criteria for granting of a liquor license, including the needs and desires of the neighborhood; that the nature of the opposition was primarily due to competition or traffic concerns; that even with the neighborhood residents speaking today, the totality of the evidence support the granting of the license; and that there has been no dispute of the survey or its results.

Motion by Clauss, second by Frias, that the application of TJ Liquor, LLC dba TJ Liquor for a Retail Liquor Store Liquor License at 5158 Centennial Boulevard, be approved as it appears all criteria has been met. The motion unanimously carried. Absent: Davis.

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At 11:34 A.M., there being no further business, the

BOARD ADJOURNED

Lee McRae
License Enforcement Officer