



Archuleta County
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MEMORANDUM

TO: Archuleta County Board of County commissioners

FROM: Flora Goheen; Planning Technician

DATE: October 25, 2019

RE: Western Refining Retail, Inc. dba Speedway #9497 Retail Fermented Malt Beverage Off-Premises Liquor License.

SUMMARY

This is an application for a Retail Fermented Malt Beverage Off-Premises Liquor License for Western Refining Retail, Inc. dba Speedway #9497 located at 25 N. Pagosa Blvd. Pagosa Springs, Colorado. The application is complete and the proper fees have been submitted. The Sheriff's Office has completed their background check and the Building Department has inspected the premises for changes.

REVIEW PROCEDURE

The Colorado Department of Revenue Liquor Enforcement Division implemented Revisions to the Liquor Rules and Statues regarding the Liquor Codes. Senate Bill 18-243 was passed based on Distance/Food requirements:

On April 4, 2018, SB18-243 became law which prohibits the local and state licensing authority from issuing a new FMB off-premises retail license that is located within 500 feet of an existing retail liquor store (RLS).

Therefore under the current C.R.S. §44-3-301

(12) (a) Notwithstanding any other provision of this article 3, on and after July 1, 2016, the state and local licensing authorities shall not issue a new license under this article 3 authorizing the sale at retail of malt, vinous, or spirituous liquors in sealed containers for consumption off the licensed premises if the premises for which the retail license is sought is located:

(l) Within one thousand five hundred feet of another licensed premises licensed to sell malt, vinous, or spirituous liquors at retail for off-premises consumption;

(a.5)(l) Notwithstanding any other provision of this article 3, on and after June 4, 2018, the state and local licensing authorities shall not issue a new fermented malt beverage retailer's license under article 4 of this title 44 authorizing the sale at retail of fermented malt beverages in sealed containers for consumption off the licensed premises if the premises for which the retail

license is sought is located within five hundred feet of a retail liquor store licensed under section 44-3-409.

(c) For purposes of determining whether the distance requirements specified in subsections (12)(a) and (12)(a.5) of this section are satisfied, the distance shall be determined by a radius measurement that begins at the principal doorway of the premises for which the application is made and ends at the principal doorway of the other retail licensed premises.

And

C.R.S. §44-3-313. Restrictions for applications for new license.

(1) An application for the issuance of any license specified in section 44-3-309 (1) or 44-4-107 (1) shall not be received or acted upon:

(a)(III)(d) (I) If the building in which the alcohol beverages are to be sold pursuant to a license described in section 44-3-309 (1) is located within five hundred feet of any public or parochial school or the principal campus of any college, university, or seminary; except that this subsection (1)(d)(I) does not:

(e) (I) If the building in which the fermented malt beverages are to be sold pursuant to a license under section 44-4-107 (1)(a) is located within five hundred feet of any public or parochial school or the principal campus of any college, university, or seminary; except that this subsection (1)(e)(I) does not apply to:

(E)(II) The distances referred to in subsection (1)(e)(I) of this section are to be computed by direct measurement from the nearest property line of the land used for school purposes to the nearest portion of the building in which fermented malt beverages are to be sold, using a route of direct pedestrian access.

And

CCR Regulation 47-324 Concurrent Application Review.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(C), C.R.S. The purpose of this regulation is to establish procedural requirements in the event an applicant with local authority approval or a local licensing authority requests the state licensing authority to conduct a concurrent application review.

C. All applications submitted for concurrent review must be accompanied by all applicable state license and application fees. Any applications that are later denied or withdrawn will allow for a refund of license fees only. All application fees provided by an applicant shall be retained by the respective licensing authority.

PROPOSED MOTION

Staff recommends denial of the of the Western Refining Retail, Inc. dba Speedway#9794 for a Retail Fermented Malt Beverage Off-Premises based off the evidence provided will refund \$75.00 for the local license fee per Regulation 47-324 C. Archuleta County will retain the Local application fee of \$1,000.00 per CCR Regulation 47-324 C.

