



FRUITA
COLORADO

AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: DEBRA WOODS, CITY CLERK

DATE: NOVEMBER 5, 2024

AGENDA TEXT: CHANGE OF LOCATION OF A RETAIL LIQUOR STORE LIQUOR LICENSE
– A request to approve a Change of Location on a Retail Liquor Store liquor license for Best Boys, LLC dba Fruita Liquor Mart currently located at 423 Highway 6 & 50 to 733 Highway 6 & 50

BACKGROUND

Best Boys, LLC dba Fruita Liquor Mart has submitted all the required documents and fees to the City Clerk's Office for a Change of Location on their Retail Liquor Store License to a new site at 733 Highway 6 & 50 in Fruita.

The Community Development Department has met with the applicant but has not yet received a land development application from Fruita Liquor Mart for the new location at 733 Highway 6 & 50. The property is located in a Commercial (C1) Zoning District, which allows for a liquor store with a drive-through. The lot is primarily vacant but does have one metal commercial building on it that the applicant plans to demolish when construction begins. Pursuant to the Colorado Liquor Code, the applicant has three (3) years after approval of the Change of Location to move to the new licensed premises.

The Fruita Police Department has had no contact or issues with Fruita Liquor Mart; however, on May 1, 2024, an employee of Fruita Liquor Mart sold an alcohol beverage to a 16-year-old Liquor Enforcement Division employee/agent and underage purchaser. This resulted in sanctions of a three-day suspension consisting of one day of active suspension and two days being held in abeyance for a period of one (1) year pending no further violations of the Colorado Liquor Code.

The owners of Fruita Liquor Mart petitioned the Liquor Enforcement Division to be allowed to pay a fine in lieu of suspension of their liquor license and for the removal of all three days of suspension by asking them to consider the fact that Fruita Liquor Mart qualifies as a Responsible Alcohol Beverage Vendor due to the following factors:

- The violation was the first such violation for Fruita Liquor Mart in its 14 years of holding a liquor license.
- The owners of the retail liquor store hired Alcohol Beverage Training (ABT) beginning in January of 2023 to conduct biweekly compliance checks to verify that their staff is requesting identification.
- The owners of the retail liquor store continue to ensure that their employees receive Responsible

Alcohol Beverage Vendor Training through ABT.

The Liquor Enforcement Division did find Fruita Liquor Mart to be a Responsible Alcohol Beverage Vendor and approved their petition to be allowed to pay a fine in lieu of suspension with all three days of suspension permanently stayed (stopped).

ABT provided the City Clerk's Office with a list of compliance checks done by the Liquor Enforcement Division that shows that since 2011, Fruita Liquor Mart has passed all compliance checks except the May 1, 2024 violation and fifteen (15) valid Responsible Alcohol Beverage Vendor Training certificates for Fruita Liquor Mart employees, copies of which are attached.

The following information is provided as background on a Change of Location from the **Colorado Liquor Code set forth in the Colorado Revised Statutes (CRS)**:

44-3-301. Licensing in general.

(9) (a) (I) (A) Subject to subsections (9)(a)(I)(B) and (9)(a)(I)(C) of this section, a licensee may move its permanent location to any other place in the same city, town, or city and county for which the license was originally granted, or in the same county if the license was granted for a place outside the corporate limits of any city, town, or city and county, but it is unlawful to sell any alcohol beverage at the new location until permission is granted by the state and local licensing authorities.

(C) The state and local licensing authorities **shall not grant permission under this subsection (9)(a)(I) to a retail liquor store licensed under section 44-3-409 to move its permanent location if the new location is: Within one thousand five hundred feet of another retail liquor store licensed under section 44-3-409;** for a premises located in a municipality with a population of ten thousand or fewer, within three thousand feet of another retail liquor store licensed under section 44-3-409; or, for a premises located in a municipality with a population of ten thousand or fewer that is contiguous to the city and county of Denver, within one thousand five hundred feet of another retail liquor store licensed under section 44-3-409.

(b) (I) In permitting a change of location, the licensing authorities **shall consider the reasonable requirements of the neighborhood to which the applicant seeks to change his or her location, the desires of the adult inhabitants as evidenced by petitions, remonstrances, or otherwise,** and all reasonable restrictions that are or may be placed upon the new district by the council, board of trustees, or licensing authority of the city, town, or city and county or by the board of county commissioners of any county.

(II) If the state and local licensing authorities approve an application for a change of location submitted under subsection (9)(a)(II) of this section by a retail liquor store licensed on or before January 1, 2016, **the licensee must change the location of its premises within three years after the approval is granted.**

Pursuant to the Colorado Liquor Code, a retail liquor store licensed under CRS section 44-3-409 shall not be allowed to move its permanent location if the new location is within one thousand five hundred feet of another retail liquor store licensed under section 44-3-409. City Engineering Project Manager Chris Dehmel measured the distance between the new location at 733 Highway 6 & 50 and the closest existing Retail Liquor Store "In the Middle Liquors" located at 303 Highway 6 & 50 and the distance is **1,850 feet**,

meaning the proposed location satisfies the distance requirements in CRS Section 44-3-301(9)(a)(B)-(C). The method of measuring pursuant to CRS Section 12-47-313 (12)(III)(a.5) is from principal doorway to principal doorway – Radius (as the crow flies).

The owners of Fruita Liquor Mart contracted with Brian Turner, owner of Alcohol Petitioning Services to conduct a survey of Fruita residents and businesses to be utilized as evidence of the “Needs and Desires of the Neighborhood.” The final analysis concluded that between 97.1% and 100% of the people who signed the survey are in favor of approving the Change of Location for Fruita Liquor Mart. One person opposed the Change of Location, and when asked to provide their reason for the opposition, stated that it was because they don’t drink alcohol.

FISCAL IMPACT

None.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

The City of Fruita is charged with protection of the public health, safety and welfare. The review and renewal of liquor licenses ensures that licensed establishments are operating by the rules and regulations adopted by the City and State concerning the sale or service of beer and alcoholic beverages.

OPTIONS AVAILABLE TO THE COUNCIL

1. Approve the Change of Location on a Retail Liquor Store Liquor License.
2. Schedule a hearing date to determine if there is good cause for the license to be suspended or revoked.

RECOMMENDATION

- **APPROVE THE CHANGE OF LOCATION ON A RETAIL LIQUOR STORE LIQUOR LICENSE FOR BEST BOYS, LLC DBA FRUITA LIQUOR MART CURRENTLY LOCATED AT 423 HIGHWAY 6 & 50 TO 733 HIGHWAY 6 & 50**