

TOWN OF AVON, COLORADO
AVON LIQUOR LICENSING AUTHORITY MEETING FOR TUESDAY, JUNE 23, 2009
MEETING BEGINS AT 5:00 PM
AVON TOWN HALL, ONE LAKE STREET




PRESIDING OFFICIALS
CHAIRMAN **RON WOLFE**
VICE CHAIRMAN **BRIAN SIPES**
BOARD MEMBERS **RICHARD CARROLL, DAVE DANTAS, KRISTI FERRARO**
 AMY PHILLIPS, ALBERT "BUZ" REYNOLDS, JR.

TOWN STAFF
TOWN ATTORNEY: ERIC HEIL **TOWN MANAGER: LARRY BROOKS** **TOWN CLERK: PATTY MCKENNY**

ALL LIQUOR BOARD MEETINGS ARE OPEN TO THE PUBLIC EXCEPT EXECUTIVE SESSIONS
COMMENTS FROM THE PUBLIC ARE WELCOME DURING PUBLIC HEARINGS
PLEASE VIEW AVON'S WEBSITE, [HTTP://WWW.AVON.ORG](http://www.avon.org), FOR MEETING AGENDAS AND MEETING MATERIALS
AGENDAS ARE POSTED AT AVON MUNICIPAL BUILDING AND RECREATION CENTER, ALPINE BANK, AND AVON LIBRARY

1. **CALL TO ORDER / ROLL CALL**
2. **INQUIRY OF THE PUBLIC FOR COMMENT AND APPROVAL OF AGENDA**
3. **PUBLIC HEARING ON TRANSFER OF OWNERSHIP FOR HOTEL AND RESTAURANT LIQUOR LICENSE**
 - a. Applicant Name: Y&Z, Inc. d/b/a Nozawa Sushi & Kitchen (formerly Masato's Restaurant)
Address: 240 Chapel Place, Unit BC-115
Manager: Yong Hu Yuan
Type of License: Hotel and Restaurant Liquor License
4. **REPORT OF CHANGES: CORPORATION, LIMITED LIABILITY COMPANY & PARTNERSHIP**
 - a. Applicant: Avon Properties Leasing, LLC d/b/a Village Warehouse Wines
Address: 0101 Fawcett Road, #130
Manager: James Valerio
Type of License: Retail Liquor Store License
5. **REPORT OF CHANGES: MODIFICATION OF PREMISES: ADDITION OF DECK & NEW ENTRANCE**
 - a. Applicant: Saltwater Cowboy, LLC d/b/a Saltwater Cowboy
Address: 48 E. Beaver Creek Blvd.
Manager: Stephen Bullock
Type of License: Hotel and Restaurant Liquor License
6. **RENEWAL OF LIQUOR LICENSE**
 - a. Applicant: TCF 1 d/b/a Zacca Za
Address: 0101 Fawcett Road, #100
Manager: Paul Ferzacca
Type of License: Hotel and Restaurant Liquor License
 - b. Applicant: East West Resort LLC & Riverfront Village Restaurant, LLC d/b/a Westin Riverfront Resort & Spa
Address: 126 Riverfront Lane
Manager: Robert Trotter
Type of License: Hotel and Restaurant Liquor License
 - c. Applicant: Wal Mart Stores, Inc. d/b/a Wal Mart Supercenter #1199
Address: 171 Yoder Avenue
Manager: Matthew Brent Mower
Type of License: 3.2% Beer License (Off Premises)
7. **CONSENT AGENDA**
 - a. Minutes from June 9, 2009
8. **ADJOURNMENT AT 5:25 PM**

Memo

To: Avon Liquor Licensing Authority
Thru: Larry Brooks, Town Manager
Cc: Eric Heil, Town Attorney
From: Patty McKenny, Director Administrative Services 
Date: June 18, 2009
Re: Transfer of Ownership Application – **PUBLIC HEARING**

Summary:

The Avon Liquor Licensing Authority is asked to consider a Transfer of Ownership Application for a Retail Liquor License as submitted by as follows:

New Owner: Y&Z, Inc. d/b/a Nozawa Sushi and Kitchen
Owner & Manager: Yuan, Yong Hu
Address: 240 Chapel Place, Unit BC-115
Mailing Address: PO Box 218, Vail, CO 81657

Current Owner: Masato's Restaurant
Owner & Manager: Masato Okamoto

Background

A transfer of ownership must be reported to and approved by the Local and State Licensing Authorities. The applicable state and local license fees must accompany these applications. Both the state and town will issue new licenses for all transfers of ownership. The Town's Liquor Code states that "the burden of proof in an application for the transfer of an existing license shall be upon the applicant." The Avon Town Council acting as the Local Liquor Licensing Authority has the duty to conduct hearings and make findings of fact as to whether to grant or deny a transfer of ownership on an existing license. The Town Clerk, Town Attorney and Police Department handle the review of the liquor license applications administratively. In the case of a transfer of license, an investigation of the background of the parties is completed and a public hearing is set. The applicant may also apply for a temporary permit which allows an applicant for a transfer of ownership to operate the establishment until the Authority considers the application.

The Liquor Code of Colorado provides that in making any decision, the Local Licensing Authority must consider the following before approving or denying the application:

- Facts and evidence resulting from the investigation and any facts brought to the attention of the Authority.
- Any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.

Requests for licenses may be denied for various reasons such as the applicant is not of good moral character, the applicant's character, record, or reputation is unsatisfactory, or the proposed outlet is within 500 feet of any school.

Discussion:

The Town Clerk and Town Attorney have reviewed this application and note that everything is in order. The applicant applied for and received a Temporary Permit dated April 28, 2009 that allows them to operate for 120 days until the transfer of ownership application has been approved. If

approved by the Local Licensing Authority, the Town of Avon & the State of Colorado will issue new licenses. The background investigation has been completed with reports from Colorado Bureau of Investigation and the attached memo from the Avon Police Department both indicating only one misdemeanor charge in 2002, otherwise there were no concerns with the applicant's background. A public hearing has also been scheduled for this application; public notices were posted and published June 12, 2009, ten days prior to the hearing date of June 23, 2009. Representing the applicant will be Attorney Erin Johnson; both she and the applicant, Yong Hu Yuan, will be present for the hearing.

Financial Implications:

The transfer of ownership application fees have been submitted to the Town and the State fees will be forwarded with the application materials upon Local Liquor Authority approval.


Town Manager Comments:



Attachments:

- ✓ Colorado Liquor Retail License Application (DR 8404)
- ✓ Individual History Record & Memo from Avon Police Department
- ✓ Diagrams of Premises
- ✓ Copy of Temporary Permit
- ✓ Shopping Center Lease
- ✓ Agreement of Purchase and Sale of Business Assets
- ✓ Certificate of Good Standing
- ✓ Articles of Incorporation

Memo

To: Avon Local Liquor Licensing Authority
Thru: Larry Brooks, Town Manager
Eric Heil, Town Attorney
From: Patty McKenny, Town Clerk 
Date: June 18, 2009
Re: Report of Changes for Avon Properties Leasing, LLC d/b/a Village Warehouse
Wines: Change in Ownership Structure

Summary:

The Town Council serving as the Local Liquor Authority will consider and is asked to act upon a Report of Changes in Ownership for Avon Properties LLC d/b/a/ Village Warehouse Wines. The appropriate paperwork was completed & is attached for your review.

Discussion:

The Colorado Liquor Code, Section 12-47-301, Licensing in General, states that "a licensee shall report each transfer or change of financial interest in the license to the state licensing authority and, for retail licenses, to the local licensing authority, within thirty days after the transfer or change. A report shall be required for transfers of capital stock of a public corporation; except that a report shall not be required for transfers of such stock totaling less than ten percent in any one year, but any transfer of a controlling interest shall be reported regardless of size. It is unlawful for the licensee to fail to report a transfer required by this subsection (8). Such failure to report shall be grounds for suspension or revocation of the license." As well, the Division of Liquor Enforcement Regulation 47-304 dictates reporting requirements related to corporations, limited liability companies & partnerships (see last attachment).

The attached Report of Changes application reflects a change in ownership per the executed minutes dated May 31, 2009 (see attached minutes). It is noted that effective 5/31/09 Peter Cuccia shall have ownership equaling 20.16%; James Valerio has 76.84% ownership and one more party, that is not identified, has less than 3% ownership. If a person has equal to or more than 10% ownership, an individual history record & background check are required. The application materials include both the Individual History Record for Peter Cuccia and background check on him completed by the Avon Police Department. There were no concerns related to the background of Mr. Cuccia. Also included is a copy of the Articles of Incorporation and a Certificate of Good Standing.

Financial Implications: The applicant has submitted the appropriate state and local fees for this application.

Town Manager Comments:



Attachments:

- ✓ Report of Changes (Form DR 8177)
- ✓ Individual History Record for Peter Cuccia and Avon Police Department Memo
- ✓ Articles of Organization
- ✓ Certificate of Good Standing
- ✓ Executed Minutes from Avon Properties, LLC
- ✓ Division of Liquor Enforcement Regulation 47-304

Memo

To: Avon Local Liquor Licensing Authority
Thru: Larry Brooks, Town Manager
Eric Heil, Town Attorney
From: Patty McKenny, Director of Administrative Services
Date: June 18, 2009
Re: Permit Application & Report of Changes: Modification of Premises

Summary:

The Town Council serving as the Local Liquor Authority will consider and is asked to act upon a Report of Changes for a modification of premises for Saltwater Cowboy, LLC d/b/a Saltwater Cowboy located at 48 E. Beaver Creek Blvd.

Background:

The Division of Liquor Enforcement Regulation 47-302 outlines the requirements necessary when changing, altering or modifying a license premises (see last attachment). It states that in making its decision with respect to any proposed changes, alterations or modifications, the licensing authority must consider whether the premises, as changed, altered or modified, will meet all of the pertinent requirements of the Colorado Liquor Code and the Regulations promulgated thereunder. Factors to be taken into account by the licensing authority include the following:

1. the reasonable requirements of the neighborhood and the desires of the adult inhabitants.
2. the possession, by the licensee, of the change premises by ownership, lease, rental or other arrangement
3. compliance with applicable zoning law of the municipality
4. compliance with the distance prohibition in regard to any schools, college
5. the legislative declaration that the Colorado Liquor and Beer Code are an exercise of the police powers of the state for the protection of the economic and social welfare , etc.

Discussion:

The applicant Saltwater Cowboy, LLC, owner and manager Stephen Bullock, have submitted a proposal to create a new main entrance/exit to the restaurant that will help accommodate the request to add an outdoor seating area to the licensed premises. The attached diagram provides the dimensions to the patio area & describes the materials that will be used to provide for a clear boundary of the outside area to be licensed. The square footage for this area is estimated at 1500 sq. ft. The applicant has already received approval from the Planning & Zoning Commission through the minor project review process which took place at the June 16th Commission meeting. Mr. Bullock has noted that this area was already included in his lease with Mistrel, Inc., therefore no new lease was provided. Mr. Bullock will be present at the meeting to answer any questions related to this application.

Financial Implications: The applicant has submitted the appropriate state and local fees for this application.

Town Manager Comments:



Attachments:

- ◆ Permit Application & Report of Changes: Modification of Premises
- ◆ Diagram of Proposed Modification of Premises
- ◆ Division of Liquor Enforcement Regulation 47-302

Memo

To: Avon Liquor Licensing Authority
Thru: Larry Brooks, Town Manager
cc: Eric Heil, Town Attorney
From: Patty McKenny, Town Clerk *AM*
Date: June 18, 2009
Re: Renewal of Liquor Licenses

Summary:

The Town Council serving as the Avon Liquor Licensing Authority will consider the following liquor license application for renewal at its board meeting next week:

- a. Applicant: TCF 1 d/b/a Zacca Za
Address: 0101 Fawcett Road, #100
Manager: Paul Ferzacca
Type of License: Hotel and Restaurant Liquor License
- b. Applicant: East West Resort LLC & Riverfront Village Restaurant, LLC d/b/a Westin Riverfront Resort & Spa
Address: 126 Riverfront Lane
Manager: Robert Trotter
Type of License: Hotel and Restaurant Liquor License
- c. Applicant: Wal Mart Stores, Inc. d/b/a Wal Mart Supercenter #1199
Address: 171 Yoder Avenue
Manager: Matthew Brent Mower
Type of License: 3.2% Beer License (Off Premises)

Background & Discussion:

Colorado Liquor Code, 12-47-302, provides for guidelines related to liquor licensing renewals; applications for the renewal of an existing license shall be made to the local licensing authority. The Town Clerk, Town Attorney, and Police Department have reviewed the application submitted referenced above and the materials are in order. There have been no issues or calls for service with any of these establishments. Please note that an Individual History Record has been completed for Matthew Mower who is the new manager of Wal-Mart. Mr. Mower was present at a recent Town Council Meeting when there were some Avon Police Departments awards made to citizens & officers. He was unable to attend the meeting because he was out of town on June 23rd.

Financial Implications:

There are local and state liquor licensing fees associated with renewal applications that have been submitted to the Town.

Town Manager Comments:



Attachments:

- State of Colorado Form DR 8400: Liquor License Renewal Application
- Avon Police Department Background Memo