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EL PASO BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Date: Tuesday, January 14, 2025 Item No. 11.d.

To: Board of County Commissioners

From: Jackie Allred, Clerk to the Board Manager

Agenda Wording: Request to establish the survey area and set February 4, 2025, as the hearing date on the application by Ascent Brewery LLC, d/b/a Ascent Brewery, for a brew pub liquor license to be located at 6630 Chief Road (Commissioner District 2).

SUMMARY (including information on budgeted matters)

After reviewing the zoning and land use approvals for the site, Planning and Community Development has no issues or comments relating to zoning and subdivision compliance.

The Clerk to the Board Office requests the BOCC establish February 4, 2025, as the public hearing date to consider the application for the brew pub liquor license.

BACKGROUND (including information on budgeted matters)

El Paso County Beer and Liquor Policy (Relevant Portion of Resolution No. 23-73 Amended)

III. Methodology for Liquor License Surveys

A. Introduction

1. C.R.S. 44-3-312(2)(a) states that the reasonable requirements of the neighborhood shall be considered in making any decision on a liquor license.
2. Pursuant to Resolution No. 89-112 (adopted in 1989), the Board of County Commissioners (the "Board") requires liquor license applicants to retain independent persons or firms to circulate petitions necessary to establish

the reasonable requirements of the neighborhood and desires of the inhabitants.

B. Preparation of Proposed Survey Boundary Map

1. GIS is relied upon to establish the proposed boundaries for such surveys in general accordance with the MOU for the El Paso County Liquor License Survey Process, attached hereto as Appendix A, and the parameters described below. GIS shall have the discretion to use reasonable flexibility in establishing exact boundaries.
2. Proposed survey boundary maps shall be prepared on the County's GIS (Geographic Information System) and shall utilize the latest Assessor's data and other pertinent information available on that system. PCD may take more recent information into consideration but is not bound to do so.
3. Use of Physical Features:
 - a. Unless there are obvious and identified unique or extenuating circumstances, proposed liquor survey boundaries shall always be described using physical features which are easily identified in the field. It is preferred that roadways be used wherever practical. Other physical features, however, such as major drainage ways, lakes, streams, and mountainous terrain, may also be utilized.
 - b. Jurisdictional Boundaries:
 - (1) The survey area established shall not exclude properties on the basis of being within a city, town, adjoining county, military installation, or other governmental or quasi-governmental boundaries.
4. Process and Parameters:
 - a. Establishment of Initial Survey Radius:
 - (1) For generally urban density areas, the radius from the center of the subject property shall be 1/2 (one-half) mile in each direction. Generally urban areas are defined as having a predominance of lots or parcels smaller than 2.5 (two and one-half) acres in area.
 - (2) For generally rural or rural residential density areas, the radius from the center of the subject property shall be 1 (one) mile in each direction. Generally rural or rural residential

areas are defined as having a predominance of lots or parcels 2.5 (two and one-half) acres or larger in area.

- (3) The initial survey area should then be determined by drawing a boundary, using physical features, which encompasses the entire radius, irrespective of the distance this boundary extends beyond the radius.

b. Exclusion of Properties from Initial Survey Area:

- (1) GIS may exclude certain properties from within the initial survey area. It should be shown that either, the majority of the property is situated outside of the initial survey radius, the property is oriented away from the subject property, or its inclusion in the boundary, through the use of physical features, would cause the need to include large amounts of other property outside of the desired influence area.

c. Inclusion of Properties into the Initial Survey Radius:

- (1) GIS should add properties to the initial survey area if these properties are located in close proximity of the established radius and GIS believes such properties should be reasonably added to the area of influence. Added properties would normally include residential, religious, park, school, or related uses.

d. The proposed survey boundary map shall include:

- (1) A label identifying the name of the applicant, trade name, address of proposed premises, property zoning, the approximate number of households within the proposed boundary, and the name and address of the nearest school and its distance to the proposed premises.
- (2) The proposed survey boundary, and location of the proposed premises, households and vacant parcels platted and unplatted areas, street names and each school within the proposed boundary.

e. The following shall accompany the survey boundary map:

- (1) The survey boundary description; and
- (2) A mailing list of all vacant landowners within the proposed survey area.

C. **Survey Petition Packet**

1. Upon establishment of the neighborhood survey and the hearing date by the Board, the County Clerk shall complete and provide a petition packet to the applicant or representative which includes:
 - a. The petition cover sheet describing the applicant's name, trade name, proposed license type, address of proposed premises, hearing information and survey boundaries;
 - b. The survey map;
 - c. Petition signature pages to be completed by qualifying residents within the survey boundaries;
 - d. A list of all vacant landowners and mailing addresses to be surveyed by a mail survey;
 - e. Vacant landowner survey;
 - f. Affidavit to be completed by each petition circulator; and
 - g. Instructions regarding submittal deadlines and survey recapitulations including the mail survey of vacant landowners.
2. Unless specifically requested by the applicant/representative, a survey completion timeframe encompassing two weekends shall be provided to all applicants.

D. **Petition Circulator Requirements**

1. There are no restrictions on the number of petition circulators participating in a neighborhood survey.
2. Completion and submittal of a Circulator's Affidavit with the completed survey affirming:
 - a. The petition circulator has no financial interest or equity in the establishment (C.R.S. 44-3-308(2));
 - b. The petition circulator has completed a door-to-door canvass of the residences and businesses contained within the established boundary as depicted on the survey map. If more than one petition circulator is utilized, a copy of the survey map describing the specific area surveyed shall be provided; and
 - c. The petition circulator has witnessed the signing of the petition by all individuals whose names appear on the petition.

E. **Survey Procedures and Eligibility Requirements**

1. There are no restrictions on completion of the survey within the timeframe allotted (weekdays, weekends and morning, daytime, and evening hours).

2. The neighborhood survey shall be conducted by attempting to survey all households immediately surrounding the subject site then outward toward the survey boundary in all directions until a minimum total of 50-80% of the total households have been surveyed.
3. The remaining 20-50% of households within the established boundary may be surveyed by either a door-to-door sampling of households or an attempt shall be made to contact each household.
4. The petition circulator shall offer each signatory the opportunity to read, or have read to him, the petition in its entirety.
5. Signatories must:
 - a. Be at least 21 years of age and list their age on the petition.
 - b. Sign their formal name and date the petition in front of the petition circulator;
 - c. Sign for him/herself (e.g., a wife may not sign for her husband);
 - d. Print their name, house or apartment number, and street address (must be legible); and
 - e. Reside within the defined neighborhood.
6. The petition circulator must make it clear to each signatory that by signing the petition, the signatory is indicating they have read the instructions and are qualified to sign.
7. The petition circulator must make it clear to the signatory that the signatory is either declaring that the needs and desires of the neighborhood either are or are not being met, or that the signatory has "No Opinion":

Place an "X" in the "NO" column of the petition if signatory feels the needs and desires are being met by existing similar outlets and signatory desires that a license should not be granted;

-OR-

Place an "X" in the "YES" column of the petition if signatory feels the needs and desires are not being met by existing similar outlets and signatory desires that a license should be granted;

-OR-

Place an "X" in the "No Opinion" column of the petition if signatory has no opinion concerning the needs and desires of the neighborhood or whether a license should or should not be granted.

8. A school representative shall be surveyed for each school contained within the survey boundary.
9. Signatures may be obtained from the owner or manager of a business located within the defined boundary.
10. The petition circulator must provide the County Clerk's contact information to anyone who believes that they have been unduly influenced by the petitioner or have questions or comments concerning the proposed application or survey method.
11. Patrons of an existing unlicensed establishment applying for a liquor license may sign a separate petition prepared in the same format as the neighborhood survey.

F. Vacant Landowner Mail Survey Requirements

1. The County Clerk shall provide a Mail Survey for each listed owner and each school within the survey boundary to the applicant/petition circulator.
2. The petition circulator must utilize the Survey form provided by the County Clerk.
3. The petition circulator shall include prepaid, pre-addressed return envelopes with the Mail Survey.
4. The petition circulator must mail the Survey no later than two days from receipt of the survey packet. Failure to mail the Survey within two days shall result in the continuance of the hearing.
5. All Mail Surveys must be returned to the petition circulator. (Multiple owners may return the Mail Survey to the petition circulator in one envelope.)
6. Completion and submittal of a Vacant Landowner Mail Survey Affidavit with the completed Survey affirming:
 - a. The mail survey circulator has no financial interest or equity in the establishment (C.R.S. 44-3-308(2)).
 - b. The mail survey was conducted in compliance with Mail Survey Requirements F.2. through F.5.

G. Survey Submittal Requirements

1. The following shall be submitted to the County Clerk no later than one week prior to the week of the scheduled public hearing before the Board:

- a. Affidavit of Posting the subject premises;
- b. Survey map;
- c. Completed Petition forms;
- d. Completed Circulator's Affidavit for each petition circulator;
- e. Completed Vacant Landowner Mail Survey;
- f. Affidavit of Completed Vacant Landowner Mail Survey;
- g. Recapitulation of signatures collected and mail survey responses including residents, vacant landowners and business owners/managers and school representatives in favor, opposed, or those who do not have an opinion, and those who are unavailable, disqualified, including duplications, ineligible and those who decline to participate; and
- h. Any additional survey information the applicant or representative wishes to present for Board consideration.

2. The petition circulator shall present and recap any Mail Survey results received after the survey deadline up until Board consideration of the application at the public hearing.

3. The applicant's hearing before the Board shall be rescheduled if the survey submittal is late or incomplete.

ESTIMATED TIME FOR PRESENTATION

___ minutes/hours

FINANCIAL IMPLICATIONS

Business Year:	2025	Subject to TABOR? NO
Fund:		
Funding Amount:	\$0.00	
Increase to original adopted Budget	\$0.00	
Net Cost to County:	\$0.00	
Total Project Cost:	\$0.00	
Vendor Information		

ATTACHMENTS

Proposed Survey Boundary Map