

STAFF REPORT

Date: June 12, 2024
To: Mayor and City Council
Through: Doug Thornley, City Manager
Subject: Staff Report (For Possible Action): Approval of Privileged Business License - On-Premises Alcohol, Add-on Cabaret (New) - Pele Utu, Robert Best, 1275 Stardust Street.
From: Lance Ferrato, Director
Department: Business Licensing

Summary:

This is an application (R162572Q-APP-2024) for a new bar with on-premises alcohol and cabaret activity. The site location was approved by the Planning Division.

Zoning/Planning Review:

General Commercial (GC) zone. Bar hours of operation are allowed from 6:00 a.m. to 11:00 p.m. Indoor live entertainment is allowed between 10:00 a.m. and 11:00 p.m. with all doors and windows closed after 9:00 p.m. Outdoor live entertainment is prohibited due to residential adjacency.

Attachments:

Vicinity Map - Pele Utu

Approval of Privileged Business License

Recommendation:

Staff recommends Council approve the privileged license application, subject to the police department background investigation, other required recommendations, and City licensing office approval.

Proposed Motion:

I move to approve the staff recommendation.

Background:

Council approval of privileged license applications is required for the licenses to be issued. Reno Municipal Code (RMC) 5.05.008(k) states that license applications for gaming, liquor, medical cannabis establishments, adult-use cannabis establishments, pawnbrokers, secondhand merchandise, and escort services must be approved by Council, as well as other relevant reviewing bodies. Applications must also meet the initial requirements set forth by Reno City Council in RMC Titles 4 and 5.

Discussion:

Applications have been processed by the Business Licensing Department and approved by Development Services. Council has requested that its review not delay the licensing process, even if not all other relevant reviews have been completed. These reviews may occur concurrently, or consecutively, based on the completion of applicable inspections. Accordingly, some relevant reviews may not have been completed at this time, and even if Council approves a license, it may still be denied by the City Business Licensing Department. Such additional reviewing bodies may include, but are not limited to, building, fire, police, and relevant district, county, and state agencies. All required fees have been submitted with the applications.

Police background checks are often lengthy. Once all other relevant reviews have been completed, an interim license may be issued before the completion of the police background check. However, an interim license is subject to summary revocation if the background check reveals grounds for denial.

Individual business license information can be found under their specifically named agenda items.

Legal Implications:

Legal review completed for compliance with City procedures and Nevada law. RMC 5.05.008(k) provides that Council approval is required for gaming, liquor, medical cannabis establishments, cannabis establishments, pawnbrokers, secondhand merchandise, and escort service licenses. Council may deny a license for good cause, which is defined in RMC 5.05.008(j), to include but not be limited to:

- (1) The application is incomplete or contains false, misleading, or fraudulent statements.
- (2) The applicant fails to satisfy any qualification or requirement imposed by this title, local, state, or federal law, regulation, or administrative policy pertaining to such activities.

(3) The applicant has been subject, in any jurisdiction, to administrative action of any kind imposing fines or other discipline relating to the operation of a business licensed in the jurisdiction, or denied a license or work card, due to suitability issues.

(4) The applicant has engaged in deceptive practices upon the public.

(5) The applicant has, within the five years immediately preceding the date of the application, been convicted of any of the following criminal offenses, regardless of the jurisdiction of the conviction:

- a. A felony or any crime which, under the laws of this state, would amount to a felony;
- b. Any crime of which theft, fraud, or intent to defraud is an element;
- c. Unlawfully possessing or distributing a controlled substance;
- d. Solicitation, prostitution, or pandering;
- e. Any sex offense requiring the applicant to register under NRS 179D.441 to 179D.470, if the applicant has been classified by the state as a Tier 1 or below; or

(6) A person who, within the ten years immediately preceding the date of the application, has been convicted of any sex offense requiring the applicant to register under NRS 179D.441 to 179D.470, if the applicant has been classified by the state as a Tier 2 or Tier 3 offender.

(7) Any cause reasonably related to the furtherance of the public welfare.

In addition, under RMC Sec. 5.21.013 and Sec. 5.22.013, Council may, at its discretion, approve, deny, condition, limit, or take such other action with respect to the applications for medical cannabis establishment and cannabis establishment licenses as it considers appropriate to protect the public health, safety, and general welfare of the citizens of the city and to regulate the use of buildings, structures, land use, business, and other purposes.

Cases generally construe "good cause" as having two components: 1) the reason for denial must be reasonably related to the public welfare, and 2) the decision must be supported by substantial evidence and not be arbitrary or capricious. Substantial evidence requires more than the mere statements of interested parties and their counsel and the opinions of Council Members. *City Council, Reno v. Travelers Hotel*, 100 Nev. 436 (1984). Accordingly, a sufficient factual record should be developed before a privileged license is denied for "good cause." A delay (continuance) to gather more information or evidence is permissible provided the delay is not unreasonable in duration or purpose.

Council has asked to conduct its review promptly, even if not all other reviews have been completed. This practice is customer-friendly, but it could result in possibly relevant information not being presented to Council in its consideration of "good cause."

Other grounds for denial appear in the RMC chapters governing specific privileged licenses. Most notably, RMC 5.07.040 provides:

No new on-premises wine and beer licenses, on-premises alcoholic beverage licenses, or cabaret licenses shall be issued authorizing the sale of any alcoholic beverage for consumption on the premises for any location or premises that Council deems unfavorable or undesirable due to its proximity to any schoolhouse or schoolroom used by any public or common school, or church, or its location in an area that is predominantly residential or, because of the specifics of the proposed use, either detrimental to the surrounding properties or burdensome for police monitoring purposes.

Any denial of a license must be consistent with equal protection limitations. Applicants in similar situations must be treated substantially the same. However, factual differences that rationally support different treatment to further a governmental interest should be upheld.