

STAFF REPORT

Date: August 28, 2024

To: Mayor and City Council

Through: Jackie Bryant, Interim City Manager

Subject: Staff Report (For Possible Action): Approval of Privileged Business License – Restricted Gaming (Change of Operator) – Eclipse Route Operations LLC dbas ECL Gaming dbat Bully’s Lounge, Ronald Winchell, 18150 Wedge Parkway.

From: Lance Ferrato, Director of Business Licensing

Department: Business Licensing

Summary:

This is an application (R163450G-APP-2024) by Eclipse Route Operations LLC to operate fifteen (15) slot machines inside Bully’s Lounge located at 18150 Wedge Parkway (Exhibit A). The business is situated in Ward 2 and is zoned under General Commercial (GC). The Planning Division has recommended approval of the application, noting that the business may operate from 6:00 a.m. to 11:00 p.m. Staff recommends Council approve the privileged business license for restricted gaming operated by Eclipse Route Operations LLC.

Alignment with Strategic Plan:

Economic and Community Development

Previous Council Action:

There is no recent Council action relevant to this item.

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 in RMC Titles 4 and 5.

Discussion:

Applications have been processed by the Business Licensing Department and approved by the

Planning Division. 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 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.

Overview:

The City of Reno has received an application for a quarterly license from Eclipse Route Operations LLC, a licensed slot route operator seeking to operate fifteen (15) slot machines within an established restaurant and bar. The business activity type under consideration is restricted gaming and the establishment is situated in Ward 2 within a GC zone.

Zoning and Business Activity:

Bully's Lounge is situated in a GC zone, which permits restricted gaming as an accessory use to a restaurant and bar. According to the planning and zoning review, the establishment may operate from 6:00 a.m. to 11:00 p.m.

Council and Police Review:

The application is currently under Council review; however, RMC does not require a background investigation for gaming applicants. While the Council review will assess the business's alignment with community standards and economic goals, the suitability of the applicant has been determined through the Nevada Gaming Commission (Exhibit B).

Conclusion:

In summary, the application for Eclipse Route Operations LLC dbas ECL Gaming dbat Bully's Lounge is progressing through the necessary regulatory channels. The Planning Division has already recommended approval, and the application awaits final review by Council.

Financial Implications:

No financial implications at this time.

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, adult-use 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 Nevada Revised Statutes (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. 5.22.013, Council may, at its discretion, approve, deny, condition, limit, or take such other action with respect to the applications for medical cannabis establishment and adult-use 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. *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 which rationally support different treatment to further a governmental interest should be upheld.

Recommendation:

Staff recommends Council approve the privileged license application for restricted gaming.

Proposed Motion:

I move to approve the staff recommendation.

Attachments:

Exhibit A - Vicinity Map - Eclipse Route Operations LLC dbas ECL Gaming dbat Bully's Lounge

Exhibit B - Nevada Gaming Commission Approval