



**TOWN OF MILLIKEN
TOWN BOARD
AGENDA MEMORANDUM**

To: Mayor Tokunaga and Board of Trustees	Meeting Date:
From: Cheryl Powell, Town Clerk	Wednesday, September 9, 2015
Via: Kent Brown, Town Administrator	

Consent:	Action: X	Discussion:	Information:
Agenda Title: Public Hearing regarding the Transfer of Ownership of the 3.2 % Beer Off Premises License from 7-Eleven to JD2 Investments, Inc.& 7-Eleven, Inc.			
Attachments: Transfer of Ownership License Application			

PURPOSE

The 7-Eleven Store # 39078 has submitted a liquor license transfer to JD2 Investments, Inc. & 7-Eleven, Inc. dba 7-Eleven Store 39078B.

REVIEW CRITERIA COMPLIANCE WITH MUNICIPAL CODE

This report and the posting of the Town Board meeting Agenda had been prepared in accordance with Municipal Code Sections 6-2-10 through 6-2-40, 6-2-230 and 6-2-310.

6-2-10 Definitions

Retail Licensee or Licensee means the holder of a license to sell fermented malt beverages pursuant to the Colorado Beer Code (Article 46 of Title 12, C.R.S.) or the holder of a license to sell malt, vinous or spirituous liquors pursuant to the Colorado Liquor Code (Article 47 of Title 12, C.R.S.)

6-2-20 Application of State Statutes

Pursuant to declaration by the General Assembly, the Colorado Beer Code, Section 12-46-101 et seq., C.R.S., the Colorado Liquor Code, Section 12-47-101 et seq., C.R.S., as they presently exist or may hereafter be amended, shall apply to the sale of fermented malt beverages, alcoholic beverages, special malt liquors, spirituous liquors and vinous liquors in the Town.

6-2-30 Power and Purpose

The Board of Trustees finds and determines that it is empowered by Section 12-47-135, C.R.S., to fix and collect certain fees in connection with the application for

issuance, transfer and renewal of certain types of beer, wine and liquor licenses. The Board of Trustees, further finds that the fees established in this Article are reasonable and are in amounts sufficient to cover actual and necessary expenses incurred by the Town in connection with the handling of such licenses and applications.

6-2-40 Licensing Fees

The fees for licensing are set forth in the Fee Schedule and shall be paid to the Town Clerk by the applicant at the time of the filing of the application or request.

6-2-230 Occupation Tax

In addition to any other applicable fees, every applicant for a news license or renewal of an existing license pursuant to the Division shall pay the annual occupation tax as set forth in the Fee Schedule.

6-2-310 Purpose

Considering the nature of the business of selling malt, vinous or spirituous liquors or fermented malt beverage and the relation of such business to the municipal welfare, as well as the relation thereof to the expenditures required by the Town and a proper, just and equitable distribution of the tax burdens within the Town and all other matters properly to be considered in relation thereto, the classification of such business as a separate occupation is reasonable, proper, uniform and non-discriminating and necessary for a just and proper distribution of tax burdens within the Town.

BACKGROUND

The Transfer of Ownership paperwork appears to be in compliance with the Town of Milliken's requirements and the Colorado Department of Revenue. If the Town Board approves this transfer of ownership, all the documents submitted with the transfer application will be forwarded on to the Colorado Department of Revenue for their approval.

BUDGET IMPLICATIONS

Not applicable.

STAFF RECOMMENDATION

Staff recommends that the Board of Trustees approve the transfer of the 3.2% Beer Off Premises Liquor License to JD2 Investments, Inc. & 7-Eleven, Inc. located at 1100 Broad Street, Milliken, CO.

SUGGESTED MOTION

"I move to approve the ownership transfer of the 3.2% Beer Off Premises Liquor License to JD2 Investments, Inc. and 7-Eleven, Inc., located at 1100 Broad Street, Milliken, CO.

Colorado Fermented Malt Beverage (3.2% Beer) License Application

<input type="checkbox"/> New License <input type="checkbox"/> New-Concurrent <input checked="" type="checkbox"/> Transfer of Ownership			
• All answers must be printed in black ink or typewritten • Applicant must check the appropriate box(es) • Local license fee \$ <u>3.75</u> • Applicant should obtain a copy of the Colorado Liquor and Beer Code: www.colorado.gov/enforcement/liquor			
1. Applicant is applying as a/an <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership (includes Limited Liability and Husband and Wife Partnerships) <input type="checkbox"/> Individual <input type="checkbox"/> Limited Liability Company <input checked="" type="checkbox"/> Association or Other JOINT LICENSE			
2. Applicant(s) If an LLC, name of LLC; if partnership, at least 2 partners' names; if corporation, name of corporation JD2 Investments, Inc. & 7-Eleven, Inc.		FEIN 47-3576267	
2a. Trade Name of Establishment (DBA) 7-Eleven Store 39078B		State Sales Tax No. 27972807-0000	Business Telephone 970-587-2333
3. Address of Premises (specify exact location of premises) 1100 Broad St.			
City Milliken	County Weld	State CO	ZIP Code 80543
4. Mailing Address (Number and Street) Attn: 7-Eleven Licensing, PO Box 219088		City or Town Dallas	State TX ZIP Code 75221
5. Email Address cheryl.swinford@7-11.com			
6. If the premises currently has a liquor or beer license, you MUST answer the following questions			
Present Trade Name of Establishment (DBA) 7-Eleven Store 39078	Present State License No. 24111110360	Present Class of License 3.2% B.O.P.	Present Expiration Date 02/28/16
Section A Nonrefundable Application Fees		Section B 3.2% Beer License Fees	
<input type="checkbox"/> Application Fee for New License \$600.00	<input type="checkbox"/> Application Fee for New License - w/Concurrent Review \$700.00	<input type="checkbox"/> Retail 3.2% Beer On-Premises (City) \$96.25	<input type="checkbox"/> Retail 3.2% Beer On-Premises (County) \$117.50
<input checked="" type="checkbox"/> Application Fee for Transfer \$600.00		<input checked="" type="checkbox"/> Retail 3.2% Beer Off-Premises (City) \$96.25	<input type="checkbox"/> Retail 3.2% Beer Off-Premises (County) \$117.50
		<input type="checkbox"/> Retail 3.2% Beer On/Off Premises (City) \$96.25	<input type="checkbox"/> Retail 3.2% Beer On/Off Premises (County) \$117.50
		<input type="checkbox"/> Master File Location Fee \$25.00 x _____ To _____	
		<input type="checkbox"/> Master File Background \$250.00 x _____ Total _____	
Questions? Visit www.colorado.gov/enforcement/liquor for more information Do Not Write In This Space - For Department Of Revenue Use Only			
Liability Information			
License Account Number	Liability Date:	License Issued Through: (Expiration Date)	Total \$

Application Documents Checklist and Worksheet

Instructions: This check list should be utilized to assist applicants with filing all required documents for licensure. All documents must be properly signed and correspond with the name of the applicant exactly. All documents must be typed or legibly printed. Upon final State approval the license will be mailed to the local licensing authority. Application fees are nonrefundable.

Questions? Visit: www.colorado.gov/enforcement/liquor for more information.

Items Submitted, Please Check all Appropriate Boxes Completed or Documents Submitted	
I.	Applicant Information <input checked="" type="checkbox"/> A. Applicant/Licensee identified <input checked="" type="checkbox"/> B. State sales tax license number listed or applied for at time of application <input checked="" type="checkbox"/> C. License type or other transaction identified <input checked="" type="checkbox"/> D. Submit originals to local authority <input checked="" type="checkbox"/> E. Additional information may be required by the local licensing authority
II.	Diagram of the Premises <input checked="" type="checkbox"/> A. No larger than 8 1/2" X 11" <input checked="" type="checkbox"/> B. Dimensions included (does not have to be to scale). Exterior areas should show control (fences, walls, etc.) <input type="checkbox"/> C. Separate diagram for each floor (if multiple levels) <input checked="" type="checkbox"/> D. Bold/Outlined licensed premises
III.	Proof of Property Possession (One Year Needed) <input type="checkbox"/> A. Deed in name of the Applicant ONLY (or) (matching question #2) date stamped/filed with County Clerk <input checked="" type="checkbox"/> B. Lease in the name of the Applicant ONLY (matching question #2) 7-Eleven, Inc. <input type="checkbox"/> C. Lease Assignment in the name of the Applicant (ONLY) with proper consent from the Landlord and acceptance by the Applicant <input type="checkbox"/> D. Other Agreement if not deed or lease (attach prior lease to show right to assumption) Franchise Agreement
IV.	Background Information and Financial Documents <input checked="" type="checkbox"/> A. Individual History Record(s) (Form DR 8404-I) <input checked="" type="checkbox"/> B. Fingerprints taken and submitted to local authority. (State authority for master file applicants.) <input checked="" type="checkbox"/> C. Purchase agreement, stock transfer agreement, and or authorization to transfer license <input type="checkbox"/> D. List of all notes and loans.
V.	Sole Proprietor/Husband and Wife Partnership <input type="checkbox"/> A. Form DR 4679 <input type="checkbox"/> B. Copy of State Issued Driver's License or Identification Card for each Applicant
VI.	Corporate Applicant Information (If Applicable) <input checked="" type="checkbox"/> A. Certificate of Incorporation (and/or) <input checked="" type="checkbox"/> B. Certificate of Good Standing <input checked="" type="checkbox"/> C. Certificate of Authorization if foreign corporation <input checked="" type="checkbox"/> D. List of officers, directors and stockholders of parent corporation (designate one person as "principal officer")
VII.	Partnership Applicant Information (If Applicable) <input type="checkbox"/> A. Partnership Agreement (general or limited). Not needed if husband and wife <input type="checkbox"/> B. Certificate of Good Standing (if formed after 2009)
VIII.	Limited Liability Company Applicant Information (If Applicable) <input type="checkbox"/> A. Copy of articles of organization (date stamped by Colorado Secretary of State's Office) <input type="checkbox"/> B. Certificate of Good Standing if organized more than two years <input type="checkbox"/> C. Copy of operating agreement <input type="checkbox"/> D. Certificate of Authority (if foreign company)

7. Is the applicant (including any of the partners, if a partnership; members or manager if a limited liability company; or officers, stockholders or directors if a corporation) or manager under the age of twenty-one years?	Yes	No		
	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
8. Has the applicant (including any of the partners, if a partnership; members or manager if a limited liability company; or officers, stockholders or directors if a corporation) or manager ever (in Colorado or any other state):				
(a) been denied an alcohol beverage license?	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
(b) had an alcohol beverage license suspended or revoked?	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
(c) had interest in another entity that had an alcohol beverage license suspended or revoked?	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
If you answered yes to 8a, b or c, explain in detail on a separate sheet	Please see attached			
9. Has a 3.2 beer license for the premises to be licensed been denied within the preceding one year? If "yes," explain in detail.	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
10. Has a liquor or beer license ever been issued to the applicant (including any of the partners, if a partnership; members or manager if a limited liability company; or officers, stockholders or directors if a corporation)? If yes, identify the name of the business and list any current or former financial interest in said business including any loans to or from a licensee.	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
11. Does the Applicant, as listed on line 2 of this application, have legal possession of the premises by virtue of ownership, lease or other arrangement?	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<input type="checkbox"/> Ownership <input type="checkbox"/> Lease <input checked="" type="checkbox"/> Other (Explain in Detail) <u>FRANCHISE AGREEMENT</u>				
a. If leased, list name of landlord and tenant, and date of expiration, EXACTLY as they appear on the lease:				
Landlord N/A	Tenant N/A	Expires N/A		
b. Is a percentage of alcohol sales included as compensation to the landlord? If yes complete question 12.	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
c. Attach a diagram and outline or designate the area to be licensed (including dimensions) which shows the bars, brewery, walls, partitions, entrances, exits and what each room shall be utilized for in this business. This diagram should be no larger than 8 1/2" X 11".				
12. Who, besides the owners listed in this application (including persons, firms, partnerships, corporations, limited liability companies), will loan or give money, inventory, furniture or equipment to or for use in this business; or who will receive money from this business. Attach a separate sheet if necessary.				
Last Name None	First Name N/A	Date of Birth N/A	FEIN or SSN N/A	Interest N/A
Last Name	First Name	Date of Birth	FEIN or SSN	Interest
Attach copies of all notes and security instruments, and any written agreement, or details of any oral agreement, by which any person (including partnerships, corporations, limited liability companies, etc.) will share in the profit or gross proceeds of this establishment, and any agreement relating to the business which is contingent or conditional in any way by volume, profit, sales, giving of advice or consultation.				
13. Name of Manager for all on and on/off applicants.				
Last Name N/A	First Name N/A	Date of Birth N/A		
14. Does this manager act as the manager of, or have a financial interest in, any other liquor licensed establishment in the State of Colorado? If yes, provide name, type of license and account number. N/A				
<input type="checkbox"/> <input type="checkbox"/>				
15. Tax Distraint Information. Does the applicant or any other person listed on this application and including its partners, officers, directors, stockholders, members (LLC) or managing members (LLC) and any other persons with a 10% or greater financial interest in the applicant currently have an outstanding tax distraint issued to them by the Colorado Department of Revenue?				
<input type="checkbox"/> <input checked="" type="checkbox"/>				
If yes, provide an explanation and include copies of any payment agreements.				

16. **If applicant is a corporation, partnership, association or limited liability company, applicant must list all officers, directors, general partners, and managing members. In addition, applicant must list any stockholders, partners, or members with ownership of 10% of more in the applicant. All persons listed below must also attach form DR8404-I (Individual History Record), and submit fingerprint cards to their local licensing authority.

Name	Home Address, City & State	Date of Birth	Position Dir. & Pres, Secy, Treas	% Owned
Ashley Rae Harrison	672 Shoshone Ct., Windsor, CO 80550	07/14/84		100%
Name	Home Address, City & State	Date of Birth	Position	% Owned
7-Eleven, Inc.*	1722 Routh St. #1000, Dallas, TX 75201	N/A	Franchisor	100%
Name	Home Address, City & State	Date of Birth	Position	% Owned
Name	Home Address, City & State	Date of Birth	Position	% Owned
*master filed - please see attached				

** Limited Liability Companies and Partnerships - 100% of ownership must be accounted for on question #16
 ** Corporations - The President, Vice-President, Secretary and Treasurer must be accounted for on question #16
 (Include ownership percentage if applicable)

Oath of Applicant

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct, and complete to the best of my knowledge. I also acknowledge that it is my responsibility and the responsibility of my agents and employees to comply with the provisions of the Colorado Liquor or Beer Code which affect my license.

Authorized Signature <i>A. Harrison</i>	Printed Name and Title Ashley Rae Harrison, Pres., JD2 Investments, Inc.	Date 5/4/15
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Report and Approval of Local Licensing Authority (City/County)

Date application filed with local authority <i>May 29, 2015</i>	Date of local authority hearing (for new license applicants cannot be less than 30 days from date of application 12-47-311 (1) C.R.S.)
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Each person required to file DR 8404-I has

- Been fingerprinted
- Been subject to background investigation, including NCIC/CCIC check for outstanding warrants

That the local authority has conducted, or intends to conduct, an inspection of the proposed premises to ensure that the applicant is in compliance with and aware of, liquor code provisions affecting their class of license.

(Check One)

- Date of Inspection or Anticipated Date _____
- Upon approval of state licensing authority

The foregoing application has been examined; and the premises, business to be conducted, and character of the applicant are satisfactory. We do report that such license, if granted, will meet the reasonable requirements of the neighborhood and the desires of the adult inhabitants, and will comply with the provisions of Title 12, Article 46 or 47, C.R.S. **Therefore, this application is approved.**

Local Licensing Authority for	Telephone Number	<input type="checkbox"/> Town, City <input type="checkbox"/> County	
Signature	Printed Name	Title	Date
Signature (attest)	Printed Name	Title	Date