



City of Grand Island

Tuesday, October 8, 2013

Council Session

Item E-1

**Public Hearing on Request from RSI, Inc. dba The Upper Deck,
2110 West 2nd Street for a Class “C” Liquor License**

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: October 8, 2013

Subject: Public Hearing on Request from RSI, Inc. dba The Upper Deck, 2110 West 2nd Street for a Class “C” Liquor License

Item #'s: E-1 & I-1

Presenter(s): RaNae Edwards, City Clerk

Background

Section 4-2 of the Grand Island City Code declares the intent of the City Council regarding liquor licenses and the sale of alcohol.

Declared Legislative Intent

- It is hereby declared to be the intent and purpose of the city council in adopting and administering the provisions of this chapter:
- (A) To express the community sentiment that the control of availability of alcoholic liquor to the public in general and to minors in particular promotes the public health, safety, and welfare;
 - (B) To encourage temperance in the consumption of alcoholic liquor by sound and careful control and regulation of the sale and distribution thereof; and
 - (C) To ensure that the number of retail outlets and the manner in which they are operated is such that they can be adequately policed by local law enforcement agencies so that the abuse of alcohol and the occurrence of alcohol-related crimes and offenses is kept to a minimum.

Discussion

RSI, Inc. dba The Upper Deck, 2110 West 2nd Street has submitted an application for a Class “C” Liquor License. A Class “C” Liquor License allows for the sale of alcohol on and off sale inside the corporate limits of the city.

City Council action is required and forwarded to the Nebraska Liquor Control Commission for issuance of all licenses. This application has been reviewed by the Clerk, Building, Fire, Health, and Police Departments.

Also submitted with the application was a request from Gary Phillips, 4309 Quail Lane for a Liquor Manager Designation.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

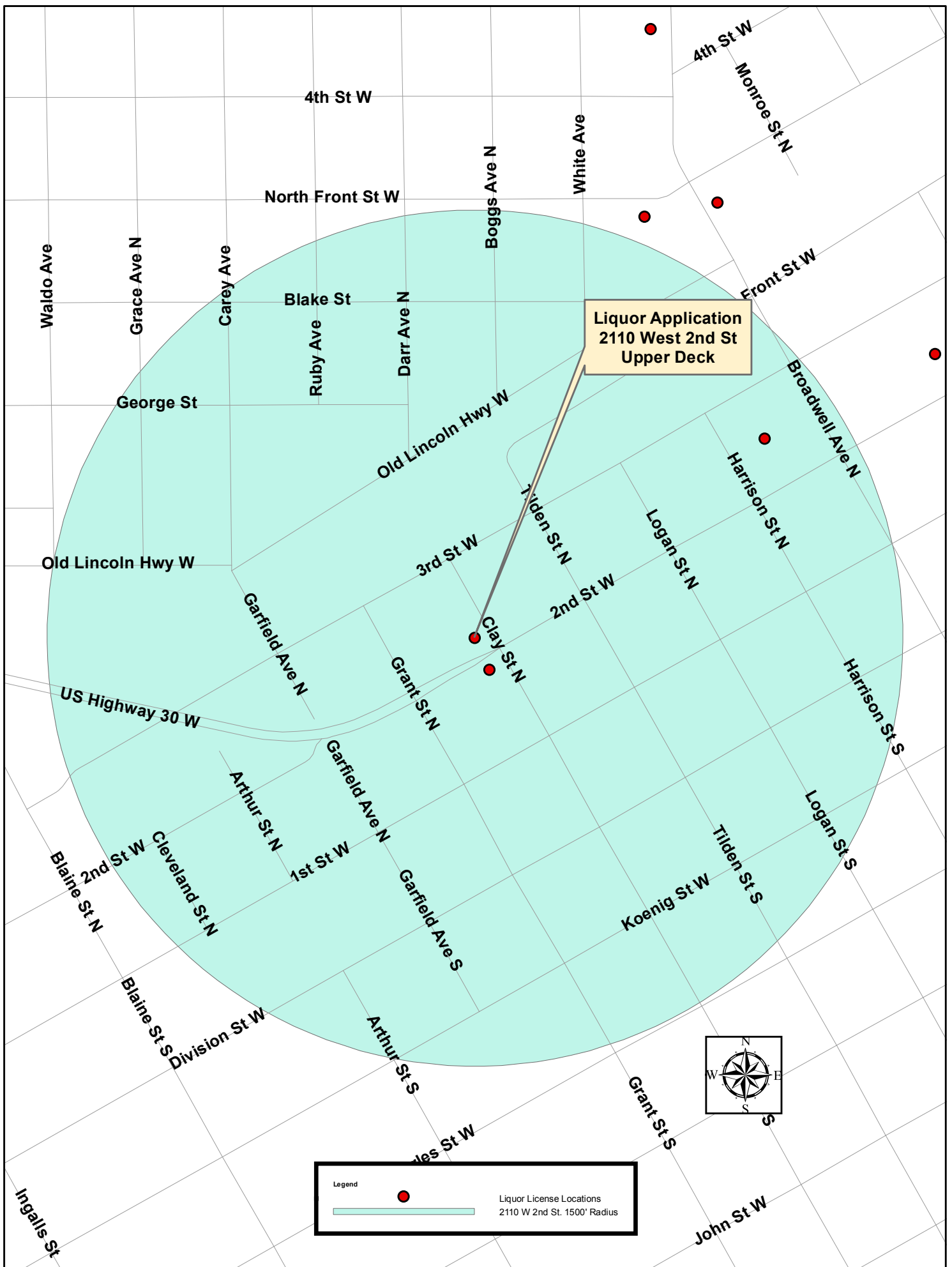
1. Approve the application.
2. Forward to the Nebraska Liquor Control Commission with no recommendation.
3. Forward to the Nebraska Liquor Control Commission with recommendations.
4. Deny the application.

Recommendation

Based on the Nebraska Liquor Control Commission's criteria for the approval of Liquor Licenses, City Administration recommends that the Council approve this application.

Sample Motion

Move to approve the application for RSI, Inc. dba The Upper Deck, 2110 West 2nd Street for a Class "C" Liquor License contingent upon final inspections and Manager Designation for Gary Phillips, 4309 Quail Lane contingent upon completion of a state approved alcohol server/seller training program.



10/03/13
14:10

Grand Island Police Department
LAW INCIDENT TABLE

450
Page: 1

City : Grand Island
Occurred after : **:**:** **/**/****
Occurred before : **:**:** **/**/****
When reported : 08:00:00 09/24/2013
Date disposition declared : 09/30/2013
Incident number : L13094134
Primary incident number :
Incident nature : Liquor Lic Inv Liquor License
Investigation
Incident address : 2110 2nd St W
State abbreviation : NE
ZIP Code : 68803
Contact or caller :
Complainant name number :
Area location code : PCID Police - CID
Received by : Vitera D
How received : T Telephone
Agency code : GIPD Grand Island Police Department
Responsible officer : Vitera D
Offense as Taken :
Offense as Observed :
Disposition : ACT Active
Misc. number : RaNae
Geobase address ID : 32350
Long-term call ID :
Clearance Code : CL Case Closed
Judicial Status : NCI Non-criminal Incident
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INVOLVEMENTS:

Px	Record #	Date	Description	Relationship
NM	6979	09/30/13	Phillips, Debra	Gary's Wife
NM	27696	09/30/13	Phillips, Gary D	Owner/Manager
NM	29730	09/30/13	Wieseman, Dale L	Owner
NM	56059	09/30/13	Upper Deck,	Business
Involved				
NM	90121	09/30/13	Wieseman, Cynthia	Dale's Wife

LAW INCIDENT CIRCUMSTANCES:

Se	Circu	Circumstance code	Miscellaneous
1	LT03	Bar/Night Club	

LAW INCIDENT NARRATIVE:

The Upper Deck is Applying for a Liquor License, and Gary Phillips is Applying to be the Liquor Manager.

LAW INCIDENT OFFENSES DETAIL:

Se	Offe	Offense code	Arson	Dama
1	AOFF	Alcohol Offense		0.00

LAW INCIDENT RESPONDERS DETAIL:

Se	Responding offi	Unit n	Unit number
1	Vitera D	318	Vitera D

LAW SUPPLEMENTAL NARRATIVE:

Seq	Name	Date
1	Vitera D	09:40:07 09/30/2013

Grand Island Police Department
Supplemental Report

Date, Time: Mon Sep 30 09:40:17 CDT 2013
Reporting Officer: Vitera
Unit- CID

I received a copy of a Class C (beer, wine, distilled spirits on & off sale) corporate retail liquor license application from the Upper Deck. I also received a copy of the liquor manger application. Gary Phillips is applying to be the liquor manager at The Upper Deck.

While reviewing the liquor license application, I noted that Gary Phillips from Phillips & Associates Corporation filled out the application and requested that mail from the NLCC be sent to him at 211 W. 3rd. According to the dex directory, Phillips Tax & Business Service is listed at 211 W. 3rd.

The next section I looked at deals with criminal convictions. The only person and piece of information listed is Dale Wieseman with a DUI in 1978. Other information on the application includes statements that no money will be borrowed to establish and/or operate the business, Gary Phillips and Dale Wieseman are authorized to make transactions on the business account at the bank, and neither one of them have had a liquor license before.

The last thing I found relevant on the application is that Gary is married to Debra Phillips. They have lived in Grand Island since 1982. Dale is married to Cynthia Wieseman. Dale has lived in Grand Island since 1980, and Cynthia has lived in Grand Island since 1957. Debra and Cynthia each signed a Spousal Affidavit of Non-Participation.

The corporation (RSI Inc.) lists Gary Phillips as the president. He owns 500 shares of stock. Dale Wieseman is listed at the secretary, and he also owns 500 shares of stock. The business plan for The Upper Deck

indicates that they plan on being a sports bar and serving lunch from 11 a.m. until 2 p.m. and dinner from 5 p.m. until 10 p.m. At some point in the future, they may serve breakfast beginning at 6 a.m. The business plan also states that The Upper Deck will stay open in the evening at their discretion until legal closing time.

I checked all four people on the application through Spillman and NCJIS. All four were in Spillman, but none of them had any indication of undisclosed convictions or anything else that might preclude them from receiving a liquor license. Other than Dale who had an undisclosed speeding conviction, no one else had any undisclosed convictions listed in NCJIS.

I searched the Internet for all four people listed on the application. The last name of Phillips is too common to narrow down all the information. On the other hand, Wieseman didn't generate much information at all. I ran all four people through a law enforcement-only database but didn't find anything out of the ordinary.

I called Gary Phillips on 9/30/13 and arranged to meet him at The Upper Deck on 10/2/13 around 0900 hours. While on the phone, Gary stated that he plans on having security from the very start, and he will deal with problems so they don't reoccur. When I met with Gary at The Upper Deck, he showed me the changes and upgrades that have been made.

I told Gary that I didn't see any problems with his application. However, I also discussed with him that there were a lot of fights and disturbances at the bar under the prior liquor license holder. I also told him that the police department has encountered a lot of problems occurring in the area of the Resident Suites or located people in the area of the Resident Suites who have caused problems in a different area of town. My point in telling Gary this was to inform him of the potential challenges he faces and to also offer some suggestions on how to handle those problems if and when they occur.

Gary had a difference of opinion and seemed to think that the disturbances and police activity in and around The Upper Deck and Resident Suites were exaggerated in scope and number of occurrences. He stated to me that he hadn't personally seen many problems at the bar or Resident Suites, and the people working there contradicted what the police were saying.

In attempt to make Gary realize there is more going on in the general vicinity of The Upper Deck and Resident Suites and to point out the challenges he will be facing as a liquor license holder at The Upper Deck, I asked Gary what happened a couple of weeks ago under the deck at The Upper Deck. Gary didn't know. I gave him a few small details, and he was eventually able to recall the incident I was describing. However, he didn't know the main crux of the problem, a man had been stabbed multiple times and wound up in the ICU at the hospital.

I went on to tell Gary that most of the problems I heard about with the disturbances at The Upper Deck didn't occur inside the bar. They were happening on the stairs, at the entry/exit door, and in the parking lot

and adjacent outside areas. I told Gary he is still responsible for what happens in those areas with his patrons, and he needs to make sure he has security monitoring those areas at closing time. I encouraged him to tell his security personnel to not let people who have just come from his bar gather outside the bar at closing time, disperse them if it occurs, and call the police for help if people don't comply.

While Gary still seemed skeptical of what I had told him about the problems the police department encountered at The Upper Deck (under prior management) and continues to encounter in the area surrounding the Resident Suites, he seemed genuinely concerned and interested in what I had to say. Gary also pointed out that he feels the level of cooperation with the police department from the Resident Suites has been very good. While I haven't polled every officer in the department, I agree with his assessment. I can personally attest to an outstanding level of cooperation from the staff at Resident Suites, and I have also seen it with some of the investigators in the police department.

Gary wants to run a good, clean business. I hope my conversation with him will help him minimize and correct some of the problems he may face. All in all, I don't see anything in the application that would preclude The Upper Deck from receiving a liquor license or Gary Phillips becoming the liquor manager.