

STAFF REPORT

Report To:Board of SupervisorsMeeting Date:May 19, 2022

Staff Contact: Heather Ferris, Planning Manager

Agenda Title: For Possible Action: Discussion and possible action regarding an appeal of a denial for a request for a business license to operate an energy drink warehouse and distribution center on property zoned Retail Commercial ("RC"), located at 110 Corbett Street, APN 002-137-08. (Heather Ferris, hferris@carson.org)

Staff Summary: On February 15, 2022, the Business License Division of the Community Development Department received an application for a business license (BL-007063-2022) for an e-commerce and internet fulfillment site at the subject parcel. Upon review of the request, the Planning Division of the Community Development Department determined the use is most similar to a warehouse and distribution center and therefore is not allowed in the RC zoning district. A letter denying the application was sent to the applicant on March 7, 2022 and on March 16, 2022 the applicant submitted a letter appealing the decision.

Agenda Action: Formal Action / Motion

Time Requested: 15 minutes

Proposed Motion

I move to deny the appeal.

Board's Strategic Goal

Quality of Life

Previous Action

February 15, 2022 - Business License application for e-commerce and internet fulfillment site at the subject parcel was received.

February 25, 2022 - Planning Division notes issue with the proposed use and the zoning.

March 07, 2022 - Business License Division denies the application since proposed use is not allowed in the RC zoning district (see attached letter).

March 16, 2022 - Applicant submits a letter appealing the denial of the application.

March 31, 2022 - Staff from the Planning Division, Building Division, Development Engineering and the Fire Department meet with the applicant to discuss the applicant's future and current plans, as well as the existing code violations at the subject property.

April 7, 2022 - Code Enforcement issued a Notice of Violation informing the applicant of violations of CCMC 4.04.010 (Business license required); 8.08.070 (Nuisances per se); CCMC 15.80.050 (Certificate of occupancy required); and CCMC 18.04.130 (Retail Commercial); and how to come into compliance.

Background/Issues & Analysis

Section 4.04.180 of the Carson City Municipal Code ("CCMC") establishes the process for the issuance or denial of a business license application as well as the appeal process. The business license application was denied pursuant to CCMC 4.04.180.2(h) because the premises on which the business is proposed does not satisfy all local laws or regulations which relate to the proposed business.

Upon receipt, the application was routed to multiple internal City departments for review, including the Planning Division, the Fire Department and the Department of Health and Human Services. The Planning Division reviews the proposed use of the property to ensure that it is an allowed use in the zoning district. The described business activity - e-commerce and internet fulfillment - is not a listed use under the provisions of CCMC. Additionally, when staff met with the applicant, the business operation that was described on the property was storage and delivery of products. In cases where a use is not listed, staff reviews and makes a determination as to which use it is most similar. CCMC 18.04.025.

The common definition of e-commerce is "commercial transactions conducted electronically on the internet." The common definition of a fulfillment center is "a warehouse where goods are packed and dispatched to fulfill orders, especially those made online." Based on these definitions, staff determined that the proposed use of e-commerce and internet fulfillment is most similar to a "warehouse/distribution center." Per CCMC 18.03.010, a warehouse/distribution center is defined as "an enclosed structure for the storage of goods for distribution or transfer to another location." A warehouse is not an allowed use in the RC zoning district; therefore, the Planning Division was unable to approve the business license, resulting in the Business License Division denying the license.

Staff met with the appellants on March 31, 2022, to discuss the proposed use of the property as well as the code violations. The existing code violations are as follows: CCMC 4.04.010 (Business license required); 8.08.070 (Nuisances per se); CCMC 15.80.050 (Certificate of occupancy required); and CCMC 18.04.130 (Retail Commercial). A Notice of Violation was issued on April 7, 2022, informing the applicant of the violations and how to come into compliance.

If the zoning issues were able to be overcome, there is still the issue of code violations which would prevent the issuance of the business license until such time all violations are resolved.

Applicable Statute, Code, Policy, Rule or Regulation

CCMC 04.04.180, 18.03.010, 18.04.025 and 18.04.130

Financial Information Is there a fiscal impact? No

If yes, account name/number:

Is it currently budgeted?

Explanation of Fiscal Impact:

<u>Alternatives</u>

Grant the appeal, reversing the denial of the business license.

Attachments:

Energy Drink Outlet BL application.pdf

Appeal Request.pdf

Denial Letter.pdf

Excerpts from Title 4 and Title 18.docx

Board Action Taken:

Motion: _____

1)_____ 2)_____ Aye/Nay

(Vote Recorded By)

	CARSON CITY Incomplete or illegib Applications r		I not be accepted.	Submittal Date:	o Far	3-200
New Bu	usiness 🖸 Change of	Physical Location	🗆 Other	2/15/2022		
Type of Entity:	Sole Proprietor	Corporation	📮 Partnership	🛢 Limited Liabili	ty Company	🗋 Non-Profit
	ed: NV State Buiness License 1481064	Number	Specialty License Number	Business C	Dening Date in C 1157	arson City 22
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PO BO	< 4087			Statelin	e, NV	89449
	@gmail.com		Aabile Phone 44-4674	(530)54	Business Phone 4-467	4
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Ryan Ja	ason Payne	•	City, State, Zip		Residence Telep	IONE
	nox Ave.		South Lake Taho	be, CA 96150	(530)54	
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	Attach a list of the quantities, types, and storage location of any chemicals or bazardous materials that will be used for this business						
	Health Dep	artment	5 2				
	Do you provide or manufacture food, heverages, or supplements for carling or drinking to the public?						
	NO. Do you provide sealing for customers? How many people can be seated?						
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	Do you provide (attooing, permanent make up, microblading or plercing within your establishment?						
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	A business license, liquor license, and/or gaming license are issued to a given owner at a SPECIFIC LOCATION and are NON- TRANSFERRABLE to a different owner or different location.						
• Non-payment of annual and quarterly business license, liquor license, and/or gaming license fees by the due date will result in penallies and is grounds for the revocation of the license.							
	0	Any exception to	any of the above	is considered a vi	olation of the Carson City M	unicipal Code and is su	bject to citation.
I hereby certify that the above information is correct to the best of my knowledge and belief. I understand that failure to complete this form truthfully is an act of perjury.							
	Applicant's Sign	iature	£- <u>7</u> =			Date	110/00-

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STATE OF NEVADA, DIVISION OF INDUSTRIAL RELATIONS AFFIRMATION OF COMPLIANCE WITH MANDATORY INDUSTRIAL INSURANCE REQUIREMENTS (Instructions with Definitions are located on reverse side)

Busiles	Name (Instante any name doing business as) NEABY VIRW & DUTCET LLC	Type of Business	Business Tele (620) 5	mane Number
	Address O CORBETT ST. CARSON C	City Lagran	State	Zip Code
Federal	Identification No. 90-1116765	Social Security No.	Contractor's	Beard License No.
Name of	Principal Owner (Please Print)			mer's Telephone No.
Princips	2680 KNOX AVE, SOUTH L	AKE TAHOE, CA 96	150 ^{State}	Zip Code
Identif	ied as: (Complete one section only)			
()	That the above identified business has Chapter 616A to D, inclusive, of the N <u>9/2021</u> Effective Date of Coverage	obtained industrial workers' evada Revised Statutes (NR	compensation in (S): 37 WEC/ Account Number	surance as required by 409JDG
	Enective light of Coverage		Account Number	
()	That the above identified business is no Nevada Revised Statutes, due to a statu any independent contractor or subconti	tory exemption or as a busi		· ·
()	That the above identified business has	a valid certificate of self-ins	surance pursuant	to Chapter 616A to D,
	inclusive, of Nevada Revised Statutes.			
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SUBSCRIBED and SWORN to before me on this _____ day of _____, 20____,

NOTARY PUBLIC

D-25(1) (rev. 3/01)



FOR ASSESSOR OFFICE USE ONLY
ACCOUNT NUMBER:
TAX DISTRICT:

BUSINESS TYPE: _____

BUSINESS INFORMATION FORM

To be completed if Carson City based business

(Please Print)

New Business 🗆 Change of Location/Mailing 🗆 Name Change 🗅 Purchase Business
TYPE OF ENTITY: Sole Proprietor Corporation Partnership Limited Liability Comp. Non-profit
BUSINESS NAME (DBA): Energy Drink Outlet LLC BUSINESS PHONE: (530)544-4674
MAILING ADDRESS: PO Box 4087, Stateline, NV 89449 LOCATION ADDRESS: 110 Corbett St., Carson City, NV 89706 DESCRIPTION OF BUSINESS: E-commerce and internet fulfillment
LOCATION ADDRESS: 110 Corbett St., Carson City, NV 89706
DESCRIPTION OF BUSINESS: E-commerce and internet fulfillment
founded in August 2007
OWNER OR CONTRACT PERSON: Ryan Payne Title: CEO/founder - President
DATE OPENED OR ANTICIPATED OPENING: Image: Ceo/founder - President OWNER OR CONTRACT PERSON: Ryan Payne Title; EMAIL ADDRESS: edoutlet@gmail.com PHONE (if different than above):
WAS THIS A CHANGE TO AN EXISTING BUSINESS? YES NO X (If yes, please indicate previous name of business)
PREVIOUS LOCATION, IF APPLICABLE 260 Kingsbury Grade, Stateline, NV 89449
PREVIOUS LOCATION, IF APPLICABLE 260 Kingsbury Grade, Stateline, NV 89449 ARE THERE ADDITIONAL LOCATION FOR THIS BUSINESS? YES X 1 NO (If yes, please list additional locations and attach to form)
DID VOUPURCHASE THE BUSINESS? YES NOX
DID YOU PURCHASE THE BUSINESS? YES <u>NO</u> NO (If yes, did the purchase include the equipment? YES NO)

** In July of each year, the Carson City Assessor's Office will be sending you a Statement of Business Equipment and Assets Form that will be due on July 31 st . If you have any questions regarding the assessment, please contact our office at:
201 N. Carson St. Ste. 6
Carson City, NV 89701
775-887-2130
First and Last Name: Ryan Payne DATE: 2/15/2022



CARSON CITY SHERIFF'S OFFICE RESPONSIBLE PARTY INFORMATION

Kenneth Furlong Sheriff

DATE 2/15/20

BUSINESS NAME Energy Drink Outlet LLC					
BUSINESS ADDRESS 110 Corbett St., Cal	rson City, NV 89449				
	an a				
BUSINESS PHONE (530)544-4674					
BUSINESS MANAGER Ryan Payne					
AFTER HOURS CONTACTS					
NAME: Ryan Payne	PHONE: (530)544-4674				
IAME:	PHONE:				
JAME:	PHONE:				
JAME:	PHONE:				
JAME:	PHONE:				
ALARM COMPANY					
JAME:	PHONE:				
ADDRESS:	PHONE:				

lyan Payne

Manager's Name

2/15/2022 Date

Natalie Kiel	
From: Sent: To: Subject:	Business Licensing Wednesday, March 16, 2022 10:34 AM Natalie Kiel FW: LAST EMAIL SENT IN ERROR
From: Ryan Payne <edoutlet@gmail.com> Sent: Wednesday, March 16, 2022 9:55 AM To: Carson City Permits <permits@carson.org> Subject: Fwd: LAST EMAIL SENT IN ERROR</permits@carson.org></edoutlet@gmail.com>	gmail.com> 022 9:55 AM its@carson.org> T IN ERROR
This message originated ou information.	This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.
Sent from my iPhone	

Begin forwarded message:

From: Ryan Payne <<u>edoutlet@gmail.com</u>> Date: March 16, 2022 at 9:12:31 AM PDT To: Natalie Kiel <<u>NKiel@carson.org</u>> Subject: Re: LAST EMAIL SENT IN ERROR

Good Morning Ms. Kiel,

We just received the letter stating that the business license for Energy Drink Outlet was denied for being a warehouse in Retail Commercial zoning. We believe the judgment was made in error and would like to appeal this decision.

usiness license without question, but we also	
h the approved uses of the property in RC zoning and should qualify for a business license without question, but we also	have described our business in the best terms on the application.
We have read through t	admit that we may not have des

Although current circumstances have us mainly focused on e-commerce, we would like to open for walk-in retail sales at 110 Corbett St. with the Energy Drink Outlet is a small, family-run retail operation specializing in energy drinks owned by myself, Ryan Payne, and my wife Anna Payne. intent on selling energy drinks and disc golf equipment.

We have plans for remodeling in motion and already ordered a new aluminum and tinted glass garage door which is scheduled to be installed in the next month or so. Additionally, a new tinted glass front door, windows, and awnings are to follow. Plans are also in place to paint and install business license will allow us to continue making the revenue necessary for the next stage of development for the property which we will be outdoor lighting on the 'garage' portion of the property which would be used for the retail area. These improvements and approval for our bringing to the planning department for approval.

looking forward to being a partner in the redevelopment and beautification of Carson City. Please reconsider your decision and approve our community. I am available to come in to answer any questions and clear up any issues. We are committed to fixing up 110 Corbett St. and We are invested in Carson City and want to be a part of its next chapter by moving here from Tahoe with our 2 kids and settling in to the business license.

Kind Regards, Ryan and Anna Payne Energy Drink Outlet On Mar 6, 2022, at 3:42 PM, Natalie Kiel <<u>NKiel@carson.org</u>> wrote:

Good Afternoon,

The last email sent from permits@carson.org was sent in error. Business License BL-007063-2022 has not been issued.

Sincerely,

Natalie Kiel Business License Specialist Carson City Community Development (775) 283-7040





108 E. Proctor Street Carson City, Nevada 89701 (775) 887-2105 Hearing Impaired: 711

March 7, 2022

Energy Drink Outlet LLC Ryan Payne PO Box 4087 Stateline, NV 89449

Re: 110 Corbett Street, Carson City

Dear Mr. Payne:

Your Business License application for a warehouse at 110 Corbett Street has been denied.

The proposed business location of 110 Corbett Street is zoned Retail Commercial. Warehouse is not an allowed us in Retail Commercial Zoning.

Per CCMC 04.04.180(3) you may appeal the denial of the business license application. Such an appeal must be made in writing and submitted to the Business License Division within 10 business days of receipt of this notice. The appeal would be heard by the Board of Supervisors following notice of the hearing.

Sincerely,

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Heather Ferris Planning Manager

Cc: Code Enforcement

Certified Mail Receipt # 7021 1970 0001 3890 0738

4.04.180 Issuance or denial of license or permit—Appeal.

1. Upon receipt of the required reports from Carson City departments, the Business License Division shall determine whether the license or permit will be issued. The Business License Division may not issue a license or permit until all of the required reporting departments have approved the application. If the Business License Division denies the application, the applicant may appeal to the board of supervisors as hereinafter provided.

2. Any application or renewal for a license or permit submitted to the Business License Division pursuant to this title may, in addition to any unsatisfied application condition or other basis for denial set forth in a specific section of the Carson City Municipal Code, be denied on any of the following grounds:

a. The Application or any other document is incomplete or contains false, misleading or fraudulent statements.

b. The applicant or any of its principals fails to satisfy any qualification or requirement imposed by this title, or other local, state or federal laws or regulations that pertains to the particular license or permit.

c. The applicant or any of its principals is or has engaged in a business, trade or profession without having obtained a valid license, permit or work card or permit when such applicant or principal knew or reasonably should have known that one was required.

d. The applicant or any of its principals has been subject, in any jurisdiction, to disciplinary action of any kind with respect to a license, permit or work card or permit to the extent that such disciplinary action reflects upon the qualifications, acceptability or fitness of the applicant or principal to conduct such a business.

e. The applicant or any of its principals has been convicted of any crime that involves any local, state or federal law or regulation arising out of the operation of a similar business.

f. The applicant or any of its principals has been convicted of a crime as a result of having perpetrated deceptive practices or fraud upon the public, a business partner or shareholder, a subcontractor or a government entity within the last ten years.

g. The applicant or any of its principals suffer from a legal disability to conduct such business under state or federal laws.

h. The premises on which the business is proposed to be conducted does not satisfy all local, state, or federal laws or regulations which relate to the activity that is to be licensed or permitted.

i. The applicant or any of its principals is in default on any payment or obligation owed to Carson City.

3. A written notice of appeal from the denial of a license or permit may be filed with the Business License Division not later than 10 business days after the applicant receives certified mail notice of the denial. Upon receipt of the notice of appeal, the Business License Division shall schedule a hearing before the board of supervisors. Notice of the date, time and place of the hearing shall be served upon the applicant not later than 10 business days before the time specified of the hearing by delivering the notice to him or by certified mail to his last known address. The applicant must appear at the hearing, the board may sustain the Business License Division's decision or order that the license be issued. The decision by the board must be in writing or orally expressed in the official record of its public meeting and must include findings of fact.

(Ord. 2007-8 § 10, 2007: Ord. 1997-64 § 30, 1997: Ord. 1993-47 §§ 1 (part), 16, 1993: Ord. 1984-35 § 6, 1984: Ord. 1977-1 § 1(C), 1977).

(Ord. No. 2011-9, § XVI, 9-1-2011)

18.03.010 - Words and terms defined.

"Warehouse/distribution center" means an enclosed structure for the storage of goods for distribution or transfer to another location.

18.04.025 - Determination of uses.

The director shall review and make a determination on all requests for each use not listed under permitted, accessory and conditional uses in each land use district in compliance with the purpose statement in each land use district.

(Ord. 2001-23 § 2 (part), 2001).

18.04.130 - Retail commercial (RC).

The purpose of the RC District is to preserve a commercial district limited primarily to offices and retail sale of new merchandise and excluding all uses in the General Commercial and Industrial Districts, except for some service uses which are compatible with the zone. All uses within the RC District shall be conducted within a building, and aside from display windows, be screened from view. Outdoor display and storage of autos, recreational vehicles, or mobilehomes in conjunction with an existing business with sales of autos, recreation vehicles and mobilehomes is allowed in accordance with <u>Division 2</u> of the Development Standards and provided the vehicles or mobilehomes do not encroach into City or State Right-of-Way without an approved encroachment permit and are screened from adjacent parcels. Temporary outdoor display and sale of merchandise for a period not to exceed 30 days within a calendar year may be authorized by the Director subject to Title 18.02.115.8 (Outdoor Sales and Activities).

1. The Primary Permitted Uses in the RC District are this list, those uses allowed in <u>18.04.120</u> Neighborhood Business, except those uses appearing in Section 18.04.130.3 Retail Commercial as Conditional uses which require a Special Use Permit, plus other uses of a similar nature:

Accounting and Bookkeeping

Alcoholic Beverage Sales (accessory to a restaurant)

Amusement Devices, Sales and Service

Apparel Shop Appliances Art Studio Artist, Commercial Astrology Parlor/Fortune Telling/Clairvoyance and Palmistry Automobile Parts, Tires and Accessories Automobile Rental Automobile Retail New or Used Automobile Service (automobile gas, maintenance and repair service, no body repair) Bible and Church Supplies Blood Bank **Blueprint and Photocopy Services** Boarding and Rooming House **Body Piercing** Bowling Alley Brew Pub Cafeteria Candy and Confectionary, Retail Carpet and Floor Coverings Caterer Ceramics, Ceramic Products with Kiln Chemist, Analytical and Consulting **Christmas Tree Sales** Clock, Retail and Repair Club, Supper and Amusement

Collectible Store
Computer Sales and Repair
Copy Center
Costumes, Party and Wedding Supplies and Rental
Credit Bureau
Delivery Service
Department Store
Detective or Private Investigation Agency
Draperies, Blinds and Window Coverings
Drugstore and Pharmacy
Dry Goods Store
Electrical Appliances, Retail
Embroidery Shop
Employment Agency
Engraver (trophies, jewelry, home plates) (no chemical or sandblasting processes permitted)
Factory Outlet Store
Fraternal Association
Furniture and Home Furnishings, Office and Home, including Retail
Furs and Leather Goods
Garden Supplies
Grocery Store
Gun Store
Gunsmith
Herbs, Retail
Hotel

Wedding Chapel

2. The Accessory Permitted Uses, incidental to Primary Permitted Uses, in the RC District are:

Home Occupation

Outside Storage, limited by and to subject to Development Standards <u>Division 1</u> and <u>1.12</u> Outside Storage

Storage containers (temporary) subject to <u>Division 1</u> and <u>1.10</u> Personal Storage of the Development Standards

Temporary Outdoor Display and Sales subject to Title 18 (Outdoor Sales and Activities)

3. The Conditional Uses in the RC District which require approval of a Special Use Permit are:

Amusement Arcade

Bar

Bed and Breakfast Inn (only within the Historic District, and limited to Single Family 6000, Residential Office and Retail Commercial zoning districts, subject to the provisions of Title 18 Development Standards <u>Division 1.7</u> Bed and Breakfast Inns)

Building Materials (indoor only)

Bus Passenger Depot

Child Care Facility

Community/Regional Commercial or Office Center

Congregate Care Housing/Senior Citizen Home

Facial Cosmetic Shading, Permanent

Farmers Market

Funeral Home, Mortuary

Gaming (unlimited)

Golf Course and Driving Range

Hospital

Hotel Residence

Janitorial and Building Cleaning Service

Kennel

Miniature Golf Course

Mobilehome Park

Municipal Well Facility

Newspaper Print Office

Permanent Outdoor Sales subject to Title 18.02.115.8 (Outdoor Sales and Activities)

Personal Storage/Retail/Office Complex subject to <u>Division 1</u> and <u>1.10</u> Personal Storage of the Development Standards

Printer and/or Publisher

Recreational Vehicle Park

Schools, K-12, College, University or Vocational

Single Family, Two-Family and Multi-Family Dwelling

Skating Arena

Storage containers (permanent) subject to <u>Division 1</u> and <u>1.10</u> Personal Storage of the Development Standards

Street Vendors are limited to the DT-MU and RC zoning districts, subject to <u>Division 1</u> and <u>1.11</u> Street Vendors of the Development Standards

Tattoo Parlor

Tennis or Swimming Facility

Trailer or Truck Rental

Utility Substation

Veterinary Clinic

Youth Recreation Facility

(Ord. 2007-23 § 1 (part), 2007: Ord. 2006-4 § 10 (part), 2006: Ord. 2001-23 § 2 (part), 2001).

(<u>Ord. No. 2008-33, § IV, 9-4-2008</u>; <u>Ord. No. 2013-20, § III, 7-18-2013</u>; Ord. No. <u>2018-4</u>, § I, 3-1-2018)