

**REQUEST FOR BOARD ACTION
HENDERSON COUNTY
BOARD OF COMMISSIONERS**

MEETING DATE: September 8, 2009
SUBJECT: The Grass Roots Cafe, on-premises alcohol permit
ATTACHMENTS: Comment forms

SUMMARY OF REQUEST:

North Carolina alcoholic Beverage control law allows local governments to comment upon the application by a private facility for on-premises consumption alcoholic beverage sale permits. The purpose of the comment is to allow the Alcoholic Beverage Control commission to “be satisfied the applicant is suitable person and that the location is a suitable place”.

Attached you will find an application filed on behalf of The Grass Roots Café by Michael E. McLean.

Comment by the Board is not required. If the Board does wish to comment upon this, it should be done as a group.

County staff will be present and prepared if requested to give further information on this matter.

BOARD ACTION REQUESTED:

Expression of any Board comment on this application.

If the Board is so inclined, the following motion is suggested:

SUGGESTED MOTION:

I move that the Board adopt the following as its commentary on this application:

Henderson County’s Board of Commissioners does not desire to make any comment as to the suitability of these applicants nor as to the location of the prospective permit site. This lack of comment should not be interpreted in a negative manner.

**NORTH CAROLINA
ALCOHOLIC BEVERAGE CONTROL COMMISSION**

4307 Mail Service Center
Raleigh, NC 27699-4307
(919)779-0700 FAX: (919)662-3583

**LOCAL GOVERNMENT OPINION
for ALCOHOLIC BEVERAGE PERMITS**

APPLICANT SHOULD COMPLETE THIS SECTION ONLY

Applicant's Name MICHAEL E. MCLEAN
Corporate or LLC Name (if applicable) SOONCE ENERGY ENTERPRISES LLC
Trade Name of Business dba THE GRASS ROOTS CAFE
Former Trade Name (if any) _____
Business Address 4165 BREVARD RD
City/State HORSE SHOE, NC 28742
Date of Birth AUG. 10, 1949
NC Driver's License # NC 5435606
Last 4 of Social Security # 2327

TYPE OF ABC PERMIT(S) BEING APPLIED FOR:

BROWN BAGGING _____ On Premise
Indicate Type (if any)
_____ Off Premise
Indicate Type (if any)

REMAINDER OF FORM FOR OFFICIAL USE ONLY

Date Form 001 Mailed or Delivered _____
Designated Official's Name _____
Title _____
City/County _____
Address _____
Contact Telephone # _____

NOTICE: The Alcoholic Beverage Control Commission shall give notice of a permit application to the Governing body of a city or county prior to issuing a retail ABC permit. Designated Officials are expected to process this form within 15 days of receipt. The applicant will be required to provide proof of mandatory compliance with all applicable building and fire codes. The Inspection/Zoning Compliance form (Form 002) is for this purpose and will be completed by the appropriate local agencies.

FACTORS IN ISSUING A PERMIT: Pursuant to N.C.G.S. 18B-901(c), before issuing a permit, the ABC Commission shall be satisfied the applicant is a suitable person and that the location is a suitable place.

PLEASE INDICATE YOUR ANSWER TO THE FOLLOWING:

Do you approve of the applicant and location for the ABC permit?

YES _____ Applicant _____ NO _____ Applicant _____
Location _____ Location _____

Disapprovals: Pursuant to N.C.G.S. 18B-901 (b), to be considered by the ABC Commission, the objections shall state the facts upon which it is based. If you have indicated disapproval by answering "NO", please explain your reason(s) based on the factors outlined in N.C.G.S. 18B-901(c) on the attached page. Use extra sheets if additional space is required and attach all records and/or documents used to arrive at your decision. The mere indication of "NO" without an explanation is an insufficient basis for rejection and cannot be considered by the Commission.

Signature of Designated Official Date

Title of Designated Official

State of North Carolina
_____ County

_____ Being duly sworn says that the contents of the foregoing Local Government Opinion are true to his/her own knowledge, except as to matters stated on information and belief, and as to those matter(s) he/she believes them to be true.

Sworn to and subscribed before me this:

Day Month Year

(Notary Public's Signature)

18B-901(c)

Factors in Issuing Permit

Before issuing a permit, the Commission shall be satisfied that the applicant is a suitable person to hold an ABC permit and that the location is a suitable place to hold the permit for which the applicant has applied. To be a suitable place, the local governing body shall return a Zoning and Compliance Form to the Commission on a form provided by the Commission to show the establishment is in compliance with all applicable building and fire codes and, if applicable, has been notified that it is located in an Urban Redevelopment Area as defined by Article 22 of Chapter 160A of the General Statutes and as required by G.S. 18B-904(e)(2). Other factors the Commission shall consider in determining whether the applicant and the business location are suitable are all of the following:

- (1) The reputation, character, and criminal record of the applicant.
- (2) The number of places already holding ABC permits within the neighborhood.
- (3) Parking facilities and traffic conditions in the neighborhood.
- (4) Kinds of businesses already in the neighborhood.
- (5) Whether the establishment is located within 50 feet of a church, public school, or any nonpublic school as defined by Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes.
- (6) Zoning laws.
- (7) The recommendations of the local governing body.
- (8) Any other evidence that would tend to show whether the applicant would comply with the ABC laws.
- (9) Whether the operation of the applicant's business at that location would be detrimental to the neighborhood, including evidence admissible under G.S. 150B-29(a) of any of the following:
 - a. Past revocations, suspensions, and violations of ABC laws by prior permittees related to or associated with the applicant, or a business with which the applicant is associated, within the immediate preceding 12-month period at this location.
 - b. Evidence of illegal drug activity on or about the licensed premises.
 - c. Evidence of fighting, disorderly conduct, and other dangerous activities on or about the licensed premises.