

City Council Agenda Memo

From: Bonnie Foster, City Clerk

Council Meeting: December 14, 2021

Subject: Video Lottery Request for Corner Pantry #19

Presenter: Bonnie Foster, City Clerk

Summary:

The City of Brookings has received a request for Video Lottery for MG Oil, dba Corner Pantry #19, 921 20th Street South. Legal description: Lot 7B, Block 13, McCleman's Addition. All required documents have been submitted. Pending permit issuance and final inspection per the Community Development Dept.

Background:

Previous action was taken and approved by the City Council on 8/24/2021 to allow for video lottery at the Corner Pantry #19 location, with the Video Lottery request being tied to the On-Off Sale Wine License.

8/24/2021 City Council Meeting Minutes: "Video Lottery Request – Corner Pantry #19. A public hearing was held on a request for Video Lottery for MG Oil, dba Corner Pantry #19, 921 20th Street South. Legal description: Lot 7B, Block 13, McCleman's Addition. Pending permit issuance and final inspection per the Community Development Department. A motion was made by Council Member Brink, seconded by Council Member Wendell, that the Video Lottery Request be approved. The motion carried by the following vote: Yes: 7 - Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, Collins, and Avery."

The owner, MG Oil, would like to change the location of Suite B for Video Lottery within Corner Pantry #19 from what was approved on 8/24/2021. The change in the Suite B location is from the SE side of the business to the NW side of the business, allowing for space for 10 video lottery machines, instead of the original 7.

The Depot Casino at this location currently has an On-Off Sale Malt License with 10 video lottery machines. Corner Pantry #19 currently has an On-Off Sale Wine License which will fulfill the alcohol license requirement in which to allow for Video Lottery Machine placement.

A public hearing and action by the local governing body is required. If approved, and following the issuance of the Occupancy Permit by the Community Development Department, the application would be forwarded to the State Lottery Office for final

action and issuance of the license, and would then be subject to annual renewal processes.

Item Details:

MG Oil Company, dba Corner Pantry #19, has applied for a Video Lottery request for 10 machines at the 921 20th Street South location. This video lottery will be associated with the On-Off Sale Wine License at this location. Any licenses approved would be effective pending occupancy permit issuance and final inspection of the property per the Community Development Department.

This location will undergo some remodeling in order to add a space for Video Lottery. In order to satisfy State Video Lottery Regulations, there must be separate and distinct physical facilities maintained and utilized for the sale and consumption of alcoholic beverages for this separately described premises.

Their plan indicates the separate spaces have been designated, and sales and consumption of alcoholic beverages are intended to occur at this location within the building. This would comply with the video lottery requirements.

SDCL 42-7A-64. Additional criteria for on-sale alcoholic beverage licensees in video lottery licensed establishments. A municipality or county may consider, in addition to the criteria for the issuance of an on-sale alcoholic beverage license, the following criteria for authorizing video lottery machine placement in establishments issued an on-sale alcoholic beverage license pursuant to subdivisions 35-4-2(12) and (16):

1. The number of establishments currently licensed for video lottery;
2. The proximity of the business to other establishments licensed for video lottery;
3. The type of business and manner in which the applicant proposes to operate it;
4. The location of the business in relation to other businesses, residential areas, or activities within the same general area;
5. The extent to which minors frequent a business connected to the one proposed; and
6. The effect the proposed business has on economic development.

The governing board shall certify on each application filed with the Department of Revenue for a license granted under subdivisions 35-4-2(12) and (16) whether the business premises is authorized for video lottery machine placement. An existing video lottery license may not be denied renewal or transfer based upon the criteria set forth in this section. The lottery may issue a video lottery license to those establishments certified pursuant to this section. Notwithstanding the above provisions, a county or municipality may not restrict the number of alcoholic beverage licenses issued under subdivisions 35-4-2(12) and (16) and certified for video lottery to a number less than those licensed as video lottery establishments on March 1, 1994.

Source: SL 1994, ch 329, § 1; SL 2003, ch 272 (Ex. Ord. 03-1), § 82; SL 2011, ch 1 (Ex. Ord. [11-1](#)), § 161, eff. Apr. 12, 2011.

Legal Consideration:

City Attorney Steve Britzman has reviewed the application.

Strategic Plan Consideration:

Economic Growth – MG Oil will experience growth in their business with the addition of video lottery

Financial Consideration:

Video Lottery fees: \$50 per machine per year.

Options and Recommendation:

The City Council has the following options:

1. Approve as presented
2. Amend
3. Deny
4. Move to a Study Session
5. Discuss / take no action / table

Staff recommends approval.

Supporting Documentation:

City Attorney Memo on Video Lottery - 2018

City Attorney Opinion on AR 48:02:11:02

Video Lottery: SDCL and Administrative Rule

Legal Notice

Location Map

Proposed Building Plan

Building Plan – approved 2021.08.24

Current Video Lottery List