

IN THE MATTER OF THE	*	BEFORE THE ALCOHOLIC
APPLICATION OF RYAN MICHAEL	*	BEVERAGE HEARING BOARD
SMITH AND PARAG M. PANCHOLI	*	FOR
ON BEHALF OF SHIVA WINE &	*	HOWARD COUNTY, MARYLAND
SPIRITS, LLC T/A HOWARD WINE &	*	
SPIRITS FOR A NEW CLASS A-1	*	
BEER, WINE AND LIQUOR	*	Case No.: 20-34
7-DAY OFF SALE LICENSE		

DECISION AND ORDER

The Board of License Commissioners for Howard County, Maryland (the “Liquor Board”), pursuant to Rule 1.02(A) of the Liquor Board Rules and Regulations, has delegated the authority to hear and decide cases to the Alcoholic Beverage Hearing Board for Howard County, Maryland (the “Hearing Board”).

On June 22, 2020 and July 29, 2020, the Hearing Board heard the application of Ryan Michael Smith and Parag M. Pancholi (“Applicants”) on behalf of Shiva Wine & Spirits, LLC t/a Howard Wine & Spirits (“Howard Wine & Spirits”) for a new Class A-1 Beer, Wine & Liquor 7-day off-sale license for a 3,192 square foot package goods store located at 7700 Hearthside Way, Suite 1, Elkridge, MD 21075.

The hearing was properly advertised, and the property was posted pursuant to the Alcoholic Beverages Article of the Annotated Code of Maryland. The Applicants were represented by Chris DeCarlo, Esquire. Some of the opposition was represented by David Mister, Esq. Mr. Ashish “Eric” Parikh, Mr. Ricky Anderson, and Ms. Amit Patel were also in opposition and represented themselves.

All the documents on file were incorporated into the record by reference.

SUMMARY OF TESTIMONY

Parag Pancholi, 90 percent owner and liquor license applicant, was sworn in and testified as follows:

Mr. Pancholi testified that he has never held a liquor license before and has never been convicted of a felony. Mr. Pancholi stated that the store is under construction and is located in Phase 2 of the Verde at Howard Square Development which is a mixed-use community, and the store location would be on the ground floor of a building. Mr. Pancholi testified that there are over one thousand residents that he would expect would potentially purchase from his store.

Mr. Pancholi testified that the proposed hours of operation will be 10:00am to 10:00pm Monday through Sunday. Mr. Pancholi stated that he plans to be at the store every day in the afternoon and evening and will be at the store from open to close on weekends. Mr. Pancholi testified that he may cut down on his hours once he is comfortable that the store is fully operational. Mr. Pancholi testified that he has hired an alcoholic beverage consultant, Mani Gupta, who will provide guidance and will be training him and the staff. Mr. Gupta has no financial interest in the store but will serve as a full-time employee, specifically as a General Manager for the store.

Mr. Pancholi testified that he plans for the store to be a high-end, boutique liquor store that will provide wine and spirits tastings and classes for their customers and will sell mid-range priced products as well. Mr. Pancholi testified that there is a public need for his proposed store because Howard Square is a walkable community and most residents will be able to walk to his store. Mr. Pancholi indicated he will also have delivery services for those customers who request it. Mr. Pancholi testified that presently, the only way for

residents to get high-end spirits is to drive to a location; however, once opened, his store will provide high-end spirits that would be within a walking distance. Mr. Pancholi testified that Howard Wine & Spirits will be distinct from the other discount liquor stores in the area in that they will not offer check cashing or lottery services in his store, will not sell singles, and will not have discount signs on the windows.

Mr. Pancholi testified that he, Mr. Smith, and Mr. Gupta have all received their alcoholic beverage certification and will require all his employees receive their alcoholic beverage certification as well. Mr. Pancholi testified that he has completed a course on wines and plans to continue classes in wines and spirits and will be training with Mr. Gupta at the Watergate Liquor Store to expand his knowledge. Mr. Pancholi also testified that he understands the Board's Rules and Regulations and that when he is not available, there will be another employee onsite with Alcohol Awareness certification. Additionally, Mr. Pancholi testified that he has purchased POS system to scan IDs. Mr. Pancholi testified that he will not allow any unaccompanied minors to enter the store. Mr. Pancholi stated the granting of the license would be an accommodation to the public and that it would not create an undue disturbance to the community, nor will it disturb the peace, safety, and welfare of the community.

Mr. Pancholi testified that he has interacted with the residents and they have expressed an interest in high-end products, but he has not conducted a market analysis. Mr. Pancholi stated he has not conducted a product review of his nearby competitors, but he has visited their stores and Mr. Gupta, his consultant, will be tasked to ensure that he has unique and high-end products that are different from nearby stores. Mr. Pancholi testified that his store will offer unique customer service as he plans to have his employees

actively interact with customers and not just stay behind the counter as he has observed to be the practice of his nearby competitors. Mr. Pancholi testified that he is currently working as an accountant for the Federal Government and he has a Master's degree in accounting and finance. Mr. Pancholi testified that he has always wanted to own a liquor store and when he saw the location he thought it would be a compatible fit for his business concept. Mr. Pancholi also testified that he will rely on Mr. Gupta, his consultant and General Manager, to be responsible for selecting high-end products. Mr. Pancholi testified that he plans to have electronic tablets in the stores that would enable customers to search for recipes while in the store. Mr. Pancholi also stated that he will not be charging any delivery fees. Mr. Pancholi testified that he has plans to give back to the community and to become part of the Howard Square community.

Michael Smith, 10 percent owner and proposed Resident Agent, was sworn-in and testified as follows:

Mr. Smith testified that he is a resident of Howard County and has never been convicted of a felony. Mr. Smith stated that he has never held a liquor license and is the owner of a physical therapy gym in Ellicott City. Mr. Smith testified that he plans to be onsite at the store often when it first opens and once the business is established, will visit less frequently but on an unannounced basis. Mr. Smith testified that he is familiar with and understands the Board's Rules and Regulations and he has taken an Alcohol Awareness Program. Mr. Smith testified that the business will not negatively affect the community, nor will it disturb the peace of the community. Mr. Smith stated that it would be an accommodation to the community to have a high-end wine and spirits store in the area. Mr. Smith testified that he sees his role as ensuring that Mr. Pancholi maintains his vision

of the store and to ensure that alcoholic beverages regulations are complied with by the store.

Mani Gupta was sworn-in and testified as follows:

Mr. Gupta testified that he has no financial interest in the store but will serve as a General Manager and will guide and train Mr. Pancholi in the liquor business. Mr. Gupta testified that he has never been convicted of a felony.

Mr. Gupta stated that he plans to be at the store full time, 7 days a week. Mr. Gupta stated that he has worked at a liquor store since 2010 and currently works at Watergate Liquors which is a successful high-end specialty store that caters to the residents of the Watergate Building and surrounding area. Mr Gupta testified that the customer service at the proposed store will be unique in the area and they will focus on educating customers on products. Mr. Gupta testified they also plan to periodically offer specialty items. Mr. Gupta testified that he has never received an alcoholic beverage violation. Mr. Gupta also stated that the employees will take additional ID checking training, to ensure that alcohol is not sold to anyone without proper identification. Mr. Gupta stated that he has reviewed the Prohibited Practices section of the Howard County Liquor Board Rules and he will ensure that they will not engage in any prohibited practices. Mr. Gupta also testified they will offer literature on drink recipes and conduct side-by-side tastings, so customers can differentiate between wines and spirits. Mr. Gupta indicated that he will be recommending a POS system to Mr. Pancholi that can be used to check IDs. Mr. Gupta stated that although Perfect Pour may have similar products they would be a much further distance for the residents of the community. Mr. Gupta indicated that other stores he has observed do not offer the same selection that they plan to offer for customers, including introducing

new wines and spirits. Mr. Gupta testified that “higher-end products” does not always equate to a high price but speaks to their ability and knowledge to offer a higher quality but comparable product for a similar or slightly higher price.

Pinkal Shah was sworn-in and testified in opposition to the application.

Mr. Shah testified that he lives in Ellicott City, Maryland and that he is the owner of Crestmount Wine and Spirits in Jessup which is .07 miles from the proposed store. Mr. Shah testified that approximately 22 residents have completed written objections to the granting of a license to the applicants. Mr. Shah testified that of the 22 residents, approximately 7 live in the Howard Square development where the proposed businesses will be located. Mr. Shah testified that the residents that he spoke to are concerned about safety and potentially their property values decreasing if the applicants are granted a license in the proposed location. Mr. Shah testified that there are 14 stores within a three-mile radius that offer the sale of beer, wine, and liquor. Mr. Shah indicated that of these 14 stores, eleven of the stores are Class A Licensees. Mr. Shah testified that his store which is .07 miles away does not have complete sidewalks to allow Howard Square residents to walk to his store and his store is not realistically walkable for Howard Square residents. Mr. Shah stated that by adding another store, it would hurt the other businesses currently operating in the area and it is not needed as they all sell similar packaged goods. Mr. Shah testified that he has worked in the liquor-sale business for over ten years and that all liquor stores can acquire and sell the same alcoholic beverages as the proposed applicant. Mr. Shah stated he sells high-end wines but does not sell a lot of them and doesn’t think they are required in this area and tailors his supply to the customer demand.

Mr. Shah testified that if this application is approved it will have a negative effect

on his sales and the community is already adequately served by the existing alcohol carryout stores. Mr. Shah stated that a liquor store nearby recently closed, and he does not believe there is an expanding market for package stores in this area. Mr. Shah testified that he believes that he may suffer a 15% loss in business if the applicant is granted a license. However, Mr. Shah testified that there can be differences between Class A licensees and there possibly could be different customers that would be interested in the proposed licensee's location. Mr. Shah testified that he does not deliver to customers.

Shrinath Desai, owner of Star Liquors, was sworn-in and testified in opposition to the application.

Mr. Desai testified that he has owned Star Liquors since 2008 and his store is 2.7 miles away from the proposed location. Mr. Desai testified that his store is located in the Jessup industrial area and offers single serve alcohol, lottery, check cashing, and Western Union services because his customers demand these products and services. Mr. Desai stated that he also sells high-end alcohol and he has the ability to order any alcoholic product if he does not have it in his store at the time. Mr. Desai testified that in his experience with his clientele, they are not interested in purchasing high-end alcohol or wines. Mr. Desai stated it is not often that customers walk and carry wine or liquor that they have purchased. He testified that a majority of his customers drive to the store and they also provide delivery during the COVID-19 State of Emergency up to 3 miles. Mr. Desai stated that the new proposed location would not necessarily affect his business specifically, but he stated that another liquor store is not needed in the area. Mr. Desai stated the high-end store, as proposed by the applicant, is really nice but this type of store would not fit his clientele and he would not get the financial return if he made those

improvements to his store. Mr. Desai stated making a store “high end” may be a lofty goal by the applicants that they may not be able to commit to that goal once they are under operation. Mr. Desai stated that the residents near the proposed location could not walk to his store. Mr. Desai testified it would be practical for residents living near or above the proposed location to walk to the proposed location similar to how the occupants at the extended stay hotel near his location walk to purchase alcoholic beverages. Mr. Desai stated that his concern is the increased competition from the addition of a new licensee.

Barry Coughlin, owner of the Perfect Pour, was sworn-in and testified against the application.

Mr. Coughlin testified that he does see the applicant as competition and that his store delivers to the neighborhood where the new license is being proposed and can think of at least one dozen customers that live in the area of the proposed location. Mr. Coughlin stated that Perfect Pour sells high-end alcohol and he doesn’t believe the applicant will be offering anything unique that is not already available to customers. Mr. Coughlin further testified that it is difficult to get high-end liquor and wine from the distributors if the store volume cannot support it. Mr. Coughlin stated that larger stores, such as Perfect Pour, have a greater ability to offer discount prices on higher priced alcoholic products. Mr. Coughlin stated that while what the applicant has proposed is unique, he questions whether the applicant will be able to sustain a successful store especially if relying on his business coming from the approximately 600+ residents living above the proposed location. Mr. Coughlin testified that his customers typically have to drive to his store and his store is approximately 2 miles from the proposed licensed location. Mr. Coughlin states that he does believe there is market for customers wishing to purchase high-end alcoholic

products. Mr. Coughlin stated that his store is profitable without offering services such as lottery and check cashing.

Karen Smallman was sworn and testified in favor of the application.

Ms. Smallman testified that she lives in the Howard Square complex. Ms. Smallman testified that she does not go to many of the liquor stores near her home because she is not comfortable there as they are not well kept, and the employees are not courteous. Ms. Smallman stated that they built this complex to be walkable and she would like to be able to walk down and get a bottle of wine and walk back to her residence. Ms. Smallman stated she prefers boutique shops where they hold classes and tastings and she would like to have a store such as Howard Wine & Spirits in her neighborhood. Ms. Smallman testified that she does not have a concern about safety as the proposed location is well lit, there is security at the complex, and she often walks her dog at night without any concern.

Cynthia Nance, Property Manager at Verde at Howard Square, was sworn and testified in favor of the application.

Ms. Nance testified that Howard Square is designed to be a walkable, pedestrian community with a mix of town homes, apartments and businesses. Ms. Nance testified that the community has approximately 1500 units with approximately 1029 currently occupied. Ms. Nance said there are approximately 900 residents that are 21 years of age or older. Ms. Nance noted that most residents make over \$50,000 year and over 100 residents make over \$100,000 a year.

Ms. Nance testified that most residents welcome the new liquor store and she believes the business is needed in the community. Ms. Nance testified that approximately 31 residents of the Howard Square community signed a petition supporting the application

of the licensee. Ms. Nance testified that she has a high school education and two years of college, has a real estate and broker's license in North Carolina, and has worked in property management for over thirty years. Ms. Nance indicated that she did not conduct an analysis on purchasing habits or whether the residents consume alcoholic beverages.

Ms. Nance testified that there will be a yoga studio, a nail spa and a hair salon on the premises and she expects there to be restaurants in the community in the near future. Ms. Nance stated that the community is very walkable and there are no safety concerns. Ms. Nance testified that if the applicant puts any discount signs in the windows of the proposed location she will inform the owners that they need to take them down.

The following exhibits were entered into the record:

Applicant's Exhibit #1 – Photographs of concept of store layout

Applicant's Exhibit #2 – Aerial map of the development and photos of the exterior store and street.

Petitioner's Exhibit #3 – Map showing liquor stores within 5 miles

Petitioner's Exhibit #4 – Photographs of Jessup Discount Liquors

Petitioner's Exhibit #5 – Photograph of Crestmount Liquors

Petitioner's Exhibit #6 – Photograph of Perfect Pour

Petitioner's Exhibit #7 – Petitions of Howard Community residents in favor of application

Protestant's Exhibit #1 – Petitions against the application

Protestant's Exhibit #2 – List of Liquor Stores in 1 mile and 3-mile radius of proposed store.

Protestant's Exhibit #3 – Distance from Crestmont Wine & Spirits

Protestant's Exhibit #4 – Distance from Triple Nines Bar and Billiards

Protestant's Exhibit #5 – Distance from Jessup Discount Liquor

Pursuant to Rule 6.13 of the Liquor Board Rules and Regulations, the Applicants waived their right to request the Liquor Board to hear the case.

Based on the evidence presented at the hearing, the Alcoholic Beverage Hearing Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Hearing Board finds that Ryan Michael Smith and Parag M. Pancholi on behalf of Siva Wine & Spirits, LLC t/a Howard Wine and Spirits have applied for a new Class A-1 Beer, Wine and Liquor, 7-day off-sale license for a 3,192-square foot package store located at 7700 Hearthside Way, Suite 1, Elkridge, MD 21075.

2. The proposed location is under construction and is located in Phase 2 of the Verde at Howard Square Development which is a mixed-use community. The store location would be on the ground floor of a building.

3. The community has approximately 1500 units with approximately 1029 currently occupied and there are approximately 900 residents that are 21 years of age or older.

4. Many residents in the Howard Square community have expressed support of the proposed application and approximately 31 residents of the Howard Square community signed petitions supporting the application of the licensee.

5. The proposed hours of operation 10:00am to 10:00pm Monday through Sunday.

6. The Applicants plan for the store to be a high-end, boutique liquor store. The store will offer literature on drink recipes, electronic tablets with searchable recipes,

and conduct side-by-side tastings so customers can differentiate between various wines and spirits. The Applicants also plan to offer delivery of alcohol to customers.

7. The Applicants plan for the store to be distinct from the other liquor stores in the area in that they will not have check cashing, lottery services, sell singles, and will not have discount signs in the windows. The Applicants plan to offer unique customer service in that they plan to have their employees to actively interact with customers and not just stay behind the counter.

8. The Howard Square community is a walkable community and there is a public need for a walkable high-end wine and spirits liquor store such as the one proposed by the applicants.

9. Mr. Pancholi has hired a General Manager, Mani Gupta, who has significant alcoholic beverage experience. Mr. Gupta will be training Mr. Pancholi and his staff. Mr. Pancholi has taken wine and alcohol courses to increase his knowledge about alcoholic beverages and plans to work with Mr. Gupta at the Watergate Liquor Store in D.C. to get more familiar with alcoholic beverages. Mr. Gupta will also be responsible for product selection for the store.

10. Mr. Pancholi initially plans to work in the store everyday and Mr. Smith, the proposed resident agent, plans to initially be onsite at the store often to ensure compliance with the alcoholic beverage regulations. Mr. Gupta will be working full time at the store, seven days a week.

11. Mr. Pancholi, Mr. Smith, and Mr. Gupta have obtained their alcohol awareness certification and Mr. Pancholi plan for his employees to receive alcohol awareness certification. Mr. Pancholi has purchased a POS system to scan IDs.

12. The Applicants are fit and proper persons to hold an alcoholic beverage license.

13. The granting of the application is necessary for the accommodation of the public.

14. The granting of this application will not unduly disturb the peace and safety of the residents of the neighborhood.

CONCLUSIONS OF LAW

1. The Hearing Board concludes that Ryan Michael Smith and Parag M. Pancholi on behalf of Siva Wine & Spirits, LLC t/a Howard Wine and Spirits have applied for a new Class A-1 Beer, Wine and Liquor, 7-day off-sale license for a 3,192-square foot package store located at 7700 Hearthside Way, Suite 1, Elkridge, MD 21075.

2. The Hearing Board concludes that the Applicants are fit and proper persons to hold an alcoholic beverage license.

3. The Hearing Board concludes that the granting of the application is necessary for the accommodation of the public.

4. The Hearing Board concludes that the granting of this application would not unduly disturb the peace and safety of the neighborhood.

ORDER

For the foregoing reasons, it is this 29 day of January, 2021, by the Alcoholic Beverage Hearing Board of Howard County, **ORDERED**, that the application of Ryan Michael Smith and Parag M. Pancholi on behalf of Shiva Wine & Spirits, LLC t/a Howard Wine & Spirits for a new Class A-1 Beer, Wine and Liquor 7-day off-sale license for a 3, 192-square foot package good store located at 7700 Hearthside Way, Suite 1, Elkridge, MD 21075, be and the same is hereby **GRANTED**, subject to the following conditions:

- (a) That the Applicants comply with all State and County laws and regulations;
and
- (b) That the Applicants satisfy any requirements necessary to obtain the license by April 2, 2021, unless that deadline is extended by the Board upon good cause shown; and
- (c) Failure to comply with these conditions shall render this Proposed Decision and Order null and void.

ATTEST:

**ALCOHOLIC BEVERAGE HEARING
BOARD OF HOWARD COUNTY,
MARYLAND**



Robin Regner
Board Administrator



Mary Bird, Chairperson



Harry Evans, Vice Chairperson

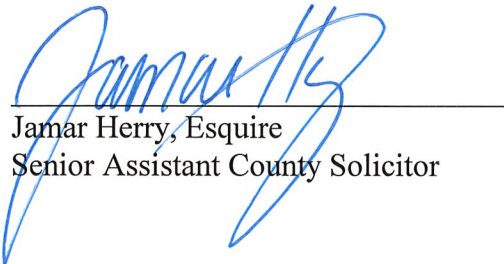
**REVIEWED BY HOWARD COUNTY
OFFICE OF LAW
GARY W. KUC
COUNTY SOLICITOR**



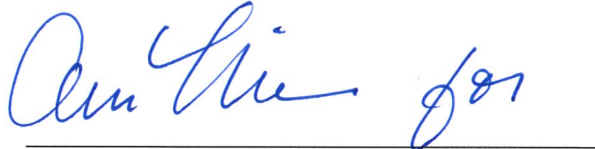
Charley C. Sung, Member



Steven Chen, Member



Jamar Herry, Esquire
Senior Assistant County Solicitor



Claire Kim, Member

**ANY PERSON AGGRIEVED BY THIS DECISION AND ORDER MAY
APPEAL THE DECISION TO THE LIQUOR BOARD WITHIN TEN DAYS
OF THE DATE OF THE DECISION, IN ACCORD WITH RULE 6.14 OF
THE RULES AND REGULATIONS OF THE LIQUOR BOARD**