

## **MEMORANDUM**

**TO:** Dublin City Council  
Dana McDaniel, City Manager  
Jenny Delgado, Clerk of Council

**FROM:** Jennifer D. Readler, Law Director  
Jesse Shamp

**DATE:** March 2, 2022

**RE:** First Watch Restaurants Inc. DBA First Watch 26 – TREX Application for D1, D2, and D3 Permits

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### **I. INTRODUCTION**

The City of Dublin recently received a Notice to Legislative Authority (“Notice”) from the Ohio Division of Liquor Control (“Division”) regarding First Watch Restaurants Inc. DBA First Watch 26 (“First Watch”). Dublin received this Notice pursuant to Ohio Revised Code (“ORC”) 4303.26 because First Watch is applying for an Economic Development Transfer (“TREX transfer”) for D1, D2, and D3 permits, and the proposed location for the permit premises is located within the corporate limits of Dublin. As such, Dublin may request a hearing regarding the advisability of the issuance, transfer of ownership, or transfer of location of the permits.

### **II. BACKGROUND**

First Watch is a foreign corporation that is actively registered with the Ohio Secretary of State. The address designated for the permit premises is 6768 Perimeter Loop Road, Dublin, Ohio 43017, which is located just south of Perimeter Drive and east of Avery-Muirfield Drive. First Watch is seeking to obtain a D1 permit which allows for the sale of beer only for on-premises consumption or in original sealed containers for carry out until 1:00am; a D2 permit which allows for the sale of wine and mixed beverages for on-premises consumption or in original sealed containers for carry out until 1:00 AM, and; a D3 permit which allows for the sale of spirituous liquor for on-premises consumption only until 1:00 AM, through a TREX transfer. A TREX transfer allows for the transfer of location, or the transfer of ownership and location, of a liquor permit from within a municipal corporation, or unincorporated area, to an economic development project located in another municipal corporation when certain criteria are met, including:

1. The acquisition of another business’s liquor permit must be done pursuant to Ohio Administrative Code 4301:1-1-14.

2. The location where the permit is being transferred to must not have any available permits or must have a quota of permits available with applicants on the waiting list exceeding the number of openings.
3. The City must sign Section B of the TREX form and provide a letter stating that it acknowledges the transfer will be to an Economic Development Project.

The TREX transfer was developed through legislation to try to help those areas of the state that have an over-issuance of permits by TREX transferring them to another area of the state.

D1 permits may only be issued to the owner or operator of a hotel, of a retail food establishment, or a food service operation licensed pursuant to ORC Chapter 3717, a club, an amusement park, a drugstore, a lunch stand, a boat, or a vessel. Both D2 and D3 permits may only be issued to the owner or operator of a hotel, a retail food establishment, or a food service operation licensed pursuant to ORC Chapter 3717, a club, boat, or vessel. First Watch will have to meet the ORC requirements in order to obtain the D1, D2, and D3 permits. The Division, and not the City, holds the authority to determine if First Watch is the type of business eligible to receive the D1, D2, and D3 permits.

The application is currently pending before the Division. If approved, the D1, D2, and D3 permits will be transferred from LNS Restaurant II LLC (“LNS Restaurant”). This corporation is actively registered with the Ohio Secretary of State. The permits will be transferred from a former Mikey’s Late Night Slice pizza restaurant on High Street in Columbus.

According to the Division’s records, First Watch 26 does not have a history of violating Ohio liquor laws.

### **III. RECOMMENDATION**

It appears unnecessary to request a hearing in this matter. First Watch 26 does not have a history of liquor law violations. The City has provided the required documentation certifying that this project will have a positive impact on economic development in the City. The State will determine if First Watch meets the remaining eligibility requirements necessary to obtain D1, D2, and D3 permits through a TREX transfer. Regardless of whether the City of Dublin desires to request a hearing, the Notice must be signed and returned to the Ohio Division of Liquor Control no later than March 21, 2022.

NOTICE TO LEGISLATIVE  
AUTHORITY

OHIO DIVISION OF LIQUOR CONTROL  
6606 TUSSING ROAD, P.O. BOX 4005  
REYNOLDSBURG, OHIO 43068-9005  
(614)644-2360 FAX(614)644-3166

TO

27401200165		TREX		FIRST WATCH RESTAURANTS INC DBA FIRST WATCH 26 6768 PERIMETER LOOP RD DUBLIN OH 43017
PERMIT NUMBER		TYPE		
02	01	2022		
ISSUE DATE				
02	16	2022		
FILING DATE				
D1	D2	D3		
PERMIT CLASSES				
25	066	B	F27142	
TAX DISTRICT			RECEIPT NO.	

FROM 02/18/2022

52449420005				LNS RESTAURANT II LLC 457 N HIGH ST COLUMBUS OH 43215
PERMIT NUMBER		TYPE		
02	01	2022		
ISSUE DATE				
02	16	2022		
FILING DATE				
D1	D2	D3		
PERMIT CLASSES				
25	044			
TAX DISTRICT			RECEIPT NO.	



MAILED 02/18/2022

RESPONSES MUST BE POSTMARKED NO LATER THAN. 03/21/2022

**IMPORTANT NOTICE**

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL  
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.

REFER TO THIS NUMBER IN ALL INQUIRIES

**B TREX 2740120-0165**

(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT  
THE HEARING BE HELD ☐ IN OUR COUNTY SEAT. ☐ IN COLUMBUS.

WE DO NOT REQUEST A HEARING. ☐

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title) - ☐ Clerk of County Commissioner

(Date)

☐ Clerk of City Council

☐ Township Fiscal Officer

CLERK OF DUBLIN CITY COUNCIL  
ATTN: LEGISLATIVE AFFAIRS  
5200 EMERALD PARKWAY  
DUBLIN OHIO 43017



**Department  
of Commerce**

Rev 2/10/2021

Mike DeWine, Governor  
Jon Husted, Lt. Governor

Division of Liquor Control  
Sheryl Maxfield, Director

Dear Local Legislative Authority Official:

Please find enclosed the legislative notice that is being sent to you regarding the applied for liquor permit as captioned on the notice. You must, within 30 days from the "mailed" date listed on the notice under the bar code:

- Notify the Division whether you object and want a hearing or not; or
- Ask for your one-time only, 30-day extension.
  - Any requests for a one-time, 30-day extension will be reviewed by the Division upon timely receipt. If granted, your additional 30-days runs from the expiration of the original 30-day period.

To be considered timely, your above response must be:

**FAXED** to the Division no later than 30 days after the "mailed" date (this is the date listed after the "responses must be postmarked no later than." You can fax your response to: (614) 644 - 3166

**EMAILED** to the Division no later than 30 days after the "mailed" date (this is the date listed after the "responses must be postmarked no later than." You can email your response to: [LiquorLicensingMailUnit@com.state.oh.us](mailto:LiquorLicensingMailUnit@com.state.oh.us)

**POSTMARKED**, if mailed, no later than the date listed on the notice after "responses must be postmarked no later than." You can mail your response to

Ohio Division of Liquor Control  
Attn: Licensing Unit  
6606 Tussing Road  
PO Box 4006  
Reynoldsburg, Ohio 43068-9006

In an effort to speed up processing times and reduce paper, the Division respectfully asks that you either fax or email the above notice. In a similar effort, please note that the Division is no longer sending ownership information with this legislative notice. If you want to know who owns the applied for permit you can find that information in two ways:

- Go to [https://www.comapps.ohio.gov/lqr/lqr\\_apps/PermitLookup/PermitHolderOwnership.aspx](https://www.comapps.ohio.gov/lqr/lqr_apps/PermitLookup/PermitHolderOwnership.aspx) and enter the permit number listed on the legislative notice; or
- Contact your police department or county sheriff, if you are a township fiscal officer or county clerk, as the Division sends the applicable law enforcement agency the pertinent ownership disclosure information when it notifies them of the permit application.



## ECONOMIC DEVELOPMENT (TREX) TRANSFER FORM

Ohio Revised Code 4303.29 allows for the transfer of location or the transfer of ownership and location of a C-1, C-2, D-1, D-2, D-3, or D-5 permit from a municipal corporation or the unincorporated area of a township to an economic development project located in another municipal corporation or the unincorporated area of another township in which no additional permits of that class may be issued to the applicant under the permit quota. However the transfer may occur only if the applicant notifies the municipal corporation or township to which the location of the permit will be transferred regarding the transfer and the municipal corporation or township acknowledges in Section B of this form OR in writing to the Division of Liquor Control, that the transfer will be to an economic development project. A permit may be transferred to a different owner at the same location, or to the same owner or a different owner at a different location in the same municipal corporation or in the unincorporated area of the same township. NOTE: The statute requires the applicant to provide the endorsement by the municipal corporation or township at the time the application for the transfer is filed with the division, therefore once Section B is completed return this form to the applicant so they may attach this information to their transfer application. NO fee required.

**Seller - Current Permit Holder -** (Individual, Corp., LLC or Partnership)  
LNS Restaurant II, LLC 457 N HIGH ST, COLUMBUS,  
OH 43215

**Buyer - Prospective Permit Holder -** (Individual, Corp., LLC or Partnership)  
**Name:** First Watch Restaurants Inc

**Address:** 6768 Perimeter Loop Road, Dublin, 43017

Permit Number: 52449420005

Check Class of Permits Being TREX Transferred:

☐ C-1 ☐ C-2 ☐ C-2X ☒ D-1 ☒ D-2 ☐ D-2X ☒ D-3 ☐ D-3A ☐ D-3X ☐ D-5 ☐ D-6

### SECTION A: (To Be Completed by the Applicant)

NOTE: Section A is for you to provide information to the local legislative authority (City, Village or Township Office) in which this Economic Development Project (TREX) will be located. In addition to the below information, you may be required to provide a projected earnings statement (brand new business), or a profit and loss statement (existing business), and a copy of building plans/drawings outlining any construction plans. The Division will also use this information to determine if you qualify and meet the criteria outlined under Section 4303.29(B)(2)(b).

- The total amount invested in this project is \$ 846,400.00
- The total number of jobs that will be created by this economic development project is 30
- Existing or Estimated Tax Revenue generated by this project is:  
(Type or print on the lines provided the type of tax & amount, i.e.,  
Sales Tax, Property Tax, Unemployment Tax, etc.)

Sales Tax \$ 104,228.56

Property Tax \$ 22,200.00

\$

\$

On behalf of the applicant as indicated above I am signing below and certifying that all the information provided with this application is complete and accurate to the best of my knowledge.

Jay Wolszczak

Print or Type Name

1/21/2022

Date

941-500-1968

Phone Number

Signature

Secretary/CLO

Title

**SECTION B:** The applicant must have this section completed by the City, Village or Township Office in which this Economic Development Project (TREX) will be located. **This form must be returned to the applicant to accompany the transfer application.**

Based upon factors outlined above, the City Village or Township of Dublin hereby endorses and  
(City, Village or Township Name)  
acknowledges that this transfer will be to an economic development project.

Print or Type Name

Date

1/31/22

614-559-7253

Phone Number

Signature of Mayor, Legislative Office Holder or Law Director

Title (e.g., Mayor, Clerk of Council, Fiscal Officer or Law Director)



## Restaurant / Night Club

Permit Class	Permit Fee	Description
D1	\$376	<a href="#">ORC 4303.13</a> Beer only for on premises consumption or in original sealed containers for carry out only until 1:00am.
D2	\$564	<a href="#">ORC 4303.14</a> Wine and mixed beverages for on premises consumption or in original sealed containers for carryout only until 1:00am.

D3

\$750

[ORC 4303.15](#) Spirituous liquor for on premises consumption only until 1:00am.