

LICENSE HEARING MINUTES
SuperAmerica #4421, 970 University Avenue West
Thursday, January 13, 2011, 10:00 a.m.
330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

The hearing was called to order at 10:00 a.m.

Staff Present: Kris Schweinler, Department of Safety and Inspections (DSI)

Applicant: Lesley Zaun, attorney, Faegre & Benson; and Mark Erickson, District Manager, representing Northern Tier Retail LLC, owner

SuperAmerica #4421: Gas Station, Malt Off Sale, Cigarette/Tobacco, Restaurant (1) – No Seats, and Retail Food (C) – Grocery 1001-3000 sq. ft.

Ms. Vang stated that this was an informal legislative hearing for a license application. This particular license required a Class N notification which means the neighborhood was notified and people had the chance to voice their concerns. The City received two letters of concern. There were three possible results from this hearing: 1) Ms. Vang may recommend that the City Council issue this license without any conditions; 2) she may recommend that the City Council issue this license with agreed upon conditions; or 3) she may recommend that the City Council not issue this license but refer it to the city attorney to take an adverse action on the application, which could involve review by an administrative law judge. The applicant will be required to sign a Conditions Affidavit demonstrating the understanding of the conditions.

DSI staff will explain their review of the application and state their recommendation. Ms. Vang will then ask the applicant to talk about the business plan. At the end of the hearing, she will make a recommendation for the City Council to consider. Her recommendation will be on the Consent Agenda; the City Council is the final authority on whether the license is approved or denied.

Ms. Schweinler stated that the current condition was to pick up litter once a day. The following were the standard conditions proposed for all malt off sale licenses and were the conditions being proposed for this store:

1. Pick up litter once a day.
2. 3.2 Beer and beer products cannot be sold by the individual bottle or can.
3. The sale of 40 ounce bottles and/or cans of beer is not permitted. The sale of beer in containers of this or similar sizes is considered to be the sale of beer by the individual bottle or can.
4. The sale of wine and/or strong beer is not permitted with a Malt Off Sale license.

Ms. Sheffer read into the record letters of opposition received from the following: 1) Theresa Cunningham, 966 Aurora Avenue, concerning volume of trash and failure to pick litter on the premises and around the neighborhood; and 2) Edouarda & Jean Opatrny, 962 Sherburne Avenue, concerning loud stereos, clearing sidewalks of snow and ice, congregation of large groups, failure to call police when necessary, and keeping the hours of operation the same. Said letters are attached and made a part of this record.

Mr. Erickson stated that he had been the district manager for the past six years and the store manager, Bobbietta Thomas, had managed this store for the past eight years which he believed provided stability to this location. There were waste receptacles by the pumps and one was by the alley; however, there was a constant problem with litter blowing onto the lot because of the alley. It was his information that the trash container was emptied twice daily or one time per shift.

Ms. Schweinler responded that the alley abutting the store's property was a prime location for dumping and suggested that when dumping occurred, the store manager should call the city to have Public Works remove discarded items such as furniture, mattresses, etc.

Mr. Erickson explained the security system, Westec, which was in place at this store and was an interactive surveillance system wherein someone was monitoring activity via video and audio. As example, if people were viewed loitering outside the store, the audio speaker would tell them to move along. There was also a "red" phone in the store directly connected to Westec security which employees could pick up to talk to security personnel who would notify police if and when necessary.

Ms. Vang asked about snow removal. Mr. Erickson responded that they did have a licensed contractor to remove snow from the lot and from the sidewalks.

Ms. Zaun reviewed the conditions and suggested the language be amended concerning #2 to clarify that a 6-pack or case of beer originally packaged as such could not be broken up to be sold individually or language similar to that effect.

Ms. Schweinler suggested she draft language to submit for approval after the hearing which was agreed upon by Ms. Zaun and Ms. Vang.

Ms. Vang stated that she will recommend to the City Council that they approve the license with the conditions proposed by DSI.

The hearing adjourned at 10:30 a.m.

After the hearing, Ms. Schweinler submitted the following substitute language of the conditions which had been agreed upon at the hearing:

1. Pick up litter once a day.
2. 3.2 Beer and beer products that are originally packaged with the intent to be sold together in multiples cannot be separated and sold by the individual bottle or can. Only 3.2 beer and beer products that are purchased from a licensed distributor, and are intended to be sold by the individual bottle and/or can, may be sold as an individual bottle and/or can.
3. The sale of 40 ounce bottles and/or cans of beer is not permitted.
4. The sale of wine and/or strong beer is not permitted with a Malt Off Sale license.

The Conditions Affidavit was submitted on January 19, 2011.