

LICENSE HEARING MINUTES
P & S Enterprises Inc, d/b/a HAAS Collision & Glass, 1400 St. Clair Ave
Thursday, October 6, 2:00 PM
Room 330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Legislative Hearing Officer

The hearing was called to order at 2:00 PM

Staff Present: Jeff Fischbach, Department of Safety and Inspections (DSI) Licensing Inspector, Eric Hudak, DSI Licensing Manager, YaYa Diatta, DSI Zoning Manager (remote participation), Luis Romero, DSI Zoning Inspector (remote participation)

Licensee: Patrick O'Shaughnessy, Applicant/Owner,

License Application: Auto Body Repair/Painting Shop license

Other(s) Present: Mary Wilmes (supporter), 1393 Berkeley Avenue, Ferdinand Peters (applicant's attorney), 711 Smith Avenue, Madelyn Pederson (attorney's legal assistant), 711 Smith Avenue

Legislative Hearing Officer Nhia Vang made introductory comments about the hearing process: This is an informal legislative hearing for a license application. This license application required a Class N notification to inform neighbors and the District Council about the application and provide them with an opportunity to submit comments. The city received correspondence of concern/objection, which triggered this hearing.

The hearing will proceed as follows: DSI staff will explain their review of the application and state their recommendation. The applicant will be asked to discuss their business plan. Members of the community will be invited to testify as to whether they object to or support the license application. At the end of the hearing, the Legislative Hearing Officer will develop a recommendation for the City Council to consider. The recommendation will come before the City Council as a resolution on the Consent Agenda; the City Council is the final authority on whether the license is approved or denied.

There are three possible results from this hearing: 1) a recommendation that the City Council issue this license without any conditions; 2) a recommendation that the City Council issue this license with agreed upon conditions; or 3) a recommendation that the City Council not issue this license but refer it to the city attorney's office to take an adverse action on the application, which could involve review by an administrative law judge.

Minutes:

Jeff Fischbach, Department of Safety and Inspections (DSI) gave a staff report for licensee P & S Enterprises Inc (License ID# 20220000638), d/b/a HAAS Collision & Glass, located at 1400 St. Clair Avenue. The application is for an Auto Body Repair/Painting Shop license. DSI is recommending approval with license conditions:

1. All customer vehicles must be parked in accordance with the approved site/parking plan on file with the Department of Safety and Inspections (DSI). Appropriate measures shall be taken so that vehicles do not project into the public right-of-way (i.e., sidewalk).
2. There shall be no exterior storage of vehicle parts, tires, oil or any other similar materials associated with the business. Trash will be stored in a covered dumpster. Storage of vehicle fluids, batteries, etc. shall be in accordance with the Ramsey County Hazardous Waste regulations.
3. Customer Vehicles, which include vehicles that are awaiting repair or that have been repaired and are awaiting pick-up by their owner, shall not be parked in the public right of way (e.g., street, alley, sidewalk, boulevard, etc.).
4. The storage of vehicles for the purpose of salvaging parts is expressly forbidden. Vehicle salvage is not permitted.
5. General auto repair is not permitted.
6. No repair of vehicles may occur on the exterior of the lot or in the public right-of-way. All repair work must occur within an enclosed building.
7. Customer vehicles may not be parked longer than 10 days on the premises. It shall be the responsibility of the licensee to ensure that any vehicle not claimed by its owner is removed from the lot as permitted by law.
8. Vehicle sales is not permitted.
9. Licensee must comply with all federal, state and local laws.
10. Paint guns will be cleaned immediately following use.
11. Licensee will continue to use high-volume, low-pressure paint gun technology, or a technology that is equal to or better than the one that is already in use.
12. Licensee will use a high solid, low vapor paint or a system of equal or better technology.
13. Hours of operation shall be limited to 7:00 AM - 7:00 PM, Monday through Saturday.

There had been no correspondence received from any neighborhood organization to recommended or object at the time this staff report was generated. The district council has since recommended approval and was also curious as to whether an “enclosed building” per condition #6 required the garage door to be closed. Building conditions, N/A; License approved with conditions; and Zoning approved.

Ms. Vang asked Mr. Fischbach if the recommended conditions were the same as under the license holder.

Mr. Fischbach said the changes from the previous ownership were:

- Condition #1 had initially included a maximum number of parked vehicles as 8, but at the time this was generated for the public notice, the site plan was still being worked on with zoning and so that was not addressed in the condition as an updated site plan would affect the parking spots.
- Condition #3 was slightly modified but is essentially the same.
- Condition #4 had been about salvaging vehicles as well. This just made the language more explicit.
- Conditions #6 removed a reference to auto body to ensure that no repair work could be done outside.

- A previous condition #9 about maneuvering space to get cars moved around while confined to the lot, and that didn't seem possible given the site.
 - With this removal, the remaining conditions (currently conditions #9-13) were moved up in the order.

Mr. Fischbach: There was a hearing back in 2005, which added conditions currently listed as 10, 11, 12, and 13. DSI kept these in their recommendation as they were made by the legislative hearing officer back then, so the conditions stayed the same. The rest of them are standard conditions that were slightly modified for this case.

Ms. Vang asked Mr. O'Shaughnessy if he had any questions about the conditions.

Mr. O'Shaughnessy: No questions. He stated that parking is always the thorn in peoples' side and asked about his responsibility when customers drop their cars off on the curb.

Mr. Fischbach: Once you customer drops off a car for service, it is the owner's responsibility to bring it in from the street onto the property within a reasonable amount of time. Once it's repaired, it still cannot be parked on the street and must remain on the property until the customer picks the car up.

Ms. Vang asked whether Mr. O'Shaughnessy agreed with the conditions.

Mr. Peters: He has represented this property for some time under the previous ownership of Gerald Bosac and former owner Paul Lorsung, who made that application in 2005. He has taken his car there and drove by every day on his way to work. He asked about condition 9 when it can be considered redundant and should not affect the license.

Ms. Vang asked Mr. Fischbach to explain condition #9.

Mr. Fischbach: The condition is a routine condition. He does not recall the licensee having a question about it and cannot speculate, but it would presumably be related to the business.

Mr. Peters: He thinks condition #9 should be modified to be specific to abiding my laws at this location, or to have the condition dropped.

Mr. Fischbach: Condition #9 is relevant should there be a conviction for something like drug dealing which would allow them to step in about the licensee.

Mr. Hudak: Condition #9 also helps the city act quicker as a violation of the license and thinks this condition is required by ordinance. However, they will look into the matter.

Mr. O'Shaughnessy: About the district council's question, does the garage door need to be closed for the interior to be considered an enclosed space? Also, in the last complaint there was mention of parts in the alley. At the time, he was doing community recycling for scrap metal, and wondered if he can accommodate that if it's enclosed for the scrap area. He wants to recycle.

Ms. Vang: Before that discussion gets underway, she asked Zoning staff for their review of the site plan.

Mr. Diatta: Based on the site plan, the parking spaces are reasonable with 4 standard 9 x18 spaces and 4 other compact 8 x16 parking spaces. This number of spaces ensure that there are drive lanes for vehicles coming and going.

Ms. Vang asked how cars would be maneuvered within such a tight space.

Mr. O'Shaughnessy: He and everyone who works in the shop work together, as necessary, to move cars around to get make space for the car that is being worked on in the shop or to get a repaired car out of the shop. Every car is parked on the lot. The cars just get moved temporarily to make room as work gets done and shifted.

Ms. Vang: How many spots are inside the garage?

Mr. O'Shaughnessy: There are 7 spots available inside the auto body garage with 2 spaces for the paint booth.

Ms. Vang: Mr. Peters, were you involved in the conditions for the previous owners?

Mr. Peters: No. Mostly just the selling of the business.

Ms. Vang: Mr. Diatta, does Zoning review the garage doors?

Mr. Diatta: Maybe if it was new, but this has been grandfathered in and so Zoning did not review that. The use for zoning determination did not change and the use is allowed to remain.

Ms. Vang asked if there were any other questions about zoning review?

Mr. O'Shaughnessy and Mr. Peters: No

Ms. Vang asked if there are fences along the property line.

Mr. O'Shaughnessy: There is a fence. It belongs to the neighbors.

Ms. Vang then asked Mr. O'Shaughnessy to talk about the business: history, hours of operation, number of employees, etc.

Mr. O'Shaughnessy: He has been in the auto mechanic business since 1985. He and his wife purchased 2 Sinclair gas stations in 1989, both in Burnsville and Minneapolis. When the Burnsville one started losing business, the sold them. He then went to work at Meineke Car Care. His wife and he later bought 3 of them in St. Paul and operated them for 15 years, which they later sold the businesses when light rail construction made it harder to keep the business open. He basically retired until his uncle, who owned the shop previously, asked him to be a manager at this property. He did it for 7 years and when his uncle decided to retire, he bought the

business. He grew up nearby and this is his neighborhood. He purchased both the license and the property.

Ms. Vang asked about staffing.

Mr. O'Shaughnessy: The business is currently short some staff. He has an intern who has been with him for about one year and one that has been working there at least 15 years. We have five staff right now including me. I manage the day-to-day operation.

Ms. Vang returned to the earlier statements raised by Mr. O'Shaughnessy.

Mr. O'Shaughnessy: The dumpsters are in the alley. Regarding the scrap metal, they are kept separate from the recycling bin for cardboard. The scrap was between the 2 dumpsters. Scrap was usually gone within 15 minutes. If the scrap metals were mixed in with the trash, people would dig through the dumpster for scrap and get trash everywhere. Trash gets picked up 3 times a week. There is a smaller dumpster that is as big as possible while being able to fit in the alley. Hazardous waste is picked up every 18 months in a barrel and they return to the business clean. The barrel is stored inside. Most of the hazardous waste is distilled water from the paint booth that they could legally dumped but they prefer to do it this way.

Ms. Vang asked about the paint booth.

Mr. O'Shaughnessy: They have a cross-draft paint booth with a 1 million cubic foot per hour intake, a heater, and a big exhaust fan at the other end. The entrance is off the alley. The filter system is checked at least once a week, maybe twice a week. That filter can be thrown away, but they choose to recycle it just in case. The filter is cleaned 2-3 times a week. The booth was just inspected to check the decibel level on the fan and the air flow. They are replacing the fan due to neighbor complaints. It is within code but replacing minimizes noise. They close the garage door except when the cars are going in or out. If it's open, the filtration system doesn't work properly.

Mr. Hudak: There was a fire safety inspection passed in April. It was also inspected in January and the issues it noted were since resolved.

Ms. Vang discussed the scrap recycling.

Mr. Hudak: In the confined space, I'm not sure if the idea to leave scrap in the alley for recycling is allowed.

Mr. Fischbach: Many shops work with scrappers and store their scrap inside. If we received a complaint about scrap being left outside, we would likely have to treat it as a violation. This may be more of a question for Public Works or Zoning though.

Mr. O'Shaughnessy: They used to do that, but the ones they worked with are gone. Now, it's just a guy who goes through the alley and nothing ever sits out there more than 15 minutes before it gets taken. They will figure out a different way to handle this though, either by storing items inside to be picked up or leaving them in the dumpster to be pulled out.

Ms. Vang asked about hours.

Mr. O'Shaughnessy: They are not open Sunday which his paperwork day so he might be in the office still. The business is not open much business on Saturday either. The hours are 7 am – 7 pm.

Ms. Vang: How do you get customers?

Mr. O'Shaughnessy: Cars just get dropped off by tow truck or people just park on the boulevard. He wants to see grass there to discourage parking on it. One case cited in the complaint involved this. That vehicle warranted a complaint. All day long we long, they do their best to move cars out of the way. They don't like having cars parked on the boulevard and spend a lot of time moving cars. To the photographs, they share an intersection with a laundromat, a building with 2 salons, a boutique, and 4 offices above them. There are two apartments above the laundromat as well. There are crashed cars in the photos but not all of them are theirs. 20% of St Paul cars are damaged waiting for repair. Not all of these are theirs. They know which ones are theirs. Damaged cars might be drivable with the driver unable to afford repairs or have other reasons. They are the only auto shop on that corner.

Ms. Vang asked if the building has windows.

Mr. O'Shaughnessy: They used to, but now no. They have air conditioning to keep it cool. Garage doors are usually open in the summer. Staff does use tools that make noise, but they do close the doors when using heavy machinery. Music may be playing with the door opening but never blares loudly.

Ms. Vang next invited other attendees to testify.

Ms. Mary Wilmes, property owner/resident at 393 Berkely Avenue.

Ms. Wilmes: She has lived at 393 Berkley Avenue since 1985. She lives on the 2nd floor of the duplex and rents the 1st floor, and the top floor is Airbnb, which used to be her office. The business has been a good neighbor. She's interested in this business because she's interested as a lawyer. The objectors are lovely people. 10 years ago, Melanie (one of the objectors) asked her if the smell from the auto shop bothered her. It never has, and she has never had a tenant complaint. She felt compelled to get involved because her experiences were different. Regarding noise, she thinks the noise is acceptable for being in a city. Regarding parking, she knows tow trucks can drop cars in the middle of the night. If one is dropped in front of her home, she knows who to call. Melanie also referenced other neighbors with cancer, and she has not heard at all about that.

Mr. O'Shaughnessy: He has been the manager for 7-8 years. He never saw parking complaints in that role since he wasn't the owner, but they have always been very responsive about parking issues. The neighbors are all their customers. He knows everyone's first name who live within 2-3 blocks. Anyone can contact them if they have issues or questions.

Mr. Peters: Most customers are female now, which is a newer change. He has also put in some flowerpots recently that people appreciate.

Ms. Wilmes: The business fits with the neighborhood.

Ms. Vang returned to the discussion of the enclosed building needing to have a garage door closed.

Mr. Hudak: They do not typically recommend a condition requiring closed garage doors during the public notice process. They only require the doors to be closed when noise complaints lead to adverse licensing action or when the recommendation comes out during the license hearing process. DSI typically doesn't recommend garage doors be closed at the outset.

Mr. O'Shaughnessy: He plans to leave the doors open unless they get complaints. They will do everything to mitigate noise.

Mr. Hudak: He reminds Mr. O'Shaughnessy to make sure that the paint booth doors are closed during operation.

Mr. O'Shaughnessy: The paint booth is all actually enclosed, and it doesn't function if the door is open.

Mr. Peters: It's hard when people don't actually submit complaints through DSI and just contact the owner.

Ms. Vang asked staff to explain the department's complaint process.

Mr. Hudak: The city uses a complaints-based process for violations. They wait until a complaint comes in before conducting an inspection. A complaint would never immediately lead to revocation of a license. They try educating first and turn to adverse action only if a license holder doesn't take necessary action. Noise never rose to level that would have merited a condition being placed related to the noise ordinance.

Ms. Vang asked Mr. O'Shaughnessy about timeframe for seeding the boulevard with grass.

Mr. O'Shaughnessy: They have stuff in the works, but they stopped when the license issue arose. They can start planting grass any time. They have the fan ordered and it is ready to go. They ceased improvements when the objections arose because he did not expect them. They plan on resuming them after the hearing.

Mr. Fischbach: Mr. O'Shaughnessy is operating under the current license which is due for renewal on October 26. He was willing to pay for the year of licensing but given that this process may not resolve by October 26, he suggested Mr. O'Shaughnessy to hold off. They will figure out those details depending on the timeline after the hearing.

Mr. Peters: What kind of timeline can they expect?

Ms. Vang: It sounds like there may be updates to the conditions affidavit, which may require some research from DSI staff. Depending on the outcome, a new affidavit to be signed by the applicant. Also, a briefing of the outcome of the hearing will be made to the councilmember for the affected ward. Following that, the recommendation will be on the Council's agenda. The research will take some time before we get to that place.

Mr. Fischbach: I don't envision this being done by October 26th.

Ms. Vang then referred to the letter of objection from Mr. Erik Peterson-Nafziger dated September 2, 2022.

Mr. Peters: Can we waive the reading? We have read it already.

Ms. Vang: I will note that I accepted the objection into the record and cite the issues he raised. They are:

- Parking and storing vehicles in the public right of way and in front of garage doors at night.
- Trash and car parts being left in the alley.
- Operating with the garage doors open.
- Failure to maintain adequate air filtration.
- Operation after 7pm and on Sundays.

Ms. Vang then gave Mr. O'Shaughnessy the opportunity to respond.

Mr. O'Shaughnessy: For cars being parked in front of garage doors, they started doing that in the last couple of months to prevent theft where someone would ram a garage door and steal what's inside. For cars on the street, referring to the photos, the photos show him getting in to remove it immediately. They try to quickly get cars off the street as fast as possible. Some may be in violation, but he can't speak to it if photos were taken while he was in the process of moving the cars. As he said earlier, they do park cars in front of the bay doors to prevent ramming the doors to get in and steal parts. If that isn't okay, they can stop doing that.

Mr. Hudak: This would be a violation to park cars in front of the garage doors. This might be a fire safety issue. If they received a complaint, they would determine that to be a violation.

Mr. O'Shaughnessy: They do that after hours but if they can't do that, they won't do that. These are not overflow vehicles. These are cars that they deliberately move outside to prevent ramming of the door. This has been a big problem in the neighborhood.

Mr. Peters: Could we have a condition to allow that?

Mr. Fischbach: Do you have concerns about theft from the car that's parked outside?

Mr. O'Shaughnessy: The customers are aware and fine with it. It prevents risk of many getting stolen and a garage door being broken that would take months to replace.

Ms. Vang next referred to the letter of objection from Ms. Melanie Peterson-Nafziger dated September 2, 2022. The issues raised were:

- Plumes of visible carcinogens, strong smells of paint fumes, and failure to maintain proper air filtration, allegedly causing cancer for nearby residents.
- Operating with the garage doors open.
- Violation of existing license conditions
 - Crashed vehicles parked in the street and on the boulevard at all hours of the day.
 - Cars being worked on cars outside.
- Car parts lying on the boulevard or the sidewalk

Mr. O'Shaughnessy: Regarding toxins, smell, and air filtration, the previous owner did not operate it properly. My uncle changed the system after the paint booth failed under the previous owner. The new system came in during 2006 I think, not long after that previous hearing.

Ms. Vang asked Mr. Hudak if the department considered cancer risks for licensing.

Mr. Hudak: They take that very seriously, but they are not equipped to address the concern. If they receive a complaint of that nature, they will forward it to the Minnesota Pollution Control Agency or Minnesota Department of Health.

Mr. O'Shaughnessy: Again, most of the hazardous waste is distilled water which they could dump but choose not to.

Mr. Peters: These are just assertions and not facts. If the objector wants to bring an issue to the MPCA she can. These issues were discussed at the Building and Land Use Committee meeting. She was there. They discussed the issue and voted 10-1 in support.

Mr. Hudak: If they received this complaint, they would refer it elsewhere so that it can be handling by people equipped to deal with this.

Ms. Vang asked if work is done outside.

Mr. O'Shaughnessy: License plates are put on outside, or sometimes when they put in a taillight bulb. If they aren't allowed to do this, they won't do that. No power tools are used. They just use a screwdriver if doing these small jobs outside. One of the photos shows a person next to a car in the alleyway. This was a car that had just left the paint booth and had some paper stuck to it. The employee was just removing that piece of paper.

Mr. Hudak: He does believe that these jobs were not considered repair work. He will need to check with zoning.

Mr. O'Shaughnessy: We don't charge for that so it's not really part of the business. It's just a nice thing they do to help their neighbors.

Ms. Vang next read from Ms. Melanie Peterson-Nafziger's follow-up email dated September 30, 2022, adding that while it came in after the closing date for public comment, she can still accept it as additional input.

Ms. Vang: The objector indicated she was unable to attend the hearing and expanded on the emission of cancerous pollutants. Her letter also noted that at the September 28 district council meeting, members did not feel equipped with the expertise to decide on this issue; they did not have expertise in that area and would not be able to address that concern. A review of that would require much more analysis than this process is equipped for.

Ms. Vang: This is a very serious allegation. Could Mr. O'Shaughnessy discuss the district council meeting?

Mr. O'Shaughnessy: The one abstention came from someone feeling like she wasn't equipped to decide on this, as was mentioned in the letter. To the objector's point about smell, the smells cited could be from the dry cleaners. All the noise and smell complaints are from one household it seems. He has direct contact with all the neighbors and have not heard these complaints. Also, most of what they do is replacing panels and not full body work.

Ms. Wilmes: She was at that meeting as well and she also spoke then. She was on the district council 15 years ago as well. When the pollution discussion came up, she knew it was said that this was an issue for the MPCA and not the district council or the city.

Mr. O'Shaughnessy: The toxins mentioned in the letter may have been true in the 1970s or 1980s but all of those are all gone. No one in the building has any exceptional risk. They follow plenty of regulations from the MPCA, OSHA, and others. The product used is water-based, and they choose to recycle it when they can legally dump it down the drain. They want to be good neighbors. The objector has done good research, but it is in the wrong decade. They use charcoal filters in the paint booth also, even though they cost 3 times as much as a regular filter. Whatever odor is smelled, it isn't coming from the business. If there is an odor coming from painting, they put a clear coat on that is done within 10 minutes and it's all done in the enclosed filtered paint booth. Any smell would not last longer than 10 minutes if it could be smelled at all.

Ms. Vang: With regards to these health and environmental concerns, the city is not equipped to address this. The city has not explored a link between auto shops and cancer risks. She doesn't see a way to add a condition to address this very serious allegation. It might be a matter for MPCA.

There was then a conversation about updating the list of conditions. Ms. Vang said that she has some work to do including asking for additional research from DSI Licensing staff:

- Whether it is legal to have parked cars in front of garage doors, and whether there is a condition that would accommodate such a situation and would such a situation create a fire safety issue.
- Whether it is possible to remove Condition #9.

- Whether there is a correlation between health and environmental risks and auto body repair/painting shop.

Ms. Vang: She's glad they were able to iron out the issue of the enclosed space. She sees the current conditions as sufficient, with acknowledgment for some changes that may occur from this discussion and research. She hopes Mr. O'Shaughnessy will be mindful of the noise concerns when the garage doors are open.

Ms. Vang discussed the timeline, stating that given research may take some time which may result in an updated conditions affidavit, she hopes to have the information she needs to make a recommendation to the City Council in October or later depending on the research.

The hearing adjourned at 3:32 PM.

Following the outcome of the research, license removal request review, and review of the records and testimonies from all parties, she will recommend to the City Council that they approve the license with the following agreed-upon conditions:

1. All customer vehicles must be parked in accordance with the approved site/parking plan on file with the Department of Safety and Inspections (DSI). Appropriate measures shall be taken so that vehicles do not project into the public right-of-way (i.e., sidewalk).
2. There shall be no exterior storage of vehicle parts, tires, oil, or any other similar materials associated with the business. Trash will be stored in a covered dumpster. Storage of vehicle fluids, batteries, etc. shall be in accordance with the Ramsey County Hazardous Waste regulations.
3. Customer Vehicles, which include vehicles that are awaiting repair or that have been repaired and are awaiting pick-up by their owner, shall not be parked in the public right of way (e.g., street, alley, sidewalk, boulevard, etc.).
4. The storage of vehicles for the purpose of salvaging parts is expressly forbidden. Vehicle salvage is not permitted.
5. General auto repair is not permitted.
6. No repair of vehicles may occur on the exterior of the lot or in the public right-of-way. All repair work must occur within an enclosed building.
7. Customer vehicles may not be parked longer than 10 days on the premises. It shall be the responsibility of the licensee to ensure that any vehicle not claimed by its owner is removed from the lot as permitted by law.
8. Vehicle sales is not permitted.
9. ~~Licensee must comply with all federal, state and local laws.~~
10. Paint guns will be cleaned immediately following use.
11. Licensee will continue to use high-volume, low-pressure paint gun technology, or a technology that is equal to or better than the one that is already in use.
12. Licensee will use a high solid, low vapor paint or a system of equal or better technology.
13. Hours of operation shall be limited to 7:00 AM - 7:00 PM, Monday through Saturday.
14. No vehicles that are in the possession of the business can be parked in front of overhead garage doors or boulevard, sidewalk, street, alley and/or private driveway spaces. Instead, retractable bollards or other protection mechanism that meets the crime prevention

P & S Enterprises Inc, dba Haas Collision & Glass, 1400 St. Clair Avenue

environmental design standards may be installed. Nothing shall be placed in the public right-of-way without Public Works' review and approval.

The updated Conditions Affidavit was signed and submitted on February 21, 2023.