

LICENSE HEARING MINUTES
EM Que Viet Restaurant & Bar, 1332 Grand Avenue
Monday, November 14, 10:00 AM
Room 330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

The hearing was called to order at 10:07 AM

Staff Present: Jeff Fischbach, Department of Safety and Inspections (DSI), YaYa Diatta, DSI Zoning Manager (remote participation)

Licensee: Maria Nguyen, Applicant/Owner, Ailana McIntosh, Applicant's Attorney (8050 W 78th St, Edina, MN 55439)

License Application: Add Liquor Outdoor Service Area (Patio) and Liquor Outdoor Service Area (Sidewalk) licenses to existing Liquor On Sale - 100 seats or less, Liquor On Sale – Sunday, and Entertainment (A) licenses

Other(s) Present: Greg Steiner, Owner of 1337 Lincoln Ave (3053 Sandy Hook Dr, Roseville, MN 55113)

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:

Ross Haddow, Department of Safety and Inspections (DSI) gave a staff report for licensee Em Que Viet LLC (License ID# 20210001847), d/b/a Em Que Viet Restaurant & Bar, located at 1332 Grand Avenue. The application is to add Liquor Outdoor Service Area (Patio) and Liquor

Outdoor Service Area (Sidewalk) licenses to existing Liquor On Sale - 100 seats or less, Liquor On Sale – Sunday, and Entertainment (A) licenses. There are three existing conditions:

1. Licensee agrees to operate the establishment in compliance with Section 409.02 of the City of Saint Paul Legislative Code as a “Restaurant”.
2. Licensee agrees to close the establishment at 12:00 a.m. midnight. All patron/customers shall vacate the premises by 12:30 a.m. each day of the week as per Section 409.02 of the City of Saint Paul Legislative Code.
3. Per City of Saint Paul Legislative Code 411.02, the definition of Entertainment A is, "Amplified or nonamplified music and/or singing by performers without limitation as to number, and group singing participated in by patrons of the establishment." (includes karaoke). Entertainment A license does not allow for patron and/or performance dances

DSI is recommending approval with no additional license conditions.

Letter of Support has been received by the Macalester Groveland Community Council. Building conditions, N/A; License approved with conditions; and Zoning approved.

Ms. Vang asked Mr. Fischbach if the licenses had been issued, as the City Council had approved the waiver of the 45-day waiting period per RES 22-1462 on September 21, 2022. Mr. Fischbach confirmed they had been issued at the end of September or the beginning of October.

Ms. Vang asked Mr. Diatta what the zoning review entailed.

Mr. Diatta: We look at allowed uses first. This does fit within the allowed uses of the zoning district so they're okay there. We also used to look at parking, but the City no longer has parking minimums, so we don't look at that anymore. I do see that a site review file is open, though I think staff may have forgotten to close it. Everything is finalized, so I will double check on that, but it should be ready to be closed.

Ms. Vang asked the applicant if they had any questions about the Zoning or Licensing reviews. The applicant stated no.

Ms. Vang asked about the separate applications and notice periods for the indoor and outdoor service licenses.

Mr. Fischbach: Liquor licenses for indoor service do not require a petition of support, so typically when someone wants to have liquor inside and outside at the same time, we will usually recommend that, if they want to get open quickly, they apply for the liquor indoor service first and then do the outdoor service application later. They then usually follow up later with the outdoor service because they have to go in trying to get signatures of support from neighbors. That's why the second public notice was done for the outdoor service licenses.

Ms. Vang asked the applicants to talk about the business: history, hours of operation, number of employees, etc.

Ms. Nguyen: We love the neighborhood. It's amazing. Nine of our neighbors are very supportive, so we would like to stay there as long as possible. We also have affiliate locations at the State Fair and North Minneapolis, but that is under different ownership, and we are the only site that serves liquor.

Ms. Vang asked about liquor service training.

Ms. Nguyen: We had someone come in to do liquor service training, and so everyone was trained when we opened. And the new hires also go through this same training on the first Tuesday of the month. We want to keep our community safe.

Ms. Vang asked about staffing.

Ms. Nguyen: 53 staff mostly work part time. We like to hire from within the area, when possible, but we look at all applicants based on their qualifications.

Ms. McIntosh: As far as staff getting to work, many of the staff take transit to get there. Parking is also available across the street in the lot shared with Colossal and Green Mill. Green Mill's owner is the landlord to this business.

Ms. Vang asked about hours.

Ms. Nguyen described the hours as follows:

- Sunday – Thursday 11am – 2pm, 4 – 10pm (sidewalk seating open until close, patio closes at 9pm)
- Friday – Saturday 11am – 2pm, 4 – 11pm (sidewalk and patio open until close)

Ms. Vang asked about sidewalk seating.

Mr. Fischbach: They did get a sidewalk obstruction permit from Public Works.

Ms. Nguyen: There are 14 seats total. 3 tables of four and 1 table for two people. People had been using it once we got the license, though it is currently closed for winter. For seating, they have to come in and get seated outside.

Ms. Vang next referred to the memorandum of understanding (MoU) between the owners of EM Que Viet and nearby residents. She stated that this was a private agreement and not something the City could enforce. She then asked how it came about.

Ms. Nguyen: After our first public notice went out, Greg Steiner organized a meeting with us, and nearby residents and we agreed to this MoU.

Ms. Vang: Is it correct that this did not arrive to us until after the 45-day waiver passed the City Council?

Ms. Nguyen and Ms. McIntosh: It was actually signed during the application for the initial liquor license. We assumed it would be attached to the documentation when we went back for the waiver during the application for outdoor service. We actually weren't aware that we had to go back and get the outdoor service licenses. We then went to our neighbors to have the petition signed, which took over a month. It was difficult to reach people. We wanted to meet them in-person and sent out letters, and we got district council support. There might have been an issue on the City's part, which caused a 30-day delay for the 45-day waiting period to start. Because of this, we asked for the waiting period to be waived. We were told to contact the district council and get their support. We did get their support quickly and then got support from the City Council. We did get some use out of the licenses before the weather got colder.

Ms. Vang then asked Mr. Steiner about his relationship to the business.

Mr. Steiner: I'm a neighbor behind the business on Lincoln Avenue, and one of the signatories on the MoU. The MoU came about because we had issues with noise from the previous business at this location. We have had no issues so far with the current business and are very supportive. We think this should just be a private matter between us and the restaurant, and not involve the city. I am here to support the restaurant and the other neighbors are supportive as well.

Ms. Vang: That's good to hear because the MoU document is not enforceable by the City.

Ms. Vang then read through the bullet points from the MoU and then asked about the zoning of the business, as it relates to the fence.

Mr. Fischbach: I believe they did apply for a fence building permit, which was approved by DSI.

Ms. Nguyen: That is correct.

Ms. Vang asked about live music.

Ms. Nguyen: We will keep live music indoors. We might do live music outside without amplification at some point but not for now.

Ms. Vang asked about lighting.

Ms. Nguyen: We have string lights on the patio.

Ms. Vang: As I stated, the MoU is not something the City will be enforcing. As long as you agree that it is a private matter, then I won't touch that part. I still wanted to go over it so that you understand what it means to you as far as a lawsuit if it doesn't work out. I do wish you the best and hope it works out.

Ms. Vang stated that after reviewing the records and considering testimonies from all parties, she will recommend to the City Council that they approve the license with no new conditions other than the following previously agreed-upon conditions:

1. Licensee agrees to operate the establishment in compliance with Section 409.02 of the City of Saint Paul Legislative Code as a “Restaurant”.
2. Licensee agrees to close the establishment at 12:00 a.m. midnight. All patron/customers shall vacate the premises by 12:30 a.m. each day of the week as per Section 409.02 of the City of Saint Paul Legislative Code.
3. Per City of Saint Paul Legislative Code 411.02, the definition of Entertainment A is, "Amplified or nonamplified music and/or singing by performers without limitation as to number, and group singing participated in by patrons of the establishment." (includes karaoke). Entertainment A license does not allow for patron and/or performance dances

The hearing adjourned at 10:44 AM

The Conditions Affidavit was signed and submitted on November 17, 2022.