

LICENSE HEARING MINUTES
Emerald Lounge, 455 7th St W
Thursday, September 22, 2:00 PM
Room 330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

The hearing was called to order at 2:00 PM

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

Licensee: Mr. William Bard, Applicant/Co-Owner, Molly Bard, Co-Owner, Amanda Caruso, Assistant General Manager

License Application: Add a Liquor-Outdoor Service Area (Sidewalk) license to the existing Liquor On Sale - 100 seats or less, and Liquor On Sale - Sunday, licenses

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 Hogan Bard LLC (License ID# 20210000674), d/b/a Emerald Lounge, located at 455 7th St W. The application is to add a Liquor-Outdoor Service Area (Sidewalk) license to the existing Liquor On Sale - 100 seats or less, and Liquor On Sale - Sunday licenses . There are two 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 City Zoning Code (parking requirement) and Section 409.02 of the City of Saint Paul Legislative Code.

3. No alcohol sales, service, display and/or consumption is allowed outdoors without prior written approval and additional licensing from DSI.

DSI is recommending approval with no additional license conditions.

There has been no correspondence received from any neighborhood organization to recommend or object. Building conditions, N/A; License approved with conditions; and Zoning approved.

Mr. Diatta stated that no additional zoning review was needed. Parking minimums no longer apply, which would be the biggest issue, but even with that outdoor seating on the sidewalk would not be an issue.

Mr. Haddow stated that their license was first issued right after the emergency orders allowing for temporary patios went away, so they never had a temporary outdoor seating license.

Ms. Vang asked about the location of the sidewalk seating.

Ms. Bard: The seating will be only in front of Emerald Lounge, and not in front of the attached coffee shop they also own which is right next door. There would only be 2 counter-style standing tables for people to wait while waiting. There would be a small table with 2 chairs as well for people who can't stand for a while. The rationale is just to give people a place to have a drink and wait for a table inside to open up. There would be no fencing and plenty of room for a wheelchair to get around the tables. Right now, there is a bench to wait for tables and that hasn't caused an issue of non-patrons seating. There will be a staffer/host outside to monitor tables, who will have to be seen before getting to a table. We are unsure about lighting. It wouldn't be open the entire evening. Likely until 10pm or if it's still light out. We don't want people out on the street after that time in the neighborhood we are in. We will make sure customers are aware before we shut down the outdoor area.

Ms. Vang asked about hours.

Ms. Bard: We switched hours over the summer. Last winter it would get dark early, and we would fill up right at 4pm. The summer would be quieter around that time, and we didn't have people coming in until 5pm, so we changed our open time to 5pm and kept the same closing time of 10pm except for Friday and Saturday when the close at 11pm or midnight.

Ms. Vang next referred to the letters from:

Catherine Fletcher (objector), 270 Goodrich Avenue
Kathleen Corley (supporter), 248 Goodrich Avenue

Ms. Vang stated that Ms. Fletcher indicated she was unable to attend and read from her objection letter. The objection voiced concerns over noise from customers and the lack of parking in a residential area. Ms. Fletcher's letter asked for the sidewalk patio to be closed by 9pm to address these concerns.

Ms. Vang gave the applicants the opportunity to respond.

Ms. Bard: 9pm feels a bit early for summer nights when it is still bright out. We plan to shut down the outdoor area once it gets dark. For parking, we had some neighbors upset about a lack of parking in our neighborhood when we went around to get signatures for the petition. We don't think this will affect parking too much though, because sidewalk will hardly increase capacity as we get a lot of walking customers.

Ms. Caruso: We are actually the only business on the block late at night and haven't had parking issues in the past. We want our neighbors to be happy.

Ms. Bard: In our first 7 months, we have not attracted a rowdy crowd. We will adjust if that changes but so far things are okay.

Ms. Vang asked Mr. Haddow about complaints, police calls, and parking.

Mr. Haddow said in the time they have been open there have been no complaints logged, no police calls. He also stated that the city got rid of parking minimums, in regard to the parking concern.

Ms. Vang read from the letter of support from Ms. Corley. The letter indicated that the applicants have been good neighbors. She expects they will continue to be good neighbors as they expand their business. Ms. Vang then asked about nearby residential housing and the sidewalk impact.

Ms. Bard said there is no residential housing across the street. Just some apartments upstairs. Again, she reiterated that the sidewalk is small.

Ms. Vang asked if they would bring on additional staff to cover the patio.

Ms. Bard said they plan to have someone dedicated to managing the outdoor area. On a slow day either her or Ms. Caruso would cover the outdoor area, but during a busy season they might bring on an additional staff person.

Ms. Vang asked Mr. Haddow about the petition requirement.

Mr. Haddow: They got 46% of necessary signatures, amounting to 25 signatures out of 54 possible signatures. There were some duplicates. This is expected and happens a lot. The percentage is similar to many petitions recently, where counts are low due to people not answering the door and the owner requirement meaning that the letter goes to management companies who don't often respond. For district council support, we could get a district council support letter, if need be, but they did send a letter of support for the 45-day waiver which has

often been used to indicate district council support to satisfy the good faith effort requirement. Ms. Vang asked for a copy of the letter to be included to the record.

Ms. Vang asked the applicants to summarize their petition process and noted that their Good Faith letter was received and accepted into the record.

Ms. Bard: When we started walking door to door, the very first person didn't answer the door. We hit every address on the first day. Everyone we talked to was excited. We tried different times on different days of the week. On our 3rd day, we ran into a neighbor named Peg who got other neighbors to come out and meet us in persona and we were able to get a lot of signatures that way, even from people outside the radius. It was a hard process, but it was still a positive experience. Some people heard about us going around seeking support and stopped by the bar. The abundance of nearby renters did present a challenge though. Ross did tell us how some renters are allowed to count in buildings of 5 units or less.

Mr. Haddow stated that renters can be counted depending on if the building was two units or less, or three units or less. He also spoke to the importance of neighborhood support even when it doesn't go towards the official count because of the signer being outside the designated radius.

Ms. Vang: When did you reach the current percentage of signatures?

Ms. Bard: We started in late April and hit 46% in July.

Ms. Vang noted the challenges and difficulties of get the percentage of support and asked Mr. Haddow about future policy changes affecting the petition requirement.

Mr. Haddow explained DSI is in the process of revamping the Class N application process, and part of that is to do away with the petition process because of the difficulty of getting signatures. Especially with the pandemic, many people are not answering their doors or returning their mail. This will be accompanied by prior district council notification. Neighbors can still participate in the hearing process to voice concerns.

Ms. Vang stated that the city's complaint process could help neighbors later on even without additional conditions being imposed today.

Mr. Haddow: The city uses a complaints-based process for violations. We wait until a complaint comes in before conducting an inspection. Every complaint that comes are responded to and inspected, and appropriate action is taken. We do have a general complaint line at 651-266-8989 for people to voice complaints. Neighbors do not have to wait for applications to be reviewed if they have a concern. Complaints can be made at any time.

Ms. Vang asked Mr. Haddow if the sidewalk seating required additional Sewer Availability Charge (SAC) fees.

Mr. Haddow: There are no additional required SAC fees. They did go through the public works obstruction permit process review and their plan was approved.

To circle back on Ms. Fletcher's concerns, Ms. Vang stated that she did not see a need to restrict the sidewalk closure to 9pm because the sidewalk space was small and provided a temporary space for patrons waiting to be seated inside. Given the space, noise would also be minimized. She added that since the applicants have opened in February 2022, they have operated responsibly thus far. She did encourage the applicants to have lighting outdoors but recommended that they check to make sure the light does not create a light nuisance for nearby neighbors.

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 City Zoning Code (parking requirement) and Section 409.02 of the City of Saint Paul Legislative Code
3. No alcohol sales, service, display and/or consumption is allowed outdoors without prior written approval and additional licensing from DSI.

The hearing adjourned at 2:31 PM

The Conditions Affidavit was signed on August 29, 2021 and submitted on August 30, 2021. (With no changes to conditions, the Conditions Affidavit signed on August 29, 2021 shall remain and continue in full force and effect.) Also note that a statement documenting a good faith effort to obtain support dated September 20, 2022, was submitted after the hearing.