

LICENSE HEARING MINUTES
Habanero Tacos Mexican Grill & Bar Corp, dba Habanero Tacos, 80 Snelling Avenue N
Monday, December 18, 10:00 AM
Room 330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Legislative Hearing Officer

The hearing was called to order at 10:00 AM

Staff Present: Ross Haddow, Department of Safety and Inspections (DSI) Licensing Inspector; Frances Birch, DSI Zoning Inspector (remote participation)

Licensee: Marcos Munoz, Applicant/Owner

Other(s) Present: Shannon Reilly, Property Owner/Building Manager

License Application: Adding an Entertainment (A) license to the existing Liquor On Sale - 101-180 seats 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) - Licensing, gave a staff report for licensee Habanero Tacos Mexican Grill & Bar Corp (License ID# 20220001905), d/b/a Habanero Tacos, located at 80 Snelling Ave N. The application is for adding an Entertainment (A) license to the existing Liquor On Sale - 101-180 seats and Liquor On Sale - Sunday licenses. There are two existing license 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.

DSI is recommending approval with the following additional license condition:

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 District Council has not submitted a letter supporting or objecting to the license application. Building conditions, not applicable; License approved with conditions; and Zoning approved.

Hearing Officer Vang asked if the applicant understood and agreed to the conditions.

Reilly: Are you saying that that he must close by midnight and there's no dancing?

Haddow: Yes. The two original conditions were to operate as a restaurant and be closed by midnight. The third condition we're adding is the definition of an Entertainment (A) license, which we put on all Entertainment, (A) license applications. You can have performers, you can do karaoke, you can have a live band and play music. You just can't have dancing with a dance floor. That would need an Entertainment (B) license, which triggers building code review for requirements on egress.

Reilly: Are you alright with that condition, Munoz?

Munoz: Yes.

Hearing Officer Vang: Can dancing happen in the seating area?

Haddow: A single couple isn't an issue. The problem is if it's a whole dance floor or tables and chairs are being moved to make room for a makeshift one.

Munoz: Right. Music can sometimes make people want to dance.

Haddow: The main difference is about building code requirements for a dance floor. If it happens on a consistent basis and tables are being moved, then there might be an issue.

Hearing Officer Vang: Could he apply for an Entertainment (B) license if he wanted to?

Haddow: Yes. It's a similar application process to the Entertainment (A) license. There would be another 15-day public comment period and we would have a hearing again if an objection was received.

Hearing Officer Vang: Do you agree to the conditions then?

Munoz: Yes.

Hearing Officer Vang: Do we have a signed conditions affidavit on file?

Haddow: I'm checking.

Hearing Officer Vang: If it has not been signed, we can do that today.

Munoz: I can do that.

Hearing Officer Vang: Do you understand what the conditions mean?

Munoz: Yes. If we don't follow them that will cause a problem.

Hearing Officer Vang: Do you understand that there are matrix penalties involved for violating conditions?

Munoz: I understand.

Hearing Officer Vang asked about the Zoning review.

Frances Birch, Department of Safety and Inspections (DSI) - Zoning, gave a staff report. Zoned T2 – Traditional Neighborhood. No zoning overlay districts. Current use of restaurant will continue as a permitted use with entertainment. No minimum parking aside from ADA parking accessibility.

Hearing Officer Vang: Do you have any questions for zoning?

Munoz: No.

Hearing Officer Vang: Ms. Reilly, you are the property owner of the strip mall and parking lot?

Reilly: Yes.

Hearing Officer Vang: What is the parking situation for the building?

Reilly: It is shared parking for all the businesses.

Hearing Officer Vang: Was this previously a restaurant?

Reilly: It was a Snap Fitness

Hearing Officer Vang: Is the renovation done?

Munoz: Yes. We're already open.

Hearing Officer Vang: I'm asking to understand how the flow of customers might change for the community if the property space has been sitting empty.

Reilly: Habanero Tacos has been open for 2 months. Buffalo Wild Wings just closed. Neighbors were used to the activity. There's also a Jimmy John's that closed 2-3 years ago, but Tu Nails and Tanworks are both open. The mall has been active.

Hearing Officer Vang: Is there space for deliveries?

Reilly: Are you doing deliveries?

Munoz: We may start.

Reilly: We can figure that out.

Hearing Officer Vang: Could you introduce yourself, actually?

Reilly: I co-own the building with my parents. I work in commercial real estate and manage the property.

Hearing Officer Vang: I ask about delivery just because it can have an impact on the community, in terms of congestion.

Munoz: We can make it work.

Reilly: Jimmy John's always did a lot of delivery. They always had 3 or 4 stalls for their vehicles.

Hearing Officer Vang: What kind of management experience do you have?

Munoz: We started in Minneapolis; in a small restaurant we have been operating for the last 3 years. We just moved to St. Paul to a bigger space. We have experience.

Hearing Officer Vang: Is the Minneapolis restaurant still active?

Munoz: Yes.

Hearing Officer Vang: What is your staffing like here?

Munoz: We have 8 full time staff.

Hearing Officer Vang: How do they get to work?

Munoz: Some live close and walk. Some use the bus. Some have their own cars.

Hearing Officer Vang: Will you be operating this business personally?

Munoz: Yes.

Hearing Officer Vang: What are the business hours?

Munoz: 10am – 10pm, 7 days per week.

Hearing Officer Vang, Munoz, and Reilly discussed the site plan to clarify the locations of the entrances, restrooms, and seating. They then discussed the planned location of the karaoke machine.

Hearing Officer Vang: How much seating do you have?

Munoz: 120 seats. People seat themselves.

Hearing Officer Vang: What is lighting like?

Munoz: Interior is well-lit. Exterior lighting is good also.

Reilly: The parking lot has downward-facing lights on until midnight because of Speedway and break-ins. We had some issues previously, but since we started leaving the lights on until midnight, we have had no problems. The building tenants all have security systems or will when they open.

Hearing Officer Vang: Did you consult with the Police Department about camera placement?

Munoz: No.

Hearing Officer Vang: What type of camera system is it?

Munoz: It records for 30 days unless we want to make a copy of something to keep for longer.

Reilly: We also have building security cameras that keep records for 30 days unless something is asked for.

Hearing Officer Vang: How many staff monitor for people needing seating?

Munoz: 1 or 2, depending on the day. Customers can sit where they like.

Hearing Officer Vang: How do you handle checking for IDs for alcohol service?

Munoz: Our bar staff and wait staff at tables ask for cards when alcohol is ordered.

Hearing Officer Vang: What type of entertainment will you be using this license for?

Munoz: Karaoke. We plan to have it open every day for whoever wants to use it. Patrons need to ask staff to use it. I haven't installed it yet, but I plan on placing it facing the bar a little bit closer to the kitchen.

Reilly: In the sort of cubby-hole space.

Hearing Officer Vang: Is there other entertainment?

Munoz: Just the five TVs.

Hearing Officer Vang: What kind of soundproofing is there?

Munoz: Not much. There are ceiling tiles.

Reilly: The demising walls are insulated also.

Hearing Officer Vang: If sound is an issue for neighbors, will you reduce your volume?

Munoz: Yes.

Reilly: We have received great comments about the business from the neighborhood.

Hearing Officer Vang next read into the record the letter of objection from Maggie Lyn Dorfer, 1559 Portland Avenue, which voiced concerns over noise. She then gave the applicant the opportunity to respond.

Munoz: I don't think it will be loud enough that she can hear inside her bedroom.

Hearing Officer Vang: Is there anything above the business, like apartments?

Reilly: No. The roof is relatively new and insulated too. Buffalo Wild Wings never received noise complaints and they had like 75 TVs.

Haddow: We have no complaints on file for when Buffalo Wild Wings was in that building.

Munoz: We are in the middle of the building too, so farther from this person's address than Buffalo Wild Wings was.

Reilly: There's also a back hallways space that's shared, so the back of the business isn't the back of the property. That's another sound buffer.

Munoz: Her building is uphill from us.

Haddow clarified the location of the objector's house relative to the business location.

Hearing Officer Vang next read into the record the letter from Dean Cummings, 1910 Marshall Avenue, which voiced support for the business, along with some concerns about volume and hours. He stated that he does serve on the Land Use Committee of the Union Park District Council but clarified that his opinion does not reflect that of the District Council. Hearing Officer Vang then asked if the District Council ever held a meeting about this.

Haddow: I'm not aware. It could have been part of their land use meeting. I think the address he listed is his personal address and not the one of the District Council.

Reilly: O'Gara's a bit farther north was even louder, and I don't think they ever had issues either.

Hearing Officer Vang: District Councils have their own process, and they were made aware of this license application via the applicant's pre-notification. I won't lay this over for them to have a discussion on it. They had enough time to consider the application. We will let them know my recommendation. Cummings raised issues of noise, which we already discussed.

Munoz: It's understandable to have concerns about loud music. We just aren't going to be playing loud music that can be heard by other houses, especially because of the insulation.

Hearing Officer Vang: There is a complaint process if anyone ever has a noise complaint. She asked Mr. Haddow to explain the process.

Haddow: If a complaint comes in, it would be someone from my office who would verify it. We'd figure out the date and time of it, and you would be notified that there was a complaint. If I'm the one following up to complaint, so you'd get a phone call from me, and I'd ask you for more information. If we have multiple complaints, we will probably have someone come to hear what the music sounds like from outside the building. Complaints can come it any time to our phone number, 651-266-8989. A complaint doesn't always lead to a penalty. We focus first on education and correction before a situation leads to a license violation and our penalty matrix.

Hearing Officer Vang next referred to the incident report and encouraged Munoz to call police if there is a safety issue, adding that she did not want him, or his staff being put in harm's way.

Reilly: The lights being on longer have really helped with that.

Hearing Officer Vang asked about trash pickup.

Munoz: Garbage and recycling are picked up once a week.

Reilly: Most tenants do their own trash removal, including Habanero Tacos rather than the building's communal dumpster.

Hearing Officer Vang: Are the trash cans enclosed?

Reilly: Yes.

Hearing Officer Vang: How big are they?

Munoz: The ones we have are the big ones on wheels.

Hearing Officer Vang: How do you handle illegal dumping?

Reilly: It hasn't happened in a long time since we started locking the dumpsters.

Hearing Officer Vang asked about snow removal.

Reilly: I handle the plowing and bill the tenants back.

Hearing Officer Vang stated that the earliest her recommendation could go before Council would be January 10.

Reilly: Could we get it done this Wednesday?

Hearing Officer Vang: Unfortunately, no. The Council's last meeting of the year is this Wednesday, December 20, which was noticed the week prior. As such, the license, even if the recommendation is approved today, cannot be used until Council approves it. Once Council approves the recommendation in January, DSI can initiate issuance.

Haddow: It will likely be the Thursday or Friday after that January 10 Council meeting followed by the Mayor who still needs to sign the resolution. If everything is in order, we can issue the license right after that.

Munoz: Can I start installing things?

Haddow: Yes. You just can't use the license it has issued. I will let you know as soon as that happens.

Reilly: Is Council likely to approve it?

Hearing Officer Vang: I'm confident that the license will be issued. Ward 1 will have a new councilmember and if the new councilmember has questions, it may cause a delay; however, I am hopeful that it will not be the case.

Hearing Officer Vang stated that after reviewing the records and considering the testimonies from all parties, she will recommend to the City Council that they approve the license with the following 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 10:54 AM.

The Conditions Affidavit was signed and submitted on December 13, 2023.