

LICENSE HEARING MINUTES
Tav on the Ave, 825 Jefferson Avenue
Monday, April 23, 2018, 10:00 a.m.
Room 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: Kristina Schweinler, Department of Safety and Inspections (DSI)

Licensee: Mike Tupa, Applicant/Owner

License Application: Liquor On Sale - 101-180 Seats, Liquor On Sale - Sunday, Liquor On Sale - 2 AM Closing, Liquor Outdoor Service Area (Patio), Entertainment (B), Gambling Location

Legislative Hearing Officer Nhia Vang gave the following information about the hearing: 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, Ms. Vang will develop a recommendation for the City Council to consider. Her recommendation will be on the Consent Agenda at the City Council meeting.

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 to take an adverse action on the application, which could involve review by an administrative law judge. The City Council is the final authority on whether the license is approved or denied.

Minutes:

Kristina Schweinler, Department of Safety and Inspections (DSI), gave a staff report. She said DSI recommended approval with the following eight recommended conditions:

1. The management of the licensed establishment shall provide security in the parking lots at bar closing, and again 30 minutes after closing, to ensure that the patrons leave the premises and the parking lots without causing a disturbance in the surrounding neighborhoods. Patrons shall be advised of the necessity of leaving in an orderly manner and shall not be permitted to loiter outside the bar or in the parking lot.

2. Signage shall be prominently posted at all entrances and exits to make patrons aware that when they leave the premises, they are exiting into a residential neighborhood and must show respect and consideration for the residents.
3. Licensee will create a video surveillance camera and lighting placement plan (video surveillance plan) for the interior and exterior of the licensed premises. Licensee will submit the video surveillance plan to the Saint Paul Police Department (SPPD) liaison with the Department of Safety and Inspection (DSI) for review and approval. In accordance with the approved video surveillance plan, licensee will ensure that video surveillance camera system is in good working order, ensure it is recording 24 hours per day, ensure it can produce recorded surveillance video in a commonly used, up-to-date format, and ensure that accurate date and time of day are visible on all recorded video. Licensee will retain surveillance video for a minimum of thirty (30) days. If an incident is deemed serious by SPPD, licensee shall make surveillance video immediately available for viewing by SPPD. If a copy of the surveillance video for a serious incident is requested by SPPD, Licensee shall have the technology, materials and staff available to immediately make the copy. In all other cases, licensee shall provide a copy of the surveillance video to the requestor within 48 hours.
4. At least two (2) security staff will monitor the parking lot from 11:00P.M. on Thursday, Friday and Saturday, until all patrons have left the property. Patrons will not be allowed to loiter in the parking lot.
5. Employees of the establishment will monitor the property for trash in the parking lot, along Jefferson and between Clifton and Fulton to the alley.
6. Last call will be given at 1:30 A.M. (0130). No sale of alcohol after 1:45 A.M. (0145).
7. There will be no amplification of music or broadcasted events outside the building, and no speakers located on the patio or anywhere outside the building.
8. All new employees will go through alcohol server training within three (3) months of hire.

Ms. Schweinler said it was an established business so Zoning was approved and Building was not applicable. In response to questions from Ms. Vang, she said the recommended conditions were the same as for the former licensee and there was no petition requirement.

Ms. Vang asked Mike Tupa, prospective co-owner of Tav on the Ave, to tell her about the business.

Mr. Tupa distributed a packet of materials. He said Tav on the Ave was a property he was considering investing in, and the 2:00 a.m. license was an important component of the sale. He said it was a unique property with some unique circumstances that would require a veteran operator like himself to correct. For 22 years, he has owned and operated various businesses and in that time, his organization has grown to include 12 restaurants, two hotels, and a variety of commercial real estate holdings; and employing approximately 1000 people. He felt that he was the leader to run this Tav on the Ave successfully. He is proposing a new concept that would embrace the history of brewing beer within the neighborhood while creating a fun atmosphere that catered to families, friends and guests of all ages. His concept would focus on local and regional beers, an innovative and affordable menu, and a great place to watch a sporting event while offering retro video games. The opportunity to make capital improvements to the property

and be a part of the neighborhood is an exciting project for his business expansion. His intention for the proposed new concept is to create a safe and problem-free crowd that would be attractive to the family and neighborhood-friendly community. He said not having a 2:00 a.m. license would put them at a competitive disadvantage, and would have a severe impact on his business' ability to support new debt service on the property. Dave and Busters is the closest in terms of concept in the metro that matches what he is proposing and will be using that business as his benchmark but with a heavier offering of retro video games. Compared to the previous owner's concept, the proposed business would have a fun, relaxed, hang-out environment that would not attract rowdy, late-night crowds. He was willing to take the necessary precautions to ensure the safety of the neighborhood and customers, and would be willing to self-impose only being open Thursday, Friday and Saturday nights and not allow new entries after 1:00 a.m., if he was allowed the 2:00 a.m. license. He said he had spoken with (police) Sgt. Robert Stanway about contracting two St. Paul police officers to be at the establishment from 10:30 p.m. to 2:30 a.m. on Thursday, Friday and Saturday nights. He said Sgt. Stanway was in favor of the pro-active approach and had agreed to provide officers. The measure would help with exterior noise control and provide support for staff with guest turn-away and conflict resolution. He has ten other locations with the 2:00 am license and they have been well- managed. He does not believe that the 2 a.m. license was the problem. He does not want his business to be punished for mistakes made by the management of the previous business. His business proposal has received overwhelming majority of neighbors' support. These neighbors' voices are those the City hadn't heard from who welcome the change and direction he was proposing. He also said that he posted the new concept on the West Seventh Facebook group for everyone to review and received over 200 comments of which most were in support, followed by 432 "Likes" and only 1 "Dislike." He referred to information he had provided for the meeting. (Information about that support was submitted and made part of the record.) He reviewed and summarized those comments, and noted that Shamrocks managed their 2:00 a.m. license without incidents. He shared that though some would attest that the problems at Tav on the Ave had been subdued, he felt it was a false sense of security. He said he had been there and witnessed the crowd that still frequented the establishment from 11:00 to 1:00, and though they were closing early and hadn't had the problems recently, he thought it still would happen. He said the clientele hadn't changed and the unfiltered jukebox music created a toxic environment, and he didn't feel the security measures were adequate.

In response to questions from Ms. Vang, Mr. Tupa said ten of his 12 restaurants had 2:00 a.m. licenses, and they were similar in having entertainment, gambling, and outdoors areas. He said one of his locations in Lakeville was right in a residential neighborhood, and he was open there until 2:00 a.m. seven days a week.

Ms. Vang asked how many employees there would be at the Tav on the Ave location, in addition to the police security. Mr. Tupa said, at night on a Thursday, Friday or Saturday night, he would have approximately 20 employees, including security personnel, who he preferred to call guest hosts because he felt their job was to create relationships and manage people. He said he felt a reasonable number of security for a location this size was four to five, plus the two officers.

Ms. Vang confirmed with Mr. Tupa that he would use the 2:00 a.m. license only on Thursday, Friday and Saturday. Mr. Tupa said the one contingency he would like to note was if there was a

New Year's Eve or holiday that landed on a week night it would be an exception. He said rather than a condition he was looking for a recommendation for him to self-impose and he would stick to that. He said there were a lot of conditions on the license already that were more restrictive than anybody else in that immediate area, but that he was willing to accept and work through. He said he didn't see a need for the 2:00 a.m. closing Sunday through Wednesday, and didn't feel being open the additional hour would be cost effective.

Ms. Vang asked whether the guest hosts would be checking IDs at the door and applying wrist bands. Mr. Tupa said their usual practice was to either wrist band or stamp, and the servers always knew to look for that.

Ms. Vang asked about dress code and attitude code referred to in the materials he submitted. Mr. Tupa said there would be a posted dress code that the guest hosts would enforce, and it was basically a company standard that they required customers to follow. He said if someone was wearing excessive exterior jewelry or had facial tattoos, or flat-brimmed hats, or a variety of other posted criteria, they would not be allowed entry. Ms. Vang asked how often people were turned away. Mr. Tupa said it was an issue in the very beginning when a new brand opened and it dropped off significantly once people became aware of the policy.

Ms. Vang asked whether all employees would have alcohol awareness training. Mr. Tupa said it was required for employment.

Ms. Vang asked if there had been complaints over the years at his other businesses. Mr. Tupa said if he had a complaint, it was that his employees failed compliance tests even with the amount of provided training. He said passing a compliance test resulted in a \$500 reward for the employee, and failure would result in an immediate loss of employment. He reviewed measures and indicated that he took those measures seriously; staff are trained to correctly reading IDs and ensuring that everyone got carded.

Ms. Vang asked whether, if a family came in, all members would be wrist-banded. Mr. Tupa said that would only apply after 9:30 p.m. Thursday through Saturday. He said groups including young adults and juveniles without parents were not permitted after 9:30 Thursday through Saturday. He said outside of Thursday, Friday, Saturday it was all ages all the time, and there were no wrist bands, but everyone had to have an ID regardless of age.

Ms. Vang said she'd noticed that new driver's licenses showed if there had been previous DWI actions for guests and how his staff has been trained. Ms. Schweinler said that was not for the bar to enforce. Mr. Tupa said responsible service of alcohol was part of their culture, and he had a lot on the line.

In response to questions from Ms. Vang, Mr. Tupa said the patio was not enclosed but there was a fence, and a tin shed on one small section. He said patrons were seated on the patio through the restaurant. He said most of his locations had patios and all were staffed in the late-night hours and staff were required to card to confirm patrons were of legal age to purchase. Ms. Vang asked whether the patio hours were different than the normal business hours. Mr. Tupa said there were no conditions other than no amplified music outside.

Ms. Vang asked Mr. Tupa what his sense was of the district council meeting and whether he had shared the information he shared at the hearing. Mr. Tupa said he did not attend the meeting as prepared as he had to this hearing, and didn't share that he was willing to bring on officers and willing to self-impose restricted nights (hours). He said he didn't expect such strong hostility based on the way the current leadership had managed the property. He said there was not open-mindedness to a new concept, vision and leader, and while they were excited about a change, they'd been conditioned to believe that a 2:00 a.m. license should be prosecuted rather than the leadership. He said the 2:00 a.m. license was being managed correctly at Shamrocks which is not far from Tav on the Ave. He reiterated that has similar licenses at his other locations and they did not experience problems.

In response to a question from Ms. Vang, Mr. Tupa said there had been no enforcement actions against his other licenses.

Ms. Vang asked about entertainment; she referenced the video games. Ms. Schweinler said the video games weren't covered under the license. Mr. Tupa said the games were the entertainment.

Ms. Vang asked about the gambling location license. Mr. Tupa said it was for pull tabs and possibly bingo. Ms. Schweinler said the only gambling allowed in Minnesota is charitable gambling. Mr. Tupa said they would pick a local organization, probably sports.

Ms. Vang asked whether it was shared at the district council meeting that the games were the entertainment. Mr. Tupa said it was shared briefly. He said the district council meeting was an opportunity for people to express how dissatisfied they were with Tav on the Ave. Ms. Vang said she felt they were concerned it might be like a club, with noise along with liquor. He said he was buying the real estate and was tied to the business. He said it wasn't something he could just walk away from, and he wants to run his business the right way.

Ms. Vang noted for the record that the district council recommendation was included in the staff report. She asked Mr. Tupa if he had read the letters of opposition and would like to respond to them specifically. Mr. Tupa said he was unclear on how to respond to (the email from Seth Hendricks received on March 11th asking about consequences for violation of conditions). Ms. Schweinler said the consequence would be an adverse action. Ms. Vang said video surveillance was mentioned in the letter; Mr. Tupa said he had verified it was there. Ms. Schweinler said it had been verified.

Ms. Vang referred to the second email received from Robin Reich, 368 Clifton Street, on March 8th. Mr. Tupa said he felt he had already addressed the issue; he said conditioning had gone on based on the way the business had been run, and he didn't disagree with the concerns. He said it just needed to be managed better. Ms. Vang said the email indicated two shootings and asked Ms. Schweinler to respond to which it was indicated that there had been several incidents in the area.

Ms. Vang asked about trash pick-up. Mr. Tupa said staff picked up trash every morning, and guest hosts picked up as much as possible Thursday through Saturday evenings. Ms. Vang asked

Mr. Tupa whether there had been illegal dumping in the area. Ms. Schweinler said she didn't know that it had been an issue there. Mr. Tupa said they would stay on top of that.

Ms. Vang confirmed with Ms. Schweinler that there was no additional parking required.

Ms. Vang said was pleased with Mr. Tupa's thorough presentation of the business plan and his willingness to self-impose to alleviate some of the neighbors' concerns about the 2:00 a.m. license. She said given Mr. Tupa's willingness to self-impose she would instead like him to consider either modifying existing conditions or adding it as a condition to tie the 2:00 a.m. closing to Thursday through Saturday if he was agreeable to help alleviate residents' concerns. Mr. Tupa said he was amenable to that if there was language to include special events. Ms. Schweinler clarified that condition #4 didn't need to be modified but a new one would to be added. Ms. Vang said adding the condition would help reassure neighbors. Mr. Tupa said he didn't think residents should underestimate the importance of adding the additional officers. Ms. Vang said she didn't think it needed to be added as a condition for providing 2 additional off-duty officers. She was satisfied with the condition #4 as written.

Ms. Vang said she was pleased with the presentation and Mr. Tupa's willingness to accept the proposed condition limiting the 2 a.m. license to Thursday through Saturday, and would recommend that the Council approve the license with the discussed conditions. The conditions being recommended for approval are as follows:

1. The management of the licensed establishment shall provide security in the parking lots at bar closing, and again 30 minutes after closing, to ensure that the patrons leave the premises and the parking lots without causing a disturbance in the surrounding neighborhoods. Patrons shall be advised of the necessity of leaving in an orderly manner and shall not be permitted to loiter outside the bar or in the parking lot.
2. Signage shall be prominently posted at all entrances and exits to make patrons aware that when they leave the premises, they are exiting into a residential neighborhood and must show respect and consideration for the residents.
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5. Employees of the establishment will monitor the property for trash in the parking lot, along Jefferson and between Clifton and Fulton to the alley.
6. Last call will be given at 1:30 A.M. (0130). No sale of alcohol after 1:45 A.M. (0145). On nights where a 2AM closing is in effect.
7. 2AM closing will be limited to Thursday, Friday and Saturday with exception of holidays or special events.
8. There will be no amplification of music or broadcasted events outside the building, and no speakers located on the patio or anywhere outside the building.
9. All new employees will go through alcohol server training within three (3) months of hire.

The hearing was adjourned.

The Conditions Affidavit was signed on April 23, 2018.