

LICENSE HEARING MINUTES
DWD Group LLC, d/b/a Billy's on Grand, 857 Grand Avenue
October 18, 2021, 10:00 a.m.
Remote Hearing
Room 330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

In light of the COVID-19 health pandemic, a remote hearing was held by telephone or other electronic means. It was called to order at 10:02 a.m. A roll call was made to confirm attendees.

Staff Present: Department of Safety and Inspections (DSI) Licensing Staff, Ross Haddow, and Eric Hudak. David Eide, Zoning Staff also with DSI; Nhia Vang, Hearing Officer, Dominique Archibald, Recording Secretary.

Licensee: Wesley Spearman, Co-Owner, and Chuck Gilbert, Manager of DWD Group LLC (License ID# 20210000875), d/b/a Billy's on Grand.

Other(s) in Attendance: Bridget Allen Ales, Summit Hill Association - Zoning and Land Use Committee Member; Denise Aldrich, President of the Summit Hill Association; Bob Karls, Resident; and Barry Foy, Resident.

License Application: to add a Liquor on Sale – 291 seats or more, Liquor on Sale – Sunday, Liquor on Sale -2 Am Closing, Liquor Outdoor Service Area (Patio), Entertainment (B), and Gambling Location, located at 857 Grand Avenue.

Legislative Hearing Officer Nhia Vang made introductory comments about the hearing process: This is an informal legislative hearing for a Class N license application. This license application required notification to nearby residents and businesses, including the affected District Council about the application and provide them with an opportunity to submit comments. The City received correspondence of concern/objection within the notification period, 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.

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. The City Council is the final authority on whether the license is approved or denied.

Minutes:

Ross Haddow, Licensing Inspector for the Department of Safety and Inspections (DSI) gave a staff report for licensee DWD Group LLC (License ID# 20210000875), d/b/a Billy's on Grand, located at 857 Grand Avenue. Liquor On Sale - 291 or more seats, Liquor On Sale - Sunday, Liquor On Sale - 2 AM Closing, Liquor Outdoor Service Area (Patio), Entertainment (B) and Gambling Location licenses, located at 857 Grand Avenue.

DSI is recommending the following conditions for the Liquor on Sale – 291 or more seats, Liquor on Sale – Sunday, Liquor on Sale - 2 AM Closing, Liquor Outdoor Service Area (Patio), Entertainment (B), and Gambling Location licenses:

1. Customer identification must be checked by employees to ensure no person under the age of 21 is served alcohol.
2. The extension of service as a result of the renovation of the patio area is subject to the consent for the use of three (3) off-street parking spaces from an adjacent parking lot located to the west of the business in accordance with City Zoning regulations.
3. Per Fire Inspection Certificate of Occupancy requirements, total occupancy limit is 285 when billiard tables are in the establishment, and 297 when all billiard tables are removed from the premises.
4. 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 video 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 in 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.
5. All activity taking place on the exterior of the property lot on which the licensed premises are contained must comply with applicable State and Local rules and regulations, including but not limited to Chapter 293 Noise Regulations of the City of Saint Paul Legislative Code.
6. All service and operation of outdoor seating/patio service areas must end no later than 11:00 p.m. and the area vacated no later than 11:30 p.m. each day.

Mr. Haddow stated that there was one letter of support received from the Summit Hill Association/District 16 Planning Council, however the District Council advised that the Zoning Land Use committee strongly encouraged a closing time of 1:00 a.m. for Billy's on Grand, located at 857 Grand Avenue South. Building review is not applicable; Zoning is recommending approval with conditions; and Licensing is recommending approval with conditions. Mr. Haddow also stated that the licenses for Billy's on Grand located at 857 Grand Avenue are not

technically new because licenses are non-transferable. All the licenses that are being applied for by the new owners match the licenses that have been in place since Billy's on Grand originally first opened.

Ms. Vang next asked Mr. Spearman to testify. She asked him to talk about the business: history, hours of operation, number of employees, floor plan etc.

Mr. Wesley Spearman gave a brief description of the business. He stated that he is the co-owner with several other partners, including Mr. Charles Gilbert, who is the Manager, and was present during the hearing. Billy's on Grand is a restaurant and Sports Bar that offers lunch and dinner between the hours of 11:00 a.m. and 12:00 a.m., from Sunday to Wednesday, and 11:00 a.m. to 1:00 a.m. from Thursday to Saturday. Mr. Spearman stated that he would like to open earlier for breakfast in 2022. He also shared that once COVID restrictions are lifted and business is back to normal, he would like to remain open until 2:00 a.m. For the time being, he would like to be a good neighbor and is agreeable to closing earlier as warranted. In addition to offering lunch and dinner, Billy's on Grand is also partnering with the non-profit organization, Climb Theater Inc., to offer Pull-tabs for charity. The pull-tab booth will be in a designated area near the main bar and will be managed by Billy's on Grand staff. Dining and beverage consumption will take place in the Summit Lounge, and Surly Tap room and indoor/outdoor patios. Mr. Gilbert will be the Manager on Duty (MOD), and he will be responsible for training new employees. Training includes how to check customer's identification and how to handle unruly patrons, in addition to regular onboarding training processes. Mr. Gilbert also stated that employees are also thoroughly vetted before being hired.

Mr. Spearman asked if condition #2 could be removed from the list of conditions as the parking requirement is no longer necessary as a City ordinance:

2. The extension of service as a result of the renovation of the patio area is subject to the consent for the use of three (3) off-street parking spaces from an adjacent parking lot located to the west of the business in accordance with City Zoning regulations.

Mr. Spearman asked if condition #6 could be removed:

6. All service and operation of outdoor seating/patio service areas must end no later than 11:00 p.m. and the area vacated no later than 11:30 p.m. each day.

Discussion ensued about both conditions. Given the recent ordinance change, condition #2 will be removed. Regarding condition #6, he understands the condition remaining on the license because of neighborhood concerns about the patio, but he wants to revisit having the condition removed in the future. Mr. Hudak clarified that under the proposed conditions, no food or beverages can be served on the patio after 11:00 p.m. and that the patio must be completely vacated by 11:30 p.m. meaning that no customers (or employees) may be seated, eating, or drinking there any time after 11:00 p.m. Additionally, no noise that exceeds city ordinance limits may be generated on the patio or anywhere on the property without gaining prior approvals from DSI. Alcohol may not leave the patio for any reason without gaining prior approval from DSI and would be in conjunction with a special event such as Grand Old Day. Furthermore, smoking must comply with the MN Clean Indoor Air Act.

Ms. Vang then asked DSI staff to follow-up regarding a revised conditions affidavit. Ms. Vang then asked Mr. Spearman if he had worked with the SPPD regarding surveillance cameras and placement. Mr. Spearman stated that they are using the cameras that have already been placed by the previous owner but has installed a new security system and lights. He stated that he has not yet spoken with the SPPD but will in the near future. Ms. Vang asked that he be mindful of the brightness of the lights with regards to nearby residents.

Ms. Vang then opened the next part of the hearing for public input. There were ten (10) letters of objection which triggered the hearing. Two (2) interested parties were in attendance to testify being Mr. Barry Foy and Mr. Bob Karls. She noted that Mr. Spearman would be given an opportunity to respond to the objection letters and the testimonies of Mr. Foy and Mr. Karls.

Ms. Vang also noted that all letters of objection for non-present parties and testimonies from residents who attended the virtual hearing were accepted and received into the record.

Barry Foy, 57 Avon Street South, St. Paul

Mr. Foy specifically objects to the extension of a 2:00 a.m. closing time as he believes the noise generated by the late-night customers is unacceptable. Mr. Foy states that living near the Wild Onion was very difficult and believes that Billy's on Grand will make late-night noise in the neighborhood worse.

Mr. Spearman noted Mr. Foy's concerns and stated that he understands the issues that took place before he and his partners took new ownership of Billy's on Grand. However, he stated that he and his partners intend to conduct business in a way that is safe and respectful of the neighborhood.

Bob Karls, 51 Avon Street South, St. Paul

Mr. Karls also specifically objects to the extension of a 2:00 a.m. closing time as he believes the noise generated by the late-night customers is unacceptable. He believes that closing the establishment at midnight is more than adequate to conduct business at Billy's on Grand. Mr. Karls also mentioned a shooting that took place at the Billy's on Grand when it was under different ownership in 2020, and displayed the following news article: [Roseville man charged in fatal shooting outside Billy's on Grand \(twincities.com\)](https://www.twincities.com/2020/05/15/roseville-man-charged-in-fatal-shooting-outside-billys-on-grand/)

Mr. Spearman noted Mr. Karls' concerns and reiterated that he understands the issues that took place before he and his partners took new ownership of Billy's on Grand. However, he stated that he and his partners intend to conduct business in a way that is safe and respectful of the neighborhood. Mr. Haddow advised that DSI's Licensing Division enforces license regulations and operates using a complaint-based system. Complaints received are investigated, and actions taken as a result of violations discovered will vary depending on the nature of the violation. Typically, compliance is initially sought through education. If violations persist, an ordinance-guided escalating penalty schedule is utilized that starts with monetary fines, then increases to suspension and eventual revocation should repeating violations occur within a certain time period. Residents that observe any nuisance activities or livability issues taking place in the surrounding areas, including streets or sidewalks, should contact the SPPD (Saint Paul Police).

Ms. Vang next read the letters and emails of objection into the record for non-present interested parties.

Mr. Richard & Val Cohn, 829 Lincoln Avenue, St Paul

Mr. and Mrs. Cohn object to the extension of a 2:00 a.m. closing time as they believe it is dangerous to be open that late given that there was a shooting at the location in 2020. They also asked if it were possible to add a condition of "Banning Guns on the Premises".

Ms. Katherine Schlaefer, St. Paul

Ms. Schlaefer objects specifically to the Gambling location and 2:00 a.m. bar close time at Billy's on Grand. She states the location has attracted an undue amount of violence and destructive in the past few years. She also advised that better social controls and respect of the neighborhood must be implemented.

Ms. Betsy Turner, 51 Avon Street South, St. Paul

Ms. Turner objects to the closing time of 2:00 a.m. and would like to have the business close no later than 11:00 p.m. and would like to encourage Billy's on Grand not to over serve alcohol to patrons. She states that the corner of Grand & Avon suffered the consequences of people returning to their cars, at the end of the evening due to drunken and disorderly conduct causing property damage and noise. She believes that a closing time of 2:00 a.m. is not appropriate for a residential area.

Mr. Kevin Johnson, 51 Avon Street South, St. Paul

Mr. Johnson objects specifically to the 2:00 a.m. closing time. He states that the block is zoned Mixed Business and Residential for a reason. Mr. Johnson states that he is supportive of Billy's on Grand and accepts the inevitable noise associated with an establishment like Billy's, but believe the current hours are reasonable and should close no later than midnight for the good of the neighborhood.

Ms. Abigail Adelsheim-Marshall, 818 Grand Avenue, St. Paul

Ms. Adelsheim-Marshall stated that she supports the business but objects to the 2:00 a.m. closing time.

Ms. Maggie Broner, 63 Avon Street South, St. Paul

Ms. Broner objects to extend the hours of operation to 2:00 a.m. and the Gambling Location license. She believes that the gambling and a closing time of 2:00 a.m. will result in increased traffic and people on the streets and unruly behavior, and car crashes. She states that the application does not make enough provisions to control patrons as they leave the establishment and mentions the shooting that took place in 2020.

Ms. Vang asked if DSI could share an example of a condition for signage regarding conduct when leaving the establishment. Mr. Hudak emailed Ms. Vang an example condition stating, "Signage shall be prominently posted at all exits stating, "You are exiting into a residential neighborhood – please leave quietly". Ms. Vang requested that the language of signate be emailed and shared with Mr. Spearman to consider and to volunteer to post such signage at the business.

Mr. Griggs Nichols, 51 Avon Street South, St. Paul

Mr. Nichols objects to extending hours for Billy's until 2:00 a.m. He states that in the last two weeks he has witnessed open bottle drinking, assumed to be vodka/gin, by drivers and passengers of multiple cars after leaving Billy's on Grand. He states that he has experienced multiple issues of late night drag racing of modified-exhaust motorcycles and the revving of engines of both motorcycles and cars. He believes that Billy's late-night customers have little regard for the neighborhood or its residents, and there has been little police presence or ticketing in the neighborhood with these obvious noise violations.

Mr. Gilbert responded that it is impossible to discern what type of drink a person is drinking while driving their vehicle. He also stated that it could have been water and it is unreasonable to assume otherwise.

Mr. Peter Caritas, 63 Avon Street South, St. Paul

Mr. Caritas specifically objects to extend the closing time to 2:00 a.m. He believes that closing at 2:00 a.m. is far too late for a residential neighborhood. He stated that he remembers the shooting that took place in 2020 and has been concerned about some of the noise from people gathering on the street outside of Billy's on Grand.

Ms. Vang gave Mr. Spearman and Mr. Gilbert the opportunity to respond to the letters of objection. Mr. Spearman stated that he and his partners intend to run the business in a way that is far different than the previous owners. He stated that it is unfair to be punished for the things that took place before he took ownership of Billy's on Grand.

Mr. Hudak stated that all licenses applied-for by this applicant are licenses that were issued to the previous license holder. As a reminder there are no "new" licensed activity being proposed. Mr. Hudak further stated that under the Saint Paul Legislative Code, where the application for the grant, issuance or renewal of a business license meets all the requirements of law, and where there exists no ground for denial the director shall issue such license in accordance with law. In this case, nothing in the applicant's background and management of the business thus far warrant denial of the licenses. He advised that residents call the SPPD non-emergency number at 651-291-1111 to follow-up on ongoing investigations or contact the commander in their local district for further guidance.

Ms. Vang next asked the remaining members in attendance to testify being members of the Summit Hill Association.

Denise Aldrich, President - Summit Hill Association, District 16 Planning Council

Ms. Aldrich read the letter of support that was submitted and accepted into the record on September 15, 2021. She stated that the Summit Hill Association recommends approval of the license, however, the Zoning and Land Use Committee (ZLU) strongly encourages the applicant to retain the current closing time of 1:00 a.m. but noted that they understand that the applicant has applied for a 2 AM Closing license.

[Bridget Allen Ales, Summit Hill Association - Zoning and Land Use Committee Member, attended the hearing but did not testified.]

Ms. Vang closed the public hearing and noted that there are two (2) items for follow-up: Mr. Haddow would draft the revised conditions affidavit to remove condition #2 and to send Mr. Spearman and his business partner(s) the revised Conditions Affidavit to review and sign. She stated that many have commented on the business being closed at 2:00 a.m.; however, nothing in the applicant's management of the business warrants a denial of the 2:00 AM license. As such, removing or denying the issuance of a Liquor On Sale - 2 AM Closing license is outside the scope of this hearing when evidence does not support it. Furthermore, doing away with this type of license is a policy area for the City Council to consider. Ms. Vang encouraged residents to reach out to their councilmembers if that is the direction they are seeking. She also noted that residents and interested parties should contact the police and file a complaint with DSI when they are affected by nuisance activities. Nuisance problems are better handled as it arises so that the City can investigate. It is important to note that licenses are reviewed in conjunction with complaints and the appropriate process to address conditions and removal of licenses are supported by a pattern of complaints. In this instance, these licenses for the new ownership are not new to 857 Grand Avenue. The new owners must be given an opportunity to manage the business accordingly. In addition, they have agreed to the recommended conditions and the necessary requirements and are willing to work with the community to minimize nuisance activities that would affect nearby residents. She stated that after reviewing the records and testimonies from all parties, she supports DSI's recommendation, but would remove the condition for parking requirements as requested by Mr. Spearman for the reason that the City Council recently removed the parking requirement. Ms. Vang will recommend to the City Council that they approve the licenses with no new conditions being added to the following existing license condition, except for the removal of condition #2:

1. Customer identification must be checked by employees to ensure no person under the age of 21 is served alcohol.
2. ~~The extension of service as a result of the renovation of the patio area is subject to the consent for the use of three (3) off-street parking spaces from an adjacent parking lot located to the west of the business in accordance with City Zoning regulations.~~
3. Per Fire Inspection Certificate of Occupancy requirements, total occupancy limit is 285 when billiard tables are in the establishment, and 297 when all billiard tables are removed from the premises.
4. 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 have video 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 in 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.

5. All activity taking place on the exterior of the property lot on which the licensed premises are contained must comply with applicable State and-Local rules and regulations, including but not limited to Chapter 293 Noise Regulations of the City of Saint Paul Legislative Code.
6. All service and operation of outdoor seating/patio service areas must end no later than 11:00 p.m. and the area vacated no later than 11 :30 p.m. each day.

The hearing adjourned at 12:13 p.m.

The Conditions Affidavit was signed and submitted on October 27, 2021.