

**LICENSE HEARING MINUTES**  
**SuperAmerica #4356, 56 Snelling Avenue North**  
**Thursday, December 30, 2010, 10:00 a.m.**  
**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: Jeff Fischbach, Department of Safety and Inspections (DSI); and Yaya Diatta, DSI

Applicant: Lesley Zaun, attorney, Faegre & Benson; and Jarret Persons, District Manager, representing Northern Tier Retail LLC, owner

Others Present: Harry Rosefelt, 1544 Portland Avenue

SuperAmerica #4356: Gas Station, Cigarette/Tobacco, Restaurant (1) – No Seats, and Retail Food (C) – Grocery 1001-3000 sq. ft.

Ms. Vang stated that this was an informal legislative hearing for a license application. This particular license required a Class N notification which means the neighborhood was notified and people had the chance to voice their concerns. The City received two letters of concern. There were three possible results from this hearing: 1) she may recommend that the City Council issue this license without any conditions; 2) she may recommend that the City Council issue this license with agreed upon conditions; or 3) she may recommend 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 applicant will be required to sign a Conditions Affidavit demonstrating the understanding of the conditions.

DSI staff will explain their review of the application and state their recommendation. Ms. Vang will then ask the applicant to talk about the business plan. At the end of the hearing, she will make a recommendation for the City Council to consider. Her recommendation will be on the Consent Agenda; the City Council is the final authority on whether the license is approved or denied.

Mr. Fischbach stated that the following conditions were the result of a Special Condition Use Permit, #88-19, dated April 22, 1988:

1. The hours of operation be restricted to 6 a.m. until 12 a.m. daily.
2. The public address system must not be audible from adjacent residential properties after 10 p.m.
3. Truck deliveries (except for bulk fuel) and pick-ups are restricted to between the hours of 6 a.m. and 12 a.m. daily.
4. Convenience store staff will police the site at least three times a day to remove litter and will police the one block surrounding the store one time each week to remove convenience store generated litter.

Ms. Vang read into the record letters of opposition received from the following: 1) Alan and Martha Hopeman, 1543 Portland Avenue, concerning volume of trash and failure to pick litter on the premises and around the neighborhood; and 2) Harry Rosefelt, 1544 Portland Avenue,

concerning failure of management to keep the premises and neighborhood clean of litter and violation of the sign ordinance. Said letters are attached and made a part of this record.

Mr. Rosefelt stated that until recently, he had not been aware of the license condition that the store was required to clean up litter around the store and in the neighborhood. It was his opinion that management did a poor job of cleaning up. He asked whether there could be scheduled days posted somewhere in the store when they would be responsible for going out to clean up the neighborhood.

Mr. Fischbach responded that this would be difficult to enforce. Most stores did keep a daily log of when the store and grounds were cleaned. He said that the condition on the license to clean up the neighborhood was done by the Planning Commission under the special condition use permit and was not a typical condition to a license for a store of this nature.

Mr. Persons stated that each store maintained a cleaning worksheet log which was kept on file for one year. He would be sure the store manager was aware that clean up also needed to be done in the neighborhood on a weekly basis which could possibly be added to the current work log.

Mr. Rosefelt stated that signage was also a problem in that management was not adhering to the sign ordinance on the number or size of permissible signs. When he complained to the city, it typically would take six weeks or more before compliance by the store was achieved. He suggested there should be conditions on the license concerning signage.

Mr. Fischbach stated that Mr. Diatta had taken photos of the signage at the store which he presented to Ms. Zaun, Mr. Rosefelt and Ms. Vang.

Mr. Diatta stated that the amount of allowable signage was based on the square footage for the frontage of the store. Since he did not have the measurements, he could not say how much square footage of signage was allowable. As far as temporary signs, a permit was required and the sign could only be in place for 90-consecutive days during the year or for 30 days, three times per year, which would have to be non-consecutive months. Any signs located on the inside of the window of the store were not subject to licensing regulations and would not need a permit.

Mr. Fischbach stated that Mr. Diatta would need to look at all of the signage at the store as, from the photos, some signs appeared to be temporary and some appeared permanent-changeable. He would also need to review the sign permits which were already on file to determine which additional permits may be necessary. He suggested that since this was a concern of the neighborhood, a condition be added to the license concerning signage which would require written permission from DSI before any sign could be installed.

Ms. Zaun stated that they were willing to abide by the sign ordinance; however, she believed this would be an additional burden on the management of the store and she did not have the authority to agree to such a condition without consulting her client.

Ms. Vang stated that she could continue the hearing to another date or she could recess the hearing for Ms. Zaun to confer with her client regarding the additional condition. It was her opinion that this condition be added to the license since this had been a problem for the neighborhood in the past.

The hearing was recessed from 11:05 a.m. to 11:25 a.m. for Ms. Zaun to confer, via phone, with her client regarding the additional condition concerning signs.

Ms. Zaun stated that her client was agreeable to the additional condition concerning signage for this store only. She requested they be informed of all the requirements for the existing signage and what additional permits may be necessary that would need to be acquired.

Mr. Diatta responded that he would research the permits on file, would go out and measure the store frontage to determine the square footage on allowable signage and would be in contact with Ms. Zaun.

Ms. Vang will recommend to the City Council the following conditions as recommended by DSI:

(NOTE: Conditions #1 to #4 are based on Special Condition Use Permit #88-19, dated April 22, 1988, and Condition #5 was based on the discussion agreed at the hearing.)

1. The hours of operation be restricted to 6 a.m. until 12 a.m. daily.
2. The public address system must not be audible from adjacent residential properties after 10 p.m.
3. Truck deliveries (except for bulk fuel) and pick-ups are restricted to between the hours of 6 a.m. and 12 a.m. daily.
4. Convenience store staff will police the site at least three times a day to remove litter and will police the one block surrounding the store one time each week to remove convenience store generated litter.
5. Licensee agrees to obtain prior written approval from DSI before the installation and/or placement of any signage (permanent or temporary) on the exterior of the premises. The issuance of a permit for such signage shall be deemed to be written approval. (NOTE: After the hearing, Mr. Fischbach submitted this written language for the additional condition which had been agreed upon at the hearing.)

The hearing adjourned at 11:45 a.m.

The Conditions Affidavit was signed on January 8, 2011.

Submitted by:  
Vicki Sheffer