

LICENSE HEARING MINUTES
Eden Pizza, 629 Aldine Street
Thursday, August 22, 2013, 2:00 p.m.
330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

The hearing was called to order at 2:10 p.m.

Staff Present: Jeff Fischbach, Department of Safety and Inspections (DSI)

Applicant: Walter Still, Owner/Applicant

Others Present: T. David Starks, 516 4th Street, Minneapolis (friend of Mr. Still/did not testify); Christian Fetsch and Molly Rochon, 623 Aldine Street; Linnea Olson, 1743 Lafond Avenue; and Dave Olson, 1787 Minnehaha Avenue West

Eden Pizza: Add a Malt On Sale (3.2) license to the existing Restaurant (2) – 1-12 Seats, and Sidewalk Cafe licenses

Emails of objection and support were received after the response deadline which copies were given to the applicant, Mr. Still, for his review prior to the beginning of the hearing.

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 letters of concern/objection which triggered the hearing. There were three possible results from this hearing: 1) recommend the City Council issue this license without any conditions; 2) recommend the City Council issue this license with agreed upon conditions; or 3) recommend 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 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 said she will then ask the applicant to discuss their 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 numbers 1 & 2 were zoning conditions and numbers 3-6 were licensing conditions:

1. Seating is limited a maximum of twelve (12) seats indoors at this location.
2. The business shall be closed between the hours of 12:00 a.m. and 8:00 a.m.
3. Each year prior to the placement of table(s) and/or chair(s) in the public right-of-way (i.e., sidewalk), the licensee agrees to obtain a new Obstruction Permit from the Department of Public Works. Licensee agrees to maintain the sidewalk café in accordance with the conditions placed on an approved Obstruction Permit, acknowledges that an Obstruction Permit is effective on April 1 and expires on October 31 of each year, that table(s) and/or chair(s) may not be placed in the public right-of-way before or after the effective/expiration dates, and that a failure to comply with this condition will result in adverse action being taken against all of their licenses.

4. No outdoor food and/or beverage preparation is allowed on a public sidewalk without prior approval and additional licensing from DSI.
5. Sidewalk seating approved for a maximum of twelve (12) seats.
6. No liquor sales and/or service is allowed on a public sidewalk without prior written approval and additional licensing from DSI.

The State of Minnesota Department of Health now licenses restaurants and it was his information the applicant has received his license. An email of support was submitted by the district council and was received after the response deadline (*said email is attached and made a part of this record*). The district council “strongly recommended” the following: 1) Eden Pizza continue to close at 10 p.m.; 2) in the event the hours are ever extended, beer not be served after 10 p.m. Sunday through Thursday; and 3) the owner and employees work with the neighbors to address concerns. Mr. Fischbach emphasized that no beer could be served or consumed outside on the public sidewalk without first obtaining the appropriate license from the city. The city recommended approval with the recommended conditions.

Ms. Vang asked Mr. Still if he understood the conditions being placed on his license. Mr. Still responded that he did understand and had already signed the conditions affidavit. Ms. Vang then asked Mr. Still to explain his business plan.

Mr. Still stated that he had previously owned bars/restaurants in Minneapolis. He purchased this business in May with the main focus being pizza: delivery, take-out and dine-in. In discussions with the previous owner, he had contemplated obtaining a license to serve beer; however, he had never followed through in obtaining that license. Since owning the business, many of his patrons had suggested he serve beer which is why he applied for this license. His hours of operation were 3 p.m. to 10 p.m., Tuesday through Sunday and closed on Monday. He was the sole proprietor and was present at the restaurant daily. He had five additional employees; one was full time and the others were part time. He estimated 35 percent of his business was delivery with the busiest times being between 5:30 p.m. and 7:30 p.m.; no orders were taken after 10 p.m. On Friday nights, he had two drivers and the remainder of the evenings he only needed one.

Ms. Vang asked Mr. Still whether he had a chance to review the emails of objection and whether he wished to respond. Mr. Still stated that he had received the emails and when he realized that smoking was an issue for the neighbors who lived directly behind his business, he removed the ashtrays from the area that his employees were using to smoke. He also informed the building owner that he could no longer conduct his weekly, outdoor “cigar club” at the restaurant since it was disturbing the neighborhood. He and his employees picked up litter around the building on a daily basis or whenever trash was noticed to be lying on the ground. Since he opened the business, he had not received any complaints of noise from any of the neighbors. As for parking, the only parking available was on-street parking and there wasn’t anything he could do about that.

Ms. Vang asked Mr. Fischbach whether additional parking was required for this license. Mr. Fischbach responded that zoning did not require any additional parking requirements be met. Ms. Vang then asked about providing trash containers outside and suggested to Mr. Still that he add trash containers to the outside seating area for his customers and that he put up a sign reminding his patrons that they are in a residential neighborhood and to please keep noise to a minimum. Mr. Still agreed to do so.

Ms. Vang stated that an email of concern was submitted by Howard and Shannon Hare, 1716 Lafond Avenue (*said email is attached and made a part of this record*). She then invited the audience to testify.

Dave Olson, 1787 Minnehaha Avenue West, submitted an email of concern which was received after the response deadline (*said email is attached and made a part of this record*). Mr. Olson stated that although he did not live within the notification area, he felt compelled to object to the issuance of the license. He did not believe any establishment should be granted any type of license to serve alcohol within a residential neighborhood.

Linnea Olson, 1743 Lafond Avenue, submitted an email of concern which was received after the response deadline (*said email is attached and made a part of this record*). Ms. Olson stated that she was the daughter of Mr. Olson and did live in the neighborhood. She frequented the restaurant but was vehemently opposed to the issuance of a license to sell 3.2 beer. She was also concerned about the lack of parking in the neighborhood.

Christian Fetsch and Molly Rochon, 623 Aldine Street, submitted an email of concern (*said email is attached and made a part of this record*). Mr. Fetsch stated that they lived directly behind the restaurant and did support the business. They did not believe adding a 3.2 beer license would enhance the business in any way. They were also concerned about the lack of parking in the area and the potential of noise from patrons leaving the establishment and sitting outside.

Ms. Vang read into the record the following emails of support which were received after the response deadline: Edgar Rudberg, 1783 Lafond Avenue; Tom McNellis and Nicole Menard, 1662 Lafond Avenue; Brian Hill, 1611 Lafond Avenue; Kay Korsgaard, 1611 Lafond Avenue; Liza Pryor, 1693 Minnehaha Avenue West; John Bailey, 1700 block of Blair Avenue; Danielle Nicholson, 1751 Lafond Avenue; Brandy Krachmer and Tom Zocher, 1660 Lafond Avenue; Nathan and Amy Steigman, 1706 Minnehaha Avenue West; Lauren Crane, 1600 Englewood Avenue #307; Peter Grafstrom, 1405 Van Buren Avenue; Chelsie Glaubitz, 1647 Lafond Avenue; Ben and Barb Spears, 1656 Blair Avenue; Jim McKay; Christine Huff, 1472 Minnehaha Avenue West; and Lisa Frenette, 1734 Blair Avenue. (*Said emails are attached and made a part of this record.*)

Ms. Vang considered the testimonies and after reviewing the suggested conditions proposed by the district council, she wished to incorporate conditions that the sidewalk discontinue any outdoor service by 10 p.m. and that beer not be served after 10 p.m. Sunday through Thursday. She asked Mr. Still if he would be agreeable to these conditions. Mr. Still responded that he was in agreement.

Mr. Fischbach asked Mr. Still whether he had room to move the tables and chairs inside the restaurant or whether he could secure the tables and chairs outdoors with a cable or tie them down so people would not be able to use them after hours. Mr. Still responded that he believed he would likely use a cable to secure the tables and chairs outdoors after business hours.

Mr. Fischbach indicated to Ms. Vang that he would draft language for her review and approval before forwarding the revised/new conditions affidavit to Mr. Still for his signature. Mr. Fischbach again emphasized that no beer could be served or consumed outside on the public sidewalk without first obtaining the appropriate license from the city.

After reviewing all of the documents of record, Ms. Vang said she will recommend to the City Council that they approve the license with conditions. The proposed conditions were agreed to by Mr. Still and are as follows:

Zoning conditions are 1 & 2; Licensing conditions are 3 - 8:

1. Seating is limited a maximum of twelve (12) seats indoors at this location.
2. The business shall be closed between the hours of 12:00 a.m. and 8:00 a.m.
3. Each year prior to the placement of table(s) and/or chair(s) in the public right-of-way (i.e., sidewalk), the licensee agrees to obtain a new Obstruction Permit from the Department of Public Works. Licensee agrees to maintain the sidewalk café in accordance with the conditions placed on an approved Obstruction Permit, acknowledges that an Obstruction Permit is effective on April 1 and expires on October 31 of each year, that table(s) and/or chair(s) may not be placed in the public right-of-way before or after the effective/expiration dates, and that a failure to comply with this condition will result in adverse action being taken against all of their licenses.
4. No outdoor food and/or beverage preparation is allowed on a public sidewalk without prior approval and additional licensing from DSI.
5. Sidewalk seating approved for a maximum of twelve (12) seats.
6. No liquor sales and/or service is allowed on a public sidewalk without prior written approval and additional licensing from DSI.
7. Licensee agrees that use of the outdoor sidewalk seating area will stop by 10:00 p.m. each night of the week, including the sidewalk cafe seating area being vacated by 10:00 p.m., and that the tables and chairs in this area will be secured in a manner to prevent customers/patrons/general public from sitting in this area after 10:00 p.m.
8. Licensee shall discontinue beer service and consumption by customers/patrons in the establishment by 10:00 p.m. Sunday thru Thursday.

The hearing adjourned at 4:15 p.m.

The Conditions Affidavit was signed and submitted on August 27, 2013.