

LICENSE HEARING MINUTES
Checker Bar, 992 Arcade Street
Thursday, November 18, 2010, 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: Christine Rozek, Department of Safety and Inspections (DSI), Kris Schweinler, DSI, and Corrine Tilley, DSI

Applicant(s): Mai Her, owner; Tou Cha, co-owner of Checkerboard Pizza

Others Present: Christopher Allard, 848 Jenks Avenue; Roger Layer, 837 Jenks Avenue; Chee Xiong, 2153 Beech Street (Ms. Xiong left the hearing before providing any testimony); and Leslie McMurray, Payne Phalen District Five Planning Council

Checker Bar: Liquor On Sale – 101-180 Seats, Liquor On Sale – Sunday, Liquor On Sale – 2 AM Closing, Entertainment (B), and Restaurant (L) – Limited license for Checker Bar Inc.

Ms. Vang stated that this was an informal legislative hearing for a license application. This particular license requires a Class N notification which means the neighborhood was notified and people had the chance to voice their concerns. The City received five (5) letters of concern and one letter of support to this license. There were three possible results from this hearing: 1) Ms. Vang 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 applicants will be required to sign a Conditions' Affidavit demonstrating that they understand the conditions.

DSI staff will explain their review of the application and state their recommendation. Next, Ms. Vang will ask the applicant to talk about the business plan. Then, she will hear from people in support of the issuance of the license and those with concerns about the issuance of the license. 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.

Ms. Rozek stated that DSI was recommending two additional conditions, that being 7 and 8, which refer to the use of the basement and the outdoor patio:

1. The licensee shall maintain video surveillance cameras inside and outside the establishment. The video recordings shall be kept by the license holder for at least thirty (30) days and shall be available for viewing by the Saint Paul Police Department (SPPD) immediately upon request. In addition, if the SPPD responds to a call at the licensed premises, and due to the serious nature of the crime, requests that a copy of the surveillance footage be immediately provided, license holder shall have technology available to make the copy at the time of the request and shall have it for the police without delay. In other cases, if the SPPD or the DSI

- requests copies of the surveillance tapes, licensee shall have a 48-hour period in which to provide such copies.
2. A camera and lighting placement plan shall be submitted to the SPPD to review for adequate coverage.
 3. Security personnel shall be assigned to each entrance starting at 9 PM and shall remain until all patrons have left the licensed premises. Security personnel shall "wand" (using a metal detector) each patron and check all handbags and packages carried by patrons. The requirement to wand patrons includes those who are returning to the bar.
 4. Security personnel shall verify the age of patrons by checking state or federally issued identification cards (no picture I.D., no entrance).
 5. No trash or bottle dumping after 9PM or before 8AM.
 6. Licensee shall make sure that all refuse and trash that is on the premises and/or surrounding sidewalks is removed on a daily basis.
 7. The basement is to be used only as office and storage space. Customers and/or patrons shall not be permitted in the basement area.
 8. There shall be no use of the outdoor patio area by employees, customers, and/or patrons for activities such as smoking, drinking (either alcoholic or non-alcoholic beverages), and/or food service/consumption. Smokers shall be directed to only use outside the Arcade Street entrance. The patio area may only be used for the placement of trash and recycling containers, with employees directed to take as little time as possible when disposing of trash and/or recyclable items.

Ms. Her reviewed the proposed conditions and said that she was agreeable to all of the conditions with the exception of #3, the wand of patrons and searching of purses, as she believed her bar would then resemble a nightclub which was clearly not the intent of her business. She asked if this condition could be eliminated from the license. Mr. Cha stated that their intent was to make the business into more of a family restaurant as they understood there were problems in the neighborhood with the previous owner and operation of his business. They planned to have security personnel beginning at 9 pm, one at each entrance, only on the nights there was entertainment. They also planned to be present every day to run and manage the business.

Ms. Schweinler responded that condition #3 was standard language for liquor establishments and would need to be changed to say "clearly identifiable security personnel." She said she would be willing to amend the language to state that the condition to wand patrons and search purses would only be necessary beginning at 9 pm when entertainment was provided. The other condition which needed to be modified was #2 which is that a camera and lighting placement plan shall be submitted to the SPPD to review for adequate coverage. Lighting and camera placement (and number) language will be added after review by the SPPD.

Ms. Vang asked how long they had operated their current business; the hours of operation; what type of food they served and planned to serve; their customer base; and staffing needs.

Ms. Her responded that they had operated Checkerboard Pizza at this location since March 2008 and most of their customers were delivery; however, they did have a walk-up window to the bar (Cabs and Tequila Tango) where customers could order pizza to eat in the bar area. The menu consisted of Italian food and they planned to expand menu options to include Mexican and possibly Asian cuisine. They would employ three to five people and would increase security on the nights they had entertainment. Currently they operated from 4 pm to 11:30 pm but would like to operate

Sunday through Thursday until 1 pm and close at 2 pm on Friday and Saturday. Ms. Her stated that they would be willing to negotiate the closing time depending upon the input from the neighbors.

Ms. Vang stated that communications concerning the business were received from the following: Elon Piche, owner of JE Antiques, 1000 Arcade Street, supporting the license application; Christopher Allard, 848 Jenks Avenue, concern about parking and children; Roger and Marian Layer, 837 Jenks Avenue, concern about liquor consumption, music and smoking on patio; Ying Vang and Chee Xiong, 2153 Beech Street, concern about traffic, parking, noise; Bee Vang, concern about parking, noise; and the District 5 Planning Council, proposed language modifying the license conditions.

Mr. Allard stated that he didn't believe the neighborhood needed to support another bar and if a family restaurant was being proposed, then it didn't need to serve alcohol. He was particularly concerned with the lack of off-street parking and suggested that perhaps Jenks be made a one-way street going west or that permit parking only be allowed on the street so that residents would be able to park in front of their house.

Ms. Tilley responded that a request to Public Works would have to be made for a traffic study of the area in order to consider one-way travel or permit parking on a street. She verified that there were 13 available parking spaces for the business, which also accommodated spaces for the two upstairs apartment units, and since there was no change in service or expansion of the business, the available parking was considered non-conforming. She verified with Ms. Her that the pizza business will remain separate from the bar business.

Ms. Her responded that the two businesses will operate independently from each other. Ms. Tilley stated that if the two businesses were to merge, it would be considered an expansion of the liquor license and additional parking would be required. She indicated that there was a vacant lot at 832 Jenks, which was public right-of-way, with 15 available parking spaces.

Mr. Layer stated that the previous bar had been a nightmare, for at least the last 15 years, with parking and noise being major issues. He believed that having live music until 1:30 a.m. was too late as the rear of the business, where the stage was located, was approximately 15 feet from the bedroom of his house.

Ms. McMurray presented a letter and the minutes from the District Five Planning Council and Community Planning and Economic Development Committee. She said the committee recommended the following conditions to the license: Sundays through Thursdays – no live, amplified or DJ music after 10 pm; the rental hall area is not to be used past 10 pm; Fridays and Saturdays – no live, amplified or DJ music after midnight; the rental hall area is not to be used past midnight; business operation – receipts for the business should show 51% of food sales and no more than 49% of alcohol sales; the business should close at 1 am seven days a week. She asked why a rental hall license was not more appropriate since the business essentially was going to be rented out for events.

Ms. Schweinler responded that a banquet room was covered under a liquor license and a separate license for a rental hall was not necessary in this case. The previous business had only been closed for one year and in order for the non-conforming use of the building to expire, it would have had to

have been out of operation for two years. The major concern was that the new business was going to be operated as a nightclub rather than a bar.

Ms. McMurray stated that they also had concerns about security, noise, parking, who would be in charge of events, running the bar, etc. It was the planning council's desire to have a sit-down restaurant rather than a bar and would like to see a proportionate amount of food sales to liquor sales. They also wanted the music and use of the rental hall to cease at 12 am.

Ms. Her responded that she had past experience managing bars and would be in charge of hiring staff/security. They would only hold events on Friday and/or Saturday nights and did not anticipate there would be entertainment every weekend; they would also hire additional staff/security whenever events were scheduled. She requested to withdraw her license for a 2 am closing.

Ms. Rozek stated that since Ms. Her was withdrawing her 2 am closing, last call would have to be at 12:30 a.m. with the bar closing at 1 am and the building must be cleared of patrons by 1:30 a.m. On the nights of entertainment, the music must stop by 12:30 a.m. As far as proportionate receipts for food vs. alcohol sales as requested by the district council, it would be too difficult for the department to monitor. She encouraged Ms. Her and Mr. Cha to continue working at having a good relationship with the neighborhood.

Ms. Schweinler stated that since the entire building was going to be leased from the owner for the new business, the language would need to be modified in the lease agreement to reflect this change and would need to be submitted to DSI.

Ms. Rozek asked whether they planned to hold events for customers under 21 years of age. Ms. Her responded that after 9 pm, anyone under 21 years of age would not be allowed in the bar.

Ms. Vang stated that since the licensee had agreed to the modified conditions, she will recommend the City Council approve the license application with conditions.

After the hearing, Ms. Rozek submitted new license conditions, as proposed at the hearing, which state as follows:

1. The licensee shall maintain video surveillance cameras inside and outside the establishment. The video recordings shall be kept by the license holder for at least thirty (30) days and shall be available for viewing by the Saint Paul Police Department (SPPD) immediately upon request. In addition, if the SPPD responds to a call at the licensed premises, and due to the serious nature of the crime, requests that a copy of the surveillance footage be immediately provided, license holder shall have technology available to make the copy at the time of the request and shall have it for the police without delay. In other cases, if the SPPD or the Department of Safety and Inspections requests copies of the surveillance tapes, licensee shall have a 48-hour period in which to provide such copies.
2. A camera and lighting placement plan shall be submitted to the SPPD to review for adequate coverage. Lighting and camera placement (and number) language will be added after review by SPPD.
3. Clearly identifiable security personnel shall be assigned to each entrance starting at 9 PM when entertainment is offered and shall remain until all patrons have left the licensed

premises. Security personnel shall "wand" (using a metal detector) each patron and check all handbags and packages carried by patrons. The requirement to wand patrons includes those who are returning to the bar.

4. Security personnel shall verify the age of patrons by checking state or federally issued identification cards (no picture I.D., no entrance).
5. No trash or bottle dumping after 9 p.m. or before 8 a.m.
6. Licensee shall make sure that all refuse and trash that is on the premises and/or surrounding sidewalks is removed on a daily basis.
7. The basement is to be used only as office and storage space. Customers and/or patrons shall not be permitted in the basement area.
8. There shall be no use of the outdoor patio area by employees, customers, and/or patrons for activities such as smoking, drinking (either alcoholic or non-alcoholic beverages), and/or food service/consumption. Smokers shall be directed to smoke outside the Arcade Street entrance. The patio area may only be used for the placement of trash and recycling containers, with employees directed to take as little time as possible when disposing of trash and/or recyclable items.
9. This establishment shall make last call at 12:30 a.m. No patrons will be allowed to enter after 12:30 a.m. Liquor sales and service shall discontinue by 1:00 a.m. Liquor consumption must stop by 1:30 a.m. and all patrons shall be off the premises by 1:30 a.m.
10. There shall be no amplified or DJ music after 12:30 a.m.

The hearing adjourned at 3:55 p.m.

The Conditions Affidavit was signed on December 4, 2010.

Submitted by:
Vicki Sheffer