

LICENSE HEARING MINUTES
Bing Enterprises LLC d/b/a The Gnome, 498 Selby Avenue
June 7, 2021, 10:02 a.m.
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, Jeff Fischbach and Tom Ferrar, and Yaya Diatta, Zoning Staff also with DSI; Nhia Vang, Hearing Officer, Janis Peterson, Recording Secretary, and Dominique Archiebald, Recording Secretary.

Licensee: Bing Enterprises LLC (License ID# 20200001393), d/b/a The Gnome - Lucas Miller, authorized to speak on behalf of Applicant/Owner Brian Ingram.

License Application: to add a Gambling Location license to its existing Liquor On Sale – 101-180 seats, Liquor On Sale-Sunday, Liquor On Sale-2AM Closing, Liquor-Outdoor Service Area (Patio), and Entertainment (B) licenses, located at 498 Selby Avenue.

Other(s) Present: Sherrill Granahan 493 Laurel, St. Paul

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:

Jeff Fischbach, Licensing Inspector for the Department of Safety and Inspections (DSI), gave a staff report for licensee Bing Enterprises LLC (License ID# 20200001393), d/b/a The Gnome,

located at 498 Selby Avenue. The application is to add a Gambling Location license to its existing Liquor On Sale – 101-180 seats, Liquor On Sale-Sunday, Liquor On Sale-2AM Closing, Liquor-Outdoor Service Area (Patio), and Entertainment (B) licenses (License ID # 20200001393). There is one existing condition:

1. Licensee shall take appropriate actions to ensure that any noise generated by the activities associated with the operations of the business complies with City of St. Paul Legislative Code Chapter 293 Noise regulations.

DSI is not recommending any additional conditions for the Gambling Location license. There has been no correspondence received from any neighborhood organization to recommended or object. Building conditions, not applicable. Once the licensee receives the Gambling Location license, that will allow a charitable organization to conduct charitable gambling at this location. The charitable organization has to be licensed by the state of Minnesota gambling control board. The charitable organization, currently proposed is St. Thomas Academy Alumni Association. However, the licensee could switch organizations and would not require any kind of public notice. This Gambling Location license goes to the bar owner, to allow them to have a nonprofit, and conduct charitable gambling in the establishment. That would allow any type of gambling that is authorized by the state of Minnesota Gambling Control Board.

Ms. Vang next asked Lucas Miller to testify. She confirmed that he is representing Mr. Brian Ingram's interest and has been designated as the responsible person for today's hearing. She asked him to talk about the business: history, hours of operation, number of employees, floor plan etc.

Mr. Miller gave a brief description of the business and their partnership between the charitable organization, St. Thomas Academy Alumni Association ("St. Thomas"). The Gnome is offering pull tabs and digital pull tabs as an amenity. The only gambling offered is pull tabs, the hours that it's going to be run will be within the hours that The Gnome is open for business, 11:00 a.m. to 9:00 p.m. with licensing to operate until 2:00 a.m. Brian Ingram, the Owner/Applicant, also owns Hope Breakfast bar, Gnome Craft pub, and Woodfired Cantina and operated a food shelf during COVID.

The floor plan consists of upstairs and downstairs areas for patrons. There will be two digital pull tab booths – one smaller kept downstairs, and one bigger kept upstairs, per the submitted application. These digital booths won't affect noise in or outside of the establishment. Both the upstairs and downstairs areas include a bar which will secure each digital pull tab booth located behind the bar/bar staff and not accessible to customers without staff assistance. The upstairs area will house the larger digital pull tab booth, and since it's a smaller space, the area will have to reduce the number of patrons to meet state COVID Social Distancing requirements. There are cameras angled at the downstairs pull tab booth for security to meet state requirements for locks, weight, etc. The upstairs area would have limited access if there was a private event hosted.

The non-profit staff will manage the booths and would audit to ensure the list of requirements are being met. However, the number of staff managing the booths would be determined by the charitable organization. Mr. Miller was not able elaborate on St. Thomas' charitable mission but

did express that St. Thomas is established in the community and well known for funding several areas in the community.

Ms. Vang asked about the amendment to the license, as well as capacity and staff.

Mr. Miller advised that the amendment was already included on the license, but now there is a clarification of the Noise Ordinance (St. Paul legislative code chapter 293 Noise regulations), and informed Ms. Vang that the business is complying. There are current staff, but the business is still looking for more employees.

Ms. Vang then open the next part of the hearing for public input. There was nine (9) letters of objections which triggered the hearing. Given that there is a person on the call, she invited the person to testify and will read the letters into the record after testimony was given. She noted that Mr. Miller would be given an opportunity to respond to both the live testimony and objection letters. Ms. Vang invited the caller on the line to speak and noted that Ms. Granahan's letter of objection was also received into the record.

Sherrill Granahan 493 Laurel, St. Paul, introduced herself and stated that she is objecting to the Gambling Location license. Ms. Granahan lives directly behind The Gnome and is happy that there's a very successful business right now, but it is not to the immediate advantage of the neighbors. She describes the parking as horrible and there is no street parking for residents. For example, when she takes her grandson to an after-school program at three o'clock and returns, there are no parking spaces available, forcing her to park in her neighbor's yard. Further, she has a special needs son and has a Personal Care Attendant (PCA) who arrive after six o'clock and is never able to find a parking space. He ends up either parking blocks away or having to park in front of Ms. Granahan's house, which is a no parking zone. Additionally, Ms. Granahan mentions that The Gnome is under a block away from a children's park. She states there are children at play who run into the street which is a potential danger due to car traffic. She has witnessed many near accidents. Further, Ms. Granahan states that patrons of The Gnome are parking within 20 feet of the stop sign which makes it difficult for drivers to see around the parked cars. Also, she states that drivers are speeding through the intersection at 30-40 miles per hour despite her having purchased a sign that reads "20 is plenty". Ms. Granahan also states that she believes having gambling at The Gnome will only make the parking and traffic situation worse.

Ms. Vang asked if Ms. Granahan has followed up with the police department or Public Works about her concerns, and if the Councilmember of that ward has been made aware of her concerns.

Ms. Granahan stated that she and her neighbors have filed complaints and has also contacted Summit University to ask for a sign to be put up to watch for children crossing. She has not contacted the Councilmember and added that she spoke with Brian Ingram who is the Applicant/Owner and informed him that parking and traffic has been an issue for a long time before he took over the business. Ms. Granahan suggest that the owner may want to explore additional parking in an empty lot at the Eaton Avenue Presbyterian Church.

Ms. Vang stated to Ms. Granahan that Councilmember Thao will be made aware of the issues raised by Ms. Granahan. She also informed Ms. Granahan while the raised issues of parking, signage and safety are important, resolving those issues are beyond her abilities as part of the hearing. She hopes that Ms. Granahan and the neighbors continue to work with the business to resolve these matters of importance.

Ms. Vang gave Mr. Miller the opportunity to respond to Ms. Granahan's concerns.

Mr. Miller stated that he understands Ms. Granahan's concerns as he is also a resident in a city/residential area. He understands the difficulties of finding parking in the city. He also mentioned that as a resident of Minneapolis, he is aware of the dangers of crossing the street as drivers rarely stop where they should. He offered his apologies and informed that he appreciates the suggestion of parking at the Eaton Avenue Presbyterian Church. He states that solution has been attempted with other locations and has been told that allowing The Gnome patrons parking there as a liability. There may be opportunities for paid parking at other locations, but that comes at a cost that the business cannot afford after being shut down for COVID. Mr. Miller also mentioned that staff is advised to park farther away from the business so that patrons can park closer. Unfortunately, the staff is very concerned for safety and parking since one staff member was robbed at gunpoint while another had their car stolen. Mr. Miller expressed a willingness to exchange contact information to address future concerns and his contact information will be shared with Ms. Granahan and other residents.

In response to Mr. Miller's statement, Ms. Granahan asked if she could file a complaint about the parking spaces.

Ms. Vang then accepted and read into the record the submitted emails and letters of objections. She provided Mr. Miller an opportunity to respond to the raised concerns.

Roddy Turner, 452 Laurel Avenue, St. Paul

Mr. Turner lives next door to The Gnome and opposes the Gambling Location license as he feels it's a bad precedent for Selby Avenue.

Mr. Miller made understanding remarks and stated that pull tabs are an amenity The Gnome wants to offer its current clientele. He added that The Gnome does not overserve alcohol and that the pull tabs are not likely to attract rowdiness to the venue.

Sharon Chase, 165 Western Avenue North, Apt. 204, St. Paul

Ms. Chase is objecting to the Gambling Location license as The Gnome is in a residential neighborhood and should not be approved.

Mr. Miller noted that her concerns have been heard and stated that The Gnome is in a business zone within a residential neighborhood, similarly to the rest of the businesses in the neighborhood. He also stated that he appreciates the business being allowed in the neighborhood, and that the pull tabs are an amenity to the current clientele that The Gnome serves. He again stated that The Gnome does not overserve alcohol and that the pull tabs are not likely to attract rowdiness to the venue.

Catherine Ballman 384 Holly Avenue, St. Paul

Ms. Ballman strenuously objects to the Gambling Location license. She believes that the activity offers no value to the neighborhood and will introduce problems to the community.

Mr. Miller noted that her concerns have been heard and stated that he understands that a lot of people don't like gambling and stated that this type of Gambling location license will not unduly affect the neighborhood.

Gregory Mason 310 Selby Avenue, St. Paul

Mr. Mason objects to the Gambling Location license as he believes that the neighborhood would suffer from such a move. He stated that crime is already high in the neighborhood, caused by outsiders coming in to commit crimes of opportunity. Mr. Mason believes that gambling would almost certainly attract further, undesirable outside elements. Additionally, Mr. Mason believes limited neighborhood parking would also be further aggravated. He believes the only beneficiaries would be The Gnome owners.

Mr. Miller noted that his concerns have been heard and stated that The Gnome doesn't make much money off the pull tabs. He added that there is a small fee that St. Thomas must pay to house the pull tab machines, but the rest of the money received goes to charity. Mr. Miller also reiterated that he understands the issues with parking in the area, and that he does not believe clients are bringing crime to the neighborhood.

Michelle Hotzler, 463 Selby Avenue, St. Paul

Ms. Hotzler strongly opposes the issuance of a Gambling Location license to The Gnome. She believes the traffic, noise, parking issues, and nuisance behavior is becoming untenable. Ms. Hotzler believes that with the addition of gambling, the situation will worsen. She states that since 1986 she has seen the degradation of livability directly due to the expansion of bars and restaurants and the reduction of parking requirements. Ms. Hotzler noted that both of her properties often have their driveways blocked, and she has seen loud and boisterous people stumbling down the street. In addition to Ms. Hotzler's objection, her message conveyed that she would like to file a formal complaint. Ms. Hotzler's complaint was noted for DSI Licensing Staff Ross Haddow to follow-up. Her information will be shared with staff following the hearing.

Mr. Miller noted that Ms. Hotzler's concerns have been heard and stated that The Gnome is very responsive to its neighbors if a situation were to arise. He gave an example of the rattling of a hood on the roof. Mr. Miller stated that once he received a letter of complaint, he remedied the issue within the week. Further, he states the only complaints he's otherwise received are regarding parking – which he believes is a city-wide issue.

Ms. Vang then asked questions regarding the patio and seating for The Gnome. She also stated that she never received an approved site plan, only conceptual, at the time of the Liquor License application back in 2020. Ms. Vang asked for a copy to which Mr. Miller replied that he would email following the hearing. She also asked if the seating on the patio has expanded because of COVID and whether or not the patio seating has remained the same from their last conversation to meet the city's requirement.

Mr. Miller shared that the patio was closed due to several repairs that needed to be made. Since that time, the patio has been rebuilt and a new fence has been erected, also fencing was put up to hide the garbage receptacles. Mr. Miller stated that he would like to put more tables out on the patio for more seating, but the space will not allow, although he would like to expand into the parking lot. He also stated that the current seating is under the approved allowed capacity, but that he does not have an exact number of occupancy limits. Mr. Miller mentioned that the reason there were tables in the parking lot previously was to accommodate social distancing requirements for COVID, and that they are not permanent fixtures. Since the restrictions for COVID have been lifted, Mr. Miller agreed that the tables and firepits will be moved out of the parking lot.

Ms. Granahan asked if she could address the parking and Ms. Vang gave her an opportunity to speak about the tables in the parking lot and the noise factor. Ms. Granahan stated that since the parking lot is not fenced in, noise factor is worse. Also, the tables in the parking lot cause patrons of The Gnome to park in the surrounding neighborhood.

Ms. Vang then asked if there had been an official complaint in the STAMP system. Mr. Fischbach said that there are no records. Ms. Vang asked Mr. Fischbach to review noise complaints and process. He stated that the complainant should first call the non-emergency police line at 651-291-1111. An officer would then determine whether or not there is a noise violation. If so, the officer will write a report which would then be routed back to the DSI office. From there, DSI would follow the normal adverse action procedures. Mr. Fischbach also provided Ross Haddow's contact information at the Department of Safety and Inspections (DSI): ross.haddow@ci.stpaul.mn.us, 651-266-9413.

Mr. Tom Ferrar of DSI added that he oversees lawful gambling in the City of St. Paul, and if there are complaints received during off-hours, he would adjust his schedule to inspect the issue. Also, the division has inspections of On Sale Liquor throughout the year to which Mr. Ferrar is assigned. He mentioned that if his division received complaints regarding The Gnome, they would investigate the issue, but advised that rigorous disturbances be reported to the police department.

Ms. Vang then read the final letter of objection from Ms. JuliAnn Hotzler, 483 Selby Avenue, St. Paul.

Ms. Hotzler stated that she has contended with noise since the day The Gnome opened. She stated that the deck expansion created a nonstop din, along with live entertainment or recorded music. She wrote that The Gnome's parking lot is inadequate, and thus pushes all those excess cars onto the streets and into the neighborhood. Further, during the Christmas season there was a makeshift outdoor movie theater erected in The Gnome's parking lot. Many nights there were two showings so twice a night there was traffic waiting on the streets to get in and then unloading of the parking lot to get out. She believes that if The Gnome is approved for the Gambling Location license, there will be an increase in litter, noise, intoxicated people, and more incidents of her driveway being blocked. She asked that the Gambling Location license not be approved.

Mr. Lucas Miller responded to Ms. Hotzler's concerns. He stated that the movie nights were temporary given the extenuating circumstances of COVID during the winter since patrons weren't allowed inside. He also stated that the movie screen was just a sheet draped over several 2x4 cuts of wood. Mr. Miller added that he did not apply for a special permit, and Mr. Fischbach responded that The Gnome would need a permit if they would ever like to have such an event in the future. Mr. Miller also stated that he feels The Gnome is taking the brunt of the blame for all of the business occupying space on Selby Avenue.

Ms. Vang closed the public hearing and noted that there were several follow-ups, including entering a complaint into the City's system. She stated that after reviewing the records and testimonies from all parties, she supports DSI's recommendation of not adding additional conditions to the Gambling Location license. She will recommend to the City Council that they approve the license with no new conditions being added to the following existing license condition:

1. Licensee shall take appropriate actions to ensure that any noise generated by the activities associated with the operations of the business complies with City of St Paul Legislative Code Chapter 293 Noise Regulations.

The hearing adjourned at 11:04 a.m.

The Conditions Affidavit was previously signed on August 7, 2020.