

LICENSE HEARING MINUTES
Sherwood Lounge, 1418 White Bear Avenue North
Thursday, December 15, 2011, 10:00 a.m.
330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

The hearing was called to order at 10:05 a.m.

Staff Present: Kris Schweinler, Department of Safety and Inspections (DSI)

Applicant: Colleen Humphreys, owner

Others Present: Rodney Bahr, contractor and son-in-law to Ms. Humphreys; and David Hummell, 1793 Sherwood Avenue

Sherwood Lounge: Request for the addition of an Entertainment A license; to expand the liquor service area inside the building (approximately 20 feet into an area south of the existing space) to permit the addition/relocation of storage area(s) and the installation of a future kitchen; and to expand the outside patio liquor service area (approximately 20 feet into an area south of the existing patio). The establishment currently has a Liquor On Sale - 100 seats or less, Liquor On Sale - Sunday, Liquor On Sale - 2 AM Closing, Liquor-Outdoor Service Area (Patio), Gambling Location, Cigarette/Tobacco, and Restaurant (4) - 51-150 Seats licenses. *(Note: This does not include a change in ownership of the business.)*

Mr. Bahr presented an additional letter of support.

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 three (3) letters of concern from residents with two raising opposition, which triggered the hearing, and one from the district council showing support. 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 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.

Ms. Schweinler stated that the existing license conditions were as follows:

1. That if the neighbors so desire, the alley behind the Sherwood Lounge be changed to one way according to whatever pattern best serves the neighborhood needs.
2. That angle parking be required in the rear of the building according to the plans approved by the City of St. Paul.

3. That parking in rear of building be limited to employee parking only and that signs be posted Employee Parking Only.
4. That an adequate device or devices be installed to protect the retaining wall on the property at 1793 Sherwood Ave.

The recommended additional license conditions were as follows:

1. That angled parking be required in the rear of the building according to the plans approved by the City of St. Paul.
2. That parking at the rear of the building be limited to employee parking only and that signs be posted Employee Parking Only.
3. That adequate signage and reflective device(s) be installed to protect the retaining wall on the property at 1793 Sherwood Ave.
4. Per BZA Zoning Variance #09-080571, a bicycle rack shall be provided in the front of the building.
5. Per City of Saint Paul Legislative Code 411.02, the definition of Entertainment A is, "Amplified or nonamplified music and/or singing by performers without limitation as to number, and group singing participated in by patrons of the establishment." (includes karaoke). Entertainment A license does not allow for patron and/or performance dances.
6. Prior written approval and any necessary additional permit(s) and/or license(s) be obtained from the Department of Safety and Inspections (DSI) before any modifications are made to the area labeled "Proposed Future Kitchen" on the submitted floor plan on file with DSI dated 09/15/2011.

NOTE: This includes the removal of original license condition #1 referenced above under the "Existing License Conditions", modification to replacement license condition #3 (formerly condition #4 under the "Existing License Conditions", and the addition of new license conditions #4, 5, & 6.

DSI received a letter from the District 2 Community Council stating they are in support of the addition of an Entertainment A license, the interior expansion of the liquor service area and addition of a future kitchen, and the expansion of the outside patio liquor service area.

Ms. Vang asked about the parking at the rear of the building; how many spaces there were, whether this area was being used for employee parking, where the trash containers were located, etc. Ms. Humphreys responded that there were approximately nine spots located at the rear of the building and it was her intention to stripe it as angle parking for employees only. Currently, she had three containers for pick up: one for trash, another for glass and the last was for cardboard. She had pick-up service three times per week, one for each container.

Ms. Vang asked about the hours of operation, number of employees and whether she planned to hire additional employees due to the expansion. Ms. Humphreys responded that she opened at 10:00 a.m. Monday through Friday; 11:00 a.m. on Saturday and 11:30 a.m. on Sunday. All closing times were 2:00 a.m. She worked alone during the day until 5:00 p.m. and had four additional employees. She did not intend to hire any additional employees due to the expansion.

Ms. Vang asked Ms. Humphreys to discuss her business plan. Ms. Humphreys stated that she owned the vacant property next to the business and planned to expand the upstairs to allow for the walk-in cooler in the basement to be moved upstairs. She would then use the basement for storage.

Mr. Bahr stated that there were currently five tables on the patio with four chairs around each table. The expansion of the patio would only allow for probably three or four additional umbrella tables unless the tables were replaced with a smaller size. The patio could accommodate 50 people at one time.

Ms. Vang asked what the closing time was for the patio. Ms. Humphreys responded that it was the same as for the bar, 2:00 a.m. Ms. Vang responded that since the neighbors had complained about noise, in particular amplified music, she asked whether she would consider closing the patio at an earlier time. Ms. Vang expressed concern about noise from the patio with patrons being able to remain outdoors until 2:00 a.m. Mr. Bahr responded that there was a covering over the patio area and with the umbrellas being up, it somewhat muffled the noise. Ms. Humphreys stated that she had signs posted on the tables requesting noise be kept to a minimum; however, she believed there was more noise from the traffic on White Bear Avenue than there was from people in conversation.

Mr. Bahr presented the current floor plan and the expansion floor plan. He explained that currently, entertainment was set up at the front of the building near the entrance/exit to the building. The patio being right outside the entrance, and with the doors constantly being opened is why the sound from inside permeated to the outside of the building. The plan was to sound insulate the rear of the wall of the building with live entertainment being set up at the rear. This would eliminate music permeating to the outside from the entrance/exit door constantly being opened. When entertainment was being provided, the rear door could be used for exiting only with a panic alarm sounding if it were opened. Ms. Humphreys stated that she did not have entertainment every weekend, usually once a month, and generally it was scheduled for a Saturday night only.

Ms. Vang asked Mr. Bahr if he would define the layout of the tables on the plan for the outdoor patio area. Mr. Bahr updated the plan at the hearing to include the layout of the tables on the patio and presented it to Ms. Vang.

Ms. Vang stated that she wanted to prevent the rear door, or any door, being propped open during entertainment events. She suggested this be included as a condition to the license. Ms. Schweinler responded that they could include the standard language concerning doors and windows remaining closed during times entertainment was being provided.

Ms. Vang stated that in reviewing the police reports, she noted that there was a report that an underage person was served alcohol at the bar. Ms. Humphreys responded that this had occurred when she was working the bar and the reason she did not card the individual was because she believed she had already served him alcohol when she carded him the first time he ordered beer. She had not realized it was a different person than who she had originally served. She had admitted her guilt and realized that she should not have second-guessed herself rather than believing she had already served this individual. Ms. Schweinler noted that the fine had already been paid.

Ms. Vang invited Mr. Hummel to testify.

Mr. Hummel presented a letter which is made a part of this record. He asked about the alley possibly becoming one way. Ms. Schweinler responded that the neighbors had the option of requesting the alley become one way; however, this was not an absolute requirement. Mr. Hummel stated that after talking to Ms. Humphrey and Mr. Bahr prior to the start of the hearing, his issues and concerns had basically been addressed.

Ms. Vang presented an email from Nora Olson which is made a part of this record.

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 and with the added condition that all doors and windows remain closed whenever entertainment was provided. The proposed conditions were agreed to by Ms. Humphreys and are as follows:

1. That angled parking be required in the rear of the building according to the plans approved by the City of St. Paul.
2. That parking at the rear of the building be limited to employee parking only and that signs be posted Employee Parking Only.
3. That adequate signage and reflective device(s) be installed to protect the retaining wall on the property at 1793 Sherwood Ave.
4. Per BZA Zoning Variance #09-080571, a bicycle rack shall be provided in the front of the building.
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6. Prior written approval and any necessary additional permit(s) and/or license(s) be obtained from the Department of Safety and Inspections (DSI) before any modifications are made to the area labeled "Proposed Future Kitchen" on the submitted floor plan on file with DSI dated 09/15/2011.
7. All doors and/or windows shall remain closed whenever entertainment is provided.

The hearing adjourned at 10:50 a.m.

The Conditions Affidavit was signed and submitted on December 23, 2011

Submitted by:
Vicki Sheffer