

**LICENSE HEARING MINUTES**  
**Mucci's Italian, 786 Randolph Avenue**  
**Monday, February 3, 2020, 10:00 a.m.**  
**Room 330 City Hall, 15 Kellogg Boulevard West**  
**Nhia Vang, Deputy Legislative Hearing Officer**

The hearing was called to order at 10:02 a.m.

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

Licensee: Timothy Niver, Applicant/Owner

License Application: Upgrade to full Liquor On Sale – 100 seats or less and Liquor On Sale Sunday licenses from existing Wine On Sale, Malt On Sale (Strong) licenses

Legislative Hearing Officer Nhia Vang made introductory comments about the hearing process: This is an informal legislative hearing for a license application. This license application required a Class N notification to inform neighbors and the District Council about the application and provide them with an opportunity to submit comments. The City received correspondence of concern/objection, 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 City Council is the final authority on whether the license is approved or denied.

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 to take an adverse action on the application, which could involve review by an administrative law judge.

Kris Schweinler, Department of Safety and Inspections (DSI), gave a staff report. She said conditions as to the hours of operation and maintaining the parking agreement were already in place for the wine and beer license. Licensing recommended approval with the two conditions already there.

**Existing License Conditions**

1. PER NONCONFORMING USE PERMIT #15-145496 FOR REESTABLISHMENT OF A RESTAURANT USE: The shared parking agreement with 801 Randolph Avenue must remain in effect at all times the establishment is in operations. The licensee shall inform the Department of Safety and Inspection (DSI), at least 60 days in advance, of any cancellation of this

agreement. Licensee shall provide proof of a valid agreement each year at the time of renewal of the license.

### **Recommended Additional License Conditions**

2. Licensee agrees to operate the establishment in compliance with Section 409.02 of the City of Saint Paul Legislative Code as a “Restaurant”.
3. Licensee agrees to close the establishment at 12:00 a.m. midnight. All patron/customers shall vacate the premises by 12:30 a.m. each day of the week as per City Zoning Code (parking requirement) and Section 409.02 of the City of Saint Paul Legislative Code.

Ms. Vang noted that there were three recommended conditions; she said condition 2 was missing from the affidavit attached to the staff report. Ms. Schweinler said the third condition was for the upgrade, and was now standard for any applications for on sale liquor at a restaurant. She said the affidavit attached to the file was the old one, and Mr. Niver would be signing a new one.

Ms. Vang confirmed with Mr. Niver that he understood and agreed to the new conditions.

Ms. Vang said one of the photos in the file showed a school or daycare. Ms. Schweinler said it was a daycare. Ms. Vang confirmed with Ms. Schweinler that a waiver wasn’t required.

Ms. Vang asked Mr. Niver the reason for the upgrade. Mr. Niver said he hadn’t wanted to have liquor at the location initially, but there were new costs associated with doing business in St. Paul and elsewhere, so he wanted to add another revenue stream. He said they were a restaurant and would not be holding seats for customers who wanted to consume liquor rather than wine and beer.

Ms. Vang asked whether there would be an increase in staff. Mr. Niver said no. Ms. Vang asked if the hours of operation had changed since 2015. Mr. Niver said they had changed the hours for lunch, but nothing had changed for the evening hours.

Ms. Vang asked Mr. Niver whether he still had a shared parking agreement. Mr. Niver said the agreement had just been renewed, and he would provide a copy.

Ms. Vang asked whether the parking was still maintained at seven parking spaces. Mr. Niver said seven spaces were required and the lot had nine. He said he probably would be applying to have the parking restriction removed eventually. He said the business across the street was the only other business for three blocks, and there were tons of parking. He said he paid \$6000 a year for the parking agreement, to maintain the idea that he needed parking.

Ms. Schweinler said that maintaining the shared parking agreement was a zoning requirement, not licensing. Mr. Niver said he could at least ask.

Ms. Vang confirmed with Ms. Schweinler that there was no additional parking requirement with the license upgrade.

Ms. Vang confirmed with Mr. Niver that he had seen the letters of objection and support. The letter of objection, which had triggered the hearing, was from Sue Dubois at 786 Juno. There were two letters of support – one from the West 7<sup>th</sup> / Fort Road Federation supporting a waiver of the 45-day notice, and one from Adam Yust, which was received outside of the notification period. Ms. Vang asked Mr. Niver if he'd like to respond to the letter of opposition. Mr. Niver said the letter talked about lack of parking, but there wasn't anything related to liquor she was opposed to. He said liquor would not increase the demand for parking. He said they paid for the parking required by zoning and had done their due diligence to be good neighbors.

Ms. Vang asked whether there had been any enforcement actions in the four years they'd been open. Ms. Schweinler said no.

Ms. Vang asked Mr. Niver whether he had noticed any behavior issues related to the business that had warranted calling the police. Mr. Niver said they had enhanced the neighborhood, and now had eyes on the street on a corner that had been dark for the eight years before them. He said they had alerted the fire and police departments when things had happened. They were actively participating in betterment of neighborhood.

Ms. Vang asked whether the new lighting he was referring to was from the street or his establishment. Mr. Niver said the lights were on, and it was completely dark for eight years when it was unoccupied. He said there were lights from the street and from the establishment.

Ms. Vang said Mr. Niver indicated there were 44 seats in the restaurant; she asked whether the layout had changed. Mr. Niver said no; it was a tiny space and there was no way it could change.

Ms. Vang noted that Mr. Niver owned other restaurants; she asked whether someone else managed this business. Mr. Niver said his wife did. Ms. Vang asked whether Mr. Niver's wife was on-site to answer any questions anyone might have. Mr. Niver said she was there if he wasn't.

Ms. Vang asked whether the upgrade would take place as soon as the license was approved by the City Council. Mr. Niver said that was correct.

Ms. Vang said she had no other questions given that the parking requirement was set by Zoning, and she did not have the ability to change that. She said as long as Mr. Niver maintained the shared parking agreement, he was in compliance with the license conditions, and she would recommend that the City Council support the license application.

The hearing adjourned at 10:16 a.m.

The Conditions Affidavit was signed and submitted on February 3, 2020.