

**LICENSE HEARING MINUTES**  
**Red Rabbit, 788 Grand Avenue**  
**Monday, April 16, 2018, 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: Jeff Fischbach, Department of Safety and Inspections (DSI)

Licensee: Luke Shimp, Applicant/Owner

License Application: Liquor On Sale – 101-180 seats, Liquor On Sale – Sunday, Liquor Outdoor Service Area (Patio), Liquor Outdoor Service Area (Sidewalk)

Other(s) Present: Lori Brostrom, Summit Hill Association – Zoning and Land Use Chair

Legislative Hearing Officer Nhia Vang gave the following information about the hearing: 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, Ms. Vang will develop a recommendation for the City Council to consider. Her recommendation will be on the Consent Agenda at the City Council meeting.

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. The City Council is the final authority on whether the license is approved or denied.

Minutes:

Jeff Fischbach, Department of Safety and Inspections (DSI), gave a staff report and reviewed the license conditions as follows:

1. The management of the Red Rabbit shall provide security in the parking lots Tuesday through Saturday starting at 9:00 p.m. and until all cars have vacated the parking area after closing time of the establishment to ensure that the patrons leave the premises and the parking lots without causing a disturbance in the surrounding neighborhoods. Patrons shall be advised of the necessity of leaving in an orderly manner and shall not be permitted to loiter outside the bar or in the parking lots.

2. 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.
3. Licensee agrees to limit the number of outdoor seats on the private patio and public sidewalk seating areas to that allowed under applicable code requirements, and as stated on the approved seating plan on file with the Department of Safety and Inspections (DSI). But in no case shall there be more than a maximum total of forty-four (44) seats on the outdoor private patio seating area, nor more than twenty-four (24) seats on the public sidewalk seating area.
4. Licensee agrees to take appropriate action(s) to ensure that the sale, display, and/or consumption of alcoholic beverages is contained within the defined private patio and public sidewalk seating areas as per the approved seating plans on file with DSI.
5. Licensee agrees to maintain in good condition a rear patio wall of at least sixteen (16) feet in height along the rear south side of the outdoor patio contiguous with the building as allowed by City Code.
6. Licensee agrees the rear patio wall will be maintained in its original construction material requirements of concrete and brick materials, including a gas fireplace with no open areas in the wall as permitted by applicable codes.
7. Licensee agrees the rear patio wall will be maintained with its original construction requirements including a minimum of a four (4) foot return wall from the rear wall on the east side. The remainder of the east patio wall will be the current wood fence with planters extending to the front sidewalk.
8. Licensee agrees that alcoholic beverages will only be served on the outdoor patio area to patrons ordering food.
9. Licensee agrees that all food and beverage service, including alcohol service, on its outdoor patio seating area will stop by 9:30 p.m., that the patio will close and all customers/patrons will vacate the patio area by 10:00 p.m., and that the tables and chairs in this area will be secured in a manner to prevent customers/patrons from sitting in this area after 10:00 p.m.
10. Licensee agrees to maintain its current designated smoking area outside for patrons and will add sound proofing materials and improvements to the existing outdoor smoking area as allowed by City Code to help reduce noise and smoke effects.

He said the previous licensee had Liquor On Sale - 2:00 a.m. Closing and Entertainment B licenses which this applicant did not apply for. Mr. Fischbach said the conditions DSI is recommending were, for the most part, like the conditions for the Wild Onion. He stated that the Summit Hill Association (SHA) submitted a letter of support which identified three conditions they would like to have considered. SHA is recommending that Conditions 1 and 10 be eliminated. Condition 1 is related to security requirements and Condition 10 is related to a designated outdoor smoking area. The district council is also recommending modification to Condition 9 to extend patio service time by one hour on Friday and Saturday. When asked about the Department's review of the modified conditions, Mr. Fischbach stated that DSI didn't have an opinion one way or another. He said Buildings was not applicable, Licensing approved with

conditions, Zoning approved, and DSI recommended approval with conditions. In response to a question from Ms. Vang related to the petition requirement for outdoor seating, he said the previous licensee met the petition requirement and it stayed with this business.

Ms. Vang read from Condition 3 related to outdoor seating and asked whether the site plan had been approved. Mr. Fischbach said the patio is on the site plan. Mr. Shimp said he believed the site plan submitted with the previous licenses were in place and that the existing seating arrangement would be retained. Mr. Fischbach said because they had an outdoor fireplace the patio looked like it was part of the building on the site plan. He said the seating arrangement would have to be reviewed by Public Works as part of the obstruction permit process and it might be changed. Ms. Vang asked Mr. Shimp to provide a copy of that plan when it was completed for the record. Mr. Fischbach said there were accordion doors that allowed patrons to walk directly outside, and he suspected the seating plan would stay the same because of that.

Ms. Vang said a lot of conditions seems to relate to HPC as referenced by Conditions 6 and 7. Mr. Fischbach said he didn't believe there was HPC review when the patio was approved. Ms. Lori Brostrom, representing Summit Hill Association, said she didn't think so also. Mr. Fischbach said he believed the conditions were put on because the neighborhood didn't want any changes when the last licensee got it. Mr. Shimp noted that there had been many citations associated with the previous business, and he believed height issues were to help buffer some of the noise and activity. Ms. Vang confirmed with Mr. Shimp that he meant to keep that height.

Ms. Vang asked Mr. Shimp to walk her through his plan. Mr. Shimp, said he is the owner of Double Black Diamond Inc., which also owned Red Cow and Red Rabbit (Minneapolis) restaurants. The Wild Onion was purchased as of April 2<sup>nd</sup> and plans are underway to modify the interior to fit the Red Rabbit concept, which serve pizza, pasta, and oysters. The restaurant would serve alcoholic beverages with no intention to operate like a bar. The current Red Rabbit in Minneapolis serves about 65-66% food and about 35-34% alcohol. The plan is to have a neighborhood eatery that added to rather than detracted from the value of the neighborhood. The restaurant will open at 11:00 a.m. and would run to 1:00 a.m. with food service until midnight every day of the week. Weekends would be open for brunch at 9:00 a.m., switching back to the regular menu after 3:00 p.m. After a year, he would re-assess business hours.

In response to questions from Ms. Vang, Mr. Shimp said each of his locations had about 80 employees total, with 15 to 18 or 20 on a shift. He said they had on-site a front-of-the-house and back-of-the-house leaders, as well as corporate-level directors.

Ms. Vang said the application indicated they were hoping to open in July. Mr. Shimp said they were shooting for July 24. He said they were still finalizing the renovation plans and inserting those into the City's platform the next week.

Ms. Vang asked Mr. Shimp if he was cognizant of potential noise issues with the patio and sidewalk. Mr. Shimp said he was, and he understood the balance between commerce and neighborhood. He acknowledged there would be some noise, but said it would not be a party and club atmosphere like the previous business, and, at the end of the day, it really was a restaurant.

Ms. Vang asked Mr. Shimp how he had dealt with problem patrons in the past. Mr. Shimp said everyone took alcohol training, and it came back to their core values of who and what they were

and what they were trying to create. He said if there were guests who didn't align with the brand, employees would have to make a judgment call as to whether the behavior belonged in the establishment.

In response to additional questions from Ms. Vang, Mr. Shimp said this would be their sixth restaurant, and second in St. Paul. He said they planned to re-stripe the parking lot and have arrows for traffic flow. He said one of his requests was not to have anyone (security) out in the parking lot, because it was an unnecessary expense for this type of environment. He said they would assess outdoor lighting needs. He said they'd worked with Xcel to add lighting at Red Cow, but he'd just purchased this location and hadn't had time to assess it. He said given the neighborhood sensitivity they were fortunate that there were a lot of tall fences, and they might have to look at some shaded or shrouded lighting.

Ms. Vang asked Mr. Shimp whether he'd had a chance to review the letter received, and wanted to respond. Mr. Shimp said the letter writers attended the district council meeting, and he felt that they left the meeting comfortable. He said seeing the things they were concerned about was surprising; he said he would let Ms. Brostrom comment on that. Ms. Vang said it appeared their concerns were based on their experience with the previous owner. She said it helped that Mr. Shimp hadn't applied for Entertainment B and 2:00 a.m. licenses. Mr. Shimp reiterated that that (entertainment) wasn't consistent with his style of business.

Lori Brostrom, Summit Hill Association, said there had been a zoning and land use meeting with a public hearing. She said the usual notifications were sent out, and people attended despite a snow storm. She said she had the same impression as Mr. Shimp, in terms of the complainants. She said Mr. Shimp assured many of the neighbors' fears, which was why the district council made the recommendation they did. She said it was stunning to see the violations from the previous business, but based on Red Cow on Selby and the reputation of Red Rabbit in Minneapolis, they were confident this would be a very different kind of operation. She said they heartily endorsed it and wished them every success. According to Ms. Brostrom, Mr. Shimp had answered their questions and they had no concerns.

Ms. Vang said she was surprised to see that the district council had recommended removal of license conditions. Ms. Brostrom said the conditions were unusual relative to other restaurants in the area, and with the patio hours they had tried to mirror The Lexington, just for equity.

Ms. Vang asked how many people attended the meeting. Ms. Brostrom said there were a couple of City employees for another matter on the agenda, but there were six people who attended. She said the board vote was unanimous to approve it. She said given history with the site they were scrupulous with making sure they did their due diligence.

Ms. Vang she had no further questions was please that Ms. Brostrom and SHA were satisfied with what Mr. Shimp had presented. She said a big part of her recommendation was based on whether the neighborhood was happy with what was proposed based on SHA's recommendation to remove Conditions 1 and 10 and modification to Condition 9. Based on that, Ms. Vang also supports SHA's recommendation for removing Conditions 1 and 10 and agrees that Condition 9 should be modified for parity with The Lexington. She confirmed that Mr. Shimp agreed with the conditions. She said she would recommend approval with the conditions as follows:

1. 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.
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6. Licensee agrees the rear patio wall will be maintained with its original construction requirements including a minimum of a four (4) foot return wall from the rear wall on the east side. The remainder of the east patio wall will be the current wood fence with planters extending to the front sidewalk.
7. Licensee agrees that alcoholic beverages will only be served on the outdoor patio area to patrons ordering food.
8. Licensee agrees that all food and beverage service, including alcohol service, on its outdoor patio seating area will stop service on Sunday thru Thursday by 9:30 p.m. with all customers/patrons vacating the patio area by 10:00 p.m., and stop service on Friday and Saturdays by 10:30 p.m. with all customers/patrons vacating the patio area by 11:00 p.m. The tables and chairs in the patio area will be secured in a manner to prevent customers/patrons from sitting in this area after closing for the night.

The hearing was adjourned.

The Conditions Affidavit was signed on April 25, 2018.