

LICENSE HEARING MINUTES
La Costa Mexican Sports Bar & Grill, 194 Cesar Chavez
Thursday, October 10, 2019, 2:00 p.m.
Room 330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

The hearing was called to order at 1:57 p.m.

Staff Present: Ross Haddow and Kristina Schweinler, Department of Safety and Inspections (DSI)

Licensee: Judy Delgado, Applicant/Owner

License Application: Add a Liquor On Sale - 2AM Closing license to permit the establishment to be open and serve alcohol until 2:00 a.m., and remove existing license conditions requiring the establishment comply with the definition of a “Restaurant” as defined under Chapter 409 of the City of St Paul Legislative Code for a business with an existing Liquor On Sale - 100 seats or less, Liquor On Sale - Sunday, Liquor-Outdoor Service Area (Sidewalk), Entertainment (B), and Gambling Location licenses

Other(s) Present: William Rodriguez (215 Cesar Chavez Street), neighbor

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 during the notification period, which triggered this hearing.

Ms. Delgado responded to the concern expressed about drinking outside of the service area. She said she spoke to staff about it and she spoke to the West Side Community Organization (WSCO), and they would have security. She said everybody should know where drinking was allowed and sometimes it was hard to control every person. She said she’d had discussions with a couple of groups and she had put her foot down. She said a lot of police officers in the area, including Arturo Lopez, stopped by over the weekend. She said police had been busy recently but they stopped by as often as they could.

Ms. Vang interrupted Ms. Delgado’s testimony and encouraged her to keep her statement in mind while she finished up explaining the process so that she may recall it later for when it is her turn to testify. Ms. Vang continued:

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

She noted that a letter from WSCO had been received that day, outside of the notification period, but that the recommendation made would be discussed later in the hearing.

Ross Haddow, Department of Safety and Inspections (DSI), gave a staff report on the application to add a 2 AM license to the existing establishment. DSI recommended approval with the following conditions:

1. Licensee agrees to limit the placement of table(s)/chair(s) on the public sidewalk to the area and number shown on the approved sidewalk seating plan on file with the Department of Safety and Inspections (DSI) and Public Works. Licensee shall take appropriate action to ensure table(s)/chair(s) are contained to this approved area.
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 take appropriate action(s) to ensure that the sale, display, and/or consumption of alcoholic beverages is contained within the defined area as per the approved liquor service area on file with DSI.
4. Any activities related to the indoor or outdoor seating areas, and/or providing of entertainment shall comply with applicable State and Local rules and regulations, including but not limited to Chapter 293 Noise Regulations of the City of Saint Paul Legislative Code.

Ms. Vang asked whether these were standard conditions for this type of business. Mr. Haddow said they were standard. The conditions related to noise and the sidewalk café were relatively new standard conditions.

Ms. Vang confirmed with Ms. Delgado that she understood and was agreeable to the conditions, and consequences of violation.

Ms. Vang asked Ms. Delgado to walk her through the business plan; she noted that the business had been there about two years. Ms. Delgado said the biggest issue was with the patio seating, which she had discussed with Mr. Haddow recently, and she had instructed staff not to seat people there after 9:00 p.m. She said there were certain procedures followed at certain times,

because they had had that issue. She said after speaking with Mr. Haddow she had spoken to the DJ about the music and the garage doors. There was one day when the air conditioning wasn't working and they had the garage door open after 10:00 p.m., and Arturo (police) had called her on that occasion. The air conditioning was fixed now. She was doing everything she could to make sure her staff did what they were supposed to do. She said she wasn't there all the time but had a manager. She said people got a little more excited with garage doors in spring and summer, but the garage doors would probably be closed from now until May.

Ms. Vang noted they had Entertainment B and Liquor Outdoor Service Area licenses; she asked whether the garage was open while there was entertainment. Ms. Delgado said the patio was supposed to be closed by 10:00 p.m. and the garage door should be closed; she had told her staff numerous times. Ms. Vang confirmed that patio service stopped at 10:00 p.m. Ms. Delgado said they started doing that as soon as they had that issue and she spoke to Mr. Haddow. She said she told her staff to close the patio after a certain time. She said she had a meeting with staff where the issue and complaint were discussed, and it had been addressed. Ms. Vang asked whether DSI had ever taken formal enforcement action. Ms. Delgado said they had never had any complaints at all; she said there had been no complaints between January and now.

Ms. Vang asked Ms. Delgado how she heard about complaints. Ms. Delgado said somebody had called in; she confirmed with Mr. Haddow that that was correct. She said the only reason she knew was that Mr. Haddow told her that somebody called one of the police officers. She said that Arturo Lopez (police) had called her directly and said there was this incident and advised her to talk to her staff. She said that was the only formal complaint that she'd heard about and she'd heard it from Mr. Haddow and from Arturo.

Ms. Vang asked whether the manager on site was available all the time. Ms. Delgado said this would be the night manager, and Friday and Saturday. She reiterated that the garage door was staying down now so there probably wouldn't be any complaints.

Ms. Vang asked Ms. Delgado if she had another job. Ms. Delgado said real estate was her full-time job and this was her other business. She said she ended up buying the building and had made a lot of improvements and upgrades. In response to a question from Ms. Vang, she said she had no background in restaurant management. Ms. Vang said it was important that Ms. Delgado hire the right people; she asked how big the staff was. Ms. Delgado said she had about 15 employees. Ms. Vang asked if they were from the community or drove in. Ms. Delgado said they were from the community. Ms. Vang asked about providing parking for staff. Ms. Delgado said she had full parking on the side and in the back.

Ms. Vang said Ms. Delgado had stated that Friday and Saturday were the two most challenging days. Ms. Delgado said yes, that was typical for businesses, and that was when she'd have the 2:00 a.m., with the kitchen open until 1:00 a.m., and that was the time she'd be having security. Ms. Vang asked the hours for the other days. Ms. Delgado said on Monday they closed at 9:00 p.m., Tuesday at 11:00 p.m., Wednesday at 9:00 p.m., Thursday at 11:00 p.m., Friday and Saturday would be at 2:00 a.m., and Sunday at 9:00 p.m. Ms. Vang confirmed that the kitchen would close an hour before closing.

Ms. Vang asked whether employees went through alcohol awareness training. Ms. Delgado said yes, they were huge on checking IDs, and had a sign up and everything they were required to have.

Ms. Vang asked whether Ms. Delgado would be hiring security. Ms. Delgado said they were already hired and ready to start the sooner the better; security would be in full uniform and would work Friday and Saturday. Ms. Vang referred to the letter from WSCO and said they were asking for two conditions to support the application; one condition was visible security. Ms. Delgado said she was on a speaker with WSCO a couple of months ago and they did talk about security. Ms. Vang asked whether she would agree to put it on her conditions. Ms. Delgado said it was normal for bars to have security, and La Costa would have security Friday and Saturday. Ms. Vang clarified that WSCO was asking Ms. Delgado to put it on as a condition.

Mr. Haddow said DSI did have that on several establishments that required visible security during peak hours, which is currently not one of the conditions currently recommended for La Costa. Ms. Vang asked whether Ms. Delgado would agree to that as a condition. Ms. Delgado said she would not agree to the conditions proposed by WSCO but would agree to everything recommended by the City, because they were typical, normal conditions. She said Monica (WSCO executive director) hadn't mentioned those conditions. She said the letter was supposed to have been given to her two months ago. She said the conditions were not mentioned in the text she received from Monica.

Ms. Vang said she had assumed there was a hearing at the district council level with everyone in attendance and they had reached an agreement. Ms. Delgado said they asked her if she would have security and she said she would. She said Monica never said at the hearing that that was going to be a condition; she had never provided that in writing when she messaged her.

Ms. Vang read the letter from WSCO. She asked the secretary to follow up with WSCO for clarification as to whether there was an agreement and what was meant by the second condition request, that there be a neighborhood survey of surrounding residents after the first three months of 2:00 a.m. closures. *(The follow-up confirmation indicated that there was discussion about security. There was nothing specific about whether it was discussed as a potential condition on the license.)*

Ms. Schweinler responded to the WSCO's second proposed condition. She said the City would not conduct that type of survey. Mr. Haddow stated that that would have to be an arrangement made between La Costa and WSCO, and any concerns from the survey could be forwarded to DSI. He said DSI would prefer that complaints come in directly as they were an issue. Ms. Vang said the condition raised concerns for City staff who would not be able to enforce it; she would not be adding it as a condition on the license.

Ms. Vang said what she was hearing from Ms. Delgado's earlier statement was that these were not conditions had she made agreements when talking with WSCO. Ms. Delgado said that was correct. She said she agreed with the conditions given to her by the City, which were very standard.

Mr. Haddow reiterated that visible security presence was becoming more of a standard condition for a lot of bars, either as an approved camera system or active physical security during certain hours. Ms. Delgado asked what would happen if a security person called in sick; she said she did have seven security cameras. Mr. Haddow clarified that DSI had some locations where they required both, some where they required only cameras, and some only with visible security. He said they were moving towards an approved camera system on most bars, as well as security for a lot of them.

Ms. Delgado said she had ADT and cameras. Ms. Vang said then she wouldn't necessarily be opposed to that proposal. Ms. Delgado said of course, but what if the guy was sick. Ms. Vang said it was "either-or," not an "and." Mr. Haddow said some were "and." Ms. Delgado said she had approved security cameras.

Ms. Vang said if Ms. Delgado was already doing it, a condition wouldn't necessarily hurt her business especially when it comes to the protection of her staff and patrons. She asked Mr. Haddow to draft something that can she can review and for Ms. Delgado's consideration. She said it sounded like DSI was moving towards this condition becoming standard going forward for bars. Ms. Delgado repeated that she had seven approved security cameras. She said she had cooperated many times with police. Ms. Vang said that she understands and reiterated that it would not be too unreasonable if Ms. Delgado was already hiring security. She again asked Mr. Haddow to draft something; Ms. Delgado was agreeable and said yes, they already had cameras.

Ms. Vang asked what kind of entertainment they had. Ms. Delgado said there was karaoke on Friday and Saturday, and it was very popular with the Latin community. She said there might be a cumbia getting people moving around, so she had applied for Entertainment B. She said she had done everything she could to comply with the City requirements. Ms. Vang asked whether they'd had the Entertainment B since they opened. Ms. Delgado said they'd had it for about a year. Mr. Haddow said it was issued August 6, 2018.

Ms. Vang asked whether there was a plan for how staff and security would guide customers at closing time. Ms. Delgado said of course.

Ms. Vang asked whether parking had been an issue at all. Ms. Delgado said she had pretty good parking; she had parking on the side and in the back, and some street parking. Ms. Vang asked if it was shared or entirely for Ms. Delgado's business. Ms. Delgado said the whole side parking lot was hers.

Ms. Vang asked whether Ms. Delgado had consulted with police on when the security cameras were put up. Ms. Delgado said she had always had it for security purposes; she had had a few break-ins.

Ms. Vang said it sounded like Ms. Delgado was doing the responsible thing. Ms. Delgado said she had done everything she could as a business owner. She said she'd received some personal complaints and wasn't popular with some people in the neighborhood because she put her foot down. She said some past customers were not allowed in her bar. She said that area was very particular with some things and it had been tough, as a business owner. She said she had a right

to refuse service to anyone who she felt wasn't complying with her conditions.

Ms. Vang asked whether she was talking about over-service. Ms. Delgado said of course. Ms. Vang asked whether they kept a list of people who misbehaved and that staff was being trained to be aware of. Ms. Delgado said it was a small community, and a lot of her customers were repeat customers.

Ms. Vang asked whether staff were trained to spot and check misbehaving customers. Ms. Delgado said yes. She said with security in place, she had told her staff "Don't argue. Get security."

Ms. Vang asked whether the 2:00 a.m. license included a change to the parking requirement. Mr. Haddow said Zoning hadn't completed the review. He said Ms. Delgado had been granted a parking variance when she purchased the building, and she currently had 11 spaces. He said based on early calculations he thought they were going to be okay. Ms. Vang asked whether his practice would be to issue the license or wait for the Zoning review. Mr. Haddow said Zoning would have to issue final approval, but would grant time and not make issuance of the license contingent on completion for any work needed on the parking lot. Ms. Vang confirmed that Ms. Delgado didn't have any questions about that.

Ms. Vang asked Ms. Delgado if she had any questions prior to opening the public hearing. Ms. Delgado said the letter of objection was from 215 Cesar Chavez, which she didn't see that on the list provided; she asked how the writer would have received the notification. Mr. Haddow explained the notification process to the district council and neighbors within 350'. He clarified that there were separate notifications for the Commercial Development District and for this license application. He said individuals could also sign up to receive notifications, and during the notification period anyone could comment.

Ms. Vang noted the letter of objection received from Mr. William Rodriguez at 215 Cesar Chavez Street. Mr. Rodriguez was present; Ms. Vang invited him to speak.

Mr. Rodriguez said he had been in the beer business for 15 years. He said Ms. Delgado had done a good job of getting the building up to par. He said he was present for his 9- and 10-yr-old children, and wanted to get a grip on what was going on so he knew what to tell them when they came to me at midnight and said that the music was too loud. He said this was not personal, but was the City's rules that Ms. Delgado was going to have to abide by. He said he needed to have a say in the matter, and from his own experience felt it was going to be a tough one.

Ms. Vang and Mr. Rodriguez referred to the notification map; Ms. Vang noted that Mr. Rodriguez's home was in the community just outside of the (100') boundary. Ms. Vang confirmed that Mr. Rodriguez's concern was about noise. Mr. Rodriguez said his concerns were about noise, drinking, and trash. He asked how the City monitored music. Mr. Haddow reviewed the ordinance, and said in the event of a complaint they had a meter to measure. He said if the music could be heard at neighboring property more than 50 feet away, it would be a police complaint and DSI would follow up if it was a license condition violation. He said a condition to comply with the noise ordinance was being recommended in this case, so DSI would follow up.

Ms. Vang said Mr. Rodriguez could file a complaint with the City. Mr. Haddow clarified that at the time of the incident it was a police complaint, and the next step was calling the City's main number at 651-266-8989 for DSI to follow up. Mr. Rodriguez said sometimes police didn't respond, so he didn't know if it was documented or not. He said he had followed the procedure of contacting Ms. Delgado first. Ms. Delgado said she had a photo of a message from Mr. Rodriguez stating that he wouldn't recommend her because they didn't clean up. She said they'd had some issues with dumping in the past, but it was from a neighboring business, and she had called the City about it. Mr. Rodriguez said that message was going to someone else, so he had been confused by Ms. Delgado's response. Ms. Delgado said she had not received an email from Mr. Rodriguez; she said her email address was on her website. Mr. Rodriguez said he called and walked into the business. Ms. Delgado said it was best to communicate in writing; she suggested Facebook message or email. Ms. Vang suggested that Mr. Rodriguez and Ms. Delgado exchange contact information. Ms. Delgado said they got so many telemarketing calls that that wasn't the best way to contact her; she provided the restaurant's email address and said she'd be happy to respond to concerns. She said she did listen to a lot of her customers, but hadn't received anything in writing from Mr. Rodriguez. She said William Rodriguez could be some random telemarketer and she didn't take the phone calls as much, but mail and email were the best ways to communicate.

Mr. Rodriguez said he called once about 11:30 p.m., and the person who answered hung up on him when he said he was a neighbor and was calling because the music was loud. He said 30 minutes later they had not turned it down. On another occasion he went in and spoke to the DJ, who referred him to another employee, who ignored him. Ms. Delgado said the complaints hadn't been passed along to her; she said if Mr. Rodriguez had sent something on Messenger she would have seen it. Mr. Rodriguez said he didn't use Facebook, but since the restaurant was right down the block he could just come and talk to her. Ms. Delgado said she wasn't always there; she provided her cell phone number.

Mr. Rodriguez said as far as trash, he was working on getting that four-block radius cleaned up, and it would be great if Ms. Delgado was on board. Ms. Delgado said of course. Mr. Rodriguez said as a business owner, he knew that an owner didn't see everything. He said since La Costa opened, he'd been finding non-returnables on the boulevard, so customers were leaving the business with glass bottles. He said there were others who shared his concerns and were aware he was attending the hearing. Ms. Delgado said she wished Cozy (neighboring bar) had security cameras so they knew where stuff was coming from. She said she'd had this talk with her staff and with Cozy staff. In response to a question from Ms. Vang, Ms. Schweinler and Ms. Delgado clarified that Cozy was two doors down from La Costa, with a dress shop in between. Ms. Delgado said they tried to prevent customers from taking bottles out. Ms. Vang asked whether a complaint had ever been filed against Cozy. Mr. Rodriguez said there were a lot of complaints against Cozy. He said he delivered there, and they had stopped using glass bottles a while ago, although he believed they had brought bottles back in recently. Ms. Schweinler asked if they were plastic bottles. Mr. Rodriguez said no. Ms. Delgado said on numerous occasions they had received deliveries of bottles intended for Cozy.

Ms. Vang encouraged Mr. Rodriguez and Ms. Delgado to have official staff investigate, rather than trying to determine themselves where the problems were coming from.

Ms. Vang asked Ms. Delgado how they served customers on the sidewalk. Ms. Delgado said with bottles, and they cleaned up when the customer left.

Mr. Rodriguez said he'd seen people drinking outside of the area. Ms. Delgado said she couldn't control everyone but they did the best they could. Mr. Rodriguez said they had a door man. Ms. Delgado said they didn't have a door man. Mr. Rodriguez said he'd been there. Ms. Vang said Ms. Delgado needed to train her staff better. She said the extension of the liquor service area was for a designated area and staff was responsible for making sure. Ms. Delgado said now that she had the complaint they would be addressing it completely. Mr. Rodriguez showed photos of people standing outside with Corona bottles. Ms. Delgado asked Mr. Rodriguez to send her the photos so she could resolve the problem. Ms. Vang re-emphasized they were limited to the designated area and needed to be more cognizant of that, and staff might need additional training.

Mr. Haddow said he understood Ms. Delgado's best attempt, but if someone violated, it was still her responsibility and would result in adverse action.

Mr. Rodriguez said if the music was loud at midnight, it was a problem. Ms. Delgado said they had just talked about that earlier, and the doors would not be opened after 10:00 p.m. Mr. Rodriguez asked if he could play audio taken from his home on August at 11:47 p.m. He was permitted and shared that he was not sure when doors were supposed to be up. He said as recently as the previous night it was atrocious; he played audio taken at 8:30 p.m. Ms. Vang invited Mr. Rodriguez to send the information to her or to Ms. Burger (secretary). Ms. Delgado said the garage doors were open until 10:00 p.m. Mr. Rodriguez questioned why it had to be so loud.

Mr. Haddow said if the music could be heard at Mr. Rodriguez's house, which was more than 50 feet away, it was a violation whether the doors were open or closed, and it was Ms. Delgado's responsibility to make sure there was compliance. Ms. Delgado said she understood.

Ms. Vang confirmed whether Mr. Rodriguez was testifying to inform staff or was it his intention to file a complaint. Mr. Rodriguez said that sharing this wasn't personal; he just wanted to get Ms. Delgado on board to understand. Ms. Vang said that was generous of Mr. Rodriguez.

Mr. Haddow said he would pass the specific ordinance language along to Ms. Delgado.

Ms. Vang asked Ms. Delgado whether she had done any kind of sound-proofing. Ms. Delgado said the only solution was to close the garage doors as soon as the DJ started. Mr. Haddow said that was a condition they might consider adding; it was a condition they had on other businesses.

Ms. Vang said that sounded reasonable and she suggested that they draft something for Ms. Delgado to look at. She said adding a condition was something she would need in order to recommend approval of the license considering the information presented.

Ms. Vang asked Mr. Rodriguez if he had anything to add. Mr. Rodriguez asked if there would be another hearing prior to approval of the license. Ms. Vang said there would not be, unless the City Council referred it back. She said that was rare.

Mr. Rodriguez said, just to sum it up, this wasn't personal, but he had two kids, and his daughter was adamant about the noise. He said, about cleaning up the neighborhood, he knew Ms. Delgado's opinion of the locals, but if she needed any help she should let him know.

Ms. Vang said Mr. Rodriguez had mentioned picking up trash in a four-block area. Mr. Rodriguez said it appeared Ms. Delgado was doing a good job cleaning around her business. He said a lot of trash in the area wasn't her fault. Mr. Rodriguez, Ms. Delgado, and Ms. Schweinler discussed the problems with trash from the food trailer at a neighboring business. Ms. Schweinler said the food trailer was licensed by the state, but trash complaints could be called in to 651-266-8989.

Ms. Vang closed the public hearing.

Ms. Vang said it sounded like there might be two additional conditions, and they would be shared with Ms. Delgado. She said staff would also share the noise ordinance language with Ms. Delgado and Mr. Rodriguez. She reiterated that a violation would result in enforcement action, and Ms. Delgado might need to follow up with staff.

Ms. Delgado asked, if she did her own investigating and had an investigator sit and submit on her neighbors, could she send an email to DSI staff. Ms. Schweinler said DSI wouldn't look at something Ms. Delgado provided but would do their own investigation. Ms. Vang said complaints could be submitted to 651-266-8989. Ms. Delgado asked whether she as a business owner could submit complaints via email. Mr. Haddow said she could complain about anything she saw fit to complain about, and an inspector would follow up. Ms. Delgado said Mr. Rodriguez's voice was being heard, and her voice should be heard too on many things she didn't like and disagreed with.

Ms. Vang said she was happy to hear that Ms. Delgado was agreeable to the proposed new conditions, and believes these conditions would help with the issues raised; she will recommend that the City Council approve the license with the agreed upon conditions.

The hearing was adjourned at 3:06 p.m.

The Conditions Affidavit was signed and submitted on October 29, 2019.