

LICENSE HEARING MINUTES
The Black Hart of Saint Paul, 1415 University Avenue W.
Monday, July 2, 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 10:00 a.m.

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

Licensee: Wesley Burdine, Applicant/Owner

License Application: Liquor On Sale - 101-180 Seats, Liquor On Sale - Sunday, Liquor On Sale - 2 AM Closing, Liquor Outdoor Service Area (Sidewalk), Entertainment (B), Gambling Location, Cigarette/Tobacco

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 a letter 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.

Kristina Schweinler, Department of Safety and Inspections (DSI), gave a staff report. She said the City was recommending approval, and the applicant had signed off on the conditions. Ms. Vang asked if they were the standard conditions for the type of license. Ms. Schweinler said they were standard and were carried over from the previous establishment but with updated video surveillance language. Ms. Vang asked about the petition requirement for the outdoor service area. Ms. Schweinler said there was no requirement because it was already approved prior to this application. She said there were no parking requirements since it was on University Avenue. DSI was recommending approval with 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.

2. Licensee agrees to limit the placement of seating on the public sidewalk to the area and number of seats shown on the approved sidewalk seating plan on file with the Department of Safety and Inspections (DSI) and Public Works.
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 sidewalk seating plan on file with DSI.
4. Licensee will provide sufficient security to insure an orderly exit of patrons at bar close. Security will be clearly identifiable.
5. Staff will insure that the 48" clear walkway is maintained at all times.
6. Licensee will create a video surveillance camera and lighting placement plan (video surveillance plan) for the interior and exterior of the licensed premises. Licensee will submit the video surveillance plan to the Saint Paul Police Department (SPPD) liaison with the Department of Safety and Inspection (DSI) for review and approval. In accordance with the approved video surveillance plan, licensee will ensure that video surveillance camera system is in good working order, ensure it is recording 24 hours per day, ensure it can produce recorded surveillance video in a commonly used, up-to-date format, and ensure that accurate date and time of day are visible on all recorded video. Licensee will retain surveillance video for a minimum of thirty (30) days. If an incident is deemed serious by SPPD, licensee shall make surveillance video immediately available for viewing by SPPD. If a copy of the surveillance video for a serious incident is requested by SPPD, Licensee shall have the technology, materials and staff available to immediately make the copy. In all other cases, licensee shall provide a copy of the surveillance video to the requestor within 48 hours.
7. Licensee agrees to complete installation of all video surveillance equipment and lighting in accordance with the approved SPPD video surveillance plan on file with DSI within sixty (60) days of license issuance.

Applicant Wes Burdine said he was going to be the owner and operator, and had been working closely with the current owner, who had owned the business for about thirty-five (35) years. He referred to the complaint letter received and said one of the concerns brought up was that bottles were being emptied after 2:00 a.m. He said it had been the policy for over a decade that bottles were not emptied until the morning, and were kept covered inside overnight. He said trash was regularly picked up on Monday and Thursday at about 11:30 a.m., so he was not sure where those noise complaints were coming from. He said, as for noise from patrons, they had security at the door and two people at the door to send people on their way safely and respectfully. He said he felt the bar had a long-standing relationship with much of the neighborhood and with the community, as being more than a place where people just drink. He said, as a neighbor himself, he hoped to keep that going.

Ms. Vang asked Mr. Burdine whether he had operated this kind of business before. Mr. Burdine said he had not in terms of being an owner and operator, but had worked in the food industry for over 15 years in a variety of capacities. Ms. Vang asked Mr. Burdine whether he would manage the business day to day. Mr. Burdine said another bartender would also be helping him with the management, but he (Mr. Burdine) would be the manager and operator.

In response to additional questions from Ms. Vang, Mr. Burdine said hours were 3:00 p.m. to 1:00 a.m. on Monday, with earlier opening for 2:00 p.m. soccer games. He said they were open until 2:00 a.m. on Wednesday, Friday and Saturday, and opened at noon on Saturday and Sunday. He said they

had opened at 9:00 a.m. for World Cup games during the past week, and it was a pretty calm crowd. He said they closed at 1:00 a.m. on the other nights. He said many staff members were part time, but on a busy night there would be two people at the door, two or three bartenders, and one in the back.

Ms. Vang asked about the type of entertainment. Mr. Burdine said they were largely continuing what Town House Bar did, and had lots of drag shows and karaoke. He said the entertainment was on Wednesday, Friday, and Saturday nights, and there was security at the door on those nights. Ms. Schweinler clarified that Condition 4 stipulated that security be identifiable when they were present but not that they be present every night. Ms. Vang asked whether the hours for the outdoor liquor service area were similar. Mr. Burdine said it was similar hours of operation. In response to questions from Ms. Vang he said smoking was allowed in the outdoor area and it had lighting. He said the outdoor area was on the sidewalk, right in front, with a gate set up on the edge of the sidewalk with 5 or 6 tables. Ms. Vang asked whether the site plan had been approved by Public Works. Ms. Schweinler said it was the same site plan that had always been there. She said an obstruction permit was required every year and had been done. Ms. Vang asked how staff monitored the sidewalk. Mr. Burdine said it was very visible to security, and they were putting in a window in the front of the building that would give a view about half of the area. He said renovations would begin shortly after they opened.

Ms. Vang asked when the business was opening. Mr. Burdine said July 17 was the rough date. Ms. Schweinler said they were still operating as the previous business. Ms. Vang asked how long Mr. Burdine had been operating under the current license. Mr. Burdine said he didn't own it yet and had been helping current owner.

Ms. Vang asked how the business had been going. Mr. Burdine said it was going well. He said he was there mostly to open for special events. Ms. Vang asked whether Mr. Burdine had witnessed problems and whether they had been addressed well. Mr. Burdine said he'd recently observed a bartender help a patron get a cab home, and had handled it well. Ms. Vang asked Mr. Burdine if he was keeping current staff. Mr. Burdine said he was. Ms. Vang asked about employee training. Mr. Burdine said he was codifying existing rules in an employee manual. Ms. Vang asked whether that included checking IDs. Mr. Burdine said it did.

Ms. Vang asked about the plan to exit patrons so it wasn't disruptive; she said there was residential nearby. Mr. Burdine said most of the parking was next to building, but spilled into the neighborhood when it was busy. He said on those nights security and staffs at the door were instructed to send people on their way and encourage them to be courteous.

Ms. Vang encouraged Mr. Burdine to be cognizant of noise from the sidewalk area. She said the letter of objection referenced the establishment being in a residential neighborhood and discussed possible conditions (interrupted) Ms. Schweinler said they really weren't in a residential neighborhood. She said they were on University Avenue and the exit was at the front. Mr. Burdine said University Avenue was busy and loud, and noise from the sidewalk was trapped between the building and the light rail. He reiterated that he lived in the neighborhood, and said he wasn't excited about stipulations being put on the license.

Ms. Vang, Ms. Schweinler and Mr. Burdine reviewed the site plan.

Ms. Vang asked whether there were similar establishments in the area. Ms. Schweinler said there were several on University Avenue. Ms. Vang said the letter of objection had referenced Tav on the

Ave had similar conditions. Ms. Schweinler said that was on Jefferson Avenue, and the license conditions were similar.

Ms. Vang reviewed the police incident report. Ms. Schweinler said most visits were proactive, and there weren't a lot of problems compared to other establishments. Ms. Vang asked Mr. Burdine to be cognizant and mindful as part of the managing the operation going forward.

Ms. Vang asked whether patrons seated themselves in the sidewalk area. Mr. Burdine said to be served, patrons had to come in and order at the bar.

Ms. Vang asked how many patrons were present on any given night. Mr. Burdine said it varied. He said the previous Friday there were 80-100, and some nights were busier, but most nights there were 30-40.

Ms. Vang asked about garbage generated. Mr. Burdine said the business did not necessarily produce more than neighboring commercial office spaces across the parking lot. He said there was an ongoing problem with the grass lot next door and illegal dumping. He said the current owner picked up loose litter and he would continue that.

Ms. Vang asked for other examples of how problems would be mitigated. Mr. Burdine said it was a gay, lesbian, trans bar, and they had to, by nature, be very careful and make sure their customers felt safe. He said door staff were instructed to de-escalate situations, and that was why they had security present as well. He said a big part of bartending there was not just to serve drinks but to maintain a certain type of community.

Ms. Vang said given that the business has been operating successfully and Mr. Burdine intended to continue the current practices she would recommend that the City Council approve the license with no additional conditions. She said Ms. Schweinler indicated earlier that Mr. Burdine had signed off on the conditions, and that meant he agreed to them. Mr. Burdine said he did.

The hearing was adjourned at 10:26 a.m.

The Conditions Affidavit was signed and submitted on June 22, 2018.