

LICENSE HEARING MINUTES
Best Buy Auto Sales, 1414 Arcade Street
Thursday, December 16, 2010, 2:00 p.m.
330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

The hearing was called to order at 2:05 p.m.

Staff Present: Jeff Fischbach, Department of Safety and Inspections (DSI)

Applicant: Charles Belcher, owner

Best Buy Auto Sales: Second Hand Dealer – Motor Vehicles

Ms. Vang stated that this was an informal legislative hearing for a license application. This particular license requires a Class N notification which means the neighborhood was notified and people had the chance to voice their concerns. The City received one (1) letter of concern. There are three possible results from this hearing: 1) Ms. Vang 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 they understand and are in agreement with the conditions.

DSI staff will explain their review of the application and state their recommendation. Next, Ms. Vang will ask the applicant to talk about the 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.

Mr. Fischbach stated that the zoning on Arcade Street had been changed to RT2 which made the business a non-conforming use according to zoning staff. The previous owner had applied for a conditional use permit for a much larger space; however, he then decided to reduce the size of the lot which meant that the size could not be increased without going through zoning approval. He explained that the conditions placed on the license were the result of the conditional use permit as well as conditions placed on the license from the last legislative hearing. The conditions on the license were as follows:

Conditions 1-9 are Zoning CUP Conditions

1. The site must be improved/maintained according to the approved site plan on file with DSI dated 10/3/08. Any changes to the site plan must be approved in writing by the DSI Zoning Administrator.
2. A maximum of fifteen (15) total vehicles may be parked outdoors on the property at any time: no more than twelve (12) for-sale vehicles may be displayed/parked, and at least three (3) customer/employee spaces shall be available on the property. All vehicles must be parked according to the approved site plan on file with DSI.
3. The applicant shall receive site plan approval. The site plan shall include and address a plan for snow removal, landscaping, lighting, fencing along the alley, the relationship of the site to the neighborhood traffic circulation, and striping and designation of parking spaces showing how parking is provided for each of the businesses on the block face.

4. The area behind the building (fronting on Sherwood) shall be maintained according to the approved site plan on file with DSI. This includes both paved and grassy areas.
5. A six (6) foot high wood privacy fence shall be installed/maintained along the southern edge of the display area along the alley, as shown on the approved site plan.
6. The obscuring fence on the east side of the property abutting the alley, and the south side of the property shall be maintained with an obscuring six (6) foot tall cedar, composite, or durable material fence (as determined through the DSI Site Plan Review). The space between the bottom of the fence and the ground shall be no more than one (1) to two (2) inches. No barbed wire fencing is permitted.
7. A forty (40) inch high ornamental metal fence must be installed along Arcade Street from the building to the new driveway. Behind the fence a four (4) foot landscaped area, running the length of the fence, must be planted with hardy shrubs (such as Alpine Currant or Black Chokeberry) that are a minimum of 18" in height. All landscaping must be maintained and/or replaced as needed.
8. The permitted hours of operation shall be from 9:00 a.m. - 7:00 p.m. M-F and 9:00 a.m. - 6:00 p.m. Saturday. The business will be closed Sunday unless Minnesota state laws change to allow Sunday hours.
9. No lighting that adversely affects adjacent residential property shall be permitted.

Conditions 10-17 are additional License Conditions

10. Auto repair is not permitted.
11. There shall be no exterior storage of vehicle parts, tires, oil or any other similar materials associated with the business. Trash will be stored in a covered dumpster. Storage of vehicle fluids, batteries, etc. shall be in accordance with the Ramsey County Hazardous Waste regulations.
12. All parking spaces on the property associated with the auto sales business shall be striped, clearly designated with signage, and maintained according to the approved site plan on file with DSI dated 10/3/08. Labeling of parking spaces shall include the spaces for customer, employee, and for-sale vehicles; and shall be completed prior to the issuance of the license.
13. For-sale and/or employee vehicles shall not be parked or stored on the street, sidewalk, alley, and/or public right-of-way.
14. Prior written approval and the necessary permit(s) shall be obtained from DSI before the installation of any signage.
15. No banners, pennants, and/or stringers shall be permitted.
16. It shall be the responsibility of the licensee to ensure that snow removed from the property is not placed on the sidewalk, street, alley, or public right-of-way.
17. The canopy at the back of the lot must be painted in a neutral color, and the paint must be maintained in a good condition free of any chipping, peeling, rusting, etc.

Mr. Fischbach stated that he visited the site on December 1, 2010 and found the following conditions which were not in compliance with the license: 1) an unapproved access from the north neighboring property had been created; 2) vehicles not in compliance with the permitted number allowed on the property; 3) vehicles not parked in accordance with the site plan; 4) for-sale vehicles parked in an unapproved area (the southeast corner of the property); 5) unapproved signage on the neighboring property to the north and in the public right-of-way (on sidewalk); 6) exterior storage on the property (a pick-up topper and miscellaneous wood); and 7) no signage to clearly designate

the three customer/employee parking spaces. He noted that the district council did not provide any input concerning this license application. He presented photographs of the property.

Mr. Belcher stated that he purchased the business on October 1, 2010 from the previous owner who decided to get out of the business. He had since made improvements to the interior and exterior of the property with the intention of selling used cars. He also ran a similar business, for the past two years, in Ham Lake and planned to close that business once he had the license to operate his business on Arcade Street. He did not plan to hire any employees and any mechanical or body repairs necessary for any vehicles would be done off-site by someone else. He explained that the sign he had to advertise his business was a portable sign which he moved in and out every day. The wood on the lot was for repairs he had made to the fence and the topper had stuff in it which he was storing. He said he also had permission from the property owner to the north to allow access onto his property.

Mr. Fischbach responded that exterior storage was not allowed and he would need to remove the wood and the topper from the property. A portable sign, and/or signage of any kind, was not allowed unless he first obtained a permit from DSI. As far as access from the property to the north, he explained that the previous owner and the owner to the north had a disagreement and as a result, barriers needed to be installed. If he wanted to allow access from the north or store vehicles there, he would need an easement agreement which would require zoning review and approval for any change to the site plan. He said when he visited the property he counted 21 cars and two Ford trucks which was too many vehicles as the license only allowed for 12 for-sale vehicles. He said he would need to remove some of the vehicles and the city would need to know where the excess vehicles were being stored. He also would need to put up signage to designate three spaces for customer/employee parking.

Mr. Belcher stated that he would put up barriers to the north access rather than ask the neighbor to go through zoning review. He said he did not understand why he could not have more vehicles for sale on the property especially since he had purchased the inventory from the previous owner.

Mr. Fischbach explained that he would need to apply for a new site plan review which would require a public hearing before the Planning Commission and the Planning Commission Zoning Committee. Mr. Belcher responded that he will remove the excess vehicles from the property as he did not want himself or neighboring business to go through any lengthy review process in order to change the conditions to his license.

Ms. Vang read into the record a letter of opposition received from Lisa Hinickle, 860 Wheelock Parkway East. A copy of said letter is attached and made a part of this record. As far as signage was concerned, she suggested to Mr. Belcher that he talk to DSI to determine what type of signage would be allowed as well as to obtain the necessary permit. She asked about snow removal from the property as well as garbage hauling service.

Mr. Belcher responded that he had moved the snow from the lot to the back of the property by the fence. As for garbage service, he had a covered dumpster at the rear of the property with pick-up service once per week.

Ms. Vang stated that she will recommend to the City Council that they approve the license with the conditions proposed by DSI.

The hearing adjourned at 3:00 p.m.

The Conditions Affidavit was signed at the hearing on December 16, 2010. (NOTE: The Payne Phalen District 5 Planning Council submitted a letter and meeting minutes from the CPED committee after the hearing was already held recommending additional conditions.)

Submitted by:
Vicki Sheffer