

LICENSE HEARING MINUTES  
**The Wild Onion at 788 Grand Avenue**  
Thursday, April 15, 2010, 10:00 a.m.  
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:** Kristina Schweinler, Department of Safety and Inspections (DSI); and Jean Birkholz, Council Research

**Others Present:** Jay Salmen and Joe Schaefer, owners; Nick Closmore, general manager; Tim Pramas, President, Summit Hill Association; Jeff Roy, Executive Director, Summit Hill Association; Chad Skally and David Regan, Grand Avenue Business Association (GABA); and neighbors: Jaymee Lucke Hendrickson, Tom Richardson, Rich Laffin and Bob DeBellis

**The Wild Onion:** Add a Liquor-Outdoor Service Area (Patio) license (to permit the extension of liquor service onto an existing patio) to the existing Liquor On Sale – 181-290 Seats, Liquor On Sale – Sunday, Liquor On Sale – 2 AM Closing, Entertainment (B), Gambling Location, Restaurant (5) – 151 and Over, Restaurant (D) – Add-on (Bar Only), Sidewalk Cafe, and Cigarette/Tobacco licenses

Ms. Vang stated that this is an informal legislative hearing for a license application. This particular license requires a Class N notification which means that the neighborhood is notified and people have a chance to voice their concerns. If anyone has a concern, it automatically triggers a legislative hearing. In this case, the City received many letters/emails from the community. Other Class N Licenses include: tattoo parlors, entertainment, second hand dealerships, auto repair, etc.—things that have an immediate impact on the neighborhood. The purpose of today's hearing is to help Ms. Vang prepare her recommendation to the City Council. Ultimately, there are three (3) possible outcomes from this hearing: 1) Ms. Vang may recommend to the City Council that they issue this license without any conditions; 2) she may recommend to the City Council that they issue this license with agreed upon conditions; or 3) she may recommend to the City Council that they not issue this license but refer it to an administrative law judge for a further hearing and findings.

The hearing will begin with a report from the Department of Safety and Inspections (DSI). Staff will be asked to explain their review of the application and will also explain their recommendation. Next, Ms. Vang will ask the applicant to talk about their business plan. Then, she will hear from people who are here in support of the issuance of the license and those with concerns about the issuance of the license. At the end of the hearing, she will make a recommendation for the City Council to consider. The City Council is the final authority on whether the license is approved or denied.

Kristina Schweinler, Senior License Inspector, Department of Safety and Inspections (DSI), reported that this is an application to allow liquor service on a patio at The Wild Onion, 788 Grand Avenue. DSI is recommending approval with the following conditions:

**Existing License Conditions:**

1. The management of The Wild Onion shall provide security in the parking lots Tuesday through Saturday at bar closing 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. The sidewalk cafe is an extension of the restaurant operation onto a part of the public sidewalk which immediately adjoins the licensed premises.
3. No sidewalk cafe shall be permitted in any portion of the public sidewalk where normal pedestrian traffic flow is obstructed. A minimum clearance width of thirty-six (36) inches must be maintained on the public sidewalk at all times.
4. No tables, chairs or any other furnishings except plant tubs shall be placed in the area used for the sidewalk cafe during any period when the sidewalk cafe is not open and being operated. While such cafe is in operation, all tables and chairs shall be kept in a clean, sanitary condition.
5. The use of a portion of the public sidewalk as a sidewalk cafe shall not be an exclusive use. All public improvements, including but not limited to trees, light poles, traffic signals, pull boxes or manholes or any public initiated maintenance procedures shall take precedence over said use of the public sidewalk at all times.
6. It shall be the duty of the licensed food establishment to maintain each plant tub at all times in a safe condition at its proper location and to inspect each such tub periodically in order that it may be properly maintained. Trees or plants and their tubs shall at all times be kept in a neat, clean and presentable condition. No advertising matter or sign or writing of any kind shall be displayed upon any tree or plant or its tub.
7. No liquor sales and/or service are allowed on a public sidewalk without prior approval and additional licensing from the Department of Safety and Inspections (DSI).
8. No outdoor food and/or beverage preparation is allowed on a public sidewalk without prior approval and additional licensing from DSI.

**Recommended Additional License Conditions:**

9. The outdoor patio seating area shall close at 9:30 p.m. each night of the week and there shall be no customers, patrons and/or employees allowed on the patio for any reason after this time.
10. There shall be no music (recorded or live) on the patio.
11. The licensee shall implement sufficient security measures to insure that alcohol is not consumed in the parking lot or public right-of-way.
12. There shall be no bar (temporary or permanent) outside on the patio unless prior written approval and the proper license(s) are first obtained from DSI.

Tim Pramas, President, Summit Hill Association and Jeff Roy, Executive Director, Summit Hill Association, addressed the hearing. Mr. Pramas reported that the Summit Hill Association's Zoning and Land Use Committee first reviewed this license application. The Land Use Committee recommended that a task force be formed with impacted residents, business

owners, and SHA. The matter came before the full board in March which voted to recommend approval, 15-3, of the patio license subject to several conditions:

- That the patio liquor license would be on a trial basis and will expire and sunset on Sunday, November 14, 2010 at 9:30 p.m.
- That all service (both food and drink) must end by 9:30 p.m. and the patio must be cleared of all patrons by 9:30 p.m.
- That the Wild Onion will provide food & drink service on the patio only at tables and only to those seated at tables. No stand-up service for any patron on the patio and no loitering allowed by patrons on the patio for those not seated.
- That no music shall be played on the patio (live or recorded).
- That no liquor service be provided to any patron who does not order food.
- That The Wild Onion participates in a task force to be created by SHA to include neighborhood resident representatives to address and minimize problems associated with late night patron behavior.
- That The Wild Onion assign full-time security to continuously monitor all Wild Onion patron parking lots from 9:30 p.m. to ½ hour after 2 a.m. closing five days a week, Tuesday night through Saturday evening/early Sunday morning.

Mr. Pramas explained that there has been a history of animosity between The Wild Onion and impacted residents in the immediate vicinity of The Wild Onion. The purpose of the recommendation was to first of all address the problems, and since the bulk of the neighborhood complaints relate to noise or other behaviors of patrons later in the evening, it was recommended to end all service on the patio by 9:30 p.m. Secondly, there are other establishments near The Wild Onion that have patio liquor licenses and do operate in a way which is more respectful of the neighborhood. A lot of the recommended conditions, which to his understanding The Wild Onion has agreed to, would make The Wild Onion's patio operate in the same manner that other patios have successfully operated on Grand Avenue in the neighborhood setting. The whole idea of the conditions is to lead to a quick solution or at least, minimize the problems so that The Wild Onion and residents can more peacefully coexist.

Mr. Salmen, co-owner of The Wild Onion with Joe Schaefer, addressed the hearing. They have owned the business for approximately fourteen (14) years. Mr. Salmen stated that he and Mr. Schaefer are in agreement with the conditions set forth by the Summit Hill Association. He noted that they were proactive in helping to establish some of those conditions; their intent is to minimize the neighborhood's concerns as much as possible. He also noted that of all the establishments along Grand Avenue who have applied for a patio license, The Wild Onion is the only one that has not been able to procure one, to date. The owners of The Wild Onion believe that from both an equity and statutory standpoint, they are entitled to have this extension of the liquor license granted. They don't believe that the playing field is level right now. The purpose of the extension is to allow their patrons to dine with an accompanying alcoholic beverage out on the patio. There will be no stand-up bar service or outdoor music, and the patio will be closed at 9:30 p.m. Mr. Salmen added that before 9:00 p.m., their overall split between food and beverage is 67% food and 33% beverage; of that beverage, only 13% is

alcohol. Then, he said that when people drive by and see no one out on the patio, which is basically the case because they can serve only food on the patio, they decide not to come in. This hurts The Wild Onion's business.

The owners do acknowledge that there is noise associated with the business but the neighbors must also acknowledge that they made a decision to buy property abutting Grand Avenue. When you buy a house in the neighborhood of one of the top five (5) vibrant retail streets in the U.S., there is going to be some noise. The Wild Onion is working with the Summit Hill Association to try to minimize the noise by way of constructing a fence, by proposed acoustical buffering, by a security booth in the parking lot, etc. Mr. Salmen concluded that he and Mr. Schaefer are asking that Ms. Vang recommend approval with the conditions and restrictions that Mr. Pramas stated, to the City Council. Ms. Vang asked Mr. Salmen if he and Mr. Schaefer agree with all of the conditions recommended. He replied that they agree to all of the conditions.

Ms. Vang asked staff if the recommended conditions are standard. Ms. Schweinler responded that there are a lot of patios with no conditions and a lot of patios with similar conditions. Along Grand Avenue, there are several establishments with patio service; some of which are wine and beer establishments. There are two (2) liquor establishments that have patios; there are conditions on one (1) and none on the other. Ms. Vang asked how violations of these types of conditions are enforced. Ms. Schweinler responded that DSI does spot checks periodically and also checks in response to complaints. Ms. Vang asked if there had been more complaints within the past year than in previous years. Ms. Schweinler replied that the number of complaints were about the same.

The following neighboring residents offered testimony:

Bob DeBellis, 781 Lincoln Avenue, testified and entered exhibits into the record. He stated that forty-two (42) owners of property who occupy their residences as primary residences have signed a petition in opposition to The Wild Onion's request for an extension of a liquor license. He stated that while these property owners recognize that renters are important share holders in the community, they represent a more transient population with a significantly smaller and shorter term commitment than the owner occupied population. The Wild Onion, under its current ownership, in the neighbors' opinion, has been the prime violator of the neighborhood's right to quiet and peaceful enjoyment almost from the start. The Summit Hill Association (SHA) can document the many meetings over the years to address the problems. The granting of any license is viewed as a privilege as opposed to a right. It comes with certain obligations and responsibilities. It is the general view of the neighborhood that The Wild Onion has not lived up to its obligations and responsibilities in its present license in regard to the neighborhood. They have offered a venue that clashes with the quiet and peaceful enjoyment of the neighborhood or at the very least, requires them to take proactive steps to significantly mitigate the impact of their patrons. The owners of The Wild Onion have said that the issue of the liquor license extension and the problems after 9:00 p.m. to closing are separate issues to which the neighbors disagree. In many people's opinion, The Wild Onion cannot handle the

privileges, obligations and responsibilities it already has, so why would it be given more. Because The Wild Onion's behavior has improved, the SHA feels it is acting in good faith by working to help solve future problems which may arise from added responsibilities. SHA bases the improved behavior on facts like two (2) assaults in the past year compared to twelve (12) in the prior year. Police calls also are fewer; although one member of the Land Use Committee of the SHA related that there still are twice as many calls to The Wild Onion address than to any of The Wild Onion's peers on Grand Avenue. Patrons need to act more responsibly when leaving the establishment. The Land Use and Zoning Committee and the Board of the SHA ignored the pleas of neighbors to not recommend approval, thinking that they can solve the problems. They seem to lack an appreciation for the neighbors' problems.

Mr. DeBellis read the letter from Betsy Turner (not present), 51 South Avon, into the record. Ms. Turner reported a phone message from a woman manager on duty at The Wild Onion April 10, 2010. Ms. Turner lives on the southwest corner of Grand and Avon. In the past year, she has called The Wild Onion to clean up broken glass and vomit after years of cleaning it up herself. Staff had been willing to do this until this past Saturday morning when the manager informed her that The Wild Onion would clean up this time but would not be cleaning up in the future because no one can prove that they were responsible for the mess. The manager went on to say that The Wild Onion staff had a meeting and decided to not take responsibility for such patrons' behavior. Ms. Turner replied to the manager that The Wild Onion did not care what the neighbors thought.

Mr. DeBellis continued to say that over the years he has heard many people tell the owners of The Wild Onion exactly what they should do to be a responsible neighbor. The late Nick Mancini, who attended a special neighborhood meeting facilitated by SHA years ago, listened to the neighbors' complaints and then told Mr. Salmen to listen and take care of the neighbors. He added that The Wild Onion has been cited on three (3) occasions in the last several years for liquor license violations and was found guilty in two (2) of those cases. The owners are now stating that their establishment is being discriminated against and are threatening to sue the City if denied a license. They say that The Wild Onion is no different from any other establishment on Grand Avenue with a liquor license; however, there are many differences:

1. The owners of The Wild Onion have claimed that they are the only restaurant east of Lexington on Grand Avenue that doesn't have an outdoor liquor license. This is not the case because Grand Tavern, Bonfire, Cafe Latte and The Lexington do not have outdoor liquor licenses. There is no outdoor seating at any of these establishments.
2. The four (4) establishments that have full liquor licenses and the others that have beer and wine licenses are oriented differently and do not interface the adjacent residential neighborhood in the same manner that The Wild Onion does. All Wild Onion outdoor spaces for patrons and parking face directly to the south into the adjacent residential area. In most cases, the other restaurants' own building acts to block noise into the adjoining neighbor's property. All but one (1) close much earlier than The Wild Onion.

3. The average age of The Wild Onion's patrons is probably identical to any restaurant on Grand Avenue until about 9:00 p.m. After 9:00 p.m., the average drops to college age youth and young working adults. The Wild Onion promotes itself as a birthday, bachelor and bachelorette venue attracting more youthful and less alcoholic experienced customers later in the night.

In conclusion, Mr. DeBellis stated that the forty-two (42) owner occupied residents who signed the petition are successful professionals, who live in homes ranging in price from \$250,000 to \$1.5 million. They are reasonable people who want only one thing: to enjoy their homes in relative peace, free from the almost constant nuisance caused by The Wild Onion. They realize that living near a commercial street may sometimes be challenging but not every Tuesday, Friday and Saturday nights. The nuisances include the grouping of twenty (20) or more people gathered in the smoking area which acts as a megaphone into the surrounding area; the yelling; the profanity; the litter; drunken people; and the vandalism that has caused people to live in the front or back of their houses at night away from the disruption of The Wild Onion. These bad behaviors should not be tolerated anywhere in Saint Paul. Some remember The Wild Onion serving alcohol on the patio when it did not have a license, ignoring the law, which some fear it may do again. Many who signed the petition feel that this may be one of their last chances to be heard on this issue. Many are concerned that once the license extension is granted, The Wild Onion will fight to keep it, no matter what.

Rich Laffin, 797 Lincoln Avenue (Avon and Lincoln), addressed the hearing. He and Susan Gillette have owned their home for twenty-two (22) years (8 years before the current owners purchased the building at 788 Grand Avenue). Mr. Laffin empathizes with the owners of The Wild Onion and hopes that they prosper but not at the expense of the neighborhood. He and Ms. Gillette are bothered by the noise from 11:30 p.m. to 2:30 a.m. His wife is constantly awakened during the summer nights when their windows tend to be open. In the morning, he often finds himself picking up broken beer bottles and cleaning up vomit. He thinks, too, that The Wild Onion will want to extend the 9:30 p.m. time in the future. He walks down Grand Avenue many times at night and has noticed that The Wild Onion's side patio is filled with people who are enjoying the evening air and a meal with their friends. He does not think that not granting the liquor extension will make The Wild Onion less competitive. It is not a deal breaker in terms of the success of their business. He encouraged Ms. Vang to deny the applicants' request for the liquor license extension.

Chad Skally, president, and David Regan, Executive Director, Grand Avenue Business Association (GABA), address the hearing. Mr. Skally reiterated some points of a letter that had been sent by GABA. GABA represents approximately 150 members of businesses along and near Grand Avenue since 1966. The board consists of eighteen (18) members. In January 2010, the board unanimously expressed its support for The Wild Onion's request for the following reasons: 1) It is reasonable to offer patrons alcohol while they are eating on the patio during the day; 2) GABA has had a good experience with other businesses that have patios along the Avenue and serve alcohol; and 3) It fits in with the general atmosphere of the Avenue. Ms. Vang asked whether the residents know that they can come to GABA with their complaints.

Mr. Skally responded that they do often receive feedback, both positive and negative from patrons and neighbors. GABA works with SHA when there are complaints. Each has representation on the other's board. Mr. Regan added that they have not received complaints about The Wild Onion. He read a letter he received this morning from Paul Subner, President of Green Mill Restaurants and a resident of Grand Avenue, in support of The Wild Onion's request.

Ms. Skally also owns and manages several apartment buildings on Grand Avenue (35 total apartments). He belongs to the Minnesota Multi-Housing Association. He does not agree with Mr. DeBellis' statement that renters' opinion should be ignored because they can vote with their feet. He noted that renters represent the majority of the residents along Grand Avenue, and he feels that renters have indirectly supported the businesses along Grand Avenue because the vacancy rate of the apartment buildings along Grand Avenue is about half of the metro-wide vacancy rate. Therefore, they should not be ignored.

Ms. Vang read the objection letters into the record. Concerns that haven't been mentioned include: decreasing quality of life for residents; The Wild Onion's bad track record in the neighborhood; serving underage patrons; vandalism; very early trash pick-up trucks; cars without permits parking on Lincoln; and not monitoring parking lot at closing time.

Mr. Salmen noted that he practices law in the state of Minnesota. He asked Ms. Vang to consider that a significant portion of what has been said or read without supporting evidence is really just heresy. Not all noise along Grand Avenue comes from the Wild Onion, solely. Not all trash is from The Wild Onion. When they initially petitioned the neighbors for this license, of the fourteen (14) responding residents on Lincoln Avenue, eight (8) signed in approval.

Mr. Salmen referred to the police report and noted that in a great majority of those visits listed, a proactive note is indicated.

Ms. Vang asked Ms. Schweinler how staff used the police report in their review process. Ms. Schweinler responded that DSI looks at the illegal service of alcohol and disturbances such as fights, drunkenness, etc.

Mr. Salmen answered some of the questions from the letters:

- The current time for closing patio service is typically, at dusk.
- No liquor on the back smoking patio is prevented by a security person at the back door (from 9:00 p.m. to closing). No one is allowed to exit the building with a drink.
- More dining area will not be moved to the front of the building at this point.
- The smoking will not be moved to the front door area.

Ms. Vang asked about the number of tables and chairs on the patio. Mr. Schaefer replied that there are approximately sixteen (16) tables, with four (4) chairs each.

Mr. Schaefer stated that it should be noted that The Wild Onion has not had any violations on the smoking patio for alcoholic beverages being out there. There may be up to six (6) clearly identified security personnel present on any given night. Most nights there are also two (2) – three (3) managers on duty. They have about thirty-five (35) wait staff.

Mr. Pramas stated that he will need to leave soon and wanted to add that all of the emails that have been read into the record are emails that SHA received before their board meeting. Their recommended conditions were written with the neighborhood's concerns in mind. The new management at The Wild Onion has improved conditions, significantly. Previous management lacked certain people skills that current management has. Current management is a good listener and does not become defensive when provided with feedback. Mr. Pramas has personally observed on many occasions how the new management operates and has seen very good things. Late at night, however, The Wild Onion operates a little more like a club and therefore, also has some of the problems associated with a club.

Ms Vang took a recess at 11:36 a.m.

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The hearing reconvened at 11:56 a.m.

Ms. Vang asked the applicants to describe their fence. Mr. Schaefer responded that the fence is 8 feet high and runs along the entire back of their property, approximately 160 feet. They met with SHA and it was decided to replace the wrought iron fence with a cedar fence that was intended to help buffer noise and provide some privacy to the neighbors. Later today, Mr. Schaefer will be meeting with an architect to decide on a final design on structures to retain noise within the smoking patio. Sound retention material will be installed on the inside of the structures to help retain the sound. They will also change the door so that it opens up against the wall instead of toward the neighbors. All doors are kept closed at all times; none are propped open.

Ms. Vang asked how over-serving is kept in check. Mr. Schaefer replied that all staff is trained and many potential patrons are turned away even before they enter because staff recognizes the tell-tale signs of inebriation. Ms. Vang asked how staff deals with people inside who happen to drink too much. Mr. Nick Closmore, general manager, answered that first of all, staff tries to get them out by appealing to the friends of the person who appears to have had too much alcohol, asking them to remove the person. If needed, a cab is called to make sure the person/s get home safely. Security staff and managers follow through to make sure the people have left in an orderly manner. The last resort is to have security staff remove them. Staff's responsibility is to watch to make sure that people are not over-consuming. Each table is assigned to a server. Immediate attention would be drawn to people who are going up to the bar and getting drinks for their table. Mr. Jeff Roy cited a scenario where someone might leave the establishment to go out to the car to drink and then come back into the bar. Mr. Closmore responded that people just can't leave and come back again. Security staff asks questions, and there is a cover charge, which encourages people to stay. Leaving and coming back is abnormal behavior, which triggers questions that security staff checks out. There are two (2) security



guards at the front door along with the cover girl; within close proximity to that is a manager. There are upwards from six (6) security guards on busy and weekend nights.

Mr. Regan, GABA, added that one (1) year ago when The Wild Onion originally applied for this license, GABA put together a voluntary program call Respect 21 with their business partners, J.J. Taylor, who is also The Wild Onion's current distributor. Basically, it's a third party program where businesses are educated on over-service and checking IDs. The Wild Onion voluntarily participated in this program. It's an anonymous program where the business is stung three (3) times. If they pass, they get a green card; if they fail, they get a red card. The results are given to them and recommendations are made as to how they can improve their business. Mr. Regan sees the voluntary participation as a proactive measure that came out of working with the neighborhood.

Ms. Vang asked Mr. Closmore what the occupancy rate is for The Wild Onion. He stated that it is 385. Each night there are between 200 – 300 people at any given time on a normal night. The busiest nights are Tuesday, Thursday, Friday and Saturday.

Mr. Roy asked about the construction going on with the smoking patio. Mr. Schaefer responded that the walls will probably be eight (8) or nine (9) feet. The sides will go up and in (not a roof) so that sound will be retained within the structure. Ms. Schweinler interjected that a smoking area must remain 50% open.

Ms. Vang asked Mr. Salmen to explain their process in trying to secure this license. Mr. Salmen responded that DSI directed them to procure as many signatures of approval from the neighborhood as they could approximately one (1) year ago when they initiated this license. They went door to door, sent out two (2) mailings and asked neighborhood patrons to sign for approval. They did not get 60% of the total signatures needed, so they needed to take the following steps:

1. Go to DSI to renew their application;
2. Attend Summit Hill Association meetings to acquire the district's approval;
3. Attend a license hearing if any complaints were filed; and
4. Obtain City Council approval.

Ms. Schweinler explained that the petition requirement for an outdoor seating area patio is 90% approval. Getting under 90% approval requires the applicant to go to the City Council for approval via the district council. The Wild Onion obtained 33% approval.

Ms. Vang asked about the bar's exit plan. Mr. Schaefer responded that at last call (1:45 a.m.), the lights are turned up and the noise comes down; music stops and people are allowed to leave casually. Security personnel are outside in front and also in the parking lot to make sure people leave. When everyone has been dispersed, staff goes around the block to pick up the trash. Last call on the patio will be at approximately 9:00 p.m.

Mr. Salmen asked that Ms. Vang consider their application favorably.

Ms. Vang asked Ms. Schweinler to explain how a license gets reviewed and renewed. She added that the words "expire and sunset" have a different meaning than "reviewed." Ms. Schweinler replied that all licenses are annual licenses. This one will be attached to the rest of The Wild Onion's licenses. All of their licenses expire on May 15 yearly. They are annually renewed automatically, although a review can take place any time of the year. Ms. Vang stated that she cannot recommend accepting the following license condition recommended by SHA because it has already been addressed by DSI through its annual review process and notes that she has concerns about the wording of expire and sunset:

The patio liquor license would be on a trial basis and will expire and sunset on Sunday, November 14, 2010 at 9:30 p.m.

She explained that the above condition may not be enforceable because it seems to go beyond the City's authority. She may need further legal clarification on this condition. Mr. Jeff Roy replied that SHA would not be OK with that. That condition is the key item inserted for their support. He stated that his discussions with Ms. Rozek indicate that this condition could be used as long as the owners would agree to it. Otherwise, SHA would not have approved the license. Ms. Schweinler and Ms. Vang asked Mr. Roy what the sunset condition means to SHA. Mr. Roy answered that it means that at 9:30 p.m. on November 14, 2010, the owners of The Wild Onion can no longer use the patio in terms of liquor service outside. Ms. Schweinler clarified that the patio license is an annual license; the owners would not need to reapply for another patio license. Mr. Roy stated that was not OK; they had agreed that it would be a trial license and the owners would need to come back to SHA next year in order to apply again. They want to ensure the residents that SHA is not providing a recommendation of approval for the license forever. At the end of the trial period, the neighborhood could evaluate how the trial period had gone. The purpose of the task force was to establish a good communication flow where they could nip things in the bud along the way in order to see if this would be a successful trial; and the understanding was not to approve a permanent license. Ms. Vang responded that she was concern about that type of condition placed on a license once the license is granted, the City can't just take the license away unless it is at a renewal period or that there has been just cause. Mr. Roy commented that was not his understanding from Christine Rozek. Ms. Schweinler noted that a re-application means redoing everything: notices, petitioning, meetings, etc. She wanted to make sure that was SHA's intent. Mr. Roy responded that the intent is not that the applicant needed to re-petition but that November 14, 2010 would be the end of their ability to use the patio for liquor, so that next year, they couldn't automatically do it. Ms. Vang stated it would deviate from Saint Paul's Ordinance. Mr. Roy said that SHA was concerned whether this condition was legal and could be done, and Ms. Rozek told him that it was; she said that it had been done with another bar in the city. Ms. Vang noted that in the past, they have put into the conditions that a review would be conducted within a certain period of time, i.e., six (6) months. A license just isn't taken away automatically. She will be looking for more clarity from legal staff. Ms. Vang stated that she would not be comfortable putting a condition of this type that is outside the boundary of the City's legal authority. She can put in a condition that

requires a review but not for sunseting. Mr. Roy stated that if there's a review and the owners should decide not to improve what the task force thinks needs to be improved (conditions that are often quality of life issues that are off the police radar-things that don't show up on police reports), would the City let the license continue. Ms. Vang explained that is what the renewal review is for. Ms. Schweinler further explained that any denial or revocation needs to go through a due process. Ms. Vang stated that she will need to seek counsel on this matter. She will put her recommendation forth in a memo.

The hearing was adjourned at 11:30 a.m.

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Note: Conditions' Affidavit was signed and received May 17, 2010.