

LICENSE HEARING MINUTES
Rank 1 Automotive d/b/a the same, 1324 Arcade St. Unit B
December 13, 2021, 10:00 a.m.
Remote Hearing
Room 330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

In light of the COVID-19 health pandemic, a remote hearing was held by telephone or other electronic means. It was called to order at 10:02 a.m. A roll call was made to confirm attendees.

Staff Present: Department of Safety and Inspections (DSI) Licensing Staff, Jeffrey Fischbach, and David Eide and Yaya Diatta, Zoning Staff also with DSI; Stephen Earnest, City Attorney's Office, Nhia Vang, Hearing Officer, and Dominique Archiebald, Recording Secretary. [Joanna Zimny did minutes for the hearing 1/7/2022.]

Licensee: Rank 1 Automotive LLC (License ID# 20210001014), d/b/a Rank 1 Automotive, located at 1324 Arcade St. Unit B, Steve Vang, owner.

Other(s) in Attendance: none

License Application: Auto Repair Garage License

Legislative Hearing Officer Nhia Vang made introductory comments about the hearing process: This is an informal legislative hearing for a Class N license application. This license application required notification to nearby residents and businesses, including the affected District Council about the application and provide them with an opportunity to submit comments. The City received correspondence of concern/objection within the notification period, 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, 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.

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's office 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.

Jeffrey Fischbach, Licensing Inspector for the Department of Safety and Inspections (DSI) gave a staff report for licensee Rank 1 Automotive, LLC d/b/a the same, 1324 Arcade St. Unit B who have applied for an Auto Repair Garage License. DSI staff is recommending two (2) conditions be placed on this license:

1. All business, employee, and customer vehicles, including those awaiting repair, have been repaired, or awaiting pickup, should not be parked on the sidewalk or boulevard, the paved area between sidewalk and City street.
2. Weather resistant signage should be installed on the outside of the building nearby the vehicle entry doors along Ivy Avenue East stating “no parking on the sidewalk or boulevard” with minimum letter height of 2 inches.

Mr. Fischbach stated as far as neighborhood organization recommendation, DSI has received no correspondence from the District Council. Building is not applicable; license is approved with conditions. Zoning has approved. DSI is recommending, with conditions.

Ms. Vang asked Mr. Vang if he had any questions. Mr. Vang stated he believed a sign has been there since he took lease back in the summer. As far as parking on the street he indicated he has noticed since school has started there is no bussing for Johnson High school so parents park in front of his store. He may not be able to enforce that, but there is a sign indicating no parking on boulevard.

Ms. Vang clarified that the first condition is specific to his employees, customers, and all vehicles, that they cannot be parked on the sidewalk or the boulevard. Mr. Vang indicated he understood, but that he doesn't have control over anyone else who parks on the boulevard. Ms. Vang explained that regardless, the business is still responsible for monitoring and ensuring that no one parks on that boulevard or sidewalk. If he agrees to the conditions that is what it means, that the vehicles need to be totally removed.

Mr. Vang states he did sign the letter agreeing to those conditions back in November. He asks if since there is no access to the sidewalk if it is something that can be looked at to have customers park on that side of the street.

David Eide, Zoning Division, DSI responded that this area is zoned T2 and typically a new auto facility would not be permitted, but this is grandfathered in. It is legally nonconforming. As far as the boulevard parking, it is not permitted, it is in the public right of way and that speaks to a safety issue for pedestrians. That space is an area for cars to go in and out of the garage door, not a parking space.

Mr. Vang indicates he understands and has no more questions.

Ms. Vang clarifies with Mr. Eide that there was no obligation to meet the additional parking requirement. Mr. Eide says this is correct and prior to this license, other people

were using the interior area to meet the parking minimum. As of October, there are no parking minimums anymore, so there are no off-street parking space requirements.

Ms. Vang asks Mr. Vang to walk through his business plan, hours of operation, days of the week, number of staff. Mr. Vang says when he initially applied, he was wanting to open Monday through Saturday from 9 am to 5 p.m. and Sundays for appointments only. The process has been long, so plans have changed. Right now, he wants to do an electronic shop. Remote starter installation and tire service. Nothing mechanical like engine repairs or anything that requires a vehicle to stay overnight. Ms. Vang asks if that is temporary or the plan going forward. Mr. Vang indicates it is his plan going forward. He spoke with DSI staff and let them know that there are no mechanical or hazardous waste services. No intention to have vehicles overnight but if he does it will be stored inside the building. Ms. Vang asks how customers know where to park. Mr. Vang indicates they usually pull up to the street and don't see the signs, so they park next to the boulevard. He checks them in and brings the vehicle into the shop and if that isn't available has them park on the other side of the street. Ms. Vang asks if he has any employees. Mr. Vang indicates that due to the length of this process he is the only employee at the moment. Ms. Vang asks where he and any future staff will be parking to minimum impact to residents. Mr. Vang says he would park inside or outside and would be the only one in the shop besides customers. Ms. Vang asked if he intended to put up advertising or signage. Mr. Vang responded that he hasn't applied for a permit yet but would eventually like to put the business name above the front door. Ms. Vang reminds him to consult with DSI about any requirements for compliance for signage. Mr. Vang indicates he is the tenant renting Suite B. The unit was vacant when he signed the lease, but now someone has moved in and they are the ones with all the cars on the front street. He read the letters of complaint and actually agrees with them because they are taking away parking spaces from his customers. Ms. Vang states that looking at the site plan she thought that both Suites A and B were part of the lease agreement. Mr. Vang said the rent was too high to find someone to rent the entire building, so it was split into two units. Last October it was permitted to have two units at the building.

Ms. Vang asks staff how this is handled in the future; two different units with the same kind of license. How do we expect residents to know the difference? Does it matter? Mr. Fischbach says that both businesses will have to have separate licenses. This notice went out for Unit B, and Unit A will require a separate process with the same notice requirements. Ms. Vang asks if we know right now whether Unit A has applied for a license? Mr. Fischbach stated there is an ongoing enforcement action to try and get them to comply. They need to submit a license application.

Ms. Vang explains how it is easy for residents to confuse this and assume it is one operator and one license. Mr. Vang had indicated most of the complaints have come in for Suite A, and Ms. Vang asks him to refer to the STAMP activity report. It does mention a couch dumped by Unit A. Mr. Vang said that one weekend he found it dumped along the unit by the alley. Those aren't his customer's vehicles, nor does he park any vehicles overnight. Ms. Vang asks if he shares the garbage bins. Mr. Vang says there is no garbage service for either unit now, he didn't want to start while this

process was ongoing. He rents through a management company, Samir Properties, and isn't sure of the owner. Ms. Vang asks if the owner will provide service and both units will share, or if the tenants will pay for their own. Mr. Vang responds that the lease requires the tenants to have their own garbage service. Ms. Vang asks where he will place the bin once he does have service. Mr. Vang indicates it will be located inside a garage bay and put out and taken back in on garbage day. There is no space outside to place bins.

Ms. Vang asks to confirm there are six spaces for Suite B. Mr. Vang says yes. Ms. Vang says her packet only shows four vehicles. Mr. Vang explains that there is no lobby, so he can actually pull 2 cars to the left of those bays. Ms. Vang confirms he won't be using the waiting area for customers and Mr. Vang confirms there really is no waiting area, it's just a large open bay. No wall. Ms. Vang asks for an updated site plan and Mr. Vang agreed and indicated that it will be emailed following the hearing.

Next, Ms. Vang asks about lighting at the site. Mr. Vang explains there was existing lighting at the site. Given the shared space it adds another level of complication for neighborhood complaints. He was made aware that he really is being monitored by neighbors and to make sure to be aware of customers and where they are parking. Mr. Vang says most of his work is dropped off and appointment based due to the nature of his work. Most parts have to be preordered, including tires.

Ms. Vang questions how the tires are disposed of. Mr. Vang says he has tire disposal company, Liberty Tires, who comes in to recycle them. They are stored inside the building until they are picked up.

Ms. Vang acknowledges there are two letters of objection on the record, and she will read them into the record and allow Mr. Vang an opportunity to respond to each concern raised.

1. Mr. Eric Jacobson, 838 Clear Avenue. He objects to this 100 percent. He does not want junk cars lined up along Ivy. Doesn't want "sketchy" employees in the neighborhood. Doesn't want loud noise. He wants to be able to enjoy time outside with his family. Last spring there was a murder at the autobody place off Arcade and Clear, not at this location. They are surprised this place is still open. Wants to know of any options that could permanently shut this down. He wants the business run out of a more industrial area. Ms. Vang clarified that this is an allowable business use in this zone, so that won't be discussed. However Ms. Vang asks Mr. Vang to address concerns about noise and parking along Ivy. Mr. Vang again indicates he doesn't park vehicles overnight. That concern pertains to the neighbor next door. He also doesn't leave cars there for days on end. As far as noise, he doesn't see how his business could affect this home 2 blocks away and assumes resident is more concerned about the shop closer to his house. He has no noise that would travel that far. Ms. Vang asks if in the summer and he is working on cars he will leave garage doors open or closed. Mr. Vang

indicates he would try to keep them closed; he has central AC. Being a one person shop he would like to be more secure since he is by himself.

Ms. Vang asks licensee's background and how long he has been doing this line of work. Mr. Vang says he started auto repair back in high school, then worked in corporate for 10 years. Due to Covid he decided to leave and open his own business. He's lived here since 1995 and lives nearby.

2. Ms. Erin Lewis, no address given, objects to this license and would like certain recommendations attached. She supports the condition that cars are not allowed to be parked on the apron or boulevard. Daily there cars parked there and is concerned about the number of cars parked there for extended periods, some for 34 days without moving. She would like to ensure the disposal of garbage is timely and not stored on the east side of the building. Resident also asks if there is a way to stipulate that no smoking be allowed on the East side of the building, as this increases noise and air pollution at her residence. This hasn't been an issue with the current business but has been an issue in the past. Mr. Vang responds that he agrees about the vehicles being parked for days, as they aren't his customer's vehicles and utilize his customer's parking. As far as trash, he doesn't leave anything outside, it was likely the past. He doesn't smoke so that issue doesn't pertain to him. He does fully understand and agree about the vehicles being parked along Ivy for multiple days.

Ms. Vang asks if Suite A is operational. Mr. Vang says when he goes there to clean and pickup mail, he sees vehicles being worked on there. He doesn't speak with them and doesn't know their plan. He does know those vehicles don't belong to his business. Ms. Vang states that they share the same space, so he should work with them or the landlord to address some of those concerns since they do impact his business. That would be helpful to the success of his business; Mr. Vang agrees.

Next, Ms. Vang refers to the Google street view showing two notable vehicles, red and white, in front of Suite B. Mr. Vang says yes, that is his area, the other business has the 4 doors on the corner. Ms. Vang indicates that the way those vehicles are parked isn't allowed at all. Mr. Vang states that is likely from prior to his lease and points out you can see signage between the two that says, "no parking along this sidewalk or boulevard". Ms. Vang urges that if he sees cars parked like that, even if they aren't for his business, to work with his neighbor to have them moved and not do that so it isn't against his license.

Ms. Vang then points out the overgrown shrubbery on the side of the building and asks who handles it? Mr. Vang replies the landlord pays for lawncare for the building and doesn't believe the shrubs are still there. Ms. Vang urges him to work with landlord to make sure they maintain the site. Because this is his first foray into this type of business, she also asks him about his hours of operation. Mr. Vang responds 9 am to 5 pm or 6 pm, and Sundays by appointment only. He believes he has addressed the concerns; the City is welcome to enforce the parking vehicles along Ivy.

Ms. Vang asks if he has worked with the District Council for the area and talked to them. He responds that he called the Council lady for Payne and they never returned his call. He added that communications about his license has been rather poor, calls and emails not being responded too. This process has taken six months, and everything has been on hold from signage, garbage, employees. He's been paying rent for 5 months without having a business. Someone was supposed to review his license, he didn't hear for 2 months. He had it escalated a couple times, finally it got reviewed. Then it went to Zoning and that person didn't read the email for a month. He applied in May, and now it is six months without a license to operate while still paying rent.

Ms. Vang clarifies that this part of the hearing process is only required because objections were received. She then asks staff how long it typically takes to get a license up and running. Mr. Fischbach responds that it varies. Mr. Vang received a letter in June about the status. He could speak to Erik Hudak about the process if he would like. There were some ordinance changes taking effect during this time that ultimately moved in a favorable direction for him. Zoning approval typically needs to be done before DSI can send notice. Ms. Vang asks if Mr. Vang was told of this process. Mr. Fischbach responds that it was in the letter but doesn't know without looking back to see what exactly transpired.

Ms. Vang asks if Mr. Vang was ever told or was aware of the process. He indicated he was, but that they ignored or never followed up on emails. I emailed Mr. Hudak and never heard anything. Ms. Vang expressed empathy for his struggle during this process and encourages him to keep working with Mr. Hudak, so he has that feedback on the review process. Mr. Vang says he understands things are delayed with Covid but things being ignored for over a month isn't "cool". Ms. Vang also confirms the contact information staff has is accurate and the best way to contact him. He indicates that it is.

Ms. Vang verified with Mr. Vang that earlier he had agreed to the conditions and now offers him a chance to ask questions about its impact on his business, especially with respect to enforcement actions. Mr. Vang asks what it means if a vehicle is parked there overnight if he will get a citation even though it isn't a vehicle he is working on. A random car parked in front of his shop equates a fine for him? Or a ticket for the car?

Mr. Fischbach indicates if they get a complaint, or they happen to see it they would have to make a determination that it is associated with the business. He can always call DSI's complaint line or if they are parked on the boulevard blocking his entry or exit to the building, he can call the non-emergency police line.

Ms. Vang asks how we ensure that he isn't cited for it then? If he calls it in is it part of their review? Mr. Fischbach says yes, that is part of it. Normally an inspector would try to talk to a business owner as part of the review process. Mr. Vang is encouraged to be proactive, so it isn't a hit against his license. Mr. Vang indicates it is a sketchy area, the mailbox has been broken, the window was broken when he took over the lease. He does have video cameras in the front so he can show they aren't his vehicles. Ms. Vang

confirms the public right of way may not always be in his control, but he does have tools in at his disposal to ensure that illegally parked cars are addressed.

Ms. Vang states she will be making a recommendation of approval with the agreed upon conditions mentioned earlier to the City Council. Ms. Vang asks for a copy of the conditions affidavit. Mr. Fischbach indicates he doesn't see a signed copy of the agreement in his files. Mr. Vang says he sent it to Akbar Mohamed. Mr. Fischbach says he can reach out to him, but it will likely be faster if Mr. Vang email another copy or forward the copy he sent.

Mr. Vang thanks everyone and says that Mr. Fischbach has been great to work with, it was other employees that were less responsive.

Ms. Vang indicates the next step is her recommendation that will go before Council for their approval in a form of a resolution. The resolution will appear on the Council's consent agenda, meaning that the item is not subjected to a public hearing. She will recommend to the City Council that they approve following agreed-upon license conditions:

1. All business vehicles, employee vehicles, and customer vehicles (awaiting repair or that have been repaired and are awaiting pick-up) shall not be parked on the sidewalk or boulevard (paved area between sidewalk and city street).
2. Weather resistant signage shall be installed and maintained on the outside of the building nearby the vehicle entry doors along Ivy Ave E stating "No Parking on the Sidewalk or Boulevard." with a minimum two (2) inch letter height.

The hearing adjourned at 10:55 a.m.

The Conditions Affidavit was signed on November 12, 2021 and submitted on January 7, 2022.