

LICENSE HEARING MINUTES

**Sohn Hee Eateries LLC, dba Best Of Best Quality Korean Fried Chicken, 1328 Grand Ave**

Monday, September 11, 11:00 AM

Room 330 City Hall, 15 Kellogg Boulevard West

Nhia Vang, Legislative Hearing Officer

The hearing was called to order at 11:35 AM

Staff Present: Ross Haddow, Department of Safety and Inspections (DSI) Licensing Inspector; Frances Birch, DSI Zoning Inspector (remote participation); David Eide, DSI Zoning Inspector (remote participation)

Licensee: Emily Krouse, Applicant/Owner; Juan Rosas, General Manager

Others Present: William Kelly, 1319 Grand Ave; Ken Yrina, 1332 Lincoln Ave

License Application: Liquor On Sale - 100 seats or less, Liquor On Sale - Sunday, and Liquor-Outdoor Service Area (Sidewalk) licenses

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

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.

Minutes:

Ross Haddow, Department of Safety and Inspections (DSI) - Licensing, gave a staff report for licensee Sohn Hee Eateries LLC (License ID# 20230001030), d/b/a Best Of Best Quality Korean Fried Chicken, located at 1328 Grand Ave. The application is for Liquor On Sale - 100 seats or less, Liquor On Sale - Sunday, and Liquor-Outdoor Service Area (Sidewalk) licenses. DSI is recommending approval with the following license conditions:

1. Licensee agrees to operate the establishment in compliance with Section 409.02 of the City of Saint Paul Legislative Code as a "Restaurant".
2. Licensee agrees to close the establishment at 12:00 a.m. midnight. All patron/customers shall vacate the premises by 12:30 a.m. each day of the week as per Section 409.02 of the City of Saint Paul Legislative Code.
3. Licensee agrees to limit the placement of table(s)/chair(s) 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.
4. 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.
5. Licensee agrees to take appropriate action(s) to ensure that the sale, display, and/or consumption of alcoholic beverages is contained within the defined alcohol service area as per the approved plan on file with DSI.

District Council 14 – Macalester-Groveland Community Council has submitted an email acknowledging the application. Building conditions N/A; License approved with conditions; and Zoning approved.

Hearing Officer Vang asked Frances Birch about the Zoning review.

Frances Birch, Department of Safety and Inspections (DSI) - Zoning, gave a staff report. This location is zoned B2, Community Business. A restaurant is a permitted use. Zoning also does not look at distance requirements for nearby liquor businesses when making approvals.

Haddow: Licensing does not have distance requirements related to nearby liquor on-sale businesses either.

Hearing Officer Vang asked the applicant to talk about the business: history, hours of operation, number of employees, etc.

Krouse: This is a Korean-based franchise and I'm the Minnesota franchisee with a contract to open three stores over the next three years. We have an operating business off Lake Street in Minneapolis that opened in December of 2022 and then we opened the Grand Avenue location in June of 2023. I am the 100% owner and operator for both businesses. We primarily do scratch made fried chicken with an emphasis on Korean side dishes. Our hours for this location are:

Sunday – Thursday: 11:00 AM – 9:30 PM (9:15 PM last call for food and beverages, customers out by 9:30 PM)

Friday – Saturday: 11:00 AM – 10:00 PM (9:40 PM last call, customers out by 10:00 PM)

Guests need to be out by closing, and no delivery drivers and no takeout is accepted after that time. This would apply to alcohol too. Employees leave approximately a half hour after closing, with 11 PM being the latest anyone is there. That includes Juan and me. He runs the back of the house and is the general manager.

Hearing Officer Vang asked about staffing.

Krouse: The St. Paul location has 19 staff on payroll. Juan is the general manager for both locations, primarily being in St. Paul. We have both a morning shift and an evening shift. The morning crew can start as early as 8:00 AM. They generally are out of the building by 3:00 PM and then the evening crew starts at 3:00 or 3:30 PM. They are there until close at 11:00 PM at the latest, usually 10:30 PM. 90% of our staff don't have vehicles so parking is not a concern for staffing. Neighboring businesses let us use their parking lot for our staff that drive. I'm there about 40% of the time.

Hearing Officer Vang asked about the sidewalk service license.

Krouse: We have been approved for 5 tables of 4 chairs each, but we don't intend to use that much. We have 4 tables with 8 seats outside: Two 2-person tables and one 4-person table. We don't want to be a neighborhood nuisance. We leave them out at night but can move them at night if need be. Outside hours are the same as inside.

Hearing Officer Vang asked about the site plan.

Krouse: The attached site plan is the entire plan of the building, so that just includes the back of the house as well. When you walk into the restaurant, there is an immediate point of sale system with the cashier where guests are ordering their food and or picking up takeout items. The dining room has 14 tables (mostly two-person or four-person) for seating 47 people. There are also 10 bar stools that are just for people waiting for their take-out. Food is pre-bagged and then brought to the front register. There's a sidebar that allows us to leave bags of food, but we do so much DoorDash and take-out that guests basically verify their name and are in and out within 2 to 5 minutes, so we don't tend to leave bags sitting. The kitchen is in the back.

Hearing Officer Vang asked about staff taking alcohol awareness training.

Krouse: All the staff? Not yet. Juan and I both worked for restaurant company called Parasole for a collective of 25 years and we have both gone through alcohol awareness training. Parasole has certified us, though I can't remember the company we went through. I'm the owner and Juan's the operator and one of us is always in the building at all shifts. Our staff will be the ones serving, but we haven't trained them yet since we haven't gotten approved for a license. To give peace of mind to the community, we're more than happy to implement either an on-site training or pay for our staff to go off site. We only have 2 front house staff that will serve alcohol, or 5 if you include Juan and me.

Hearing Officer Vang asked if the other location serve liquor.

Krouse: Just beer and wine at the other location.

Hearing Officer Vang asked about the planned location.

Krouse: Not sure yet. We'd like to open next year.

Hearing Officer Vang asked if they've been in contact with the district council.

Krouse: Just to notify them of the application.

Hearing Officer Vang asked how they will handle the overflow.

Krouse: 72% of our business here and the other location is take-out. Everything is made to order. Tables are first come first serve and we have had waits for tables a couple times but usually people either see others waiting and get up or they do take-out instead.

Hearing Officer Vang next invited other attendees to testify.

William Kelly, 1319 Grand Ave: Been here almost 10 years. I am a social drinker. I object to a liquor license here and would have less of a problem if this was just wine and beer. I know there are no restrictions about proximity, but EM Que Viet and Green Mill are very close by. There's also an addiction recovery center right between this business and EM Que Viet, which I find concerning. I am also concerned about parking. Colossal and Green Mill have a parking lot for about 20 cars. Parking is hard and sometimes I have to park a couple blocks from my apartment. About proximity, there are no other areas on Grand Ave where liquor-serving businesses are so close together. I am also concerned about noise and public intoxication.

Vang asked Krouse if she would like to respond.

Krouse: I want to be clear that we will not be open until midnight. The license might allow it, but our business hours as a franchisee only allow us to open until 9:30 PM or 10 PM. BB.Q is known for food and not alcohol. We only plan on serving wine and beer, aside from soju, which required a full liquor license because it is technically distilled but still low in alcohol. Our franchise agreement prevents us from serving anything beyond that. I understand parking in the area can be difficult, but guests come for food first and not for drinking. Adding liquor will not increase customers and parking concerns. To-go orders do not allow for alcohol to go with them. We want to be a part of the community. We are a restaurant, not a bar. We acknowledge the recovery place next door and have a good relationship with them. Clients eat at our restaurant on a very regular basis and the director there is a fairly regular customer of ours. I did ask the director about any conflict of interest for his clients, and they said it does not. They said it fosters a safe environment for them to go into where liquor can be a choice, but it's a way for them to not have a bar environment. Em Que Viet does serve liquor, but like us, their priority is the food. Liquor is just part of their scope but not the focus.

Kelly: The information I saw was that you will be open until midnight, so I have less of an objection. Parking is still a major objection. I disagree on one thing though. Having a liquor license, I think gets people to stay longer and so that increases pressure on parking.

Hearing Officer Vang asked DSI to explain Conditions 1 and 2.

Haddow: Any new liquor license that comes in that falls under the definition of a restaurant, we put those conditions on there as a clarification. It is both for the owners of the establishment to know, and for police officers so that they can easily see them when visiting on a call. State legislation dictates when they can sell alcohol. This business could legally sell alcohol from 8:00 AM through midnight, per state legislation. So that is the reason why we notify that as the allowable time. The City doesn't dictate specific hours.

Krouse: We are also under a franchise that doesn't allow us to be open past 11 PM. They have 184 stores in the U.S. and 1500 globally (1200 in Korea alone). They set a maximum for me that is more restrictive than the City's, and I still choose to close earlier than that. If I do not comply with the franchise agreement, I get fined. The franchise also only allows me to sell 1 red wine, 1 white wine, 4 beers of my choice (1 can be local), and soju. The franchise doesn't let me sell anything more or less than that as a "BB.Q Fried Chicken and Pub." To get an idea of our lack of focus on alcohol, only 1.7% of sales at the Uptown location come from wine and beer. On a Thursday in July, we sold \$858 of soda and only \$182 worth of beer. Alcohol is not our focus.

Ken Yrina, 1332 Lincoln Ave. I am directly behind them. I am here to object. I've been here since 2002. I think it's great what they bring to the neighborhood. I am concern about the midnight closure, which sounds like it might be a City problem. Can the City have a license that says they're a restaurant and they close at 9 even though they serve these things? I want to see restrictions to just beer and wine. I want hours restrictions to something reasonable like 9 PM. I also want to object to any significant encroachment on sidewalks. I see two options here. Maybe the City could restrict the hours and just restrict to one type of liquor, being soju. Alternatively, they could just remove soju from the menu. I still object to this license as written because it just opens the door for anything. The layout is more like a bar than it is a restaurant, and there's a lot of take-out space, but the bar is along the long length of it.

Hearing Officer Vang asked whether the franchise agreement helped alleviate his concern.

Yrina: It's not part of our record so I don't know.

Hearing Officer Vang asked if the agreement can it be shared.

Krouse: I'm okay with sharing anything in it that's public.

Haddow: We can see what we can do. To the concerns addressed, the City does not restrict hours unless there have been years of substantiated large concerns such as years of complaints of over-service or problems after midnight. When we do our notification, we have a restaurant license essentially and we have a bar license. This is a restaurant license. Bar licenses are dedicated to development districts. Restaurant licensed businesses must operate as a restaurant. If an inspector

were to walk in and see no food, only drinks, that would be a violation. Regarding hours, as I stated before, we don't dictate their hours. The franchisee has chosen the hours of operation that they'll be operating, which the city believes is good for the neighborhood. We won't have to deal with 11:00 PM or midnight nuisance issues. We are going off the template for licenses that we have in city ordinance. It is possible that other licenses could be created but that would involve the City Council asking for an ordinance change to create a specific type of license. That is outside my purview. My job is to enforce what is in writing in the ordinance. We do understand where you're coming from. We do also have a very public complaint system. If you put in a complaint about something related to their business specifically, it comes to me and someone in my office. We are the ones that are doing the follow-ups. If there's any concern, we would most definitely investigate it.

Yrina: Can soju be removed? Is it possible to remove one item from your entire menu? That would eliminate this whole problem.

Krouse: At our Minneapolis Uptown location, we serve wine and beer there but that location is a different model from the model I invested for this location.

Yrina: I've had soju, by the way, in Korea. It's amazing.

Krouse: I don't mean to be difficult, but when the franchise approved the store to operate in this way. There are three different models that the franchise has us choose from. It can be café (not serving alcohol, serve wine and beer, or be a pub. For this one, we chose the pub model, which requires us to serve Soju. To change from this, we would have to rebrand the entire business, including having someone pay for a new sign outside of the store. We would also have to take down the bar because the franchise now expects that the store is going to sell soju because there was already a bar in the building. I would love to just do what we did at Uptown, and serve just wine and beer, but we are locked in.

Hearing Officer Vang asked whether there are data about the models and type of service or issue from other franchisees in other parts states.

Krouse: I am the first one operating as a “pub” in Minnesota. Wine and beer aren't a large line item for our budgeting at our other location. I don't expect that to be different here. When people purchase soju, they are typically just having one. We will also be cutting customers off to prevent over-serving. We are more than happy to say one purchase per guest or take some action to help with peace of mind.

Yrina: It sounds like if this license is granted as written, then there could be a soju pub. It also appears to me that there's more than one solution that may require some menu changes that I would like the City Council to ask for. As written, I still object to this. I do know that the notification didn't go to a lot of my neighbors in the area, but verbally when I asked about this in my neighborhood about, the possibility of a place being open until this hour, serving hard liquor, was not well received. We already have green mill down the street.

Krouse: We are not serving hard liquor.

Yrina: The license allows you to.

Krouse: The franchise does not allow us to.

Yrina: That is not part of our materials here.

Krouse: I need to serve it to be branded as a “chicken and pub” restaurant.

Hearing Officer Vang stated that the city does not dictate how a business runs their operation. Ms. Krouse has presented a well thought out approach, understanding the restrictions placed on her from the franchise, and that includes compliance with the franchise plan that she has paid for and the compliance with city requirements.

Krouse: I have paid for it, yes. If I am not allowed to serve soju at this establishment, someone must pay for the entire company to get rebranded as just a BB.Q Chicken

Haddow: A change of license would require a new notification. Regarding whom is notified, notification goes out to the ownership as well as the specific address. Anybody within 350 feet of the notification should get notified. If it is a tenant-type building, it is the owner's responsibility to notify you. We do send the letters to the ownership if they are at a separate address, but we also do send a letter directly to that address. Our information is based off Ramsey County's property record list. That's where we get all our ownership information from. It also goes to the district council. If you're part of any district council newsletters, there should be a notification through them as well.

Krouse: This would be a different discussion if I was not franchise-based. I am limited in what I can do based on what the franchise allows, based on what I have applied for, paid for, and built my business model around.

Yrina: Your franchise allows you to stay open until 11pm.

Krouse: And we chose less than that, in the best interest of ourselves as business owners, but also for the community. I care about my community. I care about the safety. I care about noise.

Hearing Officer Vang asked about the previous business and whether it was a bar.

Haddow: They had the same restaurant license with the midnight closure. I don't know what types of liquor they served.

Kelly: They were absolutely a bar.

Yrina: I thought you owned Bop N Chicken.

Krouse: I bought it and flipped it.

Kelly: I don't think they served anything beyond wine and beer.

Krouse: Besides soju, neither am I.

Hearing Officer Vang asked Zoning about the permitted use.

Eide: Yes.

Haddow: This business has also met the license requirements laid out by the City. The City doesn't dictate menus or hours beyond what the license allows. We do not have tiers of liquor licenses. We have the two licenses: restaurant and bar. This one is a restaurant license.

Ms. Vang stated that after reviewing the records and considering the testimonies from all parties, she will recommend to the City Council that they approve the license with the following agreed-upon conditions:

1. Licensee agrees to operate the establishment in compliance with Section 409.02 of the City of Saint Paul Legislative Code as a "Restaurant".
2. Licensee agrees to close the establishment at 12:00 a.m. midnight. All patron/customers shall vacate the premises by 12:30 a.m. each day of the week as per Section 409.02 of the City of Saint Paul Legislative Code.
3. Licensee agrees to limit the placement of table(s)/chair(s) 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.
4. 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.
5. Licensee agrees to take appropriate action(s) to ensure that the sale, display, and/or consumption of alcoholic beverages is contained within the defined alcohol service area as per the approved plan on file with DSI.

The hearing adjourned at 12:30 PM.

The Conditions Affidavit was signed on August 23, 2023, and submitted on September 11, 2023.