

There are several things it would be helpful for everyone to know before the hearing.

## 1. Objections

The city forwarded to us two letters of objection to our application. Please carefully read the letter from Mr. Bartholome. Note that he is NOT objecting to our license. He is objecting to the possibilities and conjectures that might happen in the future. We contend that he should not be able to trigger a hearing as he has no objections to our current license application.

The other letter is from a person living OUTSIDE the 300 foot radius from the restaurant included in the regulations. As such, he was never included in our mailings or our several meetings with the neighbors. Also, he doesn't state a reason. We contend that he should not be able to trigger a hearing.

## 2. Summit Hill Association

The Zoning and Land Use committee met to discuss our application. At the time of the meeting, the city told SHA that they weren't sure what percentage of support The Lexington had. The person who knew was out of the office. So they told SHA that we had 59% of the neighbors' support. If we had 60%, support from the SHA was helpful, but not necessary. However, everyone at the meeting was operating with the (false) assumption that ZLU support was critical to the application's success.

Only one of the owners, Ed Ryan, was present at the meeting. Please note that the owners were notified of the meeting on Thursday, Oct. 4th for the Monday, Oct 8th meeting. This seems very short.

At the meeting, one neighbor voiced concerns and stated that she hadn't received any mailings from The Lex. We're not sure where on Lincoln Ave she lives, but she was not on the list we received from the city. Also, she was satisfied by the responses of Ed

Ryan. Another Lincoln Ave neighbor spoke in favor of the changes The Lex is requesting. He noted that the restaurant is dead in the summer.

Before any vote was taken, one of the committee members proposed restricting the license to 9 pm closing on weekdays, 11 pm on weekends. This motion passed, even though some of the ZLU members voted against it as too restrictive. It was noted that the owner agreed to these restrictions. He was operating under the assumption that if he did not agree, then the whole application would be rejected by this necessary committee. So Ed Ryan only agreed to these restrictions to keep the application alive. Had he known that SHA support was not necessary, he would not have agreed. As he pointed out to the committee, it's still light outside at 9:00. Many people would stop in after a bike ride or kids soccer game - around 9pm - but wouldn't go to The Lex if the outdoor dining was closed.

This same committee member the next day at the Grand Avenue Business Association Advocacy committee meeting told members he was not at the ZLU meeting (he was) and proposed that GABA send a letter of support for The Lexington's application with no restrictions. That letter was approved by the full Board of GABA and sent to the city.

We have attached an email dated August 17th, well before the ZLU meeting, stating that Larry Zangs at the City of St. Paul Department of Safety and Inspections confirmed to us that The Lex did in fact have 61% of the neighbors supporting our application. So this entire misunderstanding should not have happened. We contend it is unfair to add closing restrictions given the misunderstanding that took place.

### 3. Neighbor support

The neighbors within 300 feet have had plenty of chances to voice their opinion. We had two informational meetings, where we presented drawings of the proposed patio and answered questions. We did three mailings to all the addresses on the list. We made many phone calls and personal visits. One of the Lincoln Ave residents told us that 17 years ago Rick Webb so angered the neighbors with how he handled proposed changes at

The Lex that the four households remaining in the neighborhood pledged to never support any changes. However, two of those households signed our petition. They were satisfied that we would continue to be good neighbors. They also appreciated our efforts to keep them informed.

As is clear from looking at the mailing list, many addresses were out of the neighborhood and out of state. This is due to the fact that about half of the condos at 1060 Grand Ave fall within 300 feet. Many of these condos are owned by investors out of the area or out of state and rented for income. We sent out three mailings and many of these out of area owners never responded. We contend that these owners simply did not care enough one way or the other to send anything back. We feel we have more neighborhood support than 61%.

As for restrictions, there are none on the outdoors licenses of Dixie's, Salut or Billy's.

#### 4. Grand Avenue business climate

We met this week with SHA and ZLU representatives to explore our options for removing the restrictions from their endorsement. Unfortunately, given the time frame and the procedural constraints, a change from them is not possible. It was clear from this meeting that factors beyond just our application were considered. Eagle Street Grill has plans to open a restaurant with two outdoor dining areas right up the street. Billy's and Wild Onion are also used as comparisons. We don't understand what we have in common with these restaurants. We certainly don't have any overlap in patrons. The Lexington has been an institution for 77 years. We have had no complaints. There is a fear that if The Lex is allowed to expand, then all the other restaurants will also want to expand and soon all will be like the Wild Onion. We contend that this line of thinking should not be considered, that only our application is before them.

## 5. The Lexington

With the economic downturn of the past four years, many businesses are struggling. The Lex is no exception. The owners have invested a substantial amount just to keep the doors open. We are responsible for approximately 65 jobs, and these are good jobs with health and retirement benefits.

Our business in the summer is practically non-existent. We view outdoor dining as the only way to attract customers in the summer months. And increasing our summer revenue is the only way to keep the restaurant viable.

Quite frankly, if we are forced to stop liquor sales at 9 pm on weekdays and 11 pm on weekends in the summer, we don't think we would attract enough business to make it worth our investment. In other words, if these restrictions are imposed, we will not go forward with outdoor dining. The Lex will likely be forced to close its doors.

Thank you for your time.

John and Michelle Hickey

Ed and Jenni Ryan

Owners of The Lexington

**From:** michelle hickey <[mmahickey@COMCAST.NET](mailto:mmahickey@COMCAST.NET)>

**Subject:** outdoor license

**Date:** August 17, 2012 3:53:28 PM CDT

**To:** Hickey John <[jphickey@smythco.com](mailto:jphickey@smythco.com)>, Ed Ryan <[edryan1@mac.com](mailto:edryan1@mac.com)>, Jenni Ryan <[ryanj003@mac.com](mailto:ryanj003@mac.com)>

Larry Zangs called to tell me we have achieved 61% in returned signatures for outdoor dining. ( I calculate 63% but it doesn't matter we are good to go). They have also received our " Good Faith Effort" letter and will now send a notice to the neighbors telling them we are applying for the outdoor dining license.

The neighborhood should receive the letter this coming week. The 45 day rule will apply etc etc, then on to the next step.

I will keep you posted.

thanks

*Michelle Hickey*

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*The Lexington*  
est. 1935  
RESTAURANT

