

LICENSE HEARING MINUTES
Waldmann, 445 Smith Avenue N.
Monday, June 11, 2018, 10:00 a.m.
Room 330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

The hearing was called to order at 10:03 a.m.

Staff Present: Kristina Schweinler, Department of Safety and Inspections (DSI)

Licensee: Thomas Schroeder, Applicant/Owner

License Application: Liquor Outdoor Service Area - Patio

Other(s) Present: Jim Sazevich, neighbor; Becky Yust, Fort Road Federation; David Christofferson, neighbor; Richard Haus, neighbor

Legislative Hearing Officer Nhia Vang gave the following information about the hearing: 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 a letter of concern/objection, which triggered this hearing.

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 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.

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, Ms. Vang will develop a recommendation for the City Council to consider. Her recommendation will be on the Consent Agenda at the City Council meeting.

Applicant Tom Schroeder said it was his understanding that the City Council had signed off on a waiver of the 45-day notice requirement, and the license would be issued as soon as construction was completed. Ms. Vang and Ms. Schweinler clarified that the hearing could result in a recommendation for the City Council to impose additional conditions if warranted. Mr. Schroeder confirmed that the license could be issued prior to the completion of the hearing process; he said they hoped to open the next week. Ms. Vang said the hearing process would not delay the opening.

Kristina Schweinler, Department of Safety and Inspections (DSI), said the application was to add a patio license to the existing Malt On Sale (Brewery Taproom), Malt Off Sale (Growler) licenses, and also for an Entertainment license. Ms. Vang asked whether the Entertainment license pertained to both indoor and outdoor. Ms. Schweinler said it was for both licensed service areas. The conditions are as follows:

Existing conditions:

CONDITIONS #1 PER ZONING HISTORIC USE VARIANCE #15-143784:

1. Maintain the required 6 off-street parking spaces at all times (currently located at 444 W. 7th Street) and proof of the existence of the required parking must be provided to the city upon request.

ADDITIONAL LICENSE CONDITIONS:

2. Per City of Saint Paul Legislative Code 411.02, the definition of Entertainment A is, "Amplified or nonamplified music and/or singing by performers without limitation as to number, and group singing participated in by patrons of the establishment" (includes karaoke). Entertainment A license does not allow for patron and/or performance dances.

Recommended additional conditions:

3. Any outdoor activities related to the outdoor seating area on private property shall comply with applicable State and Local rules and regulations, including but not limited to Chapter 293 Noise Regulations of the City of Saint Paul Legislative Code.

Ms. Vang asked Mr. Schroeder to talk about the additional license, whether he'd met with the district council, and whether anything had been resolved.

Mr. Schroeder said the record should include two letters of support from the district council for the initial application for the outdoor seating area and the Council's waiver of the 45-day notice period. He said the application material also included the petition from owners within 300 feet. He said DSI certified that they did demonstrate sixty percent (60%) of owners' signatures. He said he had also been asked to obtain signatures from residents of non-owner-occupied buildings with five or fewer residential units, and the combined total was fifty (50) signatures or over eighty-one percent (81%) of units within 300 feet. He said the outdoor area faced east and faced Smith Avenue; and to the west was a tall building which would prevent sound issues. He said north, east and south were areas where concern for noise would be, and five of six living units in those directions had signed in support. He said the one individual who declined to sign was present and would be speaking at the hearing. He said the residents from the closest house to the south were strong supporters and had purchased the house knowing of the project and wanting to live next to Waldmann. He said Waldmann was incorporated as a public benefit corporation with a social purpose of allowing people to experience the culture, architecture, history, food, and beer of mid-19th century America. He said the building was a listed historic site, and, since opening on October 1st, they'd had over 10,000 visits, and he believed they were fulfilling the mission. He said they were a new employer with over 25 well-paid employees, and he was proud their mission and vision had benefited other people. He said part of their mission included the

arts, and after patronizing contractors, carpenters and masons for over the nine years of building restoration, he was now patronizing artists. He said they'd had a series of acoustic performers, and amplification would be inconsistent with his mission and vision for a 1857 German lager saloon. He said he lived in the neighborhood for 27 years and loved it. He said he care deeply about neighbors and wanted to continue to dialogue with them. He noted that noise had been raised as a possible concern. He said the High Bridge had closed a month before they opened, which had been challenging for their business and created a quieter neighborhood. He said when the bridge re-opened in December, street noise would dominate, but he would be extra cautious and courteous in the meantime. He said if there were concerns he would respond immediately; he said he lived nearby and was often there. He noted that parking had been raised as an issue, and said while parking wasn't relevant to this process, this was a mixed-use neighborhood, and businesses existed because neighbors had been willing to get along and support special business uses. He said if people along Goodrich chose to close off parking to businesses that was a separate issue.

Ms. Vang asked Mr. Schroeder how he'd addressed any complaints received since opening in October. Mr. Schroeder said in the historic use variance process we had similar testimony to the effect that car doors closing and opening were a concern and lighting was a concern. He said DSI had required a security light over the front entry even though couldn't use because it wasn't ADA-compliant, and they had worked with the City to remove that lamp. He said there was a sign above the front of the business and he had created special lighting to light the sign, but there was still some reflection off the gold leafing. He said that was one example where they were addressing neighborhood concerns. He said he wasn't aware of any other complaints. He said a neighbor across the alley was concerned about visibility of cross traffic, and he paid to have a mirror mounted on her property.

Ms. Vang asked about entertainment. Mr. Schroeder said there was musicians for Sunday brunch about every other Sunday, and on Tuesday and Thursday evenings, concentrating to Thursday evenings only in the summer. He said he didn't anticipate placing them (musicians) in the beer garden because of the (road) noise, but didn't want to place an artificial restriction because that might be an option. He spoke about the Grand Oak Opry as example of neighborhood support for outdoor acoustic music, and said he wouldn't have that scale but might consider something. Ms. Vang asked whether he was thinking of just afternoon hours or also evening. Mr. Schroeder said it could be either.

In response to additional questions from Ms. Vang, Mr. Schroeder said the windows were always closed. He said the service area under construction would allow them to pass food and beverages through one window, and the door would open and close as patrons accessed the patio through the business. He said the outdoor space was entirely fenced except for an ADA egress, and there were hedges on the east perimeter.

Ms. Vang noted Mr. Schroeder's plan to open the following week and asked about construction progress. Mr. Schroeder said a lot was happening at once, and it would come together pretty quickly.

Ms. Vang confirmed with Mr. Schroeder that the site plan in her record had been approved by the City. Mr. Schroeder said the site plan was approved. Mr. Schroeder and Ms. Vang discussed the details of the exterior area, including green space, seating capacity, and lighting. Mr. Schroeder said the only light was a security light over the south door; he said he was thinking of adding LED lighting on the underside of the patio umbrellas. Ms. Vang asked whether that would be adequate lighting for end-of-the-night clean-up. Mr. Schroeder said staff would clean as the night went on. He said outdoor food service will be in papers boats, and there would be a trash receptacle in the outdoor area.

Ms. Vang asked whether there would be outdoor cooking. Mr. Schroeder said not on a regular basis, but there were some special events coming up with the possibility of outdoor cooking with a special event license.

Ms. Vang noted that Condition 3 was new; Ms. Schweinler said that was correct. Ms. Vang confirmed with Mr. Schroeder that he understood and agreed to the recommended conditions.

Ms. Vang then opened the public hearing and invited guests (those in support and those in objection) to testify.

Richard Haus (444 Smith Avenue N.) objected to the license and said his biggest concern other than car doors slamming at 11:00 p.m., was trash clean-up. He said Mr. Schroeder had already covered some of the noise issues, but they were requesting a sunset closing or slightly before, as his wife had to be up early for work.

Ms. Vang asked Mr. Schroeder about the planned hours for the patio. Mr. Schroeder said the current weekday hours were until 10:00, and, what they had offered through the HUV process was a patio closing of 9:30.

Mr. Haus said noise and parking issues would change when the High Bridge re-opened and with the addition of bike lanes.

Ms. Vang asked Mr. Haus if a 9:30 closing was acceptable. Mr. Haus said they could work with that. He said he still had concerns with the paper food containers blowing into the neighborhood. Ms. Vang said Mr. Schroeder provided a receptacle and the patio was enclosed. Mr. Schroeder said they would be vigilant; he noted that it was his neighborhood too.

Ms. Vang asked about the type of fence. Mr. Schroeder said a four-rail fence, not a sound barrier, but meant to prevent direct access and exit.

Ms. Vang asked Mr. Haus if he was satisfied with what Mr. Schroeder had presented. Mr. Haus said he was, as of that time.

The following neighbors spoke in support:

Jim Sazevich (454 Smith Avenue N.)

Becky Yust (256 Goodrich Avenue), president of the Fort Road Federation, and neighbor

David Christofferson (267 Goodrich Avenue)

Ms. Vang closed the public hearing. She read the objection letters into the record. She said Mr. Schroeder had addressed some of the concerns in his earlier testimony.

Ms. Schweinler confirmed for the record that the signature requirement for the petition for the outdoor patio had been met, and the signatures had been verified.

Ms. Vang asked Mr. Schroeder if he had anything to add. Mr. Schroeder noted that emails of support that had been received. Ms. Vang reviewed those emails. In reference to a written comment about amplified music, Mr. Schroeder said it was not an issue and would accept a restriction on the exterior if that would be helpful. Ms. Vang said she was more inclined to wait and see what happened given that Mr. Schroeder seemed to be very responsive, and she would hope that if there was a concern from resident they would submit a request to the City to investigate. Mr. Schroeder stated and Ms. Vang agreed that those concerns would be addressed under Condition 3.

Ms. Vang said she didn't see a need for additional conditions given that parking issues were out of her purview, and that Mr. Schroeder had a sound business and strong support from neighbors. She urged Mr. Schroeder to continue to be responsive to neighbors and said she would recommend that the City Council approve the license application.

The hearing adjourned at 10:55

The Conditions Affidavit was signed and submitted on May 7, 2018.