

LICENSE HEARING MINUTES
Grand Central, 1672 Grand Avenue
Thursday, June 23, 2016, 2:00 p.m.
Room 330 City Hall, 15 Kellogg Boulevard West
Marcia Moermond, Legislative Hearing Officer

The hearing was called to order at 2:00 p.m.

Staff Present: Jeff Fischbach and Karen Zacho, Department of Safety and Inspections (DSI)

Applicant: Beth Judeh, Applicant/Co-Owner, and Rashed Fayeze (Leo) Judeh, Co-Owner

Molto Inc.: Add a Liquor-Outdoor Service Area (Patio) and Liquor-Outdoor Service Area (Sidewalk) licenses to the existing Wine On Sale and Malt On Sale (Strong) licenses.

Ms. Moermond stated that this was an informal legislative hearing for a license application. This particular license required a Class N notification which means the neighborhood was notified and people had the chance to voice their concerns. The City received a letter of concern/objection which triggered the hearing. There were three possible results from this hearing: 1) recommend the City Council issue this license without any conditions; 2) recommend the City Council issue this license with agreed upon conditions; or 3) recommend 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 applicant will be required to sign a Conditions Affidavit demonstrating the understanding of the conditions.

DSI staff will explain their review of the application and state their recommendation. Ms. Vang said she will then ask the applicant to discuss their business plan. At the end of the hearing, she will make a recommendation for the City Council to consider. Her recommendation will be on the Consent Agenda; the City Council is the final authority on whether the license is approved or denied.

Ms. Moermond reviewed the license application and asked what the relationship was between the two listed applicants. Ms. Judeh responded that Rashed Fayeze Judeh was her husband and he went by the name Leo. They were co-owners of this business as well as Shish Café and Shish Catering at 1668 Grand Avenue.

Emails/letters were received from the following and are made a part of this record: David Wheaton, Macalester College; Tom Welna, The High Winds Fund; Marjorie Wherley, 1677 Lincoln Avenue; and John and Bonnie Driggs, 1678 Lincoln Avenue.

Mr. Fischbach reviewed the recommended license condition:

1. Per City of Saint Paul Legislative Code 409.15(a)(2), On-sale wine license shall mean a license authorizing the sale of wine not exceeding fourteen (14) percent alcohol by volume, for consumption on the licensed premises only in conjunction with the sale and service of food (menu item only). The sale of Malt (Strong) will also take place only in conjunction with the sale and service of food.
2. Per City of Saint Paul Legislative Code 409.15(e), licensee must be able to show that gross receipts are at least sixty (60) percent attributable to the sale of food.
3. Licensee will submit to the Department of Safety and Inspections (DSI) annual gross receipts for food and liquor for each year the license is renewed.
4. 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.

5. Sidewalk seating approved for a maximum of 16 seats.
6. 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.

Recommended Additional License Conditions:

7. Licensee agrees to take appropriate action(s) to ensure that the sale, display, and/or consumption of alcoholic beverages is contained within the defined area as per the approved sidewalk seating plan on file with DSI.
8. There shall be no amplification of music, broadcasted events, or entertainment provided outside the building without prior written approval from DSI.

The district council submitted a letter detailing concerns that had been expressed to their organization involving this request, which include the following: the patio will displace required off-street parking, the outdoor seating hours of operation may adversely affect nearby residential uses, noise that will be generated by amplified outdoor music, and the disposal of trash from the two restaurant businesses on this same block which are owned by this business owner. (*Email from district council is made a part of this record.*) Building and zoning inspection requirements were still in process; licensing was recommending approval with the recommended conditions.

Concerning parking, Ms. Zacho read into the record the following statement prepared by Larry Zangs, DSI:

In May 2011, the BZA approved a variance of 11 off-street parking spaces to allow the restaurant to add beer and wine to their menu. This parking determination was based on the former zoning code requirements of one vehicle space/125 GFA (gross floor area) for restaurant with beer and wine and the floor area information, provided by the applicant, of 2,094 square feet. The site plan submitted with variance in 2011 stated there were five off-street parking spaces behind the building. The parking arrangement showed five spaces angled toward the west property line. This arrangement did not meet the city parking standards because you would need at least 36 feet of width to accommodate the angled space and the maneuvering lane. The lot is only 32.5 feet wide which was not enough to meet parking/maneuvering standards. Based on city standards, the site could only accommodate three parking spaces at the rear of the property off the alley. In July 2012, the zoning code parking requirements were amended reducing the off-street parking to one vehicle space/400 GFA. It was determined that based on the changes in the parking code, three off-street parking spaces (basically two regular spaces and one accessible parking space) are required.

Ms. Zacho stated that according to the plans submitted for review did not include any dimensions, specifically the width and length of the parking area. This information will need to be included in the plan.

Ms. Judeh stated that after several attempts to reconfigure the parking lot to make five spaces, it was determined it could only accommodate three parking spots and the ally was used for maneuvering vehicles.

Ms. Moermond asked about the hours of operation, both general hours and sidewalk service. Ms. Judeh responded that the restaurant's kitchen had been closed since January for remodeling. When they re-opened, their hours of operation would likely be 7 a.m. until 11 p.m.; however, the patio would not stay open until 11 p.m. They would definitely need to be closed by midnight given the parking regulations under the zoning code. They did not have any specific hours set for outdoor sidewalk service.

Ms. Moermond asked about trash service for the business and the location of the dumpsters. Ms. Judeh responded that the dumpsters dumped three times per week; recycling was picked up twice per week. The dumpster was shared between both of their business, Shish and Grand Central, as they share a common wall abutting one another. Ms. Moermond responded that the location of the dumpsters was not designated on the site plan and it was unknown whether the dumpsters took away any parking spaces for the restaurant. She asked that the location of the dumpsters be included on the site plan.

Ms. Moermond asked about the building permits. Mr. Fischbach responded that there were two building permits that had been issued; one for the interior remodel and one for a fence. The permit for work on the patio had not yet been applied for. The SAC determination also had not yet been made by the Met Council.

Ms. Judeh stated that they were delayed in working with their architect to update plans for the patio area. Once she had some numbers from the architect, she planned to work with Larry Zangs to determine the actual footage of the patio. They submitted their SAC application to the Met Council on June 23, 2016.

Ms. Moermond asked whether they had an entertainment license and if so, whether they planned to have entertainment outside of the building. Ms. Judeh responded that they had an entertainment license and on occasion, would have acoustical music performances inside the restaurant. Mr. Fischbach stated that the applicant did indeed have an Entertainment A license which was inadvertently omitted in the paperwork for preparation of this hearing.

Ms. Moermond then asked whether they planned to have amplified music outdoors; patio/sidewalk areas. Ms. Judeh responded that there were speakers on the outside of the building which they used to play music at a low-level so that people could enjoy conversations. It was not their intent to have live entertainment outside nor did they intend to blast music at a loud level over outdoor speakers. They wished to be respectful to their neighbors.

Mr. Fischbach stated that they could have music amplified through speakers on the patio. They would need to include the location of each speaker on the site plan, type of equipment they have, the types of music they planned to play, hours they planned to have music; all sound/music needs to be in accordance with the city's noise ordinance.

Ms. Moermond asked what the hours of operation would be for the patio and sidewalk. Ms. Judeh responded that Sunday through Thursday, they planned to close the patio by 9:30 p.m. On Friday and

Saturday, they would close at 10:00 p.m. She was not concerned about the closing hours for the sidewalk. Mr. Fischbach responded that since Grand Avenue was a busy thoroughfare, closing time for the sidewalk area was not a concern.

Ms. Moermond asked Mr. Fischbach to add a condition to the license to allow for speakers for music on the exterior of the building. She also requested the patio closing times be listed as a condition on the license.

The hearing adjourned at 3:05 p.m.

After the hearing, Mr. Fischbach submitted the following conditions to be added to the license:

8. Any outdoor activities related to the outdoor seating areas on either public or 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.
9. The outdoor patio seating area located at the rear of the building shall close by 9:30 p.m. on Sunday thru Thursday, and 10:00 p.m. on Friday and Saturday.

After reviewing all of the license conditions, Ms. Moermond recommended approving the license application with the agreed upon conditions which are as follows:

1. Per City of Saint Paul Legislative Code 409.15(a)(2), On-sale wine license shall mean a license authorizing the sale of wine not exceeding fourteen (14) percent alcohol by volume, for consumption on the licensed premises only in conjunction with the sale and service of food (menu item only). The sale of Malt (Strong) will also take place only in conjunction with the sale and service of food.
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3. Licensee will submit to the Department of Safety and Inspections (DSI) annual gross receipts for food and liquor for each year the license is renewed.
4. 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.
5. Sidewalk seating approved for a maximum of 16 seats.
6. 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.

7. Licensee agrees to take appropriate action(s) to ensure that the sale, display, and/or consumption of alcoholic beverages is contained within the defined area as per the approved sidewalk seating plan on file with DSI.
8. Any outdoor activities related to the outdoor seating areas on either public or private property shall comply with application State and Local rules and regulations, including but not limited to Chapter 293 Noise Regulations of the City of Saint Paul Legislative Code.
9. The outdoor patio seating area located at the rear of the building shall close by 9:30 p.m. on Sunday thru Thursday, and 10:00 p.m. on Friday and Saturday.