

LICENSE HEARING MINUTES
Green Mill, 57 Hamline Avenue S.
Thursday, April 9, 2020, 2:00 p.m.
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 2:00 p.m. A roll call was made to confirm attendees.

Staff Present: Jeff Fischbach and Kris Schweinler, Department of Safety and Inspections (DSI)

Licensee: Mary Jule Erickson and Paul Dzubnar, Applicant/Owner

License Application: Modify existing license conditions to remove restrictions on the hours when hard liquor may be sold, the method of sale for hard liquor, and to permit the expansion of bar seating

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 requires neighborhood notification to nearby residents 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.

Four letters of objection were received, three of which were withdrawn. One letter of support was received. In addition, a letter was received from the licensee during the notification period asking that only one license condition be removed.

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 to take an adverse action on the application, which could involve review by an administrative law judge.

Minutes:

Jeff Fischbach, Department of Safety and Inspections (DSI) gave a staff report. There were currently twelve conditions on the existing license. The original request was to remove three conditions: hard liquor service will terminate with the closing of the kitchen at 11pm on

weekdays and midnight on weekends; no Happy Hour specials on hard liquor drinks; no expansion of bar seating - currently there are approximately nine (9) seats. Subsequently, the licensee submitted a request to modify the proposal to remove conditions, and now only wanted to remove the condition related to bar seating. That request was submitted on March 28, 2020. Mr. Fischbach said the department had a signed conditions affidavit with the remaining conditions. DSI received no recommendation or correspondence from the District Council. No additional conditions were recommended. License approved with conditions, Zoning approved, DSI recommended approval with conditions.

Existing License Conditions Requested be Removed

- ~~Hard liquor service will terminate with the closing of the kitchen at 11pm on weekdays and midnight on weekends;~~
- ~~No Happy Hour specials on hard liquor drinks; and~~
- No expansion of bar seating - currently there are approximately nine (9) seats.

License Conditions to Remain

1. Sale of alcoholic beverages should be limited to 30% of total sales. Green Mill will continue to utilize all of its tables for full menu service.
2. Hard liquor service will terminate with the closing of the kitchen at 11pm on weekdays and midnight on weekends.
3. No Happy Hour specials on hard liquor drinks.
4. No entertainment requiring a Class B license is allowed.
5. A Designated Driver Program will continue to be promoted within the restaurant.
6. No dumping of glass and bottles into dumpsters by Green Mill cleanup staff before 7am and after 10pm.
7. No pickup of trash and/or recyclables before 7am on weekdays or 9am on weekends.
8. Customers will not be seated at the outdoor sidewalk café after 8:30 PM and this outdoor café will be closed (unoccupied) at 9:30 PM.
9. 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.
10. Sidewalk seating is approved for a maximum of thirty-six (36) seats.
11. Failure to comply with any of these conditions may be grounds for adverse action.

Recommended License Conditions to be Added:

None

Ms. Vang referred to the floor plan, and asked Mr. Fischbach if the bar seating was for the exterior or the interior. Mr. Fischbach said the bar seating was for the interior.

Ms. Vang asked the licensees to talk about the request. Mr. Dzubnar said they started with three requests and were down to one, after meeting with the neighborhood. He said they explained to neighbors that they needed to remodel at the Green Mill, and felt they were at a disadvantage with other restaurants and bars on Grand Avenue that weren't restricted to nine seats. Since they were remodeling, they wanted to add seats to the bar, so they were on a level playing field with their competition. Mr. Dzubnar said they had talked to and worked with the neighbors; he noted they had been in the neighborhood as a Green Mill since 1975. He said the neighbors on Lincoln Avenue would say they were a good neighbor, and the neighbors believed in Green Mill's request, with the exception of the one remaining complaint.

Ms. Vang asked why there was a restriction for only nine seats. Ms. Erickson said they had a beer and wine license for a long time; when they upgraded to full liquor, they met with neighbors and that condition was added. She said the bar was currently up against the wall which limited the number of seats. Ms. Erickson referred to the plan and said they were looking to have more of a circular bar. She said the current 9-seat restriction was due to space and the agreement with the neighbors.

Ms. Vang asked when the full liquor was added. Mr. Dzubnar said it was 1995. He said another reason they felt they should get more seating was that many craft beers now had higher alcohol content than a mixed drink, so a restriction tied to hard liquor license didn't make sense. He said they modified their request because they understood they were part of the neighborhood but restricting the number of seats didn't seem reasonable.

Ms. Vang asked whether staff would increase. Mr. Dzubnar said there would be another bartender. He said there were 60 people on the payroll, but not all 60 were working on any given day.

Ms. Vang asked whether the hours would change or remain the same. Mr. Dzubnar said they would remain the same.

Ms. Vang asked whether there was an additional parking requirement with the additional bar seating. Mr. Dzubnar said no.

Ms. Vang asked whether they'd had enforcement action in the time they'd been open. Mr. Dzubnar said no. Ms. Vang asked about any complaints. Mr. Dzubnar said not related to alcohol service.

Ms. Vang referred to the site plan and asked whether the sidewalk seating would remain the same. Mr. Dzubnar said the sidewalk permit would remain the same. Ms. Vang noted that the plan said patio and verified that the plan was still referencing sidewalk seating.

Ms. Vang asked what the concerns were expressed in the conversations with neighbors. Mr. Dzubnar said the neighbors they spoke with had no objections to the seating; their objection was to the other two requests made.

Ms. Vang confirmed that the licensees would continue to provide training to staff. Mr. Dzubnar said absolutely.

Ms. Vang said she would withhold additional questions and would introduce the letters of objection into the record.

Ms. Vang said the first letter received was from Andrea Goldstein, who subsequently sent a letter withdrawing the objections. Ms. Goldstein's initial concern had to do with extended happy hour and Green Mill's serving liquor and referred to parking. Mr. Dzubnar said he thought the objection was to delivery trucks blocking the alley, an issue they'd worked very hard to address. He said he had talked to Ms. Goldstein about that, and it had nothing to do with liquor service. He said neighbors like Ms. Goldstein and Gary (Taruscio) would say the licensees had worked very hard to meet their wishes and had been successful.

Ms. Vang said the next email was received from Gary Taruscio, and the objections were subsequently withdrawn. Mr. Taruscio wrote that he did not object if the request by Green Mill was amended to remove just the one condition restricting expansion of bar seating. Ms. Erickson said after they met with him, he was fine with the bar seating.

Ms. Vang said a third letter, that was also withdrawn, was from Carreen Heeggaard, raising issues of noise and traffic, given that it was at the corner of Hamline and Grand, she was concerned about the expansion of liquor. She believed it would not increase capacity in the bar. Mr. Dzubnar said they were replacing the bar stools in many cases with seating that was in the bar. They were not really increasing the overall capacity of seating in the bar, just at the counter itself.

Ms. Vang noted that the overall floor plan had seating at 160 seats, but they had far below that number. Mr. Dzubnar said they were below the number required by the license.

Ms. Vang read from a letter of support from Bryan Sowieja, supporting removal of all three conditions requested.

Ms. Vang said the previous Friday, another email was received from neighbors Jeff and Jennifer Smith objecting to the removal of the condition restricting expansion of bar seating. Ms. Erickson said the email was sent in just before the deadline and they had not had the opportunity to talk to the neighbors. Mr. Dzubnar said during the notice period they received letters of support, and they had met face to face with the neighbors, and had one neighbor of the total that objected, which showed a large majority was in favor or didn't oppose their request to not have a limit on bar seating.

Ms. Vang said based on the information presented and the documents in the packet, it appeared there'd been no enforcement action and no complaints other than some about sidewalk which had been resolved to a large degree. She encouraged the licensees to maintain and monitor the sidewalk to make sure it didn't become a traffic issue and people could maneuver. She said the police report showed proactive visits, and one about liquor law furnishing liquor to a minor. She asked Mr. Fischbach to talk about that incident which happened last year in August. Mr.

Fischbach said that was an adverse action against the license. The licensee mailed in a check and paid the fine. Ms. Erickson said they terminated the employee on the spot. Mr. Dzubnar said the employee looked at the person's license and made the calculation wrong. He said employees received the mandated liquor training on hire.

Ms. Vang said it sounded like they'd been doing a good job of rectifying any issues, and there hadn't been a lot of incidents. In light of the withdrawn objections, it sounded more positive than negative in terms of how they had been managing the establishment. She said she saw no need to add any conditions or modifications; she clarified they were only dealing with removal of the condition related to bar seating. The floor plan allowed up to 160 and they fell way below that number. She said she would recommend the City Council approve the request.

The hearing adjourned at 2:23 p.m.

The Conditions Affidavit was signed and submitted on April 9, 2020.