

LICENSE HEARING MINUTES
Agra Culture, 721 Cleveland Avenue South
Monday, July 6, 2020, 10:00 a.m.
Remote Hearing Due to COVID-19
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 10:00 a.m. A roll call was made to confirm attendees.

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

Licensee: Mikael Asp, Applicant/Owner

License Application: Upgrade to Liquor On Sale - 100 Seats or Less, Liquor On Sale - Sunday, and Liquor - Outdoor Service Area (Sidewalk)

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

Ms. Vang said the City Council had approved a waiver for the 45-day notice requirement and issuance of the license on June 3, 2020 in RES 20-819, and the only action available to her now was to determine if additional conditions were warranted or required modification.

Kristina Schweinler, Department of Safety and Inspections (DSI) gave a staff report. She said this was an upgrade from a wine and beer license to a full liquor restaurant license. Staff had reviewed the application and was recommending approval.

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 City Zoning Code (parking requirement) and 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. 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.
5. 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.

Ms. Vang asked Mr. Asp to talk about his business plan, and any changes since the business had opened in 2017.

Mr. Asp said they opened in November 2017 and applied for a beer and wine license. When they opened, their hours were 7:00 a.m. or 7:30 a.m. to 9:00 p.m. or 9:30 p.m.; hours had since changed to 9:30 a.m. to 9:00 p.m. Requesting full liquor was something they were going to be doing before COVID hit. When they were shut down and doing take-out only, they had planned to move to a hybrid of fast casual for lunch and full service for dinner. Agra Culture was high-end fast casual, and a lot of customers wanted the ability to have that. Upon re-opening, they were planning to go to full service 100% of the time, but down the line would go back to fast-casual at lunch. They wanted to be able to offer full liquor to seated patrons which they hoped would increase overall sales and customer satisfaction. They would stay open their normal hours. They would gauge how the full-service side fit and may stay open to 9:30 p.m. or 10:00 p.m. at the latest. Mr. Asp said they were not a bar and were never busy at night and could probably shut down at 8:30 p.m. many nights. They planned to bring in one SKU of six or seven different alcohols. They would serve batch cocktails and would barely be able to offer anything beyond like a vodka lemonade that would not be on a list of eight or so craft cocktails. He said obviously they were not going to be offering shots or any of those types of things.

Ms. Vang asked about hours for the sidewalk café. Mr. Asp said they would be the same as the rest of the business.

Ms. Vang asked if there would be staffing changes with the new license. Mr. Asp said they officially hired some servers, and some managers and employees had started taking tables as servers. They currently had one server at lunch and two for dinners and weekends.

Ms. Vang referred to the sidewalk seating plan and asked if it had been approved by Public Works. She said it seemed like the number of tables and chairs was more than what was noted in the photos she saw. Mr. Asp said Ms. Vang was probably looking at what was with the initial application in 2017. They had a sidewalk café since 2017, and as part of this process they'd requested to have the alcohol moved outside. Ms. Vang asked if the sidewalk table plan had changed. Mr. Asp said it had for the COVID requirements but not for when they went back to normal. Ms. Vang noted nine tables, with about 32 seats. She asked if there were any barriers delineating the seating area from the public right-of-way. She noted that the tables were placed close to the curb. Ms. Schweinler said that was the way Public Works had been addressing all sidewalk cafés. Ms. Vang asked if they would be requiring anything like planters to denote the space. She said she wanted to make sure no one could just come up and seat themselves outside. Mr. Asp said a customer who came and sat down would immediately be greeted, but 99% of people came into the restaurant and spoke to someone first. Ms. Vang said right now there were no barriers. Mr. Asp said the cars created a barrier. He said there was a sidewalk access as well as the entrance to the Finn (adjacent apartments) to the sidewalk and the public walking area. He said he had not considered doing barriers; it didn't feel like it was required. Ms. Vang said she normally saw something to denote the space; she noted it was a busy intersection and she didn't want it to seem like public seating. Mr. Asp said there were logoed umbrellas on the tables with the restaurant name. It was very obvious that it was not public seating, and it had never been an issue.

Ms. Vang asked how they would monitor the exterior to ensure there was no impact to the neighborhood in terms of noise and trash. Mr. Asp said they would have servers consistently running food and drinks and checking on tables. The servers also acted as monitors of the surrounding area for activities that could impact the neighborhood. Ms. Vang asked how people buying drinks would be restricted to the seating area. She said she wanted to make sure Mr. Asp understood patrons should not be standing and drinking on sidewalk, and that he would make sure staff knew that liquor was limited to the licensed area. Mr. Asp said it had never been an issue. Ms. Vang said this was going to be with liquor now. Ms. Schweinler said she didn't think that would change. Mr. Asp said he operated over ten restaurants with full alcohol across Minneapolis and St. Paul and loitering and standing and moving around were not an issue at any of his locations.

Ms. Vang asked if there were areas designated for smoking. Mr. Asp said they were nonsmoking entirely, and they were not a bar. He said he wasn't there 100% of the time but he couldn't think of any situation where any of his customers was smoking. He said he thought The Finn had smoking for residents in the back alley and didn't allow smoking within a certain number of feet of the front. He said they followed those rules.

Ms. Vang noted a parking complaint from 2018 in the STAMP activities report with a status of "call back pending." Ms. Schweinler said she was not familiar with complaint. Ms. Vang said the complaint stated there was no parking for customers in the ramp, and only two spaces at the business which were reserved for employees. She asked about the status of the complaint. Ms. Schweinler said she was not familiar with that complaint, but the business met the zoning requirements for parking. Because it was an On Sale Liquor Restaurant that had to close before midnight, they weren't required to obtain more parking. Mr. Asp asked whether the complaint

was associated with the business or the building. Ms. Vang said it was associated with the business, for 721 Cleveland Avenue South, Agra Culture Restaurant, made on January 3, 2018. Ms. Schweinler asked for the complaint number and said she would follow up. Mr. Asp said as a 20-year resident, he was familiar with the lack of parking in Highland Park in general. He said he hadn't heard about that specific complaint.

Ms. Vang asked Mr. Asp how many servers they would have when they went back to full service. Mr. Asp said it depended on the level of business they had. He said at the max level they would have about five servers. Ms. Vang asked whether employees were from the neighborhood and whether they drove or used public transportation. Mr. Asp said he let staff decide how they got to work. He said he thought it was a 50-50 split as far as driving or taking public transportation. He said he didn't allow them to park in the area that was part of The Finn behind the building, and strongly discouraged them from parking on Cleveland. He said parking had pushed down Highland Parkway toward the river as well as across Cleveland and east up Highland, and neighbors had seen an increase in the number of cars due to the increase in residents, visitors, employees, and other guests.

Ms. Vang asked whether there would be any change in employee training going from wine and beer to full liquor. Ms. Schweinler said there was no change in the required training.

Ms. Vang asked Mr. Asp how they monitored trash on the sidewalk. Mr. Asp said staff took care of it on an ongoing basis. When it was windy, it was hard to keep napkins from blowing away.

Ms. Vang asked if there were security cameras or security personnel. Mr. Asp said they had security cameras and a security system. There had never been a need for additional security other than just the manager on duty.

Ms. Vang noted they had support from 50% of the residents in the petition, but she didn't have a copy of the affidavit. Ms. Schweinler said the affidavit should have been sent over by DSI staff; she said staff would forward it. Ms. Vang asked Mr. Asp how they did the petition in light of COVID. Mr. Asp said he worked with Ms. Schweinler to craft a letter and mailed it out to appropriate addresses. Ms. Schweinler said Mr. Asp obtained 50% of residential support, but well over 67% including the area businesses.

Ms. Vang read the letter of objection into the record, received May 15, 2020 from Mr. and Mrs. Rafael Getsug at 2090 Highland Parkway, expressing objection to liquor being served on the sidewalk café. They wrote that they had experienced negative impacts over the years due to liquor being served in establishments near their home, and they provided examples. They wrote that the noise of loud chatter and car doors slamming when Agra Culture was open for business was ongoing during pre-COVID-19. Ms. Vang invited Mr. Asp to respond. Mr. Asp said he respected everyone's opinions, but obviously the writers had not experienced what Agra Culture really was. They were not a bar and closed at 9:00 p.m. or 9:30 p.m. Their alcohol sales represented under 3% of their overall business. He said he felt activity in the area associated with the business was a good sign. He understood that residents had gotten used to the open parking lot with Edina Realty that were there previously and were quite sleepy. Now there were apartments and retail, and he understood the frustration at the change. He said he didn't view his

customers as being loud and rowdy, any more than similar restaurant locations. He said it was interesting the writers of the email didn't know the business already had alcohol. He said he felt there was a generational thing around the thought that beer and wine was ok, but full liquor created a rowdy bar. He said some craft beers were actually stronger than some alcohols now. There was a perception that if you had a vodka bottle in your restaurant, you were now a full bar. He said he would love for the writers to come and enjoy and truly understand what the business was doing. He said he respected their opinion but didn't think it's was a fair representation of the business.

Ms. Vang noted the letter of support from the Highland District Council.

Ms. Vang said given Mr. Asp's history of managing other restaurants, that he'd done a great job during the time he'd been there with no complaints other than the one noted, which she would be looking into further. She said there was no concern on her part in terms of Mr. Asp moving forward with a full liquor license, so she would be recommending support of the request.

In response to a question from Mr. Asp, Ms. Schweinler said the City had approved the license, and all of the paperwork went over to the State right after the Council approved it. She clarified the process for obtaining a new buyer's card.

The hearing was adjourned at 10:33 a.m.

The Conditions Affidavit was signed and submitted on May 15, 2020.