

LICENSE HEARING MINUTES
Chris & Rob's Chicago's Taste Authority, 603 W. 7th Street
Monday, June 10, 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 10:14 a.m.

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

Licensee: Rob Dubnecay, Applicant/Owner

License Application: Add Liquor-Outdoor Service Area (Patio) and Liquor-Outdoor Service Area (Sidewalk) licenses to the existing Wine On Sale and Malt On Sale (Strong) licenses

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 inform nearby residents and the District Council about the application and to 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 may make a recommendation for the City Council to consider.

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

Minutes:

Jeff Fischbach, Department of Safety and Inspections (DSI), gave a staff report. He said the existing conditions were the standard wine and beer conditions. He read the additional conditions being recommended by DSI. He said DSI received a letter of support from District 9 including a waiver of the 45-day notification requirements, and that had not gone before the City Council yet. He said the Public Works inspection requirement was under review, Building was pending a SAC determination, License approved with conditions, Zoning approved with conditions, and DSI recommended approval with conditions subject to satisfying the petition of support requirements.

Existing Conditions

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.

Recommended Additional License Conditions

4. Each year prior to the placement of table(s) and/or chair(s) outdoors the licensee agrees to obtain a new Obstruction Permit from the Department of Public Works. Licensee agrees to limit the types of items placed in the public right-of-way to only those approved by Public Works, maintain their location in accordance with the approved plan and 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, and that items may not be placed in the public right-of-way before or after the effective/expiration dates.
5. Licensee agrees to limit the placement of seating to the area shown on the approved seating plan on file with DSI.
6. Licensee agrees to take appropriate action(s) to ensure that the sale, display, and/or consumption of alcoholic beverages is contained within the approved liquor service area on file with DSI. And, that the conveyance of alcoholic beverages is in accordance with the approved service route.
7. Licensee agrees to take appropriate action(s) to ensure that the sale, display, and/or consumption of alcoholic beverages is only by those customers/patrons that are of legal age.
8. Licensee acknowledges that a failure to remain in compliance with these license conditions will result in adverse action being taken against all of their licenses.

Ms. Vang asked Mr. Dubnecay whether he had any questions about the conditions. He said he didn't. Ms. Vang asked Mr. Fischbach about Condition 6; she said she hadn't seen it before. Mr. Fischbach said the planned seating area would be on private property but the service route extended onto the public right-of-way, and ropes and stanchions might also extend into that area.

Ms. Vang asked Mr. Dubnecay to review his plans. He said the original plan when they opened nine or ten years ago was to vacate Superior Street for a patio space, but parties involved were not happy with closing the street. They abandoned that and had been developing this plan for the past nine years. He said they were a counter-based restaurant, with food brought out to patrons' tables or served to-go. The plan was that people would order and have servers accompany them to their table. He said it was a long narrow space, and to meet ADA compliance, they had to push a little bit onto the sidewalk, but still maintained a throughway. He said typically customers bused their tables, but they would watch and clear them if needed. He said they had a camera outside that watched the area currently, and they would continue to watch to make sure anyone who had been served wasn't serving someone else. He said that happened occasionally and they

watched it currently at their other location. In response to questions from Ms. Vang, he said they had nine cameras covering the interior and exterior, and they had multiple locations.

Ms. Vang asked Mr. Dubnecay if they had ever been asked by City staff to provide a copy of a video. Mr. Dubnecay said they had during break-ins; he said they’d had about a half-dozen break-ins over the years. Ms. Vang said she hoped Mr. Dubnecay would continue to provide video when requested, and she assumed staff would continue to monitor the patio as they did now.

Ms. Vang asked whether utensils and plates were disposable. Mr. Dubnecay said everything was disposable except for plastic baskets.

Ms. Vang asked about lighting outside. Mr. Dubnecay said they closed at 9:00 p.m. so that wasn’t an issue for them. In response to questions from Ms. Vang, he said they were open Monday through Saturday from 11:00 a.m. to 9:00 p.m. and Sunday from 11:00 a.m. to 7:00 p.m., and patio hours would be the same. Ms. Vang noted that the application letter stated the hours would not exceed 9:00 a.m. to 12:00 a.m.

Ms. Vang asked if the other locations had patios. Mr. Dubnecay said the other location had one too. Ms. Vang asked how it had added value to the business and if it was similarly situated to his other location. Mr. Dubnecay described the layout at the Minneapolis location and said the day before everyone had sat outside and no one sat inside. He said that was the first place people wanted to sit.

Ms. Vang asked whether there had been complaints at the other location. Mr. Dubnecay said they had purchased the Minneapolis location in 2004, and encountered opposition when they applied for alcohol in 2005 due to noise and trash problem with the previous lessees. He said there had no complaints since then. They managed that by walking and picking up trash every day and making sure no outside music was playing. He said they were checked yearly for minor consumption and had never failed at the Minneapolis location. He said they had failed elsewhere once. Ms. Vang confirmed that they would follow similar procedures in St. Paul. Mr. Dubnecay said, in order to sell liquor, their computer system required that the driver’s license be scanned.

Ms. Vang asked whether the seating plan had been officially approved by the City. Mr. Dubnecay said he had reached out to Public Works with a couple of questions and was waiting for an answer on a couple of setback issues. Ms. Vang asked whether that would change the configuration. Mr. Dubnecay said it shouldn’t. Ms. Vang asked whether the tables had benches. Mr. Dubnecay said they were picnic tables.

In response to questions from Ms. Vang about trash receptacles, Mr. Dubnecay said there was a trash receptacle at each end. He said their normal trash receptacle was on the public sidewalk; they had an encroachment permit. Ms. Vang noted there were some issues with trash in the STAMP report over the years but didn’t know whether it was during their ownership. Mr. Dubnecay said not that he was aware of. He said the dumpster was locked, and trash was emptied every day and picked up twice a week.

Ms. Vang asked whether there were going to be planters. Mr. Dubnecay said they were going to use planters but they didn’t fit in the space. He said they might add some between the tables once they had everything laid out and made sure they were ADA-compliant. He said they were a victim of one of those ADA suits. He noted the ADA table on the plan.

Ms. Vang asked whether customers had to go through the restaurant to get to the patio. Mr. Dubnecay said they could access the patio from outside but had to come inside to order food. He said they put signs on the tables directing people to come inside to place their orders.

Ms. Vang asked how many staff they had. Mr. Dubnecay said they currently had 11 employees, and there was always a manger on-site. Ms. Vang asked whether staffing would increase with the patio. Mr. Dubnecay said it wouldn’t.

Ms. Vang asked about Mr. Dubnecay’s process for meeting the petition requirements. Mr. Dubnecay said the only negative they’d received was from the Montessori school, and from a second complainant who hadn’t provided an address. He said they didn’t have any issues with anyone who’d denied them at the doors they’d knocked on, but a fair amount of the units were rentals and they had trouble getting responses from the property owners. He said they had sent letters and certified letters but hadn’t gotten responses.

Mr. Fischbach said they were waiting for the written statement of good faith effort and explanation of generally favorable disposition from the surrounding community. Ms. Vang said she wouldn’t be able to move forward without that, given that the percentage was 39%. Mr. Fischbach clarified that this was so it could go forward to the City Council, where the final decision would be made.

Mr. Dubnecay said they had a disagreement about whether a 15-unit brownstone was technically in the area, and those were the rentals they were having trouble getting responses from. He said there was also a fair amount of commercial space. Ms. Vang asked whether the disagreement had been clarified. Mr. Fischbach said there was a row of townhouses that were individual condo units on one large parcel of land in joint ownership, and the 300-foot circle went about halfway through it. DSI was saying all of the units counted and the applicant believed only the ones inside of the area should count. Mr. Dubnecay said they were independent properties with separate PIDs. Mr. Fischbach said it was their opinion that they all counted because the circle was touching the joint tenancy property, even though the individual units had their own PID numbers. Ms. Vang said she may have to withhold her recommendation until she had that information.

Ms. Vang referred Mr. Dubnecay to the letters of objection on the packet. She noted that Mr. Aaron MacDonald had concerns but had withdrawn his objection. She read the correspondence from Ms. Kathleen Corley raising concerns about noise, traffic, and foot traffic to this and the other bar/restaurant at the intersection. The correspondence referred to a variance; Ms. Vang confirmed with Mr. Fischbach that this application was not a variance. Mr. Dubnecay said he was not sure where she lived. Mr. Fischbach said it looked like she lived at 234 Western Avenue South, in the row houses in question, and was within the 300 feet but not within 100 feet.

Mr. Dubnecay said they were only open from 11:00 a.m. until 9:00 p.m. He said there were three restaurants at the intersection, and there had been a significant increase in traffic since the gym opened across the street. He said there had been an influx in the neighborhood in the ten years they’d been there, to more retail from more industrial. He said he didn’t know that they would contribute to increased foot traffic but would be providing more eyes outside to deter problems.

Ms. Vang asked if they would be the first restaurant/bar in the area to have a patio. Mr. Dubnecay said within the 300 feet, yes.

Ms. Vang asked whether they had had any issues or enforcement action in the nine-ten years they’d been there. Mr. Dubnecay said no. He said Pajarito had closed Western several times for events and he’d never heard of any problems.

Ms. Vang asked whether they had off-street parking. Mr. Dubnecay said they leased six spaces in a private lot across the street. He said parking was only an issue in the mornings.

Ms. Vang asked whether they held events that would generate additional traffic. Mr. Dubnecay said they didn’t have space.

Ms. Vang reviewed the letters of support. She said there was nothing else to read into the record and no one else present.

Ms. Vang noted a snow compliant in the record. Mr. Dubnecay said the snow compliant was against the City, because they were slow to plow Superior Street, Ms. Vang noted that the business showed up as Villa Roma in AMANDA. Mr. Fischbach said he didn’t know who controlled what was there. Ms. Vang said there had been some graffiti complaints over the years; she asked Mr. Dubnecay if he was aware of the graffiti waiver process. Mr. Dubnecay said it had only happened twice and they had removed it. Ms. Vang referred to the police incident report and said there had been a lot of proactive police visits. Mr. Dubnecay said police had put a monitor in after the same people had broken in four times in 30 days, and it took them 61 minutes to respond to the monitor. He said they now had a gun safe bolted to the floor in six spots. Mr. Fischbach said the police proactive visits appeared to be well outside the hours of operation.

Ms. Vang asked Mr. Dubnecay whether he had signed the conditions affidavit. Mr. Dubnecay said this was the first he’d seen the additional conditions and he was fine with them. Mr. Fischbach said it had been signed.

Ms. Vang confirmed with Mr. Dubnecay that general liability insurance coverage had been submitted. She asked about the status of the SAC determination. Mr. Dubnecay said they were in disagreement and were speaking with the director on Wednesday.

Ms. Vang noted that the site plan hadn’t been approved; she asked about the timing for the opening of the patio. Mr. Dubnecay said work would begin as soon as it was approved. He said they would be moving some dirt and taking down a block wall.

Ms. Vang said she had no additional questions and did not see the need to add additional conditions. She said she would not be able to make a recommendation pending submission of additional information to DSI, as mentioned earlier in the hearing. She said her recommendation was forthcoming and would be in the form of a resolution that would come before the City Council under Consent, which meant there was no public hearing.

The hearing adjourned at 10:49 a.m.

The Conditions Affidavit was signed and submitted on April 17, 2019.