

LICENSE HEARING MINUTES
Gacal Auto Body & Repair, 363 Atwater Street
Monday, November 16, 2015, 10:30 a.m.
330 City Hall, 15 Kellogg Boulevard West
Marcia Moermond, Legislative Hearing Officer

The hearing was called to order at 10:35 a.m.

Staff Present: Eric Hudak and Kris Schweinler, Department of Safety and Inspections (DSI)

Applicant: Jihad Garado, owner/applicant, 363 Atwater Street, Saint Paul; Ahmed Samatar, relative of owner/applicant, 3325 Columbus Avenue South, Minneapolis

Others Present: Kerry Antrim, District 6 Planning Council, 171 Front Avenue; Cindy Westpahl, 362 Topping Street, Saint Paul; James Westphall was also present but did not speak

Gacal Auto Body & Repair: Auto Body Repair/Painting Shop, and Auto Repair Garage licenses (*this is a change of ownership of an existing licensed location.*)

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. Ms. Moermond noted that the applicant submitted the signed Conditions Affidavit on September 28, 2015.

DSI staff will explain their review of the application and state their recommendation. Ms. Moermond 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. Schweinler stated that this was a new license under a management agreement. She reviewed the recommended license conditions:

1. All customer and employee vehicles must be parked in accordance with the approved site plan on file with DSI dated 12/09/2011. There should be ten (10) parking spaces for customers and/or employees vehicles. No more than a total of ten (10) vehicles may be parked outdoors on the site at any time.
2. There shall be no exterior storage of vehicle parts, tires, oil, or any other similar materials associated with the business. Trash will be stored in a covered dumpster.
3. At no time shall customer and/or employee vehicles be parked in the driveway or in the public right-of-way (e.g., street, alley, sidewalk, boulevard, etc.). This includes, but is not limited to vehicles awaiting repair and/or that have been repaired and are awaiting pick-up by the owner of the vehicle.
4. All vehicles parked outdoors must appear to be completely assembled with no major body parts missing.

5. The display of for-sale vehicles and/or the sale of vehicles is not permitted.
6. Vehicle salvage is not permitted.
7. No repair of vehicles may occur on the exterior of the lot or in the public right-of-way (e.g., street, alley, sidewalk, boulevard, etc). All repair work must occur within an enclosed building.
8. Vehicles awaiting repair may not be parked or stored in the public right-of-way (e.g., street, alley, sidewalk, boulevard, etc.).
9. Customer and/or employee vehicles may not be parked longer than ten (10) days on the premises. It shall be the responsibility of the licensee to ensure that any vehicle not claimed by its owner is removed from the lot as permitted by law.
10. Provide maneuvering space on the property to allow vehicles entering and exiting the site to proceed forward. Backing from the street or on to the street is prohibited.
11. Licensee must comply with all federal, state and local laws.
12. Licensee will be in compliance with all conditions prior to issuance of the license, and agrees to remain in compliance with the conditions once the licenses are issued. Failure to remain in compliance will result in adverse action against the licensee.
13. Spray painting is permitted weekdays from 7 AM to 4:30 PM and Saturdays from 7 AM until noon. There will be no spray painting on Sunday.

The District 6 Planning Council submitted two letters regarding this application. On August 26, 2015, a letter was submitted stating the paint booth has been reported by neighboring property owners to be problematic, regularly emits vapors/smells from the roof, and requested the paint booth not be used until it and the roof are thoroughly inspected and any necessary repairs have been made. On October 27, 2015, a letter was sent supporting the application and recommended license conditions based on the licensee having had an outside contractor inspect and make repairs to the paint booth.

Ms. Schweinler noted that on September 23, 2015, the department (DSI) approved the management agreement authorizing the license applicant to manage the business operations for current licensee (Jose Pabon dba Jose's Auto Repair & Body Work) while his license application was under review. Both parties acknowledged in a signed statement having reviewed the license conditions on the current license, which are the same as the recommended conditions for the new application. On October 9, 2015 DSI received the signed license condition affidavit from applicant acknowledging conditions that will be placed on the license. On October 19, 2015, DSI received a complaint that vehicles from the business were parking in the public street and blocking driveways. On November 5, 2015, DSI staff performed a site inspection and observed violations of license conditions for existing license (Jose Pabon), and recommended conditions for this pending license application, which includes the following violations: 14 vehicles parked on property (10 permitted), 2 vehicles associated with business parked in street, and exterior storage of vehicle parts and tires.

Zoning reviewed the license application and recommended approval with conditions; licensing was not recommending approval at this time.

Ms. Moermond asked whether a letter regarding the violations was sent to the applicant. Ms. Schweinler responded that under the management agreement, a letter would only have been sent to the owner and not to the applicant; therefore, a letter had not been sent. This building abuts to a residential neighborhood and there were continuous problems with the previous businesses at this location as a result.

Mr. Garado presented the following documents to the hearing officer and staff: 1) a letter dated November 16, 2015 addressed to the hearing officer detailing his business plan and response to violations found at the time of the inspection on November 5, 2015; 2) current photographs indicating he was in compliance with the violations found at the inspection on November 5, 2015; 3) Field Report from Wenc Services regarding deficiencies with the paint booth; 4) receipts for repairs made to the paint booth; and 5) a letter dated October 26, 2015 from Mr. Garado to the District 6 Land Use Committee regarding concerns on the conditions of the paint booth, receipts for repairs that were made, and requesting support of his license application.

Ms. Moermond invited the applicant to present his business plan. Mr. Garado stated that he had operated the same auto repair business in Minneapolis for the past 11 years and had never had any issues. He purchased 363 Atwater Street, which was an existing auto repair business, as he wished to expand his business to Saint Paul. He did not understand the process as it was now going on four months since he applied for the license and he still did not have the license.

Ms. Moermond invited testimony from members of the audience.

Ms. Antrim, District 6 Planning Council, stated that they had met with the applicant in August and again in October to discuss his business plan. When they met in August, it was with the land use task force which recommended the applicant refrain from using the paint booth until repairs were made and the booth was found to be in compliance. Mr. Garado came back to the district council in October with a letter and receipts for repairs made to the paint booth. The district council then recommended approval of the application with the conditions recommended by DSI. Ms. Antrim acknowledged that this specific area had serious problems, specifically with parking, given the number of auto related businesses located in this residential neighborhood. The district council was cognizant that the residents would prefer not to have businesses located in their neighborhood, however, the area was zoned for these types of operations; they could not deny a license based on neighborhood preferences. The district council still recommended supporting the license application and suggested the applicant be given time to make improvements to the property.

Mr. Samatar stated that the number of cars in the lot and the parking issues had now been resolved. He believed that the license should already have been granted since Mr. Garado had purchased the existing business. Ms. Schweinler responded that a business license does not automatically transfer when there is a change in ownership of an existing business. The management agreement, which was signed by Mr. Pabon and Mr. Garado, allows the business to continue operating until the new license is issued. The city also has a notification process wherein the neighbors are notified and are given the opportunity to voice their concerns through this open process.

Ms. Westphall submitted a letter of concern prior to the hearing (*said letter is made a part of this record*). There had been problems with the previous businesses at this location for at least the past 10 years where she and her fellow neighbors had complained. It was her contention that previous owners had not kept the building in proper operating condition. There were incidences of the paint booth being operated late into the night. She would call the SPPD to complain and was told to call the SPFD. No agency would respond to her complaints. She was happy to know that repairs had been made to the paint booth and hoped that the problem with paint fumes/vapors being submitted into the air would no longer be an issue.

Ms. Moermond recessed the hearing from 11:10 a.m. to 11:20 a.m. in order to review the documents presented by Mr. Garado at the hearing.

Ms. Moermond stated that after reviewing all of the information, she was impressed by the repairs that had been made to the paint booth, as her main concern had been the operation of the paint booth. She then asked Ms. Schweinler to review all of the photographs with her and Mr. Garado. She wanted to make sure Mr. Garado understood all of the violations that had been found by the department when the property was inspected; she trusted that these violations would not occur in the future. Mr. Garado assured that they would not.

Ms. Moermond stated that since the paint booth had been repaired and was now functioning properly, she will recommend to the City Council that they approve the license with the proposed conditions which are as follows:

1. All customer and employee vehicles must be parked in accordance with the approved site plan on file with DSI dated 12/09/2011. There should be ten (10) parking spaces for customers and/or employees vehicles. No more than a total of ten (10) vehicles may be parked outdoors on the site at any time.
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10. Provide maneuvering space on the property to allow vehicles entering and exiting the site to proceed forward. Backing from the street or on to the street is prohibited.
11. Licensee must comply with all federal, state and local laws.

12. Licensee will be in compliance with all conditions prior to issuance of the license, and agrees to remain in compliance with the conditions once the licenses are issued. Failure to remain in compliance will result in adverse action against the licensee.
13. Spray painting is permitted weekdays from 7 AM to 4:30 PM and Saturdays from 7 AM until noon. There will be no spray painting on Sunday.

The hearing adjourned at 11:30 a.m.

The Conditions Affidavit was signed and submitted on September 28, 2015.