

LICENSE HEARING MINUTES
The Black Hart of Saint Paul, 1415 University Ave W
Monday, November 28, 10:00 AM
Room 330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

The hearing was called to order at 10:02 AM

Staff Present: Jeff Fischbach, Department of Safety and Inspections (DSI), YaYa Diatta, DSI Zoning Manager (remote participation)

Licensee: Mr. Wes Burdine, Applicant/Owner

Others Present: Sara and Aaron Cooper, 1438 Sherburne Ave

License Application: Add a Liquor-Outdoor Service Area (Patio) license to the existing Liquor On Sale - 101-180 Seats, Liquor On Sale - Sunday, Liquor On Sale - 2 AM Closing, Liquor-Outdoor Service Area (Sidewalk), Entertainment (B), and Gambling Location licenses

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's office 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 for licensee Black Hart of Saint Paul LLC (License ID# 20180001270), d/b/a The Black Hart Of Saint Paul, located at 1415 University Ave W. The application is to add a Liquor-Outdoor Service Area (Patio) license to the existing Liquor On Sale - 101-180 Seats, Liquor On Sale - Sunday, Liquor On Sale - 2 AM Closing, Liquor-Outdoor Service Area (Sidewalk), Entertainment (B), and Gambling Location licenses. There are six existing license conditions:

1. 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.
2. Licensee agrees to limit the placement of seating 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.
3. Licensee agrees to take appropriate action(s) to ensure that the sale, display, and/or consumption of alcoholic beverages is contained within the defined approved liquor service area on file with DSI.
4. Licensee will provide sufficient security to insure an orderly exit of patrons at bar close. Security will be clearly identifiable. Signage will be posted at the door reminding patrons to leave in an orderly fashion and not disturb the neighbors.
5. Staff will insure that the 48" clear walkway is maintained at all times.
6. Licensee will create a video surveillance camera and lighting placement plan (video surveillance plan) for the interior and exterior of the licensed premises. Licensee will submit the video surveillance plan to the Saint Paul Police Department (SPPD) liaison with the Department of Safety and Inspection (DSI) for review and approval. In accordance with the approved video surveillance plan, licensee will ensure that video surveillance camera system is in good working order, ensure it is recording 24 hours per day, ensure it can produce recorded surveillance video in a commonly used, up-to-date format, and ensure that accurate date and time of day are visible on all recorded videos. Licensee will retain surveillance video for a minimum of thirty (30) days. If an incident is deemed serious by SPPD, licensee shall make surveillance video immediately available for viewing by SPPD. If a copy of the surveillance video for a serious incident is requested by SPPD, Licensee shall have the technology, materials and staff available to immediately make the copy. In all other cases, licensee shall provide a copy of the surveillance video to the requestor within 48 hours.

DSI is recommending approval with one additional license condition:

7. Any outdoor activities related to the outdoor seating/liquor-service 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.

Letter of Support has been received from the Hamline Midway Coalition District Council. Building condition in process; License approved with conditions; and Zoning in process.

Mr. Fischbach: I will also note that even if the Council goes ahead and authorizes issuance of the license, these other pending processes will need to be resolved before we issue the license. Permits still need to be issued, construction needs to be done, and inspection approvals must be obtained. To comply with Condition #6, the applicant would also need to have an approved security camera plan for the outdoor area to our police officer contact, Charles Graupman. I can give him that contact info if needed.

Mr. Burdine: We might need that contact again, since it's been about four years and we had worked with a different officer. We will probably place 2 or 3 cameras to cover the outdoor area in addition to the existing cameras.

Mr. Fischbach: An approved lighting plan would be needed as well before the license can be issued.

Ms. Vang asked the applicant to talk about the business: history, hours of operation, number of employees, etc.

Mr. Burdine: The lot itself is about 1/3 acre. 2/3 of it will be developed into the patio space, and the rest will be water mitigation and a raingarden. For the fence, there will be a 6-foot fence around the back and side of the patio, made of wood with bushes out the outside to deter graffiti. The front fence will be 4 feet tall and made with metal slats, also to deter graffiti. The trash area will also be more enclosed in the back. The basic idea is that we want an outdoor space for the warmer months since it can get so dark inside. We also want to allow people to spread out on soccer game days, since it can get crowded inside. There won't be any structures out there besides some polls to hang lighting on. There are emergency exits, but the only way patrons can access the space is by going inside and then heading out to the patio.

Ms. Vang asked about lighting.

Mr. Burdine: There will be some poles set up around the picnic tables, and there will be lighting from the building as well. We want to keep it localized and not add to light pollution too much.

Ms. Vang asked about the food truck.

Mr. Burdine: The food truck will be operated independently by businesses that we invite. Our kitchen is small and can't handle some of the large volumes. On game days we plan on having our kitchen closed and having just the food truck. People can grab their food there and take it inside or outside.

Ms. Vang asked about outdoor hours.

Mr. Burdine: The patio will be closing at 11pm on weeknights and 12am on weekend nights. Service is focused on the University Ave side, to keep the noise away from neighbors and possibly mitigate or deflect sound coming from the busy street. The sidewalk patio will continue staying open as long as we are open. Mostly it's just used by smokers, as not a lot of people drink out there in the 8 seats.

Ms. Vang asked about seating on the new patio.

Mr. Burdine: Number of seats are currently pending. We don't have a seat number in part because we're still waiting on comments from the city on things like that. I wouldn't be able to put a number there, but it is quite big. It's about a quarter of an acre total of space that's

being developed there. We imagine even half of that being the service area where people are sitting and drinking.

Ms. Vang asked about liquor service for the patio.

Mr. Burdine: Service will be through the main bar. On busy days even now we have someone with a tub selling beer cans for cash to make it kind of quicker service. We'll probably move that outside on busy days. In the future it would be nice to have 2 stations there where people can get drinks in the future, but right now we're just focused on getting an outdoor space.

Ms. Vang asked about the food truck

Mr. Burdine: We won't be operating it. Inviting others to come in and serve our customers. It's much easier for us to just bring in other people and let them handle it. And then we can focus on what we're good at.

Ms. Vang asked if the applicant had questions about condition #7, relating to the noise ordinance.

Mr. Burdine: It makes sense and I agree to it.

Ms. Vang and Mr. Fischbach clarified that bocce ball also falls under the already obtained Entertainment (B) license's allowed uses.

Mr. Burdine: Our plan is to have leagues run the bocce ball games. People will have to come inside to get the balls, but we will not be staffing it.

Ms. Vang asked what building issues were pending.

Mr. Burdine: We just haven't gotten all the comments back. There were concerns about how Waste Management would access the new trash area and concerns about the land use for water management. Those were the big subjects of conversation.

Ms. Vang asked what zoning issues were pending.

Mr. Burdine: I believe water is part of the zoning review. Everything that is outstanding is planning on being addressed after receiving those final comments and addressing them in our next site plan.

Ms. Vang asked for a copy of the approved site plan when it is finalized

Ms. Vang next asked about the food truck area, asking the applicant to make sure the food truck can be on gravel instead of cement.

Mr. Burdine: I'll check on that.

Ms. Vang asked about staffing.

Mr. Burdine: We plan on having 3-8 people working, depending on the day.

Ms. Vang asked about patio doors being propped open during events, as it relates to noise.

Mr. Burdine: Patio doors will be shut if there is a show happening inside.

Ms. Vang then welcomed Sara and Aaron Cooper (1438 Sherburne Ave) to testify.

Mrs. Cooper: Our main concerns are over fence height, which would like higher than 6 feet to reduce noise, and urination in our alley. Maybe not having the back door open to get to the alley will prevent the urination issue. We are supportive otherwise. We like the moving of the trash location.

Mr. Burdine: The back door will only be for the food truck. Will not be usable for patrons. We will also have portable toilets for things like game days when bathroom lines can get long. For the fence, we are open to increasing the fence or bush height in the back. We want to have the side stay 6 feet for visibility but can increase it in the back if it's allowed.

Ms. Vang and Mr. Fischbach clarified that a fence higher than 6 feet may be possible and that the applicant should check with zoning. Ms. Vang then informed Mr. and Mrs. Cooper of the noise ordinance.

Mrs. Cooper: This place has been great under the current owner. I have not made nearly as many calls to complain as I had under previous ownership. We plan on being here for 40-50 years and are very supportive.

Ms. Vang next referred to the letter from Scott Gaylord, property manager for 1389 University Ave W. The letter voiced objections on behalf of the property owner regarding noise, trash, and crime. Ms. Vang acknowledged that noise had already been addressed and gave the applicant the opportunity to respond.

Mr. Burdine: There is currently trash out there in the empty lot, which I have been cleaning up. We are actually beautifying the land. The empty trash-filled lot is going to be a lot nicer now actually. We want to make this a part of a neighborhood that we're proud of.

Ms. Vang: So, you own the lot, correct?

Mr. Burdine: Yes. It's a contract for deed, but we just closed on that last week.

Mrs. Vang asked if Mr. Burdine had submitted a letter to provide a written explanation of what action(s) and/or property improvement(s) will be taken to ensure that any noise generated by activities taking place here will not adversely impact the surrounding neighborhood.

Mr. Burdine: We submitted the good faith letter that's attached to the materials here. I'm not sure if we needed another one. We can do that if need be.

Mr. Fischbach: Ross Haddow may be able to help with this, since he has been the inspector working with them more.

Ms. Vang asked Mr. Fischbach if there were ever any investigations or adverse actions since the current ownership took over.

Mr. Fischbach: There may have been something COVID-related, but I'm not sure.

Mr. Burdine: I don't recall anything along those lines.

Ms. Vang: I don't see anything myself as cause for concern.

Ms. Vang asked about trash pickup and expressed appreciation for efforts to reduce graffiti.

Mr. Burdine: Trash pickup happens on Tuesday during the day. Bottles are emptied usually between 10am and 3pm, and never taken out at the end of the night because of noise. We leave them until the next morning. Game days can sometimes mean we take the bottles out right before a noon game, since we need to be completely reset before the amount of traffic comes through.

Ms. Vang asked about illegal dumping.

Mr. Burdine: This is a bit of a problem. We plan on putting a camera back there. Having the space be a bit more enclosed should help deter dumping also.

Ms. Vang stated that after reviewing the records and considering testimonies from all parties, she will recommend to the City Council that they approve the license with no new conditions other than the following previously agreed-upon conditions:

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The hearing adjourned at 10:46 AM

The Conditions Affidavit was signed and submitted on October 4, 2022.