

LICENSE HEARING MINUTES
Wabasha Brewing Company, 429 Wabasha St S
Thursday, 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 1:37 PM

Staff Present: Ross Haddow, Department of Safety and Inspections (DSI) Licensing; Erik Hudak, DSI Licensing; Farhan Omar, DSI Zoning; David Eide, DSI Zoning (remote participation)

Licensee: Jason Vastine, Applicant/Owner

Others Present: Steve Gammon, 444 Hall Avenue

License Application: Add a Malt Off Sale (Small Brewery- 128 oz) license to the existing Malt Off Sale (Brewery), Malt On Sale (Brewery Taproom), Liquor On-Sale - Sunday, Liquor Outdoor Service Area (Patio) and Entertainment (A) 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:

Ross Haddow, Department of Safety and Inspections (DSI) gave a staff report for licensee Real Big Huge Brewing Company (License ID# 20210001648), d/b/a Wabasha Brewing Company, located at 429 Wabasha St S. The application is to add a Malt Off Sale (Small Brewery- 128 oz) license to the existing Malt Off Sale (Brewery), Malt On Sale (Brewery Taproom), Liquor On-Sale - Sunday, Liquor Outdoor Service Area (Patio) and Entertainment (A) licenses. There are four existing license conditions:

1. The outdoor sale/service/consumption of beer shall be limited to the area shown on the approved patio seating plan on file with the Department of Safety and Inspections (DSI).
2. Licensee acknowledges that the licenses issued only permits the sale, service, and or consumption of beer which has been brewed by the licensee on these premises.
3. There shall be no amplification of music, broadcasted events, or entertainment provided outside the building without prior written approval from DSI.
4. Per City of Saint Paul Legislative Code 411.02, the definition of Entertainment A is, "Amplified or nonamplified music and/or singing by performers without limitation as to number, and group singing participated in by patrons of the establishment." (includes karaoke). Entertainment A license does not allow for patron and/or performance dances.

DSI is recommending approval with no additional license conditions.

No correspondence has been received from the West Side Community Organization District Council. Building conditions N/A; License approved with conditions; and Zoning approved.

Mr. Omar: This area is zoned as T2 traditional neighborhood, and a brewery is allowed. Parking requirements are no longer applicable so that is no longer something we look at.

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

Mr. Vastine: I bought the business about a year ago in October of 2021. It's a craft brewery and taproom. In total, there are 6 employees. I manage full time day-to-day. My background is in regulatory affairs and then in supply chain operations. I then decided to pursue my passion of craft brewing.

Ms. Vang asked about hours.

Mr. Vastine: Weekly business hours are:

- Tuesday, 4pm – 9pm
- Wednesday – Thursday, 3pm – 10 or 11pm
- Friday, 3pm – 11pm
- Saturday, 12pm – 11pm
- Sunday, 12pm – 8pm
- Monday, closed

Ms. Vang asked if the applicant had questions about the conditions

Mr. Vastine: I had a misunderstanding about the Entertainment (A) license, which was our fault, and we will not make that mistake again and not use outdoor amplification. We had an issue with a performer being unwilling to not use amplification and so we cancelled all our live music for the summer. Since then, we reconsidered our business plan. We liked the idea of live music to elevate local performers, but we have now wound down and cancelled our outdoor music. We don't see it as a big draw and think it may be best for the neighborhood to not have live music at our venue. We are looking more at promoting live music at other venues.

Ms. Vang asked if they plan to withdraw the Entertainment (A) license.

Mr. Vastine: We will probably keep it, to use for indoors and maybe bring music back indoors as we expand into unused areas of the building.

Ms. Vang: Where were the musicians performing?

Mr. Vastine: Outside on the patio, which was our misunderstanding, and we now realize that the Entertainment (A) license does not allow that.

Mr. Haddow clarified that Entertainment A license is specifically for indoors. For outdoor entertainment, there are temporary outdoor licenses or sound level variances. 12 outdoor events are allowed per year. There are also different requirements based on the service area, based on whether or not the event expands into the parking lot.

Mr. Vastine: My confusion was over when that sound level variance was needed.

Mr. Hudak: A sound level variance is required for sounds above 65 decibels. Outdoor sound below that still requires a temporary outdoor entertainment license.

Ms. Vang: Are there any other questions?

Mr. Vastine: No.

Ms. Vang: This new license will allow you to sell cans, and you can already sell off-sale. How do you handle off-sales?

Mr. Vastine: Consumption on the premises is limited to on-sale items. For off-sale we currently do growlers and crowlers, and this would allow us to sell six-packs in 16oz cans. We want to do this because we want our stronger beers served in smaller containers rather than in a larger container. I think it enhances the drinking experience. We don't anticipate it increasing sales overall or increasing traffic. Again, they are for off-sale only. They cannot be consumed on the premises.

Mr. Haddow: It is state law that off-sale items cannot be consumed on the premises.

Mr. Vastine: Our patrons are also good at correcting that action, in addition to our staff correcting that when need be.

Mr. Haddow: The 2022 legislative session allowed this new type of license for small brewers selling under 7,500 barrels, and the city created the license this fall under Chapter 409, with the definition being in 409.02. About 7 businesses have applied for the new license. About 2/3 of our breweries could apply for the license and less than half of them applied.

Ms. Vang then welcomed Steve Gammon (444 Hall Ave.) to testify and referenced the letter of objection from him and his wife, Ann Kukowski, which was added to the record.

Mr. Gammon: We live on the same block as the brewery. Our lot borders the brewery, as do some others. When it comes to the outdoor entertainment, we do all hear it. Our big concern relates to Condition 3 and the noise level associated. Over the past two years on nice days, these have been concerns on Fridays, Saturdays, and Sundays. The brewery is a good neighbor overall. This is just a concern we have. Jason is also a new owner, and we have not documented a huge concern over noise since he took over. The bigger concern was under the previous owner. What we really want is for there to be no amplified music outside, which can be taxing when we even hear it indoors with the air conditioning on while we are having dinner. The brewery since its opening was not sensitive to these concerns under both owners, though in Jason's case I think it was because of his misunderstanding. Last year when there was a license application, we sent in a letter to trigger a meeting, but unfortunately a meeting was never held.

Ms. Vang: Can you elaborate please? My office never received an objection.

Mr. Gammon: We received the notification and did respond. We waited to hear back about scheduling this type of meeting but never heard anything. I just wanted to bring that up to make sure we have a voice.

Ms. Vang: I take this concern very seriously, and I want you to know that we did not ignore your concern. I want to clarify that the ways residents can respond to notifications are printed on the Class N Notification, which is sent to residents when they are offered the change to object. Those methods are by sending an email to LH-Licensing@ci.stpaul.mn.us or by sending a letter to 310 City Hall, 15 West Kellogg Blvd.

Mr. Gammon: It seems like our concerns have been largely resolved after listening to Mr. Vastine. I'm glad to have met him and think we could have cleared this up if we met before this hearing. We are glad to hear that he takes our concerns seriously. The only other concern we have is a safety one, where a food truck parks closer than 30 feet from the intersection, which obstructs visibility. As cars ease out to see past it, they actually end up in the intersection on Isabel and Wabasha. I haven't raised this with the new owner and did not raise this with the previous owner because they were so unresponsive. I think city code doesn't allow this but am not sure. I got a ticket once for parking within 30 feet of the intersection. As for the music, I am confident that we can resolve that concern, and I think we can resolve this other safety issue too.

Ms. Vang then gave Mr. Vastine the opportunity to respond.

Mr. Vastine: Regarding the loud noise and entertainment, we want to make sure we aren't being bad neighbors and I'm very glad Mr. Gammon and I met today. I want this business to add value to the neighborhood. Regarding the food truck, and the corner, we see cars parked in front of the brewery near the corner pretty often because of the coffee shop across the street. We try to cone off a proper spot for the food truck and we think there are solutions here. We can even allow the food trucks to park in our lot, which some have done. One plan I've talked about with Mr. Haddow is to make our patio fully contiguous and cut the driveway out of the middle of our

service area. We want to make sure these food trucks aren't obstructing sight lines. We have food trucks visit every Friday. We don't have any kind of revenue sharing relationship. They are fully independent.

Mr. Haddow clarified where food trucks can park: The City does not regulate food trucks. If they meet state requirements, they can operate in the City. They do need to follow our parking requirements though. The one thing we have specifically for food trucks though is that food trucks cannot operate in the same space more than 21 days of the year. Regarding the driveway, it cannot be blocked by a food truck.

Mr. Omar: T2 Traditional Districts do allow for food trucks, also. We have meter regulations for food trucks but there are no meters here. We also want to make sure they aren't obstructing the public right-of-way.

Mr. Haddow: Are food trucks scheduled or do they randomly show up?

Mr. Vastine: Scheduled.

Mr. Haddow: Could you let business know that they must be on the property when you schedule them?

Mr. Vastine: Yes, though it could prevent larger trucks.

Mr. Haddow: Could you make it a practice of attempting to have them on your lot whenever possible?

Mr. Vastine: We will, yes.

Ms. Vang asked Mr. Hudak if there are city size restrictions on food trucks. Mr. Hudak stated that there are not. She then also encouraged Mr. Vastine to have food trucks park on the property.

Ms. Vang and Mr. Hudak clarified that if there are concerns of illegal parking, they should contact the police nonemergency traffic number. Mr. Hudak added that nothing in the conversation so far seemed to entail illegal parking concerns.

Ms. Vang then asked Mr. Gammon if had any closing questions or concerns.

Mr. Gammon: I am encouraged by what I hear and what I've seen. I'm encouraged by Mr. Vastine being a manager on-site, so I can walk over and talk to him if need be. This has been well worth my time and has been a good lesson on the importance of communication.

Ms. Vang: Regarding the patio and any renovations, please stay in touch with zoning and public works. Could you elaborate on your outdoor space?

Mr. Vastine: There are two patios that are disconnected from the patio. We want to move the driveway to the southmost part of the plot and have a fully contiguous patio.

Ms. Vang: Could the driveway be on the side, along Isabel St?

Mr. Haddow: The aerial view doesn't really show the incline along the property, but a driveway there would be closer to the second story of the building because of the way it slopes, so that wouldn't be very doable. The residents in question live on a sort of bluff that is even higher up, just to help you understand the lay of the land.

Mr. Haddow and Mr. Vastine clarified the planned location of the new driveway as being farther south, so that the two separate patios could combine.

Mr. Hudak clarified that patios need to be compact and contiguous, and that the split patio may not be compliant with current city regulations. These regulations were relaxed during the pandemic but that split may no longer be complaint as of April 4th. The patio across the driveway can now no longer be used for liquor or alcohol service.

Mr. Vastine: This is new to me and has a huge effect on the operation.

Mr. Hudak: We will work with you and help you make this planned change to your service area.

Ms. Vang: So, he would be asking for a new curb cut?

Mr. Farhan: Yes. Zoning review and site plan review would have to get involved, as would public works because the old curb cut would need to be raised and a new one would need to be created.

Mr. Hudak: That would also allow a food truck parked on the street to be further from the intersection.

Ms. Vang asked Mr. Haddow if the business would need to apply to DSI for this expansion?

Mr. Haddow: Yes, and because it would be a substantial expansion of service area on the patio, we would likely have a public notice and go through this process again.

Ms. Vang asked Mr. Vastine if he had any additional questions. Mr. Vastine said he did not.

Mr. Gammon thanked the inspectors for their work in visiting the property.

Mr. Hudak: I want to clarify that we are complaint-based and not proactive.

Mr. Vastine: That is good to know.

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:

1. The outdoor sale/service/consumption of beer shall be limited to the area shown on the approved patio seating plan on file with the Department of Safety and Inspections (DSI).
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The hearing adjourned at 2:48 PM

The Conditions Affidavit was signed and submitted on October 18, 2021. With no changes to conditions, this Conditions Affidavit shall remain and continue in full force and effect.