Council File # 10-760
Green Sheet # 3115717

RESOLUTION
CITY OF SAINT PAUL, MINNESOTA

17

Presented by

Approving the application with conditions, per the Deputy Legislative Hearing Officer, to add a Liquor Outdoor Service Area (Sidewalk) license for The Green Mill Inn Inc. (I.D. #20070003903), d/b/a Green Mill, 57 Hamline Avenue South

WHEREAS, The Green Mill Inn Inc. (I.D. #20070003903), doing business as Green Mill, located at 57 Hamline Avenue South in Saint Paul, has applied for a class N license to add a Liquor Outdoor Service Area (Sidewalk) license; and

WHEREAS, the Green Mill's residential properties are within a 350 foot radius of licensee's proposed sidewalk and outdoor liquor service area; and licensee must seek consent of neighboring residential properties and demonstrate that s/he were able to obtain ninety percent (90%) approval or, in the lesser case, sixty percent (60%) or more approval; and

WHEREAS, licensee sought support from a list of private residences provided by the Department of Safety and Inspection and worked with District 14 (Macalester Groveland Community Council) to do a mailing seeking support from the neighborhood; and

WHEREAS, licensee had staff conduct door-to-door petition of the neighborhood back in September 2009 and again in February 2010 to obtain support, including follow up letters to rental properties; and

WHEREAS, licensee was unable to directly reach the property owners and owners of the residential properties and not everyone who was in favor of the licensee's request signed the petition; and

WHEREAS, licensee was unable to meet the ninety percent (90%) consent threshold or the minimum sixty percent (60%) consent threshold; and

WHEREAS, licensee, per City of Saint Paul Legislative Code 409.06(g) (2) (c), was able to obtain approximately thirty-six percent (35.7%) neighborhood consent, including full support from the Macalester Groveland Community Council Land and Use Committee; and

WHEREAS, the Council finds that these efforts constitute a good faith effort to fulfill all petition requirements, and that the results of the attempts to obtain signatures showed a generally favorable disposition from the surrounding community toward the proposed licensed activity; and

WHEREAS, the Council finds that issuance of the license will not interfere with the reasonable use and enjoyment of neighboring property and residences and will not bear adversely on the health, safety, morals and general welfare of the community; and

WHEREAS, the Deputy Legislative Hearing Officer recommends that Green Mill's application to **add a Liquor Outdoor Service Area (Sidewalk) license** be approved with the following conditions:

Existing Conditions

1. Sale of alcoholic beverages should be limited to 30% of total sales. Green Mill will continue to utilize all of its tables for full menu service.
2. Hard liquor service will terminate with the closing of the kitchen at 11:00 p.m. on weekdays and midnight on weekends.
3. No Happy Hour specials on hard liquor drinks.
4. No expansion of bar seating—currently, there are approximately nine (9) seats.
5. No Class III (Class B) entertainment allowed.
6. A Designated Driver Program will continue to be promoted within the restaurant.
7. No dumping of glass and bottles into dumpsters by Green Mill clean-up staff before 7:00 a.m. and after 10:00 p.m.
8. No pick-up of trash and/or recyclables before 7:00 a.m. on weekdays or 9:00 a.m. on weekends.

New Conditions (9 through 7 were added with the request for the Liquor Outdoor Service (Sidewalk) License)

9. Customers will not be seated at the outdoor sidewalk cafe after 8:30 p.m., and this outdoor cafe will be closed (unoccupied) at 9:30 p.m.
10. Licensee acknowledges the sidewalk cafe license is issued subject to pending City Ordinance changes that may affect the location and/or number of tables/chairs permitted on the sidewalk. And, that ordinance changes may require a reduction in the number of tables/chairs and/or further restrict the permitted location for placement of tables/chairs.
11. The sidewalk cafe is an extension of the restaurant operation onto a part of the public sidewalk which immediately adjoins the licensed premises.
12. No sidewalk cafe shall be permitted in any portion of the public sidewalk where normal pedestrian traffic flow is obstructed. A minimum clearance width of forty-eight (48) inches must be maintained on the public sidewalk at all times.
13. No tables, chairs or any furnishings, except plant tubs, shall be placed in the DSI approved area used for the sidewalk cafe during any period when the sidewalk cafe is not open and being operated. While such cafe is in operation, all tables and chairs shall be kept in a clean, sanitary condition.
14. The use of a portion of the public sidewalk as a sidewalk cafe shall not be an exclusive use. All public improvements, including but not limited to trees, light poles, traffic signals, pull boxes or manholes or any public-initiated maintenance procedures, shall take precedence over said use of the public sidewalk at all times.
15. If plant tubs are included in a sidewalk cafe, it shall be the duty of the licensed food establishment to maintain each plant tub at all times in a safe condition at its proper location and to inspect each such tub periodically in order that it may be properly maintained. Trees or plants and their tubs shall at all times be kept in a neat, clean and presentable condition. No advertising matter or sign or writing of any kind shall be displayed upon any tree or plant or its tub. (NOTE:

Plant tubs left out over night require a Public Works Obstruction Permit. Licensee agrees to obtain this permit, if necessary (call 651-487-7250 to obtain this permit).

16. Only tables, chairs (8 tables/32 chairs) and fencing (theater roping) shown on the approved site plan dated 4/6/10, may be located on the public sidewalk. Any other items or devices to be placed on the public sidewalk must have prior approval from DSI before they may be installed.
17. Failure to comply with any of these conditions may be grounds for adverse action.

THEREFORE, BE IT RESOLVED that the Council of the City of Saint Paul hereby approves this license application with the aforementioned agreed-upon conditions.

	Yeas	Nays	Absent
Bostrom	✓		
Carter	✓		
Harris	✓		
Helgen	✓		
Lantry	✓		
Stark	✓		
Thune	✓		
	7	0	0

Adopted by Council: Date 7/21/2010

Adoption Certified by Council Secretary

By: Mary Erickson

Approved by Mayor: Date 7/27/2010

By:

Requested by Department of.

By.

Approved by the Office of Financial Services

By:

Approved by City Attorney

By:

Approved by Mayor for Submission to Council

By:

LICENSE HEARING MINUTES
Green Mill at 57 Hamline Avenue South
Thursday, June 17, 2010, 10:00 a.m.
330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

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

Staff Present: **Larry Zangs, Department of Safety and Inspections (DSI); and Jean Birkholz, Council Research**

Others Present: **Mary Jule Erickson, co-partner; and Horace Thompson, neighbor**

Green Mill: Add Liquor Outdoor Service Area (Sidewalk) license to the existing Liquor On Sale 181-290 Seats, Liquor On Sale – Sunday, Restaurant (5) – 151 and Over and Gambling Location licenses

Ms. Vang stated that this is an informal legislative hearing for a Class N license application, which requires neighborhood notification. The City received one (1) letter of concern regarding this license application. If anyone has a concern, it automatically triggers a legislative hearing. Other Class N Licenses include: tattoo parlors, entertainment, second hand dealerships, auto repair, etc.—things that have an immediate impact on the neighborhood. The purpose of today's hearing is to help Ms. Vang prepare a recommendation to the City Council. Ultimately, there are three (3) possible outcomes from this hearing: 1) Ms. Vang may recommend to the City Council that they issue this license without any conditions; 2) she may recommend to the City Council that they issue this license with agreed upon conditions; or 3) she may recommend to the City Council that they not issue this license but refer it to an administrative law judge for a further hearing and findings.

The hearing will begin with a report from the Department of Safety and Inspections (DSI). Staff will be asked to explain their review of the application and to state their recommendation. Next, Ms. Vang will ask the applicant to talk about the business plan. Then, she will hear from people who are here in support of the issuance of the license and those with concerns about the issuance of the license. 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.

Mr. Larry Zangs, Department of Safety and Inspections (DSI), reported that DSI is recommending approval of the license with conditions. The Conditions' Affidavit was signed on April 21, 2010. The site plan was approved on April 6, 2010. The conditions are as follows:

Existing License Conditions:

1. Sale of alcoholic beverages should be limited to 30% of total sales. Green Mill will continue to utilize all of its tables for full menu service.

2. Hard liquor service will terminate with the closing of the kitchen at 11:00 p.m. on weekdays and midnight on weekends.
3. No Happy Hour specials on hard liquor drinks.
4. No expansion of bar seating—currently, there are approximately nine (9) seats.
5. No Class III (Class B) entertainment allowed.
6. A Designated Driver Program will continue to be promoted within the restaurant.
7. No dumping of glass and bottles into dumpsters by Green Mill clean-up staff before 7:00 a.m. and after 10:00 p.m.
8. No pick-up of trash and/or recyclables before 7:00 a.m. on weekdays or 9:00 a.m. on weekends.

Recommended Additional License Conditions:

9. Customers will not be seated at the outdoor sidewalk cafe after 8:30 p.m., and this outdoor cafe will be closed (unoccupied) at 9:30 p.m.
10. Licensee acknowledges the sidewalk cafe license is issued subject to pending City Ordinance changes that may affect the location and/or number of tables/chairs permitted on the sidewalk. And, that ordinance changes may require a reduction in the number of tables/chairs and/or further restrict the permitted location for placement of tables/chairs.
11. The sidewalk cafe is an extension of the restaurant operation onto a part of the public sidewalk which immediately adjoins the licensed premises.
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16. Only tables, chairs (8 tables/32 chairs) and fencing (theater roping) shown on the approved site plan dated 4/6/10, may be located on the public sidewalk. Any other

items or devices to be placed on the public sidewalk must have prior approval from DSI before they may be installed.

17. Failure to comply with any of these conditions may be grounds for adverse action.

A brief recess was taken at 10:17 am for Mr. Zangs to clarify the conditions.

The hearing reconvened at 10:27 a.m.

Mr. Zangs restated that there was an error regarding conditions on the staff report; however, they are consistent on the Notice and the Conditions' Affidavit, as listed above.

A letter was sent by Macalester-Groveland Community Council to DSI in which they recommended their approval of Green Mill's application for outdoor liquor service area to the sidewalk with the restriction of an 8:30 p.m. closing; Green Mill's remediation of alley mirrors; and the removal of alley benches. Staff took the closing recommendation into consideration with condition #9. Green Mill has agreed to install a mirror on the alley to allow exiting vehicles to see if there are pedestrians on the sidewalk (not yet installed). Mr. Zangs explained that at one time, there were some benches on the sidewalk on Hamline. Green Mill eventually moved them to the back of the alley. Since the notice went out, Green Mill has removed them.

The site plan was approved on April 6, 2010. If a tree or trees are removed along Grand Avenue and the sidewalk restored, the site plan will reflect that change, according to Don Stein, Public Works. If the site plan is to be modified, Mr. Zangs will send a copy to Ms. Vang. Mr. Zangs also reminded Ms. Erickson that Green Mill will need an Obstruction Permit from Public Works if it intends to leave tables/chairs outside overnight.

Mr. Zangs stated that City Council had recommended approval for a 45-day waiver but given the situation that is now a mute issue. Also, the City Attorney's Office was not satisfied with the explanation of how Green Mill collected the signatures for petition. The number on the petition fell below 60 percent; it was somewhere between 24-26 percent. The ordinance now requires that the applicant provide an explanation of what they did to circulate the petition. Ms. Erickson responded that two (2) of their staff members will put together a statement indicating their process for obtaining petition signatures (will send to DSI tomorrow). The third thing is that the SAC charge (one (1) unit= $2,226) needs to be paid before issuance of the license. This is a one-time fee for seasonal seating. The SAC requirement for seasonal seating at this rate went into effect in late 2009. Originally, the SAC requirement was much higher (full rate). The Met Council decided to assess the fee at 25 percent of the full rate. All SAC fees are forwarded on to the Met Council.

Ms. Vang asked applicant and co-partner, Mary Jule Erickson, how Green Mills adding a sidewalk liquor service area will be of benefit to the community. Ms. Erickson responded that Green Mill has been thinking about adding a sidewalk liquor service area for a year or two (2). Last summer was an exceptionally beautiful and dry summer and the business took a hit

because it didn't have an outdoor sidewalk liquor service area. Also, Grand Avenue has many outdoor sidewalk cafes and Green Mill wanted to provide the outdoor eating experience for their patrons, as well. Each day they get calls asking whether Green Mill has an outdoor sidewalk liquor service area. They have worked with the district council as much as possible to get their input. Ms. Vang asked Ms. Erickson if she had any questions about the conditions. Ms. Erickson did not.

Referring to the site plan, Ms. Vang asked how customers will access the sidewalk dining area. Mr. Erickson responded that patrons will enter the restaurant first and then they will be seated outside. Ms. Vang asked about staffing. Ms. Erickson replied that currently they have about seventy-five (75) staff, which may increase as a result of the addition of outside dining. A manager will be on duty at all times. It is part of the opening and closing manager's duties to make sure that all trash and litter all around the building is taken care of. There is no extra outside lighting. Ms. Erickson did not know whether smoking would/would not be allowed on the sidewalk.

Ms. Vang asked Ms. Erickson how many attempts were made to petition the neighborhood and did they do a mailing. Ms. Erickson responded that they did not do a mailing; the mailing came from District 14. Staff spent about two (2) weeks petitioning the neighborhood. An explanation will be presented in her forthcoming letter.

Ms. Vang read the letter of concern from neighbors, Horace and Valerie Thompson. They do not believe that this license will contribute to the quality of the community nor the health and welfare of the prospective patrons. The Grand Avenue Business Association provided a letter of support.

Mr. Horace Thompson, neighbor, spoke in opposition. Mr. Thompson has concerns about vehicle traffic management. The main concern is about the many vehicles that go the wrong way on the one-way streets that approach Hamline, especially during rush hour. Many do a U-turn where they are not allowed to. An annoying concern is parking. Many patrons of Green Mill park on the residential streets and sometimes there is no room to park in front of one's own house. Late night noise as patrons leave Green Mill is also a concern. An additional concern is that Hamline seems to be an artery for the police and fire trucks that speed down the street which causes more chaos in heavy traffic with cars backing onto the street when trying to avoid going down a street the wrong way. He would like to see larger signs indicating one-way streets and maybe a 25 mph zone. Ms. Vang commented that his requests are large than the licensing hearing and his concerns probably can not be handled through this process. She deferred to Mr. Zangs. Mr. Zangs responded that "No Left Turn" onto Lincoln has been imposed for a very long. It is a normal expectation for people to be able to turn left and/or right on a traditional grid street. The one-way street was put into place, not because of a traffic safety issue but because of complaints/concerns raised by the neighbors twenty plus years ago about access to the neighborhood via businesses on Grand Avenue, not just Green Mill but also Green Mill. The neighbors were trying to eliminate traffic from the businesses circulating through the

neighborhood. Regarding the signs, Mr. Zangs said that they are all standard size signs. He is unsure whether they can be made larger and he is not sure that they would help anyway. Mr. Thompson suggested the possibility of stripping the street to bring attention to the one-way. Mr. Zangs responded that perhaps he could raise his concern with the traffic division of Public Works and suggest that they, at least, evaluate that intersection to determine whether there are other things that could be done that would, at least, alert drivers that there is something different about that intersection.

Ms. Vang suggested that Ms. Erickson find a way for her staff to encourage patrons to keep the noise down when they leave the restaurant.

Mr. Thompson added a suggestion for his traffic concern: perhaps an ideogram could be placed on the exit door indicating no U-turn on Hamline and the one-way street. Ms. Erickson indicated that she would look into the matter.

Ms. Vang will recommend approval with the conditions recommended by DSI.

The hearing was adjourned at 11:20 a.m.

/jab

Note: Conditions' Affidavit was signed on June 24, 2010. A site plan was approve by Zoning on June 23, 2010.

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Department/Office/Council:	Date Initiated:
CO - Council	07 JUL 2010

Green Sheet NO: 3115717

Contact Person & Phone:
Nhia Vang
266-8566

Must Be on Council Agenda by (Date):
21-JUL-10

Doc. Type: RESOLUTION

E-Document Required: Y
Document Contact: Jean Birkholz
Contact Phone: 266-8673

Assign Number For Routing Order

	Department	Sent To Person	Initial/Date
0	Council		
1	Council	Department Director	
2	City Clerk	City Clerk	
3			
4			
5			

Total # of Signature Pages _____ (Clip All Locations for Signature)

Action Requested:

Approving the license application with conditions, per the Deputy Legislative Hearing Officer, to add a Liquor Outdoor Service Area (Sidewalk) license for The Green Mill Inn Inc. (I.D. #20070003903), d/b/a Green Mill, 57 Hamline Avenue South.

Recommendations. Approve (A) or Reject (R):

_____ Planning Commission
_____ CIB Committee
_____ Civil Service Commission
_____ _____
_____ _____
_____ _____
_____ _____

Personal Service Contracts Must Answer the Following Questions:

1. Has this person/firm ever worked under a contract for this department?
   Yes No
2. Has this person/firm ever been a city employee?
   Yes No
3. Does this person/firm possess a skill not normally possessed by any current city employee?
   Yes No

Explain all yes answers on separate sheet and attach to green sheet.

Initiating Problem, Issues, Opportunity (Who, What, When, Where, Why):

Advantages If Approved:

Disadvantages If Approved:

Disadvantages If Not Approved:

Total Amount of Transaction:

Cost/Revenue Budgeted:

Funding Source:

Activity Number:

Financial Information: (Explain)