

LICENSE HEARING MINUTES
MC's Hog LLC, dba Handsome Hog, 173 Western Avenue N
Monday, July 8, 10:00 AM
Room 330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Legislative Hearing Officer

The hearing was called to order at 10:02 AM

Staff Present: Tom Ferrara, Department of Safety and Inspections (DSI) Licensing Inspector; Frances Birch, DSI Zoning Inspector (remote participation); Eric Hudak, DSI Licensing Manager (remote participation)

Licensee: Patrick Conroy, Applicant/Co-Owner; Frank Greczyna, Co-Owner

License Application: Liquor On Sale - 101-180 Seats, Liquor On Sale - Sunday, and Liquor-Outdoor Service Area (Patio) licenses

Others in attendance: JoBeth Marshall, 165 Western Ave N #202; Jim McKenzie, 165 Western Ave N #303

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:

Tom Ferrara, Department of Safety and Inspections (DSI) - Licensing, gave a staff report for licensee MC's Hog LLC, (License ID# 20240000668), d/b/a Handsome Hog, located at 173 Western Avenue N. The application is for Liquor On Sale - 101-180 Seats, Liquor On Sale - Sunday, and Liquor-Outdoor Service Area (Patio) licenses. DSI is recommending approval with the following license conditions:

1. Licensee agrees to operate the establishment in compliance with Section 409.02 of the City of Saint Paul Legislative Code as a "Restaurant".

2. Licensee agrees to close the establishment at 12:00 a.m. midnight. All patron/customers shall vacate the premises by 12:30 a.m. each day of the week as per Section 409.02 of the City of Saint Paul Legislative Code.
3. Any outdoor activities related to an outdoor seating area 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.
4. Licensee will create a video surveillance camera and lighting placement plan (video surveillance plan) for the parking lot at 401 Selby Ave associated with the licensed premises. License holder 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, license holder 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 video. License holder will retain surveillance video for a minimum of thirty (30) days. If an incident is deemed serious by SPPD, license holder 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, license holder shall have the technology, materials and staff available to immediately make the copy. In all other cases, license holder shall provide a copy of the surveillance video to the requestor within 48 hours.
5. The outdoor patio seating area shall close by 10:00 p.m. each day of the week.
6. Licensee will retain an acoustic engineer to perform a noise impact analysis and follow all recommendation for mitigation of noise impacts in compliance with state and local rules and regulations.

The District 8 Summit-University Planning Council submitted an email acknowledging receipt of the application. Building conditions, N/A; License approved with conditions; and Zoning approved.

Hearing Officer Nhia Vang asked if the applicant understood and agreed to the conditions listed on the Class N Notification, or if they had any questions.

Patrick Conroy: I was wondering about Condition 2, about the midnight closing. Is that the rule for all City liquor establishments.

Ferrara: That is the latest allowed closing time for liquor establishments operating under City Code as a restaurant.

Conroy: So, midnight closing is the rule for all of Saint Paul?

Ferrara: For those licensed as a restaurant, yes.

Hearing Officer Vang: By state statute, there's a cap on the number of full liquor licenses that can open beyond midnight. But the legislation changed a while back to allow for more restaurants to have liquor licenses, and they created this new level of liquor license. And as part of that, Conditions 1 & 2 must include those language so that the city can distinguish between businesses that existed before the law changed and newer ones.

Conroy: So, someone established for years can be open later?

Vang: If they were grandfathered in, yes.

Conroy: That seems unfair.

Frank Greczyna: Red Cow is another restaurant that's attached to our building. I'm wondering if they can be open later than us.

Eric Hudak: There are some establishments that have been grandfathered in to stay open until 1:00 or 2:00 AM to operate as a bar where food service is not required. There was a charter change in 2016 to allow more liquor licenses to be issued throughout the City. Those licenses were predicated on the fact that they must operate under the definition of a restaurant, which requires that they close at midnight and a substantial portion of their sales be attributed to food. There are many establishments that stay open past midnight. Unfortunately, yours is one that cannot, as it has not been grandfathered in. There are currently no means for you to pursue a closing time past midnight. That would require legislative changes.

Greczyna: Is the current operator able to open past midnight?

Ferrara: No.

Hearing Officer Vang: Red Cow previously had a 2:00 AM license, which is why they can be grandfathered in.

Greczyna: It's ridiculous.

Hudak: The City has about 60 2:00 AM licenses issued.

Hearing Officer Vang: Any other questions about the conditions?

Conroy: Is the current video camera system suitable for the City?

Ferrara: The current system was previously approved. You are supposed to make an appointment with our police officer to come and review the system, still. I don't know if that's been done, but I know they've made appointments to set it up. The contact on behalf of you guys wasn't sure if it was fully operating but did acknowledge it was in place and it was up to these standards.

Hearing Officer Vang next asked about the Zoning review.

Frances Birch, Department of Safety and Inspections (DSI) - Zoning, gave a staff report. The area is zoned B2 – Community Business. This is a permitted use. The patio site plan under previous ownership is approved. Are there any changes to the patio?

Conroy: No

Birch: Zoning has no issues there, then. There are no parking requirements associated with this application. The current parking plan is approved. Any changes would need to meet new parking rules.

Hearing Officer Vang: Will there be any parking changes?

Conroy: No. I don't own the property.

Hearing Officer Vang: How many spaces are there?

Conroy: 3 or 4.

Hearing Officer Vang: Are there intentions for the property owner to add parking?

Conroy: I don't know anything about that.

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

Conroy: I managed this business from 2018 to 2020. I was part of the group that brought it from downtown to its current location. I later left after COVID hit. The owner, Jim Crockarell, passed away and his wife asked me to take over Handsome Hog. I don't intend to change anything.

Hearing Officer Vang: What are your hours of operations?

Conroy: 3:00 PM – 12:00 AM, Monday – Friday; 10:00 AM – 12:00 AM, Saturday – Sunday.

Hearing Officer Vang: How many staff do you have?

Conroy: 30-40 people altogether.

Hearing Officer Vang: Where do staff park?

Conroy: Not sure. We have a couple spots for management.

Hearing Officer Vang: What are the patio hours?

Conroy: The patio opens at the same time and closes at 10:00 PM.

Hearing Officer Vang: How are staff monitoring the patio? How are patrons seated?

Conroy: The patio has a separate entrance on Selby and staff are there to greet people. People cannot enter the patio through the inside of the restaurant.

Greczyna: The only entrance from the patio into the building is through the kitchen.

Hearing Officer Vang: How many tables are on the patio?

Greczyna: It has 25-30 seats. The host seats people at tables. People can seat themselves at the bar.

Hearing Officer Vang asked about exterior and patio lighting.

Conroy: We won't be making any changes to the current patio and lighting.

Hearing Officer Vang: Is there music on the patio?

Conroy: No.

Greczyna: We helped Jim Crockarell manage all his places, including partnering with Justin Sutherland, but that went away. We own 17 other places around the twin cities. We're not new at this.

Vang: Will Madison Equities financial difficulties impact this at all?

Greczyna: We're not sure if this property will be impacted. We haven't had issues at our other locations around the suburban area. We have great relationships with city councils, police, and other city staff. We have been around 13-14 years. This is a unique situation where the owner passed away and his wife asked for a favor.

Conroy: There's not a ton of monetary gain for me. I'm more doing it as a favor.

Hearing Officer Vang: Are you excited to own this business?

Conroy: No, not at all.

Greczyna: I've lived at the corner of Ashland and Arundel for 24 years. I built my place and am a block and a half away.

Conroy: It's more for his benefit than mine.

Greczyna: We needed a place for people to go to eat and drink.

Hearing Officer Vang: Have there been any notable complaints in your time managing the place?

Conroy: I left in March 2020 before the patio got put in. I was managing 6 locations that Madison Equities owned in Saint Paul. I don't remember anything in particular.

Hearing Officer Vang next invited other attendees to testify.

JoBeth Marshall (165 Western Avenue, #202): The 4th picture in the street photos shows my window that overlooks the patio on the second floor. I was unsure what was being asked based on what the City sent, and now I understand it's just a change in ownership. I know things change hands and we want to keep the area lively. I'm here because this business has a history with the owners not cooperating regarding noise. They said there wouldn't be music and there was, and it went right at our windows. They moved the live music back after complaints, but you can still hear the talking and noise from the bar. There's still music playing too and I'm not sure where it comes from. When I asked about closing time, they always say 11:00 PM. Conroy said patio closes at 10:00 PM. (referred to notes about patio hours) They say they close at 10:00 PM, and that hasn't been true. I can see people coming and going from outside past 10:00 PM. I have two weeks of notes I made though that contradict that. Two nights it closed by then because of rain, but last night at 10:00 PM all the lights were on, the gates were open to the street, and people were coming and going. Same thing at 11:00 PM, with people being served. I could see the back bar lights on as well. This instance wasn't loud,

but the closing of the patio is at 10:00 PM isn't true. I have notes of other instances of the lights on and the gate being open at 11:30 PM or later. I do appreciate the trees on the patio for suppressing sound. I've also seen people standing outside on the corner with their cups and pushing each other into the streets. One time within the last year I had to call the police about someone who might have gotten hurt with how they were behaving in the street. There has been an issue with people leaving the patio at 10:00 PM and making noise. Also, about staffing, there isn't always someone there to greet people. I was going to eat there once and nobody came, so I left. We've worked on things before with Nina's with a sound engineer. I believe we can work together to come to something that's good. One night there were 30 men standing on the corner which was intimidating.

Conroy: I've been there for the last 2-3 months and there has been no outdoor music.

Marshall: I haven't heard live music. Just loud music. It might be recorded.

Conroy: After 10:00 PM the only people out there are staff cleaning up. None of our restaurants have live music.

Ferrara: A live band would require a sound level variance for a special event with notice and a public process. There are also limited numbers of those each year. This business also has no entertainment license, so amplified sound would be a violation. If that did happen, it would be done illegally, and we would take enforcement action. I haven't seen any noise complaints to the license since 2022. It looks like the patio license was first applied for in 2019 and withdrawn and then issued in June of 2020 to the patio. Again, any outdoor amplified sound would be a violation, and we just haven't had the complaints to substantiate that. So, we haven't had any enforcement action. I can inform you on the complaint process in case it ever did happen. Based on their business plan, it's not their intent to have any music outside.

Marshall: It wasn't live this summer or loud enough to report. This is an issue for trust. Gates open when you're saying the patio is closed creates distrust.

Hearing Officer Vang: Cleaning up might require the gate to be open so staff can go out there, since the only other way out is through the kitchen. What is your last call time and is someone out there to make sure people go inside? Is there a pergola out there as well, to provide cover for the space and mitigate sound?

Greczyna: There is, over the bar.

Marshall: I've seen people eating there way after 10:00 PM on a nice night, but you can hear the bar until midnight.

Hearing Officer Vang: Was there a misunderstanding that you thought the patio could be open past 10:00 PM?

Conroy: I've always thought that the 10:00 PM patio closing was mandatory.

Ferrara: Last call should be at 9:55 PM and it needs to be cleared by 10:00 PM.

Marshall: I've gone in and asked what time the patio closes and been told 11:00 PM, so there's inconsistency and distrust.

Conroy: Staff are told that if things are slow, they can close any time after 11:00 PM, which may have been what the person thought you were asking about that day. The patio always ends at 10:00 PM. People go outside to smoke on the patio sometimes. Does it matter if they go out to smoke?

Ferrara: My interpretation is that the patio is closed for service, based on the condition. There isn't any ordinance or code for us to go off here.

Marshall: If last call was at 10:00 PM last night, why was someone leaving from the bar at midnight? I'm confused.

Conroy: Did you watch him for the full two hours?

Marshall: All I have to do is turn my head when watching TV to see your patio. I saw him.

Conroy: I'm just trying to clarify. Maybe he was having a smoke.

Marshall: He wasn't smoking.

Conroy: I can assure you he wasn't served out there.

Marshall: He was weaving as he walked.

Greczyna: We are connected to Red Cow next door. We're not the only ones doing business, and they're even open later. Their crowd is younger and louder. There's a total of 3 bars in that corner. How do we control something like that?

Hearing Officer Vang: Is the patio locked when you close?

Greczyna: Yes. We don't control the adjacent business though, and they get to stay open two hours later than we do.

Hearing Officer Vang: Is the patio within your control?

Greczyna: How do you know if someone on the street came from us though?

Hearing Officer Vang: You don't. I'm just clarifying if you control the patio completely.

Greczyna: We do. We can't control the bar next door.

Hearing Officer Vang: The issue is that Ms. Marshall sees people on the patio until midnight, and I'm curious if there are people out there besides staff. Are staff clearly identified in some way?

Conroy: No.

Hearing Officer Vang: You may need to address the issue of people being out there with your staff, and they may need additional training for managing the patio to make sure the gate is closed. Because of the way you operate, if the gate is open, people are supposed to walk in rather than go through the building for service.

Conroy: I can assure that no customers will be out there at 10:00 PM. Regarding smokers, I can lock the patio down at 10:00 PM if that's what you'd like.

Hearing Officer Vang: We've interpreted it as no one being out there besides staff. Does cleaning take until midnight?

Conroy: It can sometimes take until midnight. We have reduced staff at the later hours.

Ferrara: That interpretation is based on the condition, not on ordinance.

Conroy: Regarding the 30 people on the corner, that could be people smoking.

Hearing Officer Vang: It is the responsibility of a business owner to make sure people disperse. This is a mixed-use area with residential uses nearby. I also encourage you that if a situation ever becomes violent, please do not put your people at risk and to call the police.

Hearing Officer Vang then asked Mr. Ferrara to explain the complaint process with DSI.

The City's complaint line is 651-266-8989. It's staffed 8:00 AM – 4:00 PM during the week and takes voicemails at all hours. Live staff can also transfer you to others. There is also an email I can give you for sending complaints. They are completely anonymous. We investigate complaints through our formal process. Complaints get logged in our system, and there hasn't been a noise one there after 10:00 PM. That doesn't mean it hasn't happened, but we haven't received a complaint about it. All complaints are investigated by inspectors. After an investigation, if the complaint is substantiated, we focus first on education, to make sure owners know their conditions and their ordinance requirements. If it continues, progressive adverse actions can be taken ranging from fines to suspension and up to revocation of a license.

Marshall: The goal is to work together and not cause problems.

Conroy: Has this summer been better or worse than previous summers?

Marshall: Better. Being open later is a bit worse but the noise level is less. I assume the group of 30 people was a bachelor party or something.

Hudak: The applicants are experienced and in good standing. DSI has no reason to think they won't abide by regulations. As the resident mentioned, working together with residents is the best way to resolve issues.

Hearing Officer Vang: I would suggest exchanging contact info after the hearing as well.

Jim McKenzie (165 Western Avenue N, #303): My unit overlooks the W.A. Frost patio. I appreciate that Handsome Hog has joined the neighborhood. I like living in an active neighborhood. I can't find any websites saying businesses are open until midnight. Some say 11:00 PM or 11:30 PM. We moved here in June 2020. There were some rough times and lots of police calls. I heard the noise from Handsome Hog even from my unit. My wife complained and was pleased by how the City handled it, and we did see a marked change in sound. I am a member at-large of our homeowners' association and want to enhance this community. After reading the conditions and hearing this

conversation, I have no objection to the application. I have concerns, but it seems like they are being addressed.

Conroy: Has this summer been better than previously?

McKenzie: Yes. Last summer was better than previous years too.

Hearing Officer Vang next read into the record the letters of objection from Evan Friedley (165 Western Avenue N, #502), Laura Holte, Heather Trachsel (165 Western Avenue N, #300), Pauline Hanson (404 Dayton Avenue), and Larry Cline (165 Western Avenue N, #204). These letters voiced concerns about noise, late hours, parking, and safety.

Hearing Officer Vang: Have there been complaints logged about music being played outside, and was there enforcement action taken?

Ferrara: All I can see here are the complaints themselves. I don't recall any adverse action. There may have been communications to the owner and corrective actions taken. The last sound complaint was on June 1, 2022.

Hearing Officer Vang: One letter also mentioned police reports. Could you speak to that, Ferrara?

Ferrara: Police call data shows more traffic accidents than anything else. There was a police disturbance call, but there aren't any specifics here. There's nothing to indicate that this was something in or event in front of the restaurant. It could have been in the street. When instances like these happen, the police notify DSI, and we follow up. It doesn't look like our inspector found anything concerning.

Hearing Officer Vang: With this change in ownership, it is important for the applicant to know that they inherit issues faced by the prior business, even if they didn't cause them. Do you plan to address any noise mitigation measures?

Conroy: We aren't making any changes.

Hearing Officer Vang: Do staff ask people to keep their volume low while on the patio?

Conroy: Unless people are being loud and obnoxious, I won't be asking people to keep it down. I'm willing to share my personal information and people can share their concerns with me.

Greczyna: We don't tolerate drunks or obnoxious behavior.

Hearing Officer Vang stated that after reviewing the records and considering the testimonies from all parties, she will recommend to the City Council that they approve the license with the following agreed-upon conditions:

1. Licensee agrees to operate the establishment in compliance with Section 409.02 of the City of Saint Paul Legislative Code as a "Restaurant".
2. Licensee agrees to close the establishment at 12:00 a.m. midnight. All patron/customers shall vacate the premises by 12:30 a.m. each day of the week as per Section 409.02 of the City of Saint Paul Legislative Code.

3. Any outdoor activities related to an outdoor seating area 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.
4. Licensee will create a video surveillance camera and lighting placement plan (video surveillance plan) for the parking lot at 401 Selby Ave associated with the licensed premises. License holder 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, license holder 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 video. License holder will retain surveillance video for a minimum of thirty (30) days. If an incident is deemed serious by SPPD, license holder 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, license holder shall have the technology, materials and staff available to immediately make the copy. In all other cases, license holder shall provide a copy of the surveillance video to the requestor within 48 hours.
5. The outdoor patio seating area shall close by 10:00 p.m. each day of the week.
6. Licensee will retain an acoustic engineer to perform a noise impact analysis and follow all recommendation for mitigation of noise impacts in compliance with state and local rules and regulations.

The hearing adjourned at 11:20 AM.

The Conditions Affidavit was signed and submitted on July 15, 2024.