

**LICENSE HEARING MINUTES**  
**The Lexington, 1096 Grand Avenue**  
**Thursday, May 24, 2012, 2:00 p.m.**  
**330 City Hall, 15 Kellogg Boulevard West**  
**Nhia Vang, Deputy Legislative Hearing Officer**

The hearing was called to order at 2:00 p.m.

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

Applicant: Jenny Ryan, co-owner of the business

The Lexington: Request to Add an Entertainment A license to the existing Liquor On Sale 181 - 290 seats, Liquor On Sale – Sunday, Restaurant (5) – 151 and over, and Restaurant (D) – Add-on (Bar Only), and Sidewalk Cafe licenses

Ms. Vang 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 one (1) letter of concern from a resident which triggered the hearing. There were three possible results from this hearing: 1) recommend that the City Council issue this license without any conditions; 2) recommend that the City Council issue this license with agreed upon conditions; or 3) recommend that 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.

DSI staff will explain their review of the application and state their recommendation. Ms. Vang 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 the existing license conditions were as follows:

1. Sidewalk seating area is limited to a maximum of 18 seats.
2. 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.
3. No outdoor food and/or beverage preparation is allowed on a public sidewalk without prior approval and additional licensing from DSI.

4. No liquor sales and/or service is allowed on a public sidewalk without prior approval and additional licensing from DSI.

The additional recommended license condition is as follows:

5. 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.

The District Council recommended approval of the license application. DSI was recommending approval of the license application with the proposed conditions.

Ms. Vang asked whether the application also included the extension of entertainment to the sidewalk. Ms. Schweinler responded that the only extension of service to the sidewalk area was for food service.

Ms. Vang asked Ms. Ryan to explain the business plan and the intent to add entertainment to the establishment. Ms. Ryan responded that it was the owners' desire to offer live jazz performances two or more nights per week in one of their private rooms when it was not reserved for private parties. Generally, the schedule would be to offer jazz performances on Thursday and Saturday nights from 6:30 to 10:30 p.m.

Ms. Vang reviewed the floor plan and asked where on the diagram the performances would occur, whether there were any doors or windows located in this area, whether the music was amplified to the rest of the restaurant. Ms. Ryan explained that the room they planned to use did not have any doors, there was a stained glass window in this room which did not open, and music would not be amplified. They also would possibly move the location of the performances based on use of the private rooms.

Ms. Vang asked what the capacity for patrons was, the number of staff that were employed, and the hours of operation of the restaurant. Ms. Ryan responded that the restaurant could accommodate up to 350 people; there were approximately 65 staff employed which were mostly part time, and the kitchen was open Monday through Saturday from 11 a.m. to 11 p.m. and on Sundays from 10 a.m. to 9 p.m.

Ms. Vang read into the record the email received from Louis Bartholome, 1089 Lincoln Avenue, indicating his opposition to the approval of the entertainment license. A copy of said email is made a part of this record. Ms. Vang asked Ms. Ryan whether she had received a copy of the email and asked what her response was to the concerns raised.

Ms. Ryan responded that she had received a copy of the email from Mr. Bartholome and that he and his wife were frequent patrons to their restaurant. She said he had raised the same concerns when they had applied for their liquor license for the restaurant and his concerns were primarily based on "what ifs" rather than facts. She believed some of his concerns were also based on previous ownership of the restaurant and negative issues that arose under the operation of the

restaurant. She assured that there was no intention on the owners' part to become another establishment such as Billy's or Sweeney's which attracted a different clientele and had a different impact on the surrounding neighborhoods.

After reviewing all of the documents of record, Ms. Vang said she will recommend to the City Council that they approve the license with conditions. The proposed conditions were agreed to by Ms. Ryan, on behalf of the owners, and are as follows:

1. Sidewalk seating area is limited to a maximum of 18 seats.
2. 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.
3. No outdoor food and/or beverage preparation is allowed on a public sidewalk without prior approval and additional licensing from DSI.
4. No liquor sales and/or service is allowed on a public sidewalk without prior approval and additional licensing from DSI.
5. 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.

The hearing adjourned at 2:15 p.m.

The Conditions Affidavit was signed and submitted on April 25, 2012.

Submitted by:  
Vicki Sheffer