

LICENSE HEARING MINUTES
Joan's in the Park, 651 Snelling Avenue South
Thursday, May 31, 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 2:05 p.m.

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

Applicant: Joanne Schmidt and Susan Dunlap, co-owners

Others Present: Matt Anfang, 1635 Bayard Avenue; Michael Baunti, 2610 Medicine Ridge Road, Plymouth; and Bob Dollarhide, 3444 Holmes Avenue South, Minneapolis

Joan's in the Park: Add a Liquor-Outdoor Service Area (Patio) license to the existing Restaurant (3) – 13-50, Wine On Sale, and Malt On Sale (Strong) 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 three (3) letters of concern and one in support which triggered the hearing. There were three possible results from this hearing: 1) recommend the City Council issue this license without any conditions; 2) recommend the City Council issue this license with agreed upon conditions; or 3) recommend 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. Per City of Saint Paul Legislative Code 409.15(a)(2), On-sale wine license shall mean a license authorizing the sale of wine not exceeding fourteen (14) percent alcohol by volume, for consumption on the licensed premises only in conjunction with the sale and service of food (menu item only). The sale of Malt (Strong) will also take place only in conjunction with the sale and service of food.
2. Per City of Saint Paul Legislative Code 409.15(d), licensee must be able to show that gross receipts are at least sixty (60) percent attributable to the sale of food.
3. Licensee will submit to the Department of Safety and Inspections (DSI) annual gross receipts for food and liquor for each year the license is renewed.

The Highland District Council submitted a letter of support with a recommendation that the applicant work with the neighboring Domino's Pizza property owner to share their parking, with the

City of Saint Paul to remove the "30 minute only" parking signs along Bayard St, and that the following conditions be placed on the license: the patio shall close by 10:00 p.m., music on the patio is kept to an ambient noise level, a privacy fence is installed on the alley side of the patio, and that landscaping be installed and maintained as an additional noise deadening measure.

Ms. Vang asked what the percentage of petitions submitted were in support of the applicants. Ms. Schweinler responded that 51 percent responded in favor and the district council recommended approval with the stated conditions.

Ms. Vang reviewed the site plan and photos. She asked what their plans were for their business.

Ms. Dunlap stated that they had been in business for approximately eight months and wanted to expand dining outdoors to a patio area after they made improvements in appearance to the exterior of the building. This included creating a side door from the restaurant onto the patio, installing ambient or softer lighting, building a privacy fence along the rear property line to block noise, etc from the neighboring residences, and other amenities that would improve the appearance. The patio area would have six tables which could seat approximately 36 people. There was a parking lot in the rear which was dirt/gravel which they would like to improve by installing black top; however, the cost to do so was prohibitive at this time. The parking area allowed for seven to ten cars and they currently were using the neighboring parking lot for employee parking. They were also attempting to contact the owners of Domino's Pizza to see if they could come to an arrangement for utilizing their lot for parking; however, there was a new owner and they had not been able to reach him to date. They currently employed about 10 employees, including themselves, and would likely hire two additional servers once the patio was operational. There was parking along Bayard Avenue that currently had 30 minute parking signs posted; they were working with Public Works and the Ward 3 Office to see if these signs could be changed, allowing additional parking time, or be removed. The street could also then be available for customer parking.

Ms. Vang stated that emails/correspondence of concern regarding the license application were received from the following: Tom and Casey Stephens, 1594 Hartford Avenue; Paul Kortebein and Kristie Ellickson, 1597 Bayard Avenue; and Mary Mulcahy, 1601 Bayard Avenue. In addition, there was one email of support from Karen and Bruce Smith, 1611 Hartford Avenue. The Highland District Council also submitted a resolution in support of the license application with additional conditions. Said correspondence is made a part of this record.

Ms. Schmitt stated that they wished to be good neighbors and were in agreement with the Highland District Council recommendations. She said they reviewed the correspondence from the neighbors who expressed concern/objection to their extension of service to the patio. They understood those concerns as they also had small children and wished to keep noise to a minimum which was why they chose to close their restaurant at 10 p.m. Their plan was to install a new stereo sound system inside the restaurant that could extend out onto the patio area; they planned to keep the volume turned down low so customers could converse.

Ms. Schweinler stated that under the current ordinance, music of any kind was not allowed on patios or outdoor seating areas. It was the department's position that conversation from patrons created enough noise and they did not want to add to the outdoor volume by also allowing music.

Ms. Vang asked about delivery and garbage service. Ms. Schmitt stated that they had two separate dumpsters, both covered; one was for garbage and the other for recycling. Pick up service was one time per week but on separate days for garbage and recycling. Deliveries to the restaurant were made between 11 a.m. and 3 p.m. with trucks backing into the rear of the business from the alley.

Ms. Vang reviewed the suggested conditions submitted by the district council and said that she would be agreeable to adding the condition that the patio close at 10 p.m., that a privacy fence be installed along the alley side of the patio, and that landscaping be installed to minimize noise. As indicated by Ms. Schweinler, music was not allowed for outdoor service so this issue was moot. She said she would not add conditions regarding the parking signs on Bayard Avenue or working on a parking arrangement with Domino's Pizza as they were not conditions that could not be enforceable and they had indicated they were already working on solutions to these issues. She asked about the installation of the privacy fence and additional landscaping.

Ms. Schweinler responded that the owners would need to obtain a fence permit which would require site plan review. In reviewing the site plan, the department would make recommendations for landscaping to act as a noise buffer and generally allowed one year for compliance.

Ms. Vang invited the audience to testify.

Mr. Anfang stated that he had lived in the neighborhood for the past 16 plus years and believed the restaurant was an asset to the neighborhood. He had discussed concerns he had with Ms. Dunlap and Ms. Schmitt and they were very receptive to his input and had taken his comments into consideration. He noted that Grandpa Tony's, the preceding business, operated a pizza delivery business which was much more disruptive to the neighborhood. He believed there was plenty of on-street parking to accommodate the expansion of the business to patio service. He encouraged support for the license application.

Mr. Baunti stated that although he did not live in the neighborhood, he was a frequent customer of the restaurant and believed it was an asset to the neighborhood. He encouraged support for the expansion of the business to include patio service.

Mr. Dollarhide stated that he was also a customer of the restaurant and had supported Joanne and Susan in all of their culinary business ventures. He believed the expansion of the business to include patio service would add to the ambience of the neighborhood.

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. Schmitt and Ms. Dunlap and are as follows:

1. Per City of Saint Paul Legislative Code 409.15(a)(2), On-sale wine license shall mean a license authorizing the sale of wine not exceeding fourteen (14) percent alcohol by volume, for consumption on the licensed premises only in conjunction with the sale and service of food (menu item only). The sale of Malt (Strong) will also take place only in conjunction with the sale and service of food.
2. Per City of Saint Paul Legislative Code 409.15(d), licensee must be able to show that gross receipts are at least sixty (60) percent attributable to the sale of food.

3. Licensee will submit to the Department of Safety and Inspections (DSI) annual gross receipts for food and liquor for each year the license is renewed.
4. Patio will close and all patrons will be off the patio by 10:00 P.M.
5. Fence will be constructed under permit and review by DSI. The area adjacent to the fence will be landscaped to minimize noise. All landscaping must be maintained as needed.

The hearing adjourned at 2:55 p.m.

The Conditions Affidavit was signed and submitted on June 5, 2012.

Submitted by:
Vicki Sheffer