

LICENSE HEARING MINUTES
Superamerica #4359, 950 Lexington Pkwy N
Thursday, July 12, 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: Jeff Fischbach, Department of Safety and Inspections (DSI)

Applicant: Karla Bigham, Public Affairs Coordinator for applicant; Sharon Ervin, Regional Manager for applicant

Others Present: Kerry Antrim, District 6 Planning Council

Superamerica #4359: Application to add a Malt Off Sale license to the existing Gas Station, Retail Fd (C) – Grocery 1001-3000 sq ft, Restaurant (1) – No Seats, and Cigarette/Tobacco 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 two (2) letters of concern 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.

Mr. Fischbach stated that there were no existing license conditions; the recommended license conditions were as follows:

1. 3.2 Beer and beer products cannot be sold by the individual bottle or can.
2. The sale of 40 ounce bottles and/or cans of beer is not permitted. The sale of beer in containers of this or similar sizes is considered to be the sale of beer by the individual bottle or can.
3. The sale of wine and/or strong beer is not permitted with a Malt Off Sale license.

Ms. Vang asked whether these were standard conditions for this type of license. Mr. Fischbach responded that these were the standard conditions for all malt off sale licenses.

Ms. Antrim stated that the board did not receive any objections to the license application and the consensus at the board meeting was to support the license. Since a formal letter had not been submitted, she was at this hearing to recommend District 6 Planning Council's support for the license with the conditions recommended by DSI.

Ms. Vang asked the applicants to discuss their business plan.

Ms. Ervin stated that this location supported a lot of foot traffic and consumers had requested they sell beer to make it more of a one-stop-shop location for the neighborhood. They employed approximately ten employees with two employees on duty at all times. She said she had talked to the store manager, who had worked at this location for over 14 years, concerning deliveries to the store and she indicated she had never received any complaints. Coke and Pepsi product deliveries were typically made twice per week and the trucks never parked on the street or blocked traffic. She anticipated that with the addition of selling beer, deliveries would only be necessary one time per week. They also had security cameras located throughout the store as well as on the exterior of the property to monitor activity outside the store. They had four fueling stations with a total of eight pumps which operated 24-hours per day, seven days per week.

Ms. Vang read into the record emails of objection/concern regarding the license application received from Alex Haug, 1075 Front Street and Matt Forys, 992 Churchill Street. Said emails are made a part of this record.

Ms. Ervin stated that she did not believe this store would become a destination location for customers to purchase beer given its location to Gabe's and Half Time Rec. The store employees participated in monthly training on carding individuals for alcohol and tobacco sales. Trash and litter was picked up around the entire property at least three times per day and during the summer months, it was picked up more frequently.

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. Bigham and Ms. Ervin and are as follows:

1. 3.2 Beer and beer products cannot be sold by the individual bottle or can.
2. The sale of 40 ounce bottles and/or cans of beer is not permitted. The sale of beer in containers of this or similar sizes is considered to be the sale of beer by the individual bottle or can.
3. The sale of wine and/or strong beer is not permitted with a Malt Off Sale license.

The hearing adjourned at 2:20 p.m.

The Conditions Affidavit was signed and submitted on May 10, 2012.

Submitted by: Vicki Sheffer