

LICENSE HEARING MINUTES
Red Cow
Thursday, May 8, 2014, 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: Larry Zangs, Department of Safety and Inspections (DSI)

Applicant: Luke Shimp, Owner/Applicant

Others Present: Ana Reiter, 370 Marshall Avenue #408; Elmer Pierre, 165 Western Avenue N, #208

Red Cow: Liquor On Sale – 100 seats or less, Liquor On Sale – Sunday, Liquor – Outdoor Service Area (Sidewalk) *(Note: This is for a change in ownership of an existing location.)*

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 a letter of concern/objection 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 said she 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. Zangs reviewed the proposed license conditions:

1. Sidewalk seating approved for a maximum of eighteen (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 written approval from DSI.
4. Licensee agrees to close the establishment and have all customers/patrons vacate the premises by 12:00 a.m. (midnight) each day of the week per City Zoning Code parking requirements.

There was no response from the district council. There were outstanding building permits which still needed sign off approval and a food inspection by the Minnesota Department of Health had not yet been done.

Ms. Vang asked Mr. Shimp whether he understood the license conditions. Mr. Shimp responded that he did and agreed to the recommended conditions. Ms. Vang then asked Mr. Shimp to explain his business plan.

Mr. Shimp stated that he had been in the restaurant business for the past 14 years and currently operated a Red Cow restaurant in Edina; St. Paul would be his second location. He intended to run his business as a restaurant with meals complemented by wine, beer or cocktails, as opposed to the previous business, Costello's, which operated as a bar. He did not plan to offer any entertainment and was currently in the process of reconstructing the building to offer dining on the second floor, in addition to dining on the first floor and outdoor sidewalk, serving approximately 100 guests. His hours of operation would be 11:00 a.m. to midnight, and on the weekend he would be open for breakfast from 9:00 a.m. to 2:00 p.m. He planned to close service on the outdoor sidewalk at 11:00 p.m. with last call at 10:40 p.m. All guests would have to check in with the host/hostess before being seated, including outdoor dining. According to his plans for sidewalk service, he would have four tables serving four people and one table serving two people for a total of 18 guests seated outdoors. He planned to employ approximately 60 people with 12 to 18 staff working per shift. He planned to have a grand opening celebration on June 16; however, he was hopeful he could be opened and operating by May 30, 2014.

Ms. Vang asked about available parking. Mr. Shimp responded that there were 13 parking spaces in the building's lot which met the requirements under the zoning code since he planned to close at midnight. He also had a shared parking agreement with the St. Paul Urban League to use 14 of their parking spaces with no limitation on hours of use.

Ms. Vang asked Mr. Shimp whether he had met with the district council. Mr. Shimp responded that he did attend the neighborhood meeting and explained his business plan. The district council was in support of his business and sent him an email in support.

Ms. Vang invited members of the audience to testify.

Ms. Reiter submitted a letter/email of objection prior to the hearing (*said letter is made a part of this record*). She was opposed to another establishment offering the sale of liquor in the neighborhood as she believed the area was already oversaturated with restaurants and bars that served alcohol. She wished to see family-friendly eating establishments in the neighborhood where alcohol was not served.

Mr. Pierre submitted a letter of objection prior to the hearing (*said letter is made a part of this record*). He lived across the street from the building and had experienced an adversarial relationship with the owner, Mr. Costello. Since the new owner did not plan to have entertainment, he would support the license. His only concern was cigarette smoke as he had health issues and the smoke tended to waif across the street.

Mr. Shimp responded that he understood the issues surrounding cigarette smoke and assured that smoking would not be allowed on the sidewalk area when food was served. Employees were also not

allowed to smoke when they were on the job. He said he may consider putting in a smoking area near a west side door that exited into the parking lot.

Ms. Vang read into the record emails of support received from the following: Brian Pergament, 201 Western Avenue North; Susan Beran, 370 Marshall Avenue; John Clarey, 95 Arundel Street; and Dr. Eric Ruhland, St. Paul Pet Hospital. *(Said emails are made a part of this record).*

After reviewing all of the documents of record, Ms. Vang said she will recommend to the City Council that they approve the license with the proposed conditions in addition to the modification of condition #4 to include the language that 13 parking spaces be maintained on the property. The proposed, and modified, conditions were agreed to by Mr. Shimp and are as follows:

1. Sidewalk seating approved for a maximum of eighteen (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 written approval from DSI.

Modified condition:

4. Licensee agrees to close the establishment and have all customers/patrons vacate the premises by 12:00 a.m. (midnight) each day of the week and maintain thirteen (13) off-street parking spaces on the property, to comply with the City's zoning code parking requirements.

The hearing adjourned at 2:45 p.m.

The Conditions Affidavit was signed and submitted on May 9, 2014.