

LICENSE HEARING MINUTES
North Garden Theater LLC, 929 7th Street West
Thursday, September 22, 2016, 2:00 p.m.
Room 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: Eric Hudak and Kris Schweinler, Department of Safety and Inspections (DSI)

Applicant: Ryan North, Applicant/Owner

Others Present: Nance Derby-Davidson, 941 7th St W, St. Paul; Diane Gerth, attorney representing Ms. Derby-Davidson, 909 Bayard Ave, St. Paul; Char LaFrenier, 941 7th St W, St. Paul; Dave Thune, 26 Irvine Park, St. Paul

North Garden Theater: Liquor On Sale - 101-180 Seats, Liquor On Sale - Sunday, and Entertainment (B) 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 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.

Ms. Schweinler reviewed the existing license conditions:

CONDITIONS #1-4 PER ZONING VARIANCE #16-013374:

1. No liquor, beer or wine is served after midnight.
2. The two window box signs combined do not exceed a total of 16 square feet.
3. An encroachment permit is obtained from the Department of Public Works for the marquee sign.
4. The window box signs are not illuminated.

CONDITION #5 PER CITY COUNCIL RESOLUTION 16-22:

5. Licensee acknowledges that liquor service shall be provided solely to attendees of ticketed, bona fide artistic performances, or invite-only private events not otherwise open to the general public, and appropriate actions shall be taken to ensure compliance with this condition.

No correspondence was received from the neighborhood organization. Building inspection was under review; Zoning recommended approval with conditions; and Licensing recommended approval with conditions. (*Note: A waiver dated June 22, 2016 for the 300 feet prohibition was received for St. Francis de Sales Church & School is made a part of this record.*)

Ms. Vang stated that the following correspondence was received prior to the hearing: letter dated July 18, 2016 and received on September 16, 2016 from John Davidson and Nance Derby-Davidson, 941 7th St W, expressing concerns about the license application; an email dated September 20, 2016 from Jeff McAllister, Music Go Round, 933 7th St W, expressing support for the license application. *Said correspondence is made a part of this record.*

Ms. Vang reviewed the floor plan of the proposed establishment and asked Mr. North to explain his business plan: design of space, use of space, number of staff, deliveries, trash service, etc.

Mr. North stated that he and his wife had many years of experience in the theater business. It was their vision to rent the facility for private shows, films, plays, weddings, graduations fundraisers, corporate meetings, and other community events. The stage and seating would be moveable to accommodate the needs of an event. He planned to hire approximately 15 to 20 part-time staff which would include house managers, production managers, technical support, and bar staff. There would be a catering kitchen located near the back of the building with food being brought in and not prepared on site. They would also offer snacks for sale such as popcorn, candy and other prepared foods. He acknowledged that parking was an issue for the neighborhood and was working with the church, St. Francis de Sales, to secure a parking agreement on a number of spaces to use for events. He planned to have deliveries made at the front of the building since that was where the bar and concessions would be located. As for trash service, he believed there was enough room at the back of the building to accommodate trash receptacles. He did not know at this time how many times per week trash pickup service would be required.

Mr. North read from a prepared statement (*which is made a part of this record*). He then presented a video from the July 20, 2016 City Council Public Hearing, Ordinance 16-22, Creating a commercial development district at North Garden Theater (formerly the Garden Theater) located at 929 Seventh Street West pursuant to Section 17.07.1 of the City Charter and Section 409.20 of the Legislative Code. Councilmember Noecker overwhelmingly expressed her support of the proposed project and the creation of the commercial development district. Mr. North also presented a list of names in support and comments in support of the proposed theater. *Said documents are made a part of this record.*

Ms. Vang asked about the waiver of the distance requirements for the church and school for this liquor license since it was less than 300 feet from the proposed establishment. Ms. Schweinler responded that the city attorney had reviewed the waiver requirements and determined that the church owned the school and had the authority to grant the waiver for both the school and the church.

Ms. Vang invited the audience to testify.

Ms. Gerth stated that she was requesting certain restrictions be placed on the liquor license and referred to section 409.10 of the legislative code. The main concerns were last call for service, ingress/egress at the rear of the building, and parking. They also did not want a full liquor license to be issued; only beer and wine.

Ms. Derby-Davidson submitted a summary of the conditions she wished to see placed on the license. *Said statement is made a part of this record.*

Ms. LaFrenier said she had worked in the theater business for the past 27 years and was a tenant of the Davidsons. Her main concerns were parking and noise. She was opposed to the rear entrance of the building being used for loading or unloading. She also did not believe the church parking lot would provide the necessary parking for the establishment.

Mr. Thune stated that he owned 943 7th St W which was a commercial space on the main level with four-rental units on the upper floor. His main concerns were with parking and that the proposed establishment had the potential to become a night club such as First Avenue.

Ms. Vang suggested conditions be added to the license to address some of the concerns that were raised. After much discussion between the parties, the proposed conditions were as follows: last call would be at 11:30 p.m.; no loading in or out of the rear door of the building would be allowed between the hours of 10:00 p.m. and 8:00 a.m.; the rear door could only be used by patrons for exiting during an emergency situation; large vehicles be prohibited from loading or unloading at the rear of the building so as not to block the alley.

Ms. Vang stated that after reviewing the records and testimony presented, she will recommend to the City Council that they approve the license with additional conditions which were agreed upon by Mr. North:

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6. There will be no deliveries in the alley between 10:00 p.m. and 8:00 a.m.
7. Deliveries in the alley can only be made by vehicles the size of Sprinter-type vans or smaller.
8. The back door to the alley may only be used by patrons for emergency exiting.

The hearing adjourned at 3:40 p.m.

The Conditions Affidavit was signed and submitted on September 23, 2016.