

LICENSE HEARING MINUTES
Agelgil Ethiopian Restaurant, 981 University Avenue W.
Thursday, March 8, 2018, 10:00 a.m.
Room 330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

The hearing was called to order at 10:00 a.m.

Staff Present: Jeff Fischbach, Department of Safety and Inspections (DSI)

Licensee: Tsegereda Cherinat

License Application: Wine On Sale, Malt On Sale (Strong), Entertainment A

Other(s) Present: Dr. Hassen Hussein, Kedir Karfessa, Samuel Zerihun, Gene Gelgelu

Legislative Hearing Officer Nhia Vang gave the following information about the hearing: This is an informal legislative hearing for a license application. This license application required a Class N notification to inform neighbors and the District Council about the application and provide them with an opportunity to submit comments. The City received a letter of concern/objection, which triggered this hearing.

The hearing will proceed as follows: DSI staff will explain their review of the application, and state their recommendation. The applicant will be asked to discuss their business plan. Members of the community will be invited to testify as to whether they object to or support the license application. At the end of the hearing, Ms. Vang will develop a recommendation for the City Council to consider. Her recommendation will be on the Consent Agenda at the City Council meeting.

There are three possible results from this hearing: 1) a recommendation that the City Council issue this license without any conditions; 2) a recommendation that the City Council issue this license with agreed upon conditions; or 3) a recommendation 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 City Council is the final authority on whether the license is approved or denied.

Jeff Fischbach, Department of Safety and Inspections (DSI), gave a staff report. He said DSI recommended that conditions be placed on the license: conditions 1 through 3 were standard for malt off sale; condition 4 stated that the business should close at 12:00 a.m. with patrons out by 12:30 a.m.; condition 5 stated there should be no alcohol outside without approval and additional licensing; and condition 6 was standard for Entertainment A licenses. He said the district council was in support based on information from the applicant that they would close at 11:00 p.m. and have a permanent fence as a buffer between the business and the residential neighbors across the alley. He said Building was non-applicable, License and Zoning approved with conditions, and DSI recommended approval with conditions.

Recommended License Conditions:

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(e), 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. Licensee agrees to close the establishment at 12:00 a.m. midnight each day of the week. All patron/customers shall vacate the premises (including the parking lot) by 12:30 a.m. each day of the week.
5. No alcohol (i.e., wine/beer) sales, service, display and/or consumption is allowed outdoors without prior written approval and additional licensing from DSI.
6. 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.

Ms. Vang asked if there was additional parking required with the addition of the Entertainment A license. Mr. Fischbach said they didn't do a parking calculation because there was no increase with a beer and wine license if the business closed before midnight.

Ms. Vang asked Ms. Cherinat to discuss her business plan. Ms. Cherinat said it was her dream to have her own business and having this business would help her reach her goal. She has worked in a restaurant for five years and observed that people wanted a quieter family place. In the past, both she and her co-owner have owned restaurants in South Africa for herself and Ethiopia for her co-owner. They have both worked in restaurants. She is familiar with the neighborhood. She used to live in the Highland area for three years and now lived near downtown. She was aware of a gun incident and some issues with the neighborhood in the past, and during the application process, she walked the neighborhood to find out what the residents thought of her proposed plan. She believed the residents were welcoming and open to their plan. The business is currently open from 8:00 a.m. for breakfast until 9:00 p.m. When she and her partner obtained the wine and beer and entertainment licenses, they will open from 8:00 a.m. to 11:00 p.m. She believes that by midnight there would be no customers left on the property, including their cars. She and her partner intend to manage and operate the business themselves and depending on the business, they may hire additional staff. She will be managing the front of the business, i.e., customers and food orders, and her partner will be handling the kitchen. They both have alcohol training and experience in running a business with alcohol, and they both know how to deal with negative behaviors associated with alcohol. Regarding the Entertainment A license, they plan to hire a DJ to play music; there would be no dancing as there is no space for dancing. For now, they plan to play classical music in morning. Depending on how the business goes, she said they might hire a security guard to handle noise as customers leave the restaurant if there was entertainment. She said they put in surveillance cameras and the parking lot was well-lit. Ms.

Vang referred to a photo that had been included with the petition, which related to noise and behavior problems associated with the previous building. Ms. Cherinat said she had walked around to neighbors and they had no objection and were happy and welcoming.

Hassen Hussein, African Economic Development Solutions (1821 University Avenue, Suite S-145), said they provided technical assistance Ms. Cherinat and to area businesses such as help with business logo, funding support, marketing, pro bono attorney services, and one-on-one consulting. He said Ms. Cherinat had attended their business development class three years before, and had been planning the business since then. He said he believed the business was a great addition to the neighborhood. He said he wanted to give his insight on objections. He believed the objections were related to competition with another restaurant in the area. Ms. Cherinat said she and her co-owner both used to work there. Ms. Vang asked how far away the other restaurant was? Mr. Hussein said it wasn't within 300 feet - a block and a half. He said it was a large neighborhood and could support more restaurants. He stated that the owner of that restaurant came to him and asked why they were supporting the new restaurant. Ms. Cherinat said she wasn't going to bring it up; she said they both used to work there. Ms. Vang asked the name of the restaurant. Ms. Cherinat said it was Ras Ethiopian, and she knew the owner wasn't happy about it, but she wanted to have her own restaurant. She said they knew the customers and the customers had come and told them things. She said they had just opened in November and there hadn't been any problems. She said it had opened under a different owner the previous year, and was vacant for seven years before that.

Mr. Hussein said he believed it was a great addition to the neighborhood, and the neighbors needed more options. He said Ms. Cherinat and her partner had experience with running a business with alcohol, and believes the business would bring tax revenue to the City, and provide employment. He said it was necessary to revitalize the neighborhood, and that Ms. Cherinat and her partner had his organization's support.

Ms. Vang asked whether Ms. Cherinat had attended district council meeting, and encouraged her to continue to be active and nurture that relationship. In response to additional questions from Ms. Vang, Ms. Cherinat said trash pick-up was every week for the time being and was manageable, but they would have more frequent pick-ups if it was necessary. She said they swept the parking lot regularly for trash and also had snow-removal service for the parking lot. She said snow was pushed to the back behind the garage and no parking was lost. Ms. Vang referred to the fence in the photos and asked who owned it. Mr. Fischbach said the property owner owned it, and it was on the property the licensee was renting. Ms. Cherinat said there was a fence on their property and across alley, and she was responsible for the one between the alley and the parking lot. Ms. Vang noted that the business had been asked to maintain the fence; she and Mr. Fischbach discussed and clarified which fence the business would be responsible for maintaining. Mr. Fischbach referred to photo #2 and said the fence went from the entrance off the alley to about halfway into the third space. Ms. Vang said the licensee was asked to maintain the fence, and if that were to be added it as condition, they needed to clarify which fence. She confirmed that the licensee had stated at district council that they would close at 11:00 and maintain the fence that was on their property. She said she would be agreeable to adding that as a condition but would like the condition to be specific as to which fence Ms. Cherinat would be

maintianing. Mr. Fischbach confirmed with the licensee that she would agree to maintaining the fence as agreed to at the district council meeting.

Ms. Vang reiterated concerns about noise as patrons exited, and confirmed that the licensee would hire someone. She said since it was a residential neighborhood and she encouraged Ms. Cherinat to properly train her staff to be respectful and mindful of neighborhood because she wants to Ms. Cherinat and her partner to succeed.

Ms. Vang asked them to respond to the correspondence of objection received.

Mr. Hussein responded to the concern raised in one email and said there would be no group singing, and the entertainment would be inside. Ms. Vang asked about sound insulation; Mr. Hussein said you didn't hear anything outside. In response to concerns raised in another email Mr. Hussein said the dumpster wasn't full most of the time, and there was no need to take the garbage elsewhere. He said they would check the parking lot to make sure it was clean. In response to additional concerns raised, he said the business wasn't closing at 12:00 a.m., and the noise was confined within the premises. Ms. Cherinat said they had air conditioning and didn't intend to keep doors or windows open.

Ms. Vang asked whether they understood the concerns? Mr. Hussein responded that they did, but that the restaurant was in a business area. Ms. Cherinat reiterated that they are not applying for a liquor license, just wine and beer, and the concern seems to be more about having a full liquor license. Ms. Vang said the concern was also about dancing, and Ms. Cherinat confirmed that there will be no dancing.

Mr. Hussein said that even though this business is in a quiet neighborhood, people also needed places to socialize and to have coffee, and wine and beer. He said if Ms. Cherinat offered more, it could be a distraction from a family-oriented business Ms. Cherinat and her partner are offering. He said rather than taking something away from the community, this business will be an added value to the neighborhood. Ms. Vang wanted them to understand that their predecessor possibly may not have managed the business well, and the licensee would likely be inheriting that stigma. Mr. Hussein said that was not true. Ms. Cherinat said they both had experience elsewhere, and didn't want the noise and knew how to control it. She said they wanted it to be quieter and for families. Mr. Hussein the previous owner closed around 5:00 or 6:00 and then was vacant for seven years, and he didn't understand where the concerns were coming from. Ms. Vang said she felt it was because it was a new business coming in and had hoped that concerned neighbors could attend the hearing so that they can understand the intention of the business. Ms. Cherinat said she had walked around and invited people to come have some coffee, and they had some new regular customers. She said she understood the concerns because there had been problems with other bars.

Ms. Vang reviewed the letters and petitions of objection and support.

The following testified in support: Gene Gelgelu (1821 University Avenue, Suite S-145); Samuel Zerihun (728 78th Street, Richfield); and Kedir Karfessa (1821 University Avenue, Suite S-145) Ms. Vang confirmed with Mr. Hussein that he would continue to work with Ms. Cherinat.

Ms. Vang closed the public hearing.

Ms. Vang asked whether Ms. Cherinat had any additional questions about the conditions placed on the business and consequences for violation, including the additional condition from the district council on maintaining the fence. Ms. Cherinat asked for clarification of what was allowed with the entertainment A license. Mr. Fischbach said it allowed live musicians in addition to a DJ, but no dancing. Ms. Cherinat asked whether midnight closing was okay as an option. Ms. Vang said there would be no need to modify the conditions as long as Ms. Cherinat understood the importance of maintaining open communication with the district council.

Ms. Vang noted the objection letters and noted receipt of them into the record. She indicated that the objections raised have been addressed in the conditions proposed by DSI and did not see a need to additional conditions.

In response to a question from Ms. Cherinat, Mr. Fischbach clarified the requirement to submit gross receipts to document that at least 60% of sales came from food.

Ms. Vang said she would recommend that the City Council approve the license with the following conditions:

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.
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6. 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.
7. Licensee agrees to maintain the existing fence running approximately seventy (70) feet along the alley property line, in good order and repair.

The hearing was adjourned at 10:58 a.m.

The Conditions Affidavit was signed and submitted on March 9, 2018.