

LICENSE HEARING MINUTES
Nico's Tacos, 2260 Como Avenue
Monday, October 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: Kristina Schweinler, Department of Safety and Inspections (DSI)

Licensee: Jenna Victoria and Alejandro Victoria, Applicant/Owners

License Application: Liquor On Sale - 101-180 Seats, Liquor On Sale - Sunday, Outdoor Service Area (Patio), Entertainment (A)

Others Present: Kate Norris and Grant Wilson, Emily Program

Legislative Hearing Officer Nhia Vang gave the following information about the hearing: 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.

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.

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.

Minutes:

Kristina Schweinler, Department of Safety and Inspections (DSI), gave a staff report. She said DSI was recommending approval with the conditions associated with Liquor On Sale restaurant and Entertainment A licenses. Ms. Vang asked whether this was in a prohibited or restricted zone. Ms. Schweinler said it was not. She said it was an On Sale Liquor restaurant that was made possible because of the Charter changes in 2016 and 2017. She said there were requirements within the On Sale Liquor license limiting hours and requiring full food service, and it also allowed for reduced parking requirements. Ms. Vang asked whether there was a petition for the outdoor service area. Ms. Schweinler said there was a patio when it was Muffuletta (previous

business) and it had been less than a year since Muffuletta was there. The conditions are as follows:

Recommended conditions:

1. Licensee agrees to operate the establishment in compliance with Section 409.02 of the City of Saint Paul Legislative Code as a "Restaurant".
2. Licensee agrees to close the establishment at 12:00 a.m. midnight. All patron/customers shall vacate the premises by 12:30 a.m. each day of the week as per City Zoning Code (parking requirement) and Section 409.02 of the City of Saint Paul Legislative Code.
3. 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 the applicants to introduce themselves and talk about their business.

Ms. Victoria said they currently had a Nico's Tacos in the East Isles neighborhood of Minneapolis, and had had it for a little over five years. She said it was in an old Victorian house and was known as a neighborhood gem. She said it was quiet and quaint inside, and they were a restaurant more than anything else. She said they served fresh scratch tacos, and were voted one of the top neighborhood gem restaurants by Open Table. She said current hours were 11:00 a.m. to 11:00 p.m., and they wanted to stick with those hours even though the license conditions allowed them to be open until 12:00. She said the location was desirable because of the neighborhood and because Muffuletta resembled a house like their current location. She said if they'd wanted a late-night bar, they would have looked for a location downtown or somewhere else. She said they understood the neighborhood and would run the new Nico's the same way they were running the current location – as a neighborhood restaurant.

Mr. Victoria also said they'd had an Italian restaurant in Uptown for 11 years, and it had also had early closing from the start. He said they were referred to in Uptown as the first adult rooftop, because it was quiet, clean and open. He said they'd never had any problems with the neighborhood, and it was easy to do business that way. Ms. Victoria clarified that they didn't have that restaurant anymore, and were just running Nico's.

In response to questions from Ms. Vang, Ms. Victoria said staffing would be similar at the St. Paul location. She said the current location had two floors and Muffuletta was all on one floor. She said winter was slower than summer, and they expected that to be the same on Como. She said in the winter they had about 20 employees and in the summer 30 to 35. Ms. Vang asked whether they were operating now under the previous license. Ms. Victoria said they weren't open yet. Ms. Schweinler said they were open in Minneapolis but not in St. Paul yet; she said the previous license discontinued.

Ms. Vang asked when they hoped to open. Ms. Victoria said they hoped to open in early November. Ms. Vang asked what was outstanding. Mr. Victoria said the health department wanted the equipment for the bar counter. Ms. Victoria said they had approved most of the rest of the plan, and she assumed that would only take another week or two. Ms. Vang confirmed

with Ms. Victoria that they were working to get the food license as well. Ms. Victoria said they were; she said she didn't think the license approvals were connected. Ms. Schweinler said the final sign-off was that the State would send DSI a copy of the food license, but the permits needed to be inspected and finalized before they signed off on the license.

Ms. Vang asked about any issues encountered during the 16 years in the restaurant business. Ms. Victoria said they'd had no problems with rowdy customers, and had always had an older, crowd. She said if there was ever an issue it was usually someone in the neighborhood bothering patrons, and they'd called 911.

Ms. Vang asked about staff training. Ms. Victoria said they would provide alcohol training, which they did for all their restaurants, and would also provide food training, a server manual, and on-the-job training. Mr. Victoria said they gave employees \$100 cash or a gift certificate when they passed an alcohol compliance test. He said servers were scared when the laws were explained.

Ms. Vang asked about management of the two locations. Ms. Victoria said they had two partners who were family members, as well as a nephew who had been working in Minneapolis for over a year and would be managing the new location with them. She said they also had two managers at the current Nico's, and the same management staff would be doing both.

Ms. Vang asked about the recent meeting with the district council. Ms. Victoria said they'd met a few months ago and received district council approval, and had met again the previous Thursday to discuss the correspondence received, and again received approval of their current plan. Ms. Vang said she'd received an email from the district council on October 5, expressing approval but suggesting an earlier closing. Ms. Victoria said closing at 11:00 p.m. was always their plan and had district council approval. Ms. Schweinler said the 12:00 p.m. closing in the license conditions was based on City ordinance.

Ms. Vang asked how trash was handled and whether there were other restaurants nearby. Ms. Victoria said they were part of a building with other shops and boutiques, with large parking lot behind. Mr. Victoria said Milton Square took care of the grounds, but daily clean-up was also part of their employee responsibilities. He said Milton Square had a full-time property manager, and there was shared garbage service for the businesses arranged by the landlord. He said the Milton Square had been owned by the same family for many years and they took great pride in it.

In response to questions from Ms. Vang, Ms. Victoria said the patio seating capacity would remain the same. Mr. Victoria said restaurant space had decreased. He said there would be no changes to the existing string lighting on the patio. Ms. Victoria said the patio was enclosed, and patrons had to come into the restaurant before being seated on the patio.

Ms. Vang enquired about what entertainment was planned. Mr. Victoria asked for clarification of the music referenced in the license conditions. Ms. Victoria said there would be soft music just like at their current restaurant, with the same patio speakers that Muffuletta had used. She said they were not looking to have live music. Mr. Victoria said a couple of times a year they would

obtain a music license to have something in the square. Ms. Victoria said they had the ability to reduce the volume of the music if there were complaints.

Ms. Vang opened the hearing for public input.

Public testimony:

Kate Norris, Director of Corporate Compliance, The Emily Program (2230 and 2265 Como Avenue); Grant Wilson, Compliance Specialist, The Emily Program

Ms. Norris provided an overview of the services offered by The Emily program. In response to a question from Ms. Vang as to whether schooling was an incidental or primary use, Ms. Norris said school services were provided by St. Paul Public Schools and that it was in addition to. She said their concerns were related to noise levels and the closing time, and noise levels on the patio. She said it was helpful to hear the Victoria's plans for the business closing and for music, as they were different from what was in the notification. She read from the letter they'd submitted requesting a 10:00 p.m. closing with patrons vacating by 10:30, no liquor on the patio past 9:00 p.m., and no amplified music past 9:00 p.m., and no music on the patio. She said when they heard "amplified music" it seemed to be something more than what Muffuletta was.

Ms. Vang said they were neighbors and it was important for there to be communications, and this was the opportunity for concerns to be discussed. She asked if there were further questions. Ms. Norris asked whether a school next door had been an issue. Ms. Schweinler said it was not an accredited school under the state statute, but was a treatment facility providing services, and so it didn't apply as a school.

Ms. Victoria said they didn't intend to have any different music from Muffuletta. She said they had been going to Muffuletta for years and knew the owners. She said she didn't know whether Ms. Norris or Mr. Wilson had been to their location in Minneapolis, but atmosphere, clientele and neighborhood were very similar to Muffuletta, and there would be no amplified music. Mr. Victoria said they were re-using Muffuletta's patio speakers. Ms. Schweinler said the entertainment license conditions and reference to amplified music came from City ordinance and didn't mean it was going to happen. She said they may not even need the entertainment license if they were just doing Muzak.

Mr. Wilson asked for a description of the type of special event planned. Ms. Victoria said at their Minneapolis location for Día de Muertos they had a full day of kids' activities, a special menu in the evening, and an artist who played indigenous Mexican music on acoustic guitar and flute. She said it was not a band and usually inside. Mr. Wilson asked how late the events lasted. Ms. Victoria said he usually played until 10:00 inside, and they closed at 11:00. Mr. Victoria said they were handmade, indigenous instruments. Mr. Wilson asked whether the current location had a patio. Ms. Victoria said it did.

Ms. Victoria said they were sensitive to what the Emily Program was and had worked with the Emily Program when they had the restaurant in Uptown. She said she had no reason to believe they would inhibit the Emily Program's services in any way. She said they were across from an elementary school in Minneapolis and worked with them all the time, and there had been no

issues. Mr. Victoria said their business represent who they were, and they were not a club. He said they were parents and had chosen to raise their kids in the City, and lived in Uptown. Ms. Victoria said they understood the relationship between work and neighborhood, and what people expect as neighbors, living next to a restaurant.

Ms. Vang said her recommendation would come before the Council under Consent with no public hearing, but if anything was missed, the Council member could recall the item for another public hearing. She said she was satisfied with what was presented, and that the Emily Program's issues had been addressed, and hoped they would continue to build a relationship. She said she applauded the Victoria's on their efforts made in Minneapolis and asked that they continue in the same way in St. Paul. She said she would recommend that the license be approved with the recommended conditions, given the intention to close by 11:00. She said the language in the license condition would remain the same.

The hearing adjourned at 10:43 a.m.

The Conditions Affidavit was signed and submitted on August 28, 2018.