

LICENSE HEARING MINUTES
Metro Automotive, 675 Snelling Avenue N.
Thursday, November 15, 2018, 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: Jeff Fischbach, Department of Safety and Inspections (DSI)

Licensee: Ramon Rosas, Applicant/Owner

License Application: Auto Repair Garage (change of ownership of existing licensed location)

Other(s) Present: Paul Sanchez (business partner/manager), Brian McConnon (current business owner), Dennis Knapp (business consultant), Marjorie Conrad (neighbor)

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.

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.

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 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 read the recommended license conditions:

PER NONCONFORMING USE PERMIT (NCUP) ZONING FILE #91-274 TO RE-ESTABLISH AN AUTO REPAIR FACILITY:

1. Customers cars and any trucks used by the business shall be parked inside the building.
2. The hours of operation shall be limited to 7:00 am to 7:00 pm Monday through Friday and 8:00 am to 3:00 pm Saturday.

ADDITIONAL LICENSE CONDITIONS:

3. At no time shall customer, employee, and/or business vehicles be parked in the public right of way (e.g., street, alley, sidewalk, boulevard, etc.). This includes, but is not limited to vehicles awaiting repair, and/or that have been repaired and are awaiting pick-up by the owner of the vehicle. NOTE: This is a clarification to condition #1 above from NCUP #91-274.
4. There shall be no exterior storage and/or placement of vehicle parts, tires, oil or any other similar materials associated with the business on either private property or public right-of-way (i.e., street, alley, sidewalk, boulevard, etc.). Trash and/or other materials associated with the business will be stored inside the building. Storage of vehicle fluids, batteries, etc. shall be in accordance with the Ramsey County Hazardous Waste regulations.
5. No repair and/or diagnosis of vehicles may occur outside the building or in the public right-of-way (e.g., street, alley, sidewalk, boulevard, etc.). All repair work must occur within an enclosed building.
6. Vehicle sales is not permitted.
7. Auto body repair and/or painting of vehicles is prohibited.
8. Licensee shall provide maneuvering space within the building to allow vehicles entering and exiting the site to proceed forward. Backing from the street and/or alley or on-to the street and/or alley is prohibited.
9. The loading or unloading of towed vehicles shall be done entirely within the building, and cannot be performed in the public right-of-way (e.g., street, alley, sidewalk, boulevard, etc.).
10. The rear alley garage door shall be closed at all times except for when vehicles are entering or exiting the building.
11. Licensee must comply with all federal, state and local laws.

He said DSI did not receive correspondence from the district council. He said Licensing approved with conditions, Zoning approved with conditions, and DSI recommended approval with conditions.

Ms. Vang asked Mr. Rosas to talk about the business, and whether he understood and agreed to the conditions. Mr. Rosas and Mr. Sanchez said sometimes they needed the door to be open a small amount in the summer for ventilation. Ms. Vang asked whether they were requesting modification of the conditions. Mr. Rosas said they were asking to have it modified and didn't want to have the door closed all the time. Ms. Vang said she would come back to that issue. She asked whether they had any other questions or concerns. Mr. Rosas said they were amenable to the conditions other than condition 10.

Ms. Vang asked Mr. Rosas to tell her about the business and his background. Mr. Sanchez asked if he could speak on Mr. Rosas behalf. He said Mr. Rosas owned another business in St. Paul. He said he (Mr. Sanchez) had been a mechanic for five years, working for Bridgestone. He said their goal was to have an auto repair shop a lot like what had been there already.

In response to additional questions from Ms. Vang, Mr. Rosas said he owned a grocery store. He said Mr. Sanchez would manage the new business and his (Mr. Rosas') wife would manage the other store. Mr. Rosas and Mr. Sanchez said they would be hiring part- and full-time employees but weren't sure how many. Ms. Vang noted that the license required employee parking inside the building. Mr. Sanchez said they were aware of that, and for the time being there would be just two people working there. Mr. Rosas said there were 13 parking spaces.

Brian McConnon (current owner and operator of Metro Automotive) said there were 13 parking spaces inside. In response to questions from Ms. Vang, he said he currently owned the building and operated the business, and Mr. Rosas was purchasing the building and business. He said he had owned and operated the business at that location for 27 years. Ms. Vang confirmed that Mr. McConnon was the one who had received the non-conforming use permit.

Ms. Vang referred to site plan provided and asked whether it showed the current layout. Mr. McConnon said it was very similar; he said it was 6000 square feet with a small parts room and small office. In response to additional questions from Ms. Vang, he said they could fit 13 cars, and were very rarely full; he said there were five hoists. He said he was leaving the business because he was retiring.

Ms. Vang asked about storage for additional vehicles needing repair. Mr. McConnon said vehicles were stored on-site. He said, with regards to towing, the way it was handled initially was that trucks would enter the alley and tilt the bed and bring the vehicle into the shop that way. He said they'd had a complaint in 2006 regarding that practice, and had met with the City and police, and had established a commercial loading zone on Van Buren. He said a lot of cars now were all wheel drive and couldn't be towed with a traditional tow truck but needed a flat-bed truck, and some of those flat-beds couldn't fit into the building, and the spot on Van Buren allowed for loading and unloading in that spot rather than in the alley. He said the space was a half-block in size; he provided photographs. Ms. Conrad (neighbor) said the space was about 85 feet. Mr. McConnon said it was set up by the City and posted "Commercial Loading Zone." He and Ms. Vang reviewed the photographs. Ms. Vang asked whether there had been any other issues in the time Mr. McConnon had been in business. Mr. McConnon said the parking spot was set up in 2006 and had worked smoothly since then. He said the problem with the towing business was that people arranged their own towing. Mr. Fischbach provided additional photos taken by DSI. Ms. Vang asked whether the general public was restricted from parking there. Mr. McConnon said it was restricted during their business hours of 7:00 a.m. to 6:00 p.m. In response to questions from Ms. Vang, he said it was used only for vehicles that couldn't be unloaded in the building, and would continue to be used by Mr. Rosas. He said it was also available in the evening after they closed, and the tow truck drivers they worked with were instructed to put cars there. He said it worked very well.

Ms. Vang asked Mr. Rosas to continue his testimony regarding his plans for the business. Mr. Sanchez asked whether he could speak. Ms. Vang asked whether Mr. Rosas understood what was being discussed. Mr. Rosas said he understood a little bit. Mr. Sanchez said English was Mr. Rosas' second language. Ms. Vang said if she had known ahead of time, an interpreter could have been provided. Hearing Secretary Katie Burger said an interpreter had been offered. Ms. Vang said she would give Mr. Rosas and Mr. Sanchez time to confer if they needed it, but she

would like to hear from Mr. Rosas. Mr. Rosas said they would continue to try to follow the current practices. Ms. Vang asked Mr. Rosas whether his automotive business experience was as a mechanic or as a business owner. Mr. Sanchez said Mr. Rosas had not owned a repair garage before. Ms. Vang asked whether Mr. Rosas handling customer and neighborhood complaints. Mr. Sanchez said customers but not neighbors. Mr. Rosas repeated that he had experience handling customer but not neighbor complaints. Ms. Vang asked Mr. Rosas how many years of experience he had as a mechanic. Mr. Rosas said he had no experience as a mechanic. Mr. Sanchez said Mr. Rosas had no formal experience as a mechanic but had fixed cars before. Mr. Rosas said he had worked on cars but not a lot. Mr. McConnon said it was his understanding that Mr. Sanchez would be there working in a managerial capacity. He said as part of the agreement, he would stay on for a week for the transition. In response to a question from Ms. Vang he said the business was open and was an ongoing and thriving business.

Ms. Vang referred to the hours restriction in the license condition, and asked about the planned hours of operation. Mr. Sanchez and Mr. Rosas said the hours would be the same as those in the license conditions.

Ms. Vang asked whether they had their own tow trucks. Mr. Rosas said they would hire companies to do that. Mr. McConnon said most shops didn't have their own tow trucks.

Ms. Vang confirmed that Mr. Rosas understood garbage had to be kept inside of the building. Mr. Rosas said they would continue the current practice of keeping trash inside the building. Ms. Vang asked whether exterior lighting was being added or would remain the same. Mr. Sanchez said he didn't think there was any now; he asked if there was a need for some. Mr. McConnon said there was the capability of adding a light if necessary. He indicated on photographs where trash was handled.

Ms. Vang asked whether they intended to install security cameras. Mr. Rosas said not yet but maybe later.

Ms. Vang asked whether there was a SAC determination for the site. Mr. Fischbach said there wouldn't be since there were no construction changes. Mr. McConnon said phase 1 and phase 2 environmental testing had been completed.

Ms. Vang asked whether there was anything else. Mr. Sanchez said they didn't have a problem following any of the guidelines.

Ms. Vang referred to the STAMP activity report and said there'd been a lot of graffiti; she asked whether there had ever been a graffiti waiver. Mr. McConnon said he had signed a waiver. Ms. Vang said she would supply a waiver form to Mr. Rosas because of the history of graffiti. Mr. McConnon said graffiti was a problem throughout the neighborhood.

Ms. Vang said there had been two letters received raising concerns or requesting additions or modifications of the conditions. She referred to the packet available to the applicants and said this was their chance to respond to the complaints. She asked whether the person who had

submitted complaints was in attendance. Neighbor Marjorie Conrad identified herself. She asked Ms. Conrad to come to the microphone.

Mr. McConnon said there were a couple of other conditions he felt should be clarified. Ms. Vang said she would invite Ms. Conrad to testify first.

Ms. Conrad submitted materials with signatures from five other neighbors. She stated that she was the adjacent homeowner to the south, and had lived there for 16 years. She said they got the commercial loading zone because activity from the tow trucks was preventing neighbors, especially her, from being able to come and go as they needed to during the day. She said it was working well, but they wanted to make sure it was solidified so they didn't continue to have the same issues with the new owners. She said the issues were tow trucks all night long and early in the morning, and she had to go outside and tell the truck drivers where to take the cars. She said they had repeatedly asked Metro to place signs (instructing tow truck drivers), or have something on voicemail or website. She said it would be great if the new owners had some designation on their voicemail and on front and back doors and on any website. She said when she talked to parking enforcement they said the spot was not supposed to be used for that, but nobody cared that they were using it for that. She said the problem was that it was only commercial loading from 7:30 a.m. to 6:00 p.m. during these hours (Mr. McConnon said the sign read 7:00 a.m. to 6:00 p.m.), but the thought was that there could be a designated spot for them after those hours. She said there was usually just one car dropped at night. Ms. Vang and Ms. Conrad looked together at photographs, and Ms. Conrad suggested that the front spot could be designated for that, 24 hours a day. She said she wanted to make sure that designation was part of the license. Ms. Vang said she didn't have that power, that it rested with the Public Works director.

Mr. Fischbach said when DSI reviewed the license application they didn't have a record of the creation of the commercial loading zone. He said it was unusual and he couldn't think of anyplace else that had a tow drop-off on a public street, and that's why those license conditions were developed. He said the proposed license conditions were sent to the applicant prior to the notice being sent out, and the applicant was encouraged to review the conditions and speak with the current business owner. He said the conditions were also sent to the current business owner's seller representative. He said no concerns were raised, and the notice was sent with the recommended conditions. He said subsequently they got a call and a letter of concern about that condition, and a request to modify the Van Buren Street area. He said staff then checked with Public Works and found that, at the request of Ms. Conrad and the LEAP director at the time, they created the commercial loading zone area for Metro Automotive. He said the current sign is not the correct type of sign, and DSI had planned to change the sign to read (No Parking, 30-Minute Loading Zone, Monday through Saturday, 7:00 a.m. to 6:00 p.m. He said he wasn't sure whether it was a Police or Public Works matter and would have to confer with others, but wasn't aware that 24-hour loading signage was being requested or that 24-hour loading was happening there.

Ms. Vang said they would look into the matter, and in the meantime Condition 9 would address the issue Ms. Conrad was raising. Mr. Fischbach said it seemed Ms. Conrad and the neighbors wanted to designate the loading area 24 hours. Ms. Conrad said there had to be a 24-hour spot or the business would never be able to fit within the rules.

Mr. McConnon clarified that they had had five tows a month for the previous two months, and, of those, two and then three ended up in the commercial loading zone. He said it was not an ongoing, all night, every night thing. Ms. Conrad said it could vary and had an impact; she said it just took one.

Ms. Vang asked whether all cars were brought in through the front. Mr. McConnon said most were. Ms. Conrad said the after-hours tow trucks cut through (the alley) all the time. She referred to her house on the site plan drawing and said the alley used to be her yard and the City got an easement, so it was kind of their wall and their space. She said the tow trucks cut through and sometimes went around three or four times until she went out and told them where to drop the car. She said she would like that to happen without her having to go outside and provide instruction. Ms. Vang said she had heard Ms. Conrad ask that the new business post signs and put information on their website. In the meantime, Mr. Fischbach will do some research and follow up with Public Works as to whether the space could be used for 24-hour loading. Mr. Fischbach said he felt the entire space would have to be designated 24-hours to accommodate the size of the tow trucks. He said he didn't make guarantees that would happen.

Ms. Conrad said another option would be to make an agreement with an adjacent business, otherwise there would be no way for them to comply with these rules. She said even during business hours tow truck drivers blocked the alley, deliveries blocked the alley, and oil and tire pick-ups blocked the alley but that was expected. She said it was a one-way alley, and NAPA auto parts parked there and blocked the alley three directions. She said there should never be any vehicles sitting there other than a garbage truck, or the oil or tire truck. Mr. McConnon said all businesses got deliveries. Ms. Conrad said the rule was no parking or standing, period, but they did it anyway and she had to go out and tell them not to park there, and then she had a "grumbling attitude" with someone she didn't even know. She said she already had an issue in 2006 with this guy (Mr. McConnon) and his other partner, in which she and a neighbor were assaulted for videotaping them when her spot was being blocked. She said she didn't want to have any involvement with them, and the rules should be clear enough that neighbors didn't have to sit and videotape, and she didn't have to babysit and manage a business that didn't care about the neighborhood. She said the tow trucks were a big issue; they were big and noisy and did what they wanted. Mr. McConnon stated again that there were only five tows a month in the last two months, and only a total of five ended up in the commercial zone. Ms. Conrad said there was one just two months before that was blocking her driveway while picking up a car from his garage, which was against the rules. She said they could not and had not been able to abide by the existing rules and the new owners would have the same problem. She said unless they planned to re-do the doorframe and put a little capital into the building, they would have to figure something out that didn't interfere with the passageway. She said if an ambulance couldn't get through, it didn't matter how many tows there were; she reiterated that it was a one-car alley. Mr. McConnon said these weren't abandoned vehicles but vehicles being loaded or unloaded. Ms. Conrad said sometimes no one was there. Mr. McConnon said they couldn't control for every possible scenario, and the commercial loading zone had worked well. He said one thing they could do was add signage to the back door providing information for after-hours tows. Mr. Fischbach said it could be for all towed vehicles since it sounded like some were coming during business hours.

Ms. Vang asked Mr. Rosas whether he understood what was being said and how this had affected Ms. Conrad's ability to access the rear of her home. Mr. Rosas said he understood. Ms. Vang asked whether Mr. Rosas would be willing to put up a sign. Mr. Rosas said they didn't want to bother anybody. Mr. Sanchez said it was no problem to put signs front and back. Ms. Vang said someone should be on site to manage that. Mr. Sanchez said when someone was there the goal was to pull them inside, or if no one was on-site they would be directed by signage or established practice so it wasn't an issue for Ms. Conrad in the future. Mr. Fischbach clarified this was only if they could get the (commercial loading zone) sign changed. He asked whether there was an unwritten agreement about having vehicles dropped in the loading zone outside of business hours. Mr. McConnon said that was the whole plan, for vehicles to be dropped there after hours. Ms. Conrad said it wasn't official but just an understanding. Mr. Fischbach and Ms. Vang clarified that with the current signage, anyone with a commercial vehicle permit could park in that spot during business hours. Mr. McConnon said the only business that might use it was the grocery store, and they had a parking lot. Ms. Conrad said they used it occasionally for large semis, but there was room for a car.

Ms. Vang said this discussion all depended on Mr. Fischbach doing some research. Mr. Fischbach will need to follow-up with Public Works whether the loading zone's hours can be expanded to a 24-hour loading zone and that cars being towed could be left there or would it be tagged. Mr. McConnon said they would take care of any tagging of a customer's car. He said there had never been an issue and they removed cars right away. Ms. Conrad said their neighborhood didn't get scouted very often. Mr. McConnon said to have an automotive shop you had to have tows, and it didn't always happen at convenient hours.

Ms. Conrad said that maybe that meant it had outgrown its purpose if they weren't willing to put the capital investment into a door. Ms. Vang asked Ms. Conrad to tell her more about the door. Ms. Conrad said the doors were too low for trucks to fit. She said all repair shops had to comply with rules. She said it was a non-conforming use, and if someone bought a building that didn't fit the rules it didn't mean they got to just produce all over the streets because they bought a building that didn't work. Ms. Conrad asked whether at some point this was going to time itself out and no longer can function as an auto repair shop.

Ms. Conrad said, as far as light back there, there used to be a light, and it would be useful to have a sensor light, as it was a dark little corner. She said it would have to be up high to prevent vandalism. Ms. Vang asked whether a sensor light would be too obtrusive. Ms. Conrad said it was all garages, and she had a light in her yard anyway. Mr. Sanchez asked whether a light would bother Ms. Conrad in the future. Ms. Conrad said everyone had lights, and her garage would block a light. Ms. Vang asked if it would be possible to add a light. Mr. Sanchez said it would be.

Ms. Conrad reiterated that everyone making a delivery should not park in the alley; she said it was an ongoing problem and she had talked to drivers. Ms. Vang confirmed with Mr. Rosas that he understood, and that deliveries would come to the front. Ms. Conrad said deliveries could also use the commercial loading zone. She said there were eight houses that used the alley, and there couldn't be cars there, even five times a month. She said she wanted to make sure these things

were enforceable; she said one of the things neighbors were requesting was to be able to use their own video as a form of evidence.

Although Ms. Vang was not going to add signage as a condition to the license, she said it should be doable for Mr. Rosas to let his vendors know they should make every effort to park somewhere other than the alley, except for tire, oil, and garbage pick-ups. Mr. Sanchez said that information could be added to the signage, but there was staff turnover and not everything could be controlled. Ms. Conrad said she shouldn't have to communicate with their vendors.

Ms. Conrad said leaving the back door open should be a "no," period. She said they should set up a ventilation system. She said the open door was an attractive nuisance and always a noise issue. She said there was some drilling happening recently that she could hear in her house. Mr. McConnon said that was the environmental testing. Ms. Conrad said it was the same as other equipment used to remove wheels. She said they always said it was only for a few minutes, but if it was only for a few minutes they should close the door, but they didn't take the time to do that. She said it (having the door open) was a hazard for kids and pets in the neighborhood. She said it created a thoroughfare right to the street and was a noise issue.

Mr. McConnon said the back door was open a third of the way just during summer months. In response to questions from Ms. Vang, he said he was referring to the large back door; he said the front door stayed open. He said there had never been any kind of noise violation. Ms. Conrad said that was because it was difficult to prove, and there was no way to enforce it.

Ms. Vang asked how the City had accepted evidence for enforcement action. Mr. Fischbach said DSI wouldn't recommend neighbors taking photographs or videos, and he didn't know that the City could use it in enforcement, or that a condition could be placed on what Ms. Conrad was opposing.

Ms. Conrad said it was a 50-foot noise rule, and if she could hear it from the corner of her lawn, that was 50 feet. Mr. Fischbach said as far as the noise ordinance, if there was a noise complaint, they would go out and take measurements if the noise was still taking place. Ms. Conrad said it was unrealistic to expect not to have those types of noises when the door was open, which it usually was during the summer, and they were usually using loud equipment. She said she could hear it in her house and used to come out and push the button to close the door. She said it was never going to be a situation where they were going to get along because they didn't care about the neighborhood.

Ms. Vang asked whether there could be compromise that when the doors were open there should be no use of that type of equipment. She said she and Mr. Fischbach could draft language for a new condition. Ms. Conrad said the open door created a funnel of noise down the alley.

In response to a question from MS. Vang, Mr. McConnon said the front door was open all the way, and the back door was closed 85% of the time. He said it was open a third of the way to provide ventilation, and was open only a third to keep people from wandering in the back door.

Mr. Sanchez said they felt that was a good compromise. Ms. Conrad said it didn't need to be open a third, but could be open a foot. There was additional back and forth about an appropriate height for the door to be open. Ms. Vang said the door could be open 1.5 feet, as a compromise, and must be closed when heavy machinery was being used. Mr. Fischbach asked for clarification of the type of machinery; there was discussion of the type of equipment and tools being used. Mr. Fischbach said if they'd ever had a condition on that it would be for power or pneumatic tools, but they couldn't put a condition on hammering, for instance. He said he was trying to think about what would be easy to enforce. Ms. Conrad said if they were going to be beating on stuff they should close the door, but they just opened the door and did what they wanted. She said the door was open the whole time during the inspection (environmental testing) and it was incredibly loud. Mr. McConnon said that was a situation where they had a drilling unit in the building and had to have the door open because it was a gas-operated vehicle. Mr. Fischbach asked whether there was any ventilation in the building. Mr. McConnon said they had hoses for exhaust ventilation for the cars. Mr. Fischbach said installing a ventilation system would be expensive.

Mr. Fischbach confirmed that they were looking at allowing the door to be open 1.5 feet with some kind of condition that it would be closed when power tools were being used. He said he could draft some conditions; he asked if Mr. Rosas was open to that. Mr. Sanchez confirmed that 1.5 feet was the height Ms. Vang had asked for. Ms. Vang said yes, except for when they had to use that kind of tools. Mr. McConnon said there was always going to be some noise. Ms. Vang said she understood, but certain tools were so disruptive. Mr. Sanchez said they knew what tools were allowed and would be able to close the door before they used them.

Ms. Conrad said "or music. Ms. Vang said they should be cautious about that. Ms. Conrad said it should be noise in general, and she should be able to open her house windows. She said she wasn't in her garage making it difficult for anyone else to do what they needed to do. She spoke about a neighbor who had been a music teacher and sometimes left the door open, causing her (Ms. Conrad) to have to listen to the same song repeatedly. She said they just got another new neighbor and it took two years to get him calmed down. She said, car stereos and all that stuff, she didn't want to hear any of it. Mr. McConnon said none of that was coming from his business. Ms. Conrad said the new thing was thumping with no music. Mr. Fischbach asked if they were doing car stereos. Mr. McConnon said they were not. Ms. Conrad said they weren't doing that but they (neighbors) didn't want to hear the stereos in the cars while they were being worked on. Mr. McConnon said they weren't doing that and very rarely had any music playing. Mr. Fischbach confirmed with Ms. Conrad that she would like to make a point to them to let them know; he said they wouldn't put a condition because it didn't sound like it had been an issue in the past. Mr. McConnon said all the circumstances discussed were on rare occasions, and the music never happened. Ms. Conrad said Mr. McConnon had never had music, but every time they had someone new from a younger generation, they just did things noisy. Ms. Vang said until there had been a founded violation, they wouldn't be adding that in.

Ms. Vang reviewed that the new condition would restrict the door opening to 1.5 feet and require that it be closed when they used heavy machinery that made the kind of noise that would be disruptive. Ms. Conrad said, "just noise." Ms. Vang said they should be cognizant of that.

Mr. McConnon noted that this was a residential and commercial corridor, so both parties had to work in concert. Ms. Conrad said it was under a conditional use permit, and Mr. McConnon had not built a nice building designed for what he was doing, but was trying to squeeze into something designed for something else. She said it wasn't up to her to work around the business, but was up to them to work around the neighbors.

Ms. Vang asked if there were any other concerns. Ms. Conrad said they hadn't had any issues with garbage, and the graffiti issue had been resolved, and it was just noise and blocking the alley. She said the employees and customers did park on the street, but that was another rule that couldn't be enforced. She said (DSI) was creating rules they couldn't enforce. She said she didn't care that employees parked on the street, but customers took parking away from the apartments and others who needed it. She said it was especially a problem in the winter when parking was more limited. She said parking enforcement wouldn't enforce (the license condition), and it was a situation of two entities with a conflict of interest.

Ms. Vang noted for the record that she had accepted the materials submitted by Ms. Conrad.

Mr. McConnon said Condition #3 needed clarification and modification so customers could park on Snelling for drop off and pick up just like other businesses. Mr. Fischbach said DSI had historically enforced that as customer cars waiting to be serviced. Mr. McConnon asked about clarifying by adding "during drop-offs and pick-ups." Mr. Fischbach said Mr. McConnon still had responsibility for the car at pick-up; in response to a question from Mr. Fischbach, he described the pick-up process. He noted that it was one-hour parking out front. Mr. Fischbach said he would check with the City attorney to confirm his explanation was correct and to see if it needed to be clarified. Ms. Vang said she would feel more comfortable if Mr. Fischbach would check with the City attorney on his interpretation, and on whether the condition needed clarification.

Mr. Fischbach asked whether they were parking employee cars on the street. Ms. Conrad said they were. Mr. McConnon said not on Snelling; he said that was not part of their license currently. Mr. Fischbach said Condition 3 was developed based on the nonconforming use permit; he noted that the business had been in operation since 1991. He read from the non-conforming use permit application staff report, stating that the off-street parking was two spaces for every rack, stall or pit (he noted that this was from 1991 and had changed periodically since) and it was not known how many racks, stalls or pits the applicant intended to have. The report went on to state that the applicant intended to park all customer and employee cars inside the building and would agree to such a condition. Mr. Fischbach said apparently in 1991 the applicant agreed that all customer and employee cars would be inside the building. He continued to read from the 1991 staff report that the building could accommodate 20+ cars and the applicant expected that he and his partner would work on four to eight cars per day, and the number would increase when they hired new mechanics, but would be limited by the amount of parking available. Mr. Fischbach said DSI's interpretation was in the staff report; he read Condition 1 and said DSI's interpretation was that condition was meant to intend that employee and customer cars had to be inside the building. He said if Mr. McConnon wanted to rent off-street parking from another business; the idea was just that they not be parked on the street would be an alternative to parking on the street. He said Condition 3 was DSI's clarification and

interpretation of the intent Condition 1, based on the non-conforming use findings that were stated in the staff report based on the application submitted by the applicant, stating that customer and employee cars would be parked inside the building.

Ms. Vang said that Mr. Fischbach had some homework. Mr. Fischbach said he would 1) check into the sign for the public right-of-way to see if it could be changed, 2) look at the condition for the door and come up with language that was agreeable to the Legislative Hearing Officer and the applicant, and 3) check on his interpretation of the customer vehicle.

Ms. Vang closed the public hearing. She asked if Mr. Rosas had questions. Mr. Sanchez said Mr. Rosas wanted to know if cars can come in and out the back. Mr. Fischbach said they could, but they had to proceed forward, with no backing.

Ms. Vang confirmed that Mr. Rosas understood the next steps. She said she would withhold her recommendation while they looked at Conditions 3, 9, and 10. She said she would not lay the hearing over but would send a letter with her recommendation.

Mr. Fischbach said he would provide a draft of the conditions to applicant before Ms. Vang sent her letter. Ms. Vang reiterated that the license would need Council approval after the conditions were drafted and agreed upon, and her process normally took four to six weeks. Mr. Fischbach said he anticipated two weeks or longer until they had answers from staff, and they were possibly looking at a total of two months.

The hearing was adjourned at 3:23 p.m.

The Conditions Affidavit was signed and submitted on January 18, 2019.