

LICENSE HEARING MINUTES
St. Paul Tap, Sports Bar & Gaming Co., 825 Jefferson Avenue
Monday, March 2, 2020, 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: Kris Schweinler, Department of Safety and Inspections (DSI)

Licensee: Michael Tupa, Applicant/Owner

License Application: Modify existing license conditions to permit outdoor amplified music and speakers for a business with the following existing licenses: Liquor On Sale - 101-180 Seats, Liquor On Sale - 2 AM Closing, Liquor On Sale - Sunday, Liquor-Outdoor Service Area (Patio), Entertainment (B) and Gambling Location

Other(s) Present: Stephen Pastick, Neighbor

Legislative Hearing Officer Nhia Vang made introductory comments about the hearing process: This is an informal legislative hearing for a license application. This request to modify conditions on the existing Class N licenses required a notification to inform neighbors and the District Council with an opportunity to submit comments. During the notification period, the City received correspondence of concern/objection, which triggered this hearing.

The hearing will proceed as follows: DSI staff will explain their review of the request and state their recommendation. The licensee 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 request. At the end of the hearing, the Legislative Hearing Officer will develop a recommendation for the City Council to consider. The recommendation will come before the City Council as a resolution on the Consent Agenda; the City Council is the final authority on whether the license is approved or denied.

There are three possible results from this hearing: 1) a recommendation that the City Council issue this license request without any conditions; 2) a recommendation that the City Council issue this license request with agreed upon conditions; or 3) a recommendation that the City Council not issue this license request but refer it to the city attorney to take an adverse action on the application, which could involve review by an administrative law judge.

Minutes:

Kris Schweinler, Department of Safety and Inspections (DSI), gave a staff report on the application to allow speakers to be placed on the outdoor patio area. She said one condition was being removed and one added, which was a standard condition. DSI was recommending approval with conditions.

Existing License Condition to be Removed

There will be no amplification of music or broadcasted events outside the building, and no speakers located on the patio or anywhere outside the building.

Existing License Conditions to Remain

1. The management of the licensed establishment shall provide security in the parking lots at bar closing, and again 30 minutes after closing, to ensure that the patrons leave the premises and the parking lots without causing a disturbance in the surrounding neighborhoods. Patrons shall be advised of the necessity of leaving in an orderly manner and shall not be permitted to loiter outside the bar or in the parking lot.
2. Signage shall be prominently posted at all entrances and exits to make patrons aware that when they leave the premises, they are exiting into a residential neighborhood and must show respect and consideration for the residents.
3. Licensee will create a video surveillance camera and lighting placement plan (video surveillance plan) for the interior and exterior of the licensed premises. Licensee will submit the video surveillance plan to the Saint Paul Police Department (SPPD) liaison with the Department of Safety and Inspection (DSI) for review and approval. In accordance with the approved video surveillance plan, licensee will ensure that video surveillance camera system is in good working order, ensure it is recording 24 hours per day, ensure it can produce recorded surveillance video in a commonly used, up-to-date format, and ensure that accurate date and time of day are visible on all recorded video. Licensee will retain surveillance video for a minimum of thirty (30) days. If an incident is deemed serious by SPPD, licensee shall make surveillance video immediately available for viewing by SPPD. If a copy of the surveillance video for a serious incident is requested by SPPD, Licensee shall have the technology, materials and staff available to immediately make the copy. In all other cases, licensee shall provide a copy of the surveillance video to the requestor within 48 hours.
4. At least two (2) security staff will monitor the parking lot from 11:00P.M. on Thursday, Friday and Saturday, until all patrons have left the property. Patrons will not be allowed to loiter in the parking lot.
5. Employees of the establishment will monitor the property for trash in the parking lot, along Jefferson and between Clifton and Fulton to the alley.
6. Last call will be given at 1:30 A.M. (0130). No sale of alcohol after 1:45 A.M. (0145). On nights where a 2AM closing is in effect.
7. 2am closing will be limited to Thursday, Friday and Saturday with exception of holidays or special events.
8. All new employees will go through alcohol server training within three (3) months of hire.

Recommended License Condition to be Added

9. Any outdoor activities (including those related to an outdoor seating area) shall comply with applicable State and Local rules and regulations, including but not limited to Chapter 293 Noise Regulations of the City of Saint Paul Legislative Code.

Ms. Vang asked Mr. Tupa to speak about the business.

Mr. Tupa said restrictions were imposed on the license due to the poor management of the previous establishment. He willingly accepted those, with a plan to change the path of the

property, and felt the concept, clientele and brand had enhanced that corner and become an asset. In the spring of 2019, he constructed a new patio with a fully enclosed roller wall system to prevent sound from traveling to homes on Jefferson. The roller door walls and booths with overhead frames allowed for small speakers to be tucked above and facing towards 35E. The sound was not only trapped within the space but was being pushed towards the highway. They had worked hard to be a good neighbor and recognized the intensity of the relationship even before considering taking the property on. He had seen it as an opportunity to take a long-term poorly managed but unique property with great parking and a great neighborhood and make it into something amazing. Mr. Tupa said he'd done everything he'd said he was going to do. He'd made hundreds of thousands of dollars in investments, not only to the interior, but he'd replaced the neglected parking lot with a special material that floated and moved on the boggy substrate. All of it was with the intent of creating a brand they thought the neighborhood would latch onto, and they had. In addition to the investment and being a good partner for the neighborhood, they had made donations to churches, schools, and local benefits for citizens in need, including \$27,000 to Backing the Blue Line and the St. Paul Fire Foundation.

Mr. Tupa distributed photographs of the patio and parking lot, and of the business, demonstrating their concept and brand. Ms. Vang asked whether the roller doors could be closed to control noise. Mr. Tupa said yes. Ms. Vang asked whether that would be determined by neighbor complaints. Mr. Tupa said they would self-police; they were constantly monitoring their impact on neighbors and it was simple as standing outside. He reviewed the positioning of roller doors and speakers. The speakers would be tucked up above the booths and pointed to 35E. The objective was to have more speakers at a lower level. In response to questions from Ms. Vang, Mr. Tupa said the same music playing inside the restaurant would be the same for the patio but was a different zone which would be controlled separately. Ms. Vang asked Mr. Tupa whether he was working with an expert to determine the appropriate levels. Mr. Tupa said they would set specific levels and the management team would be trained. There was always a manager on site from opening time to closing.

Mr. Tupa displayed a photo of the parking lot. Ms. Vang asked whether patrons could enter the patio from the parking lot. Mr. Tupa said there were entrances to the patio from parking lot but there was a sign directing people to see a host for seating.

Mr. Tupa displayed remaining photos which he said were brand-identifiers. He said some people would like to frame him within the past, but he asked that the opinion be based on his track record. Ms. Vang said it was unfortunate that the current establishment had inherited the previous reputation, but it was important to continue to work with neighbors. Mr. Tupa said he had also included some recent social media reviews in addition to the photos.

Ms. Vang asked about the size of the patio compared to the previous one. Mr. Tupa said it was a tick bigger. Ms. Vang asked how many seats there were; she noted the outdoor bar. Ms. Schweinler said there had been a bar outside previously. Mr. Tupa said there were 90 seats. Ms. Vang asked about staffing. Mr. Tupa said on a busy weekend there'd be three servers and two bartenders.

Ms. Vang asked Mr. Tupa how he would make sure noise would be controlled. Mr. Tupa said it would be controlled through training, and he would be involved in that process. He would work with management to set the appropriate level.

Ms. Vang noted the patio materials and asked whether sound would be reflected. Mr. Tupa said he didn't think so because there would be multiple speakers at a mild level. Ms. Vang asked when the new patio was opened. Mr. Tupa said July 2019.

Ms. Vang confirmed with Mr. Tupa and Ms. Schweinler that there hadn't been any complaints or enforcement action.

Ms. Vang invited testimony from neighbor Stephen Pastick. She noted that Mr. Pastick had submitted a letter of objection citing numerous concerns.

Mr. Pastick said from the history he had been through it all and had to say Mr. Tupa had done a remarkable job. He had been in the bar, and Mr. Tupa had made it neighborly and friendly. He hadn't called the police once, and he and others used to call the police a lot. The neighborhood was behind Mr. Tupa but were worried about the sound, based on past management catering to bikers and sound going all the way up the block. Police were called several times for that. He had come to hear Mr. Tupa's plan, and it sounded pretty good if it was going to be aimed away from the neighborhood. He asked whether the allowed decibel limit went down at 9:00 p.m. Ms. Schweinler said 10:00 p.m. Mr. Tupa said there were decibel apps they could use on their phones to be proactive and get ahead of it. Mr. Pastick said he liked to go in there, and Mr. Tupa had done everything he'd said he would, and they hadn't experienced any of the drunken behavior they had in the past.

Ms. Vang asked Mr. Pastick if there was anything else, he'd like to address. Mr. Pastick said the neighborhood was up in arms, but the City only got four letters and he was the only one who showed up. He said he was present to protect the neighborhood and hoped it wouldn't get to the level where they had to call or complain or there was animosity. He felt everyone was pretty well satisfied in the neighborhood.

Ms. Vang said that based on the Mr. Pastick's testimony, she didn't feel that additional conditions were warranted based from the letter he previously sent citing issues.

She reviewed the correspondence of objection from Shirlene Perrin, with concerns about parking and noise waking her up at night. Mr. Tupa said they had the largest parking lot of any bar in the area. There was a tremendous amount of parking on Jefferson; it was just part of the neighborhood dynamic. Ms. Vang confirmed with Ms. Schweinler that there was no additional parking requirement with the license condition change. Ms. Schweinler said they were over the requirement of what he needed. Ms. Vang reminded Mr. Tupa that since he's aware of the concern now to be cognizant and proactive. Ms. Schweinler said she didn't know why people would park out on the neighborhood. Mr. Pastick said he thought patrons parked in the neighborhood if they thought they might get ticketed for DWI; they were the big drinkers and were verbally loud when they returned to their cars. Ms. Vang said she didn't have any conditions to add related to parking on the public street.

Ms. Vang reviewed the correspondence from Sabrina Sekorski with concerns about noise, fighting, drunk driving, damage to vehicles, and shooting.

Mr. Tupa said he felt their track record would say something different. Mr. Pastick said he thought the writer was talking about the past; he hadn't seen or heard anything. Ms. Vang said she didn't see a condition needed here also.

Ms. Vang read the last correspondence, from Mr. Fue Thao with concerns about the potential for significant increase in noise. Mr. Tupa said they would manage it. Like everything in business, with close oversight things would go well.

Ms. Vang said she felt Mr. Tupa had a great idea for containing the noise, and this was different from any patio she'd seen. She was encouraged that Mr. Tupa had been doing a good job in being a good neighbor and being aware of neighbors' concerns, and she encouraged him to continue to manage his business well. She said she didn't see a need for additional conditions in light of the testimonies and information received; she confirmed that Mr. Tupa understood and agreed to the additional condition recommended by DSI. She said she didn't see a need to withhold or deny the license medication request and would recommend the Council approve the request with the agreed-upon condition.

The hearing adjourned at 10:28 a.m.

The conditions affidavit was signed and submitted on March 2, 2020.