



## Legislation Details (With Text)

**File #:** RES 19-230 **Version:** 2

**Type:** Resolution **Status:** Passed  
**In control:** City Council  
**Final action:** 6/26/2019

**Title:** Approving the application with conditions, per the Deputy Legislative Hearing Officer, for Fitzgerald's LLC (License #20160003846), d/b/a Fitzgerald's to add a Liquor Outdoor Service Area (Patio) license to the existing Liquor On Sale - 101-180 Seats and Liquor On Sale - Sunday licenses at 173 Western Avenue North. (Laid over from June 12)

**Sponsors:** Dai Thao

**Indexes:**

**Code sections:**

**Attachments:** 1. Signed Conditions Affidavit 06-26-19, 2. Signed Conditions Affidavit 05-20-19, 3. Minutes, 4. Patio License Request Letter, 5. Final SPR Approved Plan - Fitzgeralds Patio and Parking Lot 05-13-19, 6. SPR Approved Plan 05-06-19, 7. Conditional SPR Approval - Fitzgeralds Patio and Parking Lot 11-30-18, 8. Site Plan (submitted at hearing), 9. Original Site Plan, 10. STAMP Activities Report, 11. Incident Report, 12. Google Street Photos, 13. Verified Petition of Support Percentage 10-10-18, 14. Aerial Photo, 15. Zoning Map, 16. Plat Map, 17. AMANDA Print Screen, 18. 100' Property Ownership, 19. District Council correspondence 05-22-18, 20. District Council Letter 01-23-19, 21. Correspondence of objection 1, 22. Correspondence of objection 2, 23. Correspondence of objection 3, 24. Correspondence of objection 4, 25. Class N Notification, 26. Notice of Rescheduled License Hearing, 27. Notice to Non-City Parties, 28. License Hearing Sign-In Sheet, 29. Repke email 05-09-19, 30. Repke email 02-11-19, 31. Good Faith Effort Report 11-26-18, 32. Good Faith Effort Report 03-08-18, 33. Shared Parking Agreement with YWCA

Date	Ver.	Action By	Action	Result
7/2/2019	2	Mayor's Office	Signed	
6/26/2019	1	City Council	Adopted As Amended	Pass
6/12/2019	1	City Council	Laid Over	Pass

Approving the application with conditions, per the Deputy Legislative Hearing Officer, for Fitzgerald's LLC (License #20160003846), d/b/a Fitzgerald's to add a Liquor Outdoor Service Area (Patio) license to the existing Liquor On Sale - 101-180 Seats and Liquor On Sale - Sunday licenses at 173 Western Avenue North. (Laid over from June 12)

WHEREAS, Fitzgerald's LLC (License #20160003846), d/b/a Fitzgerald's located at 173 Western Avenue North in Saint Paul has applied for a Class N license to add a Liquor Outdoor Service Area (Patio) license to the existing Liquor On Sale - 101-180 Seats and Liquor On Sale - Sunday licenses; and

WHEREAS, Eighty-nine (89) residential properties are within a 300-foot radius of licensee's proposed Liquor Outdoor Service Area (Patio) license, and licensee must seek consent of neighboring residential properties and obtain ninety percent (90%) approval or, in the lesser case, sixty percent (60%) or more approval; and

WHEREAS, licensee sought support from a list of private residences provided by the Department of Safety and Inspection by signatures of approval on petitions; and

WHEREAS, licensee was unable to obtain the ninety percent (90%) consent or, in the lesser case, sixty

percent (60%) or more; and

WHEREAS, licensee, per City of Saint Paul Legislative Code 409.06(g) (2) (c), was able to receive positive consent from thirty-nine percent (39%) of residential owners, including support from the Summit-University Planning Council; and

WHEREAS, the Council finds that these efforts constitute a good faith effort to fulfill all petition requirements, and that the results of the attempts to obtain signatures showed a generally favorable disposition from the surrounding community toward the proposed licensed activity; and

WHEREAS, the Council finds that issuance of the license will not interfere with the reasonable use and enjoyment of neighboring property and residences and will not bear adversely on the health, safety, morals and general welfare of the community; and

WHEREAS, the Deputy Legislative Hearing Officer recommends that the application for Fitzgerald's LLC (License #20160003846), d/b/a Fitzgerald's to add a Liquor Outdoor Service Area (Patio) license to the existing Liquor On Sale - 101-180 Seats and Liquor On Sale - Sunday licenses be approved with the following conditions:

#### Existing License 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.

#### Recommended Additional License Conditions

3. Any outdoor activities 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.
4. Licensee will create a video surveillance camera and lighting placement plan (video surveillance plan) for the parking lot at 401 Selby associated with 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.
5. The outdoor patio seating area shall close by 10:00 p.m. each day of the week. (The use of this patio will require sign-off of on all permits for both the patio and parking lot being constructed at 401 Selby and 173 Western.)
6. Licensee will retain an acoustic engineer to perform a noise impact analysis and follow all recommendation for mitigation of noise impacts in compliance with state and local rules and regulations.
7. The construction of the parking lot will be completed before beginning the patio construction to ensure that current parking requirements are met. (13 spaces). All permits must be obtained and finalized.

THEREFORE, BE IT RESOLVED that the Council of the City of Saint Paul hereby approves this license application with the aforementioned agreed-upon conditions.

The Conditions Affidavit was signed and submitted on May 20, 2019.