LICENSE HEARING MINUTES
David Heu, dba Fun Auto, 931 Atlantic St Unit I
Monday, May 15, 10:00 AM
Room 330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

The hearing was called to order at 10:00 AM

Staff Present: Jeff Fischbach, Department of Safety and Inspections (DSI) Licensing Inspector; YaYa Diatta, DSI Zoning Manager (remote participation); Frances Birch, DSI Zoning Inspector (remote participation)

Licensee: David Heu, Applicant/Owner

License Application: Add an Auto Body Repair Shop license to the existing Auto Repair Garage license

Legislative Hearing Officer Nhia Vang made introductory comments about the hearing process: 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 correspondence 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, 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 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's office to take an adverse action on the application, which could involve review by an administrative law judge.

Minutes:
Jeff Fischbach, Department of Safety and Inspections (DSI) gave a staff report for licensee David A. Heu (License ID# 20220001800), d/b/a Fun Auto, located at 931 Atlantic St Unit I. The application is to add an Auto Body Repair Shop license to the existing Auto Repair Garage license. Existing license conditions are as follows:

The change of nonconforming use (#09-028-679) from auto body shop to auto repair garage is approved by the Planning Commission, subject to Conditions 1 through 3:

1. A site plan showing the building, site access, vehicular circulation, and off-street parking must be reviewed and approved by the Department of Safety and Inspections (DSI).
2. The approved use does not include vehicle sales or vehicle storage.
3. The shop's hours of operation shall be restricted to opening no earlier than 8 am and closing no later than 6 pm daily.

Additional license conditions are as follows:

4. Parking spaces shall be maintained in the area and number shown on the approved site plan for the auto repair business occupying this licensed area. Any changes to the site plan must be approved by the Zoning Administrator.
5. There shall be no exterior storage of vehicle parts, tires, oil or any other similar materials associated with the business. Trash will be stored in a covered dumpster.
6. The license holder agrees to maintain the fencing, vehicle location and vehicle barriers in a manner consistent with the approved site plan.
7. All vehicles parked outdoors must appear to be completely assembled with no major body parts missing.
8. Vehicle salvage is not permitted.
9. Auto body repair and/or painting are not permitted.
10. No auto repair of vehicles may occur on the exterior of the lot or in the public right-of-way. All repair work must occur within an enclosed building.
11. Customer vehicles may not be parked longer than 10 days on the premises. It shall be the responsibility of the licensee to ensure than any vehicle not claimed by its owner is removed from the lot as permitted by law.
12. Licensee must comply with all federal, state, and local laws.
13. Storage of vehicle fluids, batteries, etc. shall be in accordance with Ramsey County Hazardous Waste Regulations.
14. Failure to remain in compliance will result in adverse action against the license.
15. Licensee will place laminated placards, that are impervious to weather, in each car's dashboard clearly identifying the cars they have in their possession in order to distinguish one business from another.

DSI is recommending approval with additional license conditions:

Conditions #16-17 per Conditional Use Permit (CUP) # 23-012807:

16. An opaque fence must be installed along the Phalen Boulevard right-of-way to screen this uses vehicles from awaiting repair.
17. All trash shall be stored within an enclosed obscuring wall or fence, shall not exceed the height of the wall or fence, and shall be removed from the lot by licensed waste disposers at least once per week.

There has been no correspondence received from any neighborhood organization to recommended or object. Building conditions, N/A; License approved with conditions; and Zoning approved with conditions.

Ms. Vang asked if Mr. Heu understood and agreed to the conditions. Mr. Heu answered in the affirmative.

Mr. Fischbach: Mr. Heu applied for the auto repair garage license last year, and at the time he was thinking he might want to do auto body repair also. As part of that review during a site inspection we found some machinery like a frame straightening machine and some other equipment related to auto body repair. We told him that he needed to either remove that equipment or apply for a license and get a conditional use permit (CUP) for the auto body repair. He then added the auto body repair license to his application for auto repair garage, but we'd already sent notice. Mr. Heu was going to be gone for an extended period, so he added that and asked if he could apply for the CUP when he came back in a month or so. We did issue the auto repair garage license, but he wasn't using it because he wasn't here. When he came back, he applied for the CUP right away. We held back on the public notice on the auto body repair license until we knew whether he received zoning approval. Once he got the zoning approval for the CUP and the 2 additional conditions were to be added, we sent the public notice on the license. One of the additional conditions requires that obscuring materials be placed over the fence along Phalen Blvd to block view of cars and trash. He was told to contact zoning inspector Farhan Omar for details about what is allowed, but Mr. Omar has been out of the office. Mr. Heu did reach out to him, and Mr. Omar will likely get back to him as he gets caught up now that he's back.

Mr. Diatta: Mr. Heu does have Planning Commission approval for a CUP. Regarding the 2 additional conditions, the CUP expires in 2 years and so Mr. Heu needs to comply with conditions 16 & 17 before that expires, so he has two years to get the fence installed with opaque materials.

Mr. Fischbach: There is a chain link fence along Phalen Blvd. We weren't sure what type of material would be appropriate for opaqueness, and that was why we deferred to zoning inspector Farhan Omar for that.

Mr. Diatta: Typically for Auto Body shops, they need to have an obscuring fence. City code specifically states that vinyl slats do not count as obscuring. The intent is to screen the activity from the street. Chain link alone is not allowed

Ms. Birch: A wooden fence is allowed and is obscuring. It should be allowed at 80% opacity, but I need to check on that.

Ms. Vang asked if the fence would need to cover the whole property line or just where the cars are.

Mr. Fischbach: I don't believe it would need to cover the whole property line, but I would defer to Zoning.

Mr. Diatta: The intent is to screen the vehicle storage and trash. They would have to screen those, and not necessarily the whole property line.

Ms. Vang asked Mr. Heu for clarification on where cars are stored. Mr. Heu stated that there were 9 parking spots outside.

Mr. Heu: The chain link fence belongs to the city so we can't touch it. We will put up our own obscuring fence and not attaching anything to the chain link. Regarding trash, all trash is stored indoors and once or twice a week we use the landlord's dumpster service. No trash is stored outside on the property that we are leasing.

Ms. Vang: So, what is the need for Condition #17?

Mr. Heu: It does not have anything to do with me. All trash is covered because it's stored inside.

Ms. Vang asked Mr. Diatta what the reasoning was for Condition #17.

Mr. Diatta: This maybe should not have been required. I can reach out to the Planning Commission and see what the reasoning is. This would probably take a month.

Ms. Vang: We could move forward though with him agreeing to these conditions and then we could update it later with a removal.

Mr. Fischbach: I would recommend it stays in case plans change and trash needs to get moved outside. It doesn't hurt. We can't remove that as a CUP condition even if we remove it from the license conditions. I don't know if removing it as a condition would come at a cost to Mr. Heu as well.

Mr. Heu: I'm fine with it. We keep our trash inside, and if we need our own dumpster, we will keep it covered and have a fence around it. All I need is to get a hold of Farhan Omar about fence details.

Mr. Fischbach: Some fencing companies have said they can take a year on construction.

Mr. Vang: How would that delay impact his business?

Mr. Fischbach: We would defer to zoning, who says that they have 2 years to come into compliance. For licensing, we just want Mr. Heu to know what he needs to do.

Mr. Diatta: Yes, he has 2 years to meet the requirement. I checked on the opaqueness requirement, and the fence needs to be 100% opaque. The 80% requirement is only for residential districts.

Ms. Vang asked the applicant to talk about the business's operations since the previous license hearing.

Mr. Heu: The plan is to keep going as is and add auto body work. We will put up a fence and I will check with zoning on those details. Nothing changed since the last hearing. No complaints have come in and the placard system has been working well. We have 9 gravel road spots. We control how they park and can fit 9 cars. The landlord removed the snow in the winter, so we didn't lose parking. Hours haven't changed and are still 9am – 6pm. Sometimes my brother comes to help, but other than that it's just me.

Ms. Vang next read the letter of objection from Ms. Laura Bateman, property owner at 879 Atlantic St. The letter voiced concerns about parking cars waiting to be worked on being parked in the street. The concern was about nearby auto shops overall, and not specific to this business. Ms. Vang then gave Mr. Heu the opportunity to respond.

Mr. Heu: We don't go that far down the street to where her property is, and we don't get enough business for that to ever be an issue. She might be 100-150 yards away. Our customers don't ever park there either. They come right to the shop. We also have space indoors for the cars for moving them in and out as well.

Mr. Fischbach: There have been no complaints leading to enforcement action on our end.

Ms. Vang: Did any auto theft impact your business, such as what is noted in the police log?

Mr. Heu: It doesn't relate to us. Property management has security cameras, and we have a security fence. We did not install additional lighting because it has a good amount of light. The back of the larger property has less light and is a different business so that doesn't have to do with us. We lock our gate every night.

Ms. Vang stated that after reviewing the records and considering the testimonies from all parties, she will recommend to the City Council that they approve the license with the following agreed-upon conditions:

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The hearing adjourned at 10:34 AM.

The Conditions Affidavit was signed on April 17, 2023 and submitted on May 15, 2023.