

LICENSE HEARING MINUTES
M'ER Produce LLC, dba M'ER Kafe, 1001 Johnson Pkwy Suite P6
Monday, January 22, 10:00 AM
Room 330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, 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;
Frances Birch, DSI Zoning Inspector (remote participation)

Licensee: Kong Lee, Applicant/Owner; Thomas Herr, Project Consultant

License Application: Wine On Sale and Malt On Sale (Strong) licenses

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:

Hearing Officer Vang asked if the applicant understood and agreed to the conditions listed on the Class N Notification.

Herr: Yes, he does. I will be speaking on behalf of Lee. I am the project consultant.

Lee: Yes, I agree to them.

Fischbach: He already signed the conditions affidavit.

Hearing Officer Vang: (referring to Mr. Lee specifically) If you need any translation, I can wait while Herr translates for Lee.

Herr: No need.

Jeff Fischbach, Department of Safety and Inspections (DSI) - Licensing, gave a staff report for licensee M'ER Produce LLC (License ID# 20230002035), d/b/a M'ER Kafe, located at 1001 Johnson Pkwy Suite P6. The application is for Wine On Sale and Malt On Sale (Strong) licenses. DSI is recommending approval with the following license conditions:

1. Per City of Saint Paul Legislative Code 409.15(a)(2), On-sale wine license shall mean a license authorizing the sale of wine not exceeding fourteen (14) percent alcohol by volume, for consumption on the licensed premises only in conjunction with the sale and service of food (menu item only). The sale of Malt (Strong) will also take place only in conjunction with the sale and service of food.
2. Per City of Saint Paul Legislative Code 409.15(e), licensee must be able to show that gross receipts are at least sixty (60) percent attributable to the sale of food.
3. Licensee will submit to the Department of Safety and Inspections (DSI) annual gross receipts for food and liquor for each year the license is renewed.
4. Licensee agrees to take appropriate action(s) to ensure that the sale, display, and/or consumption of alcoholic beverages is contained within the defined alcohol service area as per the approved plan on file with the Department of Safety and Inspections (DSI).

The District 4 Dayton's Bluff Community Council submitted an email acknowledging receipt of the application. Building conditions, in process - Building Permit #2023-027805; License approved with conditions; and Zoning approved.

Hearing Officer Vang: What are the implications of violating these conditions?

Fischbach: We would first focus on compliance. If a complaint is substantiated, we might visit to offer advice. If need be, we could recommend adverse action, which could result in penalties based on our penalty matrix. These penalties range from monetary fines up to revocation of the license.

Hearing Officer Vang asked about the Zoning review.

Frances Birch, Department of Safety and Inspections (DSI) - Zoning, gave a staff report. The area is zoned IT1 – Transitional Industrial. This is a permitted use. There are no parking requirements associated with this application. Any changes to the approved parking plan for the building would be done by working with Zoning staff.

Hearing Officer Vang asked the applicant to talk about the business: history, hours of operation, number of employees, etc.

Herr: This location is part of the Hmong Village Shopping Center. We plan to serve a maximum of 2 drinks per person. This will mostly be for things like lunch meetings. We don't anticipate a large number of sales and don't want people getting drunk. This also affects our liquor insurance, so we care for that reason as well.

Hearing Officer Vang: There are six tables with four chairs each?

Herr: We do plan on having a minimum of 25 chairs. There are also two smaller two-person tables. It's a big space.

Hearing Officer Vang: How will you control the space?

Herr: There will be a waist-high fence. People cannot hand drinks to someone outside the space. We will have cameras to make sure that doesn't happen.

Hearing Officer Vang: How will staff monitor that?

Herr: We plan on having two kitchen staff, one cashier, and maybe two staff outside who could monitor that. It depends on how busy it gets.

Hearing Officer Vang: I just want to make sure, since you are the first vendor here to serve alcohol.

Herr: I managed Hmong Village until 2023, and we usually don't allow alcohol service unless the business writes a proposal detailing how it will be served. That is then taken to the owners to make the decision. The only reason the owners are allowing us to do this is because of the 2-drink limit and our focus on only serving customers within our own space.

Hearing Officer Vang: With 2 drinks per person, how will you make sure no one goes over that amount?

Herr: Not sure yet. We will be tallying them. I don't imagine it will become a problem, but we will make a plan to handle that if it does. We also care about the public and their safety.

Hearing Officer Vang: You know you have a food service threshold with this license, correct?

Herr: Yes.

Hearing Officer Vang: Will alcohol be served in cans, bottles, or cups?

Herr: Not sure. We don't want to do bottles, for safety reasons. It will be cans or cups. It's also worth noting that one of the reasons we changed away from 3.2 alcohol sales is because it was so hard to buy.

Hearing Officer Vang: Do you share trash or collect it separately?

Herr: It's a shared container.

Hearing Officer Vang: Parking is shared as well?

Herr: Yes.

Hearing Officer Vang: Is there a planned parking ramp for Hmong Village?

Herr: I don't think so, since only the smaller south parking lot is allowed to have a ramp constructed. I think the owners are reluctant to do that. I can't speak for them, though. I managed the space for 5.5 years, so I know how busy it gets.

Hearing Officer Vang: Will you continue to help Lee with the business?

Herr: Yes. He's like a brother. We have lots of family connections, between nieces and aunts. My wife owns M'ER Produce, also.

Hearing Officer Vang: Do you need time to explain things to Mr. Lee?

Lee: No.

Hearing Officer Vang: I don't think traffic here would increase much, since it's just one vendor out of many. Do you have any expectations of that?

Herr: It remains to be seen. Any increase would likely be minimal.

Hearing Officer Vang: What will you serve, in addition to wine and beer?

Herr: Coffee, tea, baked goods, and stir-fry for lunch. It won't have a full kitchen. It will mostly just be air frying. There isn't a ton of space for food prep. For ordering, customers place their orders at the counter.

Hearing Officer Vang: Will staff be checking for IDs, to make sure alcohol is not served to people underage?

Herr: Yes. Lee will be. He will be operating the business.

Hearing Officer Vang: Does he have experience with alcohol service?

Herr: He's owned restaurants for 25 years. He had a steakhouse in Minneapolis and has had a couple others as well.

Hearing Officer Vang next read into the record the letter of objection from Zoua Vang, which voiced concerns about safety. She then gave the applicant the opportunity to respond.

Herr: I read the email. To her concerns, we only plan on serving a maximum of 2 drinks per person and wanted a fence to separate our area from the rest of the space. We will also have our own cameras, in addition to those owned and operated by Hmong Village.

Hearing Officer Vang: Will recording be shared with police upon request?

Herr: Yes. We can make a copy within a reasonable period, but not years later.

Hearing Officer Vang: I see a pending building permit. What's still outstanding?

Herr: We need to make some changes. Originally, the owner wanted the prep area to be on the north end of the space, but then they wanted to protect a mural there, so now they want us to change to the south end. I went in and changed that on the site plan.

Fischbach: Have you gotten inspections done on all your permits?

Herr: Yes, for plumbing. The inspection was done last Friday. The work should be finished tonight. We still need to get the framing done, which needs to wait until the plumbing is done. Hopefully we can open in February or early March.

Hearing Officer Vang: What's in this space now?

Herr: It used to be Herb Table.

Lee: There used to a stage there.

Hearing Officer Vang: I know where that is. Thank you for clarifying that. So, some work needs to be done to change it then.

Herr: Yes. And regarding concerns, we always welcome complaints so we can improve.

Hearing Officer 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:

1. Per City of Saint Paul Legislative Code 409.15(a)(2), On-sale wine license shall mean a license authorizing the sale of wine not exceeding fourteen (14) percent alcohol by volume, for consumption on the licensed premises only in conjunction with the sale and service of food (menu item only). The sale of Malt (Strong) will also take place only in conjunction with the sale and service of food.
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The hearing adjourned at 10:30 AM.

The Conditions Affidavit was signed and submitted on December 9, 2023.