

LICENSE HEARING MINUTES
The Herbivorous Dragon LLC, dba J Selby's, 169 Victoria Street N
Thursday, July 27, 2:00 PM
Room 330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

The hearing was called to order at 2:03 PM

Staff Present: Ross Haddow, Department of Safety and Inspections (DSI) Licensing Inspector; Frances Birch, DSI Zoning Inspector (remote participation)

Licensee: Aubry Walch, Applicant/Co-owner; Kale Walch, Co-owner; Erinn Mueller, General Manager for Herbivorous Butcher; Hannah Holden, General Manager for J Selby's; Dan Campbell, Employee; Noah Ramstad, Kitchen Manager

Others Present: Ann & Monroe Walker, 863 Hague Avenue; Ryan Schroeder & Patty Wilder, 838 Laurel Avenue

License Application: Wine On Sale, Malt On Sale (Strong), and Liquor-Outdoor Service Area (Sidewalk) 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:

Ross Haddow, Department of Safety and Inspections (DSI) - Licensing, gave a staff report for licensee The Herbivorous Dragon LLC (License ID# 20230000698), d/b/a J Selby's, located at 169 Victoria Street N. The application is for Wine On Sale, Malt On Sale (Strong), and Liquor-

Outdoor Service Area (Sidewalk) 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 limit the placement of table(s)/chair(s) on the public sidewalk to the area and number of seats shown on the approved sidewalk seating plan on file with the Department of Safety and Inspections (DSI) and Public Works.
5. Each year prior to the placement of table(s) and/or chair(s) in the public right-of-way (i.e., sidewalk), the licensee agrees to obtain a new Obstruction Permit from the Department of Public Works. Licensee agrees to maintain the sidewalk café in accordance with the conditions placed on an approved Obstruction Permit, acknowledges that an Obstruction Permit is effective on April 1 and expires on October 31 of each year, that table(s) and/or chair(s) may not be placed in the public right-of-way before or after the effective/expiration dates, and that a failure to comply with this condition will result in adverse action being taken against all of their licenses.

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

Vang asked Frances Birch about the Zoning review.

Hanna Birch, Department of Safety and Inspections (DSI) - Zoning, gave a staff report. This location is zoned B2, Community Business. A restaurant and bar are both permitted uses. Parking was not reviewed as part of the review process. There were no parking minimum requirements.

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

Aubry Walch: We took over January 1st of this year. Our intention was to carry on the original business model. We wanted to add sidewalk seating though, about 3-5 tables, about 3 person per table. We plan to offer side doors for food service going in and out. This was our plan until we learned about the construction on Selby Avenue. We are now looking at having the sidewalk patio be located on Victoria instead of Selby Avenue. The new change require that we replace some grass with concrete. We need to work with forestry on that, so this all won't happen until next year. We plan to have planters to park off the sidewalk patio and will include them in our new plan. Our hours are Monday – Saturday, 11am – 8pm; Sunday 10am – 8pm. We have no plan to change those hours. Prior to our ownership they didn't have Monday or Sunday service

or alcohol on a patio. We will have outdoor servers. It's a fast-casual model. Food is brought out and tables bussed by staff, but ordering is done beforehand at a counter. We will check for identification for alcohol service. We have 34 staff people, and about 10 front house staff at once.

Vang asked about staff parking.

A. Walch: Many staff bike to work. Some park their cars in the neighborhood. Some live very close by.

Vang asked about the sidewalk café site plan.

A. Walch: As mentioned, construction changed our plan. The bus station is now in front of where our café would be. We now are working with forestry to get approval to pave over some grass we will use instead, and the new plan will be for using it next year. We applied for this license before we knew about the construction. The patio was planned to be on Selby with a walkway between the building and the street. Now we are hoping to put it on Victoria where there is currently grass and we need to cement over it. It would only fit 3-4 tables. There will still be a walkway between the tables and building with planters to delineate that. There is no music outside. For lighting there is a streetlight, but because we are only open until 8pm, the patio will be light enough from natural light during the months that it's open.

Vang asked about indoor seating.

A. Walch: There are 60 seats inside.

Vang asked others to introduce themselves.

Kale Walch: I'm the other co-owner and part time cook.

Dan Campbell: I'm a part time employee and Aubry's husband.

Erin Mueller: I'm the general manager for the other 2 locations for the company, but I do oversee Selby too.

Noah Ramsey: I am the previous kitchen manager.

Hannah Holden: I am the general manager for J Selby's.

Vang: How long have you been in the industry and how do you handle alcohol service?

A. Walch: We currently own The Herbivorous Butcher, which is 8 years old now, and Herbie Butcher's Fried Chicken, which is 2 years old. Neither business serves alcohol. This is new to us, but Hannah has managed this location for a while and this business did have a liquor license before we bought it.

Holden: I have managed here since 2017. I started in the front-house staff receiving the training and now am doing the training and enforcing responsible consumption laws with our staff. We are thorough about carding. Excessive consumption has never really been an issue, partially because of our closing at 8pm and the clientele we attract. Alcohol is also properly portioned.

Vang asked if the applicant understood and agreed to the conditions. Aubry Walch answered in the affirmative.

Vang asked Haddow for additional details about Condition 3.

Haddow: That is the standard condition DSI have for all wine and strong malt licenses. The old language was 60% and now it's just a majority. That condition is to ensure the business operate as a restaurant and not a bar.

Vang next invited other attendees to testify.

Monroe Walker, 863 Hague Avenue: I have no problem with the business or transfer of license. The problem is the big trucks parking in the alley. It has been a hassle for us. Our garage gets blocked every time there is a delivery. We had this issue under previous ownership, and they helped us out. Construction down Victoria is coming up, but all I can see is the alley. When that construction is over, are trucks going to get back to blocking us in? On at least one occasion, I feared that something was going to happen. Public Works told us that trucks cannot be parking in the alley because it is not wide enough for two vehicles, particularly emergency vehicles. So, we put up a sign, per their instruction, saying that no parking is allowed in the alley. I don't know what else to do. The sidewalk thing has never been a problem.

Vang: This occurred under previous ownership?

M. Walker: Yes. There's another restaurant next to them also, so it's not just them. The owner of the building was involved in discussions about this. We had to get a garage door replaced because it kept getting hit. A truck ran over our fence, and he said, "I'm not the only one that hits it." I don't want them to close. It's been good for the neighborhood, but there is an inconvenience. It could sometimes be 10 truck a day, though I don't know the specific.

Vang asked about deliveries and trash pickup.

Holden: Deliveries are daily, aside from Sunday. We do have multiple deliveries a day. All our drivers are aware that parking in the alley, even quickly, is not okay.

Mueller: When we took over, we didn't know it was a problem. We learned about this issue, and right away I contacted all our buyers to tell their drivers to make sure no one was parking in the alley. We also reached out to Hamburguesas El Gordo, our neighbor, to let them know. They were not aware either. That was 3 weeks ago. To our knowledge, our drivers should not be back there anymore.

Holden: There is no consistent delivery time. To let us know they are there they might just bang on the back door. If we see them parked in the alley, we tell them to move. Sometimes they just park on Victoria and come in through the front to ask where to bring the food, while staying parked on Victoria. Deliveries are always greeted by staff.

Vang: Is trash pickup an issue?

M. Walker: Trash is picked up in the alley, but that's not really an issue. He just flips it and goes. Problem with deliveries is that when there's a new driver, things can change.

Ann Walker, 863 Hague Avenue: This is my home. I love my home, but I don't like the surroundings right now. Things have greatly improved, but some of your staff have told us that we have to get used to it in a commercial area. That's offensive to me. I asked to speak to someone about this. The big trucks keep us from using our backyard. We know what it's like to deal with a business there. Even just a sign up to encourage drivers to respect residents would be appreciated. I'm told that nobody else cares, but we are the ones most affected. We're the ones getting blocked in. Have you asked anyone else? I want to stay in my home. We support your business and want it there, but we want to get rid of this problem. As I said though, things are greatly improved.

A. Walch: We can get a sign, or even put one on our garage door, about deliveries being accepted in back but no parking is allowed back there. We can also talk to our reps and check in about new drivers. Our other businesses have had issues with drivers, so we know how to address these concerns. You should not have to live your life around our delivery schedule.

Ryan Schroeder, 838 Laurel Avenue: We support the business. I understand the neighbors' concerns. Primarily, I wanted to say that this corner has improved under J Selby's management. There used to be much more nefarious activities. We have friends from Minneapolis who ate here before we did, so it has attracted a good customer base. It should be celebrated, but sometimes it feels like it isn't, such as with the B Line construction and lack of communication from Metro Transit. No one knew about it. It's symptomatic of the public sector not caring about business. We own property on Selby ourselves and were also surprised by this. I contacted Metro Transit, and apparently, I was there first phone call. They had no communication for that project. Metro Transit was the responsible party, but the City should require them to be in communication with us. The alley and delivery issues are important, but they are a tangent relative to the sidewalk patio. We're here because of that. This should be an administrative approval. It's just the patio.

Vang: This is also for the change in ownership of the licenses.

Schroeder: I understand.

Vang: When did construction start?

Mueller: May 22nd. The worst part finished on June 22nd, but small projects remain through the end of August. The road is back open though. Deliveries are not impacted.

Vang: Where do customers park?

Mueller: They park on both Victoria, Selby, and side streets. It's all open parking.

Vang: I don't have any tools to address delivery issues, but I'm glad to see you are willing to work together on that. I think the sign about deliveries is a good idea. I am curious how often DSI Zoning communicates with Public Works about street construction.

Birch: I don't know the answer to that exactly. We work with them in the site plan review process on a project-by-project basis when building or parking is involved.

Haddow: We did not know about construction of the bus line either, until the J Selby's crew alerted us. We contacted Public Works immediately to try and figure out what was going on.

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:

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 2:49 PM.

The Conditions Affidavit was signed and submitted on July 27, 2023.