

LICENSE HEARING MINUTES
859 Randolph Ave Corp, d/b/a The Spot Bar, 859 Randolph Avenue
Monday, October 16 2023, 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); Alan Tellez, City Attorney's Office

Licensee: Meredith O'Toole, Applicant/Co-owner; Emilie O'Toole, Co-owner (remote participation)

License Application: Adding a Liquor-Outdoor Service Area (Patio) license to the existing Liquor On Sale - 100 seats or less, Liquor On Sale - Sunday, and Gambling Location licenses

Legislative Hearing Officer 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) - Licensing, gave a staff report for licensee 859 Randolph Ave Corp (License ID# 16384), d/b/a The Spot Bar, located at 859 Randolph Avenue. The application is to add a Liquor-Outdoor Service Area (Patio) license to the existing Liquor On Sale - 100 seats or less, Liquor On Sale - Sunday, and Gambling Location licenses. DSI is recommending approval without license conditions.

The District 9 West 7th / Fort Road Federation submitted an email acknowledging application submission. Building conditions, in process; License, approved; and Zoning, approved.

Fischbach: This applicant had a public hearing last year in September, and from my understanding they were having trouble with meeting the petition requirement. That requirement has since went away, so the applicant withdrew their application and sent in a new one under our updated ordinance that does not require a petition. That's why we are here today. There are 2 open building permits. One is for a door and the other for a patio. I don't know if the work has been completed yet, but neither of those have had final inspection approval. The applicant will have to contact their contractor and have them contact the building inspector to get those approvals. However, it looks like these permits were pulled quite a while ago. Generally, there is a time limit on these. I don't know when the inspections were last done, so they may have to reapply for new permits if these expired. We can't issue the liquor outdoor service license until the building permits are finalized.

Hearing Officer Vang asked Frances Birch about the Zoning review.

Frances Birch, Department of Safety and Inspections (DSI) - Zoning, gave a staff report. This location is zoned B2, Community Business. Restaurants and bars are both permitted uses. One of the letters mentioned exterior lighting. We do have zoning regulations for that, which I can provide if the owners want to have them.

Hearing Officer Vang: What is the policy on exterior lighting?

Birch: Under Section 63.116 of the Legislative code:

- (a) All outdoor lighting in all use districts, including off-street parking facilities, shall be shielded to reduce glare and shall be so arranged as to reflect lights away from all adjacent residential districts or adjacent residences in such a way as not to exceed three (3) footcandles measured at the residence district boundary.
- (b) All lighting in all districts used for the external illumination of buildings shall be placed and shielded so as not to interfere with the vision of persons on adjacent highways or adjacent property.
- (c) Illumination of any other outdoor feature shall be maintained stationary and constant in intensity and color at all times when in use.
- (d) Hybrid (wind/solar) light fixtures will be placed so as to minimize any intermittent repetitive, or rhythmic lighting or shadowing effect that is a direct result of rotating wind energy conversion system blades. They shall not exceed twenty-five (25) feet in height and shall be set back from other principal structures by at least one (1) times the height of the fixture.

That's the entirety of our rules for exterior lighting.

Hearing Officer Vang: Could you describe your patio and the situation with the building permits?

Meredith O'Toole: I thought the permits were closed. I called my contractor after our hearing last year and he told me they were. Nothing has changed from a year ago. It's a 20-foot by 20-foot floating deck. It's attached to the bar, with no access to the yard or parking lot. We have a

fence around it to keep noise down. We have 3 downward facing lights that we keep on overnight. They're mostly for security, since we did have someone jump in and try to break into the bar. We have string lights as well. Those lights face down also and are off by 10pm or earlier, depending on the season.

Hearing Officer Vang: Do you have surveillance cameras?

Ms. O'Toole: We don't have cameras inside or outside. We do have a security service for the doors.

Hearing Officer Vang: Does the enclosed patio have an emergency door?

Ms. O'Toole: It's completely enclosed. It does have a fire exit, but they would need a key from the bartender to get out.

Hearing Officer Vang: I would encourage your contractor to follow up with building about that, to make sure it's up to code. What is seating like?

Ms. O'Toole: Seating capacity is 16-20 for the patio.

Hearing Officer Vang: Has fire reviewed that number?

Ms. O'Toole: I don't know as I'm not a contractor. They handled that.

Fischbach: Patios are not usually included in the Fire Certificate of Occupancy numbers. I do also want to restate, DSI cannot issue the license until the building permits are closed, so you should talk to your contractor to work on that. If you are having trouble with her contractor, we can certainly help her get in contact with the building inspector to see how the building inspector wants to handle it. We usually recommend that an applicant does not give final payment on the work until they see a signed off permit, because that's holding them up here. I'm assuming they probably won't have trouble with it. Maybe the contractor just forgot or there was an oversight.

M. O'Toole: When I leave here today, I will get a hold of the contractor.

Fischbach: To be clear, a license is not required for them to have seating out there without alcohol service. But they should still not be using that patio until building permits are finalized.

Hearing Officer Vang: Are your hours of operation still the following?

Monday – Wednesday:	2pm – 11/12pm
Thursday:	2pm – 1am
Friday – Saturday:	10am – 1am
Sunday:	10am – 11/12pm

Ms. O'Toole: Yes.

Hearing Officer Vang: Will patio hours be different?

Ms. O'Toole: The lights go out and it closes 10pm, or earlier, depending on the season. The bartender will come out and tell people to move inside.

Hearing Officer Vang next read into the record the letter received from Brayden & Sarah Duckson, 486 Victoria Street N, which voiced concerns over noise, lighting, parking, and nuisance activities. She then gave Ms. O'Toole the opportunity to respond.

Ms. O'Toole: Parking is a non-issue. The City does not require it, but we do have 6 spots. We've always tried to be respectful of our neighbors. With the deck, I was told that we don't have to close at 10pm, but we choose to because of the neighbors. We have entrance and exit through the bar to contain people and be respectful to neighbors. I don't think the chatting and laughing is excessive. We've been there since 1885. There are other bars nearby as well. We don't have police calls.

Hearing Officer Vang: Last time, we proposed a condition regarding the noise ordinance. Would you still be okay with that?

Ms. O'Toole: I'm okay with that.

Emilie O'Toole: I know we are required to abide by the noise ordinance anyway. This would be a good showing for the neighbors. We are okay with that.

Fischbach: The condition would read: "Licensee shall take appropriate actions to ensure that any noise generated by activities associated with the operations of the business complies with City of St Paul Legislative Code Chapter 293 Noise Regulations."

Ms. O'Toole: That's fine.

Hearing Officer Vang next read into the record the letters of support from Alex Moeller, 867 June Avenue, and Christian Hager, 820 James Street.

Hearing Officer Vang: I know the building work is done, but I just want to remind you to again finalize those building permits.

Ms. O'Toole: Was there something with permits and the sewer?

Hearing Officer Vang: Sewer Availability Charge (SAC) Fees?

Fischbach: SAC fee determination doesn't look at occupancy. The building permit review might look at it for tables and chairs, but I don't see a layout with the building permit plan that shows a specific table or chair count.

Ms. O'Toole: Who do I ask to verify the occupancy?

Fischbach: The building inspector.

Ms. O'Toole: I will check with the contractor then, since they were the one who worked with the building inspector.

Fischbach: I would encourage you to be present for the final building inspection, so you can get that number from the inspector. The person who typically works with the inspector is the contractor. I have copies of the permits to give to you if you would like. I checked the status on September 28, and they are still open. I recommend she find out when the inspection will be so she can be there and find out how many tables and chairs can be there. I will also take care of drafting the conditions affidavit. The applicant just needs to sign it and return it so we will have it on file.

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 one agreed-upon license condition:

1. Licensee shall take appropriate actions to ensure that any noise generated by activities associated with the operations of the business complies with City of St Paul Legislative Code Chapter 293 Noise Regulations

The hearing adjourned at 10:33 AM.

The condition affidavit was signed on October 16, 2023, and submitted on October 17, 2023.