

MINUTES OF MEETING
SOUTH ST. PAUL PLANNING COMMISSION
May 1, 2024

MEETING CALLED TO ORDER BY ACTING CHAIR FOURNIER AT 7:00 P.M.

Present: Geoff Fournier
Tyler Fehrman
Andrew Hoffman
Brianna Miller
Ruth Krueger
Michael Healy, Planning Manager
Monika Miller, Associate Planner

Absent: Tim Felton
James Hart

- 1) APPROVAL OF AGENDA - Motion to approve as presented– Fehrman/Miller (5-0).
 - 2) APPROVAL OF MINUTES –April 3, 2024 –Motion to approve as presented– Fehrman/Hoffman (5-0).
 - 3) NEW BUSINESS
- None.
- 4) PUBLIC HEARINGS
 - A. Amendment to Honduras Kitchen LLC’s Conditional Use Permit for On-Sale Liquor at 1519 5th Avenue South.

Mr. Healy presented the staff report. The Applicant is Honduras Kitchen LLC. The business operates as a traditional restaurant Monday through Friday between 9:00 AM and 9:00 PM and on some Sundays for brunch. On weekends after 9:00 PM, Honduras Kitchen is used as an event space where private ticketed events are held after the restaurant closes to the public. In 2023, a previous restaurant in the same space was granted a conditional use permit for on-sale liquor. Under that conditional approval, large events with alcohol that have over 100 guests must conclude by midnight. The Applicant is requesting a conditional use permit amendment to allow private events with alcohol to be allowed to go until 1:00 AM on Friday and Saturday nights instead of midnight. Staff did not provide a recommendation on whether to approve the application but provided recommended conditions of approval if the Planning Commission and City Council wish to extend the hours the business can operate.

Commissioner Fehrman asked Mr. Healy what additional tools the City had to address excessive noise complaints generated by the business. Mr. Healy explained that the main tool would be adding a condition to the conditional use permit approval that could allow the conditional use permit to be revoke in the case of excessive noise violations. Mr. Healy added that there could also be additional coordination between his office and the police department to issue citations in the case of additional violations of the noise ordinance. Commissioner

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Fehrman asked if a condition of approval could be added to require that alcohol sales be cut off by midnight. Mr. Healy answered that the Planning Commission had the authority to do so but encouraged the Commissioners to discuss this with the Applicant to make sure they are comfortable with the condition.

Commissioner Fehrman brought up the topic of surveillance cameras, specifically the Police Department's desire for surveillance cameras at the property and whether this could be required. Mr. Healy explained that there was a very lengthy debate on this topic during the Planning Commission and City Council meetings when the original Conditional Use Permit for On-Sale Liquor at the property was approved in 2023. It is very unusual to require a surveillance camera upfront as part of a zoning approval. It is more common to require them as part of a provisional liquor license after there have been issues related to alcohol at the site. The consensus from the discussion with the Planning Commission and the City Council in 2023 was that it is more appropriate to require surveillance cameras in the case that there are issues with the property.

Commissioner Krueger asked for additional information about the noise complaints that occurred on March 1st. Mr. Healy shared that he was just provided information by the Police Department that complaints occurred on March 1st. He noted that there appeared to be some disconnect with the Police Department about what time the music needed to be turned down by. Commissioner Krueger asked staff to confirm that the complaint that was received was for loud music. Mr. Healy confirmed it was.

Commissioner Miller asked what other large event venues in the area were open until 1:00 AM. Mr. Healy shared that there weren't any venues in town and encouraged Commissioner Miller to ask this question to the Applicant. Commissioner Miller asked if entertainment and liquor licenses were handled by the city or by the state. Mr. Healy confirmed the licenses were handled by the city.

Commissioner Hoffman asked if any other businesses had been required to install surveillance cameras. Mr. Healy explained that the city has never required a business to have a surveillance camera as part of their conditional use permit approval. Mr. Healy added that the property owner had stated they planned to install a surveillance camera on site.

Commissioner Fehrman asked if the City had ever revoked a license or approval similar to the one being requested by the Applicant as a result of complaints or code violations. Mr. Healy explained that in 2020 the City revoked the liquor license for Las Islas due to issues with overserving and police calls. The business was ultimately able to get a provisional liquor license and they changed their hours and shifted their business model towards being a restaurant as opposed to a night club.

Acting Chair Fournier asked about compliance with the noise ordinance and if it is quicker to address noise ordinance violations if the language about excessive noise is included in the liquor license versus the conditional use permit approval. Mr. Healy explained that it would depend on the circumstance. The City generally uses administrative citations to address code violations. This process includes a citation with a monetary penalty every time the code is violated. If the citations are not paid upfront, the citations are added to the property taxes. By having language about potentially revoking the approval/license attached to the conditional use permit or liquor license, the City has additional tools to handle violations of the noise ordinance if there are consistently issues and the administrative citation process is not successful.

Diego Castro from Honduras Kitchen and Tony Lodge of Lodge Properties were present to speak to the application.

Commissioner Miller asked Mr. Castro about if there are similar businesses that are open until 1:00 AM. Mr. Castro explained that their main competitor is Los Portales in Inver Grove Heights. Commissioner Miller asked if Los Portales also had ticketed events. Mr. Castro stated Los Portales does.

Commissioner Fehrman asked Mr. Castro how many people typically attend the events Honduras Kitchen hosts. Mr. Castro explained that they are able to have up to 360 people at each event but they typically see around 150 people at their events. Mr. Castro explained that they are requesting later operating hours in an attempt to increase the turnout at the events they host. Commissioner Fehrman asked Mr. Castro if he had specific examples of situations where Honduras Kitchen was unable to book a band or a DJ due to the current operating hours. Mr. Castro stated he did not but there have been several instances where a band or a DJ has been hesitant to book with them due to their operating hours.

Acting Chair Fournier asked the applicant about the incident on March 1st and the steps that had been taken since then to prevent future issues. Mr. Castro explained that Mr. Lodge had added new insulated panels and sheet rock to try to prevent the bass from carrying beyond the property. Mr. Castro added that on the night of March 1st, the police officers that responded to the noise complaint seemed satisfied when he informed them that the event would be done by 12:30 PM.

Commissioner Fehrman asked Mr. Castro if he had conversation or interactions with residents in the surrounding neighborhood. Mr. Castro stated he had not.

Acting Chair Fournier opened the public hearing.

Kelly Behlen, 1444 5th Avenue South, came forward to share her experience of the March 1st incident. Ms. Behlen explained that she called the police twice that evening. The first call was around 11:20 PM after feeling thumping through the whole house from the music. Ms. Behlen explained that she went over to the business to ask them to turn the music down as they were violating the noise ordinance and was escorted out before she could ask a manager to have the music turned down. Ms. Behlen explained that after the first police call, the volume of the music was reduced for around 10 minutes before the music was turned back up. At this point, she called the police again and the issue was dealt with at this point. Ms. Behlen added that Los Portales is located 1,500 feet away from the nearest residential area whereas there are many residential properties that are directly adjacent to the 5th Avenue Shopping Center. Ms. Behlen explained that while she can't hear the music, she can feel the vibration from the music for hours. Ms. Behlen stated she was here on behalf of her and her neighbors despite her long day to emphasize how disruptive the noise from this business is.

Commissioner Fehrman asked Ms. Behlen if there have been any instances since March 1st. Ms. Behlen explained that there was one instance after March 1st and 6 or 7 instances that took place before March 1st. Commissioner Fehrman shared that he asked because the business had taken steps to create additional sound proofing since March 1st which raised the question of whether the additional sound proofing had been effective. Ms. Behlen commented that there had been one or two instances since then and that sound proofing is effective for sound but not for vibration.

Commissioner Krueger asked the Applicants who is in charge during events. Mr. Castro explained that he or his mother were always present during events. Mr. Castro explained that on March 1st, he was called to the front when Ms. Behlen came in. When the police arrived the first time, they turned the volume down. The second time the police officer came they shared that the complaint was from the same individual and asked Mr. Castro what time the event would conclude.

Mr. Castro, Mr. Lodge and Ms. Behlen discussed the March 1st incident further.

Mr. Lodge commented that he planned to invest more time and energy into creating additional soundproofing to prevent the noise/bass for future events from negatively impacting the residents that lived near the site.

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Commissioner Fehrman asked if a citation from the police department was issued to the Applicants or the property owner for the noise violation. Mr. Castro stated they had not. Ms. Castro stated that the officer had not given them a citation or a ticket because the music could not be heard from outside of the suite.

Commissioner Hoffman asked Mr. Lodge when he installed the sound proofing at the site. Mr. Lodge stated it was around March 1st.

Ms. Behlen reiterated how disruptive the events on March 1st were.

Acting Chair Fournier asked if any written correspondence had been received prior to the meeting. Mr. Healy shared that no correspondence had been received.

Acting Chair Fournier closed the public hearing.

Commissioner Krueger asked if it is possible to regulate the level of the bass as part of the approval. Mr. Healy explained that in statute there are rules for how many decibels of sound can cross a property line. In the past, the city has required certain businesses as part of their zoning approvals to have noise testing done and to submit the results to the City to confirm that their business complies with state and local noise regulations. The previous situations where this condition had been added to a zoning approval were situations where there was a consistent level of sound being made (i.e. from a car wash or a firing range). Mr. Healy stated he was not sure how applicable noise testing would be in this circumstance.

Commissioner Fehrman asked if the City's noise ordinance is decibel specific or vaguely limited to noise spilling over the property lines. Mr. Healy explained that the noise ordinance has several provisions to address different types of noise including quiet hours regulations, noise from construction activities, and general noise decibel allowances. Mr. Healy explained that the City has the right to enforce its code and if this continues to be an issue, the City might invest in equipment to determine compliance with the noise ordinance.

Commissioner Fehrman asked Mr. Healy to explain the potential actions the Planning Commission could take on the application. Mr. Healy explained that one option would be to recommend approval of the conditional use permit amendment with the conditions of approval that were recommended in the staff report or with additional conditions. The other option would be to recommend denial which would mean the business's current operating conditions would stay as they are. If the Planning Commission were to recommend denial, they would need to adopt findings that the request is not consistent with the criteria for when to approve a conditional use permit.

Commissioner Krueger summarized that the issue at hand is not the hours of operation so much as the impacts of the bass on the surrounding neighborhood. Commissioner Krueger suggested creating a condition that would regulate the bass. Mr. Healy stated that if the Planning Commission decides they would be willing to recommend approval but only if they have more information from city staff on how to regulate bass, the best option would be to table the item until the next meeting and give staff specific instructions about the type of information they would like brought back to them. Commissioner Krueger stated that would be helpful.

Commissioner Miller commented that noise seems to have been less of an issue since March 1st. Commissioner Miller asked the Applicant how many events they had held since March 1st. Mr. Castro stated that there have been two events the last two weekends, which had not been ticketed events. Mr. Castro added they are making an extra effort to iterate to the DJs that they need to be respectful with level of bass. Commissioner Hoffman asked Mr. Castro how late events typically wrap up. Mr. Castro stated that events start wrapping up around 11:30 PM. Alcohol sales end at 11:00 PM or 11:30 PM and the events conclude by midnight.

Commissioner Fehrman asked Mr. Castro if they had held ticketed events similar to the one held on March 1st since the March 1st incident. Mr. Castro shared that there was one similar event before March 1st.

Motion to recommend approval of the conditional use permit amendment as presented- Fehrman/ Miller (3-2)
(Krueger, Hoffman)

Commissioner Fehrman strongly encouraged Mr. Castro to take into mind the residents that live in that neighborhood and to have productive conversations with them as issues arise.

5) OTHER BUSINESS

A. Discussion on Sign Code Overhaul

Ms. Miller provided background on the item. In the past several years, staff have taken on several sign code cleanup projects which have been aimed at improving the readability of the sign code and reducing the number of unnecessary sign variances that the Planning Commission and the City Council need to review. Two updates have been adopted thus far and staff is proposing one final ordinance which would address the remaining issues that staff have identified, including the lack of distinction between painted wall signs and murals, the inconsistent regulations surrounding temporary signs, and the general organization of the sign code. Ms. Miller presented the updates that staff drafted and asked the Planning Commissioners for feedback on the proposed regulations.

Commissioner Fehrman asked if a permit was required for community event signs, such as the signs that advertise Kaposia Days. Ms. Miller explained that community event signs are an exempt type of signage that does not require a permit. Commissioner Fehrman shared that he was in favor of the proposed updates and was very supportive of the new regulations for painted signs and murals.

Commissioner Hoffman shared that he was in favor of allowing temporary freestanding blade or flag sign as they are a nice option as this type of sign is easy to install, especially if a business does not have a freestanding sign. Ms. Miller explained that the city has historically prohibited these types of signs, even on a temporary basis. Commissioner Hoffman shared that he owned businesses in several cities and many cities allow this type of signage.

Commissioner Krueger asked for clarification about the types of temporary signs that require a permit and if certain types of temporary signs such as garage sale signs or lost pet signs could be exempted from needing a permit. Ms. Miller explained that a temporary sign permit is usually required if the temporary signage is related to the action of a commercial business (grand opening, hiring event, etc.). Signs that are not commercial in nature but are displayed for a short period of time typically do not require a temporary sign permit. Commissioner Krueger asked about garage sale signs and church event signs. Mr. Healy explained that many of these types of signs are already exempted and that enforcement of these regulations is done on a complaint-based basis.

6) STAFF UPDATES

Mr. Healy shared that the zoning preemption bills that the Planning Commission had received several updates on would not be moving forward during this legislative session.

Commissioner Miller asked if there would be any future work sessions with the Parks and Recreation Advisory Commission about the Parks Master Plan. Mr. Healy explained that the public engagement period for the draft Parks Master Plan was wrapping up. After the feedback is implemented, the Parks Master Plan would be brought to the commissioners for further review. Mr. Healy shared that he was unsure if the updated Parks Master Plan would be reviewed at a joint session or individually but that the plan would likely come before the group to receive a final recommendation.

Commissioner Krueger asked about the status of chicken licensing in South St. Paul. Ms. Miller explained the process for applying for a chicken license. Mr. Healy added that the City Council had removed the cap on the number of chicken licenses allowed within the city as there was originally a 25-license cap. Acting Chair Fournier asked how a homeowner should handle a situation where they live next to an apartment or other multitenant building and if this property would count towards the 75% of the abutting neighbors that need to consent to the chicken license. Ms. Miller explained that the way the rule is written, you need to get signatures from 75% of your surrounding neighbors, including those that live across the street or across an alley from you. Most people are able to get to 75% by getting signatures from the people across the street or alley from them, even if they live next to an apartment building.

7) ADJOURNMENT

Motion to adjourn- Miller/ Fehrman (5-0).