

COMMONWEALTH OF MASSACHUSETTS

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARINGS

LICENSE COMMISSION BOARD MEMBERS:

Richard V. Scali, Chairman
Robert C. Haas, Police Commissioner
Daniel Turner, Deputy Chief

STAFF:

Elizabeth Y. Lint, Executive Officer

- held at -

Michael J. Lombardi Municipal Building
831 Massachusetts Avenue
Basement Conference Room
Cambridge, Massachusetts 02139
Tuesday, January 19, 2010
6:10 p.m.

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P R O C E E D I N G S

MS. LINT: License Commission General Hearing, Tuesday, January 19, 2010. It is 6:10 p.m. We are in the Michael J. Lombardi Municipal Building, 831 Massachusetts Avenue, Basement Conference Room. Before you are the Commissioners: Chairman Richard Scali and Deputy Chief Dan Turner.

MR. SCALI: Motion to accept the minutes from our last meeting of January 5. Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. SCALI: Aye.

MR. SCALI: Before Commissioner Haas gets here let's do some short items. Which one did you want to go to Mrs. Lint?

MS. LINT: The ART, the second one on the page.

MS. LINT: Application: American Repertory Theatre Inc., Erin Wood, Manager, holder of al All Alcoholic Beverages as a Restaurant license and Entertainment license at Two Arrow Street has applied to extend their current 1:00 a.m. closing until 2:00 a.m. on Thursdays, Fridays, Saturdays, and the night before a legal.

MR. SCALI: Good evening. Have a seat and just tell us who you are for the record, please.

MS. BARBANELL: Ariane Barbanell, A-R-I-A-N-E B-A-R-B-A-N-E-L-L.

MS. WOOD: Erin Wood, spelled E-R-I-N W-O-O-D.

MR. SCALI: So this application is for an extension of hours on Thursday, Friday, and Saturday and the night before a legal holiday. So right now you're open until 1:00. How long have you been open?

MS. BARBANELL: Since August.

MR. SCALI: So that's almost six months. The purpose of the 2:00 a.m.?

MS. BARBANELL: We have been running a successful show on the weekends called the Donkey Show, and we've run two shows on Saturdays and have found that's a really successful model and would like to bring in more opportunities to run two shows back to back.

We're also doing a lot of programming around the Donkey Show with local artists, so we're doing comedy shows, variety shows, dance performances, and because the Donkey Show runs at an 8:00 schedule, we would love to be able to program those shows in afterwards in the evening. So we'd like to go a little later so we can accommodate those shows.

MR. SCALI: So the Donkey Show goes from what time?

MS. BARBANELL: It goes from 8:00 to 10:30 on a Friday, and then we have been bringing in shows after that but we have to cut them short because of the 1:00 a.m. license. And then on Saturdays we do plug in a second show afterward, a second Donkey Show. So we'd like to be able to go

a little later with that as well.

MR. SCALI: So this is just shows?
This is not dancing, DJ type of things?

MS. BARBANELL: It's performances,
variety shows, comedy acts. There are dance
performances. There's dance involved in a lot of
what's going on there, and music involved, but it's
theatre.

MR. SCALI: Questions?

MR. TURNER: No questions.

MR. SCALI: Notification to abutters?

MS. LINT: Do you have the return
receipts?

MS. BARBANELL: I have those in my
office. Can I mail them to you?

MS. LINT: Yes.

MR. SCALI: Does anybody from the
public want to be heard in this matter? No hands.

Have you spoken to the Harvard Square
Business Association?

MS. BARBANELL: The Harvard Square
Business Association has been very supportive of

us. They were at the Donkey Show just the other night.

MS. LINT: And I did hear from Ginny Nathans who is probably one of the closest abutters, and she's very okay with it.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: Any history, problems?

MS. LINT: No.

MR. SCALI: Pleasure of the Commission?

MR. TURNER: Motion to approve.

MR. SCALI: All right. Motion to approve, moved and seconded. All in favor?

MR. TURNER: Aye.

MR. SCALI: It's just Thursday, Friday and Saturday, and the night before a legal holiday, which means that you can serve up until 2:00 a.m. People must be off the premises and no one drinking past 2:30. Are you planning on being open that late on those evenings?

MS. BARBANELL: No.

MR. SCALI: This is just to keep the shows going?

MS. WOOD: Exactly.

MS. BARBANELL: In fact, there will be many a weekend we will not be open that late, but just in the event that a show comes in we'd like the opportunity to be able to shut down and get everyone out at 2:00.

MR. SCALI: Good luck.

MS. BARBANELL: Thank you very much.

MS. LINT: Application: Fay's Cafe, LLC, d/b/a Rosie's Cafe, Richard Cai, Manager, has applied for a Common Victualer license to be exercised at 1796 Massachusetts Avenue. Said license, if granted, would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises and to have a seating capacity of 19. The hours of operation will be from 8:00 a.m. to 9:00 Monday through Saturday, and from 9:00 a.m. to 7:00 p.m. on Sundays. Applicant is also applying for an Entertainment license to include a radio, TV, and an audio tape machine/CD which may play music below, at, or above conversation level.

MR. SCALI: Good evening, just tell us who you are for the record, please.

MR. JAI: Wei Jai, J-A-I last name, first name, W-E-I, attorney for Fay's Cafe.

MS. CAI: Fay, F-A-Y, last name Cai, C-A-I.

MR. SCALI: Your last name, again?

MS. CAI: Cai, C-A-I.

MR. SCALI: Is this an existing restaurant?

MR. JAI: It is. It's existing as Rosie's Cafe and Bakery. We are basically taking over the assets. No change in use, no change in operating hours, no renovation, just the same operation at the same place, using basically the same supplier.

MR. SCALI: So 19 seats staying the same, 9:00 a.m. to 7:00 on Sundays, 8:00 to 9:00 on Monday through Saturday. Is your floor plan staying the same?

MS. CAI: Yes.

MR. SCALI: Menu changing?

MR. JAI: No, because we are under obligation of the certain -- we have to sell certain items as they are being right now, so no menu change.

MR. SCALI: Are you going to be the new owner?

MS. CAI: Yes.

MR. SCALI: Tell us your experience in

the restaurant business.

MR. JAI: We have proposed the manager, Richard, and he will be on the premises as a full-time manager. Fay Cai is the 100 percent owner of the establishment. The current owner, the seller of the business will provide a training as per the Purchase and Sale agreement, training Richard Cai to get to know how the business should be conducted. They are very concerned about their trade name, Rosie's Bakery, because they operate another one in Inman Square and elsewhere. So training will be provided.

MR. SCALI: Have you been in the restaurant business before?

MS. CAI: No.

MR. SCALI: This is all new for your client?

MR. JAI: This is all new, yes.

MR. SCALI: What makes them come to Rosie's Bakery with no experience? What's the motivation? Did they work there or something?

MR. JAI: No. They just want to start

a -- Richard wants to start a business.

MR. SCALI: Just out of the blue they decided to buy a bakery?

MR. JAI: Yes. Is there any other reason you have?

MS. CAI: Richard has a certain kind of experience of running restaurants in hotels. So he is experienced.

MR. SCALI: What hotels did he work? Does he speak English?

MR. JAI: Some English. Richard has been an operator of a travel service in China including hotel operations, but probably not the restaurant operations.

MR. SCALI: Part of the problem we have when we have different restaurants in the City is that we send out letters and we make phone calls. Is there going to anybody there who will be able to understand and follow up on those letters and phone calls?

MS. CAI: I will be there.

MR. SCALI: So do you understand

English well enough?

MS. CAI: Yes. I speak pretty reasonable English I think.

MR. SCALI: I just want to make sure that we have at least a contact person who can help you.

MR. JAI: She is an accounting professional so she should be able to respond to these letters.

MR. TURNER: Mr. Chair, I did a walk-through of the premises today and I didn't see any issues.

MR. SCALI: No violations, no problems?

MR. TURNER: No problems.

MR. SCALI: Does anybody from the public want to be heard on this matter of Rosie's? No hands. Pleasure of the Commission?

MR. TURNER: Motion to approve.

MR. SCALI: I'm a little reluctant because this is your first venture. I want to make sure you do a good job and serve the neighborhood

up there. So let's do a six-month review on this to make sure everything is going well. I want to make sure that we have everything in order, and since you're new to this, we want to make sure that we have a follow up review.

So there's a motion to approve.
That's moved and I'll second it. With a six-month review. All in favor?

MR. TURNER: Aye.

MR. SCALI: Good luck.

MR. JAI: Thank you very much.

MS. LINT: Application: Basha Cafe, LLC, d/b/a Basha's, Jack Markarian, Manager, holder of an All Alcoholic Beverages as a Restaurant license and Entertainment license at 26-48 New Street has applied to extend the current 1:00 a.m. alcohol license until 2:00 a.m. on Thursdays, Fridays, Saturdays, and before a legal holiday.

MR. SCALI: Good evening. Just tell us who you are for the record, please.

MR. MARKARIAN: Jack Markarian, owner of the Basha Cafe.

MR. SCALI: How long have you been there at Basha's?

MR. MARKARIAN: A year and a month.

MR. SCALI: So you want to go to 2:00 a.m. What's the reason for the 2:00 a.m.?

MR. MARKARIAN: It's a quiet neighborhood. We don't bother anybody. I have no tenants. It's an industrial place. I figured if I stay one more hour it will bring more business for my establishment.

MR. SCALI: Are you going to be

serving food until 2:00 a.m.?

MR. MARKARIAN: Yes.

MR. SCALI: You're not going to become a barroom; right?

MR. MARKARIAN: No, no, no.

MR. SCALI: We don't have barrooms in the City any more.

MR. MARKARIAN: We serve until 1:00 food anyway, actually quarter-of-one. So it will be quarter-of-two we stop.

MR. SCALI: Abutter notifications? Did you notify your abutters?

MS. LINT: Yes, he did.

MR. SCALI: Questions?

MR. HAAS: Is there a disciplinary matter pending on this?

MR. SCALI: There is not, no.

MR. HAAS: No other questions.

MR. TURNER: No questions.

MR. SCALI: Does anybody from the public want to be heard on this matter? Normally with a new 2:00 a.m., it's overwhelming

neighborhood support, proof of need, lack of harm.

MS. LINT: I have some. Councilor Decker supports the application. She says it is not in a residential area. It provides diverse cultural entertainment. She knows many of the musicians who play there and it's a good venue for them.

Councilor Reeves is in support of their extended hours, and Councilor Toomey is as well.

I also have two letters in opposition from Eva Connolly, leader of Fayerweather Street and Lisa Camacho, who is also a resident on Burns Road, and they are very much opposed to it.

MR. SCALI: Is that Corporal Burns Road?

MS. LINT: Yes.

MR. HAAS: Did they say why they're opposed?

MS. LINT: Yes. Would you like to read?

MR. HAAS: Yes.

MR. SCALI: So you're not going to change managers; right? You were going to change managers. Are you still going to be the person?

MR. MARKARIAN: I'm still going to be the person.

MR. SCALI: So one resident of Corporal Burns Road is concerned about the dangers of people driving after hours; concerned about closing noise at that time; and it becoming a magnet for people drinking after hours.

The other person who was opposed from Fayerweather Street have concerns -- they both have concerns about the incident that happened with Senator Galluccio. That's their concern.

Anybody from the public want to be heard on this matter? Yes, come forward.

Tell us who you are for the record, please.

MR. CLIFFORD: John Clifford, from 55 Aberdeen Avenue in Cambridge, and I'm an aide to City Council Ken Reeves. Ken is chairing a School Committee meeting tonight so he can't be here. He

wanted o be here himself. He wrote a letter but he wanted to make sure you know he's in support of this. He thinks it's in a non-residential area; there's not people or residents around there and it's kind of an isolated place and there's parking. There is food, they have good food, and there is entertainment. So that's why he is in favor of it.

MR. SCALI: Any questions?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: Thank you, Mr. Clifford.

Pleasure of the Commissioners?

MR. HAAS: Take the matter under advisement.

MR. SCALI: Motion to take the matter under advisement, moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: We're taking the matter under advisement. We're scheduled to vote on

January 28 at 10:00 a.m.

MS. LINT: Application: Wagamama Boston One, LLC d/b/a Wagamama, Meredith Clancy, Manager, holder of a Wine and Malt Beverages as a Restaurant license at 57 JFK Street has applied to upgrade said license to an All Alcoholic Beverages license. This address is located Cap No. 1.

MR. SCALI: Wagamama? Are they outside? Good evening. Just tell us who you are for the record, please.

MR. PEACE: Frank Peace.

MR. SCALI: What is your title?

MR. PEACE: Chief Operating Officer for Wagamama, Inc.

MR. SCALI: Are you at this location? I don't think I've seen you before; that's why I'm wondering.

MR. PEACE: I work out of the corporate office which is based in Faneuil Hall Marketplace.

MR. GOLDBERG: Attorney Bernard Goldberg representing Wagamama, whose application is for an upgrade of the present license that they

have, which is a Beer and Wine license with a seating capacity of 136. I have been before you previously. Now we're asking the Board to upgrade our license from the Beer and Wine to an All Alcoholic Restaurant license.

The Beer and Wine license at that time, to refresh your memory, we paid \$100,000 for it. It was determined by the Board that the transfer was from Cap 2 to a Cap 1, but there was a restriction on your decision that if in fact it was ever sold that it would go back to a Cap 2. It could not be retained in a Cap 1 area.

It is a not the intention on Wagamama's part to sell it, but rather on the basis of -- I'll ask Mr. Peace to explain to you the reason for the upgrade -- we want to stay there. The cost of it, and I think we mentioned this at the time of the hearing just for the factual basis was about \$2.4 million, and the cost of the license was \$100,000.

They are situated and they want to stay in Harvard Square. They are a good advocate

for the License Commission as well as the residents in Harvard Square as well as the residents of Cambridge. So we're now asking that it be given the opportunity, because many people have asked them for other than beer and wine, for alcohol.

There is no entertainment on the premises. There is no dancing on the premises. People mostly from families -- they have a large percentage of customers that are family-oriented. Because of that the opportunity for an upgrade would not deter or be a detriment to any other people in the area. In competition certainly, but the competition is quite different from the other restaurants in the area.

If you've been into the restaurant it's wooden tables close together. It reminds me of the old Legal Seafood, except that the check is not presented at the time your food is presented to you but at the end of the evening.

So I'm going to ask Frank to explain to you what the position of Wagamama is and why we're here asking the Licensing Board to grant the

upgrade.

MR. PEACE: We're primarily looking for it because our guests are asking us on a consistent basis for us to offer them other beverages as our competitors do, and we have found that we've actually lost a lot of our guests because we don't offer that. We do cater to a large percentage of family. Probably 30 percent of our business is family, and when they go out they'd like to have a drink that is beyond beer and wine, and we want to cater to that.

There will be no -- we also -- excuse me, I should say we've evolved the menu so it's more in line with the fast casual competition here in the United States. That's been very well received, but again, we're getting feedback from our guests asking us if we can offer full alcoholic beverages. We've applied for licenses in both of our other locations. We plan to --

MR. SCALI: You have full alcohol in both other locations?

MR. PEACE: We're applying for those

right now. When we came to the States from the UK -- we have about 110 stores in the UK. We came here and we figured we'd run the same concept when we moved into this area, and it just didn't go well for us. So as we've learned we've tried to evolve the way our restaurants are in terms of seating, in terms of hours of operation, in terms of the menus we offer, and things of that nature, and this has become something that is a consistent request.

We've evolved the menu to align with other businesses as I've stated. We're not going to change any of the bar seating capacity or anything like that. We just want to be able to offer our products that our guests are asking for.

MR. SCALI: What time do you close?

MR. PEACE*: We close at 11:00.

MR. SCALI: So you're going to continue with the 11:00 closing?

MR. PEACE: Yes.

MR. SCALI: Have you tried to buy a license from any other establishments? Obviously your first line of application would be to try to

buy one that's already in the City.

MR. PEACE: We really didn't.

I thought that the first route would be to come here and talk to you guys, and that's kind of where we've ended up in Boston at this juncture. Boston offers a Cordial license, which we are in the process of getting because the original liquor license we couldn't get because they didn't have any other licenses available at that time. So we're trying to see if we can get a Cordial license as the first route of where we're going.

MR. SCALI: What I'm asking you is that in Cambridge there are some licenses that are for sale that are full alcohol licenses, and under our policy, we require you to pursue that first and then come to us and say you haven't been able to buy a license but I'm applying for a new license. And we're able to do that only because of our special statute that allows us to grant licenses.

Our new licenses that we grant to you, the fee would be higher on this; am I right, Mrs. Lint? The fee is basically double on a new license

per year, and it's not transferable, and it's not salable, and you cannot use it as collateral for any loans.

MR. PEACE: So if I go out and bought one off somebody else, that you're saying is collateral or an asset of the company.

MR. SCALI: Yes.

MR. PEACE: To us it's really not -- I mean, we're planning on staying here. I'm not looking at getting it as an asset and would like to not have to take that route. Obviously the burden of the cost would be significant based on what you just said.

MR. GOLDBERG: Mr. Chairman, we talked about buying a license, but with the inception when they paid \$100,000 and spent so much other monies for the upgrade of the premises that the valuable of the license here would be either \$200,000 or \$250,000, depending upon the amount of seats of the license.

I know what the cost of the license is in Cambridge, and I thought it was prohibitive to

lump onto the cost of the Beer and Wine another sum of \$200,000, \$225,000. I do believe and I think you're aware that licenses are not readily sold at this moment in time, more especially in Harvard Square. You mentioned --

MR. SCALI: We've had some good luck lately. A lot of sales have just gone through. There is a license for sale in Harvard Square that was Hoffa's. There's also Fat Boys.

MR. GOLDBERG: The seating arrangement on that is probably greater than the seating arrangement here for 136 seats.

MR. SCALI: No.

MR. GOLDBERG: I understood what you're saying, and I understand that there are people that are here today who indicate they have a license they want to sell.

MR. PEACE: And one of the other reasons that we didn't go that route initially is because we did have a big capital investment building the restaurant. Although we are doing well in the location, we're definitely at a

competitive disadvantage when we look at the other full dining restaurants in the area. So for us to maintain competitiveness as we evolve the concept and hopefully open up new concepts in the State of Massachusetts, we would like to be competitive.

MR. SCALI: You could sell you Beer and Wine license, of course. That would give you some money. There's also two others for sale: Bombay Club and OM Restaurant are both for sale too. There's four in Harvard Square that are for sale.

MR. PEACE: And I'm not really sure how the process works so we can certainly talk about it later, but as far as that Beer and Wine license is concerned that we paid \$100,000 for, if you guys see fit to allow us to have a full license then I would turn that over to the City and you guys can do whatever you want with it at that juncture.

MR. HAAS: Wouldn't they be able to see their Beer and Wine license?

MR. SCALI: That's what I'm saying.

You paid money for your Beer and Wine license. You could sell that. But if we give you a full alcohol license, you would not be able to sell that.

MR. PEACE: I understand that. I'm willing to put that up against that which is essentially \$100,000, because I think for us to sell that for let's say \$150,000, it would probably take us a long time to get somebody to purchase that in the current state of the economy. So if I was granted a no-value license that I could operate and be competitive with my business, I'd be happy to turn that over to the Board.

MR. GOLDBERG: I don't know if the Board could actually --

MR. SCALI: The truth of the matter is that there are no Beer and Wines that are available for sale right now, so people are looking for Beer and Wines. I understand your argument and it makes sense, but there are people who really want Beer and Wine licenses.

MR. PEACE: Okay. I didn't know that.

MR. GOLDBERG: If we were able to sell the Beer and Wine, and receive consideration for that, would we then be able to get a full alcoholic license at no value?

MR. SCALI: I'd like to be able to say yes to that but --

MR. HAAS: Isn't that a speculative question?

MR. SCALI: Yes. There are four for sale in Harvard Square, four full alcohol licenses for sale in Harvard Square. I don't know how we can really -- it depends really on your argument I guess in terms of whether you've negotiated with those four and are unable to come up with a deal. I think you might want to go back and look at those four, because two of them are right within your capacity range.

MR. GOLDBERG: I understand that.

MR. SCALI: The prices have come way down.

MR. PEACE: In the event that we did buy one of those licenses, after we exhaust

everything and talk about it, is that something that we would be able to do as a company, and then simultaneously sell the license that we have?

MR. SCALI: Sure. You can somehow work that out. Maybe you won't be able to come to terms with the four, I'm just saying you need to go through that process first.

MR. GOLDBERG: We may even talk to two of them who are here today.

MR. SCALI: Yes, I know that two are very anxious to sell.

MR. PEACE: I guess timing is everything.

MR. GOLDBERG: Thank you.

MR. SCALI: Anybody from the public want to be heard in this matter? No hands. Comments? Oh, somebody wants to come up. Tell us who you are, please.

MR. KAPOURA: My name is Benot Kapoura (phonetic), I was the owner of Bombay Club, and I own the full liquor license, which I have deactivated so that I can sell it one day.

Bringing the license in the building, a full liquor license -- there's two full liquor licenses already available in the building, and I would like them to talk to us so that we can make a deal. That is one thing.

Besides that, in Boston they have only beer and wine. Their clientele in Harvard Square -- I watched it every morning -- is mostly 90 percent students sitting on the benches with no bag. I don't think they need a full liquor license for the reason that if it is students, it's like they are happy with the juices they sell for \$4.00. It's like spoiling a good boy and giving him more candies to eat. I don't think it's a good idea.

MR. SCALI: That's not a real good argument for the sale of your license. You might want to think about that a little bit.

MR. KAPOUR: I'm not a lawyer. I didn't bring the lawyer.

MR. SCALI: Talk to your attorney.

So your license is for sale, Mr. Kapour, I know that, and you're on our list here.

So we'll give them your name. Thank you very much.

Does anybody else want to be heard?

MR. CHAUDHURY: Solmon Chaudhury, owner of OM Restaurant and Lounge in Harvard Square. Basically I'm on the same page as Mr. Kapour, also.

One of the biggest assets any restaurant has is two things: The first thing their lease, the second thing is their liquor. By giving out free liquor licenses it brings the value down and basically when that's our biggest asset and we invest all this money on opening a restaurant, we invested over about \$2 million, and the only thing I have to show for it is the liquor license.

I purchased my liquor license for \$250,000, had to go back and buy another 100 seats for \$75,000. I'm into my liquor license for \$350,000. I have a note payment on my liquor license for \$3,200 a month, and I'm going to be basically competing with a \$3,200 note payment on my liquor license with someone who is in the same

building with almost similar concept, and it just doesn't make any sense. I'm going to lose a lot of money and I'm going to go out of business basically if this thing is to happen.

Also on the other hand, I am trying to sell my liquor license so if there are few of them in the Square then they should also try to buy one. If we were forced to buy one at the beginning then everybody else should be in the same position.

MR. HAAS: It sounds like you might be in a good position. You've got two people trying to sell their license.

MR. GOLDBERG: We'll talk to them about what they're looking for.

MR. SCALI: Everything is negotiable they say. Thank you, Mr. Chaudhury.

MR. HAAS: You have another person.

MR. SCALI: Just tell us who you are first.

MR. YU: My name is Opan Yu (phonetic) and I am the owner of Shabu Ya Restaurant. I have just one comment. I didn't know we can upgrade our

license from Beer and Wine to a full liquor license.

MR. SCALI: You can't unless you get permission to do that.

MR. YU: I didn't know you can apply. I thought the only way to get the full liquor license is to purchase it, so far. So this is a new way of getting a full liquor license.

MR. SCALI: It's not really new. We've been doing it for many many years but our policy changed two years ago, which has made it a little easier to upgrade than it had been in the past. The first line of operation is to try and purchase one that's available in the City, and we do allow transfers from all areas of the city now, not just in your area. So you can go outside the area and try to bring it into your square or your zone.

Thank you very much. Does anybody else want to be heard?

MR. GOLDBERG: Mr. Chairman?

MR. SCALI: Mr. Goldberg.

MR. GOLDBERG: If I may make a comment, is it possible that we withdraw -- not withdraw. Let me say this: if we can continue this matter for negotiations with the two individuals who suggested we talk with them and then come back here and tell you what is going on.

MR. SCALI: That's a great idea I think. That way if negotiations fall apart for some reason, you'll still have the option of coming back.

Anybody else? Comments?

MR. HAAS: No comments.

MR. TURNER: No comments.

MR. HAAS: Motion to continue.

MR. SCALI: Moved.

MR. HAAS: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MS. LINT: Do we have a date?

MR. SCALI: Why don't we let

Mr. Goldberg report back to you, Mrs. Lint, and

then you can put it back on if you need to put it back on at a future date.

MR. PEACE: Thank you.

MR. SCALI: Good luck.

MS. LINT: Application: Dogma Restaurant Group, LLC, d/b/a Dogma Restaurant, Scott Cooper, Manager, has applied for a new All Alcoholic Beverages as a Restaurant license at 4 Cambridge Center. Proposed hours of operation are 11:30 a.m. to 1:00 a.m. seven days per week with a total capacity of 350 (250 indoor seats, 80 seats on a private patio, and 20 standing). Applicant is also applying for an Entertainment license to include darts, talk show where patrons converse, chef and brewer tastings, audio tape machine/CD playing background music, TVs and a radio. This is not in a Cap area.

MR. SCALI: Tell us who you are, please.

MR. KENILEY: My name is Jack Keniley, K-E-N-I-L-E-Y.

MR. COOPER: And Scott Cooper, C-O-O-P-E-R.

MR. SCALI: So this is a new venture at this location?

MR. COOPER: Yes.

MR. SCALI: Tell us your experience in the restaurant business.

MR. KENILEY: Twenty years experience in the restaurant business. I've built restaurants in Philadelphia, New York, and Washington. I had a chain of restaurants that I sold. I ran the food group for Arthur D. Little for 10 years. So I've been in the food business all my whole life.

MR. SCALI: And you sir?

MR. COOPER: I've spent a lot of time in restaurants.

MR. SCALI: Eating?

MR. COOPER: Eating and drinking, and entertaining clients of mine in the United States and in Europe, and listened to their comments. I've done a lot of studying and due diligence on concepts.

MR. SCALI: This is your first venture?

MR. COOPER: This would be my first venture, yes.

MR. SCALI: Are you both part owners?

MR. KENILEY: Yes.

MR. COOPER: Yes.

MR. SCALI: Just the two of you?

MR. COOPER: Yes.

MR. KENILEY: Yes.

MR. SCALI: So you're looking for a new full alcohol license, 11:30 a.m. to 1:00 a.m. seven days a week, 250 inside, 80 on the patio outside; right? Private property?

MR. KENILEY: Yes, it is.

MR. SCALI: Tell us what your concept is about the food; what's your food going to like?

MR. KENILEY: The food is upscale but moderately priced. We're in the process of negotiating an agreement with a very well-known Cambridge chef, so we expect the food will be similar to the Blue Room or Hungry Mother, so it's a fairly upscale concept.

Our target audience is all the businesses in Kendall Square. The building we're in has roughly 300,000 square feet and there are roughly 15,000 people within a block-and-a-half of

us. We expect we'll do a big lunch and a big dinner business.

MR. SCALI: So 4 Cambridge Center; is that outside the courtyard?

MR. KENILEY: Yes, it is.

MR. SCALI: What building are you near?

MR. COOPER: It's the old Corner Books.

MR. KENILEY: It used to be the old Corner Books right across the street from the Starbucks on Ames Street. It's a Boston Properties building.

MR. SCALI: Abutter notifications?

MS. LINT: Yes.

MR. SCALI: Tell me about the concept on the darts and the talk show. Is that going to be a weekly type show?

MR. COOPER: It's not really a show. What we thought we would have, we would apply for would be allowing chef demonstrations, whether it be conversation between the chef and customers, or

perhaps a master brewer to come in and talk about specific types of beer and discuss what went into that and why that beer is special.

MR. KENILEY: So we are just being safe.

MR. SCALI: So no music?

MR. KENILEY: No music, no live entertainment.

MR. COOPER: Background music only.

MR. KENILEY: Our lease won't allow it.

MR. SCALI: Any other restaurants around you?

MR. KENILEY: Not really. There's Starbucks across the street. Oh, Legal Seafood behind us, and then there is a small restaurant in the Kendall Hotel.

MR. SCALI: Right. So a non-cap zone, Mrs. Lint, meaning they don't have to buy a license; right?

MS. LINT: No.

MR. HAAS: So they're applying for a

free license?

MR. SCALI: Yes, in a non-cap zone.

Comments?

MR. TURNER: Is this currently under renovations or is it planned renovations?

MR. KENILEY: It will be. We will be submitting our drawings after we go through the liquor license application. That was a condition of our lease that we get our liquor license approved first.

MR. TURNER: The only other concern I would have is parking. Any parking arrangements or considerations down there with the landlord?

MR. COOPER: There are actually several parking garages. There's one attached to the building and one across the street that has a substantial amount of parking. A lot of our customers we foresee will already be parked because they come out of work. They'll get their lunch and/or dinner, and then when they leave there will be -- even if they don't leave there's plenty of parking in those parking garages.

MR. TURNER: How about valet service? Would you be offering any type of valet service?

MR. COOPER: No.

MR. KENILEY: We hadn't planned on it. We didn't think we'd need it. If it turns out we do need it, we would offer it.

MR. TURNER: No further questions.

MR. SCALI: Trash pickup, deliveries, all in the interior part of the building?

MR. KENILEY: Through the building. We would be sharing space. Legal has their pickup right where we are. It's a fairly large loading dock, so we're going to be sharing that space with them.

MR. SCALI: Any additional AC or HVAC units on the roof?

MR. KENILEY: We're separately air-conditioned and will be putting more HVAC into the building; we have to.

MR. SCALI: On the roof or inside?

MR. KENILEY: Inside, we have room inside. We're doing a scrubber for the kitchen

venting system too.

MR. SCALI: No grilling or charcoal grilling?

MR. KENILEY: No charcoal.

MR. SCALI: Any other questions?

MR. HAAS: No.

MR. TURNER: No.

MR. SCALI: Anybody from the public want to be heard in this matter? No hands. Pleasure of the Commissioners?

MR. HAAS: Motion to approve.

MR. SCALI: Motion to approve subject to our 21-Proof training. We require all new managers, and owners, and servers to go through our 21-Proof training program, which is basically like a TIPS program but geared toward Cambridge. They will come out to you when you're ready and do the training right there for you. You can do it over a period of time, you can do it on a continual basis, whatever you choose. If you become a CLAB member, you get a reduced price or free training on that program. But you're required to do it before you

open.

MR. COOPER: All servers?

MR. SCALI: All managers, owners, and servers.

Moved and seconded. All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. KENILEY: We have to wait until the 28th until the final hearing; is that how it works?

MR. SCALI: No. We just voted it today and it goes to the ABCC when we're prepared to do that through Mr. O'Neil in our office. It takes a good, sometimes what, three, four, five, six weeks.

MS. LINT: It's been taking a while.

MR. SCALI: We'll notify you when it comes back, as long as your documents are all complete and everything is ready to go. Chris in our office will notify you if they're not.

MR. COOPER: Should the managers and owners do that training first and then have the

servers? Or do you do it all at once?

MR. SCALI: You can do it how ever you'd like. You can talk to Mr. Connolly about that. He'll come and start with a bunch of you. Then when you get all your servers ready, they'll do it with your servers later. Whatever you would like he'll do for you.

MR. COOPER: Thank you.

MR. KENILEY: Thank you very much.

MS. LINT: Application: Continued from October 27, 2009. Niloufar, Inc. d/b/a Pizza Pie-er, Bahman Jalili, Manager, has applied for a Common Victualer license at 8 Museum Way, CU 7. Said license, if granted, would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises, and to have a total capacity of 10 seats. The hours of operation would be 10:00 a.m. to 1:00 a.m. Sunday through Thursday, and 10:00 a.m. to 3:00 a.m. on Friday and Saturday. Applicant is also seeking an Entertainment license at said location to include an audio tape machine/CD playing music below ordinary conversation level and one TV.

MR. SCALI: Good evening again. I think you're a popular man tonight.

MR. JALILI: Yeah, I know. Every time I bring a big crowd.

MR. SCALI: Tell us your name for the record, please.

MR. JALILI: Bahman Jalili,
J-A-L-I-L-I. First name, Bahman, B-A-H-M-A-N.

MR. BARSKY: David Barsky, principal architect.

MR. SCALI: So we continued the matter from October to today in order to give you time to talk to your neighbors, condo association.

MR. JALILI: Which we did that several times, actually.

MR. SCALI: What does several times mean?

MR. JALILI: Two times actually. Once just the five Board members and then the other time with the residents just recently. That was January 11.

MR. SCALI: So dare I ask how that went?

MR. JALILI: I guess we'll find out.

MR. SCALI: So you met with the Board members and then you met with the full association where people were invited to come.

MR. JALILI: Yeah, whoever showed up. There was a couple dozen people.

MR. SCALI: You discussed the parking,

the noise, the smell, all that?

MR. JALILI: Exactly. Well, the hours was a big item on the list, which we decided to cut the hours until 10:00 p.m., and then go after 10:00 p.m. delivery only until close.

MR. SCALI: So you're amending your application until 10:00 p.m. closing?

MR. JALILI: Yes. But after 10:00 p.m. delivery only. We lock the door and it will just be delivery after 10:00 p.m.

MR. SCALI: Until what time?

MR. JALILI: Until 1:00 in the morning.

MR. SCALI: What else did you present them?

MR. JALILI: Then next thing was the parking, which we have in the space that we're purchasing is three parking included. Also there are two-hour parking right immediately in front of the building and around the building, which hopefully we can utilize that.

MR. SCALI: What parking is that?

MR. JALILI: Two-hour parking right in front of the store, public parking.

UNIDENTIFIED SPEAKER: It's a fire lane.

MR. SCALI: Hold on, I'm way ahead of you. I understand there's some parking but it's parking not just for people to stop and park.

MR. JALILI: The way we're set up like I don't think we're going to draw -- people are not going to get in their car and drive like five miles to pick up a pizza. Those people we're going to deliver to, and basically whatever walk-in traffic that we get, that's going to be it.

MR. SCALI: Anything else that you agreed to? or suggested?

MR. JALILI: The other issue they had was the smell, the odor of the pizza, which we are looking into the filtering system, which basically will filter out about 98 percent of the pizza odor. It's like a charcoal kind of thing, and the rest will be exhausting right through the roof.

MR. SCALI: Filtered to the roof?

MR. JALILI: That duct work goes all the way from inside the interior shaft up to the fifth floor.

MR. SCALI: Anything else?

MR. JALILI: The next thing --

MR. BARSKY: We brought some boards that we showed the committee.

MR. SCALI: Is that what was shown last time?

MR. BARSKY: No. These are boards -- I was brought on after the last meeting just to give the Board a sense of it.

MR. SCALI: Anybody that wants to see these can certainly come up.

MR. BARSKY: Just a very quick word about how we conceived of the design. Primarily given that this is more of a take-out place, we tried to focus on what the restaurant would look like from outside the building, because that's really a significant impact, because it's one of the first things you see as you enter into that area. I was actually one of the architects that

worked on the original conversion of the building to condo.

So this a view from the outside of the building. The design conceptually speaking is the view of the space from the outside. Just to give you a sense of the proportion of the amount of space that's taken up by public versus back of house, the colored area shows you the proportion of the actual space. In fact that's the area available to the public.

The program really has been honed to the point where it's primarily counter service, take-out and a couple of stools along the front window. Then all the back of house is for production, cooking and whatnot.

One other comment would be that we were asked to look at the infrastructure of the existing building in terms of air evacuation. In fact, the building has a shaft which runs full height from the space all the way to the roof. We brought in a mechanical engineer just to explore exactly what implications that would have in terms

of controlling smell and odor. We proposed a state-of-the-art air evac system with filters and a fan inside the restaurant itself to reduce any chance of ambient noise.

MR. SCALI: Ambient noise meaning that the fans goes on the roof?

MR. BARSKY: There's a unit on the roof that would create additional noise.

MR. SCALI: Questions?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: Anything else you want us to know.

MR. JALILI: I think we've covered it all.

MR. SCALI: The way we're going to handle this because there's a lot of people out there with hands, so is there someone who can speak for the people of the group. Is it the condo association person? Why don't you come forward first and then we can take people who need to clarify points, but I want to see if we can get a

common person to speak about the issues. I'm gathering there are a lot of people with the same opinion. Just tell who you are.

MS. BUTEAU: My name is Ellie Buteau. I'm an owner in the building and also president of the condo association's Board of Directors. There's also a resident here who has a petition signed by over 200 residents in the building.

I would like to speak on behalf of the Board of Directors and I have a letter from the Board of Directors to submit in opposition to the granting of this license, and we would ask you to consider it.

The issues that the residents and board members raised when we were here in the fall, issues of odors, noise, parking, fire safety, and other issues. We also addressed with Mr. Jalili when he came and met with the Board in December, when he came back to meet with residents of the building last week, the overwhelming consensus of those present was that he had not satisfactorily addressed the majority of the issues that had been

raised.

The issue of parking that came up tonight was an issue that had not been addressed. When he came to speak with residents last week he had suggested that people that were there for delivery or short term parking could park in the fire lane next to our building.

The three spots that come with this particular property at our building are valet parking and are not the type of spots that delivery vehicle would be driving in and out of. So there would need to be parking for those vehicles as well as anybody that's coming in to pick up themselves. There are no spots directly in front of this commercial space and there are parking spots in the nearby vicinity that are usually full during the day all day long.

In addition to the issues not being addressed, the residents of the Board were very concerned that our issues had not been taken seriously and that's sufficient measures were not taken to address our concerns. And they also felt

that when the residents and Mr. Jalili were meeting last week, a lot of our concerns were not being really heard or taken seriously. So we also have great concerns about him entering our community with sort of this attitude that he's brought to these meetings.

MR. SCALI: Okay. Questions from the Commissioners?

MR. HAAS: No questions.

MR. SCALI: So how many condominiums are there in those buildings?

MS. BUTEAU: About 430 units.

MR. SCALI: Do you know how many people were at the meeting?

MS. BUTEAU: There were somewhere between 40 and 50 residents at the meeting in addition to five Board members.

MR. SCALI: All right.

MS. BUTEAU: We also did ask at the end of the meeting, the question was posed how many people present at the meeting, how many residents were in favor, and there was only one hand that

went up and it was the individual who is representing the seller of the commercial space.

MR. SCALI: So only one was in favor of the application?

MS. BUTEAU: Yes.

MR. SCALI: We're going to start off that way here now because there are a number of you here. How many of you are here on this application? How many of you are in favor of the application? How many of you are opposed to the application? Any of you who have opinions other than what Ms. Buteau already said can come up and speak, but if you want to say "Ditto," that's okay too. We want to make sure everyone doesn't say the same thing over and over again. I see these two hands in the front. We'll take these two people and then we'll go from there.

MS. DILLON: My name is Sandy Dillon, D-I-L-L-O-N. With the help of my fellow residents I have for you 260 signed petitions against this, which represents with the number of units filled approximately 60 percent.

I've also done a little something here for you. This is a picture. This is on this side. It's a picture of the tower and this low high-rise building here is where the venting equipment will go. So you've got all these people living above him. There are no commercial spaces.

Then I took the liberty of putting together a little picture showing you where the fire lane is where he wants to park a car; showing you where our fire exit is and that there is no parking in front of that at all. There's no parking. In addition to that, just what the area looks like.

As you can see where the venting is, so that goes up five stories, but what happens to the people who are 19 floors up from him too, because it goes to 24.

When we met with them, the venting, they said they were able to actually maybe filter out 95-point-something percent of the odors. So everybody above him can smell pizza 24/7.

He also states in his documentation

that he wants to be open until 3:00 a.m.

MR. SCALI: I think he has amended his application to 10:00 p.m. and 1:00 a.m. for deliveries, but that may not help you either way.

MS. DILLON: Thank you.

MR. SCALI: This gentleman right here.

MR. SOBERMAN: My name is Roy Soberman and I'm in one of the unit. I would like to go over a few things, things that emphasize why we were dismissed and approached this dealing in bad faith. The first efforts relates to parking, they relate to signage, they relate to space in front of the proposed restaurant, and they relate to what he proposes to do shown on the sign.

Number one, as was shown in the presentation, it's a 10-seat restaurant which he's proposing. He proposed six seats when he came in front of us. So there's already a discrepancy in the difference.

MR. JALILI: The application is 10.

MR. SOBERMAN: But that's not what you said when you presented it to us.

MR. SCALI: Six, ten, it's still seats.

MR. SOBERMAN: One of the people asked him what would you do if the business is bad; would you put up signs with big pieces of pie on them and neon signs? He said we've considered that but I would agree not to put them up. The fact that he's considering putting up those kinds of signs is already a very very bad sign to us.

MR. SCALI: Aren't there some condo rules against signs? There must be some condominium rules against signs.

MR. SOBERMAN: Apparently not. But that of course is already something we find is really not very good.

The most disturbing thing, however, is that he was asked at the end that you people had respectfully asked him to come and meet with us and to iron out our discrepancies. He said well that's not what I'm supposed to do. I don't care. I'm just going to have a solution. The solution is not what we wanted. We wanted to hear something that

we all agreed upon. You specifically gave him that mandate when he was here.

The third thing is that if you look in front of the position where the restaurant is now, there are lovely flowers and bushes that are there, and this was discussed by the person who takes care of them. He's going to take these down, put up more concrete, then put little bushes closer to his restaurant. So he's already proposing to do that.

The answer was each time he was presented with something, of which the parking is an example, the smell is the example, it was always an evasive answer which turned everybody off that was there and gave us no faith that he would be a good resident, a good tenant, or a good colleague of ours there.

There are a few other things that went on that just were considering besides the parking that were really upsetting, and one of them was related to trash disposal. We said what would you do if people have boxes? He said I'm putting garbage cans out on the street in front of your

building, large open garbage cans so people can throw cardboard in.

What I really find is that -- the impression that I got and I think everybody got is he will get away with what he can, you know, and I think people want to be aggressive. If you're coming into what I think is a high-quality and unique neighborhood in Cambridge, which is growing along with North Point and the Park, the answer is not to try to get away and push the limit and to try to be a bad faith negotiator.

Because when he here he said he wanted the business when the clubs closed. We all remember that, and that's not what we want. We don't want the business when the clubs close, the take-out business, and the pick-up business.

What we wanted is somebody who would be really part of the community, and we're not opposed to development. Let me put that there. All of us here made a perfect statement that we were heavily in favor of development of the space, but development in a way that was really

appropriate and was consistent with what the building and what the neighborhood was going to be.

So I can go on with a litany of this but these are specific examples, and I would ask you strongly to disapprove the application.

MR. SCALI: Anybody else with something different to say? You can say "ditto" to what everyone else has already said or you can add to. This lady in the red right here. You have to come up, ma'am.

MS. HAN: My name is Francoise Han. I would like to add to. The issues are the same. There are five issues and we cannot make them different but I think we can emphasize the ones that are really relevant.

There is the noise issue. If you look at the pictures that were provided, right above it's all residential. We are not in an area where you have shops. It's totally residential. You have condos right there. What Mr. Jalili wants to do is bring people at odd hours of the night right under those residents' windows, and if it's closed

to pick up pizzas when actually it is open for delivery, what you will have is unruly people who are going to knock on the door and say please give us a pizza.

Our building is mostly young people, plus people like me.

MR. SCALI: Young.

MS. HAN: But what you have is a wonderful community that is wonderfully managed. The minute you go outside it's no longer going to be managed because it's outside in the street. It's going to be open late. It's going to bring young people. I have three children; I'm not against young people whatsoever. But it's a reality that at 2:00 in the morning or 1:00 in the morning, they are not as well behaved as they are at noon. So you're going to have groups of people coming back from the clubs hungry, not altogether well behaved, wanting their pizza. Those neighbors are going to suffer from that.

MR. JALILI: Sounds like everybody is drunk in Cambridge after midnight.

MS. HAN: Well, it's a reality and that's why you want to be there. It's to tap that market of hungry young people who come by and want to eat. Otherwise, why would you be there? There's several buildings who have that type of clientele. At 1:00 in the morning I am asleep. I'm not your customers.

MR. SCALI: Ma'am, just talk to us.

MS. HAN: That's the noise issue. The garbage issue: When we asked the architect about the garbage, he said we'll "circulate," I'll use his word, we'll circulate the garbage at proper hours. That was his answer. I don't know if you get a specific answer from that. I don't know how you circulate garbage. Where you take it from, where you take it.

We are not as a building -- we are a residential building. We have two places for garbage. We have one where the residents take their garbage down the shoot. It goes down into a very specific -- that's the garbage, the trash from your kitchen, what Mr. Jalili would have.

Then you have a big container for the things that don't go through the shoot. That's the perishable garbage. So where is Mr. Jalili going to put his garbage, which is perishable? In the big trash that is being picked up once or twice a month? So we're going to have the perishables stay there forever. We don't know that. Nothing was said specifically to that.

So now he wants to put concrete where we have very proper landscaping. Why? So that he can put his own big trash bin which will be commercially picked up. There are a lot of questions that have been sidetracked and we don't have an answer but I know it's not the first restaurant that Mr. Jalili has. He is not a newcomer to that, so he has the answer. He just doesn't want to share them with us.

So there is the odor issue; that has been addressed before, the noise. There's also the space. When we asked it was just a pick-up. There would be no tables. Now it's space for 10, which means there will be people coming there. Where are

they going to park? It's a two-way street with absolutely no space to put a car. If you put a car then it becomes a one-way street, I mean a street with one lane.

In December, you have the Duck Tour that goes there. You have every 10 minutes you have it. It will create problems one after the other. Every time you look at -- you know, we have no answer. We have a fire lane, he cannot park there. He wants to valet. It takes us 20 minutes to get our car out of the valet. Is it going to wait 20 minutes? Besides, if it's a truck, it doesn't go in the garage. So there is no concrete answer in any of the concerns that we had.

MR. SCALI: Thank you very much. I see one hand right back here. Ma'am, come forward. Feel free to say "ditto" to everything I've already heard. Tell us your name.

MS. CABA: Ebru Caba, E-B-R-U, the last name is C-A-B-A.

MR. SCALI: And you're a resident of the building?

MS. CABA: Yes, I am, on the fourth floor in the tower that he proposes to have this restaurant.

First of all, I want to say ditto to everything that my fellow residents have voiced.

One thing that has not been voiced is the loading dock. There is a loading dock right -- it's on the same side. I don't know if you can see that but it's past here. So there's a big loading dock past the fire lane above which there are -- if you can pass it to me, I can show you where exactly it is.

The fire lane is here and there's a loading dock right behind where this truck is I guess. With everybody opposing to him parking on the street where there is absolutely no two-hour parking in front of his property, as he stated. This is one of the many inconsistencies and issues that are untrue that he has brought forward.

People are going to be parking inadvertently in the loading dock. At that hour, it's probably not going to be policed, and for this

reason there are going to be cars idling waiting to pick up pizza, or people that have come to have their take-out, they're going to be idling there because there's no other place whatsoever to park.

That loading dock is right below my apartment. It's loud enough with everything else that is around. I do not need another sound, especially drunk kids loitering in that area, especially when the weather gets a little bit nicer. Yeah, the 10 seats are fine. It's going to be fine because they're going to be inside in the winter, but when summer comes no one is going to be inside. Not only is it going to be a loading dock, it's going to be in front of the pizza place above which there are residences.

MR. SCALI: Thank you. Ma'am, again, please feel free to say "ditto."

MS. HUGHES: Michelle Hughes, H-U-G-H-E-S. I have two double condos, 17, 23. Ditto, but in addition, he professes to want to be good neighbor but I, at the suggestion of one of my neighbors, researched the public records for

inspections. On the 5th of January, at his location near Northeastern, he had eight violations, one of which was an exhaust fan in his bathroom. Another was for improperly maintained maintenance, trash.

One of the questions I asked at our meeting was given that it's pizza delivery, who does he employ and who is going to be in charge when he is not there on the premises at 1:00 a.m.? I didn't really get a straight answer to that but I would like to go on record that in July, he was cited in 2009, for the fifth time in violation of having a person in charge to provide proper food management. That's in Massachusetts.

In Rhode Island, he has six violations, both, on two occasions for facilities not maintained. And those are in the past six months and those are part of the public record.

MR. SCALI: Thank you very much. Anybody else with a new subject matter? This lady right here. Something new?

MS. CORRIGAN: It will be new and

brief.

MR. SCALI: Tell us your name.

MS. CORRIGAN: My name is Debra Corrigan. I'm on the fourth floor also. In reference to that inspection report, I also looked at it. One of the questions we had asked at the condo meeting was for him to address rodent and pest control, and his answer was that his restaurant does not generate a constant (inaudible), and therefore, does not generate that type of issue. However, in the January 5 inspection report of his other restaurant in Boston, rodent droppings were listed as one of the violations.

MR. SCALI: Thank you. Anybody else? New subjects.

MR. CORRIGAN: My name is William Corrigan. I'm a resident at the building. Ditto on everything these guys were saying.

A couple of things that didn't come up yet were the new park that's just been built. The City, the State, people have invested a lot in that

park. I can't see how this would help in that regard, just putting more trash in that area.

Another thing is, right on Monsignor O'Brien Highway we already have a major traffic situation going on there. If there's more people that are trying to come in there than are already going to the graduate school or any of the residences, it's just going to exacerbate that problem.

Finally, having been to these types of places in the past, we go down to Baltimore every year, my buddies and I, and we see these types of places and they cause lots of problems because even if you don't have a late-night license, people are coming there that either have been drinking or they're going out drinking, and sometimes it causes fights. You'll see them in the lines and things like that.

So without either a Cambridge policeman there all the time, I just can't see how that couldn't spill over into some violence in the neighborhood. That's all I have.

MR. SCALI: Thank you very much.

MR. SCALI: No more hands. Questions from the Commissioners?

MR. HAAS: No questions.

MR. TURNER: Mr. Chair, I went down and did a site visit. Perhaps somebody can help me out here. We have a building that is all condos with a condo association, so that tells me that everybody has a shared interest in the property. Is it managed by a management company? Or how did this commercial space come to be I guess is the question?

MR. SCALI: Tells us who you are first.

MS. O'DONNELL: Maureen O'Donnell, property manager.

The original developer was Crescent Heights of America and they owned obviously every unit and they sold them off. They have left a number of commercial units which they are trying to sell and one name is this one.

MR. TURNER: I noticed some work going

on there. This was formally the locker room for the gym.

MS. O'DONNELL: Yes.

MR. TURNER: So the building was never originally designed with commercial spaces, a.k.a. for restaurants or future tenants fit-ups?

MS. O'DONNELL: Specifically, no.

MR. TURNER: So now we have a change in use for that space?

MS. O'DONNELL: Yes, definitely a change in use. It was part of the locker room.

MR. TURNER: I didn't notice any building permits posted. Has we done any zoning approvals or building permit applications for any work to change any of this use?

MS. O'DONNELL: Not as far as I know, but it's owned by the developer which is Crescent Heights of America. I would imagine that once Mr. Jalili or whoever was going to go into that space would then have to get building permits.

MR. TURNER: No. They need to get building permits before they do any renovations to

the space. One thing that concerned me deeply is we've done some alterations to exit egresses from the locker room. We've changed some doors around, we've increased travel distances.

And Mr. Architect, you really need to pay close attention to this because I am notifying ISD that we have work going on down there and I have some concerns about some doors that have been changed, and some exiting requirements that might have been altered.

We need to get all our ducks in a row before we go converting existing spaces into now what we want to call commercial rentable retail spaces. That all has to go through zoning and ISD approvals.

MS. O'DONNELL: They did have a licensed contractor work on that space and do all that work for them.

MR. TURNER: Did he apply for a building permit to do that work? I don't think so.

MS. O'DONNELL: I don't know.

MR. TURNER: We may need to maybe do a

cease and desist on any work that's currently ongoing there until we kind of get the whole picture of what's going on before we get into these types of situations. We're talking about installing ductwork through five, I count six floors of building. That's a real concern.

I do have some concerns on this one, Mr. Chair. Thank you.

MR. SCALI: Okay.

MR. JALILI: We haven't done any work. Maybe they separated wrongfully but we haven't done any work ourselves in there. Some work was done in the past by the builder.

MR. TURNER: Now when you say "we," are you already the owner of the space?

MR. JALILI: I haven't bought it yet. It's subject to if I get the license I will continue and I'll buy it. I don't own the space right now.

MR. SCALI: So you're still in a purchase and sale agreement process.

MR. JALILI: Subject to certain things

happening and if it doesn't happen, I get my money back.

MR. TURNER: The first thing I would be concerned with is to see if this is even a legal space that can be sold.

MR. SCALI: Do we have zoning approval, Mrs. Lint?

MR. TURNER: That's my first concern. By the time it comes into this level of hearing, the assumption is made on our part that it has been through zoning; that it's got all prior permitting.

MR. JALILI: I have no idea.

MS. O'DONNELL: May I?

MR. SCALI: Hold on, let's see if we have zoning approval first.

Even before anybody else speaks, there are a number of issues. We are by no means ready for any kind of process here.

MR. TURNER: I understand the concept of what's trying to happen. You go down and look at some of these newer buildings that are constructed today and it's all residential but all

with commercial retail on the first floor. And it's all designed and constructed and zoned and approved for it.

MR. JALILI: I think this was an afterthought maybe.

MR. SCALI: I think that's exactly what the problem is.

I don't know what that means.

MS. LINT: I don't either.

MR. SCALI: Yes, ma'am.

MS. DILLON: On one of the pictures I showed you there, I purposely highlighted where our fire exit door is. That actually goes through our gym that exists today, through the pool area and into the restaurant, which they would have to wall off for us to get out. Otherwise, we would have to go through the restaurant to exit that door in case of a fire. There is a stairway leading from all those people above the pizza restaurant that have to come down through there.

MR. SCALI: Questions?

MR. HAAS: No questions.

MR. SCALI: Any other questions?

MR. TURNER: The only other concern I would have, you know, this is a convenient time to say we have fire lanes, and the only thing I want to toss out to the residents is I do get numerous complaints from the fire companies that go down there and they talk about the fire lanes being obstructed. So if today it's going to be a fire lane for your convenience, then tomorrow it's got to be a fire lane for the fire department's convenience. You can't block the fire lanes, and that applies to everyone there. Thank you.

MR. SCALI: I guess it's in your court, sir. Do you wish to proceed with this application for us to make a decision?

MR. JALILI: Yes.

MR. SCALI: Do you want any more time?

MR. JALILI: No. I think we've done all the stuff that we had to do.

MR. SCALI: Pleasure of the Commissioners? It doesn't look very favorable right now. I guess you realize that.

MR. JALILI: That's okay. They say it's a buyer's market.

MR. TURNER: Recommendation to perhaps take it under advisement until we check with ISD and get a clarification on the zoning.

MR. SCALI: I think he wants us to proceed with the decision so that's fine.

MR. HAAS: I'm inclined to deny the application at this point. I don't think there's enough logistical issues here and clearly there's an overwhelming concern on the part of the residents. That's your customer base. I don't know where you're going to get your customers from if your customers don't want to come to your store. So I don't know how you're going to be a viable market. So I'm inclined to make a motion to deny the application.

MR. TURNER: Seconded.

MR. SCALI: Motion made to deny.

Moved and seconded. All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MS. LINT: Application: Continued from November 24, 2009. Unusual Suspects, LLC d/b/a Think Tank, Vincent Conte, Manager, has applied for a new All Alcoholic Beverages as a Restaurant license at One Kendall Square, Building 300 with proposed hours of operation from 11:00 a.m. to 2:00 a.m. seven days per week and an occupancy of 226 (143 seats inside, 24 seasonal seats outside on a private patio, and 59 standing). Applicant is also applying for an Entertainment license to include: audio tape machines/CD playing music below, at, or above ordinary conversation level, dancing by patrons, comedy shows, darts, live musical instruments and/or vocalists with amplification, karaoke, juke box, five video games or other automatic amusement devices, eight TVs, and a photo booth.

MR. SCALI: Good evening. Tell us who you are again.

MR. MUROF: I'm Mitchell Murof, attorney for the group and partner of the group. This is Jay Leo, a partner in the group, and

Vincent Conte, the proposed manager and licensee.

MR. SCALI: When we were here last, again, we had suggested to you most vehemently that you go out and talk to your neighbors, particularly Lilac Court, and leaflet them, knock on their door, call them, meet with them, and don't do it in a casual way, but do it in an aggressive fashion so they actually know what's going on. So what did we do?

MR. CONTE: I went door to door myself and put a notice, this notice in every mail slot, not even in the mailbox, right attached to every door. So I delivered 23 to 24 doorways. The 23rd being for sale. I didn't think it was occupied actually. There was a sale sign on it and it was pretty closed up.

Then we basically through that letter we invited them to come to one of two open meetings that we held at the space right across the street, which we marked and signed. We arranged for coffee, cake, donuts, the whole nine yards, and to have basically nobody show up.

MR. SCALI: How did I know you were going to say that?

MR. CONTE: The only letter we did get, however --

MR. SCALI: So no one showed up to any of your meetings?

MR. CONTE: Nobody showed up. The only letter we did get, it was an e-mail from Christian Bailey. Christian Bailey was actually in favor of something more vibrant in the neighborhood, who owns a company, funny enough, called Ink Tank right on Mass. Avenue. It's a venture-capital firm.

MR. MUROF: Here's a copy of his e-mail.

MR. SCALI: Mrs. Lint, you got one e-mail and one letter in support?

MS. LINT: Just one in support.

MR. SCALI: So Lilac Court is all set with you guys. Is that what you're trying to tell us?

MR. CONTE: I did have a phone

conversation with the original Ms. Robinson and I explained how that went.

MR. MUROF: In addition to that my understanding is she originally claimed that she didn't receive a letter. The next day after our meeting, I did get back the letter that was sent to her unclaimed.

MR. SCALI: You had to take pictures proving that they served what, crab cakes?

MR. MUROF: Those were two different days.

MR. CONTE: We did a day and an evening one just to accommodate everybody we could.

MR. MUROF: The person in the picture is Corrine Muller who is the building manager who's sitting behind me.

MR. SCALI: Why don't you come forward. Building manager for?

MR. MUROF: For One Kendall Square.

MS. MULLER: I'm Corrine Marr, I'm the General Manager, and I attended the event and I got all the food.

MR. SCALI: Ms. Muller, I understand there was a meeting, too, with your tenants in the building, with the tenants of One Kendall Square.

MS. MULLER: There was a meeting between Mitchell, Vincent, and the tenants in the building. I did not attend that. I attended this meeting if the abutters had any issues, and we waited an hour-and-a-half. There was one event at night, and in case people worked at night, there was one event in the afternoon.

MR. CONTE: I was there until 8:00 the first night and 3:00 the next day.

MR. SCALI: Questions from the Commissioners?

MR. HAAS: No question.

MR. TURNER: No questions.

MR. SCALI: I just want to make sure that when Lilac Court comes knocking on our door and they say that we did nothing to notify them, that they did their due diligence to notify them and try to meet with them. Because I know -- knowing residents.

MR. CONTE: Everyone of them has my personal cell phone number at this point and direct e-mail on that letter. So I have no problem if they want to direct -- and I expressed in the letter to please feel free at any time and I will make myself available to you. That's just how I would do business anyway.

MR. SCALI: Anybody from the public want to be heard in this matter? No hands.

MS. LINT: I have a letter from Councilor Toomey in support of the application. He thinks it's important that the City continue to encourage business that will compliment the existing business in that area.

MR. SCALI: Okay. Pleasure of the Commissioners?

MR. HAAS: Motion to approve.

MR. TURNER: Seconded.

MR. SCALI: Motion to approve. This is a new All Alcoholic Beverage Restaurant license, One Kendal Square. This is 11:00 to 2:00 a.m. We're not talking about seven days a week though.

We're talking about Thursday, Friday, and Saturday, and the night before a holiday for 2:00 a.m. Occupancy, 226, 143 seats inside, 24 seasonal seats outside, 59 standing, with the entertainment as listed. This is no-value, non-transferable license.

MS. LINT: 21-Proof training.

MR. SCALI: 21-Proof training for all the owners, managers, and staff. Anything else, Commissioners?

MR. HAAS: No.

MR. SCALI: That's moved, seconded.
All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Good luck and thank you very much for doing all of that.

MR. MUROF: Thank you very much.

MS. LINT: Application: Byung Hee Byun d/b/a Seoul Food, Byung Hee Byun, Manager, holder of a Common Victualer license and Entertainment license at 1759 Massachusetts Avenue has applied to operate under the corporate name of Clara, Inc. The hours of operation, seating capacity, and entertainment will remain unchanged.

MR. SCALI: Good evening. Tell us your name please.

MR. BYUN: Byung Hee Byun.

MR. SCALI: Are you staying on as the owner and manager?

MR. BYUN: Yes.

MR. SCALI: Are you just changing to a corporate name; is that what it is?

MR. BYUN: Yes, corporate name. All 100 percent owned corporation.

MR. SCALI: So the same owner, just making it a corporation?

MR. BYUN: Yes.

MR. SCALI: Are you changing anything else?

MR. BYUN: Nothing else.

MR. SCALI: Hours, capacity?

MR. BYUN: Nothing changing.

MR. SCALI: Menu the same?

MR. BYUN: Same.

MR. SCALI: The floor plan the same?

MR. BYUN: Everything the same.

MR. SCALI: Anybody from the public
want to be heard in this matter? No hands.

MR. HAAS: Motion to approve.

MR. SCALI: Motion to approve, moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MS. LINT: Application: Broadway Market, Inc. of Cambridge, d/b/a Broadway Supermarket, David Lichter, Manager, holder of an All Alcoholic Beverages as a Package Store license at 468 Broadway has applied to transfer said license to Broadway Marketplace, LLC, Charles Bougas, Manager, at same address.

MR. SCALI: Good evening. Just tell us who you are.

MR. BOUGAS: I'm Charles Bougas, sole member of Broadway Marketplace, LLC.

MR. LICHTER: And I'm John Lichter.

MR. SCALI: So Mr. Lichter, you're leaving? Is that what it is, selling?

MR. LICHTER: It's time, yeah.

MR. SCALI: So you're selling to Mr. Bougas. How do you spell your last name?

MR. BOUGAS: B-O-U-G-A-S.

MR. SCALI: Are you already there in the building?

MR. BOUGAS: I'm currently operating the deli and the bakery departments in that store

and looking to purchase the liquor store from John.

MR. SCALI: So you're going to run it the same way as it is now? Are you changing anything?

MR. BOUGAS: Yes. I'm going to run it the same way. I'd like to do some more cross-merchandising of wines within the store, some displays within the different departments in the store other than just in the back. But for the most part, it will be the same operation.

MR. SCALI: So you'll be running the whole market then; right?

MR. BOUGAS: There's one other tenant in the building, Ring Brothers, and they're still going to stay on as the produce and grocery sections. They have 3,000 square feet within the store and I will have the remaining 5,000 or so square feet. Then there is Starbucks that will still be there.

MR. SCALI: Do you have any experience in the liquor business?

MR. BOUGAS: I had operated a package

store, a meat market up in Peabody from 1985 until about 2001, owned and operated that store. Came to Broadway in '95. So I've been at Broadway for 15 years and I've been working alongside John.

MR. LICHTER: You had liquor at Peabody.

MR. BOUGAS: I had a Beer and Wine license in Peabody.

MR. SCALI: A Package license?

MR. BOUGAS: Package license, yes.

MR. SCALI: Questions?

MR. TURNER: Two issues that I have. Number one is just be aware we had a recent complaint in your loading dock area. It is posted as an emergency exit. An anonymous complaint and I do understand that that stock is in motion. It's coming in, going downstairs, and vice versa, but when we do get the complaint we go inspect. We do see it. So just keep that in mind.

Number two is just kind of a pet peeve of mine. You used to have a red beacon on the outside of the building. Now, there's no fire code

that requires you to have the red beacon, but it was part of the original fire alarm installation and that serves us, it helps us find the building, and if it's an out of town company, it helps them find the building. It's in your best interest to have the beacon. I remember one day I saw it and it must have gotten hit by a tree, and it got tipped over. Then the next thing was I think the lens fell off. Then after that the cover fell off, and then it was just the plate, and now the vines have all grown over it.

MR. BOUGAS: Is it right above the doors, the front doors?

MR. TURNER: It's right above the doors to the right a little bit. It's overgrown with vines which is something I'm sure once it fell off it just got missed. It would be beneficial if that was replaced. That's all I have.

MR. SCALI: Comments?

MR. HAAS: No comments.

MR. SCALI: Anybody from the public want to be heard in this matter? No hands.

MS. LINT: Backgrounds are okay.

MR. SCALI: So the square footage of alcohol, or the linear feet of alcohol is staying the same, did you say?

MR. BOUGAS: Yes.

MR. SCALI: Are you not expanding the footprint of the alcohol at all?

MR. BOUGAS: No. We're not expanding the footprint. I'd like the opportunity to cross-merchandise, put some displays --

MR. LICHTER: We used to do it anyhow. We used to have displays on the floor and back in the days when you couldn't open on Sundays, et cetera, we used to wheel them in. We did do that.

MR. SCALI: I just want to make sure looking at the floor plan, whatever floor plan you give us is the floor plan we give to the ABCC and we look at too. So if you're adding any merchandising, end caps that have alcohol, you need to make sure that that's on the plan. We license package stores by linear feet of alcohol.

MR. BOUGAS: So as long as I'm not

expanding the linear feet of alcohol.

MR. SCALI: Right, and the plan is accurate. Because there are many stores that change their end caps or change their displays in different ways. We understand that that can change from time to time but you have to have set spaces where the alcohol is going to be on shelving and linear space.

MR. BOUGAS: Without delaying this too much, would it be possible for me to give you a more detailed floor plan to provide to the ABCC let's say tomorrow morning? Or do you want it right now?

MR. SCALI: We can vote either this evening or we can vote January 28. Those are our two times when we are available to vote. So if you want to wait until the 28th, that's fine, with a different floor plan.

MR. LICHTER: I guess I have a question anyhow. We're novices in this a little bit. So you guys are going to vote. I'm making the assumption it's going to be a positive outcome.

It goes to the ABCC. What's their procedure? How long do they normally take?

MS. LINT: It has been taking up to eight weeks lately because it's the first of the year with renewals and all of that. They get very backed up.

MR. SCALI: Sometimes they speed through these things and they send us a whole bunch. Sometimes they wait. It just depends how busy they are. Assuming there's no tax issue, or DOR issues, or creditor issues, all that delays it if there's problems in that area.

MR. BOUGAS: There's not.

MR. SCALI: I would encourage you just to do it the way you want to do it so you don't have to come back again. Take the extra week and a half and design what you want and then just give it to us and we'll send it in for you that way.

MR. BOUGAS: Then we would have to come back next week? I mean the 28th for another hearing.

MR. SCALI: No, just give it to Mrs.

Lint and we'll vote on the 28th. That way you'll have what you want. It will look the way you want it to look. You won't have to reapply and all that.

MR. BOUGAS: Okay.

MR. SCALI: Anybody else want to be heard on this matter? Motion to take the matter under advisement.

MR. HAAS: Under advisement.

MR. SCALI: Moved, seconded. All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Just get the plan to us before the 28th.

MS. LINT: Review: Riverside Pizza and Seafood, Inc. d/b/a Riverside Pizza and Seafood Restaurant and Sports Bar, Alex Goulopoulos, Manager, holder of an All Alcoholic Beverages as a Restaurant license and Entertainment license at 297 River Street for review of the July 30, 2009 disciplinary hearing decision.

MR. SCALI: Hello. Just tell us your name for the record.

MR. GOULOPOULOS: My name is Alex Goulopoulos.

MR. SCALI: How have things been going down there?

MR. GOULOPOULOS: I'd say we're doing a much better job.

MR. SCALI: I haven't heard any complaints.

MR. GOULOPOULOS: I have a lot of support from the police. All the time they let us know red flags or anything. I've been talking to customers. I do a lot of talking. There's no smoking on the condo side of the house on the left

side where the handicap is. I move everybody on the left. Actually now, wintertime, I took all the patio chairs out so there's more room for them to hang around and smoke. I guess I have a little more smoking people than any other place. But I think things are working pretty good. There's one gentleman that lives right next door. I talk to him. I even talked to the girls right after we left the meeting here last time. I tell them if you see anything wrong, give me a call. I haven't heard anything from them.

MR. SCALI: He hasn't called you at all?

MR. GOULOPOULOS: Nobody call. The girls never call. I see Mark. His condo is right next to me on the second-floor. He comes in once in a while to get a slice of pizza and I talk to him. I say if anything goes wrong let me know. He said he thinks everything is fine.

There are six condos there, six people, six different owners. The four of them have any issues, problems. I guess one of the

girls is more happy know I think. Maybe I'm doing a better job.

MR. SCALI: I hope you are. It sounds like you are.

MR. GOULOPOULOS: I hope everybody is happy. I want to be friendly my neighbors.

MR. SCALI: Does Ms. Boyer have any issues at all?

MS. LINT: No.

MR. GOULOPOULOS: One thing that I want to bring up. Summertime, Hoyt Field brings a lot of people. There's basketball games every night. So there's a lot of people walking. There's a lot of people stop.

MR. SCALI: Maybe this is a bad time of year for a review.

MR. GOULOPOULOS: The police all the time do a good job.

MR. SCALI: The police are doing a good job, Commissioner.

MR. HAAS: I appreciate that.

MR. SCALI: Any problems, Commissioner

with this?

MR. HAAS: No problems.

MR. TURNER: No problem.

MR. SCALI: Anybody from the public want to be heard in this matter? No hands.

It's cold out; no one is sitting outside eating pizza.

MR. SCALI: Do the Commissioners wish to put this on file?

MR. HAAS: Place the matter on file.

MR. SCALI: Place on file. Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MS. LINT: Application: Continued from December 8, 2009. Millstone, LLC d/b/a Canteen, Aaron Siegel, Manager, holder of a Common Victualer license and Entertainment license, which was approved on December 8, 2009, at 983 Massachusetts Avenue has applied for outdoor seating. The outdoor seating application was continued for further discussion with neighbors.

MR. SCALI: Good evening.

MR. SUMMER: David Summer for Millstone, LLC.

MR. SIEGEL: Aaron Siegel.

MR. MURRAY: Jimmy Murray.

MR. SCALI: We're here because we couldn't resolve the patio issue last time. So tell us where we are with the patio.

MR. SUMMER: Millstone contacted the abutters. They did get an e-mail back from Tim O'Donnell who is the trustee of the Huntington Court Condos, which I understand is the building most directly abutting the patio area.

I don't know if you have seen the

space but it is right off Massachusetts Avenue. Millstone proposes to have a small patio seating area that's open during seasonal times, obviously not today or next month, whereby they could seat ten patrons.

It would be a transitional space. They weren't planning on throwing parties out there or allowing groups to congregate. It would just be an additional space for people to go, take their food outside ever so briefly, and then move from the patio area out the door. There is not going to be any music or anything of this nature.

MR. SCALI: No loudspeakers, no outside noise, no CDs playing, or speakers outside?

MR. SUMMER: Nothing like that. What you do have is a business owner. Mr. Murray is a -- I don't know if you're familiar with him but he's a business owner who has been in Cambridge 11 years and never had a complaint he's informed me.

MR. SCALI: When last we spoke this is a parking lot, so you were going to convert the parking spaces to the patio. What happens to the

parking?

MR. MURRAY: The idea is that it has long stood as five parking spaces for the two properties that it's attached to. When it occurred to us that it would be a nice place if we could get permission to put a few tables out there, we negotiated with the landlords to get permission to do that, conditional of course upon City approval.

It's not an area that we are going to do any kind of extensive building or put up a patio that stands year long, year after year. It's really a low impact sort of rearranging of the lot to take the grade out of it and put in some pavers that would facilitate both use as a parking space when it's not being used as a patio, or as a patio when it's functioning.

MR. SCALI: When you put the patio seats out there they stay there; right? You're not going to keep taking them in and out?

MR. MURRAY: Yes, we will.

MR. SCALI: Each day?

MR. MURRAY: Yeah. We're going to --

because you know, we're on Mass. Avenue and we need to secure that stuff overnight. Nothing is going to be permanently affixed to the patio. The idea would be that we would collapse whatever tables and chairs were set up each day and lock them up. So that again that pad could be used for parking.

So it's sort of a dual purpose use. The landlords will not allow -- well, that's what they have given us permission to do conditional of course on what you guys have to say.

MR. SUMMER: If you would like to look at them or a member of the audience, if anybody is here, we do have photographs, which maybe in addition to the plan that I see you're looking at that you could if you'd like, you could look at them.

MR. SCALI: Is it 10:00 a.m. to 4:00 p.m.?

MR. SUMMER: There was a miscommunication the last time. Millstone would like the patio hours to be 10:00 a.m. to 8:00 p.m. The reason being is that it would cover the lunch

and dinner hours. They have no plans to operate it late into the night or disturb the neighbors. They only wanted for the lunch and dinner crowd to come and to sit on the patio.

They do have plans that in and around 15 minutes before the closing no further patrons would be allowed on the patio. So it wouldn't be where somebody could walk on the patio at 7:59. They're planning on being very strict with setting a cutoff period.

MR. SCALI: Here's the problem I have. Patios we encourage. We want to have patios in the city. I can't see why you would take up valuable parking spaces and not use them. No one is going to park there -- if tables and chairs are out there 10:00 a.m. to 8:00 p.m., that's pretty much the whole day. So no one is really going to be able to use those spaces after that.

MR. MURRAY: We have access to parking at the gas station friends of ours own across the street.

MR. SCALI: Who parks in those spaces

now?

MR. MURRAY: It's a free-for-all with the neighbors because the lot hasn't been managed for three years since the going away of Friendly Eating Place. And as you may or may not know, the current owners, J. Dong LLC, purchased this property back in May of last year. So the lot has really been a free-for-all with use by Cambridge College residents.

MR. SCALI: Residents can park there?

MR. MURRAY: Well, no. Open parking space off of Mass. Avenue is highly sought-after, so people whether it's permitted or not are parking.

MR. SCALI: So no one is enforcing it you're saying?

MR. MURRAY: Correct, no one is enforcing it.

MR. SCALI: Well the neighbors would be happy with that; they could pull right in there then.

MR. MURRAY: Well, they're not going

to be happy about it soon because we plan on enforcing it.

However, the way we sort of view it is to have as many as 10 people sitting on a patio with four or five tables on it, it improves the value of the property both for us and we feel for the neighbors.

Right now, you're looking at a dirt and gravel graded lot. We plan on along with the owners of the property developing this and putting probably brick pavers and leveling this lot. That was consistent with their long-term plans for the property to pave it. When we asserted that we would be interested in doing a patio space it wasn't far removed from their intention.

So we see a lot more value in having families and patrons lingering on a nice summer evening on the patio attracting attention to the restaurant and to the space.

MR. SCALI: Did you look into the idea we had about having the patio on the front of the building or the side?

MR. MURRAY: Yeah, but we talked about that being -- there would be no room to facilitate more than a two-top, you know, one table with two people. So we'd rather put if anything, a bench outside for people to maybe sit casually, if anything. But we are strongly interested in putting this seasonal patio for a small number of people.

MR. SUMMER: If I can go back to your concern before about the parking. Obviously you know the area very well. It's right off of Mass. Ave. It's between two T stations. There is an element that most of the people that work there will be coming on public transportation. Buses run by there.

MR. SCALI: I think everybody knows parking spaces are a pretty valuable commodity in the city. I pay for my parking space every month. I know it costs me a chunk of change.

MR. MURRAY: I've been parking in and around this area for 11 years. You're right about that.

MR. SCALI: That's my only concern really. The value of a parking space is really high in the city.

MS. LINT: They also can't use the gas station to park.

MR. HAAS: That's a problem.

MR. MURRAY: What do you mean? No, for our personal cars.

MR. SCALI: Nobody can park in those spaces other than the gas station patrons and the people who are there for service. They have been warned about that.

MR. MURRAY: Fair enough. We will find other options for our cars when that patio is in use.

MR. SCALI: They do not have a license for parking cars in that lot.

MR. O'DONNELL: Cambridge College people aren't allowed to park there?

MR. SCALI: No. I'm just saying it's an issue. As to enforcement, that's another issue.

MR. SUMMER: I think as far as noise

and what have you, you have two responsible business owners. As I said, Mr. Murray has never had a complaint in 11 years.

MR. SCALI: We do know his reputation in the City. That's not in question for me anyhow.

MR. SUMMER: And he wants these people to come to his restaurant so he's not looking to --

MR. MURRAY: We want to be good neighbors.

MR. SUMMER: He's not looking to throw parties and make them angry. He wants them to come over.

MR. SCALI: Questions from the Commissioners?

MR. HAAS: I just have a couple of questions. Huntington Court Condos is the building back here?

MR. MURRAY: The one your finger is on now.

MR. HAAS: What's this building back here behind the cars?

MR. MURRAY: That is space that is

part of the dry cleaners, which abuts us, which are the actually owners of the property. That is space that they utilize for -- there's really nothing in there. It's a storage space that doesn't have much of anything.

MR. HAAS: You're not going to do anything with this?

MR. MURRAY: That's not our property.

MR. HAAS: I'm assuming you're using this rear door.

MR. MURRAY: That's our rear door, and you'll see the two trucks that abut the rear door. That would be the proposed width of the patio. So this is a 100-foot lot. We're still 75 feet from the property in question here, our abutters.

MR. HAAS: What's behind that rear door? Is that your kitchen?

MR. MURRAY: Behind which rear door?

MR. HAAS: This rear door of the restaurant.

MR. MURRAY: That leads into the restaurant. There's a little landing area.

MR. HAAS: So where is the kitchen in relation to the rear door?

MR. MURRAY: It's not behind that door. It's on the floor of the restaurant. In fact, here it is.

MR. SCALI: Is it an emergency exit, or is it just a regular egress?

MR. MURRAY: It's a regular egress. So that door is here and this is our kitchen area here. So you come in this door, down the steps, and here's the front door. So this is a secondary means of egress.

MR. HAAS: You started to say you heard from Huntington Court Condos but you never finished your sentence.

MR. SCALI: They're here.

MR. MURRAY: We did base it on your suggestion that we contact the neighbors and share with them. I think that the issue last time was that there was no one here from the condo association to contest or agree with what we were proposing and that's why you continued it. We felt

strongly that there was no one there to contest or approve because they were not contesting it. But because we made some modifications to our request, we followed through, we sent them an e-mail. Mr. O'Donnell was kind enough to coordinator a response and let us know in advance of his concerns.

MR. SCALI: Why don't we hear from Mr. O'Donnell. If you would pull a seat up that would be great.

MR. O'DONNELL: There's basically about five concerns. I don't think they're major. The first was the patio hours. From what we last heard in an e-mail I got from Jimmy, the Licensing Commission said they got temporary approval for 10:00 to 4:00 p.m. days for the patio. That's what I was told in his e-mail. It was 10:00 a.m. to 4:00 p.m. for the opening of the patio.

MR. MURRAY: That might have been my miscommunication. I was under the impression at our last meeting that you said that we were going to be given -- and I may be confused. I certainly

wasn't misrepresenting. But when we were at our last meeting we talked about -- you asked the proposed hours and we asserted, or rather, our attorney incorrectly asserted 10:00 to 4:00. Then we went through all of our discussions and my impression was that we were conditionally approved contingent upon talking with them.

MR. SCALI: I don't think so. We just continued the whole patio issue. So they want 10:00 to 8:00 p.m. The 10:00 to 4:00 p.m. was a mistake.

MR. O'DONNELL: I ran by the 10:00 to 4:00 because that's what we heard, and my people thought it was fine; that they could live with that. But then I got this other response to one of my e-mails saying that they wanted to in fact extend it to 8:00 p.m. So I ran it by the same people and they were like, what are you kidding me? Are the hours going to keep changing until it's midnight? So they would like it to stay from 10:00 to 4:00, if that is at all possible, the abutters, the immediate abutters.

MR. SCALI: They would be okay with that?

MR. O'DONNELL: They could live with the 10:00 to 4:00. The 10:00 to 8:00, they have a problem with.

MR. HAAS: Because they're afraid it could just creep up to midnight or because they think it's too late?

MR. O'DONNELL: Yeah, because some of them have kids and they want to get them into bed, some have babies, and some of them work during the night and sleep during the day, and vice versa, and it's fairly close to where their windows are considering the summertime. So that was there objection.

The second thing they wanted to know is when exactly will it be open. We understand the City sets the March 1 to December 31 dates. Is there a certain date that you guys could tell us? I mean is it going to be open June to October, or May to --

MR. MURRAY: I think that the idea on

our end would be that if the City allows us to operate March 1 to November 31, we would operate in a window that is suited to weather that's agreeable with sitting outdoors. So to my mind that seems like it's closer to maybe mid-April through the end of October. Well, the Head of the Charles is here in October.

MR. SCALI: We allow March to November only because on those warm days in March and warm days in November there's a possibility. It's not a reality usually. It's when the days allow them to sit out there. Between March and November are the days that they choose, weather permitting.

MR. O'DONNELL: The other issue became the seats. Initially when we got the initial e-mails from Jimmy, it was six to eight seats. But then it was bumped up to 10 to 12. Now we don't know what it is. People are like, well, is this going to keep growing? Is it going to keep expanding?

MR. SCALI: It's 10 seats that they're applying for now that they want. Whatever number

we give them, that's the number that they -- if we give it to them at all -- they have to stick with that number.

MR. O'DONNELL: So it's 10 or nothing is what you're saying?

MR. SCALI: They're saying they want 10. I'm assuming they'd take less of course if we said that, but I don't know.

MR. O'DONNELL: So we have no control over that?

MR. SCALI: You have a say, of course. You can give your opinion.

MR. O'DONNELL: People would prefer if it was the six to eight instead of the 10 to 12. Less people, less noise; more privacy for them.

MR. MURRAY: To us -- every seat counts to us. We're investing quite a sum of money in improving the property. As you know or may not know, we would like to inform you we're there for 12 years, perhaps longer. The difference between eight seats and ten seats is two. I understand the concerns about noise.

I think that again, our interest runs to being good neighbors. We're there for a long time. These people own the property. That's the most important thing. So it doesn't seem like we're far off here.

The thing that just stands out in my mind is the fact that this is Dana and Mass. Ave. We're closer to Mass. Avenue than to their building. It's an urban environment. Mass. Avenue is something that is a noisy street that is very close to our property and theirs. I just don't see how 10 people generates that amount of noise that - - it certainly wouldn't be louder than the buses and all that activity on Mass. Avenue, and it is an urban environment. We're not seeking 20 or 30 people.

MR. SCALI: Let's let him finish.

MR. O'DONNELL: Thank you. The other issue, 6 to 8 and 10 to 12, there's a difference between 6 and 12. Six people on their cell phone chatting as opposed to 12 people, it is a difference. These people are nearby. Their

windows do face this area.

Despite what he says about the urban environment, I live there too, and I've lived there for 15 years. Over time, you don't hear the traffic from Mass. Ave. After a while it becomes white noise. It's very different when there is ongoing conversation with live people, et cetera. That's my feeling about that, and other people's as well.

The other issue was the outdoor music. We're hoping that that's a no-no completely.

MR. SCALI: No music.

MR. O'DONNELL: Then fine, we'll drop it, because that was a potential issue.

The last issue was the privacy issue about screens, or screening, if that's even a possibility. We don't know. We would think it would be as much in their own interest to want to put something up because --

MR. SCALI: It will look pretty.

MR. O'DONNELL: Well, personally I think the parking lot is kind of ugly, and there is

-- but that's not my business. And there's a dumpster there and I kind of would want to eat out there looking at a dumpster and ugly gravel, and whatever. It would help if there were some kind of screening to sort of like make nice with the neighbors so to speak, and give your own patrons some sort of privacy. So I don't know how that's available.

MR. SCALI: Any plans for a screening wall?

MR. MURRAY: If I may?

MS. LINT: Sure.

MR. MURRAY: The idea of a screen is something that we don't agree with principally because the landlords don't want us building a wall in the parking lot. But mostly because --

MR. SCALI: They didn't say a wall. It could be something --

MR. MURRAY: Sure, canvas. I don't know. There are solutions and we could look at that if we decide that we need that. What I want to point out is that if you go up seven or eight

feet from where the end of our patio would be, the gradient as you go up Dana and up the parking lot, the top of that screen wall falls in line with the basement level apartments. So I don't know how it would mask much of anything that would benefit the abutters.

MR. SUMMER: The other thing is they're going to try to beautify it a little bit with putting up some sort of plantings and something to --

MR. SCALI: I think that's what we're talking about.

MR. SUMMER: I don't think it's just going to be people sitting in the parking lot.

MR. SCALI: That's what he's talking about. He wants to know whether there's a plan for some kind of design. On your plan it does say some kind of screen wall or retaining wall or a fence.

MR. MURRAY: Because the lot is graded, we have to level it, and that would require a small foundation to hold the earth, and that something that I don't know what its final height

would be.

MR. SCALI: You're going to do something to make it look better, to level it?

MR. MURRAY: Yes. The landlords in conjunction with us are going to pave the lot at some point in time, yes.

MR. SUMMER: So visually it should be an improvement.

About the hours, I mean I have a two-year-old child and she goes to bed at 8:30. So I understand. I don't think that having eight to ten people talking off of a back patio is going to generate that much noise. And you have to owners that are concerned about it anyway.

As I said, they're going to cut off the people going out there so it's not going to be -- they're not going to let people out there at 7:59. They're going to try to move people off the patio at the soonest possible time.

MR. SCALI: How about we do this: we have many phase-in type of things where we start with something and see how it goes, and then we

come back in a few month and see how it is. This isn't going to happen at all until at least the spring because you're not ready; right? What's your plan?

MR. MURRAY: I would suggest to you that we're going to be very focused the first 60 to 90 days on just getting the restaurant up to speed and acclimating.

MR. SCALI: When do you plan on opening?

MR. MURRAY: We plan on opening on March 1.

MR. SCALI: So we're into the spring by then at least. I'm going to suggest that why don't we start out -- I'm not even in favor of the patio because of the loss of the parking spaces, myself, but I'm only one vote. But assuming the other Commissioners agree that the patio is a good thing that we start out with the eight seats with the 10:00 a.m. to the 4:00 p.m. timeframe with the beautification plan that you're talking about doing, and see how that goes up until May or June.

MR. SUMMER: Here's the issue with that --

MR. SCALI: Then we come back and review it and then we see how it goes.

MR. MURRAY: Why don't we start with 10 seats and 8:00 p.m., and if there are any problems --

MR. SCALI: We don't do it that way. We phase in.

MR. SUMMER: Here's the issue: if you use the 4:00 p.m., it doesn't allow the dinner patrons to enjoy the space. So that's really key especially with a young business. These business owners are not the business owners that any of the abutters are going to have problems with.

MR. SCALI: And that's what I'm hoping you'll prove.

MR. SUMMER: In fact, I've talked to them and they'd be happy to provide contact information. One of them is going to be on the site at all times. I don't think there's going to be an issue and there's also going to be some

monitoring of the patio space.

MR. SCALI: Are you asking us to decide on your application as is?

MR. SUMMER: Well, I mean I think --

MR. SCALI: I'm asking you if you want us to vote on it as is?

MR. MURRAY: I would like for you to vote on a compromise that I think works for everyone, and why don't we suggest this. Why don't we go with eight seats until 6:00 p.m., and then come back and re-visit it?

MR. SUMMER: I really don't think there's going to be any issues. And maybe if we come back after the summer season, maybe --

MR. MURRAY: And we could rule out cell phones; post a no cell phone policy.

MR. HAAS: I don't know how 6:00 p.m. gets you to accommodate your dinner hours.

MR. MURRAY: It at least lets us accommodate a late lunch.

MR. SUMMER: I think it's a factor of Mr. Murray wanting to be accommodating to the

neighbors. He does want 8:00 p.m. I don't think he wants 12:00 a.m. I don't even think it's open to 12:00 a.m.

MR. MURRAY: I understand his concern about is the number of seats and the hours going to keep changing. We could cap it at 10 and 8:00 p.m. for long term.

MR. SCALI: I'm not sensing a sense of compromise. Am I wrong?

MR. MURRAY: There is a sense of compromise.

MR. SCALI: The suggestion is eight seats. I'll even suggest until 5:00 p.m. That will get you through your lunch and your afternoon crowd before dinner, and see how it goes with a review in June. Does that make sense to you, Mr. O'Donnell?

MR. O'DONNELL: That's perfectly fine.

MR. SCALI: That way if it's beautiful and looks great, and everyone is happy, we can look at expanding.

MR. O'DONNELL: Just so I'm clear,

it's 10:00 to 5:00. It's eight seats maximum.

MR. SCALI: Yes.

MR. O'DONNELL: No music.

MR. SCALI: No music.

MR. O'DONNELL: No cell phones; did I hear that?

MR. MURRAY: We'll put a sign up. You enforce it.

MR. O'DONNELL: Well thank you.

MR. SCALI: I'm not sure how you can do that.

MR. O'DONNELL: It was more humor than anything else.

MR. SCALI: Let's leave the cell phone issue aside for now. And beautification and screening as you design.

MR. O'DONNELL: I think that about covers it.

MR. SCALI: And a review in June, our second hearing in June, Mrs. Lint.

MR. MURRAY: Do you have a date?

MR. SCALI: I know we do. We only

have two hearings in June, so the second hearing in June.

MR. HAAS: Another person wants to speak.

MR. SCALI: I'm sorry. Somebody else has another opinion. Yes, ma'am.

MS. WHITE: My name is Rosemary White. I own the unit at One Dana and I have since 1980. I think the compromise sounds pretty good. I'm a little concerned about the rats. We've had a problem with rats in the past and Inspectional Services has been there. So I'm a little concerned. I'm sure it's something that people will keep an eye on.

MR. SCALI: That is an issue that no matter whether we make a ruling or not, it has to be taken care of.

MR. MURRAY: The Health Department does require us to maintain pest and rodent control, as well as a number of other things. You have to demonstrate evidence of, and we of course will maintain that contract. And any other issues

we will certainly be on top of.

MS. WHITE: Great, thank you.

MR. SCALI: Anybody else want to be heard on this matter?

MR. SIEGEL: Just to address Mr. O'Donnell's concerns because he's been ever so accommodating with the e-mails and the relays back and forth. Just as own representing ourselves, we're not continuously changing things. This has only been changed one time. We increased not from six to eight to --

MR. SCALI: It's not going to change now because once we vote on it that's what it is, so we don't need to go down that path.

MR. SIEGEL: Just so the immediate abutters know that we're not serving alcohol. We're a quick service village mentality restaurant where we're using businesses in the area. Jimmy as a local business owner for 11 years know pretty much all the business owners in the area. So we're very accommodating. We're very easy to work with. So for the record, I don't want to picture painted

about us switching stuff around.

MR. SCALI: Mr. Murray has a good reputation in the City and Mr. O'Donnell will soon see how you run things.

MR. O'DONNELL: Many of us have eaten at the Creperie, which he owns, and we all like it.

MR. SIEGEL: We understand the compromise and Mr. O'Donnell -- because he's not a direct abutter himself, so he had addressed the concerns of the immediate abutters. So when we look at 4:00, 5:00 and 8:00, it's non-alcoholic and we're promoting quick service and an atmosphere for everybody.

MR. SCALI: They will soon see that.

MR. SUMMER: Just to be clear, in June the seats and the hours would be reviewed, so they could move up to 10 and the hours?

MR. SCALI: We'll consider it. It may not automatically happen. If everything is going well and --

MR. SUMMER: Everyone will love the patio. You should stop by.

MR. SCALI: So motion: 10:00 a.m. to 5:00 p.m., eight seats, no music, beautification and screening process reviewed second hearing in June. Moved.

MR. HAAS: Motion.

MR. HAAS: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MS. LINT: Application: Parkside Place Company, LP, d/b/a Parkside Place, William M. Kargman, General Partner, holder of a Garage and Gasoline license for 10,000 gallons of No. 2 fuel and a 248 car special garage with 4,960 gallons of gasoline in tanks of cars only at 700 Huron Avenue has applied to amend its license to 240 cars, 2,400 gallons of Class 1a, 1b, 1c gasoline in tanks of cars only, five one-gallon containers of Class 1a, 1b, 1c gasoline, 10,000 gallons of Class 2, No. 2 oil and 1,305 gallons of Class 2 diesel.

MR. SCALI: Good evening. Tell us your name.

MR. TUCKER: My name is Michael Tucker representing Parkside Place. I work for First Realty Management at 151 Tremont Street in Boston that is owned by William Kargman.

MR. SCALI: Does your realty management company run this garage, or manage this garage?

MR. TUCKER: Manage the building. It's a residential housing.

MR. SCALI: Which includes the garage?

MR. TUCKER: Which includes the garage.

MR. SCALI: So we're amending this?

MR. TUCKER: This all came about when we went for a permit to install a diesel generator in the rear of the property that will accommodate the elevators, because right now the elevators are not on generator backup or anything. And in doing this it was discovered that the current license was incorrect as far as the number of gallons of auto fuel. That has since been all corrected with the fire department fire prevention and he has some new Microsoft Access database which I was very very impressed with, and he has everything in there.

There will be, just for clarification, Verizon Wireless has also applied for licenses and been approved to put a 12-by-30 unit behind the garage for cellular equipment. That's been done for a number of months. They've already started construction on that. In that they have a generator and I questioned why they didn't have to go and get a fuel storage permit like I am.

MR. SCALI: Is that all they have is just the generator?

MR. TUCKER: No. It's all their cellular equipment.

MR. HAAS: What's feeding the generator?

MR. TUCKER: They're going to have a generator.

MR. HAAS: Is it going to be gas?

MR. TUCKER: Diesel.

MR. SCALI: It may be under the amount that's needed for a permit.

MR. TURNER: They have applied. And I thought the 1,305 was rolled in.

MR. TUCKER: That's not including that because I applied before them, and I said to them when I spoke to Ms. Lint, I went right back to Bell Atlantic Verizon.

MR. TURNER: It would be up to the property owner to amend now this to reflect that. Verizon gets the permit from us, which we have issued, so I don't remember what those amounts

were.

MR. SCALI: It may not be above the amount.

MR. TUCKER: It is above the amount here. It doesn't include these. I went exact. I met with the fire department because I believe it is 281. They were saying 238, then it went to 240, so I didn't want to add any numbers to this to confuse this.

MR. SCALI: Are you talking about the parking spaces?

MR. TUCKER: Verizon for the generator, the gallon consumption.

MR. SCALI: We'll find out about that. For now, we have what you have, and we can add onto the building.

MR. TUCKER: I believe if I said 280 that would be definitely more than what they're going to have, but I don't want to say that until they give me can't me fixed numbers.

MS. LINT: So we'll just have to amend this again.

MR. HAAS: Would Verizon have to apply for the permit or would the building owner?

MR. SCALI: The property owner.

MR. HAAS: So you'd have to come back then.

MR. TUCKER: They'll have their attorney. I've already made it well known to them. They were going down and doing it two weeks ago and said that they were only told they had to go to the fire department. I said you have to go to the licensing.

MR. SCALI: It's in the same building?

MR. TURNER: Right, it's on the same property.

MR. TUCKER: It's on the same property but not in the same building.

MR. SCALI: Same address though.

MR. TURNER: Under the same address. It's just that the permit goes to Verizon. He gets his permit but the licensee has to account for all of it.

MR. SCALI: What's the address on this

one?

MS. LINT: 700.

MR. TURNER: Verizon has been in for their permit. I just don't remember what the numbers were.

MR. TUCKER: Just so you'll know, as far as the advertisement goes, I did notify Fresh Pond Condos because we're a managing agent. I didn't have to notify them according to the abutters list because they're not a direct abutter. You have the cemetery, and everything else is the City of Cambridge, the VFW. So as far as abutters being notified, I met with the Cambridge Cemetery. The woman there said she had no problem with it. She laughed at me. She said why are you making me sign a certified letter?

MR. SCALI: So you're saying it would be easy for the abutter because there's no other abutter besides the City of Cambridge and the cemetery. Why don't we find out a between now and the 28th what that is before we vote on this. We may be able to amend this very easily.

MR. TUCKER: They did say their attorney was going down and meeting -- I gave them someone in fire prevention to talk to. There are two different men that work there and one was dealing with Verizon and didn't realize that there was fuel involved when they put the plan.

MR. TURNER: It's the first cell tower that's having a generator.

MR. TUCKER: That's having diesel. Well, natural gas one I think they have one more that has a generator. Verizon is very insistent on having it as well.

MR. TURNER: Most of them have battery backups and things like that. That's why we didn't catch it on the original application.

MR. SCALI: Is this okay with you, Deputy Chief?

MR. TURNER: Yes, well --

MR. SCALI: We're going to make a motion to take this matter under advisement pending the Verizon clarification, and we can do that before the 28th, and vote on it then.

So motion to take the matter under advisement pending Verizon amendment.

MR. HAAS: Motion.

MR. TURNER: Seconded.

MR. SCALI: Moved, seconded. All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Thank you very much.

MR. TUCKER: Thank you very much.

MR. SCALI: Thanks for being so patient.

MS. LINT: Application: Continued from January 5, 2010. Auror, LLC d/b/a Flat Patties, Thomas Brush, Manager, has applied for a Common Victuler license to be exercised at 33 Brattle Street. Said license, if granted, would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises and to have a seating capacity of 38 seats (22 inside and 16 outside on public sidewalk.) Hours of operation will be 7:00 a.m. to 2:00 a.m. seven days per week. Applicant is also applying for an Entertainment license to include background music.

So we continued this to have some of the issues addressed including trash recycling, kitchen exhaust, deliveries, and there was also no sidewalk obstruction permit.

MR. SCALI: Sidewalk obstruction permit for?

MS. LINT: To be on the public sidewalk from DPW.

MR. SCALI: Tell is who you are for the record first.

MR. BRUSH: Thomas Brush.

MR. GETZ: I'm Richard Getz.

MR. SCALI: When we were here last we suggested having a meeting; that you talk with Mr. DiGiovanni and figure out what the issues were. I think we narrowed them down at our last hearing. So have we come any closer to discussion.

MR. GETZ: We did meet and I told him that we'd get back to him with some ideas about how we can deal with the exhaust, and somehow mitigate any problems, and we've done that. I think Tom Brush submitted that to Mrs. Lint.

MR. SCALI: I think we have a copy of a letter.

MR. BRUSH: A letter sort of outlining the overview of all the issues as well as offering up a -- I think there is a diagram indicating where other exhaust hoods are located in the vicinity of the building that Mr. DiGiovanni had spoken about having a problem with, as well as address some possibilities if necessary that could be done with the exhaust

system to improve its performance if it's needed to happen.

MR. SCALI: These are your proposals that you talked to Mr. Digiovanni about but have you all agreed on this, or is it still up for discussion?

MR. BRUSH: I think it's up to the Board to make a decision. There's no way we're going to --

MR. SCALI: You're telling me you haven't agreed.

MR. GETZ: There are ways of correcting the problem if it does arise, so in that sense we've come to some resolution here.

MR. SCALI: Let's talk about the exhaust. The plans for the exhaust are -- tell me what they are.

MR. BRUSH: Currently the exhaust and the way it is designed and where it's located, there's a diagram that sort of shows the property, John's property right here and his concern about these 15 windows across the back. Do you have a

copy?

MR. SCALI: Yes.

MR. BRUSH: You will see that the --

MR. SCALI: You have this triangle right here; right? And the X is the exhaust?

MR. BRUSH: That's correct, right. And it's actually not that whole triangle. It's just that little piece. You'll see within that large triangle there is a smaller triangle that's delineated with a dotted line.

MR. HAAS: Okay.

MR. BRUSH: At that point, we're the exact point where that exhaust is located is 106 feet from the rear of Mr. DiGiovanni's building, 106 feet away.

MR. SCALI: So this way?

MR. BRUSH: Right, as the crow flies just a straight-line going right across.

MR. SCALI: What's in between the -- there's two buildings in between?

MR. BRUSH: Yes, that's correct. There's Back Gallery, there's Concepts, the

Tannery.

MR. SCALI: The exhaust is going on the roof of that building?

MR. BRUSH: On the roof; that's correct.

MR. SCALI: So straight up?

MR. BRUSH: It goes straight up.

MR. SCALI: Is that going to be constructed new?

MR. BRUSH: Brand-new, everything is brand-new. It's all code, brand-new. Captive Air is the manufacture. It's a regular kitchen exhaust company. It's not some fabricated -- it's all done by one company and designed and built and engineered.

Included with our building permit is all the engineering and structural, as well as HVAC engineering associated with installing a kitchen exhaust.

Several doors over is Crema Cafe, which also has the exact same fan that we have over here at Flat Patties. It has been in operation now

for almost two years and it is at the same elevation and is actually at a closer distance from the rear of the building. There has never been a single complaint of any kind, ever.

MR. SCALI: So that exhaust is in the back of the building in the alleyway?

MR. BRUSH: That's correct. That exhaust -- you can see the X there -- shows the proximity of it again to the same building.

Further over you'll notice also in the parking lot is Mr. DiGiovanni's building, and on the back corner of that building there are a number of exhaust fans which are from Fire and Ice, I assume, which exhaust actually into the parking lot. There's another one up on top of the building but those exhaust fans are all much closer to his building than either Crema's or Flat Patties.

MR. SCALI: You feel that that's sufficient to take care of the exhaust because it's so far away from the other building and that the other two are closer.

MR. BRUSH: Right, closer, and there

has never ever been a single problem or complaint whatsoever with the exhaust ever, of any kind.

Certainly if for any reason a problem did develop we would certainly correct it. We would do -- there are a number of measures, some of which I mention in the letter. There are other ones both in terms of the filters that are placed in the hood. You can get higher efficiency filters to be put in the hood. You can do these wind band extensions that actually shoot the air further higher up into the atmosphere. It actually shoots it vertically, as well as the extreme situation which you might have with a woodburning, a pit barbeque.

They actually have these things that are called scrubbers which will actually go on there and wash. There are a number of different ways to treat this, and you generally do them one step at a time. You try this. If that doesn't work, you know, whatever.

Because of the type of cooking we're doing also, it's griddle cooking, it's not

charbroiling, it's not wood or anything else like that, it is a relatively clean kitchen exhaust compared to a flame or any type of charbroiling.

MR. SCALI: So what's the plan then for the trash?

MR. BRUSH: The trash, currently we have our own recycling station, if you want to call it that, at Crema, which we would use exactly the same facilities, the same containers that we currently use. We have a twice a week pick up.

MR. SCALI: Where is that?

MR. BRUSH: That's located right at the back door of Crema on top of a bulkhead.

MR. SCALI: Right here in this corner?

MR. BRUSH: It would be located kind of right here so it's just right on the back corner right there.

MR. SCALI: You're going to use the same trash and recycling for Flat Patties; go all the way around the building to that same site?

MR. BRUSH: All the tenants that are in this entire area including the tenants in

Mr. Digiovanni's buildings, all the tenants come back to that point, everybody. You hand truck, you carry it, but all trash currently is taken to that area.

MR. SCALI: So parking in that back alleyway? No parking in that alleyway?

MR. GETZ: There is parking back there.

MR. BRUSH: The tenants primarily use it for delivery.

MR. GETZ: We try to keep it available for delivery, but we also rent parking back there for the owners of the stores or their employees who want to stay there.

MR. SCALI: That's not changing?

MR. GETZ: No, that's staying the same.

MR. SCALI: Are you using that space back there?

MR. BRUSH: We have one space back there and we have a truck that we use back there. That's the ting: the same truck that's used to

supply Flat Patties currently, which is over in the garage, is the same truck that services Crema, the same truck that will be servicing Flat Patties, so their no load or added vehicle or anything. It's just that we deliver to one, we deliver to the other at the same time. There's a efficiency for us in doing it.

And it's all done on this private property behind the space. There's absolutely no load whatsoever out on the public streets or walkways at all.

MR. HAAS: But you're closing the other establishment; right?

MR. BRUSH: That's correct. I'm closing Flat Patties over in the garage in Mr. Digiovanni's building over there in the garage.

MR. SCALI: Any questions?

MR. HAAS: You're saying this exhaust unit is conducive to making those modifications? You're not going to just swap the units out?

MR. BRUSH: No. That is the exact unit that's going in, and those wind band

extensions that I'm showing in that photograph are what can be placed.

MR. HAAS: Those wouldn't normally be there?

MR. BRUSH: That's correct, those aren't normal. But those can be actually -- you can go up to eight high on those things. So you can take this thing 12 feet high.

MR. HAAS: But it's not just a stack; it's also got filtering and stuff in it?

MR. BRUSH: No. Actually all that does is channel the air more vertically, that's all.

MR. HAAS: So what are the scrubbers and stuff you're talking about that you could add to this?

MR. BRUSH: That would be a whole other -- that would actually be --

MR. HAAS: So you'd have to replace the whole unit?

MR. BRUSH: No, but there would be an in-line device that would have to be put between --

those wind band extensions would not be there. You wouldn't use those and you would have no need because this actually totally strips everything out, both oil, grease, dirt, smoke and everything else like that.

MR. HAAS: Your plan is to go with this base unit?

MR. BRUSH: That's right. I would not install those. And that's exact what I have at Crema Cafe, and that also is the exact same type of unit that exists on all these other fans that are in the area. There's not another unit anywhere around his building that has scrubbers or wind band extensions or anything else on it.

The other thing that can be done which is something that I did over at Philippe's was to install very high efficiency filters in the hood. What that does is capture more of the smoke and grease at that level so it doesn't even go up there, and that also can be used if necessary.

MR. HAAS: Your measurements are all for this building here?

MR. BRUSH: Exactly, off the back of the building which is John's building, those windows going across.

MR. SCALI: Questions?

MR. TURNER: No questions.

MR. SCALI: Does anybody want to be heard?

MR. DIGIOVANNI: John Digiovanni, Trinity Properties, 50 Church Street. Thank you, Commissioners.

Dick and Tom, I got the letter. Dick and I did meet last week. A couple of things that I'll quickly mention in response to comments here. I'm sort of disappointed we're still here on the idea that there haven't been complaints. We wouldn't complain about an existing exhaust. I mentioned that at our last hearing. Dick managed the Sage Building prior to us and knows that those are operable windows.

MR. HAAS: The Sage Building is this brick building back here?

MR. DIGIOVANNI: Correct, which is two

stories and the others are one-story.

MR. DIGIOVANNI: I appreciate and I do understand that I've learned a little bit more about these exhausts, probably more than I want; that there are ways to remedy and potentially mitigate. You've heard Tom mention them.

The idea of trying to determine whose exhaust is causing the odor if there's a problem later, I think is a difficult thing. So I would just request the Commission ask them to take reasonable steps, to take some of those steps now prior to there being a problem. It's not a substantially different cost and I think it's reasonable.

They mentioned Fire and Ice. Fire and Ice exhaust actually goes up five stories along the elevator chase, so that's where that one goes. In fact, we did do a booster and we actually required them to do some initial things.

Tom mentioned the things that were done in the garage building and we required that. In his letter it mentioned six times doing the

cleaning of the filters. I'm sorry, every six months in your letter you mention that. In fact, it's very much related to how busy you are. So the issue isn't whether you do it twice a year; you do it when it needs to be done. I think that's important to mention.

Dick mentioned that they will take reasonable steps to mitigate. I think this is an easy one. I had mentioned this was our biggest concern. We do have office tenants complain to us, but Tom, I don't pass them along to you, nor would I pass them along --

MR. BRUSH: You're telling me you've had complaints about Crema's exhaust in the --

MR. SCALI: That's okay.

MR. BRUSH: I'm just saying. He just said that they've had complaints.

MR. SCALI: Let's hear what he has to say first.

MR. DIGIOVANNI: So we've had --

MR. SCALI: What system are you suggesting that they use; the one with the

scrubbers?

MR. DIGIOVANNI: If it's the scrubbers and some additional velocity to bring it up higher. This isn't much of a difference; right? It's one story. I'm also sensitive to the idea of the visual in Harvard Square, the idea of having an exhaust visual from the street I think is something that I'd be concerned about. So it's something that I thought they might be able to come in and say, we think this is the better way to go and pick it. I think that's a reasonable step. I don't think it's an unreasonable request.

I think quite frankly, Dick, if you were managing the Sage Building right now, and you dealt with the office tenants, and just the potential, I think you'd be a little bit more sensitive to the idea. I know you say they shouldn't open their windows because of the type of HVAC system in the building. I agree with you. But you've also managed buildings, and office tenants open their windows, and they expect that they should be able to if they're renting an office

that has operable windows. So that's my point relative to the exhaust.

Relative to the trash and deliveries, I'd really like primarily the discussion to be with Dick, who represents the owners of the property. Dick is aware of the letter I received a couple of years ago relating to trash when we were going for a permit back there relative to approving the -- creating a new entrance and improving the street facade, which Dick agreed was an improvement from a -- or his attorney did, from a visual. But there was some concern about deliveries, about loading, about trash. And I would agree that currently it operates reasonably well back there.

If in fact, as the letter mentions, the ad hoc trash -- because currently the coordination and cooperation relative to the trash is by both parties. We are allowing it and they're allowing it. It relates to easements that date back before any of us were born. I'm happy to do that so long as the property owner makes some sort of statement to the Commission that you recognize

that that is important to adding a use that will require more trash.

Quite frankly, if that didn't happen, and we went back to -- if you recall the days, Dick, there were two-yarders. There were probably 15 -- maybe they were three-yarders. I don't recall but there were a lot of dumpsters back there, not a self-contained compactor. Right now, there's a 30-yard self-contained compactor that's picked up once a week, as his letter mentions, on Tuesdays. And the same thing, there's a coordinated cardboard recycling for all these properties. I think it worked reasonably well.

I think adding a use that adds more to the back area, the idea of potentially considering that ad hoc if you are not having food, then I don't think you need to make any sort of representation from the owner's standpoint, whether you consider that an integral part in your request to have an additional food space within your premises.

MR. SCALI: What would make it better,

Mr. DiGiovanni? What would you want to see there if you were going to make it better?

MR. DIGIOVANNI: Quite frankly Commissioner, what I'm suggesting is -- well, I do think there's some -- the third piece was recycling. The one thing we don't currently do is coordinate a joint effort relative to some of the recycling. We do recycling with the cardboard, together, but that's not the case on some other items. I don't think that's critical, I think that's an improvement.

My bigger point here is whether the property owner recognizes that the ad hoc, currently that 30-yard is on an easement right now, and it's being done by the cooperation between Dick's owners and Trinity Properties. So there are three separate pieces of property that use that container.

MR. SCALI: Are you talking about this McGeeghan?

MR. DIGIOVANNI: Correct.

MR. SCALI: So that's on --

MR. GETZ: That's on our property.

MR. SCALI: It's on your property but you let tenants use it.

MR. DIGIOVANNI: It's on what's called -- there's an easement there. So I have rights over that easement, and that couldn't be placed there without our okay, because that would be over the area that we would have the dominant estate over the easement.

This has been the case for approximately 20 years. When you first came on Dick, there were separate agreements.

MR. GETZ: I know all about it; I made the agreement with your father back there that we would do this, and we did it on a handshake.

MR. DIGIOVANNI: My concern was that two years ago you were saying it was ad hoc and that it could go away. And if you're adding more uses --

MR. GETZ: That was at the time when you were expanding your building and we asked for you to at least address it at that time but nothing

happened.

MR. DIGIOVANNI: When you say "address," I don't understand.

MR. GETZ: Our concern was that when you did the renovation and expansion of your building you made no area for your own trash on your own property. And we thought --

MR. DIGIOVANNI: That was the Sage property and that's exactly what we're talking about here is whether that ad hoc is actually ad hoc, or we're adding different uses. That's all. There's no change in use. We created a new entrance. There's no change in use and there's trash. We can do it separately, and if that's the case, I'd say there's a concern about adding another use that will exacerbate, if in fact we didn't have a coordinated trash removal.

MR. GETZ: First of all, you're making the assumption that he's going to generate more trash than say a clothing store, and that isn't necessarily the case. He recycles.

MR. DIGIOVANNI: Well, if that's your

representation to the Commission, that's fine. Then we have a difference of opinion that a food place creates more trash than a dry good retail.

MR. SCALI: We can go back and forth all night long.

So the issue really is that you feel that perhaps Flat Patties is going to generate more trash and somehow impact the agreement you already have. Are you worried about that there is going to be a problem with the agreement you have on this? You said this McGeeghan Waste Systems --

MR. DIGIOVANNI: Only because it was brought up by Dick's attorney a couple of years ago that it is in fact, ad hoc. Now in fact, it is.

MR. SCALI: Ad hoc, meaning not in writing, just to handshake. So you're worried that somehow he could pull this from you.

MR. DIGIOVANNI: It's fair to say that Dick has suggested that that may be the case. If that's the case, and he's representing to you the way they deal with the trash is that there's a cooperation back there, that's inconsistent. You

can't have it sort of both ways.

MR. SCALI: Mr. Getz, the issue is the agreement is on a handshake. He may be a little nervous that perhaps maybe on a handshake doesn't mean anything in the court system, but maybe it does. You never know. He's worried that perhaps if he changes what's going on in his building, you change what's going on in your building, you might say I need that whole thing for myself. Too bad about Fire and Ice and his tenants. I'm going to use this dumpster for myself.

MR. DIGIOVANNI: It would also have to be moved. And what I'm saying is that dumpster would have to --

MR. SCALI: We're kind of talking about a legal issue here that's kind of beyond our authority here. The only thing we really have to look at is whether Flat Patties is going to add any kind of nuisance or public need issue in that alleyway.

This is why I kind of wanted the two of you to sit down together and go over your legal

issues separately, and I know you tried to do that. It's very difficult, I understand, to kind of get together.

MR. DIGIOVANNI: The only thing that I'd like to suggest, Commissioner, is in fact there is a representation that it's being done a certain way to this Commission; that there is a coordinated trash area back there. If that wasn't the case, that area where the current trash is, it would be removed, and nothing could be in that space. We would do the trash within our building and it would be picked up five times a week. We would have daily pick-ups of trash.

So it can be done. It was done before. And I'm just suggesting that if you're making representations that it's a certain way, when in fact making other suggestions to me; that is inconsistent.

MR. GETZ: I'm just saying that we've addressed the trash issue and recycling.

MR. DIGIOVANNI: How?

MR. GETZ: I put it in writing there.

MR. BRUSH: I am 100 percent recycling. There's nobody back there, there's not a restaurant or business that recycles more. Everything -- I mean we weigh the amount of trash that goes into the compactor, we weigh every day. We supplied it, we thought we should get some break on the trash. We save that stuff. It comes in everything. There's nobody that does more. It's absurd to think that we're going to somehow create this added load.

MR. SCALI: Nothing is absurd if people have that opinion on their side. Everyone has their own viewpoint on how things work. You could be on the opposite end of it.

MR. DIGIOVANNI: The point is that it goes out some way. Whether it's recycling or in the compactor, it takes space back there. That's the point, whether they're recycling or not.

MR. SCALI: I think we gave you gentlemen an opportunity to speak on your own and kind of resolve this issue on your own. We have to just vote on how Flat Patties is going to affect

that space. If you all are telling us that that system back there is for his use, and you both agree that it is for his use, and it's not going add any additional trash to that area, we have to look at it that way.

If you, or one of you tell me that this is not what you have an agreement on, your old agreement is no longer standing, then we have to look at it separately in a different way.

I don't want to be in the middle of your agreement. I just want to make sure we have enough sufficient trash disposal for Flat Patties and a lack of traffic back there.

MR. DIGIOVANNI: I recognize the letter as the tenant representing how things are being done to the Commission. That's what I see that letter as. I just want to be sure that the property owner is consistent with that in representation to you. That's all. Because I think there's a representation in that letter on how things are being handled. And if that is the case --

MR. SCALI: You want to make sure that that is the case from the landlord.

MR. DIGIOVANNI: That's all I'm suggesting.

MR. SCALI: I guess we have to ask Mr. Getz then. Is that how it is?

MR. GETZ: We're not going to change anything. We're not going to get into any agreement that would change this ad hoc agreement, but Tom Brush is going to abide by every regulation he has done for us, you know, every *T*, dotted every *I*, met all your requirements on trash and on this building. I just think we're at a point now where he's been in there, he's been paying rent as a tenant. He's paying taxes as a tenant for the last four months. It's time to move in there.

MR. BRUSH: I'm moving out his building in 60, 70 days.

MR. SCALI: I think we're well aware of the dynamics that are going on in the two buildings. It's not easy. But I think as long as Mr. Getz is in agreement that the way things were

are staying the same. I don't want to speak for you, I'm just saying if you want to go to your attorney and have that straightened out, you can do that. If you're telling us everything is staying the same from now into the future without any agreements being changed, then that's fine too.

MR. GETZ: I think it's the same agreement we've had and we're dealing with the trash issue as we always have. We're on top of it.

MR. DIGIOVANNI: Then I don't have an issue if that's the case. I don't have an issue. I was talking about the exhaust and the other. If he's representing that then I don't have an issue. Just as my previous letter said, which wasn't an objection. I said these are concerns that we have that I believe are all resolvable. If that's the case, then we don't have an issue.

MR. SCALI: So you feel you've heard what you want to hear?

MR. DIGIOVANNI: I believe I just heard a representation about what Tom Brush put in a letter. That's what I think I heard. It's

obviously up to the Commission to determine what that is. To me, it's critical whether you think it's recycling trash, cardboard trash, it's still coming out of there. It's still more than you would otherwise.

MR. SCALI: It brings another impact no matter what it is.

Is that all you want us to know?

MR. DIGIOVANNI: Thank you, absolutely.

MR. HAAS: So Mr. Getz, the capacity of that trash compacter now, what is it absent Flat Patties going in there? Is it 50% when it's being picked up? Is it 70 percent, 80 percent?

MR. GETZ: I don't know what the actual capacity is. It gets picked up once a week. I haven't looked at the bills lately to see what percentage of it is trash.

MR. DIGIOVANNI: Its maximum is by tonnage. I'd say it's probably 80 percent on a weekly basis. It's picked up once a week. We've got a large one, and because of the recycling we

have this history.

In fact, we received a 1990 recycling award from the City. So 20 years ago, we'd been doing cardboard. Cardboard was the most significant weight in that trash. We got that out. We have tons, literally, of cardboard being taken out of there on a weekly basis. That's worked actually well. We need to store it. There are huge pallets of cardboard that are no longer in there. So it's once a week, which also is the issue of delivery. That truck comes in, it's going to be early. It's a large truck to come in there and it has to get that 30-yard stuff. The entire unit is taken away, weighed, dumped, and then brought back.

I would say it's about 80 percent. They give us every bill, the tonnage. It's a printout from the transfer station. It's pretty full.

Now, I think it can fit the trash. That's not the issue. It's about the space back there and how many times if in fact that wasn't

coordinated, we would have a trash truck, a garbage truck come in there every day. That would be the difference. And the use of that easement could not be interfered with. That's the issue here.

If what you're saying is the case, we don't have an issue. It was the inconsistency, Dick, that I was trying to get you to talk to me about back there. That's the concern.

MR. HAAS: So now I'm confused. Is it resolved?

MR. SCALI: I guess what they're saying is the agreement they've had all these years is still the same. Mr. DiGiovanni was concerned that the easement and the use of that trash compactor was going to change in some way. I guess it's not changing according to Mr. Getz. Everything is staying the same as it has stayed for the last 20 years.

MR. GETZ: That's true. It is an ad hoc agreement. So we have no intention today of changing that but that's not to say it couldn't change in some future date, and then we'll have to

address that issue at that time.

As far as Tom Brush's application goes, there's plenty of room in the trash dumpster. We're recycling. We've done everything to meet this Commission's requirements about trash and recycling. I just want to focus on that. Anything other than that I don't want to get into at this point.

MR. SCALI: It's really beyond our authority to -- I mean he can go to his attorney tomorrow. You can go to your attorney tomorrow and hash out all the --

MR. DIGIOVANNI: The representation is the question. In fact, if it changed, then I would think what they'd be telling you today is how their trash is being removed, or recycling, would be a very different plan back there, and that's the point.

I would suggest that if this was actually going in as a fast food permit, there would be very clear details. This is about how many square feet; 800? A Dunkin Donuts in our

building is 1,500 and it's fast food. This is 600 square feet and this is a full-service restaurant.

Keep in mind it would be a very different review as to the details of each of these things if it was in fact a special permit application. That's their choice but I would suggest if someone is coming in here asking for a CV, representing certain ways that things are being set up, that is within your jurisdiction. And if that in fact changes, I would suggest that that permit ought to be in question.

MR. SCALI: Of course. What we're saying is that everyone is telling us a certain thing is going to be. It's on the record here. So if it's going to change then someone is going to have to let us know that it's changing and that could impact any permit back there.

That's why I asked the question: Is anything changing? If it's not -- if it changes in the future then it could impact you in some way. That's assuming the Commissioners are satisfied with how it is now, already. So if everything is

okay to add another restaurant, then we would have to look at it in those terms.

MR. DIGIOVANNI: Thank you for your time.

MR. SCALI: Does anybody else want to be heard? Ms. Jillson.

MS. JILLSON: Good evening. For the record, my name is Denise Jillson and I'm the Executive Director for the Harvard Square Business Association. This is an interesting evening for me because I have three members: Tom, Dick, and John, who are all very good members of the Association. So I find myself in this sort of interesting position.

The reality is that we would be in favor of this establishment providing that all the issues have been addressed that were outlined by this Commission two weeks ago. I know that Dick and John met.

To just speak relative to Tom, and particularly with Crema Cafe, they've been wonderful additions to the Square, certainly the

patio. I was thinking about the patio with all of those discussions prior where they were limiting it to eight people, and wanted to have the patio close at 4:00. I thought, gosh, that would never work in Harvard Square, and aren't they glad that I'm not advocating of their behalf.

Nonetheless, Tom, with Crema has done a spectacular job, and we certainly look forward to another full-service restaurant with a patio, and are pleased that it seems as though the four issues that were outlined two weeks ago have been addressed.

As I mentioned to Dick in one of the meetings that we had that just coming out and putting the best foot forward, particularly around the ventilation system, seem to make the most sense because it's easier to -- they're having it installed to get a good system, and it seems as though they've done some homework with that. So we're hoping for the best but I'm glad that it seems like everybody is at least for the moment satisfied. Thank you.

MR. SCALI: Thank you very much, Ms. Jillson. Anybody else want to speak on this matter?

MR. BRUSH: In reference to the ventilation, I certainly, if anything were to occur, any problems were to develop with the ventilation, I would take step-by-step and keep going until we correct the problem. But to start out putting all this stuff on the system and spending huge amounts of money, and I'm willing to that if it's necessary, but I don't feel that that's where you start. And since there has been no evidence of any problem with odor, I think it would be premature to say I have to do all of this to open up. If there's a problem, I certainly as a neighbor would certainly do anything and everything necessary to correct that.

And there's all different levels from starting with filtering. If you're talking scrubbers, you're talking \$20,000, \$30,000. It can all be done but I'm just saying that you wouldn't do that if it wasn't necessary.

MR. SCALI: As opposed to what's the expense for the other?

MR. BRUSH: You're looking at the stack extensions, you might spend a few thousand dollars. These high-efficiency filters, maybe \$500, \$600. When you do that you also reduce your static pressure. In other words, as you filter more here, you're also not getting as clear an exhaust, and you're not getting the volume and you're not getting the air flow which shoots it up as much. So there are trade-offs.

And anyone who has had these problems in a city environment, you attach them step-by-step. That's how it's done.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Based on Mr. Brush's representation and the fact that he does have an expansion for the exhaust system, and it seems that there is somewhat of an agreement between all the parties involved, I would be inclined to vote in the affirmative for the application.

MR. TURNER: No further discussion.

MR. SCALI: If it's going to happen, it's going to happen later on. There's going to be complaints, there's going to be smells, odors. Frankly, it's cheaper I think now to do what you need to do, as opposed to doing it later, because then it costs you double or more of whatever it's going to cost you to fix the problem. There's really is no evidence back there that there is an exhaust problem with what's currently back there from what I can see. I'm not saying that it doesn't exist, it's just that's there been no evidence of it at this point in time.

MR. TURNER: Back to the outside seating, did you say we had no permit or we have a permit?

MR. BRUSH: We had an application in and the City Council heard it. I don't know what the decision was. I made the application. I have a copy of it here.

MR. SCALI: Did they come out and measure it for you, Public Works?

MR. BRUSH: Someone from Public Works but I don't know what was done, and someone from the Fire Department also stopped too just to take a look at the premises. Even though we're not built out, they just came by to take a look at it prior to the application for the hearing for the application for the license.

MR. SCALI: The seats are against the wall on the sidewalk; right?

MR. BRUSH: That's correct. There's a 13-foot space between the planter and the storefront so they would be against the storefront.

MR. SCALI: Any further discussion?

MR. HAAS: I'd make a motion to approve with a six-month review.

MR. SCALI: Motion to approve as applied for with a six-month review.

MR. TURNER: Second it.

MR. SCALI: Moved and seconded. All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: So by then you'll be up and running and things will be going. We'll see how things are happening at that point and if there's a problem at that point, then we'll have to deal with it.

MS. LINT: Ratifications: Medallions 147, 217, 42, 20, 149, 198, 240, 183, 83, 129, and the sale of 257G.

MR. SCALI: The 257G is the new medallion that we issued last year, now being sold. The price was --

MS. LINT: I forget. It just came through today.

MR. SCALI: \$445,000.

MR. HAAS: You're kidding me.

MR. SCALI: No.

MS. LINT: No. That was Joe Korales (phonetic) and he's kind of selling off and moving back to Lebanon.

MR. HAAS: So we got hoodwinked.

MR. SCALI: No, we sold that.

MR. HAAS: It was \$350,000, wasn't it?

MR. SCALI: I think we got \$385,000 for that. So the price keeps going up, Commissioner. Prices are not coming down on taxicabs.

MR. HAAS: I guess not.

MR. SCALI: Is all the paperwork in order, Mrs. Lint?

MS. LINT: Yes.

MR. SCALI: Motion to accept the ratifications.

MR. HAAS: Motion.

MR. TURNER: Second.

MR. SCALI: Moved, seconded. All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Any other matters before us, Mrs. Lint?

MS. LINT: No.

MR. SCALI: Just a reminder that tomorrow at 11:00 a.m., Commissioners.

Motion to adjourn.

MR. HAAS: Motion.

MR. TURNER: Seconded.

MR. SCALI: Moved, seconded. All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

(Whereupon, the proceeding was
concluded at 9:07 p.m.)

CERTIFICATE

COMMONWEALTH OF MASSACHUSETTS
BRISTOL COUNTY, SS

I, Anne Ouellette, a Professional Court Reporter, the undersigned Notary Public certify that:

I am not related to any of the parties in this matter by blood or marriage and that I am in no way interested in the outcome of these matters.

I further certify that the proceedings hereinbefore set forth is a true and accurate transcription of my record to the best of my knowledge, skill and ability.

In Witness Whereof, I have hereunto set my hand this 27th day of January, 2010.





ANNE OUELLETTE
Notary Public
Commonwealth of Massachusetts
My Commission Expires
March 16, 2012

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