

## 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  
Monday, August 10, 2009  
5:10 p.m.

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**INDEX OF AGENDA PROCEEDINGS**

<b><u>Agenda Matters</u></b>	<b><u>Page</u></b>
Disciplinary - Samira Jallad and Said Abu-Zahre	7
Disciplinary - C.T.Y. Corporation	18
Applications - Bertucci's Restaurant: 799 Main Street, 21 Brattle Street, and 5 Cambridge Park Drive	29
Applications - President and Fellows of Harvard College: Lehman Hall, Boylston Hall, Science Center, and Queen's Head	33
Application - Zavoo Inc.	54
Application - Whole Foods Markets	83
Application - Three Aces Pizza	87
Application - Shine Entertainment	96
Application - Vivace Vino, Inc.	108
Application - PF Chang's China Bistro	110
Applications - Legal Sea Foods Inc.: 5 Bennett Street, 20 University Road, 5 Cambridge Center	120
Application - Paulmino, Inc.	124

**INDEX OF AGENDA PROCEEDINGS**

<b><u>Agenda Matters</u></b>	<b><u>Page</u></b>
Application - Swiss Traders, Inc.	128
Application - Deanta Corporation	136
Application - United American Veterans	144
Application - Central Brew LLC	150
Application - Leoncio G. P. DaSilva and Geralda Costa E. Silva	156
Application - Arigato, LLC	157
Disciplinary - Multinational Trade Group	160
Application - The Quick Gourmet, Inc.	160

P R O C E E D I N G S

MR. SCALI: Motion to accept the minutes from July 28.

MR. HAAS: Motion.

MR. TURNER: Seconded.

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

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: And we still haven't got the transcript from the July 30 meeting so that will be on the next meeting.

Let's begin with our second item.

MS. LINT: I have to announce the meeting.

MR. SCALI: I'm sorry. I'm a little ahead of myself today.

MS. LINT: License Commission General Hearing, Monday evening, August 10, 2009. It's 5:10 p.m. We're in the Michael J. Lombardi Municipal Building, 831 Massachusetts Avenue,

Basement Conference Room. Before you are the commissioners: Chairman Richard Scali, Deputy Chief Dan Turner, and Commissioner Robert Haas.

We're going to jump to the second matter on the agenda. Disciplinary matter: C.T.Y. Corporation d/b/a Guangzhou Restaurant, Quin Wong, Manager, holder of a Wine and Malt Beverages as a Restaurant license at 1220 Cambridge Street for an employee allegedly punching a patron in the face.

MR. SCALI: Guangzhou? Anyone here? C.T.Y. Corporation?

MS. LINT: I have not seen Quin.

MR. SCALI: Officer Tierney, you're here? Do you want to come forward? Why don't you have a seat. I was going to give him second call but I don't want the officer to wait any longer.

Did they get notification by letter? Any response?

MS. LINT: No response.

MR. SCALI: Pleasure of the Commissioners? Do you want to give him second call?

MR. HAAS: When do you have to get back to work?

OFFICER TIERNEY: 11:00 tonight.

MR. HAAS: Do your mind waiting a little bit?

OFFICER TIERNEY: I don't mind.

MR. SCALI: We'll give it second call. Just as soon as they come in we'll take you back up.

OFFICER TIERNEY: I'll just sit out there.

MR. SCALI: Second call on Guangzhou.

MS. LINT: I don't know if you want to take Queen's Head.

MR. SCALI: Let's do the first one, the Disciplinary one.

MS. LINT: Disciplinary matter:  
Samira Jallad and Said Abu-Zahre for operating a  
commercial parking lot without proper permitting at  
3 Vail Court/139 Bishop Allen Drive.

MR. SCALI: Come forward if you would.

MR. MASCIOLEK: You may recall my name  
is John Masiolak and this is Mr. Abu-Zahre.

MR. SCALI: When last we were here we  
were discussing all the options and we continued  
the matter to give you an opportunity to talk about  
your plans. Do you have an update for us on how  
you've been doing?

MR. MASCIOLEK: Mr. Abu-Zahre is in  
the process of retaining an architect to prepare  
drawings so that he can move forward with a couple  
of different options for the redevelopment and  
reuse of that particular property. Just so you  
know, he owns this property together with his  
brothers, and there are six of them, and it's hard  
to get everybody on the same page. I guess that's  
an understatement, same page.

MR. SCALI: And your sister manages it

for you; right? Is that your sister who manages it for you?

MR. ABU-ZAHRE: Correct.

MR. MASCIOLEK: So at this point, we can share a proposal that he has been able to obtain from an architect and that's essentially the progress that he's made in terms of redeveloping the property.

MR. SCALI: Let me just ask you a few questions. Is it the plan that you want to continue to park vehicles there that are not related to the building, and in the meantime, you wish to tear the building down; is that what the plan is?

MR. MASCIOLEK: Correct.

MR. SCALI: And then you're able to build some other commercial building or a residential building?

MR. MASCIOLEK: Whatever is built there in the future will go through the proper permitting, and it could very well be the redevelopment of the buildings that are there now.



Or the tear down of the buildings that are there now with a permit for the construction of a new structure to be used for residential or a hotel or many different options.

MR. SCALI: I'm guessing this is all going to take many many many months down the road. I guess we were looking for some kind of immediate plan, something that you were going to do soon because then we have to take some action, legal action in terms of giving you some guidelines to follow.

MR. ABU-ZAHRE: We would like to reactivate our plan which we have already with the Planning Board and go from there, so that we can have something at least slightly enough so that not only us proud of it, we want the City of Cambridge to be proud of it as well. And we are in the process of doing that.

MR. SCALI: That doesn't really help me. I guess I'm looking for a plan that would help us somehow come to some conclusion sooner or later with the lack of a permit for the parking on that

lot. As I understand it, unless you apply for some exemptions through the PTDM program allowing you to park commercially, and then get the Zoning permission as well, then we have to take some action saying that people are not allowed to park in the lot. I'm not sure if that boxes you in in some way.

MR. MASIOLEK: But at the same time with a reuse of the property that would need to be permitted, it would be doing the same thing twice if my client were to go out and get a parking plan approved and paid for. What he would rather do is have everything bound up in one proposal, and whether that's for, you know, as I said, the redevelopment of the existing buildings or the tear down of the buildings and building new buildings, the parking associated with a reuse would be permitted in the context of the applications for that new building. So he doesn't want to do the same thing twice essentially. And yes, it takes time and I know that.

MR. HAAS: I guess our concern would

be now knowing that you are operating a parking lot without the proper permits, if something should happen, where does that put the License Commission when it has that knowledge already if it allows you to operate in that fashion without the permits, I guess is the bottom line for us. What's to say something doesn't happen between now and the time you get the permits, and you're running this parking lot in its present use without the proper permits.

MR. MASIOLEK: Not to turn it into a contentious hearing, but we don't concur that running the parking lot right now is in improper or unlawful. It has been in existence for some time so I don't really have an answer for you in terms of what the License Commission wants.

MR. HAAS: I don't know if we recognize any kind of grandfathering as far as its prior use.

MR. MASIOLEK: I know you don't. I understand that. Nevertheless, the idea of redeveloping the property is probably in the best

interest of my client and the City. As I said, he wants to move forward with that but he only wants to go through that kind of permitting process once.

MR. SCALI: I realize there was some confusion in the past in terms of there being a permit there in the '50' or something for parking, and then there was some permission, I don't think it was commercial permission to park. I'm not sure exactly whether it was all related to the building or whether there were other people parking there that were unrelated to the building for many many years and no one did anything about that. I realize there was some kind of confusion with those ideas back many many years ago.

I think we need to look at the legality of whether we can actually use that at all as to whether there's any permission for you to continue to park there, or whether we have to order telling you to not park there until you get the proper permits. I'm not sure exactly what our legal recourse would be at this point.

I was kind of hoping there was some

plan, a more immediate plan than a year or two down the road. That's what I was hoping you would come up with between now and our last meeting, but I gather there isn't one other than a lengthy process of redeveloping the building.

MR. MASIOLEK: It all depends on your perspective though. The redevelopment of a property like that, that can be accomplished in nine, twelve, fifteen months is not from our side of the table all that lengthy. That would be well worth it and worth waiting for.

MR. ABU-ZAHRE: I understand your concern and I am as concerned as you are. I do not like to see it that way myself. If it is not the -- whatever it is, we would like to do something where you are happy and we are happy. We are going to do it rather than going through the legality or not legality of those things which would be the process.

MR. SCALI: I'm not sure we have an option. I guess we could consult the law department to find out if we do have an option.

I just want you to be prepared that if we don't have an option and we order you to do something that may be because our hands are tied in terms of what we have to order you to do.

MR. ABU-ZAHRE: We hope in a couple of months we'll have things clearer than they are now.

MR. HAAS: It might be helpful if you could prepare a brief as to why you think you are somehow covered and you don't need a permit between now and the time you redevelop the property, and then let us confer with the City Solicitor, and I think that's going to be the final decision.

MR. MASCIOLEK: We can do that. Thank you for the invitation to do that.

MR. ABU-ZAHRE: Can you give us a couple of months to go through all these details?

MR. SCALI: I was kind of hoping you'd come to that conclusion before today. That's what I was hoping for your attorney to present to us, some reasoning that would give us a legal standing on what you can do.

MR. ABU-ZAHRE: Mr. Scali, thank you

very much for your good feelings.

MR. SCALI: The good feelings don't exactly get us where we want to be.

MR. HAAS: How soon would you want to try to --

MR. MASIOLEK: Do you meet next month?

MR. SCALI: Yes, we meet September 8 and September 22.

MR. MASIOLEK: I have a court appointment on the 9th. I'd prefer to make it the 22nd.

MR. SCALI: Comments at all, Deputy Chief?

MR. TURNER: No comments.

MR. SCALI: Anybody from the public want to be heard on this matter? I guess I'd suggest we continue the matter to September 22. In the meantime, if you could submit some kind of memorandum or document to us as to your legal position on the permitting of the lot that would be helpful.

MR. MASIOLEK: I'll certainly do that

and I apologize if you were waiting for that and I didn't produce it. I didn't understand that that's exactly what you were waiting for but I'll certainly produce that.

MR. HAAS: We're looking for something to put our hat on.

MR. SCALI: Something to hang our legal hat on.

MR. MASIOLEK: All right, I'm hearing you. You'll have something. Something is doable.

MR. SCALI: Motion then to continue to September 22.

MR. HAAS: Motion.

MR. TURNER: Seconded.

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

MR. TURNER: Aye.

MR. HAAS: Aye. And you'll present something to the License Commission prior to that hearing; right?

MR. MASIOLEK: Certainly.

MR. HAAS: Give us some time to confer



with the City Solicitor.

MR. MASCIOLEK: I'll do it over Labor  
Day. Thank you.

MR. SCALI: Is Guangzhou here? Any misinterpretation in the letter that was 6:00 as opposed to 5:00 p.m.?

MS. LINT: No. We sent it out and we put in bold, "Please note time."

MR. SCALI: I hate to keep Officer Tierney waiting.

MR. HAAS: Do you want to wait to 5:30?

MR. SCALI: Are they here?

OFFICER TIERNEY: I think so.

MR. SCALI: Come forward please and have a seat right here. Are you from Guangzhou?

MR. WONG: Yeah.

MR. SCALI: Is anyone else coming with you? Do you have an attorney or anything coming?

MR. WONG: No, no.

MR. SCALI: You're coming yourself?

MR. WONG: Yeah.

MR. SCALI: We'll go to the second item on the agenda, again. Give us your name for the record, please.

MR. WONG: Jimmy Wong.

MR. SCALI: Are you the owner?

MR. WONG: Yes. I'm the owner.

MR. SCALI: And your name, sir?

OFFICER TIERNEY: Sean, S-E-A-N,  
Tierney, T-I-E-R-N-E-Y.

MR. SCALI: We're going to start with Officer Tierney and then we'll have questions for him, and then you'll be able to respond and ask questions of him as well, and then give us any evidence you'd like.

So we'll start with you, Officer.

OFFICER TIERNEY: On June 20 of this year at approximately 6:50 p.m., I responded to 1220 Cambridge Street, the Guangzhou Restaurant to a report of an assault in progress. Upon my arrival, I met with the victim, Mark Thomas, who is a Seventh Street resident who stated to me he was in the restaurant with his wife, Anna, and they were talking with Eddy Callahan, who later I found out is an employee there. He does the deliveries for them. He said that Eddy for no reason said to

him, "I never liked you anyway," and started punching Mr. Thomas in the face. Mr. Thomas grabbed Eddy to stop him from hitting him and they both fell onto a table breaking the table. Mr. Callahan then left the restaurant and Mr. Thomas called the police, and that's when I arrived.

MR. SCALI: So you arrived after the fact?

OFFICER TIERNEY: After the fact, yes.

MR. SCALI: Mr. Thomas is the victim?

OFFICER TIERNEY: Correct.

MR. SCALI: He called the police from -- do you know from where?

OFFICER TIERNEY: I do not. I believe he used his cell phone.

MR. SCALI: So you spoke to both Mr. Thomas and Mr. Callahan?

OFFICER TIERNEY: No. Mr. Callahan left.

MR. SCALI: Did you say that Mr. Callahan is an employee there?

OFFICER TIERNEY: I found out from the

owner's daughter who did not witness this. She was in the back room. She heard the bang and that's when she came out and Eddy had already left. I believe he was gone by the time I arrived because he had to do Eddy's deliveries, so he was gone by the time I arrived. I guess Eddy had a bunch of food to deliver so he took them so he was not there either.

MR. SCALI: So Mr. Callahan is a delivery person for them?

OFFICER TIERNEY: Yes.

MR. SCALI: It seems from your report that there was some kind of discussion between the two gentlemen.

OFFICER TIERNEY: At the time, Mr. Thomas told me that he didn't get into the argument. He just said they were talking. They're from the neighborhood. They know each other. They've known each other all their lives. I'm familiar with both of them and his wife.

MR. SCALI: You know them both?

OFFICER TIERNEY: Oh, yeah. I've

known them for quite some years. He just told me they were just talking about the neighborhood stuff and Eddy just said, "I don't like you," and grabbed him and punched him in the face.

I later on found out over the next couple of shifts after meeting and talking to people on the street that I guess they had an argument about Eddy's son. It was pretty much a neighborhood type argument and that's why Eddy punched him and broke the table.

MR. SCALI: So you talked to Mr. Thomas?

OFFICER TIERNEY: Thomas and his wife, Anna.

MR. SCALI: Was he injured?

OFFICER TIERNEY: No. He had no visibles. The only thing that you could tell there was a fight was that the table was broken, but he was fine. I offered him medical attention; he refused. He didn't show any signs of injuries.

MR. SCALI: So why did he call the police; do you know?

OFFICER TIERNEY: He wanted to press charges against Eddy.

MR. HAAS: Did he press charges?

OFFICER TIERNEY: I don't know what detective was following through so I don't know what's going on with it now.

MR. SCALI: Questions?

MR. TURNER: No questions.

MR. SCALI: Mr. Wong, were you there that evening?

MR. WONG: I was inside cooking and then I heard his wife screaming, "Jimmy, come out, come out." But by the time I come out, Eddy was already down on the floor, like I mean on top of the chair, I mean the table.

MR. SCALI: Is Eddy your employee?

MR. WONG: Actually yeah. He worked there part-time a couple days, three days a week. Then day after they quiet, because his wife called me out, "Jimmy, try to stop them." Then I called Eddy, would you mind go out. He leave outside and then Thomas was holding his mouth. Then he coming

back and I say no, no. Don't come back.

MR. SCALI: Does Eddy work for you still?

MR. WONG: Yeah.

MR. SCALI: Why did he leave?

MR. WONG: I asked him to leave because I don't want them fighting. Also, his wife want me to separate them and stop fighting. Eddy was go outside and he must still aggravated and talk something. Probably Eddy when he hit him and he unhappy, and then he come back again. I stop him again and he left outside. By the time when I talked to him, Eddy, for probably a couple of minutes or three minutes when I come back, and then I saw somebody called the police. That's all. I don't see anything what happened cause trouble. I don't know.

MR. SCALI: Did Mr. Thomas come to you or to your daughter or something for help?

MR. WONG: No, no. He come to pick -- no, nobody come to inside the kitchen. I was cooking inside and then I had some noise,



screaming, and Thomas' wife called, "Jimmy, come out, come out." When I come out I saw Eddy was lay down on the floor.

MR. SCALI: Did you see if he was hurt or not? Did you inquire?

MR. WONG: No.

MR. SCALI: Did you call the police? Did you call an ambulance?

MR. WONG: I didn't call nobody. He didn't call nobody, just call the police. Then I asked Eddy, "Did you punch his face?" "No, no. I just said. . . but I wasn't . . ."

MR. SCALI: It must have been pretty hard for him to call the police.

MR. WONG: Yeah, that's why. Nobody get hurt but only a table, that's all.

MR. SCALI: Questions, Commissioner?

MR. HAAS: No question.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: Was the victim and his wife, were they there as customers eating, or did

they just come by to see Mr. Callahan.

MR. WONG: They come here to -- it's my customer, you know, order food. I wasn't outside in the dining room, I was inside.

MR. TURNER: It was just perhaps happenstance that they were there when Mr. Callahan happened to be there.

MR. WONG: Yeah. I almost finished his order and let him go. Then before I heard his wife screaming, call me, "Jimmy, come out, come out." So by the time I go out there they already leave.

MR. TURNER: Thank you.

MR. SCALI: Anybody from the public want to be heard on this matter? Any other questions, Commissioners?

MR. HAAS: No.

MR. SCALI: Anything else you have for us, Officer?

OFFICER TIERNEY: No.

MR. SCALI: Anything else you want to say?

MR. WONG: No. Nothing serious.

MR. SCALI: It sounds like it was a personal matter between the two gentlemen. It sounds like you came out after you heard his wife screaming. He had already called the police. I'm not sure exactly what you could have done at that point, although you probably should have called the police as well.

MR. WONG: Because when I come out they already separate. They no more fighting, nothing now. The customer keeping talking something fresh, you know, then Eddy try to do it again. And I don't know nothing.

MR. SCALI: I guess you should tell this to Callahan, he shouldn't be punching people in your establishment because it causes you more grief.

MR. WONG: The next day when he -- I mean not even the next day, a half-hour later, he call me. Say, "Jimmy, I'm not supposed to do it for you. I cause you trouble." He called me and apologized.

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

MR. HAAS: Motion.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: We vote this Wednesday morning at 11:00 a.m. You're welcome to be there if you'd like. You don't have to be here but if you want to be here, you can.

MR. WONG: Okay.

MR. SCALI: Thank you, Officer.

MR. WONG: So we all set; right?

MR. SCALI: For now, you're all set until we vote.

MS. LINT: Application: Bertucci's Restaurant Corp. d/b/a Bertucci's Brick Oven Ristorante, Cheryl DaSilva, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 799 Main Street has applied for a transfer of stock in the licensed corporation.

MR. SCALI: We'll do all three of them together.

MS. LINT: Application: Bertucci's Restaurant Corp. d/b/a Bertucci's Brick Oven Ristorante, Eric DeLorenzo, Manager, holder of a Wine and Malt Beverages as a Restaurant license at 21 Brattle Street has applied for a transfer of stock in the licensed corporation.

And Bertucci's Restaurant Corp. d/b/a Bertucci's Brick Oven Ristorante, Mark Yates, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 5 Cambridge Park Drive has applied for a transfer of stock in the licensed corporation.

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

MR. DEVLIN: Good evening. My name Joe Devlin. I'm an attorney from the DeMarcus Law Offices in Lynn, Massachusetts. If it makes you feel any better, Boston had four that had to be read into the record.

It's sort of an esoteric transfer we're here for. It's two corporate levels above licensee so nothing is happening at Bertucci's Restaurant Corp. Two up is Bertucci's Corporation. It's a Delaware corporation and there are some stockholders there who are giving stock and ownership in the company to its lenders in exchange for forgiveness of debt.

So they go from being 100 percent stockholders to the 10.7 percent stockholders. And these lenders who have been with Bertucci's for the duration almost get 89.3 percent. It sounds bad for Bertucci's except for these lenders are sitting here saying rather than the surety of our monthly payment, we think you've got a good product and we're going to take an ownership stake and risk ourselves in that.

There's 42 locations in Massachusetts. I think I'm on my 37th here, 36, 37, 38, I think. It was investigated by the ABCC and approved ahead of time because of the complexity; there's over 100. It started out as a Massachusetts company but there's over 100 across 11 states and this affects all of them.

MR. SCALI: I know we got the approval from the ABCC already. We're going through our motions here with regard to Cambridge procedure. We kind of do it a little differently sometimes than some cities and towns.

MR. DEVLIN: I knew you'd be interested in the esoteric debt to equity transfer.

MR. SCALI: Questions, Commissioners?

MR. HAAS: No questions.

MR. SCALI: Anybody from the public want to be heard on this matter? Comments?

MR. TURNER: No comments.

MR. SCALI: Motion to approve.

MR. HAAS: Motion.

MR. TURNER: Seconded.

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

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Thank you very much. Good luck on your final journey.



MS. LINT: Application: President and Fellows of Harvard College d/b/a Harvard University Dining Services Dudley Cart, Kim Smith, Manager, has applied for a Common Victualer license at Lehman Hall-Harvard Yard for 56 seats to be used on a seasonal outdoor patio on private property. Said license is granted would allow food and nonalcoholic beverages to be sold, served, and consumed on said premises, and have operating hours from 11:00 a.m. to 7:00 p.m. Monday through Friday.

Do you want to take them all separately?

MR. SCALI: These are all in the yard; right?

MS. LINT: Yes.

MR. SCALI: We will take them all together. We've got three locations. One at --

MR. HAMMER: Four.

MR. SCALI: That's right, four. We have Lehman Hall at 56 seats; we have Boylston Hall at 60 seats; we have University Science Center at One Oxford Street for 40 seats; and we have the top

of Page 3, Queen's Head, which is a separate issue. We'll take that afterwards because that's an alcohol issue.

So tell us who you are.

MR. HAMMER: I am Gary Hammer. I'm with the University Planning Office at Harvard.

MR. ALLEN: I'm Andy Allen. I'm with Dining Services. I represent the retail folks.

MR. SMIDER: And Scott Smider with Harvard College and Harvard University Dining Services.

MR. SCALI: So who is going to speak on the three CVs?

MR. HAMMER: I can give a little bit of context and then if there are operational questions, through my colleagues.

The proposals before you are for seasonal outdoor dining opportunities to be provided in conjunction with Harvard's Common Spaces Initiative, which is a President created initiative.

President Faust about a year ago

appointed a steering committee to look at ways of enhancing physical opportunities on the Cambridge campus to provide for more interaction, both on a social and academic level among various components at Harvard.

The steering committee is completing its master report which will be out this fall, but in the meantime, she had asked isn't there something we can do this fall for when the community comes back to campus to sort of enhance the life of the campus and provide something more interesting and some more gathering places.

So the proposal is in fact to provide a number of outdoor seating opportunities within and adjacent to Harvard Yard, and then in conjunction with that to provide some additional outdoor dining opportunities; food service similar to what you see during the summertime at Lehman-Dudley Hall. And in fact, that's one of the locations we're proposing. Sort of counter service or cart service as the case may be at the three locations: Science Center, Lehman-Dudley, and

Boylston Hall. Then the Cambridge Queen's Head is a slightly separate application.

MR. SCALI: There will be a food cart outside selling food?

MR. HAMMER: Correct.

MR. SCALI: Will it be cooked there or just brought there for sale?

MR. ALLEN: The Boylston cart, there was a cooking component. The Dudley cart does a cooking component like there is currently during the summer. At the Science Center there is no cooking; it's just an assembly process. It's an outdoor deli.

MR. SCALI: So sandwiches and that kind of thing?

MR. HAMMER: Yes.

MR. SCALI: What kind of cooking are you doing at the -- which location -- is it propane cooking?

MR. HAMMER: The Dudley cart has propane where the propane is kept offsite. The Boylston is similar. It will have a grill; they'll

be doing kabobs and Middle Eastern concept, and both the food and the propane will come into the yard every day from the commissary located over at 80 JFK.

MR. SCALI: So I'm assuming there will be seats out there in the yard around where this cart is.

MR. HAMMER: Uh-huh.

MR. SCALI: There are certain times. You've got 11:00 to 7:00 Monday through Friday on the Dudley cart; 11:00 a.m. to 2:30 p.m. at the Boylston Hall; and the same, 11:00 to 2:30 p.m. at the Oxford Street site. So it's really like a lunch hour type of thing?

MR. ALLEN: Exactly.

MR. SCALI: Although the Dudley cart is more into the evening as well, for dinner.

MR. ALLEN: Dudley has a small dinner component, yeah.

MR. SCALI: Comments?

MR. HAAS: No.

MR. TURNER: No comments.

MR. SCALI: Anybody from the public want to be heard on this? Is it anybody that can go up and get something? Do you have to be a Harvard student? Can the public walk in the yard and buy something there?

MR. ALLEN: It's intended for Harvard students but it's hard to tell if we end up with some of the public passing through. Primarily this is intended for Harvard students.

MR. SCALI: You're not going to stop anybody if they want to go up and buy a sandwich?

MR. ALLEN: We will happily take their money.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Approve.

MR. TURNER: Seconded.

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

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: So those are on the three

CVs. Let's go then to Mr. Smider's -- actually, what's the season on those? How late will that be?

MR. HAMMER: The initial for this season and is proposed to be September and October, only, so through the end of October. And if everything is successful then we'd like to continue it in the spring and again. But for this season it would just be two months.

MR. SCALI: A short season. It might be longer if the weather is better I'm sure.

MR. HAMMER: We'll see what happens.

MR. SCALI: Let's go to the top Page 3. This is for the Queen's Head, Mr. Smider, correct?

MR. SMIDER: Yes, sir.

MR. SCALI: Tell me, you've got the patio in the downstairs area there that has how many seats now?

MR. SMIDER: It has 24 seats in the downstairs area.

MR. SCALI: This would be additional seats like that on the back end of the building?

MR. SMIDER: Additional seats like that on the area immediately in front of that retaining wall on the west side of the building. So on the grassy area that is between Memorial Hall and the Science Center area, immediately at the top of those steps in front of that small half-wall.

MR. SCALI: I'm trying to picture this.

MR. HAMMER: I have a plan if you'd like it.

MR. SCALI: Is it on the highway side or is it on the Oxford Street side?

MR. SMIDER: It's between the two.

MR. SCALI: So above where the area is.

MR. HAMMER: Right.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: Through you to the applicants: what happens when you have your farmer's market that's in the same spot?

MR. HAMMER: We've already met with



the manager of the farmer's market and coordinated in the actual area for the enclosure so it is not going to conflict with what the farmer's market is doing. They may have to rearrange a little bit but it's very little.

MR. TURNER: So they'll just tighten up their space?

MR. HAMMER: Yeah. We've already met with them.

MR. HAAS: How many seats are there?

MR. SCALI: How many seats is it out there?

MR. HAMMER: Eighty-eight.

MR. SCALI: Additional seats.

MR. HAAS: Say that again.

MR. HAMMER: Eighty-eight.

MR. SCALI: So 24 still down in the so-called pit area and then 88 on the top. So your total will be --

MR. HAMMER: It's 112 I think we said.

MR. SCALI: I need my calculator for the math. How are we barricading that area?

MR. HAMMER: You can see at the bottom of the picture a rendering of the fence that's proposed. It's currently put out as a temporary structure. You want to speak a little bit more in detail about it?

MR. HAMMER: Right. I can talk a little more about it. Here's another view looking in the other direction.

MR. SCALI: I've never seen a fence like that before.

MR. HAMMER: It is meant to reflect the arches at Memorial Hall in the other picture. It will be of a temporary nature. There will be movable panels during the daytime. The seating is going to be available for anyone because the Queen's Head isn't open during the daytime but then at night when the Queen's Head opens it will be fully enclosed with this fence design. There will be movable panels that will be locked into place then. So if I'm speaking correctly, I believe one has to enter through the main entrance and then go out to the patio. It's not accessible from the

exterior.

MR. SMIDER: So we'll be able to have basically a critical control point for entrance and exit.

MR. SCALI: How is that secured? It looks kind of flimsy to me actually. It doesn't look very sturdy.

MR. SMIDER: It's secured into the ground.

MR. HAAS: With pegs or something?

MR. SMIDER: Right, except for a couple of those pieces which will be attached to each other in order to make it a little bit more porous for the daytime use when the pub is not open for business, but to be able to basically secure them back on to the other pieces creating one main entrance.

MR. HAAS: You're using this more for demarcation and you're not worried about somebody leaning against it and knocking it over?

MR. SMIDER: Not worried about people leaning against it or knocking it over, no. It

will be secured into the ground but not worried about that as far as being at capacity, so to speak.

MR. SCALI: Will it go all the way around?

MR. SMIDER: All the way around to one main point.

MR. HAMMER: Right on the front of the plan it shows it.

MR. SCALI: I've never seen that before so I'm just not sure that the ABCC will -- does it go to the ABCC? No, it doesn't, that's right.

MS. LINT: Educational.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: A couple of questions. I am concerned on this walkway. The first question is, is this all Harvard University property, all of these footpaths and walkways?

MR. HAMMER: It is, yes.

MR. TURNER: Is anything City property

adjacent to the underpass or over the underpass?  
How does that work?

MR. HAMMER: Over the underpass, yeah.  
It's very interesting. The surface level is -- the legal interpretations that we've gotten, the surface level belongs to the University and is maintained by the University, but the underpass itself is City owned.

MR. TURNER: So Harvard has the air rights to that?

MR. HAMMER: Correct.

MR. TURNER: The only concern, which it's not really my concern, not anymore, but you're blocking the sidewalk adjacent to the wall I guess permanently with this fence or only when you'll be serving the tables?

MR. SMIDER: Only when we would be serving the tables. So the porous - a couple of the pieces that would be removable would be so that sidewalk could be in use when those tables aren't being serviced.

MR. TURNER: So I guess the only

complaint from pedestrian traffic would be having to walk around instead of straight across. Okay, thank you.

MR. SCALI: Hours of operation for that?

MR. SMIDER: Hours of operation in line with our current license: Wednesday, 5:00 p.m. to 1:00 a.m., Thursday, 5:00 p.m. to 1:00 a.m., and Friday and Saturday, Friday at 5:00 p.m. until -- did I read correctly that outdoor licenses are allowed until 2:00 a.m. now, or is it still 1:00 a.m. on Friday and Saturday?

MR. SCALI: It's still 1:00 a.m.

MR. SMIDER: Friday, 5:00 until 1:00 a.m., and then Saturday, 8:00 p.m. until 1:00 a.m.

MR. SCALI: And it's seasonal until?

MR. SMIDER: Seasonal, weather permitting. We would like to be able to go the same as the other licenses, until the end of October, and then reopening weather depending, but ideally in April.

MR. SCALI: Is it all people bringing

their own food out there or is there service out there.

MR. SMIDER: It would not be service as in waiters or waitresses, but order from the bar with food delivered to the tables.

MR. SCALI: Someone would bring it out to them.

MR. SMIDER: Yeah. It would be brought out to them.

MR. SCALI: Including the beer or the wine?

MR. SMIDER: Yes.

MR. SCALI: So all the carding takes place inside?

MR. SMIDER: We would have the carding take place at the entrance which would be on the sidewalk that is in front of the retaining wall. So using that as a critical control point for checking both the Harvard ID and the State ID.

MR. SCALI: At the patio entrance?

MR. SMIDER: At the patio entrance, which is when looking at the wall towards the south

side of the wall.

MR. SCALI: They would go in and order and then go to the patio, get carded there.

MR. SMIDER: Get carded at the patio and then go in to order. We would also -- I believe it's marked on there, but we would like to have a portable bar allowed in the area.

MR. SCALI: Is that in your description?

MR. HAMMER: I don't know that that was shown on the plan, because at the time we submitted we weren't sure exactly how it would be handled.

MS. LINT: It hasn't been mentioned anywhere.

MR. SCALI: There is no portable bar on here. I guess it would be up to us since the ABCC doesn't have to approve this. It would only be up to us anyway.

MR. SMIDER: It would be possible, Chairman --

MR. TURNER: Umbrellas tents, are they



going to cover this? Is this all going to be on the bare grass?

MR. SMIDER: There will not be anything on top of the grass. It would be just like the other tables in the other areas. Same tables, same type of chairs, which in testing seem to hold well on the grass. But there is no plan for umbrellas or other coverings that are going to block views of anything from sidewalk to sidewalk or of buildings.

MR. TURNER: That is the most photographed building that I'm aware of.

MR. SCALI: Where would you want the portable bar to be?

MR. SMIDER: Ideally where the loop around comes from the top of the stairs on the north side of the building and it does a full loop over to the grass, in that general area which is a paved area in the vicinity of this space right here, which plays also back to the question that the gentleman had earlier about service. Somebody could be carded when they walk in this area, they

could order there food or beverage from the bar, or they could go down and inside to the building and also order the same from inside.

MR. SCALI: I'm just concerned about the alcohol issue. The food issue is not really that big of a deal. In terms of being carded, how does it work again, with the alcohol? You go inside and order your food and drink, and you're carded there?

MR. SMIDER: We would card right at an entrance right here.

MR. SCALI: That's the only spot you get carded.

MR. SMIDER: That would be the main entrance that people would be filtered through. The rest would be closed off when we're in service. So to get anywhere inside, they would have to pass through this point and so being carded at the door.

MR. SCALI: Do you have to be 21 to get into the patio?

MR. SMIDER: No.

MR. SCALI: So you could go into the

patio if you're not 21. If you are carded and you are 21, then how do people know that that's the person who got carded? How do the waiters know?

MR. SMIDER: Basically the same service that we're currently using inside. So using the wrist band and swiping the ID but also checking it visually, and also checking that versus their student ID or other back up.

MR. HAAS: You wouldn't do any kind of spot checks at the bar at all just to verify?

MR. SMIDER: We still do spot checks at the bar. We also have graduate students. Besides our bartenders and our staff at the door, we hire graduate students to basically undercover patrol around and looks for drinks being passed off or for people passing IDs, or any other behavior that we want to discourage so we're in compliance with that. I hate to say undercover but they're meant to blend in and essentially be secret shoppers, but also to stop that activity when they see it.

MR. TURNER: Is there a s service

elevator or a handicap access elevator over in this area?

MR. SMIDER: Yes. There is an ADA access point.

MR. TURNER: Is that how you would bring the food up and the alcohol up to replenish the portable bar? Or do you just come right up through the other 24 tables?

MR. SMIDER: The portable bar would fit into the elevator. It would not be left out when not in service. It would fit in and be taken down and stored inside the pub. The food running would actually happen right up the stairs from inside. It's quicker than the elevator.

MR. SCALI: Is it completely enclosed? I see an opening over here on this side.

MR. SMIDER: That would be one of the openings that would be removable during the daytime to make it open so the sidewalk could be used as the Deputy Chief asked. But during the nighttime hours we --

MR. SCALI: Then you would close it

off.

MR. SMIDER: To keep that critical control point.

MR. SCALI: Concerns?

MR. HAAS: No.

MR. TURNER: No.

MR. SCALI: Anybody from the public want to be heard? Abutter notifications?

MS. LINT: It's all Harvard.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Approve.

MR. TURNER: Second.

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

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: I hope you do well during this season. Make sure you get your sign offs and your permits before you do any of this. It doesn't have to go to the ABCC but it has to be issued by us.

MS. LINT: Application: Zavoo, Inc. d/b/a EVOO/Za, Steven L. Kurland, Manager, has applied for a new All Alcoholic Beverages as a Restaurant license at 350 Third street with proposed hours of operation from 11:00 a.m. to 2:00 a.m. seven days per week, and an occupancy of 300 (172 seats inside, 110 seasonal seats outside on the private patio, and 18 standing). The applicant has also applied for an Entertainment license to include two audio tape machines/CD playing background music below, at, or above conversation level and four TVs.

MR. SCALI: Good evening.

MR. RAFFERTY: Good evening, Mr. Chairman and members of the Commission. For the record, my name is James Rafferty. I'm an attorney with the law firm of Adams and Rafferty located at 130 Bishop Allen Drive in Cambridge. I'm representing the applicant this evening, Zavoo, Inc. Seated to my far right is Ms. Colleen McCarthy and to my immediate right is Mr. Steven Kurland, K-U-R-L-A-N-D.

Ms. McCarthy and Mr. Kurland are each one-third shareholders of the corporation that would seek to operate a license at this location, 350 Third Street.

This location, as the Commission will probably recall, several months back there was another application by the operators of Grafton Street and Temple Bar, and they were looking to operate an establishment there called Kendall Grill. This is located on the ground-floor a 22-story multi-family apartment building known as the Watermark right at the edge of Third Street and adjacent to the newly constructed Broad Canal Walkway.

The Commission saw fit to approve a license for that location and the matter went on the ABCC. The ABCC asked a very pressing question. They had some questions about the source of the financing for the construction buildout. In the end that turned out to be the difficulty for that operator; that financing was not able to be obtained. As a result, Mr. Lee contacted the

Commission or notified the Commission that they did not wish to pursue a license, or were unable to.

The landlord was very fortunate to learn of the interest of Ms. McCarthy. She and her husband operate a very popular restaurant in Somerville known as EVOO, E-V-O-O. I know Mr. Scali knows that stands for extra-virgin olive oil. The foodies on the Commission may not know that.

MR. SCALI: I had no idea.

MR. HAAS: You could have taken credit for it.

MR. RAFFERTY: I may be guilty of ethnic stereotyping. I assumed that Mr. Scali might have had familiarity with it.

So EVOO was the brainchild of Ms. McCarthy and her husband. It has been operating there for about 10 years.

MS. MCCARTHY: Eleven years.

MR. RAFFERTY: It's on the corner of Kirkland and Beacon Street, about as close to Cambridge as you can get while still being in



Somerville. It's been very popular.

They have a second establishment in Arlington on Massachusetts Avenue near the Capital Theater called Za, Z-A, the last two letters of Pizza. It's a very successful pizza restaurant on Massachusetts Avenue where they have a beer and wine license. Mr. Kurland works with them there.

This space, if you might recall, is considerable in its size. It occupies nearly the full floor of that building. So part of the challenge in trying to figure out how to make it work was to come up with a concept that would occupy the square footage that the space lent itself too. What Ms. McCarthy and Mr. Kurland and Mr. McCarthy have come up with is a concept to combine the two restaurants that work quite well.

So this would have a shared or a joint d/b/a. You would enter the space you can see in the plan, and to the left would be the menu and the seating for EVOO, a more full-service style complete menu. I'm sure Ms. McCarthy and Mr. Kurland would have far better descriptions.

To the uninitiated you would say that would be the expensive one and then the right would be the pizza one.

The Za concept is more casual in style and the floor plan reflects that. It's still one operation; it's similar staff. There are a couple of examples of this. I know we have the Red House in Harvard Square where the Red House is also shared on the d/b/a because there is a shared kitchen with Charlie's Kitchen. So there's certainly Cambridge precedent for it.

There are some other restaurants. There's a popular restaurant up in Burlington, the Escadrille, where you can have the formal seating or the casual menu.

They're both very successful brands, Za and EVOO and the concepts work well together. There's a certain synergy there and the thinking is that they are not two distinct restaurants but they are a single restaurant with two focuses. One focus being the more casual pizza side and the other focus being a more --

MR. SCALI: Is it all contiguous?

MR. RAFFERTY: Yes.

MR. SCALI: There is one kitchen and it all attaches?

MR. RAFFERTY: It's a single kitchen. As Ms. McCarthy has explained to me, in decor and the like you might sense it, but if you look at the floor plan here they have deliberately designed and laid out the space in a way that creates almost two different dining rooms is really the notion. The seating is kind of split accordingly so if you had a reservation at EVOO, you wouldn't get put over to Za if your table wasn't ready. You'd wait for your table at EVOO.

MR. SCALI: The patios are on private property?

MR. RAFFERTY: Patios are all on private property very similar to the patio concept approved in the prior application.

MR. SCALI: Can you go from one patio to each other?

MR. RAFFERTY: Yes. It's across the

front of the building on the private side. You enter not from Third Street, but the entrance is -- I'm sure that street has a name although it escapes me.

MR. KURLAND: It's a private way that cuts from Third Street to the --

MR. RAFFERTY: It's actually the parking garage for the One Main Street building; there's an easement there. It does take you down to the new -- if you haven't seen it -- the new Board Walk and the Broad Canal was just recently completed.

This is part of the overall attempt to energize and creates some vitality in what was originally called the Cambridge Research Park Development. I think it's called Kendall Square now. There's farmer's markets there on Thursday. There's the popular skating. There's the outdoor concerts there on Thursday. There is a hope some day for a hotel on the back side. This is one of the sites.

This building is a fully tenanted

apartment building which is doing well. The Commission my recall there's about 500 new apartments have been opened across the street at 300 Third Street. It is a very emerging area without an awful lot of licenses frankly. Kendall Square really hasn't developed a reputation as a nighttime destination. There's been a lot of planning efforts trying to make that happen.

MR. SCALI: We're trying to count the seats.

MR. KURLAND: It's about 250 including about 100 for both patios.

MR. RAFFERTY: Those are all broken out on the CV application.

MR. SCALI: How come an All Alcoholic license as opposed to a Beer and Wine?

MR. RAFFERTY: Particularly at the EVOO, the concept really is fine dining. It is a type of restaurant experience that is typically associated with all alcohol. It's not intended to be a bar. It doesn't have any entertainment per se. It does not have significantly late-night

hours, but it does contemplate the need to provide a martini or a cocktail or whatever is expected.

The buildout here if you notice on the application here, and there's a secured loan in place backed by the SBA from Wainwright Bank, is approximately a million dollars. It's a significant investment. It really is an attempt -- it's being done in concert with efforts by the City planning staff and other to create some vibrancy and nightlife.

There are new companies down there. Google is there, Microsoft is there. It's the heart of the biotech community, and frankly, there isn't a lot that Chapter 138 would say, and the public is being well served. There is a lounge at the Marriott that I'm aware of but beyond that. . . .

MR. TURNER: It's a ghost town at night.

MR. SCALI: People live there so it's not exactly a ghost town.

MR. RAFFERTY: They're starting to but

people do live in ghost towns. I would say that if one were to recall the licenses in the past, just in the recent past, there was the place in Harold Brown's building, the Italian place that closed. What was it called?

MS. LINT: Benotti.

MR. RAFFERTY: As soon as you came over the bridge on the right-hand side there was the Italian restaurant in that brick building. He went out of business. Then of course, for years, there was the Sail Loft down in that neighborhood, and that's gone. So actually by my anecdotal recounting there has actually been a reduction in the number of license while the population has continued to increase, both the daytime workforce, and now importantly, a mixed-use district is emerging here with these residences that have been built.

I think the Commission need only reflect upon the wisdom it exhibited a few months ago in granting the prior license to reach a similar conclusion with this application.

MR. SCALI: Our 2:00 a.m. licenses don't go seven days a week. I think you applied for 2:00 a.m. seven days a week. Our 2:00 a.m. licenses are Thursday, Friday, and Saturday.

MR. RAFFERTY: You know, I'm aware of that. I think we applied for it anticipating that that would be the response. It was suggested to me, well, you know, that isn't set in stone. But I think that that's perfectly appropriate and I don't think there's an expectation that there be much business around that hour in the early part of that week to begin with.

But there is an alternate, particularly with the younger demographic of the workforce in that area that late-night dining is one of the attractions for the operators to come here; that people in that industry don't -- particularly in the technology site -- don't work as nine-to-five type structure as some of the more mature industries do.

MR. SCALI: So you really think you'll be busy at 1:00 or 2:00 in the morning without any



kind of entertainment there?

MR. RAFFERTY: When we say busy at 1:00 or 2:00, the reality is that someone comes in at 11:00, 11:30 for dinner. By the time the order is placed -- I'm sure the kitchen won't be accepting much dinner after midnight, but to clear the room and the restaurant, and not rush people -- there's definitely a dinner crowd that continues to present itself right up through 11:00. So 2:00 a.m. is merely a reflection of the ability to provide an appropriate level of service and not rush people out the door. I don't think you'll see large amounts of volume at that hour.

MR. SCALI: Are you anticipating a bar crowd after midnight?

MR. RAFFERTY: Not a bar crowd but I do think it would probably reflect some of the experiences that the Commission sees in other licensees of this nature; that the later crowd in the evening might be eating lighter or less, and might have more interest in gathering for socialization and having a libation, which

encourages the type --

MR. SCALI: You know how to spin it, Mr. Rafferty. It sounds really good.

MR. RAFFERTY: It's not my first night here, Mr. Scali.

At any rate, if you spent as much time as I do at the Planning Board and places where there's really a thirst -- we've had this big rezoning in East Cambridge. The whole rezoning was how are we going to get active street uses? How are we going to get people here at night? Let's not have another Kendall Square where it's sterile and cold, and any other pejorative you might attach to a place where there's not vibrancy. Let's look at what's working in Central Square and Harvard Square, and how can we replicate that here.

This is a very high-end operation. There's great enthusiasm. City Councilor Toomey reported to me today that he was very much in support of it and would be communicating that. I met with Ms. Broussard and the East Cambridge Planning Team and they are equally enthusiastic.

They were disappointed to learn that the financing did not come through for the other location. But this operation has all the promise of that and potentially even more.

It's a local team. It's not a chain. It's a husband and wife that have been in this business. Mr. McCarthy is an award-winning chef cited by Gourmet Magazine.

MS. MCCARTHY: Bon Appetite.

MR. RAFFERTY: And Mr. Kurland has been right there with them. They've really created something. They live locally between Somerville and Arlington.

MR. SCALI: The buildout financing is not an issue for this operation?

MR. RAFFERTY: Fortunately there is a loan in place from a lender that's reflected here. It's not a pledge because we know it's a no-value license. We wouldn't want to make that mistake again as sometimes has occurred in the past, and get embarrassed in front of my client when I look for pledge and Mr. Scali has to tell me that we

don't pledge no-value licenses. People do listen, Mr. Scali, when you issue these edicts, I want to assure you.

MR. SCALI: I often wonder.

MS. LINT: I do have an e-mail from Councilor Toomey in support of the application. He thinks it would greatly improve the streetscape and help enliven the Kendall Square neighborhood.

MR. SCALI: Abutter notifications?

MR. RAFFERTY: Yes, I do. I have quite a few down that neighborhood.

MR. SCALI: Background checks?

MS. LINT: Yes.

MR. SCALI: Anybody from the public want to be heard on this matter?

MR. HAAS: What about the hours?

MR. SCALI: They're requesting that we change our policy, Commissioner, and grant 2:00 a.m. every night of the week; right?

MR. RAFFERTY: No, we're really not. In fact, I wish we didn't and I think we can amend the request because that feels a little aggressive,

and we would never want to develop a reputation. I know Ms. McCarthy is here to fit in to the community, and Mr. Kurland.

That was really a test to see if people pay as close attention as they're rumored to.

MR. SCALI: We read your applications.

MR. SCALI: Mr. Scali, you have shown that even on a hot August night you're able to get off the beach and look at these things.

MR. TURNER: I'm not sure if you were their counsel, but if they managed to get a beer and wine in Arlington, obviously they must be all right. That sold me right away; that they were able to get something out of Arlington.

MR. RAFFERTY: I'm like the Red Sox, Deputy, I don't have much of an away game. Arlington is a tough town, and I know in Somerville as well that there's great leadership on the license commission in Somerville. I know you have high regard for them and they've had a very successful operation in Somerville for 11 years.

MR. TURNER: Mr. Chair, if I could

just ask some questions?

MR. SCALI: Deputy Chief.

MR. TURNER: On the floor plan, I notice that you have some tables and chairs in front of what appears to be a dotted door. Are these proposed entry doors, or existing?

MR. KURLAND: The proposal at point, those are currently existing doors that will be moved. The proposal is to make the main entrance on the side street there right between the two patios.

MR. HAAS: So the tables will be the permanent place and the doors will be moved.

MR. KURLAND: They will be moved.

MR. TURNER: Do you have any kind of a photo or a description of the separation between the outdoor patio and the public walkway?

MS. MCCARTHY: We don't. We're still trying to plan that.

MR. RAFFERTY: It's quite expansive and we can provide a site plan. When the building was approved by the Planning Board, it contemplated

this area as outdoor patio and space. So it is quite generous, and right now, it is just a wide concrete apron much like you see at The Courtyard at Harvard Square to put in planters and tables.

MR. SCALI: It will be barricaded from the street?

MR. RAFFERTY: Yes.

MR. SCALI: You just can't walk from the street to the patio?

MS. MCCARTHY: Right, you have to check in inside the restaurant.

MR. RAFFERTY: Barricaded might be a harsh metaphor. It will be welcoming but definitely defined.

MR. TURNER: This entry door is to the hallway that goes to the stairs to the -- is the fitness center still on the second floor?

MR. KURLAND: The fitness center is being built on the second-floor.

MR. TURNER: Then you have a door from your area into this hallway. Is that just a service door or is that going to be actually a

public access?

MR. KURLAND: It's a door that can be used to access an elevator that will be coming up from the garage.

MS. MCCARTHY: So guests are welcome to come in that way but they still have to go to the front desk to check in.

MR. TURNER: Thank you.

MR. SCALI: Comments?

MR. HAAS: No comments.

MR. TURNER: The only comments I have is this Watermark has been there for five years now, maybe four years, and we just brought on 300 Third Street as Mr. Rafferty said, another 500 units of housing. So I think the public need is met in this case and the public good is served. I have no objection. I think that space has been vacant long enough and this is well needed for that area.

MR. HAAS: Just tell me the hours of operation again.

MR. RAFFERTY: It will be until 1:00



a.m. Sunday through Thursday, and 2:00 a.m. Thursday, Friday, and Saturday, and those Sundays before a Monday holiday.

MR. HAAS: So Sunday through Wednesday, 1:00 a.m.

MR. RAFFERTY: Consistent with the City's policy on 2:00 a.m. licenses; 2:00 a.m. on Thursday, Friday, Saturday.

MS. LINT: It's actually any night before a legal holiday.

MR. SCALI: It's an all or nothing application, Mr. Rafferty. There is no leeway.

MR. RAFFERTY: Those sound like very stark terms, and we would never want it to be viewed that way. But the reality is to have the type of commitment here to create the dining experience that will make this a success and to serve the public it requires the type of license.

We're dealing with operators who have a track record here of being able to do this. Frankly I think Cambridge is well served by the regulatory schemes that are in place: the public

safety officials, the License inspectors. There's no reason to think an operation of this size in that location won't succeed and operate without any detriment to the public.

MR. TURNER: Where is the kitchen?

MR. KURLAND: If you look in the back middle there's a prep kitchen area, and then on the sides, each location has its own line.

MR. TURNER: Where it says "Cook Line"?

MR. KURLAND: Yes. There's one on each side.

MR. TURNER: That's all tied into ventilation directly up through the roof; correct?

MR. KURLAND: There's no black iron in the building for that. We're actually getting a pollution control unit so it's going to come out through the building and it will be processed through a pollution control unit that will handle all the grease.

MR. TURNER: That would actually come out the side?

MR. KURLAND: I believe it would come

out the side or the front, last we checked.

MS. MCCARTHY: Right where the front door is there are louvers.

MR. KURLAND: They are basically louvers above the windows. It will come out through that unit.

MR. TURNER: Would you be doing any brick oven pizzas?

MR. KURLAND: The pizzas are Blogett ovens.

MR. TURNER: And on the cooking, you will have grease hoods.

MR. KURLAND: It will be fully hooded.

MR. TURNER: So with scrubbers and you don't have to worry about the vapors and odors getting up into the tenant's.

MR. KURLAND: It's a concern of the landlord as well.

MR. TURNER: Okay.

MR. SCALI: Any comments?

MR. HAAS: No.

MR. SCALI: Pleasure of the

Commissioners?

MR. HAAS: Approve.

MR. TURNER: Second it.

MR. SCALI: Hold on. I get to lay out the details for you all. This is a new all alcoholic restaurant license with no value, no transferability; Sunday through Wednesday 1:00 a.m., Thursday, Friday, Saturday, 2:00 a.m.

MS. LINT: And the nights before a legal holiday.

MR. SCALI: And the night before a legal holiday. You haven't been to any of our classes yet for 21-Proof training.

MR. RAFFERTY: No. They're new to the city but they have had similar experiences.

MR. KURLAND: I'm certified in other places.

MR. SCALI: 21-Proof training for you and your staff. That would be all staff. The entertainment license, background music below, at, and above conversation level; meaning on the patio as well?

MR. RAFFERTY: Yes.

MR. SCALI: Above conversation level on the patio?

MR. RAFFERTY: Yes.

MS. LINT: That's what our category is. That's the problem with it.

MR. SCALI: How loud?

MR. RAFFERTY: Certainly within the parameters of the noise ordinance.

MS. MCCARTHY: It's not our intention to have it be loud.

MR. SCALI: If you can hear it for 50 feet away, you're in violation of the noise ordinance.

MR. RAFFERTY: I would only say this, Mr. Chairman, they share the same landlord as those renting the 22 floor above them. So I would say if it's a problem, there's the noise ordinance and there's that. It can be regulated by hour. We're just trying to have the type of flexibility that makes it succeed. If it became a problem, we certainly would --

MR. SCALI: I think you can do below conversation level on the patio. I don't think it needs to be above conversation level.

MR. RAFFERTY: How about at? That's what the check mark is: below, at, or above.

MR. SCALI: I just think on that sidewalk you're going to hearing a lot of noise from music and that's not going to be the attention you need.

MR. RAFFERTY: Not that it should be dispositive, Mr. Chairman, but the prior applicant was approved for live music on that patio.

MR. SCALI: Live music on the patio?

MR. TURNER: Those windows if I remember, don't open.

MR. RAFFERTY: They don't. There's a lot going on. There's a lot of HVAC equipment; there's a lot of ambient noise. I would only ask that they be given the opportunity that is typically associated with it. That's a rather traditional request and I think it might prejudice them at the outset. Certainly the last thing they

would do, and the this Commission certainly has it within its wherewithal to review it six months if there were complaints. It just feels a little strict.

MR. SCALI: Commissioners' pleasure? We approved a live entertainment on a patio. I can't imagine that we did that.

MR. RAFFERTY: Don't be too hard on yourself; it was a very good idea. There might have been an hour restriction. There was talk about Sunday jazz. There's talk about after work experiences.

MR. SCALI: That was not an evening thing that we approved entertainment on the patio outside. I can't imagine with did that.

MR. RAFFERTY: There's a whole generation out there up after 8:00 at night. They're not all at hearings. I think there is ample evidence. This is audio music. My point is, there's lots of cases where we've got live entertainment whether it's inside or outside.

MR. SCALI: I'm not talking about

inside. I'm talking about outside on the patio.

MR. RAFFERTY: I'll defer to your wisdom.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: I believe the applicants will be responsive, so leave it as it is right now and see how it works.

MR. TURNER: I agree.

MR. SCALI: Entertainment as applied for. Any other conditions? Motion to approve.

MR. RAFFERTY: Mr. Chairman, just a point of information before you take that vote. You made a reference to transferability which was something that I know we've always had no-value licenses, but there's plenty of record of licenses that get transferred but no for value.

MR. SCALI: Those are licenses granted before 1991. So anything granted from '86 to '91 have no value but were transferable; anything after '91 is non-transferable and no value.

MR. RAFFERTY: So a subsequent



operator would have to -- it's not saying that there couldn't be -- it would be treated as an original application as opposed to a transfer?

MR. SCALI: Correct, yes. Motion on the conditions as mentioned.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MS. LINT: Is there a six-month review? We usually do.

MR. SCALI: I don't know that we need a six-month review. Commissioners?

MR. HAAS: No.

MR. SCALI: I think we'll hear the complaints, I'm sure.

MR. RAFFERTY: If there's a problem, we'd come back.

MR. SCALI: You'll be back, believe me.

MR. RAFFERTY: I would bet against you seeing these operators for quite a while.

MR. SCALI: I'm not really worried actually.

MR. RAFFERTY: You know where to find them. I appreciate your consideration.

MR. SCALI: Good luck.

(Short recess taken.)

P R O C E E D I N G S (cont'd)

MR. SCALI: We're going to get started again.

MS. LINT: Application: Whole Foods Market Group, Inc. d/b/a Whole Foods Market, Barry Shaievitz, Manager, holder of a Common Victualer license at 200 Alewife Brook Parkway has applied for an increase of capacity from 50 seats to 106 seats.

MR. SCALI: Hello again.

MR. RAFFERTY: Good evening, Mr. Chairman and members of the Board. Again, James Rafferty on behalf of the applicant, Whole Foods Market Group, Inc. Seated to my right, Mr. Barry Shaievitz, the store leader.

MR. SCALI: Excuse me, Mr. Rafferty. People in the audience, you need to not speak while we're speaking up here. Thank you. I'm sorry, excuse me.

MR. RAFFERTY: So Whole Foods Market, the wildly successful retail grocery store that was

responsible for the turnaround of the Fresh Pond Shopping Center some 15 years ago. The crime ridden, abandon car, stealing capital of Cambridge. Along came Whole Foods, then Bread and Circus and a rebirth, and we're all the beneficiaries of it.

They expanded the store two years ago. They've been so busy that someone forgot to amend the CV license. The Building Department was good enough to give a Building Permit and CO and all that, but as part of the expansion there actually is more seating in the front of the store.

The ever-alert task force inspection detected on one of their outings that the floor plan did not match up and they were alerted of that, and within days an application was filed, and Mr. Shaievitz is here tonight to make amends and request an amendment to his CV application. So the floor plan that's been filed reflects the plan as approved by ISD and the Zoning officer, and frankly reflects what's probably been an existing condition now for nearly two years. It's the area in front of the store.

MR. SCALI: So this is for people getting sandwiches or salads at your deli counter and eating on the premises, and people buying their food and bring it to the tables?

MR. SHAIIEVITZ: Correct, right.

MR. SCALI: This is right in the front of the store?

MR. RAFFERTY: Right, and what happened is that operation had been going on for years, and you might recall the store expanded. It moved in an easterly direction, took over the area that was formerly the liquor store and actually built a new liquor store for the liquor store tenant. So when the space expanded, everything expanded. So this function was occurring with about 60 before, 50 seats in this new enhanced area. It's a combination of booths, counter, and table. It's a very popular gathering spot.

MR. SCALI: Questions?

MR. TURNER: No questions.

MR. SCALI: Mrs. Lint, any comments?

MS. LINT: No.

MR. SCALI: Abutter notifications?

MS. LINT: Yes.

MR. SCALI: Anybody from the public want to be heard in this matter? Pleasure of the Commissioners?

MR. HAAS: Approve.

MR. TURNER: Seconded.

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

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Thank you very much for correcting that. We appreciate it.

MS. LINT: Application: Three Aces Pizza, Stamatis Eliadis, Manager, holder of a Wine and Malt Beverages as a Restaurant license at 1613 Massachusetts Avenue has applied to transfer said license to Rangsiya Global Corporation d/b/a Spice, Supaline Kimhachandra, Manager. Applicant is also applying to transfer the location of the license from 1613 Massachusetts Avenue (Cap #4) to 24 Holyoke Street (Cap #1). The operating hours would be 11:30 a.m. to 11:00 p.m. seven days per week with a seating capacity of 90. Applicant is applying for an Entertainment license to include an audio tape machine/CD which may play music below, at, or above conversation level.

MR. SCALI: Hello again, Mr. Rafferty.

MR. RAFFERTY: Good evening. For the record, James Rafferty on behalf of the applicant. Seated to my right -- would you care to give your name?

MS. KIMHACHANDRA: Supaline Kimhachandra.

MR. RAFFERTY: It's spelled out on the

legal notice. To Ms. Supaline's right is Panja Lymswam, L-Y-M-S-W-A-M. Mr. Lymswam is one of the principals of the corporation.

MR. SCALI: So this is an existing restaurant; correct? You have a CV now; right?

MR. RAFFERTY: That is correct. This is a location where for years it was Cafe Paradiso at the bottom of Winthrop Street. I'm sorry, this is Holyoke Street. This is Spice on Holyoke Street.

MR. SCALI: Getting your applications mixed up, Mr. Rafferty?

MR. RAFFERTY: They're the same client but they're two different files. I apologize. The next matter involves this one. This is on Holyoke Street. This is Spice, a popular Thai restaurant that's been there 10 years on Holyoke Street down by the end by Mount Auburn Street. It has not had a Beer and Wine license previously.

He broke a recent trend and rather than come here and ask for a free one, he went out and bought one from someone who had an inactive



license, the Three Aces Pizza. They negotiated a purchase and sale agreement. He's agreed to purchase the license for \$40,000. As you know, Three Aces is no longer in business and they had an inactive license. Mr. Lymswam who has had success at that location does get lots of interest and request to have beer and wine as a supplement to the dining. So there's nothing in the way of a change of the floor plan or the operation.

MR. SCALI: Just tell me so we can get to the questions I have: You're asking for 90. How many seats do you have right now?

MR. LYMSWAM: Eighty seats.

MR. SCALI: So you're asking for 10 more than you have now. The Three Aces license had how many seats?

MR. RAFFERTY: It had 110.

MR. SCALI: Are we applying to bank any seats, Mr. Rafferty?

MR. RAFFERTY: We had not because I had thought I had been educated that given the fact that capacity was no longer a Cap issue that

banking was no longer a relevant matter. But it was brought to my attention today, so I certainly wouldn't want to prejudice my client if that still is an option.

The premises themselves wouldn't accommodate more. We did review the floor plan. There was some confusion here on the CV and the CI, and some things had 90, some had 86. So we thought with 90 we were still below what the license carried at the old location, and that was the reason for settling on the 90. Candidly, I assumed I had been of the understanding that banking as a concept was no longer in vogue, but I may have been wrong.

MR. SCALI: It is still on our policy records. It's strictly up to you how you wish to apply.

MR. RAFFERTY: In fairness then to the applicant to the extent it's relevant, and all banking as we know did was reflect the fact in the records of the license if there's a subsequent user an opportunity to expand the premises, it would

reflect the fact that it was higher. I believe you told me that the notion of selling banked seats to other licensees is no longer as popular.

MR. SCALI: It's still possible. I'm not sure that people actually wish to do it maybe because they know they're going to apply for free seats. I don't know but we'll see.

So we'll consider that if you wish us to.

MR. RAFFERTY: We would and I appreciate that.

MR. SCALI: So that's 16 seats banked. And the menu is not changing, the floor plan would be changing, adding 10 more seats; right?

MR. RAFFERTY: That's correct.

MR. SCALI: Going from 80 to 90?

MR. RAFFERTY: Yes. I think a couple of them are standing. I just want to check the -- we didn't have much by way of standing. There's a small service -- excuse me, please.

I'm just trying to recollect on the CV application what we said about the number of seats

versus standing. I'm sure we --

MS. LINT: You said 38 tables, 80 seats, with total seating of 90.

MR. RAFFERTY: So it's 10 standing.

MS. LINT: But it says "total seating capacity."

MR. RAFFERTY: It's anticipated to have 10 standing.

MR. SCALI: Why don't you look at that again and clarify if you could for us, if you could look at your plan. Because the plan has to be accurate to go to the ABCC.

MR. RAFFERTY: The plan is correct. I think the only difference is that the CV should reflect the difference between the 80 and the 90 with 10 standing; is that correct? You weren't adding any extra?

MR. LYMSWAM: Ten standing, okay.

MR. SCALI: So 80 seats, 10 standing.

MR. RAFFERTY: For a total occupancy of 90. We probably put that on the wrong line instead of a total seating capacity.

MR. SCALI: Other than that, there are no other changes. Notification to abutters is there. Background checks?

MS. LINT: All set.

MR. SCALI: Questions from the Commissioners?

MR. TURNER: No questions.

MR. SCALI: Comments from the public? Ms. Jillson, I see you in the background there.

MS. JILLSON: Denise Jillson, Executive Director for the Harvard Square Business Association. And just to lend our support to this application. Supaline and Panja are longtime members of the association and do a very fine job, and they are highly respected in Harvard Square. We are delighted that they were able to actually purchase the license from Three Aces, and we look forward to them continuing their good work. So we're totally in favor of this.

MR. SCALI: Thank you very much. Pleasure of the Commissioners?

MR. HAAS: Approve.

MR. TURNER: Second.

MR. SCALI: Motion to approve. This is a value license then because you did purchase it for money; 21-Proof training; 80 seats, 10 standing for a total of 90 with 16 banked seats.

MR. TURNER: Mr. Chair, on the motion?

MR. SCALI: Yes.

MR. TURNER: This is a Cap issue or a non-Cap issue because we allow the transfers now?

MR. SCALI: We do allow transfer from Cap area to Cap area. So that has not been an issue.

MR. TURNER: Thank you.

MR. SCALI: Motion, moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: There's no pledge on this.

MR. RAFFERTY: No. There is a small note back to the seller but I don't believe they had asked for pledge. I think it's a \$10,000 note

to be paid off within a year. It's reflected in the application but there's no pledge.

MR. SCALI: No entertainment.

MR. RAFFERTY: No change in what was there before. I assume there's some background music.

MR. SCALI: Thank you very much. Good luck.

MS. LINT: Application: Shine Entertainment, LLC d/b/a Shine, Rosa Ostheimer, Manager, holder of an All Alcoholic Beverages as a Restaurant license at One Kendall Square has applied to transfer said license to Panja Sasirat 2008, Inc. d/b/a Congas, Sasirat Wyckoff, Manager. Applicant is also applying to transfer the location of said license from One Kendall Square (Cap No. 13) to 104 Mount Auburn Street (Cap No. 1). Operating hours will be 11:00 a.m. to 1:00 a.m. Sunday through Wednesday, and 11:00 a.m. to 2:00 a.m. Thursday through Saturday, and the night before a legal holiday. The capacity is 103 (93 seating and 10 standing). Applicant is also applying for an Entertainment license to include an audio tape machine/CD which may play music below, at, or above conversation level and three TVs.

MR. SCALI: Hello.

MR. RAFFERTY: Good evening once again. James Rafferty, for the record, on behalf of the licensee. Seated to my right is Sasirat Wyckoff and Mr. Panja Lymswam, principal in this



corporation as well.

MR. SCALI: You're involved in both operations?

MR. RAFFERTY: Oh yes.

MR. SCALI: This is a new corporation? This is a new corporation but Mr. Lymswam in his prior corporation was an operator at this location as well. This is the former Cafe Paradiso license at the end of Winthrop Street that last year was transferred to Shabu Square.

MR. LYMSWAM: It used to be Shabu Square and then the corporation is the same corporation.

MR. RAFFERTY: He just changed the d/b/a. It's a change of d/b/a to Conga. It's not Congas, by the way.

MR. LYMSWAM: No *S*.

MR. RAFFERTY: Conga like the drum.

At any rate, Mr. Lymswam had operated this restaurant for perhaps less than a year.

MR. LYMSWAM: For about five months.

MR. RAFFERTY: The concept had certain

challenges associated with it involving the cooking. The Shabu concept, if you're familiar with it, involves some preparation and heating at the tables, and I think there was some reservations expressed by the Fire Department about that. There were also certain limitations from the landlord around ventilation and cooking. So suffice it to say it did not succeed as a Shabu style restaurant, and in fact, has been closed for a few weeks now.

What the operator has decided to do is to repositioned the restaurant, try to look at what might succeed there, and try to determine if there are any licenses available. Once again, he chose to go to the inactive list and he found the Shine license and was able to negotiate a purchase and sale agreement with counsel for Shine. This would represent the transfer again of a license off the inactive list to this location.

At this location, the concept is going to be Latin American, a more Latin style, tapas style.

MR. LYMSWAM: Small snack foods.

MR. RAFFERTY: Because the cooking is limited. And what he learned is that the Shabu concept really couldn't work there because of the physical limitations and concerns around -- he need fire at the tables and all that. I'm sure the Deputy has a better command of that issue.

So the thinking was that this concept -- and we provided the menu and all that -- could succeed at Winthrop Street. That stretch of Winthrop Street has become a very popular restaurant row. It's a pedestrian mall as you know now, after 11:00 in the morning.

The restaurants have created a certain energy in that area between the Red House, and Upstairs on the Square, and OM, and a few other places. There's a lot of activity; it's a very prominent corner at the bottom of Winthrop Street. So it's a location for which the operator has high expectations and a reasonable belief that it can succeed. The thinking is to reposition it with essentially the same size operation but a new concept with alcohol. That's what this is.

MR. SCALI: We're taking the Shine license which had 70 seats inside and 70 outside, which were seasonal seats. So that's kind of iffy there. Then we're going to 103, 93 seats and 10 standing; am I correct?

MR. RAFFERTY: That's correct.

MR. SCALI: The plan that was submitted -- was there an issue with the plan. Mrs. Lint?

MS. LINT: The numbers didn't add up.

MR. RAFFERTY: What we did in the plan is we simply took the old plan which dictated the vast majority of the seats, and then changed the bar to allow for service. So I think we went from 91 on the previous application, or the CV license, to 93 in this one.

MS. LINT: This one they added up. It was the other one.

MR. SCALI: So this one shows 93 seats?

MS. LINT: This shows 91 seats.

MR. RAFFERTY: So it's 91 seats. I'm

looking at the CV. Total seating is 91, total occupancy is 101, and in parens it says, "(10 standing)."

MR. SCALI: So it's 101.

MR. RAFFERTY: It's 101 total occupancy, 91 total seating, prepared that way because I advised my clients that if someone comes in and wants a table and they have to wait at the bar, and there's two people and only one seat, and the person is standing to have a drink, that standing has to be reflected there.

MR. SCALI: So we're amending your application to 101. It says 103 on the agenda.

MR. RAFFERTY: Okay. I think the application reflects 101.

MR. SCALI: So it's 101; 91 seats and 10 standing. Is it 10 standing around the bar? Is there a bar area to stand at?

MR. RAFFERTY: There is a bar. It's on the plan. The bar has 13 seats at the bar.

MR. SCALI: So of the 91, 13 are seats at the bar?

MR. RAFFERTY: Correct. There's 44 seats at tables, 32 seats at booths, and 13 seats at a bar. The tables and the booth seating are consistent with the current plan. There's no change to the dining room. There's just a couple of extra stools at the bar.

MR. SCALI: Comments from the Commissioners?

MR. HAAS: No comments.

MR. TURNER: No.

MR. SCALI: Anyone from the public want to be heard? Ms. Jillson, hello, again.

MS. JILLSON: Denise Jillson, Executive Director for the Harvard Square Business Association. We're really delighted that Panja was able to sort of survive the Shabu Square problem and a come back with Conga.

It is an important location as you well know, and to have that space not occupied and not occupied with something that's really vibrant is problematic. So we're committed to doing everything we can do to help him, and again,

delighted that he was able to find something so that he wasn't taxing the Commission's graciousness in providing the no value, non-transferable beer and wine licenses.

We're committed to making sure that he's successful and thank you for your consideration of this application which we are in favor of.

MR. SCALI: This would be a value license which means that it's coming from another zone to the Harvard Square zone, which adds a more permanent nature to this license because of the value. So are you okay with there being an additional full alcohol license in Harvard Square?

MS. JILLSON: We're okay with that. We understand that we're -- you know, the market will take care of itself. I really believe that. You just wonder at what point do you become overly saturated with these licenses, but we feel comfortable that Panja has a very good track record in the Square. We were confident that he would do very well with Shabu Square but I think it was just

that concept. I remember you Deputy having lots of concerns about the cooking and so forth. Yes, we're okay with it and are committed to making sure it's successful.

MR. SCALI: Thank you very much. Does anybody else want to be heard? Pleasure of the Commissioners?

MR. HAAS: Approve.

MR. TURNER: Do we have a menu?

MR. SCALI: I think there was one that was a basic menu in the file before but we didn't see a permanent menu.

MR. TURNER: I guess what I'm kind of looking at is, it's conventional cooking? We're not doing anything fancy?

MR. RAFFERTY: Grills.

MR. TURNER: Standard kitchen.

MR. LYMSWAN: It's a small kitchen.

MR. RAFFERTY: Yes. Hamburgers, Latin American, a fryolater, shrimp/oyster raw bar.

MR. SCALI: So no cooking on the tables I guess.



MR. RAFFERTY: No. That proved to be a very costly misstep.

MR. TURNER: I'll second the motion.

MR. SCALI: Motion to approve with 101 total; 91 seats, 10 standing. This is a value license because it was purchased. Have you been through 21-Proof training?

MR. LYMSWAM: Yes.

MR. SCALI: Did she go through 21-Proof?

MS. WYCKOFF: Yes, I did.

MR. SCALI: You did go through it already?

MS. WYCKOFF: Yes.

MR. LYMSWAM: Can I ask for five TVs?

MR. SCALI: Five TVs? Where are you putting all the TVs; in the bar area?

MR. LYMSWAM: In the bar area.

MR. RAFFERTY: It's become a form of entertainment. They're texting and watching TVs; there's no more intimate conversation in Harvard Square unfortunately.

MR. SCALI: Are you on Facebook, Mr. Rafferty?

MR. RAFFERTY: No. I don't understand anything. But it appears to be what's happening. With Cambridge in the news all the time it's nice to keep track of what's happening on TV.

MR. LYMSWAM: People like to watch baseball and football.

MR. RAFFERTY: He did mention it to me so the number is two more. I was even in what would be considered a very nice restaurant recently and was struck by the number of televisions. The volume isn't on but people are observing them and watching things.

MR. SCALI: Concerns?

MR. HAAS: No concerns.

MR. TURNER: No.

MR. SCALI: Amending to five TVs, along with the background music below, at, or above conversation level.

MR. HAAS: So they don't need 21-Proof then.

MR. SCALI: 21-Proof, they're already been through, although we recommend you send any new staff members there. We won't require it but we would prefer that you did that. Motion.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MS. LINT: Application: Vivace Vino, Inc. d/b/a Central Bottle, Maureen Rubino, Manager, holder of a Wine and Malt Beverages as a Package Store license, which has ABCC approval since this agenda was done, has applied for a change of officers/directors.

MR. SCALI: Just come on up.

MR. TURNER: What was the address on this one?

MS. LINT: It's Massachusetts Ave., 220 Massachusetts Avenue.

MR. SCALI: Central Bottle?

MS. LINT: She was just right there.

MR. SCALI: Come up and have a seat. This shouldn't take but a minute. Just tell us who you are please.

MS. VILLARDI: Elizabeth Villardi.

MR. RUBINO: David Rubino.

MS. RUBINO: Maureen Rubino.

MR. SCALI: When last we were here all four of you were on the application and then we discovered that Nick was on the other, the

restaurant application. So although the ABCC approved it, you're doing the right thing in taking Nick off. So it will just be the three of you on as officers and directors; right?

MS. RUBINO: Correct.

MR. SCALI: Who is the manager?

MS. VILLARDI: Maureen.

MR. SCALI: So that's all we're doing here; right?

MS. VILLARDI: That's it.

MR. SCALI: Motion to approve.

MR. HAAS: Motion.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MS. LINT: Application: P.F. Chang's China Bistro, Inc. d/b/a P.F. Chang's China Bistro, Michael Penna, Manager, has applied for a transfer of the All Alcoholic Beverages as a Restaurant license at 100 Cambridgeside Place for 148 seats currently held by BBRG Operating, Inc. d/b/a Papa Razzi, Mary Ann Silverman, Manager. Hours of operation will be Sunday through Thursday from 11:00 a.m. to 11:00 p.m. and Friday and Saturday from 11:00 a.m. to 12:00 midnight. Applicant is also applying for an Entertainment license to include Audio tape machine/CD which may play music below, at, or above conversation level and four TVs.

MR. SCALI: Good evening.

MR. UPTON: Good evening, Mr. Chairman and members of the Commission. Andrew Upton from the law firm of DiNicola and Upton representing P.F. Chang's. With me is Mike Penna, the proposed manager, and also Ahmed Soufan who we were going to propose as the subsequent manager. Mike is the regional manager and he'll typically be on site the

month before, during, and after opening.

MR. SCALI: No owners here? Just managers here?

MR. UPTON: Just managers. P.F. Chang's is a publicly traded corporation.

MR. SCALI: So Mr. Ahmed -- what's your last name?

MR. SOUFAN: Soufan, S-O-U-F-A-N.

MR. UPTON: We thought we would take this opportunity to introduce him to the Board because we'll be coming back for a change of manager.

MR. SCALI: So Mr. Penna is temporary you said?

MR. UPTON: He'll be fully qualified. He'll be on site 50 hours a week. He'll train the staff. Mr. Soufan will be there with him kind of as his deputy but then he will move on probably in October or so, and then we'll propose Mr. Soufan as the subsequent manager.

MR. SCALI: So you'll reapply then at that point?

MR. UPTON: Yes. We'll apply for a full change of manager.

P.F. Chang's is an applicant of high character and fitness. We have several other restaurants in Massachusetts; 189 restaurants in the United States. It's a billion-dollar publicly traded company, as I said.

They are only opening six new restaurants in the United States this year because of the economy. The Cambridge site made it to the top of the list because of the demand and the location and the management team.

Typically P.F. Chang's does about 75 percent of their revenue in food and 25 percent in alcohol so it's a dining destination. There is a bar but they consider cocktails, beer, and wine to be part of the dining experience and it's not a nightclub drinking destination, sports bar.

Mike has been a store manager and he's also been the regional manager. He just did this exact role in Dedham where we opened a new store. He was on site for the month before, during, and



then after seeing the project through, training the staff.

MR. SCALI: He's been a busy man.

MR. UPTON: He's a busy man.

We believe this application fulfills the public good and a public need. P.F. Chang's is a unique dining opportunity. This is going into the Papa Razzi Cambridgeside Galleria, which has been vacant for some time.

MR. SCALI: Is this a smaller operation than Papa Razzi, because Papa Razzi had quite a large capacity? Are you taking up less space?

MR. UPTON: We're taking up about the same space but the architecture of the buildout makes it so we're requesting fewer seats.

MR. SCALI: So you're requesting 148 seats; no standing?

MR. UPTON: We weren't able to determine how many we needed for standing because the buildout was still going, and the architect was waiting for the Building Department. So we were

hoping we could leave the occupancy somewhat open until the architect and the current people would get together.

MR. SCALI: We generally don't leave things open. If you need more time to figure that out, we certainly can do that.

MR. TURNER: It's currently under renovations so a set of plans should have been approved by ISD and there should have been an occupancy load on those plans. Or, I guess there wasn't.

MR. UPTON: There wasn't at the time we filed but I haven't checked in recent weeks. It may have come in.

MR. SCALI: Maybe you can clarify that before our voting on Wednesday.

MR. TURNER: According to the application, it's 148 currently held which tells me it's the same that was in Papa Razzi, but if you're renovating and creating smaller, then it will certainly --

MR. SCALI: Papa Razzi had like 325

capacity so it was quite a larger capacity than this. I'm sure you've got room to play with the standing, we just need to know what that is.

MR. UPTON: We'll get that to you.

Just to finish up on that, we should be creating about 140 jobs. P.F. Chang's is well-known as a corporate good citizen typically involved in sponsoring events in the community, participating in local charities, donating both money, time, food, and staff time to various charitable endeavors. Beyond that we are glad to answer any questions.

MR. SCALI: You're open until 11:00 most nights except for Friday and Saturday until midnight, which is of course past the mall hours; right?

MR. UPTON: Yes.

MR. SCALI: People will be coming from outside and there is parking in the garage obviously. How long would the buildout take to do the renovations?

MR. PENNA: We're slated to open on

October 26. So we'll start training around the 16th of October.

MR. SCALI: So you're quite aggressive; you're going to be doing it quite quickly then.

MR. PENNA: They're all over it now.

MR. UPTON: They're in progress now with electrical and plumbing.

MR. SCALI: Background music and four TVs. Questions, Commissioners?

MR. HAAS: No questions.

MR. SCALI: This would be a new license. It would be non-transferable. It would then be attached to the mall because we have all licenses that are attached to the mall.

MR. UPTON: I believe this would be a transfer.

MR. TURNER: It's not a new license, transfer.

MR. UPTON: They currently have a license.

MR. SCALI: Did you buy it from Papa

Razzi? Was it purchased?

MR. UPTON: Yes. And because of that we would like to ask the Commission if we could bank the additional seats in case there is a future renovation.

MR. SCALI: Well, I don't have the exact number. That's something you're going to have to clarify before Wednesday then because that's the number we need. Is there a number you can tell me on what you paid for the license?

MR. PENNA: Yeah. It's about \$150,000, give or take a few thousand.

MS. LINT: There's nothing on the application reflecting the price.

MR. SCALI: You need to make sure you put that in the application then. If you wish to be a value license, there needs to be a purchase price on there. You have to document all the financing. And we're going to clarify the banked seats.

We require 21-Proof training for all staff and management being a new establishment in

the City. I don't know if you're familiar with 21-Proof at all. It's a training program that we have here in the City that was established by our department, the Prevention Coalition and licensees in the City. They will come to you. They'll do the training right there on your premises. If you're a member of CLAB, you'll get a discount on the training.

MR. PENNA: I read about that.

MR. UPTON: Typically all managers are TIPS trained as are all servers, but I told them they'd have to do the 21-Proof.

MR. SCALI: We prefer 21-Proof over TIPS. TIPS is popular but not Cambridge oriented.

So we're going to take the matter under advisement pending the clarification on the banked seats, the financing, and on the standing.

MR. UPTON: Excellent. We'll get that to you tomorrow.

MR. SCALI: That's moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: We vote Wednesday morning  
at 11:00 a.m.

MR. UPTON: Thank you very much.

MR. SCALI: Good luck.

MS. LINT: Application: Legal Sea Foods, Inc. Adam Rutstein, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 5 Bennett Street has applied for a change of manager from Adam Rutstein to Jaclyn Plunkett at said address. Applicant is also applying for a change of officers/directors.

Legal Sea Foods, Adam Rutstein, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 20 University Road has applied for a change of manager from Adam Rutstein to Jaclyn Plunkett at said address. Applicant is also applying for a change of officers/directors.

Legal Sea Foods, Paul Burke, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 5 Cambridge Center has applied for a change of officers/directors.

MR. SCALI: Good evening.

MS. TUTT: My name is Barbara Tutt, T-U-T-T, and I am Legal Sea Foods paralegal.

MS. PLUNKETT: Jaclyn Plunkett, chef of Legal Sea Food in Harvard Square.



MR. SCALI: You're the chef there?

MS. PLUNKETT: Yes.

MR. SCALI: And you're going to be the manager?

MS. PLUNKETT: Yes.

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

MS. PLUNKETT: I've been the chef in Harvard Square for three-and-a-half years; I've been with Legal Sea Foods for just over seven years. I have a Bachelor's degree from Johnson and Wales and I've been in the restaurant industry for about 13 years.

MR. SCALI: Are you familiar with all the alcohol rules and regulations?

MS. PLUNKETT: I am.

MR. SCALI: How is that going to work with the three locations, or actually it's the two. They're all in the same spot at the hotel so it's two separate areas in the same hotel.

MS. PLUNKETT: Correct.

MR. SCALI: Then we have the change of

officers and directors as well. Is that nationwide?

MS. TUTT: It will be, yes. I'm doing Massachusetts.

MR. SCALI: How is it changing?

MS. TUTT: We are eliminating three people, one of whom is no longer even there. So we just need to clear up our records.

MR. SCALI: These are officers or directors?

MS. TUTT: We didn't change the directors. We're just taking three officers off.

MR. SCALI: And not adding any more on.

MS. TUTT: No, we're not.

MR. SCALI: I wanted to make sure you pass along to your people at the hotel how thankful we are about the Taste of Cambridge. You donated your space outside on the patio and the bar to the Taste of Cambridge. I wanted to make sure that you tell your staff and your bartenders and your people there how wonderful that was for you to do that.

So please let them know how grateful we were for that space.

MS. PLUNKETT: We had a great time.

MR. SCALI: It was very very active and we raised a lot of money for the two charities. It was a great success and we're thankful to you for doing that.

Pleasure of the Commissioners?

MR. HAAS: Approve.

MR. SCALI: Motion to approve.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MS. TUTT: For all three?

MR. SCALI: All three, yes.

MS. LINT: Application: Paulmino, Inc. d/b/a 7-Eleven, Paul Marino, Manager, has applied for a Common Victualer license for 12 seats at 600 Technology Square. Said license if granted would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises and to have operating hours 24 hours a day, seven days per week.

MR. SCALI: Good evening.

MR. GIAPO: Good evening Mr. Chairman and the Commission. My name is Courage Giapo. I'm the manager of Paulmino, Inc./7-Eleven.

MR. SCALI: Tell me your name again. I'm sorry.

MR. GIAPO: Courage Giapo.

MR. SCALI: And you're the manager there?

MR. GIAPO: Yes, please.

MR. SCALI: So you want to have 12 seats there?

MR. GIAPO: Yes, please.

MR. SCALI: That's going to be on the

inside?

MR. GIAPO: That's going to be inside, yes.

MR. SCALI: So people buy their food and eat in the store?

MR. GIAPO: Yes, please, buy the food and eat. We have other people who come in to buy newspapers and stuff, and they want a place to sit and read. It's going to be a good service to the public and our customers too.

MR. SCALI: And you're open 24 hours?

MR. GIAPO: Yes, please.

MR. SCALI: Are you there late at night with the public? Is it you or your other staff that are there?

MR. GIAPO: I work from I come 7:00 and I leave 3:00, sometimes 5:00 depending on when I'm supposed to be in the store.

MR. SCALI: Abutter notifications?

MS. LINT: Do you have the green cards?

MR. GIAPO: Yes.

MR. TURNER: Mr. Chair, one question.

MR. SCALI: Deputy Chief.

MR. GIAPO: I have two abutters but I submitted one and I have a copy of the other ones.

MR. TURNER: What type of food will you be serving and how do you plan on preparing it or cooking it?

MR. GIAPO: We don't serve food. We have sandwiches that come in fresh from our corporate office every day.

MR. TURNER: Pre-prepared?

MR. GIAPO: Pre-prepared, yes. So just come to the counter and then the customers take it themselves.

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

MR. HAAS: No comments.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Approve.

MR. TURNER: Seconded.

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

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Thank you very much.

MS. LINT: Application: Swiss Traders, Inc. d/b/a Hoffa's of Harvard Square, Bernhard Imhof, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 114 Mount Auburn Street has applied to further extend the inactive status of said license.

MR. SCALI: Hello.

MS. ENDYKE: My name is Erica Endyke. I am from Conroy and Associates representing Swiss Traders. And my brother, Jim Rafferty will be speaking as well.

MR. RAFFERTY: That would be in the legal sense.

MR. SCALI: I was going to say I thought you only had one sister.

MS. PLUNKETT: My client is the holder of an All Alcoholic license who is looking to extend the inactive status. The building in which Hoffa's was previously housed is under construction, and Jim can speak to the landlord's intentions. It's kind of been what's holding up the reactivation of the license.



MR. SCALI: The landlord is holding it up? Isn't he the one that holds the license too?

MS. ENDYKE: No. The building is under construction being torn down. It's very slow to be put back up perhaps for lack of better words.

MR. RAFFERTY: It hasn't really -- not to interrupt but --

MS. ENDYKE: I'm not familiar with the actual construction and what's going on.

MR. RAFFERTY: As Ms. Endyke noted, the status of the building has had an impact upon her client's ability with the license. The building is the former Crown and Swiss Alps wood frame structure approved by the Historical Commission two years ago for demolition.

A replacement structure tied into a restoration of the MBTA Conductor's Building on the other side of the bus way there, part of a project, a joint venture between Carpenter and Company, the operator of the hotel, and Bullfinch Development, the owner of properties in Harvard Square, including the Post Office across the street, a

handsome building designed by Alphus Manfreddy. Things were moving along well, and last September the financial world went a little sideways and the project has been stalled.

The landlord is now looking at the possibility of having to reuse the building. The building has been empty, the tenants were vacated. It was emptied in anticipation of demolition. When we were here last, I did report to the Commission that we hoped to have a definitive answer when we returned as to the status of whether or not the project would be going forward.

At the moment, the prospects of the project going forward do not appear particularly strong. I have been in contact with my client the past week or two so I could give the most up to date report on the likely path forward here. It was reported to me that they are now contemplating and will begin considering simply re-tenanting the existing building, which would mean that either the current licensee could possibly return or the licensee may choose to work with the landlord and

try to find a successor tenant.

MR. SCALI: What is the time on that? I know the financing issue is a problem because of what happened with the economy. I guess it's been closed for quite a long time.

MR. RAFFERTY: It's been a couple of years, which took us through the permitting. Bullfinch acquired the building and wanted to begin the work and it was on a very fast accelerated track. There was a prospective tenant identified. It was a challenging project but it was moving forward. At the moment that appears less likely.

In fairness to the licensee, that uncertainty has certainly stymied the licensee in terms of what to do. There has been an understanding that the licensee would have priority or a preference to relocate into the new building because the new building is approved to add a ground-floor restaurant. If the couldn't reach commercial terms at that time, the expectation was that the license could then look to sell the license. It is only within the past month or so

that I think the whole project has been reevaluated, and it's more likely that the landlord will seek to return a tenant in the short-term to the existing building.

MR. SCALI: So would your client then go into that space as it exists?

MS. RAFFERTY: I think that would be the next round of conversation; either this or their successor.

MS. ENDYKE: He's in Switzerland right now so I think he is returning to this conversation.

MR. SCALI: Questions, Commissioners?

MR. HAAS: Would this be within the next six months?

MR. RAFFERTY: I think it would have to be. I know we'd be facing the renewal affidavit issue in November. I advised my client that it was getting a shelf life of the type that the Commission tends to place the burden upon the licensee. But as I said, the licensee, in fairness, has really been in limbo until the fate

of the building has been determined.

MR. SCALI: I think we're at the point now where you need to decide we're going to either move or we're going to sell it, unless they can come up with a plan very quickly to get you back in where you were.

MR. RAFFERTY: I predicted you'd say that. That shows you I've been coming here long enough. So I informed my client of that. I said I think that this is -- and I think it's going to force a conversation with Ms. Endyke's client as well. I think the reality is that they're thinking probably is that in the near term, and I think we're talking a two or three year window, the space is sitting empty, there's a license available.

There are certainly parties that would lease it presumably and acquire the license. There has just been a delay in doing that because there had been an expectation that the project might take root, notwithstanding the financing challenges. I can certainly report back to the client that final decisions would need to be in place come the

November renewal period.

MR. SCALI: I think we're at that point or near the end of a cliff.

MR. HAAS: So it's not even six months then; right? It would be less than six months.

MR. SCALI: We're talking about until the end of the year, then we have an issue in December. You should report back to us before the end of the year then.

MR. RAFFERTY: A December appearance would be fine.

MR. SCALI: Any other comments?

MR. RAFFERTY: Will your client be back from Switzerland by then?

MS. ENDYKE: If he's not, I'm sure we'll be able to speak on his behalf.

MR. RAFFERTY: Counsel may need to go to Switzerland.

MR. SCALI: We could all go there. I wouldn't mind going there.

MR. SCALI: Motion then to extend and continue to our hearing in December.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. HAAS: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Thank you very much.

MS. LINT: Application: Deanta Corporation d/b/a Phoenix Landing, Patrick Long, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 512-514 Massachusetts Ave. has applied for a change of premises description to include seasonal outdoor patio on the public sidewalk for 19 tables and 38 seats for service of food and alcohol.

MR. SCALI: Mr. Raffery, did you stand outside and tell everyone to come in as you getting applications. Is this all you're going to do for the summer and then you're done?

MR. RAFFERTY: Mr. Scali, you notice those big buildings aren't getting built anymore.

It's always a pleasure to be here. You may recall me from the earlier case. It's James Rafferty, 130 Bishop Allen Drive.

I have had the pleasure of knowing and representing these young men for well over a decade. They own and operate the Phoenix Landing. This is Mr. McCabe, Joseph McCabe; Kevin Treanor; and their architect is present.



MR. SCHAEFER: William Schaefer.

MR. SCALI: This is the plan you want to put a patio out on the sidewalk as with our patio policy. Have you been to Public Works on this?

MR. SCHAEFER: Yes.

MR. SCALI: What kind of barricades are you putting up outside?

MR. RAFFERTY: This is the architect.

MR. SCHAEFER: It's indicated on the drawings but it's probably going to be an aluminum pipe system that's going to be --

MR. RAFFERTY: The architect is familiar with the streets. He did the one for --

MR. SCHAEFER: I did the one for the Middle East. It's somewhat similar but it will be different, aesthetically different, but structurally it will be quite similar.

MR. SCALI: So it will be kind of a metal piping around with the -- is that wood?

MR. MCCABE: It's wood.

MR. SCALI: The one at the bottom is a

different kind of wood?

MR. TREANOR: The top one is the one we're agreeing on.

MR. MCCABE: We feel it would be a better look from inside the Phoenix as well.

MR. SCALI: Umbrellas?

MR. MCCABE: Yes.

MR. SCALI: Quality of tables and chairs; are you putting out to meet our standards?

MR. MCCABE: Absolutely. We're looking at a lot of spots around the Cambridge area. We like the look of the Tavern in Central Square and we like the look of the one with the lizard there.

MR. TREANOR: Cambridge Common.

MR. MCCABE: On that style.

MR. SCALI: So no missed matched tables and chairs and umbrellas.

MR. MCCABE: Oh no.

MR. SCALI: No alcohol advertisements?

MR. MCCABE: Absolutely not. We didn't expect the City to allow that anyway.

MR. MCCABE: We actually hired a new chef that's going to change the whole menu, so we thought with the deck -- we want to get the deck going in September so that we would have -- selling food basically.

MR. SCALI: My only concern that I have -- I'm sure the Commissioners may have others -- is at some point in the evening you become more of a barroom/entertainment type facility as opposed to food oriented, which is maybe good or bad in some ways. And you want people to be out there on the patio until what time?

MR. MCCABE: We're thinking up until we serve the food. To maybe try until 11:00 p.m. when we stop serving food.

MR. SCALI: So 11:00 p.m.

MR. MCCABE: Yeah. See how it goes. See how it can attract people to eat out there.

MR. TREANOR: This new chef and concept that we're going for this winter and to head toward next summer, we're looking to go more food. We're trying to bring the nights down and

bring the daytime to level up so we can change our evenings.

MR. SCALI: I'm not saying it's a bad thing. I'm just saying that maybe on the patio it may not be the same as it should be on the inside because it can be a little bit more noisy out there.

MR. MCCABE: We would hope not to have any connection between the people eating outside to go inside. We would like it to be whole food time.

MR. SCALI: Concerns?

MR. HAAS: No.

MR. SCALI: Deputy Chief.

MR. TURNER: It's showing up on the drawings on this sample as -- is this a street light or a lighting?

MR. MCCABE: Yes. It's actually like a light inside the patio.

MR. TREANOR: And we have an electrical box and -- we kind of had to work with the existing.

MR. TREANOR: It's a Cambridge light,

yeah.

MR. SCALI: So it will be inside the patio area.

MR. MCCABE: It will work good for us rather than --

MR. MCCABE: And the trees as well are also inside, which is a nice look for us.

MR. TREANOR: Outside the Phoenix there's been a hole outside the door for ten years. The stones have been loose and missing for the longest time. We were very surprised that we got this far without an accident. So it's all good just there.

MR. SCALI: Is the City repairing that for you, or you?

MR. MCCABE: I don't think we could repair it without the City Manager. We did replace the tree there about two years ago and we put the soil and the mulch down, but as the year went on it kind of disappeared back to the bad look again.

MR. SCALI: So these are temporary seasonal seats so we don't have the Zoning issue.

Abutter notifications?

MR. RAFFERTY: Pass those to Mrs. Lint.

MR. SCALI: You realize there's a fee per year for the rental of the space on the street?

MR. MCCABE: Yeah.

MS. LINT: Do you have the affidavit?

MR. RAFFERTY: I didn't know about the affidavit. We could prepare one but those are the list of who we served.

MR. SCALI: Questions from the Commissioners?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: Anybody from the public want to be heard on the matter? All right. So motion to approve 11:00 p.m. closing, food to be served at all times, and subject to the affidavit on the abutters.

MR. HAAS: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Thank you very much.

MS. LINT: Application: United American Veterans, Inc. d/b/a Eugene F. Lynch Post No. 30, William Rodenmacher, Manager, holder of an All Alcoholic Beverages as a Club license at One Cedar Street has applied for a change of manager from William Rodenmacher to Robert K. Dustin.

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

MR. DUSTIN: Rob Dustin, Veteran board member, United American Veterans Post No. 30, and I'm petitioning to take the change in manager from the other license from William Rodenmacher.

MR. SCALI: Tell us who you are.

MR. BOULANGE: Jean Boulange, I'm the Commander at the Veterans Club.

MR. ARSENAULT: David Arsenault, Quartermaster.

MR. SCALI: Did Mr. Rodenmacher resign?

MR. DUSTIN: Yes.

MR. SCALI: Is he still a member?

MR. DUSTIN: He's still a member,



yeah.

MR. SCALI: So Mr. Dustin, how long have you been a member there?

MR. DUSTIN: About 10 years.

MR. SCALI: Are you familiar with the liquor laws and regulations?

MR. DUSTIN: Yes.

MR. SCALI: Have you been through our training course?

MR. DUSTIN: No, I haven't.

MR. SCALI: Questions from the Commissioners?

MR. TURNER: No questions.

MS. LINT: I don't have the record check back.

MR. ARSENAULT: He's clean as a whistle. He's a retired fireman from Arlington. I'm sure you'll find no problems with Mr. Dustin.

MR. SCALI: It's just a formality as always. We need to make sure that all that is in place.

MR. HAAS: Mr. Chair, should we remind

them about the limitations in terms of rental of the hall and things like that?

MR. SCALI: Very good suggestion.

What's your policy on rental of the hall in terms of use for outside activities? Or, do you have those?

MR. DUSTIN: We do. We rent out the hall to -- we like to rent it through a member. We know the capacity of 99 people and things like that. But they do rent it at times. They have rented on the outside, but if we run into a problem we know we can apply for a uniform policeman there.

MR. SCALI: Just so you know, the rule is that if you are a club, which you are, that events are for members and guests of members only. So if someone who's a member isn't holding an event or sponsoring an event for somebody then it wouldn't be allowed.

MR. DUSTIN: To my knowledge, I know they usually go through members.

MR. SCALI: What happens is different groups go around looking for clubs that are

available, and they may tell you they're like a birthday party and there ends up being a fight in the club, and that type of thing. It may not be what your intention is but they don't always tell you the truth when they're renting out the facility.

MR. DUSTIN: We actually came up with a form telling them that if anybody even came and asked for a spot, we give them a form telling them that they're going to have to hire a police detail to even qualify.

MR. HAAS: I think the issue we want to make sure that's clear is that it's actually based on the sponsorship of a member so that you have a member that's responsible for whoever is in that building. We've had other social clubs where they have just been renting it out and then you get folks coming in there, and then they've really made a disturbance and everybody says well, gee, we don't know who they are. So it's really important I think that you have a member that's being responsible for whoever is in building and using

the facility.

MR. DUSTIN: We have a contract for member and member-sponsored. It's pretty much a neighborhood organization too. So most people know a member who will come up there.

MR. SCALI: We just want to make sure you understand the rule because what happens is a lot of these clubs say they do, and then they get trapped in the fact that you can come in and don't tell them the truth. So if you're there and responsible, or you're there, or whatever; whoever your person is that's responsible for functions, you ought to question that person and say I expect that you'd be here, a club member is going to be here watching you during the event. We're going to make sure that that club member is sponsoring this particular event at all times.

MR. DUSTIN: We appreciate that.

MR. SCALI: Motion to approve subject to the record check.

MR. HAAS: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Good luck.

MS. LINT: Application: Central Brew LLC d/b/a Central Brew, Michael Theodorakakos, Manager, has applied for a Common Victualer license for 26 seats (20 seats inside and six on an outdoor seasonal patio) at 350 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 operating hours from 5:00 a.m. to 1:00 a.m. seven days per week. Applicant is also applying for an Entertainment license to include an audio tape machine/CD playing music below ordinary conversation level, two TVs, and a radio.

MR. SCALI: Good evening. Have a seat. Tell us your name.

MR. GAVRIEL: My name is Michael Gavriel. Mr. Theodorakakos who is the manager of the LLC that's going to be running this entity, unfortunately he couldn't make it today so I'm representing him.

MR. SCALI: So Michael is not here?

MR. GAVRIEL: No.

MR. SCALI: What is your name?

MR. SCALI: Gavriel, Michael Gavriel.

MR. SCALI: So why isn't your manager here?

MR. GAVRIEL: It's an unforeseen family matter that came up.

MR. SCALI: Are you the owner of Central Brew?

MR. GAVRIEL: No, I'm not the owner. I'm going to be the manager of the establishment.

MR. SCALI: What is the establishment?

MR. GAVRIEL: It's a cafe basically.

MR. SCALI: What is the other Michael going to do?

MR. GAVRIEL: Michael is the owner. He's going to be working there but he has another business also he's running.

MR. SCALI: So he's the owner?

MR. GAVRIEL: He's the owner, yes.

MR. SCALI: And you will be the eventual manager?

MR. GAVRIEL: I will be the hand-on

manager, the every day manager there.

MR. SCALI: Does he want your name on there, or does he want his name on there?

MR. GAVRIEL: His name basically. If everything had went all right today, he would have been here also with me.

MR. TURNER: This sounds familiar. Didn't we already hear this?

MR. SCALI: Wasn't there another coffee shop there or something?

MR. GAVRIEL: No. This is a strange story. This got started six years ago and then it was abandoned. We found out again it was for lease.

MR. SCALI: Has it been empty all that time?

MR. GAVRIEL: It has been empty all this time.

MR. TURNER: I thought I heard something.

MR. SCALI: Maybe we heard something but it never opened. I don't remember.



MS. LINT: Atomic Bean opened on Massachusetts Ave.

MR. TURNER: This is at the base of the health club upstairs, isn't it.

MR. GAVRIEL: No. There is a health club downstairs on the Massachusetts Ave. side. This is a space on Sidney Street right next door to the Asgood Bar.

MR. SCALI: But the official address is 350 Massachusetts Avenue.

MS. LINT: They I do have a letter from the property manager at Forest City. He said Forest City has leased the space to Central Brew along the Sidney Street side. They believe an experienced operator such as Mr. Theodorakakos will run a successful business and at the same bring increased pedestrian activity to University Park.

MR. SCALI: So you want 20 seats inside and six outside?

MR. GAVRIEL: Yes, sir.

MR. SCALI: Have you been to the Public Works Department for your permit?

MR. GAVRIEL: We presented all this to the Inspectional Services and it was okay there.

MR. SCALI: But it's not Inspectional Services you have to go to. You have to go to the DPW for the sidewalk permit. Then you have to apply to the City Council for permission for the sidewalk seats.

MR. GAVRIEL: We have to do that then.

MR. SCALI: Go to the DPW and the City Council for the outside seats.

MS. LINT: If you call the office tomorrow and speak to Chris, he can explain what to do.

MR. SCALI: So 5:00 a.m. to 1:00 a.m. seven days a week. Background music, two TVs and radio. Questions?

MR. HAAS: Central Brew is what, coffee?

MR. GAVRIEL: Yes. It's basically all coffees. The Central Brew is Central Square Brewing Coffee.

MR. SCALI: Food too?

MR. GAVRIEL: Yes, some sandwiches, breakfast sandwiches. Basically if you can picture a Starbucks with some sandwiched and some light fare, some Italian gelato, that's what we are.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: We have to do it under advisement; right?

MR. SCALI: We need to straighten out the patio seats. So we'll make a motion to take it under advisement. Moved.

MR. HAAS: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: So straighten out the patio seats and we'll vote on it then.

MR. GAVRIEL: I will. Thank you very much.

MS. LINT: The next item, Potatofreak & Chocofreak has been taken off the agenda. Apparently there was a brawl upstairs in the hallway between the applicant and the landlord.

MR. HAAS: A brawl or a disagreement?

MS. LINT: Chris described it as a brawl. He said they were yelling and screaming. The landlord said he will never lease to this man.

MR. SCALI: Did the applicant withdraw the application or did the landlord? Is it withdrawn or is it just continued?

MS. LINT: No lease. Will not negotiate.

MR. SCALI: I guess it's off the agenda for now.

MS. LINT: Application: Arigato, LLC d/b/a Masa's Sushi Bar, Sora Kim, Manager, has applied for a Common Victualer license for 15 seats at 1815 Massachusetts Avenue. Said license if granted would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises and will have operating hours from 12:00 p.m. to 9:00 p.m. seven days per week.

MR. SCALI: This lady has been waiting patiently in the front row the whole time. Good evening. Tell us your name.

MS. KIM: My name is Sora Kim, S-O-R-A, last name, K-I-M. I'm owner and manager of Masa's Sushi Bar.

MR. SCALI: You want to go into the Porter Exchange Building?

MS. KIM: Yes.

MR. SCALI: What was there before? Was it Kotabukeya?

MS. KIM: Yes, same.

MR. SCALI: Same number of seats as Kotabukeya?

MS. KIM: Same, everything the same. Only change new ceiling, painting, countertop change. Same menu.

MR. SCALI: Fifteen seats, 12:00 noon to 9:00 p.m. seven days a week.

MS. KIM: Yes.

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

MS. KIM: I have since 2001 January until 2003 November, I was Pancake House, breakfast and lunch. I have a menu.

MR. SCALI: What town?

MS. KIM: In Haverhill.

MR. SCALI: In my hometown.

MR. SCALI: Were you a manager there?

MS. KIM: Owner.

MR. SCALI: Is this your first venture as Sushi Bar?

MS. KIM: It's the first time.

MR. SCALI: Questions from the Commissioners?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: Pleasure of the  
Commissioners?

MR. HAAS: Approve.

MR. TURNER: Seconded.

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

MR. HAAS: Aye.

MR. TURNER: Aye.

MS. KIM: Thank you very much. Good  
luck.

MS. LINT: Disciplinary matter:  
Multinational Trade Group, Inc. d/b/a Gourmet  
Express, 1868 Massachusetts Avenue for operating  
under a corporate name that has not been applied  
for and approved by the Commission.

Quick Gourmet, Inc. d/b/a Gourmet  
Express, Nazih Hmaza, Manager, has applied for a  
Common Victualer license for 19 seats at 1868  
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 operating hours 24 hours a day, seven days per  
week.

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

MR. HAMZA: Nazih Hamza.

MR. SCALI: When last we were here you  
were trying to decide what corporation you wanted  
to be I think. Have you straightened it out?

MR. HAMZA: Yes. I did apply to do  
business under the Quick Gourmet Inc.

MR. SCALI: So you want to be Quick



Gourmet Inc. which is you? Are you the officers and directors of Quick Gourmet Inc.?

MR. HAMZA: Yes, me and my brothers.

MR. SCALI: That's the entity you want to operate under?

MR. HAMZA: Yes, sir.

MR. SCALI: Nothing else is changing. Nineteen seats?

MR. HAMZA: Yes, sir.

MR. SCALI: Open 24 hours a day inside the shop. So Multinational Trade Group Inc. is gone?

MR. HAMZA: Not officially, but it's not doing business. I used to own about four or five White Hen Pantries and they were doing business under the umbrella of Multinational Trade Group. I don't have any more White Hens. It is just a matter of going to the state and requesting this corporation to be dissolved.

It was not meant to be doing business as Gourmet Express. Like I said, it was an oversight. We did form the corporation a week

after White Hen exited the premises there. Like I said the last time, with all this commotion and stuff like that I did not become aware of it until people that were doing my payroll indicated to me that they cannot do payroll for the two separate companies since one company will do White Hens and the other company would do the other guy. So I went and I formed a corporation and I --

MR. SCALI: You didn't come here.

MR. HAMZA: I didn't come here.

MR. SCALI: Is all the paperwork in order?

MS. LINT: Yes.

MR. HAMZA: And it's not for purposes of evasion.

MR. SCALI: We get it. Just want to make sure you have the right paperwork and we have the right paperwork and that's the name you're going to be operating under now. You have the name Gourmet Express on your door?

MR. HAMZA: Yes.

MR. SCALI: Questions from the

Commissioners?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: We've got two items. One is the Quick Gourmet Inc. application. Motion to approve that.

MR. HAAS: Moved.

MR. TURNER: Second it.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: The disciplinary matter with regards to the Multinational Trade Group.

MR. HAAS: Place it on file.

MR. TURNER: Second it.

MR. SCALI: Place on file, moved, seconded. All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Just make sure you get your new licenses in the new name from our office upstairs and pay your fees. Do we have back fees

on that?

MS. LINT: He paid on the other ones.

MR. SCALI: You're all set.

MR. HAMZA: Thank you very much.

MR. SCALI: Anything else before the  
Commissioners?

MS. LINT: Nothing.

MR. SCALI: 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 7:53 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 17th day of August, 2009.

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