CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION HEARING

LICENSE COMMISSION BOARD MEMBERS:

MICHAEL GARDNER, CHAIRMAN
ROBERT HASS, POLICE COMMISSIONER
LESTER BOKUNIEWICZ, DEPUTY CHIEF

STAFF: ELIZABETH LINT, EXECUTIVE DIRECTOR

AT: Michael J. Lombardi Building
Basement Conference Room
831 Massachusetts Avenue
Cambridge, Massachusetts 02139

DATE: Tuesday, July 9, 2013

TIME: 6:04 p.m. to 7:58 p.m.

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P R O C E E D I N G S

EXECUTIVE DIRECTOR ELIZABETH LINT:

Before we get started, if anyone has a cell phone on, we would appreciate it if you turned it off. And it's very difficult to hear with the blower. So if people could keep it quiet in the back, we would really appreciate that.

License Commission General Hearing, Tuesday, July 9, 2013, 6:09 p.m., we're in the Michael J. Lombardi Building, 831 Mass Ave, Basement Conference Room.

Before you are the Commissioners: Chairman Michael Gardner, Commissioner Robert Haas and Deputy Chief Lester Bokuniewicz.

APPLICATION: H MART CAMBRIDGE, LLC

First matter is Application: H Mart Cambridge, LLC, Ilyeon Kwon, Manager, has applied for a common victualer license to be exercised at

581 Massachusetts Avenue. Said license, if granted, would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises. The hours of operation will be 9:00am to 11:00pm seven days per week with a seating capacity of 30.

CHAIRMAN MICHAEL GARDNER: Good evening. If you would be so kind to state and spell your last name for the record?

ATTY. JAMES RAFFERTY: Good evening, Mr. Chairman, and members the Commission, James Rafferty, R-A-F-F-E-R-T-Y.

I'm attorney with offices at 130 Bishop Allen Drive. I'm appearing this evening on behalf of the applicant, H Mart.

And seated to my right is in Sungh Choi, S-U-N-G-H, C-H-O-I.

CHAIRMAN MICHAEL GARDNER: I see there are a number of proposals before us this evening.

Could you just give us a little --

ATTY. JAMES RAFFERTY: Surely.

CHAIRMAN MICHAEL GARDNER: -- a bigger picture, and then specifically, focus on this applicant.

ATTY. JAMES RAFFERTY: So, as noted, Mr. Chair, you're correct.

This is an application for actually four separate CV licenses to operate what essentially would amount to a food court-style operation inside the soon-to-be-opened H Mart Grocery Store.

The store is going to the location that was previously occupied by the Harvest Cooperative Market and the Clear Conscience Cafe.

As you can see from the floor plan, within the first portion of the market contains this food court area.

In the center of this area will be a

series of tables, and then there will be a three separate vendors that will operate separately licensed food operations: Go Go Curry, which you will hear from shortly; Sapporo Ramen, which you'll also hear from and Paris Baguette. They're independent businesses, but they're all going to be operating in a food court-style within the H Mart Restaurant.

H Mart itself has also applied for a CV license because H Mart is going to be responsible for the common area, if you will, the areas where all the tables are located.

The food court seating area is the -- is part of H Mart. But each of these -- these three operations will be cooking and preparing their own food, have their own kitchens and be responsible, and we can go through each of those as those applications come forward.

H Mart really is more in the nature -- it

is a grocery store. It has little in the way of food cooked on premises. In fact, it has no food that it prepares on premises. But some of its customers may elect to purchase a retail food product and would be free to sit at these tables as well.

So, our thinking was because H Mart and H Mart employees are going to be responsible for maintaining the areas where the tables are because some of their patrons may be eating on the premises. So, it made sense for them to also seek a common victualer license. Although it's admittedly not a traditional common victualer, they do not have a kitchen and they will not be preparing food, but...

CHAIRMAN MICHAEL GARDNER: So, if I've got it right, there are four applications?

JAMES RAFFERTY: Correct.

CHAIRMAN MICHAEL GARDNER: Which includes

three independent vendors on some lease or some kind of an arrangement with the parent company or the grocery store?

JAMES RAFFERTY: With H Mart, yep.

CHAIRMAN MICHAEL GARDNER: And then H Mart itself wants its own common victualer license because of the common area and the fact that people might buy an apple and go sit at a table and eat it?

JAMES RAFFERTY: Right.

CHAIRMAN MICHAEL GARDNER: But will not be running a fourth restaurant?

JAMES RAFFERTY: That's correct. Essentially, correct. I think we kind've reviewed this and that was our conclusion in terms of analyzing what was needed.

It felt the safer course of conduct was for them to have the CV license as well just because of the communal nature of the tables and

the fact that the responsibility for those, the location of those seats, those tables and chairs really will be H Mart.

So, the floor plan -- maintaining that floor plan we thought would make sense to have it within the responsibility of the H Mart CV license.

The other three licensees, their customers will use those tables, but it will be H Mart employees that maintain tables, keep the area clean and orderly, and given that interrelationship, they've also, based on our advice, frankly, they've sought a CV license as well.

CHAIRMAN MICHAEL GARDNER: Can you summarize or can -- is it Mr. Choi?

SUNGH CHOI: Yes.

CHAIRMAN MICHAEL GARDNER: H Mart's general level of expertise and experience in

operating the food court-style arrangements, and I don't know if you're listed as the manager or what your role will be, if you could clarify that?

SUNGHO CHOI: All right. My name is Sungh Choi and I'm a corporate counselor for the company, H Mart Cambridge, LLC. And H Mart has been in the retail grocery business for 32 years. Since 1982.

And currently, we have 37 stores in 11 states and one of which is located in Burlington, Massachusetts. And not only do we provide general grocery items, like in other traditional American supermarkets, like Whole Food, we also provide some ethnic grocery and food items, like Korean, Japanese and Chinese.

So, I'm sure we're gonna be a good addition to the City of Cambridge.

JAMES RAFFERTY: Do you have -- to the

Chairman's point, do you have a similar setup with other vendors in your location?

SUNGHO CHOI: Oh, yes, yes. Right, right.

JAMES RAFFERTY: This is a business model you use.

SUNGHO CHOI: Right. Right. The store located in Burlington is among 37 stores nationwide, about 35 stores have a similar-type things, like bakery and food court inside the store. This is part our concept. Grocery store running with bakery, and a food court with Korean, Japanese, Asian, Chinese restaurant inside the store.

And being in Cambridge, this is a little bit different in terms of location because the grocery space and the food court and the bakery space will be a little bit separated, but, typically, we are very situated with this type of

concept. So, I think I can say that we're very good with this type of business.

CHAIRMAN MICHAEL GARDNER: Did I understand, sir, that your role with the corporation is as counsel?

SUNGHO CHOI: Yes, in-house counsel.

CHAIRMAN MICHAEL GARDNER: Can either of you just describe the experience of, I'll say, Mr. Kwon in terms of experience in running an operation similar to this?

SUNGHO CHOI: Mr. Kwon is the owner of the company. He is the listed manager of the LLC and I --

CHAIRMAN MICHAEL GARDNER: Do we know who is going to be the manager on premises?

JAMES RAFFERTY: Initially, the thinking is Mr. Kwon will be here, but I suspect the horizon here is in the five- to six-month window. I suspect there will be an individual designated

and will probably be back perhaps before or shortly after the opening of business.

Do we do change of managers on CV licenses? I don't remember whether --

EXECUTIVE DIRECTOR ELIZABETH LINT: We do.

JAMES RAFFERTY: You do.

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

CHAIRMAN MICHAEL GARDNER: I see it's under construction right now, what is the estimated opening time?

SUNGHO CHOI: We're targeting late November or early December.

CHAIRMAN MICHAEL GARDNER: Other questions?

POLICE COMMISSIONER ROBERT HAAS: No questions.

DEPUTY CHIEF LESTER BOKUNIEWICZ: No.

CHAIRMAN MICHAEL GARDNER: Anything else

you care to add?

JAMES RAFFERTY: No thank you.

CHAIRMAN MICHAEL GARDNER: Are there any members of the public who would like to be heard on this matter?

Seeing none, I'll make the motion to approve the common victualer license for H Mart Cambridge with the understanding and expectation that under this common victualer license no actual food will be prepared for sale, but would be to manage the common space and to allow purchases from the grocery store to be consumed on premise.

DEPUTY CHIEF LESTER BOKUNIEWICZ: I'll second the motion.

CHAIRMAN MICHAEL GARDNER: Motion having been made and seconded, all those in favor, signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY CHIEF LESTER BOKUNIEWICZ: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed.

So, sounds very interesting.

SUNGHO CHOI: Thank you very much.

CHAIRMAN MICHAEL GARDNER: Welcome to Cambridge and we'll see if now you're going to be able to get any of your other vendors in.

SUNGHO CHOI: Thank you very much.

ATTY. JAMES RAFFERTY: We're all set.

APPLICATION: M.I.G. PARTNERS, LLC D/B/A SAPPORO RAMEN CENTRAL AT H MART

EXECUTIVE DIRECTOR ELIZABETH LINT: Application: M.I.G. Partners, LLC d/b/a Sapporo Ramen Central at H Mart, Taiji Mineo, Manager, has applied for a common victualer license to be exercised at 581 Massachusetts Avenue. Said license, if granted, would allow food and non-alcoholic beverages to be sold, served, and

consumed on said premises. The hours of operation will be 9:00am to 11:00pm seven days per week with a seating capacity of 30.

CHAIRMAN MICHAEL GARDNER: Mr. Rafferty, if you could clarify your role here. Are you representing the applicant or essentially the landlord?

ATTY. JAMES RAFFERTY: I'm representing all of the applicants in addition to the landlord.

But this particular applicant also has counsel present, Attorney Jared Chrislip, C-H-R-I-S-L-I-P.

And this applicant is Taiji Mineo, T-A-I-J-I, M-I-N-E-O and Mr. Mineo, who is the operator the Sapporo Ramen, has been a CV holder in Cambridge since 1990. This will be Cambridge's second Sapporo Ramen.

He has been operating in the Quarter

Exchange Building, the Lesley University Building, the former Sears Roebuck Building, as some people know it, since 1990 with a nearly identical concept. In fact, some of the elements of that are present here.

It's ground floor, retail operation. The difference is that it's Sapporo Ramen.

Mr. Mineo's seating is contained within -- entirely within the premises. There's no communal seating.

But Mr. Mineo is familiar with Cambridge and the Cambridge market. It's a Japanese style noodle restaurant. We provided copies of the menus. They would operate one of the three locations, and it's called out and depicted separately on the plan.

And it would be a -- it would be an experience that Mr. Mineo is familiar with because of his long experience in Cambridge

operating Sapporo Ramen on Mass Ave.

CHAIRMAN MICHAEL GARDNER: So a question that occurs to me is we have four applications each listing 30 seats; are we, in fact, talking about 120 seats?

ATTY. JAMES RAFFERTY: Yes, we are.

CHAIRMAN MICHAEL GARDNER: Because it's communal, we're not expected to be counting here that there are 30 reserved for the apple eaters?

ATTY. JAMES RAFFERTY: That's correct. We looked at the model at the Cambridgeside Galleria, and I've had some familiarity as I've represented a few licensees there, and we simply took the total number and divided them by the four licensees.

But, you're correct, it's not as if --

CHAIRMAN MICHAEL GARDNER: There are segregated areas?

ATTY. JAMES RAFFERTY: Right.

CHAIRMAN MICHAEL GARDNER: Ms. Lint, any issues?

EXECUTIVE DIRECTOR ELIZABETH LINT: Not at all.

CHAIRMAN MICHAEL GARDNER: Other things you would like to add?

ATTY. JARED CHRISLIP: Mr. Chairman, probably not, unless you have particular concerns. We're here just to provide as much information and context and answers as possible. But I think Attorney Rafferty has done a fine job presenting as exactly we would.

ATTY. JAMES RAFFERTY: Coming from a Boston lawyer, that's high praising.

ATTY. JARED CHRISLIP: Came all the way across the river for this. Happy to be here.

ATTY. JAMES RAFFERTY: I told them what a hospitable environment this was. I hope he's not disappointed.

CHAIRMAN MICHAEL GARDNER: Any questions?

DEPUTY CHIEF LESTER BOKUNIEWICZ: I don't have any questions. I'm familiar with the restaurant. I inspected it many times. And it's -- no issues as far as we're concerned.

CHAIRMAN MICHAEL GARDNER: Do you have any questions from the counsel from Boston that may make him feel like his trip is worthwhile?

POLICE COMMISSIONER ROBERT HAAS: No.

ATTY. JAMES RAFFERTY: If it's too easy, he may be coming back.

CHAIRMAN MICHAEL GARDNER: Are there any members of the public who would like to be heard on this matter?

Seeing none, I'll make the motion to approve a common victualer license exercised at 581 Massachusetts Avenue by Sapporo Ramen Central as described in the application.

DEPUTY CHIEF LESTER BOKUNIEWICZ: I'll

second the motion.

CHAIRMAN MICHAEL GARDNER: The motion have had been made and seconded, all those in favor, signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY CHIEF LESTER BOKUNIEWICZ: Aye.

CHAIRMAN MICHAEL GARDNER: None opposed.

Good luck with your expansion and we bid you well.

ATTY JARED CHRISLIP: Thank you very much.

POLICE COMMISSIONER ROBERT HAAS: You're all planning on opening around the same time frame, right, it will all be simultaneous?

ATTY. JAMES RAFFERTY: Right. I believe so. I think it would be almost essential that it happens that way.

APPLICATION: GO GO CURRY USA, INC D/B/A GO GO CURRY AT H MART

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Go Go Curry USA, Inc d/b/a Go Go Curry at H Mart, Kazuko Nagao, Manager, has applied for a common victualer license to be exercised at 581 Massachusetts Avenue. Said license, if granted, would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises. The hours of operation will be 9:00am to 11:00pm, seven days per week with a seating capacity of 30.

CHAIRMAN MICHAEL GARDNER: Good evening. If you be so kind as to just state and spell your name for the record.

TOMOKO OMORI: Yes. My name is Tomoko Omori, spelled T-O-M-O-K-O, O-M-O-R-I.

CHAIRMAN MICHAEL GARDNER: And your role with this application?

TOMOKO OMORI: I'm president of USA Corporation of Go Go Curry.

ATTY. JAMES RAFFERTY: The proposed manager, Ms. Nagao, they currently operate four locations in New York City and Ms. Nagao is on duty in New York City.

It will be the intention for Ms. Nagao to be here for the first few months when the restaurant opens. Like some of the earlier application, like the H Mart application, Ms. Omori tells me their expectation would that they will train someone and find someone from within their New York operation.

TOMOKO OMORI: I will be responsible in the initial months also.

CHAIRMAN MICHAEL GARDNER: Could you just tell us a little bit about the restaurant concept and what will be involved with respect to the kind of cooking and so forth?

TOMOKO OMORI: Japanese curry is Japanese comfort food and we have 70 locations in Japan,

one in Brazil, one in Hong Kong, three in Singapore, four in New York City right now. And this will be the first out of the states out of New York and it is a Japanese comfort food. And we will serve original curry sauce over rice and topping of pork, chicken, shrimp, sushi, egg at the order. We will make it fresh at the order.

CHAIRMAN MICHAEL GARDNER: So you'll use fryolators or give us some sense about what kind of cooking it is.

TOMOKO OMORI: Rice will be cooked at the site. Sauce will be delivered from the central kitchen in New York and delivered by H Mart and papalo will be deep fried at the order -- when we do the order.

DEPUTY CHIEF LESTER BOKUNIEWICZ: You will have foods and stuff that will require a hood.

ATTY. JAMES RAFFERTY: You will need to

have the exhaust.

TOMOKO OMORI: Ventilation, yes.

CHAIRMAN MICHAEL GARDNER: That will be subject to your inspection?

DEPUTY CHIEF LESTER BOKUNIEWICZ: Yes.

CHAIRMAN MICHAEL GARDNER: You're familiar with our requirements about that?

TOMOKO OMORI: Yes. It's similar to the one we have in the World Trade Center, the stadium near the World Trade Center, and the one in Chelsea stadium is next to the Fire Department and we got the inspection permit.

CHAIRMAN MICHAEL GARDNER: And I'll ask because you're here and it occurred to me now, but a more general question, provisions for deliveries and take out of refuse and trash?

ATTY. JAMES RAFFERTY: H Mart will play a key role in the coordination of that. That's another reason for them having a CV license

because we wouldn't want one licensee to have the ability to point to another. But there will be a central loading zone. There's a central compactor for the trash for all the restaurants. All of that is in the coordination of H Mart, and as Mr. Choi mentioned, they run this concept in 35 other locations, so they're fairly experienced in how to make sure that that happens, but it's a key component. Delivery area, we've worked with the Traffic Department that all deliveries will come in from Bishop Allen Drive. There's an existing loading area there. That will be the loading for the grocery store as well as for the three restaurants.

CHAIRMAN MICHAEL GARDNER: Is that reasonably similar to what operated before with the prior grocery, if you know?

ATTY. JAMES RAFFERTY: It is the location of the prior loading zone. We're making some or

H Mart is making some changes, so that it doesn't have to be elevated. They're going to lower it because the sidewalk is blocked during the prior operation. They have been out of there now, I think, about six or eight months, so part of the loading plan has been approved and involves lowering that so the material can go right in at the sidewalk level and they don't have this ramp going across.

It used to go from the level of the truck into -- it was about 3-1/2, 4 feet off the ground and it created a blockage on the sidewalk. And so we've had to alter the premises to accommodate that.

CHAIRMAN MICHAEL GARDNER: Any questions?

POLICE COMMISSIONER ROBERT HAAS: No questions.

CHAIRMAN MICHAEL GARDNER: Are there any members of the public who would like to be heard

on this matter?

Seeing none, I'll make the motion to approve the common victualer license for Go Go Curry at H Mart as described in the application.

DEPUTY CHIEF LESTER BOKUNIEWICZ: I'll second the motion.

CHAIRMAN MICHAEL GARDNER: Motion having been made and seconded, all signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY CHIEF LESTER BOKUNIEWICZ: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed.

So welcome to Massachusetts and good luck with your comfort food.

TOMOKO OMORI: We're excited. Thank you.

APPLICATION: PARIS BAGUETTE AMERICA, INC D/B/A PARIS BAGUETTE AT H MART

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Paris Baguette America, Inc d/b/a Paris Baguette at H Mart, Sungho Choi, Manager, has applied for a common victualer license to be exercised at 581 Massachusetts Avenue. Said license, if granted, would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises. The hours of operation will be 9:00am to 11:00pm, seven days per week with a seating capacity of 30.

CHAIRMAN MICHAEL GARDNER: Good evening. If you would be so kind as to introduce yourself.

RACHEL KIM: My name is Rachel Kim, R-A-C-H-E-L, K-I-M.

ATTY. JAMES RAFFERTY: Ms. Kim is a principal with Paris Baguette. It will be the bakery for the grocery store. They operate a bakery in many locations. They will sell breads, cakes, pastries and the like.

Typically a bakery doesn't always have a

CV license, but in this case they also serve sandwiches and beverages, so we've applied for the CV license.

It could be a case were a shopper at the grocery store picks up fresh breads or baked goods and never goes to those tables or it could be that they might pick up an individual item and go to those tables. They represent the third vendor as part of this collaborative and they will be like the other two, maintaining their own kitchen, their own employees, responsible for their own sanitary and cooking facilities and they -- their customers will share in the common seating that's been described earlier.

CHAIRMAN MICHAEL GARDNER: Does Paris Baguette have an ongoing relationships with H Mart in other locations?

RACHEL KIM: Yeah, in New York and New Jersey and California, too. We presently operate

15 stores in New York, New Jersey and California. Our bread is based from South Korea. We currently operate 4,000 stores in South Korea. And we bake pastries, breads and sandwiches.

CHAIRMAN MICHAEL GARDNER: So many of your stores operate independent of H Mart even in the US?

RACHEL KIM: Yes.

CHAIRMAN MICHAEL GARDNER: Some of them you have a partnership with H Mart or a relationship similar to this one?

ATTY. JAMES RAFFERTY: Is it 15?

RACHEL KIM: 15 stores.

ATTY. JAMES RAFFERTY: 15 locations within H Mart grocery stores, is that correct?

RACHEL KIM: Yes. Four stores around --

SUNGHO CHOI: They have 15 retail stores in the United States, New York, New Jersey, but there's only one inside our store in San Diego,

California. This will be the second location, Paris Baguette and H Mart.

CHAIRMAN MICHAEL GARDNER: Okay. Thank you very much.

Other questions?

POLICE COMMISSIONER ROBERT HAAS: So I just want to make sure I understand this correctly. So, you will be selling your product to H Mart who in turn will sell it to the customer or you sell to the general public directly?

RACHEL KIM: We're going to separately from --

ATTY. JAMES RAFFERTY: All of these licenses will sell directly. They have their own --

POLICE COMMISSIONER ROBERT HAAS: I thought you said they were selling -- they're baking for H Mart, and I just assumed they would

be purchasing their baked products through H Mart.

ATTY. JAMES RAFFERTY: No. I apologize if I gave that information. H Mart does not -- like some grocery stores have a bakery, H Mart does not maintain a bakery. They won't do any baking this. This will be the bakery at H Mart.

POLICE COMMISSIONER ROBERT HAAS: When you described it that way, I thought it was part of H Mart as opposed to being a separate enterprise.

ATTY. JAMES RAFFERTY: Okay.

CHAIRMAN MICHAEL GARDNER: Are there any members of the public who would like to be heard on this matter?

Seeing none, I'll make the motion to approve the common victualer license for Paris Baguette at H Mart as described in the application.

DEPUTY CHIEF LESTER BOKUNIEWICZ: I'll second the motion.

CHAIRMAN MICHAEL GARDNER: Motion having been made and seconded, all signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

DEPUTY CHIEF LESTER BOKUNIEWICZ: Aye.

CHAIRMAN MICHAEL GARDNER: None opposed.

So, again, welcome, I think, to Massachusetts for the first time.

ATTY. JAMES RAFFERTY: Thank you very much. Have a good evening, gentlemen.

APPLICATION: 13 GERALDINE PARTNERS, LLC D/B/A BENNY'S CREPE CAFE

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: 13 Geraldine Partners, LLC d/b/a Benny's Crepe Cafe, Franklin Shear, Manager, has applied for a vendor/peddler license to operate a

mobile food truck on private property at 1 Oxford Street. Applicant would be permitted to be on said property from 11:30am to 9:00pm, seven days per week.

CHAIRMAN MICHAEL GARDNER: Good evening. Would you be so kind as to state and spell your last name for the record and describe your role with the application?

FRANK SHEAR: My name is Frank Shear, S-H-E-A-R. I'm the owner and everything, chief executive of Benny's Crepe Cafe.

We're a mobile food truck currently operating the streets of Boston and have done a private event here in Cambridge in the past.

We operate just a single food truck. We make crepes, French-style crepes of various kinds, savory, sweet and we sell them retail on the streets of Boston.

We also do a little bit of catering for

private parties here and there, but at this moment, 75 percent of our business is just retail on the streets of Boston.

CHAIRMAN MICHAEL GARDNER: So will this involve diverting the existing resources, i.e., truck to Cambridge, or will you expand and operate a separate truck?

FRANK SHEAR: We'll be operating additional hours that we do not now.

So, presumably, we'll work on Thursdays and Saturdays. We have spoken with the people in Harvard and that's what our proposal is to do.

CHAIRMAN MICHAEL GARDNER: I think I understand this, but just to be clear and have Ms. Lint help process it. Although the applications are for seven days a week. The possibility is that the day of the week may change and we don't really expect everybody to be there seven days a week.

EXECUTIVE DIRECTOR ELIZABETH LINT: That's correct.

CHAIRMAN MICHAEL GARDNER: They have the option of coming on days that work for them and/or work for Harvard?

EXECUTIVE DIRECTOR ELIZABETH LINT: Harvard basically schedules all of them at the times that works for them as well as for Harvard. They try to have a mix on any given day with all the different trucks that they have been approved for that location.

Harvard has done a huge outreach nationwide going to different campuses and seeing what students were looking for and trying to enhance what they were offering, so this was part of what they came up with.

CHAIRMAN MICHAEL GARDNER: And what are your expectations as to the hours and days of the week you will be operating, sir?

FRANK SHEAR: We're currently operating at 11:00 a.m. to 3:00 p.m., although we might do a little bit of experimentation to see which hours work best for us within that location. We'll work it out with Harvard as to what they would like and what will work for us.

CHAIRMAN MICHAEL GARDNER: That's typically two days a week, is that correct, sir?

FRANK SHEAR: At the moment, yes. We don't see it expanding any further than that.

CHAIRMAN MICHAEL GARDNER: Are you operating there currently --

FRANK SHEAR: No.

CHAIRMAN MICHAEL GARDNER: -- are you're waiting for us?

FRANK SHEAR: Yeah, we're waiting for you.

CHAIRMAN MICHAEL GARDNER: How soon will you be prepared to show up there?

FRANK SHEAR: Right now.

EXECUTIVE DIRECTOR ELIZABETH LINT: I will just answer, that on occasion there are events going on at Harvard where they want trucks there later in the day, and this gives them the opportunity to do that without having to come apply for us for a one-day license or extension of hours or permission to move or something like that.

DEPUTY CHIEF LESTER BOKUNIEWICZ: The vehicle will be subject to our inspection?

EXECUTIVE DIRECTOR ELIZABETH LINT: Oh, absolutely.

FRANK SHEAR: We've already had health and fire inspection in conjunction with the prior one-day event we did back in May.

COMMISSIONER MICHAEL GARDNER: Would you tell us a little about your expectations for this location? We're getting a lot of applications

here, so I would just like to hear from a retail vendor exactly what kind of opportunity you think it provides.

FRANK SHEAR: In terms of the numbers that we expect to draw, is that what you're asking?

COMMISSIONER MICHAEL GARDNER: Well, I'm not sure what I'm asking. I would just like to hear what your view of it is.

FRANK SHEAR: We provide sort've an ethnic type of food experience.

There are not that many creperies in the Greater Boston area. There's one other crepe truck and we're a little bit different from them.

But it's something that has broaden the ethnic mix of the types of foods that are found on the streets, and I think if you look around to the different trucks, you see that many of them have that sort've ethnic quality.

It's not something you find in a shop along the street, but something that has the personality of -- you know, some people are operating a very small business and want to reach out to the public and make friends with the public, engaging the public.

CHAIRMAN MICHAEL GARDNER: Is your sense that you will draw your business primarily from students or some mix of students and staff and pedestrian passersby?

FRANK SHEAR: Well, our product really has very, very broad appeal. A lot of the younger people enjoy our dessert crepes, particularly the ones where they can request whatever kind of off-beat option, you know, whatever kind of mix of ingredients that we have.

And then we have the older people who come to know crepes, say, in Paris or wherever and want the traditional type of crepe and we

offer both.

We structured our business around being able to satisfy as many tastes as possible, but not going by only the cookie cooker crepes you find everywhere else. We're open to experimentation and we're open to people who want do their own thing.

COMMISSIONER MICHAEL GARDNER: You can design your own crepe.

FRANK SHEAR: That's right, that's right, within limits.

CHAIRMAN MICHAEL GARDNER: Other questions?

POLICE COMMISSIONER ROBERT HAAS: I just want to say this is going to be operating outside the scope of your normal hours in Boston?

FRANK SHEAR: Right. Currently we're operating Tuesday, Wednesday, Friday -- actually, Monday, Tuesday, Wednesday, Friday in Boston, and

Sunday as well.

So, it's logical for us Thursday and Saturday here in Harvard there. Thursday is sort've a pseudo weekend day. Saturday is a total weekend day.

POLICE COMMISSIONER ROBERT HAAS: Two days you're focusing on Thursday and Saturday?

FRANK SHEAR: Yes. We'll see what works and we'll work it out with Harvard to see what works out best for all of us.

CHAIRMAN MICHAEL GARDNER: Will you typically be staffing the truck in some fashion during this time, or do you have other employees to do this?

FRANK SHEAR: Both. I do a significant amount of truck work. I man the window. But we have an operations manager also who will take the truck the days that I'm not there. I'm not there everyday. I'm typically with the truck two days

a week. I'm there and responsible for whatever goes on within that.

CHAIRMAN MICHAEL GARDNER: Other questions?

POLICE COMMISSIONER ROBERT HAAS: No other questions.

CHAIRMAN MICHAEL GARDNER: Are there any members of the public who would like to be heard on this matter?

Seeing none, I'll make the motion to approve the vendor peddler license to operate a mobile food truck at 1 Oxford Street as described in the application for Benny's Crepe Cafe.

DEPUTY CHIEF LESTER BOKUNIEWICZ: I'll second the motion.

CHAIRMAN MICHAEL GARDNER: Motion having been made and seconded, all those in favor, signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY CHIEF LESTER BOKUNIEWICZ: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed.

So welcome to Cambridge.

FRANK SHEAR: Thank you very much.

APPLICATION: P.F. CHANG'S CHINA BISTRO, INC D/B/A P.F. CHANG'S

EXECUTIVE DIRECTOR ELIZABETH LINT: **Application: P.F. Chang's China Bistro, Inc d/b/a P.F. Chang's, Stephen Dray, Manager, holder of an all alcoholic beverages as a restaurant license at 100 Cambridgeside Place has applied for a change of manager to Diana Federico.**

CHAIRMAN MICHAEL GARDNER: Good evening.

If you would both be so kind as to state and spell your last names for the record and identify your roles here?

ATTY. ANDREW UPTON: Good evening, Mr. Chairman, Andrew Upton, U-P-T-O-N,

representing P.F. Chang's.

With me is Diana Federico, F-E-D-E-R-I-C-O, the proposed manager.

CHAIRMAN MICHAEL GARDNER: So, just give us a little background how long has P.F. Chang's been operating in Cambridge and then describe your experience, if you could, please.

DIANA FEDERICO: Sure I believe Cambridge location opened in 2009. I started with the company in 2011 at the Park Plaza location across the river. I started as a server, I moved to bartender as well a certified trainer for the corporation, and then began running hourly shifts which is serving basic management shifts.

I then trained for two months -- I'm sorry -- yeah, two months altogether, one month at the Prudential Center location in the kitchen learning the basic functions and sanitary standards.

And then I moved onto my front-of-the-house training at Cambridge itself. I began full-time management beginning around May 1st of this year.

CHAIRMAN MICHAEL GARDNER: So, is the manager of record who is on the license now, in fact, gone?

DIANA FEDERICO: He's no longer at that location.

CHAIRMAN MICHAEL GARDNER: You have been working essentially as the manager of record of since May 1st?

DIANA FEDERICO: Yes.

CHAIRMAN MICHAEL GARDNER: Any particular reason why you didn't come in earlier?

ATTY. ANDREW UPTON: The way the operation is structured, there's an operating partner who is the overall head of the restaurant, and then there's a culinary partner

who is the head of the back of the house and then managers at the front of the house, and in the sort've shuffling of the personnel, they put in the top guy, and then they chose Diana to do this. It probably has been about three or four months or more since Stephen Dray, the previous manager, left.

CHAIRMAN MICHAEL GARDNER: We have been trying to encourage a little faster attendance before the Board on these things, but that time period is actually not as long as some we have seen.

Any sense of any differences in challenges between Cambridge and the restaurants across the river either in terms of clientele or culture, anything else to worry about?

DIANA FEDERICO: No, not too much I've seen. I mean, I know my position has changed so I see -- I mean, struggles with just learning

this role, but I think I've adjusted very well.

ATTY. ANDREW UPTON: Mr. Chairman, typically, over the years, we have seen a greater late night crowd at Park Plaza just because it's in the theater district and there's lots of people spilling out of shows and clubs late at night, and the Galleria typically does it that way.

CHAIRMAN MICHAEL GARDNER: Any issues in the operation here in Cambridge?

EXECUTIVE DIRECTOR ELIZABETH LINT: Not at all.

CHAIRMAN MICHAEL GARDNER: Other questions?

POLICE COMMISSIONER ROBERT HAAS: No.

DEPUTY CHIEF LESTER BOKUNIEWICZ: I inspected that place as well and it's well taken care of and well managed.

POLICE COMMISSIONER ROBERT HAAS: You

never had a liquor license in your name before?

DIANA FEDERICO: No, I have not.

POLICE COMMISSIONER ROBERT HAAS: What training have you gone through as far as --

DIANA FEDERICO: I'm TIPS certified.

POLICE COMMISSIONER ROBERT HAAS: 21 Proof?

CHAIRMAN MICHAEL GARDNER: Cambridge has its own training called 21 Proof, which I guess I would say hopefully if you have been here since May, you should have already known about it and have already gotten it, that is, somebody, Dray, should've handed off so that you knew about that training.

I take it it hasn't happened?

DIANA FEDERICO: It has not.

ATTY. ANDREW UPTON: It hasn't happened, although there's a directive from above that she will get it and we'll schedule it.

CHAIRMAN MICHAEL GARDNER: Our approval would be subject to your completion of that.

EXECUTIVE DIRECTOR ELIZABETH LINT: I also don't have the background check. We need that back.

CHAIRMAN MICHAEL GARDNER: This has been applied for?

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

CHAIRMAN MICHAEL GARDNER: Are there any members of the public who would like to be heard on this matter?

Anything else either of you care to add?

ATTY. ANDREW UPTON: No.

CHAIRMAN MICHAEL GARDNER: So I will make the motion to approve the change of manager to Ms. Frederico conditional on the successful completion of the 21 Proof training and background check coming back with no problems.

DEPUTY CHIEF LESTER BOKUNIEWICZ: I'll

second that motion.

CHAIRMAN MICHAEL GARDNER: Motion having been made and seconded, all those in favor, signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY CHIEF LESTER BOKUNIEWICZ: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed.

So good luck in this, I take it, expanded role for you?

DIANA FEDERICO: Yes.

CHAIRMAN MICHAEL GARDNER: Good luck.

DIANA FEDERICO: Thank you so much.

ATT. ANDREW UPTON: Thank you very much.

APPLICATION: COPACABANA PIZZA & GRILL, INC D/B/A COPACABANA

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Copacabana Pizza & Grill, Inc d/b/a Copacabana, Andre Balatka, Manager, has applied

for a common victualer license to be exercised at 2378 Massachusetts Avenue. Said license, if granted, would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises with a seating capacity of 20. The hours of operation will be 11:00am to 10:00pm Monday through Saturday, and 12:00pm to 9:00pm on Sundays.

CHAIRMAN MICHAEL GARDNER: Good evening.

ANDRE BALATKA: Good evening.

CHAIRMAN MICHAEL GARDNER: Would be so kind as to state and spell your last name for the record and identify your role here?

ANDRE BALATKA: Andre Balatka, A-N-D-R-E, B-A-L-A-T-K-A. I'm the owner the Copacabana Restaurant, and I was working in the restaurant since 2011 when I first applied for the victualer license, but I was operating like a d/b/a, and I just would like to change for the corporate my

company -- my corporation, S Corporation, Copacabana, but everything remains the same and I continue operating daily. I'm the president of the corporation.

CHAIRMAN MICHAEL GARDNER: So this is a reorganization of the nature of the company itself?

ANDRE BALATKA: Yes, just to change it to a corporation.

CHAIRMAN MICHAEL GARDNER: And nothing else is changing with respect to the operation which has been going on since 2011?

ANDRE BALATKA: Since 2011, yes.

CHAIRMAN MICHAEL GARDNER: So we have a letter here from the City of Cambridge Commission for persons with disabilities, which express some concerns about your current operation, have you received a copy of that letter?

ANDRE BALATKA: No, I never received.

CHAIRMAN MICHAEL GARDNER: I think it indicates that you were cc'd on it, but I think it's only dated today. So the Commission sent us a copy of a letter essentially expressing some concern that in your restroom area a paper towel dispenser might be placed on the wall too high for ready wheelchair access, I believe is my understanding of the concern.

So they're requesting that you make an adjustment to that towel dispenser to make it more easily accessible.

ANDRE BALATKA: All right.

CHAIRMAN MICHAEL GARDNER: So I would ask that you review the letter, take a look at it and if it's doable and you can get it done, then please confirm with Ms. Lint that you did take that step.

If for some reason you find it too difficult to do, please advise her of that as

well.

EXECUTIVE DIRECTOR ELIZABETH LINT: If I may, Mr. Chair, it might be helpful if he contacted Mr. Muehe so that if he's going to make a change, it's where it specifically should be.

CHAIRMAN MICHAEL GARDNER: Michael Muehe is the executive director of this Commission, and he's really the City's expert with respect to issues of trying to make reasonable accommodations for persons with disabilities in all aspects of public life, including transit, buildings, and events and in facilities like this.

So we're hopeful it's a minor modification and we'd ask for your cooperation to get it done and work with him on it.

ANDRE BALATKA: Okay.

CHAIRMAN MICHAEL GARDNER: Any other questions?

POLICE COMMISSIONER ROBERT HAAS: No questions.

CHAIRMAN MICHAEL GARDNER: Are there any members of the public who would like to be heard on this matter?

Seeing none, so the motion, Ms. Lint, is to approve the -- is it just a transfer of the license or approve a change in corporation organization of the licensing?

EXECUTIVE DIRECTOR ELIZABETH LINT: On a CV, they don't transfer, so it just becomes a new license.

CHAIRMAN MICHAEL GARDNER: It's a new license to the Copacabana Pizza and Grill, Inc and the current license holder is?

EXECUTIVE DIRECTOR ELIZABETH LINT: Just Copacabana.

CHAIRMAN MICHAEL GARDNER: So I'll make the motion to approve a common victualer license

for Copacabana Pizza and Grill, Inc, according to the terms of the application and with the condition that the manager review Mr. Muehe's letter and we'll be in touch with us and he'll advise us as to whether or not the suggested changes have been made.

DEPUTY CHIEF LESTER BOKUNIEWICZ: I second the motion.

CHAIRMAN MICHAEL GARDNER: Motion having been made and seconded, all those in favor, signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY CHIEF LESTER BOKUNIEWICZ: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed. Good luck with your new structure.

ANDRE BALATKA: Thank you.

APPLICATION: MSNP CAMBRIDGE ACQUISITION, LLC D/B/A COURTYARD BY MARRIOTT.

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: MSNP Cambridge Acquisition, LLC d/b/a Courtyard by Marriott, Anthony Schatz, Manager, holder of an all alcoholic beverages as a hotel license at 757-768 Memorial Drive has applied to transfer said license to CCLLH, LLC d/b/a Courtyard Boston Cambridge, Robert Rosenblatt, Manager, at 777 Memorial Drive.

CHAIRMAN MICHAEL GARDNER: Good evening. Anybody who is going to speak, if you'd please state and spell your last names for the record and identify your affiliation with the application.

ATTY. JOE HANLEY: Good evening, Mr. Chairman, and members of the Board.

Attorney Joe Hanley, McDermott, Quilty & Miller, H-A-N-L-E-Y.

With me is to my immediate right is Robert Rosenblatt, who is the proposed manager of

record on the transfer application,

R-O-S-E-N-B-L-A-T-T.

To my far right is Reed Joseph,

J-O-S-E-P-H. Reed is the 50 percent owner in the new LLC, that is, the food and beverage entity tenant and proposed transferee of the existing liquor license with the application before you.

I also have some supplementary materials. This is the DOR Certificate in Good Standing for the seller entity which is required and the TIPS certification of Mr. Rosenblatt just to supplement the file.

CHAIRMAN MICHAEL GARDNER: So would you be so kind as to summarize what these changes may be?

ATTY. JOE HANLEY: Yes, sir. We were here at the May 28th hearing.

This is a new part of an overall new ownership of the existing Marriott Courtyard,

which has been in operation for a number of years, as you know, at this location. It's a 16-story, 200-plus room select service hotel.

The new ownership entity has come in and purchased the real estate, and on the 28th of May, we were here and approved by this Commission to transfer the entertainment and innholder's license to that new entity.

The owner has entered into a lease, which you have in the record, and an assignment agreement for the new entity here, CCLLH, LLC, which is food and beverage hotel operator of which Mr. Reed is the 50 percent owner, and Mr. Kenny is the other owner and Mr. Rosenblatt would be the manager of record.

So the proposal is merely to keep the flag the same and to transfer the innholder's alcohol license with the very same terms and conditions as it's now licensed by this Board.

Same description, same operation. This is essentially a turnkey transfer and this new entity is the chosen operator to run the alcohol service out of the hotel.

This hotel has about 5,000 square feet of meeting space, so they utilize that for private functions and weddings and fundraisers and the like.

There's also an existing restaurant business, there's a techie Japanese steakhouse which operates as a tenant of the restaurant under its own separate license.

CHAIRMAN MICHAEL GARDNER: A tenant of the hotel?

ATTY. JOE HANLEY: Correct, a tenant of the hotel. It has nothing to do with this application. That lease is still in place.

That operates really as the primary restaurant for guests and for people who visit

the hotel. Most of the alcohol service that remains is for functions and events, and then there's a small restaurant in the second level that operates for breakfast and sometimes for dinners and events and the like.

At this point there's no change to any of those confines of that license.

Again, it's merely a transfer to a qualified operator that will be a tenant for the alcohol service purposes in the hotel under this new ownership entity.

The manager of record, which you will see before you, Mr. Rosenblatt, started in the hotel industry over ten years ago or beyond has worked at a number of hotels, boutique hotels, select service hotels.

Most recently he was the general manager of the Courtyard Marriott in New Haven near the Yale campus, so he's very experienced with

alcohol service in hotels and how to operate that, and that's the type of experience that he would offer.

He has also been TIPS certified and he knows he will have the opportunity, should you approve this application, to go through the City of Cambridge's mandatory training program and the like.

For outreach purpose, this is a transfer that doesn't include any changes to the license. We won't require an abutter notification, but we did reach out, again, to the Riverside Neighborhood Association and the Cambridge Community Center, which the two groups are listed on the Community Development's website.

I had reached out to them initially on their entertainment license, just to let them know this was happening. I didn't receive any response, but we intend or my client intends to

be a good neighbor and continue the operation of this hotel in the same successful manner in which it has operated for a number of years.

CHAIRMAN MICHAEL GARDNER: Were you the manager of record in New Haven, Mr. Rosenblatt?

ROBERT ROSENBLATT: Yes.

CHAIRMAN MICHAEL GARDNER: Any particular challenges you see in operating under this license in Cambridge or in the Harvard MIT community?

ROBERT ROSENBLATT: Honestly, it's very similar to the operation that I was overseeing in the last five years in the Yale community. Same numbers of rooms, approximately. Same type neighborhood setting. Same grand even hotel.

So I don't anticipate any issues.

CHAIRMAN MICHAEL GARDNER: What are the particular challenges that come out of that mixture in a community like this, if any?

ROBERT ROSENBLATT: I mean, honestly, it's not anything -- it's not functioning as like a club or even like a bar or anything like that. It's mostly the purpose for in-house customers to come in. We primarily focus on corporate travellers. Mid-week business. People are here to do business with the universities or pharmaceutical companies locally, and it may be a couple of drinks after a long day, but that's really it.

And then on the weekends sometimes social events, family reunions, smaller weddings. There's only 5,000 square feet of function space, so it's not a major hall or anything like that. It's fairly straightforward.

CHAIRMAN MICHAEL GARDNER: Thank you. That's actually helpful. I appreciate that.

One the mysteries in the application, at least to me, is it says that it's being

transferred from 757-768 Memorial Drive to 777 Memorial Drive. At least I don't understand what that means. I don't think there's two buildings.

ATTY. JOE HANLEY: That's possible it's a typo, but squarely we applied for 777 Memorial Drive. That's the address on the existing license.

CHAIRMAN MICHAEL GARDNER: So the typo may be ours, but you're not moving the location?

ATTY. JOE HANLEY: No, sir.

CHAIRMAN MICHAEL GARDNER: Any questions?

POLICE COMMISSIONER ROBERT HAAS: No questions.

CHAIRMAN MICHAEL GARDNER: Are there any members of the public who would like to be heard on this matter?

Do you have a background check back?

EXECUTIVE DIRECTOR ELIZABETH LINT: I do not.

CHAIRMAN MICHAEL GARDNER: I'll make the motion to approve the transfer of the license to this new corporate entity with Mr. Rosenblatt as the manager subject to 21 Proof training and a background check.

DEPUTY CHIEF LESTER BOKUNIEWICZ: I'll second the motion.

CHAIRMAN MICHAEL GARDNER: Before we take a vote on this, I should at least ask if we can have just a little bit of experience of the new corporate organization which will hold the license.

ATTY. JOE HANLEY: So the new owner of the real estate is an entity that has ownership interests in certain hotels around the country. The entity, which holds the liquor license, was created by Mr. Joseph and his partner as an entity to operate the food and beverage operation of alcohol only and to engage Mr. Rosenblatt as

the manager. The real estate owner doesn't want to be in the liquor business.

CHAIRMAN MICHAEL GARDNER: So my questions really relate to Mr. Joseph and Mr. Kenny and their organization and their experience in holding liquor licenses and managing this type of operation.

ATTY. JOE HANLEY: So Mr. Joseph has been in the hotel industry. He's actually the approved manager of record on the entertainment license for supervisory purposes. He will have a strong role obviously in the operations of this hotel.

Mr. Kenny is more of a senior individual in investment, but also has experience in the hotel industry as well.

They have engaged Mr. Rosenblatt to be the manager of record with the extensive experience he has to work with them.

CHAIRMAN MICHAEL GARDNER: Is there any pledge involved against the license?

ATTY. JOE HANLEY: No, sir.

EXECUTIVE DIRECTOR ELIZABETH LINT: I do have the background checks. They're all here.

CHAIRMAN MICHAEL GARDNER: With the notation the background checks have already been approved, all those in favor, signify by saying "aye."

DEPUTY CHIEF LESTER BOKUNIEWICZ: Aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed.

So welcome to Cambridge. Good luck with the operation and we're glad you're not moving the building.

APPLICATION: TAYBERRY, LLC D/B/A CHURN2

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Tayberry, LLC d/b/a CHURN2, Crista

Milley, Manager, has applied for a vendor/peddler license to operate a mobile food truck on private property at 1 Oxford Street. Applicant would be permitted to be on said property from 11:00am to 10:00pm, seven days per week.

CHAIRMAN MICHAEL GARDNER: Good evening. If you could just state and spell your last name for the record and describe the operation as you envision it?

CRISTA MILLEY: Sure. My name is Crista Milley, last name is M-I-L-L-E-Y.

We are creating an essentially a food truck without wheels. It's not really that mobile, which is why we're applying for a transient vendor's license. It will be an ice cream truck. We'll be selling ice cream outside of Harvard and hopefully making lots of people very happy.

CHAIRMAN MICHAEL GARDNER: Tell us about

your experience with the business before now.

CRISTA MILLEY: So the founder, who unfortunately cannot be here today, has a lot of experience with the restaurant industry. He's run a number of restaurants in the west coast. He is starting to come to the east coast so thinking that he saw a similar venture on the west coast and thought what a great idea, let's bring it to the east coast.

The university got in touch with us and that's how we started this venture.

CHAIRMAN MICHAEL GARDNER: You have been approved by Harvard?

CRISTA MILLEY: Yes. We're working very closely with them on all parts of this.

CHAIRMAN MICHAEL GARDNER: It's a food truck without wheels?

CRISTA MILLEY: I have a picture of it.

CHAIRMAN MICHAEL GARDNER: Just describe

what it means.

Let me show you. It might be a little bit more helpful. This is not a final rendering, but just to give you an idea (forwarding picture).

CHAIRMAN MICHAEL GARDNER: So, is this going to be a permanent or semi-permanent box structure that opens up on site?

CRISTA MILLEY: Exactly. So it will close up at night and it will look just like a container.

And then in the morning, you know, the awnings will open and it will look similar to that.

We're working with Harvard to see how long they would like us to stay there, but it is going to be permanent, it's going to be based on Harvard and their wants.

CHAIRMAN MICHAEL GARDNER: Are you aware

of any similar-type establishments in Cambridge in terms of your market research?

CRISTA MILLEY: No.

CHAIRMAN MICHAEL GARDNER: Ms. Lint, do we have any experience with this, with the -- a boxed-up structure like this?

EXECUTIVE DIRECTOR ELIZABETH LINT: Nope. It's new.

CRISTA MILLEY: We're paving the way.

CHAIRMAN MICHAEL GARDNER: Yes, right.

POLICE COMMISSIONER ROBERT HAAS: I'm just curious, how does it fit a mobile food truck then?

EXECUTIVE DIRECTOR ELIZABETH LINT: No, it's a vendor-peddler.

POLICE COMMISSIONER ROBERT HAAS: To operate a mobile food truck on private property?

EXECUTIVE DIRECTOR ELIZABETH LINT: That's -- it should be a vendor-peddler license

to operate on private property. We didn't know what to call it. We went back a forth quite a bit.

CRISTA MILLEY: Yeah. We also worked with the State of Massachusetts because obviously you need a license with them as well, so I worked closely with Elizabeth and the State of Commonwealth to determine what our category and the type of license we should apply for.

CHAIRMAN MICHAEL GARDNER: Does the Commonwealth of Massachusetts think you're a mobile food truck?

CRISTA MILLEY: No.

EXECUTIVE DIRECTOR ELIZABETH LINT: They thought they were a vendor-peddler.

CHAIRMAN MICHAEL GARDNER: I think that is confusing to operate a mobile food truck on private property if you don't have a wheels, and we ought to call it something.

POLICE COMMISSIONER ROBERT HAAS: It's more of a structure, isn't it?

EXECUTIVE DIRECTOR ELIZABETH LINT: Well, it's more like a cart, even though it doesn't -- it's like if you set up a table to sell your tee shirts or something like that.

POLICE COMMISSIONER ROBERT HAAS: Specifically --

EXECUTIVE DIRECTOR ELIZABETH LINT: We would call that a vendor-peddler.

POLICE COMMISSIONER ROBERT HAAS: But they can pack up and move, though, when they're done operating.

CRISTA MILLEY: I'm not sure if this is helpful or not, but the State of Massachusetts when I was speaking with them said very firmly they would classify this as a transient vendor because as Elizabeth said it's something you're opening up. It's more like a stand. And it's

more mobile in the sense if we needed to move it, I mean, we can put it on a truck and move it, but it's not something that is going to be moved on a day-to-day basis or even hourly like as a truck.

So that's why the State of Massachusetts classified it as a transient vendor.

CHAIRMAN MICHAEL GARDNER: Do we have such a category ourselves?

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

CHAIRMAN MICHAEL GARDNER: Transient vendor.

EXECUTIVE DIRECTOR ELIZABETH LINT: We call it vendor-peddler and if you look at the definitions under the statute, it's transient.

CHAIRMAN MICHAEL GARDNER: And when I looked at the application, it said you're selling ice cream, coffee and tee shirts? Tell us about the tee shirts. What kinds of tee shirts are you selling?

CRISTA MILLEY: The tee shirts -- so, we have worked hard on our logo, and we're hoping to have the logo on the tee shirts just kind've a fun thing. There's a lot of tourists that come through that area and students and, you know, they're an international population. We thought it might be a fun thing.

CHAIRMAN MICHAEL GARDNER: You don't know yet the hours of operation or how long you will be there?

CRISTA MILLEY: We think we'll be open -- we know we're going to be open seven days a week and Harvard is excited about that. We're thinking 11:00 a.m. to 11:00 p.m., but that's going to vary based on the demands once we open. In terms of time, the length of time the box is going to be there, we're not sure yet.

CHAIRMAN MICHAEL GARDNER: Is this a seasonal business?

CRISTA MILLEY: That's something again that we have to work with Harvard to determine.

CHAIRMAN MICHAEL GARDNER: Is it heated, the box?

CRISTA MILLEY: There is heating inside for the employees because we don't want them to freeze. There's a little bit of heating in there and there's also air circulation when it's a hot day, so it doesn't get stuffy and oppressive in there.

CHAIRMAN MICHAEL GARDNER: How ready are you to open?

CRISTA MILLEY: We're looking at the end of July, beginning of August.

COMMISSIONER MICHAEL GARDNER: Are there inspection issues?

DEPUTY CHIEF LESTER BOKUNIEWICZ: We typically inspect food trucks. Usually Harvard will bring us over to look at something like

that. I'm sure that will happen.

EXECUTIVE DIRECTOR ELIZABETH LINT: I know Inspectional will also be there.

DEPUTY CHIEF LESTER BOKUNIEWICZ: So it's subject to inspection.

CHAIRMAN MICHAEL GARDNER: So you have portable generators or something to keep the ice cream cold or how does that work?

CRISTA MILLEY: Ice cream is made with liquid nitrogen. So what happens is you have a bowl of what's called your ice cream base, and then you pour some nitrogen in, which, obviously, our employees will not be handling. It will come through lines and there's a valve that they turn on and off. Then liquid nitrogen goes in and that makes it very cold, much colder than ice that you make typical ice cream with. It takes 30 to 45 seconds and we have no need to store frozen ice cream.

CHAIRMAN MICHAEL GARDNER: Any other questions?

POLICE COMMISSIONER ROBERT HAAS: Nothing.

CHAIRMAN MICHAEL GARDNER: Are there any members of the public who would like to be heard on this matter?

Seeing none, I'll make the motion to approve Tayberry, LLC d/b/a CHURN2 with Christa Milley as the manager for a vendor-peddler license operate a transient structure on private property as described.

You have to wait. I made the motion, but --

CHRISTA MILLEY: Oh, no.

DEPUTY CHIEF LESTER BOKUNIEWICZ: I'll second the motion.

CHAIRMAN MICHAEL GARDNER: Motion having been made and seconded, all those in favor,

signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY CHIEF LESTER BOKUNIEWICZ: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed. So, welcome to Cambridge. Is making ice cream with liquid nitrogen sort've kind've a standard thing these days?

CRISTA MILLEY: It's kind of a new thing, you know, they have dip and dots for awhile and that was a new thing and so making ice cream with liquid nitrogen is kind've a new phase. There's a couple places that do it on the west coast, but there's none here that are kind've of a standard as we're, so we're very excited to bring it here.

CHAIRMAN MICHAEL GARDNER: I certainly hope the Fire Department does inspect it.

CRISTA MILLEY: It's not flammable. That's good.

Thank you.

CHAIRMAN MICHAEL GARDNER: Thank you.

APPLICATION: ANNAPURNA, INC D/B/A ANNAPURNA RESTAURANT

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Annapurna, Inc d/b/a Annapurna Restaurant, Tashi Lama Ngarba, Manager, holder of a wine & malt beverages as a restaurant license at 2088 Massachusetts Avenue has applied for a change of d/b/a to Third Eye Restaurant and an alteration of premise to include wine & malt beverages on their seasonal outdoor patio on the public sidewalk.

CHAIRMAN MICHAEL GARDNER: Good evening.

Would you be so kind as to state and spell your last name for the record, and just describe who you are and what the plan is.

TASHI LAMA NGARBA: My name is Tashi Lama Ngarba. My last name is Lama Ngarba. I'm the owner and I'm the manager also. There's already

customers and you say I have to apply for outside legal patio and we apply.

CHAIRMAN MICHAEL GARDNER: Lets talk first about the change of name. What is your thinking around changing the name to Third Eye?

TASHI LAMA NGARBA: Italy (unintelligible) India, India. I don't know it's a mountain, but everybody ask me what is -- I told you not that many customer -- this is a mountain, but this is India (unintelligible) and that's why I change name.

CHAIRMAN MICHAEL GARDNER: Third Eye you think is going to be a better name for you?

TASHI LAMA NGARBA: Yeah.

CHAIRMAN MICHAEL GARDNER: Will you be changing the cuisine in any way?

TASHI LAMA NGARBA: No.

CHAIRMAN MICHAEL GARDNER: So when you sell alcohol out on the public way, you need the

capacity to control access to that area so that under age people don't come in.

Have I said that fairly?

TASHI LAMA NGARBA: Yeah.

CHAIRMAN MICHAEL GARDNER: Have you -- what are your plans for trying to enclose the space that you want to have for your patio sidewalk seating.

TASHI LAMA NGARBA: Elaborate.

CHAIRMAN MICHAEL GARDNER: I'm sorry?

TASHI LAMA NGARBA: Elaborate.

EXECUTIVE DIRECTOR ELIZABETH LINT: He didn't understand what you said.

CHAIRMAN MICHAEL GARDNER: Typically it's some sort of fencing or gated area?

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

CHAIRMAN MICHAEL GARDNER: So we need to have outdoor patio seating enclosed or fenced in some way if alcohol is being sold.

Do you have any plans to enclose the seating area?

TASHI LAMA NGARBA: Yes, we do have.

CHAIRMAN MICHAEL GARDNER: What are those plans?

TASHI LAMA NGARBA: We have to -- we need to bring in, you know, the flower box.

CHAIRMAN MICHAEL GARDNER: Flower boxes?

TASHI LAMA NGARBA: Yes.

CHAIRMAN MICHAEL GARDNER: Have you talked to Public Works about whether there's enough room to do that?

TASHI LAMA NGARBA: Yeah, I talked to Vincent.

EXECUTIVE DIRECTOR ELIZABETH LINT: Vincent Best?

CHAIRMAN MICHAEL GARDNER: And has Public Works issued and approved permit yet?

TASHI LAMA NGARBA: He told me okay.

EXECUTIVE DIRECTOR ELIZABETH LINT: I don't have them.

TASHI LAMA NGARBA: I have been there and talked to him and then okay. You have to give my number and he will call or whatever, I already talked to police, and he then told me okay that's why we applied.

EXECUTIVE DIRECTOR ELIZABETH LINT: So he would need approval from City Council, and then he needs the sidewalk construction permit before he's -- he's going to need stamped architectural drawings and the agreement with the City Manager and I don't see any of that paperwork.

CHAIRMAN MICHAEL GARDNER: So the City Council approval has to be separate as well? You have three patio seats now?

TASHI LAMA NGARBA: Yes.

CHAIRMAN MICHAEL GARDNER: But this would be an additional arrangement?

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

CHAIRMAN MICHAEL GARDNER: So there are a number of steps you have to take before this can be done.

TASHI LAMA NGARBA: Okay.

CHAIRMAN MICHAEL GARDNER: You need actual written signoffs from Public Works, and you need to apply to the City Council for approval.

TASHI LAMA NGARBA: Okay.

CHAIRMAN MICHAEL GARDNER: Anything else?

EXECUTIVE DIRECTOR ELIZABETH LINT: The City Manager's agreement. I think it would be --

CHAIRMAN MICHAEL GARDNER: Before the Council?

EXECUTIVE DIRECTOR ELIZABETH LINT: It's all part and parcel.

CHAIRMAN MICHAEL GARDNER: Yeah.

EXECUTIVE DIRECTOR ELIZABETH LINT: I

would suggest that he come and see me or Chris or Ellen in the morning and we can walk him through the whole thing.

CHAIRMAN MICHAEL GARDNER: We also have a letter from the City's Commission for Persons With Disabilities, which has raised an issue about whether in terms of access to your restaurant, a small ramp is appropriate. That's a more complicated issue than what previously we talked to another applicant about in terms of moving a towel rack.

So I think that it would be important for you to study the letter that Ms. Lint just gave you, perhaps be in contact with Mr. Muehe, who is the head of this Commission for Persons With Disabilities to talk about what he thinks is needed and for you to decide whether it's feasible for you and then for you to pursue the sidewalk obstruction permit with Public Works.

TASHI LAMA NGARBA: Okay.

CHAIRMAN MICHAEL GARDNER: So, are there any other questions or concerns?

POLICE COMMISSIONER ROBERT HAAS: No questions.

DEPUTY CHIEF LESTER BOKUNIEWICZ: No.

CHAIRMAN MICHAEL GARDNER: Are there any members of the public who would like to be heard on this matter?

So what I'm going to suggest, sir, is that we move ahead tonight with the change of name and approve that, or at least consider it, but we defer any action on the selling of alcohol on the patio until you have dealt with these other issues.

TASHI LAMA NGARBA: Okay.

CHAIRMAN MICHAEL GARDNER: You can talk to Ms. Lint and the staff to go through it more on a step-by-step way.

TASHI LAMA NGARBA: Okay.

CHAIRMAN MICHAEL GARDNER: So I'll make the motion to approve the change in name from the Annapurna Restaurant to Third Eye Restaurant.

DEPUTY CHIEF LESTER BOKUNIEWICZ: I'll second the motion.

CHAIRMAN MICHAEL GARDNER: Motion having been made and seconded, all those in favor, signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY CHIEF LESTER BOKUNIEWICZ: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

And I'll make the motion that we defer any action on the application for the alcohol license for seasonal outdoor patio seating pending further staff work with the License Commission, with Public Works and with the Commission for Persons of Disabilities.

EXECUTIVE DIRECTOR ELIZABETH LINT: It

would be safe to put it on for August 1 because we can have all those things done by then.

CHAIRMAN MICHAEL GARDNER: I'll bow to Ms. Lint's wisdom and defer the matter to August 1st in my motion.

DEPUTY CHIEF LESTER BOKUNIEWICZ: I second that.

CHAIRMAN MICHAEL GARDNER: Motion having been made and seconded, all those in favor, signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY CHIEF LESTER BOKUNIEWICZ: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed. So we approved the change in name, and we've deferred until August our meeting on August 1st the rest of your application.

TASHI LAMA NGARBA: Okay.

CHAIRMAN MICHAEL GARDNER: Thank you.

TASHI LAMA NGARBA: I need to go to Department of Public Works?

EXECUTIVE DIRECTOR ELIZABETH LINT: Come to see us tomorrow morning upstairs, okay? Me or Chris or Ellen we'll help you.

TASHI LAMA NGARBA: I already talked with Chris, they told me you don't need nothing.

EXECUTIVE DIRECTOR ELIZABETH LINT: You need a lot of things.

CHAIRMAN MICHAEL GARDNER: We're concerned about a few things. You should read the letter from Mr. Muehe.

TASHI LAMA NGARBA: Okay. I'll come tomorrow.

CHAIRMAN MICHAEL GARDNER: Okay, great.

TASHI LAMA NGARBA: Thank you.

CHAIRMAN MICHAEL GARDNER: Thank you.

RATIFICATION: PAO-TSE-SIM, INC D/B/A PU PU HOT POT CHINESE RESTAURANT

EXECUTIVE DIRECTOR ELIZABETH LINT: This is just a ratification. Pao-Tse-Sim, Inc d/b/a Pu Pu Hot Pot Chinese Restaurant, Patty Chen, Manager, holder of a common victualer license at 907 Main Street has applied for a change of d/b/a to Patty Chen's Dumpling Room.

Patty came in a few weeks ago. She makes dumplings and that's what she wants to be and there's no other changes to the restaurant. She has been there a long time and just wanted to change her name.

CHAIRMAN MICHAEL GARDNER: So the sign's already changed?

EXECUTIVE DIRECTOR ELIZABETH LINT: Is it?

CHAIRMAN MICHAEL GARDNER: It is. I don't know when it changed.

EXECUTIVE DIRECTOR ELIZABETH LINT: I don't know either.

CHAIRMAN MICHAEL GARDNER: So, she came in herself, it wasn't inspected and saw the sign -- Pu Pu Hot Pot Chinese Restaurant has been there like really for forever.

EXECUTIVE DIRECTOR ELIZABETH LINT: No, she came in.

CHAIRMAN MICHAEL GARDNER: Well, I'll make the motion to change the name of the holder of the common victualer license to Patty Chen's Dumpling Room.

DEPUTY CHIEF LESTER BOKUNIEWICZ: And I'll second that.

CHAIRMAN MICHAEL GARDNER: Motion having been made and seconded, before we vote, are there any members of the members of the public who would like to be heard on this matter?

Seeing none, all those in favor signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY CHIEF LESTER BOKUNIEWICZ: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed.

So, I would like to find out how long the sign has been up. You can just report back

APPLICATION: MASS AVE RESTAURANT, LLC

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Mass Ave Restaurant, LLC, David Barlum, Manager, has applied for a new wine and malt beverages as a restaurant license at 906 Massachusetts Avenue with a seating capacity of 24 and hours of operation from 7:00am to 11:00pm Monday through Saturday and 7:00am to 4:00pm on Sunday. Alcohol service cannot start before 8:00am Monday through Saturday and 10:00am on Sunday.

CHAIRMAN MICHAEL GARDNER: Good evening. If you'd be so kind as to state and spell your last name for the record and identify your role

and anybody else who might be speaking.

ATTY. VINCENT PANICO: My name is Vincent Panico, P-A-N-I-C-O. I'm the attorney for the petitioner.

David, would you identify yourself?

DAVID BARLAM: David Barlam, I'm the owner of Mass Ave Diner -- B-A-R-L-A-M.

CHAIRMAN MICHAEL GARDNER: It's B-A-R-L-A-M. So, Mr. Panico?

MR. PANICO: What we have is a young businessman who is trying to expand his business and who is in competition with many other businesses that have a beer and wine license along the avenue.

He does have extensive business experience in the liquor industry.

And, David, would you begin by just telling us that you have 12 years experience and briefly describe your experience to the

Commission?

DAVID BARLAM: Sure. I have owned the diner for three years now. Before that I worked in restaurants since I was 13 years old. But for the previous five years before owning the restaurant, I worked in front of the house and I spent three years at Smith & Lewinsky Steakhouse in downtown Boston. It was fine dining service, but a bulk of their business was private parties, so me, and another server would be in charge of about eight or nine people basically running the party, making sure the food came out. You know, there was space for a lot of times they give speeches, they give presentations and then making sure all the service ran smoothly.

A big thing with these parties, as you know if you ever been to a wedding, people do tend to over-drink at private gatherings. So keeping an eye on the customers while running all

this sort've stuff to make sure everything was handled in a professional responsible way was definitely at a premium while I was working there.

CHAIRMAN MICHAEL GARDNER: What was the time period you worked there?

DAVID BARLAM: That would've been 2008 through the middle of 2010.

CHAIRMAN MICHAEL GARDNER: And you were -- would you have been sort've server and spot manager?

DAVID BARLAM: So the way the restaurant worked is you would work in server teams, you would be paired up with another server and you would wait on a section together. One person would greet the customer, the other person clears the plates, et cetera, and then during the holidays, Smith and Lewinsky has an enormous fourth floor restaurant with tons of private

function rooms, so we would do over 50 percent of our business as private functions.

So sometimes, you know, if there was a party of about 25 people, it would just be me and my serving partner; other than times, they would assign various kitchen staff and food runners to our party and we'd even have an independent kitchen on a different floor that would be operating independent for the restaurant.

CHAIRMAN MICHAEL GARDNER: So, is this an application for a no value license, Mr. Panico?

MR. PANICO: Yes, it is, Mr. Chairman.

CHAIRMAN MICHAEL GARDNER: Have you done any research with respect to whether there are any licenses for any sale?

MR. PANICO: Not to my knowledge.

CHAIRMAN MICHAEL GARDNER: Can you just describe the nature of the restaurant with a little bit more detail and the ways in which you

think having a beer and wine or a wine and malt license would both be beneficial to the establishment and also to the neighborhood or the public?

MR. PANICO: I would like to tell you about this restaurant when he first took it over. The equipment was covered in grease, and professional people came in and said if the flames had gotten to the proper spot, that place would have gotten up. He invested previously $60,000 in all new equipment and cleaning the place up.

What he's trying to do is grow his nighttime business. He has a good daytime business, but he feels if he gets the beer and wines license he will be able to grow it. And he's well aware of the training that he has to go through and put his people through. He did also have a loan that he took out previously of which

he owes all about $18,000 was paid off. His mother is involved with him in the business and she made a good contribution to it.

He has a very, very good -- I don't know if any of you have eaten there. He has a very good reputation for the quality of his food.

CHAIRMAN MICHAEL GARDNER: At that location was there once an establishment that had the name "Atlantic" in it?

DAVID BARLAM: Yes, I think when Emanuel Demarcos (phonetic) owned it, he has since passed away, but his daughter still owns the property.

CHAIRMAN MICHAEL GARDNER: Was it Atlantic-something or other?

DAVID BARLAM: It was like a Greek restaurant, and I think it went through a variety of changes and then somebody owned it for about, I think, ten or 15 years, but I bought the business off him.

CHAIRMAN MICHAEL GARDNER: What is the menu like and what's the nature of the business now?

DAVID BARLAM: I have been converting it to more of an American diner. When I bought it, it was more of Spanish/American. With the beer and wine, it will make that sort've full jump.

But I wanted to offer standard comfort food like meatloaf and a variety of like standard diner entrees at night, sort've build kind've like a nighttime diner business.

All my family is from New York and Long Island. So diners are lot different out there, they're frequented a lot more, and typically, diners do have beer and wine and they'll have a pretty good diner crowd, even people who want to get breakfast at night.

CHAIRMAN MICHAEL GARDNER: I see, Mr. Panico that you've handed us a -- it looks

like a handwritten petition or list of signatures of people supporting the application.

Just give us a little bit of information about how these signatures were collected.

MR. PANICO: They were collected at the restaurant by my client in less than a week. I think if we had done it for the month, he would have five times that amount.

CHAIRMAN MICHAEL GARDNER: What just happened was I showed Commissioner Haas a name on the petition that both of us are familiar with that's currently a retired police officer.

Other questions?

POLICE COMMISSIONER ROBERT HAAS: No questions.

EXECUTIVE DIRECTOR ELIZABETH LINT: There's a wine and malt license for sale, at least one.

CHAIRMAN MICHAEL GARDNER: Okay. Will

you provide that information to Mr. Panico?

EXECUTIVE DIRECTOR ELIZABETH LINT: I certainly can.

CHAIRMAN MICHAEL GARDNER: Help us understand, I guess, the extent to which there are competitive issues here in terms of the extent to which you're under any competitive disadvantage by not having a wine and malt license or what your -- in terms of your location and the kind've food you're serving and the kind of clientele that you're currently attracting or trying to attract, the ways in which not having a license is disadvantageous?

MR. PANICO: Well, people along the avenue, start with the Plow & Stars and the People's Republic of Cambridge and the Tavern on the Square and all the others in the square, they all have licenses. They all serve food and he's at a competitive disadvantage.

COMMISSIONER MICHAEL GARDNER: I take it this location never had a license before?

MR. PANICO: Not to my knowledge. If it did, it's not to my knowledge.

CHAIRMAN MICHAEL GARDNER: Anything else you would like to add?

DAVID BARLAM: I can speak a little bit more in-depth in terms of the competitive?

CHAIRMAN MICHAEL GARDNER: Okay.

DAVID BERLAM: I just feel that in the area were at in Mass Ave, it's very foot traffic oriented, but because of that, you know, we make a lot of our business in spurts throughout the year.

And also, if you notice the area, the average median income has increased tremendously over the past three years to the point where I can't afford rent around there. And typically clientele like that when they go out they want to

go out for more of a brunch, they wants something that's a little bit more high end.

They do want to have an occasional alcoholic beverage on a Saturday or Sunday in the middle of the day and I feel like us being allowed to do that would allow our business to flourish, whereas right now we're working extremely hard to just sort've get by and do half decent.

CHAIRMAN MICHAEL GARDNER: Are there any members of the public who would like to be heard on this matter?

Why don't please come forward and I ask you to state and spell your name for the record.

PATRICK O'MALLEY: Patrick O'Malley, O-M-A-L-L-E-Y.

CHAIRMAN MICHAEL GARDNER: Mr. Patrick O'Malley, do I have that right?

PATRICK O'MALLEY: Yes.

CHAIRMAN MICHAEL GARDNER: Please speak up.

PATRICK O'MALLEY: I'm a partner in the ownership of the Plow & Stars and have been in that location for 40 years. And I'm also the owner of five units in that block of Mass Ave that are part of a condominium association, which contains a clause of no competition, i.e., changing of business coming in cannot compete with a business that is already there. And we're at 906, we're at 902, we serve, of course, food, both lunch and dinner.

I have a suggestion to make, and that is that the Plow & Stars is in the process of being sold. And that process should be completed within three months, I think at most, and obviously, in terms of competition, having a place right besides us that didn't have a license that now has a license, doesn't -- I think we

just postpone -- if you could postpone the application for three months, the bar would be sold and I will forego the no-competition clause in the condominium agreement.

CHAIRMAN MICHAEL GARDNER: Okay. So, similar to other staff and members of the Commission had quite a bit of difficulty in hearing what you had to say. Hopefully, the transcript has it, but I'm going to try to summarize what I understood you to have said and you can tell me what I missed and amplify or supplement.

As I understand it, you're currently the owner of the Plow & Stars?

PATRICK O'MALLEY: One of four.

CHAIRMAN MICHAEL GARDNER: One of four owners.

PATRICK O'MALLEY: Yes.

CHAIRMAN MICHAEL GARDNER: You also have

a relationship with the condominium association?

PATRICK O'MALLEY: I own the Unit 912 Mass Ave.

CHAIRMAN MICHAEL GARDNER: I'm sorry. You own the Units -- you just have to speak up.

PATRICK O'MALLEY: I own the units 912.

CHAIRMAN MICHAEL GARDNER: You own the unit 912.

PATRICK O'MALLEY: 912.

EXECUTIVE DIRECTOR ELIZABETH LINT: 902.

CHAIRMAN MICHAEL GARDNER: 902.

PATRICK O'MALLEY: 912.

CHAIRMAN MICHAEL GARDNER: 912?

PATRICK O'MALLEY: Yes. There are five units in the block. The five units are part of the Massachusetts Avenue Condominium Trust Association.

CHAIRMAN MICHAEL GARDNER: Okay. And what is the relationship of those to this -- the

site of this restaurant?

PATRICK O'MALLEY: They're my tenants. And I'm also one of the owners.

CHAIRMAN MICHAEL GARDNER: So the Mass Ave restaurant is your tenant?

DAVID BARLAM: No.

PATRICK O'MALLEY: 912 Plow and Stars is my tenant.

CHAIRMAN MICHAEL GARDNER: Okay.

PATRICK O'MALLEY: That is correct. The five units are part of a condominium association which has a clause, which says there's a change of business, it can't be one that makes a business that is also going with the five units competitive with another.

CHAIRMAN MICHAEL GARDNER: I'm not sure I understand what the five units are.

Is Mass Ave restaurant one of the five units?

PATRICK O'MALLEY: He's 916, we're 912 and there's laundry and a liquor store between us. And there are two other units beyond that.

CHAIRMAN MICHAEL GARDNER: Is it your position that for Mass Ave restaurant to get a beer and wine license would violate some provision of the condominium association agreement?

PATRICK O'MALLEY: Yes. And it also is in direct competition with my -- the business as an owner of the business. As I said the business the Plow & Stars is in the process of being sold and should be sold. That process should be completed within the next three months.

CHAIRMAN MICHAEL GARDNER: How will that sale change the terms of the condominium association agreement?

PATRICK O'MALLEY: Because I will waive that. I will still be the owner of the unit.

I'm only selling the business.

CHAIRMAN MICHAEL GARDNER: Okay. Before we proceed any further, are there any other members of the public that would like to be heard in this matter?

Why don't you come forward. Please state and spell your last name for the record.

MARY FEW: My last name is Few, F-E-W. Mary.

CHAIRMAN MICHAEL GARDNER: I ask you to speak up, please.

MARY FEW: Yes. I've lived near to this restaurant for 40 years as it has been through various incarnations. And this is the best it has been, I would say. It's a very responsible owner. It's a very well-run place. The food is incredibly good. I have noticed it's very, very crowded in the morning, it's very crowded in the noon and then later on, there's just not a lot of

people, and the food excellent. And I don't care whether there's a liquor license or not because I don't drink much at all, but I think -- I don't even understand his point. I'm sorry. I just think it seems -- I think he could build more of a business in the evenings and then it would be a respectable place, not quite as loud maybe even as the Plow and Stars, for example. So I would say it would be a good thing to have it.

CHAIRMAN MICHAEL GARDNER: Thank you very much.

CHAIRMAN MICHAEL GARDNER: Mr. Barlam, you want to comment on the speakers' comments?

DAVID BARLAM: Yes. I would like to speak to this and I'll try to keep it very concise.

We -- I consulted with my other attorney as well as Attorney Panico about the noncompete clause. It's completely nondescript, and to our

knowledge, we don't see how a diner that is open until 10:00 p.m. serving just beer and wine that has to be served with food is competing with a bar that has a full liquor license and an entertainment license that's open until 2:00 a.m. booking bands.

I also knew the previous owners, and I understand what Mr. O'Malley is going through. They initially gave me their approval to get the beer and wine license. We moved ahead with the entire zoning hearing, and then in hindsight, I heard through my landlord that they had contacted her saying that now that they weren't approving it, the other owners in the condominium trust, there are four total landlords, one owns two units, Stephanie Demarcos owns my unit and then there's another unit owned Ron Kalivia (phonetic) who had the condo association. I know I have the full support of me as well Mark Williamson who

has power of attorney and owned the cafe and laundromat which are on either side.

And so, number one, I don't think Mr. O'Malley has really a leg to stand on as far as saying that we're going to compete them.

Number two, I don't see how it's going to change anybody from a prospective buyer because I've seen the Plow & Star. If anybody who's in there is running that as a proper business, it will make substantial amounts of money. It's always busy and it's always booking live music acts, and, you know, as that goes forward, I don't want to spur anything with the neighborhood, but I just really don't see how putting something off for three months or in general how it doesn't compete to begin with, would really make sense. I mean, we wouldn't even have proceeded with this if we thought it wasn't clearcut that this is not in violation of

our noncompete clause.

CHAIRMAN MICHAEL GARDNER: I guess I would ask Ms. Lint and other Commissioners for a reaction. I kind've think that, well, if there are some legal impediments or risks with respect to the relationship of the applicant to his or her landlord or some other potential impediments to the business, that's really a private matter between them, and it's not our job to enforce or interpret noncompete agreements. That's kind've the way I'm reacting the information we have.

EXECUTIVE DIRECTOR ELIZABETH LINT: I would agree with that. However, where Mr. Barlam is suggesting that there are other unit owners that support him, I think it would be important for the Board to see that information. And I agree with you, I don't think it's for us to determine whether or not it's an enforceable clause. There are other issues, though, I think,

in terms of whether or not to grant or not grant this particular application in terms that it doesn't meet all the criteria. Is there a public need, no harm, support, or all of our standards, plus the standards in the statute.

DEPUTY CHIEF LESTER BOKUNIEWICZ: Does the Plow and Stars serve food?

PATRICK O'MALLEY: Yes, we serve lunch and we serve dinner.

CHAIRMAN MICHAEL GARDNER: Mr. Barlam?

PATRICK O'MALLEY: Their application is to increase their competitive advantage and that competitive advantage would be to our disadvantage.

DEPUTY CHIEF LESTER BOKUNIEWICZ: I think that both are different myself. That's just my opinion. I believe they're very different establishments. I don't see the relationship in competitiveness.

CHAIRMAN MICHAEL GARDNER: I'll -- when both the lawyer and the client have indicated they want to speak, I'll turn to the lawyer first.

MR. PANICO: We had to go before the Board of Zoning Appeals to get a variance in order to have a license at this site. The notices, the advertisements were all sent out. Nobody came before the Board to object to the license.

I agree with our Fire Department representative. When you have live music and full liquor license, we're talking two completely different animals here.

CHAIRMAN MICHAEL GARDNER: Mr. Barlam, anything else you want to add?

DAVID BARLAM: I don't think much more needs to be said. But I will just say that the Plow does serve brunch and the previous owner

made several attempts to serve breakfast and there's also a cafe right next to mine that serves breakfast and sandwiches. So the non --

CHAIRMAN MICHAEL GARDNER: The Atomic Brand?

MR. BARLAM: The Atomic Bean. So the noncompete clause is very nonspecific and I think we would have to take a lot -- many more steps with our restaurant to come close to compete with the Plow & Stars.

MR. PANICO: Mr. Chairman, you understand that the owner of his property, Mr. Barlam's property, is in full support of this.

CHAIRMAN MICHAEL GARDNER: Yes, I think I got that point.

MR. PANICO: Yes.

PATRICK O'MALLEY: Can I add one thing?

CHAIRMAN MICHAEL GARDNER: Go ahead, Mr. O'Malley.

PATRICK O'MALLEY: The last several years for some reason whenever I paid my property taxes the bills are sent to the wrong address, and I always include a note with a payment that the address is wrong.

EXECUTIVE DIRECTOR ELIZABETH LINT: This Board doesn't deal with property taxes.

PATRICK O'MALLEY: I didn't get notification until yesterday. It was the wrong address.

POLICE COMMISSIONER ROBERT HAAS: The BZA.

PATRICK O'MALLEY: That's all.

CHAIRMAN MICHAEL GARDNER: Ms. Lint, why don't you talk about the criteria for our issuing a no value license and what concerns if any --

EXECUTIVE DIRECTOR ELIZABETH LINT: The first thing they would have to show that they've exhausted all means of purchasing a wine and malt

license. I know of definitely one and I believe two that are currently available. Then the statute says that licenses are issued for public need and public good.

So the standard is then is there a need for another restaurant in this particular location in the city, that there's no harm in issuing another alcohol license in this particular location and overwhelmingly neighborhood support.

CHAIRMAN MICHAEL GARDNER: All right. Well, I think that we do have the petition signed by -- out of the restaurant as one of the -- which is the kind've evidence we've used in the past for public support. But I think it does behoove us and you to explore the issue about whether there's, in fact, a license for sale that can be purchased within your financing structure.

So, I'm going to suggest to the

Commissioners that we defer consideration of this application until our meeting on August 1st.

Would that work with respect to the intent of the Commissioners?

DAVID BARLAM: Sir, could I say something in response with being able to purchase the license?

CHAIRMAN MICHAEL GARDNER: Yeah. I'm not sure I made it -- I think I made a motion. It hasn't been seconded yet. So I'll let you speak.

DAVID BARLAM: As far as being able to purchase an actual full beer and wine license that's available, we do not have to the financial means. We paid out of pocket almost $70,000 for construction last year. And to be honest, we're just getting by. So the only thing within our wheelhouse as far as being able to afford at any time is going to be a nontransferable license which is why we applied for it because we feel

we're the perfect candidate because we're looking to borderline, save our business. We're don't have the means doing well enough that we just want to increase our already large profits.

PATRICK O'MALLEY: I would like to add that I spend $50,000 on structural repairs to Plow & Stars last year. Right now for these months in June and July and August, business is very, very slow. We just get by during those months.

CHAIRMAN MICHAEL GARDNER: Is that because of the change in population because students are gone?

DAVID BARLAM: Yes.

PATRICK O'MALLEY: We don't have an open air space. We don't have any space in the outside for people to sit as other bars all along Mass Ave have. And just business goes down during those months and picks up the beginning of

school starting, beginning of September.

CHAIRMAN MICHAEL GARDNER: Thank you.

So I've made the motion to defer until August 1st.

DEPUTY CHIEF LESTER BOKUNIEWICZ: I'll second the motion.

CHAIRMAN MICHAEL GARDNER: Any discussion?

POLICE COMMISSIONER ROBERT HAAS: So the only thing I'd ask is that you say you represent to us that you can't afford it. I'm just curious as to whether or not you actually tried to see what the purchase price would be for available licenses.

DAVID BARLAM: I have investigated it by just talking to other restaurants and business owners who have been in my position. And they've said usually when you're purchasing the license -- I would be purchasing it from someone else,

correct? It's usually in the range of about $70,000 --

EXECUTIVE DIRECTOR ELIZABETH LINT: I don't know.

DAVID BARLAM: -- for beer and wine.

POLICE COMMISSIONER ROBERT HAAS: My point to you is because I think we're about to vote on deferring your application, so I would suggest to you between now and August 1 you just make an effort to figure out, A, are there available licenses on the market and what the cost of those licenses are and then make a determination whether --

DAVID BARLAM: I'll contact them and find out how much they are.

POLICE COMMISSIONER ROBERT HAAS: Yeah.

CHAIRMAN MICHAEL GARDNER: You can get that information from the Commission.

DAVID BARLAM: That's fine.

POLICE COMMISSIONER ROBERT HAAS: I also to Mr. Panico's point, if you need to show greater community support, it would be helpful, and I think the last point we would like to hear from the other property owners as to whether or not they feel this is a well-run venture or not. You made representations. I would like to see that backed up.

DAVID BARLAM: That's fine.

CHAIRMAN MICHAEL GARDNER: Which can be in writing. We don't necessarily have to have people here.

DAVID BARLAM: Okay.

CHAIRMAN MICHAEL GARDNER: Do I have a second?

POLICE COMMISSIONER ROBERT HAAS: He did.

CHAIRMAN MICHAEL GARDNER: All those in favor, signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY CHIEF LESTER BOKUNIEWICZ: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed.

Sorry we can't act on it this evening, but I hope with further investigation we can make it clearer.

EXECUTIVE DIRECTOR ELIZABETH LINT: No further business.

CHAIRMAN MICHAEL GARDNER: Motion to adjourn is always in order.

DEPUTY CHIEF LESTER BOKUNIEWICZ: I'll second that one.

CHAIRMAN MICHAEL GARDNER: Motion to adjourn I'll make and it has been seconded, all those in favor, signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY CHIEF LESTER BOKUNIEWICZ: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed to adjourning at approximately 7:58 p.m.

ERRATA SHEET

INSTRUCTIONS: After reading the transcript of this hearing, note any change or correction to and the reason therefor on this sheet. DO NOT make any marks or notations on the transcript volume itself. Sign and date this errata sheet (before a Notary Public, if required).

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I have read the foregoing transcript of the hearing, and except for any corrections or changes noted above, I hereby subscribe the transcript as an accurate record by me.

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CERTIFICATE

Commonwealth of Massachusetts

Norfolk, ss.

I, Jill Kourafas, a Notary Public in and for the Commonwealth of Massachusetts, do hereby certify:

That the hearing herein before set forth is a true and accurate record of the proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of July 2013.

_____

Jill Kourafas
Certified Shorthand Reporter
License No. 14903
Notary Public
My Commission expires:
February 2, 2017

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