

COMMONWEALTH OF MASSACHUSETTS

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARINGS

LICENSE COMMISSION BOARD MEMBERS:

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

STAFF:

Elizabeth Y. Lint, Executive Officer

- held at -

Michael J. Lombardi Municipal Building
831 Massachusetts Avenue
Basement Conference Room
Cambridge, Massachusetts 02139
Tuesday, September 7, 2010
6:16 p.m.

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INDEX OF AGENDA PROCEEDINGS

| <u>Agenda Matters</u> | <u>Page</u> |
|---|--------------------|
| Policy: Discussion of M.G.L. Chapter 138, Section 12 | 3 |
| Application: S & S Restaurant | 6 |
| Delicatessen; New Inman Associates | |
| Application: The Cheesecake Factory | 15 |
| Application: Memorial Drive Partners | 18 |
| Application: Massachusetts Institute of Technology | 37 |
| Application: Clover Fast Food, Inc. | 46 |
| Application: Sushi King, Inc. | 62 |
| Application: Le Cordon Bleu College of Culinary Arts, Inc. | 69 |
| Application: Swami Pramukh, LLC | 71 |
| Application: Fawaz Abu-Rubayah | 74 |
| Application: 87 New Street, LLC | 81 |
| Application: Al's Harvard Square Café | 86 |
| Application: The New Brand Sebastians | 91 |
| Application: Mass Chicken, LLC | 95 |
| Ratifications: Medallion 27, 31, 51, 166, 33, 187, 194, 171, 206, 45, 25 | 100 |

P R O C E E D I N G

MR. SCALI: Deputy Chief Turner will be here at 6:30, so we're going to have to skip around on some items and then we'll come back.

MS. LINT: License Commission General Hearing, Tuesday, September 7, 2010. It's 6:10 p.m. We're in the Michael J. Lombardi Municipal Building, 831 Massachusetts Avenue. Before you are the commissioners: Chairman Richard Scali and Commissioner Robert Haas.

The first matter is policy discussion. The Board of License Commissioners will discuss adopting the new law allowing licensees to serve alcohol as early as 10:00 a.m. on Sunday. That's Mass. General Laws, Chapter 138, Section 12.

MR. SCALI: So Mrs. Lint, this is a local option that was voted in, the Commission votes it in. Those who wish to apply can do so. I think we already have some on the agenda; am I correct?

MS. LINT: Yes.

MR. SCALI: Is there anybody who wishes to comment on this policy at all? No hands.

So Commissioner, this would just mean that on Sundays those who wish to serve alcohol for brunch could serve it starting at 10:00, whereas, our policy right now is 12:00 noon.

MS. LINT: Ours is 12:00 noon but the State law is 11:00.

MR. SCALI: We didn't vote in -- I don't think we voted in the previous law when it was changed to 11:00.

MR. HAAS: Why would that be?

MR. SCALI: I can't remember. I think no one applied for it or something. What was the reason why we didn't vote it in?

MS. LINT: I wasn't here then. I don't know.

MR. SCALI: I don't have any particular problem with it because most times it's a Mimosa or a Bloody Mary. No one is really drinking hard alcohol at 10:00 a.m. on a Sunday morning I don't think.

MR. HAAS: Can we place a restriction on what they can drink between 10:00 and 12:00, or is it open.

MS. LINT: The law is either you allow it or you don't.

MR. SCALI: Any further discussion? There are a couple of people who have applied.

MR. HAAS: I'm just trying to figure out what the community sentiment is.

MR. SCALI: the community is silent.

MR. HAAS: I don't know if this is the whole community.

MS. LINT: And I had no e-mails, no phone calls, no letters, no nothing.

MR. HAAS: Nothing?

MS. LINT: Nothing.

MR. SCALI: You have to come up if you want to be heard. We can take those who are applying for comments, now. We'll skip down to the bottom of Page 1, Mrs. Lint.

MS. LINT: And the top of Page 2 as well.

MS. LINT: S & S Restaurant & Delicatessen, Inc., Robert Wheeler, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 1334 Cambridge Street has applied to extend their current Sunday alcohol hours from 11:00 a.m. to 10:00 a.m.

MR. HAAS: So he's serving already at 11:00 then?

MR. SCALI: He must be if we've already voted that in.

MS. LINT: He must have.

Application: New Inman Associates, Inc., d/b/a Ryles, Gary Mitchell, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 212 Hampshire Street has applied to extend their current Sunday alcohol hours from 11:00 a.m. to 10:00 a.m.

MR. MITCHELL: I'm here representing both of our facilities. Obviously we've had the privilege over the last 92 years of serving the Cambridge community.

MR. SCALI: Serving alcohol for 92

years?

MR. MITCHELL: During Prohibition I heard my grandfather might have been brewing something in the basement but I'm sure you folks would have investigated. It was birch beer.

I kind of sense your concern, Commissioner. Perhaps, you know, for us it's not a giveaway. Some brunches give away Mimosa's and Bloody Mary's. I did look up and see actually what we've sold between 11:00 and 2:00, and typically it's strawberry Mimosa, peach Bellini's and Bloody Mary's. Typically those people are not drinking four or five of them. It's typically one. But we could make some type of restriction that -- you just don't want a bar to open up and start serving shots of alcohol that doesn't involve food. I don't know what stipulations you could have.

MR. SCALI: That's our rule already; you have to serve food with alcohol anyway.

MR. MITCHELL: What we're looking for in this economy is to -- actually it came up because I heard it in the news that the State voted

this thing in. Our customers came in and said why aren't you serving. So then I contacted you folks. Of course, I thought it was just a little addition to our license. I had to bring in some money and I brought in the wrong amount. It's three hundred dollars or something to apply for this.

People come from the hospital and it's actually their dinner at 9:00, 10:00 in the morning at the S & S. They would enjoy a Bloody Mary or Mimosa. Typically our customers are families, et cetera, and they don't stay for much more than an hour, an hour and fifteen, an hour and twenty minutes. I don't think we'd have a problem. As a matter of fact, since the law statewide has changed I'm getting a lot of requests for it because we're pretty busy starting right off at 8:00 in the morning at the S & S.

MR. HAAS: Can we restrict access to a bar operation from 10:00 to 12:00 and just allow it during the course of meals and things like that? So in other words, you wouldn't be able to do bar service until 12:00 on a Sunday.

MS. LINT: Well now we allow it at 11:00.

MR. HAAS: You just finished telling me you didn't do it at 11:00.

MR. SCALI: She's mistaken. I think we must have passed it. I can't recall.

MR. HAAS: So there's unfettered sales of alcohol from 11:00 on Sunday mornings right now?

MR. MITCHELL: We have it on our license I'm sure, and I applied for it both here and Ryles.

MR. SCALI: At 11:00, what typically do you serve, now?

MR. MITCHELL: At Ryles there's really not even a bartender; it's those four drinks. People are not drinking Guinness at 10: in the morning, or 11:00. To restrict it is just another hassle but I think as a custom people just don't drink Cosmopolitans.

MR. HAAS: I would imagine the majority of folks would like some kind of breakfast or brunch type of drink. I'm just concerned about

encroaching that early on the morning. I'm surprised that the religious community hasn't spoken up about it one way or another.

MR. SCALI: Typically every other day but Sunday now people are open at 8:00 a.m. and those that serve -- except for Sunday morning.

MR. HAAS: We had that one issue with the church that wouldn't let an outside patio, remember.

MR. MITCHELL: I don't think the concern you have -- that individual gets up early on a Sunday morning. I might be wrong. Maybe they go to church and then to the S & S or Ryles.

To continue in this vein, we've been in business a long time. We're sure it won't be a problem in either one of our operations and it's just another reason to keep our Cambridge customers happy.

MR. SCALI: We're still going to take them on a case-by-case basis, Commissioner. They still have to apply individually.

MR. HAAS: You're not just accepting a

statute?

MR. SCALI: We accept it but they still have to apply. We change it individually so if there's one in particular that you're not happy with -- I don't think Ryles or S & S have been a problem in terms of serving on Sunday mornings.

MR. MITCHELL: We really do cater to the Cambridge community and I think people would just appreciate it. It's never a problem on any other day. Sunday just happens to be busy. People do wait a little longer. For when the bar opens it would just be customer service. I think the real issue became when the state just announced it or something. Then all my customers were asking me. So then I came and applied. It took a couple of months just to get this on the docket. So I don't know what Somerville is doing, I don't know what Brighton, Allston.

MS. LINT: I don't either.

MR. MITCHELL: But we're open for brunch.

MR. SCALI: Thank you very much.

Anything else you want to ask?

MR. HAAS: No.

MR. SCALI: Thank you.

MR. HAAS: So how do you want to do this? Do you want to vote on it first?

MR. SCALI: Cheesecake Factory is also applying.

MR. HAAS: But Mr. Mitchell is here now so I don't know if you want to just --

MR. SCALI: But you have to vote on the policy first.

MR. HAAS: I understand that.

MR. SCALI: I have no trouble with changing the policy, Commissioner. It's up to you if you wish to consider it.

MR. HAAS: I'm assuming it's been properly advertised and things like that and since there's no comment from the community, I can't imagine why we would oppose it. It's only an hour anyway. It's a little bit easier to digest from 11:00 as opposed to 12:00 to 10:00. So I would vote in favor of and accepting the statute.

MR. SCALI: Motion made to accept the legislative change. Moved and seconded. All in favor?

MR. HAAS: Aye.

MR. SCALI: Motion then to allow S & S and Ryles to --

MR. HAAS: I make a motion to allow S & S Restaurant to serve from 10:00 a.m. on Sundays.

MR. SCALI: I'll second that. So moved and seconded. All in favor?

MR. HAAS: Aye.

MR. SCALI: Aye.

MR. HAAS: I'll make a motion to allow Ryles to serve alcohol on Sundays at 10:00 a.m. in accordance with the statute.

MR. SCALI: I'll second that. It's moved and seconded. All in favor?

MR. HAAS: Aye.

MR. SCALI: Thank you very much.

MS. LINT: You have to accept the minutes.

MR. HAAS: From?

MR. SCALI: We already accepted August 16. Motion to accept the minutes from the Decisionmaking meeting.

MR. HAAS: We have to wait for Deputy Chief Turner; I wasn't here for that.

MR. SCALI: This past September 2.

MR. HAAS: I wasn't here.

MS. LINT: Dan was here.

MS. LINT: Application: Cheesecake Factory Restaurants, Inc. d/b/a The Cheesecake Factory, Nicholas Laganas, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 100 Cambridgeside Place has applied to amend their hours of operation from 8:00 a.m. to 1:00 a.m. Monday through Saturday, and 11:00 a.m. to 1:00 a.m. on Sunday to 11:00 a.m. to 11:00 p.m. Monday through Thursday, 11:00 a.m. to 12:30 a.m. Friday and Saturday, and 10:00 a.m. to 11:00 p.m. on Sunday.

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

MR. DAVIGNON: Marco Davignon, General Manager.

MR. SCALI: Can you spell your last name?

MR. DAVIGNON: D-A-V-I-G-N-O-N.

MR. SCALI: So you're representing Cheesecake Factory?

MR. DAVIGNON: Yes.

MR. SCALI: What's your position?

MR. DAVIGNON: General Manager.

MR. SCALI: So tell us, typically what would you be serving at 10:00 a.m. on a Sunday morning?

MR. DAVIGNON: During that time we're probably talking about a couple of Bloody Mary's, a couple of Mimosas. We don't have a very large crowd, just whatever is coming across from the hotels. We don't pick up until about 1:00, 2:00 on Sundays so there's not much demand for it, but it is a convenience for our guests that come in.

MR. HAAS: Is that the reason for eliminating your morning hours during the course of the week? You're going from 8:00 a.m. to 11:00 a.m. openings Monday through Saturday; right?

MR. DAVIGNON: We don't open until 11:00 at The Cheesecake Factory.

MR. SCALI: They originally had 8:00 a.m. They're going to 11:00. So you open at 11:00 a.m. during the week and on Sundays you'll be open at 10:00 a.m.?

MR. DAVIGNON: Yes. We currently open

at 10:00 anyway, we just don't serve any alcohol.

MR. SCALI: Does anybody want to comment on Cheesecake Factory? No hands. Discussion?

MR. HAAS: No discussion.

MR. SCALI: Motion?

MR. HAAS: Motion to approve the hours and to allow them to serve alcohol at 10:00 a.m. on Sundays in accordance with the statute.

MR. SCALI: I'll second that. Moved and seconded. All in favor?

MR. HAAS: Aye.

MR. SCALI: You're all set. Just make sure you get your new licenses before you do that.

MS. LINT: Application: Memorial Drive Partners, LLC d/b/a Dunkin Donuts, Brandon Woolkalis, Manager, has applied for a Common Victualer license to be exercised at 808 Memorial Drive. 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 36 (20 seats inside and 16 seasonal seats outside on private property.) The hours of operation will be from 4:30 a.m. to 11:00 p.m. seven days per week.

MR. SCALI: Good evening.

MR. RAFFERTY: Good evening, Mr. Chairman and members of the Commission. For the record, James Rafferty on behalf of the applicant. Seated to my right is Brandon Woolkalis, W-O-O-L-K-A-L-I-S. Mr. Woolkalis is a principal of the Memorial Drive Partners, LLC.

This is an application requesting a Common Victualer's license at a new location on Memorial Drive, 808 Memorial Drive. The premises was previously used as a gas station, a Sunoco gas

station. On Memorial Drive this is the stretch of 808 between the Marriott Hotel and the intersection of River Street.

The use itself is really seen as something the applicant hopes will enliven the neighborhood and also be a service to residents and visitors to the area. He currently operates a Dunkin' Donuts establishment in North Cambridge. He's been the holder of a Common Victualer license at that location and has discharged his responsibilities with that license appropriately.

The location itself was the subject of a hearing by the Zoning Board. There was a conversation about the appropriateness of the location. There were favorable comments. For the most part, there were some concerns expressed by some residents and Mr. Woolkalis has met with those residents around issues that you would typically anticipate: trash, deliveries, and the like. Product will not be baked on the location as is the case in many retail locations like this.

I'm sure the Commission is mindful

that a block or two down the road a recent opening of another coffee shop with a patio out front has proved to be very successful. It's the former Strawberries Records location. The company that operates that -- the name escapes me at the moment. But it definitely has proved as a café, a meeting place, a place where people can obtain a product that is in high demand. So Mr. Woolkalis is seeking his CV license consistent with that. And he will also in this location have an opportunity for outside seating as well.

(Deputy Chief Turner arriving.)

MR. SCALI: Just for the record, Deputy Chief Turner has arrived at the start of this hearing so he's now here at the Board table.

So at the BZA hearing are there conditions on the approval? Is it a fast-food permit you applied for?

MR. RAFFERTY: It was, and other than the general conditions the BZA through one of its

members suggested that this body was far more skilled at imposing restrictions around operational issues. They for the most part addressed the usage. They did make a request of the applicant that he meet with the residents of the 808 Tenants Association prior to this hearing, and that meeting has in fact taken place.

MR. SCALI: They did approve it?

MR. RAFFERTY: They approved it.

MR. SCALI: Has the 20 days passed?

MR. RAFFERTY: We are in the appeal period.

MR. SCALI: When will that be up, do you know?

MR. RAFFERTY: We're about one week into it would be my estimate.

MR. SCALI: So it's still couple weeks.

MR. RAFFERTY: So it's probably another 10 to 15 days, in that range.

MR. SCALI: So this is a brand new location, 20 seats inside, 16 seats outside on

private property; right?

MR. WOOLKALIS: Correct.

MR. SCALI: So that's right out there in the front of the building.

MR. WOOLKALIS: Right in front of the store.

MR. SCALI: And 4:30 a.m., obviously people are looking for their coffee as that going to work, until 11:00 p.m. seven days a week. Drive-up window at all?

MR. WOOLKALIS: No.

MR. SCALI: We do know your experience and your reputation because you have had a Dunkin' Donuts for a number of years in North Cambridge. We know that you have met all your conditions and the laws up there in North Cambridge, so I guess we're not questioning your character or your qualifications. I guess it's just the appropriateness of the location and whether there's a need in this particular location for it.

MR. WOOLKALIS: I sit before the members of the Board tonight to ask for approval

for a continuation of a lifelong dream of mine and that's to open Dunkin' Donuts, but not just any Dunkin' Donuts, a neighborhood of café basically. In approving the store, we all will be fulfilling a need in the community. In that area there is one Starbucks down the street but there's no other coffee locations where people can sit down and enjoy themselves. And not all people favor Dunkin' Donuts, not all people favor Starbucks, so there's a need.

We spoke to the community out there and we're looking to put a bank in as well. We've already gotten permission from the Zoning Board to do a dry cleaner. So it will be one-stop convenience. People will be able to come get their coffee in the morning, pick up their dry-cleaning, go to work, et cetera.

MR. RAFFERTY: I just want to clear; that's not in the license premises.

MR. WOOLKALIS: It's separate.

MR. RAFFERTY: I have a floor plan. There are three storefronts on the ground-floor.

MR. SCALI: All separated?

MR. RAFFERTY: Yes. The Dunkin's would be an entity unto itself. It would be that you could have your coffee and get your shirts cleaned at the same time, although it's an intriguing concept. Remember Subs, Mr. Chairman? That was a long time ago in Central Square.

MR. SCALI: I do remember that actually.

MR. RAFFERTY: It was going to be a laundry-mat with a beer and wine license. It never opened.

MR. SCALI: It actually was approved but never opened.

So do you own all three?

MR. WOOLKALIS: We have a lease for that property and we're subletting to the cleaners and the bank. The cleaners is an off-site cleaner so you just pick up and drop off. There are no chemical on-site, just for your information on that.

The store will be designed and

constructed to fit into the neighborhood just like we did in North Cambridge. We want it to fit in to look pretty and we did a lot of different things than Dunkin's usually do to make it like that.

There's going to be plenty indoor seating like we mentioned, a beautiful fit and finish inside. On the outside we're going to do gooseneck lamps sort of like the East Cambridge and the Cambridge Street Revitalization. They put a lot of goosenecks in; beautiful awnings to soften the look of the building. It's a pretty stark building. I actually have pictures I'll pass to you folks.

The first set of pictures is the old gas station where put our current Dunkin' Donuts in North Cambridge. These are just some pictures of people at community events that we hold for the community. This is the building that we propose to put the Dunkin in. So the awnings will soften the look. The entire lot will be heavily landscaped. There will be a large outdoor patio in front of the store which will provide a place for people to read

a newspaper or just take a break during a busy day. It will be like an oasis in our city, a place where people can watch the bicyclists and joggers and pedestrians walk along the river.

Like Attorney Rafferty was saying, we will not fry donuts on site. They'll be fried off site because that's where you get the smells. We will have a baking oven but it's more of a steam oven for the bagels and all the off gas is really steam so we don't have that smell.

What we'd like to do is secure this site as a convenience for the neighborhood. The other uses for this site as of right would be a gas station, you know, a lot less attractive uses: a car lot, a used car lot, a U-Haul location. So we think if we can secure this site, it would be an addition to the community.

I was born and raised in Cambridge and I'm looking forward to serve more of my Cantebrigians (phonetic) and give back to the community like we already have up in North Cambridge.

MR. SCALI: How many parking spaces do you have out there?

MR. RAFFERTY: There's going to be 16 of them.

MR. RAFFERTY: I have a site plan here, Mr. Chairman. Mr. Woolkalis has developed this specialty of turning gas stations into donut shops. This would be the second. The one in North Cambridge really is quite a success both visually and in terms of the community amenity it has become for people. The expectation is that he can achieve the same success here.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: Through you to the applicant: I don't recall when the gas station was here but I know obviously if you're I guess going outbound or west bound, you'd pull in to get coffee now instead of gas. Was there a lane cut so you could come if you were going toward Boston and take a left turn into there?

MR. WOOLKALIS: No.

MR. TURNER: Or is this only going to service the one way outbound or west bound?

MR. WOOLKALIS: There's no special turn lane or anything. It's the same setup as the Micro Center. It's just two lanes going west, two going east.

MR. TURNER: You haven't petitioned the State, or DCR? That would be DCR property.

MR. WOOLKALIS: There's no curb cutting so I don't think we have to on that one. I know in North Cambridge we had to petition Mass. Highway back then.

MR. TURNER: o anybody going towards Boston would basically have to go to another coffee establishment down the road.

My second question is, is the patio 4:30 as well? Are you looking for the 4:30?

MR. WOOLKALIS: I didn't even think of that. We generally put the patio furniture out somewhere around 7:00 in the morning because the gentleman usually goes in at 5:00 and gets the coffee ready, and then once the coffee is all ready

the second worker comes in and they generally put the furniture out around 7:00.

MR. TURNER: I'm just curious with the apartments right above.

MR. WOOLKALIS: I don't think there will be much use at that hour. Usually about 8:00 you start getting people outside reading the newspaper and stuff like that.

MR. TURNER: Thank you.

MR. SCALI: Questions, Commissioner?

MR. HAAS: No.

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

MS. LINT: I have a letter here. Just a letter from Councilor Toomey lending his support to the application. He said, "The project will help to revitalize the area by converting what is currently an unoccupied gas station and transforming it into a coffee shop with ample seating that will add a human element to the area. The petitioner has already established himself as a responsible business owner. The first Dunkin'

Donuts in North Cambridge has shown his great level of involvement with local charities and community organizations such as the North Cambridge Little League." The councilor feels, "It's a great opportunity to allow a Cambridge native to help establish this location along Memorial Drive as a place people can enjoy with close proximity to the Charles River."

MR. SCALI: Just three other things: One, you have the responsibility for cleaning up the area. You know that you're responsible for cleaning up the outside in front of your premises, making sure there's no trash, litter, food.

In terms of your HVAC system, is that on the roof or in the back?

MR. WOOLKALIS: We're going to either locate it to the right of the building or the left, because in the front there's no place to put the condenser units. So the left of the building has like a big diesel generator in case the power goes out. It's also like a little NStar substation I think for the building. We're going to try and put

it back there because it's kind of -- you know, the compressors are pretty ugly so we have to put them back there with all the other stuff that's not very attractive.

MR. SCALI: So there's nothing there now for HVAC?

MR. WOOLKALIS: There's only heat.

MR. SCALI: You're going to want to be very mindful of the fact that that's going to cause more noise. You might want to make sure you put it in a location that's not disturbing for anybody living above because those systems can be very loud. You need to make sure they're in a spot where they're not reverberating against the buildings or causing more disturbance than what's already there. So make sure you get someone to do that for you.

Trash pickup?

MR. WOOLKALIS: We already spoke with the building management there and they're going to allow us to put a dumpster where they house their dumpsters, which would be good to keep the trash

all in one area. We did have on the original plot plan a space for the dumpster that was going to be fenced in and everything, but we'd rather put it with the rest of the trash. It keeps all the trash in one area and that way if there is problems, you can address that one area.

MR. TURNER: So not as proposed on here?

MR. WOOLKALIS: It's to the right of the building. They store like five or six three-yard containers over there.

MR. SCALI: What time are deliveries?

MR. WOOLKALIS: We haven't set up a schedule with Dunkin' Donuts yet. We'll see if we fit into their route or how that would work, but obviously if it became an issue with deliveries coming too early, it would be changed just like we did on Mass. Avenue North, you know, there's certain hours that they come. And they're very good about that.

MR. SCALI: You are on a main road, which would probably exempt you from the noise

ordinance but you have residents upstairs. I know Trader Joe's had a number of problems with deliveries.

MR. WOOLKALIS: Yeah, back years ago, right.

MR. SCALI: No, actually just the past Year they had a number of issues with people complaining about plowing snow early in the morning and deliveries, and they had to rearrange their schedule to make it later in the morning. So you have to worry about that as well.

MR. WOOLKALIS: We still abide by that same even though we're not included in the ordinance. We still have our trucks come at like 6:00 in the morning and that was what the neighborhood wanted. They didn't want it any earlier than that and they didn't want it in the afternoon or night.

MR. SCALI: It's a major artery so it's not going to be any more noisy than all the cars going by but you just want to make sure.

Anything else, Deputy Chief?

MR. TURNER: Yes. Your plans do not show a rear means of egress. I was wondering if a door is required. Is this an oversight by the architect?

MR. WOOLKALIS: I would assume it's not required. I can look into that. I know that that is a cement wall in the back and it leads into their courtyard. If it's not required, I would rather not put one in because it would be kind of ugly for their courtyard.

MR. TURNER: The second half of that question was going to be, where does that lead.

MR. WOOLKALIS: And they have nice landscaping so it would be kind of -- I mean I could make the door look pretty I guess if we had to put one.

MR. TURNER: I was thinking that if one were to be required and put in, that door being opened at 4:30 in the morning with the noises in the kitchen could be an issue.

MR. WOOLKALIS: We do have two means of egress. We have two front doors on that store.

But I would assume that Manny Tavares, the architect, would have picked that up, but I didn't.

MR. SCALI: Smoking outside? Not allowed on the patio.

MR. WOOLKALIS: We don't allow it in our store at all on the patio. People generally abide by it; they don't smoke. We actually have ashtrays outside both of our doors on Mass. Ave. North and people are pretty respectful about putting their cigarettes out there even if they do flick them on the ground. There's a lot of people coming in that are smoking a cigarette and will sometimes throw them on the ground instead of putting them in the ashtray, but we have our girls and our help, they sweep up every day and it keeps very clean out there.

MR. SCALI: Anything else?

MR. TURNER: No.

MR. SCALI: The Commissioner is not speaking because he is recusing himself, I'm sure. Anything further, Deputy Chief?

MR. TURNER: No further questions.

MR. SCALI: Pleasure of the Commissioners?

MR. TURNER: Motion to approve.

MR. SCALI: Motion to approve as applied for; no conditions?

MR. TURNER: Except the patio hours.

MR. SCALI: Motion to approve as applied for except patio hours to be 7:00 a.m. to 11:00 p.m. That's moved.

MR. TURNER: Seconded.

MR. SCALI: That's moved.

MR. TURNER: Seconded.

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

MR. TURNER: Aye.

MR. SCALI: And also pending the BZA appeal period.

MR. HAAS: And one abstention.

MR. SCALI: Two approved and one abstention. Thank you very much.

MR. WOOLKALIS: Thank you members of the Board.

MS. LINT: Application: Massachusetts Institute of Technology has applied for a Garage license for 420 spaces and 4,200 gallons of gasoline in tanks of automobiles only at 100 Main Street. Applicant is also applying for additional flammable storage to include 650 gallons of Class 2 diesel fuel oil in an above ground tank.

MR. SCALI: Good evening. Just tell us your name.

MR. BRUTTI: I'm Larry Brutti, B-R-U-T-T-I. I manage parking and transportation.

MR. BROWN: My name is Kelley Brown. That's K-E-L-L-E-Y B-R-O-W-N. I'm a senior campus planner at MIT.

MR. SCALI: So this is for a new garage?

MR. BROWN: It is. We call it the East Campus garage. I'm fearful that's it's going to end up being called the Sloane Garage because it's right underneath the new Sloane Building. It's about a 210,000 square-foot building on top of 420 underground spaces. And then about 50 -- I've

got to check my figures here -- 49 surface parking spaces. There had been as you may recall a large parking lot there, about 330 spaces, that has all been reduced to the 50 and the underground garage.

MR. SCALI: There's 420 spaces for people using that building, or can anyone park there?

MR. BRUTTI: It's buildings within the general area. There's several buildings in that Sloane area.

MR. SCALI: Is it for MIT people?

MR. BRUTTI: It's all MIT.

MR. SCALI: So you have to have an MIT ID to get in.

MR. BRUTTI: An MIT parking permit, yes.

MR. SCALI: And is there a charge to park there?

MR. BRUTTI: There's an annual fee.

MR. SCALI: So people that are associated with MIT pay an annual fee for a space?

MR. BRUTTI: Uh-huh.

MR. SCALI: And the surface lot; is that pay for spaces as well?

MR. BROWN: No. It's handled the same way. It requires some patrolling on Larry's people's part but it is an open lot. The primary people who have been assigned to that lot are the graduate students who are residents in the Eastgate Tower adjacent, so their cars are typically there during the day.

MR. BRUTTI: But we do have an open-air license for that lot already.

MR. SCALI: That was my next question.

MR. BRUTTI: The license was for the 350. It's being changed now the new proper number.

MR. SCALI: So you're just reducing it down to the 49?

MR. BRUTTI: Yes. That's next meeting. We'll be here again because we're changing a bunch of inventory.

MR. SCALI: You're on our agenda for that?

MR. BROWN: No.

MR. BRUTTI: Not yet. We hope to be.

MR. BROWN: We're putting together our application, some of which are new and some are amendments.

MS. LINT: In fact, Commissioner, we met and went through their whole inventory and figured out what they needed and what they didn't need.

MR. BROWN: But it's taken a little time to put the paperwork together.

MR. SCALI: So one by one we'll be seeing them.

MR. BROWN: Hopefully we'll come in together with a package of the open-air lots; that is our intention anyway.

MR. SCALI: So 650 gallons of Class 2 diesel. Is that for generators?

MR. BROWN: An emergency generator.

MR. SCALI: And those have been looked at, Deputy Chief?

MR. TURNER: Yes, Mr. Chair. This has been an ongoing construction project, part of MIT's

aggressive construction program they've had. We've done numerous inspections. The paperwork is in order. It's been approved by the Fire Department and I believe we're all signed off and occupied down there.

MR. BROWN: That is correct. There is a Certificate of Occupancy issued by the Building Department.

MR. SCALI: So the garage is brand-new?

MR. BROWN: Yes.

MR. SCALI: So in terms of HVAC and heating and all that, where are those units?

MR. BROWN: There is some exhaust stacks actually that come out and are near the sidewalk but they're kind of glassed in and they go 20 feet high. They're like a translucent sort of material and there are fans underneath. Honestly, I mean I've walked past them and I know the fans are operating there; I have not heard anything. The balance of the equipment for the building is in the roof in a penthouse.

MR. SCALI: I'm just wondering whether you are generating more noise by putting these in a certain location but they're enclosed and that would help. Because there are a number of different complaints in that area and surrounding that area about noise and of course, the big complaint is HVAC systems whether they're on the roof or in the back or on the ground. So the location of where you put those is very crucial to how you're adding to the noise.

MR. BROWN: Right there you're hard on Main Street which is four lanes plus parking in that area and it's purely commercial except for our own Eastgate Tower right there. So I don't expect our mechanical noise will be a special burden.

In addition, as part of the building permit process we require our architect to sign an affidavit saying that they're going to meet the requirements of the noise ordinance.

MR. SCALI: I guess the affidavit is working, finally, Mrs. Lint.

MS. LINT: Every now and then.

MR. BROWN: Well we pay attention to it. I assume everyone does.

MR. SCALI: So you are familiar with that. You're responsible for that.

MR. BROWN: Absolutely, every time. And we almost typically have an acoustic engineer who looks into these things for us.

MR. SCALI: Questions?

MR. TURNER: No questions.

MR. HAAS: No questions.

MR. SCALI: Does anybody from the public want to be heard in this matter? No hands. Abutter notifications? Is it all MIT surrounding?

MR. BROWN: We kind of went across the street to the 101 Main Street, the American Red Cross, and behind us to the One Memorial. It's all commercial abutters that we contacted.

MS. LINT: I don't have them.

MR. BROWN: I have my notices that I brought with me so I would be happy to give them to you.

MR. SCALI: We need your affidavit as

well, the affidavit for the abutters. There's a signature abutter affidavit.

MR. BROWN: From the mailing itself?

MR. SCALI: Yes.

MR. BROWN: Assessing has trouble keeping track of some of these commercial owners and that's who we sent them to. We went over and dropped things off to the American Red Cross.

MS. LINT: We do need the affidavit, but if you don't have it we can get you another one in the office.

MR. BROWN: Okay, thank you.

MR. SCALI: Discussion?

MR. HAAS: No.

MR. SCALI: Motion.

MR. HAAS: Motion to approve pending receipt of the affidavit.

MR. SCALI: Seconded.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Thank you very much.

MR. BROWN: Thank you.

MR. SCALI: Just get that affidavit to
us.

MS. LINT: Application: Clover Fast Food, Inc., Chris Anderson, Manager, has applied for a Malt Beverage Restaurant license at 7 Holyoke Street. Proposed hours of operation are 7:00 a.m. to 10:00 p.m. seven days per week with alcohol sales starting after 8:00 a.m. Monday through Saturday and after 10:00 a.m. on Sundays. The proposed capacity is 96 seats inside and 24 seasonal seats on an outside private patio. This is located in Cap No. 1.

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

MR. HOPE: Attorney Sean Hope, 130 Bishop Allen Drive, Cambridge, MA. Tonight I'm here with CEO and President, Mr. Ayr Muir and Manager, Chris Anderson.

MR. SCALI: Say the names again, please.

MR. MUIR: Ayr Muir. The first name is A-Y-R, last name is M-U-I-R.

MR. ANDERSON: And Chris Anderson.

MR. SCALI: And your positions are?

MR. MUIR: I'm the CEO of Clover Fast Food and Chris is going to be the general manager for the location we're talking about.

MR. SCALI: Mr. Hope.

MR. HOPE: Yes. So we are tonight seeking a Common Victualer license as well as a Malt only license at the location. As the Commission is aware, Clover started off as a food truck and still operates a food truck in Kendall Square. They're offering organic, locally grown, healthy foods. They're developed quite a following in Kendall Square, which has led us now to open up an operation in Harvard Square.

We were before the Board about a month-and-a-half ago and one of the things that came out of the hearing at the Zoning Board was the fact that there wasn't this type of organic health food that you could get without going either to Harvest or Whole Foods that you could get quickly for lunch in that area. So we do believe that Clover does provide a niche market and hopefully that will continue to spread.

I also do believe that this is in line with Cambridge's mission to eliminate trans-fat foods, so we feel like that location, although they do have Subway and some other healthier foods, the fact that Clover offers locally grown, organic foods that are delivered fresh daily will be an amenity to Harvard Square and to Cambridge.

As well, I actually have a copy of the menu, which I'll pass out. It's not just the sandwiches, but there's also breakfasts with granola and you really can't get some of these other types of food in the area that are also organically grown.

MR. SCALI: Did you apply for a fast-food permit; is that what it was?

MR. HOPE: It was fast order food that was at the Zoning Board, so this is just a straight CV. It was actually fast order or quick-serve food because of the seating count and the ratio between how many seats versus -- I also have a copy of the floor plan.

MR. SCALI: Were there conditions on

your permit for fast-food?

MR. HOPE: No conditions. Obviously it was just in conformance with the plans therein. The buildout is actually going on now and you can speak to what point they're at.

MR. MUIR: Harvard is our landlord so they're kind enough to be doing a bunch of work for us and that phase of the work is going on right now. At some point, I'm hoping soon, they'll hand it over to us and we'll finish the outfit.

MR. SCALI: Where in the mall are you? Where are located actually in the mall?

MR. MUIR: It's in the Holyoke Center building but it's on Holyoke Street, so we actually face onto Holyoke Street. We're not in the Arcade.

MR. SCALI: Where are you next to? There are couple of restaurants on that street; right?

MR. MUIR: Yeah, that's right. We're where it used to be Harvard housing offices. It's next to a Look's Boutique across the street from Sandrine's Restaurant.

MR. SCALI: Hours?

MR. HOPE: 10:00 a.m. to 7:00 p.m.,
and that's seven days a week.

MR. SCALI: You've got 7:00 a.m. to
10:00 p.m. seven days a week.

MR. HOPE: Excuse me, for the actual
CV it would be 7:00 a.m. to 10:00 p.m. seven days a
week.

MR. SCALI: Obviously alcohol or malt
meaning 8:00 a.m., and the 10:00 a.m. on Sundays.
So malt meaning just beer; right? So you're going
to be serving beer at 10:00 a.m. on Sunday morning?

MR. MUIR: I don't think we will. We
were just discussing this. Worse than that I don't
think we're going to be serving at 8:00 a.m. on the
weekdays. We'll define -- I think that just got in
there as standard hours but we'll define in our
operation the hours we start serving. We have no
interest in serving beer in the morning. For us,
we're looking to partner with a couple of local
breweries to highlight some local hops and other
local things, but it's really more to have with a

meal. It's not meant to have with breakfast.

MR. SCALI: Are you serving breakfast on most days?

MR. MUIR: We are, yes.

MR. SCALI: So you do want the 7:00 a.m. weekdays, and you do want the 8:00 -- well, you don't want the 8:00 a.m. for the malt?

MR. MUIR: No. I don't need that in the morning.

MR. SCALI: So what time are we serving the malt?

MR. MUIR: We can move that hour.

MR. HAAS: You want it to coincide with your lunch and dinner.

MR. MUIR: That would make a lot more sense. I'm certainly not going to serve beer with breakfast.

MR. SCALI: So 11:00 a.m.?

MR. MUIR: At the very earliest.

MR. HOPE: I know for the CV we have 10:00 p.m. as standard time. As we were just listening and discussing in the back, as they grow

we would probably like to try to go to midnight.

MR. SCALI: You're going to have to come back. We can shorten but we can't lengthen.

MR. SCALI: Outdoor patio seats on private property?

MR. MUIR: Yeah. Harvard owns a swath of the sidewalk and they have a lot of interest in us doing that. We plan to do that at some point, but we haven't applied for it and gone through that process. So that's a future plan.

MR. SCALI: You haven't applied with who, Harvard? You applied for it here; that's why I'm asking.

MR. MUIR: I'm sorry. We haven't constructed anything for it yet.

MR. HOPE: But to that point, it is private property.

MR. SCALI: We need your plan now if we're going to approve it now. And if you're going to be serving the malt out there, it has to be completely enclosed. You don't have that on your plan now; right?

MR. MUIR: I don't have it on that plan.

MR. SCALI: You've actually got a plan kind of on there.

MR. MUIR: I think they've sketched it out. They final plans for it haven't been --

MR. HOPE: But for the Zoning sign off we did need to show where we're proposing the seating there for the number count.

MR. MUIR: I don't mean to confuse it. We haven't started any construction on the sidewalk seating or anything like that.

MR. HOPE: Is that the first-floor or the mezzanine plan?

MR. SCALI: This one is the mezzanine; that's the first-floor.

MR. HOPE: So that's why: the first-floor shows the outside, the mezzanine doesn't.

MR. SCALI: Do you want to come up with a plan before we make our decision on this for the outdoor patio? Otherwise, you've got to come back and be heard again.

MR. MUIR: So I guess two separate things. Serving food outside, is the plan you have right now adequate for that excluding the malt, just for the food?

MR. SCALI: It's 24 seats. Yes, it's okay just for food. It's not okay for the malt.

MR. MUIR: Could we restrict the malt to inside?

MR. SCALI: If that's what you want.

MR. MUIR: Yeah, that's fine for me. I think there's a good chance we won't have any interest in serving malt outside anyway, even in the future.

MR. HOPE: and we could come back.

MS. LINT: The Cap criteria.

MR. SCALI: That's right.

So we're amending your application for 11:00 a.m. for the malt, inside only, not on the patio. So now the biggest key, which Mrs. Lint reminded me of, is it's Cap Area No. 1, which means that you have to meet all the Cap criteria, meaning overwhelming neighborhood support, proof of need,

and lack of harm. So tell me if you went to try and buy a license first and then tell me if you meet the criteria, if you didn't.

MR. HOPE: We went to the inactive License list and we actually called half the list, and as we were making the calls we recognized that there were no just beer or malt only licenses. They were all beer and wine or all alcohol.

So as Mr. Muir has stated, this concept is not trying to derive great sales from the sale of alcohol. This is really specifically local breweries that's going to accentuate the type of whole grain foods that are there. So there really weren't any licenses that were available they were even remotely appropriate for this location. They don't want all alcohol; it really wouldn't fit their business model. And to be honest, the pricing of those licenses, a lot of restaurants do derive a lot of their sales from alcohol and this is the opposite of what they're doing there.

We did obviously mail out to abutters,

we reached out to Harvard who is the major landowner in the area, so in terms of overwhelming abutter support, definitely Harvard is working with Mr. Muir and is really promoting this concept. I don't think you're going to have any resistance because it's beer only from any of the other restaurants. I think if we were applying for an all alcohol license we probably would have a lot of opposition if we didn't buy one. I would say that we do have the support.

The need I do believe because under Article 10.0 of the Zoning ordinance, it does require a need base to open up a new fast order restaurant. So I do believe the need is really the fact that we provide organic locally grown food that are whole grains and fresh fruits in a manner that no other restaurant or fast-food service offers in that area; I could even argue in Cambridge. Like I said before, you can go to Whole Foods or maybe a Marketplace, but a place you can go get a sandwich as well as breakfast quickly, I believe it does meet that need standard.

MR. SCALI: Overwhelming support: the Harvard Square Business Association, letters of support from councilors, residents, any of that, petitions?

MR. HOPE: We do not have that in the file. I think as a food truck, as a smaller business we haven't necessarily been able to get that support. I would offer though that --

MR. SCALI: You can't get Denise Jillson to support this?

MR. HOPE: We probably could, definitely. Mr. Muir, are you part of the Harvard Square Business Association? I mean we would join. I think that's one of the requisites potentially is when you join the Harvard Square Business Association, but we're not yet business owners, or Mr. Muir hasn't started. So we would gladly reach out to Denise Jillson and get her support as well.

MR. SCALI: You have to have some support for us to meet the criteria for overwhelming neighborhood support, a letter from somebody, a petition. There's nothing in the file

at all?

MS. LINT: No.

MR. SCALI: You need some support.

MR. HAAS: What some members have done in the past while doing the construction is actually just stand outside the restaurant and ask a petition to be signed. That would help a great deal if you wanted to do something along those lines. That way you get the local traffic, you can advertise at the same time you're going to be opening, and then see if there's an appetite for malt being served with lunch at that location. You can kill many birds with one stone.

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

MR. HAAS: It seems to me Mr. Chairman that we're not ready to vote on this issue.

MR. SCALI: We still need the overwhelming neighborhood support.

MR. HOPE: So we would get some letters from the councilors or key members of the

neighborhood. Could we do a conditional approval? I do believe that if I were able to talk to some of our councilors that we could get some people in the area.

MS. LINT: Our rules are that --

MR. SCALI: You need to submit the proof to show us to be able to vote. We can't vote on something we haven't seen yet.

MR. HAAS: Local foot traffic I think would speak volumes in terms of support if you can get folks to sign off a petition. The last one I thought of, she brought in pages of signatures by simply standing outside the restaurant asking folks if they'd sign in support of it.

MS. LINT: I need the affidavit as well.

MR. HOPE: I turned that in this afternoon.

MR. SCALI: Chris was talking with him this afternoon so he probably didn't put it in the file.

MR. HOPE: I'm like Chris.

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

MR. HAAS: Are you going to be ready to vote during the decision meeting absent the other criteria?

MR. TURNER: Are you able to take new testimony?

MR. SCALI: We can certainly vote to take new testimony at the Decisionmaking meeting, if you'd like.

MR. HAAS: When is the Decisionmaking?

MR. SCALI: September 30.

MR. TURNER: Continue it to the next.

MR. SCALI: The next hearing is September 21.

MR. HAAS: Can we get it on the September 21 agenda?

MR. SCALI: It would be an addenda item. Is that a busy agenda?

MS. LINT: I haven't seen it yet but it will be busy.

MR. HAAS: I think all we're looking

for is some supporting documentation and things like that.

MR. HOPE: And we can get it by then.

MR. SCALI: Motion to continue to September 21, evening bearing. Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: So work on that. And if you want to work on your patio alcohol plan at the same time, that gives you two weeks to work on that as well, and you can kill two birds with one stone.

MR. HOPE: Okay.

MR. SCALI: Thank you

MS. LINT: Application: Sushi King, Inc. d/b/a Super Fusion Sushi, Ming Guan, Manager, has applied for a Common Victualer license to be exercised at 1759 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 19. The hours of operation will be from 11:00 a.m. to 10:00 p.m. Sunday through Thursday, and 11:00 a.m. to 11:00 p.m. on Friday and Saturday. Applicant is also seeking as Entertainment license to include a radio.

MR. SCALI: Good evening.

MS. KOR: Good evening, my name is Andrea Kor. I'm the paralegal for Attorney Chris Corman's (phonetic) Office.

MR. SCALI: Can you tell us your name again? Can you spell it?

MS. KOR: Andrea Kor, last name K-O-R.

MR. SCALI: And your first name is?

MS. KOR: Andrea, A-N-D-R-E-A.

MR. SCALI: Thank you. And your

client is?

MS. KOR: His name is Ming Guan. Last name G-U-A-N; first name, M-I-N-G. He's the manager and the president of the corporation, the applicant, Sushi King, Inc.

Tonight we are seeking for the Board to approve our application for the Common Victualer license and an Entertainment license. Basically it is an existing restaurant.

MR. SCALI: Which one is it now?

MS. KOR: Current name is Soul Food, a Korean restaurant. It's just changing for the ownership.

MR. SCALI: So same setup, no interior changes; everything is staying the same? No redecoration?

MS. KOR: Maybe just some remodeling, repaint the walls, cleaning the carpets, no major changes.

MR. SCALI: Same number of seats; 19 seats?

MS. KOR: Yes.

MR. SCALI: And 11:00 a.m. to 10:00 p.m., and 11:00 to 11:00 on Fridays and Saturdays.

MS. KOR: Uh-huh.

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

MS. KOR: He has over 15 years in running a restaurant. He used to operate a restaurant. Now, he's operating another restaurant, the Tanka (phonetic) in Allston.

MR. SCALI: What's it called?

MR. GUAN: Tokyo Super Fusion.

MR. SCALI: In Allston?

MR. GUAN: (Inaudible).

MS. KOR: He's a good sushi chef, actually.

MR. SCALI: The best sushi in town; right?

MR. GUAN: I hope.

MS. KOR: Thank you for that.

MR. SCALI: So 15 years experience you said?

MS. KOR: Yes.

MR. SCALI: So you're the only owner?
You're the only one owning it?

MS. KOR: Now he's the only owner.

MR. SCALI: Nobody else will be an
owner?

MS. KOR: No.

MR. SCALI: And no intention to apply
for alcohol?

MS. KOR: Not now, maybe later. It
depends on how the business is running.

MR. SCALI: Questions?

MR. HAAS: Are you going to continue
to operate the restaurant an Allston or are you
going to shut that operation down and move to this
operation here?

MS. KOR: Actually he has another
partner operating the Allston restaurant.

MR. HAAS: His partner is that
involved.

MS. KOR: He will put 100 percent time
on this new business only by himself. So he will
be full-time working in this establishment.

MR. SCALI: No outside seats, no patio seats?

MS. KOR: No. There's no space anyway.

MR. SCALI: You're going to want to make sure you clean up out in front of your restaurant. The City Council has asked us to remind all restaurants to be mindful of the sidewalk and cleaning up after your customers. Anybody that's smoking outside, make sure you clean up that debris.

MR. HAAS: Any residential properties around where your restaurant is going to be located?

MS. KOR: I'm sorry?

MR. HAAS: Residential properties, are there going to be any?

MS. KOR: Yes, there are some residential. There's some residential apartments around that area.

MS. HAAS: Do you have any concerns about deliveries or pickup?

MR. SCALI: Yes. Doing your deliveries from the front? Deliveries from Mass. Avenue or the back?

MS. KOR: Deliveries in the front.

MR. SCALI: On Mass. Avenue?

MS. KOR: On Mass. Ave., yes.

MR. SCALI: And trash on the sidewalk, or do you have a dumpster?

MS. KOR: Dumpster in the back.

MR. SCALI: Is it part of the overall building, or is it just your dumpster?

MS. KOR: They have a private dumpster from Waste Management. They pick up once a week. And they know they're responsible, responsible to clean up and make sure the area is clean all the time.

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

MR. HAAS: No other questions.

MR. SCALI: Motion.

MR. HAAS: Motion to approve.

MR. SCALI: Motion to approve, moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Good luck.

MS. LINT: Application: Le Cordon Bleu College of Culinary Arts, Inc., A Private Two-Year College, d/b/a Technique, Steve King, Manager, holder of a Wine And Malt Beverages as a Restaurant license at 215 First Street has applied for a change of manager from Steve King to Andrea Abelman.

MR. SCALI: Good evening.

MR. ABELMAN: Good evening.

MR. SCALI: Tell us your name.

MR. ABELMAN: Andrew Abelman, A-B-E-L-M-A-N.

MR. SCALI: So wish to be the new manager of the Technique. Tell us your experience in the restaurant/alcohol business.

MR. ABELMAN: I have 40 years of hospitality experience, restaurants, full-service restaurants; 10 years in higher education. I own my own wine shop in Los Angeles, California so I have a wide range of experience.

MR. SCALI: Have you been at this restaurant long?

MR. ABELMAN: I'm the president of the college, so I have been here since April. And Steve King was the president.

MR. SCALI: Questions?

MR. HAAS: No questions.

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

MS. LINT: I have a letter from Councilor Toomey in support of the application.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Motion to approve.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Thank you.

MS. LINT: Application: Swami Pramukh, LLC d/b/a Subway, Nitin Patel, Manager, has applied for a Common Victualer license to be exercised at 4 Central Square. 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 9. The hours of operation will be from 7:00 a.m. to 9:30 seven days per week.

MR. SCALI: Good evening. Just tell us your name, please.

MR. PATEL: Nitin Patel.

MR. SCALI: I know you're very popular with the Weight Watcher crowd down there. I see them all in line on Tuesdays going into Subway. Tell us what you're applying for.

MR. PATEL: I want to put nine seats over there because sometimes I think like the offices upstairs, and sometimes they come so at least they can take that break and they can eat over there.

MR. SCALI: When I was in there last

week I saw -- are those the seats you're applying for right there where the tables and chairs are?

MR. PATEL: Actually those seats because I have Keno to play. That's the reason that I put some seats over there.

MR. SCALI: So people sit there at the tables and chairs and play Keno?

MR. PATEL: Keno, yeah, but now people are starting to sit over there for eating so then I figured out I have to go for license. Then when I first go there that time they told me I have to go to Planning Board. Then I went to Planning Board and then after --

MR. SCALI: You had to go to the Planning Board for nine seats?

MR. PATEL: Yes.

MR. SCALI: That's because that was a special building built and -- that's right. It was a new building that was built with conditions.

So nine seats, 7:00 a.m. to 9:30 p.m., seven days a week. You certainly were crowded so I know you need the seats. Questions from the

Commissioners?

MR. HAAS: No questions.

MR. TURNER: No questions.

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

MS. LINT: All set.

MR. SCALI: Motion.

MR. HAAS: Motion to approve.

MR. SCALI: Seconded. All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Just make sure you get your license before you start using the actual seats for the food. Get all your sign offs and bring them to Chris.

MR. PATEL: Thank you.

MS. LINT: Application: Fawaz Abu-Rubayah, d/b/a Olive Tree Café, holder of a Common Victualer license at 245 Massachusetts Avenue has applied to extend their current closing hour of 12 midnight seven days per week until 4:00 a.m. seven days per week.

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

MR. ABU-RUBAYAH: Fawaz, last name A-B-U R-U-B-A-Y-A-H.

MR. SCALI: How long have you been at Olive Tree?

MR. ABU-RUBAYAH: Twelve years.

MR. SCALI: I thought you were there for a very long time. So why do you want 4:00 a.m.?

MR. ABU-RUBAYAH: To help the business. People, the students they come after 12:00 sometimes, 1:00, you know. And for delivery, too. I want to do delivery after 12:00.

MR. SCALI: I know we have a few places that are open. Hi-Fi is open until 3:00 and

Pinocchio -- is Pinocchio open until 4:00?

Pinocchio is open until 4:00; am I right?

MR. ABU-RUBAYAH: And Pizza Ring.

MR. SCALI: So you want to compete with all that after-bar crowd?

MR. ABU-RUBAYAH: Yes.

MR. SCALI: Is that a problem, Commissioner?

MR. HAAS: Have you watched your competitors and the kind of clientele they get after a certain hour to see just what kind of clientele they're getting in their establishments?

MR. ABU-RUBAYAH: It will be more students.

MR. SCALI: They could be students but I think they're after-hours people coming out of clubs who may be wanting to have a really good time, or have had a really good time, and are looking for a quick bite to eat. They can be very rowdy, kind of noisy, which makes you responsible if they go into your premises to make sure that they leave quietly. Are you ready for that?

MR. ABU-RUBAYAH: Yes.

MR. SCALI: He said he's ready,
Commissioner.

MR. HAAS: What is located around your
business place? What are some of the places that
are located around your place?

MR. ABU-RUBAYAH: They have a couple
of bars down the street.

MR. SCALI: What's on either side of
you?

MR. ABELMAN: Nothing, just the street
and a big company in the front. At the back is MIT
Museum.

MR. HAAS: What is above you,
anything?

MR. ABU-RUBAYAH: No.

MR. TURNER: Dormitories.

MR. SCALI: The dorms are down near
you; right?

MR. ABU-RUBAYAH: Down the street.

MR. SCALI: Across the street.

MR. ABU-RUBAYAH: Yeah, after the gas

station.

MR. HAAS: How many people normally would be working in the establishment from 12:00 to 4:00, how many employees?

MR. ABU-RUBAYAH: Just me and my wife; maybe she stay with me sometimes.

MR. SCALI: Until 4:00 a.m.? You and your wife are going to handle that crowd?

MR. ABU-RUBAYAH: Yes.

MR. SCALI: Who's cooking; you?

MR. ABU-RUBAYAH: Yes, sir.

MR. SCALI: And your wife's going to Handle the crowd while you're cooking?

MR. ABU-RUBAYAH: For now. We're not sure.

MR. HAAS: How many seats are in your establishment?

MR. ABU-RUBAYAH: Eighteen.

MR. SCALI: The Commissioner is just trying to point out to you that what you have now at 12:00 is not what you're going to have at 4:00 a.m. It's a whole different crowd of people. They

can be rowdy, they can be noisy, and you're going to have to be policing them, cooking and policing them at the same time. It may mean another employee being there. I don't know, maybe it won't be. Maybe it will be very quiet but it's probably not what you think it's going to be.

MR. HAAS: Would you think about doing a trial basis until 2:00 just to get the sense of what the difference will be? Or are you only looking for 4:00?

MR. ABU-RUBAYAH: We it for delivery, more for delivery until 4:00. Because a lot of students that stay in the dorms, they call for delivery. I don't think it's a lot of people that come inside, you know. I know the guy next-door, Chicago Pizza. He told me it's more delivery at night.

MR. HAAS: Where is he located?

MR. ABU-RUBAYAH: Next-door.

MR. HAAS: And he's doing mostly delivery work?

MR. ABU-RUBAYAH: Yes, sir.

MR. SCALI: Which one?

MR. ABU-RUBAYAH: Chicago Pizza.

MR. SCALI: You're not really in favor, are you, Commissioner?

MR. HAAS: While you and your wife are working inside the restaurant, who is doing deliveries, another employee?

MR. ABU-RUBAYAH: Yes, sir.

MR. SCALI: Do you think maybe the suggestion is that maybe perhaps you try it until 2:00 and see how that goes, and then you can come back to us if you do well until 2:00?

MR. ABU-RUBAYAH: The guy next-door told me there's people who deliver until 4:00 from after people come from the bar. They call for food after like 2:00. Some bars close at 2:00 or 1:00 or something.

MR. SCALI: Objections, Deputy Chief?

MR. TURNER: I have no objections.

MR. SCALI: Trial basis, perhaps?

MR. HAAS: At the very least I would suggest there's a six-month review.

MR. SCALI: Does anybody from the public want to be heard in this matter? No comments or any objections?

MS. LINT: No.

MR. SCALI: Abutter notifications?

MS. LINT: There are no abutters.

MR. SCALI: That's right. You're on that strip of land that has no abutters.

MR. SCALI: Pleasure of the Commission?

MR. TURNER: Motion to approve pending six-month review.

MR. SCALI: Motion to approve with a six-month review. Moved and seconded. All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Aye. Just be pretty mindful of what the Commissioner is telling you.

MS. LINT: Application: 87 New Street, LLC has applied for a Garage license for 54 parking spaces and 540 gallons of gasoline in tanks of automobiles only at 87 New Street. Applicant is also applying for additional flammables storage to include 10 gallons of gasoline for maintenance.

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

MR. LAU: My name is Kin Lau, L-A-U. I'm director of design and construction for Oak Tree Development.

MR. RICARDI: My name is Phil Ricardi, R-I-C-A-R-D-I, and I'm the project director.

MR. SCALI: Did you get what you were waiting for?

MS.LINT: That's what I was waiting for.

MR. SCALI: Someone had said that your LLC didn't exist. Is it new, a new LLC?

MR. LAU: It's new to the project, yes. We generally open an LLC with every single

building we open. So each one is its own entity.

MR. SCALI: So it's filed with the Secretary of State?

MR. LAU: That's correct, yes. It's probably been around for a couple of years now.

MR. SCALI: Someone was trying to research it and couldn't find it.

MR. RICARDI: Chris told me that so I made sure we had it.

MR. SCALI: So this is a new garage?

MR. RICARDI: It's a new building.

It's a residential.

MR. SCALI: Are these condominiums?

MR. LAU: Rentals.

MR. RICARDI: 54 units.

MR. SCALI: Do the spaces go with the Apartments?

MR. LAU: Yes. They can go with the apartments.

MR. SCALI: Additional fee?

MR. LAU: Correct.

MR. SCALI: So you pay an additional

amount if you want to rent a space there?

MR. LAU: Correct. The location of the site is really close to the Red Line; it's right near Alewife. We'll be pushing for commuters.

MR. SCALI: The 10 gallons of gasoline is for what, maintenance?

MR. LAU: Snow blowers.

MR. RICARDI: It would be like a snow blower, a weed whacker. There's just miscellaneous stuff you use for maintenance of the building.

MR. SCALI: Deputy Chief?

MR. TURNER: Mr. Chair, an application was made to the Fire Department for these items and it has been subsequently approved and issued.

MR. SCALI: Was this a Planning Board issue? Did you go to the Planning Board or the BZA for this? Was this an as of right?

MR. LAU: As of right project.

MR. SCALI: Are your apartments already rented? Is the building built?

MR. LAU: We're going for occupancy in

about two weeks.

MR. SCALI: So you're ready to go in two weeks?

MR. LAU: Let's say two to three weeks.

MR. SCALI: I'm not holding you to anything, I'm just asking about when.

MR. RICARDI: It's sooner than later.

MR. TURNER: Mr. Chair, just interesting to note that this was a modular construction of four stories. It's the first time I've seen that.

MR. LAU: This is the second building we've done in Cambridge this way.

MR. TURNER: What was the other one? Was that Broadway?

MR. LAU: Yes.

MR. TURNER: That was four stories? I thought that was three.

MR. LAU: Three stories.

MR. TURNER: So this is four. It was interesting watching it go together.

MR. LAU: You can look on our web site during the construction. There's actually a little film clip showing how we do the boxes.

MR. SCALI: Anything else, Mrs. Lint?

MS. LINT: No.

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

MR. HAAS: Motion to approve.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MS. LINT: Application: Al's Harvard Square Café, LLC, Jay Blacker, Manager, has applied for a Common Victualer license to be exercised at 1354 Massachusetts Avenue, Holyoke Center. 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 eight. The hours of operation will be from 11:00 a.m. to 10:00 seven days per week. Applicant is also seeking an Entertainment license to include two TVs.

MR. SCALI: Good evening.

MR. PENN: Good evening. I'm Barry Penn, one of the principals of Al's. This is Jay Blacker, the manager of Al's. We're applying for a CV license and an Entertainment license to allow two flat screen TVs inside the space after it's been constructed.

MR. SCALI: Eight seats, so this is a small location.

MR. PENN: Yes.

MR. SCALI: Serving what kind of food?

MR. PENN: Subs, hot and cold subs, some salads and soups, and the seats are stools.

MR. TURNER: Old-fashioned subs?

MR. PENN: Subs.

MR. TURNER: There's no sub shops anymore, old-fashioned submarine sandwiches.

MR. PENN: The best subs on freshly baked rolls. It is delicious. Al has -- there's an existing Al's on State Street. His uncle opened up one on South Street at Essex and Lincoln. Al's has been in operation for about 11 years, and if you see any of the reviews, they all say the same thing: "The most incredible food at the most incredible price."

MR. SCALI: So this is the second location? How many locations are there?

MR. PENN: This will be the third. They're different entities but this one -- Al is with his daughter tonight; it's the first night of first grade. That's why he couldn't be here.

MR. TURNER: Is this inside the center itself?

MR. PENN: Yes.

MR. TURNER: Which space?

MR. PENN: Do you know where Augie's
is?

MR. TURNER: Yes.

MR. PENN: We're right across. It
used to be the Harvard Printing Press Bookstore, so
it's right across from Steve's.

MR. TURNER: It's becoming a food
court down there.

MR. PENN: Right, actually that's the
idea. They wanted to have another food operation
in there. I think they're going to limit it just
to the two of us.

MR. SCALI: Deliveries through the
back of the building?

MR. PENN: Deliveries through the back
and then either -- there's a ramp that goes
downstairs to where the parking lot is underneath.

MR. SCALI: And dumpster at the main
building?

MR. PENN: The dumpster is actually

located in that parking garage. It's about 20 feet from the elevator. And there are dumpsters for cardboard, which we have a lot of, and then there's a separate room for garbage. There are about four or five dumpsters in that location.

MR. SCALI: Who's the landlord there?

MR. PENN: Harvard.

MS. LINT: This went to BZA as well.

MR. SCALI: For a fast-food permit?

MR. PENN: Yes, it did. We had a hearing on July 22. We just got the decision dated August 27.

MR. SCALI: So you're 20-day appeal period is not up yet.

MR. PENN: That's correct.

MR. SCALI: Did they give you any conditions?

MR. PENN: No conditions.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Motion to approve.

MR. TURNER: Seconded.

MR. SCALI: Motion to approve, moved
and seconded, subject to the BZA appeal period.

All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Good luck.

MS. LINT: Application: The New Brand Sebastians, LLC d/b/a Sebastians, Eric Baloy, Manager, has applied for a Common Victualer license to be exercised at 7 Cambridge Center. 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 92 (72 seats inside and 20 seasonal seats on an outdoor private patio). The hours of operation will be from 7:00 a.m. to 6:00 p.m. Monday through Friday. Applicant is also seeking an Entertainment license to include background music.

MR. SCALI: Good evening. Just tell us your name.

MR. SHEEHAN: First name is Timothy, last name is Sheehan, S-H-E-E-H-A-N. I'm the vice-president and CFO for The New Brand Sebastians.

MR. SCALI: So this is an existing franchise?

MR. SHEEHAN: It's an existing business. We purchased it from Fidelity Investments back on July 12, an arm of their

company called Pier Five Services. So we're just re-applying as us. We're not changing anything, not changing the hours, the use.

MR. SCALI: So it's already there as Sebastians?

MR. SHEEHAN: It's been Sebastians for three to four years now.

MR. SCALI: We hear so many application that I forget sometimes what's going on. So you're just coming in and taking over as owners and keeping everything the same inside?

MR. SHEEHAN: Exactly.

MR. SCALI: No redecoration, no change in seating?

MR. SHEEHAN: Nothing.

MR. SCALI: So tell us who New Brand Sebastians, LLC is. Who is that? What is the experience in the restaurant business?

MR. SHEEHAN: We have other companies. We have over 50 years of foodservice experience. One of the parent companies is called LPM Holding Company, Inc. based in Maynard, Massachusetts.

It's owned by Robert and Laurie Watson. We're in the foodservice business, corporate dining, corporate cafeterias. We have an event rental company called Encore Party Rentals: tables, tents, chairs, china. We have a restaurant franchise called The Five and Diner, which is a '50s themed diner. We have one location in Worcester and 14 others in five states. We have a catering company, Currie and Chives Catering in Maynard, MA., so we're in the food business, if you will.

MR. SCALI: Is this restaurant for corporate employees?

MR. SHEEHAN: No. It's open to the general public.

MR. SCALI: So you're ready to go, everything is ready to go? Is it already open and operating with the old owners right now? Or, are you already in there?

MR. SHEEHAN: We're already in there.

MR. SCALI: Questions, Commissioners?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: Comments? Pleasure of the
Commission?

MR. HAAS: Motion to approve.

MR. TURNER: Seconded.

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

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Good luck.

MS. LINT: Application: Mass Chicken, LLC, Medhi Aria, Manager, holder of a Common Victualer license at 736 Massachusetts Avenue has applied to extend their current closing hour of 11:00 p.m. on Fridays and Saturdays until 3:00 a.m. Applicant is also applying to change their Sunday hours from 11:00 a.m. to 11:00 p.m. to 12:00 p.m. to 10:00 p.m.

MR. SCALI: Good evening. Just tells us your name for the record.

MR. ARIA: Mehdi Arai, A-R-I-A.

MR. SCALI: How long have you been there now at Mass Chicken?

MR. ARIA: Almost two years.

MR. SCALI: I know you have been trying to keep it going, struggling. I know we pop in there for lunch and see what you're doing. You're food is very very good from what can see, Commissioner. You go up and down that strip there too, I know.

What is the reasoning on the additional hours, the 3:00 a.m. on Fridays and

Saturdays?

MR. ARIA: I think that the people are parking here and then after the bar is maybe hungry and need food or something. I know the bar they don't serve food after 10:00, 10:30 so I wanted to open a little bit late.

MR. SCALI: So are you going to be there until 3:00 a.m.?

MR. ARIA: If you give a chance to me.

MR. SCALI: Who's going to be there with you? The Commissioner's question to the other gentleman was who's going to be helping you.

MR. ARIA: Me and my employees.
I have two employees.

MR. SCALI: You have two employees?

MR. ARIA: Yes.

MR. SCALI: So the three of you will be there until 3:00 a.m.?

MR. ARIA: Yes.

MR. HAAS: Until 3:00? All three of you will be there until 3:00?

MR. ARIA: Yes.

MR. TURNER: How about deliveries; any deliveries?

MR. ARIA: I have deliveries. My delivery to 11:00.

MR. SCALI: So no deliveries after 11:00?

MR. ARIA: No.

MR. HAAS: It sounds like the delivery business is more lucrative than the dining in business.

MR. ARIA: My food because it's the chicken. Maybe pizza, yeah, but not for chicken or mashed potatoes and things like that.

MR. SCALI: It's kind of hard to keep it all warm.

MR. ARIA: Yeah, that's right. It costs more. Keep it to fresh.

MR. SCALI: Do you have outside seats, now?

MR. ARIA: I have outside seats.

MR. SCALI: You're not going to have outside seats?

MR. ARIA: No, no.

MR. SCALI: What time do your outside seats close?

MR. ARIA: It's 11:00.

MR. SCALI: You're right near the Cantab and all that there. Are you going to be ready for all your friends coming out of the Cantab?

MR. ARIA: Yeah. It's very friendly. That's not bad.

MS. LINT: It could be a good thing.

MR. SCALI: You believe they'll be eating at that time; right?

MR. ARIA: The Cantab has closed the kitchen forever.

MR. SCALI: They do serve some foods.

MS. LINT: Hot dogs.

MR. ARIA: But not anymore I think because I see the kitchen is closed.

MR. SCALI: They're actually kind of grandfathered in having been there for so long.

Questions from the Commissioners?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: Pleasure of the
Commissioners?

MR. HAAS: Motion to approve with a
six-month review.

MR. TURNER: Seconded.

MR. SCALI: Moved and seconded with a
six-month review. All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Good luck. Make sure you
get your new license before you do it though. Make
sure you see Chris to get your new license.

MR. ARIA: Thank you very much.

MS. LINT: Ratifications: Medallion 27, 31, 51, 166, 33, 187, 194, 171, 206, 45, and 25.

MR. SCALI: A lot of refinances. Have the rates gone down?

MS. LINT: No. It's just been going on and they saved them all up to put on.

MR. SCALI: Is all the paperwork in order?

MS. LINT: Yes.

MR. SCALI: Motion to accept.

MR. HAAS: Motion to accept.

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

MR. TURNER: Aye.

MR. SCALI: Anything else on our agenda?

MR. HAAS: We need to vote on the minutes from the decision hearing.

MR. SCALI: Decisionmaking meeting of September 2, you and I were here along with Superintendent Burke. I'll make a motion to accept

the minutes from September 2. I need a second.

MR. TURNER: Seconded.

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

MR. TURNER: Aye.

MR. SCALI: Anything else before us?

MS. LINT: Nothing.

MR. SCALI: Motion to adjourn.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

(Whereupon, the proceeding was
concluded at 7:44 p.m.)

COMMONWEALTH OF MASSACHUSETTS
BRISTOL COUNTY, SS

I, Anne Ouellette, a Professional Court Reporter, the undersigned Notary Public certify that:

I am not related to any of the parties in this matter by blood or marriage and that I am in no way interested in the outcome of these matters.

I further certify that the proceedings hereinbefore set forth is a true and accurate transcription of my record to the best of my knowledge, skill and ability.

In Witness Whereof, I have hereunto set my hand this 10th day of September, 2010.





ANNE OUELLETTE
Notary Public
Commonwealth of Massachusetts
My Commission Expires
March 16, 2012

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