

**DOWNERS GROVE LIQUOR COMMISSION
VILLAGE HALL COUNCIL CHAMBERS
801 BURLINGTON AVENUE**

Thursday, May 2, 2013

I. CALL TO ORDER

Chairman Strelau called the May 2, 2013 Liquor Commission meeting to order at 6:30 p.m.

II. ROLL CALL

PRESENT: Mr. Austin, Mr. Jacobson, Ms. King, Chairman Strelau

ABSENT: Mr. Clary, Ms. Fregeau, Mr. Krusenoski

STAFF: Liaison to the Liquor Commission Carol Kuchynka, Staff Attorney Dawn Didier,
Village Attorney Enza Petrarca

OTHERS: Joe Wojdyla, Anna Wojdyla, Sandra Andrzejewski, Tom Li, Barbara Wendel,
Court Reporter

III. APPROVAL OF MINUTES

Chairman Strelau asked for approval of the minutes for the April 4, 2013 Liquor Commission meeting and asked members if there were any corrections, changes or additions.

Hearing no changes, corrections or additions, the April 4, 2013 minutes of the Liquor Commission meeting were approved as written.

Chairman Strelau reminded those present that this evening's meeting was being recorded on Village-owned equipment. Staff was present to keep minutes for the record and a court reporter was present taking the minutes verbatim.

IV DISCIPLINARY HEARING FOR ALLEGED VIOLATIONS

Chairman Strelau made the following statements:

"Section 3-40 of the Downers Grove Municipal Code provides that the Local Liquor Commissioner may revoke or suspend any license issued if the Commissioner determines that the licensee has violated any of the provisions of this chapter or any State law pertaining to the sale of alcohol. Both under the Section cited above, and under Chapter 235, Section 5/7-5, Illinois Compiled Statutes, the Local Liquor Commissioner is required to hold a public hearing after notice to the licensee, in which the licensee is afforded an opportunity to appear and defend. Pursuant to Section 3-5 of the Downers Grove Municipal Code, this hearing is being conducted by the Local Liquor Commission at the request of the Local Liquor Commissioner."

"The Commissioner has the power to temporarily suspend a license without a hearing if there is reason to believe that continued operation of the licensed business would immediately threaten the welfare of this community. Such was not done in this case. The licensee may be represented by counsel, although he need not be for the purposes of this hearing."

Chairman Strelau asked if there was a signed stipulation in these cases. Ms. Didier replied yes.

Chairman Strelau made the following statements:

"In view of the stipulations, the order of this hearing will be substantially as follows:"

- A. Prosecution will read the signed stipulation into the record with the opportunity for the licensee to register its concurrence or non concurrence for the record.
- B. Prosecution may present any additional evidence in this case with the right of the licensee to cross-examine.
- C. Licensee may present any defense or mitigating evidence with right of prosecution to cross-examine.
- D. Summary of case by prosecution and defense."

"The prosecution should establish that timely notice of this hearing has been provided to the licensee."

"Witnesses shall be sworn."

"Strict rules of evidence will need not be adhered to although the Commission expects to exercise control over the hearing to ensure that irrelevant or repetitive testimony does not unduly prolong the hearing."

"A court reporter is present and will take the proceedings verbatim. Staff is also present for the purpose of summarizing the proceedings."

"The Commission will submit the findings and recommendations to the Local Liquor Commissioner regarding the existence and nature of any violation and the appropriate penalty, if any."

"Upon receipt of the recommendation of the Commission, the Commissioner will render a decision and the licensee will be notified in writing."

Bohemian Garden Restaurant - 980 W. 75th Street

Chairman Strelau stated that the next order of business was to conduct a disciplinary hearing for Wojdyla Enterprises, Inc. d/b/a Bohemian Garden Restaurant located at 980 West 75th Street. She stated that the licensee has been charged with a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance.

Chairman Strelau asked that any individual(s) representing the licensee step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Mr. Joe Wojdyla was sworn in by the court reporter. Mr. Wojdyla introduced himself as the general manager of Bohemian Garden Restaurant.

Chairman Strelau asked the prosecuting attorney to present her case.

Ms. Didier stated that the parties to this hearing before the Liquor Commission of the Village of Downers Grove by and through their attorneys, if any, hereby stipulate as follows:

1. Wojdyla Enterprises, Inc. d/b/a Bohemian Garden Restaurant, 980 West 75th Street, Downers Grove, Illinois, is the holder of a Class R-1 Liquor License #LQ-000003, issued by the Village of Downers Grove. That said Licensee has held a liquor license for this location from the Village of Downers Grove since August 10, 1995.
2. Notice of this hearing was served upon the Licensee by certified mail to its registered agent and by personal delivery to the manager of the licensed premises.
3. At approximately 5:09 p.m. on Wednesday, March 13, 2013, Downers Grove Police Officer Edwards and Downers Grove Police Officer Rau observed M.G., a special agent of the Downers Grove Police Department under the age of twenty-one (21), whose date of birth is October 2, 1995 (making her 17 years old), enter Bohemian Garden Restaurant located at 980 West 75th Street, Downers Grove.
4. The special agent was seated at a table in the restaurant and waitress Sandra Andrzejewski, asked her for her order.
5. The special agent ordered a bottle of Miller Lite beer while Officers Edwards and Rau observed her.
6. That Sandra Andrzejewski, whose date of birth is August 23, 1946, then asked the special agent for identification.
7. That the special agent produced her valid Illinois driver's license indicating her date of birth as 10-02-1995, and reading "Under 21 until 10-02-2016" on the face of the license.
8. That Sandra Andrzejewski viewed the special agent's driver's license and then returned the driver's license to the special agent.
9. Sandra Andrzejewski left the table and returned with a glass of Miller Lite beer and placed it in front of the special agent
10. Officers Edwards and Rau who witnessed the events in the foregoing paragraphs, identified themselves and advised that the delivery of an alcoholic beverage had been made to a minor.
11. Sandra Andrzejewski was issued a Village ordinance administrative citation for delivering alcohol to a minor in violation of Section 3-25(a) of the Downers Grove Municipal Code.
12. The Officers advised manager Anna Wojdyla that notice of further action would be forthcoming from the Downers Grove Liquor Commission.

Ms. Didier asked that the signed stipulation be entered into the record as Village's Exhibit #1.

Chairman Strelau accepted the signed stipulation as Village Exhibit #1.

Chairman Strelau asked the licensee to present its case.

Mr. Wojdyla apologized for the incident. He stated they take the matter seriously and have retrained all staff. He stated that they have updated their manual and will no longer accept the vertical identification. He stated that they have amended their policy that two employees need to verify the license of anyone under the age of 30.

Mr. Wojdyla stated that the Bohemian Garden has passed tests and denied attempted purchases on a number of occasions over the 18 years they have held their license. Mr. Wojdyla stated that Ms. Andrzejewski has been employed by Bohemian Garden for 25 years and this was the first time she was involved in a violation. He advised that she was being treated with prescription medication for cataracts which caused her to have blurry vision and she misread the date of birth as 1985, not 1995. He offered a copy of the prescription and note from her physician concerning the side effects of the medication as evidence.

Mr. Wojdyla stated the restaurant typically serves middle age to elderly clientele and is not known by youth as a place to be served alcohol.

Mr. Wojdyla asked for leniency in the fines and penalties.

Mr. Wojdyla asked if the Commission would like Ms. Andrzejewski's evidence entered into the record. Ms. Didier replied no. Chairman Strelau stated that was not necessary and that they trusted his statements.

Mr. Jacobson stated that it has been several years since their last violation. He asked if Ms. Andrzejewski was still working for the restaurant. Mr. Wojdyla replied yes.

Mr. Jacobson asked what re-education or re-training has been done. Mr. Wojdyla stated that he has gone through the policy manual and provided a copy to each employee. He stated that Ms. Andrzejewski will be required to retake the certified training course. He noted that she is certified, however, her certification expires in July.

Mr. Austin asked if they have sample pictures of the licenses as part of the manual. Mr. Wojdyla stated that the sample identifications are a part of their manual. Mr. Austin asked when they revised the manual. Mr. Wojdyla replied in 2012 and recently again in March 2013 to include the non-acceptance of the vertical license policy.

Mr. Austin understood the problem with cataracts. He asked if the license was vertical. Mr. Wojdyla replied yes. He stated that the license being vertical is clear and explicit and means that the patron is under 21.

Mr. Austin asked if staff was familiar with the manual. Mr. Wojdyla replied yes. He stated that all employees were given a copy in 2012 when it was updated last. He stated that at that time, it was not their policy to deny the vertical license. He stated that the 2013 policy manual reflects that they will reject all vertical licenses.

Mr. Wojdyla stated that not accepting the vertical license should be required by every establishment. He stated that he was unaware that it was legal to deny the vertical license.

Mr. Austin asked if they were aware the expired licenses may also be denied. Mr. Wojdyla replied yes. Ms. King asked if the employee is able to continue to card patrons if she has visual problems. Mr. Wojdyla stated that he is certain she will be able to identify a vertical license. He stated that was not

their policy to not accept them before but now she should be able to determine the patron is under 21 simply from the license being vertical.

Mr. Wojdyla stated that they were unaware that they could legally not accept the under 21 license. He stated that they have added that provision to their policy.

Ms. King asked if they were busy at the time of the violation. Mr. Wojdyla noted he was not present at the time of the incident, but the incident took place about the time of their normal dinner rush.

Ms. King asked how many employees they have. Mr. Wojdyla replied four. He stated that is in addition to the two owners and he, as manager.

Chairman Strelau noted two previous violations in 2005 and 1998 and asked Mr. Wojdyla if he recalled who was involved in the prior instances. Mr. Wojdyla replied the 2005 incident involved their employee Mario who did not card the agent. He stated he was not supposed to be serving alcohol and was just helping out. He was unaware of details of the 1998 violation.

Chairman Strelau encouraged Mr. Wojdyla to work with staff and make sure he is aware of their rights as a licensee. She stated that they do not have to accept any identification if they are not comfortable with taking it. She stated that it was unfortunate that the incident happened with an employee who has worked at the establishment for 25 years.

Chairman Strelau stated that the license being vertical is a tell tale sign that the patron is under 21. She stated that she could not help but think that the special agent stood out in their establishment as the agent was not their typical clientele. She advised them to reinforce the importance of carding with staff. She advised that they will be re-tested.

Mr. Wojdyla stated that they take liquor service seriously. He stated that he has talked to staff members and will include the importance of carding in daily discussions. He hoped that this never happens again.

Ms. Didier summarized by stating that Wojdyla Enterprises, Inc. d/b/a Bohemian Garden Restaurant located at 980 West 75th Street has stipulated to a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance which prohibits the sale of alcohol to a minor. She recommend that the licensee be found guilty of a violation.

Chairman Strelau asked Mr. Wojdyla if he had any final comments for the record. Mr. Wojdyla replied no.

Upon hearing the evidence presented in this case, Chairman Strelau requested a motion as to whether the licensee be found guilty or not guilty of a violation of Section 3-25(a) of the Downers Grove Municipal Code.

MR. JACOBSON MOVED TO FIND WOJDYLA ENTERPRISES, INC. D/B/A BOHEMIAN GARDEN RESTAURANT LOCATED AT 980 WEST 75TH STREET, GUILTY OF VIOLATING SECTION 3-25(A) OF THE DOWNERS GROVE LIQUOR CONTROL ORDINANCE. MR. AUSTIN SECONDED.

VOTE:

Aye: Mr. Jacobson, Mr. Austin, Ms. King, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 4:0:0

The Motion carried.

Chairman Strelau asked Mr. Wojdyla if they would prefer fines or suspension. Mr. Wojdyla replied that they would prefer suspension.

Sushi City - 1510 A 75th Street

Chairman Strelau stated that the next order of business was to conduct a disciplinary hearing for Sushi City, Inc. d/b/a Sushi City located at 1510 A 75th Street. She stated that the licensee has been charged with a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance.

Chairman Strelau asked that any individual(s) representing the licensee step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Mr. Tom Li was sworn in by the court reporter. Mr. Li introduced himself as owner of Sushi City.

Chairman Strelau asked the prosecuting attorney to present her case.

Ms. Didier stated that the parties to this hearing before the Liquor Commission of the Village of Downers Grove by and through their attorneys, if any, hereby stipulate as follows:

1. Sushi City, Inc. d/b/a Sushi City, 1510 A 75th Street, Downers Grove, Illinois, is the holder of a Class R-2 Liquor License #LQ-000117, issued by the Village of Downers Grove. That said Licensee has held a liquor license for this location from the Village of Downers Grove since October 19, 2009.
2. Notice of this hearing was served upon the Licensee by certified mail to its registered agent and by personal delivery to the manager of the licensed premises.
3. At approximately 6:00 p.m. on Wednesday, March 13, 2013, Downers Grove Police Officer Edwards and Downers Grove Police Officer Rau observed M.G., a special agent of the Downers Grove Police Department under the age of twenty-one (21), whose date of birth is October 2, 1995 (making her 17 years old), enter Sushi City located at 1510 A 75th Street, Downers Grove.
4. The special agent was seated at a booth in the restaurant and Peng Chen, asked her for her order.
5. The special agent ordered a Miller Lite beer while Officers Edwards and Rau observed her.
6. That Peng Chen, whose date of birth is September 8, 1983, then asked the special agent for identification.
7. That the special agent produced her valid Illinois driver's license indicating her date of birth as 10-02-1995, and reading "Under 21 until 10-02-2016" on the face of the license.

8. That Peng Chen viewed the special agent's driver's license and then returned the driver's license to the special agent.
9. That Peng Chen retrieved a bottle of Miller Lite beer, poured it into a glass and placed the glass in front of the special agent.
10. Officers Edwards and Rau who witnessed the events in the foregoing paragraphs, identified themselves and advised Mr. Chen that the delivery of an alcoholic beverage had been made to a minor.
11. Peng Chen was issued a Village ordinance administrative citation for delivering alcohol to a minor in violation of Section 3-25(a) of the Downers Grove Municipal Code.
12. The Officers advised owner Chunxu Zhang that notice of further action would be forthcoming from the Downers Grove Liquor Commission.

Ms. Didier asked that the signed stipulation be entered into the record as Village's Exhibit #1.

Chairman Strelau accepted the signed stipulation as Village Exhibit #1.

Chairman Strelau asked the licensee to present its case.

Mr. Li stated that is was their first violation. He stated that the employee involved in the sale to the minor was a new hire. He stated that Peng Chen will no longer be working until he receives additional training.

Mr. Li advised that he has changed the manual since the incident. He stated that every three months, they will review their training manual. He has reminded staff to card and has posted more signage throughout the restaurant. He stated that they do not accept the vertical license.

Mr. Austin asked if Mr. Chen gave any explanation about the incident. Mr. Li stated that Mr. Chen told him that he misread the license and claimed to have a headache. He stated that was no excuse for the violation. He stated current employees have taken the certification course. Mr. Li stated that he took the class again as a refresher and to be better able to train his employees.

Mr. Austin asked if all servers were certified. Mr. Li replied all had training with the exception of Mr. Chen as he was a new employee. Mr. Austin asked how long Mr. Chen had been employed. Mr. Li replied 2-3 months.

Mr. Li replied normally he and another certified employee are responsible for getting drinks. Mr. Li stated that he was not present at the time of the violation.

Mr. Austin asked Mr. Li how long he waits until servers become certified. Mr. Li replied normally a few months from hire. Mr. Austin asked if Mr. Chen had a certification. Mr. Li replied that he had a certification before he started working for Sushi City.

Mr. Austin asked how many employees work at Sushi City. Mr. Li replied 15. Mr. Austin asked how many were servers. Mr. Li replied there are 2 managers, 2 hosts, 3 servers, a busboy and the rest were cooks.

Ms. King stated that the manual does not have color pictures of the identifications and asked if employees were aware of what the identifications look like. Mr. Li replied yes and they now have the pictures included in the manual.

Ms. King asked what their policy was for vertical identification. Mr. Li stated that they took them, but for now, they will not accept the vertical id's. Ms. King stated not accepting them might eliminate some problems.

Ms. King asked if any employees are under 21. Mr. Li replied no servers are under 21 except one hostess.

Ms. King asked if they have signs posted. Mr. Li replied he has signs posted throughout the restaurant and in the employee locker room. He stated that he also has a sign with the year a patron needs to be born to be 21 years of age.

Mr. Li noted that Mr. Chen advised him he was not good at math.

Mr. Li stated that employees are getting more training and told to proceed with caution when serving. He stated that employees know the consequences of serving minors.

Chairman Strelau asked Mr. Li for clarification and asked if Mr. Chen was fired. Mr. Li replied yes. Chairman Strelau asked if Mr. Chen will come back. Mr. Li stated that Mr. Chen was a good employee and they will allow him to return after he has received additional training. Chairman Strelau asked where Mr. Chen is receiving different training. Mr. Li replied that there is a bartending school Mr. Chen is attending in Schaumburg.

Chairman Strelau cautioned Mr. Li if he plans to re-hire Mr. Chen as he admitted not being good at math. She stated that Mr. Chen may need to improve his skills as his job calculating a bill, checking a bill, etc. will require him to be good with math.

Mr. Li apologized for the incident and did not want to give any excuses. He stated that he wants to correct what is wrong. He felt re-training and posting signage will help.

Chairman Strelau advised that management sets the tone for acceptable liquor service.

Chairman Strelau noted that Sushi City has had their license for less than two years. She stated that their record is not good considering they are in for a violation after such a short time. She stated that they will be re-tested. She stated that with three servers, it should be easy for Mr. Li to make them understand the rules and how important they are.

Ms. Didier summarized by stating that Sushi City, Inc. d/b/a Sushi City located at 1510 A 75th Street, has stipulated to a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance which prohibits the sale of alcohol to a minor. She recommend that the licensee be found guilty of a violation.

Chairman Strelau asked Mr. Li if he had any final comments for the record. Mr. Li replied no.

Upon hearing the evidence presented in this case, Chairman Strelau requested a motion as to whether the licensee be found guilty or not guilty of a violation of Section 3-25(a) of the Downers Grove Municipal Code.

MR. AUSTIN MOVED TO FIND SUSHI CITY, INC. D/B/A SUSHI CITY LOCATED AT 1510 A 75TH STREET, GUILTY OF VIOLATING SECTION 3-25(A) OF THE DOWNERS GROVE LIQUOR CONTROL ORDINANCE. MS. KING SECONDED.

VOTE:

Aye: Mr. Austin, Ms. King, Mr. Jacobson, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 4:0:0

The Motion carried.

Chairman Strelau asked Mr. Li if they would prefer fines or suspension. Mr. Li replied that they would prefer a suspension.

V. APPLICATION FOR LIQUOR LICENSE

Chairman Strelau made the following statements:

"The first order of business is to conduct a public hearing for a liquor license application. For the benefit of all present, I would like to state that this Commission does not determine the granting or denial of the issuance of any license. We may at the end of each hearing, make a finding or recommendation with respect to the application. If necessary, the Commission may adjourn a hearing to a later date in order to have benefit of further information."

"At the conclusion of the hearing, the Commission will summarize its findings and determine any recommendations it wishes to make to the Liquor Commissioner."

"The Liquor Commissioner, who is the Mayor of Downers Grove, will, pursuant to Section 3-12 of the Ordinance, render decisions regarding issuance of available licenses within 60 days in order to consult the Plan Commission for its recommendations."

"Hearings by this Commission are held according to the following format: 1) reading of information pertinent to the application, 2) comments from the applicant, 3) comments from the public, 4) discussion by the Commission, and 5) motion and finding by the Commission."

DT Management, LLC d/b/a Doubletree

Chairman Strelau stated that the next order of business was an application hearing for DT Management, LLC d/b/a Doubletree located at 2111 Butterfield Road. She stated that the applicant was seeking a Class "K-1", full alcohol, catering liquor license.

Chairman Strelau asked that any individual(s) representing the applicant step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Ms. Barbara Wendel was sworn in by the court reporter. Ms. Wendel introduced herself as the general manager of Doubletree.

Chairman Strelau asked the applicant to present its case.

Ms. Wendel stated that Doubletree was applying for a catering license. She stated that they were approached by their client, American Society for Gastrointestinal Endoscopy (ASGE), who is relocating from Oak Brook to Downers Grove. She stated that they were hoping to provide food and liquor catering services at the ASGE physician's training center.

Ms. Wendel stated that they hope to serve beer and wine out of the ASGE facility during 1-2 physician training seminars per month and other special events they plan to host at their new location. She planned to provide 1-2 servers which will be mostly luncheon events. Ms. Wendel stated that the physicians are over 21. She stated that they will card anyone who appears under the age of 30.

Ms. Wendel stated that she met with staff who suggested that Doubletree apply for a catering license to serve ASGE at their facility.

Ms. Wendel stated that they plan to start out small with the ASGE contract. She stated that this license would allow them to expand and do other catered events throughout the Village such as weddings and holiday parties at other business locations.

Chairman Strelau asked if there were any staff recommendations or comments pertinent to the application. Ms. Kuchynka replied receipt of the annual fee and satisfactory background checks. She stated that a Certificate of Occupancy shall not be required as the events will be held at off-site locations.

Ms. Kuchynka stated that she spoke with the Illinois Liquor Control Commission who advised that the license will be issued to the DT Management, LLC at the 2111 Butterfield address, however they will be able to use it at varying locations throughout the Village. She noted that they may be able to utilize the license in other communities if they do not have a separate catering license in their municipality. She stated that they will be required to obtain a separate license for the catering activities from the State.

Ms. Kuchynka stated that DT Management, LLC operates the Doubletree Hotel which has a restaurant and banquet facility on-site as well as in room mini bars. She stated that they have a banquet facility in the Esplanade. She stated that they have a lot of liquor serving experience.

Mr. Jacobson stated that he went through the application materials and felt that their packet was substantial. He stated that he liked the self test in the training manual.

Mr. Austin stated that they have a good plan. He was pleased with their past experience and that they hold a number of licenses from the Village.

Mr. Austin asked if bar service would be similar to how liquor is served in the banquet halls. Ms. Wendel replied yes. Ms. Wendel stated that they will pour and carry drinks to patrons in the ASGE facility. She stated that if they have to they may bring in a portable bar to set up a liquor station.

Mr. Austin asked if the same banquet staff at the hotel will be involved. Ms. Wendel replied yes.

Ms. King asked if they will accept the vertical license. Ms. Wendel replied yes. She stated that her employees are well trained in recognizing and understanding the vertical license.

Ms. King asked Ms. Wendel how she would explain their training success. Ms. Wendel replied that they have a zero tolerance policy. She stated that a manager or 2nd person will step in and help survey the crowd, especially at weddings and check for signs of intoxication after 12:30 p.m. Ms. Wendel stated that all employees know they have to be TIPs certified. Ms. Wendel advised that they also role play scenarios at pre-shift meetings.

Ms. Wendel advised that most of her servers have 10+ years of experience and that she has not changed any staff members over the past 12 months.

Ms. King stated that she liked that they role play and have self tests.

Ms. King asked staff what would happen if they are in violation of serving a minor in another community. Ms. Petrarca stated that the other community could bring charges against the Downers Grove license. Ms. Kuchynka noted that the other community would be the jurisdiction issuing the ticket. Mr. Austin asked if the Village would be notified of the violation. Ms. Petrarca replied that they should share that information with Downers Grove.

Ms. Kuchynka stated that the license will need to be displayed in a conspicuous place at each event. She noted that the State prefers the license displayed on the portable bar.

Chairman Strelau stated that she was impressed with their manual, role playing and self test. She stated that management has set the tone about the importance they place on liquor service. She stated that the manual clearly states their seriousness and intentions for proper liquor service. She wished them luck and hoped their expansion works well for them.

Hearing the testimony given in this case, Chairman Strelau asked for a recommendation from the Commission concerning its finding of "qualified" or "not qualified" with respect to the applicant with regard to their Class "K-1" liquor license application.

MS. KING MOVED TO FIND DT MANAGEMENT, LLC D/B/A DOUBLETREE LOCATED AT 2111 BUTTERFIELD ROAD, QUALIFIED FOR A CLASS "K-1", FULL ALCOHOL, CATERING LIQUOR LICENSE. MR. JACOBSON SECONDED.

VOTE: **Aye:** Ms. King, Mr. Jacobson, Mr. Austin, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 4:0:0

Motion carried.

V. OLD BUSINESS

Chairman Strelau asked if there was any discussion, update from staff or comments from the Commission regarding any old business.

Ms. Kuchynka reported the status of Lao Sze Chuan training. She stated that she left a copy of the employee certifications for their information. Ms. Kuchynka stated that she contacted DuPage Inn,

however, has not heard back on the status of their training. Ms. Kuchynka noted that all 2013 renewal applicants will be asked to provide certifications of existing employees.

Chairman Strelau asked if they will be required to supply copies of the certificates. Ms. Kuchynka replied that she asks for a list of employees names with the certification or an actual copy of the certificate. She stated that some licensees do either/or and noted that the paperwork can get expansive for the larger business. She stated that she is basing what they turn into the Village as true and accurate information. She stated that they are attesting to the validity of such documentation in their renewal application.

Chairman Strelau stated that some licensees are not concerned about how quickly employees are getting the training done. Ms. Petrarca stated that there seems to be some discrepancy in what licensees have submitted.

Ms. King asked if a fine could be established for those servers who are not certified. Ms. Petrarca stated that the Village could charge them for falsifying renewal application materials if the employees are not reported. The group discussed the fact that a number of employees are working without valid certifications.

Ms. Kuchynka replied that staff could draft an ordinance eliminating the grace period of four months from the date of hire that employees have to take the course. Mr. Austin asked if it is written somewhere where they have that long. Ms. Petrarca replied it is in the ordinance.

Mr. Austin asked how long it takes to complete the class. Ms. Kuchynka stated that it can be done on line in a few hours. Mr. Austin asked how much the course costs. Ms. Kuchynka replied the lowest she believes is Illinois Serve Safe which is \$17. Mr. Austin agreed that the time frame be eliminated. Ms. Kuchynka stated that the ordinance can be amended to make it required certification upon hire. Mr. Austin asked if the penalty can be doubled for those establishments who have employees serve that are not certified. Ms. Petrarca replied that can be an aggravating circumstance. She added that increasing the penalty would be up to the Mayor.

Mr. Austin asked when the vertical licenses became prevalent. Ms. Kuchynka replied they went to the vertical format in 2007.

Chairman Strelau stated that it seems that licensees are not too concerned about their employees obtaining certifications. The group agreed that the ordinance be amended to require certifications upon hire.

Mr. Jacobson stated that the two employees involved in the disciplinary hearings tonight had their certifications. Mr. Austin stated that perhaps licensees should bring proof to the disciplinary hearing that the employee was certified at the time of the violation. Chairman Strelau stated that she was unsure if the employee from Sushi City actually had a certification. Ms. Petrarca stated that staff could follow up.

Ms. Kuchynka stated that she could survey surrounding communities if they require employees to have their certification on their person. Ms. Petrarca stated that the certifications should be at least in the employee file.

Mr. Jacobson stated that the Village could require the licensee to submit them to the Village at the disciplinary hearing. Ms. Kuchynka agreed.

Chairman Strelau stated that it was worthwhile to remove the four month grace period for servers to obtain certifications. Mr. Austin asked if they need to make a motion for the ordinance. Ms. Petrarca replied no and staff would draft the ordinance.

Ms. Kuchynka stated that the Village Council would be considering the ordinance change to the Class E license at an upcoming meeting. Ms. Petrarca stated that is tentatively set for the Village Council workshop of May 14th. Ms. Petrarca stated that the new Village Council members will be appointed on May 7th.

VI. NEW BUSINESS

Chairman Strelau asked if there was any discussion, update from staff or comments from the Commission regarding any new business.

Ms. Kuchynka advised that there will be a June meeting. She stated that the July meeting would be cancelled due to the 4th of July holiday.

Ms. Kuchynka stated that staff is working on methods to improve the liquor packet and plan to include detailed staff reports for each agenda item.

Ms. Kuchynka advised the Commission that the licensees are now in the renewal process which are due by June 14th.

Ms. King asked for clarification on the vote at last month's meeting and how the change to the ordinance would affect Rita's. Ms. Petrarca stated that would expand the Class E liquor license to give Rita's more flexibility and add recreational activities.

VII. COMMENTS FROM THE PUBLIC

There were none.

VIII. ADJOURNMENT

Concluding business for the evening, Chairman Strelau called for a motion to adjourn.

Mr. Austin moved to adjourn the May 2, 2013 meeting. The meeting was adjourned by acclamation at 7:40 p.m.

**DOWNERS GROVE LIQUOR COMMISSION
VILLAGE HALL COUNCIL CHAMBERS
801 BURLINGTON AVENUE**

Thursday, June 6, 2013

I. CALL TO ORDER

Chairman Strelau called the June 6, 2013 Liquor Commission meeting to order at 6:30 p.m.

II. ROLL CALL

PRESENT: Mr. Austin, Mr. Clary, Mr. Jacobson, Ms. King, Mr. Krusenoski, Chairman Strelau

ABSENT: Ms. Fregeau

STAFF: Liaison to the Liquor Commission Carol Kuchynka, Staff Attorney Dawn Didier, Village Attorney Enza Petrarca

OTHERS: Brian Green, Robert Spadoni, Esq., Judy Rosing, Matt Remarcik, Kellie Flor, Ken O'Connor, Dale Ohman, Larry Spatz, Joe Frankel, Anahis Salgado, Fernando Lagunas, Porfiria Piedra, Jennifer Telitz, Nick Telitz, Elias Nehra, Dawn Rhodes, Court Reporter

III. APPROVAL OF MINUTES

Chairman Strelau asked for approval of the minutes for the May 2, 2013 Liquor Commission meeting and asked members if there were any corrections, changes or additions.

Hearing no changes, corrections or additions, the May 2, 2013 minutes of the Liquor Commission meeting were approved as written.

Chairman Strelau reminded those present that this evening's meeting was being recorded on Village-owned equipment. Staff was present to keep minutes for the record and a court reporter was present taking the minutes verbatim.

IV DISCIPLINARY HEARING FOR ALLEGED VIOLATIONS

Chairman Strelau made the following statements:

"Section 3-40 of the Downers Grove Municipal Code provides that the Local Liquor Commissioner may revoke or suspend any license issued if the Commissioner determines that the licensee has violated any of the provisions of this chapter or any State law pertaining to the sale of alcohol. Both under the Section cited above, and under Chapter 235, Section 5/7-5, Illinois Compiled Statutes, the Local Liquor Commissioner is required to hold a public hearing after notice to the licensee, in which the licensee is afforded an opportunity to appear and defend. Pursuant to Section 3-5 of the Downers Grove Municipal Code, this hearing is being conducted by the Local Liquor Commission at the request of the Local Liquor Commissioner."

"The Commissioner has the power to temporarily suspend a license without a hearing if there is reason to believe that continued operation of the licensed business would immediately threaten the welfare of this

community. Such was not done in these cases. The licensee may be represented by counsel, although he need not be for the purposes of this hearing."

Chairman Strelau asked if there were signed stipulations in these cases. Ms. Didier replied yes.

Chairman Strelau made the following statements:

"In view of the stipulations, the order of this hearing will be substantially as follows:"

- A. Prosecution will read the signed stipulation into the record with the opportunity for the licensee to register its concurrence or non concurrence for the record.
- B. Prosecution may present any additional evidence in this case with the right of the licensee to cross-examine.
- C. Licensee may present any defense or mitigating evidence with right of prosecution to cross-examine.
- D. Summary of case by prosecution and defense."

"The prosecution should establish that timely notice of this hearing has been provided to the licensee."

"Witnesses shall be sworn."

"Strict rules of evidence will need not be adhered to although the Commission expects to exercise control over the hearing to ensure that irrelevant or repetitive testimony does not unduly prolong the hearing."

"A court reporter is present and will take the proceedings verbatim. Staff is also present for the purpose of summarizing the proceedings."

"The Commission will submit the findings and recommendations to the Local Liquor Commissioner regarding the existence and nature of any violation and the appropriate penalty, if any."

"Upon receipt of the recommendation of the Commission, the Commissioner will render a decision and the licensee will be notified in writing."

Capri - 5101 Main Street

Chairman Strelau stated that the next order of business was to conduct a disciplinary hearing for Half Italian, Inc. d/b/a Capri located at 5101 Main Street. She stated that the licensee has been charged with a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance.

Chairman Strelau asked that any individual(s) representing the licensee step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Mr. Brian Green was sworn in by the court reporter. Mr. Green introduced himself as the manager and owner of Capri Restaurant. Robert Spadoni introduced himself as the attorney representing Capri.

Chairman Strelau asked the prosecuting attorney to present her case.

Ms. Didier stated that the parties to this hearing before the Liquor Commission of the Village of Downers Grove by and through their attorneys, if any, hereby stipulate as follows:

1. Half Italian, Inc. d/b/a Capri, 5101 Main Street, Downers Grove, Illinois, is the holder of a Class R-1/O Liquor License #LQ-000133, issued by the Village of Downers Grove. That said Licensee has held a liquor license for this location from the Village of Downers Grove since October 1, 2010.
2. Notice of this hearing was served upon the Licensee by certified mail to its registered agent and by personal delivery to the manager of the licensed premises.
3. At approximately 5:00 p.m. on April 24, 2013, Downers Grove Police Officer Edwards and Downers Grove Police Officer Rau observed R.R., a special agent of the Downers Grove Police Department under the age of twenty-one (21), whose date of birth is February 6, 1995 (making him 18 years old), enter Capri located at 5101 Main Street, Downers Grove.
4. The special agent was seated at the bar in the restaurant and bartender, Rebecca Strocchio, asked him for his order.
5. The special agent ordered a bottle of Bud Light beer while Officers Edwards and Rau observed him.
6. That Rebecca Strocchio retrieved a bottle of Bud Light beer and placed it in front of the special agent.
7. That Rebecca Strocchio, whose date of birth is August 17, 1988, then asked the special agent for identification.
8. That the special agent produced his valid Illinois driver's license indicating his date of birth as 02-06-1995, and reading "Under 21 until 02/06/2016" on the face of the license.
9. That Rebecca Strocchio viewed the special agent's driver's license and then returned the driver's license to the special agent.
10. Officers Edwards and Rau who witnessed the events in the foregoing paragraphs, identified themselves and advised that the delivery of an alcoholic beverage had been made to a minor.
11. Rebecca Strocchio was issued a Village ordinance administrative citation for delivering alcohol to a minor in violation of Section 3-25(a) of the Downers Grove Municipal Code.
12. The Officers advised manager, Brian Green, that notice of further action would be forthcoming from the Downers Grove Liquor Commission.

Ms. Didier asked that the signed stipulation be entered into the record as Village's Exhibit #1.

Chairman Strelau accepted the signed stipulation as Village Exhibit #1.

Chairman Strelau asked the licensee to present its case.

Mr. Spadoni stated that they were in agreement with the stipulation. He stated that Ms. Strocchio has been employed with Capri for over three years. He stated that they have been in operation for three years without incident.

Mr. Spadoni stated that Brian, as manager, educates the employees. He stated that a mistake happened and the employee has been disciplined. He stated that staff has been reeducated and that Carol from the Village will be coming out tomorrow to also reeducate the staff. He hoped that this does not happen again.

Mr. Clary stated that it is very concerning that the Commission has been holding disciplinary hearings for failed control buys over the past four months. He stated that the failures are unacceptable. He stated that 17 and 18 year old agents are being served and in some cases present their vertical under 21 identification. He stated that the pattern is not good now and there need to be better check points put in place for this not to happen.

Mr. Spadoni stated that the employee had a lapse in judgment. He stated that employees tend to get lax in their duties. Mr. Clary noted that the bartender looked at the under 21 license. Mr. Spadoni agreed that the license is set out to be different as vertical.

Mr. Green stated that he was shocked that his star bartender of three years was involved. He stated that he did not let her go and felt that this was a valuable lesson learned. He stated that this will not happen with this particular employee again. He stated that they were re-tested after the incident, in which she passed.

Mr. Green stated that he particularly trusts his employee and felt that she had an off day.

Mr. Clary was concerned that a number of failures have occurred in such a short time.

Mr. Jacobson reiterated his frustration. He stated that he has teenage kids and has huge concerns. He was concerned that there may have been other times when kids are not caught. He stated that the servers are ticketed and receive a \$500 fine.

Mr. Jacobson stated that they may wish to modify their manual. He stated that the section where they say "if in doubt that patron is not 21, proof of identification must be requested". He suggested that they add to ask for proof of age for anyone appearing under the age of 30, as they did elsewhere in the manual. He stated that he liked their designated driver program.

Mr. Jacobson stated that identification presented should be some form of id with a picture on it. He felt that this was lax and asked them to list the pieces of identification they accept and be more straight forward.

Mr. Jacobson stated that this one drink served to the Village's agent will be quite costly to them.

Mr. Green replied that they have made changes to the manual and will have Village staff reiterate the changes at their training tomorrow. He stated that they will no longer accept the vertical identifications and have made additional changes to strengthen their policies.

Mr. Krusenoski asked if the bartender was BASSETT trained at the time of the incident. Mr. Green replied yes. Mr. Krusenoski asked how long the training is valid. Mr. Green replied five years.

Mr. Krusenoski stated that the incident took place at 5 p.m. on a Wednesday and asked if the restaurant was busy. Mr. Green replied that a regular customer was keeping the bartender busy and was demanding at the time. Mr. Krusenoski asked if the bartender gave any reason for looking at the vertical license and serving anyway. Mr. Green stated that she was uncomfortable and did not know what to say.

Mr. Krusenoski stated that most excuses are that the employee just did not know what happened. He was hoping that this was just coincidence that they served a minor on the one day the agent comes in. He stated that it makes the Commission think what else is going on the other 364 days of the year.

Mr. Krusenoski stated that for the rest of those present for disciplinary hearings that it will be the same lecture. He stated that watching employees is different than from setting a tone and culture in which liquor service is very important and employees must follow standard policies when they are serving someone.

Mr. Krusenoski stated that most will request an identification from those who look under 30 and if given a vertical license, they reject it. He stated that management is responsible for setting the culture and very important not to serve minors.

Ms. King noted the order of events during the incident. She stated that the bartender retrieved the drink and then carded the agent. She stated that certified training is not taught that way and she asked why the service was made before identification was requested. Mr. Green stated that he was not present to witness the incident. He stated that he did not know how it occurred and she must have other things going on in her head. Mr. Spadoni stated that he interviewed her and she had said she made a mistake and that there was no excuse. He stated that she admitted it and said she was sorry.

Ms. King stated that the Commission has been inundated with violations.

Ms. King asked how the culture has changed. She asked if they have posted any signage. Mr. Green replied there is a sign posted behind the bar. He stated that they will hold refresher training every six months. He stated that he has daily meetings with staff and reiterate the importance of proper service. He stated that this incident has every server on their toes. He stated that there are rules that employees have to follow. He stated that he will address them and make sure all employees follow.

Ms. King encouraged them to post a perpetual calendar. Mr. Green replied he could get one.

Mr. Austin agreed with Mr. Krusenoski's statements and was at a complete loss for how the incident took place on a slow Wednesday evening, particularly by their prime bartender.

Mr. Austin asked how Capri trains their staff to approach a table and asked what the employees responsibilities are. Mr. Green stated that patrons who look under the age of 30 are to be carded and that they will not accept the vertical identifications.

Mr. Austin stated that he was not looking for information on alcohol serving specifically, but table service and asked how they are to greet customers and take orders. He stated that he was concerned that wait staff are not trained with a specific policy. Mr. Austin stated that if Capri is before the Commission again, a higher penalty will be recommended. He encouraged them to address liquor issues as one of the primary things they do when approaching the table and providing customer service.

Chairman Strelau asked what discipline they took against the employee. Mr. Spadoni stated that they gave the bartender a two day unpaid suspension and noted that she was responsible for paying the \$500 fine. She was also made to disclose the incident with the rest of the staff.

Chairman Strelau stated that the tone starts with management. She stated that the 2012 manual states that "any employee that is convicted with a Federal, State or local ordinance is subject to termination". She asked why the employee was not terminated. Mr. Spadoni stated that she has been with the company for

three years and is reliable. He stated that she made a costly mistake but with the discipline and reeducation that was given, they decided to give her another chance. Mr. Spadoni stated that they wanted some discretion and kept the term “subject to” and noted that the manual does not indicate mandatory termination. He stated that the employee was told that there are no second chances.

Chairman Strelau stated that it is incumbent on licensees to keep free of violations. She stated that employees must understand the significance of what they do every day. She stated that if they fail again, the penalties and fines will be much worse.

Ms. Didier summarized by stating that Half Italian, Inc. d/b/a Capri located at 5101 Main Street has stipulated to a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance which prohibits the sale of alcohol to a minor. She recommend that the licensee be found guilty of a violation.

Chairman Strelau asked the Capri representatives if they had any final comments for the record. Mr. Green replied no.

Upon hearing the evidence presented in this case, Chairman Strelau requested a motion as to whether the licensee be found guilty or not guilty of a violation of Section 3-25(a) of the Downers Grove Municipal Code.

MR. JACOBSON MOVED TO FIND HALF ITALIAN, INC. D/B/A CAPRI LOCATED AT 5101 MAIN STREET, GUILTY OF VIOLATING SECTION 3-25(A) OF THE DOWNERS GROVE LIQUOR CONTROL ORDINANCE. MR. AUSTIN SECONDED.

VOTE:

Aye: Mr. Jacobson, Mr. Austin, Mr. Clary, Ms. King, Mr. Krusenoski, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 6:0:0

The Motion carried.

Chairman Strelau asked Mr. Green if they would prefer a fine or suspension. Mr. Green replied that they would prefer a fine.

Fuddruckers - 1500 Branding Lane

Chairman Strelau stated that the next order of business was to conduct a disciplinary hearing for Luby's Fuddruckers Restaurants, LLC d/b/a Fuddruckers located at 1500 Branding Lane. She stated that the licensee has been charged with a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance.

Chairman Strelau asked that any individual(s) representing the licensee step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Ms. Judy Rosing and Mr. Matthew Remarcik were sworn in by the court reporter. Ms. Rosing introduced herself as the general manager and Mr. Remarcik introduced himself as the area leader of Fuddruckers.

Chairman Strelau asked the prosecuting attorney to present her case.

Ms. Didier stated that the parties to this hearing before the Liquor Commission of the Village of Downers Grove by and through their attorneys, if any, hereby stipulate as follows:

13. Luby's Fuddruckers Restaurants, LLC d/b/a Fuddruckers, 1500 Branding Lane, Downers Grove, Illinois, is the holder of a Class R-2 Liquor License #LQ-000023, issued by the Village of Downers Grove. That said Licensee has held a liquor license for this location from the Village of Downers Grove since March 10, 2011.
14. Notice of this hearing was served upon the Licensee by certified mail to its registered agent and by personal delivery to the manager of the licensed premises.
15. At approximately 8:33 p.m. on Wednesday, May 1, 2013, Downers Grove Police Officer Edwards and Downers Grove Police Officer Rau observed N.K., a special agent of the Downers Grove Police Department under the age of twenty-one (21), whose date of birth is October 1, 1994 (making her 18 years old), enter Fuddruckers located at 1500 Branding Lane, Downers Grove.
16. The special agent approached the order counter and employee Kellie Amalie Flor asked her for her order.
17. The special agent ordered a chicken sandwich and a bottle of Bud Light Beer while Officers Edwards and Rau observed her.
18. That Kellie Amalie Flor, whose date of birth is November 7, 1990, then asked the special agent for identification.
19. That the special agent produced her valid Illinois driver's license indicating her date of birth as October 1, 1994, and reading "Under 21 until 10/01/2015" on the face of the license.
20. That Kellie Amalie Flor viewed the special agent's driver's license and then returned the driver's license to the special agent.
21. That Kellie Amalie Flor retrieved a Bud Light beer from a metal tub, opened the bottle and placed the opened bottle of beer in front of the special agent and charged the agent for her order.
22. Officers Edwards and Rau who witnessed the events in the foregoing paragraphs, identified themselves and advised that the delivery of an alcoholic beverage had been made to a minor.
23. That Kellie Amalie Flor was issued a Village ordinance administrative citation for delivering alcohol to a minor in violation of Section 3-25(a) of the Downers Grove Municipal Code.
24. The Officers advised manager Milton Lennon, Jr. that notice of further action would be forthcoming from the Downers Grove Liquor Commission.

Ms. Didier asked that the signed stipulation be entered into the record as Village's Exhibit #1.

Chairman Strelau accepted the signed stipulation as Village Exhibit #1.

Chairman Strelau asked the licensee to present its case.

Ms. Rosing stated that they did not deny the incident. Mr. Remarcik stated that he was disappointed. He stated that he has been in a management position in the restaurant business for 28 years and this was the first time he has attended a hearing. He stated that disciplinary action was taken against the employee Kellie Flor, Milton, the manager on duty that day and the general manager Judy Rosing.

Mr. Austin stated that there have been a string of violations. He asked if they spoke with the server and if she explained why she served the agent after showing a vertical license. Ms. Rosing stated that Ms. Flor stated that she did the calculation in her head wrong. Ms. Rosing stated that she should not have taken the vertical license at all. Ms. Rosing stated that Kellie was upset and apologized for the mistake.

Mr. Austin asked if they have the calendar posted. Ms. Rosing replied no.

Mr. Austin asked what tools they use other than the manual to train their employees. Ms. Rosing replied that Ms. Flor should have asked for a manager's assistance. Mr. Remarcik stated that they will obtain the signage for employees to know what the date of birth needs to be in order for the patron to be 21.

Mr. Austin stated that in most establishments there is a second check system, such as in the register where employees need to type in the date of birth. He stated that he believed that technology would not be far out of reach for a place such as Fuddruckers.

Mr. Austin stated that the tone was not set. He stated that there should be other tools available for their employees. He stated that Fuddruckers is a national chain. He stated that their exposure is not small in knowing there are a number of locations throughout the states. He stated that they do not have any safety checks in place. He stated that they can be held to a higher standard with their experience being a national chain. He stated that they may have more resources than smaller establishments.

Mr. Austin stated that he was upset not only at the volume of violations that there have been, but the fact that they are also a national chain and they also violated. He stated that he hoped that they put in new policies to address the violation.

Ms. King asked if Ms. Flor had certified training. Ms. Rosing replied no.

Ms. King asked if the ordinance had been changed requiring certification of employees at the time of the incident and asked if that would be an aggravating circumstance. Ms. Kuchynka stated that the violation took place before the new ordinance went into effect. She believed that the Commission could consider that an aggravating circumstance for future violations.

Ms. King asked what disciplinary action was taken against Ms. Flor. Ms. Rosing replied that herself, along with Ms. Flor and Milton the manager on duty all received a write up in their permanent file and any further violation will result in termination. Ms. Rosing stated that three employees will obtain their BASSETT certifications.

Ms. Rosing advised that their Human Resources Department is requiring that all employees be retrained with their amended manual.

Ms. King asked if all employees were trained. Ms. Rosing replied that managers are trained. She added that only managers are allowed to serve liquor right now.

Ms. King asked how long Ms. Flor has been with the company. Ms. Rosing replied six years. Ms. Kuchynka noted that Ms. Flor should have had certified training within four months of her date of hire. Ms. Didier noted that she would need to be certified as of the date she started serving liquor.

Ms. King asked when Ms. Flor started serving liquor. Ms. Rosing replied that Ms. Flor should not have been serving liquor. Ms. Rosing stated that the manager, who was supposed to be serving liquor, was not in the building at the time of the incident. Ms. Rosing stated that Ms. Flor should not have served.

Ms. King asked what has been done since the violation. Ms. Rosing replied that they have made updates to the manual. She stated that she has had daily huddles with staff. She stated that the district managers have been involved and take the matter very seriously.

Ms. King asked if they have any displays available since the violation. Ms. Rosing stated that they have the 50 state identification guide at the front register in lieu of being kept in the office. She stated that they do not have the date calendars. Ms. King advised that the State has signage for them to post.

Mr. Krusenoski asked if Ms. Flor ever served before. Ms. Rosing replied she was unsure if she or any other employee had served if or when a manager was not on the floor at the time. Mr. Krusenoski asked if they have an existing policy that only managers are allowed to serve alcohol. Ms. Rosing replied no. Mr. Krusenoski stated that manager or employees who may not have been certified could serve alcohol. Ms. Rosing replied that all managers have a certification.

Mr. Krusenoski stated that he was astounded as to how a national chain can be so lax in their liquor serving policies.

Mr. Krusenoski asked what their alcohol sales percentages are. Ms. Rosing replied .07% in May.

Mr. Krusenoski stated that the vertical license does not require the employee to do any math.

Mr. Jacobson asked who was the manager that was supposed to be in the store. Ms. Rosing replied Milton Lennon, who was mentioned in the stipulation.

Mr. Jacobson stated that he did not have much confidence in their policies. He stated that it may not be important to corporate as sales are such a small amount. Mr. Jacobson was concerned that the employee was doing something she was not supposed to do and that the only disciplinary was a written reprimand in her file. He stated that he felt that their policies are lax.

Mr. Clary stated that their policies are lax for a chain so large. He stated that he was very disappointed.

Chairman Strelau stated that they should look at other national establishments similar to them and see that they have done far beyond what Fuddruckers has done as a chain. She stated that they may understand the Commission's shock in their complete breakdown of their liquor serving policies. She stated that they have taken no responsibility for proper liquor serving which is clearly unacceptable.

Ms. Didier summarized by stating that Luby's Fuddruckers Restaurants, LLC d/b/a Fuddruckers located at 1500 Branding Lane, has stipulated to a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance which prohibits the sale of alcohol to a minor. She recommend that the licensee be found guilty of a violation.

Chairman Strelau asked if the representatives had any final comments for the record. Ms. Rosing replied no.

Upon hearing the evidence presented in this case, Chairman Strelau requested a motion as to whether the licensee be found guilty or not guilty of a violation of Section 3-25(a) of the Downers Grove Municipal Code.

MS. KING MOVED TO FIND LUBY'S FUDDRUCKERS RESTAURANTS, LLC D/B/A FUDDRUCKERS LOCATED AT 1500 BRANDING LANE, GUILTY OF VIOLATING SECTION 3-25(A) OF THE DOWNERS GROVE LIQUOR CONTROL ORDINANCE. MR. CLARY SECONDED.

VOTE:

Aye: Ms. King, Mr. Clary, Mr. Austin, Mr. Jacobson, Mr. Krusenoski, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 6:0:0

The Motion carried.

Chairman Strelau asked if they would prefer fines or suspension. Ms. Rosing replied that they would prefer a suspension.

Shop & Save Market - 7241 Lemont Road

Chairman Strelau stated that the next order of business was to conduct a disciplinary hearing for Lemont Grove Advisors, LLC d/b/a Shop & Save Market located at 7241 Lemont Road. She stated that the licensee has been charged with a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance.

Chairman Strelau asked that any individual(s) representing the licensee step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Mr. Ken O'Connor and Mr. Dale Ohman were sworn in by the court reporter. Mr. O'Connor introduced himself as the comptroller and Mr. Ohman introduced himself as the operations manager of Shop & Save Market.

Chairman Strelau asked the prosecuting attorney to present her case.

Ms. Didier stated that the parties to this hearing before the Liquor Commission of the Village of Downers Grove by and through their attorneys, if any, hereby stipulate as follows:

1. Lemont Grove Advisors, LLC d/b/a Shop & Save Market, 7241 Lemont Road, Downers Grove, Illinois, is the holder of a Class P-1 Liquor License #LQ-000163, issued by the Village of Downers Grove. That said Licensee has held a liquor license for this location from the Village of Downers Grove since April 15, 2013.

2. Notice of this hearing was served upon the Licensee by certified mail to its registered agent and by personal delivery to the manager of the licensed premises.
3. At approximately 7:40 p.m. on Thursday, May 16, 2013, Downers Grove Police Officer Edwards and Downers Grove Police Officer Rau observed D.B., a special agent of the Downers Grove Police Department under the age of twenty-one (21), whose date of birth is November 28, 1995 (making her 17 years old), enter Shop & Save Market located at 7241 Lemont Road, Downers Grove.
4. The special agent proceeded to the liquor section of the store and retrieved a 6-pack of Radeberger Beer.
5. While waiting in the check out lane the special agent was asked to step over to the service counter while Officers Edwards and Rau observed her.
6. That Christopher Kowalski, whose date of birth is July 8, 1989, then asked the special agent for identification.
7. That the special agent produced her valid Illinois driver's license indicating her date of birth as November 28, 1995, and reading "Under 21 until 11/28/2016" on the face of the license.
8. That Christopher Kowalski viewed the special agent's driver's license and then returned the driver's license to the special agent.
9. That Christopher Kowalski rang up the sale charging the special agent \$8.65.
10. That the special agent gave a \$10.00 bill to Christopher Kowalski and received \$1.45 in change.
11. Officers Edwards and Rau who witnessed the events in the foregoing paragraphs, identified themselves and advised Christopher Kowalski that the delivery of an alcoholic beverage had been made to a minor.
12. Christopher Kowalski was issued a Village ordinance administrative citation for delivering alcohol to a minor in violation of Section 3-25(a) of the Downers Grove Municipal Code.
13. The Officers advised manager, Slawek Brzezniak, that notice of further action would be forthcoming from the Downers Grove Liquor Commission.

Ms. Didier asked that the signed stipulation be entered into the record as Village's Exhibit #1.

Chairman Strelau accepted the signed stipulation as Village Exhibit #1.

Chairman Strelau asked the licensee to present its case.

Mr. Ohman stated that this was absolutely unacceptable behavior and apologized for the incident. He stated that the incident occurred three weeks after they opened. He stated that there was no excuse for the violation. He stated that the employee has been suspended and demoted. He stated that any future incidents will result in immediate termination.

Mr. Ohman stated that they will no longer accept vertical identifications. He stated that they have posted signs on the registers.

Mr. Ohman provided a list of employees along with a copy of their BASSETT certification. He stated that they have amended their liquor handling policies and procedures and had all employees sign the acknowledgment form which he also provided to the Commission.

Mr. O'Connor advised that the employees on the list which have an N/A by their name, indicates those who are under 21. He stated that they must call over a manager to ring up sales.

Mr. Ohman stated that they are looking into purchasing units which can scan identifications. He stated that it will be about three weeks before they can implement them into the store.

Mr. Clary asked how many stores do they operate. Mr. O'Connor replied six. Mr. Clary asked if they had any other violations. Mr. O'Connor replied no and this was the first violation they had. Mr. Clary asked if they have been only open three weeks. Mr. O'Connor replied yes.

Mr. O'Connor stated that the employee involved in the sale was suspended without pay for two weeks. He stated that he will be meeting with management next to determine whether or not he will be able to return to work. Mr. Ohman added that the employee had been with the company for 3 ½ years.

Mr. Clary stated that the agent was 17 years old and showed the vertical identification. He stated that they have had the license for three weeks and are already before the Commission. Mr. O'Connor agreed that it was totally unacceptable. Mr. Clary suggested that they revisit their hiring policy. He stated that the Commission has heard over and over that the incident was a mistake and that it will not happen again. He stated that at some point there has to be consequences for violations.

Mr. O'Connor stated that the employee's suspension was immediate. He stated that he had to pay the fine and receives no pay during his suspension.

Mr. Clary stated that staff may want to revisit the amount of the fine issued to the servers/sellers.

Mr. Clary stated that their track record is not good right now.

Mr. Jacobson stated that he recalled their application hearing and that the Commission discussed the vertical license with them. Mr. O'Connor suggested that not accepting the vertical license be a requirement throughout the Village.

Mr. Jacobson stated that he hoped that this not happen again. He stated that they had a substantial manual however the Commission has no way of knowing that any licensee follows their policies.

Mr. Jacobson stated that he was concerned at the number of violations.

Mr. Krusenowski asked about the employee's role at the store. Mr. Ohman stated that he was a customer service agent. He stated that he was brought over from another store to help start out this location. Mr. Krusenowski asked what were the duties of a customer service agent. Mr. Ohman stated that they serve as cashiers when busy and help customers directly with problems, concerns or questions.

Mr. Krusenowski stated that the agent was in regular standard check out line to purchase the beer when Chris called her over to the service counter to ring up the sale. Mr. Ohman stated that he waived over the agent and looked at her vertical license and made the sale. Mr. Krusenowski wondered if the agent made it to the regular cashier that she would have not been sold the liquor. Mr. Ohman replied that he would hope that the sale would not have been made.

Mr. Krusenowski asked Mr. Ohman if he suspected a motivation for the employee selling the liquor to her. Mr. Ohman replied that he did not suspect any motivation for the sale. Mr. Ohman stated that the store was busy at the time of the violation. He stated that when the store is busy, employees call over patrons to the customer service desk to expedite the wait time for those with smaller orders.

Mr. Krusenowski asked if the employee was BASSETT trained. Mr. O'Connor stated that employees, although previously trained, were recently required to re-take the certification class, along with all new employees.

Mr. Krusenowski asked if the employee gave any reason for not recognizing the vertical license as an under 21 identification. Mr. O'Connor replied that the employee did not have an excuse. Mr. O'Connor stated that the employee was sorry for the violation. Mr. Krusenowski asked if they believed the employee willfully sold to the minor. Mr. O'Connor replied no and believed that the employee made an error.

Ms. King stated that she was concerned that a 17 year old can purchase an entire six-pack and drink it by themselves. She felt the severity of this was worse than being able to get a single drink at a restaurant. She was very disappointed. She hoped that they will update their policy.

Ms. King asked how the new scanners would assist them. Mr. O'Connor stated that there is a bar code on the back of the licenses. He stated that the unit and software work together to read the age of the customer which will take the human error element out of the equation. He stated that they have to provide an identification to purchase alcohol, it has to be read and integrated into the cash register system.

Ms. King advised that some systems have an override where the employee is able to key in a date of birth. Mr. Ohman stated that they are not solely going to rely on the scanning unit, but use it as another tool to make sure the sale to a minor does not happen again.

Ms. King asked if all liquor purchases will require an identification. Mr. O'Connor replied yes. He stated that every single customer purchasing liquor will need to produce an identification whether they look like they are 18 or 88. He stated if they do not have an identification, they will not be sold alcohol.

Mr. Ohman stated that he was livid about the violation and that it was absolutely unacceptable.

Ms. King asked if the employee was certified at the time of the violation. Mr. O'Connor was unsure. Mr. Ohman stated that he worked previously in Cook County and was unsure if they required certified training. Ms. King asked what liquor handling experience the employee had. Mr. Ohman stated that the employee has sold liquor in their other locations.

Ms. King stated that the Commission does not like to see licensees that have just received their license to appear before them for a violation.

Mr. Ohman stated that there is no excuse for the violation.

Ms. King asked if they will accept vertical identification. Mr. Ohman replied no. He stated that everyone gets carded. Mr. Ohman stated that another cashier informed him that they lost a few sales because the customer did not have an identification. Mr. Ohman stated that is their policy.

Mr. Austin asked if Mr. O'Connor and Mr. Ohman were present at the application hearing. Mr. Ohman replied that he was not. Mr. O'Connor replied that he was. Mr. Austin asked who else was present. Mr. O'Connor replied, Mr. Gil, the current liquor manager.

Mr. Austin stated that he recalled the conversation that the Commission had about the vertical licenses. He stated that the warning was there and he thought the Commission was told they were not going to accept them based on their recommendation.

Mr. Austin asked what percent of liquor sales do they have chain-wide. Mr. O'Connor replied less than 5%. Mr. Austin asked if they sell lottery tickets. Mr. O'Connor replied yes. Mr. Austin advised that the lottery machines have the capability of checking the age on the identification. Mr. Ohman and Mr. O'Connor were not aware of that. Mr. Austin stated that the Commission was advised of that from a small, single business owner.

Mr. Austin asked if there was any discipline taken against the manager on site. Mr. Ohman stated that Mr. Brzezniak has been reprimanded, however, not suspended.

Mr. Austin stated that management sets the tone for the establishment. He stated that they have a number of stores and hoped that they set the culture. He was concerned that they did not heed the Commission's warnings about accepting the vertical identification and hoped the Liquor Commissioner would take that into consideration when determining a penalty.

Mr. Austin was pleased that they have updated their manual. He stated that fines and suspension will progress should they fail again.

Chairman Strelau stated that it is commendable that they are willing to make a significant investment with the purchase of the scanning units. She agreed with Mr. Austin that if they find themselves back again, it will be particularly difficult. She stated that they should not solely rely on the scanning units and work on employee training and set the tone for the importance of liquor selling.

Ms. Didier summarized by stating that Lemont Grove Advisors, LLC d/b/a Shop & Save Market located at 7241 Lemont Road, has stipulated to a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance which prohibits the sale of alcohol to a minor. She recommend that the licensee be found guilty of a violation.

Chairman Strelau asked if the representatives had any final comments for the record. They had none.

Upon hearing the evidence presented in this case, Chairman Strelau requested a motion as to whether the licensee be found guilty or not guilty of a violation of Section 3-25(a) of the Downers Grove Municipal Code.

MR. KRUSENOSKI MOVED TO FIND LEMONT GROVE ADVISORS, LLC D/B/A SHOP & SAVE MARKET LOCATED AT 7241 LEMONT ROAD, GUILTY OF VIOLATING SECTION 3-25(A) OF THE DOWNERS GROVE LIQUOR CONTROL ORDINANCE. MR. AUSTIN SECONDED.

VOTE:

Aye: Mr. Krusenoski, Mr. Austin, Mr. Clary, Mr. Jacobson, Ms. King, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 6:0:0

The Motion carried.

Chairman Strelau asked if they would prefer fines or suspension. Mr. O'Connor replied that they would prefer a fine.

V. REQUEST FOR FLOOR PLAN CHANGE

Chairman Strelau stated that the next order of business was discuss requests for floor plan changes. She stated that this Commission does not determine the granting or denial of the request. She stated that at the conclusion of the discussion, the Commission will summarize its findings and determine any recommendations it wishes to make to the Liquor Commissioner and, if necessary, the Commission may adjourn to a later date in order to have benefit of further information.

Rita's - 1211 A Butterfield

Chairman Strelau stated that the next item on the agenda was Small World Entertainment, LLC d/b/a Rita's American Roadhouse located at 1211 A Butterfield Road. She stated that the licensee was requesting a change in floor plan pursuant to Section 3.19 of the Liquor Control Ordinance.

Chairman Strelau asked that any individual(s) representing the licensee to step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Mr. Larry Spatz and Mr. Joe Frankel were sworn in by the court reporter. Mr. Spatz introduced himself as the CEO of Rita's. Mr. Frankel introduced himself as the liquor manager.

Chairman Strelau asked the representatives to discuss the proposed changes.

Mr. Spatz stated that today was the third anniversary of their opening. He stated that they have served over 250,000 people. He stated that they have had some issues and held regular meetings with Enza, Carol, Lt. Budds and Lt. Gillette and wanted to acknowledge the help from the Village.

Mr. Spatz read and reaffirmed a letter to Chief Porter two years ago:

"I am writing to acknowledge the Downers Grove police force. As you may be aware, I have operated what at one time was the largest restaurant/nightclub chain in the world with operations throughout the United States and Europe. In my 25 years of operations, I have worked with many police departments. My experience with Downers Grove law enforcement is exceptional beyond any previous experience. We believe that Ron Michalski, our Vice President and Head of Security has the best trained staff in the country. We believe that our security manual is a model for the industry. However, from time to time, we have needed to call on professional law enforcement. When called, your officers consistently handled situations with professionalism. Your officers showed patience, intelligence and make effective use of verbal rather than physical confrontation. In essence, your officers always make the situation better. I would like to give you individual names of exceptional officers, however, they are all exceptional. You and your staff should be very proud. Your officers are well trained, professional and effective. I would like to thank Lt. Budds for meeting with Ron and I and in his regular meetings with Ron, his input has been very valuable. Thanks to your department for its help and support."

Mr. Spatz stated that their experience in Downers Grove has been wonderful. He stated that they have had problems from time to time and have been able to resolve them.

Mr. Spatz stated that when they opened they had a room designated as a Piano Bar. He stated that room had not been particularly successful. He stated that the room is underutilized and has no attraction. He felt that putting pool tables would give the establishment another attraction and allow them to be better able to spread out the crowd some. He stated that this is a decision they think would be helpful to the business.

Chairman Strelau asked for discussion from the Commission.

Mr. Austin asked Mr. Spatz if any of the former establishments had pool tables. Mr. Spatz stated that the original Baha Beach Club concept started with pool tables. Mr. Frankel stated that every Baha Beach Club had pool tables.

Mr. Austin asked if there was a propensity for problems to escalate with the addition of the pool tables and asked if people who are drinking, have heightened emotions with pool sticks in hand could be an issue. He asked what their plan was to address potential altercations. Mr. Frankel stated that they will have a security person dedicated to that room. He stated that there are 8-10 security on rotation throughout the facility. He stated that 80% of their security staff are special forces, army, navy and marine corps individuals.

Mr. Austin asked about liquor service and if there is a bar for the area itself. Mr. Frankel replied yes.

Mr. Austin asked what the capacity was of the piano bar. Mr. Frankel replied 100.

Mr. Austin asked if the capacity of the room will change. Mr. Frankel replied that they took a few seats out, but did not believe it would change the occupancy of the room. Mr. Frankel stated that there are 22 tables in the room.

Mr. Austin asked if there would be any difficulty supplying the room with food service. Mr. Frankel stated that he believed it would be a good place to get some food.

Mr. Frankel stated that there would be televisions and sports memorabilia as opposed to just music in the main room.

Mr. Austin asked if wait staff will be assigned to the room. Mr. Frankel stated that there was only one wait staff person assigned to the room and will continue to be one.

Ms. King asked how they manage people in the outdoor parking area of the establishment. Mr. Spatz replied that they have had issues in the parking lot in the past. He stated that if there is a problem inside, they do attempt to diffuse the situation and get them out of the facility. Mr. Spatz stated that as they are letting patrons out for the night, the staff from inside also works their way outside, so as to control the parking lot.

Ms. King asked if the room is sealed off by a door. Mr. Frankel replied the room is set off by a set of doors.

Ms. King asked if the room is being used. Mr. Frankel replied that it is underutilized and he hoped the room would be more useful with the change.

Ms. King stated that the hours of operation are much different from what they were when they first came before the Commission. Mr. Spatz stated that their objective when they came before the Commission was to operate with the restaurant open five days. He stated that they anticipated more food sales and the piano bar being more in operation, which is not the case. He stated that they promote food and that Patti Romano still handles the food service, but expected to do more business.

Mr. Spatz stated that they reduced the hours of operation because the business was not there.

Ms. King asked if the food service is disbursed throughout the establishment or is in certain areas. Mr. Spatz replied that food service is available everywhere. He stated that they also have pizza slice serving stations. He stated that they are successful with their take out pizza.

Mr. Krusenowski asked about the proposed seating area and was concerned that there were a lot of tables in a small area. He asked if that was to meet the proportional dining seat to bar seating guidelines of the

license. Mr. Frankel replied that room and those seats are not needed to meet the seating requirement. He stated that the area will be a sports bar theme and the seating will allow patrons to watch games.

Mr. Krusenoski asked if the electric carts are still operational. Mr. Spatz replied that they have moved the electric cars to the Chicago Botanic Garden.

Mr. Jacobson had no questions.

Mr. Clary stated that it looks like the area will be tight with the seating and three pool tables. Mr. Spatz replied that they can move out the extra tables if they have to, as they are not necessary to meet the dining seat requirement they have available. Ms. Kuchynka stated that once the Liquor Commission reviews the requested changes, she will be forwarding the plan to Community Development to make certain that they meet any ADA requirements.

Chairman Strelau asked Ms. Kuchynka if the dining seat requirement is satisfied throughout the facility. Ms. Kuchynka replied yes. She stated that the 125 dining seat requirement is met in the left front room of the facility. Ms. Kuchynka stated that even when they had piano bar area closed off, they were required to have 125 seats available at all times.

Chairman Strelau asked how they would describe their business now versus what they proposed to the Liquor Commission before they opened. Mr. Spatz replied that they have gone through an evolution over the past three years. He stated that they did not anticipate a lot of issues such as the type of customers they attracted from the former North Beach. He stated that their customers now are older and more mature than those 2-3 years ago. He stated that they control that through their music, dress code and by creating a safe and secure environment.

Chairman Strelau asked how they classify their business. Mr. Spatz replied that it is a top 40-dance entertainment facility with food service.

Chairman Strelau asked if the dining area is always available as they are shown on the plan. Mr. Frankel replied yes. Mr. Spatz stated that patrons have the menu to order from.

Chairman Strelau asked how many times a month do they need to call the police department for service. Mr. Frankel replied 2-3 times per month. He advised that they meet with the police department quarterly to maintain an open line of communication and turn in fake ids. Mr. Spatz stated that if they err, they are going to err on the side of calling the police. He stated that they call the police department because they are very helpful.

Chairman Strelau asked what their primary reason for calling the police has been. Mr. Frankel replied domestic situations where this person touches that person's girlfriend. He stated that jealous rage is a common problem in the industry.

Chairman Strelau stated that the floor plan stated it was a sports bar seating plan. She asked if they were changing the business or the Rita's Roadhouse name or just the room. Mr. Frankel replied that the heading just relates to that room. Mr. Spatz stated that they are not as doing as well as last year, which is not unusual in this type of business. He stated that they are looking to upgrade the room and bring in more customers. He stated that he does not want to let the business go and attract the wrong type of customer.

Chairman Strelau asked them to describe the wait staff uniform. Mr. Frankel replied a logo shirt, black with neon green "Rita's" on the front. He stated that the guys wear t-shirts and the girls wear tank tops.

Chairman Strelau asked if they are allowed to choose if to wear pants, shorts or skirts on the bottom. Mr. Frankel replied yes.

Chairman Strelau asked about their theme nights and asked if the wait staff participates in the pajama and Halloween parties by way of dress. Mr. Frankel replied yes, very tastefully. Chairman Strelau asked how he would described distasteful dress. Mr. Frankel replied anything in distaste would be any dress that violated the Downers Grove ordinances about indecent exposure.

Mr. Austin asked about the ordinance change regarding the floor plan and operations and asked if this request took place before the change and wondered what procedure took place in reviewing these requests before the change took place. Ms. Kuchynka stated that the Liquor Commissioner has discretion under every instance to refer an item to the Liquor Commission or handle them administratively. She stated that in this case, staff recommended that this change be forwarded to the Commission for review and discussion. She stated that the floor plan change affects the theme of parts of the establishment from what was presented at original application. She asked for a recommendation from the Commission. Ms. Petrarca added that this request would fall under the new guidelines of the ordinance change.

Mr. Austin asked if there were any other establishments that have pool tables on their premises. Ms. Kuchynka replied Q Billiards and Game Pazzo. Ms. Kuchynka noted that the room was formerly used as a piano bar and would consider this a change in use.

Chairman Strelau asked if there were any comments from the public pertinent to this request. There were none.

Upon hearing the evidence presented in this case, Chairman Strelau requested a recommendation from the Commission concerning its finding with respect to the licensee before us with regard to the request.

MR. JACOBSON MOVED TO RECOMMEND THAT THE FLOOR PLAN CHANGE BE GRANTED FOR SMALL WORLD ENTERTAINMENT, LLC. D/B/A RITA'S AMERICAN ROADHOUSE LOCATED AT 1211 A BUTTERFIELD ROAD. MR. AUSTIN SECONDED.

VOTE:

Aye: Mr. Jacobson, Mr. Austin, Mr. Clary, Ms. King, Mr. Krusenoski, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 6:0:0

The Motion carried.

Playa del Sol - 500 75th Street

Chairman Strelau stated the next order of business is Playa Del Sol Restaurant Incorporated d/b/a Playa del Sol located at 500 W. 75th Street. The licensee is requesting a change in floor plan pursuant to Section 3.19 of the Liquor Control Ordinance.

Chairman Strelau asked that any individual(s) representing the licensee to step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Ms. Anahis Salgado and Mr. Fernando Lagunas were sworn in by the court reporter.

Chairman Strelau asked staff for recommendations or comments pertinent to this application. Ms. Kuchynka stated that the licensee is requesting a floor plan change. She stated that in their original license application, there was no on-site entertainment. She stated that they are proposing Karaoke in the bar area on Friday and Saturday evenings. She stated that she provided a floor plan showing the set up Sunday - Thursday and the removal of four dining tables on Friday and Saturday.

Ms. Kuchynka stated that they have provided a reduced late night menu. Ms. Kuchynka asked Ms. Salgado if they planned to remain open a few hours later on the weekends than they normally do now. Ms. Salgado replied yes. Ms. Kuchynka stated that she would confirm with Community Development that an inspection would not be required, as this would be a temporary change.

Chairman Strelau asked the representatives to further discuss the changes. Ms. Salgado stated that they would like to stay open late on Friday and Saturday from 10 pm until 2 am. She stated that there will be after hours. She stated that they will be open for a DJ. She stated that on Tuesday and Thursday they want to have Karaoke from 6 pm to 11 pm, during business hours.

Ms. Salgado stated that they will offer a light menu on Friday and Saturday when they have the DJ. She stated that they have three rooms, plus the bar area. She stated that four tables will be removed from the main room. She stated that they plan to have salsa lessons from 10-11 pm on Friday and Saturday. She stated that the area will also be for dancing. She stated that patrons will need to be 18 and over for those nights. She stated that they plan to have two security guards. She stated that security guards will check identifications and those over 21 will be given bracelets. She stated that the wait staff will also ask for identifications as extra precaution if the bracelets are removed and given to someone underage.

Mr. Clary asked if there will be Karaoke and dancing. Ms. Salgado replied Friday and Saturday they will have dancing. Mr. Clary stated that their letter does not request that. Ms. Kuchynka agreed and stated that this plan is not what her and Porfiria Piedra, owner, discussed previously. She stated that she was told that they were requesting Karaoke on Friday and Saturday. She stated that she was unaware of the dancing and other activities they are proposing. Ms. Salgado stated that the DJ will be present Friday and Saturday.

Ms. Kuchynka requested that Porfiria Piedra step forward and be sworn in by the court reporter. She stated the statements this evening do not match the request that was put in writing by Ms. Piedra.

Ms. Porfiria Piedra was sworn in by the court reporter.

Ms. Kuchynka stated that she was under the impression from their request that they were requesting Karaoke for Friday and Saturday evenings. She stated that there was no discussion with Porfiria about dancing and the DJ activities.

Ms. Piedra stated that on Friday and Saturday there would be Karaoke and a DJ. She stated that the DJ will provide music. She stated that they will remove four tables for dancing. She apologized for the confusion from her letter.

Ms. Kuchynka asked the Commission if they would want to consider the amended request.

Mr. Austin asked if Karaoke and/or dancing are permitted. Ms. Kuchynka stated the Code reads that licensees may provide free entertainment. Mr. Austin asked if the Commission has latitude to consider this request being allowed at a restaurant. Ms. Kuchynka stated that the primary business must be a restaurant. She stated that this would be an entertainment aspect added, however, she was under the impression that this was simply Karaoke. She stated that with the additional aspects of patrons 18 and over, wristbands, security and dancing changes the request substantially.

Ms. Kuchynka noted that Section 3.33.1(d) states that “Nothing contained in this section shall prohibit a licensee from engaging in any of the following practices: (1) Offering free food or entertainment at any time;...”

Chairman Strelau stated that it seems this request is not talking about providing entertainment, but the spirit and intent of a license issued to a restaurant. She noted that licensees having an entertainer playing something for the guests is different than having Karaoke, salsa lessons and dancing. Ms. Kuchynka stated that it needs to be determined if this constitutes free entertainment or if the focus on the restaurant is changed.

Ms. Kuchynka stated that the main and principal business needs to be that of a restaurant. She stated that they will still be serving food. Ms. Kuchynka apologized for not knowing that the request was above and beyond what is being presented tonight. Mr. Austin asked if it needs to determine if the definition of “free entertainment” includes dancing. Ms. Kuchynka replied yes.

Ms. King asked if the lessons would be free. Ms. Salgado replied yes. She stated that they will not be providing regular classes, but there will be someone there to show them steps. Ms. Salgado stated that they thought it would be good to have customer learn a couple of steps. Ms. Piedra stated that the customers have been asking why they do not have music or are not open late. Ms. Salgado stated they have heard that a lot from many customers.

Mr. Lagunas stated that there are no other Mexican restaurants in the area that provide this. He stated that some people want to go out later in the evening. He stated that they will have phone numbers of cab companies so that patrons can get home safe.

Ms. Kuchynka asked if they will charge a cover charge. Ms. Salgado replied no.

Ms. Kuchynka stated that their letter requested the extra hours for Friday and Saturday, but heard them mention Karaoke on Tuesday and Thursday. Ms. Piedra replied that only Friday and Saturday they will have the DJ and Tuesday and Thursday they want Karaoke.

Mr. Lagunas stated that they have drink specials on Tuesdays and Thursdays. Ms. Salgado noted there are half off margaritas. She stated that Tuesday and Thursday they are not planning to stay open late.

Ms. Salgado stated that they close between 9-10 pm. She stated that they will wait for patrons to finish dining and at 10 pm is when the DJ and dancing will start. Chairman Strelau asked that if patrons know they are going to have entertainment at 10 pm, will they not be willing to stay. Ms. Salgado replied that is when they will card everyone else. Mr. Austin asked how long they will stay open. Ms. Salgado replied 2 am. Mr. Austin stated that a reduced menu will be available until 2am. Ms. Salgado replied yes. Mr. Austin asked how

patrons who come in later on will be made aware of the menu being offered. Ms. Salgado replied it will be provided to those who request it. She stated that the regular menu will be only served until 10 pm.

Chairman Strelau asked if they were confident that they can re-check everyone's identification and determine those under 21 years old. She asked if they will be separated adequately. Ms. Salgado stated that they will hire two security guards for those nights. She stated that the tables left past 10 pm will be re-carded. Mr. Austin asked why identifications will be re-checked. He asked if they feel like they are going to close and then re-open. Ms. Salgado stated that they will be open later and she does not want teenagers to get the impression that it will be a night club. She stated that with the music and for those people that do stay later will consume more liquor and stay more for the entertainment.

Mr. Austin stated that when they applied for the license he recalled that their experience was in the restaurant business. He stated that it sounds to him like the Friday and Saturday nights will have a club atmosphere, especially with the addition of security. Ms. Salgado stated that Mr. Lagunas will be in charge of the operations for those house. She stated that he has a nightclub in another country. She stated that he has been in the nighttime industry for a number of years and is experienced with providing late night entertainment and security.

Ms. Kuchynka requested that the hearing concerning this floor plan changed be postponed to a future date for benefit of further information. She stated that she was uncomfortable with what is being presented versus what was proposed in their request. She stated in this case, she would want some policies written, as there are security issues that will need to be addressed. Ms. Petrarca added that these activities may impact the restaurant license classification of what they hold.

Chairman Strelau stated that this request varies from the spirit and intent of a restaurant license classification. Ms. Kuchynka stated that their proposal should be revised and policies provided.

Chairman Strelau asked for a recommendation from the Commission to continue the hearing.

MR. AUSTIN MOVED TO CONTINUE THE HEARING FOR THE BENEFIT OF FURTHER INFORMATION. MR. JACOBSON SECONDED.

VOTE:

Aye: Mr. Austin, Mr. Jacobson, Mr. Clary, Ms. King, Mr. Krusenoski, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 6:0:0

The Motion carried.

Ms. Kuchynka stated that they will defer their request to the next Liquor Commission meeting and work with the licensee to revise the request and put together a more comprehensive proposal.

Mr. Lagunas stated that they would comply with the Commission's recommendations.

V. APPLICATION FOR LIQUOR LICENSE

Chairman Strelau made the following statements:

"The first order of business is to conduct a public hearing for a liquor license application. For the benefit of all present, I would like to state that this Commission does not determine the granting or denial of the issuance of any license. We may at the end of each hearing, make a finding or recommendation with respect to the application. If necessary, the Commission may adjourn a hearing to a later date in order to have benefit of further information."

"At the conclusion of the hearing, the Commission will summarize its findings and determine any recommendations it wishes to make to the Liquor Commissioner."

"The Liquor Commissioner, who is the Mayor of Downers Grove, will, pursuant to Section 3-12 of the Ordinance, render decisions regarding issuance of available licenses within 60 days in order to consult the Plan Commission for its recommendations."

"Hearings by this Commission are held according to the following format: 1) reading of information pertinent to the application, 2) comments from the applicant, 3) comments from the public, 4) discussion by the Commission, and 5) motion and finding by the Commission."

Gnarly J's - 1211 B Butterfield Road

Chairman Strelau stated that the next order of business was an application hearing for Gnarly J's, Inc. d/b/a Gnarly J's located at 1211 B Butterfield Road. She stated that the applicant was seeking a Class "E", full alcohol on premise consumption liquor license and a Class "O" outdoor liquor license.

Chairman Strelau asked that any individual(s) representing the applicant step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Mr. Nick Telitz, Ms. Jennifer Telitz and Mr. Elias Nehra were sworn in by the court reporter. Mr. Telitz introduced himself as the owner of Gnarly J's, Mr. Nehra introduced himself as the head of security and Ms. Jennifer Telitz introduced herself as the liquor manager for Gnarly J's.

Chairman Strelau asked the applicant to present its case.

Mr. Telitz stated that they are seeking a liquor license for an indoor sports-themed facility. He stated that they have indoor volleyball, bags, pool, darts and bowling at the facility. He stated the facility will have a sports atmosphere. He noted televisions will be throughout the facility. He stated that they are set apart from other facilities in what they offer by way of sports and activities.

Chairman Strelau asked staff for recommendations or comments pertinent to this application. Ms. Kuchynka replied that issuance of the license is contingent upon receipt of dram shop insurance, an amended Certificate of Occupancy, the annual fee and satisfactory background checks.

Chairman Strelau asked for comments from the public. There were none.

Mr. Austin asked about how the security will be set up. Mr. Nehra replied that each room of the facility will have one security person. He stated that they will rotate security throughout the night. He stated that individual will monitor the guests consumption. He stated that they will be responsible for helping servers and make sure their area is clean.

Mr. Austin asked the customer age range they anticipate. Mr. Telitz replied that the facility is 21 and over. He stated that their main demographic is 25-34 years of age. He stated that 35-45 is the age range of the people on their Facebook page. He stated they hope to attract 25-50 year old professionals.

Mr. Austin stated that other establishments have a policy to require patrons to be 24 and over. He stated that is legal to do and noted that there is an element of age and maturity that the applicant hopes to attract from the business plan. He wished them success.

Ms. King stated that she liked their presentation materials. She cautioned them about the vertical licenses. Ms. Telitz stated that vertical licenses will not be accepted.

Ms. King reminded them that staff will need to be certified. Ms. Telitz stated that all employees will have certified training, including security.

Ms. King stated that she hoped the demographic they hope to have can support the business.

Ms. King stated that she liked the menu.

Mr. Krusenoski stated that they have heard a number of disciplinary hearings in the time they have spent before the Commission. He stated that it is important for businesses not to violate the law.

Mr. Krusenoski stated that he is hopeful that this process has sharpened their awareness and sharpened their security, business and financial planning. He stated that there were many hurdles faced to get to this point.

Mr. Telitz replied that they have learned a lot through the process.

Mr. Jacobson had no questions. He stated that their manual was substantial. He wished them luck and success.

Mr. Clary stated that they did a great job with their manuals and presentation. He stated that they obviously have a passion for the business. He stated that with the size of the facility comes a huge responsibility. He hoped not to see them back for a disciplinary.

Mr. Nehra stated that they have many policies in place to keep those under 21 from coming through the door.

Mr. Clary wished them luck.

Chairman Strelau asked about the wait staff uniform. Ms. Telitz stated black pants, black shoes, black shirts with a bright colored camisole underneath. She stated they will wear bright neon-colored headband/bandas to match. She stated that showing cleavage and rear ends will not be allowed.

Chairman Strelau asked Ms. Telitz if she will be the primary manager of the facility. Ms. Telitz replied yes. She stated that she is the liquor manager/co-owner. She stated that they will eventually hire a general manager.

Chairman Strelau stated that she liked Mr. Austin's suggestion of making the facility over 24. She stated that if the demographics are 25 and upwards of 50, it may be something to consider. She stated that they may save themselves grief and aggravation based on what their predecessor's experienced at the facility and distinguish themselves from them. She stated that part of the problem with that facility is what has happened there in the past. She stated that it was their call, but asked them to give it serious thought. She stated that the 18,000 square foot facility may be hard to monitor. She hoped that patrons will be eating and playing volleyball,

darts, bags or pool. She stated that the previous owners had 10 security, which did not save them from problems. She stated that they can have the best thought out plans, but how they manage the establishment and deal with their clientele will make or break them. She did not want to have them back due to any mistakes. She stated that high expectations have been set for them.

Chairman Strelau suggested that they seriously consider Mr. Austin's suggestion of making the facility 24 and over.

Ms. Kuchynka asked for further clarification on their presentation materials. She asked if they plan to have any remote alcohol stations or beer tubs throughout the facility. Mr. Telitz replied no. He stated that they have three bars already. Ms. Kuchynka stated that a floor plan change request would be required if they want to do so in the future. She stated that any area that is increased to provide liquor needs to be disclosed.

Ms. Kuchynka stated that she had discussed special events with Gnarly J's. She stated that they have come to an agreement to notify the Village if they plan to hold events over and above their normal day to day operations or those events that would attract more than the average number of patrons. She stated that they plan to hold fundraisers and charity events which may or may not require a Special Event Liquor License. She stated that any event held on the outside of the facility would require such special event license and temporary use license. Ms. Telitz stated that they would notify the Village at least a month in advance.

Ms. Kuchynka stated that she advises the Police Department in the event a facility is having an event so that in case there is an incident, they can send an adequate number of officers to address the situation.

Ms. Kuchynka stated that she has had a number of conversations with the owners and feels comfortable that the Village will be provided with information on events beforehand.

Ms. Kuchynka asked if they plan to have "shot girls" walking throughout the facility and offering shots for sale. Ms. Telitz replied no.

Ms. Kuchynka stated that in some special events instances they could request to have remote beverage stations to ease congestion at the bar areas. She stated that they could discuss that on a temporary basis for Special Event provisions.

Ms. Kuchynka advised that the Class E license shall be subject to any other additional conditions and/or restrictions imposed by the Local Liquor Commissioner either at the time of initial issuance or renewal of the license.

Ms. Kuchynka added that this licensee also requires that a monthly report be submitted to the Village describing any planned events or scheduled entertainment scheduled by the licensee.

Ms. Petrarca stated that they discussed a dress code for patrons. Ms. Telitz stated that their dress code was amended after discussing the matter with the Police Department. She stated that it was included in the Security Plan.

Ms. Kuchynka stated that she and Sgt. Gillette of the Downers Grove Police Department met with the owners and discussed amendments to the security plan and they had updated based upon the staff recommendations.

Ms. Kuchynka stated that she and Sgt. Gillette plan to meet with Gnarly's J's on a regular basis to address problems, issues and concerns and work as a partnership.

Hearing the testimony given in this case, Chairman Strelau asked for a recommendation from the Commission concerning its finding of "qualified" or "not qualified" with respect to the applicant with regard to their Class "E" liquor license application.

MR. CLARY MOVED TO FIND GNARLY J'S, INC. D/B/A GNARLY J'S LOCATED AT 1211 B BUTTERFIELD ROAD, QUALIFIED FOR A CLASS "E", FULL ALCOHOL, ON PREMISE CONSUMPTION LIQUOR LICENSE. MS. KING SECONDED.

VOTE: **Aye:** Mr. Clary, Ms. King, Mr. Austin, Mr. Jacobson, Mr. Krusenoski, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 6:0:0

Motion carried.

Hearing the testimony given in this case, Chairman Strelau asked for a recommendation from the Commission concerning its finding of "qualified" or "not qualified" with respect to the applicant with regard to their Class "O" liquor license application.

MR. KRUSENOSKI MOVED TO FIND GNARLY J'S, INC. D/B/A GNARLY J'S LOCATED AT 1211 B BUTTERFIELD ROAD, QUALIFIED FOR A CLASS "O", FULL ALCOHOL, OUTDOOR LIQUOR LICENSE. MR. JACOBSON SECONDED.

VOTE: **Aye:** Mr. Krusenoski, Mr. Jacobson, Mr. Austin, Mr. Clary, Ms. King, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 6:0:0

Motion carried.

VI. OLD BUSINESS

Chairman Strelau asked if there was any discussion, update from staff or comments from the Commission regarding any old business.

Ms. Kuchynka reported that she was in the process of renewals. She stated that Rizzotti's on Ogden has closed and will not renew.

Ms. Kuchynka stated that she provided an updated copy of the Liquor Code.

Mr. Austin asked if the ordinance concerning floor plan changes has been adopted. Ms. Petrarca replied yes. Mr. Austin asked how does the training requirement applies to special event licensees and used the Rotary

Grove Fest that has volunteers as an example. Ms. Kuchynka replied that she does on-site training seminars for that event. Mr. Austin asked if the Village would require all volunteers get and pay for a certified training course. Ms. Kuchynka replied no. Ms. Kuchynka stated it is recommended that someone on-site be certified or she conduct a training course for their benefit.

Mr. Austin stated that the Lemon Tree is conducting sales at the Concert Series in the Park. Ms. Petrarca clarified that the license is held by the Park District. Mr. Austin noted that the Lemon Tree is serving it, which is fine, as their employees are trained. Mr. Austin stated that the program involves volunteers. Mr. Austin stated that the volunteers were told by the Park District that they were not allowed to handle the sales or service. Ms. Kuchynka stated that staff had discussed the matter. She stated that the Park District subcontracted the event to the Lemon Tree. She stated that one of the conditions was to have their trained employees responsible for handling all aspects of liquor sales and service. She stated that volunteers are able to do other jobs related to the concert activities, so long as they did not ask for identification or pour, or deliver drinks. She stated that there was some discussion about having the employees obtain the certified training. Ms. Petrarca stated that the Park District made the choice not to take on that liability. Ms. Kuchynka noted that it is the Park District license on the line, not the Lemon Tree or their volunteers.

Mr. Austin stated that the Downers Grove Jr. Women's Club and the Lemon Tree have been working together. He stated that the Club was willing to do the training but the Park District advised that they could not. Ms. Petrarca stated that the Lemon Tree was asked to use the volunteers on their food and non-alcoholic beverage sales and use the experienced employees of the Lemon Tree to handle liquor.

Ms. Kuchynka noted that the Park District was made well aware of their liability in that they could be subject to up to \$15,000 in fines and suspension and opted to have experienced servers handling liquor.

Chairman Strelau noted that the Park District has a violation and may not feel comfortable without experienced servers. Ms. Petrarca noted that they want this event to be long term and do not want to take any chances.

VII. NEW BUSINESS

Chairman Strelau asked if there was any discussion, update from staff or comments from the Commission regarding any new business.

Ms. Kuchynka advised that there will not be a July meeting due to the 4th holiday. She stated that she expected a meeting in August to consider applications on file. Ms. Kuchynka stated that she will also obtain correct floor plans and a corrected written request from Playa. Chairman Strelau stated that she wanted clarification if they were closing the business. Ms. Petrarca stated that what they presented was not at all what staff expected.

Mr. Clary asked the status of the Controlled Buys. Ms. Kuchynka stated that there is one re-test pending and one final test to be done for the season.

VIII. COMMENTS FROM THE PUBLIC

There were none.

IX. ADJOURNMENT

Concluding business for the evening, Chairman Strelau called for a motion to adjourn.

Mr. Austin moved to adjourn the June 6, 2013 meeting. The meeting was adjourned by acclimation at 9:30 p.m.

**DOWNERS GROVE LIQUOR COMMISSION
VILLAGE HALL COUNCIL CHAMBERS
801 BURLINGTON AVENUE**

Thursday, August 1, 2013

I. CALL TO ORDER

Chairman Strelau called the August 1, 2013 Liquor Commission meeting to order at 6:34 p.m.

II. ROLL CALL

PRESENT: Mr. Austin, Ms. Fregeau, Mr. Jacobson, Chairman Strelau

ABSENT: Mr. Clary, Ms. King, Mr. Krusenoski

STAFF: Liaison to the Liquor Commission Carol Kuchynka, Staff Attorney Dawn Didier

OTHERS: Charlene Pontrelli, James Pontrelli, Basileos Megremis, Christos Giarmidis,
Gene Esposito, Court Reporter

III. APPROVAL OF MINUTES

Chairman Strelau asked for approval of the minutes for the June 6, 2013 Liquor Commission meeting and asked members if there were any corrections, changes or additions.

Hearing no changes, corrections or additions, the June 6, 2013 minutes of the Liquor Commission meeting were approved as written.

Chairman Strelau reminded those present that this evening's meeting was being recorded on Village-owned equipment. Staff was present to keep minutes for the record and a court reporter was present taking the minutes verbatim.

IV APPLICATION FOR LIQUOR LICENSE

Chairman Strelau made the following statements:

"The first order of business is to conduct a public hearing for liquor license applications. For the benefit of all present, I would like to state that this Commission does not determine the granting or denial of the issuance of any license. We may at the end of each hearing, make a finding or recommendation with respect to the application. If necessary, the Commission may adjourn a hearing to a later date in order to have benefit of further information."

"At the conclusion of the hearing, the Commission will summarize its findings and determine any recommendations it wishes to make to the Liquor Commissioner."

"The Liquor Commissioner, who is the Mayor of Downers Grove, will, pursuant to Section 3-12 of the Ordinance, render decisions regarding issuance of available licenses within 60 days in order to consult the Plan Commission for its recommendations."

"Hearings by this Commission are held according to the following format: 1) reading of information pertinent to the application, 2) comments from the applicant, 3) comments from the public, 4) discussion by the Commission, and 5) motion and finding by the Commission."

Cellar 406 - 406 75th Street

Chairman Strelau stated that the next order of business was an application hearing for Cellar 406, Inc. d/b/a Cellar 406 located at 406 75th Street. She stated that the applicant was seeking a Class "W-1", beer and wine, on-premise consumption liquor license and a Class "O" outdoor liquor license.

Chairman Strelau asked that any individual(s) representing the applicant step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Ms. Charlene Pontrelli and Mr. James Pontrelli were sworn in by the court reporter. Charlene Pontrelli introduced herself as part owner and liquor manager of Cellar 406. Mr. James Pontrelli introduced himself as part owner of Cellar 406.

Chairman Strelau asked the applicant to present its case.

Charlene Pontrelli stated that they have operated a franchise wine shop in the Village of Woodridge for the past 8 years and were planning to relocate and operate a shop of their own in Downers Grove. She stated that they are seeking a liquor license for a retail wine shop with indoor and outdoor seating with an option for their customers to sit and have wine, meat and cheese plates.

James Pontrelli stated that he has experience in the hotel business and successfully operated the wine shop in Woodridge for the past 8 years.

Ms. Fregeau appreciated that they were relocating to Downers Grove. She stated that from their experience they understand the responsibility of holding a liquor license. She asked about the size of the former wine shop and asked if the Downers Grove location was comparable in size to Woodridge. James Pontrelli replied that it is a bit smaller location. He stated that the Woodridge shop was a franchise in which they did a lot of retail sales and held wine tastings. He stated that they have 90 wine club members and will primarily operate as a retail store. He stated that they would like to hold some tastings and have a small seating area for on-premise wine sales. He added that they are a family-run business and will not be open past 8 p.m. James stated that Charlene and one other employee will operate the business.

Ms. Fregeau stated that 85% of their sales will be retail per their declaration. She asked for details about their menu. Charlene stated that from their previous experience, customers liked to stay and have a glass of wine with meat or cheese or a small sampling of food. She stated that it will be similar to a European boutique where customers can enjoy some bread, wine and cheese. She stated that it will not be a place where customers come to have dinner or lunch but a place to take a ½ hour to 45 minute break in the day.

Ms. Fregeau stated that their manual addresses Downers Grove sales hours and the Village's Control Buy Program. She asked about compliance testing in Woodridge and asked if they had failed any tests. Charlene replied that an employee did sell to an underage agent. She stated that employee was terminated. Ms. Fregeau stated that their manual discusses termination. She cautioned them to card individuals who may come in with parents. Ms. Fregeau stated that staff has tools that might be helpful to them.

Charlene Pontrelli noted that Woodridge tested twice per year. She stated that they were there for 8 years. She stated that they will card anyone who appears under the age of 35.

Ms. Fregeau asked how many employees they will have. James Pontrelli replied that he, his wife and one long term employee who worked for them in Woodridge.

Ms. Fregeau stated that she liked the chart in the manual on how to evaluate their guests.

Ms. Fregeau asked about vertical licenses. Charlene Pontrelli replied that they will not accept the vertical identification.

Ms. Fregeau asked for clarification on the outdoor seating area. She stated that outside seating presents different challenges in terms of confining alcohol and the passing of drinks. She asked them to explain the 36" high barrier. Charlene Pontrelli replied that the three lines on the plan are steps leading up to the patio area. She added that they will either utilize 36" high stanchions or fence barrier with planters that will separate the area. Ms. Fregeau cautioned them on the passing of drinks. James Pontrelli stated that managing the outdoor area is much different from the interior. He stated that two employees will be working daily. He stated that they would add staff if the business gets busy.

Mr. Jacobson liked the concept. He cautioned them about underage drinking. He was pleased that they terminated the former employee that sold alcohol to a minor.

Mr. Jacobson asked about the outdoor fence and the door area leading to the patio. Charlene stated that was the main door to go in and out of the store.

Mr. Austin stated he was pleased with their liquor handling experience.

Mr. Austin cautioned them about underage sales and stated that licensees often stated that the violation occurred because they were busy or preoccupied.

Mr. Austin asked about the reasoning behind the "406" name. James Pontrelli replied that is the address.

Chairman Strelau cautioned them about the outdoor seating area and noted that it takes a great deal more watchfulness and that they try to give extra attention to the area.

Chairman Strelau was pleased with their prior experience and that they are familiar with liquor laws.

Ms. Fregeau asked about the glassware to be used. Charlene Pontrelli replied that they will use glass.

Ms. Fregeau asked if employees were TIPs or BASSETT trained. Charlene Pontrelli replied yes.

Ms. Pontrelli stated that they know most of the customers that come in and stay. She stated that they have become friends with them over the years and are familiar with their character.

Chairman Strelau asked staff for recommendations or comments pertinent to this application. Ms. Kuchynka replied that issuance of the license is contingent upon receipt of dram shop insurance, a Certificate of Occupancy, the annual fee and satisfactory background checks.

Chairman Strelau asked for comments from the public. There were none.

Hearing the testimony given in this case, Chairman Strelau asked for a recommendation from the Commission concerning its finding of "qualified" or "not qualified" with respect to the applicant with regard to their Class "W-1" liquor license application.

MS. FREGEAU MOVED TO FIND CELLAR 406, INC. D/B/A CELLAR 406 LOCATED AT 406 75TH STREET, QUALIFIED FOR A CLASS "W-1", BEER AND WINE, ON-PREMISE CONSUMPTION LIQUOR LICENSE. MR. JACOBSON SECONDED.

VOTE: **Aye:** Ms. Fregeau, Mr. Jacobson, Mr. Austin, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 4:0:0

Motion carried.

Hearing the testimony given in this case, Chairman Strelau asked for a recommendation from the Commission concerning its finding of "qualified" or "not qualified" with respect to the applicant with regard to their Class "O" liquor license application.

MR. AUSTIN MOVED TO FIND CELLAR 406, INC. D/B/A CELLAR 406 LOCATED AT 406 75TH STREET, QUALIFIED FOR A CLASS "O", OUTDOOR LIQUOR LICENSE. MR. JACOBSON SECONDED.

VOTE: **Aye:** Mr. Austin, Mr. Jacobson, Ms. Fregeau, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 4:0:0

Motion carried.

Familia Fresh Market - 2065 63rd Street

Chairman Strelau stated that the next order of business was an application hearing for Familia Fresh Market No. 2, Inc. d/b/a Familia Fresh Market located at 2065 63rd Street. She stated that the applicant was seeking a Class "P-1", full alcohol, off-premise consumption liquor license.

Chairman Strelau asked that any individual(s) representing the applicant step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Mr. Basileos Megremis and Mr. Christos Giarmidis were sworn in by the court reporter. Mr. Megremis introduced himself as part owner and liquor manager of Familia Fresh Market.

Chairman Strelau asked the applicant to present its case.

Mr. Giarmidis stated that they are seeking a liquor license for an international supermarket. He stated that the location is 32,000 square feet and will include a full line of produce, deli, meats, dairy, liquor, prepared hot meals and desserts.

Chairman Strelau asked staff for recommendations or comments pertinent to this application. Ms. Kuchynka replied that issuance of the license is contingent upon receipt of dram shop insurance, a Certificate of Occupancy, the annual fee and satisfactory background checks and certified training certificates.

Chairman Strelau asked for discussion from the Commission.

Mr. Austin was pleased to see that a business would occupy the space. He asked how they will be certain that all have received their training certificates. Mr. Giarmidis stated that he and Basileos will be handling alcohol sales. He stated that he has experience and noted that they are in the process of obtaining them. He stated that the registers are programmed to not allow alcohol to be scanned without a manager's identification card. He stated that cashiers will not be allowed to do alcohol transactions, only managers. He stated that once they open, they plan to hire a front end manager who will also be allowed to do sales.

Mr. Austin asked if the three of them will be alternating coverage during store hours. Mr. Giarmidis replied yes. Mr. Austin asked if the three of them will be enough to cover all the hours. Mr. Giarmidis replied that they plan to be strict in their hiring. He noted that there is a lot of responsibility in dealing with liquor. He stated that he would only want to bestow trust on people he knows he can trust, which is why they will try to limit the managers to the sales.

Mr. Austin asked if they have a service desk or whether customers be allowed to go to the registers for liquor sales. Mr. Giarmidis replied that the liquor aisle is located in front of the service desk, where it is in direct view and will be monitored. He stated that they have cameras that will monitor that aisle.

Mr. Austin asked if the third manager was hired yet. Mr. Giarmidis replied that there is negotiation in the works but nothing has been confirmed.

Mr. Austin asked how many more managers may potentially sell alcohol. Mr. Giarmidis replied two, for a total of five. Mr. Basileos stated that all will have the certified training.

Mr. Giarmidis replied either he or Mr. Basileos will be in the store at all times.

Mr. Austin asked what they will do to emphasize the importance of being familiar with the identifications. Mr. Giarmidis replied that they will be trained in the different identifications, vertical format and that it expires 3 months after the date of birth and what to look for by way of picture, date of birth and background color. He stated that they will post the signs "to be sold alcoholic beverages, your birthday must be on or before this date in xxxx".

Mr. Austin asked what their policy is if an employee sells to a minor. Mr. Giarmidis replied termination. He stated that they will be trained with the rules of the store and any violation of those rules will result in termination.

Mr. Giarmidis stated that managers are to check identification for anyone who appears under 40.

Mr. Austin asked how often they will require re-training with the store handbook. Mr. Giarmidis replied probably quarterly. Mr. Austin questioned "probably". Mr. Giarmidis stated *every* quarter.

Mr. Jacobson asked if either had experience in operating a grocery store. Mr. Giarmidis replied that he has had experience operating grocery stores with liquor. He stated that Mr. Basileos has operated grocery stores.

Mr. Jacobson asked Mr. Giarmidis about his liquor handling experience. Mr. Giarmidis replied that he has had experience obtaining a liquor license as well as on-site experience. He stated that he does not want to jeopardize any liquor license or reputation of the store.

Mr. Jacobson asked Mr. Giarmidis asked if this was his first time owning an establishment. Mr. Giarmidis stated that he has been part owner in other stores. He stated that they want to follow the rules in the event they open future stores.

Mr. Giarmidis stated that if the identification looks fake or is out of state and they cannot identify it, they will not take it.

Mr. Jacobson stated that their manual indicates that they do not have tolerance for underage purchases.

Mr. Jacobson was pleased that a grocery store was going into the location.

Ms. Fregeau asked if they have software that will require a manager identification to scan. Mr. Giarmidis stated that what they do not have is the software that scans the back of the actual identification. He stated that liquor sales cannot be scanned until a manager swipes their id. He stated that cashiers will not be able to ring up alcohol sales and noted that the register will prompt "denied, request manager's id". He stated that they will need to call over a manager to the register who will check the identification and scan the alcohol.

Ms. Fregeau stated that she liked that they will card 40 and under.

Ms. Fregeau stated she was a bit concerned that the liquor manager had no prior liquor handling experience. She asked if both are certified. Mr. Giarmidis stated no, but that he will turn theirs in to the Village by Monday.

Mr. Giarmidis stated that other Villages he has operated in had not required the certified training.

Ms. Fregeau stated that she liked the manual and that they will validate identification and address the authenticity of the identification and address fake identifications. She asked if they have the 50 state handbook. Mr. Giarmidis replied yes.

Ms. Fregeau stated that they anticipate 10-15% of business in alcohol sales. Mr. Giarmidis replied yes and expected most sales to be beer and wine. He stated that they plan to sell micro brews.

Ms. Fregeau stated that there was one piece of advice to give them - not accepting the vertical license. She stated the vertical license has tripped up the most experienced people. She stated that they are in their right to take it but would recommend to refuse sales to customers with a vertical identification.

Ms. Fregeau asked when they planned to open. Mr. Giarmidis replied that they are waiting for their Certificate of Occupancy but anticipate the end of August.

Ms. Fregeau asked what they based their manual on. Mr. Giarmidis replied that they did the handbook along with the help of their insurance agent.

Ms. Fregeau stated that there were many things in the manual she liked about how to avoid problems and references to specific laws. She stated that it was very user-friendly. She stated that it referenced consequences and tone and tenor of the business.

Ms. Fregeau stated that she liked that the service counter was facing the liquor aisle.

Chairman Strelau stated that she was pleased to see a grocery store back in that location. She stated that they have expressed a sincere and diligent attitude toward the importance of liquor handling.

Chairman Strelau stated that she would advise them not to accept the vertical identification. Mr. Giarmidis replied that they would change the policy and not accept the vertical identification and would add that provision to the manual.

Chairman Strelau asked for comments from the public. There were none.

Hearing the testimony given in this case, Chairman Strelau asked for a recommendation from the Commission concerning its finding of "qualified" or "not qualified" with respect to the applicant with regard to their Class "P-1" liquor license application.

MR. JACOBSON MOVED TO FIND FAMILIA FRESH MARKET NO. 2, INC. D/B/A FAMILIA FRESH MARKET LOCATED AT 2065 63RD STREET, QUALIFIED FOR A CLASS "P-1", FULL ALCOHOL, OFF-PREMISE CONSUMPTION LIQUOR LICENSE. MR. AUSTIN SECONDED.

VOTE: **Aye:** Mr. Jacobson, Mr. Austin, Ms. Fregeau, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 4:0:0

Motion carried.

V. REQUEST FOR FLOOR PLAN CHANGE

Chairman Strelau stated that the next order of business was to discuss a request for floor plan change. She stated that this Commission does not determine the granting or denial of the request. She stated that at the conclusion of the discussion, the Commission will summarize its findings and determine any recommendations it wishes to make to the Liquor Commissioner and, if necessary, the Commission may adjourn to a later date in order to have benefit of further information.

Game Pazzo - 2011 63rd Street

Chairman Strelau stated that the next item on the agenda was Game Pazzo, LLC d/b/a Game Pazzo located at 2011 63rd Street. She stated that the licensee was requesting a change in floor plan pursuant to Section 3.19 of the Liquor Control Ordinance.

Chairman Strelau asked that any individual(s) representing the licensee step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Mr. Gene Esposito was sworn in by the court reporter. Mr. Esposito introduced himself as owner of Game Pazzo.

Chairman Strelau asked Mr. Esposito to explain the proposed changes.

Mr. Esposito stated that Game Pazzo has been in business for three years and has had an opportunity to see what works and what does not with the business. He added that he is proposing to change the existing layout.

Mr. Esposito stated that the initial model for the establishment was computers, PCs and gaming stations. He stated that they have become event-driven, rather than a facility where customers come in on a casual basis. He stated that they have been successful with birthday parties, corporate events and fund raisers. He stated that he currently also utilizes the facility for IT security corporate training seminars in the private party room during the day.

Mr. Esposito stated that the establishment is not full most of the time and was trying to increase their customer base by improving the quality of food and attract more adults. He stated that he is working with a chef consultant to evaluate their food service and how to improve it.

Mr. Esposito advised that they have a lot of down time during the evenings after 7 p.m. He stated that most traffic comes on Saturdays and Sundays during the day.

Mr. Esposito stated that they have held Anime conventions where gamers dress up, sing, dance and play video games. He stated that gamers are a unique group and like to act out the characters they play on the computer.

Mr. Esposito stated that they have added Karaoke as a way to attract more customers.

Mr. Esposito stated that they are proposing to revise the layout for the back half of the establishment to be more suitable for events. He stated that they propose to reconfigure the gaming area to expand the eating area and accommodate more diners.

Mr. Esposito stated that there is plenty of space in the facility and that they have been able to accommodate up to 400 gamers for the Black Ops tournament.

Mr. Esposito stated that he would also like to add gaming stations to the front retail area in lieu of some shelving area for gamers. He stated they are not making money on the retail sale of games as they cannot compete with the prices of Game Stop. He added that most games become obsolete relatively quickly.

Chairman Strelau asked for discussion from the Commission.

Ms. Fregeau asked Mr. Esposito about their current demographic. Mr. Esposito replied that it is mixed. He stated that during the football season they have a lot of parents come in to watch the game and eat while their kids are gaming.

Ms. Fregeau asked about the age range for kids parties. Mr. Esposito replied that birthday party age ranges from 8-13 years old. He stated that they have also had adult gaming parties which tend to be in the evening.

Mr. Esposito stated that Friday night is a big gaming night. He stated that they hold Legal Legends tournaments and fighter games. He stated those gamers tend to be in their 20s to 30s. He stated that the age range of customers on Tuesday/Wednesday/Thursday varies. He stated that they are closed on Monday.

Ms. Fregeau asked about retail sales. Mr. Esposito replied that many customers are not purchasing games.

Ms. Fregeau asked about their teen clientele and when they come in. Mr. Esposito replied that they come in during the day or on the weekends on a casual basis. He stated that they typically do not come in groups. He stated some also come in after school during the weekday. He stated that they do not get much teen traffic after 7-8 pm, especially during the fall/winter as they have school and related activities.

Ms. Fregeau asked about their current liquor sales and how he expects it to alter with the proposed changes. Mr. Esposito did not believe there would be any change. Ms. Fregeau asked about current sales percentages. Mr. Esposito replied 22-23% liquor sales, 28-29% food sales, with the remaining games sales revenue. Mr. Esposito stated that current sales are way too low to sustain the business.

Ms. Fregeau asked if they anticipate staff and security changes. Mr. Esposito stated that they will have extra security if they have a large number of people in the facility. He stated that most events are not large or high volatile situations.

Ms. Fregeau stated that they are seeking an after 8 pm crowd and he mentioned Anime, karaoke, DJs and music. She asked how activities would change from gaming. Mr. Esposito stated that there are gaming centers on the tables in the rear of the facility. Ms. Fregeau asked if the round tables were used for dining. Mr. Esposito replied yes.

Ms. Fregeau stated that she has been in the facility and is aware that there is a stage. She stated that she was concerned in seeing a different atmosphere more than just a layout change but concept change. Mr. Esposito stated that they are trying to attract more business. He stated that they are not looking to act as a nightclub and their focus is still gaming. He stated that even though they will have activities, they will have gaming.

Ms. Fregeau asked about the stage area and asked what the diagonal item was in front of the stage. Mr. Esposito replied that was a gaming pod, which they never installed. Ms. Fregeau asked if that area is planned for a dance area. Mr. Esposito replied that the area could be used as a dance area.

Ms. Fregeau asked if there will be a transition with under 21 customers. She recalled their using wristbands to distinguish age. She asked how they will control alcohol service later in the evening or when they have DJs or bands. She stated that it may be a club atmosphere they are seeking in the evening. Mr. Esposito stated that he is not thinking that same type of atmosphere. He stated that they draw in gamers and it will be the same group of people.

Mr. Esposito stated that in some instances people that host private parties would like to have a DJ for their event. Mr. Esposito stated that Friday nights will strictly be a gaming night. He stated that they are looking to fill the facility on a Saturday night or host a particular event. He stated that they will not have a DJ or entertainment every night or every weekend.

Ms. Fregeau asked if they will restrict under 21 year olds at certain events or after certain times. Mr. Esposito replied that if they have an event where drinking is more prevalent, they would restrict the age. He stated that they currently wristband those over 21.

Mr. Esposito stated that most people who request an event would also like a band. He stated that they will take any necessary action to have the proper security for any event they have. He stated that they have had security detail in the past.

Ms. Fregeau asked if they have a new security plan for the direction they plan to go. Mr. Esposito replied no. He stated that they have floating security guards now. He stated that they would have security guards to accommodate the size of the crowd at an event. Ms. Fregeau stated that they might want to give some thought to a formalized security plan. She stated that it seemed that the concept they are trying to build around the core gaming activity and felt they plan to promote activities beyond the scope of the class of license they hold.

Mr. Esposito stated that there is no doubt that they want to attract more customers in the evening.

Ms. Fregeau stated that seeing the facility go from a birthday party venue during the day to an older demographic crowd at night causes some concern. Mr. Esposito stated that they are a family-oriented place.

Ms. Fregeau stated that the Commission has seen businesses evolve into something other than what was presented. She stated that the Commission wants businesses to succeed and go in the right direction and guide them in accordance with the Code, they are classified accordingly and follow the rules.

Ms. Fregeau was trying to understand the floor plan versus the different focus they are proposing. Mr. Esposito stated that they are proposing an increase in food service. Ms. Fregeau asked if they were targeting customers after 8 pm. Mr. Esposito stated that the addition of more dining area might attract people for dinner traffic. He stated that he does not intend to stay open and have a night club atmosphere. He stated that he would like to provide more options that will make the business successful but continue to concentrate on gaming.

Mr. Jacobson had no questions.

Mr. Austin stated that he was encouraged that they were making changes to attract business. He stated that he was aware of birthday party and fund raising activities there. He stated that he noticed the shortcomings with areas to sit and have entertainment. He stated that he hoped the change would bring them more success.

Chairman Strelau asked about their hours of operation. Mr. Esposito replied that they are closed on Monday. He stated that they are open until 12 midnight on Tuesdays and Thursdays when offering Karaoke and open until 10 pm and 12 midnight on Wednesday. He stated that they are open until 1 am on Fridays and Saturdays, sometimes until 2 am, depending upon pre-scheduled events.

Chairman Strelau asked how patrons purchase drinks. Mr. Esposito stated that patrons approach the bar area. He stated that patrons can get a wristband upon entrance to the facility, if not, there are wrist bands provided at the bar. He stated that they have a machine which determines the authenticity of a license and determines the age. He stated that if the customer is over 21 the bartender will put on a wristband and fill the drink order.

Chairman Strelau asked if customers with drinks have access to the whole facility. Mr. Esposito replied yes, except for the retail area of the facility.

Chairman Strelau stated that she liked the gaming activities and Anime. She stated that she was concerned about the bands and their request to have live music from time to time. She stated that their goal is to get 200-250 people in the facility. She stated that is a different business component than how they are operating now. She stated that there was some concern with the fact that they would hire a band with the goal of bringing in more people. She felt that may challenge the terms of the existing liquor license. She stated that they will be offering music, drinks and food to adults but the gaming aspect is not primary during those times. She stated that they have managed their drink sales so far and she had no reason to believe that they could not handle it, however, felt that may cultivate a different environment.

Ms. Fregeau stated that may also attract a different clientele as well. Chairman Strelau stated that she did not have an issue having a band when it is part of a rental party but was concerned with having bands in order to draw in crowds.

Mr. Esposito advised that there are different types of licensing for the music associations (ASCAP and BMI). He stated that based on the size of their facility with an occupancy of 500, they are assessed a hefty licensing fee. He stated that he was unaware that they were subject to these fees for playing music. He stated that in order to recoup the fees they need to draw in more people. He stated that it costs \$5,500 to \$6,000 per year to have music. He stated there is only a small portion of time that background music is played and most gamers do not want music. Mr. Esposito stated that on Fridays or during tournaments they play no music at all as it is a distraction to the gamers. He stated that he has a predicament on how to generate enough revenue to keep the facility going and customers in the door.

Mr. Esposito stated that they were hoping the landlord was going to help them with a lot of things but did not follow through. Mr. Austin asked if ownership changed completely. Mr. Esposito replied yes and they have a different landlord.

Mr. Esposito stated that they have incorporated the use of Groupon specials to get people in the door.

Chairman Strelau stated that her concern is having bands brought in with the intention of bringing in a crowd. She asked staff if they had an opinion on the matter.

Ms. Kuchynka stated that staff did not have an issue with the proposed floor plan. She stated that they are making more room for tables and dining and making alterations to the retail sales area to add more gaming stations.

Ms. Kuchynka stated that there is an option for the licensee to apply for a Special Event Liquor License if they want to host a band. She stated that these events would be limited to six times per year. She stated that a license would be required for those events that go beyond the scope of the normal day to day business. She stated that staff could require a security plan in connection with those events.

Ms. Kuchynka stated that they do not or are not currently required to have a security plan for their operation. She stated that they would be regulated and if there are any incidents the Mayor can deny or grant them on a case by case basis.

Ms. Kuchynka stated that another option would be an amendment to the liquor license classification.

Ms. Kuchynka stated that staff would recommend the floor plan change. She stated that staff would not object to a patron hiring a DJ or band for their birthday party room rental or event. She stated that if they want to promote bands to draw in a crowd, staff would require a Special Event License.

Mr. Austin explained that establishments are charged to have music or sporting events in their facility, and charge broadcasting fees. He stated that Mr. Esposito is trying to address these overhead charges.

Chairman Strelau asked if six events per year cover his needs. Mr. Esposito stated he would certainly try it. He stated that they are not looking to do live music every night. He stated that there are some nights in a month that he would like to host something to get traffic into the facility.

Chairman Strelau stated that she did not have concern for bands that play for groups or party rentals. She stated that the concern may stem from bringing in 200-250 people. She stated that the Village could issue the special event license and if all goes well, they accept changes that would accommodate them.

Ms. Kuchynka stated that the floor plan in this instance is not the issue. She stated that the events and activities are at issue.

Mr. Austin asked about the extra fee for each special event. Ms. Kuchynka replied \$103 per event.

Mr. Jacobson asked if the Commission can approve the floor plan change tonight and have the licensee apply separately for a Special Event License. Ms. Kuchynka replied yes.

Ms. Kuchynka explained that Mr. Esposito would not need to appear before the Commission for the Special Event License, but through staff and the Mayor which are approved administratively.

Chairman Strelau stated that the activity is not related to the floor plan change. She stated that activity resulting from the addition of bands is a liquor license change. She stated that the Village does not have a license which will accommodate bands at the gaming facility.

Ms. Didier stated that Section 3.19 states that the licensee cannot “make changes in the theme, business plan or advertising for the licensed business from what was presented at the time that the license was issued without the prior approval of the Liquor Commissioner”.

Ms. Didier stated that the licensee submitted a request to change the floor plan but from the discussion it sounds to be a concept change.

Ms. Kuchynka asked for a recommendation on the floor plan, regardless. Ms. Kuchynka reiterated that Mr. Esposito is seeking a floor plan change to reduce the retail sales area by adding more gaming tables, adding more dining tables and rearranging them for better flow in the facility. Mr. Esposito agreed.

Ms. Kuchynka stated that the stage already exists and was on the original floor plan.

Ms. Kuchynka stated that the band issue can be addressed with a Special Event Liquor License. She stated that the floor plan change would need a recommendation from the Commission.

Chairman Strelau stated that the concept may be changing. She stated that there are two separate issues. She stated that she is fine with the floor plan change, but the events fall into another category that will require help from staff.

Mr. Austin stated that he was not present at the application hearing. He asked about what was proposed for the stage at the original application. Ms. Kuchynka stated that they planned to use the stage for Guitar Hero or play area. Mr. Esposito added that the game is Rock Band and that they still do that on stage from time to time.

Ms. Kuchynka requested that the Commission make a recommendation on approval of the floor plan. She stated that concept changes or events may require a special event application. She stated that she can meet with Mr. Esposito and determine if and when a special event may be needed.

Ms. Didier stated that on a case by case basis he can discuss the event with staff and determine if the special license is needed. Ms. Kuchynka stated that she would not require a special license if someone rented the facility for a birthday party and wanted a band or DJ. She stated that events that are advertised to the general public will need the extra license.

Ms. Kuchynka stated that she has issued other special event licenses to local license holders that have held events that go beyond the scope of their day to day basis. She stated that this license will give them opportunities to do activities on occasion without changing what the core of their license was issued for.

Chairman Strelau stated that if they find that the events provide another avenue for business, they could request a change in their liquor license classification. She stated that the special event license may help them sample ideas to see what works.

Mr. Austin asked if there was a distinction in the use of the stage. Ms. Kuchynka replied that the distinction would be if the band was set up for a private function by invitation or drawing in the general public where the liquor licensee would promote the event.

Mr. Austin stated that in some instances the Village is trying to piecemeal licenses to fit particular situations. He stated that a liquor license amendment might be a viable option. He stated that in the interim the business could be stymied. He stated that the facility could be used for private parties and bands. He wondered why the Village would be issuing Special Event Licenses.

Ms. Kuchynka stated that question would need to be answered by Mr. Esposito. She asked him if he would prefer to change the liquor license classification rather than go through the special event process. Mr. Austin stated that it takes time to get a license change.

Chairman Strelau stated that Mr. Austin is suggesting that the liquor ordinance does not accommodate businesses. She stated that should be a different conversation all together and could require a re-write of the Code. She stated that Game Pazzo could apply for the special events to help now, but at the same time, can apply for a new category or change to the existing license. She stated that the Commission will vote on the floor plan tonight regardless. She stated that Mr. Esposito can consider further what he would like to do and contact staff with his decision.

Chairman Strelau stated that they are not trying to make the process difficult, but noted that having a liquor license is a privilege, not a right and with it comes restrictions.

Hearing the testimony in this case, Chairman Strelau asked for a recommendation on the floor plan change.

MS. FREGEAU MOVED TO RECOMMEND THAT THE FLOOR PLAN CHANGE BE GRANTED FOR GAME PAZZO, LLC D/B/A GAME PAZZO LOCATED AT 2011 63RD STREET WITH THE UNDERSTANDING THAT THE CONCEPT CHANGES PRESENTED WOULD BE ADDRESSED ADMINISTRATIVELY AND WITH THE LIQUOR COMMISSIONER SHOULD OTHER LICENSING CONSIDERATIONS BE REQUIRED.

Mr. Jacobson asked for an amendment to the recommendation. He stated that he was concerned about the additional language requiring them to address the concept changes administratively. Chairman Strelau agreed that the motion should only address the floor plan change.

Ms. Didier stated that Ms. Fregeau can withdraw the motion.

Ms. Fregeau withdrew her motion.

Chairman Strelau asked for a recommendation on the floor plan change.

MS. FREGEAU MOVED TO RECOMMEND THAT THE FLOOR PLAN CHANGE BE GRANTED FOR GAME PAZZO, LLC D/B/A GAME PAZZO LOCATED AT 2011 63RD STREET. MR. AUSTIN SECONDED.

VOTE: **Aye:** Ms. Fregeau, Mr. Austin, Mr. Jacobson, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 4:0:0

Motion carried.

Ms. Kuchynka advised Mr. Esposito that he can let her know what he would prefer, whether to proceed with an amendment to the license or request special event licenses. She stated that the issue is with events that may affect the concept. Mr. Esposito agreed.

VI. OLD BUSINESS

Chairman Strelau asked if there was any discussion, update from staff or comments from the Commission regarding any old business.

Ms. Kuchynka reported that the Mayor has indicated his intent to issue a license to Gnarly J's. She advised that they are still waiting for a Certificate of Occupancy. She stated that they have been issued the local license in order to obtain their State license. She stated that they were not ready to officially open and would advise when they do so.

Ms. Kuchynka stated that Rita's request for floor plan change was approved by the Mayor.

Ms. Kuchynka stated that the Playa del Sol request for entertainment and floor plan change was denied.

Chairman Strelau stated that she thought the Commission decided to continue the Playa del Sol hearing. Ms. Kuchynka stated that it was determined that their request would not meet the requirements of the restaurant license classification. She stated that staff spoke with the Mayor who agreed.

Mr. Austin asked if a licensee could obtain another license for the purpose of providing entertainment. Ms. Kuchynka stated that other municipalities have such entertainment and/or late night licenses over and above the base license. She stated that additional activities may warrant additional requirements. She stated if a licensee wanted to remain open later, the municipality might require an additional security plan.

Ms. Kuchynka stated that the primary business of a restaurant is food service. She stated that some entertainment would be allowed, such as a guitarist walking throughout the facility playing would be acceptable. She stated that once half the business closes down and the primary business turns to dancing and drinking, that is not entertainment, it is a change in the scope of the business.

Ms. Fregeau stated that she was not present at the June meeting but asked when staff provides them with a revised Chapter 3 of the Code to include a date for reference.

VII. NEW BUSINESS

Chairman Strelau asked if there was any discussion, update from staff or comments from the Commission regarding any new business.

Ms. Kuchynka advised that there will be a September meeting. She stated that the Mayor is planning to attend. She stated that they will have a roundtable discussion amongst the group. The Commission felt that would be a good idea and for the group to get on the same page.

VIII. COMMENTS FROM THE PUBLIC

There were none.

IX. ADJOURNMENT

Concluding business for the evening, Chairman Strelau called for a motion to adjourn.

Mr. Jacobson moved to adjourn the August 1, 2013 meeting. The meeting was adjourned by acclamation at 8:17 p.m.

APPROVED 9/9/13

VILLAGE OF DOWNERS GROVE
PLAN COMMISSION MEETING
PUBLIC HEARING

AUGUST 5, 2013, 7:00 P.M.

Chairman Webster called the August 5, 2013 meeting of the Plan Commission to order at 7:00 p.m. and led the Plan Commissioners and the public in the recital of the Pledge of Allegiance.

ROLL CALL:

PRESENT: Chairman Webster, Mr. Beggs, Mr. Cozzo, Mr. Matejczyk, Mr. Quirk, Mrs. Rabatah, Mr. Rickard, Ms. Urban

ABSENT: Mr. Waechtler

STAFF PRESENT: Community Development Planning Dir. Tom Dabareiner; Village Senior Planner Stan Popovich and Village Planner Damir Latinovic

VISITORS: Susan Ive, 1726 Carol St., Downers Grove; Sherrill Chillo, 1700 Virginia, Downers Grove; Jackie and John Wimmer, 4144 Lee St., Downers Grove; Alice Dornan, 5125 Blodgett, #317, Downers Grove; Sheila Pollock Bowlin, 4130 Lee Ave., Downers Grove; Shondra Bowlin, 4130 Lee Ave., Downers Grove; John Bell with Starbucks, Chicago, IL; Katie Gorin with Norr Architects, 325 N. LaSalle St., Chicago, IL; Ed Gebauer, Insite Real Estate, 1400 16th St. Oak Brook, IL; Stephen and Sharon Laisch, 1734 Janet St., Downers Grove; Lynn Means with Sam Schwartz Engineering, 3100 W. Higgins, Hoffman Estates; Corina Abdul, 4326 Prince St., Downers Grove; Chris Lavoie with Lavoie & Associates, 1050 Illinois St., Plainfield, IL; Marge Earl, 4720 Florence, Downers Grove; Chris Bobowski, Bobowski Commercial Real Estate, Naperville, IL; Tracy and Nick Janowitz, 4225 Lacey, Downers Grove; Garrett and Donna Anderson, 1723 Janet St., Downers Grove; Rick and Bobbie Janske, 1729 W. Janet, Downers Grove; Greg and Susan Wall, 1743 Virginia, Downers Grove; L. Hou, 4207 Lee, Downers Grove; Robert Joneyer, 4123 Northcutt Ave., Downers Grove; Karina Radu, 356 N. River Glen, Elmhurst, IL; and Dawn Rhodes with the Chicago Tribune

New commissioner, Mr. Rickard, was welcomed by Chairman Webster.

APPROVAL OF THE JULY 1, 2013 MINUTES

THE MINUTES OF JULY 1, 2013 WERE APPROVED ON MOTION BY MR. MATEJCZYK, SECONDED BY MR. COZZO. ROLL CALL:

AYE: MR. MATEJCZYK, MR. COZZO, MR. BEGGS, MR. QUIRK, MRS. RABATAH, MS. URBAN, CHAIRMAN WEBSTER

NAY: NONE

APPROVED 9/9/13

ABSTAIN: MR. RICKARD

MOTION PASSED. VOTE: 7-0-1

A review of the meeting's protocol followed.

Chairman Webster swore in those individuals that would be speaking on the following petition.

PC 17-13 A petition seeking approval of a Special Use to permit a Sheltered Care Facility for senior citizens in the R-2 zoning district, a Zoning Ordinance Map Amendment to rezone a portion of the property from M-1, Light Manufacturing to R-2, Single Family Residential, and a Plat of Subdivision to consolidate three lots into a single lot of record. The property is located on the west side of Lacey Road, approximately 330 feet north of Ogden Avenue, commonly known as 4200 and 4240 Lacey Road, Downers Grove, IL (PIN 09-06-102-014, -020, -005). C.M. Lavoie & Associates, Inc., Petitioner; Stillwell Real Estate Limited Partnership and Donegal Excavating, Inc., Owners.

Village Planner Stan Popovich briefly reviewed the three requests from the petitioner and located the site on the aerial photograph, noting the site consists of three lots of record -- two parcels zoned R-2 and a third parcel zoned both R-2 and M-1. Structures located on the various parcels were pointed out. Per a 1993 court order, Mr. Popovich reported that a contractor's office was allowed in the R-2 zoning district. Next steps pertaining to the court order followed.

Proposed was the construction of a state-authorized supportive living facility ("SLF") consisting of a three-story, 120-unit sheltered care facility to house 60 studio and 60 one-bedroom units. Renderings were provided, noting the north facade included a walk-out basement which would look as if four stories existed. Building materials included fiber cement cladding with stone accents -- appearing as brick, stone and stucco. The building would be flat-roofed and have a maximum height of 35 feet. Service doors were pointed out and were located on the west elevation.

Mr. Popovich pointed out the two access points to the site, the drive aisle, and the emergency hammerhead for emergency vehicles. Parking spaces were pointed out on the site plan, as well as the wet bottom stormwater detention basin. The proposal met the Comprehensive Plan. Staff noted the center parcel as a catalytic site in the village's Comprehensive Plan; however, significant grade changes from the primary M-1 site to the center parcel was an issue and it would be difficult to develop the site as a whole. However, the proposed facility could be considered a catalytic-type improvement to the neighborhood and bring stability to the area as well as future investment.

Continuing, the bulk requirements of the zoning ordinance were being met, with no variations, and all requirements under the village's Subdivision Ordinance were being met. Required public improvements were referenced, as well as the traffic report included in the commissioners' packets. Specific traffic findings followed with Mr. Popovich stating that staff believed traffic would not be a significant issue at the site. Water, sanitary sewer, Lacey Road improvements, and stormwater management and drainage details also followed.

Per Mr. Popovich, the fire department reviewed the plans and were fine with the proposal as presented. The building would be alarmed and sprinklered, as required by code. Proper public notice was made regarding this proposal and a few residents inquired about the site. A

neighborhood meeting was held by the petitioner with key points being traffic and Section 8 housing.

Mr. Popovich proceeded to review the Standards of Approval, concluding that the proposed Zoning Ordinance Map Amendment, Plat of Subdivision and Special Use for the facility were consistent with the Comprehensive Plan and surrounding zoning and land use classifications.

Per Mr. Matejczyk's question, Mr. Popovich explained in further detail the 1993 court order and confirmed there was no action being taken on the southern parcel (the L-shaped parcel) of the court order. Mr. Popovich confirmed that the zoning on the L-shaped parcel would not change as it is not a parcel under consideration. Community Development Director Dabareiner also added that any action the Plan Commission took tonight was not creating an unbuildable lot but would allow Swallow Construction to remain in place with no change. Mr. Popovich explained what activities could take place on the L-shaped parcel even though it was located very close to the proposed senior facility.

Mr. Beggs confirmed with staff that the commission had jurisdiction to hear the court order case, stating the village attorney reviewed it and, in fact, provided the language in staff's report.

Commissioner questions followed regarding the discharge of stormwater and where exactly it would discharge, the mention of an aerator, who would improve Lacey Road, and the site management procedures. Regarding Condition No. 5 in staff's report, as it related to decorative fencing around the detention areas, Mr. Popovich clarified he was asking that it be included as a safety feature.

Petitioner, Mr. Christopher Lavoie, C.M. Lavoie & Associates, Inc., 1050 W. 126th Street, Plainfield, Illinois, was invited to speak. Mr. Lavoie stated that the project had evolved through the collective efforts of staff and the residents and due to the input received, he believed what was being presented was a positive for everyone involved. He introduced his development team for the proposal and recalled for the commissioners that his first proposal before this commission did not include the Donegal excavation property, which he believed was a "misfit" property. However, through input received from the residents, he believed the proposal would work. Mr. Lavoie stated he was working with the owners of Donegal Excavation to relocate their business. For the record, Mr. Lavoie confirmed that all of staff's conditions listed in its report had been accepted by the developer.

Per Mrs. Rabatah, Mr. Lavoie stated he did consider purchasing the property that was part of the court order but it became a cost issue.

Chairman Webster invited the public to speak on this matter.

Nick Janowitz, 4225 Lacey Road, stated his residence is closest to the proposal and he supported the proposal very much, given the noise coming from the excavation business. He inquired if a traffic light would be installed if traffic increased and asked to ensure that drainage issues were addressed. Mr. Popovich addressed Mr. Janowitz's concerns.

Mr. Rich Jansky, 1739 W. Janet, Downers Grove, discussed the negative changes he saw in his neighborhood over the past seven years and emphasized that the nearby Donegal excavation

business was a 24/7 business operation and he asked that the commission support the senior proposal because it was an improvement to the neighborhood.

Mr. Greg Wall, 1743 Virginia, Downers Grove, agreed that while the site will look better than what currently exists, he reminded the residents that there will be a negative impact to the area and he wanted to know that impact.

Mr. John Wimmer, 4144 Lee Ave., Downers Grove expressed concern about traffic exiting onto Ogden Avenue.

Mr. Robert Homeyer, 4123 Northcott, Downers Grove, was not sure that the senior facility was going to be the best proposal for the neighborhood and preferred that single-family homes be built there instead. He asked why the developer did not purchase the last parcel that backed up to the tollway.

Mr. Ernest Anderson, 1723 Janet St., Downers Grove, asked if there was a traffic speed study done and whether historic data existed regarding accidents, citations, etc. on Janet, Lacey, and Downers Drive. He had safety concerns. Mr. Anderson asked if consideration could be made for the displacement of animals living in the nearby woods.

In response to the questions, Mr. Lavoie clarified that speed was not considered in the traffic study but it focused on existing conditions, traffic counts, time of day, and peak hours, with the conclusion that the traffic increase will be less than one percent. Responding to Mr. Wimmer's question about traffic signals, Mr. Lavoie explained that as signals relate to his proposal, the traffic warrants were not being met at this time at the location he suggested. As to acquiring the north parcel, Mr. Lavoie stated he tried to purchase the site but the owner was content where he lived.

Ms. Susan Wall, 1743 Virginia, Downers Grove, was concerned about the noise the senior facility would hear since the site was near I-88. She believed the facility would impact her area since she lived near the woods and enjoyed the nature that lived there. Traffic would affect her street.

Ms. Alice Dornan, 5125 Blodgett, Downers Grove, noted that of all the meetings she attended on this matter, no one mentioned that such a facility was needed in Downers Grove, and she was a senior citizen. She cited the voices against a previous senior development near the First Christian Church, which ended up not being constructed.

Mr. Robert Homeyer, 4123 Northcott, Downers Grove, stated that ambulances would be traveling down the street. He asked if the sirens would be on, wherein Mr. Lavoie felt there would be lights but the sirens would probably be toned down while traveling through the residential neighborhood.

Mr. Lavoie then proceeded to discuss how the site lighting, as it related to the village's ordinance, would be met. He discussed the "light" traffic that would travel to and from the facility, the deliveries that would circulate to the west, behind the residential neighborhood, and explained how sound travelled from the wall barriers and from the expressway. He discussed the steps that would take place under the construction site management and stated the site would be supervised by a contractor. Operations of the actual facility were also addressed.

Ms. Shondra Bowlin, 4130 Lee Ave., Downers Grove, supported the facility but not in a residential location. She preferred a single-family home in its place.

Hearing no further comments, Chairman Webster closed public participation.

Mr. Beggs commented on his visit to Marion Joy on Saratoga Avenue and asked if Mr. Lavoie made any comparisons to that facility as it related to traffic, wherein Mr. Lavoie stated he did visit the facility but did not look at the facility in that sense because it was a rehab facility. He commented that even with the study he did, some of the facilities shared sites with nursing homes or with other medical facilities, etc. and sometimes it was difficult to assess the shared parking. Mr. Beggs appeared to concur. Mr. Lavoie reminded the committee that the proposed facility was a permanent residence.

Asked if the commissioners had questions for the public, none responded. Mr. Lavoie had no questions for the public; however, he did thank the residents for their input and believed the project was good for this particular site. He stated the use was allowable under the special use in R-2 zoning and the facility was designed to fit into a residential neighborhood.

Mr. Popovich confirmed that the sheltered care facility was an allowable special use in the zoning district, as proposed, and that all standards were met by the applicant.

Ms. Urban closed by voicing her observations between the comprehensive plan and staff's report, noting that the site was zoned for Corridor Commercial in the Future Land Use Plan, and what was being proposed was a residential use but it fit within the Corridor Commercial definition in the Comprehensive Plan and in staff's report. She reminded the commissioners that future residents would be residing in this facility, receiving mail, and having family visits. It was a good transition between Residential and the M-1 zoning and it was consistent with the Comprehensive Plan.

Mr. Matejczyk agreed that turning onto Ogden Avenue from Lacey was a challenge and the fact that there was a need for this type of facility in the village. He was disappointed that the "L-shaped" property was not included. Mrs. Rabatah concurred and reminded the commissioners that what was under consideration was the rezoning of a small piece of property, a plat to consolidate, and a special use. And, as stated earlier by staff, all standards were met. Mr. Cozzo also concurred with his fellow commissioners and added that the stormwater seemed to be reasonably addressed for on-site as well as off-site. He believed the light, noise, and traffic issues were being addressed and would be minimal.

Mr. Quirk, upon reading staff's Condition No. 5, suggested replacing "decorative fencing" with "functional fencing" but the chairman pointed out the plans stated that a "guard rail" would be installed. He agreed with the earlier comments on the challenges of exiting onto Ogden Avenue. He commended the petitioner for responding to all of the residents' questions.

Mr. Beggs shared his comments that it appeared there was much positive input from the public, along with construction challenges, but the opposition was somewhat undecided.

WITH RESPECT TO PC FILE NO. 17-13, MR. MATEJCZYK MADE A MOTION THAT THE PLAN COMMISSION FORWARD A POSTIVIE RECOMMENDATION TO THE VILLAGE COUNCIL, SUBJEC TO THE FOLLOWING CONDITIONS:

1. **THE SPECIAL USE, PLAT OF SUBDIVISION AND ZONING ORDINANCE MAP AMENDMENT SHALL SUBSTANTIALLY CONFORM TO THE STAFF REPORT, ENGINEERING PLANS PREPARED BY C.M. LAVOIE & ASSOCIATES, INC. AS REVISED AND DATED JULY 16, 2013; PLAT OF SUBDIVISION PREPARED C.M. LAVOIE & ASSOCIATES, INC. DATED JULY 18, 2013; AND ARCHITECTURAL AND LANDSCAPE PLANS PREPARED BY CRAFT ARCHITECTURE, LLC DATED JULY 8, 2013 AND REVISED JULY 18, 2013, EXCEPT AS SUCH PLANS MAY BE MODIFIED TO CONFORM TO THE VILLAGE CODES AND ORDINANCES.**
2. **PRIOR TO VILLAGE COUNCIL CONSIDERATION, THE PETITIONER SHALL PROVIDE DOCUMENTATION FROM THE STATE OF ILLINOIS NOTING THEIR APPROVAL OF THE SUBJECT SITE.**
3. **THE VILLAGE AND PETITIONER SHALL TOGETHER PURSUE A PETITION FOR AGREED ORDER TO RESCIND COURT ORDER 93 MR 0242 FOR THE PORTION OF THE PROPOSED PROJECT THAT IS BOUND BY THE COURT ORDER.**
4. **AT NO TIME SHALL THIS SITE BE CONVERTED FROM A SHELTERED CARE FACILITY FOR SENIOR CITIZENS TO ANY OTHER USE.**
5. **DECORATIVE FENCING IS REQUIRED AROUND EACH OF THE PROPOSED DETENTION BASIN RETAINING WALLS.**
6. **PRIOR TO THE ISSUANCE OF ANY DEVELOPMENT PERMITS, THE PETITIONER SHALL PAY A \$8,500 FEE IN LIEU PAYMENT FOR 17 NEW PARKWAY TREES.**
7. **THE DRIVEWAY BEGINNING AT THE NORTHEAST CORNER OF THE BUILDING AND ENDING AT THE NORTHWEST CORNER OF THE BUILDING ALONG WITH THE HAMMERHEAD AT THE NORTHWEST CORNER OF THE BUILDING SHALL BE DESIGNATED AS A FIRE LANE.**
8. **FIRE HYDRANTS SHALL BE PROVIDED SUCH THAT NO PORTION OF THE BUILDING IS GREATER THAN 600 FEET FROM A HYDRANT AS MEASURED ALONG AN APPROVED ROUTE.**
9. **THE BUILDING SHALL INCLUDE A FIRE ALARM SYSTEM AND SPRINKLER SYSTEM THAT MEET THE VILLAGE'S CODE REQUIREMENTS.**

SECONDED BY MRS. RABATAH. ROLL CALL:

AYE: MR. MATEJCZYK, MRS. RABATAH, MR. BEGGS, MR. COZZO, MR. QUIRK, MR. RICHARD, MS. URBAN, CHAIRMAN WEBSTER

NAY: NONE

MOTION CARRIED. VOTE: 8-0

(The Plan Commission took a five minute recess at 9:00 p.m. and reconvened at 9:07 p.m.)

Chairman Webster swore in those individual who would be speaking on the petition below.

PC 29-13 A petition seeking approval of a Special Use for a drive-through use and a front yard setback variation for the construction of a new coffee shop restaurant. The property is zoned B-3, General Services and Highway Business District and is located at the southwest corner of Ogden Avenue and Prince Street, and is commonly known as 1149 Ogden Avenue, Downers Grove, IL (PIN 09-05-302-007). Downers Grove IL (1149 Ogden) LLC., Petitioner/Owner.

Village Planner, Damir Latinovic, located the site on the overhead, describing the site as approximately 15,600 square feet and located in the B-3 General Services and Highway Business District. Currently the property was vacant (two photographs were presented.) and was undergoing an environmental clean-up due to the prior dry cleaners that existed at the location. Per staff, prior to issuance of the building permit by the Village, the owners will have to provide the Village with a final approval letter from the Illinois EPA. The petitioner is seeking permission to construct a new building with a drive-through window and approval for a front yard setback variation to construct the building 12-and-one-half feet from the east property line along Prince Street. Twenty-five feet is required by code. A lot consolidation of two lots will also be requested and can be completed administratively.

The proposed building will be a one-story, 1,800 sq. foot masonry building with a 19-space surface parking lot to the north and an outdoor patio area east of the building. The site will have three access points: full access to Ogden Avenue, one full access to Prince Street and one drive-through exit lane at the southeast corner of the site to Prince Street. Mr. Latinovic reviewed the circulation of the drive-through lane that will allow for the stacking of eight vehicles. Required screening around the parking lot will be provided, per code. Per staff, the petitioner is also under contract to purchase the property to the west. Elevations were reviewed and the signage and dumpster would have to meet Village code. A floor plan followed. Hours of operation for the internal business and drive-through would be from 5:00 a.m. to 10:00 p.m., Sunday through Saturday. Deliveries and garbage pick-ups would occur during normal business hours.

Green space (14% of lot area) will be added to the property of which 11% of the total lot area will be added in the front yard. A traffic impact study was done by Schwartz Engineering and after staff review, Mr. Latinovic stated that staff agreed with the findings that the proposal would have minimal impact on the existing traffic in the area. Details of the traffic counts and peak hour counts followed. Also, the two existing curb cuts along Ogden Avenue would be reduced to one while two existing curb cuts on Prince Street would be closed and one full access and one exit only access driveway on Prince Street would be constructed. A new storm sewer system would be added as well as parkway trees and new sidewalks.

Per Mr. Latinovic, the proposal met the requirements of the Comprehensive Plan; examples followed. As to the proposal meeting the village's Zoning Ordinance, staff referenced the bulk requirements for the B-3 District but noted that there was a front yard setback variation being requested along the east property line from 25 feet to 12 and one-half feet, in order to satisfy the requirement for the eight stacking spaces within the drive-through lane. Staff felt this option was important, the most logical, and met the standards for granting a variation. The prior four (4) alternatives that the petitioner originally proposed to staff, were then reviewed and it was explained they all had other challenges.

Per staff, all Standards for Special Use had been met and a review of those individual standards followed by Mr. Latinovic. Based on staff's findings, Mr. Latinovic stated staff supported the

proposal and recommended that the commission forward a positive recommendation to the Village Council subject to the conditions listed in staff's report.

Because the building was moving closer to Prince Street, Mr. Quirk inquired if there were any buffer issues as it related to the students passing by the drive-through lane, wherein Mr. Latinovic explained how the vehicles would be queued up in the drive-through lane and the fact that staff considered this issue. Vehicles would be stopped at the drive-through window right in front of the sidewalk which crosses the drive-through lane. There would be adequate visibility for cars leaving the pick up window to see any pedestrians approaching.

Per question, Mr. Latinovic explained how the required number of 8 vehicles were based on various types of drive-through uses, buildings, and building sizes from nationwide studies. Mr. Cozzo asked what warning signs, if any, would be provided on-site, wherein Mr. Latinovic said additional warning signage for the drive-through lane can be provided; however, staff did not feel there was going to be a conflict. Staff will work with the petitioner to provide do not enter / yield to pedestrians signage at the drive-through exit lane.

Comments followed that the tree location and type of trees be considered along the west property line where the drive-through lane exits in order to have a clear view for left-hand turns. Mr. Latinovic agreed and stated staff would work with the petitioner to provide a landscaping plan that allowed for vision safety and proper sidewalk markings to notify pedestrians that a driveway exits. He also anticipated that traffic wishing to go west on Ogden Avenue would exit onto Prince Street, travel southbound around the block to Saratoga Avenue, to catch the traffic light on Saratoga Avenue.

Per Mr. Beggs' question, Mr. Latinovic provided a background on the property to the west and the cross-access driveway that would be proposed.

On behalf of the Petitioner/Owner, Downers Grove IL (1149 Ogden Avenue) LLC, Oak Brook, Illinois, Mr. Ed Gebauer, with Insite Real Estate, stated that staff covered the petition very well and wanted to clarify a couple of items that came up during Board questions. He was working with the previous owner to obtain the appropriate remediation letter within the next 30 days or so. He provided the details of how the under-utilized site would be improved with new sidewalks, new landscaping, and the directional signage that would be installed. Queuing requirements were also mentioned which was in line with staff's recommendation. The future development site to the west would be a stand-alone site for now but Starbucks was cognizant of the potential opportunity of the cross access.

Mr. Gebauer introduced his design team: Mr. John Bell with Starbucks; Lynn Means with Sam Schwartz Engineering; and Katie Gorin with Norr Architects.

Commissioner Urban's comments/concerns included the following: allowing a full access onto Ogden Avenue and IDOT's update on that (under review currently); the low traffic counts on Prince Street taken while school was not in session; and the fact that when new counts are taken, it could degrade the intersection at Prince Street. Ms. Urban believed the traffic counts would probably be "more complex" when students returned to school. Mr. Latinovic noted staff was aware of the traffic counts taken in June but stated the level of service on Prince Street was adequate and anticipated increase in traffic counts due to school being in session was not overly significant.

Chairman Webster opened up the meeting to public comment.

Ms. Corina Radu, 356 N. River Glen, Elmhurst stated she owns the property at 4326 Prince Street south of the site and many of her patients are either dropped off by their parents or walk to her office. She was concerned about losing the visibility of her building since she had no sign and installing a tree close to her property would be a detriment to her building due to vision issues. She expressed concern about water run-off to her property since her property sat lower than the proposed site.

Hearing no further public comment, Chairman Webster closed public comment.

Mr. Latinovic agreed that the visibility of Ms. Radu's property was a concern since it was already difficult to see her building from Ogden Avenue and any new development on the site to the north would further obstruct the visibility of that site. Mr. Latinovic pointed out that the trees along Prince Street and along the drive-through lane did not have to be installed but the screening was required along the parking lot on the north side. Staff will work with the petitioner to revise the proposed landscape plan to reduce/relocate some landscaping and trees to improve visibility of the building to the south. Stormwater would drain towards Prince Street. Signage for each property was allowed on their own property and no off-site signage was permitted unless a variance was considered. Mr. Latinovic stated staff is available to discuss possible signage for Ms. Radu's property.

Mr. Gebauer reiterated staff's comments and was willing to work and relocate the trees so they were not an obstruction. The drainage for the Starbucks site would be addressed and water would be routed into the storm pipes. Lastly, he reported the engineering plans were submitted for review and he was in the process of having those revised to meet Village code.

Per a question regarding the drive through speaker volume (staff's Condition No. 6), Mr. Bell, with Starbucks, responded that the speaker was directed at the car and at the car level so the sound would be blocked by the car. Also, as the ambient noise dropped, the speaker volume is also adjusted later in the day.

Upon a question regarding the staff's conditions, Mr. Gebauer stated he would like the flexibility to modify the hours of operation in the future and was agreeable to maintaining a proper level of volume.

Referring to staff's Condition No. 1, Mrs. Rabatah recommended that staff revise the condition to reflect that the Plan Commission was approving the Alternative "0" site plan, to which staff concurred with the revision. For the record, Mr. Cozzo believed the proposal was consistent with the Comprehensive Plan and the Standards of Approval for a Variation and Standards of Approval for a Special Use were met.

WITH RESPECT TO PC 29-13, MR. COZZO MOVED TO FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL, SUBJECT TO THE FOLLOWING CONDITIONS:

1. **THE PROPOSED SPECIAL USE REQUEST FOR A COFFEE SHOP RESTAURANT WITH A DRIVE-THROUGH USE AND FRONT YARD SETBACK VARIATION SHALL SUBSTANTIALLY CONFORM TO THE PROPOSED COFFEE SHOP DEVELOPMENT PLANS PREPARED BY NORTHWESTERN ENGINEERING CONSULTANTS, P.C. DATED JUNE 28, 2013, LAST REVISED JULY 24, 2013, THE PROPOSED COFFEE SHOP BUILDING ELEVATION PLANS PREPARED BY REITAN ARCHITECTS DATED JUNE 18, 2013, LAST REVISED JULY 23, 2013, PROPOSED REDEVELOPMENT OVERALL SITE PLAN, PREPARED BY INSITE REAL ESTATE, LLC., DATED JULY 2, 2013, ALTERNATIVE "0" SITE PLAN OF ANALYSIS PLANS, PREPARED BY INSITE REAL ESTATE LLC., DATED JUNE 27, 2013, AND ALTA LAND TITLE SURVEY, PREPARED BY NORTHWESTERN ENGINEERING CONSULTANTS, P.C., DATED MAY 29, 2013, ATTACHED TO THIS REPORT EXCEPT AS SUCH PLANS MAY BE MODIFIED TO CONFORM TO VILLAGE CODES, ORDINANCES, AND POLICIES.**
2. **THE PROPERTY CONSISTS OF TWO LOTS OF RECORD. AS SUCH, THE FINAL PLAT OF SUBDIVISION FOR LOT CONSOLIDATION OF THE PROPERTY INTO ONE NEW LOT MUST BE APPROVED AND RECORDED PRIOR TO ISSUANCE OF THE CERTIFICATE OF OCCUPANCY.**
3. **A FINAL "NO FURTHER REMEDIATION" (NFR) LETTER FROM THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY MUST BE SUBMITTED PRIOR TO ISSUANCE OF THE BUILDING PERMIT.**
4. **THE APPROVAL FROM IDOT, DUPAGE COUNTY HEALTH DEPARTMENT, DOWNERS GROVE SANITARY DISTRICT AS WELL AS A COPY OF THE PAID RECEIPT FOR THE DUPAGE COUNTY IMPACT FEES WILL HAVE TO BE SUBMITTED PRIOR TO ISSUANCE OF THE BUILDING PERMIT.**
5. **THE PROPERTY MUST MEET ALL REQUIREMENTS OF THE SIGN ORDINANCE.**
6. **THE SPEAKER VOLUME ON THE DRIVE-THROUGH WINDOW MUST BE REDUCED DURING OVERNIGHT HOURS.**
7. **THE BUILDING SHALL BE FULLY SPRINKLED AND EQUIPPED WITH AUTOMATIC AND MANUAL FIRE ALARM SYSTEM.**

SECONDED BY MS. URBAN. ROLL CALL:

**AYE: MR. COZZO, MS. URBAN, MR. BEGGS, MR. MATEJCZYK, MR. QUIRK,
MRS. RABATAH, MR. RICKARD, CHAIRMAN WEBSTER**

NAY: NONE

MOTION CARRIED. VOTE: 8-0

Mr. Dabareiner announced the next meeting will be September 9, 2013 and Stan Popovich has been named Senior Planner.

**THE MEETING WAS ADJOURNED AT 10:04 P.M. ON MOTION BY MRS. RABATAH.
SECONDED BY MS. URBAN. MOTION CARRIED UNANIMOUSLY BY VOICE VOTE
OF 8-0.**

/s/ Celeste K. Weilandt
Celeste K. Weilandt

APPROVED 9/9/13

(As transcribed by MP-3 audio)