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

May 1, 2003

## **I. CALL TO ORDER**

Chairman Mochel called the meeting to order at 6:30 p.m.

## **II. ROLL CALL**

**PRESENT:** Ms. Gerloff, Mr. Kubes, Mr. Sandack, Ms. Summers, Chairman Mochel

**ABSENT:** None

**STAFF:** Village Attorney Enza Petrarca, Staff Attorney Ann Marie Perez, Liaison to the Liquor Commission, Carol Conforti

**OTHERS:** Constantinos Alexakos, Joanne Yang Zhang, Mr. Ping Lau, Anil Patel, Ali Mirza, Officer Rau, Officer Rountree, Special Employee, Court Reporter

## **III. APPROVAL OF MINUTES**

**MS. GERLOFF MOVED TO APPROVE THE MINUTES OF THE MARCH 6, 2003 LIQUOR COMMISSION MEETING AS PRESENTED. MR. SANDACK SECONDED.**

**VOTE:**       **Aye:** Ms. Gerloff, Mr. Sandack, Mr. Kubes, Ms. Summers

**Nay:** None

**Abstain:** Chairman Mochel

**MOTION CARRIED: 4:0:1**

Mr. Kubes introduced students from his class at Drive One Driving School.

Chairman Mochel reminded everyone that tonight's meeting is being recorded on Village owned equipment. Staff is present to keep minutes for the record and a court reporter is present to take minutes verbatim.

#### IV. DISCIPLINARY HEARINGS

Chairman Mochel made the following statement:

"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. It is in order that the licensee be represented by counsel, although he need not be for the purposes of this hearing."

Chairman Mochel asked Ms. Perez if there is a signed stipulation in this case. Ms. Perez replied yes.

Chairman Mochel continued:

"In view of the stipulation of facts, 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."

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"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. A secretary is also present for the purpose of summarizing the proceedings."

"The Commission will submit the findings and recommendations to the Local Liquor Commissioner respecting 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."

**CMJ, Inc. d/b/a Giordano's, 5115 Main Street**

Mr. Constantino Alexakos, Liquor Manager of Giordano's was sworn in by the court reporter.

Ms. Perez said that the licensee, Giordano's, has been charged with violation of Section 3-25 (a) of the Downers Grove Liquor Control Ordinance, which prohibits the sale of alcoholic liquor to a minor person under the age of twenty-one (21) .

Ms. Perez said 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. CMJ, Inc. d/b/a Giordano's, 5115 Main Street, Downers Grove, Illinois, is the holder of a Class B-1 Liquor License #49-04714, 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 December 28, 1999.
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 4:50 p.m. on Thursday, March 20, 2003, Downers Grove Police Officer Rau and Downers Grove Police Officer Rountree observed B.H. a special employee of the Downers Grove Police Department under the age of twenty-one (21), whose date of birth is June 29, 1985 (making him 17 years old), enter Giordano's located at 5115 Main Street, Downers Grove.
4. The special employee was seated at a table in the restaurant and Thomas H. Lobbs, asked him for his order.
5. The special employee ordered a bottle of Samuel Adams beer while Officers Rau and Rountree observed him.

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6. That Thomas H. Lobbs whose date of birth is May 16, 1982, then asked the special employee for identification.
7. That the special agent produced his valid Illinois driver's license indicating his date of birth as June 29, 1985, and reading "Under 21" in red letters on the face of the license.
8. That Thomas H. Lobbs viewed the special agent's driver's license and then returned the driver's license to the special employee.
9. Thomas H. Lobbs then served the special employee a bottle of Samuel Adams beer.
10. Officers Rau and Rountree who witnessed the events in paragraphs 3 through 9, identified themselves and advised that the delivery of an alcoholic beverage had been made to a minor.
11. Thomas H. Lobbs 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 that notice of further action would be forthcoming from the Downers Grove Liquor Commission.

Ms. Perez asked that the signed Stipulation of Facts be admitted as Village Exhibit #1. Chairman Mochel accepted the signed stipulation as Village Exhibit #1.

Mr. Alexakos said he witnessed half of the events included in the above stipulation and he concurred with the stipulation of facts. He said he overheard the special employee ask for alcohol and he waited until he heard his server asked for identification. Once Mr. Alexakos saw the special employee give his ID to the server, he assumed that the server would be able to correctly calculate the special employee's age and Mr. Alexakos continued with his duties. Mr. Alexakos apologized for the violation and said he was extremely frustrated that it occurred.

Ms. Summers asked Mr. Alexakos to explain his relationship to Giordano's. Mr. Alexakos said he is general manager and part owner of Giordano's. She asked if he is also the liquor manager. Mr. Alexakos replied yes. She asked about his alcohol training. Mr. Alexakos said he took a BASSETT training course before they applied for their liquor license in 1999.

Ms. Summers asked why Mr. Lobbs was not present at tonight's hearing. Mr. Alexakos said Mr. Lobbs is no longer with Giordano's. Ms. Summers asked if Mr. Lobbs was terminated because of the incident. Mr. Alexakos said Mr. Lobbs resigned because he

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could not face coming to work everyday knowing that he was responsible for this violation.

Ms. Summers asked if Mr. Alexakos has a set disciplinary policy for employees involved in alcohol violations. Mr. Alexakos replied yes. However, he said when he compiled the liquor manual it did not occur to him that an employee would serve alcohol to an individual who presented an under 21 driver's license. Thus, the manual lists serving alcohol to a minor without checking his ID, and over service as reasons for termination; however, Mr. Alexakos said he did not think to include serving alcohol to a minor after viewing his under 21 driver's license. Mr. Alexakos said the liquor manual has now been changed to state that Giordano's no longer accepts any red under 21 drivers' licenses.

Mr. Alexakos said Mr. Lobbs explanation for the sale was that he miscalculated the special employee's age. He calculated that his age was 27 instead of 17. Mr. Alexakos said he did not know how Mr. Lobbs could have made that mistake since he is under 21 and has a red under 21 driver's license.

Ms. Summers asked how Mr. Alexakos was going to prevent this violation from reoccurring. Mr. Alexakos said he has changed the liquor manual and Giordano's no longer accepts any red under 21 drivers' licenses as identification even if the individual is 21 years of age.

Ms. Summers asked what type of disciplinary action is now in place to deal with future violations should one occur. Mr. Alexakos said the liquor manual now states that an employee can be terminated if they sell alcohol to a minor; however, further disciplinary action is unwritten and subjective.

Ms. Summers asked if Mr. Alexakos could offer any other reason for the violation other than an error in calculation, i.e. poor lighting. Mr. Alexakos replied no. He said there is no excuse for the violation. Mr. Alexakos said many establishments promote liquor to increase sales; however, they do not. Mr. Alexakos said liquor sales are barely 3% of their total sales. Their primary business is selling pizza.

Mr. Kubes noted that Mr. Lobbs, the server involved in this violation, is 20 years and 10 months old. Mr. Kubes asked Mr. Alexakos if allows servers, who are under the age of 21 to serve alcohol. Mr. Alexakos explained that it is difficult to find employees to work in the Downers Grove store. When Giordano's first opened, Mr. Alexakos said he did not intend to not hire anyone under 21; however, they could not hire enough employees, so they have been hiring individuals who are under 21. Mr. Alexakos said alcohol is opened and poured for underage servers so that they only carry the drinks to the customers.

Mr. Kubes asked how the individuals who take the orders are trained. Mr. Alexakos said servers are given the liquor manual to read and management explains the ramifications of serving alcohol to minors. They also explain that liquor is not a big part of their sales. In

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addition, new servers follow an experienced server for three shifts before they begin to take tables themselves.

Mr. Kubes asked if sample photos of the red under 21 driver's license are on display in the restaurant or are included in the liquor manual. Mr. Alexakos said he does not have any pictures of the red license, but he would like to get one. Mr. Kubes suggested that Mr. Alexakos stress to his employees that red lettering on face of the driver's license indicates that the individual is under 21 and alcohol should not be served. Mr. Kubes also suggested that Mr. Alexakos put up a perpetual calendar to assist servers. Mr. Alexakos said he has such a calendar, which he received from the Liquor Commission, displayed on the bar.

Mr. Kubes asked Mr. Alexakos what type of disciplinary action he would have taken if Mr. Lobbs had not resigned. Mr. Alexakos said he is not a strict disciplinarian, but he would have given the employee a two-week suspension. As the employee realized his mistake and knew that it was going to cost the restaurant money, Mr. Alexakos felt that he would have been twice as careful in the future to avoid a repeat violation.

Mr. Kubes asked where Mr. Alexakos went after he heard Mr. Lobbs ask for the special employee's ID. Mr. Alexakos said he went to the office to make a telephone call. Mr. Kubes asked if Mr. Alexakos felt confident that Mr. Lobbs had sufficient training to handle the situation. Mr. Alexakos said once he saw Mr. Lobbs check the special employee's ID without comment, he assumed that the special employee was over 21.

Mr. Kubes noted that beer orders at Giordano's are usually taken in conjunction with a pizza or food order. Mr. Alexakos agreed. Mr. Kubes asked if the special employee ordered food with his drink. Mr. Alexakos recalled that the special employee told the server that he was waiting for some friends and asked to order a drink while he was waiting. Mr. Kubes suggested that Mr. Alexakos include a warning to servers in his liquor manual to be extra careful when serving an individual, who orders alcohol without placing a food order. Mr. Alexakos said because the special employee had the menu open, they believed that he was waiting for his friends to join him before placing the pizza order.

Although Mr. Alexakos's commented that it never occurred to him that someone would serve alcohol to an individual who presented a red under 21 driver's license, Mr. Sandack said the Liquor Commission has seen it happen in many cases. Mr. Sandack reminded Mr. Alexakos that if there is red on the driver's license, no calculations are needed, alcohol is not to be served. Mr. Alexakos agreed and said he has added a red under 21 license rule to their liquor manual.

Mr. Sandack suggested that Mr. Alexakos re-train his employees concerning correct alcohol handling and serving procedures. Mr. Alexakos said individual meetings were held with each employee and they were given a copy of the new liquor manual. Each employee has also signed the manual indicating that they understand and agree to the

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directives in the manual. Mr. Alexakos expressed his frustration again concerning the violation and said he does not understand why it happened.

Mr. Sandack said as a Giordano's customer he is disappointed to see that this incident occurred and he hopes it does not happen again. Mr. Alexakos agreed.

Ms. Gerloff added that a red under 21 license means alcohol should not be sold and no age calculations are necessary. She expressed her concern about Mr. Alexakos's understanding of the liquor laws concerning the age of the server. Ms. Gerloff said she felt that the fact that the individual who took the initial order in this case was under age himself was an aggravating circumstance. She clarified that the Village Ordinance states that the individual taking the initial alcohol order must be 21 or older; however, servers who are at least 19 years of age may serve the alcohol once the initial order has been taken. Ms. Gerloff advised Mr. Alexakos to include requirements about the server's age in his liquor manual.

Chairman Mochel agreed with Ms. Gerloff. He said the Village Ordinance requires that the individual responsible for the initial contact when taking an alcohol order and for reviewing the customer's ID must be 21 years of age or older. Once the initial order has been taken, an individual under 21 can serve the order.

Chairman Mochel said it is very important for the management to stress that red lettering on the face of a driver's license indicates that the licensee is under 21 and alcohol should not be served.

Ms. Perez summarized that CMJ, Inc., d/b/a Giordano's, located at 5115 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. This is the licensee's first violation. However, there is an aggravating circumstance in this case that a red under 21 license was shown which warrants an additional day of suspension.

Ms. Perez recommended that their license be suspended for one to three days. In addition, she recommended that the licensee be required to pay an administrative fee up to \$1,000 to cover the costs of conducting this hearing and a fine in an amount not to exceed \$1,000.

Ms. Petrarca asked Ms. Perez if her recommendation took into consideration that the server involved in the violation was also under 21 years of age.

Ms. Perez said it was her understanding that an individual who is under 21 can take the initial alcohol order and check the customer's ID if there is an individual who is 21 or older overseeing the process. Ms. Conforti advised that according to the Village Ordinance the initial drink order and carding must be done by an individual who is 21 or older. Subsequent service can be provided by an individual who is at least 19 years of age.



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Ms. Perez said the licensee has been charged with a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance, the sale of an alcoholic beverage to a minor person under the age of 21. She said 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. Mayflower Chinese Restaurant, Inc. d/b/a Mayflower Chinese Restaurant, 2117 W. 63<sup>rd</sup> Street, Downers Grove, Illinois, is the holder of a Class D-1 Liquor License #40-01615, 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 December 29, 1999.
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 5:45 p.m. on Thursday, March 20, 2003, Downers Grove Police Officer Rau and Downers Grove Police Officer Rountree observed B.H. a special employee of the Downers Grove Police Department under the age of twenty-one (21), whose date of birth is June 29, 1985 (making him 17 years old), enter Mayflower Chinese Restaurant located at 2117 W. 63<sup>rd</sup> Street, Downers Grove.
4. The special employee was seated at a table in the restaurant and Joanne Yang Zhang, asked him for his order.
5. The special employee ordered a bottle of Corona beer while Officers Rau and Rountree observed him.
6. That Joanne Yang Zhang whose date of birth is March 18, 1965, then asked the special employee for identification.
7. That the special agent produced his valid Illinois driver's license to Joanne Yang Zhang which indicated his date of birth as June 29, 1985, and reading "Under 21" in red letters on the face of the license.
8. That Joanne Yang Zhang took the special agent's driver's license and then returned the driver's license to the special employee without reviewing it.
9. That Joanne Yang Zhang told waitress Hai Qing Yang that the special employee requested a Corona beer, but she had not reviewed the date of birth on the license.
10. That Joanne Yang Zhang asked waitress Hai Qing Yang to review the date of birth on the license.
11. That Hai Qing Yang whose date of birth is May 28, 1971, returned to the table and proceeded to serve the special employee a bottle of Corona beer.

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12. At no time did employee Hai Qing Yang ask for identification from the special employee.
13. Officers Rau and Rountree who witnessed the events in paragraphs 3 through 12, identified themselves and advised Hai Qing Yang that the delivery of an alcoholic beverage had been made to a minor.
14. Hai Qing Yang 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.
15. The Officers advised that notice of further action would be forthcoming from the Downers Grove Liquor Commission.

Ms. Perez asked that the signed Stipulation of Facts be admitted as Village Exhibit #1. Chairman Mochel accepted the signed Stipulation of Facts as Village Exhibit #1.

Chairman Mochel asked if Ms. Yang Zhang wished to comment on the above stipulation. Mr. Ping Lau said Ms. Yang Zhang understands the stipulation and the violation.

Ms. Summers asked Ms. Joanne Yang Zhang's relationship to the restaurant. Ms. Yang Zhang said she is the wife of the owner of the restaurant. Mr. Ping Lau said he is an insurance salesman who stops by the restaurant occasionally and who has agreed to act as an interpreter for Ms. Yang Zhang. Mr. Lau said Ms. Yang Zhang is the person who took the ID from the special employee.

Ms. Summers thanked Ms. Yang Zhang for coming and reassured her that although the Commission takes its business seriously, there was no need to be afraid.

Ms. Summers asked if Ms. Yang Zhang noticed that the license was red when she took it from the special employee. Mr. Lau said she did not actually look at the license.

Ms. Yang Zhang said she does not speak English very well. However, she explained that she seated the special employee at a table when he came in and gave him a menu. She then seated two men at another table. She returned to the special employee and asked him for his drink order. Ms. Yang Zhang said the special employee ordered a Corona beer and she asked for his driver's license. However, the phone was ringing so she returned the license to the special employee without checking it. She asked the other waitress to check the special employee's driver's license before serving the beer while she answered the telephone. The waitress was some distance away from Ms. Yang Zhang and she misunderstood Ms. Yang Zhang's instructions to card the special employee before serving him. The waitress had seen Ms. Yang Zhang holding the special employee's driver's license and assumed that she had checked the special employee's age.

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Ms. Summers asked if Ms. Yang Zhang has had any formal liquor handling training, i.e. TIPS. Ms. Yang Zhang replied yes. Ms. Summers asked if the other servers were trained in liquor management. Ms. Yang Zhang replied yes.

Mr. Kubes asked if the stipulation of facts is based on Ms. Perez's conversation with the liquor manager or owner. Ms. Perez said the information for the stipulation was gathered by Ms. Conforti, who spoke to Ms. Yang Zhang in person with a translator present.

Mr. Sandack asked Ms. Yang Zhang who prepared the liquor manual for the Mayflower Restaurant when they applied for their license. Ms. Yang Zhang replied that Wayland Goon prepared the liquor manual. Ms. Conforti explained that Mr. Goon was the manager of the establishment at the time of the application; however, he left the about two months ago. Ms. Conforti added that at the time of the violation Mr. Goon was still listed as liquor manager. However, Ms. Conforti later discovered that Ms. Yang Zhang had replaced Mr. Goon as liquor manager and she has since been named as liquor manger and subsequently fingerprinted.

Ms. Conforti clarified that the Mayflower Restaurant applied for a liquor license in 1999. Mr. Goon was the previous owner and he remained with the establishment for about 2 ½ years. Ms. Conforti said Mr. Goon prepared the training manual. Ms. Yang Zhang indicated that she and the other waitresses had been there for about three years had been trained by Mr. Goon.

Mr. Sandack recommended that Ms. Yang Zhang attend a formal alcohol training class. Mr. Sandack said that Ms. Yang Zhang and the other employees must understand that liquor must not be sold to minors.

Mr. Lau said the owners of the Mayflower restaurant were very experienced even before they came to Downers Grove. The other waitress is very mature and she has worked in other more upscale restaurants with full liquor licenses. Ms. Yang Zhang has also worked as a waitress in other restaurants with full alcohol licenses.

Mr. Sandack said he wanted to be sure that everyone who works for Ms. Yang Zhang knows and understands the rules and regulations governing alcohol sales in Downers Grove. Mr. Sandack said the best way to avoid a repeat violation is to be sure that all employees are properly trained. Ms. Yang Zhang said the employees trained under Mr. Goon for three or four months before he left the restaurant.

Ms. Gerloff said she was concerned that the restaurant did not notify Ms. Conforti that they had changed liquor managers. She added that if Ms. Conforti had known she could have helped with some liquor training.

In addition Ms. Gerloff said she felt that Ms. Yang Zhang should take a formal alcohol training class so she can educate her employees and avoid a repeat violation. Mr. Lau asked if formal alcohol training is mandatory for the Mayflower to have a liquor license. Ms. Gerloff replied no. However, she said formal training is encouraged, whether it is a

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class at College of DuPage or training provided by Ms. Conforti. Ms. Gerloff said it is important that Ms. Yang Zhang understands the local and State laws so that she can properly train her employees. Mr. Lau said it is very difficult for Ms. Yang Zhang to attend a training class because business is slow. He added that alcohol is a small part of their business, their main business is Chinese food. Mr. Lau said that he recommended that they stop selling alcohol.

Chairman Mochel clarified that the violation took place as follows: Ms. Yang Zhang made the initial contact with the special employee, she started to look at his license and was interrupted by a telephone call. When she went to answer the phone she gave the license to another waitress, and asked her to check the special employee's ID. However, the other waitress did not hear Ms. Yang Zhang instructions. Mr. Lau agreed.

Chairman Mochel said although formal alcohol training is not mandatory, it is highly recommended so that this type of violation does not reoccur. Chairman Mochel asked Mr. Lau to explain to Ms. Yang Zhang that the Village has information available for little or no cost that might help to avoid another violation of this type.

Mr. Lau said they know the basic rules. He added that if they take an alcohol training class they would have to take one in the Chinese community. Mr. Lau said the problem is that the restaurant has seating capacity for about 100, business has been slow, and they do not have enough help. He said the customers must be seated before they check their ID. He suggested giving the customer the menu first and then checking the ID later.

Chairman Mochel asked if there was any other information that Ms. Yang Zhang would like the Commission to consider. Mr. Lau said he hoped the Village would be as lenient as possible.

Ms. Perez summarized that the Mayflower Chinese Restaurant, d/b/a Mayflower Restaurant, located at 2117 W. 63<sup>rd</sup> Street has stipulated a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance, the sale of alcohol to a minor. Ms. Perez said this is the licensee's first violation. After conversation with Ms. Conforti, who had a conversation with Ms. Yang Zhang, Ms. Perez said that they were requesting an additional suspension date in lieu of a fine. Ms. Perez said she spoke with their registered agent Philip Chow, an attorney located in Chicago. Ms. Perez said Mr. Chow is a bilingual (Chinese/English) however, the licensee could not afford to hire Mr. Chow to appear at this hearing. Ms. Perez recommended that their license be suspended for one (1) to four (4) days based upon the circumstances of the violation. In addition Ms. Perez recommended that the licensee be required to pay an administrative fee of up to \$1,000 to cover the cost of conducting this hearing and a fine not to exceed \$1,000. However, Ms. Perez advised that the Commission has the discretion to recommend an additional day or two of suspension in lieu of a fine.

**MS. GERLOFF MOVED TO FIND MAYFLOWER CHINESE RESTAURANT, INC. D/B/A MAYFLOWER CHINESE RESTAURANT, 2117 W. 63<sup>RD</sup> STREET, GUILTY OF SELLING ALCOHOLIC LIQUOR TO A MINOR PERSON UNDER**

**DRAFT****THE AGE OF TWENTY-ONE (21) IN VIOLATION OF SECTION 3-25(a) OF THE DOWNERS GROVE MUNICIPAL CODE. MR. SANDACK SECONDED.**

**VOTE:**       **Aye:** Ms. Gerloff, Mr. Sandack, Mr. Kubes, Ms. Summers, Chairman Mochel

**Nay:** Nay

**Abstain:** Nay

**MOTION CARRIED: 5:0:0**

Chairman Mochel asked the Commission for their recommendation on a penalty in this case.

Ms. Gerloff said she does not object to increasing the length of the suspension in lieu of the \$1,000 fine. In these difficult financial times, she said she would like them to be able to stay in business.

Mr. Kubes asked if the licensee would be required to pay up to \$1,000 in administrative fees. Ms. Gerloff replied yes. Mr. Kubes asked if in addition to the suspension, the Commission could require the licensee to have Village staff review their liquor manual to be sure that it is working properly. Ms. Gerloff said she did not feel that requirement should be made as part of the penalty recommendation.

Mr. Kubes said he felt that a suspension of one (1) to six (6) days would be appropriate in light of the aggravating circumstances in the case.

Ms. Gerloff suggested a license suspension of four (4) to six (6) days, due to the aggravating circumstance and their request for additional days of suspension in lieu of the \$1,000 fine. Mr. Kubes agreed.

Ms. Summers said she felt the range of the suspension should be from one (1) to six (6) days. Ms. Gerloff asked Ms. Summers her reasons for that recommendation. Ms. Gerloff said the penalty for an aggravating circumstance is a suspension of one (1) to three (3) days. Ms. Summers said considered the fact that this is their first violation since opening in December 1999 as a mitigating circumstance.

Ms. Gerloff pointed out that the Mayflower Restaurant was not tested last year.

Ms. Summers suggested that the Village assist them with alcohol training.

Ms. Gerloff said if the licensee had notified Ms. Conforti as required concerning the change in liquor managers, Ms. Conforti would have reviewed proper alcohol handling with Ms. Yang Zhang to ensure that she understood the Village liquor ordinance. Ms.

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Gerloff said she considers their failure to notify Ms. Conforti as an aggravating circumstance.

Ms. Summers asked if failure to notify the Village of a change in liquor manager is technically considered an aggravating circumstance. Chairman Mochel replied no. However, Ms. Gerloff said it is a requirement of the ordinance.

Ms. Gerloff said she felt the Commission was being lenient.

Chairman Mochel said he thought a suspension of four to six days was on the high side even without a fine.

Ms. Gerloff pointed out that the licensee does not derive their livelihood from alcohol sales. Chairman Mochel agreed. He acknowledged that the Liquor Commissioner makes the final decision concerning any penalties in this case. However, Chairman Mochel said he wanted to give the Liquor Commissioner adequate leeway within the Commission's recommendation.

**MR. KUBES MOVED TO RECOMMEND THAT THE LICENSE OF MAYFLOWER CHINESE RESTAURANT, INC. D/B/A MAYFLOWER CHINESE RESTAURANT, 2117 W. 63<sup>RD</sup> STREET, BE SUSPENDED FOR NOT LESS THAN TWO (2) OR MORE THAN SIX (6) DAYS IN LIEU OF A FINE; AND THAT THEY BE ORDERED TO PAY ADMINISTRATIVE COSTS ASSOCIATED WITH THIS HEARING OF UP TO ONE THOUSAND DOLLARS (\$1,000). MR. SANDACK SECONDED.**

**VOTE:**       **Aye:** Mr. Kubes, Mr. Sandack, Ms. Gerloff, Ms. Summers, Chairman Mochel

**Nay:** None

**Abstain:** None

**MOTION CARRIED: 5:0:0**

Chairman Mochel said the licensee would be informed in writing of the Liquor Commissioner's decision.

## **V. APPLICATION FOR LIQUOR LICENSE**

Chairman Mochel stated:

“A part of tonight's agenda is to conduct a public hearing for a Class “B-2” liquor license. 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

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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."

"A court reporter is present to take the proceedings verbatim. Staff is also present for purposes of summarizing the proceedings."

**Kisaen-Gopi Corporation d/b/a Downers Grove Food Mart, 2027 Ogden Avenue**

Chairman Mochel said the applicant is seeking a Class "B-2" liquor license.

Chairman Mochel asked that those present representing the applicant come forward and be sworn in. Anil Patel, current President of Downers Grove Food Mart and Ali Mirza, former owner of Downers Grove Food Mart were sworn in by the court reporter.

Mr. Mirza said the store belongs to him; however he would like to retire and sell the store to his nephew. Mr. Mirza said he would stay on as long as needed for a smooth transition. Mr. Mirza said he and his wife have operated the store for many years and they have never had an alcohol violation. They have signs posted in the store regarding alcohol sales and their employees have been trained in alcohol sales. Mr. Mirza said they sell packaged beer and wine only. Mr. Mirza said his nephew would be at the store all the time.

Ms. Summers noted that Mr. Patel is listed as liquor manager. She asked about his liquor handling training and experience. Mr. Patel said he owns a convenience store in Glendale Heights, which he has operated for the past 13 years. He said he is BASSETT trained and has completed other requirements for liquor handling with Glendale Heights.

Ms. Summers if Mr. Patel plans to be at the store 50 hours per week. Mr. Patel replied yes. Ms. Summers asked who would monitor the sale of alcohol. Mr. Patel said he would when he was at the store and in his absence another gentleman who is BASSETT trained would take over that responsibility. The gentleman has worked for Mr. Patel for five years. Mr. Patel said he would work in the morning and the other gentleman would work nights. Mr. Patel said he also plans to have another employee working at night.

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Ms. Summers noted that Mr. Patel's alcohol policy, included in the application packet, mentions the BASSETT training manual. She asked if he plans to give a manual to each employee. Mr. Patel replied yes. He added that he intends to keep a book with examples of the 50 state ID's at the counter for reference, in the event that a customer presents an out-of-state ID. Mr. Patel said they would not accept any red background driver's licenses.

Ms. Summers asked if Mr. Patel has ever had an alcohol violation concerning the sale of alcohol to minors at his Glendale Heights store. Mr. Patel replied yes. He explained that he had when he first took over the store, a minor presented a fake ID and he sold alcohol to him. However, he has not had a violation in the last 12 years.

Mr. Kubes asked if Mr. Patel intends to continue managing his store in Glendale Heights. Mr. Patel replied yes. He said that he plans to work at the Downers Grove Food Mart in the mornings and then work a few hours later in the day at the Glendale Heights store. Mr. Kubes asked if Mr. Patel is confident that his employees can operate the stores correctly in his absence. Mr. Patel replied yes. He said both employees have worked for him for the last five or six years.

Mr. Kubes suggested that Mr. Patel advise his employees to card anyone who appears to be under the age of 30 and to include that stipulation in his liquor manual. Mr. Patel said he has signs posted in his Glendale Heights store stating that they card anyone under the age of 30.

Mr. Kubes said he was happy to see that when checking ID's, Mr. Patel advised his employees to check the individual's height, weight, hair and eye color in addition to checking the birth date on the ID.

Mr. Kubes noted that Mr. Patel's liquor manual states that "in the event of an incident at the store, a complete incident report explaining the occurrence will be required." Mr. Kubes asked what the consequences would be if an alcohol violation occurred. Mr. Patel said he intends to be at the store most of the time to ensure that a violation does not occur. Mr. Kubes suggested listing the consequences of a violation in the liquor manual.

Referring to the floor plan of the store included in the application packet, Mr. Kubes noted that the alcohol storage area is located at the back of the building. He asked if that area is accessible through the backdoor for deliveries. Mr. Patel replied yes. However, he said all deliveries would be made through the front entrance. Mr. Kubes asked if the alcohol storage area would be locked. Mr. Patel replied yes. Mr. Kubes asked if Mr. Patel would be the only person with a key to the alcohol storage area and if he would restock the liquor on the shelves. Mr. Patel replied yes.

Mr. Kubes confirmed that Mr. Patel plans to cover all alcohol during the hours that the store is open when alcohol sales are prohibited. Mr. Patel replied yes. Mr. Patel said he would also post signs in the store stating the hours that liquor would be sold.

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Mr. Sandack said he found Mr. Patel's application comprehensive. Mr. Sandack said he hoped that Mr. Patel would benefit from observing the two disciplinary hearings that took place earlier this evening. Mr. Patel said he went through a disciplinary hearing for the violation in which he was involved 13 years ago and he does not wish to go through the experience again. Mr. Patel said he would try his best to see that a violation does not occur.

Ms. Gerloff said she visited the store a few years ago when Mr. Mirza applied for his liquor license and she noted that there were swinging doors at the back of the store accessing the back storage area. At the time of Mr. Mirza's application hearing, Ms. Gerloff recalled that the Commission was told that those doors were going to be changed to locking doors so that unauthorized personnel would not be able to access the back area of the store where liquor is stored and exit unobserved through the back door of the building. Ms. Gerloff asked if the doors were changed. Mr. Patel said the doors are still swinging doors. However, there is a hinge that can be used to lock the doors. Ms. Gerloff suggested that Mr. Patel make it a habit to keep those doors locked. She pointed out that he will be the only person in the store most of the time and if the doors are unlocked someone might walk into the back area unobserved. Mr. Patel and Mr. Mirza agreed.

Chairman Mochel advised Mr. Patel to stress to his employees that a red background on an Illinois driver's license indicates that the individual is a minor and alcohol should not be sold.

Chairman Mochel called for a recommendation on the applicant's Class "B-2" liquor license application.

**MR. SANDACK MOVED TO FIND KISAEN-GOPI CORPORATION D/B/A DOWNERS GROVE FOOD MART, 2027 OGDEN AVENUE QUALIFIED FOR A CLASS "B-2" LIQUOR LICENSE. MS. GERLOFF SECONDED.**

**VOTE:**       **Aye:** Mr. Sandack, Ms. Gerloff, Mr. Kubes, Ms. Summers, Chairman Mochel

**Nay:** None

**Abstain:** None

**MOTION CARRIED: 5:0:0**

Chairman Mochel and the Commission members welcomed Mr. Patel to Downers Grove and wished him well in his new store.

**VI. OLD BUSINESS**

Ms. Conforti said she and Ms. Perez prepared a comprehensive ordinance for packaged beer and wine sales for convenience stores, packaged alcohol stores, grocery and drug

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stores. The proposed ordinance would add a “convenience store” definition to the Ordinance. Also “Retail sales square footage area” is defined and the applicant will be required to submit a floor plan for the establishment depicting the total square footage and the retail square footage area devoted to products sold from the premises. Ms. Conforti said applicants would be required to complete a “Business Activity Declaration” stating the principal business of the establishment.

Ms. Gerloff asked if the “Business Activity Declaration” would only be required for the Class “B-2” liquor license classification. Ms. Conforti replied no. She said it would be included will all liquor license applications.

Ms. Gerloff noted that the ordinance states that the declaration page would include “the corporate name, business name and address along with information concerning the type of business activity or retail sales primarily engaged in.” She asked whether that referred to the applicant’s current retail activity or his anticipated retail sales activity. Ms. Gerloff recalled that the owner of a cigarette store applied for and was granted a “Class B-2” based on his testimony that he intended to change his primary business to that of a convenience store. However, at the time of the application hearing his primary business was still that of a cigarette store. Ms. Perez clarified that applicants can list their current business activity and their anticipated business activity on the declaration page.

Mr. Sandack said regardless of what the applicant lists on the declaration page, the Ordinance requires that the Class “B-2-C” license “shall be authorized in locations where the main or principal business is that of a convenience store wherein at least seventy-five percent (75%) of the retail sale square footage is devoted to the sale of food, non-alcoholic beverages, household products, cosmetic items and reading materials.”

Ms. Gerloff asked why staff included the declaration page. Ms. Perez said it would be helpful with other license classifications, i.e. the restaurant license. If an establishment declares that the primary business is that of a restaurant and receives a restaurant license, they could not advertise as a nightclub.

Mr. Sandack said he views the declaration page as an added safeguard because it requires the applicant to provide a signed and notarized statement of their business activity.

Ms. Petrarca said many applicants apply for a liquor license before their business is operational.

Ms. Gerloff expressed concern about the wording of the declaration page.

Chairman Mochel asked if the declaration page requires the applicant to state his current or intended primary business. He said he feels that if an applicant is applying as a convenient store, they should meet the definition of a convenience store before applying for the Class “B-2-C” liquor license. Ms. Petrarca and Ms. Conforti said that before receiving the Class “B-2-C” license the applicant would have to comply with the terms of the license including complying with the definition of “convenience store”.

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Ms. Conforti said some applicants apply for a liquor license before their business is open and they do not know the actual breakdown of their business activity. Chairman Mochel asked how the Village could monitor and police that type of situation. Ms. Perez said if an applicant does not comply with the sworn declaration that they made, the Village could cite them for an ordinance violation.

Chairman Mochel asked if there is a timeframe involved in the declaration. Ms. Perez said once they begin receiving the declarations, staff can request that the Police Department send an officer to check periodically to ensure that the establishment is operating the business as was declared.

Chairman Mochel said he is uneasy leaving too many “gray” areas in the ordinance, which would be open to legal interpretation.

Ms. Gerloff noted that the Class “B-2” license is now being divided into three categories. Ms. Gerloff said she did not feel that the proposed ordinance would correct the problem.

Ms. Conforti said the Village must keep the Class “B-2-A” classification for those establishments where the sale of packaged beer and wine is the principal business. Ms. Gerloff agreed. However, she said she does not know how the Village can prevent video and cigarette stores from applying for a Class “B-2” liquor license.

Ms. Summers asked Ms. Gerloff why she wanted to prevent those stores from obtaining a liquor license. Ms. Summers said she did not feel there was any rational basis for denying a liquor license to a cigarette or video store. Ms. Gerloff disagreed. Chairman Mochel said he did not feel there had to be a rational basis for the decision. He said if the Village Council did not want to allow cigarette and/or video stores to sell alcohol, they could structure the ordinance accordingly.

Ms. Petrarca explained the rational basis test and the constitutionality of ordinances.

Ms. Gerloff said Ms. Petrarca would not allow the Commission to enforce the ordinance in the case of the Maple Cigarettes. Ms. Petrarca said Mr. Patel did not apply as Maple Cigarettes; he applied as Maple Cigarettes and Food Mart.

Ms. Gerloff said Mr. Patel still does not have a sign for Maple Cigarettes and Food on his store and cigarette posters on the windows obstruct the view into the store. Ms. Conforti said she met with Mr. Patel regarding the cigarette posters. Ms. Gerloff said she still does not believe that Mr. Patel’s establishment is a food mart.

Mr. Kubes left the meeting to take his students back to the classroom. Chairman Mochel thanked the students for attending.

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Mr. Sandack said he believes that having a specific provision prohibiting cigarette and video stores from having a liquor license would be a recipe for disaster. Ms. Petrarca agreed that she would never recommend such an ordinance.

Mr. Sandack agreed with Chairman Mochel that no matter how the ordinance is worded, there would always be someone crafty enough to circumvent it. However, Mr. Sandack said the proposed ordinance is a reasonable attempt to put a square footage requirement back into the ordinance. Thus, if a store is large enough and is a convenience store, the ordinance requires that they must sell something more than cigarettes in order to obtain a liquor license.

Ms. Gerloff said the Commission just went through this in December, with Mr. Patel and Maple Cigarettes. When asked if he considered his business a convenience store, Mr. Patel replied no. Mr. Sandack said Mr. Patel's opinion of his business is irrelevant, because at that time the ordinance did not define "convenience store". Ms. Gerloff said her interpretation of the ordinance was that the establishment had to actually be a "convenience store" not just intend to become one.

Mr. Sandack recalled that Mr. Patel testified that he was going to change the name of his establishment and become a convenience store. Mr. Sandack expressed disappointment that Mr. Patel has not yet changed the sign on his store. Ms. Petrarca and Ms. Conforti said they have contacted Mr. Patel regarding changing his sign. Mr. Sandack recalled that Mr. Patel testified under oath that he was going to add convenience store items to his store. Thus, the Commission and staff reasonably relied on his testimony.

Ms. Conforti said Mr. Patel has added shelf space and has spoken to his landlord about getting new signage on the building. Ms. Perez said Mr. Patel is attempting to get posters advertising products other than cigarettes; however, he said the cigarette distributors require him to put cigarette posters in the window. Ms. Conforti said Mr. Patel has been unable to get convenience store distributors to service his store because he does not sell many of those items. However, Mr. Patel has purchased products from other stores to resell in his store.

Mr. Sandack suggested that Mr. Patel contact the Downers Grove Food Mart to see who supplies their store and perhaps enter into a joint arrangement for purchasing.

As background, Ms. Conforti explained that the previous owner of Maple Cigarettes applied for a liquor license when the store was strictly a cigarette store. However, at the time there were no Class "B-2" licenses available and he was placed on a waiting list. Ms. Conforti said when Mr. Patel took over the store, the number of Class "B-2" liquor licenses was increased and one became available.

Ms. Gerloff agreed. She said former Village Attorney Dan Blondin and Ms. Petrarca drafted a new ordinance increasing the number of Class "B-2" licenses. At that time, she recalled that the new ordinance was presented to the Village as being defensible in court

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and that it would prevent video and cigarette stores from applying for a Class "B-2" liquor license.

Ms. Petrarca agreed. She said if Mr. Patel had applied as Maple Cigarettes, the ordinance would have prevented him from obtaining a Class "B-2" liquor license. However, he applied as Maple Cigarettes and Food - a convenience store.

Ms. Gerloff said in her opinion the establishment was still a cigarette store. Ms. Petrarca disagreed and said in her opinion he applied as a convenience store.

Ms. Summers said too she viewed the establishment as a convenience store. Ms. Summers said she is still not sure why Ms. Gerloff is against allowing cigarette and videos stores to sell alcohol. Ms. Gerloff cited teen impact studies from the University of Illinois.

Ms. Summers said she was not going to attempt to set the morals for Downers Grove teens. If teens want to smoke, etc. she felt it was their parent's problem, not the responsibility of the Liquor Commission.

Ms. Conforti said if the problem is the sale of tobacco to minors, Downers Grove should consider licensing tobacco establishments. Ms. Perez said in that case the Village could pass an ordinance stating that if an establishment is licensed to sell tobacco products it is not eligible for a liquor license. Ms. Petrarca said she did not think that would work because many stores sell cigarettes and alcohol.

Ms. Summers said she has been unable to find any evidence that tobacco stores selling alcohol have an increase in the sale of alcohol to minors. Ms. Gerloff said the University of Illinois study indicated that the sale of tobacco to minors was higher in alcohol stores.

However, Ms. Perez countered that individuals that sell alcohol and tobacco may be more adept at reading licenses and may be more careful about who they sell alcohol and tobacco to because they always have to card their customers based upon the products that they sell.

Ms. Gerloff said recently the Mayor, Commissioner Schnell, Commissioner McConnell, and Commissioner Tully strongly implied to Ms. Conforti that they do not want cigarette stores to sell alcohol. Ms. Petrarca said this ordinance was written in response to the desires of the Mayor and the Commissioners. Ms. Petrarca added that she would not draft an ordinance that she could not enforce.

Ms. Gerloff said she wanted to be clear on the interpretation of the ordinance. Ms. Petrarca said all license applications would be considered on a case-by-case basis and at this time, it is her interpretation that a store that sells only cigarettes would not qualify for a liquor license under the proposed ordinance.

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Ms. Gerloff said she did not feel that a tobacco store should be permitted to apply for a liquor license. Ms. Petrarca said an establishment always has the right to apply for a license. Ms. Conforti added that an applicant could also request an ordinance change if they are unable to qualify under the current ordinance, i.e. North Beach.

Chairman Mochel asked what would happen if an applicant says that they intend to make changes to their establishment to qualify for a liquor license and then do not follow through after the license has been granted. Ms. Petrarca said the Village could revoke their liquor license.

Ms. Conforti said currently the owner of Maple Cigarettes and Food sells more than just tobacco products and seems to be trying to stock more convenience store items. However, there is nothing to prohibit customers from purchasing only cigarettes and beer at any establishment. She added that Mr. Patel knows that he must change the sign on the store and he is currently trying to do so, but he has had problems getting the landlord's approval. Ms. Conforti said she could threaten him with non-renewal of his license unless the sign on the store is changed to match the business name on his liquor license.

Ms. Gerloff said she does not want to see Downers Grove handing out liquor licenses to video stores or cigarette stores. Ms. Conforti said currently Section 3-33 of the ordinance does not allow the sale of books, magazines, films or movies depicting adult subject matter at an establishment that sells alcohol. Thus, Ms. Conforti said any video store that carries "R" rates videos would be prohibited from obtaining a liquor license.

Ms. Gerloff observed that as long as she is on the Commission she has the option to vote "no" on any application presented.

Chairman Mochel asked what type of license does Maple Cigarettes and Foods have? Ms. Conforti said they have a Class "B-2" liquor license. Ms. Perez added that if they were applying for a license under the proposed ordinance they would have to apply for a Class "B-2-A" packaged alcohol store license or a Class "B-2-C" convenience store license and Mr. Patel would have had to have declared which type of store his establishment was.

Ms. Gerloff asked Ms. Perez if Maple Cigarettes and Foods would be considered a packaged alcohol store or a convenience. Ms. Perez said she believed that the establishment would fit under the convenience store definition. Ms. Gerloff asked if the establishment would have to meet the definition of convenience store before applying for a liquor license or if the applicant could state that he intends for his establishment to become a convenience store.

Mr. Sandack pointed out that many applicants apply for a liquor license before their establishment is open, i.e. Carlucci's applied for a license before the restaurant was built.

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Chairman Mochel said an applicant could be granted a license based on what he intends to do. However, after a certain period of time if the applicant fails to follow through on his intentions, the Village can revoke his liquor license. Mr. Sandack agreed.

Chairman Mochel said it is his interpretation, that if Mr. Patel applied for a Class "B-2-C" liquor license he would have to have 75% of the retail space for food, non-alcoholic beverages, household products, cosmetic items and reading materials, not including cigarettes and/or liquor and that not more than 25% of the retail space should be for cigarettes and/or liquor.

Ms. Conforti said if the Village tries to dictate what establishments can and cannot sell, it would affect all of the other liquor licensees that hold this type of license.

Ms. Conforti and Ms. Petrarca said it is difficult to list and classify all the different types of products sold in convenience stores. Ms. Perez said the definition of convenience store was left as open as it was to allow the Commission the flexibility to judge each application on a case-by-case basis.

Ms. Gerloff noted that restricting the retail space for cigarettes would not necessarily mean that the principal business of the establishment is not the sale of tobacco. She asked how that could be monitored. Ms. Perez said the problem with monitoring sales is that there are many taxes involved in the sale of packaged cigarettes. Ms. Conforti asked if the Commission was more concerned with the type of store that the establishment appears to be or if they were more concerned about monitoring the amount of revenue generated by tobacco sales.

Mr. Kubes said he would not want a store like Tribeca to sell alcohol. Ms. Petrarca said Tribeca could not qualify for a liquor license under the proposed ordinance. Chairman Mochel asked what if they started selling potato chips and snacks. Ms. Petrarca said 75% of the establishment would have to be devoted to food, etc.

Chairman Mochel asked if cigarettes could be considered a household product. Ms. Perez said the Commission would have the discretion to make that interpretation at the time of the application hearing.

Chairman Mochel said it was his opinion this entire issue began several years ago because the Village Council wanted to find a way to prohibit liquor sales in cigarette and video stores.

Ms. Petrarca said Mr. Patel applied for a liquor license as Maple Cigarettes and Foods, not as a cigarette store. If he had applied as a cigarette store, he would not have qualified under the old ordinance or under the proposed ordinance.

Chairman Mochel asked if Mr. Patel's establishment is in fact a cigarette and food mart. He asked what constitutes a food mart. Ms. Petrarca explained that the old ordinance did not define food mart. Chairman Mochel asked if that loophole has been closed to prevent

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another cigarette store for obtaining a liquor license. Ms. Petrarca said that is the reason; convenience store has been defined in the proposed ordinance.

Mr. Sandack observed that there has not been a run on this type of license. He said although the establishment was a cigarette store at the time of the application hearing, Mr. Patel testified that he wanted to make it into a convenience store. Mr. Sandack said under the old ordinance, Mr. Patel was qualified for the license regardless of whether his store was a convenience store. Mr. Sandack said he believes that Mr. Patel is trying to turn his store into a convenience store.

Mr. Sandack explained that this proposed ordinance has divided the Class "B-2" license into three separate and defined classifications, "B-2-A" for packaged alcohol stores, "B-2-B" for grocery stores and/or drug stores, and "B-2-C" for convenience stores. He said he feels that this ordinance puts reasonable constraints on a business to be a convenience store, although he acknowledged that someone might find a loophole in the ordinance. Ms. Conforti agreed.

Mr. Kubes asked if a packaged alcohol store, i.e. Downers Grove Wine Shop, could start selling tobacco products. Ms. Petrarca replied yes. However, she added that the sale of beer and wine would have to remain their primary business to keep their liquor license.

Ms. Gerloff said she felt this all started because the Village did not want to project the wrong image, i.e. taverns on every corner etc. Ms. Summers said the Village does not want to project the image that they suppress small business either.

**VII. NEW BUSINESS**

Ms. Conforti presented an ordinance amending outdoor liquor sales to clarify recommendations for indoor and outdoor liquor sales. She said staff is proposing a Class "O" liquor license, which would allow outdoor liquor sales. It will be tacked on to the original license. There will be an initial fee to enable Ms. Conforti to keep track of outdoor liquor sales. She added that Carlucci's license would be a Class "R/O". Ms. Conforti said the license would not restrict outdoor sales to a certain season; however, the hours of business would have to conform to their regular liquor license. Ms. Conforti said the proposed ordinance will allow her to monitor to be sure the licensee does not alter the outdoor floor plan or change the outdoor area into a beer garden. She said food service must always be available in the outdoor service area.

Ms. Conforti said she would like to combine the ordinance amending packaged beer and wine licenses and the ordinance amending outdoor liquor sales into one comprehensive item to be presented to the Village Council on May 13, 2003. She said she wanted to get the Commission recommendation on the Class "O" license prior to this year's liquor license renewals.

Ms. Gerloff asked if Ms. Conforti would discuss the aspects of each ordinance when presenting the combined ordinance to the Village Council. Ms. Conforti replied yes. Ms.



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ordinance states that they are not permitted, without any mention of where they are located or visibility from the street.

Ms. Conforti said staff considers a patio umbrella with a logo as a form of exterior window sign or something that can be seen from the street. Thus, if an establishment has patio umbrellas with alcohol logos that are not visible from the street, she felt that the establishment was only promoting alcohol within their establishment as with an interior sign. Ms. Petrarca said the ordinance states "...interior or exterior windows signs, including patio umbrellas..." Outdoor liquor product identification signs are not permitted; however, licensees are permitted to promote liquor specials, i.e. margaritas half-price all day, as long as it is not a "happy hour" special.

Ms. Gerloff expressed concern that staff did not notice that the server involved in the Giordano's violation was under 21. However, she and Ms. Perez confirmed that individuals under 21 may bring alcohol to the table once the initial order has been taken and the individual has been carded. Mr. Kubes said the licensee must be notified that servers under the age of 21 cannot take the initial alcohol order and if this has been his practice, he must be notified that it must stop immediately. Chairman Mochel and Mr. Sandack said they felt the licensee was now aware of the requirement. Ms. Conforti and Ms. Petrarca pointed out that Mr. Alexakos was the one who pointed out that the server was under 21.

Ms. Gerloff expressed concern that licensees were not notifying Ms. Conforti when they changed liquor managers. Ms. Gerloff wondered how the Village could monitor the situation to be sure that new liquor managers met with Ms. Conforti as required. Ms. Conforti said she includes a reminder in the Liquor News and in the liquor license renewal packets. In addition, Ms. Conforti said she periodically sends letters to the individual she has listed as the liquor manager for an establishment. However, some establishments change liquor managers often and it is difficult to track.

Ms. Conforti said there is an outdoor seating application for Olive Garden on the agenda for the next meeting.

**VIII. COMMENTS FROM THE PUBLIC**

There were none.

**IX. ADJOURNMENT**

**MR. SANDAK MOVED TO ADJOURN THE MEETING. MR. KUBES SECONDED.**

The meeting was adjourned by acclamation at 8:30 p.m.