

**Royal Oak Police
Criminal Investigation
Division**

MEMORANDUM

To: Mr. Don Johnson, City Manager

From: Gordon Young, Lieutenant

CC: Christopher M. Jahnke, Police Chief *CMJ*

Date: 5/10/2010

Re: EYE OF THE TIGER ENTERPRISES LLC. REQUESTS TO TRANSFER OWNERSHIP OF ESCROWED 2009 CLASS C LICENSED BUSINESS WITH, OUTDOOR SERVICE (1 AREA) & (2) BARS, LOCATED AT 215 W. FIFTH, ROYAL OAK, MI 48067, OAKLAND COUNTY, FROM HAWKWATER, LTD.; REQUESTS NEW DANCE PERMIT, NEW OFFICIAL PERMIT (FOOD), AND NEW SDM LICENSE TO BE HELD IN CONJUNCTION (STEP 2)

On May 7, 2010, I received an amended Plan of Operation from Kelly Allen. Ms. Allen describes in her attached letter dated, May 7, 2010, the changes being made. Due to the multitude of these changes, Ms. Allen supplied the previous Plan of Operation that has been redlined as well as a clean updated copy.

Additionally, Ms. Allen supplied an updated menu featuring American and Middle Eastern food offered by Chefs Kipp and Susan Bourdeau.

Upon reviewing the updated Plan of Operation, the police department continues to recommend that the transfer of the Class C license/new SDM without the new dance permit.

However, the police department would recommend against this request if the proposed staffing reductions go into effect.

This application is subject to the approval or denial of the Royal Oak City Commission.

Respectfully,

A handwritten signature in black ink, appearing to read "Gordon Young". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Lt. Gordon Young
Criminal Investigation Division
Royal Oak Police Department

cc: **City Clerk**
 City Attorney
 Building Department
 Fire Marshal
 Michigan Liquor Control Commission
 File



LAW OFFICES

ADKISON, NEED & ALLEN

PROFESSIONAL LIMITED LIABILITY COMPANY

PHILLIP G. ADKISON
KELLY A. ALLEN
LISA J. HAMAMEH
BARRY D. MALONE
LINDA S. MAYER
GREGORY K. NEED
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Bloomfield Hills, Michigan 48304
Telephone (248) 540-7400
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OF COUNSEL:
KEVIN M. CHUDLER
COLEMAN E. KLEIN

May 7, 2010

VIA ELECTRONIC MAIL

Lt. Gordon Young
Royal Oak Police Department
221 E. Third Street
Royal Oak, Michigan 48067

**Re: Eye of the Tiger Enterprises, LLC,
Supplemental Information**

Dear Lt. Young:

The purpose of this letter is to address the concerns the LCC Committee voiced at the last LCC Committee Meeting.

Enclosed for your review is an Amended Plan of Operation. The Plan of Operation has been redlined so that you can easily identify the changes. A "clean" copy is enclosed as well.

We also enclose a slightly revised menu and the background information about the Kitchen Manager, who is new since we last spoke. The Kitchen Manager's name is, Kipp Bourdeau.

I will outline the changes in the Plan of Operation, but first I will address the LCC Committee's concerns as discussed at the LCC Committee Meeting on April 27, 2010.

I want to clarify the use of the term "full service restaurant". We are concerned that the LCC Committee felt that the Applicant was somehow misrepresenting its concept and format. The term "full service restaurant" simply means that food will be prepared on site, and available to all patrons from open to close. This does not infer or depict a specific type of menu or style of dining. In fact, in the Plan of Operation and in the Police Department's report, the concept was

described as a “casual, pub atmosphere with an emphasis on sports, event viewing and interactive games.”

The Applicant never meant to represent otherwise. As noted by the LCC Committee, the kitchen is not very large, although it is being expanded from the previous size utilized by Fifth Avenue Billiards. The menu that was provided at the LCC Committee Meeting was precisely as represented in the Plan of Operation, “a fresh, comfort menu including American and Middle Eastern favorites.”

There were also questions about the seating vs. the occupancy capacities. As stated in the Plan of Operation, the seating capacity will total 114 on the first floor, 136 on the second floor and 58 in the seasonal outdoor café. This is far more seating for dining and socializing than the previous use. The “seating capacity” is different than the “occupancy capacity” for an establishment. The Applicant has designed a comfortable, spacious floor plan which enables the multiple uses of the establishment, including: dining, event viewing, pool, interactive games, dancing, and entertainment. Based upon the architectural drawing, and the Architect’s calculation under the applicable codes, the establishment’s occupancy should be around 500 patrons.

The LCC Committee also had questions about how the Applicant arrived at the estimate of the food to alcohol ratio. The Plan of Operation states that the “anticipated” food to alcohol ratio will be 65% food and 35% alcohol. While there is no way to determine with certainty what the actual ratio will be, the Applicant as based this assumption on the fact that it will be serving appetizers, dinner, a late night menu and banquets.

The enclosed Plan of Operation, revised as of May 7, 2010, sets forth the following changes:

1. **Hours of Operation:** The kitchen hours have been expanded to serve food until 1:00 am, and the late night menu will be available until closing.
2. **Format:** The format has been clarified to state that the establishment will be a restaurant, bar, pub and entertainment venue. Also, the difference between seating and occupancy is described. Further, the Applicant has designated the dining area on the First Floor to be utilized for dining only, until 9:00pm, and that reservations will be taken. Banquet type events will take place on the Second Floor and the freight elevator will be used to transport food. Finally, the Format Section indicates that the wait staff will be appropriately uniformed.
3. **Code Compliance:** The fire pit in the outdoor service area has been added to this provision.
4. **Dance Permit:** Language has been added to the Dance Permit provision to indicate that the Applicant will not allow erotic dancing by its patrons and will never have a “dance pole” on the premises.

Lt. Gordon Young
May 7, 2010
Page 3 of 3

We look forward to appearing before the LCC Committee on May 12th and appreciate your hard work on this and all liquor licensing matters for the City. Please call me if you have any questions.

Very truly yours,
ADKISON, NEED & ALLEN, P.L.L.C.



Kelly A. Allen

/rlg

Enclosures

cc: Tony Yezbick

PROPOSED
5th
PLAN OF OPERATION
As of ~~March 26, 2010~~ May 7, 2010

Business Name: Eye of the Tiger Enterprises, LLC
Doing Business as: 5th Avenue
Address: 215 W Fifth
ROYAL OAK, MI 48067
Phone To be determined
Fax To be determined

PREAMBLE: We have received a copy of 2001-6, the City of Royal Oak ordinance regulating liquor licenses. Eye of the Tiger Enterprises, LLC is requesting to transfer ownership of a Class C liquor license from Hawkwater, Ltd, operating at 215 W Fifth, Royal Oak. The following Plan of Operation is developed in keeping with the spirit and intent of the City's Ordinance. Eye of the Tiger Enterprises, LLC will do business as 5th Avenue ("5th").

HOURS OF OPERATION: Hours of operation for the business will be 7 days a week Monday through Friday from 4:00 p.m. - 2:00 a.m., and Saturday and Sunday from 12:00 pm to 2:00 am. Last call will be 30 minutes before closing and last service 20 minutes before closing.

The full kitchen will be open until 1:00 p.m., the late night menu ~~may~~will be served from 1:00 a.m. to close.

FORMAT: 5th is owned and operated by Eye of the Tiger Enterprises, LLC. 5th will operate as a ~~full-service restaurant~~ restaurant/bar/entertainment venue occupying approximately 12,000 square feet (gross) located on two floors. The first floor will be a casual, pub style restaurant atmosphere with an emphasis on sports, event viewing and interactive games. The second floor will feature an entertainment area offering live entertainment and DJ's. The first floor will have a central position bar, created for better spacing and improved flow patterns. Both floors will provide a fresh comfort menu including American and Middle Eastern favorites.

The Second Level will also be used for banquet type events. The kitchen of the First Level will be utilized. There is an elevator for efficient service and transport of food.

The Dining Area on the first floor, as depicted on the attached floor plan, will be designated for dining patrons only until 9:00 p.m. on a nightly basis. This area will have appropriate signage and reservations can be taken.

The overall indoor seating ~~capacity~~ layout for 5th will be 250 patrons, which includes the following:

First Floor

Bar: 20
Dining: 94
Total: 114

Second Floor

Bar: 30
Lounge: 80
Total: 136

There will also be outdoor seating with seating for 58 patrons which includes:

Seasonal Outdoor Seating

Dining: 36
Lounge: 22
Total: 58

The final ~~occupancy capacity~~ is subject to the approval of the Royal Oak Police Department. Based upon architectural drawings, the capacity should be approximately 500 patrons, per the applicable State law codes.

We anticipate the food sales/alcohol sales ratio will be approximately 65% food and 35% alcoholic beverages.

The wait staff at 5th will be uniformed appropriately in casual attire, ie: black pants and white shirts.

CODE COMPLIANCE: The premises will comply and will continue to comply with all applicable health, safety, building, sanitation, electrical, plumbing, and fire codes as well as zoning requirements.

There will be Outdoor Service on private property which is included in the lease of the property. The Outdoor Service Area will operate in accordance with and consistent with all City policies, practices, and procedures regulating outdoor service, including, but not limited to:

- a. The Outdoor Service Area will not be permanently enclosed;
- b. The fence and/or other barricades or rail surrounding the Outdoor Service Area should be anchored in accordance with the Uniform Engineering Anchoring System as promulgated by the Engineering Department of the City of Royal Oak;
- c. The manner in which the Outdoor Service Area is enclosed shall be subject to prior approval and inspection by the Police and Engineering Department;
- d. The use of alcohol will be allowed in accordance with the rules of the Michigan Liquor Control Commission and the City's Ordinances from April 15th to October 15th;
- e. The Outdoor Service Area will be clean free of debris of trash. The Area shall be cleaned at the close of each business day; and,
- f. 5th will pay fees in accordance with the City's Sidewalk Café License Agreement application; and.

- g. The Outdoor Service Area will feature an enclosed "fire pit" which will comply with all applicable fire codes.

PLAN OF OPERATION: It is acknowledged that under ordinance 2001-06 section 4A, the business shall be operated in accordance with this approved plan of operation. Changing the operation of the business in any manner inconsistent with the approved plan of operation is a violation of the ordinance and the rules of the Liquor Control Commission. Any change to the plan of operation must be approved by the City Commission prior to it being placed into effect on the business premises.

DANCE PERMIT: 5th will have a two 10' x 10' dance floors, one located on the first floor and one on the second floor. The dance permit will be used in conjunction with a "Dance Permit Agreement" executed between 5th and the City. The Dance Permit will be used in strict compliance with the Michigan Liquor Control Commission which prohibits dancing by employees. 5th will not, at any time, allow erotic dancing by its patrons, and there will never be "dance poles" on the premises.

ENTERTAINMENT: 5th will emphasize live music and will also have DJ's and dancing. 5th may have Entertainment with promotions and contests. Entertainment will be provided on the second floor only.

SECURITY: Security for the customer, building, and community are the first priorities for 5th. 5th will undertake appropriate measures to maintain, secure, and supervise our customers and premises.

5th will have a very defined security plan responsive to the type of event taking place on a given night. Our security staff will be plainly indentified as "Hosts" and will be precisely positioned to ensure maximum visibility and ability to respond. Our security staff will be professional and well trained. If possible, we will seek to employ former Royal Oak Law Enforcement Officers familiar with Royal Oak's laws and ordinances.

PARKING: Parking will be on the public streets and the various public parking structures. Valet Parking will be offered on weekends and during special events.

ALCOHOL MANAGEMENT: 5th will strictly obey all rules, regulations, and ordinances established by the City of Royal Oak and the State of Michigan Liquor Control Commission. There will be neither service to nor consumption of alcoholic beverages to minors at any time. The establishment fully participates in the TIPS/TAM training program and will continue such participation in that program or a similarly recognized program approved by the Royal Oak Police Chief. TIPS/TAM certification shall be provided to the Chief of Police within one hundred twenty (120) days of date of hire.

In addition, the following policies shall be enforced at 5th:

- No alcoholic beverages are allowed on the premises other than what is dispensed by the establishment.
- All staff will pay attention and stay alert to observable clues displayed by an intoxicated individual such as: (a) impaired reflexes, (b) impaired coordination, (c) reduced judgment and inhibitions, (d) impaired vision, or physical behavior.

*Proposed 5th Avenue Plan of Operation
As of May 7, 2010*

- All staff will be alert to potential problems at their respective areas at the facility.
- Be knowledgeable as to when to request assistance from additional facility staff.
- Patrons who appear to be under thirty-five years of age or younger will be asked to show proper valid identification. Signs will be posted at serving locations. Patrons must produce proper identification.
- All patrons under 21 years of age - service will be refused.
- Check 'State Seal' and other markings. Check for damage or alterations to identification card.
- Do not return falsified identification cards. Call management immediately.
- If a patron shows signs of intoxication, then refuse service, politely explain policy, suggest non-alcoholic purchase, and call for management immediately.
- Remind customers of 5th of the free cab ride policy. This policy states: if any customer, for any reason feels they have had too much to drink, then 5th will pay to provide the customer with a free ride home--no questions asked.
- If a patron is purchasing on behalf of someone else who appears less than 35 years old, then request to see identification of recipient or contact supervisory personnel who will seek patron(s) out. Refuse service to minors. Inform all parties involved that policy allows for ejection from premises, and notification to police department of illegal activity.
- Alcohol dispensing may be restricted to one of the following practices, or any combination thereof:
 - No sales to intoxicated persons
 - No sales without proper identification
 - Limited alcoholic choices if necessary
 - When in doubt, do not serve - call supervisor
- Observe all patrons leaving the property. No alcoholic beverages are allowed to leave the facility or property.
- Approach any patron appearing to be impaired and leaving the property. Determine if they are driving, and if so, attempt to persuade them not to drive and request a non-impaired companion to drive. If unable, offer a FREE cab ride directly home.
- Supervisory and management personnel will complete documentation of any alcoholic related incidents at end of event. Information will be disseminated accordingly, and forwarded to the Royal Oak Police Department.
- We shall provide free and/or at reduced prices non-alcoholic beverages to all designated drivers.

REFUSE: 5th will provide trash receptacles on its premises. Each time these receptacles are full, staff will take the refuse to the dumpster located on the property. 5th will not have trash or refuse on the streets, the sidewalks or in the surrounding parking lots at any time. 5th will have trash picked up twice a week. 5th staff will maintain the surrounding premises on a daily basis, taking care to pick up our debris as well as that of our neighbors and guests.

*Proposed 5th Avenue Plan of Operation
As of May 7, 2010*

GENERAL: Every effort will be made to maintain positive relationships with adjacent and nearby businesses and residences, and cooperate with all city departments. Every effort will be made to address and resolve any problems that may arise.

EMERGENCY:

In case of emergency, contact the following individuals:

Martin L. Coats = (248) 770-3451

| Daniel M. Yezbick = ~~(248) 645-2200~~ (248) 568-8554

Anthony A. Yezbick = (586) 850-2845

| **5th Avenue**

BY: _____

DATE: _____

**PROPOSED
5th Avenue
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As of May 7, 2010**

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***Proposed 5th Avenue Plan of Operation
As of May 7, 2010***

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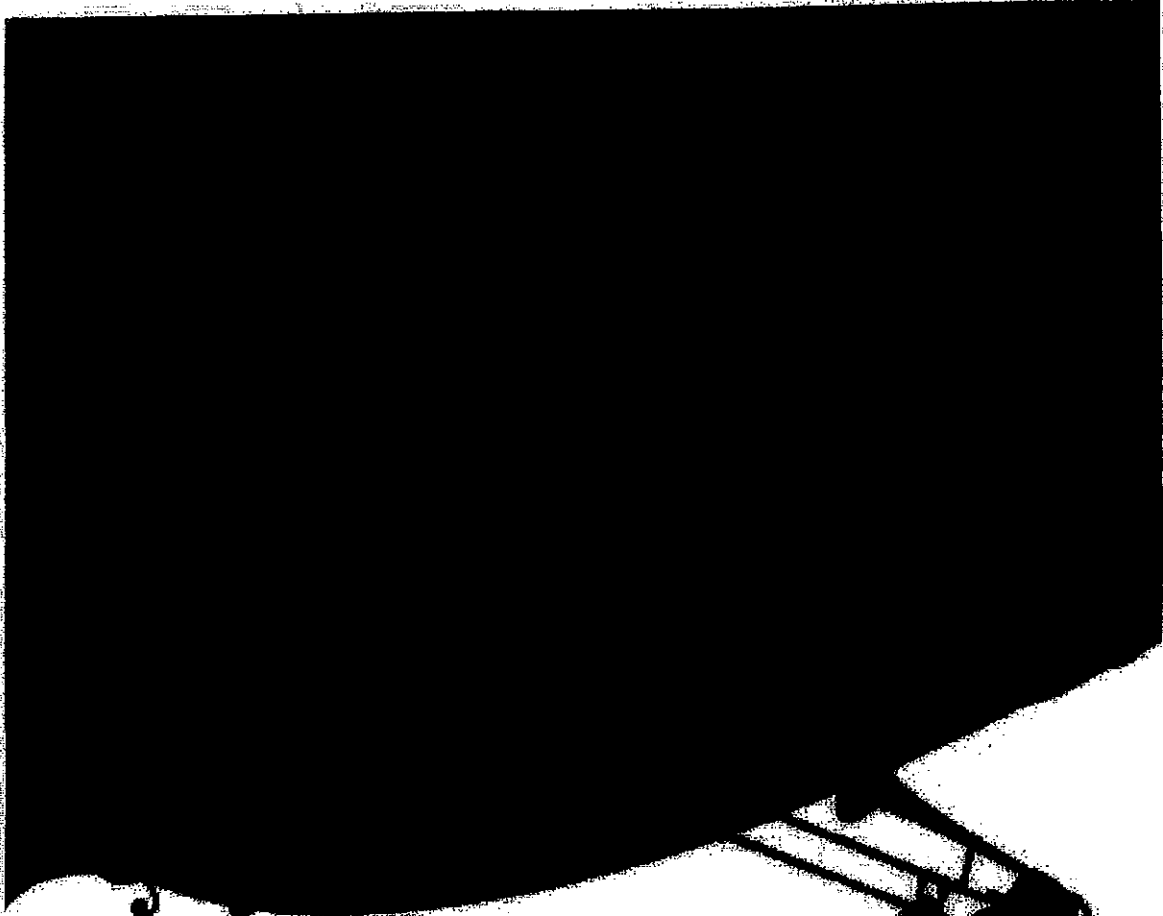
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5th Avenue

BY: _____

DATE: _____



**Fifth
Avenue**



APPETIZERS

Bonzai Breadsticks

with zesty marinara for dipping
1/2 doz \$4.99 1 doz \$6.99

* Fifth Avenue Sliders

mini Angus burgers served on sweet Sister Shubert's rolls
with grilled onions and American cheese \$7.99

Naughty Nachos

corn tortillas topped with five cheeses, sweet onions,
tomatoes, jalapeños, lettuce and sour cream \$6.99
add Philly Steak \$2.95 add grilled chicken \$2.95

* Chicken Quesadilla

with grilled chicken, five cheeses, tomatoes, jalapeños,
lettuce and sour cream \$8.99

Love My Body Basket

Crisp celery, carrot sticks, cucumbers, tomato wedges and
romaine hearts with cucumber wasabi dipping sauce \$6.

French Onion Soup

Baked with sourdough croutons and five cheeses \$4.99

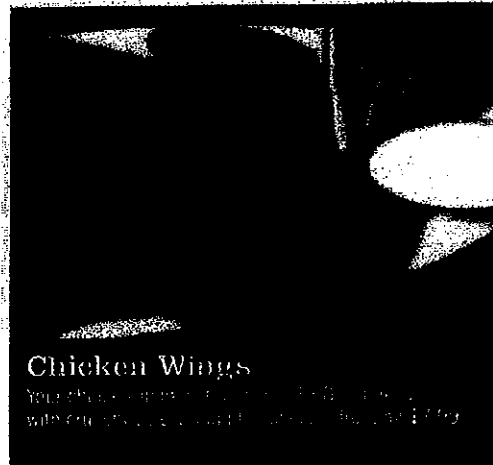
SALADS

Fifth Avenue Caesar

Hearts of romaine with homemade croutons, tomato
wedges, parmesan cheese and Caesar dressing \$5.99
add grilled chicken \$2.95

Leave It To The Chef Salad

Crisp greens, julienned carrots, poached chicken,
tomato, cucumber, croutons and Swiss cheese \$8.99



Chicken Wings

Yup, they're wings. Not just any wings, but wings
with crunchy, spicy sauce. \$12.99

* Buffalo Style Shrimp

Crispy fried shrimp drizzled with hot sauce and served with
crunchy celery and blue cheese dressing \$12.99

House Salad

Crisp greens, cucumber, tomato, shaved onion and croutons
\$3.99

Queso Salad

Crisp greens, tomato, shaved onion and Philly Cheese Steak
over a cheese quesadilla \$8.99



SANDWICHES

Served with your choice of chips, fries or cole slaw

Ultimate Corned Beef

Shaved Eastern Market corned beef piled high on Herman's Jewish rye with Swiss and Russian dressing \$8.99

* Philly Cheese Steak

with grilled onions, green peppers and five cheeses. Served on sourdough hogle \$7.99

Chicago Style Hot Dog

Jumbo Dearborn frank served on sourdough hogle, topped with mustard, onions, sweet relish, jalapeno, tomato and a pickle wedge \$4.99

Chicken Club

Grilled chicken breast with lettuce, tomato, smoked bacon and Ranch dressing on sesame bun \$6.99

Ham and Cheese

Shaved ham piled high on sesame bun with crisp lettuce, tomato, sweet pickle and honey mustard dressing \$6.99

Tuscan Chicken

Grilled chicken breast with lettuce, tomato, smoked bacon and Ranch dressing on sesame bun \$6.99

Patty Melt

Angus burger topped with caramelized onions and Swiss on grilled Jewish rye \$6.99

BURGERS

Served with your choice of chips, fries or cole slaw



Build Your Own Burger

Start with our Angus beef patty and choose from lettuce, tomato and pickles, or cheddar, Swiss, Russian dressing, BBQ sauce, American cheese, jalapeno, onion, pickles, or any combination of these toppings. \$6.99

Bacon and Swiss

Smoked bacon and melted Swiss over our Angus beef burger \$6.99

Mountaineer Burger

Shaved ham, mushrooms, American cheese, onions and BBQ Sauce \$7.99

* Fifth Avenue's "Dare You To Finish It" Burger

1 1/2 pounds of Angus beef topped with Swiss, American and Mozzarella cheeses. With shredded lettuce, tomato and pickle \$18.99

Mushroom and Swiss

Sauteed mushrooms and melted Swiss over our Angus beef burger \$6.99

Cheese Please

Topped with American, cheddar, Swiss and parmesan \$6.99

"O" Burger

Topped with caramelized onions and shaved onions \$6.99

Pizza Burger

Topped with five cheese blend, pepperoni and marinara \$6.99

BIG NIGHT OUT

Includes house salad and choice of baked potato or seasoned fries

Lamb Lollipops

Six Australian lamb chops pan seared with Greektown spices, served with mint sauce \$18.99

* Roasted Half Duckling

Served with crispy skin, brushed with herb butter \$21.99

Baked Cheese Lasagne

Fresh pasta rolled with ricotta and parmesan cheese, topped with zesty marinara and a blend of five cheeses. Served with garlic toast \$12.99

* Baked Tilapia

Topped with herb citrus butter and drizzled with creamy cucumber sauce \$16.99

Fifth Avenue Mac-N-Cheese

Penne pasta baked with pepperjack and parmesan cheeses with buttered crumb topping \$11.99

Prime Rib

10 oz cut served with horseradish cream and au jus \$16.99

PIZZA

With 2 toppings of choice

Round (8 slices) \$10.00 Square (6 slices) \$8.00

Additional toppings \$1.50

Mushrooms, onions, green peppers, jalapeno peppers, olives, ham, bacon, Italian sausage, grilled chicken, tomatoes, pepperoni, extra cheese

Check out our round specialty pizzas below

BBQ Chicken

Grilled chicken, caramelized onions, BBQ sauce and five cheese blend \$11

The Philadelphia

Philly cheese steak, horseradish cream, green peppers, caramelized onions and five cheese blend \$11

Cheese Please

Zesty tomato sauce, cheese, cheese and more cheese \$11.

* Bacon Double Cheeseburger

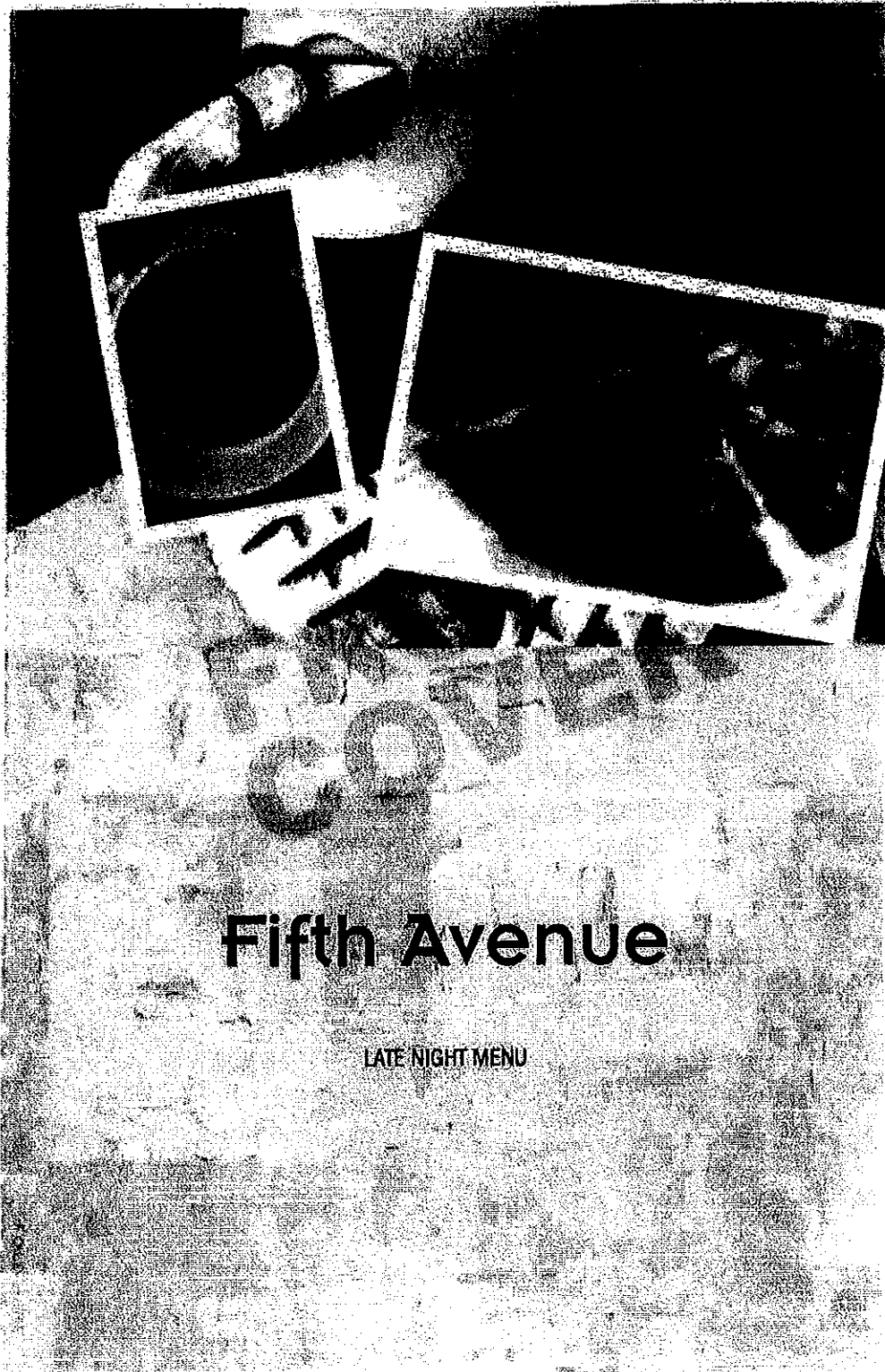
Zesty tomato, smoked bacon, ground beef, yellow mustard drizzle, pickles, cheddar and five cheese blend \$11.

Nice to Meet You

Zesty tomato sauce, pepperoni, ham, Italian sausage and five cheese blend \$11.

Polynesian

BBQ sauce, ham, sliced pineapple and five cheese blend \$11.



Fifth Avenue

LATE NIGHT MENU



**Bonzai Bread
Sticks**

with zesty marinara for
dipping

1/2 doz \$4.99

1 doz \$6.99

LIGHT RARE

House Salad

Crisp greens, cucumber, tomato, shaved onion and croutons \$3.99

Love My Body Basket

Crisp celery, carrot sticks, cucumbers, tomato wedges and romaine hearts with
cucumber wasabi dipping sauce \$6.99

French Onion Soup

Baked with sourdough croutons and five cheeses \$4.99

SANDWICHES AND PIZZA

Chicago Hot Dog

Jumbo Dearborn frank served on sourdough hogle, topped with mustard, onions, sweet relish, jalapeno, tomato and a pickle wedge \$4.99

Cheese Please Pizza

Zesty tomato sauce, cheese, cheese, and more cheese
slice \$1.50 whole pie \$11.00

Pepperoni Pizza

Zesty tomato sauce, five cheese blend and thick cut pepperoni
slice \$1.50 whole pie \$11.00

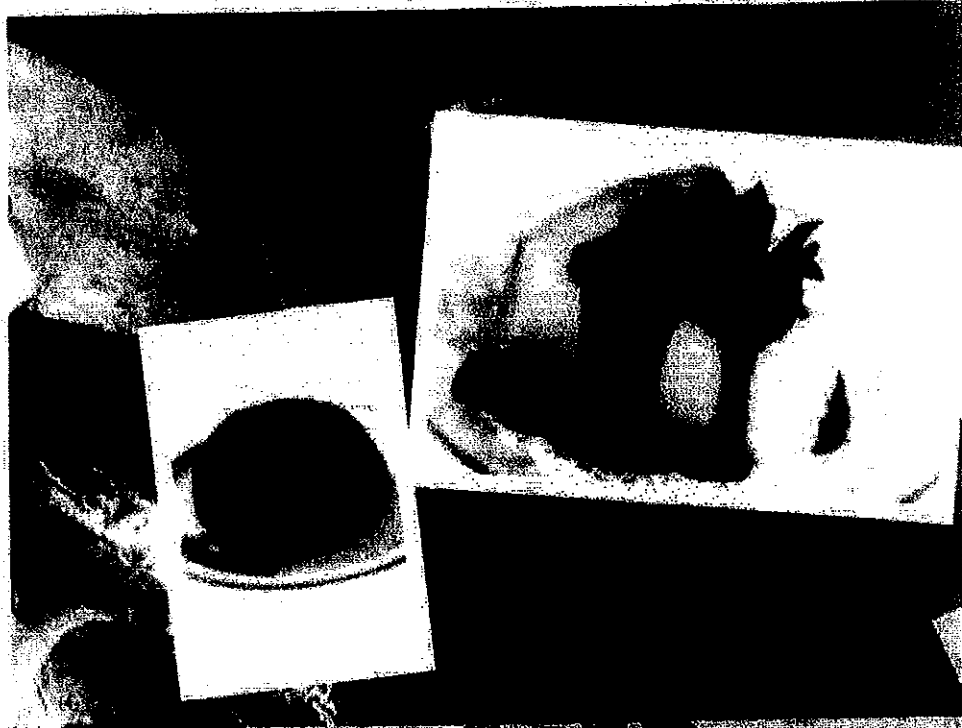
Ham and Cheese

Shaved ham piled high on sesame bun with crisp lettuce, tomato, sweet pickle and honey mustard dressing \$8.99



Ultimate Corned Beef

Shaved Eastern Market corned beef piled high on Herman's Jewish Rye with swiss and Russian dressing \$8.99



DESSERT

Chocolate Love Cake

Molton flourless chocolate cake with an oozy center \$6.

NY Style Cheesecake

Rich and creamy cheesecake with raspberry sauce \$5.

Apple Pie

Sweet apples baked in a flaky crust \$5.

Freshly Baked Cookies

Chocolate Chip cookies straight out of the oven \$6.

Comment or State Health Warning

5th BANQUET M E N U

* All prices per person

COCKTAIL BUFFET11

INCLUDES:

Assorted Vegetable Tray
with Ranch

Assorted Meat and Cheese Tray

Warm Hard Rolls and Butter

CHOOSE TWO OF THE FOLLOWING:

Chicken Wings
with Ranch or BBQ Sauce

Meatballs in BBQ Sauce

Chips and Salsa

Chicken Fingers
with Ranch or BBQ Sauce

APPETIZERS

Vegetable Tray50
With Ranch dressing.

Chips and Salsa25

Buffalo Wings (100 pieces)75
Regular or Hot with Ranch

Chicken Fingers (100 pieces)50
With Ranch or BBQ Sauce

Assorted Meat and Cheese Tray75

Meatballs in BBQ Sauce50

DINNER BUFFET.....14

INCLUDES:

Caesar Salad

House Salad

Choice of Vegetable

Warm Hard Rolls and Butter

CHOOSE ONE OF THE FOLLOWING:

Garlic Mashed Potatoes

Potatoes Parmesan

Baked Potato

Rice Pilaf

ENTREES - CHOOSE TWO OF THE FOLLOWING:

Chicken Stir Fry with White Rice

Baked Rigatoni with Italian Sausage

Fried Chicken

8 oz. Sirloin

Roasted Turkey Breast with Gravy

Grilled Balsamic Chicken Marinara and Mozzarella Cheese

SIT DOWN DINNER.....18

INCLUDES:

Caesar Salad or Dinner Salad

Fresh Vegetable

Warm Hard Rolls and Butter

CHOOSE ONE OF THE FOLLOWING:

Garlic Mashed Potatoes

Potatoes Parmesan

Baked Potato

Rice Pilaf

ENTREES - CHOOSE TWO OF THE FOLLOWING:

Chicken Stir Fry with White Rice

Baked Rigatoni with Italian Sausage

Fried Chicken

8 oz. Sirloin

Roasted Turkey Breast with Gravy

Grilled Balsamic Chicken Marinara and Mozzarella Cheese



Bluewater Bistro

**3315 Auburn Rd
Auburn Hills, MI 48326
(248) 852-3410
bluewater-bistro.com**

Thank you for working with Kipp Daniels, Inc, dba Bluewater Bistro for your business needs. We are a full service restaurant, operating for 10 years, with a capacity of 235 offering an extensive menu for dining or banquets. We also operate a full service catering company capable of organizing and executing any size event.

Our company is managed by husband and wife team Kipp and Susan Bourdeau. With over forty years combined experience, any of your business needs will be exceeded. Whether your event includes the use of our facility or a catered event off site, let us make it a huge success.

Kipp Bourdeau is a graduate of The Culinary Institute of America in Hyde Park, NY. His accomplishments include executive chef at Ocean Forest, private club of the five star, five diamond Cloister Hotel in Sea Island, GA. He has done catering and private parties for many celebrities, including President Carter and President Bush.

Susan Bourdeau is a graduate of George Mason University in Virginia. Her accomplishments include corporate trainer for The Ritz Carlton Hotel Company. She assisted the opening of many properties, including Kapalua, HI. Susan has personally handled visits of many celebrities and dignitaries, ensuring impeccable experiences.

Together Kipp and Susan Bourdeau have more to offer than any organization of its kind in the Detroit Metro area. We look forward to working with Eye Of The Tiger Enterprises and bringing great food to the new Fifth Avenue concept.

Sincerely,

**Kipp and Susan Bourdeau
Bluewater Bistro**

**Royal Oak Police
Criminal Investigation
Division**

MEMORANDUM

To: Mr. Don Johnson, City Manager

From: Gordon Young, Lieutenant

CC: Christopher M. Jahnke, Police Chief *clear*

Date: 4/23/2010

Re: EYE OF THE TIGER ENTERPRISES LLC. REQUESTS TO TRANSFER OWNERSHIP OF ESCROWED 2009 CLASS C LICENSED BUSINESS WITH, OUTDOOR SERVICE (1 AREA) & (2) BARS, LOCATED AT 215 W. FIFTH, ROYAL OAK, MI 48067, OAKLAND COUNTY, FROM HAWKWATER, LTD.; REQUESTS NEW DANCE PERMIT, NEW OFFICIAL PERMIT (FOOD), AND NEW SDM LICENSE TO BE HELD IN CONJUNCTION (STEP 2)

The Royal Oak Police Department has received a request from the Michigan Liquor Control Commission (MLCC) for an investigation and recommendation to transfer ownership of an escrowed 2009 Class C license, located at 215 W. Fifth, Royal Oak, MI 48067, Oakland County, from Hawkwater Ltd.; requests new dance permit, official permit (food) and new SDM license to be held in conjunction (Step 2).

The applicants, Daniel Yezbick and Martin Coats, came to our department on March 25, 2010, for an initial interview. Arrest and driving clearances have been completed. Fingerprints were required by the Michigan Liquor Control Commission for Daniel Yezbick, but not Martin Coats. Mr. Yezbick supplied those prints.

If this transfer is approved, the applicants intend to open "5th" restaurant/pub. This establishment will be located in the building formerly known as Fifth Avenue Billiards, located at 215 W. Fifth in the Central Business District. The applicants own Eye of the Tiger, LLC, and are both 50% shareholders.

The applicants intend to operate a full-service restaurant on both levels. The menu will feature American and Middle Eastern cuisine. Total square footage of the entire establishment will be approximately 12,000 square feet on two floors. The combined interior seating capacity will be 250 patrons (114 on the lower level and 136 on the second level), which includes 20 bar seats on the first floor and 30 bar seats on the second floor. There will be outdoor seating on the east side of the building, which will

have seating for 58 patrons (36 dining and 22 lounge). This area will also feature an outdoor fire pit surrounded by tables and couches.

The previous owners of 5th Avenue Billiards, Hawkwater, Ltd., had occupancy limits of 278 persons on the first floor and 278 persons on the second floor. Their outdoor seating area was for 30 persons. The applicant will decrease the occupancy by more than 50%.

The final capacity shall be set by the police department.

The hours of operation will be Monday through Friday from 4:00 p.m. to 2:00 a.m. and Saturday and Sunday from 12:00 p.m. to 2:00 a.m. Last call will be 30 minutes before closing and last service 20 minutes before closing. Food to alcohol ratio is expected to be 65% food and 35% alcohol.

The applicants intend to create a pub atmosphere on the lower level, with an emphasis on sports, events viewing and interactive gaming. The gaming will consist of pool tables, dart machines and other popular arcade style entertainment.

The upper level will emphasize the live entertainment, live bands and DJ's, three to four nights a week. A full menu will also be offered on the second level. The applicants intend on exploring the practicality of a sushi bar for the lounge area on the second level. They will also offer a separate banquet menu for all types of group events.

The applicants are requesting to have two (2) 10' x 10' dance floors, one located on the lower level and one on the upper level. The applicant would be willing to sign a dance agreement similar to the one Ronin-Sushi-Royal Oak, LLC and Mr. B Bar Pub Inc. signed. The applicant stated that entertainment will consist of bands/DJ on the second level and recorded top 40 themed music on the first level. The applicants will explore having entertainment with promotions and contests on the second floor.

The applicants will be purchasing the Class C license, fixtures and equipment for \$275,000; and they will conduct minor renovations at a cost of approximately \$40,000 and will purchase \$10,000 in inventory. Mr. Coats will contribute \$30,000 from personal savings and the remainder will be financed from loans from friends. Those friends are John Damico, Tony Malouf, Eliana Malouf, Marwan Mansour, Nancy Mansour and Robert Kato. Marwan Mansour will be the kitchen manager. The remaining investors will not have day-to-day management responsibilities. The applicants will lease the building from Goodman Investments for \$16,333 per month.

MLCC investigator Paul Rossiter conducted an investigation on the above-mentioned loans. On April 22, 2010, Investigator Rossiter informed me that his investigation has been completed and he approved the funding sources. Additionally, the investors do not have ties with other MLCC licenses.

Currently, Mr. Coats has financial interest in one other MLCC business. The business is called Tonic Night Club, located in Pontiac, Michigan. Mr. Coats is 33.3% shareholder and has owned this business since October 12, 2001. I checked with MLCC and discovered that Tonic Night Club has never received an MLCC violation. Mr. Coats is currently the general manager. If "5th" is approved, Mr. Coats plans to hire a general manager for Tonic and will become the general manager for "5th."

On March 27, 2010, I visited Tonic Night Club between the hours of 2330-0120 hours. Upon my arrival, and throughout the night, I observed their female employees erotically dancing next to a "stripper's pole" near the first floor bar and on a stage next to the dance floor. Additionally, the female employees were dressed in low scantily cut shorts and tight sleeveless tops. There was no dining. Currently, there are no businesses in Royal Oak that would compare to Tonic's operations. Royal Oak has not had this type of establishment in our Central Business District for some time. Tonic's business format caters to a type of crowd that will inevitably cause problems for the police.

Mr. Coats has assured me the "5th" will not be operated in the same manner as Tonic Night Club. Mr. Coats will operate this business, if approved, similar to 5th Avenue Billiards, and the employees at "5th" will be respectfully dressed. Additionally, "5th" employees will not dance.

Mr. Yezbick is an attorney by trade and has never owned a liquor licensed establishment.

Arrest clearances and driving record checks were completed on both applicants.

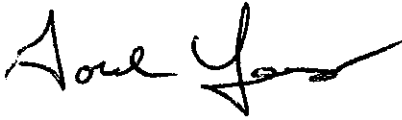
On March 30, 2010, I spoke to Sgt. Kevin Braddock, LCC Coordinator, from the Pontiac P.D. concerning Tonic Night Club. Sgt. Braddock stated that Pontiac P.D. has had no problems with Tonic Night Club. Sgt. Braddock complimented Mr. Coats on his professionalism and the way he operates his establishment.

Our findings indicate that the applicant meets the requirements of the police department. The above-mentioned license is currently being held in escrow at 215 W. Fifth St. and will stay at the same location. As such, the police department does not object to this transfer of the Class C license.

However, over the past few years the police department has seen a 23% reduction in staffing, our department is facing extraordinary budget cuts which will likely result in further staff reductions. Due to current and impending staff reductions and historical reviews of establishments with dance permits, the police department objects to the granting of a dance permit, opting instead to have the applicants apply for one-day permits throughout the year. Once the twelve (12) one-day permits have been issued, the police department will evaluate whether or not we would recommend a permanent dance permit. However, the applicants have stressed that a permanent dance permit is critical to their business and they will not be willing to go forward without it.

All necessary forms will be completed, including the Business Responsibility Agreement, Limited Power of Attorney form, and Royal Oak Police Business Information Card.

Respectfully,

A handwritten signature in black ink, appearing to read "Gordon Young". The signature is fluid and cursive, with a long horizontal stroke at the end.

Gordon Young, Lieutenant
Criminal Investigation Division
Royal Oak Police Department

cc: **City Clerk**
City Attorney
Building Department
Fire Marshal
Michigan Liquor Control Commission
File

**PROPOSED
5th
PLAN OF OPERATION
As of March 26, 2010**

Business Name: Eye of the Tiger Enterprises, LLC
Doing Business as: 5th
Address: 215 W Fifth
ROYAL OAK, MI 48067
Phone To be determined
Fax To be determined

PREAMBLE: We have received a copy of 2001-6, the City of Royal Oak ordinance regulating liquor licenses. Eye of the Tiger Enterprises, LLC is requesting to transfer ownership of a Class C liquor license from Hawkwater, Ltd, operating at 215 W Fifth, Royal Oak. The following Plan of Operation is developed in keeping with the spirit and intent of the City's Ordinance. Eye of the Tiger Enterprises, LLC will do business as 5th. ("5th")

HOURS OF OPERATION: Hours of operation for the business will be 7 days a week Monday through Friday from 4:00 p.m. - 2:00 a.m and Saturday and Sunday from 12:00 pm to 2:00 am. Last call will be 30 minutes before closing and last service 20 minutes before closing.

The full kitchen will be open until 1:00 pm, the late night menu may be served from 1:00 a.m. to close.

FORMAT: 5th is owned and operated by Eye of the Tiger Enterprises, LLC. 5th will operate as a full service restaurant occupying approximately 12,000 square feet located on two floors. The first floor will be a casual restaurant atmosphere with an emphasis on sports, event viewing and interactive games. The second floor will feature an entertainment area offering live entertainment and DJ's. The first floor will have a central position bar, created for better spacing and improved flow patterns. Both floors will provide a fresh comfort menu including American and Middle Eastern favorites.

The overall indoor seating capacity for 5th will be 250 patrons, which includes the following:

First Floor

Bar: 20
Dining 94
Total: 114

Second Floor

Bar: 30
Lounge: 80
Total: 136

There will also be outdoor seating with seating for 58 patrons which includes:

Seasonal Outdoor Seating

Dining: 36
Lounge: 22
Total: 58

The final occupancy is subject to the approval of the Royal Oak Police Department.

We anticipate the food sales/alcohol sales ratio will be approximately 65% food and 35% alcoholic beverages.

CODE COMPLIANCE: The premises will comply and will continue to comply with all applicable health, safety, building, sanitation, electrical, plumbing, and fire codes as well as zoning requirements.

There will be Outdoor Service on private property which is included in the lease of the property. The Outdoor Service Area will operate in accordance with and consistent with all City policies, practices, and procedures regulating outdoor service, including, but not limited to:

- a. The Outdoor Service Area will not be permanently enclosed;
- b. The fence and/or other barricades or rail surrounding the Outdoor Service Area should be anchored in accordance with the Uniform Engineering Anchoring System as promulgated by the Engineering Department of the City of Royal Oak;
- c. The manner in which the Outdoor Service Area is enclosed shall be subject to prior approval and inspection by the Police and Engineering Department;
- d. The use of alcohol will be allowed in accordance with the rules of the Michigan Liquor Control Commission and the City's Ordinances from April 15th to October 15th;
- e. The Outdoor Service Area will be clean free of debris of trash. The Area shall be cleaned at the close of each business day; and,
- f. 5th will pay fees in accordance with the City's Sidewalk Café License Agreement application.

PLAN OF OPERATION: It is acknowledged that under ordinance 2001-06 section 4A, the business shall be operated in accordance with this approved plan of operation. Changing the operation of the business in any manner inconsistent with the approved plan of operation is a violation of the ordinance and the rules of the Liquor Control Commission. Any change to the plan of operation must be approved by the City Commission prior to it being placed into effect on the business premises.

DANCE PERMIT: 5th will have a two 10' x 10' dance floors, one located on the first floor and one on the second floor. The dance permit will be used in conjunction with a "Dance Permit Agreement" executed between 5th and the City. The Dance Permit will be used in strict compliance with the Michigan Liquor Control Commission which prohibits dancing by employees.

ENTERTAINMENT: 5th will emphasize live music and will also have DJ's and dancing. 5th may have Entertainment with promotions and contests. Entertainment will be provided on the second floor only.

SECURITY: Security for the customer, building, and community are the first priorities for 5th. 5th will undertake appropriate measures to maintain, secure, and supervise our customers and premises.

5th will have a very defined security plan responsive to the type of event taking place on a given night. Our security staff will be plainly indentified as "Hosts" and will be precisely positioned to ensure maximum visibility and ability to respond. Our security staff will be professional and well trained. If possible, we will seek to employ former Royal Oak Law Enforcement Officers familiar with Royal Oak's laws and ordinances.

PARKING: Parking will be on the public streets and the various public parking structures. Valet Parking will be offered on weekends and during special events.

ALCOHOL MANAGEMENT: 5th will strictly obey all rules, regulations, and ordinances established by the City of Royal Oak and the State of Michigan Liquor Control Commission. There will be neither service to nor consumption of alcoholic beverages to minors at any time. The establishment fully participates in the TIPS/TAM training program and will continue such participation in that program or a similarly recognized program approved by the Royal Oak Police Chief. TIPS/TAM certification shall be provided to the Chief of Police within one hundred twenty (120) days of date of hire.

In addition, the following policies shall be enforced at 5th:

- No alcoholic beverages are allowed on the premises other than what is dispensed by the establishment.
- All staff will pay attention and stay alert to observable clues displayed by an intoxicated individual such as: (a) impaired reflexes, (b) impaired coordination, (c) reduced judgment and inhibitions, (d) impaired vision, or physical behavior.
- All staff will be alert to potential problems at their respective areas at the facility.
- Be knowledgeable as to when to request assistance from additional facility staff.
- Patrons who appear to be under thirty-five years of age or younger will be asked to show proper valid identification. Signs will be posted at serving locations. Patrons must produce proper identification.
- All patrons under 21 years of age - service will be refused.
- Check 'State Seal' and other markings. Check for damage or alterations to identification card.
- Do not return falsified identification cards. Call management immediately.
- If a patron shows signs of intoxication, then refuse service, politely explain policy, suggest non-alcoholic purchase, and call for management immediately.
- Remind customers of 5th of the free cab ride policy. This policy states: if any customer, for any reason feels they have had too much to drink, then 5th will pay to provide the customer with a free ride home--no questions asked.
- If a patron is purchasing on behalf of someone else who appears less than 35 years old, then request to see identification of recipient or contact supervisory personnel who will seek patron(s) out. Refuse service to minors. Inform all

- parties involved that policy allows for ejection from premises, and notification to police department of illegal activity.
- Alcohol dispensing may be restricted to one of the following practices, or any combination thereof:
 - No sales to intoxicated persons
 - No sales without proper identification
 - Limited alcoholic choices if necessary
 - When in doubt, do not serve - call supervisor
 - Observe all patrons leaving the property. No alcoholic beverages are allowed to leave the facility or property.
 - Approach any patron appearing to be impaired and leaving the property. Determine if they are driving, and if so, attempt to persuade them not to drive and request a non-impaired companion to drive. If unable, offer a FREE cab ride directly home.
 - Supervisory and management personnel will complete documentation of any alcoholic related incidents at end of event. Information will be disseminated accordingly, and forwarded to the Royal Oak Police Department.
 - We shall provide free and/or at reduced prices non-alcoholic beverages to all designated drivers.

REFUSE: 5th will provide trash receptacles on its premises. Each time these receptacles are full, staff will take the refuse to the dumpster located on the property. 5th will not have trash or refuse on the streets, the sidewalks or in the surrounding parking lots at any time. 5th will have trash picked up twice a week. 5th staff will maintain the surrounding premises on a daily basis, taking care to pick up our debris as well as that of our neighbors and guests.

GENERAL: Every effort will be made to maintain positive relationships with adjacent and nearby businesses and residences, and cooperate with all city departments. Every effort will be made to address and resolve any problems that may arise.

EMERGENCY:

In case of emergency, contact the following individuals:

Martin L. Coats = (248) 770-3451

Daniel M. Yezbick = (248) 645-2200

Anthony A. Yezbick = (586) 850-2845

5th

BY: _____

DATE: _____

