

COMMONWEALTH OF MASSACHUSETTS

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARINGS

Michael Gardner, Chairman
Robert C. Haas, Police Commissioner
Thomas Cahill, Captain, Fire Department

STAFF:

Elizabeth Lint, Executive Director

-- Held At --

Michael J. Lombardi Municipal Building
831 Massachusetts Avenue
Basement Conference Room
Cambridge, Massachusetts

Tuesday, June 19, 2012

6:08 p.m.

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P R O C E E D I N G S

ELIZABETH LINT: Okay. We are going to begin.

This is the License Commission General Hearing on Tuesday, June 19, 2012, at 6:11 p.m. We are in the Michael J. Lombardi Municipal Office Building, 831 Massachusetts Avenue, Basement Conference Room.

The Commissioners are Michael Gardner, Robert Haas and Captain Tom Cahill.

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ELIZABETH LINT: The first matter is the application of Milestone Resorts USA, LLC doing business as Namaste Cambridge, Braden Hanlon, Manager, has applied for a common victualer license to be exercised at 277 Western Avenue. Said license, if granted, would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises with a seating capacity of 74 (65

seats inside and 9 standing) and 15 seasonal outdoor patio seats. The hours of operation would be 10:30 a.m. to 2:00 a.m. Tuesday through Sunday. Applicant is also applying for an entertainment license to include an audiotape machine/CD playing music below, at, or above conversation level, and two TVs, video screens or film projector screens.

ATTORNEY SEAN HOPE: Good evening Mr. Chairman, members of the Commission.

For the record, my name is Attorney Sean Hope, Hope Legal Law Offices in Cambridge. I'm here tonight on behalf of Milestone, LLC, doing business as Namaste. This is Braden Hanlon and Drew Sharma. They are both involved in this restaurant. Drew is the operations manager and Braden is the manager of the LLC.

MICHAEL GARDNER: For the record, Mr. Hope, would you be so kind as to have everybody spell their last name.

BRADEN HANLON: My last name is Hanlon, H-A-N-L-O-N. My first name is Braden.

DREW SHARMA: My last name is Sharma, S-H-A-R-M-A.

MICHAEL GARDNER: Why don't you tell us a little bit about the plan.

ATTORNEY SEAN HOPE: This is an application for a CD and entertainment license to operate an Indian food restaurant. And the petitioners can tell you a little bit more about the cuisine and the concept behind it.

This location was formerly the Ebony Club and was at the corner of Western Avenue and Dodge. This was a social club that went defunct about eight years ago, and this was a vacated, first floor commercial building.

About a year ago this property went before the DBA and received a variance to bring back the commercial uses, obviously limiting the uses to certain uses, one of which was the restaurant and as well as to

create two residential units above. So right now as you see, I think it's probably close to 90 percent complete. And the applicants have signed a lease with the landlord in order to operate this restaurant.

I think in the past it had been a local community and soul food restaurant at one time. And then it also was known as the Ebony Club, that was one portion, but there was two to three different commercial uses. So now this is just going to operate as one use, one retail use on the first floor as a restaurant license.

And, additionally, we have applied for an entertainment license. And so the concept is we wanted to have background music for the restaurant, no excess entertainment. They wanted to have two projectors or flat screen TVs in there. I don't know if they are planning on showing local news or what, but this is not a sports bar, there is no alcohol,

that was part of the condition they received the variance from the church, from the neighbors, the abutters. So right now this is just going to be a CD license.

Recently we sent notifications to the abutters, as well as there was a personal letter sent by Braden; there was some concern about the hours of operation to 2:00 a.m. So after talking with the landlord and talking with the neighbors, we thought it best to reduce the hours. And so the Commission sought in its provision to amend the hours to 12:00.

So right now the days that it will be open are from Sunday, closed on Monday -- so it's Tuesday through Sunday they are open, and closed on Monday. And right now they are open from 10:30 a.m. to 2:00 a.m. and we would like to amend that to be from 10:30 a.m. to 12:00 a.m., so reducing it by two hours. We felt that it was important to make a good

impression on the neighborhood.

One of the requirements of the variance was that the rear wall facing the residents was sound-proofed. This has been done on the first and second floor, but there is still some anxiety by the rear abutter, so we decided if we amend the hours it would satisfy them and, potentially, you know, if they find that they are customers being turned away at midnight and the neighbors and abutters felt they have been good stewards with the property, then we may be back before you to see if we could amend those hours. But as of right now, we wanted to amend those hours. And that is also consistent with Basta Pasta that is up the street -- I think they may be 11:00 or 12:00 -- but 2:00 was seen as somewhat excessive so we wanted to see if we could amend that.

BRADEN HANLON: Our cuisine is Indian. It's a little bit different however.

It's an Indian fast casual. It's more like a Chipotle or Boloco.

Our concept is bowls and rolls, which is a bowl of rice covered with other ingredients which might include dal. There is different types of dal: yellow, black, and another sort of yellow dal which is a little different tasting.

On the other side of the dish you'll have chicken, lamb, or another type of dal. So you'll have multiple, different variations on top of the rice.

And then the roll is the same thing as well, it's just inside a (inaudible) bread, which can include your barata, your naan, and your chip pâté.

And Drew can definitely explain more than that, he's from India.

DREW SHARMA: The concept is basically to streamline Indian cuisine. What

we came to realize when we came to Boston is that there was a lot of mom and pop shops that had lower levels of efficiency and also hadn't really given a lot of customizable options to Indian cuisine. So we want to streamline it to make it easier for consumers to decide what they want; we wanted to provide more options, as well as make it more efficient as an operation so we can sustain higher levels of profitability, and potentially further make it a franchisable fast casual concept.

So I don't know if Braden touched on this, but it's going to open as a little bit as a food lab, where we have this as the bone structure for the food, but then experiment with the ingredients that we loved to begin with and consolidate our cuisine to match the local's taste within the area.

MICHAEL GARDNER: Let me express my ignorance but just asking you to tell us what "dal" is?

BRADEN HANLON: Dal is a lentil.
It's a -- like a --

ATTORNEY SEAN HOPE: Lentils have
some spices added to it --

BRADEN HANLON: It's a vegetable.

MICHAEL GARDNER: And did I
understand that although you have a desire to
potentially market this as a franchise in the
future, this is the first -- you are not part
of a franchise operation now?

BRADEN HANLON: No, right, we're not.

MICHAEL GARDNER: Could both of you
describe your experience in the restaurant
business in the past.

BRADEN HANLON: My family has an
extensive background in catering and cafes.
And when I met Drew at school for a business
conference -- we were both in the business
school and he is in hospitality -- and we met
and discussed franchises and we touched upon a
restaurant in particular. And our ideas

scattered along the lines of opening a restaurant, who knows when, and since then it's boiled down to a restaurant in Cambridge and possibly opening one.

MICHAEL GARDNER: So it's fair to say you've never been in charge of a restaurant before, and your family has experience in the catering business?

BRADEN HANLON: My mother's side of the family owns multiple catering businesses and has owned multiple coffee shops. And I have not managed those specific restaurants myself, however, I have managed a restaurant called the Hock Eye Bar and Grill which is in Cooperstown, New York.

MICHAEL GARDNER: For how long?

BRADEN HANLON: And I managed that for two years.

DREW SHARMA: I come from a hospitality background as well in India. We have a family business which owns about eight

to twelve restaurants depending on renovations right now, as well as three hotels. So I've grown up pretty much looking at the operations on the managerial side and managing these restaurants with my parents.

And I have officially been through two summers of training at these restaurants as a manager as well as lower level staff for experience. And other than that, just being an expertise through daily -- a lot of just task knowledge through daily observation and discussions with my parents as a consultant at a lot of points when they are making their expansion strategies. So just a young and new company that's growing in India, and I'm now here in Boston.

MICHAEL GARDNER: So who will be doing the food prep? Are either of you responsible or will you have kitchen staff?

BRADEN HANLON: We wouldn't be responsible for preparing the food other than

making sure that the checkpoints along the way are completed. However, we are bringing --

DREW SHARMA: Responsible for bringing chefs from India.

BRADEN HANLON: Right. We're bringing the chefs from India, from their restaurants in Deli, here to start off the restaurant since we have a very good base with them already; we know them well.

MICHAEL GARDNER: And we are clear here that there are conditions to the variance that prohibit alcohol as part of the establishment? So you don't have, as part of your business plan, to come back in here in three to six months and say "Now I want a beer and wine license"?

BRADEN HANLON: Right. For now there is no beer or wine or liquor in our concept.

ATTORNEY SEAN HOPE: We would have to go back to the ZBA and that public process before we come here.

But unlike Mass. Avenue and other places where you really do often need to compete with beer and wine and similar other things, but because we are further down Western Avenue and because Basta Pasta is there we try to establish that kind of marketability.

But there is a church next door, it's a densely populated area, so part of the condition that we had initially was that, so that if there ever was a change, there would be a whole separate process first and then they've done a lot of good will and other things (inaudible).

MICHAEL GARDNER: So do you anticipate customers being from the local community and essentially walking there? Or are people going to be able to drive? Is there any parking at all except for on the street?

BRADEN HANLON: There is currently no

parking on the street other than a 30 minute spot right out front, there is a commercial spot as well. Our concept is geared towards local customers, though we are all for people coming from outside of Cambridge to there.

ATTORNEY SEAN HOPE: Just to add, there is metered parking all up and down both sides of Western Avenue, but directly in front there is a small frontage, there's an adjacent bus stop, but the proximity to Central Square is where all the foot traffic will be.

MICHAEL GARDNER: How long a walk is this to Central Square?

ATTORNEY SEAN HOPE: A seven minute walk.

BRADEN HANLON: If you walk fast.

ROBERT HAAS: So if I recall, that property is kind of tight as far as adjoining buildings. Where is your trash?

MR. HANLON: Our trash is in the basement. It was part of our lease that we

have to build-out a trash room in the basement, and I can actually show you that on this form (indicating). It's a vented storage room, that's where we put all of our trash, and it's vented out the back up the side wall and to the roof.

ROBERT HAAS: You just move it out to the street when it's being picked up?

BRADEN HANLON: We have specific trash boxes for that.

MICHAEL GARDNER: With covered lids.

BRADEN HANLON: With covered lids.

MICHAEL GARDNER: What is the expectation as to how frequently you will need trash pickup?

BRADEN HANLON: Right now it's twice a week. We figured that the amount of trash that we would be producing would be probably every Wednesday and Friday.

MICHAEL GARDNER: I'm not sure I understand the concept of nine standing seats

to serve food. Just tell me about what that is, please.

ATTORNEY SEAN HOPE: I think there is a total of 74 seats, so there is 65 inside -- excuse me -- nine standing seats. I think the total occupancy was 74 with 65 seated --

MICHAEL GARDNER: I understand nine people are going to stand and eat around the table?

DREW SHARMA: It's like, if you've seen Panero's or Chipotle's (inaudible), you choose your ingredients and then they prepare it and give it out to you, the customer. So the process of ordering and picking up the food, that would be about nine people to the max waiting to get their food.

BRADEN HANLON: We put on how many people would be inside the unit at any given time, which would be 74, so 65, plus the nine standing, 65 seated at all times.

MICHAEL GARDNER: And the nine people

standing are essentially ordering and waiting for their food?

BRADEN HANLON: Right.

MICHAEL GARDNER: And the 15 patio seats, is that on your property or out on the public way or where is that?

ATTORNEY SEAN HOPE: It's city property. And this would have to be, obviously, approved by DPW as well as the city council would have to approve. And we have to have the proper license and bond. But it's part of the concept and we wanted to show it on the plan. And we do feel like there is sufficient room, but obviously the DPW has to approve.

So at this point, this is a proposed plan. It would be seasonable. So after -- I think November is the date --

MICHAEL GARDNER: So five tables of three --

BRADEN HANLON: Yes, absolutely.

MICHAEL GARDNER: Any other questions?

THOMAS CAHILL: I don't remember when I looked at the plans for the building being built that the possibility of a restaurant was going in there as the provisions were being made for the duct work for this type of cooking.

BRADEN HANLON: Yes. The HVAC man, I believe, came with Vol Tech (inaudible), they came and installed the heating ducts and the air conditioning ducts.

THOMAS CAHILL: I'm talking about the ventilation. The ventilation system on each extreme for two kitchens. We've chosen one set of that in our plans.

BRADEN HANLON: And it's being installed in the ventilation system that goes to the roof. The landlord is installing a shaft.

THOMAS CAHILL: Within the building

or the exterior?

BRADEN HANLON: Exterior.

THOMAS CAHILL: But that hasn't been done yet?

BRADEN HANLON: No.

THOMAS CAHILL: But you believe that's coming? Because I don't believe that has come up for approval.

ATTORNEY SEAN HOPE: Mr. Cahill, I think initially when they had the variance, they weren't sure what type of use they would need. And I think throughout the process, in order to get the final sign-off for the residential and the restaurant as well, they are going to have to make sure they meet this requirement.

But in talking to the landlord, who is a developer, I think /TPHEL /SOPBL ^ a ^ <Delete Space>a /HRO /SRER /RAFPLT they never anticipated now that the lease is signed, but part of it they would have to get

at final sign-off. (Inaudible)

ROBERT HAAS: So there is one owner of the building. So is that the owner of the restaurant plus the two apartments?

BRADEN HANLON: Yes.

ROBERT HAAS: And he is not concerned about the noise levels.

BRADEN HANLON: He is really concerned, so he installed four layers of sound rock between the restaurant and the units above. And then we installed another layer of specific sound board, that's a hanging ceiling.

ATTORNEY SEAN HOPE: He is very concerned.

BRADEN HANLON: And so are we. We don't want our neighbors to be upset with us.

MICHAEL GARDNER: So all the food is prepared on site?

DREW SHARMA: Yes.

MICHAEL GARDNER: Deep fryer?

BRADEN HANLON: No, no deep fryer.

DREW SHARMA: No fried foods.

BRADEN HANLON: It's baked or (sp) ten door (sp?).

MICHAEL GARDNER: Any particular significance to the name you've chosen, Namaste?

BRADEN HANLON: Namaste, means welcome, hello.

MICHAEL GARDNER: Is that different than the thing that happens at the end of the yoga program?

DREW SHARMA: Namaste actually means welcome or good-bye, we'll meet again. So it can be used in all concepts.

BRANDEL HANLON: We also just use it because it's one of the words that Americans do identify with in yoga and other Indian art.

MICHAEL GARDNER: Is there any yoga component to your restaurant?

DREW SHARMA: No, there's not.

BRADEN HANLON: No.

MICHAEL GARDNER: Any questions?

ROBERT HAAS: No.

MICHAEL GARDNER: Anything you'd like to add before we open it to members of the public?

Are there any members of the public who would like to be heard on this matter? Seeing none.

Your expectation after approval here when you will be able to be open?

BRADEN HANLON: August 1st.

MICHAEL GARDNER: August 1st.

BRADEN HANLON: Yes.

MICHAEL GARDNER: Well, we don't often see applicants coming in who this is their first time really running it, and I understand you've got two years experience in New York and you have some summer internships, but the space having not been used or well used for many years, I'm prepared to make a

motion to approve the application subject to completion of all of the other permitting, including, as required by city council for outdoor seasonal patio seats, subject of course to all of the final sign-offs from inspectional services, the fire department, and others who have to do the review.

And I would also add a four-month review by the License Commission. That is just so you can come back and report to us on how things are going. And also subject to the amended hours of 10:30 a.m. to midnight on Sunday -- Tuesday through Sunday.

ROBERT HAAS: I'll second the motion.

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

ROBERT HAAS: Aye.

THOMAS CAHILL: Aye.

MICHAEL GARDNER: Welcome to Cambridge. Good luck.

BRADEN HANLON: Thank you.

MICHAEL GARDNER: You can have a thousand franchise chains in the future and you'll remember it all started here.

BRADEN HANLON: Yes. Thank you so much.

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ELIZABETH LINT: Application for 7 Cameron, LLC, has applied for a garage license with additional flammables storage for 38 vehicles, 380 gallons of gasoline in the tanks of autos only, and an additional 20 gallons of gasoline to be stored in containers onsite.

MICHAEL GARDNER: Good evening. Would you please come forward and introduce yourself and state and spell your name for the record and tell us about the plan.

JEFF HIRSCH: Hello, I'm Jeff Hirsch, H-I-R-S-C-H, representing 7 Cameron, LLC. And we are the owners and developers of the property formerly known as 2419 Mass. Avenue,

now officially known as 7 Cameron Avenue. This is a 37 unit residential building with an underground parking garage that has 38 spaces for 38 cars.

We are requesting a license for 38 cars plus probably one or two small gas cans to use in a lawn mower and a snowblower.

The building is expected to be operational by September 1st of this year. Construction is about 90 to 95 percent complete, and we'll be going for our CMO within the next month or so.

MICHAEL GARDNER: Could you just describe the concept for the residential units.

JEFF HIRSCH: It's a combination of one and two bedroom/two bath units. It's an apartment complex. Their standard, I would say, near luxury units in the North Cambridge area. It replaces the former warehouse at one point it was, I think, the Rounder Records

warehouse, but was abandoned for a number of years until we took it over.

MICHAEL GARDNER: So there are no affordable housing units --

JEFF HIRSCH: There is an affordable housing component. The city has mandated 15 percent of the units, which allows us to get the bonus amount to increase our density for the project.

MICHAEL GARDNER: So you've got an affordable component to this?

JEFF HIRSCH: Correct. And each unit has one parking space as per Cambridge zoning.

MICHAEL GARDNER: And anything in particular about the underground parking? Any unusual egress --

JEFF HIRSCH: No. It has proper egress by code. It's a heated garage -- I'm sorry. It's a heated sign-up so the sprinkler system is not a dry system, there is a small amount that is heated in the garage for

certain areas. Other than that, it's a pretty standard parking garage.

MICHAEL GARDNER: One level?

JEFF HIRSCH: One level.

MICHAEL GARDNER: Any questions?

ROBERT HAAS: No.

THOMAS CAHILL: It's only 38 units?

JEFF HIRSCH: There are 37 units and there are 38 spaces, one extra space.

MICHAEL GARDNER: And September 1st is the expected occupancy?

JEFF HIRSCH: Yes.

MICHAEL GARDNER: Anything else to add before we open it to public comment?
Seeing none.

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

Seeing none, I'll make a motion to approve the application for the garage license as submitted.

THOMAS CAHILL: Seconded.

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

ROBERT HAAS: Aye.

THOMAS CAHILL: Aye.

MICHAEL GARDNER: None opposed. So good luck with making your deadline and keeping it safe.

JEFF HIRSCH: Thank you very much.

* * * *

ELIZABETH LINT: Application for Burger King Corporation, Elizabeth Deolivei, Manager, holder of a common victualer license at 679 Concord Avenue has applied to amend their current operating hours of 6:00 a.m. to 1:00 a.m. Monday through Wednesday, 6:00 a.m. to 2:00 a.m. Thursday through Saturday, and Sunday from 7:00 a.m. to 12:00 a.m. to operate 24 hours a day.

ELIZABETH DEOLIVEIRA: My name is Elizabeth, the last name is Deoliveira,

D-E-O-L-I-V-E-I-R-A, and I'm the restaurant manager of Burger King on Concord Avenue.

MICHAEL GARDNER: Good evening. So tell us about the decision to try to be open 24 hours a day.

ELIZABETH DEOLIVEIRA: It looks like Burger King is looking for 24 hours all over, so we are requesting it. We are open until 2:00 right now.

MICHAEL GARDNER: So this a national policy?

ELIZABETH DEOLIVEIRA: Yes.

MICHAEL GARDNER: Is this one of the locations which is owned by Burger King or is it a franchise?

ELIZABETH DEOLIVEIRA: It's owned by the Burger King Corporation.

MICHAEL GARDNER: What kind of consultation or discussion within the community have you had?

ELIZABETH DEOLIVEIRA: I have had

nothing, no conversation with the neighbors, but my district manager, he did.

He is actually in another restaurant, he had an inspection in Reading so he couldn't come and so I had to come here.

MICHAEL GARDNER: What do you know of the level of contact and how it was done, if anything?

ELIZABETH DEOLIVEIRA: I don't know. I'm not sure.

MICHAEL GARDNER: Is there any information in the file?

ELIZABETH LINT: I have nothing, no.

MICHAEL GARDNER: Any abutter notices?

ELIZABETH LINT: No.

MICHAEL GARDNER: Isn't that a problem?

ELIZABETH LINT: It sure is.

MICHAEL GARDNER: So Ms. Lint, who is the Executive Director for the Commission,

tells us that we don't have back the proof that all the abutters were notified.

Do you have any information about whether those notices were sent out?

ELIZABETH DEOLIVEIRA: No.

MICHAEL GARDNER: What's your own sense of the type and volume of business you expect in those late hours of the evening?

ELIZABETH DEOLIVEIRA: It's not busy -- do you mean on Concord Avenue?

MICHAEL GARDNER: Yes.

ELIZABETH DEOLIVEIRA: I don't think it's going to be busy, but it's not my decision. I'm just a restaurant manager. If they want to stay open 24 hours, I will do it. So if you say so, I'll do it but it's not busy.

MICHAEL GARDNER: So currently you start opening on Sundays at 7:00 a.m. and the rest of the week it's 6:00 to 2:00?

ELIZABETH DEOLIVEIRA: It is actually

5:30 to 2:00 a.m. -- I'm sorry. Thursday to Saturday is 5:30 to 2:00, Monday to Wednesday is 5:30 to 1:00, and Saturday is from 7:00 to 12:00.

MICHAEL GARDNER: It may be that that's not -- that those hours are not in the license. Ms. Lint will check to see if our paperwork comports with your practice.

Any other questions?

ROBERT HAAS: So you are saying that this is a move being made by the corporation across the United States?

ELIZABETH DEOLIVEIRA: Mm-hmm.

ROBERT HAAS: What experience do you have in terms of the extended hours and in terms of the hazards with being open that late at night and all night?

ELIZABETH DEOLIVEIRA: I'm just -- if they tell me to open 24 hours, if you say yes, I'll be open 24 hours.

There will be two people there, a

manager certified, and the crew member. We are already open until 2:00 and so there is three hours' difference. We have to be there by 5:00.

ELIZABETH LINT: I don't have any indication that it was ever approved for 5:30.

MICHAEL GARDNER: Any questions?

THOMAS CAHILL: I'd be interested in the feedback. I mean, you are bordering a residential neighborhood right there as you go further down Concord Avenue. What type of impact that would have on those neighbors, particularly, what type of clientele do you expect in there after 2:00 a.m. and where would they be coming from? It's an interesting decision in that particular neighborhood versus other neighborhoods.

MICHAEL GARDNER: Well, we can't take any action tonight because we don't have any of the abutter notices anyway.

ELIZABETH LINT: Correct.

MICHAEL GARDNER: So understanding that we are not going to be in a position to take a vote this evening, I'll ask you if you have anything else to add, and then I'll ask if there are any members of the public who are here who would like to speak on this matter?

Seeing none, I'll make the motion that we refer this matter to the July 10th hearing that's scheduled for 6:00 p.m. to consider the matter further.

And I suggest that you communicate back to the district manager that he needs to assure us of the submission of the certified mail receipts that the butters have been notified, and that we would want to hear from the district manager about the neighborhood outreach that's been done to discuss this change. Okay?

ELIZABETH DEOLIVEIRA: So do you want us to notify all the businesses around there or the whole street of Concord Avenue?

Because that's like --

MICHAEL GARDNER: Details like that, a non-specialist like me, I can't answer, and you would have to ask Ms. Lint.

ELIZABETH LINT: Well, we send out a letter and what it said was that the abutters, the legal ad must be sent so all the abutters, property owners on either side, and in back of.

ELIZABETH DEOLIVEIRA: Okay.

MICHAEL GARDNER: And, in general, our advice is the broader the outreach, the better.

ROBERT HAAS: And it might be helpful to your district manager to be here. It puts you at an unfair disadvantage to try to represent what the whole conversation was if you weren't involved in it. So if the corporation is really interested in extending the hours, it's in his best interest to be here.

The other thing you have to reconcile is the hours, too.

ELIZABETH LINT: Yes. I'll check on that.

MICHAEL GARDNER: My motion was intended to make sure that the district manager or somebody who is knowledgeable come back.

ELIZABETH DEOLIVEIRA: Thank you.

MICHAEL GARDNER: I made a motion but we haven't voted yet.

ROBERT HAAS: Second.

MICHAEL GARDNER: The motion having been made and seconded, all those in favor signify by saying aye.

ROBERT HAAS: Aye.

THOMAS CAHILL: Aye.

MICHAEL GARDNER: So the matter will be deferred until July 10th. Thank you for coming in.

ELIZABETH DEOLIVEIRA: Thank you.

* * * *

ELIZABETH LINT: Application for Idenix Pharmaceuticals, Inc., at 60 Hampshire Street has applied to renew the July 7, 2010 special variance from the requirements of the City of Cambridge Noise Control Ordinance pursuant to Cambridge City Code, Section 8.16.090(B).

MICHAEL GARDNER: Good evening. Please come forward and state and spell your names for the record and identify yourselves.

RICHARD JOHNSTON: I'm Richard Johnston, J-O-H-N-S-T-O-N, I'm counsel for Idenix.

MARY STAHL: I'm Mary Stahl, S-T-A-H-L.

PAUL FANNING: I'm Paul Fanning, F-A-N-N-I-N-G, Senior Vice President of Idenix.

MICHAEL GARDNER: So we have received the letter and the application here. Why

don't you tell us, Mr. Johnston, about your view of the arguments, why you think the variance should be extended.

RICHARD JOHNSTON: Sure. I think as everyone on the Commission knows, Idenix is a pharmaceutical development company and it's in a mixed use neighborhood that qualifies as a buffer zone.

And the building contains, in addition to offices, some research labs and has HVAC equipment on the roof, which has to run on a very constant basis because the layouts require constant temperature for safety and other reasons.

Two years ago this Commission granted a variance to Idenix from 55 -- I'm sorry, from 50 decibels to 55 decibels, in part, based on the recognition that, given the ambient sound level in the neighborhood, it was virtually impossible for Idenix to register below 50 when it's in full operation

on warm summer nights.

A year ago the Commission granted a one-year extension of the variance after the company had explained the approximate dozen things that it had done on the roof. The fact that the company had moved some of the research operations to other sites, and the fact that the company had obtained and then provided test results showing a modest reduction in the Idenix noise levels.

The Commission did extend the variance last year with several conditions. One condition was that the company continue to look to see whether there was anything further it could do to reduce from the noise level, and that the company conduct testing both in the fall or Labor Day of 2011 and in the spring of 2012.

Idenix has satisfied those conditions. It looked into some additional work up on the roof and installed higher

padded sound walls on the roof. And you'll see some of those sound walls in exhibits to the application. And Mr. Fanning is here, he can briefly explain what that work is.

PAUL FANNING: So there were two spots that -- one in particular -- we have -- one of the louder pieces of equipment had a hard plastic panel that was hanging at a 45-degree angle, and not with sound attenuating padding on it like the rest of the sound equipment had.

So what we did is we replaced the hard shell plastic wall, if you will, and put it up with the paddings and sound attenuation consistent with the rest of the sound attenuation, and actually went up a little bit further than the plastic portion had gone.

At the corner of 60 Hampshire, we had stopped the sound paneling, it was not up as high as it could have been, so we thought that we would extend it up another three or four

feet, and so we did that all kind of boxing-in the actual stack down on that corner of the building.

RICHARD JOHNSTON: It might help if we can make reference to the pictures.

PAUL FANNING: So Exhibit 1, you can see in the picture, the 45 degree angle, that was a hard plastic. So it's kind of coming off at an angle with the sound attenuation and padding, and it's also going up higher, about another three feet higher than the plastic piece had done.

And then Exhibit 2 is basically a front shot of that same change.

RICHARD JOHNSTON: It's the last set of exhibits in the book. And there are multiple pictures there which Mr. Fanning can explain.

PAUL FANNING: So back to Exhibit 1 --

RICHARD JOHNSTON: J-1.

PAUL FANNING: J-1. So the piece that is coming off at an angle had formerly been plastic. It was intended to provide some sound attenuation; but our sound consultant said it was doing something but not as much as it could have been if it were consistent with the rest of wall, which does provide additional sound absorption, and we went up higher as well. So that's Exhibit 1.

Exhibit 2 is John showing on the front of that, I guess, doing the siding.

And then Exhibit 3 is the corner going down toward Hampshire Street. And that top piece, if you will, that whole section, because they are kind of attached to brackets, is new, so we went up an additional four feet or so.

MICHAEL GARDNER: Are you referring to --

PAUL FANNING: This is Exhibit 3 now.

MICHAEL GARDNER: Are these the

stacks you are talking about (indicating)?

PAUL FANNING: Yes. So we kind of boxed in the stack a little bit. It had padding that the lower level. If you look at the portion, the first level, if you will, that was already there.

What we did -- the second level is new. And then Exhibit 4 just gives you a different view of that same change.

MICHAEL GARDNER: So the last time you were here, I think my memory is there was some by play back and forth as to whether or not one of the units on the roof was older and noisier. And the question was who controlled it, and we were asking you to look into that.

And my memory is a little unclear, but I think that in the end it was still vague. And you did say that, as I understood it, that it was one of the noisier units, that the plastic was around the -- was it Exhibit 1?

PAUL FANNING: Yes. Exhibit 1 is the second loudest piece of equipment on the roof now. The loudest one is not -- well, you can't really see it in any of these photos, it's a little bit to the right on a superstructure. It's not a new piece of equipment, nor is this the oldest, so I guess I'd say it's somewhere in between. But I'd have to go back and get the exact date that it was installed.

MICHAEL GARDNER: Are there any additional things which, in your view, it would be impossible, setting aside prudent, to do?

PAUL FANNING: There really aren't. And to be very open and candid, I guess, these last two changes, we -- based on the readings we had, we don't think they made a huge change. It was a modest improvement at best, because we really have run out or it's really diminishing returns. These last two changes,

I believe they had an impact, particularly on this unit, on Exhibit 1, but it didn't move the dial that much. So we are really exhausting all measures that make any significant improvement.

ATTORNEY SEAN HOPE: The Commission may recall that last year the company reported they had made a dozen changes up on the roof during the previous 12 months. So these are additional changes on top of the 12 comprehensive things they had done last year.

And just to move on with the client in terms of compliance with the requirements from last year, the company has continued to move some of their operations out of 60 Hampshire in addition to making these changes here, and undertook additional testing both last August and this May and found, as Mr. Fanning just said, that there was some modest improvement, not dramatic, but that's what they are depending on the location.

The company is now seeking a further extension of the variance through the end of the current lease term, which is December 31, 2013, and the company is seeking the variance extension for several reasons.

First, as a long series of tests going all the way back to 2008 shows, the ambient noise levels in the neighborhood continue to approach and sometimes exceed 50 in the immediate vicinity of the company. And it's virtually impossible, given, and as has been explained in past hearings, algorithmic combination of the ambient plus the additional from the company, it's virtually impossible for Idenix to be below 50 or at 50 combined with the ambient noise. And ambient noise is a vacuum which the Commission has cited both in 2010 and 2011 for granting and then extending the variance.

Second, the company has done all that it reasonably can without completely shutting

down the existing research labs. As I've said, over the past two years the company has moved some research labs out of the building and has made substantial improvements on the roof, but it can't really take out all of the research labs and continue to function as a pharmaceutical development company.

Additionally, either as a result of or in the wake of the additional changes that the company has made to its operations added up on the roof, there really have been no complaints, either to the company or, as far as we are aware, to the Commission in the past year; and in the past two years, the only real complaint has been on one instance where the company took down some of the baffling equipment up on the roof in anticipation for the hurricane, and then was tardy in putting it back.

But in terms of regular day-to-day complaints, there have really been none as far

as we are aware of for the past two years.

And third, Idenix is located in a buffer zone, which, based on the noise ordinance, is something which requires special consideration here. There are neighbors, residential neighbors, nearby, but there are also lot of commercial and industrial activities nearby. So it's something that the Commission has in the past taken into account and should continue to do so.

And fourth, and this is the test that the Commission has to apply, the balance of hardships continues to favor Idenix. If Idenix would have to be at or below 50 decibels at all times, the company would run the obvious risk of a cease and desist order which would effectively put the company out of business because it still has certain critical lab functions would could not function if it did not have the ongoing HVAC systems in place.

In terms of the balance of arms on the neighbors' side, well, the neighbors don't seem to be complaining over the last two years, probably because Idenix has made significant improvements and probably because Idenix is operating only a few decibels above ambient, and that difference would not be particularly perceptible to the human ear.

And the last reason, I would note that in 17 months from the effective date of the extension, if the Commission grants an extension this summer, Idenix will be vacating the building.

In each of the past two years, the company has been granted a one-year variance. And Idenix, this time around, is seeking a slightly longer extension because of the fact that its lease runs out in five months, less than five months, after a year-long variance would run out. Idenix is quite certainly not planning to renew the lease. If the

Commission were to grant a variance for one year, Idenix would have to be back here next summer seeking an extension for something less than five months which does not seem a terribly efficient use of the company's or the Commission's time, given the fact that this Commission has now looked at this issue several times in the last several years and knows this situation well. And this 17-month variance will give the company certainty as it works out the last 17 months of its lease.

We have several representatives of the company here. Mr. Fanning, you've already heard from, but he is here to answer any questions about the facility. Ms. Mary Stahl is here on the legal side to answer any legal questions you may have about the lease.

And I should add that we also have the company's sound consultants, outside consultants, who are here to address any questions that may arise with respect to the

testing that was conducted.

MICHAEL GARDNER: Thank you. Any questions?

ROBERT HAAS: No questions.

THOMAS CAHILL: No questions.

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

(Audience member)

MICHAEL GARDNER: Please, if you would be so kind as to step forward and I'd ask you to state and spell your name for the record.

PETER LINDQUIST: Peter Lindquist, L-I-N-D-Q-U-I-S-T, 11 Market Street.

First, I can't really respond to too much of what Idenix presented, in that I did not receive a copy of that prior to the hearing, which was the agreement that this Commission had requested. So I did not receive that. I know they did some work up

there in the spring, as to exactly what it was I wouldn't know.

I have just a few points.

Point one, there hasn't been a lot of complaints from the neighbors this spring because it's been so cool. And Andrea Boyar called me last Friday wanting to come take some readings. And we both agreed that it was kind of pointless until the weather turned warm and the equipment was running with a load on it. And I think tomorrow probably would be that turn in the weather.

Paul mentioned that they have exhausted all measures to improve the situation. And I go back to where we were four years ago, and that was to put that equipment where it should have gone in the first place, not directly on Clark Street, as close to Clark Street as it could have been placed, and that was never done.

They moved a couple of pieces of

equipment a year ago and took some pieces off because they didn't need them anymore. But the equipment was never relocated where it should have been placed in the first place.

This is all governed by code as to what they could put out, and it was never watched after while they were installing it.

About the issue that there have been no complaints, there has still been a lot of talk amongst the neighbors, particularly the people who live at 66 Hampshire Street. And their feeling is a feeling of hopelessness; that they have come and complained and voiced their opinions for four years now and the situation hasn't improved to what it was prior to Idenix.

And I'm sad to see that they'll be leaving, but my real question is: What happens to that equipment once their lease is terminated?

I understand there is a new landlord

to the building, one that has a great deal of presence in Cambridge.

Am I correct on that, Paul?

PAUL FANNING: That's true.

PETER LINDQUIST: And Biomed Realty Trust --

MICHAEL GARDNER: I'm sorry, sir, did you say Biomed Realty Trust is the new owner of the building?

PETER LINDQUIST: New owner, I believe that's the title.

PAUL FANNING: Yes.

PETER LINDQUIST: And this goes back to the variance and to the original permit: What happens to that equipment when this tenant leaves?

This variance was given to Idenix, not to the building. Am I correct?

ELIZABETH LINT: Mm-hmm.

MICHAEL GARDNER: Yes.

PETER LINDQUIST: So, theoretically,

once Idenix vacates the building, that equipment could not operate unless they apply for a variance.

MICHAEL GARDNER: Well, I take that it that, at least part of the issue is, how constantly it has to be run and at what levels it has to be run based on the requirements of the existing laboratory needs.

So I guess I'm not sure -- and it would require further investigation -- but I don't know if the equipment stays, and we can inquire about that, if the usage of the equipment might be different then the noise might be different.

PETER LINDQUIST: Well, I hoped that this would all come up prior to the first time that the new tenant comes into the building in terms on the equipment. Because otherwise the neighborhood is going to be back in the same position it's been in for the least five or six years since 2006. And that is where I see

there is a problem in this whole situation.

I complained to the company in 2005 when they started putting equipment up there and I said, "There is a problem here, there is noise." Now, the noise is getting unbearable. And that was when there was very few pieces that they put in near my house, and they guaranteed that it would be taken care of.

And two years went by, and until they applied for the license, I had not filed a complaint. So I'm just hoping that there is some better mechanism that is going to be initiated to guard against this thing.

And I'm not talking just about Clark Street, I'm talking throughout the city. Because there are an awful lot of people that are bothered by this. And it seems to be every week reading about another place that is adjacent to a residential neighborhood and these people are going to go through the same thing that we had gone through.

So I hope between now and then some mechanism can be established to guard against this from happening again.

And, you know, this was the fault of either one individual at Idenix or a company policy, I don't know which, but they ignored the concerns of the neighborhood until they had to demonstrate to this Commission that they deserve to receive the permit that they received it.

And only at that point when this Commission made it contingent upon improving the noise levels, that there was anything done.

If you go back and look at the minutes, in 2008 I believe was when they received their original permit, it was only after that period that work began to correct the problem.

So I just hope there is some way that through this Commission or through

inspectional services that we can guard against this, in this situation and others throughout the city going forward.

It's been a terrible burden on the neighborhood. In fact, if there hadn't been any complaints is because of a feeling of hopelessness on the some of the neighbors; it's a feeling of hopelessness for so long and nothing has really corrected the problem.

MICHAEL GARDNER: I guess one of the thoughts that occurs to me about that is, at least even with the variance granted, if any of the residents felt that, in fact, the level of the noise was higher than had been granted, we would have welcomed the complaint and could have done testing to see if, in fact, the terms of up to the level of the variance were being complied with.

So I understand that there was a fair amount of dissatisfaction that the variance was granted at all, but I guess I would remind

you and any of the neighbors that you talk to that even if a variance is granted for the future, it's not a carte blanche to make as much noise as you want. There are conditions. There remain levels which should not be breached.

PETER LINDQUIST: Yes, sir, I will grant that Idenix has improved upon the environment since 2007, 2008, but I won't grant that they did the right thing. They did enough to appease this Commission.

MICHAEL GARDNER: Thank you.

Any other members of the public who would like to be heard on this matter?

If we could have the Idenix reps back up for a moment.

So under the terms of the lease is there a time period when you have to give revocable notice to the landlord.

MARY STAHL: In terms of the lease, we only have to notify the landlord if we were

going to exercise an additional five-year option and that time period has passed. In conversations with the landlord they are aware that we are going to leave the space.

MICHAEL GARDNER: Is there a likelihood that you might be out sooner than December 31, 2013?

PAUL FANNING: There is, there is a possibility.

MICHAEL GARDNER: So one of the things I'm struggling with is that we, in fact -- well, you can confirm or not, that given the relatively cool nighttime temperatures that we have experienced, at least since one week in March this spring, there has not been an opportunity to test the sound levels when the equipment is running at its full capacity, or has the testing been done at times when, in fact, it's not working as hard or working as noisily as it otherwise would on hot evenings?

PAUL FANNING: What we do -- it's really more a function of what the conditions are that evening. So knowing we had to have some advance notice for this hearing, we basically said we had to do it before the end of May and there just wasn't a hot night, so.

MICHAEL GARDNER: Do you agree with the concept that on a hotter night it will be hotter?

PAUL FANNING: Yes. It's a combination that it will be louder because, as counsel says, the ambient is louder as well, but also because some of the spaces are kicking in that might not be on in a cooler evening. So we are probably contributing a little bit more and so is the neighborhood.

RICHARD JOHNSTON: My understanding and maybe the consultants can consult with that, but it's my understanding that they do attempt to simulate at the company what it would be like on the hottest night in the

summer. The difference, of course, is the ambient is not of course as it would be in the heat of the summer. But from the company's standpoint, it should be running on all cylinders.

MICHAEL GARDNER: So if I had you summarize, you can confirm with your consultants wanted to add anything. When you did the test in May, I believe?

PAUL FANNING: The numbers are in, if that's not reflective of everything being on.

MICHAEL GARDNER: So you didn't run through everything at the kind of capacity you would expect on a hot summer night?

PAUL FANNING: I think there is but that is not -- we can do it, we have done it, yes, but it doesn't necessarily --

(Inaudible)

(Discussion off the record.)

WILLIAM ELLIOTT: William Elliott, Cavanaugh Tocci Associates.

So when we tested both in August of 2011 and May of 2012, we tested three scenarios.

One was the as found condition.

So when we are we arrived on-site, I would measure the sound levels as the equipment was operating at that point.

We also measured the ambient of a background in Cambridge. When we measured that, that was with everything at Idenix turned off, so just the sound of the city at that time.

Then we also measured what was called the summer nighttime, unoccupied condition, where we tried to simulate a warm summer evening. So anything that would be operating after business hours was operating. We attempted to force it on -- operating points at their maximum.

So those were the three conditions that were measured.

MICHAEL GARDNER: Thank you. Any questions?

THOMAS CAHILL: In the two years that this variance has been in place, am I clear that there haven't been any complaints with the exception that the shield being taken down from the hurricane from neighbors?

PAUL FANNING: Yes, that's my understanding.

THOMAS CAHILL: And in those two years, you did testing leading up to this in the past couple of weeks?

PAUL FANNING: Yes.

THOMAS CAHILL: But within the two years, no testing was done when this may have been running at full capacity?

PAUL FANNING: No.

WILLIAM ELLIOT: You do that every time, though?

PAUL FANNING: Every time that we went out in the last two years, we tested as

if it was a warm summer evening by actually turning it on and forcing it to run.

MICHAEL GARDNER: And the August of '11 test was one that was required by the Commission in which you were in compliance?

RICHARD JOHNSTON: Yes. That had to be done by last Labor Day. It was down in August. It was in compliance.

And I think in response to something Mr. Cahill said, the testing has shown over the years that the sound levels have gotten better each year, and it hasn't necessarily been a steady, parallel line or I should say diagonal line. But it has been a consistent improvement, reflective of the fact that steps have been taken in the company to try to reduce what was going on and what was done on the roof.

MICHAEL GARDNER: Any other questions or comments?

PETER LINDQUIST: Just one last

thing.

MICHAEL GARDNER: Okay,
Mr. Lindquist.

PETER LINDQUIST: There seems to be some confusion as to who is responsible for a lot of equipment on the roof in the past, whether it was the landlord or Idenix. And I'm curious about what happens. There must be some equipment that is clearly Idenix's up there?

MICHAEL GARDNER: Mr. Lindquist, thank you for that because during your testimony, I did intend to ask that question and forgot, so I appreciate your reminding us.

Mr. Fanning, can you tell us any information about what of the equipment stays and what goes?

PAUL FANNING: My understanding is that some of the sound, the baffling, would be ours, but all of the rooftop units is the landlord's.

MARY STAHL: According to the lease, the equipment that is on the roof stays on the roof. Even though we may have put it up there, we cannot take it with us, it stays as part of the building; it belongs to them.

MICHAEL GARDNER: I guess my feeling is that for all of the reasons that we granted the variance last summer, it's appropriate to continue the variance at this point. And I agree with the suggestion that it should run through the life of the lease. I believe that should the Commission vote to grant the variance; that does not exempt the company from additional testing by the Commission whether on its own initiative or based upon complaints, and remains the responsibilities of the company to meet the terms of the variance.

And so if residents in the area feel grieved because they believe that under the particular circumstances the noise levels are

objectionably high and feel free to that bring that matter to the attention of the Commission or file a complaint.

The other thing that I believe Mr. Lindquist has quite properly pointed out was some responsibility on behalf of the -- on the part of the city to proactively engage regarding any future uses of the building, and see whether or not either in terms of the nature of potential tenants or other prophylactic steps that would be made we reduce the likelihood or need for any future tenants to be seeking variances.

So I would make the motion that we approve a continuation of the variance at the levels stated up through the end of the lease, December 31, 2013, about the condition that the company report back to us on additional testing on at least one occasion in this summer of 2012, and m that the company be in touch with the Commission to notify the

Commission should there be any premature vacating of the building or prior to the state of expiration of the lease.

MICHAEL GARDNER: And further, that the Commission forward the results of this vote and copies of materials, including the report submitted by an Idenix in support of the variance, that that material be forwarded to the new landlord along with the minutes of this meeting or this section of the meeting, and request that the landlord be aware and be prepared to make presentation to this Commission with any prospective tenant prior to the signing of a lease so that the Commission can be apprised of what, if any, changes we could expect with respect to noise generation by any future tenant.

THOMAS CAHILL: I second that.

MICHAEL GARDNER: That was a pretty long motion with lots of conditions. Any discussion?

ROBERT HAAS: Just the last point with regard to our jurisdiction. Any kind of permits would be issuing for usage of that building --

ELIZABETH LINT: We can't regulate the use of the building. We can regulate -- ISD can.

ROBERT HAAS: Right. So my point is, we have a vested interest in terms of that we be consulted with or conferred with because, again, I don't know want to be the subject where the decision has been made and we try to rectify it or we didn't have any discussion with respect to some of our concerns.

Now, we have had a long history with this particular building. What I'd like to make sure happens, we need to make some of these decisions (inaudible) for the appropriate licensing and that we confer with them before whoever makes the decision, because I think we have a long history in

terms of what has happened here, that building has changed over time and -- and I think if we can't impose these conditions, we at least ask ISD (inaudible).

ELIZABETH LINT: I think we can put BMR on notice that we have grave concerns about the usage of the building.

MICHAEL GARDNER: Yes. I would accept the Commissioner's suggestion to amend the motion to send the same communication that we were sending to the current owner to the appropriate city agencies including inspectional services, and, again, expressing our concern that the matter be thoroughly reviewed before any new lease is signed.

THOMAS CAHILL: I second the amended motion.

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

ROBERT HAAS: Aye.

THOMAS CAHILL: Aye.

MICHAEL GARDNER: None opposed.

So hopefully this has been a learning experience for many of us, at the experience of the neighborhood and I'm hopeful that going forward and the city and the property owner and users can try to improve on was that, because certainly a part because the ambient noise situation how difficult the circumstance is.

As an aside, I would hope you can still be in Cambridge. Albeit at a quieter location. And good luck to you in your ventures.

RICHARD JOHNSTON: Thank you.

MICHAEL GARDNER: Mr. Lindquist, thank you for your assistance.

* * * *

ELIZABETH LINT: Application for Yonas Hailemichael doing business as Yoni Limo Service at 318 Rindge Avenue, Unit 105, has

applied for a livery license at said address for one vehicle.

MICHAEL GARDNER: The applicant appearing not to be here, so why don't we --

ELIZABETH LINT: I didn't expect him to appear.

MICHAEL GARDNER: You'll notify him that if he wants to apply again, he can come forward and let us know.

And we'll go on to the next item.

* * * *

ELIZABETH LINT: Application for Nomadic Apparel, LLC, Elliot James Wish. Manager, has applied for a peddler's license to operate a mobile truck selling goods. The route has been reviewed by traffic and parking and is available for review in the License Commission's office.

ELLIOT WISH: ELLIOT, E-l-l-i-o-t, last name Wish, W-I-S-H.

MICHAEL GARDNER: Mr. Wish, welcome.

You tell us you're the manager for the proposed venture?

ELLIOT WISH: Yes, sir.

MICHAEL GARDNER: Could you tell us a little bit about who the owners are and also the concept.

ELLIOT WISH: Well, the owner is me, I founded the company as well. The concept is basically to identify up and coming artists, particularly local artists, and help them generate professional quality sellable work.

We have a lot of students graduating from art programs around here, at BU, Northeastern, a lot of them have a hard time finding professional art work as soon as they graduate because everybody says to them, "What is your portfolio like, let me see what you've sold." And many of those kids might not have work that they've sold as a professional.

So through personal contacts and other networks, we are able to identify

talented up-and-coming kids and to work with them to get their work published on to t-shirts, tank tops, posters, what have you, available through us.

MICHAEL GARDNER: Through the median through which the art would be expressed is apparel.

ELLIOT WISH: Primarily, yes.

MICHAEL GARDNER: But you'd be doing posters, you have posters for sale as well as T-shirts and other items of apparel?

ELLIOT WISH: That's correct.

MICHAEL GARDNER: Do you have any experience in this business prior to that?

ELLIOT WISH: I don't. My family comes from a long line of entrepreneurs. My father ran his own business for many, many years. And my in-laws, they managed Benetton, owned and managed Benetton for many years. So I imagine I have a nice deep pool of experience to draw on to help guide me through

this.

MICHAEL GARDNER: I'll admit my -- at least a second time tonight -- I don't know what Benetton is.

ELLIOT WISH: Sorry. It's a mid- to high-scale European clothing brand. I think there might be one store in New York, but it's all over the place.

MICHAEL GARDNER: Okay. I've seen those ads.

ELIZABETH LINT: United Colors of Benetton.?

MICHAEL GARDNER: Yes, I've seen those.

And tell us why selling from a truck is part of the business plan.

ELLIOT WISH: Well, primarily it's to keep costs low. And that helps us not only to make sure all artists receive compensation for their work at a fair rate, it helps us keep prices low for the consumer, and to hopefully

move more product. And by avoiding the very high expenses of traditional brick and mortar retail, we are able to pass those savings on to customers and keep prices within a fair range. And, more importantly, it helps us connect with our target demographic by being able to use existing technology, point out where we are using things like Twitter or FourSquare, take advantage of the ubiquity of smart phones, and basically our web access so people can find out where we are at no cost to them and travel to locations that may be more suitable for a particular event.

MICHAEL GARDNER: Can you give us some sense of your expected price range for the kinds of good that you sell?

ELLIOT WISH: T-shirts will probably fall between \$15 and \$25. I don't anticipate more than that. The same price for the tank tops. The posters will probably be priced between \$10 and \$15. Hooded sweatshirts are

priced at \$40.

MICHAEL GARDNER: And why isn't this business model unfair to apparel merchants or others who invest in the brick and mortar?

ELLIOT WISH: Particularly because they haven't identified the artist that we have. A lot of the larger companies have traditionally bought art work from a specific artist, instead of people who pay you a one time fee for this, you use it basically whatever price without additional compensation to the artist.

Whereas, we are going after particularly young up and coming artists that have not had such a push yet, and, more importantly, we let them keep all of the electrical property rights to their work.

So the idea is, if somebody sees work sold through us for a particular artist that they like and they want to buy more from them, it's very easy to go track them down. And

that artist can go and basically do whatever they want with it. So we are given a temporary license.

In terms of competing with other businesses -- I mean, apparel shops, they compete with each or all the time. But the idea is that nobody else has what we have. We are basically an art galley, a mobile art gallery.

MICHAEL GARDNER: Has this concept been expressed in other locations around the country that you are familiar with?

ELLIOT WISH: I've heard of similar concepts in New York, but usually it's involving branded apparel. And this is buying other pre-made goods for a specific audience that have already been merchandise out.

And this is something that we would be creating ourselves.

So while we've purchased all pre-made line apparel sweatshirts, what have you, all

of the work is being finished here using screen printers and print shops.

MICHAEL GARDNER: So if you get a plain sweatshirt or t-shirt or tank top, then you take it to a place that can screen the artwork on?

ELLIOT WISH: Absolutely, just down the street.

ROBERT HAAS: So are you telling me that you are buying the apparel and then it's the artist that does the design for the apparel?

ELLIOT WISH: Yes.

ROBERT HAAS: So when you sell a product, you're taking your cost out of the mix, right?

ELLIOT WISH: Yes.

ROBERT HAAS: And imposing a cost for the value of the artist?

ELLIOT WISH: Yes. And artists are compensated for every piece sold of their

design.

MICHAEL GARDNER: Can he describe the vehicle that you are going to use?

ELLIOT WISH: It would be a short version of a postal type truck, a delivery parcel van type truck. Most of the FedEx trucks and DHL trucks that you see driving around are fairly large. However, they do make smaller models with a significantly smaller cargo space.

And with our concern for not wanting to bump into anyone while parking the vehicle, we are obviously going for a smaller model. So it would be a standard parcel delivery truck in style with a significantly shortened cargo space.

MICHAEL GARDNER: How are the goods displayed to members of the public?

ELLIOT WISH: They are displayed through a slider window that serves as a display area. It will basically be a display

rod that allows them to hang down. It doesn't stick out the vehicle in any way, it's like a window.

MICHAEL GARDNER: So something similar to a food truck where you go up and make your orders to the window?

ELLIOT WISH: Yes. However, we do have tablets that are similar to tables. If somebody doesn't come up to us, we are happy to go out to them. If someone doesn't want to come up to the service window.

MICHAEL GARDNER: Home deliveries -- is that what you mean?

ELLIOT WISH: No. Tablets are so somebody can --

MICHAEL GARDNER: So they can do an on-line request?

ELLIOT WISH: That's one-way you can do it. However, it was more of the idea of a handicapped customer, if they are not able to approach the window for whatever reason, we

can certainly facilitate the customer to purchase the product.

MICHAEL GARDNER: You mean by taking the goods out of the truck --

ELLIOT WISH: Just the payment method. They could see what they would like and rather than forcing them to move over to the window with difficulty we can go to them.

MICHAEL GARDNER: We currently have four food trucks that operate in the City with restrictions on where they can park or set up in proximity to other restaurants. Is it 300 feet?

ELIZABETH LINT: Yes, 300 feet.

MICHAEL GARDNER: So your proposed routes envisioned, would a similar restriction to setting up your business or merchandise that sell the same sort of goods as you have, had, would that present you with any difficulties?

ELLIOT WISH: I've actually examined

this route very carefully and to date I've not seen anybody that would be providing the same product, especially emphasizing the artist aspect rather than the brand aspect. You may find something like Urban Outfitters that has a very branded style of clothing.

This artist made this design. If you like it, you should check him out. So in terms of local competition, I don't think we'd be affected directly.

MICHAEL GARDNER: Well, I think, and Ms. Lint can correct me if I'm wrong, when we grant license to the food truck and we put the 300 foot restriction on, it's a narrow restriction to say you got to be selling the same kind of food as the restaurant, the more generic food.

And so here it would, assuming we apply the same restriction, it would be apparel, whether it's branded or not.

So with that clarification, can you

make that?

ELLIOT WISH: To the best of my knowledge, I don't see any reason why it couldn't. However, I need to double-check on that. Would it be so broad as to include children's clothes and things like that, that is don't necessarily fall within our target. There are vintage style clothes like they sell at the Salvation Army or the Goodwill stores.

MICHAEL GARDNER: You won't be selling children's clothes?

ELLIOT WISH: No, sir.

MICHAEL GARDNER: Any other questions?

ROBERT HAAS: Are you familiar with the trucks that are down in Washington, D.C., that display a lot of souvenir t-shirts?

ELLIOT WISH: Yes.

ROBERT HAAS: And they display it ou, is everything is going to be contained inside the truck, no outside displays?

ELLIOT WISH: No. Everything inside the truck.

MICHAEL GARDNER: So nothing will be outside the truck?

ELLIOT WISH: That's correct.

ROBERT HAAS: And you are aware that you have to abide by the parking? You can't be parking in loading zones, you know all those restrictions also apply to you?

ELLIOT WISH: Yes, sir. I had a good talk with the folks in traffic.

MICHAEL GARDNER: You'll be paying for your meter?

ELLIOT WISH: Yes, sir.

MICHAEL GARDNER: You only need one meter?

ELLIOT WISH: Yes, sir.

THOMAS CAHILL: Are you able to purchase something and walk away with it?

ELLIOT WISH: Yes, sir.

THOMAS CAHILL: So assuming the

business flourishes, I'm not able to visualize where all the stock is going inside your truck.

ELLIOT WISH: Well, luckily we don't need to keep all of our stuff on board. We keep enough for a delivery; almost like an ice cream truck in that sense. We don't shove the entire freezer in there, you take enough of what you need for the day. And if that chooses to be kept on board, because it didn't sell or didn't move, so be it. We are not going to have piles and piles of different clothing.

THOMAS CAHILL: How many different products do you anticipate?

ELLIOT WISH: For our launch, we were hoping to have maybe ten designs, six t-shirts, one sweatshirt, two tank tops. This isn't like an Old Navy warehouse with 20 different things. I certainly hope we flourish.

MICHAEL GARDNER: Ms. Lint, do you have any questions or concerns?

ELIZABETH LINT: No. But I do have a letter of support from Jason Weeks from the Arts Council.

MICHAEL GARDNER: Could you describe for us what your consultation with the Arts Council is.

ELLIOT WISH: Sure. I actually approached Ms. Julie Berry about the concept of running sort of a mobile approach to help the artists grove in the area. And she enthusiastically supported it.

When I was talking at the very beginning of the process, and she was a great resource in helping us navigate the Union Street traffic first and then apply for a license. So she's been a great mentor in helping us: You need to speak to traffic first, and then apply for a license. She's been extraordinarily supportive every step of

the way. She's been more than happy to help us out, including helping us get this letter of support.

MICHAEL GARDNER: If the license were approved, what would be your anticipated start date?

ELLIOT WISH: August 1st.

MICHAEL GARDNER: So do you have artists lines up or designs picked?

ELLIOT WISH: Yes, sir. This is our head artist right here (indicating), Donovan Brien.

DONOVAN BRIEN: D-O-N-O-V-A-N,
B-R-I-E-N.

ELLIOT WISH: He's the recipient of the 2011 AIGA Regional New England Artist of the year award.

ROBERT HAAS: Is that one of your artwork on the front of your t-shirt?

DONOVAN BRIEN: No, this is a brand.

MICHAEL GARDNER: So do you have a

portfolio of materials to share with us,
Mr. Wish?

ELLIOT WISH: I actually do not have a portfolio with me. However, I submitted one through the Cambridge Arts Council and I have it electronically and I would be happy to send you had one if you would like.

MICHAEL GARDNER: Any other questions?

THOMAS CAHILL: No.

ROBERT HAAS: No.

MICHAEL GARDNER: Anything you'd like to say?

ELLIOT WISH: Thank you for taking the time to listening to a rather oddball idea.

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

Seeing none, I'll make the motion to approve the peddler's license according to the

terms stated here including the route.

But my understanding is at least some of the route references Beacon Street and I'm not sure if Beacon Street is where you intend to go is Somerville?

ELLIOT WISH: Yes. We currently hold a valid Somerville license.

MICHAEL GARDNER: So I would make the motion to approve the license as requested subject to a review and -- I'm thinking if you have an August 1st start, I would think a review four months into the operation of the business should be sufficient.

ELLIOT WISH: Okay.

MICHAEL GARDNER: Do you expect this to be seasonal?

ELLIOT WISH: Certainly this would be seasonable. We do intend to stay out as long as possible; however, if there is snow comings do and ice on the street, we certainly will not. But we'd like to keep moving through the

winter.

MICHAEL GARDNER: But the purpose for the review is just for to us hear from any residents who may have concerns, businesses who may have concerns, public safety, whoever may have concerns, and also to give you a chance to explain how the business is going.

ELLIOT WISH: Okay.

MICHAEL GARDNER: So there has been a motion --

THOMAS CAHILL: Seconded.

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

THOMAS CAHILL: Aye.

ROBERT HAAS: Aye.

MICHAEL GARDNER: So Mr. Wish, good luck.

* * * *

ELIZABETH LINT: Ratifications.

Medallions: 44, 256A, 17, 50, 147, 148, 146,

234. Paperwork was all in order.

ROBERT HAAS: I make a motion to accept.

THOMAS CAHILL: Motion is in order.

MICHAEL GARDNER: Motion having been made and seconded to approve the ratifications -- accept the ratifications as approved by the Executive Director, all those in favor signify by saying aye.

ROBERT HAAS: Aye.

THOMAS CAHILL: Aye.

MICHAEL GARDNER: None opposed. The ratifications are accepted.

ELIZABETH LINT: Minutes.

MICHAEL GARDNER: Yes, Ms. Lint, please review them for us.

ELIZABETH LINT: April 3rd. You were both here.

MICHAEL GARDNER: Make a motion to approve the minutes of April 3rd as they stand. All those in favor, signify by saying

aye.

THOMAS CAHILL: Aye.

MICHAEL GARDNER: You can't vote because you weren't here.

ROBERT HAAS: Aye.

ELIZABETH LINT: April 17th.

MICHAEL GARDNER: We were both here. I'll make the motion to approve the April 17th minutes.

ROBERT HAAS: Seconded.

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

ROBERT HAAS: Aye.

ELIZABETH LINT: May 15th.

MICHAEL GARDNER: I make the motion to approve the May 15th.

ROBERT HAAS: Second.

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

ROBERT HAAS: Aye.

ELIZABETH LINT: I think that's all you can do. May 1st is Gerry Mahoney and Chris Burke.

MICHAEL GARDNER: And so we are going to put on the agenda for the July 10th hearing a consideration of any actions, further actions to take with respect to the vote which was taken in September of 2011 concerning regulation of certain aspects of third-party contracts within the hotel industry.

With the expectation of the police commissioner and fire chief, those deliberations and that vote, I will be available to consider the matter. And Ms. Lint you'll make sure that this is a well publicized matter.

ELIZABETH LINT: Absolutely, it will be in the paper Thursday, yes.

MICHAEL GARDNER: The City Counsel is notified.

ELIZABETH LINT: We send it to them.

And the city is already notified.

MICHAEL GARDNER: Any other business?

A motion to adjourn an always in order.

THOMAS CAHILL: Second.

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

ROBERT HAAS: Aye.

THOMAS CAHILL: Aye.

MICHAEL GARDNER: The meeting stands adjourned at approximately 7:48 p.m.

(Whereupon, the Hearing was adjourned at 7:48 p.m.)

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS
SUFFOLK, SS.

I, Evelyn M. Slicius, a Certified Shorthand Reporter and Registered Professional Reporter, the undersigned Notary Public, certify that:

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

I further certify that the testimony hereinbefore set forth is a true and accurate transcription of my stenographic notes to the best of my knowledge, skills and ability.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of July, 2012.

Evelyn M. Slicius
Notary Public
Certified Shorthand Reporter
License No. 127193
My Commission Expires:
May 15, 2013

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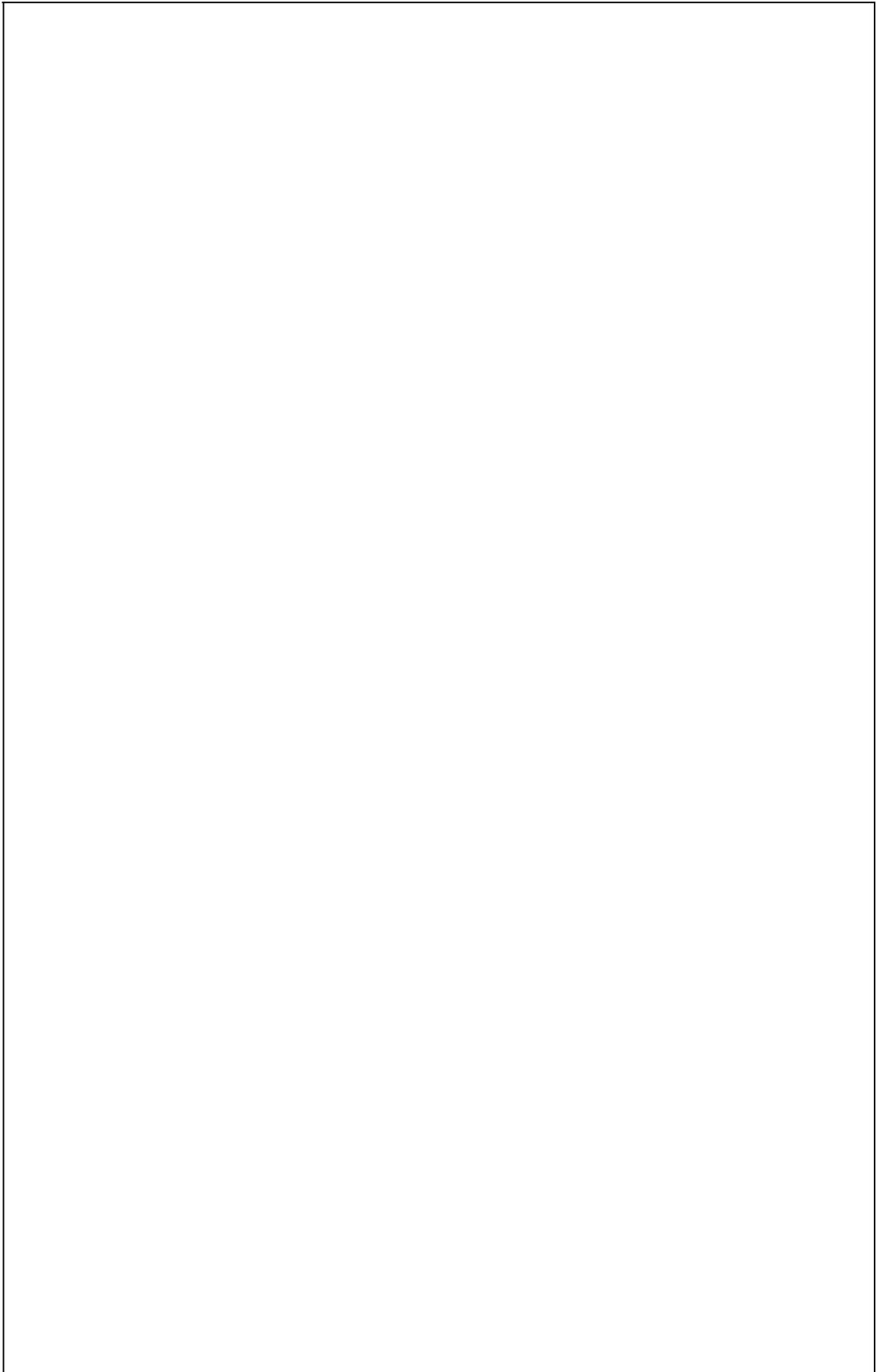
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