

STAFFORD COUNTY BOARD OF ZONING APPEALS MINUTES
May 23, 2017

The regular meeting of the Stafford County Board of Zoning Appeals (BZA) of Tuesday, May 23, 2017, was called to order with the determination of a quorum at 7:00 p.m. by Chairman Robert Grimes in the Board of Supervisors Chambers of the George L. Gordon, Jr., Government Center.

MEMBERS PRESENT: Robert Grimes, Steven Apicella, Adela Bertoldi, Dana Brown, Robert Gibbons, Danny Kim, Dean Larson, Heather Stefl

MEMBERS ABSENT: Ernest Ackermann

STAFF PRESENT: Susan Blackburn, Melody Musante, Stacie Stinnette

DETERMINATION OF QUORUM

Mr. Grimes: Good evening ladies and gentlemen. Welcome to this meeting of the Stafford County Board of Zoning Appeals. The BZA is a quasi-judicial body whose members are volunteers appointed by the Circuit Court of Stafford County. The purpose of the BZA is to hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator; hear and decide upon requests for Variance from the Zoning Ordinance when a literal enforcement of the Zoning Ordinance would result in unnecessary hardship to the owners of a property; hear and decide on requests for Special Exceptions where the Zoning Ordinance allows for Special Exceptions. The Board consists of seven regular members and two alternates. An alternate member may be called upon to participate when a regular member is unable to hear a case. Let the record reflect that we have a quorum tonight with seven voting members present. The members present and voting tonight are Mr. Apicella, Ms. Brown, Dr. Larson, Mr. Kim, Mrs. Stefl, and Mr. Gibbons, and Ms. Bertoldi will be hearing the second case. County staff is represented tonight by Mrs. Blackburn, the Zoning Administrator, Mrs. Musante, the Deputy Zoning Administrator, and Stacie Stinnette, the Senior Administrative Associate. The hearings will be conducted in the following order. The Chair will ask the staff to read the case and the members of the Board may ask questions of the staff. The Chair shall ask the applicant or their representative to come forward and state their name and address, and present their case to the Board. The presentation shall not exceed 10 minutes unless additional time is granted by the Board. Members of the Board may ask questions of the applicant to clarify or better understand the case. The Chair will then ask for any member of the public who wishes to speak in support of the application to come forward and speak. There will be a 3 minute time limit for each individual speaker, and a 5 minute time limit for a speaker who represents a group. After hearing from those in favor of the application, the Chair will ask for any member of the public who wishes to speak in opposition to the application to come forward and speak. After all public comments have been received the applicant shall have 3 minutes to respond. We ask that each speaker present their views directly to the Board, not to the applicant or other members of the public. After the applicant's final response, the Chair shall close the public hearing. After the public hearing has been closed, there shall be no further public comments. The Board shall review the evidence presented and the Chair shall seek a motion. After discussion of the motion, the Chair shall call for a vote. In order for any motion to be approved, four members of the Board must vote for approval. In order to allow the Board time for appropriate review, the applicant or applicant's representative is required to submit relevant material to the Department of Zoning and Planning 10 business days prior to this hearing, to be included in the staff report. The Board may accept additional relevant material from the applicant or the applicant's representative during the hearing; however, large amounts of additional material may require a deferral, at the Board's option, on behalf of the applicant to allow the Board time to consider the additional material. Members of the public and/or staff may also submit relevant material during the hearing. The applicants should be aware that we have seven voting members present, and you must have four affirmative votes to approve an application. If you do not

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think that there are enough members present that will enable you to receive a fair hearing, then you have the right to defer the hearing until another meeting. However, you may defer this hearing for this reason only once in any 12-month period. Deferral requests are granted at the sole discretion of the Board. The applicant may also withdraw his or her application at any time prior to a vote to approve or deny the application provided that the applicant has not withdrawn a substantially similar application within the previous 12 months. Any person, or persons, who do not agree with the decision of the Board shall have 30 days to petition the Stafford County Circuit Court to review our decision. Also, be aware that the Board will not hear any denied application for a Variance or Special Exception that is substantially the same request for at least one year from the date of our decision. I'll now ask that anyone with a cell phone, pager, or other electronic device to please silence it. Thank you. It is the custom of this Board to require that any person who wishes to speak before this Board shall be administered an oath. Therefore, I ask that anyone who wishes to speak tonight to stand and raise your right hand. Do you hereby swear or affirm that all testimony before this Board shall be nothing but the truth?

Members of the audience: I do.

Mr. Grimes: Thank you, you may be seated. The Chair asks that when you come down to the podium to speak, please give your name and address clearly into the microphone so our recording secretary can have an accurate record of the speakers. Also, please sign the form on the table at the rear of the room. Thank you.. Are there any changes or additions to the advertised agenda?

Mrs. Musante: There are no changes.

Mr. Grimes: Thank you. Before we hear the first case, does any Board member wish to make any declaration or statement concerning any case to be heard tonight? Mrs. Stefl.

DECLARATIONS OF DISQUALIFICATION

Mrs. Stefl: I just want to make a declaration on case number S... I would like to make a declaration on case number SE17-04/17151729. I did receive a Facebook message from a personal friend who is a neighbor of this particular venue. I did not discuss the merits of the case or anything pertaining to the case. My only advice to her at that time was to please attend this meeting this evening to have her concerns voiced to the record, and I also provided the Chairman's email to her if she could not or her neighbors could not attend so that they, too, could have their minutes or their remarks put to the record. Thank you.

Mr. Grimes: Excellent, thank you. Ms. Brown?

Ms. Brown: Uh, yes, I just wanted to restate that as I did last month, it was on April 24th, the day before the meeting, I did visit the property and I did speak with Mr. and Mrs. Palmer. They were very accommodating to me to let me walk around and take some pictures. I also had a visit with Tommy Thompson at the Virginia Department of Health on May 15th to discuss the septic system and the drainfield placement and related concerns. And lastly, I also spoke to Matt Halpen, he's the law enforcement manager or agent for the Fredericksburg Regional ABC Office, and that was on May 22nd. And that was regarding case SE17-04/17151729. Thank you.

Mr. Grimes: Any other members wish to make any declarations? I'll add one. I received an email from a resident, David Forrest. I have shared that email in reference to the Special Exception 17-04/17151729. That has been shared with the rest of the Board. Hearing no other declarations, and this is really for the benefit of the members of the public in attendance tonight, I would note that both of the

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cases being heard tonight were deferred from previous meetings. In both cases, the public hearing is still open to allow the Board to gather additional information and seek further comments from the public.

Mrs. Stefl: Mr. Chairman?

Mr. Grimes: Yes.

Mrs. Stefl: I do believe you possibly forgot about the email that you received from the Board of Supervisor of this particular district. I don't believe you mentioned Mr. Larry Platt.

Mr. Grimes: My apologies. You are correct; Ms. Maurer did send us... forwarded us an email from a Mr. Platt in reference to this same Special Exception case, 17-04/17151729, and that has also been shared with the members of the Board. So, we'll start this evening off. I'll ask the County to read the first case again for the benefit of the public.

PUBLIC HEARINGS

1. SE17-04/17151729 - John and Kimberly Palmer and Theresa Thompson - Request a Special Exception per Stafford County Code Sec. 28-35, Table 3.1, "District uses and standards," A-1, Agricultural, to allow a wedding and events venue as a Rural Home Business on Tax Map Parcel Nos. 27-59F and 27-59G. The property is zoned A-1, Agricultural, located at 558 Stefaniga Road. **(History: April 25, 2017 Public Hearing Continued to May 23, 2017)**

Mrs. Musante: Case SE17-04/17151729, John and Kimberly Palmer and Teresa Thompson, request a Special Exception per Stafford County Code Sec. 28-35, Table 3.1, "District uses and standards," A-1, Agricultural, to allow a wedding and events venue as a Rural Home Business on Tax Map Parcel Nos. 27-59F and 27-59G. The property is zoned A-1, Agricultural, located at 558 Stefaniga Road. You have the application, application affidavit, plat of the property, diagram of the area used for the business and a barn diagram, email regarding partnership, email from the Health Department, copy of the petition, and affidavit and map. The applicant is requesting a Special Exception for a Rural Home Business to operate a wedding and special events venue on the property. Their initial plan is to utilize tents in the field behind the residence to accommodate these events. This area is 156 feet from the residence and is accessible by foot and vehicles. The estimated attendance is no more than 75 cars or 150 people. There is a single-family dwelling located on the property that will be used for the office, restroom facilities, and a small bridal dressing area (357 square feet) in addition to a Bed and Breakfast. This use does not affect this application. The entrance driveway is 17 feet in width and is of gravel composition. The adjacent wooded property is vacant and will be left in its natural state for photo opportunities. The applicant states as the business develops, it is their wish to upgrade the existing 1,536 square-foot barn to be used as an interior wedding facility. This structure will be renovated in conformance with the Building Code. The barn is located 366 feet from the residence, 42 feet from the property line, and 300 feet from other connecting properties. The applicant stated in a phone conversation the bride will be responsible for all outside vendors that are approved by the Health Department. No food will be provided by the applicant. The requested days and hours of operation are: office - Monday through Friday 8:00 AM to 5:00 PM; weddings and events - Friday and Saturday 10:00 AM to 11:00 PM and Sunday 10:00 AM to 8:00 PM. The owners of the property are John and Kim Palmer. Kim's sister, Theresa Thompson, resides on the premise and will be a partner of the business. The Board of Zoning Appeals deferred this case to May 23, 2017 for staff and the applicant to provide additional information. The BZA wanted to know more about the location of the septic field in relation to the proposed development, if VDOT needed to be involve with a new entrance to the property and a copy of a petition

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of opposition by the neighboring property owners, and a request to expand the list of property owners to be notified of this request. An email from the Department of Health has been included in the staff report as Attachment 6 illustrating the location of the septic filed as verified in the field. Staff spoke with Margaret Neiman with the Virginia Department of Transportation. If the applicant wishes to install a new driveway for the purpose of the business, they will need to contact and apply for a permit with VDOT. A copy of the petition is included as Attachment 7, and on May 8, 2017, staff sent notification to 39 adjacent property owners regarding this request. The map and affidavit are included as Attachment 8.

Mr. Grimes: Thank you very much. Are there additional questions for the staff? I have some so I guess I'll start. Would the staff confirm the zoning of this property is A-1, correct?

Mrs. Musante: Correct.

Mr. Grimes: And the A-1 zone allows a Bed and Breakfast by-right, correct?

Mrs. Musante: Correct.

Mr. Grimes: For the record, can you define what by-right means as it relates to zoning?

Mrs. Musante: It means that they can basically go in there and operate that business with just regular permits, not having to go through a special process. No public hearings.

Mr. Grimes: So, they would obtain a business permit, business license, County license, and...

Mrs. Musante: Correct.

Mr. Grimes: ... that's all that would be required?

Mrs. Musante: Correct.

Mr. Grimes: For the record, would you mind reading the list of by-right uses that are allowed in this district?

Mrs. Musante: Accessory dwelling, agricultural service establishment on lots greater than or equal to 5 acres, agricultural, aquaculture, automobile avocation, bed and breakfast inn, boat sales, campground, cemetery, club/lodge/fraternal organizations, community use, equestrian use, farmers markets, feed lot, forestry, golf course, group family day care, home business, home occupation, manufactured home qualifying as a single-family home under the Virginia Code, noncommercial kennel, park and playground, park and storage of commercial vehicles, place of worship, plant and tree nursery/greenhouse, public facilities/utilities, public works excluding wastewater treatment facilities, recreational enterprise, recreational facility, sawmill and ancillary products, secondary dwelling 50 years or more in age upon referral of the Stafford County Historic Commission, single-family dwelling, slaughter and animal processing incidental to agricultural intensive use, small family day care, veterinary clinic, wayside stand, wetland mitigation bank.

Mr. Grimes: Thank you. I know that was a bit tedious but I thought it was well worth reading everything that's allowed by-right in that zone. In the suggested development conditions that have been offered to the Board at this time, are the operating hours for the weekend, do they coincide with the County noise ordinances for hour restrictions?

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Mrs. Musante: I believe the County noise actually starts at 10:00 p.m., where they want to go here to 11:00 p.m.

Mr. Grimes: Thank you. And has the County received any correspondence from neighbors via email or phone call, in addition to what we presented to the Board?

Mrs. Musante: The only thing that I have received is what you all sent me of emails. I have not received anything directly.

Mr. Grimes: Great, thank you very much. Are there other questions for staff? Ms. Brown?

Ms. Brown: Yeah, just a real quick one. Has the barn been inspected by the County to determine what might be needed to turn this into a public venue yet?

Mrs. Musante: Not to my knowledge. In conversation with the applicant, they were going to wait to see if this Board approved their Special Exception before going and incorporating somebody else and having them come out and inspect.

Ms. Brown: So we have no idea what's needed at this point?

Mrs. Musante: No, we do not.

Ms. Brown: Thank you.

Mr. Grimes: Do we have any other questions for staff?

Mr. Apicella: Mr. Chairman, during the last meeting I asked about the... I called it an access road -- that may not be the right term -- but whatever path will get cars from the entrance to the parking lot or anywhere else a car might drive to, I was concerned about whether or not that, again, I'll call it a road for lack of a better term, is wide enough for two vehicles passing in the opposite direction to not interfere with each other. So, do we know what the width of that driveway is and what surface material will be put under that driveway?

Mrs. Musante: I do not.

Mr. Apicella: Okay, thank you.

Mr. Grimes: Questions for staff?

Dr. Larson: Mr. Chairman?

Mr. Grimes: Yes, Dr. Larson.

Dr. Larson: A couple of quick ones. On the attachment 8, the list of people that the County sent mailings out to, there's a line on that list all the way across that sheet. Could you explain the line please?

Mrs. Musante: Give me just a second please. The first eight were the original ones that were sent. Anything below that line were the new ones that were sent.

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Dr. Larson: Okay, thank you. And on the petition that was included in the package, Attachment 7 I guess it would be, there are some stars and pink dots and things to the left of some of the names. Could somebody explain what those mean?

Mrs. Musante: I'm going to speculate at this point without... I can't remember from last month truthfully, but I believe the asterisks were the ones that were originally sent. Everything else... actually, the asterisks are the ones that we sent notification to. The others are just who signed the petition.

Dr. Larson: Okay, thank you.

Mr. Grimes: And to follow up to Dr. Larson, those notification letters were sent to everybody on that petition, correct?

Mrs. Musante: That is correct.

Mr. Grimes: Thank you. Mrs. Stefl?

Mrs. Stefl: I was just curious if a new petition or any other information might have been provided...

Mrs. Musante: I have not received anything.

Mrs. Stefl: ... say in the last 24 hours to you. Okay, thank you.

Mr. Grimes: Yes, Ms. Brown.

Ms. Brown: I'm sorry, I did have one more question. Has anybody contacted staff to view the documents for the meeting tonight prior to the hearing? You know, they're open for the public to come down to view. Did anybody want to come down and look at the documents?

Mrs. Musante: I had one gentleman come in last week and, forgive me, I don't recall his name. But he had already went on the website and printed off the staff report and he just had a few questions.

Ms. Brown: Okay, thank you.

Mr. Grimes: Any other questions for staff? Hearing none, will the applicant or his or her representative please come forward and present your case.

Mr. Palmer: Good evening Mr. Chairman and members of the Committee. I have a question to ask you before we start our proceedings, and I need to get Mr. Valentino's assistance with this question. It's for clarification. Can I speak directly to him? Would that be okay?

Mr. Grimes: That would be fine.

Mr. Palmer: Okay. Mr. Valentino, when we left here last month I made a (inaudible) comment to you going out the door; it was sarcastic in nature. But I wonder if you could share that with the Board, if you could just tell them what I said.

Mr. Valentino: I don't recall.

Mr. Palmer: Okay.

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Mr. Valentino: I don't recall you saying anything sarcastic.

Mr. Palmer: Okay. As I was going out, I passed by you and I said something to you. You didn't...?

Mr. Valentino: I think I made, on the way out of the building, my comment was when was the next meeting, and as you were walking past you said check your mailbox.

Mrs. Palmer: Thank you! I love you!

Mr. Valentino: Yeah, that was... it wasn't aggressive.

Mrs. Palmer: Thank you!

Mr. Palmer: I appreciate your honesty sir.

Mrs. Palmer: No, we appreciate it; thank you sir!

Mr. Palmer: It was unfortunate (inaudible)...

Mr. Grimes: That's great, thank you very much.

Mr. Palmer: ... that I think was misconstrued. It was heard by a member of your committee and I think transferred verbally to the rest of the committee. So I just wanted to straighten that out before we start.

Mr. Grimes: I think that is fantastic, thank you.

Mr. Palmer: Okay, thank you. My name is John Palmer. I am the applicant along with my wife. We live next to the property that we'd like to make into a wedding venue. We talked a little bit last month about what we'd like to do and overall accomplish. I think everyone's fairly familiar with this. I think there's a lot of discussion that has evolved since then, and I'm not sure what I can present to you.

Mr. Grimes: What I would offer, Mr. Palmer, since we do have a large audience here that wasn't here for last month's meeting, that you present your case as if we haven't heard it before.

Mr. Palmer: Very good.

Mr. Grimes: And that will allow the public that is here tonight to hear what you're planning to do.

Mr. Palmer: Okay, very good. What my wife and I would like to do is to open a wedding venture facility in which we use our property as a ground for the wedding and let brides and grooms and families come in and use the field initially with tents to get married and then have I would say receptions afterward. Part of this we're looking at bringing in a lot of vendors. Typically the brides make arrangements with vendors. So we want to have our vendor bring the facilities in, which would be tents, chairs, tables, wooden floors, those kinds of things, and we would actually provide the parking, the use of the property, and we'd also like to look at a venture where we would have small groups of people that are artists that would come out and perhaps, you know, do some drawing...

Mrs. Palmer: With the community.

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Mr. Palmer: Right. And I'm going to defer that portion of it to my wife because she's a little more involved with that portion of it. I think one of the problems that we've encountered is the special events topic that we use. A lot of people make that synonymous with concerts. It's not our intent to have concerts. The only thing we mentioned last week... I'm sorry, last month was that we would have perhaps a four-string violin quartet. So, this would not be something where we'd have rock concerts. We wouldn't be having country music, anything like that, with large gatherings of people. So the only music will be associated with the artist groups which would be low amplification, and any DJ would be low in amplification. And we talked about the possibility of bands, but I think that was in association with the weddings also, which again would be small.

Mrs. Palmer: Within 65 decibels.

Mr. Palmer: Right. All within the noise ordinance and my wife is well-versed in that also. She's performed that research. I also asked a disc jockey to come in just to give us technical clarification if anyone has any questions. I'm not sure if the gentleman is here or not, and if he is, I'm sure he'll come up and speak. So, in a nutshell, that's what we'd like to do. And then as we accumulate profit and do the beta test for the business, we'd like to utilize our existing 1,539 square-foot barn. We understand that needs to be brought up to code so that it's actually an assembly 3, which is the provision of the Building Code. We have not submitted plans yet. We have talked with an architect. We do understand that Stafford County requires a design professional or an architect with a stamp to submit the plans. So we will go through that process and those plans will go to the Building Official once we submit them, and the Building Official will review the plans, make a recommendation as to how many people can be in the building based on the usable square-footage and the criteria in the Building Code. I think initially we looked at 150 people; just in talking to other weddings events they seemed to think that's a manageable size crowd. And because it's 150 people, we kind of did a what I would say is kind of a math assessment that we would probably be have two people per car. So that's how we're getting to the 75 cars. There could be four people in a car which reduces the number of cars. Certainly that's something that is kind of on a sliding scale. So, 150 people is what we feel we can manage comfortably. That group of people may diminish based on the Building Official's direction for the barn and how many people can be in the barn based on the occupancy and the square-footage that's usable. We're not going to be doing any cooking inside the barn. We'd have a food prep area and I believe all the caterers will be bringing their wares and their food in from offsite and bringing them to the tent location. The tent has a permit process which has to undergo the Fire Marshal's scrutiny, as well as the Building Official, so all this we have designed to be a safe and viable method for the safety of our guests that would visit the farm. Two other comments I would make; the description of the property -- the barn's actually... we have three consecutive properties together. And one of the property dimensions you have, which is 42 feet, that's actually to our property line. There's an additional 200 and some odd feet to the next neighbor's property line. So, it's an expanded area. Just so that we understand that we're not 30 feet within someone else's property. We are cognizant that there are a lot of houses around us. We came to Stafford County 30 years ago when it was a little different architecture in the County. We have since had development around us and we are cognizant that a lot of people are concerned about the noise and the traffic congestion. We have discussed some alternatives to this. We've also discussed the potential use of alcohol associated with the wedding venue, and we've actually attended some ABC training so that we have the same certifications that a bartender has and a person who sells alcohol. It's an awareness class basically. It's a 3-hour class. We attended that at the ABC office; wonderful people. And I did try to get an ABC Officer here; I called in the early portions of May and I talked with an officer and that officer had to talk with the supervisor and the supervisor decided because of the political nature of this and the neutrality that they would not send an officer. So, we did attend their class. We attended it before having that discussion. Let me back up. We attended it after we having the discussion but it was a good... we'd already planned on being there. We have a letter that we had

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submitted an application to be accepted to the class. So, we have the same criteria that a bartender and someone who sells alcohol have as far as recognizing someone who's drunk too much and possibly intoxicated, and we have put together provisions to have that person transported, either through Uber or through a Yellow Cab company... I think it was Yellow Cab...

Mrs. Palmer: Global, I spoke to them, yeah.

Mr. Palmer: Global, I'm sorry. And we're trying to make accommodations that perhaps they can get a low cost hotel if that event occurs. I'm not certain this is a real problem in the wedding event industry based on the people I've talked with. There's ways that it's managed; typically relatives manage people that over-indulge. So I will tell you I'm a little concerned about someone getting on the roadway; we do have measures in place and we have to control that as much as the law allows us to. I'm not certain what else to tell you except that we agreed last month, we told you no concerts, and I'm not sure how that's gotten spooled up except I think the special events definition is synonymous with concerts. What we're looking for is a very low intrusive environment in which to perform our business. And the reason that we got into this is because it's a very low cost environment at our farm compared to other wedding venues throughout the County. I don't know if you all have done the pricing before, but it's very expensive. We have a young daughter over here that's getting married in July. Not only would we like to use this for her facility but we've been approached by many, many more people that have said, you know, you guys have a great place, you should do weddings here. So, that's what got us motivated to do this business. I have also looked into the economic value that I think that it could bring to the County. I talked with other wedding events venues and there's a lot of things that require people to travel from out of state to our location, they stay in hotels. Just as a figure, I put together some hotel information. Your average cost of a hotel room runs between \$120 and \$199, so I'm going to use \$167 per night as a hotel room basis, with another \$50 per day in food. So, if you take a 10-person family unit per day, the County is going to receive \$2,170 in revenue inside the County. With that goes meal tax and hotel tax, so depending on what that bill is, that's revenue that comes into the County. And I just did some very basic calculations, based on an 8-month period. If we had two weddings per month, it would be about \$7,800 in meals tax that would be returned to the County. You also have people, because we would provide a lower cost venue, they would probably be more inclined to eat in our restaurants, spend money, go to movies, spend money in retail shops and things of that nature. And what we're trying to do is dovetail that into the County's strategic plan as a certified business community in which we try to develop small businesses and we're trying to develop regional clusters based on this strategic plan that was presented to the County. The other aspect of a business, when you start a business, if we have capital assets between 35 to 15%, over a period of time, is associated with the capital assets of a business. In our case probably not so much, but the more wedding venue providers we have, tents, tables, chairs, flooring, and that kind of thing, they're going to pay 35% in taxes and it's going to dwindle down to 15% over a 50-year period and it bottoms out. When we, if allowed, to put our barn together, we'll be taxed for that barn, what's inside of it; furnishings, any type of capital assets that we have, vehicles, anything of that nature. So, that's our initial plan. And the other aspect we're looking at is certainly the employment staffing with bartenders, security, vehicle management -- we talked about using our property and bringing three people in to help us manage cars on the property, to get them off of Stefaniga Road and get them parked somewhere where it's safe and viable for the people to move about. That way we won't stack up cars on the roadway. We have vendor support staff which will be employed, and of course the County DDA, that would be the Developmental Division Association of the County. I'm not sure if that's the proper term down in Stafford County but that's what I'm familiar with. So, the people that do the building inspections, that review the plans, and that send the inspectors out. And then there's the associated construction personnel that would be doing the job for us. So, all those things come together I think to make an economic value for the County. My wife has some

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information also. Is there something you want to share at this point? Maybe you can expand about the art venue.

Mrs. Palmer: Yeah. When I said concert, I wanted somebody... I wanted to be able to have like an open house where we could have artists come in and things like that. This is supposed to be something that was embraced by the community. We were trying to do something that would be low impact, that would still be beautiful, and that everybody would actually enjoy and love and actually enjoy looking at. And I looked into a bunch of jobs for people so that they didn't have to go out of the County. So, that's what I was opening it for. I do want to say one thing -- I know how these guys feel. When I got my land and bought it, I'd been coming down Stefaniga Road since I was a teenager to go to John Stefaniga's sawdust mill. My parents had horses; we couldn't afford to have an 18-wheeler come down to our barn and give us sawdust. So I'd climb up into the tower and John Stefaniga would say, drop it down; that's how I know this area. That's how I ended up living in this area. It was still gravel roads. And when we bought our land... when I bought the land and my husband and I purchased it... well, I purchased it but he... I found a husband, I finally found a husband and we built a house. We were a little upset when everybody started building around us because I knew John Stefaniga, he knew my sister, everybody, and we thought we were moving to a nice farm. One thing that we would do when we first... I would actually moo to the cows and they would moo back from the Robinson farm. Now, you can't moo to anything and it won't moo back because they can't hear you because of everything. So, I know exactly how these guys feel. And we embraced it because we know you can't stop things, but you can encourage people as a community to bring the positive out. We're not going stop, but I went down Curtis Park today and the farms are being eat up by subdivisions. None of us are going to stop it. But you can at least embrace and make it a beautiful and something for people to believe in and have as a community for everybody. Okay.

Mr. Grimes: I appreciate it, thank you very much.

Mrs. Palmer: Thank you.

Mr. Grimes: Are there any questions for the applicant? Mrs. Stefl.

Mrs. Stefl: You mentioned you attended the ABC training. Is that the RSVP or...?

Mr. Palmer: We had the RSVP. I have the certifications here.

Mrs. Stefl: So, you took the one free course that... 3-hour course that they take?

Mr. Palmer: Yes.

Mrs. Palmer: It was special agent day.

Mrs. Stefl: Okay. Would you be open to a Tips training?

Mrs. Palmer: Oh yeah.

Mr. Palmer: I think we would be...

Mrs. Stefl: Are you familiar to Tips?

Mr. Palmer: I'm not ma'am. If you'd like...

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Mrs. Stefl: It's training for intervention procedures. My full time job works for a brewery so I'm very familiar with unfortunately (inaudible), RSVP, and Tips. So, that's my understanding for you. I just want to get a grasp from you of how proactive you want to be.

Mrs. Palmer: Yes.

Mr. Palmer: I think the answer to that is that we would like to be very proactive and that's why we took the training and that's why we tried to get an agent in to answer any questions that would occur. Frankly, we have the same concerns that I think that our neighbors have about the roadway. What we took was an awareness training and part of that was how to recognize a person when intoxicated and what the bartender or the person selling the alcohol, the actions they take. They move it out of the area and look to the next customer and just let the guy stare.

Mrs. Stefl: Correct, but they also offer another 3-hour which is more on the management side which might also help you because that's probably where you would also be falling under is more of a management because your caterer or your various vendors would most likely bring in their particular bartenders who have already gone through the Tips and RSVP. So you would be more on that mark. So, that might be of interest to you. Thank you.

Mrs. Palmer: Yes ma'am, thank you.

Mr. Palmer: We would entertain that. I might also add that there are other avenues that we have to receive certification in. That's emergency management for crowds that's required now. I have a background in that. I have certification in that from your local Fire Marshal, so I've been through some of that training. But the rest of our staff here will be going through that as well. So, our whole focus is to make a nice safe and comfortable environment for everyone that doesn't impede on the neighborhood, on the traffic, or the officers. They have a hard enough job, they have a lot to do so, you know, we want to make sure it's a good transition for all of us. Can I approach with these certifications? Would that be okay?

Mr. Grimes: We'll bring those up after we finish with our questions.

Mr. Palmer: Okay, thank you very much.

Mr. Grimes: Ms. Brown.

Ms. Brown: Thank you, hi. I have several questions. First one, do you still have a tenant living on the property where the wedding.. proposed wedding venue is?

Mrs. Palmer: Yes.

Ms. Brown: And then how long will they be living there till?

Mrs. Palmer: August 1st.

Ms. Brown: August. So you wouldn't be able to have any weddings even if we approved you until August or later?

Mrs. Palmer: Yes.

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Ms. Brown: Okay.

Mr. Palmer: Unless they agree to it. We wouldn't want to impede.

Ms. Brown: Okay. And at our last meeting, I asked you about power, what kind of power was out there, because you were going to start with tents. You stated you'd be having portable generators brought in? Is that still...?

Mrs. Palmer: Yes ma'am.

Ms. Brown: The tent people would bring those in?

Mrs. Palmer: Mm-hmm.

Mr. Palmer: Our vendors provide those. They have a series of the quiet generators. I don't know if you're familiar with those.

Ms. Brown: I've read a little bit about them, yes.

Mr. Palmer: They have low decibels. We'd like to, at this point, just kind of (inaudible) that out as resources and then as things occur, if we have to buy those items, we will. But we will be aware of the decibels that are emitted for noise.

Ms. Brown: Okay. Do you, since we don't have power out there, do we have water out there?

Mr. Palmer: At the barn?

Ms. Brown: At the barn, at the tent site.

Mrs. Palmer: We have power and water at the barn.

Ms. Brown: How about at the tent site? Because my understanding was the barn wasn't going to be utilized until later perhaps if the business took off. That was what I understood.

Mr. Palmer: I think my question to you would be if the tent is there and you have generators that supply power to the tent, then that power would be supplied by the generator.

Ms. Brown: Right.

Mr. Palmer: And the barn would be a separate issue when we're ready to have the Building Official look at that.

Ms. Brown: So, do you have water out there for the tent?

Mr. Palmer: Yes. At the tents?

Ms. Brown: Yes. For people...

Mr. Palmer: We don't have water at the tents.

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Ms. Brown: There's no water at the tent. Okay. And I'm looking at the staff report and it says in here that you had stated to staff that, in a phone conversation, that the bride will be responsible for all outside vendors that are approved by the Health Department, because the bride has to bring in all her food.

Mrs. Palmer: Yes ma'am. That's how most of them do them.

Ms. Brown: Okay. How will you know that this has been approved by the Health Department?

Mr. Palmer: I would think that the vendors have a certification list, particularly if they're using food. And we'd be able to obtain that information from them. Like most special event centers, you have a go-to group of vendors, including your caterers, that understand your operation, they understand your rules, and they apply them and they have the certifications needed to show that things are happening in (inaudible).

Ms. Brown: So, you're going to have a list of vendors that are approved that you will allow your brides to use?

Mrs. Palmer: Just like all the vendors do.

Ms. Brown: So she can't just like cook her own food and come.

Mrs. Palmer: No.

Ms. Brown: Okay.

Mr. Palmer: What we'd like to do is to use people that we trust, just for the issues involved with the traffic, the alcohol, anything that's an issue within the community.

Ms. Brown: Okay, that leads to my second question. Since the bride will be providing the food, will you be providing drinks?

Mr. Palmer: Not alcohol, no.

Ms. Brown: Any kind of drinks? That's all up to the bride, okay. Were you aware... because I did speak with the ABC I believe it was the managing agent at the Fredericksburg Regional Office and he explained to me that the bride would need a banquet license.

Mrs. Palmer: Oh yes.

Mr. Palmer: We're aware of that.

Ms. Brown: And I think it takes about, I don't know, a week to ten days to get one of those, and that is required. And you, as the owner, would not be able to provide any kind of alcohol. And if alcohol is served at your venue, and there is no banquet license acquired, you could both be criminally liable to criminal offense.

Mrs. Palmer: We finally learned that.

Mr. Palmer: We understand that ma'am. We also talked with the officers and we've given them the ability to come on our property.

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Ms. Brown: Okay, I just wanted to check to see if you were aware of that. Also, he mentioned separately aside from that you would need a different kind of an ABC license for your Bed & Breakfast, not the banquet license but a different kind.

Mrs. Palmer: Yes, that's fine.

Ms. Brown: Okay, one is shaking their head and one is looking up.

Mr. Palmer: Well, we didn't cover that as far as the aspect of a Bed & Breakfast and, frankly, I'm not going to (inaudible) alcohol to a Bed & Breakfast.

Ms. Brown: I mean, that means no wine, no beer, no...

Mrs. Palmer: Yes, that is correct.

Mr. Palmer: We're not providing that to anyone. It'll be the same as you going to a hotel for a weekend at your high school reunion and we wouldn't supply that. So, you know, that's something up to the individual if they bring it in. I don't know if I can control that.

Ms. Brown: Okay, two more and I'll be done. Thank you for your indulgence. How do you plan to get water to the tent? You know, for people to wash their hands, for food service, you know, to wash some of the dishes. I mean, how do you plan on getting water to the tent?

Mrs. Palmer: We have porta potties with trailers that I've already spoken to the different vendors, and they have access... they have water inside when they wash their hands. With a porta potty they have a place to wash their hands. Anybody that's serving food, will be heating it up, they have use of the kitchen in the house.

Ms. Brown: So, I mean, like...

Mrs. Palmer: To warm up the food.

Ms. Brown: ... forks drop on the ground, serving utensils, they need to get washed. Are they going to be washed in the porta potty sink or...?

Mrs. Palmer: No, no ma'am. They would be washed in the kitchen sink.

Mr. Palmer: My answer to that, ma'am, would be that whatever the Health Department requires because it's much like the fire and building code, we would comply with that. Now, our vendors, I'm not certain how they accomplish that because I haven't had that conversation with them. I've had a lot of other logistical conversations and, at this point, we're trying to structure exemption for what we want to do, although logistics haven't been worked out yet. It's going to take a little bit of time before that occurs. So, if the first initial point is to meet with you to say we'd like this exemption and you're giving us criteria in order to accomplish that exemption, then at that point we talk to the vendors and start finalizing logistics.

Ms. Brown: I just bring that up because I'm a little concerned about the house being turned in to a restaurant, which would not be allowed.

Mrs. Palmer: No.

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Ms. Brown: If the vendors are coming in to heat their food or to wash their utensils, that turns into a possibility of a restaurant. And the last question I had is the size of your barn. There seems to be a discrepancy between the Stafford County tax records and what was stated in the report. The tax records say there's 1,280 square feet and I believe you stated in the report there was 1,536. Do we know which is correct?

Mr. Palmer: We measured the outside of it. The dimensions are what we've given you at 1,539 square feet. I'm not certain what the tax records indicate; I don't know why that is. But I think that Stafford County was somewhat in the state of flux in the 1980s. I think we had one inspector and a very small Building Official's Office so I'm not certain what's there.

Ms. Brown: Okay. That's all I have at this time, thank you.

Mr. Grimes: Thank you. Dr. Larson, did you have a question for the applicant?

Dr. Larson: Yeah, I have a couple of things. Okay, so you're in an A-1 zoning district. So, you're... part of your Special Exception says that you want to become a Bed & Breakfast and Special Events Venue. But we learned just a few minutes ago that the Bed & Breakfast is a by-right for A-1. So, just for clarification, you can do that without anybody's permission.

Mrs. Palmer: Yes sir.

Dr. Larson: You can do that. Okay. Now your other part of your application... excuse me?

Mr. Palmer: I'll clarify why that occurred. When we looked at this originally when we put the first package in, it had to remain residential so the Bed & Breakfast was what we thought we'd get residential status to get to the exemption status. But now, since we have a tenant that comes in, that's why we got to that point. So, if that clears things up for you.

Dr. Larson: Not sure it clears it up but just so you understand that, you know, you have the right to have a Bed & Breakfast in the A-1 zoning district.

Mrs. Palmer: Yes.

Dr. Larson: Okay. The question I have, the first one deals with the application again. It applies... the application applies to lots 27-59F and 27-59G. If I saw the plan right, it looked like all of the event buildings and plans and items applied to lot 27-59F, is that correct?

Mr. Palmer: The middle lot sir

Mrs. Palmer: The middle lot.

Dr. Larson: The middle lot, that's correct. Okay. So, my question is, why is the other lot in the application?

Mr. Palmer: I think that we put that in just to have it in the package. I think the initial issue with the package was to try to encompass everything so that if we use that for pictures and whatnot, it would still be part of this special exemption.

Mrs. Palmer: That is why.

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Dr. Larson: Okay. But you don't intend to use that lot for the Bed & Break... not Bed, the wedding venue?

Mr. Palmer: Just pictures, that's it. If somebody wants to walk in the woods, that's all we're looking for.

Dr. Larson: Okay, thank you. Uh, now, in your application you list three days a week that you have hours for these events; Friday, Saturday, and Sunday nights. You probably did some sort of business case analysis, I'm assuming. So, what sort of numbers are you looking for to make this work? How many events per month do you assume to make the business work?

Mrs. Palmer: Can I answer that one?

Mr. Palmer: Certainly.

Mrs. Palmer: So, what I would like to do is do Friday evening, because people get off from work. I don't anticipate that because I've spoken to a bunch of venues; that doesn't seem to be very popular. It looks like it's Saturday for sure, and then Sunday. But Sunday would be closed down a little bit sooner. I do not want to have anybody out there at 9, 10 o'clock at night on a Sunday.

Dr. Larson: Okay, so, again, what sort of estimate do you have for... the number of events per month?

Mrs. Palmer: Well, I would like to have Fridays and Saturdays booked, but I... I mean Saturdays and Sundays booked, but I don't know until we get calls. And we only want to have one wedding a day. I do not want to have two weddings a day. It will be just one wedding a day.

Dr. Larson: Okay.

Mr. Palmer: A minimum of two; no more than six.

Dr. Larson: I'm sorry, say it again?

Mr. Palmer: Two to six is probably the range, but I don't think that's going to happen.

Dr. Larson: Per month? Two to six, is that what you're saying?

Mr. Palmer: That would be an eight month period. That would be what we'd like but I don't think that's going to happen. I think it's more feasible it's going to be two per month... or four per month.

Dr. Larson: Okay, thank you.

Mrs. Palmer: We won't know until people book.

Dr. Larson: Yeah, I just didn't know if you had, you know, checked with other vendors that have done this in the past and...

Mrs. Palmer: Yes sir, I have.

Dr. Larson: ... what their... So what is their business (inaudible)?

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Mrs. Palmer: So, what they're telling me is most people would do a Friday evening or a Saturday, and then Sunday by 6 o'clock. It's usually a day wedding on Sundays.

Dr. Larson: But they didn't give you any idea of numbers.

Mrs. Palmer: They don't like to share that sometimes.

Dr. Larson: Oh, okay, I understand. Thank you.

Mr. Grimes: Mr. Apicella?

Mr. Apicella: Mr. Chairman, you've heard me ask a couple times about the access road. And the reason why that's important to me is because I'm concerned about stacking, especially as cars are turning in and cars are turning out and there being basically a traffic jam at the entrance. So, what is the width of that internal road or internal driveway?

Mr. Palmer: The driveway itself is 18 feet. I can put additional gravel down and get the distances we need. We can move the fence posts out of the way. We actually talked about perhaps using our driveway for the service access trucks for the caterers because they come a short distance on that and then they would have access way to the back field. I believe, and I have to pull tape to make sure, but the roadway in the front of the 558 property is 18 feet all the way down. The entranceway, 18 feet, so based on your recommendations from VDOT, that has to be widened a little bit. I'm fairly certain that our driveway that if we have the catering trucks and whatnot that is 25 feet, but I have to confirm that measurement. I didn't get a chance to get to that today. I think, in talking with all of you, you're concerned about stacking the vehicles and we understand that. So, I think the most viable thing I could look out would be to point to the fire code where you have to maintain a 20-foot access way for the emergency apparatus. So maybe 20 feet is where we need to start. That would be a suggestion, okay. The entranceway coming, it looks like VDOT's encouraging 25 feet and we would also have our personnel that would be trained in parking cars, getting cars off of Stefaniga Road. So, I think that may accommodate your two cars passing each other. We actually did some measurements with my Suburban and my wife's car and, if we round things off, we're looking at about 14 feet with a total width. And Stefaniga Road itself is 19 feet 6 inches, just to let you know. That's hardtop to hardtop.

Mr. Apicella: So, one of the conditions that we put into a different wedding venue proposal, which has not yet been approved by the Board, was something along the lines that you would provide, or this is a condition that we added, you would provide adequate traffic management for the size and scale of an event. Does that seem reasonable if we added that kind of a condition? Because you mentioned it as something you'd be willing to do.

Mr. Palmer: I think that that's reasonable. I think that again getting the people off of Stefaniga Road and getting them parked, especially a wedding party because you're focus is on more things other than parking, is very feasible. I think we talked about three employees based by the code. I think three is sufficient, but if we need to increase that I know of some other people that we can employ, and we have some retired personnel from the jurisdiction I work in that can assist with that as well.

Mr. Apicella: Okay, I appreciate that. And going back to the conditions, just for some context, and I appreciate what you're intentions are. The only thing that will govern how this gets regulated is the wording in the actual conditions. So, while you say, and I believe you mean it, that you're not going to have rock concerts or country music concerts, unless there's some specificity in the conditions, you can in fact have rock concerts and country music concerts. So that's something we might want to think

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about as a way to clarify your low intense, and I can't think of the exact words in my mind right now, but just trying to wrap my head around it we might want to come up with something that mitigates the concern of the public that that's in fact what you might end up doing.

Mrs. Palmer: Yes.

Mr. Apicella: And also to the conditions, as you've had a chance to kind of think about it over the last, you know, month or so, is there any other change at this point in time prior to hearing from your neighbors, any changes that you think would help mitigate what are likely concerns?

Mr. Palmer: We have some lithographs.

Mrs. Palmer: We have pictures.

Mr. Apicella: I unfortunately can't see them. So, just going to the conditions, for example, the hours of operation, we talked about changing the hours of operation last time; we didn't get there.

Mrs. Palmer: Right, yes sir.

Mr. Apicella: So, again, what changes might you be willing to make at this point in time?

Mrs. Palmer: That would be the same as what most of the vendors are in this area.

Mr. Apicella: Okay, I thought we talked about for example changing the Saturday hours from 10 to 10 instead of 10 and 11.

Mrs. Palmer: Yes we did. Yes, I thought that was already on the books.

Mr. Apicella: No, we haven't made any changes; we were just kind of talking about it at this point in time. So, I'm just trying to get into... the conditions are what they are right now as stated in the staff report, unless and until we make changes and additions to those. So, I'm asking for you, for your feedback at this point in time, as to any changes that you might be willing to make. Obviously there's a lot of people here. I suspect they might have some issues or concerns; I could be wrong. They could be very supportive of what's being proposed. But, you know, you've mentioned yourself, you're a neighbor too and, you know, you understand where people are coming from. So, having seen the conditions as they are now, are there any changes that you'd be willing to make or discuss at this point in time while we're having a dialogue? And we can talk about it some more after we hear from the public...

Mrs. Palmer: That's fine.

Mr. Apicella: ... but I just want to see if there's anything else that you'd be willing to do.

Mr. Palmer: I think we'd be open to some changes. We did agree to a 10 o'clock curfew on Saturday. I think we had some discussion about making sure the vendors were off the property by 11 o'clock. And I'm not certain how most weddings run that late. I don't think a lot of them do, but we'd like to be commensurate with the requirements of the noise criteria for the County. We also I think talked about trash pickup and whatnot, which we have a plan to manage that if the vendors don't take care of that. I think at this time, my opinion, I'm not sure if my wife feels differently about this, perhaps we need to

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listen to some of the criteria from our neighbors and perhaps that drives some of the changes -- some that perhaps we haven't thought of.

Mr. Apicella: I appreciate that. Okay, thank you.

Mrs. Palmer: They could help us.

Mr. Apicella: Great.

Mr. Grimes: Yes sir, Mr. Gibbons.

Mr. Gibbons: I want to follow-up a statement he said about parking. You're saying you're only going to have 150 people and you're limiting yourself to 75 cars?

Mr. Palmer: Only because we figure...

Mr. Gibbons: No, are you limiting yourself to 75?

Mr. Palmer: Yes sir. And that's just based on what I see with the building code typically you have households that have, you know, 1.75 to 4 cars so I based that on the number of people that would be driving. So, I'm sure people are going to carpool. We certainly are going to encourage that because the traffic situation on Stefaniga Road. And that's the max I see just with two people in each car.

Mr. Gibbons: Thank you.

Mr. Grimes: Alright, I have just one or two for you. Can you describe how you're going to monitor the sound? Do you have a plan in place to monitor your sound levels during events?

Mr. Palmer: Would you like to answer?

Mrs. Palmer: Yes sir. Each DJ has to get a permit for the music that they play. It has to be within 65 decibels. I actually have a... going to be getting a decibel meter; I've already shopped in my Amazon. I actually have a neighbor who's a... who will help me as well because he wants to make sure that everything stays low and I'm doing it for him because he's like a second father to me. So I will make sure he stays happy and everybody stays happy around me.

Mr. Grimes: Okay.

Mr. Palmer: (Inaudible) an electronic devices that let the owner know should it drift over a certain decibel.

Mrs. Palmer: Yeah, the decibel meter.

Mr. Palmer: Was there electronic notification to one of the vendors?

Mrs. Palmer: No, I don't know.

Mr. Palmer: Okay.

Mrs. Palmer: I don't know anything about that.

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Mr. Grimes: And as it relates to the barn and I think we might want to revisit this during the development conditions, we've discussed that you need to bring the barn up to code before it can be used for anything...

Mrs. Palmer: Yes sir.

Mr. Grimes: ... as it relates to the public.

Mr. Palmer: Yes sir, we agreed to that and the reason we do is because it is a law here in Stafford County. It's the building code. The building official has to assess it, has to have plan submission, all those things have to happen. We're not going to violate that law.

Mr. Grimes: And I asked this question before, but again, because it's a new audience, could you describe how you're going to address the accessibility issues and compliance with ADA?

Mr. Palmer: I have to get that criteria and then we're going to have to assess it. We looked at putting a ramp on our back porch of the 558 house so that if a bride is incapacitated or has ADA requirements, that would allow them to get dressed and get to the wedding area. I think initially we could put some mulch down so that wheelchair access is feasible. Pavers or something we can look at. We have the idea of keeping the tents initially I think within 160-some feet from the house just so it meets ADA requirements as far as the distance. And then we have the porta potties that we're looking at to bring those in and those are very (inaudible). I'm certain they would be ADA compliant also. So, I think the... my feeling is the prescriptive code is the way to go meaning that what's required by the code is listed out and you meet those requirements versus an engineered code where we try to meet the requirements based on what we design, what we put out there. So I think the prescriptive code is the way to go. I'm sure that code's in place, and that's what we would comply with.

Mr. Grimes: Okay, I appreciate that. Are there any other questions for the applicant?

Mr. Kim: I do have one Mr. Chairman.

Mr. Grimes: Yes, Mr. Kim.

Mr. Kim: Okay, so last month we discussed septic tanks. Are you guys abandoning the idea of a septic tank and just going with porta potties the whole time you guys are in business?

Mr. Palmer: I think what we looked at was when we had the expansion of the barn that we would put a septic field in as the business develops because, frankly, I think at that point porta potties would probably cycle themselves out and we'd want something a little more feasible. So when that happens, we would have to have the back area assessed through the division that regulates Stafford County...

Mrs. Palmer: The Health Department.

Mr. Palmer: ... Health Department. That would happen with the development of the barn. In the interim, we're going to maintain the porta potties with the tents so they're close in proximity and people don't have to stumble everywhere. And frankly, if the barn is not able to be occupied, because we haven't built it out yet then we wouldn't have a septic field there.

Mr. Kim: Okay, thank you.

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Mr. Grimes: Ms. Brown?

Ms. Brown: I do have one more; that reminded me. Thank you Mr. Kim. As you might remember, I was the one that had the issue with the septic and the drainfield. And that was when I went down and spoke with Mr. Thompson of the Health Department. And my concern being that the parking area bleeds into the tent venue area and I was concerned that cars wanting to park close to the tent would drive right over the septic field compacting it. And my biggest fear is that we're going to ruin your delicate drainfield and you will be forced to use pump and haul and possibly not be able to live in your home. I want to avoid anything like that. And the Department of Health said there can be no vehicular traffic of any kind over that drainfield, septic field, anything in that area. And I'm concerned because again I don't want the cars parking up there. He did discuss with me a possibility to kind of separate the areas would be perhaps to install some bollards of some kind. We had talked about possibly trees; he thought that was a bad idea because some trees can get roots of 40 feet and we don't want that. Have you thought about something like that? Something to delineate the venue area from the parking area with some kind of marker?

Mrs. Palmer: I actually had a meeting with Tommy Thompson in person, and we both spoke about doing a fence. It takes care of everything and then you only have a gate; you cannot have any kind of traffic. And that's what I promised him I would do.

Ms. Brown: Okay. Because again, my concerns being you're going to have deliveries possibly coming back there, beer trucks, somehow they've got to get the porta potties back there, and it's all got to be hand taken in.

Mrs. Palmer: That's correct. And I spoke with him about that again and we said that we would go down our driveway for anything like that.

Ms. Brown: But how were you planning on getting the equipment behind the house? The septic, from what he explained to me and showed me on the map, that the drainfield goes up to the corner of the front of the house. So, to get anything behind the house, on the side of the house, you're going to have to go through the drainfield unless you use an alternate way.

Applicant approached dais to show Board members a map - microphone not on.

Ms. Brown: So you'd be willing to put something back over this way?

Mr. Palmer: Certainly.

Ms. Brown: Okay, I did not notice that this driveway...

Mr. Palmer: (Inaudible - not at microphone).

Ms. Brown: Right, but I didn't realize that it ran into this property.

Mr. Palmer: (Inaudible - not at microphone).

Ms. Brown: Okay, thank you.

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Mr. Grimes: Any other questions for the applicant? Alright, hearing none... Mr. and Mrs. Palmer, you can take a seat; thank you very much. Is there any member of the public who wishes to speak in support of this application, please come forward. Yes sir.

Mr. Miller: My name is Brian Miller. I live on Stefaniga Road; I've been there since 1980. I have known the Palmers for about 25 years. I know them to be very responsible and honest people. I fully support their project. I do not anticipate any adverse impact on me whatsoever. That's all.

Mr. Grimes: Thank you very much. Any other members of the public wish to speak in support of the application? Seeing none. Any member of the public who wishes to speak in opposition please step forward.

Mr. Valentino: As you may know, my name is Roger Valentino. I want to... there are several people behind me who want to speak much more eloquently than I can. I want to point out a couple things. First of all, I do not speak for any group. I'm an individual homeowner. Number one. Number two, we would like to present a petition of homeowners in the surrounding area that would be impacted. Somebody has the last few pages of the petition on a sheet? They've already been turned in? Oh, okay, I didn't realize that. Um, not sure exactly how many names are on the petition because it's turned in apparently in sections, but I'm willing to say there's about 60 or 70 households on there that have signed the petition in opposition to this. Another important fact is to a person, no one in the room seems to have any issue with the applicant or the applicant making a living or being entrepreneurial. To be clear, we are very concerned about the Board making a decision that will adversely affect our properties, enjoyment of those properties, and so forth, and that's what we're here to speak about, okay. Very briefly, the only points I wanted to hit on is I have two letters from people that could not be here this evening, and they provided them to me via email and I wanted to forward them onto the Board. In the interest of saving some time, I'm not going to read them aloud. But suffice it to say, they are very much against and they've pointed... gone through a list of reasons why they're against approving this change. One interesting I found out while doing a little bit of research is sound and decibels and noise seems to be a matter of interpretation, depending upon who you talk to. I reached out to a person who has a band who plays weddings and dinner dances and has for the last 40 years, and specifically asked, you know, what's normal for decibels and how far can you hear it. Well, how far can you hear it depends on a lot of things. It depends if the wind's blowing. It depends if things are blocked. It depends if you're playing in Reston Town Center or whatever. But the clear answer I got from a few people that I asked is weddings and dinner dances typically run around between 80 and 90 decibels, okay; not 65 decibels, between 80 and 90 decibels. Um, I do have some research that I was sent from online websites that bands and DJs use to not get in trouble and not have their weddings shut down, um, that they use as a guideline of how many decibels they can project at. Um, 80 to 90 decibels carries 2 miles, okay, depending upon conditions. The first mile you can hear every word of the song clearly. The second mile sounds like someone is playing a stereo off in the distance, but you can hear it. Um, two things I wanted to point out. All of us... I assume all of us have been to weddings. And as the evening goes on and you have your dinner, and as the evening goes on the band picks up and it encourage people to dance. And any of us that got the table too close to the dance floor, we can't hear each other talk. That's probably been... that's been my experience. I don't know if anybody else has had that experience. That is perfectly normal. That is what you expect at weddings. That's the volume. As the evening goes on, they want people to dance, have a good time and so forth; absolutely. Just like they serve alcohol -- perfectly normal. That volume... each one of these lines, this is the epicenter of where the wedding venue would be, and each one of these lines is one mile long, okay. We went and drove it out and tracked the mile last night. So, each one of these miles is one mile long; not two miles. So, this is being extremely conservative as to the properties that will be disturbed in the evenings by the sound, okay. I can submit this to you folks to take a look at. Okay. Obviously, we have concerns about the

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noise... excuse me... the safety and whether this decision is consistent with the County's Comprehensive Plan. Many of my neighbors are going to speak about those things. We're all very cognizant of the time. Does anyone have any questions for me before I sit back down?

Mr. Grimes: No. Thank you.

Mr. Valentino: Thank you.

Dr. Hickey: Good evening. My name is Dr. Rob Hickey and this is my wife, General Allison Hickey. We've got objections with basically paragraph 1, 2, and 4... 1, 2, 4, and 5 of the exceptions listed in 20-351. First of all, the applicant has stated that they're looking for 75 vehicles. That sounds like guests to me. How many catering trucks are going to be there in addition to the 75 guest vehicles? How many vendor trucks bringing in floors and tents and that type of equipment that's going to be using Stefaniga Road there before and afterwards? We are right there at the corner of Stefaniga and Snapdragon, and subsequently that turn back into Snapdragon I can see very, very quickly will be choked off by traffic flow in and out of this particular venue. One of the things that was brought to mention or was mentioned was the updating of the barn as business picks up. I'm sorry, I haven't heard a business plan articulated here this evening that I thought was even remotely sound in any way. There's not enough detail in the business plan. There's not enough detail in the argument to be able to provide any kind of idea when that barn might be upgraded. That being said, that business plan needs to articulate ma'am, as you said Ms. Brown, the sanitation issues associated with it because I find that to be quite an interesting or difficult argument to make. Crowd control associated with that barn, prior to it being upgraded and being in a position where the building codes have been met and upgraded and used appropriately, I'm a little skeptical that there is going to be the appropriate crowd control associated with it. The noise issues has me very, very greatly concerned. We went through and researched it with the American Speech Language Hearing Association. Normal conversation is 60 decibels. Lawn mowers about 90 decibels. Loud rock music is 120 decibels. Sound alone, at 85 decibels and above, is considered harmful to your physical ear. Fireworks are around 150 decibels. And I'm sorry, I don't see any way in the business plan or any way that there is any way to police or monitor peoples' activity at a wedding to be able to control no, you're not going to set off any fireworks out there in that particular area. Regardless of what may be in the contract, regardless of what may be in the agreement, people are going to be people and we're going to see those types of things take place. So then you've got an issue with fire control downrange from those fireworks, which concerns me a great deal as well. Forty-five decibels wakes a sleeping person; that's another issue. A typical band is between 95 and 105 decibels. How are they going to insulate against that noise? Um... there's no way to monitor the size of the attendance. In other words, you may say, hey, we're going to have a 75 folks limit here or 75 guest limit at this particular venue, or 75 cars I should say and 150 people. But I don't believe anybody's going to be standing out there at the entrance to the venue and if we get to the 76th car turn them away from this particular event. So, again, I find that a little bit sophomoric in the business planning of this whole thing. The money that has been articulated being brought into the County as a result of this particular venue, how does that compare with the property values and the taxes associated with the properties that are adjacent to that area out there, and how is that going to affect our property values going forward. Am I going to have to articulate to a perspective buyer that you may have to put up with this particular noise on a routine basis? I don't think at 7-figure homes that that's going to go over that well with people that are possible buyers on that particular... in that particular area there of The Glens. Is there any questions before we step away?

Mr. Grimes: No sir, thank you.

Dr. Hickey: Thank you.

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Mr. McMath: Good evening. My name is Jim McMath and I would like to speak against this revision to the zoning for two principal reasons; one, traffic and the other, noise. Um... Stefaniga Road is a 2-lane county road that's already overcrowded in the morning and evening commute hours. To encourage still more traffic on that road with a commercial operation is not good land use planning. And it is important that Stafford... excuse me, Stefaniga stay open to Mountain View, because for people who live where I live, there's no other way you can get to this part of this County where, for example, the hospital is located if you can't come up Stefaniga to Mountain View other than turning around and going the opposite direction on Stefaniga all the way to Poplar and then around to Mt. Olive and then out working your way off from there finally up to Mountain View, much further away. And then you have to come back this in direction to get finally up to the center of the County. And if you're really in a hurry or you need to get to the emergency room, that could be a real problem. So it's very important for Stefaniga to stay open and not get blocked up with too much traffic anytime. In terms of the noise, um, I have no measurements of the noise. All I know is that we have... when we built our house where we are 20 years ago, we put a screened-in back porch on the back and we like to sit out there on the summer evenings and just listen to the sounds of nature. We don't want to have to sit out there and listen to the sounds of large crowds hollering and yelling and screaming and laughing and cheering and electronic music if there happens to be any, traffic coming and going, and this sort of thing. That's the situation that seems to me I often encounter when I was President of our Homeowner's Association several years ago and I would have people I was talking to about what they could use their land for, their lots, and restrictions, and they would say look, I own this, I have a perfectly good right to enjoy it. And yes, that's true. You have a right to enjoy your property up to the point where it doesn't keep other people from enjoying their property. And it seems to me that's the kind of situation we're looking at here. We have no objections if these people want to host an outdoor wedding for a friend or a relative as a one-time thing. But to turn it into a commercial operation to do permanently week after week is way beyond the appropriate land use for this area. Thank you.

Mr. Grimes: Thank you. I'd remind all the speakers that are coming up, because we do have quite a few, that your time limit is 3 minutes. There are lights on the podium; green, yellow, red. So, if we could all take heed to that please.

Mr. Truslow: I'll be quick. My name is Frank Truslow. I'm a lifelong resident of the area and I am against this rezoning on... for three causes. One is the traffic. We are... we've got plenty of traffic on Stefaniga. I go... I drive it every day, and, you know, just getting through there in the morning can be a challenge. In the evenings it's probably one of the... it's a kind of a respite for my commute because I have to drive through 610 and Shelton Shop and it's... it's a challenge. And in the discussion here, I was going to talk on some points about the traffic, but I'm listening to some points have come out on the Board here that I didn't really think about which makes it worse. We've got vendors. We've got DJs. We've got porta potty people. We've got all these things coming into a residential area and add battle to the traffic. Also, the way the road sits, it sits up on a little plateau and the site lines are very bad. So, with maybe some drunk people -- and there will be drunk people at a wedding -- you know, there's going to be some issues with people coming out and going in there, especially at night. It's... there are very bad site lines there, so that's a traffic and public safety type of concern. Noise. If there's no band there at all, just 150 people talking will be loud enough. Trust me, it's quiet back there, that's why we like it. There are very few, you know, we still hear cows; I like that. But with just 150 people talking it's going to be loud, period. And also, with, um, you know, like I said, the public safety, it's going to be... with the traffic it's going to put undue stress on the public safety for that area. And not to mention there will be drunk drivers in that area. But, um, yeah, I'm definitely against it, so. Any questions?

Mr. Grimes: Thank you.

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Mr. Truslow: Thank you.

Mr. McKinnon: Good evening, my name's Don McKinnon. I live in Seven Lakes, just a quarter... or .4 mile or 2,300 feet straight line distance from the property of concern. And obviously I'm against this measure. My family and I moved to Seven Lakes in Stafford from Montclair, Dumfries about two years ago. We moved specifically to escape the congestion and noise of Dumfries and 234; sought out Seven Lakes because it's situated in a quiet rural area. When we moved here, we had every expectation that this would remain the case and, at worse, that the zoning would turn residential. Our community is situated roughly three-quarter mile from Mountain View High School, .9 miles, 4,700 feet from my house specifically -- which, of course, we knew when we moved in and my daughter goes to Mountain View; it's a great school. As it is, however, for point of illustration, when evening games are played at the school we can clearly hear announcements and band music. The property that is subject to this zoning exemption is less than half that distance from us specifically, at .43 miles, and only 900 feet from Mr. Valentino's property. Um, .17 mile from property situated at the end of Rome Dome or our whole community of Seven Lakes. As another point of reference, 105 to 115 decibel is the typical noise level of music concerts, chainsaws, high power leaf blowers. A hundred decibel travels as far as 2,100 meters which is roughly 7,000 feet or 1.3 miles to hear it clearly. So a wedding reception or any type of music concert would clearly be heard throughout our community as well as The Glens and Chriswood. Uh, 60 decibels is what I'm speaking at right now, okay. With the current proposal, Friday, Saturdays, and Sundays the property owners would have the ability to host roughly 150 events. I know this is not at all likely but that's the reality of the proposal as it currently stands. And at even just one every week or other week, this would greatly impact traffic along Stefaniga and would be a nuisance to all those living nearby. Would any of you guys appreciate a lot of party about four houses down from you every week, weekend, three days a week? Okay, that would keep us from enjoying our outdoor space, our children from being able to go to bed at a decent time, and I'd love to send them over to their house to help them to sleep. While I applaud the entrepreneurial spirit, as an independent business owner myself on the side, we have to recognize that zoning is put in a place for a reason. We should not just be able to circumvent it at will. In my eyes, a Bed & Breakfast and occasional personal events are perfectly reasonable, but approving the operation of a business that could negatively impact so many is irresponsible. In the spirit of negotiation, we can talk about various things, perhaps a strict limit on the amount of events held per year. I would like to see police officers there to minimize drunk driving and the traffic along Stefaniga as a parent of a teenage driver. And I would also love to see notifications be put out to the entire community and every time you want to hold an event you have to submit a request. Thank you. Is there any questions?

Mr. Grimes: No, thank you.

Mr. Scharpenberg: Good evening, my name is Hank Scharpenberg. I'd like to frame my comments in the context of the operating guidelines for the Board of Zoning Appeals. Section 28-351 states, if a Board of Zoning Appeals shall find that the use for which a special exemption is sought shall be in accordance with the following standards it may grant the exception provided all other provisions of the law shall be complied with. First standard is that the use shall not change the character and established pattern of development of the proposed use. Well, we live in an agricultural and residential neighborhood, not a commercial one. The use shall be in harmony with uses permitted by-right under a zoning permit in the zoning district, and shall not adversely affect the use of neighboring properties. I would tend to say that it does unless you think that in essence a restaurant featuring food, alcohol, porta potties, and a dirt parking lot is a by-right use. The use shall not affect the health or safety of persons residing or working in the neighborhood. As was mentioned, Stefaniga Road is probably one of the most dangerous roads in the County with hairpin turns, blind curves, and at least one drop-off unmarked that goes down 4 feet into a ditch. I'm amazed that's still unmarked. The applicant proposes to put, per

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event, up to 150 automobile transits along that road, some of whose driver's may be under the influence of alcohol and create unnecessary risk that really there is no compelling reason to even permit. 5. The use shall not be detrimental to public welfare or injurious to property or improvements to the neighborhood. I'm not going to make the noise case again; you've heard it. But I can tell you that I would not purchase my house again if a venue like this was permitted. And finally, the use shall be in accordance with the purposes of this chapter and the Comprehensive Plan of the County. The Comprehensive Plan does not call for commercial use where we live. There are plenty of empty venues, commercial space, that could be used for venues such as this. I request that the Board of Zoning Appeals follow its guidelines and reject this application.

Mr. Watson: Good evening. My name is Herbert Watson. First of all, I really applaud the Palmers for their desire to support the institution of marriage. I also applaud their desire to be entrepreneurial but for the reasons stated previously, with respect to noise, public safety, and just surely the traffic congestion that will be caused on Stefaniga, I am in stiff opposition of the approval to them to operate this venue in a residential area. As stated earlier, we also hear a lot of noise from the football games and all events over at the high school, and I don't think the community could stand to hear the noise from a party at their venue that they will have on the weekends. I know, I've been to a lot of weddings as people in here have been. There's always alcohol, there's always loud noise, and I don't think that you can absolutely control that. Secondly, I think that as I heard the Palmers talk about their plan to establish the business, I'm a business owner myself and kind of what I heard I would characterize it more as a hip shoot. I don't think it was really well thought out so I just wanted to state my opposition to it.

Mr. Pylar: Good evening. Dave Pylar. I'm also the President of Seven Lakes HOA. I want to address the Board to reject this application to come through for the Board. As all the other homeowners have said tonight as they've given you all the information. You know, we have the concerns with the traffic. We have concerns with the noise. Stefaniga is not a safe road. The area in concern also is a do not pass zone so it'd be very hard to get vehicles in and out of there without going to find somewhere to do a U-turn. If you make the blind turn to that area, you're asking for nothing but trouble. Um, some of the business plan that you guys had went over and discussed with the Palmers I think brings a lot more into the play of where is this ever going to end at. We're starting off with a tent, we're going with porta potties, we have a, you know, issue with or bathroom concerns, fresh water to the tent. I completely agree with wanting to wash a fork at some point in time, not in a porta potty. Um, so I just don't think the business plan was set forth enough to give you guys enough information to move forward with this to approve it. That is all.

Mr. Grimes: Thank you.

Mr. Thompson: Good evening, my name's Ian Thompson. I'm about a quarter mile from the property that's affected here and I oppose this measure as well. I'm a new resident to the area so I'm not, you know, I haven't been here for a long time. But I did buy my house with the expectation that it was a residential area. I have 15 year old daughter who will be driving on this road hopefully in the next year, but I would definitely want her to do that when there's a large party going on there. I also like hearing the cows. I can hear them very clearly, and they're over a quarter mile away from my house. This venue is closer than the cows and how would you like to have a party two to three times a week every week of the year for the rest of your life in your back yard? That's my... that's my question to you as the Board. It does change the residential nature of this... of this uh area. That's not what I bought into, and I oppose the measure. Thank you.

Mr. Grimes: Thank you.

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Ms. Burkhardt: Good evening, my name's Tammi Burkhardt. I've known the Palmers. Our kids went to school together. I've known them for years. I respect their business application. I do have concerns. I'm approximately 10 properties away from this and I too could hear the Mountain football games, which is adjacent to our property. I heard Ms. Brown speak tonight that she talked to the Health Department, the ABC. I wanted to know if other traffic considerations were to be taken on Stefaniga. If my neighbor hadn't given me this, I wouldn't have known about this. I would have no... and when I see this, where the property is, there's three subdivisions right here on Stefaniga that feed into it. And I know ours at Seven Lakes is 180 lots. So, the Glens, my concern is when you're pulling out of the Palmers' residence if the first two turnarounds would be Keswick Drive or Ruffian Road or The Glens. So, that would be my concern is the traffic and safety. And how would you, let alone the septic and the health issues that got brought up tonight. Thank you.

Mr. Grimes: Thank you.

Mr. Calvert: Good evening, my name is John Calvert. And I am here tonight to oppose this measure. I came strictly on the principal that, uh, we would not... the County would not endorse reversing or making allowances for a single family investing in this area over the concerns of hundreds of others who have invested for the very same reason for which it is currently zoned. I do applaud and appreciate the entrepreneurial spirit that you've shared with us this evening and that desire. I'm a small business owner myself. I also want to applaud the Board for the diligence of your questions. I think that those further revealed maybe some of the soft spots in the plan or the dream or the vision that our friends have for this venture. That gives me further concern because I really heard nothing shared this evening about how, at least an executable or police-able plan, to monitor the concerns that have been expressed by the neighboring residents, or even to provide I guess a means of resolving disputes or concerns that might be called in from neighboring... you know, if my neighbor, if I'm having a party I let my neighbor know, they can call me, we turn down the volume and you know, there's that kind of ongoing mitigation in the midst of events. So, again, just with the, uh, kind of the soft nature of the planning efforts that we've heard and the question answered tonight, I think that gives me further concern that the ability to actually police this type of activity with hundreds of guests who's, you know, I guess behaviors may be, you know, a bit of a surprise on any occasion. I want to also thank my colleagues and my fellow residents for the research and things they've shared. I certainly concur with everything, all the basis of opposition I would concur with. And thank you for your time.

Mr. Grimes: Thank you.

Mr. Radzio: Good evening, my name is Martin Radzio. I want to apologize for not having much opportunity to prepare for this meeting but, as soon as I heard about the meeting, I felt it important to make sure my presence was made. I want to congratulate the young lady on her engagement. I think that's fantastic. I was married a little over two years ago and I think this community has shown that it would be willing to support the use of the property for the young lady's wedding. I think that would be fantastic. I do... I am here in opposition though to the proposed plan. I'm also, as the... as the captain of the neighborhood watch block or the captain of the block for our neighborhood watch, representing three other homeowners who couldn't be here tonight, I do have their digital signatures if you'd like to see those as support of the petition. At least one of those property owners has expressed their concerns to Ms. Wendy Maurer as well. Per the Sheriff's Office when we met for the neighborhood watch, the Sheriff's Deputy that was there commented as some of the homeowners have that Stefaniga Road is one of the more dangerous ones in the County. And I do think that it's not only the opinion of a homeowner that should be relevant here, but also the opinion of the law enforcement officer. There's... as others have also stated, there's no way to control the behavior of 150 individuals, particularly at weddings. There's alcohol, there's a potential for drugs, driving late at night on now what we've established as a

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very dangerous and unfamiliar road to strangers. I've been to weddings, probably everyone in this room has been to weddings and you know how things go. There's not that control. It's idealistic to think that you would have it. The volume goes up. The behavior of folks can get out of order. And the folks in the immediate community would be affected. Also, I want to point out that there's no way that we can control what is done to the property once it is sold, after it's been changed in the zoning. There are two lots that we mentioned; we don't know if one or more may be sold the following day, the following year, several years down the road. What would change to that property regardless of the idealistic plans we've heard here today. And then finally, my wife and I built our home in The Glens just about two years ago due to the quiet setting that it offers to raise our family. We started our family; I've got a 3-month old girl that we plan to raise in this community for years to come. And my little girl's bedtime is now 7:30 to 7:45 and not 10 or 11 p.m. as the plan would suggest. So, to the extent that that may influence a decision, I ask for you to consider my opposition. Thank you.

Mr. Grimes: Thank you.

Ms. Heatherman: Hello everybody, my name is Frances Heatherman. And I'm here to just state my case for you disapproving the request for special exemption. I'm just going to go through my notes based upon the criteria that's set forth on the BZA for your requirements or your criteria that you have to meet to approve it. Number one, currently was zoned as an agricultural not a commercial area, and having events is not consistent with the current established pattern and character of the neighborhood. Number two, the harmony I believe that your... it would take away our right to quiet enjoyment of our properties. Um, we have spent a lot of money I think collectively in our own homes. And my husband and I and my family recently put in a bunch of money into our home so we can be out in the back of our neighborhood and our home and enjoy it; it's quiet, it's nice. But you know, we can hear our neighbor four doors down. We're on 3 acres, we can still hear them having a laugh or two with friends around a glass of wine in their back yard. So, noise carries and I think that's... um, that would take away from us. We can also... on Lupine Drive we can also hear Mountain View and Colonial Forge football games as well in the distance. My biggest thing I think that I wanted to touch on was the safety of the roads. That location of this property is right after a big jump up. It's a very blind crest of a hill and it's very dangerous. Recently, over the last few months, there was actually a pretty bad car accident that head-on collision in that exact area. And the entry to this particular piece of property is only about 100 meters or so from the crest of that hill. Having 75 cars parked trying to get into that... into that street or delivery trucks or porta potties or you know is just going to create a potential for disaster when cars pop up over that hill and there's, you know, a line of cars trying to get into that... into that venue. In addition to that, I also want to say that just with the delivery trucks we recently I would say last week we had a truck that was stuck on the crest of that hill and it created an incredibly dangerous situation where people were trying to go around that truck on Stefaniga Road and there's just no way you can get around trucks, delivery trucks. So people were driving on the wrong side of the road to try and get around the havoc that that one truck caused. To have delivery trucks, you know, if you have three weddings in a weekend, you've got delivery trucks back and forth in that exact area, and I think, you know, we've got young drivers, um, in that... it's just a potential for disaster. Also, in addition to that, people coming out of that venue at 10 o'clock at night or 11 o'clock at night on a Friday evening, we're in... you know, at the football games, we've got people in that school district that are leaving football games at that time and it's going to create even at 10 or 11 o'clock at night on a Friday evening, Friday night lights, we're going to have tons of cars trying to get home. And you know even at 11 o'clock at night it's going to create a big havoc. And I've gone off my notes but I'm sorry. Anyway, so I also wanted to say I am a real estate professional. Um, I've been in real estate for 25 years and try to sell a home that has a venue such as this in a nice quiet rural area will adversely impact the homeowners in this neighborhood. Having to sell a property that has parties in their back yard three days a week in times where people want to be home quiet in their back yard will impact the opportunity of these people selling their homes

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and I think that that's to the detriment of our community. I do want to just say that I'm sorry that, you know, I really appreciate what you're trying to do, but I do fear for the safety of our, you know, our young drivers and the, you know, it seems like it's just a disaster waiting to happen. Thank you.

Mr. Grimes: Thank you. Is there anyone else who would like to speak in opposition of this case?

Mr. Valentino: Excuse me, sir?

Mr. Grimes: Yes.

Mr. Valentino: Not to speak again, but when we are done, before we exit, I did not get any copies of the petition. So, if it's alright, can I get a set of copies?

Mr. Grimes: Yes, Mrs. Musante will make sure that we have copies made.

Mr. Valentino: And apparently there are some people that just didn't have time to sign it that are here. (Inaudible). Thank you.

Mr. Grimes: Does the applicant wish to respond and/or add additional information?

Mrs. Palmer: I do. I actually have a petition of my own from people that are actually in Stefaniga... on Stefaniga Road that have been there... their families have been there for 150 to 100 years. I have people in Seven Lakes that have applauded us and said this is wonderful and are happy for us. I have people in The Glens that have applauded us and said this is wonderful. And I also have people in the Hunter's Pond that I have on our list. They have concerns because, as we can see, it's very political, but I have just as many people as he does. My people just were afraid to come in here because they do have to live in these subdivisions. And I've actually had one gal who signed it and does not want certain people to know because she is actually applauding us for this. So that's that. The other thing I do have is I actually have spent time going to every single neighbor around wedding venue in this area that has been in business for quite some time. And I was actually shocked at how many people actually do not mind it. They've embraced it. They think it actually adds character to it. I've got their names, I have their addresses, and I welcome anybody to talk to them, because I was actually shocked. I have no one that says that they have any problem with this whatsoever. Traffic I asked about as well. They said that there is nothing that they know of. And I actually watched a couple of weddings at different venues; I sat across from them. It's not like a funeral procession where you have 75 cars coming together and 75... it doesn't work that way, I watched them. I've taken pictures, I've taken video. They come in a little bit at a time. I've watched the trucks come in. I've watched everything else come in and it does not seem to be a problem at all. So, I do have, even though my people are not sitting in here, I do have names just as equal to theirs. And I have all the people that have been living around wedding venues (inaudible) closer than what he does or anybody else does. But because I'm trying to protect them, I will show you guys it but I do not want them to see it. Thank you very much.

Mr. Grimes: I don't think anything you share with us becomes public information. No, it becomes public information. That means anybody can see it.

Mr. Palmer: May I add a couple things sir?

Mr. Grimes: Yes.

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Mr. Palmer: I won't keep you long. Again, the Comprehensive Plan up through 2036, Stefaniga Road is identified as a moderate connector, meaning that the roadway connects to other larger roads being Mountain View, Shelton Shop, etcetera. There is a defined traffic volume in your Comprehensive Plan. I'm sure that you've looked at it. I think a lot of the traffic volume is commensurate with the number of houses that we have. As I mentioned earlier, we're all probably our best guess. We know how many people are inside the houses. We know how many vehicles we have. So this is not a manageably (inaudible) on our part. This is simply the growth in Stafford County where the roads were not fixed. We mentioned last week, and I agree with Mr. Valentino, there are accidents on Stefaniga Road all the time. Is it the worst in the County? Probably not. There are more roads that are much worse. The fact that we all need to focus on is that we need to slow down and we need to pay attention to our driving, not overdrive the roads, and it's very important that we maintain vigilance in doing that not only with ourselves, but to make sure our children do. So, I think that the collective issue here is that we have a lot of people in Stafford County, most especially over the last 15 years because we've watched the surroundings in our neighborhood develop into houses. And all those houses have a certain number of people; I guess the definition would be probably four persons per house but we know there's more. And that also equates with the number of cars. So I think the minimum that we have to contribute to the traffic flow is not really going to affect the overall traffic on Stefaniga Road. And I'll just toss out a figure in your Comprehensive Plan. The intersection of Shelton Shop and Mountain View Road has... I'm sorry, Shelton Shop and Courthouse Road has 12,000 vehicles that go through that daily. So my assumption would be you have 6,000 people that go to work in the morning and 6,000 that come home in the evening. And out of that association you're probably looking at 6,000 houses or 3,000 houses with two people that are drivers. So, this is something I don't think that we are controlling in our avenue. I think this is going to be something in a long term plan where Stefaniga Road is likely widened at some point as it indicates in your Comprehensive Plan. I think that we had some issues that we checked about house sales too. Did we pull some comps on those?

Mrs. Palmer: Yes. I actually had a real estate appraisal assist myself and I have no evidence whatsoever to say that there are any changes in values of peoples' properties. Unfortunately, when I did go to the assessor's office for Stafford County he said that he could not be for or against what we have to say but that if we had something like wind turbines or things like that, that would affect. But he did not want to say anything as far as values because it's inconclusive, the economic downturn and things like that. We're not creating a problem where people will lose value in their houses. And I did pull sales for the area and found some. There is nobody... as a matter of fact, one gentleman actually made quite a lot; over \$61,000 on his property in two years. And he's actually on Van Horn.

Comments from the audience - not at the microphone.

Mr. Grimes: Again, let's keep it civil. Comments are being addressed up here.

Mr. Palmer: I'm not certain what more I can add to that. I can tell you historically in situations like that, like we're in now, noise and increased traffic and other associated issues, alcohol and roadways were not considered. It's up to you all to consider I think what the group has said. I think there's some very valid points people have brought. Some I could probably argue verbatim of what's brought up. But I think the consistency is everybody's concerned about the roadway and the noise, and perhaps the introduction of alcohol with those two issues. So, I think that's kind of the boilerplate of what we're looking at. EMS management, that type of thing, that's something commensurate with the County also. I know the fire department's trying to strive to place strategically where stations are located to have access to the hospitals. There's an overall national plan as to how to do that, to have EMS intervention. So those are good points. But those are also points that I can't control from my perspective. We also mentioned something about policing the activities that occur on our property. And what I would say is

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that we own the property. We're going to let the people on the property whom prove to us that they're responsible people. We will have safeguards in place. We mentioned security. We mentioned using the bride and the bride's family to help us manage some of the things. We talked about managing people that are overly intoxicated, the recognition of that based on our training. We do have emergency action plans for events that occur that may involve our guests. But, overall, um, I think that even if you place officers on our property, and I'm not certain that you can require that, but I think overall the issue comes down to we will have to manage this because it is our property and we are responsible to the community.

Mr. Grimes: Right, thank you very much. Is there any follow-up? Ms. Brown?

Ms. Brown: Just a brief question. While I was sitting here listening to all this, I wondered -- since you're planning to operate a B&... a Bed & Breakfast, how would that work when you're having a wedding? Are you going to be having Bed & Breakfast guests and weddings going on at the same time?

Mr. Palmer: I think... well, do you want to answer that one?

Mrs. Palmer: The Bed & Breakfast part of it is simply to allow the bride to be able to come in with her entourage and get dressed. That's why it became known as a Bed & Breakfast because that's what we were allowed to do.

Ms. Brown: So, you're not going to be advertising on the internet this is a Bed & Breakfast on Stefaniga Road?

Mrs. Palmer: No ma'am, no ma'am.

Ms. Brown: So, you're Bed & Breakfast would be strictly limited to the bride?

Mrs. Palmer: Yes ma'am.

Ms. Brown: Thank you.

Mr. Palmer: Well, having said that, it would just be the bride or the bride grooms, someone in the wedding party, okay. And I think the issue, as I tried to explain to Dr. Larson, is one drives the other. When we started the application process, you need to maintain residential and then you're asking for the exemption. So, in order to maintain the residential, we looked at the Bed & Breakfast because that's allowable, and the exemption would be the wedding venue, not concerts.

Mrs. Palmer: Yes.

Mr. Palmer: Okay. And now, as is permissible, again it's for the use of the wedding party. And I think that there's a certain amount of square footage that's commensurate with the use also, so that has to be discussed.

Ms. Brown: Well, thank you for that clarification. And I do want to remind you, too, that when we hear these cases, every case that we hear is unique. We are not bound by precedent in our cases because every situation is different. And just because something applied in another case doesn't necessarily mean that would apply to you. I just wanted to...

Mr. Palmer: I'm saying nationally, nationally.

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Ms. Brown: I know, I'm making that clear. You referenced other businesses in the area and I just wanted to make that clear that that...

Mrs. Palmer: The only reason why is because, for instance, Hartwood Road and Rock Hill Road, far worse than Stefaniga. I've stood out there, I've spoke to people; it is far worse. I don't have statistics for it but they drive very fast. And they're all successful in their businesses. And I invite anybody that wants to speak to these people because they do live right next to them and have no problem whatsoever.

Mr. Grimes: Thank you. Any other follow-ups for the applicant? Yes sir.

Mr. Apicella: I'm just going to go back to the question I asked when it was my turn at bat about the development conditions. So, you've heard from your neighbors about concerns that they have. Again, looking back at the conditions, are there any changes from your vantage point that you think would be helpful to mitigate those concerns?

Mr. Palmer: Well, I think we discussed everything falling into one category. It's noise, it's property values, it's the roadway. I think that we've talked about all that. Fireworks is a different issue. That's actually governed by County Code. You have to get a permit for that, you have to have a licensed vendor; otherwise, fireworks are unlawful in the County. And I'm not going to allow that to happen on my property because I'm subject to that also. So, if the Fire Marshal shows up and there's fireworks being shot, then he's going to take issue with all of us. I think the most driving issue that I'm hearing is the emergency medical transport to the hospital that the one gentleman mentioned. And I think that's a valid issue. I think that we need to look at that in a perspective that when the fire department sends an ambulance out, they want to try to be on scene within four minutes so they can provide advanced life support care and basic life support care and then maintain that person's care to the hospital. I'm not certain that what we're doing is going to impact that any more than any other traffic is going to be at the timeframes we're looking at, because I just don't think that's going to be an issue over stacking people up. And you have, as my wife made allegation to or comparison to, would be a funeral, where you have a straight line of people at one time.

Mr. Apicella: So, again, I'm looking at page 3 and 4 of the staff report. So, I'm speaking to conditions 1 through 8 that are now currently suggested by staff. In the context of those 8 and/or any other new conditions, is there anything that you, you know, we talked about generalities here; I'm talking about the specific conditions that'll govern how this property gets used as a wedding and event venue should it go forward. So, are there any changes you think would be helpful to mitigate those concerns you heard tonight? I don't know if you have it in front of you or not. I'm looking at...

Mr. Palmer: I don't have it in front of me so I don't know which conditions you're mentioning.

Mr. Apicella: So, these are the hours of operation, parking, you know, the entrance, the number of guests, that sort of thing.

Mr. Gibbons: Maybe we ought to give him a copy (inaudible).

Mr. Apicella: Yeah. Melody, do you have an extra copy of page 3 and 4 you can...? Well, we can just discuss it. You can reference a particular number or an additional number.

Mr. Palmer: I'm going to let my wife discuss the hours of operation.

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Mrs. Palmer: I'm actually good with and didn't want to have them on Fridays, but I thought I would lose business. So, I'm actually good with no Fridays, okay. Saturdays, from 10 to 10, and on Sundays, 10 to 7. And that would actually make me happy because I didn't want them on Fridays to begin with. And then 10 to 7 for Sundays. And then also, for the guests...

Mr. Apicella: So, since we're on 1, one of the issues I think you talked about last time and again mentioned tonight was about vendors finishing up no later than 1 hour after the event is concluded. So, does that still... is that still something that...?

Mr. Palmer: I think that's agreeable. I don't think... because I think vendors clean up as they go, so I don't see that as an issue. I think that they probably just package up whatever they're dealing with and they leave. And I'm not certain actually how many vehicles they would have around after they delivered their stuff, and I just don't think that's going to be something that's an issue.

Mr. Apicella: (Inaudible - microphone not on), it just seemed like it was a good time to talk about that. So, anything... any other conditions you think would be helpful to change?

Mrs. Palmer: For the guests, a hundred is fine with me as well. So instead of 150, make it 100.

Mr. Palmer: That would probably reduce the number of cars. If we apply the same formula, it would be two people to a car, so probably down to 50 cars.

Mr. Apicella: So, right now the condition doesn't speak to the number of cars. Are you okay to adding that capacity or ceiling to the...?

Mr. Palmer: Can we word it a hundred guests and then, you know, we'll try to work with the people to let them know they need to carpool for the reasons that I think that everyone's expressed their concerns. I think that, you know, we would okay at, I don't know, I'm going to say 50 cars.

Mr. Apicella: Okay.

Mr. Gibbons: How many?

Mr. Apicella: Fifty.

Mr. Palmer: I'm not sure really how we can word a lot of that but I guess 50 cars is probably where it is. That actually probably would give us the ability to say we're limited to 50 cars so you need to make arrangements for that.

Mr. Apicella: Okay.

Mrs. Palmer: I'm good with that, too.

Mr. Apicella: Anything else you can think of?

Mrs. Palmer: We already have the off-street parking that's on there, so that's already taken care of. And there would never have been anybody along Stefaniga Road. There's no place to park.

Mr. Palmer: I think the other issue you mentioned with VDOT's requirement to enhance our driveway, so we would be will... we have to do that, it's what VDOT's requiring. I think that's what you're

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requiring as well. So, I think the issue here is what you're requiring unless we, you know, it's something that very impacting upon us. I think we're accommodating to meet those requirements.

Mr. Apicella: Thank you Mr. Chairman.

Mr. Kim: Mr. Chairman, if I could, since we're on the topic of conditions.

Mr. Grimes: Yes, Mr. Kim.

Mr. Kim: I don't know if you guys are opposed to this but one of the biggest things that I've heard from most of the people that were opposed to the business was noise. I don't know if a tent or music... I mean, the tent or the use of the barn to keep your music in. Like, I don't know if a DJ or... and I'm not saying that's going to be the deciding factor, but I just want to know like, I mean, I think it's a valid point for most of your neighbors about noise. Are you guys opposed to saying, hey, we're going to put the music in a tent, the band or whatever... well, not band, but music in a tent or utilize the barn a little quicker to minimize... to mitigate the noise?

Mrs. Palmer: We actually have an architect that's coming out because we are trying to speed it up. And concrete as far as all that's concerned. So, we are trying to speed it up a little bit. And make it so that it's less impact noise wise.

Mr. Kim: Okay, so you're not opposed to...

Mrs. Palmer: Using our barn... yes, oh yes.

Mr. Kim: ... making all those different changes to mitigate the noise for your neighbors.

Mrs. Palmer: Yes, that's right.

Mr. Kim: Okay, thank you.

Mr. Palmer: Our beta test also would be to see how it goes with the tents before we make a substantial investment in turning the barn around, because if this doesn't work, we're going to be in a position (inaudible) with the tents and you know, maybe we don't go forward with anything. That's an option.

Mr. Grimes: So, while we're kind of discussing potential development conditions that you may or may not think would help mitigate some of the concerns expressed tonight, would a second entrance into the site, a second entrance off of Stefaniga, be something you'd be willing to look at to help reduce some of this concern that's been expressed?

Mr. Palmer: We actually have that on our property. Our two properties hook together and the driveway we have (inaudible) show it to Ms. Brown.

Mr. Grimes: I understand they're connected. But to actually make a second, formal second entrance into the site that would be known to guests coming so that there's two different ways to enter that property and two different ways to leave the property.

Mrs. Palmer: Yes.

Mr. Palmer: Would we be open for it?

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Mr. Grimes: Just curious.

Mr. Palmer: We'd consider it, absolutely.

Mrs. Palmer: Oh yes. We actually explained to her that we wanted to do like a moon type shape up in the front part so it would be two entrances.

Mr. Grimes: That wasn't reflected on the application, that's why I was asking the question.

Mrs. Palmer: Oh, okay.

Mr. Palmer: I think initially we submitted the application with the idea that we had the width of the driveway, but now we have a lot of concerns that have arisen since we've submitted that. So we're actually going to have to I guess modify what you're asking in the submitted. VDOT's probably going to have to look at that because they have some requirements. So we would have to communicate with VDOT for that.

Mr. Grimes: Absolutely. Yes, Ms. Brown.

Ms. Brown: Um, last time there was some confusion over the placement of the parking lot. When I had visited the property, you had showed me, if you were standing facing your house, standing on Stefaniga, it would be to the right of the driveway. And that was what was on one of the colored pencil maps in here. But also there was another map I found later in the packet last month that had the driveway, or the parking lot, on the other side of the driveway. So, which were you planning on going with?

Mr. Palmer: Well, again, as I talked with you that day, we were taking pictures and we looked at the lot and we said this is where we'd like it. We had that discussion and I think that was primarily my wife saying this is where we want it. And we talked about an alternative area which was in front of the house as a parking area, and then we got into the discussion about the field in the back and that's when we got into the discussion about the septic field and travel across the septic field.

Ms. Brown: Where do you want the parking lot to be and where are you committing to put the parking lot?

Mr. Palmer: I think that probably the best bet would be proximal to the tent. If we run it around the other side of the house perhaps out of our driveway coming in to that location.

Ms. Brown: You want to put the parking lot on the left side of the driveway of the property the venue is at?

Mrs. Palmer: That's one of the reasons why we have the architect coming out, so that he can kind of... he's done this before so he's going to give us ideas of what we need to do.

Ms. Brown: Don't you have a well right there?

Mrs. Palmer: No.

Ms. Brown: Um, when I went to the Health Department I remember Mr. Thompson pointing out where your well was.

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Mr. Palmer: There is a well in the front of the house.

Mrs. Palmer: In the front, not in the back.

Ms. Brown: Right, but on the left side of the driveway...

Mrs. Palmer: Yes.

Ms. Brown: ... where you're talking about possibly putting in a parking lot.

Mrs. Palmer: Yes.

Ms. Brown: You don't think that would be an issue?

Mrs. Palmer: It's in the front part. We would be going around.

Ms. Brown: You want to put the parking lot in behind the house now? I'm confused.

Mrs. Palmer: No. So, we're waiting for a gentleman that is a professional architect to come out there and give us some ideas of what... where he thinks it should be, because he's done this before.

Ms. Brown: So, you do not have anything firm to tell me tonight where you want to put the parking lot? It could be on the side of the house on the left, on the side of the house to the right, or behind the house possibly. Is that what you're...?

Mr. Palmer: We submitted the plan showing it on the right side. We discussed that, we talked about...

Ms. Brown: Two plans, with the driveway on both sides. We have two different plans.

Mr. Palmer: Every plan that you have that was submitted we talked about. We showed it on the right side and then we talked about possibly a left side and we talked about we can place it in the rear of the property as well. So, it's kind of influx. I'm not sure if there's a specific area that you have to designate. These are the areas that we've identified that are potential areas. And when we started the discussion, you should be getting the septic field and not driving over it, because it can collapse. We talked to Mr. Thompson about it, we clarified that. So, I think that we can put the parking lot pretty much in the field accessible to the tent on the side of the property and I think we can get the number of cars in it that we need.

Ms. Brown: Yeah, and no paperwork that I saw was that proposed and I don't remember you telling me that on the visit that it might go behind the house, so.

Mrs. Palmer: We have enough property we can put it basically anywhere once he decides where would be best.

Ms. Brown: Okay, so the bottom line is we don't know.

Mrs. Palmer: Yes.

Ms. Brown: Thank you.

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Mrs. Palmer: The other vendors put it right up at the road on the right-hand side.

Ms. Brown: Again, what happens with other vendors doesn't necessarily pertain to you. Thank you.

Mr. Palmer: Well, I think that we know. We've designated an area, we've given that area to you. That's something you can evaluate for approval if that's what you so want to do. I don't think the answer is that we don't know. I think the answer is that we have a couple of ideas that we've shared with you and we have had to submit something for your plan's submission so that we can move forward with this process. But as you know, in construction or anything else that you develop, things have to fluctuate and sometimes you have to go back to the approving agency and say, hey, by the way, this is not going to work here for x, y, or z reason and we need to rethink that, and then we'd have to resubmit for plan's approval or modifications or as-builts. So, I don't want to leave you with the idea or the Board with the idea or our neighbors with the idea that we don't know.

Ms. Brown: But you're not willing to commit to a spot tonight.

Mr. Palmer: I'm going to commit to the idea that we have an area designated, we submitted that for the number of cars that we have planned on putting in the parking lot. Now we reduced that number of cars. I don't think that's going to be an issue. I think the driving issue here is you're concerned about the septic field which, again, puts us in flux as far as moving the cars to a location so that your concern's alleviated about someone driving straight out to the tent.

Ms. Brown: Right, and subsequently after visiting the Health Department, I'm concerned now about the well in the middle of the yard on the left side of the driveway.

Mr. Palmer: Well, if your concerns about us driving over the well, I don't think that we're going to do that for the same reasons we're not going to drive across the septic field. So, give us a little bit of credit, we are smart people and we have some experience in this, and I do have a background in understanding the code.

Ms. Brown: Okay. So, there are two drawings in my packet and you want to leave both of them in at this point.

Mr. Palmer: Why don't we go with the drawing that we show the parking lot's on the right-hand side for now (inaudible).

Ms. Brown: That would be the colored pencil drawing?

Mr. Palmer: Ma'am, you're over-talking me. So, what is specifically your question?

Ms. Brown: Which parking lot are you going to go with? Do you want us to keep both parking lot plans that are in my packet, which is one on the left of the driveway and one on the right of the driveway. Do you want to leave those in there for us at this time?

Mr. Palmer: I think we're going to get into the same circumstance that we had before when we had the at-length discussion about the septic field that delayed our process to this month. So, I'm going to tell you that my desire right now it to leave the parking lot on the right-hand side, as submitted, where it's highlighted in pink, with the idea if we have to move the roadway to accommodate vehicle traffic to the rear, we can use our driveway to accommodate service trucks, we will make the driveway large enough that we can move vehicles between each other without touching, and we would have the option of

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putting another driveway and do the loop thing, not encumbering the well. So, we're not driving over the well line. But...

Ms. Brown: Okay, thank you.

Mr. Palmer: ... I think that's where this is going.

Ms. Brown: I just wanted to know which... which plan you were going with. Thank you.

Mr. Apicella: Ms. Brown, would another alternative be to just establish a condition that there will be no parking or driving over the septic field or the... what is it?

Mrs. Palmer: Well.

Mr. Apicella: The well. I mean, without necessarily specifying where, because conditions might change.

Ms. Brown: Well, I don't know because I have other questions for staff regarding encumbering the adjacent property for the driveway. So, that's another concern.

Mr. Grimes: Well, we'll bring those questions back to the Board at the appropriate time and discuss it with the Board members, so. Any other questions for the applicant? Yes sir, Mr. Gibbons?

Mr. Gibbons: Would you give any consideration to delay your application and take a look at what the neighbors are telling you and tone it down a little bit so it can work within the neighborhood? I mean, you've invested a lot of money and you got a lot of opposition, and I think that you're willing to listen.

Mrs. Palmer: Tone it down? I'm not sure what that means.

Mr. Palmer: Do you have some suggestions as to what you're asking?

Mrs. Palmer: What are you asking?

Mr. Gibbons: To delay this and go back to the table and take a look at everything that the neighbors told you tonight and the commission did; see if you can't work out something. You'll never get everything. And you've got a lot of money invested; it takes a lot of money to do public hearings. You've got a lot of filing fees, and the neighbors have been very polite. They're telling you what they don't like and what they can't live with.

Mrs. Palmer: Right.

Mr. Gibbons: Maybe there's something they can come up with they can live with.

Mrs. Palmer: Okay.

Mr. Gibbons: And that's all I'm asking, Mr. Chairman.

Mr. Palmer: I think the question is will we entertain in tabling this until we come up with a better plan; that's kind of what I'm hearing.

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Mrs. Palmer: It's up to you, whatever you want to do.

Mr. Palmer: Can we go outside and talk about this? Can we take a break (inaudible)?

Mr. Grimes: Well, I... sorry, I'm going to have to step in. We've already deferred this case once, Mr. Gibbons. We deferred it last month to get additional information and input.

Mr. Gibbons: Yeah, but we didn't have the public's input last month.

Mr. Grimes: But what you would be asking the applicant to do is to withdraw their application.

Mr. Gibbons: No, I'm not asking to withdraw it because they've got too many fees in it. If they withdraw it, then they lose all the fees. I'm just saying a postponement, maybe until...

Mr. Grimes: Well, I'll have to ask staff but I believe that we've deferred this case once already and we're only have the option to do that once.

Mr. Palmer: Sir, if I may interject, you delayed the application, deferred it, because you were concerned about the public input, which we've gotten.

Mr. Grimes: Correct.

Mr. Palmer: The other issue was Ms. Brown had quite a few questions that I'm not certain are relative or not... relevant or not. But we did entertain those questions. She has done her research and now it sounds like she has more questions that she needs to ask staff about. But I have to tell you, I think everything comes down to the typical aspect of this type of a venue. And that's traffic, noise, the threat of alcohol, and a few other kind of extraneous situations like property values and whatnot dropping, which I think we brought up a relative argument for. So, in my opinion, the last deferral was based on what you all wanted to accomplish with additional information. I'm not certain how that works out as far as binding you in procedure (inaudible) defer one time. So, if you're asking us to withdraw out application, I don't think that's smart. I think that there's some things that we can modify, you're going to give us conditional issues that we need to accomplish before you give us an exemption I believe; whatever way you look at that. I know how it is on the building side, you have conditional (inaudible).

Mr. Grimes: Well, at this point, I'm trying to seek input from the staff to determine if a deferral is even possible.

Mr. Apicella: I think the distinction is we asked for the deferral before. This time they potentially might be asking for a deferral for however many months to rethink their proposal to see if they could come up with some accommo... further accommodations to satisfy the neighbors. So it's... we were the ones who drove the last deferral. This time they would be doing it.

Mr. Grimes: I agree, and I'm just trying to make sure through the procedural approach that we are allowed to have that. And then it sounds like the Palmers would still like to discuss it anyway.

Mr. Palmer: Based on what you said when we started this, I don't know that that's an option. I'll just toss that out there. I don't know if you have the latitude to make that an option. But again, as Mr. Apicella has mentioned, you all wanted the first referral; you wanted to do some research. So, we have again come with our presentation with some additional information. We're willing to make

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compromises on certain things, so, I'm going to have to leave that up to you procedurally what you can do.

Mr. Grimes: That's what I'm trying to verify right now.

Dr. Larson: Mr. Chairman, may I ask the applicant a question?

Mr. Grimes: Yes sir.

Dr. Larson: Do you want to defer?

Mr. Palmer: I think that I would like to move through this with the understanding there's certain conditions that we need to meet. I'm not sure where Ms. Brown's going with things because it seems like she has a drive for certain accomplishments. I'd rather kind of understand what those accomplishments are so that I can address that ma'am, versus the cat and mouse game we're playing, okay. Obviously, you don't want people driving over the wells; is that where we're going with this?

Ms. Brown: I have several questions that... I have several questions that I need to... that have come up tonight that I need to clarify.

Mr. Palmer: Okay.

Ms. Brown: So, I'm not trying to accomplish anything but getting the facts, okay. I'd like to make that very clear. That is my... that is my goal here.

Mr. Palmer: Okay. Well, if your goal is to accomplish some facts, it sounds like we're kind of in a deferral situation unless you're immediately available to those facts now and can make them part of the condition.

Ms. Brown: Well, when we close the public hearing we'll be taking it back to staff and then I have an opportunity to ask my other questions.

Mr. Palmer: We're going to have a seat while you all are discussing this.

Mrs. Palmer: Thank you.

Mr. Grimes: My apologies to those in attendance to review this procedural part. Looks like I only have half of the Palmers. Mr. Gibbons, it appears that we could do this, but I am of the opinion that we shouldn't. I feel like we have all the information and unless the applicant themselves want to request a deferral to re-evaluate as you proposed, I will leave that up to them. So, it sounded like you want a few minutes to confer on that. I was hoping to postpone our break between the two cases, but it looks like this may take a few moments. So, I would suggest that we take a 10 minute recess and reconvene at 9:25. And you can let us know what you think. Thank you.

The meeting recessed at 9:17 p.m. and reconvened at 9:27 p.m.

Mr. Grimes: Mr. Palmer, Mrs. Palmer, welcome back. So, you've had the chance to confer.

Mrs. Palmer: Yes sir.

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Mr. Grimes: Thoughts?

Mr. Palmer: I talked with my wife. This is really her enterprise; I'm helping her with it, so I'm... we've talked about this and her interest is more leaning toward the barn than all the other associated things that we presented. I think that's fine. I think that the original business plan that we have, whether it's in agreement with everyone or not or whether people think it's feasible or not, I think it's feasible. I think the idea was to do a beta test to see where we were. We utilized the outside facilities like other vendors do. So, if we defer this and we come back with say the barn presentation, would you be willing to entertain that as the Board of zoning exemptions?

Mr. Gibbons: Mr. Chairman, I hear him making a request... he making a request for deferral.

Mr. Grimes: I do too, but it sounds like he's coming back with a different application including the barn, or did we have the barn... generally in this, okay. So, are you requesting a deferral Mr. Palmer?

Mr. Palmer: Well, if I request deferment, it would be to utilize the idea to use the barn. That's in the original application; we did mention that in the executive summary. So I think that that's on the table also. So, if we defer this, because it doesn't sound like there's a lot going in our favor as far as the comments and whatnot, and perhaps it gives us a chance to abate the noise, there are certain things we're not going to be able to control and change and that's the traffic volume on Stefaniga Road. We've made the concession saying 50 cars. I think the building official is actually going to come back and look at usable space and he may restrict the number of people. We don't know what that's going to be; that's an unknown at this point. And that may inadvertently restrict the cars which may meet some of the criteria about the concerned neighbors.

Mrs. Palmer: Because we want to make everybody happy.

Mr. Grimes: So, you're requesting a deferral...

Mrs. Palmer: Yes sir.

Mr. Grimes: ... to take some time to rethink the approach to the application and the possible development conditions.

Mr. Palmer: Not that I'm fully in favor of this, but it seems like the best case scenario for all concerned. I would also like to leave an avenue of open communication with our neighbors because I know they have some concerns as well. And, you know, I don't think making this a big committee project but I think certainly we're open to talk with people with whatever concerns; much like if a restaurant was coming to town, you make that comparison. I'm not sure that I agree with all that, but I think that you have to be open in this situation that people are going to have different ideas than we do. So...

Mr. Grimes: Well, I would say that the... is the rest of the Board in agreement to grant this deferral based on the information presented?

Mr. Gibbons: I'll make a motion if you...

Mrs. Palmer: Do you want to stand Mr. Valentino?

Mr. Grimes: Very unusual, but if you would mind...

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Mr. Valentino: (Inaudible - not at microphone).

Mr. Grimes: We need you to come to the microphone simply so it can be part of the record.

Mr. Valentino: I want to just give this piece of information to the Board as you're considering a deferral of this application, and as the applicant is considering a deferral of the application. You've had a lot of conversations about the business model. You've heard some comments about the business model... not the business model, the business plan. Um, you've had conversations about finite details -- barn versus tent, so on and so forth. I want to be clear and at this moment I'm speaking for all the people in the room. Deferring this and putting this venue inside a barn that is on the property will absolutely meet with the same and more objection from the community and will change the nature of the homes and neighborhoods we bought into. So, you... it can be deferred by another month or two months or three months; this is going to be the exact same response because this will fundamentally change our neighborhood. So, as the Board is considering deferring this, I wanted you to take that into consideration because part of the equation may change between now and the next time you discuss it, but a large part of the equation will not change between now and the next time you discuss it. This is a fundamental change to what we bought into. It's a fundamental change to our community. It's not a negotiation. I respectfully appreciate all the work you've done tonight, but I wanted to make sure that you folks understood that we're not going to sit around and discuss decibels or anything like that. Thank you very much.

Mr. Grimes: I appreciate your input. So, I'll bring it back up here to the Board for discussion. Number one, discussion whether or not we grant deferral as requested by the applicant. I've stated my opposition to granting that deferral. I believe that we have the information that we need to make a decision. We have plenty of public input. We have plenty of input from the owner. We know that the applicant/owner is willing to look at modifications if they're proposed. I think that's all doable this evening. And to take this out for another 30/60 days, we're going to be right back here where we were tonight and we should go forward with making a decision.

Mr. Apicella: Mr. Chairman, respectfully, if this were in front of the Planning Commission, this is exactly what we would do. If there were some angst within the community, we would ask the applicant to try to work with the community to come up with a plan that might be more viable. It will never be perfect, as I agree Mr. Gibbons has suggested, and at the end of the day you may not still agree with what the applicant proposes. But, to some degree, it will be different than what is in front of us today. So, at least the process of trying to work with the neighbors is not necessarily a bad thing. I think it might improve the project or make it less impactful to the neighbors. It's not clear whether...

Comments from the audience - microphone not on.

Mr. Apicella: Respectfully, you don't know what you don't know because the applicant hasn't changed their plan yet. So... excuse me, excuse me.

Mr. Grimes: Again, we've solicited all your opinions. We've heard them. We're discussing the matter now and if you could refrain from commenting, that would be greatly appreciated.

Mr. Apicella: What I would say is we haven't taken a vote yet. It's just as possible this Board could vote to approve the plan as it exists right now, as it is that the Board would vote against it. So, if nothing else, the plan will be different potentially going forward if the applicant has another chance to take a look at it and make some changes. Again, they may not be perfect, they may not be exactly what you want, and we still may either vote for it or against it at that point in time. But an extra 2, 3 months

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investment of time trying to reshape the plan, I don't see where that's necessarily a bad thing for all parties Mr. Chairman.

Mr. Grimes: I appreciate your thoughts on that. Any other comments from any of the Board members? Ms. Brown?

Ms. Brown: When this public hearing is closed, I do still have some... one or two questions for staff. I think they'll probably be easy ones but... so I would need to do that.

Mr. Grimes: Well, that would happen when we bring it back to the Board.

Ms. Brown: So, if we defer it, I would have to wait to ask my questions?

Mr. Grimes: That's correct. And I think we could submit those questions in writing to seek additional information. Any other comments/discussion? Mr. Larson, you look like you're posed to ask a question.

Dr. Larson: I... Mr. Chairman, I just... I wanted to thank both the applicant and the audience for their civil demeanor. I know that emotions can run high in something like this and probably still are, and I think I and the Board really appreciate how your presentations and your testimony all went. So I just wanted to say thank you for that.

Mr. Grimes: Any other comments?

Mr. Apicella: Mr. Chairman, I just think we need to get a sense of what timeframe... if we were to take a vote on this, what timeframe are we looking at? Whether we vote it up or down, we still need to know what that timeframe would look like.

Mr. Grimes: Right, and I think we'd have to coordinate that with the County in terms of meeting next month's schedule and actually how long does the applicant need.

Mr. Apicella: Exactly.

Mr. Grimes: I mean, Mr. Palmer, Mrs. Palmer, if you were to defer, what kind of time period would you be looking at?

Mr. Palmer: Would 90 days be acceptable?

Mr. Grimes: I think it's really up to you on what you think you would need to revisit your application and seek the input that you're looking for.

Mr. Palmer: I would say 90 days at the most and if it's turned around faster, we'll contact Melody and present it to you guys during a scheduled meeting. Would that be acceptable?

Mr. Grimes: I don't have any problem with that, but I'll confirm with staff to make sure that we can defer out to 90 days, that there'll be a time slot. So, it looks like that would be feasible. Thank you. Mr. Gibbons, you said you might have a motion on this?

Mr. Gibbons: I'd like to have a motion for a 90 day deferral. I'd like to keep the public hearing process open so all the neighbors can have the ability to comment.

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Audience member: We can't hear you, Mr. Gibbons. I think it's a question I'm going to ask, so please, what you were saying sir?

Mr. Gibbons: I'm requesting a delay of 90 days deferred to let the family sit down and see if there's an alternative. And I've requested that the public hearing be held open so you can come back in and comment on.

Audience member: Will we get a letter like we already did this time?

Mr. Gibbons: We'll make sure, if I have to go door-to-door.

Audience member: Thank you Mr. Gibbons.

Mr. Gibbons: I did it on a bicycle two years ago, so.

Mr. Apicella: I'll second that motion Mr. Chairman.

Mr. Grimes: So, we have a motion by Mr. Gibbons, second by Mr. Apicella to delay or grant a delay for this procedure for 90 days. All those in favor say aye.

Ms. Brown: Is there discussion?

Dr. Larson: We need discussion.

Mr. Grimes: You're right, I'm sorry. Discussion?

Dr. Larson: Mr. Chairman, if this had been proposed by the Board, I would have voted no in a heartbeat. But since the applicant has asked for a deferral and he has... he and she have invested significant time and funding in developing this proposal, and since they're trying to come understanding with those in the community that are opposed, and since he... I think he's entitled to the reasonable use of his property and I think they're entitled to a reasonable enjoyment of theirs, perhaps they can come to an agreement that would be acceptable to most of them. I would remind everybody though that this is not... this is not an election, okay. We're not elected people; we appointed. This is a quasi-judicial proceeding, so we don't take votes here. Clapping, head nods, that doesn't count for anything. You're opinions definitely count and we take those into account, and I have. But I will support this deferral because the applicant asked for it.

Mr. Grimes: Thank you. Ms. Brown.

Ms. Brown: I will reluctantly support this. Very reluctantly. And on the... I would hope that you would bring back a lot more information regarding the barn, because that is one of my reasons why I would not vote for this now is because I think there's too many unanswered questions about the barn. It has not been inspected by the County and I would hope that would happen by the 90 days. Melody, would that be feasible, that the inspectors could get out there within the 90 days?

Melody: I will have to discuss that with the building official, I'm not sure.

Ms. Brown: Okay, so you would like to request the deferral? That is your wish?

Mr. Palmer: I think we established that ma'am.

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Ms. Brown: Okay, thank you.

Mr. Grimes: Any other discussion? Alright, we have a motion by Mr. Gibbons, second by Mr. Apicella, to defer this case for 90 days. All those in favor say aye.

Mr. Apicella: Aye.

Ms. Brown: Aye.

Mr. Gibbons: Aye.

Dr. Larson: Aye.

Mrs. Stefl: Aye.

Mr. Grimes: Those opposed?

Mr. Kim: Nay.

Mr. Grimes: Nay. So, the granting of your deferral for 90 days has been approved. So we'll schedule... Melody... Mrs. Musante will reach out to you and coordinate the schedule for the next presentation date.

Mrs. Palmer: Thank you so much, I appreciate it.

Mr. Palmer: Thank you.

Mr. Grimes: Thank you.

Mr. Palmer: I have one other question for you sir. I wouldn't mind, before you close the hearing, putting on record that Mr. Valentino acknowledged what he was told...

Mr. Grimes: Everything that was presented this evening has been on the record and still is.

Mr. Palmer: Okay. Official record, we're good.

Mr. Grimes: Absolutely.

Mr. Palmer: Thank you very much.

Mr. Grimes: Thank you. Alright, ladies and gentleman, we have the next case coming up. And I have to find that piece of paper; one moment. Alright, I'm turning this second case, appeal, A17-02/17151682, over to Mr. Apicella to run. Thank you.

2. A17-02/17151682 - H. Clark Leming Agent for Redus Virginia Commercial, LLC - Per Stafford County Code, Sec. 28-349, "Appeals to board generally," the applicant is appealing a Zoning Administrator's determination letter dated January 18, 2017, to confirm whether the use of a freestanding emergency department (FSED) proposed for Tax Map Parcel No. 44Y-15C is a by-right use in the B-2, Urban Commercial Zoning District. **(History: March 28, 2017 Public Hearing Continued to April 25, 2017) (Public Hearing Continued to May 23, 2017)**

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Mr. Apicella: Okay, we're going to give folks just 2 or 3 minutes to settle in. Okay, will staff read the next case.

Mrs. Musante: Case A17-02/17151682, H. Clark Leming, Agent for Redus Virginia Commercial LLC per Stafford County Code Section 28-349, Appeals to the Board Generally. The applicant is appealing a Zoning Administrators Determination letter dated, January 18, 2017, to confirm whether the use of a Freestanding Emergency Department proposed for Tax Map Parcel No. 44Y-15C is a by-right use in the B-2, Urban Commercial Zoning District. You have the application, owner's consent form, Zoning Administrators determination letter dated January 18, 2017, Ordinance O08-66, Binder from H. Clark Leming labeled materials for May 23, 2017, letter from Hunton and Williams, definition of Emergency service, and a certificate of need which you have already received. The applicant, Spotsylvania Medical Center, Inc. is proposing to construct a FSED on Tax Map Parcel No. 44Y-15C which is located at the intersection of Warrenton Road and Banks Ford Road. The property is zoned B-2, Urban Commercial and was rezoned from A-1, Agricultural to B-2, Urban Commercial in 2008. The applicant submitted a request for a Zoning Determination in October 2016 to validate the facility as described to be considered a medical clinic. The appeal was submitted within the 30 days appeal period. An application for a Conditional Use Permit has also been submitted for review and approval. The applicant, Spotsylvania Medical Center Inc., is appealing a determination that was issued by the Zoning Administrator on January 18, 2017. The applicant submitted a request for a determination to confirm the use a free-standing emergency department is considered permitted by a by-right use in the B-2, Urban Commercial zoning district. The determination did not confirm the use of a FSED as a medical clinic but as a hospital. The description included in the request was as follows; the FSED will provide emergency services to patients 24 hours a day and 7 days a week. The FSED will include a full array of diagnostic services included CT services. Although the FSED would be open 24 hours a day, patients would not be admitted to the center. Patients needing to be admitted would be transported to a hospital. In doing the research, this description was compared to the definition of a medical clinic since the applicant believed the FSED was a comparable use. It was also compared to other definitions in the zoning ordinance that addressed a medical use. These were a medical office and a hospital. The definition for a medical clinic in the zoning ordinance is as follows: Clinic, Medical, dental or psychiatric: A room or group of rooms used for a medical, dental or psychiatric practice offering medical services on an outpatient basis, including in-house diagnostic testing facilities, medical counseling services internal surgery, general anesthetics, and similar services, but not including overnight stay or treatment. The definition for a medical office is the Zoning Ordinance is as follows: Office, Medical, Dental: A room or group of rooms used for a medical, dental or psychiatric practice offering medical services on an outpatient basis and including a total of not more than the fulltime equivalent of 2 principle health care providers and 2 other health care providers exclusive of administrative or clerical staff providing services on the premises. A medical, dental or psychiatric office may also contain associated in house ancillary services such as in house diagnostic testing facilities, medical counseling services and similar services. There shall be no overnight stay or treatment. Normal activities shall not include internal surgery nor use of general anesthetics. The definition of a hospital in the Zoning Ordinance is as follows: Hospital: A facility licensed in accordance with the Code of Virginia and which the primary function is the provision of diagnosis of treatment and of medical and nursing services, surgical or non-surgical for 2 or more non related individuals including hospitals known by varying nomenclature or designation such as children's hospitals, sanatoriums, sanitariums and general acute rehabilitation, chronic disease, short outpatient surgical and inpatient or outpatient maternity hospitals. The definition for medical office was not comparable since the use was restricted to only 2 health care providers and is prohibited any activities that included surgery or general anesthetics. The definition for medical clinic and hospital did not include such prohibitions and did not provide a list of comparable uses that could be conducted in both facilities. These included such activities as diagnostic services and surgeries. The

medical clinic does not provide for overnight stay or treatment and the hospital definition does not specify the size of the facility. But there is a provision in the definition that a hospital is a facility licensed in accordance with the Code of Virginia which is not stated in the medical clinic definition. According to the Code of Virginia, a facility that requires a Certificate of Public Need (COPN) is required to be licensed. Both a hospital and a FSED are required to have an approved certificate of need. Therefore, the Virginia Department of Health (VDH) requires the FSED to be licensed and it licensed the FSED und the same license as the sponsoring hospital. It is because of this requirement in the definition of the Zoning Ordinance that a licensed facility used for medical diagnosis and treatment is a hospital that the determination was made that a FSED was to be considered a hospital and not a medical clinic. After much discussion at the March 28, 2017 meeting, the BZA voted to defer the vote on this case to the April meeting to allow staff time to research a list of questions that has been presented. In addition, the applicate requested the case be deferred until the May meeting. The questions and answer are as follows: 1) The staff indicates (on page 3 of 6) that some research was conducted to arrive at the conclusion that an FSED falls under the definition of a hospital vice a medical clinic. Can we get the pertinent information from this research that led to this conclusion, or at a minimum, the state code/regulations that indicate ERs (as a part of a hospital or free standing) need to be licensed by the state. As stated in the background report, the definitions (Chapter 28, Section 28-4 Definitions of the County Code Zoning Ordinance) of uses considered comparable were reviewed. These definitions included Hospital, Clinic, medical, dental, or psychiatric, and Office medical/dental. The definitions for medical clinic and hospital provide a list of comparable uses that could be conducted in both facilities but the provision that a hospital is a facility licensed in accordance with the Code of Virginia is not included in the definition for a medical clinic. The regulations in Virginia require that a hospital be licensed by the Virginia Department of Health (VDH); it also requires a FSED to be licensed under the same license as the sponsoring hospital. FSEDs are not permitted to operate independently of a hospital in the Commonwealth of Virginia. It is considered an off-campus affiliation. 2) How/To what extent is the ER at Stafford Hospital licensed and/or part of the SHC or MWH Hospital's Certificate of Need? The ER at Stafford Hospital is part of the Hospital and the Certificate of Need was for a CT scanner at the hospital. The FSEDs in Virginia are all licensed through the sponsoring hospital. 3) How many FSEDs are in Virginia? The VDH is just starting to track those numbers, so the information is not available at this time. 4) How does Stafford view/treat "urgent care" centers (e.g. Patient First, Next Care, etc.) under the zoning ordinance and to what extent are they similarly or differently licensed like hospital/ERs by the state? Are Urgent Care facilities licensed by the VDH or any other state agency or department? Urgent Care centers are considered medical clinics under the zoning ordinance. No, the VDH does not have any regulatory authority over urgent care centers and therefore cannot provide a comparison between the two facilities. The definition from the VA Administrative Code for emergency service is attachment. 5) Do we have Medical Clinics in Stafford that provide services 24/7/365? To the best of my knowledge, no. 6) If a hospital is running a FSED and does not include it on the Hospital license renewal, are there consequences? And what are they? This would require a re-issuance of the license. There really are no consequences. 7) If a FSED does not offer services that need a Certificate of Need, does it need to be part of the Hospital license? Yes. 8) How does Stafford view/define 'acute' care facilities as noted in the definition of a hospital? The following sources may be referred to when interpreting any term of this chapter for which no definition is given: (1) The current edition of Webster's New Collegiate Dictionary by Merriam-Webster, Inc.; (2) Tracy Burrows, ed. A Survey of Zoning Definitions, American Planning Association, Planning Advisory Service Report No. 421(1998); and (3) The current edition of Black's Law Dictionary. 9) Please provide the citation the County Code that indicates any use not listed in the ordinance/table requires a conditional use permit (CUP)? Sec. 28-37. - Non-listed uses - If a use is not specifically permitted anywhere in Table 3.1, an application may be made by a property owner to the administrator for such use as a conditional use pursuant to section 28-185. 10) Is the Mary Washington Hospital FSED at

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Lee's Hill under the MWH license? Yes. 11) How is VDH notified of a proposed FSED? Are there consequences for not notifying VDH of such an addition to the Hospital? We do not have an answer for the notification process, and there are no consequences for not notifying the VDH of an addition of a FSED to a hospital. In addition, you requested a copy of the COPN Application and received it earlier in the mail. The information concerning licensing was obtained from Mr. Frederick Kyle, R.N.B.A., Director of Acute Care Division.

Mr. Apicella: Mrs. Musante I appreciate that. I know it was a mouth full. I'm going to ask you one quick question before I ask my colleagues if they have any questions. There was a lot of material that was provided either by the applicant interested stake holders and BZA members. Will all of that information be made part of the record?

Mrs. Musante: Yes it will.

Mr. Apicella: Are there questions for staff?

Ms. Bertoldi: Well, I'm not sure really sure if this is question for staff or for you Mr. Chairman. As part of this packet we received the objection brief from Mary Washington Hospital dated May 22, 2017 and then we also received an objection from Mr. Leming's office requesting that we do not make their letter a part of the record because they did not meet the minimum requirements of 14 days' notice and I think does need to be addressed before we actually make the May 22, 2017 letter part of the record. I think we do need to make a determination and determine their objection.

Mr. Apicella: If you read 7-4, anyone can provide information, a member of the public, up until and through the conduct of this hearing.

Ms. Bertoldi: Fine. But there was an objection so I just wanted... I think it needed to be clarified for the record that you are going to deny their objection if that is going to be case. Because it was there, I wanted to make sure that we clarified that.

Mr. Apicella: I'm recognize that they made an objection and I'm referring to our by-laws which say that that information is appropriate for us to consider and was again timely provided all the way through this hearing and additional information can be provided by a member of the public.

Ms. Bertoldi: I'm glad it is part of the record. Thank you.

Mr. Apicella: Other questions?

Ms. Brown: I do. This is for staff. Is Hunton & Williams or Mary Washington Hospital part of this appeal?

Mrs. Blackburn: Can you explain further?

Ms. Brown: I'm asking are they part of the appeal. My understanding from the packet is the appeal is from Spotsylvania Regional Medical Center with Mr. Leming as their agent.

Mrs. Blackburn: Yes, you are correct.

Ms. Brown: So does Hunton & Williams or Mary Washington Hospital, are they part of the appeal?

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Mrs. Blackburn: No, they have just provided additional information.

Ms. Brown: I was wondering... I've read the code Section 15.2-2308.1 regarding the Board of Zoning Appeals and ex-parte communications and I was wondering why all of the communications or seem to be a lot of them were being immediately being forwarded to the Attorneys for Hunton & Williams if they were not part of the case. I understand the information is public but that information wasn't shared with the rest of the public. It wasn't on our website or anything like that. And I'm referring specifically to an email I received today. It was an email chain from Melody Musante to Elizabeth Breen. One of the emails was dated May 18th. Melody sent her a note that said attached are articles that have been provided to the applicant and the BZA members. I'm just wondering why we are sending everything to them if they are not part of the appeal. That was my confusion. I was not sure who was involved in the case because of that. Is Mary Washington or Hunton & Williams receiving things that the rest of the public is not? I guess that is what I am asking.

Mrs. Blackburn: They are not receiving anything that would not be made available to the public.

Ms. Brown: But they were getting... I noticed it was not on the website. I'm just so... were they copied on everything? Was Hunton & Williams as the agent for Mary Washington copied on everything?

Mrs. Blackburn: I believe they were.

Ms. Brown: Thank you.

Dr. Larson: Mr. Chairman, can I ask a question of staff?

Mr. Apicella: Absolutely Dr. Larson.

Dr. Larson: Did the parties in question ask to be informed about the information about the case?

Mrs. Blackburn: It was my understanding, yes.

Dr. Larson: Did anybody else ask to be informed?

Mrs. Blackburn: Not to my knowledge, no.

Dr. Larson: Thank you.

Mr. Apicella: To follow along that line of questioning, is there anything that precludes someone from asking for information to be provided and excluding them from being able to be provided that information? Anything in the code, anything in our ordinances?

Mrs. Blackburn: No, it is all public information.

Mr. Apicella: Ok, other questions?

Ms. Brown: Did we have a formal request from them? The reason I am asking this is because I understand whenever there any communication on an appeal like this, everything has to be share with all parties involved in the case. From my reading, I failed to see how Hunton & Williams or

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Mary Washington was an appellant in this case or the decision maker and they seem to be copied on every single thing which confused me as far as what their role was and I know that is something we generally do. I mean in our last case, we received a lot of letters from the public but we didn't turn around and share the letters that we received that sent us one. So I'm just wondering did we receive a formal request from Mary Washington or Hunton & Williams to share every piece of information about this case.

Mrs. Musante: Not to my knowledge. We did it as a courtesy because they had been involved in the case from the beginning.

Ms. Brown: Okay, thank you.

Mr. Apicella: And as I understand it, having been on this Board for 5+ years, other parties who have asked for information from the applicant have also been provided that information.

Mrs. Musante: That is correct.

Mr. Apicella: Okay, so we're not veering from...

Mrs. Musante: Oh, no.

Mr. Apicella: ... procedures that (inaudible) happened in the past.

Mrs. Musante: That is correct.

Mr. Apicella: Okay. Other questions? Okay. You all will be surprised I have questions. Can you please read the full paragraph in the October 2016 zoning determination request letter from Fairbanks and Franklin.

Mrs. Musante: I'm sorry, did you say October 14th?

Mr. Apicella: No, I said... well, October 2016. It's the request, the zoning determination request; just the first paragraph.

Mrs. Musante: Okay. We are submitting the enclosed zoning determination application to confirm that the proposed Freestanding Emergency Department on Parcel 44Y-15C is permitted by-right in the B-2 zoning district. Spotsylvania Regional Medical Center's FSED will provide emergency services to patients 24-hours a day and 7 days a week. The FSED will include a full array of diagnostic servicing, including CT services. Although the FSED would be open 24-hours a day, patients would not be admitted to the center. Patients needing to be admitted would be transported to a hospital. I've enclosed a preliminary layout showing the location and scale of the proposed FSED.

Mr. Apicella: So, just to be clear, that letter specifically referenced the Spotsylvania Regional Medical Center's FSED.

Mrs. Musante: Yes.

Mr. Apicella: Okay. And the specific question they asked in the letter was whether the proposed FSED is a permitted by-right in the B-2 zoning district.

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Mrs. Musante: Yes.

Mr. Apicella: That's the question that they asked?

Mrs. Musante: Correct.

Mr. Apicella: Okay. And did the GDP that they provided in that letter, did it include a layout of the facility?

Mrs. Musante: Give us just a second please.

Mrs. Blackburn: They provided a site layout.

Mr. Apicella: With a building, right?

Mrs. Blackburn: With a building, yes.

Mr. Apicella: A building's a facility, right?

Mrs. Blackburn: Yes sir.

Mr. Apicella: Okay. And from the research you conducted, which included information or communications with the Virginia Department of Health's Office of Licensure, this FSED would be a department of the SRMC and it would be included under SRMC's hospital license.

Mrs. Blackburn: Yes.

Mr. Apicella: Okay. Now, VDH also indicated that all FSED's currently in the Commonwealth are considered departments of the hospital they fall under. Is that correct?

Mrs. Blackburn: Yes, to my knowledge.

Mr. Apicella: Okay. And that's just like any other department of that hospital, like radiology or obstetrics or whatever (inaudible).

Mrs. Blackburn: That is my understanding, yes.

Mr. Apicella: Okay. Could the Stafford FSED continue to operate if SRMC's license was discontinued?

Mrs. Blackburn: That I do not know. That would have to be a question to the Virginia Department of Health.

Mr. Apicella: Okay. And currently, as far as we know, there are no independent FSED's in Virginia.

Mrs. Blackburn: Not that I know of, no.

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Mr. Apicella: Okay. The Stafford County Zoning Ordinance, it regulates uses as well as types of structures where those uses would be conducted. Is that correct? It's the use and the types of structures that fall under those uses.

Mrs. Blackburn: The Zoning Ordinance does regulate the use on a property and it regulates the height and the... of a structure, and the setbacks from the property line.

Mr. Apicella: Okay. And the appeal documents submitted by the applicant's agent indicate that the Zoning Administrator did not look at the medical clinic definition in making the determination, is that correct? Did you... did you not look at the medical clinic definition?

Mrs. Blackburn: No, I looked at it.

Mr. Apicella: I'm sorry, can you say that again?

Mrs. Blackburn: I looked at it.

Mr. Apicella: Okay, and you actually discussed it in your determination letter, right?

Mrs. Blackburn: Yes sir.

Mr. Apicella: Okay. Does the Stafford medical clinic definition include the term freestanding emergency department?

Mrs. Blackburn: No it does not.

Mr. Apicella: Okay. Does the medical clinic definition include the words emergency department, emergency unit, or emergency services?

Mrs. Blackburn: No it does not.

Mr. Apicella: Okay. Does the state hospital definition under State Code Section 32.1-123 say anything about inpatient beds or overnight stays?

Mrs. Blackburn: Not that I could find.

Mr. Apicella: And does Stafford's hospital definition discuss beds or overnight stays?

Mrs. Blackburn: No sir.

Mr. Apicella: Okay. In the absence of the terms FSED or emergency in the medical clinic definition, is it likely that the Zoning Administrator would have concluded that an FSED fits into the medical clinic definition?

Mrs. Blackburn: Can you repeat that again?

Mr. Apicella: It's a hypothetical. So, again, we have a term that's not mentioned in our Zoning Ordinance and in our definitions anywhere, right?

Mrs. Blackburn: Yes sir.

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Mr. Apicella: Is it likely that you would have concluded that an FSED fits in the medical clinic definition, in the absence of those words being mentioned in the definition?

Mrs. Blackburn: No, there were other things that I actually looked at to help with a decision.

Mr. Apicella: Okay. And the applicant's (inaudible) submission states that the County should not add words to or substitute its own judgement when looking at definitions. Is that correct from what you saw in their appeal?

Mrs. Blackburn: Yes sir.

Mr. Apicella: So, when the County is provided with a specific term that's not mentioned or it's somewhat ambiguous if it's included in the definition, what does the County normally do with that term?

Mrs. Blackburn: I would research the term. I would look in definitions of the ones... not definitions, the resources that are listed in the definitions where we can look for additional information if terms are not included. And we would end up research the terms through the internet and other sources that we have in other sections of the Code.

Mr. Apicella: And just to reiterate, when a term is not mentioned, and it's not clear it's in a definition, is there another avenue an applicant can pursue in order to try to get their use considered?

Mrs. Blackburn: There is a provision in the Code that if a use is not listed that you can apply for a conditional use permit, which is heard before the Planning Commission and decided by the Board of Supervisors.

Mr. Apicella: Okay, thank you. Other questions? Ms. Bertoldi?

Ms. Bertoldi: Yes, the definition of hospital though does include stating that it provides inpatient or outpatient... it includes inpatient or outpatient maternity hospitals, correct? It said they provide... it's what hospitals are defined as inpatient, correct? That means admitted into a hospital.

Mrs. Blackburn: Excuse me?

Ms. Bertoldi: The definition of hospital; a facility licensed in accordance with the code in which primary function includes diagnosis, treatment, so on and so forth, for acute chronic short term outpatient surgical and inpatient or outpatient maternity hospitals.

Mrs. Blackburn: Yes.

Ms. Bertoldi: Okay. So, that includes surgery and it includes admitting patients for overnight or inpatient means you're being admitted to the hospital, correct?

Mrs. Blackburn: Yes, I think it could.

Ms. Bertoldi: Okay. I just wanted that clarification though.

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Mr. Apicella: But I think it says several things, so it's not necessarily saying it has to be inpatient, it's not saying it has to be outpatient. It says it could be an acute hospital. So, it's not read in the context of the entire string of words in that definition, at least as far as I'm concerned.

Ms. Brown: Could you say that again? What you said?

Mr. Apicella: It's giving examples of types of hospitals, right? A surgical hospital is not just a... so that's one type of hospital. An acute hospital is a type of hospital. A psychiatric hospital is a type of a hospital. Is that not what it says?

Ms. Bertoldi: Well, yes, but yet the definition of a medical clinic says that it also includes in-house diagnosis, testing facilities, internal surgery, general anesthetics, but not including overnight stay or treatment, which does differentiate itself to a degree from a hospital because it is specifically excluding something. So, I mean...

Mr. Apicella: Right, and that's Stafford's definition. And there is no definition of medical clinic, as far as I know, State Code definition of medical clinic.

Mrs. Blackburn: I could not find one.

Mr. Apicella: And just again to be clear, the County's definition of a hospital is almost exactly the same as the State's definition.

Mrs. Blackburn: Yes it is.

Ms. Bertoldi: Alright, thank you.

Ms. Brown: Well, Stafford does have a definition for clinic, medical and dental.

Mr. Apicella: I said the State Code doesn't have a definition for medical clinic.

Ms. Brown: Right, but our case is in Stafford, so. Thank you.

Mr. Apicella: Okay, is it fairly reasonable to presume that the State Code takes precedent over County Code? We are a Dillon Rule state, right?

Mrs. Blackburn: Yes sir.

Ms. Brown: My understanding of a Dillon Rule state is that we have to abide by the State rules. We can be more restrictive but we cannot be more lax.

Mr. Apicella: Other questions? Okay, seeing none, will the applicant come forward?

Mr. Leming: Good... good very evening Mr. Chairman and members of the BZA. Do you have a curfew? I hope not. I know some of... the Commission and the Board I think have to pass a special resolution to go past a certain hour. We have attempted to provide a great deal of materials to you based on the questions that were asked at the last meeting. Specifically, guidance on interpretation of statues and ordinances, which I can readily see you all have reviewed. The issue before you is one of ordinance interpretation. Quite simply, specifically, whether or not a freestanding emergency department, under the Stafford ordinance, is a hospital and, if not, does it meet the

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definition of medical clinic? Those are the two determinations that were made by Ms. Blackburn in her January determination that the freestanding emergency department meets the definition of hospital, but does not meet the definition of medical clinic. So, both of those issues are before you. Now, there's certain... in looking at the first issue, the definition of hospital, there are certain parameters established largely by the County. The first is the 2015 the County adopted its definition of hospital and, as most of you will recognize, it essentially adopted the State definition of hospital. Moreover, the County specifically incorporates the licensing procedures of the Virginia State Code. Your own ordinance, at Section 28-22, rules of construction, states that the terms used in this chapter, for instance hospital, unless otherwise specifically provided shall be the meanings prescribed by the statutes of the Commonwealth of Virginia for the same terms. We've also cited for you a Virginia Supreme Court case that says that the local ordinances must not be in conflict with state law. Now, the County has adopted the state definition, not its own definition. They're the same. And the County has deferred to the State ordinances or State laws. So, simply stated, if the freestanding emergency department is a hospital, under state law it must be a hospital under the County ordinance. It's the same definition. Now, conversely, the County, in my view, is not in a position to disagree with the state. If the state says it's not a hospital, the County can't say it is a hospital, because you're using the same definition and the Stafford Board chose to adopt the state definition. Now, what can we agree... there's some things that I think we can agree on here. A very broad ranging discussion that you had, at least based on your questions, earlier. First, the freestanding emergency department is not a hospital under state law. Now, there have been some comments coming in through another letter that that was inconclusive. But I think most of you are aware, because we sent it in as soon as we had it, that the state specifically in an effort to clarify all this string of emails that's been going on back and forth between your Zoning Administrator and Mr. Kyle and others at the state, but also to clarify Ms. Musante's memo which has been shared with the state so that they can see what the County is saying about what the state said. So, this afternoon, we received and Ms. Blackburn was copied -- I didn't hear any reference to this in the staff presentation, but Ms. Blackburn was copied with this letter, a letter from Mr. Eric Bodine who is the Director of the Office of Licensure and Certification. And it specifically addresses this first point. Now, Mr. Chairman, if you have not received this, and we did send it to staff this afternoon, I would like permission to share this letter with the members of the BZA.

Mr. Apicella: I believe it's been provided, hasn't it?

Mrs. Musante: Yes.

Mr. Leming: Alright. Then, if you... if you would refer to it, the first paragraph explains why they are now engaging in this clarification. Had to be sure. We requested it because the communication back and forth between the staff and the state has been extremely confusing. In fact, you may recall that the staff initially said if you get a Certificate of Public Need, you get a license; they're the same thing. They're not. This is admittedly complex. But the state, in its second paragraph of this letter, specifically says, the Office of Licensure and Certification, Virginia Department of Health, does not consider a freestanding emergency department to meet the definition of hospital and cites the code section; the code section that has the same definition that is contained in the County Ordinance. So, it's not a hospital. The state, that you've deferred to by your... the County's deferred to by adoption of its definition, that your own Ordinance says in your rules of construction that you must defer to, has told you is not a hospital. Now, as far as... as far as I'm concerned, I think your analysis could end right there because the County doesn't have the authority to say that it is a hospital if the state says it's not. The state has an elaborate series of regulations that it's adopted defining what hospitals are and what facilities must be licensed. This isn't one of them, but they've told you categorically that the freestanding emergency department is not a hospital. Now, as I say,

as far as I'm concerned, that should be the end of the analysis. The determination that it is a hospital under the same definition that the state uses the hospital... as a hospital is simply wrong. Now, if you're inclined to disagree with the state, and you want to pursue the issue further, you're also... you also I think it is uncontested that the state will not issue a license for this facility. We may have an issue about another license for the hospital, but they will not issue a license for this facility. So, if you disagree with what the state says about hospital, which I think is unlawful, but if you do and you go to the issue of license, then what license are we talking about? What facility are we talking about? It is also uncontested that the freestanding emergency department is affiliated with a hospital; we don't deny that. But what you're... what you're ordinance says if a facility licensed in accordance with the Code of Virginia. What's the facility? You know, is it what we're proposing on Route 17? Is it the hospital? Is it some combination of the two? And we go to dictionaries to try to understand what this means a little bit better just like your staff did with synonyms for facility -- center place, station, location, premises, post site, building plant, structure built or established for a specific purpose. The facility, and everything points to this, is the structure that is being proposed on Route 17. That's what this is all about -- that facility. And your ordinance says a facility licensed. There is not a license issued for this facility. Now, I realize that the staff and some of you very much want to say, oh, but it operates under the hospital's license. It's under the hospital license. And indeed... and indeed the state may not completely disagree with that that there is a license. But your ordinance, interpretation of your ordinance, literal interpretation of your ordinance requires that you focus on the words that are used, the words that your Board of Supervisors has chosen to use. A facility licensed in accordance with the Code of Virginia. Now, I submit to you, we get into this issue and we can talk about whether... what a freestanding emergency department is under the ordinance later, but in order to draw in the hospital's license, you have to add words to the ordinance. Forget that the state's already said it's not a hospital. In order for you to make it a hospital and to bring in this license issue, you have to say something like a facility affiliated with a hospital licensed in accordance with the Code of Virginia, a facility operating under the license of another facility licensed in accordance with the Code of Virginia, a facility owned by a hospital licensed in accordance. Now, what Ms. Musante said is categorically wrong. She says regulations in Virginia require that an FSED to be licensed, I'm quoting, under the same license as the hospital. It doesn't. Now, I'm getting to close to finished here Mr. Chairman, so I request a couple more minutes.

Mr. Apicella: Sure, a couple more minutes.

Mr. Leming: A couple means 4, right, 5? Let's talk about medical clinic for a moment. It's not a hospital and we categorically don't think it can be a hospital. Then what is it? Now, the Zoning Administrator says in her letter, on the issue of medical clinic, she says you've requested the proposed FSED be considered a medical clinic, and she gives the definition for it then she says the proposed FSED does not meet this definition which is for a facility that is not licensed through VDH. There is no reference to licensure at all in the definition of medical clinic. It doesn't mention the word license. So, a distinction that's not there. She's added words to the ordinance. Now what she goes on to say which is for a... still provides, not a hospital but still provides medical, dental, or psychiatric services on an outpatient basis. It's what we do. That's how she interprets it. You can't look at the license part of it because it's not there. It doesn't matter whether there's a license or not; it's not part of the definition. She read that in. Now, we've conceded that the FSED is unique in Stafford. You haven't seen them before. That's why it's not in your ordinance; you haven't seen one of these things before. So, what is it? Now, we did a little bit of work. The Board of Supervisors used to require a CUP for medical clinics up until 2009, then it dropped it. It dropped it because they thought it was bad for business, that entities would be discouraged from bringing medical clinics or medical facilities into the County if they had to go

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through the CUP process. I can attest to that. I did a CUP for the Patient First up on 610 in 2008. It was dropped after that. Now, in 2008 the Board amended the definition of medical clinic, making it broader, eliminating references to buildings. It's just rooms; it could be anywhere. So, it's a very broad definition. But how has it been interpreted since the CUP requirement was dropped? What I did, rather than focusing on urgent care, I used some interesting materials that were provided to you about urgent cares and the degree of acuity that they address, low to moderate. Everybody looks at acute medical care. Everybody provides acute services here at one level. But, in looking around Stafford, several facilities that aren't urgent cares but they're not hospitals; how have they been treated? First we have the Medical Imaging of North Stafford up on Woodstream Boulevard. Incidentally, this is a fictitious name for Mary Washington Health Care Physicians. No CUP for it. It wasn't treated as an unlisted use. They had to get a CO... a Certificate of Public Need.

Mr. Apicella: When was that approved?

Mr. Leming: Medical Imaging of North Stafford.

Mr. Apicella: Right.

Mr. Leming: So, it must be...

Mr. Apicella: But when was that approved?

Mr. Leming: When was it approved?

Mr. Apicella: Yeah.

Mr. Leming: The only thing that I can tell you is that it doesn't have a CUP, so I'm assuming that it's after 2009. And I'm going to give you several examples here.

Mr. Apicella: So before we changed the definitions though in (inaudible)?

Mr. Leming: I don't know. Candidly, I don't know exactly. However...

Mr. Apicella: I've been there.

Mr. Leming: However, I do have two other examples here. And my point is that I think this should have been part of the staff investigation before deciding so quickly that this definition of medical clinic didn't apply to the freestanding emergency department. Now, in addition, and more recently established Mr. Apicella, the Sentara Surgery at 2661 Jefferson Davis Highway. This is in Austin Park and this is since 2009. It's affiliated with Potomac Hospital. It performs outpatient surgery. It doesn't have a CUP. It must be there on a by-right basis, as what, a medical clinic? I don't know. What I'm saying is that there are other facilities that aren't urgent care and aren't hospitals. The Women's Health and Surgery Center at 125 Hospital Boulevard; it's owned by Mediacorp. Now, it's on the campus but there's not a separate CUP for it. It performs outpatient surgery. Is it a by-right basis... operate under a by-right basis? How was it established? Did anybody look at these things in the zoning office before the Zoning Administrator made a determination that these were not... that this was not a medical clinic? Now, we did talk with Mr. Harvey today to see if he had any recollection of any of the specifics. He couldn't recall specifically for all of these either. But they ought to be looked at. And staff should have looked at it, I think, before making a determination that this did not meet the definition of medical clinic, and certainly before throwing

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in this whole concept of licensure. You know, does the Sentara Center that's affiliated with Potomac Hospital, which is now owned by Sentara incidentally, does that operate under the license of Potomac Hospital because it's affiliated? I don't know. Alright, now, those are the... so, our position is very simple. If you go back to Ms. Blackburn's determination and you eliminate the reference to being not licensed, which is nowhere in the definition, we certainly meet the definition of what she... as she describes it here; a facility that provides medical services. We do it. That's all she says it is. So, for those reasons Mr. Chairman, we are asking the BZA to do two things: number one, to agree with the state because your definition is the state and the state's told you it's not a hospital. The freestanding emergency department is not a hospital, no way, no how, under the Stafford ordinance. Secondly, we're asking that you... and we're asking that you reverse the Zoning Administrator's determination that it is a hospital. Secondly, we're asking that you reverse the Zoning Administrator's determination that it does not meet the definition of medical clinic. You have a very broad definition of medical clinic. A provision of medical services. And specifically, we ask that you look at how that term has been applied to other medical facilities since the requirement for the CUP was removed. And are there things out there that aren't hospitals but not urgent cares? I think there are. Okay, thank you very much for your attention. I know that the hour is late and you've heard an awful lot of detail about this appeal and this application. So, thank you for your patience.

Mr. Apicella: Thank you Mr. Leming. Questions? Ms. Brown?

Ms. Brown: Just really quick -- I did receive a lot of information for this case and it was coming in kind of fast and furious today. The letter from Eric Bodine, is there an exhibit number for that or did that come today?

Mr. Leming: No, it was just... it just came into the office today and we referred onto the staff, although I assume that they received a copy from Mr. Bodine.

Ms. Brown: I'm not sure I have that. Do I have that? I can't find it.

Mrs. Musante: (Inaudible - microphone not on).

Ms. Brown: The ones that when I walked in tonight.

Mrs. Musante: Where it said item 2, it's in (inaudible - microphone not on).

Ms. Brown: Okay, okay, thank you. I was looking all over.

Mr. Leming: If you need it, we have copies.

Ms. Brown: Okay, no, as long I have it, that's fine. And I did have another question. I was looking at your book under Exhibit A, it's the copy of the Certificate of Public Need, and my question was, there's conditions. It looks like I have two in here; I have Mary Washington's as well. Again, puzzled why I'm seeing that in here, but on the second page, the condition placed on the issuance of this certificate, it's in the second to last sentence, it references a specialized center serving Tyson's Corner Emergency Center Freestanding Emergency Department. What is that? Why is... why aren't they referencing you?

Mr. Leming: Let me ask the guy that knows the answer. Mr. Stallings, would you come up and introduce yourself again.

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Mr. Stallings: Yes, hello everyone again, I'm Tom Stallings. I'm with the law firm McGuire Woods and have worked with the hospital on the Certificate of Need. That's a typo. What tends to happen when Certificate of Needs are issued is a template is used or maybe there's a little copy and pasting. There was a recently issued similar Certificate of Need for a facility in Tyson's Corner and that's simply a typo.

Ms. Brown: So, what is the condition?

Mr. Stallings: The condition is that you can just read that as being applicable to the emergency center that will be built on Route 17.

Ms. Brown: Okay. That is referenced on the front page of the COPN, so I just wanted to ask. Okay, thank you.

Mr. Stallings: Bonus points for careful reading, but it's just a typo.

Ms. Brown: I read the entire packet, thank you very much.

Mr. Apicella: Other questions? Okay, I've got questions. So, it seems to me that the basis of your interpretation that this FSED is not a licensed hospital appears to rest on the notion that (1) it's not physically connected to the main campus, and (2) while the S -- I wish it was a different acronym because I have a hard time saying it -- SRMC has beds, this FSED would not. Is that kind of in a nutshell?

Mr. Leming: I didn't say anything about either of those but I'll address them.

Mr. Apicella: Okay.

Mr. Leming: Your first point is not connected. I think the pertinent part of that in the argument that we make is simply that if it is a hospital on a separate location, it requires a separate license. And there is a specific regulation about that. Now, I think all of that is irrelevant in light of the letter from the Office of Licensure and Certification telling you categorically that it's not a hospital period. I'm sorry, Mr. Apicella, what was your second point? You asked compound questions; what was the second one?

Mr. Apicella: Well, you made the... one of your other arguments is that the hospital has beds, which is there for why it's a hospital, but the FSED does not have beds therefore it's not a hospital.

Mr. Leming: Well, it may be why it's a clinic because overnight stays, if that's what you're talking about, are prohibited. I think the question was asked earlier, at least in the state and the local definition of hospital. There is a reference to inpatient care. I don't disagree with you that it's a little confusing the way that is set forth. But if you then go to the regulations and the three categories of hospitals that are indicated there, that issue is addressed then in more detail. And of course the regulations, the definitions of hospital under the OLC regulations are just as binding on the County and the County interpretation of hospital as the State Code is. So, so yes, I think they are relevant points. I think... I think they pale in comparison to what the state has told you today.

Mr. Apicella: Can you tell me what other departments are physically connected to the Stafford... I'm sorry, the Spotsylvania Regional Medical Center? What departments fall under that hospital?

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Mr. Leming: What departments are at the hospital?

Mr. Apicella: Yeah.

Mr. Leming: I'm sure we can get somebody up there who can tell you which departments are co-located with the hospital. Introduce yourself if you would.

Mr. McKnight: Absolutely. David McKnight, Chief Financial Officer at Spotsylvania Regional Medical Center. Other departments include fiscal, include radiology, include the operating room, include an ED, include a cath lab, psychiatric, and so forth. I can keep naming them.

Mr. Apicella: Okay, I appreciate it. I'm just looking for some examples. So, clearly the emergency department at that hospital falls under its license. Is that correct?

Mr. McKnight: It does. It's not part of the licensed beds but it is part of the overall license.

Mr. Apicella: Right. And so I'm trying to understand; is it your contention that if the emergency department were across the street from the main hospital, it would be a separate facility and it wouldn't need a license?

Mr. Leming: That it would not need a license?

Mr. Apicella: Right.

Mr. Leming: If it were across the street?

Mr. Apicella: Right across the street.

Mr. Leming: Mr. Stallings?

Mr. Stallings: Why don't I try that one. The Health Department does have rules about what's on the hospital campus. It's not necessarily limited to being across the street. They consider contiguous land even if there happens to be a road or parking lot or something in between to be part of the same hospital campus. But if it's... so the main distinction is on campus versus off campus.

Mr. Apicella: Okay. And so where is the point where it's no longer part of the campus? At what amount of geography?

Mr. Stallings: You know, it's not a square-footage or meters or anything like that. It's whether the land is all contiguous, and there have been examples in Certificate of Need, again which is one of the areas I practice, where moving just a few doors down on a different street is a different campus because the land is not physically co-located or somebody else's property in between. But there are also other hospital campuses around Virginia that are acres and acres but they're all contiguous and so they're counted as the same campus.

Mr. Apicella: So, is there some statutory basis that speaks to what you're saying?

Mr. Stallings: I don't believe that's defined in the statute, but that's the historic practice of the Health Department in my experience.

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Mr. Apicella: Okay. (Inaudible), could the Stafford FSED continue to function as an ER if SRMC lost its license?

Mr. Stallings: Yes, and that's addressed indirectly in this letter from Mr. Bondine that in the bottom of the second paragraph, it says that the ED itself is not a hospital but if it operates without being associated with and therefore under the license of a hospital, it would likely not be subject to facility reimbursement.

Mr. Apicella: Well that's a generality that's mentioned there. I'm talking about the specific SRMC FSED in Stafford, based on the way it's going to operate and its connection to obtaining medical care reimbursement, would it be able to operate without...?

Mr. Stallings: It would.

Mr. Apicella: It would?

Mr. Stallings: Yes. So, and we discussed this briefly last time and I know it's confusing, but there are reimbursement rules. And the reason that you see the majority of freestanding emergency departments operate as a department of a hospital is if you're a department of a hospital you're paid a higher rate. And so, the, as a matter of law, the freestanding emergency department could operate but it would not be able to bill at the higher hospital affiliated rate.

Mr. Apicella: Really? Because we have an article, I'll have to find it, that says just the opposite. That in order to be able to continue to obtain medical care reimbursements, and in fact I think it's a McGuire Woods article, it says that it has to continue...

Mr. Stallings: Yeah, that's the provider based which is this higher hospital rate facility. That's correct. And you'll find that all of those articles mention that there are a substantial number of freestanding emergency departments, the percentage varies, I saw that, (inaudible)...

Mr. Apicella: Again, I'm not asking about generalities, I'm talking about the specific hospital FSED that we're talking about and the way that it was defined and the testimony in the last hearing that we had on this, okay, you indicated and I think Mrs. Stefl asked the question about medical care reimbursement and that that is something that you are in fact going to do at this FSED. So, those articles say in order to continue to have medical care reimbursement, that FSED must be licensed through its sponsoring hospital.

Mr. Stallings: No.

Mr. Apicella: It's in the McGuire Woods article.

Mr. Stallings: Yeah, I think you're not appreciating one of the terms of (inaudible). So what they're talking about is called provider based reimbursement and it's well understood within the care of healthcare finance -- I'm sure our CFO could talk about it as well -- but there are specific rules about getting this what's called provider based reimbursement, set by Medicare, right, the federal government sets these. And departments of hospitals can qualify for this higher reimbursement. That doesn't mean if you're not a hospital department you get zero reimbursement; you would get a lower level of reimbursement. You might not get reimbursed by certain payers, but it doesn't mean you get nothing.

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Mr. Apicella: Again, I think you're speaking of generality. So, are you going to change your business model if, going into this, are you going to change... from the outset, are you changing your business model?

Mr. Stallings: Well, we hope not to. But, of course, as we've made clear from the outset, our plan is to operate this freestanding emergency department as a department of the hospital and to receive the higher provider based reimbursement rate. That's absolutely our plan. But your question, as I understood it, was if for some reason the hospital license at Spotsylvania Regional Medical Center were revoked or surrendered or something like that, would that mean this freestanding emergency department would need to close? And the answer to that is no.

Mr. Apicella: Okay, and are there any hospitals in Virginia, any FSEDs in Virginia, that are operating under that alternative business model?

Mr. Stallings: Not to my knowledge.

Mr. Apicella: Okay. When federal and state regulators visit, they survey and they score a hospital FSED, do they treat it as if it were part of the main hospital or as a separate and distinct entity?

Mr. Stallings: I believe the answer is it would be surveyed and treated as a department of the hospital. I mean, they'd appreciate it's not the main hospital, but it would be operated as a department of the hospital and would be subject to the same kind of oversight.

Mr. Apicella: So, I'm still struggling trying to wrap my head around this. I'm trying to understand why a hospital, under state and similar county definitions, is not the sum of its parts no matter where those departments are located. You just mentioned that it is a department of the SR... ah... the Spotsy hospital -- that's what I'll call it from now on. So, why does it matter whether it's physically attached to, whether it's across the street from, or if it's in another locality?

Mr. Stallings: Because of the state definition of hospital.

Mr. Apicella: Where does it say that? I asked you about the geography and you told me there's no statutory construction that talks about the geography; that's maybe the way we operate. So I'm asking about the statutory basis to consider these to be separate parts which is what you're saying. When, to me, it seems just the opposite in the information we got from even VDH, even the letter we provided today says it is a department of the hospital and falls under its license.

Mr. Stallings: That's correct, but the important part at least, and I'll defer to Mr. Leming in terms of zoning ordinance interpretation, but the important thing as I understand it is that the Department of Health believes that a freestanding emergency department does not meet the definition of hospital under Virginia Code Section 32.1-123.

Mr. Apicella: Right. We had this conversation at length last time. It is not a separate facility. It is part of the facility, the hospital.

Mr. Leming: Mr. Apicella, you know our position. Our position is that it's not a hospital, and the state's told you that.

Mr. Apicella: I gotcha and I'm still trying to understand where you're coming from.

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Mr. Leming: It's irrelevant.

Mr. Apicella: So, I'm going to move onto a different topic.

Mr. Leming: Okay.

Mr. Apicella: You suggested that the County and this Board should not read any words or terms into an existing definition. You've said that a couple times. So please tell me where freestanding emergency department is mentioned in the Stafford definition of a medical clinic?

Mr. Leming: There is no specific type of facility mentioned under the definition of medical clinic. You have the broadest definition of medical clinic that I could imagine. Provides medical services. Those are her words.

Mr. Apicella: So, what you're contending is any medical service provided, therefore if it's not a hospital and not a medical office is a medical clinic.

Mr. Leming: Under your definition now, yes.

Mr. Apicella: Whether it provides 24/7 service, emergency services, no matter what.

Mr. Leming: Your ordinance.

Mr. Apicella: Half the hospital...

Mr. Leming: Do you want an answer?

Mr. Apicella: Half the hospital...

Mr. Leming: Do you want an answer?

Mr. Apicella: Yeah I'd like an answer.

Mr. Leming: Your ordinance doesn't go any further. Medical services period. That's your ordinance.

Mr. Apicella: Do you have any examples of any other localities that consider an ER to be a medical clinic?

Mr. Leming: Other localities are irrelevant.

Mr. Apicella: No, they're not irrelevant.

Mr. Leming: Yes. I'm going to tell you they're irrelevant. My position is...

Mr. Apicella: You would normally provide examples of other localities.

Mr. Leming: Do you want my position? It's irrelevant. Because you're dealing with your ordinance and your ordinance adopts a specific definition that's the same hospital definition the

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state uses, and then has a very broad general definition of medical clinic that any facility operating medical services falls under. And those are her words, not even mine.

Mr. Apicella: I'm just going to remind you, Mr. Leming, back to the State Code, it's your burden to provide a preponderance of... by a preponderance of evidence...

Mr. Leming: Yes, uh-huh.

Mr. Apicella: ... that if this is not a hospital, it is therefore a medical clinic. So where is your evidence to prove that this is in fact a medical clinic?

Mr. Leming: Your... the evidence is the interpretation of your ordinance.

Mr. Apicella: It's your interpretation.

Mr. Leming: Are you going to let me answer or keep interrupting?

Mr. Apicella: Sir...

Mr. Leming: Well let me answer. You want the answer or not? I mean, I can go sit down and wait for you to ask your question. Do you want an answer or not?

Mr. Apicella: Yes. Beyond interpretation sir...

Mr. Leming: Then let me give my answer.

Mr. Apicella: Beyond interpretation...

Mr. Leming: Then let me give my answer.

Mr. Apicella: ... where is your concrete evidence...

Mr. Leming: Okay, ask your question.

Mr. Apicella: ... to show that this is in fact a medical clinic?

Mr. Leming: The concrete evidence turns on what is being provided at that facility and whether or not it meets the County ordinance definition of medical clinic. That's all there is to it. And, the only thing that we have to do... you say preponderance of the evidence...

Mr. Apicella: I don't say that sir, the State Code says that.

Mr. Leming: ... that's simply the civil code standard for any civil case. It simply means, and we do have a Supreme Court pronouncement on that. If the Zoning Administrator, or any administrative official, is clearly wrong in their interpretation, that's all that's needed. There is no difference that is required at that point.

Mr. Apicella: Right. In fact, the code says that the Zoning Administrator is right unless proven otherwise. So I'm still waiting...

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Mr. Leming: No.

Mr. Apicella: I'm still waiting for the proof other than your interpretation.

Mr. Leming: No it doesn't say that, Mr. Apicella.

Mr. Apicella: Yes sir, it does say that.

Mr. Leming: No. It says that...

Mr. Apicella: The Zoning Administrator...

Mr. Leming: It says that she is entitled to a presumption of correctness. Presumption of correctness.

Mr. Apicella: And what does that mean?

Mr. Leming: Well, it means that if we stand... if we come before you and challenge the determination, that with the preponderance of the evidence which is simply the facts supplied to the standard, the burden is on us to show that she's wrong. And you have two issues before you; on the first issue, the definition of hospital, the state has told you that you are wrong. It's not a hospital. On the second, it's really quite simple. You can make it as difficult as you want, but it's really quite simple. You have an ordinance for medical clinic that provides nothing other than... this says nothing other than the provision of medical services, period. That's it. And that's what we do.

Dr. Larson: Mr. Chairman, may I ask some questions?

Mr. Apicella: Dr. Larson.

Dr. Larson: Thank you. These are for I think Mr. McKnight. I'm addressing his previous testimony and testimony tonight. Okay, so Mr. McKnight, last time I went through a series of questions with you and we established that the freestanding emergency department is a department of the hospital, and would be under... possibly under an existing director or possibly have its own in staff meetings, that kind of thing. Okay, so my question is, even in the name it says freestanding emergency department; so it's a department. You also mentioned some other departments that comprise a hospital; radiology for example. If I went to the state and asked the state, is the radiology department of a hospital a hospital, what do you think they would say?

Mr. McKnight: Depends on the situation. I would say that radiology within our hospital, yes, would be a department of the hospital (inaudible).

Dr. Larson: No, no, no... a hospital. Is the radiology department...

Mr. McKnight: Yes.

Dr. Larson: ... a hospital? I'd go to lots of radiology places that aren't hospitals.

Mr. McKnight: Is it a hospital itself?

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Dr. Larson: Yeah. Is that department a hospital? Is the catheterization department, is that a hospital?

Mr. McKnight: Not in of itself.

Dr. Larson: Psychiatric department -- is that a hospital?

Mr. McKnight: For us (inaudible).

Dr. Larson: What I'm getting at here is a hospital appears to be an accumulation of departments, as practically most businesses are. Most businesses break themselves up into functions and then form themselves into a business. So, to me, it's not surprising that the state came back and said one of your departments is not a hospital because it's not. Just like none of the other departments in your hospital is a hospital. That's... I'm confused in the same way that Mr. Apicella is, is that it... what the state said still doesn't convince me that this department operates under the hospital license. It's part of a hospital. It's a department of the hospital. So, I'm struggling with I know it's not a hospital; it doesn't sound like a clinic because it's definitely a department of a hospital. So, what is it?

Mr. Leming: The problem here, in our view, is that the Zoning Administrator has decided that the freestanding emergency department is a hospital. It's not. That's the point of the ordinance and the point of the interpretation. You're looking for the definition of hospital. She has said it's a hospital. None of these departments are hospitals. You know, if a single department came in and wanted to build a separate structure, perhaps you'd have the same issue. Is that a hospital? You know, Mrs. Blackburn may say, well, it's all under the same license so it's a hospital. But the state says it's not. The state says this facility is not a hospital. And that's... you know, in my opinion, you and Mr. Apicella are broadening this exercise into something that it's not. This is ordinance interpretation. What is a hospital in Stafford County under the Zoning Ordinance? It's not a freestanding emergency department. Your definition is the state definition. The state says it's not. So, you know, we don't contest that there is a license at the hospital and that we're affiliated with the hospital. But this is a narrow exercise of whether or not a conditional use permit is needed, and the only way the County can require it is if this facility... what's the facility here?... if this facility is a hospital?

Dr. Larson: Actually the other thing that I'm struggling with... I do not disagree. The freestanding emergency department is not a hospital, just as any of the other departments in a hospital are by themselves a hospital. But the by-right part of the code here is medical clinic. So, we have to understand that this is now a medical clinic. It's not a hospital, but is it a medical clinic?

Mr. Leming: Dr. Larson, you have both decisions to make. You know, I think the first one's pretty easy; it's not a hospital. Now, the second one, is it then a medical clinic? Now, as it's been pointed out today, you know, this is an area of some confusion here. Are we betwixt and between? The argument that we've put before you tonight and that I think you have to take very seriously, because of the way the Zoning Administrator has interpreted that particular definition, it's very general. Provision of medical services. Now the Board certainly has the discretion to come back and define that more specifically and narrowly and say this is this and this is that and this is how we want it done in Stafford County. But they haven't. Medical clinic is extremely broad.

Mr. Apicella: Ms. Brown, do you have a question?

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Mr. Leming: So, in our view, we meet that definition largely because it's so broad.

Mr. Apicella: Please.

Ms. Brown: I'm sorry, I would have a question, too. I heard this but I just want to make sure I heard it correctly. It was said a few minutes ago that if Spotsylvania Regional Hospital failed to exist, the FSED could still exist?

Mr. Leming: Yes.

Ms. Brown: Okay.

Mr. Leming: Yes, that is what Mr. Stallings...

Ms. Brown: I just want to make sure I heard that right.

Mr. Leming: ... has said to you. In support of that, you know, you all... your staff did put together, I think it was staff, I don't know whether they got it from somewhere else but, four articles that talk about the different kinds of freestanding emergency departments, those that operate independently and those that operate associated with hospitals. Now, it's true -- in Virginia we don't know of independent ones. You know, how do you find them? But, I think to your point, as a matter of law, and the only thing that what the state has pointed out here is the only thing really at issue here if the hospital license should go away, Mr. Apicella's question, the only thing... the only thing at stake is money. You know, because you...

Ms. Brown: Well, I was just asking because your question... maybe that might answer your question. That was why I wanted to confirm that. The other question... oh, I'm sorry.

Mr. Leming: It's simply... it means that... what it means I think is simply that it can exist, you know, on its own. It's not the way we planned to do this but given your definitions that you have under the ordinance, both of these were just changed by the Board in 2015. You didn't have a definition of hospital till then. And the definition of clinic; they had the opportunity to go back and revisit that and still left it as broadly as it is stated now. And the one thing to please focus on here with regard to the Zoning Administrator's determination is that she bring licensure back into that definition, and it's simply not there, so.

Mr. Apicella: Other questions?

Ms. Brown: Well, I had... wanted to finish.

Mr. Apicella: Okay, the public hearing is still open so thank you Mr. Leming.

Mr. Leming: I'm sorry, what did you say, Mr. Apicella?

Mr. Apicella: I'm saying thank you.

Mr. Leming: Oh, okay, you want me to go sit down.

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Mr. Apicella: Okay, I think we're finished with the questions for you. So, anyone who would like to come forward, please do so. You have up to 3 minutes to speak. When the red light comes on please finish up your comments. Oh, I'm sorry, and also please indicate your name and address.

Ms. Breen: My name is Liz Breen. I'm with Hunton and Williams. I'm here tonight representing Mary Washington Healthcare. You should have received two letters from me. I heard a reference to the May 22nd letter earlier this evening, but I didn't hear a reference to the May 12th letter. And I just wanted to confirm that...

Mr. Apicella: That was provided in our package.

Ms. Breen: It was? Okay, great, thank you. I'll be brief because I know it's very late. One thing I wanted to focus on, counsel to Spotsylvania Regional Medical Center has very clearly stated that it is vital that we must give effect, if possible, to every word in the Zoning Ordinance definitions. And for that reason, I'd like to focus on the words in the definition of medical clinic, which very specifically exclude from the definition of medical clinic, facilities that provide overnight stay or treatment. The facility that we're talking about today does not meet the definition of a medical clinic because it will be open 24 hours a day, 7 days a week. It's indisputable that they will be providing overnight treatment at the facility. So for that reason alone, it does not meet the definition of medical clinic. There's been a lot of discussion about what this facility actually is. It's Mary Washington Healthcare's belief that this facility is operated as a department of Spotsylvania Regional Medical Center and should be considered accordingly. The letter from the Virginia Department of Health, Eric Bodine, which was submitted today and which we've heard discussion about, specifically states that VDH does not have a mechanism to recognize freestanding ED's other than as a department of and under the license of an existing hospital. So it's Mary Washington Healthcare's contention that this is part of a licensed hospital. It is not a medical clinic. That said, if you do not believe it's either, in our view that requires a conditional use permit as well. And I would note that counsel to Spotsylvania Regional Medical Center, in a letter dated February 22, 2017, to the Department of Health's Adjudication Officer in the administrative proceedings regarding Spotsylvania's application to put a CT unit at the contemplated facility specifically said, the fact is that the Stafford County does not have a definition under the Zoning Ordinance that fits the proposed freestanding ED which appears to fall somewhere between a hospital, where patients are admitted and includes overnight stays, and a medical clinic, which offers a full range of diagnostic and surgical services on an outpatient basis. So...

Mr. Apicella: I'm sorry, who was that from?

Ms. Breen: This was from counsel to Spotsylvania Regional Medical Center who you heard from tonight in a letter dated February 22, 2017, to the Department of Health's Adjudication Officer.

Mr. Apicella: Okay.

Ms. Breen: It was attached as... it was attached to the letter that I submitted on May 22nd.

Mr. Apicella: Anything else?

Ms. Breen: That concludes my remarks. If you have any questions, I'd be glad to address them?

Mr. Apicella: Questions? Is there anything else you can tell us that would differentiate an emergency clinic from a medical clinic?

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Ms. Breen: By medical clinic, again, just based on using your definition alone, those facilities may not provide overnight stay or treatment. So, when you think of medical clinics, we heard a reference to the Patient First today from Mr. Leming. Patient First closes at 10 p.m. It is not open 24 hours a day, it is not treating patients overnight. This facility very clearly will be treating patients overnight.

Mr. Apicella: Are you aware of any emergency rooms anywhere else in the Commonwealth of Virginia that are classified as medical clinics?

Ms. Breen: No.

Mr. Apicella: Okay. And, from your vantage point, what would be a normal and customary medical clinic in layman's perspective?

Ms. Breen: I would think of a medical clinic as an urgent care center, perhaps a physician practice. That's what I would think of it in layman's terms -- not a freestanding emergency department.

Mr. Apicella: Okay, thank you.

Ms. Breen: Thank you.

Dr. Larson: Question, Mr. Chairman.

Mr. Apicella: Yes, I'm sorry, Dr. Larson.

Dr. Larson: One other question.

Ms. Breen: Sure.

Dr. Larson: Do you know of any examples of medical clinics being departments of hospitals?

Ms. Breen: No, I do not.

Dr. Larson: Organizationally?

Ms. Breen: No. I mean, I guess you could have a... it's difficult to... it's all a function as to whether something is a department of a hospital or not. If a medical clinic... if you have a facility that is not a department of a hospital, then you could consider it I guess a medical clinic. I think that's a confusing response.

Mr. Apicella: Anything else? Thank you.

Ms. Breen: Thank you.

Mr. Apicella: Anyone else like to come forward?

Mr. Fletcher: Yes, hi, Eric Fletcher with Mary Washington Healthcare. Thank you for your time tonight. I just wanted to clear up a couple of things that you heard and correct some things that you heard. Mr. Leming was talking about three specific examples of medical facilities that didn't require conditional use permits. And I want to set these three things right. You talked about one

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called Medical Imaging of North Stafford. This is an imaging center. It has a CT scanner and an MRI machine. It does scheduled imaging procedures for... or scheduled imaging studies for patients. It operates like a physician practice; it's nowhere near what a freestanding emergency department is. He mentioned Sentara Surgical Specialist and emanated that they may do surgery at that site. They do not. That is a physician practice. That practice does their surgeries at Stafford Hospital and at Sentara Northern Virginia Medical Center. That practice is actually owned by Sentara. And the third one that he mentioned was Women's Health and Surgery Center, and he actually got two things wrong here. Number one, it's not a surgery center, it's a medical practice; it's owned by Dr. Kurian Thott. He is an independent obstetrician in the community. It is not owned by Mary Washington Healthcare. He does his procedures at Stafford Hospital. So, there was some wild attempts to find precedent with conditional use permits here and I just want to make sure that you actually had the accurate information. And it's our stance that, you know, the County should have the opportunity to understand the use of the proposed facility. It's not a medical clinic. It operates much more like a hospital than a medical clinic does, inclusive of ambulance traffic and 24/7 stays and everything else. So thank you again for your time tonight.

Mr. Apicella: Thank you. Questions?

Ms. Brown: Yes, for the gentleman that just left?

Mr. Apicella: I'm gonna... Ms. Bertoldi?

Ms. Bertoldi: Actually just real quick. Can you please state for the record your affiliation with Mary Washington Hospital? You just said you were with Mary Washington Hospital.

Mr. Fletcher: Yeah, I'm Senior Vice-President with the health system.

Ms. Bertoldi: Alright, thank you.

Mr. Apicella: Ms. Brown?

Ms. Brown: Um, I had a question, yes. There's a surgery... there's a physician's office and surgery center on the Mary Washington Campus down in Fredericksburg. I'm not sure if it used to be owned by Mary Washington; it is now Sentara Pratt. It's an OB/GYN facility, it's on the 3rd floor... it's not the Durkin building, it's the other one. Up on top of the hill. You know which one I'm talking...?

Mr. Fletcher: Yes, I do.

Ms. Brown: Okay. Would you contend that they're a medical office? Or what would you...?

Mr. Fletcher: They are a medical practice.

Ms. Brown: Okay. Were you aware that they do surgery, as I myself have had surgery in that building, in that office suite, in that medical practice.

Mr. Fletcher: They do some minor procedures.

Ms. Brown: I was under sedation, it was pretty major.

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Mr. Fletcher: Mm-hmm. And you went home that day?

Ms. Brown: I did go home that day, yes I did. I did not stay overnight because it was not a hospital. But I did have a very surgical procedure there.

Mr. Fletcher: Right. And if you had to stay longer, you would have been in more of a surgical center environment or a hospital.

Ms. Brown: I am assuming I would have been transferred to a hospital if I needed to stay longer. So you would classify that as a medical office?

Mr. Fletcher: Yes.

Ms. Brown: Thank you.

Mr. Apicella: Other questions? Thank you sir.

Mr. Fletcher: Thank you.

Mr. Apicella: No one else? Okay. Mr. Leming, anything else you'd like to offer?

Mr. Leming: Yes sir, and thank you again for hearing this tonight. A couple of clarifications. We did find in our research, and it's referenced in our memo, there is an urgent care in... near Abingdon, Virginia, actually just in Washington County that is specifically affiliated with the Welmont... did I get that right Mr. Stallings? Welmont?... Medical Group which includes several hospitals in Virginia and in Tennessee. So, yes, there are all kinds of arrangements out there if you have the time to look for them. Now, the comments that were just made really missed the point. The issue is not whether Medical Imaging or the Sentara Surgery or Women's Health and Surgery Center or the one that you mentioned, it's not whether they're FSEDs. They're not. The issue is whether or not... how are they classified under the Stafford Ordinance? He doesn't know that. The issue is how did the staff classify them? Are they by-right? Are they offices? Are they clinics? I, too, have had two knees scoped at a facility on Route 3 where I was under total anesthesia. I went hope that day, but it was surgery. How did that place operate? It's not a hospital. Is it a medical clinic? I don't know what the answers to that, but the point that I raise today is that I think that those facilities operate because you have a very, very broad definition in Stafford of medical clinic. You know, the only thing that's really singled out here in Stafford is a hospital. That's the only medical facility now that requires a conditional use permit. And you know what? That definition on that, that didn't come into place until 2015. Otherwise it was open. So, maybe the County needs to go back to the drawing board on how it handles and defines its medical facilities and what needs a CUP and what doesn't. But the task before you tonight is a narrow one. It is simply whether or not Ms. Blackburn was correct that under the Stafford Ordinance, which is the state definition, whether or not she was correct that this freestanding emergency department is a hospital. Emphatically, it is not. It can't be. And the state said so. And then secondarily, is she correct that it can't be, that it's not a medical clinic. Now, as I indicated, she's already confused the issue because she brought in the licensing... the licensure issue. She says well, it has to be not licensed to be a clinic. Well, your definition doesn't say that. You have a very, very broad definition that essentially, in her own words, basically just says it has to provide medical services. And we do. So, that's the status of your ordinance. And, as we... as the point we tried to make in our memorandum, that's what this exercise is. The four corners of your ordinance.

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Mr. Apicella: Thank you Mr. Leming.

Mr. Leming: Yes sir.

Mr. Apicella: Okay.

Dr. Larson: Mr. Chairman? Could I ask one more question...

Mr. Apicella: Sure, Dr. Larson.

Dr. Larson: ... to the applicant... of Mr. McKnight please? Mr. McKnight, do you know of any instance where a clinic is part of a hospital?

Mr. McKnight: Depends on the definition of the clinic.

Dr. Larson: I don't mean to put you on the spot here and I'm not even sure how important it is. I'm just curious if...

Mr. McKnight: Again, I think it depends on the definition of the clinic. I mean, that's a pretty broad definition, so.

Mr. Stallings: If I may, I can provide some color.

Dr. Larson: Sure.

Mr. Stallings: Again, there's this whole concept of being a department of a hospital and there are lots of examples of what at least in layman's term, I don't mean necessarily how your ordinance defines it, but it would be clinics; things like physical therapy or sports medicine that sometimes are operated as a department of the hospital and sometimes they're not. And that's just a choice. It depends on how they're structured, it depends on how... what they're model is for reimbursement. But those are... there are examples like that that are not uncommon to be hospital departments, but you can find the same kind of facility that's operated independent of a hospital. And that's the same kind of thing with freestanding emergency departments.

Dr. Larson: Thank you.

Mr. Stallings: Thank you.

Mr. Leming: Dr. Larson, the example that I gave you near Abingdon, Virginia, that facility in Stafford would be a medical clinic. It's part of a hospital group. And I would like for... you had Mr. McKnight up here; there was a suggestion that... that we can't be... that the freestanding emergency department can't be a clinic because it doesn't include overnight stay or treatment. I'd just like Mr. McKnight to explain what that language means.

Mr. McKnight: Well certainly. So, in freestanding ER, I mean, the objective there is to stabilize you and to get you either treated and released, what we say, or get you admitted to a hospital, whichever one is needed. And so, if you were to be needing a higher level of care, you would be need to be admitted and therefore need to stay overnight or maybe multiple nights, which would be a hospital. Otherwise, our goal is to get you in and get you out as quickly as possible.

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Mr. Apicella: Go ahead Mrs. Stefl.

Mrs. Stefl: I have a question because I have experienced this within the ER system and it probably comes down to also an insurance issue. But there have been instances where patients have been kept for observation, sometimes at that 23 hour mark and maybe not officially admitted into the hospital, but they're there in the ER for almost a 24-hour period of time if not longer. I don't know if that's necessarily always an insurance issue or a medical decision, but those are scenarios that do happen within the medical.

Mr. McKnight: Certainly. So, typically, in those situations, if you needed to have observation, we would actually still put you on a floor. So, go to the hospital, actually put you on a floor under observation. The only entities where we might be holding in the ED would particularly be if you were waiting for a bed, for an inpatient bed to open up to be able to put you on a floor under their care.

Mrs. Stefl: Right, but I know I have experienced where the insurance, it's come back that I was never admitted...

Mr. McKnight: Correct.

Mrs. Stefl: ... that I was considered, even though I was in the hospital for 26 hours and in a bed in a room and was not classified as officially admitted in that sense. So, I mean, that could also come as a surprise to a lot of people who think that they're going to the ER and, like you say, get 'em in, get 'em out, you know, back on the battlefield type of thing. But, that's not the case always.

Mr. McKnight: Certainly. And so even with medicare, I mean, if you were to go over to the hospital and actually be admitted or you have to stay overnight, medicare actually says you have to stay two midnights for you to be admitted. So, therefore, if you're not then it's considered observation once it's a certain procedure.

Mrs. Stefl: Alright, thank you.

Mr. Apicella: I apologize, I missed kind of an important question in the definition of medical clinic. A medical clinic includes the term medical practice, does it not?

Mrs. Blackburn: Yes sir.

Ms. Bertoldi: (Inaudible - microphone not on) services, so...

Mr. Apicella: No, it says a medical practice.

Ms. Bertoldi: Practice, right, it says or practice. Well you practice medicine and you practice law and you practice things. I mean...

Mr. Apicella: I understand, but I'm going to back to the construct that a normal person... what would a normal person consider to be a medical practice? So, I'm going to... you've got an issue Ms. Bertoldi?

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Ms. Bertoldi: Well, I just... I just feel that you're trying to make a general term that's descriptive into a term of art like calling something a medical practice. It says clinic, medical, dental, psychiatric; it doesn't say clinic, medical practice, dental...

Mr. Apicella: It's at the end of the term though. It says...

Ms. Bertoldi: No, that's a period and then it has a definition, and you practice your area of expertise. That is a general term and I just... I do kind of take a little bit of exception to that and I apologize if I'm out of order, but I do and I want to put that on the record that, I mean, a medical practice is different from practicing medicine. So, I just... I personally read that as a group of rooms... a group of rooms used for medical, dental, or a practice offering medical services is a general term.

Mr. Apicella: There's no comma there. It's a room or group of room used for a medical, dental, or psychiatric practice offering medical services. So, you don't think the word practice means anything.

Ms. Bertoldi: I think in this term... no I disagree with that. I think there's two different things. I think there's a different thing as a medical practice like I go... I have an eye infection and I need to go to my doctor, to their medical practice.

Mr. Apicella: Exactly.

Ms. Bertoldi: And... and I go to an emergency room or I go to a hospital where they practice medicine. Those are two totally different things and I think that you... that you're... you are using the term of art of a medical office as a medical practice. And you're making a medical office a medical practice so that this definition does not apply. And that is my opinion.

Mr. Apicella: No, that's not what I'm trying to do.

Ms. Brown: Well, I agree with Ms. Bertoldi. It seems like a reach to me. But that's how I interpreted it as well.

Mr. Apicella: What we heard from the applicant is every one of these words matter. Don't put any new words into the definition, okay. And if you read the stream of words up to the word practice, I'm trying to, in my mind, get my head around the term medical practice. A medical clinic is a medical practice, a psychiatric practice, or a dental practice; not the practice of medicine. Because then I would go back to the construct, anything that is the practice of medicine therefore would be a medical clinic. It seems unreasonable that that's the way the County Supervisors decided that they wanted to allow any and all...

Ms. Bertoldi: I disagree.

Mr. Apicella: Well, I'm (inaudible).

Mr. Kim: Mr. Chairman, can I ask one question?

Mr. Apicella: Sure.

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Mr. Kim: Just to kind of simplify this. I don't know who would want to answer it; I don't know if someone from Mary Washington or...

Mr. Leming: Or the applicant.

Mr. Kim: Or the applicant. So, I just have a quick question. What is the difference between, like an ER facility that's connected to Mary Washington or Stafford, what is their day to day operations compared to an FSED? I mean, like, so I get into a car accident. The ambulance takes me to Mary Washington or Stafford Hospital, to the ER room. If it's minor, they fix me up, they let me go. But if it's major and I have to stay a couple nights, they send me to the hospital or is the hospital a part of the ER or is that a separ... a different entity?

Mr. Leming: I think where you get sent where you start is largely a matter of degree and maybe the EMT...

Mr. Kim: That's what I'm asking.

Mr. Leming: Is there something that you can cite for Mr. Kim having to do with where you get funneled, where you get channeled. Do you go to the hospital ER? What's the difference between that and the freestanding ER? Is it all just a matter of what's available? How is the determination made where to... tell me if I'm (inaudible).

Mr. Kim: No, so basically what I want to know is, is there any different function from what FSED's going to do to Mary Washington ER, if it's... I have a major injury, I have to stay for two nights. I don't need specifics, I just have a major injury, I'm staying for two nights. If they send me to your facility, what would you guys do different than Mary Washington? I'm just trying to simplify... I'm trying to get the difference between an ER that's connected to a hospital or an FSED facility.

Mr. Leming: Freestanding.

Mr. Kim: Yeah, freestanding, yes.

Mr. Leming: Okay. Is there a difference between the freestanding emergency department and the one connected with the hospital?

Mr. McKnight: Each of the ED's would be able to stabilize and to transfer if needed. There are different levels; I mean, they are a trauma center so you know obviously there are things that don't come to even our ER currently at the hospital because they are a trauma center, we are not. So many times we may have to transfer to Mary Washington. By the nature of this... by the nature of this freestanding ED, typically the acuity level is much lower. There's very few, like less than 4% or so, that would actually have to be admitted just because of the nature of the patient (inaudible).

Mr. Kim: Admitted to a hospital?

Mr. McKnight: To a hospital, to a hospital, which is much higher percentage typically in an ER that's connected to a hospital.

Mr. Kim: So, I'm in an accident, if you don't mind Mr. Chairman, so I'm in an accident, I'm right in the middle between your facility and Mary Washington. And how does the paramedic decide

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which hospital I would go to? Well, no, no, I understand that, but what I'm trying to do is I'm trying to distinguish between the two facilities. And that's my main goal here. I just really want to simplify this because we're arguing a lot of definitions and, like I said, I just want to simplify to see what the actual differences are. I mean, you guys are both open 24/7, you guys... so, if you don't mind, if you're the guy to answer about the paramedic, I'm right in the middle. The paramedics pick me up and where would they take me?

Mr. Leming: Introduce yourself.

Mr. Marshall: Good evening everyone, my name is Jake Marshall. I'm with Spotsylvania Regional Medical Center, and I am the EMS Coordinator for the facility. First, let me start off by saying happy EMS Week; it is National EMS Week and I'm very proud to say that I got my start in emergency services actually right here in Stafford County. I became a volunteer at White Oak Rescue Squad about a decade ago. So I'm very proud of this community. My parents still live here in the community. To answer your question, Mr. Kim, the state and the regional EMS system, all of the jurisdictions right around the Fredericksburg region practice under what are called the Rappahannock EMS Counsel Guidelines and Protocols which actually are derived from the state what's called the Trauma Triage Plan. And that's a very complicated and rigid algorithm; it's actually a flowsheet that we as EMS providers use to determine, based on severity of injury, the patient's vital signs, so on and so forth, which facility to transport.

Mr. Kim: Well, that's what I'm saying. To simply, if you don't mind to simplify it, where would you take me? Let's just say I have a broken arm or, you know, I have something severe that I'm going to stay two days in the hospital; I'm not very familiar what happened to me in a car accident that could facilitate me to stay at a hospital for two days. So, if you can just simplify is all I'm asking.

Mr. Marshall: Of course. So, a broken arm is actually something we would actually consider a minor traumatic event.

Mr. Kim: Yes, but something a little major.

Mr. Marshall: (Inaudible) in the emergency department. Something major, an open skull fracture, for instance, you know, a very significant head injury. That would more appropriately be triage to a trauma center, an emergency department that is certified by the Commonwealth of Virginia.

Mr. Kim: So, the only difference is you guys don't have a triage department.

Mr. Marshall: We have triage, yes sir, but we are not a (inaudible)...

Mr. Kim: Oh, so there is no difference.

Mr. Marshall: ... trauma center, per se. Every emergency department in the Commonwealth of Virginia is able to provide stabilizing medical care to whatever injury level the patient has. And then if it exceeds the level of that emergency department to treat, for instance, and be admitted to a hospital, then they transfer.

Mr. Kim: So, you picked me up, I have a skull fracture. Where would you take me? I'm dab in the middle between Mary Washington or Stafford and your facility.

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Mr. Marshall: I would take you to the trauma center at Mary Washington.

Mr. Kim: So, that... okay. And, but then I still don't understand the distinction... you said you don't have a trauma center.

Mr. Leming: In Spotsylvania they have a trauma center, but not here.

Mr. Kim: No, no, I'm talking about...

Mr. Marshall: Not here. Our facility is not a credentialed trauma center.

Mr. Kim: So that's the difference. Okay, thank you.

Mr. Marshall: Thank you. Thank you all.

(Inaudible - not at microphone).

Mr. Apicella: Sure.

Mr. McGranahan: For the record, my name's John McGranahan. I'm an attorney with Hunton and Williams in Tyson's. And Mr. Kim, I think the protocol that was referenced would be that you would be taken to the closest emergency room that could treat your condition. But I would submit that the ambulance would not take you to a medical clinic. It wouldn't take you to a Patient First. It wouldn't take you to any of these urgent care facilities. It's going to take you to an emergency department, which is going to be, in Virginia, part of a hospital. It might not be physically located with a hospital but, candidly that's what turned the light on for me when I first learned about this case from my colleague is ambulances and ambulance traffic are going to go to hospitals and ERs. They're not going to go to medical clinics. And I think the comments about the overnight treatment and medical clinic, as well as Mr. Leming argued that this is not a hospital, it's not a hospital, it's not a medical clinic. It's going to be open 24 hours, ambulances are going to go to it, and it's not going to function like a medical clinic and there will be overnight treatment. If there's not overnight stays, there will be treatment because people will be brought there by hospitals. So, maybe it is somewhere in between, as Mr. Leming had suggested in February, but your question is what turned the light on for me and that's why I wanted to speak to it. You wouldn't be taken to a medical clinic.

Mr. Apicella: Thank you. Just two questions for staff. Can you please read State Code Section 15.2-2309 through part 1?

Mrs. Musante: To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The board shall consider any applicable ordinances, laws, and regulations in making its decision. For purposes of this section, determination means any order, requirement, decision or determination made by an administrative officer. Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.

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Mr. Apicella: Okay, and did the applicant, beyond providing their own interpretations of Stafford County's definitions, did they provide any concrete evidence that the FSED in Stafford would in fact be a medical clinic?

Mrs. Blackburn: Not in my opinion.

Mr. Apicella: Okay. Last thing -- I think this was provided by you, Ms. Brown, an article from the Washington Post?

Ms. Brown: Let me clarify that, which I already have for you once, Steven. That was provided by Mr. Gibbons.

Mr. Apicella: Okay.

Ms. Brown: He sent out an email to all of us. I happened to look it up online, so there was a copy of it. He suggested we all look at it. And I looked it up online and found it. And I did clarify that in a later email when you said it was provided by me, so...

Mr. Apicella: I apologize.

Ms. Brown: ... for the second time. Thank you.

Mr. Apicella: So, the article is entitled *Free-standing ERs offer care without the wait*. It talks about the patients paying \$6,800 to treat a cut. Can you read the sentence after the first paragraph? This is in reference to an FSED.

Mrs. Musante: It isn't a clinic or an urgent care - it's an emergency room, without the hospital.

Mr. Apicella: It isn't a clinic or urgent care - it's an emergency room without the hospital. Okay, thank you. Alright. I'm going to bring this matter back to the Board for discussion.

Ms. Bertoldi: Yes, I would like to, if I may. So, I actually prepared a statement. I feel that this is a complicated matter that if I'm going to discuss my reasonings needed to be articulated in a written form. For the record, I will be providing a copy of my statement with the citations, because I will not be reading citations into the record for the sake of time. And also, I'd like to state that the testimony I heard tonight has not changed my written opinion that I have prepared this evening. So, if I may. This matter comes before the BZA for reconsideration of the Opinion Letter of Susan W. Blackburn, Zoning Administrator, dated January 18, 2017, ruling that the proposed FSED is not a by-right use in the B-2, Urban Commercial Zoning District. In her determination, Ms. Blackburn opined that the FSED is not a "medical clinic," but rather a "hospital" under the definitions of both the Stafford County Zoning Ordinance and the Code of Virginia. The BZA opened its public hearing on this matter on March 28th and on that date, we heard from Staff, the appellant Spotsylvania Hospital, employees of Mary Washington Hospital, and counsel for Mary Washington Hospital who filed a Friend of Court brief with the BZA for consideration. The public hearing was continued to tonight in order to be provided additional information that the BZA felt it needed to make an informed decision. In making my decision on this matter I reviewed and considered all the briefs, letters, case law, statutes, ordinances, Codes of Federal Regulation, memorandums, emails, minutes of prior testimony from the first hearing, and all other evidence provided to the BZA for consideration. The facts in this matter are not in dispute, nor are the relevant codes and ordinances which are binding on the BZA. Therefore, this case hinges on the application of said codes and ordinances. For the record, some of the relevant facts that are not dispute

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are as follows: 1. Spotsylvania Hospital will have 100% ownership of the FSED (COPN, P3); 2. FSED is a department, unit or Satellite of Spotsylvania Hospital (COPN, P 13); 3. FSED is an outpatient facility with a transfer agreement with Spotsylvania Hospital (COPN, P 13); 4. FSED will be staffed by fulltime physicians (COPN, P14); 5. FSED will not be performing any surgeries (Minutes from BZA hearing, dated 3/28/17, P13); 6. FSED will not be an inpatient facility. (Memorandum to BZA, dated March 28, 2017, P2; 7. FSED will be part of the Board of Directors for Spotsylvania Hospital in some form yet to be determined. (Minutes from BZA hearing, dated 3/28/17, PP47-8); and 8. FSED will provide emergency services to patients 24 hours a day, 7 days a week, and will provide a full array of diagnostic services, including CT Scans. (Memorandum to BZA, dated March 28, 2017, P2). In addition, the Code of Virginia and Stafford County Ordinances relevant to this matter define “hospital” and “medical clinic.” I will not be reciting those here in my statement, but do incorporate said definitions herein and are attached hereto for reference. However, in its supplemental brief and citations in support thereof, Spotsylvania Hospital cited an additional code section not previously provided, and it states: *A separate license shall be required by hospitals maintained on separate premises even though they are operated under the same management. A separate license is not required for separate buildings on the same grounds or within the same complex of buildings. See, 12VAC5-410-60(A). (Exhibit D).* It is my opinion that the FSED is a medical clinic and, therefore, is a by-right use in the B-2, Urban Commercial Zoning District. As such, when it is time to vote, I will be voting to reverse the Zoning Administrator ruling. I believe that the Appellant has met its burden. I understand why Ms. Blackburn made the decision that she did. I believe that it was well thought out and that she applied the relevant codes and ordinances as it pertains to hospitals. The fatal flaw in her analysis for me was her assumption that the FSED is a hospital. According to the definition of the Stafford County Zoning Ordinance, a medical clinic provides several services, including internal surgery, but not overnight stay or treatment. A broad definition does not mean ambiguous. It is undisputed that the FSED will not be performing any surgical procedures, nor be allowing any overnight stays at the facility. The fact that the FSED will be performing medical treatments in general does not make it hospital. The fact that it was required to obtain a COPN for the CT Scan machine also does not make it a hospital. The BZA is bound by the codes and ordinances as written when they are not ambiguous, and here they are not. The definition of “hospital” is unambiguous as to licensing. Indeed, the definition of “hospital” in the Stafford Ordinance is “a facility in accordance with the Code of Virginia,” not “a facility or parent facility in accordance licensed in accordance with the Code of Virginia.” I believe one point of confusion for me at the last hearing was the email response by Sarah Pendergrass, dated March 27, 2017, in which Ms. Pendergrass confirmed that the OLC (Office of Licensure and Certification) does not issue licenses for freestanding emergency departments. The follow up question here was why? The other issue for me was whether the FSED required to be a separate entity from Spotsylvania Hospital in order to not be classified as a hospital under the definition. For example, would the FSED be required to have its own doctors and Board of Directors that are not affiliated with Spotsylvania Hospital. I am of the opinion that these questions have been satisfied by 12VAC5-410-60(A), which again states: *A separate license shall be required by hospitals maintained on separate premises even though they are operated under the same management....* The proposed FSED is approximately 12 miles from the Spotsylvania Hospital. Therefore, it is clear that it is not located on the same grounds or complex. In addition, Section 410-60(A) makes it clear that operating under the same management is irrelevant. Therefore, it is clear to me that if the FSED was required to obtain a license, it would be required to apply for its own license with the OLC. This clarifies Ms. Pendergrass’ response when she said that the FSED would not need to obtain a license, i.e., it is not a hospital in the eyes of the OLC. This is further confirmed by a letter from Erik Bodin, Director of OLC, dated May 23, 2017, confirm that the FSED is not considered a “hospital” under the Virginia Code. According to Mr. Bodin, there is no other mechanism for treating FSEDs other than departments of an existing hospital. It makes sense then that this is why the hospital license renewal form contains a box to check regarding FSEDs. I want to quickly acknowledge the briefs submitted by MWH, in which it advocated for the BZA to uphold the decision of the Zoning

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Administrator. In its briefs, MWH stated that it obtained a CUP for its FSED located in Spotsylvania County and they consider its FSED as part of Mary Washing Hospital. It is worthy to note that Spotsylvania County's definition of hospital, medical facilities and medical clinics are different than Stafford County's definitions. I have also included those definitions with my statement for the official record. While I am not going to recite all the definitions, it must be noted that Spotsylvania's definition of hospital is much broader than Stafford's definition. Specially, it states that: *Hospital means an institution for health care providing patient medical testing and treatment for the sick, aged or infirmed, including care of mental illness, drug and alcohol addiction cases by specialized staff and equipment, providing both inpatient and outpatient medical care services in the treatment of a wide variety of medical conditions. Such an institution is largely staffed by professional physicians, surgeons and nurses. This terminology shall include, but not be limited to mental health sanitariums. (emphasis added).* To me, it is clear that this definition includes just about every type of medical service. It very well may be that if I was sitting on the Spotsylvania BZA, I may be voting very differently. But, I am not. We are in Stafford County, and the Code of Virginia and Ordinances of Stafford County apply. Lastly, Hunton & Williams provided correspondence dated May 22, 2017 in what they are calling "points of Clarification." Their second point of clarification was that the definition of "medical clinic" does not apply to the proposed FSED because it will be providing overnight treatment since the FSED will be open 24 hours a day. This is a stretch at best. The definition of "overnight" according to the English Oxford Living Dictionaries Online defines "overnight" as a "stay for the night in a particular places" and "stop or staying lasting one night." Your Dictionary Online further defines "overnight" as "something that extends from evening until morning." And for the reasons it is clear to me that the FSED is not a hospital and under the existing Code of Stafford County is considered a medical clinic, and I will be voting to reverse the opinion of the Zoning Administrator. Thank you.

Mr. Apicella: Any other comments or statements? Ms. Brown?

Ms. Brown: Okay. Well, I'm not as eloquent as Ms. Bertoldi over here, but I too have read through everything in our ordinances and to me it is very clear that this is not a hospital by our Stafford County definitions. It does fall under a medical clinic in my opinion, which is now a by-right use. It did not use to be I understand for Patient First, you know, sorry, woe to them, but now it is. And I think it's very clear and so I'm also going to be voting to reverse the decision.

Mr. Apicella: Others? Okay. I've got my own statement. The specific asked by the applicant by Fairbanks and Franklin in October 2016 is whether a freestanding emergency department is a by-right use in Stafford County's B-2 Zoning District. While the applicant further identified the scope and type of activities that would occur under this use, in this facility, and on this site, they did not reference a specific term or definition that the FSED would fall under. Only medical offices and clinics are authorized medical related by-right uses and facilities in Stafford's B-2 Zoning District. The term free-standing emergency department is not mentioned in the definitions for medical offices or medical clinics. Additionally, Stafford's medical office or medical clinic definitions do not specifically mention or address emergency department, emergency unit, emergency services or anything similar in scope, services, hours of operation, or intensity. And I disagree with my colleagues that any and all medical services that are not a hospital are therefore a medical clinic or, by extension, a medical office. I think when we review our ordinances, even though we can't put words or terms into those definitions, I think we have to use a little bit of common sense. The state code at 15.2-2309 puts the onus on the applicant to prove their case by a preponderance of evidence. In my view, the applicant did not provide compelling evidence that a freestanding emergency department is covered by either the medical office or medical clinic definitions. Instead they only offered their own interpretation of the County's definitions. Six people, seven people sitting in a room can come up with different interpretations. At the same time, they suggested this Board should not read into or expand the County's definitions with words or terms

not already there. And I agree. The County and the Board of Zoning Appeals received, reviewed, and considered information that a freestanding emergency department is neither a medical office or a medical clinic. This information included articles from experts in, or who cover the medical field, with no direct interest in this specific request. Based on the terms and definitions in question, the specific FSED, as described, would not meet the medical office definition, in my opinion. Additionally, a review of these terms and definitions would also conclude that the emergency services provided by an FSED, and in particular this FSED, as described by the applicant, go well beyond those covered under the "Medical Clinic" definition. That definition speaks to the performance of medical care, testing and services as part of a "Medical Practice." A reasonable/rational person would conclude that medical care and services provided by a medical practice do not rise to the level of, nor are the same as, the full range of acute care, services, staff, support, and equipment as provided at a normal hospital emergency department and which are regulated as such. Again, they contend the high level of acute medical care and conditions provided at this emergency room is the same as one that would normally be obtained at the hospital's emergency room. Same types of emergency rooms. The Board collected, reviewed and considered information noting the differences between a medical clinic and an FSED. Additionally, the applicant's own testimony confirmed that this FSED, and this is what they said, is not an Urgent Care Center, but is essentially the same as the SRMC's Main Hospital's Emergency Room, albeit not architecturally connected to the main hospital. It will provide the same acute services, similar pricing, with the same staff, under the same governing body and organizational structure of the Spotsylvania Regional Medical Center, and it will ultimately be a formal Department of the SRMC. That was noted in their testimony. The notion that an FSED is not a hospital or a hospital use or a function in the Commonwealth of Virginia is contrary to how the Virginia Department of Health OLC currently views and regulates FSEDs, even though it will not receive its own distinct and separate license. The proposed SRMC Stafford FSED is a facility that will be providing 24/7 emergency care just like the ER at SRMC. While it will not receive its own distinct and separate license, this FSED will be a department of SRMC, the Spotsy Medical Center, just like the emergency room at Spotsy Medical Center is a Department of that hospital which operates under its main hospital license. So that hospital license would be the FSED's license. There is no need for the FSED to have a separate license in Virginia as they are part of the main hospital, whether physically attached or not. They are one and the same. Both the SRMC main campus ER and its Stafford FSED could not function without the main hospital's license in place. The evidence that we've collected and the testimony we heard clearly indicates that the SRMC Stafford FSED will conduct its business under the SRMC's main hospital license as a formal department of that hospital. It will be noted as such through its annual hospital license filings, it will have to comply with all associated Federal and State standards and requirements, and it will be periodically be monitored according to those requirements. But even the County and the BZA are wrong in our interpretation that the proposed SRMC Stafford FSED falls within the definition of a hospital under the state code and Stafford's local ordinances, the fact remains that the applicant did not prove, by a preponderance of the evidence that they provided, that this FSED is in fact a medical clinic or its more narrow clarifying language, a medical practice. If we accepted their stretching of what constitutes a medical practice, which they cautioned us against, just about any and all services performed at a hospital -- just about any and all services performed at a hospital -- could also be performed at a medical clinic. That just is nonsensical to me. Again, an FSED is not specifically mentioned by, nor does it otherwise comport with, the definitions of the two uses, a medical office or a medical clinic, which are the only two medical uses and facilities that can occur by-right in the B-2 Zoning District. Based on those points raised, the information provided by staff, the applicant, interested parties and Board members, as well as the testimony provided on this matter, as to the specific question asked, in my view, the proposed FSED may not occur by-right on the identified parcel zoned B-2 and would therefore require an approved CUP. The applicant can obtain a CUP for this proposed FSED either as a hospital use, or if it continues to disagree that this emergency room meets the hospital definition, they may seek a CUP under Stafford County Code Section 28-37, Non-Listed Uses. Lastly, it's the BZA's understanding that the applicant

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has in fact submitted a CUP application for this FSED use. Okay, so I think a couple of us have made statements. Is there a motion?

Dr. Larson: Mr. Chairman, I don't have a prepared statement, so mine won't be quite as eloquent as what we've just heard. But my conclusion is that the FSED is part of the hospital. It's a department of the hospital. If it weren't a department of a hospital, it could be a clinic. If radiology wasn't part of a hospital, it could be a clinic. Psychology could be a clinic. Basically, most of the components of the hospital could be a clinic if they weren't part of the hospital. But this is part of the hospital. It's administratively part of the hospital, so is it itself a hospital? No. Is radiology itself a hospital? No. It's the sum of the parts that make the hospital. This is part of a hospital, therefore I do not see it being a clinic. And I don't think it's a by-right use.

Mr. Apicella: Mr. Gibbons?

Mr. Gibbons: Yeah, I'm make a motion to uphold the Zoning Administrator's decision.

Mr. Apicella: Is there a second?

Mr. Kim: I second that.

Mr. Apicella: Okay, there's been a motion that's been seconded. Any further comments? Mr. Gibbons?

Mr. Gibbons: No.

Mr. Apicella: Mr. Larson? Anyone else? Okay, there's a motion on the table to uphold the Zoning Administrator's determination. All those in favor of the motion signify by saying aye.

Mr. Gibbons: Aye.

Mr. Kim: Aye.

Dr. Larson: Aye.

Mrs. Stefl: Aye.

Mr. Apicella: Aye. All opposed?

Ms. Bertoldi: Nay.

Ms. Brown: No.

Mr. Apicella: Okay, the motion carries 5-2. Thank you very much. Mr. Chairman, I pass the baton back to you.

Mr. Grimes: I will attempt to get us out of here shortly. I think... let's put that on the list for next meeting depending on our caseload. Zoning Administrator's Report?

UNFINISHED BUSINESS

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NONE

ZONING ADMINISTRATOR'S REPORT

Mrs. Blackburn: I have nothing to report.

Mr. Grimes: Thank you. Deputy Zoning Administrator, what's our caseload for next month look like?

Mrs. Musante: Nothing.

Mr. Grimes: Wow! So, I would make a motion that we skip next month.

Mr. Apicella: So moved.

Mr. Grimes: A little summer break. Everybody in favor say aye.

Ms. Brown: Is it too late for anybody to get something in?

Mrs. Musante: Today was the deadline.

Mr. Grimes: Today is the day.

Dr. Larson: Today is the deadline? Oh.

Mr. Grimes: I'll rephrase it. Assuming no case comes up, I'd like to motion that we skip next month's meeting. All say aye (the motion passed unanimously). Wonderful. Okay, adoption of the meeting minutes, March 28. I went through them and did not have any changes.

ADOPTION OF MINUTES

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Ms. Brown: I have a motion about that.

Mr. Grimes: Yes.

Ms. Brown: Due to the massive amount of material that we got, I did not get a chance to really read through the minutes to approve those. Can we put that off for approval for the next meeting?

Mr. Grimes: I second that. Everybody in favor of deferring review of the March 28 meeting minutes until our next reconvene say aye (the motion passed 6-0-1; Mr. Kim abstained). I believe... any other business Mrs. Musante?

OTHER BUSINESS

Mrs. Musante: The only thing we have is the training next Saturday, the 3rd.

Mr. Grimes: That's true, that is next Saturday.

Mrs. Musante: With Dr. Chandler.

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Mr. Grimes: Thank you for the reminder.

Mrs. Musante: Yes.

Mr. Grimes: Can I get a motion to adjourn?

Ms. Brown: Motion to adjourn.

Mr. Kim: Second.

Mr. Grimes: Alright, thank you all. Enjoy your summer break.

ADJOURNMENT

With no further business to discuss, the meeting adjourned at 11:49 p.m.