

BEFORE THE KANE COUNTY ZONING BOARD OF APPEALS

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In Re: :

MAXXAM PARTNERS, LLC :

Special Use request in the :

F Farming District for a :

private-pay alcoholism and :

substance abuse treatment : Petition No. 4364

facility, 41W400 Silver Glen :

Road, Section 19, Campton :

Township (08-19-400-004) and :

Section 34, Plato Township :

(05-34-300-032 & 05-34-400-025) :

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PUBLIC HEARING - VOLUME XV

St. Charles, Illinois

Tuesday, February 21, 2017

7:07 p.m.

Job No.: 136027

Pages: 2027 - 2091

Reported by: Paula M. Quetsch, CSR, RPR

1 PUBLIC HEARING, held at the location of:

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KANE COUNTY CIRCUIT COURT CLERK -

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BRANCH COURT

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530 South Randall Road

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St. Charles, Illinois 60174

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(630) 232-3495

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Before Paula M. Quetsch, a Certified Shorthand

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Reporter, Registered Professional Reporter, and a

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Notary Public in and for the State of Illinois.

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1 PRESENT:

2 ANN MICHALSEN, Vice Chairwoman

3 TRACY ARIS, Member

4 MARC FALK, Member

5 MARY LAKE, Member

6 WENDY MELGIN, Member

7 MARGUERITE MILLEN, Member

8

9 ON BEHALF OF THE APPLICANT MAXXAM PARTNERS, LLC:

10 ANDREW E. KOLB, ESQUIRE

11 VANEK, LARSON & KOLB, LLC

12 200 West Main Street

13 St. Charles, Illinois 60174

14 (630) 513-9800

15

16 ON BEHALF OF THE KANE COUNTY BOARD:

17 PATRICK KINNALLY, ESQUIRE

18 KINNALLY FLAHERTY KRENTZ LORAN

19 HODGE & MASUR, PC

20 2114 Deerpath Road

21 Aurora, Illinois 60506

22 (630) 907-0909

23

24

1 ON BEHALF OF OBJECTOR JOLINE ANDRZEJEWSKI:

2 SCOTT E. POINTNER, ESQUIRE

3 RATHJE WOODWARD, LLC

4 300 East Roosevelt Road

5 Suite 300

6 Wheaton, Illinois 60187

7 (630) 668-8500

8

9 ALSO PRESENT:

10 MARK VANKERKHOFF, Zoning Enforcing Officer

11 KEITH BERKHOUT, Secretary

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P R O C E E D I N G S

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2 VICE CHAIRWOMAN MICHALSEN: If everyone
3 could please take their seats, we'll go ahead and
4 get started.

5 A key was found in the parking lot, no like
6 plastic part to it, just a plain silver key. If
7 anyone left it, we have it. I'm happy to return it
8 to its rightful owner.

9 MEMBER FALK: Is it a Porsche?

10 VICE CHAIRWOMAN MICHALSEN: Does not appear
11 to be a Porsche key.

12 So good evening to the petitioner,
13 representatives of units of local government,
14 adjacent property owners, and other interested parties.
15 This evening's meeting is for the ZBA to deliberate
16 and potentially take action on findings of fact and
17 recommendation concerning Petition No. 4364, a
18 request for special use in the F farming district
19 for a private pay alcoholism and substance abuse
20 treatment at 41W400 Silver Glen Road. The applicant
21 is Glenwood Academy and Maxxam Partners, LLC.

22 The Board has concluded the public hearing
23 on this petition as of its meeting on January 26th,
24 2017. At their meeting on February 9th, 2017, the

1 Board deliberated and made recommendations for the
2 County Board regarding possible conditions and
3 guarantees. The purpose of this meeting is for the
4 Board to deliberate and complete their findings of
5 facts regarding the petition for recommendation to
6 the Kane County Board.

7 We thank everyone who attended the previous
8 hearings and participated and provided comments at
9 the multiple public hearings.

10 So the order for tonight will be deliberation
11 for the findings of fact and recommendation to the
12 County Board. Please note that the public hearing
13 on this petition was closed at the meeting on
14 January 26th, 2017. Attendance this evening by the
15 petitioner, units of government, and the public is
16 appreciated, but comments or questions from anyone
17 other than members of the ZBA, staff, and the
18 County's legal counsel is not appropriate and will
19 not be recognized or considered.

20 There is time for public comment included on
21 the agenda. This is a requirement for all opening
22 meetings. To avoid confusion, please note this is
23 not a time for additional public comments or
24 submission of evidence for this petition. Other

1 public comments may be limited depending on the time
2 of the evening.

3 In the event an additional meeting is needed
4 for Zoning Board deliberations and recommendation,
5 it will be scheduled in accordance with the Open
6 Meetings Act.

7 At this time if we can please rise and say
8 the Pledge of Allegiance.

9 (The Pledge of Allegiance was recited.)

10 VICE CHAIRWOMAN MICHALSEN: And I do
11 apologize; I'll turn it over to the secretary for
12 roll call.

13 MR. BERKHOUT: Aris.

14 MEMBER ARIS: Here.

15 MR. BERKHOUT: Falk.

16 MEMBER FALK: Present.

17 MR. BERKHOUT: Lake.

18 MEMBER LAKE: Here.

19 MR. BERKHOUT: Melgin.

20 MEMBER MELGIN: Here.

21 MR. BERKHOUT: Michalsen.

22 VICE CHAIRWOMAN MICHALSEN: Here.

23 MR. BERKHOUT: Millen.

24 MEMBER MILLEN: Here.

1 MR. BERKHOUT: Barbosa.

2 (No response.)

3 VICE CHAIRWOMAN MICHALSEN: Thank you. We
4 do have everyone hearing this petition here this
5 evening, and we do appreciate everyone coming back
6 for a second one so all six of us could be here to
7 deliberate.

8 Next, I believe we have approval of some
9 minutes. Is that correct?

10 MR. BERKHOUT: Yes. If that's what you want
11 to do.

12 VICE CHAIRWOMAN MICHALSEN: Sure.

13 Do I have a motion to approve the minutes
14 from the January 10th, January 12th, January 24th,
15 and January 26th meetings?

16 MEMBER MILLEN: I'll so move.

17 VICE CHAIRWOMAN MICHALSEN: Do we have a
18 second?

19 MEMBER ARIS: Second.

20 VICE CHAIRWOMAN MICHALSEN: All those in
21 favor.

22 (Ayes heard.)

23 VICE CHAIRWOMAN MICHALSEN: All those opposed,
24 same sign.

1 (No response.)

2 VICE CHAIRWOMAN MICHALSEN: Motion is
3 approved.

4 At this time, Mr. VanKerkhoff, did you want
5 to go through a couple of PowerPoints with us?

6 MR. VANKERKHOFF: Yes. Mr. Peters, if you
7 could put the PowerPoint presentation up.

8 So once the PowerPoint is up I'm going to
9 just review part of the ordinance for special uses
10 and for the six factors that you'll be considering
11 the petition against tonight.

12 I also want to note for the Board that the
13 PowerPoint after those slides includes all the
14 slides that have been previously shown in terms of
15 the aerials of the vicinity, the site, the property
16 for the petition, the site plan, photos of the
17 campus, anything previously if you want those
18 brought up at any time during your deliberations.

19 So the ordinance does cover that the
20 Kane County's ordinance as to special uses states
21 that uses as hereafter enumerated which may be
22 proposed for classification as special uses shall be
23 considered at a public hearing before the Zoning
24 Board and that its report of findings of fact and

1 recommendation shall be made to the County Board
2 following the public hearing. Provided that the
3 County Board Zoning Board of Appeals in its report
4 of findings of fact and recommendations to the County
5 Board shall not recommend a special use unless the
6 Kane County Zoning Board of Appeals shall find the
7 application has met each of the six requirements
8 specified in the ordinance.

9 And those six are:

10 A) That the establishment -- establishment,
11 maintenance, or operations of the special use will
12 not be unreasonably detrimental to or endanger the
13 public health, safety, morals, comfort, or general
14 welfare.

15 B) That the special use will not be
16 injurious to the use and enjoyment of the other
17 property in the immediate vicinity for the purposes
18 already permitted, not substantially diminish and
19 impair property values within the neighborhood.

20 C) That the establishment of the special use
21 will not impede the normal and orderly development
22 and improvement of surrounding property for uses
23 permitted in the district.

24 D) That adequate utility, access roads,

1 drainage, and/or other necessary facilities have
2 been or are being provided.

3 E) That adequate measures have been or will
4 be taken to provide ingress and egress so designed
5 as to minimize traffic congestion in the public
6 streets and roads.

7 And F) That the special use shall in all
8 other respects conform to the applicable regulations
9 of the district in which it is located except as
10 such regulations may in each instance be modified by
11 the Kane County Board pursuant to the recommendations
12 of the Kane County Zoning Board of Appeals.

13 VICE CHAIRWOMAN MICHALSEN: Thank you very
14 much, Mr. VanKerkhoff.

15 All right. At this time do we have a motion?

16 MEMBER MILLEN: Okay. For the purposes of
17 getting discussion underway and to get the petition
18 on the table, I move that the Kane County Zoning Board
19 of Appeals recommends approval of the petition --
20 what was the number?

21 VICE CHAIRWOMAN MICHALSEN: 4364.

22 MEMBER MILLEN: -- 4364 along with the
23 stipulations which we had recommended last meeting.

24 VICE CHAIRWOMAN MICHALSEN: Thank you. Is

1 there a second?

2 MEMBER MELGIN: I'll second.

3 VICE CHAIRWOMAN MICHALSEN: Thank you.

4 With that we'll open deliberations. We're
5 just going to go one by one through each of the
6 six factors. The only people that are going to be
7 discussing these tonight are the six of us on the
8 Board unless we have questions for staff or legal
9 counsel. There will be no interjections or
10 questions from the audience or any of the other
11 attorneys present. We will go through each of the
12 six, and then at the end we will vote yes or no as
13 to the special use and hopefully conclude that work
14 tonight so it can continue on in its process up the
15 ladder.

16 So let's talk about letter A, that the
17 establishment, maintenance, or operations of the
18 special use will not be unreasonably detrimental to
19 or endanger the public health, safety, morals,
20 comfort, or general welfare.

21 Does anyone want to start off with some of
22 their thoughts on A?

23 MEMBER LAKE: I'll get the ball rolling.

24 My comment under A is that the area has an

1 underdeveloped infrastructure to safely and
2 adequately address safety concerns such as traffic,
3 allowance to yield to emergency vehicles, and there
4 was no municipal or resident support to the facility
5 despite the economic tax payment increases.

6 VICE CHAIRWOMAN MICHALSEN: I would note
7 that although we did not have anyone speak in favor
8 of the petition aside from the petitioner during
9 this round of hearings, I do recall reading letters
10 of support and comments of support in the record
11 from the first round of hearings on this, although I
12 will acknowledge that the overwhelming majority was
13 against the facility.

14 I'd like to discuss -- I'd like to just say
15 one of the things that I considered and would be
16 happy to discuss with any of my Board members, that
17 Leslie Hendrickson testified as to a lack of crime
18 correlation for three reasons. First, they heavily
19 screen patients. Second, they're there because they
20 want to fix their addiction. And third, the nature
21 of the program closely monitors the residents.

22 I thought it was interesting he was asked
23 during his testimony, "Why do you need cameras if
24 there's no crime," and his answer was because cameras

1 are everywhere. I thought that was an interesting
2 commentary from him.

3 He did talk about screening out people who
4 would disrupt the community at the facility either
5 with a violent history or a history of mental illness
6 because the whole point of -- his understanding of
7 the facility was they were trying to create a
8 community as the treatment facility, and if you
9 bring disruptive people in, you won't be able to
10 accomplish that.

11 Anyone else have anything on A? I probably
12 do but I'd love to hear from other people.

13 MEMBER MILLEN: Okay. I have some -- some
14 questions on how this proposal could endanger the
15 public health and safety, morals just in general.
16 But first I want to add I live about two blocks from
17 a huge police station that went in five years ago,
18 and the thing I keep thinking about is all the
19 objections were the same objections we've heard
20 here, and the police station went up, and it's been
21 just the opposite. It's improved values; it's
22 improved the neighborhood. So I'm having a little
23 trouble thinking in a negative way with this.

24 MEMBER MELGIN: I think that this first

1 factor is a really high bar. When you -- I've been
2 thinking about this a long time, and the first time
3 I read it I thought, okay, I understand it. But the
4 more I read it, the more I realized that it's very
5 hard, establishment, maintenance, operation won't
6 endanger public safety, health, morals, comfort,
7 general welfare. I don't know if that bar has been
8 hit yet.

9 I deal with a lot of -- I review a lot of
10 projects, and a lot of the projects that I review,
11 some -- there's a lot of public opposition to them.
12 And, usually, what happens is that the project
13 proponent will meet with the community. They'll
14 have open houses; they'll show exactly who the face
15 of that project is going to be.

16 I was trying to get at that at the last
17 meeting. Who is there? Who's the day-to-day person
18 that these people are going to see, that we're going
19 to go see -- I live in the community -- who would I
20 see? Who is going to be running it? And I don't
21 know who that is yet. That's the one issue I have.
22 I do not feel comfortable that that bar has been hit
23 that I can comfortably say that this wouldn't
24 endanger the public health, safety, morals, or

1 comfort of the general welfare.

2 VICE CHAIRWOMAN MICHALSEN: Mr. Falk?

3 MEMBER FALK: You know, I have some concerns
4 about the comfort level and the general welfare with
5 respect to the person that has brought the petition
6 forward.

7 You know, I don't know how it would look,
8 but, you know, the burden that I was hoping to walk
9 away with was a sense of what this is going to
10 become, and I just don't feel comfortable on a vast
11 number of points for A, starting with the comfort
12 level and the general welfare.

13 I think it's -- our ability to decipher what
14 could potentially happen to this facility, and
15 numbers being all over the place, lack of comment,
16 public health, you know, what that's going to do to
17 the fire protection district as far as the stress.
18 The numbers are somewhere between 5 and 300 calls
19 additional.

20 You know, I just don't have that level of
21 comfort, and it's very troubling to me that
22 throughout the four that I've been present for we
23 have not had any facts that would sway me to feel
24 more comfortable with point A.

1 VICE CHAIRWOMAN MICHALSEN: Anything further?

2 MEMBER ARIS: I guess from my perspective,
3 when we started talking at the last meeting about
4 conditions that we might put in, that sort of helped
5 me get past the point of whether it's unreasonable
6 or not.

7 Because I think we spent a lot of time
8 looking at things that we would be asked to put on
9 the petitioner in order to be considered for the
10 special use, and this area already had a special use
11 to start with, and my concern is the longer it sits
12 open and it isn't utilized. Then you're -- then it
13 swings the other way to endangering public health,
14 et cetera, because you have things start happening
15 at that site that are, you know, not being controlled.

16 So I understand that there is risk, and we
17 spent a lot of time hearing and talking about risk,
18 and some of that risk is something the patients will
19 need to consider when deciding whether they're going
20 to go there or not because it isn't like they're
21 being assigned there. But at the same time I'm
22 looking at is it a decent use for the site considering
23 that the site before was for at-risk youths, and
24 that seemed to go on there for many years successfully.

1 And then also, you know, are there enough
2 safeguards in place? Because it has to be licensed
3 by the State, and that's not something that we
4 control, that we have to -- hopefully everybody else
5 is as diligent as we have been about whether this is
6 the right use for this particular area right now.

7 VICE CHAIRWOMAN MICHALSEN: Did you want to
8 speak, Ms. Millen?

9 MEMBER MILLEN: I was just going to say I
10 kind of agree with what you said about it being
11 vacant. I'd much rather live in an area near a
12 facility that was well secured than I would an empty
13 facility that could attract any use.

14 MEMBER MELGIN: I totally agree with what
15 you said. This is potentially a really good use for
16 this area, for this property.

17 Have they -- have they gone to the extent to
18 show that they can run this operation that will meet
19 those parts of the factor? I agree that a vacant
20 property isn't good, and the speculation and the
21 uncertainty of what could happen in a vacant
22 property might be worse than knowing what's going to
23 be there in terms of property values and other
24 things, but if this was an operation that came in

1 and they had a track record of running these types
2 of facilities.

3 One of the conditions that bothered me was
4 the special use wouldn't be transferred, but then
5 the next one said "Maxxam or its successors." So I
6 didn't have a lot of confidence that there was --
7 that this wouldn't be transferred. So that way I
8 can't really feel comfortable saying that this has
9 met that first factor.

10 But I agree that the property could be used
11 for this, but I don't know if they've met the
12 standard in this case.

13 MEMBER MILLEN: But do you feel -- I mean,
14 how could anybody meet this standard? You never
15 have any guarantee. Glenwood School for Boys
16 expected to be there forever. They've been vacant
17 now for three years.

18 MEMBER MELGIN: I agree. You could say that
19 with a restaurant. On the other hand, this is
20 supposed to be a high-end luxury property, and we
21 don't even know if a doctor is going to be there
22 40 hours per week.

23 There is risk involved in any -- but I would
24 think if a restaurant went in, or a K-Mart, or

1 whatever, those people might have a track record and
2 say, "We have developed these properties in the
3 past; we've been successful; we've been good to the
4 community; this is how we operate our business."

5 We haven't seen that. I haven't felt
6 comfortable in knowing that that was actually going
7 to happen even though it might. It could but I
8 don't know if it's been demonstrated.

9 VICE CHAIRWOMAN MICHALSEN: I would say that
10 this is one of several factors that I have struggled
11 mightily with going through the record. One thing
12 that I found helpful to keep in mind is the burden
13 of proof on the petitioner here is simply a
14 preponderance of the evidence. It is a high bar,
15 but I don't believe the zoning code itself intended
16 to set out a bar that could never be met.

17 It's one of six factors. I don't think
18 it's given any additional weight over the other
19 five factors. I don't think that the petitioner is
20 required to prove a crystal ball in which we know
21 exactly what this is going to look like. I do think
22 they need to give us confidence.

23 I think it damaged the credibility of the
24 petitioner when he testified here with us and chose

1 to say "No comment" to every member of the public
2 that asked him a question. He said he wanted to be
3 a good neighbor, but then he wouldn't talk to the
4 neighbors. It does go to credibility. It goes to
5 the weight.

6 MEMBER FALK: Morals.

7 VICE CHAIRWOMAN MICHALSEN: It does. I think
8 morals is probably in my personal opinion a
9 throwback to when the zoning code was written, and I
10 think if it were to be written today, we probably
11 wouldn't see morals in there.

12 Because I do think that we want to evaluate
13 this facility on its own. And, yes, I'm definitely
14 taking into account Mr. Marco's lack of cooperation
15 in his testimony now, and I'm taking into account
16 the fact that this would be his first one. But
17 there's nothing in here that says you have to have a
18 track record; there's nothing in here that says you
19 have to prove beyond a reasonable doubt, beyond a
20 shadow of a doubt. We don't ask this of most of the
21 petitions that we see as a Board.

22 I disagree with the petitioner's argument
23 that we can't consider operations. I think it's
24 right there in A. That being said, as I'm weighing

1 this, I don't think they have to tell me every single
2 person that's going to show up every day. I don't
3 expect that of a K-Mart; I don't expect it of anyone
4 else that would come through with a petition.

5 I think you do have to separate the petition
6 somewhat on its grounds from the petitioner. It
7 does go to credibility. Mr. Marco, his repeated --
8 his choice, his strategic choice to say "No comment"
9 that many times at that meeting, I think that was a
10 poor choice, but I don't think it kills -- for me it
11 doesn't kill this whole petition. I'm going to look
12 at the other evidence that was presented.

13 In the record we had the letter from
14 John Curtis who wrote in his experience people don't
15 leave these facilities. Trina Diedrich testified
16 about what the State side of it looks like. And I,
17 along with probably everyone in this room does not
18 have 100 percent confidence in the State of Illinois
19 to run things since they can't run their own budget,
20 but it's their operation to oversee it in terms of
21 that part of it. We have to care about operations
22 like do we think this will actually be operated well
23 but it's split. Just like it's split who -- you
24 know, it's the Kane County sheriff who will respond

1 for emergency calls, but it's the fire protection
2 district that will responded for ambulance calls,
3 and it might sometimes be Campton Hills. The way
4 we've structured our government system in Illinois
5 creates a lot of different layers, which doesn't
6 help, I think, a petition like this.

7 I know, Marc, you mentioned the fire
8 protection district. To me that testimony does not
9 weigh heavily against Factor A because I think the
10 fire protection district is in trouble whether this
11 facility moves in or not. Their testimony is they're
12 in trouble right now.

13 Now, this facility may not help them, or if
14 they can work out an agreement with them, it may be
15 a big help. But I think their voluminous testimony
16 proved that they have trouble right now with an
17 empty facility, and there are other districts that
18 would respond because they're not always going to
19 take the calls that come in. You have South Elgin
20 there; you have Elburn; you have other places.
21 They're not the only game in town because that's not
22 how we run a fire protection program. You have to
23 be close enough to somebody.

24 So I think we do have on the record in terms

1 of their operations what it -- what it would roughly
2 look like with the different people they brought in
3 who had experience in these areas. They did bring in
4 two different security people to testify both about
5 virtual security and physical security at the property.

6 I do note that when Bruce Gunderson testified
7 last January, when he talked about the physical
8 security, he said it would start with two guards and
9 go down to one once they got the lay of the land of
10 how this facility was going to go, but that they
11 wouldn't have weapons.

12 And as I've been reading through all of this
13 information and processing all of the comments and
14 concerns, what's hit me is that a lot of times I
15 feel like we're talking about a prison. Like if you
16 didn't know what this was about, you'd be talking
17 about a prison. This is not a correctional facility;
18 these are not court-ordered rehab people. These are
19 people who have a lot of money and who want to pay
20 to go to a luxury substance abuse rehab place. This
21 isn't jail; this isn't a juvenile facility. This is
22 wealthy people who want a spa and hopefully kick an
23 addiction habit.

24 I have several people in my life that I know

1 who have struggled with addiction, and not one of
2 them broke the law ever. They were of the age to
3 drink; they never drove drunk; they never knocked
4 off a liquor store. I think it's wrong to assume
5 that anyone who would need this facility would by
6 definition be a criminal. Certainly, some of them
7 might be for the drugs that they're using are not
8 legal, but this isn't a correctional facility.

9 I don't think the bar that the zoning code
10 sets out -- I think they're equally weighted, and
11 there's six of them, and I think there's -- it's
12 sometimes hard to find in the record, but I do think
13 there's an outline from the petitioner -- could have
14 maybe been more cohesive -- about what the
15 operations are going to look like. But I don't need
16 names. Personally I don't as that --

17 MEMBER FALK: Structure.

18 VICE CHAIRWOMAN MICHALSEN: -- of anybody else.

19 MEMBER FALK: It would have been nice to
20 have structure, how it was structured. For me I
21 never got that sense. We can move onto the other
22 ones, but that's just -- my level of comfort at this
23 point is very, very low.

24 MEMBER ARIS: But I also think that the

1 State regulations define that structure. And I am
2 not a health care professional at all, but I -- but
3 we all are looking for the plan, the staffing plan,
4 the workforce plan, and I did that for years. So I
5 understand that that is my mindset.

6 I want to see the plan, and how are we
7 structuring it, and all of those things. But at the
8 same time I have to step back and say, okay, that
9 information is in State regulations. And maybe I
10 don't like the fact that the State of Illinois isn't
11 at tight on this as I would expect it to be, but if
12 they're the ones that approve the plan, then that's
13 a hurdle the petitioner is going to have to go through
14 with the State to get -- and if -- we're all hoping
15 for the extra credentials that we put in as a condition
16 in the nine conditions, you know, were alluded to.

17 I would hope that those would be strongly
18 pursued and not just "We're going to make an effort"
19 but "We're going to make the best effort." Because
20 I sat and heard Mr. Marco say, "I want to have the
21 best facility" -- basically, my take -- "that money
22 can buy" because he wants to attract high-end
23 clients.

24 So I've got to put on my business hat and

1 say, okay, if that's his credibility on the line, and
2 that's what he does, then he's going to get measured
3 by that. And I may not be comfortable because I
4 haven't seen the plan with the T's crossed and the
5 I's dotted, but somebody else has got responsibility
6 for that and does this -- do we push this forward
7 and say they have a chance to go and do that, or do
8 we push this forward and say, no, they haven't done
9 enough for us that they can't even get to that step.

10 So I think that's an individual call by
11 everybody sitting up here, but, you know, I
12 recognize that we're all dealing with the unknown,
13 and some of us feel better with the unknown, and
14 some of us don't deal well with the unknown.

15 MEMBER MELGIN: Well, I guess when you say
16 it's going to be dictated by the State of Illinois,
17 I've had a family member that actually has been in a
18 rehab center, and it was not luxury by any means,
19 and they probably did meet the State of Illinois
20 requirements. So if this was going to be a luxury
21 facility, how would those be exceeded to say that
22 this was going to be an upscale luxury facility?

23 I don't have a problem with Mr. Marco saying
24 "No comment." I understood why he was requested to

1 say that. I don't have a problem with that. He
2 answered our questions. What I had a problem with
3 was his confidence that he could run this and was an
4 expert without ever having done it before. Usually,
5 when you're an expert you have some experience
6 actually implementing something, not just reading
7 about it. I've had a lot of orthopedic surgeries; I
8 don't think you'd want me performing surgery on you.

9 That's one of the issues I have. It's not
10 just the public health of the community but the
11 public health of the people at that facility. The
12 operations to me still is a question.

13 MEMBER FALK: Qualifications.

14 MEMBER MELGIN: I've read the expert reports.
15 I have no doubt that they had good people writing
16 those reports. I believe what those reports had to
17 say. Are those people going to be involved in this
18 facility?

19 VICE CHAIRWOMAN MICHALSEN: Anyone else have
20 any other comments on A?

21 MEMBER LAKE: Actually, I'd like to go a
22 little bit back into what I was referring to as the
23 infrastructure. What I was referring to was
24 actually our roadways.

1 I totally love and respect the whole idea
2 behind what this is, you know, but I have a concern
3 when it comes to, you know, the 5 miles from the
4 Glenwood driveway to Randall Road and the guardrails
5 on the curves that don't allow any kind of
6 transference.

7 I'm stuck on, is it going to be 5 calls, is it
8 going to be 300 calls? I don't know how we're
9 impacting the roadways up until Randall Road. Once
10 we get to Randall Road I'm not concerned at all;
11 there's a four-lane so things can move along. But
12 the 5 miles from Glenwood's driveway to Randall Road,
13 I actually drove it Sunday, and it was a beautiful
14 day. So you've got, you know, a couple racing each
15 other to Randall Road on their bicycles, and as it's
16 going on, you look at where would they go if there
17 were two lanes of traffic and an emergency vehicle
18 going through.

19 That's what I'm talking about is the
20 roadways themselves lack the infrastructure to
21 support an unfounded number of what we're asking to
22 travel. If it were on Randall Road I'd love it; it
23 would be great.

24 VICE CHAIRWOMAN MICHALSEN: I agree that's --

1 the call range was a big area of struggle for myself.
2 And I just want to say I think it's clear that all
3 six of us take our responsibility as a Zoning Board
4 very seriously, and we've really been wrestling with
5 this, and reading it very closely, and I want to
6 assure everyone that we're working hard for you. We
7 don't do this for fun.

8 As far as the calls, I do think it was --
9 it's unrealistically optimistic of the petitioner to
10 say it would be 5 -- I think 5 to 10 or 5 to 11 in a
11 year especially given that their starting number for
12 beds was 120, and we're talking being approval at
13 the 75 number.

14 The Kane County sheriff had said -- he
15 estimated between 100 and 300, but I'm not sure
16 where those numbers came from, but that his office
17 could handle that workload.

18 The number of calls is difficult. We did
19 get a FOIA on the record from the first round of
20 hearings that listed other facilities and the number
21 of calls, and I did find that helpful. I didn't
22 find it as helpful as I had hoped because they didn't
23 have a number of beds to compare the calls to, and I
24 wasn't going to go research that in addition to all

1 the other hours I've spent with this petition.

2 And I don't know much about those calls. Some
3 of them I know they're police or fire. But there
4 had been talk in the record if there were a lot of
5 calls, they would go to silent calls. I have a hard
6 time picturing a fire truck or a sheriff's vehicle
7 out there every single day. I just feel like 300 --
8 I just don't think this -- if they're generating a
9 call a day or close to it, they're going to have a
10 bigger problem from the State of Illinois sooner than
11 they'd have a problem -- I know State of Illinois is
12 slow. I was a foster parent for four years. I know
13 they're slow. I still think they would notice if
14 there were almost a call a day at this facility.
15 There are a lot of good people that work for the
16 State of Illinois, and I think this would hit the
17 radar pretty quickly if it were to reach that level.

18 I've sort of made peace that I don't have a
19 number of emergency calls other than I don't think
20 it's going to be 5, and I don't think it's going to
21 be 300. It's going to hit somewhere in the middle
22 is my best guess.

23 I believe Mr. Marco 100 percent when he says
24 that he wants zero calls. I don't think that's

1 necessarily realistic but I believe him. And I believe
2 if you're going to run a luxury facility, whether
3 it's a spa or a treatment facility, having multiple
4 calls in a week from fire or police tarnishes your
5 experience of luxury there. So I think it's in his
6 own selfish business interest to keep calls down and
7 manage his property.

8 In the Waller report, which we'll talk about
9 in B, he does talk about these facilities try to be
10 as inconspicuous as possible, and that's from the
11 guy hired by an objector. It's sort of a fact I
12 feel that a luxury rehab facility would not want to
13 advertise to its local neighbors that it's there.
14 Their best recommendation is people won't have heard
15 of it, people won't know you're going there, people
16 won't know you've been there, and you can get your
17 treatment and get back to your life and you'll be
18 separate from that. They don't benefit from "I was
19 on a reality TV show that was following the
20 Kane County sheriff's office and they saw me at the
21 rehab facility."

22 I think it's a bonus the way the actual
23 physical property is built out that it's only
24 20 percent built and it's 80 percent open, that it's

1 buffered by the Kane County forest preserve for so
2 much of it, that its driveway is a half mile long,
3 which is a very long driveway off of the main road,
4 and if they wanted to come -- if they wanted to
5 expand the buildings on-site, they'd have to come
6 back, and if they came back, there would be
7 information on how they were doing it, if they could
8 manage that.

9 I think it's clear from our discussion
10 tonight this is a tough -- this is a tough factor to
11 consider. There's a lot of seesawing in terms of
12 where you think the evidence lands, and I feel
13 like -- I really appreciate that all of you are
14 sharing your thoughts here so that we can have that
15 input as we go through.

16 Any other thoughts on A?

17 MEMBER ARIS: I'd like to talk a little bit
18 about, you know, Mary's well-taken point that it is
19 a rural road. You know, it is not a four-lane
20 highway. Which, you know, in a perfect world we
21 would want it to be on a Randall Road because then
22 we have that issue -- we eliminate that issue by
23 having, you know, better infrastructure.

24 At the same time there was a facility there

1 that generated emergency calls and had people going
2 in and out, you know, and they drove that road, and
3 I've driven that road several times at different times
4 of the day. You know, it's -- it is what it is, but
5 if this use doesn't go in, somebody else will want to
6 do that, and that will be the same issue no matter
7 what operation hopefully goes into that facility.

8 So that, you know, it's a big -- it's a big
9 facility to begin with. It's going to have some
10 sort of hopefully bigger operation there which has
11 already been on those roads before as the Glenwood
12 Academy, and if it isn't this petitioner or some
13 future petitioner, that road issue is going to be
14 there no matter -- you know, no matter who is there,
15 and you're not going to bulldoze it and turn it back
16 into farmland.

17 So, you know, we're kind of -- we're kind of
18 in that position of if this was a first-time petition
19 and they were building the campus, we might say X,
20 Y, or Z, we want to see two entrances, or this or
21 that, but we're dealing with an adaptive reuse of an
22 academy. So there are some of these things that
23 aren't my preference, but the road is the road, and
24 nobody has told us that the road isn't acceptable to

1 the County, that the County wants to see or the
2 sheriff wants to see, you know, better shoulders or,
3 you know, anything like that. You know, it's the
4 person that goes and stays -- and hopefully the
5 petitioner does a really good job of screening
6 because that's what we're talking, this variance, it
7 also depends on how well patients are screened.

8 That patient also needs to be told, "It's a
9 5-mile drive to a bigger road. You're going to be
10 on rural roads, and they're beautiful and they're
11 windy." But, you know, if they -- they and/or their
12 families or loved ones need to be able to factor
13 that in because -- and, you know, the petitioner has
14 said, you know, they like it because it's a rural
15 environment.

16 Well, rural environments don't come with
17 four-lane highways, and I think if the petitioner
18 said, yeah, and we want the County to build a
19 four-lane highway up to the site, everybody would be
20 up in arms about that, too.

21 MEMBER LAKE: There's just a lot of fields
22 open on Randall Road. It's just a shame that those
23 aren't there.

24 MEMBER MELGIN: I think it's really great --

1 the adaptive reuse is a great idea, and normally I
2 would say rather than constructing something new
3 adapting this reuse. But like I said, demonstrating
4 transparency is what I would request, more
5 transparency in how this operation will be run.

6 VICE CHAIRWOMAN MICHALSEN: Any further
7 discussion on factor A?

8 (No response.)

9 VICE CHAIRWOMAN MICHALSEN: Moving on to B,
10 that the special use will not be injurious to the
11 use and enjoyment of other property in the immediate
12 vicinity for the purposes already permitted, not
13 substantially diminish and impair property values
14 within the neighborhood.

15 MEMBER MILLEN: I think this is kind of a
16 difficult one. It's almost a two-parter, enjoyment
17 of the property of the people that are already there
18 and will it diminish property values.

19 So I thought to myself, what if I was a real
20 estate salesman and there was a property for sale.
21 How would I present that to my client? And I think
22 the answer is they would just tell the client that
23 there was a luxurious rehab facility there and get
24 the client's reaction.

1 If the client says, I don't want to live
2 near there, then that doesn't exactly decrease
3 property values; it just does away with a certain
4 amount of clients that are not going to go to that
5 area. So it would eliminate some of the people.

6 I don't think it would decrease property
7 values because a person who maybe has an alcoholic
8 in the family or has been through some of this,
9 they're not going to be afraid of it, and they're
10 going to be more willing to pay the price you're
11 going to pay for some of these beautiful properties
12 out there.

13 MEMBER MELGIN: Well, this is an area on
14 which I thought the petitioner's experts did a very
15 good job. I understood the reports and I took them
16 as credible. I read the Waller report, and I wasn't
17 as taken with that one, given the lack of experience
18 in Illinois. So I think in this case with the
19 difference of reports, the way that they looked at
20 the Park Ridge facility and the way they looked at
21 this one, I think there's a lot of gaps in this.

22 It's difficult to say how a vacant property
23 or the uncertainty of having a vacant property behind
24 your house will impact property values. I think

1 that would be a red flag for me. But in that case I
2 think that I don't have any specific other comments
3 on this factor.

4 VICE CHAIRWOMAN MICHALSEN: I did want to
5 make one comment on the Waller report. I did -- it
6 was actually clarifying for me.

7 Ten times in the Waller report he says that
8 property values will go down because of the risks --
9 the risk increase and then in parentheses (or
10 perceived risks.) I think that's sort of the crux
11 of the matter for me for the property value part of
12 B is should a facility be punished because people
13 think it will be bad.

14 I agree it's likely -- it's possible that
15 property values could go down after this facility --
16 if this facility were to go in. Property values
17 could go down because of high taxes; they could go
18 down because of a lot of things, school closings, or
19 a developer builds in one school district and then
20 gets transferred to a different one. There's a lot
21 of things about our property values that we cannot
22 control and we're not in charge of.

23 For me it was telling that he couldn't say
24 it increased risk without adding "perceived risks."

1 I don't think it's fair to say because I think
2 somebody is going to be a troublemaker that they get
3 tagged as a troublemaker.

4 I understand the security concerns. It's
5 clearly in the record. I get it. But I also get
6 that this is not a correctional facility. I don't
7 think people paying \$1,000 or more a day for treatment
8 are going to go rob houses nearby. First of all,
9 they're going to have to go quite a way just to get
10 off the property. But I don't think that's a real
11 risk of this facility.

12 I think there's a risk it may not be run as
13 well as Mr. Marco hopes it will be run, but, again,
14 I don't think the Zoning Board requires a crystal
15 ball for any projects. We do the best we can with
16 the information that we have.

17 I thought MaRous was -- or MaRous -- I'm not
18 sure how to say his name since I didn't hear him.
19 His report was credible. I thought Waller's was
20 credible in the fact that he was honest, increased
21 risks or increased perception of risks. I don't
22 think it's fair to a facility to say I think you're
23 going to be bad so you're going to be bad. I just
24 don't think that's a good way to operate.

1 So I struggled with property values, as well,
2 because there's lot to how you calculate values.
3 I'm not an appraiser; I'm not an expert on that, and
4 it's just hard to know for sure. Because I don't
5 think anybody could say for sure up or down. Maybe
6 that's an area where more study would be useful.
7 Because as more facilities crop up because we have
8 such a drug problem we would have better information
9 for other zoning boards and other jurisdictions to
10 go forward on.

11 MEMBER FALK: I think you can't speculate
12 either way, but I certainly -- you know, putting
13 your realtor hat on, I don't -- first of all, the
14 code of ethics for the realtor is they can't say
15 anything. They can say, "Do your own homework and
16 make that determination." But I don't think we can
17 determine whether property values will go up or go
18 down even with all these reports that were in here.
19 You know, I think it's -- there's too many outside
20 things to take into consideration, and we can't
21 control a lot of them.

22 So I don't think that that's -- for me that's
23 not as big as some of the others.

24 MEMBER ARIS: May I?

1 VICE CHAIRWOMAN MICHALSEN: Sure.

2 MEMBER ARIS: I also think that there is a
3 special use request. The petitioner has also asked
4 for, you know, a special accommodation under
5 Fair Housing Act that people have a right to, you
6 know, be housed in urban areas as well as rural
7 areas, and the law applies equally to those without
8 means as well as to those that have means.

9 One of the questions that was answered that
10 was not a "no comment" question was, you know,
11 "We're asking to be treated like everybody else,"
12 that, you know, "We want to put this facility in a
13 rural area."

14 You know, I don't think that the law would
15 deny them, you know, the opportunity to at least be
16 considered in a rural area. You know, it's use and
17 enjoyment of the property in the immediate area and
18 not substantially diminish or impair -- I call it
19 the quality of life for the people that will be in
20 the facility as well as the neighbors surrounding
21 the facility, and I think that has to be factored
22 in, as well.

23 There obviously is a reason why this property
24 is so desirable for this purpose in that there is

1 obviously a number of people who want to come to a
2 facility like this because this has been going on
3 for five years. So, you know, there's -- there's
4 the, quote, "market" saying that this would be
5 desirable, and we should accommodate that if
6 possible. And I think that, if possible, is the
7 other thing we need to keep in the back of our minds
8 as we keep talking through this.

9 MEMBER MELGIN: One thing that really stood
10 out in my mind was one of the public comments --
11 there was a lot of talk about this being buffered by
12 the forest preserve, you can't see it.

13 Well, you can. I drive around it quite a
14 bit. But then someone said forest preserves aren't
15 meant to be buffers.

16 I live near kind of a forest preserve area.
17 You look for that open space; you really treasure
18 that open space. That enjoyment of the property in
19 the vicinity, would that have an impact on the
20 forest preserve? I don't know. I don't know how
21 many people, you know, walk through that daily and
22 use it, but I can see that being looked at as a
23 buffer when really it's a forest preserve for
24 everybody to enjoy.

1 VICE CHAIRWOMAN MICHALSEN: I agree. I
2 don't think -- when I think of it as a buffer, I
3 don't think of it as that was its primary use. But
4 just that if I were buying a property, and it was
5 surrounded by vacant land owned by some land trust
6 or some private owner, I would look at it differently
7 than if I looked at land bordered by forest preserve
8 because I would think, well, it's probably going to
9 be forest preserve for a while, but I don't know
10 what the land trust is going to put in.

11 I do think that's a plus for this petition
12 that that's certainly not the job of the forest
13 preserve to provide this buffer, but I think that's
14 one of the things it does. And I don't think --
15 personally I don't think I would avoid that forest
16 preserve because it's by this facility. If our
17 condition for recommendation gets taken out by the
18 County Board for a fence, there would be a clear
19 delineation between when you're on forest preserve
20 property and when you're on private. But even with
21 that I wouldn't have a problem using a forest preserve
22 around a facility like this.

23 Because as a -- if I'm by myself as a woman
24 in this society, I would have concerns about the

1 forest preserve wherever it was, and I might have
2 more help to me with an open running facility than I
3 would have if there were just nothing around.

4 So I do think it's a buffer, but I don't
5 think that's its purpose; it just also does that.
6 For me it is a factor that that land will likely not
7 be developed into something else that would change
8 further the nature of that community.

9 Any other comments on B?

10 (No response.)

11 VICE CHAIRWOMAN MICHALSEN: The only other --
12 oh, were you raising your hands or just changing the
13 thing?

14 The other thing that I considered with this
15 was the foundation that they talked about starting.
16 It would be my hope if they would start it that it
17 would be of benefit to the immediate community and
18 that it would be a way to be a good neighbor.

19 I would hope that a well-run operation like
20 this would be largely invisible. I think that's the
21 best case scenario, would be largely invisible to
22 those that live around it. I don't think they have
23 a desire to call attention to themselves if they're
24 charging for a luxury experience.

1 So I just wanted to add that in. So we'll
2 move on to C unless there's anything else on B.

3 (No response.)

4 VICE CHAIRWOMAN MICHALSEN: C, that the
5 establishment of the special use will not impede the
6 normal and orderly development and improvement of
7 surrounding property for uses permitted in the
8 district.

9 MEMBER MILLEN: Again, as a real estate hat
10 again put on, the area is primed for additional
11 development. You can't all see this little map, but
12 the developments that are there have roads that are --
13 were developed to extend the development into
14 surrounding property.

15 And, again, I think it's more the economy.
16 Once that gets going -- excuse me -- again, I think
17 those roads are going to be extended, and it will be
18 the people that are not hesitant about living near a
19 facility like this that will go in there and build
20 homes, and I don't feel that there's going to be
21 much of a -- the zoning is there, and there's going
22 to be people looking for property in that area, so I
23 don't feel that this use would impede that development
24 at all.

1 MEMBER MELGIN: And this would be under the
2 control of the City of South Elgin; is that correct?
3 South Elgin and the Village of Campton Hills for
4 zoning, for development, the control of this
5 property?

6 MR. VANKERKHOFF: Well, most of the --

7 MEMBER MELGIN: Campton.

8 MR. VANKERKHOFF: Right. The Village of
9 Campton Hills surrounds portions of this, the City
10 of Elgin, and there's some unincorporated area. I
11 could put the zoning map back up if you'd like.

12 MEMBER MELGIN: Yeah.

13 MR. VANKERKHOFF: Here we go. So that's the
14 zoning map. To refresh your memory, the Village of
15 Campton Hills, there's some still unincorporated
16 areas to the northwest, and a few to the north.
17 Campton Hills, and the City of Elgin, and the forest
18 preserve area around it had already been annexed to
19 the City of Elgin. It's been purchased by the forest
20 preserve, and they're under negotiations to deannex
21 those areas, but that's not been completed yet.

22 VICE CHAIRWOMAN MICHALSEN: Anyone else on C?

23 (No response.)

24 VICE CHAIRWOMAN MICHALSEN: I would just add

1 that I find it a plus for this petition that Elgin
2 and Campton Hills would control the development
3 immediately surrounding most of this property because
4 they would have the control of how they -- how they
5 want that to look in the future. Because, obviously,
6 this property is Kane County unincorporated.

7 Are we ready to move on to D? All right.

8 So, D, that adequate utilities, access roads,
9 drainage, and/or other necessary facilities have
10 been or are being provided.

11 I'll start. One of the things that I read
12 from the record before was the report from KLOA
13 which studied employee traffic and found that there
14 would be an acceptable increase on that road but did
15 not evaluate the emergency traffic.

16 I did find that a missing component of that
17 report. But, again, that gets back to the question
18 of how many calls is this going to generate, and so
19 far in all of the hearings for this petition no one
20 has had the crystal ball to tell us what that number
21 is going to be. So I guess I don't know if it hurts
22 the KLOA report if it doesn't have it in there, but
23 I did note that their report only studied the
24 employee traffic and not the emergency. Certainly,

1 if there's almost a call a day, that's going to be a
2 lot more wear and tear on those roads than if
3 there's not that many calls.

4 We do have in the record the report from
5 Schaeffer and Roland that the water, fire, and
6 wastewater are in good shape. KDOT said the roads
7 were fine for this. There was some discussion about
8 whether there was going to be less traffic than
9 Glenwood.

10 There has been a concern about the number of
11 calls in terms of lights and sirens, but I know
12 there was mention in the record about if there were
13 over some number of too many calls that they could
14 go to silent responses when traffic would allow that
15 to not disturb the neighbors.

16 I forget who brought up the bicyclists earlier.
17 I certainly get the concern about the bicyclists,
18 but I don't live this far north in Kane County, but
19 we have our own fair share of two-lane, windy roads
20 with no shoulders, and they're a challenge with
21 bicyclists when it's just you on the road and
22 there's no other traffic. They were never built for
23 bicyclists. It would be awesome to add a bike lane
24 so we could take them off the road, but I don't feel

1 that that should be a hurdle. And I'm not sure that
2 you meant it as that.

3 But I struggle to get around bicyclists when
4 there's only my car on the road on some of those
5 two-lane County roads, but I think that's just the
6 nature of living in a county that has a lot more
7 rural areas than some of the other counties.

8 Any other thoughts on D?

9 MEMBER ARIS: On D I think we talked a little
10 bit that one of the overriding concerns was water
11 quality and how was that going to be addressed, and
12 we talked about that in the conditions, that we'd
13 like to have certain things attended to in order to,
14 you know, make sure that the infrastructure handles
15 the special use as well as sort of bring things up
16 from 1989 into the 21st century.

17 So with that, you know, I feel pretty confident
18 that, you know, we've had a lot of discussion about
19 Item D.

20 MEMBER MELGIN: I agree. I think they
21 demonstrated that they have the facilities and that
22 they could bring the monitoring program up to
23 standards.

24 VICE CHAIRWOMAN MICHALSEN: Anything else

1 on D?

2 (No response.)

3 VICE CHAIRWOMAN MICHALSEN: All right.

4 Moving on to E, that adequate measures have been or
5 will be taken to provide ingress and egress so
6 designed as to minimize traffic congestion in the
7 public streets and roads.

8 MEMBER MILLEN: May I?

9 VICE CHAIRWOMAN MICHALSEN: Certainly.

10 MEMBER MILLEN: Having spent 20 years in the
11 planning department, I had a little trouble with
12 this one because I grew up believing you have to
13 have a way in and a different way out in the
14 basement, in a subdivision, wherever you were. But
15 the township was all right with it; Campton Hills
16 was all right with it, so that convinced me okay,
17 maybe this traffic is not going to be a problem.
18 Except when I went out there to see the property and
19 I couldn't even find the one access, but I was
20 convinced that the one will be enough.

21 VICE CHAIRWOMAN MICHALSEN: Anyone else?

22 MEMBER LAKE: I simply noted that ingress
23 and egress do not appear to be in contest.

24 VICE CHAIRWOMAN MICHALSEN: I agree.

1 All right. Moving on to F, that the special
2 use shall in all other respects conform to the
3 applicable regulations of the district in which it
4 is located, except as such regulations may in each
5 instance be modified by the Kane County Board
6 pursuant to the recommendations of the Kane County
7 Zoning Board of Appeals.

8 MEMBER MILLEN: Well, I think with the
9 applicable district with all the --

10 AUDIENCE MEMBER: We can't hear you.

11 MEMBER MILLEN: -- special stipulations --

12 VICE CHAIRWOMAN MICHALSEN: You need to turn
13 your mic on.

14 MEMBER MILLEN: I think a special use is a
15 different kind of animal, as it is, and I think we
16 have taken into consideration the effect on the
17 district by the 40-some stipulations we've added.

18 MEMBER FALK: The issues I have with F are
19 how many are enforceable and not enforceable, and I
20 think that once you give a use permit, you have to
21 have the ability to either enforce it or not enforce
22 it, and that was troublesome to me. So the
23 enforceability issues, hearing whether they would be
24 enforceable or not, that was a different way --

1 VICE CHAIRWOMAN MICHALSEN: That was
2 certainly a large part of our discussion at the last
3 meeting where we were sorry not to have you well
4 enough for it.

5 MEMBER FALK: I heard it.

6 VICE CHAIRWOMAN MICHALSEN: I think -- well,
7 I'll have to think on that for a moment.

8 Anyone else on F?

9 (No response.)

10 VICE CHAIRWOMAN MICHALSEN: All right. So I
11 guess as to enforceability we did take that into
12 account as we went through each of those
13 recommendations. I have done -- in my prior life as
14 a lawyer I did a lot of enforcement work when I was
15 working for the City of Chicago, and I regret to
16 inform you that even a very well-drafted document
17 has problems being enforced. Good lawyers can
18 challenge almost anything.

19 It doesn't make it right but it does -- you
20 do the very best you can with the information you
21 have at the start of it. And I have confidence in
22 our staff and our State's Attorney's office that
23 they would be able to anticipate some of the bumps
24 down the road and eliminate them in the drafting of

1 any of these conditions.

2 Because what we recommended is not the final
3 language. I'm sure it will be looked at closely by
4 staff and the State's Attorney's office, and I have
5 confidence that they could draft them to be as
6 enforceable as possible.

7 Our justice system is not perfect -- spoiler
8 alert -- but I do think that we can do an adequate
9 job with those conditions to make it as enforceable
10 as possible. That's where I fall on it. It is a
11 concern but I have -- I'm going to put my money on
12 the staff and State's Attorney.

13 MEMBER MELGIN: I absolutely think they have
14 to be enforceable not just for the County to be able
15 to -- the zoning enforcement officer to uphold those
16 but for the petitioner to make sure that he's not
17 going to be in violation of those conditions. So
18 they have to have -- they have to be specific.

19 I deal a lot with permit conditions and
20 enforce against -- violations of those permit
21 conditions. So you want to be sure on both counts
22 that you have conditions that are specific and
23 enforceable that everyone understands.

24 So I don't know if we're there yet on these,

1 but hopefully that -- by the time they get that way
2 that they would have very specific conditions.

3 VICE CHAIRWOMAN MICHALSEN: Anything else on
4 Factor F?

5 (No response.)

6 VICE CHAIRWOMAN MICHALSEN: All right. I
7 believe that concludes our discussion of the
8 six factors.

9 Mr. VanKerkhoff, at this time would we ask
10 the secretary for a roll call vote, or are there any
11 additional instructions for us?

12 MEMBER LAKE: Madam Chair, I've got a couple
13 other comments under "others" -- I'm sorry. They
14 don't really fall under any of these, but they do
15 apply to the big picture.

16 VICE CHAIRWOMAN MICHALSEN: Okay. Thank you.

17 MEMBER LAKE: One of them -- I believe it
18 was touched on, and it's simply that Steven Marco is
19 not certified to be able to do -- to successfully
20 launch and maintain a business of the proposed
21 nature, and his failure or unwillingness to share a
22 business plan, financial backing, or stability,
23 shows no long-term plan, and does not encourage the
24 community by lack of pride in ownership. Just

1 there's not a hand-held, "I'm proud of this; this is
2 what's coming out to you, and this is what it's
3 going to do for you."

4 Thank you.

5 VICE CHAIRWOMAN MICHALSEN: Thank you for that.

6 Anyone else have any further comments before
7 we move off the deliberations?

8 (No response.)

9 VICE CHAIRWOMAN MICHALSEN: All right.

10 Mr. VanKerkhoff, do we have any other instructions,
11 or should we just go to a roll call vote -- or
12 Mr. Kinnally?

13 MR. KINNALLY: You've got a motion on the
14 floor. You've got a first and a second, and I think
15 he can call the roll.

16 VICE CHAIRWOMAN MICHALSEN: Mr. Secretary,
17 if you could call the roll.

18 MR. BERKHOUT: Yes. Motion to approve this
19 petition.

20 Millen.

21 MEMBER MILLEN: Yes.

22 MR. BERKHOUT: Melgin.

23 MEMBER MELGIN: No.

24 MR. BERKHOUT: Aris.

1 MEMBER ARIS: Yes.

2 MR. BERKHOUT: Falk.

3 MEMBER FALK: No.

4 MR. BERKHOUT: Lake.

5 MEMBER LAKE: No.

6 MR. BERKHOUT: Michalsen.

7 VICE CHAIRWOMAN MICHALSEN: Yes.

8 MR. BERKHOUT: The vote is 3 to 3.

9 VICE CHAIRWOMAN MICHALSEN: All right. At
10 this time do we have any announcements from staff?

11 MR. VANKERKHOFF: No. Only that your
12 recommendation and probably more importantly the
13 record of your deliberations and findings on the
14 petition will be obviously recorded in this transcript.
15 The transcripts, including tonight, will be made
16 available to the development committee and the
17 entire County Board for them to make their vote.

18 You would have needed to have five affirmative
19 votes to have an affirmative recommendation go on to
20 the County Board. So this would go on with not a
21 favorable recommendation. It would be noted that it
22 was a 3-3 vote today as it moves forward through the
23 process.

24 Again, I know the County Board members greatly

1 appreciate the time and effort that this Zoning Board
2 has put into reviewing the previous record and
3 testimony and listening to additional testimony and
4 reviewing everything necessary for your
5 deliberations as you sit here today tonight.

6 MR. KOLB: Thank you.

7 VICE CHAIRWOMAN MICHALSEN: Thank you.

8 At this time we do have public comment on
9 the agenda. You're welcome -- if you'd like to
10 raise your hand so I can have an idea of who would
11 like to speak, you'd be welcome to make comments
12 about tonight's meeting. Please note this would not
13 be part of the official record that goes before the
14 Board for consideration, as that closed on
15 January 26th of this year. But would anyone like to
16 make a comment on tonight's meeting?

17 I see a couple hands. Can you please step
18 forward? If you could just state your name for the
19 record.

20 MS. GEORGE: Sure. Good evening. My name is
21 Sue George. I'm a Village trustee of Campton Hills,
22 and on behalf of myself I would like to thank all of
23 you for the intense studying that you had to do and
24 for the effort and time. I understand the

1 deliberation that you go through and how much you did
2 take this seriously.

3 This is extremely important to the residents
4 of Campton Hills and Campton Township, as you know,
5 and these are the tough decisions, and the extra
6 efforts that we as elected officials are called upon
7 to make for the community, and I want to thank you
8 for your deliberation and for all the intense studying
9 that you did do. It's extremely important and we
10 thank you for your decision tonight and the manner
11 in which you voted. Thank you very much.

12 VICE CHAIRWOMAN MICHALSEN: Thank you
13 very much.

14 Ma'am, would you like to step forward.

15 AUDIENCE MEMBER: I just second what she said.

16 VICE CHAIRWOMAN MICHALSEN: Thank you. I do
17 appreciate and I know the Board appreciates that
18 everyone was very respectful tonight and throughout
19 the procedures that this Board was part of, and we
20 very much appreciate your participation and
21 cooperation from all the parties and the attorneys,
22 and we're delighted to pass this on to the next step
23 so that we can conclude our work on this petition.

24 So with that, Mr. VanKerkhoff.

1 MEMBER FALK: There's a gentleman. Did you
2 want to say something, sir?

3 MR. VANKERKHOFF: While he's coming up,
4 Mr. Berkhout has some instructions for dates and how
5 to speak at the upcoming meetings.

6 VICE CHAIRWOMAN MICHALSEN: Thank you.

7 Sir, if you could just state your name for
8 the record.

9 MR. PARASKEVAS: Constancinos Paraskevas.

10 VICE CHAIRWOMAN MICHALSEN: Thank you. And
11 your comment.

12 MR. PARASKEVAS: My comment is that for
13 those of you that voted yes to approve this, I went
14 door to door collecting petitions, and I would say
15 95 percent of the citizens around here did not want
16 this. Okay?

17 We don't have trust in Mr. Marco because of
18 his behavior. He gave us no sense of confidence
19 that he can run this establishment. He has no
20 experience. All he has is "No comment." Okay?

21 95 percent, approximately, of the people
22 that I came in contact with did not want it here.
23 So how can you as a civil servant try to approve
24 this? I mean, what is your answer for that?

1 VICE CHAIRWOMAN MICHALSEN: Well, sir, we
2 were appointed by the Kane County Board to consider
3 this petition. I believe every single one of us
4 took this very seriously and did our best to
5 interpret the code and apply it to the petition and
6 the evidence in the record as we felt appropriate.

7 MR. PARASKEVAS: What about the thoughts and
8 feelings of the public?

9 VICE CHAIRWOMAN MICHALSEN: Every single one
10 of us took that into account, sir.

11 MR. PARASKEVAS: We don't have trust in you.

12 VICE CHAIRWOMAN MICHALSEN: We very much
13 appreciate your comment, but please know we very
14 much considered all of the evidence and the many
15 comments from the neighbors who did not support this.

16 Yes.

17 MEMBER LAKE: As one who put forward a no
18 vote, I simply want to say that I really respect
19 every person on this Board that put forward a yes
20 vote because they were articulate on the reasons why
21 they would consider it positive, and they've done
22 nothing but approach it with an open mind, which we
23 sometimes have trouble doing in our own worlds.

24 MEMBER MELGIN: Absolutely.

1 MR. PARASKEVAS: I can understand trying to
2 approach it with an open mind and so am I. Okay?
3 But as we've seen before from Mr. Kolb, many of his
4 responses were, "Let me get back to you. No comment."
5 Okay. This doesn't give me confidence that they are
6 going to be able to run this facility properly. I
7 think that's --

8 VICE CHAIRWOMAN MICHALSEN: And that was
9 discussed during the deliberations.

10 MR. PARASKEVAS: But I guess it wasn't
11 important enough.

12 MEMBER Falk: Everybody has their own opinions.

13 MR. KINNALLY: I don't think the Board needs
14 to defend their votes here. They voted, and the
15 vote is in, and that's the result. We appreciate
16 the public comments. With respect to those
17 deliberations, they're not here to defend themselves.
18 They don't have to do that.

19 MR. PARASKEVAS: Very well. Thank you for
20 your time.

21 VICE CHAIRWOMAN MICHALSEN: Anybody else?

22 (No response.)

23 VICE CHAIRWOMAN MICHALSEN: I don't see
24 anyone. Does anyone else see anyone?

1 (No response.)

2 VICE CHAIRWOMAN MICHALSEN: Then at this
3 time --

4 MEMBER MELGIN: I want to say one thing.

5 VICE CHAIRWOMAN MICHALSEN: Yes.

6 MEMBER MELGIN: I want to say what a great
7 job you did.

8 VICE CHAIRWOMAN MICHALSEN: Oh, thank you
9 very much. I appreciate that. That was a surprise.

10 So at this time do I have a motion to
11 adjourn -- oh, wait -- I apologize. Mr. Berkhout or
12 Mr. VanKerkhoff has further instructions.

13 MR. VANKERKHOFF: It's going to be me, yes.

14 For everyone in the room here, the petition
15 which is the subject of this hearing and tonight's
16 decision will be considered by the Kane County
17 development committee at its meeting currently
18 scheduled for 10:30 a.m. on Tuesday, March 21st, 2017,
19 in the County Board meeting room, Building A, second
20 floor at the Kane County Government Center.

21 Persons in favor of or in opposition to this
22 petition who wish to speak before the development
23 committee must signify their intention to do so by
24 signing a sheet provided for such purpose at the

1 meeting at which the petition will be considered.

2 After that meeting this will be considered
3 by the Kane County Board will be currently set for
4 9:45 a.m. Tuesday, April 11th, in the County Board
5 room, Building A, second floor of the Kane County
6 Government Center.

7 Persons in favor of or in opposition to this
8 petition who wish to speak before the County Board
9 must file their intention to do so with the zoning
10 enforcing officer no later than Friday preceding the
11 County Board meeting at which the petition is to be
12 considered.

13 MEMBER MELGIN: April 11th did you say?

14 MR. VANKERKHOFF: Yes, April 11th.

15 VICE CHAIRWOMAN MICHALSEN: Thank you. And
16 with that do I have a motion to adjourn?

17 MEMBER ARIS: I move that we adjourn.

18 VICE CHAIRWOMAN MICHALSEN: Do I have a
19 second?

20 MEMBER MELGIN: Second.

21 VICE CHAIRWOMAN MICHALSEN: All those in
22 favor say aye.

23 (Ayes heard.)

24 VICE CHAIRWOMAN MICHALSEN: All those

1 opposed, same sign.

2 (No response.)

3 VICE CHAIRWOMAN MICHALSEN: Motion carries.

4 The meeting is adjourned. Thank you all.

5 (Off the record at 8:26 p.m.)

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1 CERTIFICATE OF SHORTHAND REPORTER

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I, Paula M. Quetsch, Certified Shorthand

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Reporter No. 084-003733, CSR, RPR, and a Notary Public

5

in and for the County of Kane, State of Illinois, the

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officer before whom the foregoing proceedings were

7

taken, do certify that the foregoing transcript is a

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true and correct record of the proceedings, that

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said proceedings were taken by me stenographically

10

and thereafter reduced to typewriting under my

11

supervision, and that I am neither counsel for,

12

related to, nor employed by any of the parties to

13

this case and have no interest, financial or

14

otherwise, in its outcome.

15

16

IN WITNESS WHEREOF, I have hereunto set my

17

hand and affixed my notarial seal this 23rd day of

18

February, 2017.

19

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My commission expires: October 16, 2017

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22

23

Notary Public in and for the

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State of Illinois