

CITY OF SANFORD BOARD OF ADJUSTMENT

SPECIAL CALLED MEETING

Tuesday, March 12, 2019 at 3:00pm

Buggy Company Bldg., 115 Chatham St., Sanford, NC -1st Floor, Buggy Conference Room

Please be aware that this meeting is being held to approve minutes only and will be conducted via a phone conference call. No new cases will be reviewed at this meeting and no public hearings will be held.

CALL TO ORDER – 3:00 PM or as soon thereafter as deemed practical by the Board.

A. APPROVAL OF AGENDA

B. APPROVAL OF MINUTES (September 11, 2018 and October 9, 2018)

C. ADJOURNMENT

**MINUTES OF THE REGULAR MEETING OF THE
CITY OF SANFORD BOARD OF ADJUSTMENT
SANFORD, NORTH CAROLINA**

The City of Sanford Board of Adjustment met in regular session in the Buggy Conference Room of the Buggy Company Building at 115 Chatham Street on Tuesday, September 11, 2018, at 6:00 PM.

ROLL CALL

Members Present: Roger Judd, Chair
 Van Groce, Jr., Vice Chair
 Gordon Anderson
 Ron Willett
 Randy Jackson, Alternate

Members Absent: Ann Barkley
 Justin Hyde

Staff Present: Amy McNeill, Zoning Administrator
 Angela Baker, Clerk to the Board
 Kevin Hornick, Attorney to the Board

APPROVAL/DISAPPROVAL OF AGENDA

Having noted the presence of a quorum, Chair Judd called the meeting to order. Vice Chair Groce made the motion to approve the agenda, seconded by Board member Anderson, and the motion carried unanimously.

CONFLICTS OF INTEREST

Chair Judd asked for acknowledgement of any conflicts of interest in the case to be presented. There were no conflicts of interest acknowledged.

NEW BUSINESS

1. Application by Larry E. Henson and Kim Crenshaw Henson to obtain a Special Use Permit for a proposed wedding and events venue to be located on the same grounds as their existing home, which is addressed as 1121 Hawkins Avenue and two adjoining lots to the rear/west. The site is located within the corporate limits of the City of Sanford and is zoned Residential-Mixed (R-12). Per the Unified Development Ordinance, Article 4 Zoning District Regulations, Section 4.65 Use Regulations, table 4.6-1 Permitted Use Matrix, new civic, social, and fraternal organizations, including community centers, meeting halls, community halls, reception halls, wedding halls, for assembly and recreation are permitted in the applicable standards of the UDO. The property is depicted on Lee County Tax Map 9643.02, as Tax Parcels 9643-65-3419, 9643-65-1407-00, and 9643-65-1538-00 Lee County Land Records. The subject property is also illustrated as Lots 3, 4, 5, 23, 23 and 25 of a 1936 plat labeled "Map, McCracken Heights, Sanford, NC" as recorded in the Lee County Register of Deeds

Office in Plat Cabinet 2, Slide 295 and as Lots 3, 4, 5, 23, 24, and 25 of a 1936 plat labeled "Map, McCracken Heights, Sanford, NC" with a Revision Note as recorded in the Lee County Register of Deeds Office in Plat Cabinet 2, Slide 389.

Attorney Hornick stated that this case is unusual in that neighbors would like to speak in opposition to the request; therefore, the Board needs to determine if the neighbors have Standing. Standing is a legal term meaning that you have a sufficient interest in the outcome of the decision of the Board to allow you to participate as a party in the matter. In the context of a Quasi-judicial land use decision like the one being presented, in order to demonstrate you have Standing you must allege that you will suffer special damages that are distinct from the rest of the community. You have to show that you will suffer a peculiar harm that is different than the rest of the neighborhood will suffer.

Attorney Hornick stated that first it must be determined if the neighbors are acting as one or as individuals. Attorney Hornick stated that each person would be given three minutes to speak under sworn testimony and explain what special damages would be suffered that are different from the rest of the community.

If the Board finds that a neighbor does not have standing, they will still be allowed to speak and make public comments. The important distinction is that if you have standing, you will be allowed to present evidence; cross examine witnesses; and ask questions of the applicant and of the City. Whereas, if you don't have standing, you will be allowed to speak as to why you believe the Special Use Permit shouldn't be granted.

Attorney Hornick stated that the neighbors have requested a continuance of the matter until next month to give them adequate time to prepare a case in opposition to the Special Use Permit; therefore, the neighbors in opposition have to prove they have standing.

Attorney Hornick stated that the neighbors in opposition may nominate one speaker for the group, or if they wish to speak individually, the Board may hear their comments and then the Board would vote and determine if they have standing.

A neighbor asked if a question was allowed. She stated that she was hearing this information for the first time and that she didn't understand what all of this means and that she just received the information about the meeting a few days ago. She stated that the information that the attorney provided was new and she was interested in a continuance so that she and other neighbors could educate themselves and not appear to be fumbling around.

Attorney Hornick said that unfortunately it was a matter of law. He reiterated that there is a distinction between being able to participate as a party, meaning that you are allowed to cross examine witnesses and present evidence; and being able to participate as a citizen of Sanford. Everyone that is a citizen is entitled to speak. Everyone, regardless if you have standing or not, is allowed to get up before the Board and state their feelings about this particular request. The standing issue is important because it determines what level of participation the person is entitled to in regard to this hearing.

Attorney Hornick said the most important thing to recognize at this stage is that the applicant is the only one whose rights are being threatened or in question. The applicant is asking for the City to approve a specific use of their property. The neighbor's rights will not be affected at all; and they are still entitled to use their property in the exact same way as they always have. That is why the neighbors don't have the same right to participate, unless standing can be demonstrated. If standing is demonstrated, then the neighbors will be on equal footing with the applicant. At that time, they will be able to ask for a continuance.

Attorney Hornick stated that the order of the hearing is that staff will present the request and then the applicants are responsible to present clear, competent, and substantial evidence to show that they meet all the requirements of the City's Ordinance. The purpose of the meeting is to make sure that everyone understands, particularly the Board, the details of the application and to ensure that the application meets all if the standards and requirements of the Ordinance.

The neighbors in opposition who wished to prove that they have standing provided their names and addresses to staff person Amy McNeill, who wrote this information on a piece of paper that was provided to the Chair. The neighbors established that Edwin Patterson would speak on behalf of the Apple Square property owners. There were two people who were speaking in favor. **Exhibit A**

Administering of Oath: Chair Judd called all participants speaking in favor of or against the Special Use Permit, as well as staff, to come forward to be sworn in for testimony. Petitioners, Larry and Kim Henson; Edwin Patterson; Joni Martin; Joan Griswold and staff person Amy McNeill, appeared and were administered the oath.

Attorney Hornick reiterated that in order to have standing you must demonstrate that you will suffer special damages. The law of the Courts of the State of NC have interpreted this vague statement to mean that it has to be demonstrated that the party will suffer damages that are distinct from the community. Typically, that means that a statement that the property owned is near the subject property, by itself, it is not enough. A statement that property value will be harmed by the subject application is not enough by itself, but it can be considered as part of the argument. A statement regarding traffic impact is not enough by itself, but all those statements together can be considered as part of a consideration for standing.

Prove Standing

Edwin Patterson of 2575 Center Church Road, Sanford, NC spoke on behalf of himself and the other Apple Square property owners. He read his statement. **Exhibit B**

Attorney Hornick advised the Board that questions need to be asked of Mr. Patterson to help determine if he and his Apple Square neighbors have standing. Any decision made by the Board needs to be based on competent, material, and substantial evidence presented on the record.

Cross-Examination: Chair Judd asked where the information came from regarding the 9,200 cars daily on Hawkins Avenue.

Evidence Presented by Mr. Patterson: Mr. Patterson it came from a study that Cornelia Olive had access to that was performed by the State.

Cross -Examination: Vice Chair Groce asked if there was a topography map with elevations.

Evidence Presented by Mr. Patterson: Mr. Patterson stated that he had a topography map.

Cross-Examination: Vice Chair Groce asked where the drainage issue that is in question is located.

Evidence Presented by Mr. Patterson: Mr. Patterson stated that the drainage issue was at the edge of the driveway and parking lot of Apple Square.

Cross-Examination: Vice Chair Groce asked if there was a drawing of the location.

Evidence Presented by Mr. Patterson: Mr. Patterson presented topography map and pictures of the drainage issues. **Exhibit C**

Mr. Patterson stated that there are six units as you turn into Apple Square that have bedrooms facing the property; therefore, any lights or noise is right in their face. The proposed use would degrade the quiet nature of the neighborhood. It is an area of residential living. There is not a business on that side of the street between Taylor Automotive down to the pool place. This Special Use Permit would allow a business in the middle of a neighborhood.

Cross-Examination: Board member Anderson asked if there is any kind of fencing buffer around the Apple Square neighborhood.

Evidence Presented by Mr. Patterson: He confirmed that there was fencing on the back side, but not on the front or side toward this property.

Cross-Examination: Board member Groce asked if there was a map of the property.

Evidence Presented by Staff: Amy McNeill stated there were GIS maps included in the agenda packet, with and without aerial imagery.

Cross-Examination: Chair Judd asked Mr. Patterson to clarify his parking statement regarding the required number of parking spaces.

Evidence Presented by Mr. Patterson: He said he didn't know if the applicant met the parking requirement. He said that there is no regulation on the number guests that could attend. He said that on the plat that the neighbors saw, the applicant had created 50 parking spaces on the property and they indicated that they could accommodate an additional 50 parking spaces on Morris Street. His contention is that any parking on Morris Street will impede the highway

and that there is only room for 17 spaces, not 50 spaces on the property. He said that he felt that the applicants would not regulate the venue and if they had a large wedding party, he didn't know how they would accommodate it.

Attorney Hornick asked if it was fair to say that the group of neighbors are not necessarily opposed to the Special Use Permit, but that they are really seeking a guarantee that, if it is approved, it meets all of the requirements of the Ordinance; or if they are strictly opposed to the Special Use Permit.

The neighbors indicated that they were opposed to the Special Use Permit.

Attorney Hornick stated that, per the language of the Ordinance, if the applicants could meet all the required standards, they are entitled to the Special Use Permit as a matter of right. The only thing that could be done as neighbors, if it is determined that they have standing, is to present evidence to show that the applicants do not or cannot meet the standards of the Ordinance.

Attorney Hornick stated that he wanted to be clear what the burdens of both parties will be to present their case.

Mr. Patterson asked about the potential of flood risk. He stated that the neighbors know there is going to be greater run off because it has already happened due to people changing the land and that creating paved parking areas on the property will certainly exasperate the problem, and it should be an issue that is considered.

Attorney Hornick stated that it seems that there have been assumptions made about the Special Use Permit and that the applicants have not yet presented their application and evidence. Therefore, the neighbors are assuming there is an increased flood risk. As neighbors, you are entitled to ask the Board to impose reasonable and appropriate conditions upon approval. If based on the presentation that the applicants make, there is still concern regarding drainage and flooding issues as a result of the request; you can require the applicant to take flood mitigation measures.

Attorney Hornick also said that, if there are still concerns with noise and light, the neighbors can ask the Board to impose conditions, if they decide to approve the Special Use Permit, to mitigate the noise and light concerns.

Attorney Hornick said before the specifics of the application are discussed, the applicants should be allowed to present their case.

Attorney Hornick informed the Board that they need to determine whether or not the neighbors have standing and will suffer special damages and are allowed to participate. Then, once that determination is made, the applicants will present their application and evidence.

Cross Examination: Vice Chair Groce asked how many units are in Apple Square.

Evidence Presented by Mr. Patterson: Mr. Patterson said there were ten units in Apple Square.

Edwin Patterson asked if the Special Use Permit request meets the standards of the Ordinance.

Attorney Hornick stated that his role is not to determine if the applicant's request meets the standards of the Ordinance; but to ensure that the Board is following the required procedures.

Mr. Patterson asked staff if there is an ordinance or ruling on water draining from one property to another.

Amy McNeill stated that this is not regulated at a local level. All storm water regulations are handled through the State. The local Zoning Ordinance does not require storm water ponds; retention ponds; or local grading permits.

Cross Examination: Board member Anderson asked if, when the Board makes a decision, it is binding and what happens if it is appealed.

Attorney Hornick clarified that the Board is the one that is making the final decision on the Special Use Permit. The Board is building a record that could be appealed to the Lee County Superior Court within 30 days of the final written decision if any party is not satisfied with the decision.

Chair Judd stated that the Board would discuss if Mr. Patterson and the other adjoining property owners have standing.

Vice Chair Groce stated that this property is surrounded by streets on three sides with Apple Square being within the contiguous block. There are no other adjacent property owners other than those that have streets to divide them. Apple Square is the most likely to have standing.

Board member Anderson stated that regarding the concerns for lights, noise, and drainage; Apple Square would likely suffer more damage than other neighbors; therefore, he believes they should be allowed to have standing.

Board member Willett stated that the property owners that would most likely have standing would be the property owners immediately adjacent.

Chair Judd stated that six units in Apple Square have bedrooms that face this the Applicants' property and that he believes that the Apple Square neighbors should have standing.

Vice Chair Groce stated that if anyone should have standing it should be the Apple Square neighbors given their location.

Board member Anderson said that, in his non-attorney mind, the lights, noise and drainage seemed to be special damages, but wasn't sure if would qualify.

Attorney Hornick said that an important distinction is that the Board should not be concerned with monetary damages. He said that a better way to think about it is, will these people suffer a special harm that is distinct from other property owners in the area.

Attorney Hornick said that, based on the discussion, it appears that the Board thinks that the Apple Square property owners would suffer special damages because there is the potential to have lights and noise that may disrupt the use of their property that would not affect other adjoining property owners in the same way.

Board member Anderson said that he felt that the Apple Square property owners made a case for standing and that they may potentially suffer harm.

Board member Willett said that any property owner wants to value their property as high as possible and they don't want anything to obstruct the value of their property. The applicants bringing the Special Use Permit are trying to enhance the use of their property. The adjacent owners are worried about it affecting the use of their property and some of the neighbors stated that they just found out about the case on Friday afternoon.

Amy McNeill stated that the notices were mailed ten days prior to the date of the hearing. The property was also posted with a signs regarding the hearing and a legal notice was advertised in the local newspaper.

Board member Anderson asked if the request can be tabled whether or not if the Board finds that the neighbors have standing.

Attorney Hornick informed the Board that they control the agenda and can make decisions at their discretion. The law states that any application brought before the Board needs to be considered within a reasonable time. The law does not state a time frame, and that is decided within the context of the situation. He said that the Board would be within its rights to continue the hearing until next month.

Vice Chair Groce said that it still needs to be decided if the neighbors have standing. The applicant has the right to be heard.

Applicant, Kim Henson, said that they originally submitted the application in April and then pulled the application so they could address the neighbor's concerns.

Vice Chair Groce stated he remembered getting the packet of information and then the meeting was cancelled.

Motion: Vice Chair Groce made a motion that Mr. Patterson and the Apple Square neighbors have standing because of the issues and concerns they have raised, which warrants understanding so that the Board can make an informed decision. It also gives the applicant the opportunity to address how they are going to mitigate the issues and concerns of the

neighbors. Board member Anderson seconded the motion. The motion carried unanimously with a show of hands, and a record of the vote is as follows:

Ayes: Roger Judd, Chair
Van Groce, Jr., Vice Chair
Gordon Anderson
Ron Willett
Randy Jackson

Noes: None

Attorney Hornick stated that now that it has been determined that the neighbors have standing, it is up to the Board to determine whether or not to continue the hearing to next month. He said that the applicant has a significant interest in getting this matter decided as quickly as possible, but based on the motion regarding standing, the neighbors also have a legitimate interest in this process. It is the Board's decision to determine how to handle this matter.

Vice Chair Groce asked if the Board could hear the applicant's case and then stop and continue at any point. He also asked when the application was first originally submitted, when the letters were sent out and the property posted.

Amy McNeill stated that letters were mailed and the property was posted as legally required.

Vice Chair Groce stated that questionably the property owners knew about this case for six months.

Attorney Hornick advised the Board that an appropriate way to handle the case is to allow staff and applicant to present the Special Use Permit request, but it is entirely up to the Board. The Board can discuss this matter and if, at the end of their presentation, the Board feels that they have adequately proven and met the burden required of them in the outline of the ordinance, then a vote can be taken. If, however, the Board thinks they need more information or the neighbor's concerns have not been adequately addressed, the matter can be continued. It would be helpful for the neighbors as well to get a better understanding of what they are proposing. Attorney Hornick thinks that some of the concerns are already addressed as part of the plan. This way everyone can be given a fair shake.

Vice Chair Groce said that since the Board has convened that some work could be done.

Chair Judd said that Mr. Patterson doesn't have enough information about the project.

Vice Chair Groce stated that the Board needs to let the applicant give the information and suggested the Board proceed with hearing the Findings of Fact and staff's report.

Attorney Hornick stated that if the Board does not want to entertain a Motion to Continue the hearing then they may keep moving forward with the meeting.

Amy McNeill clarified that the Board is not agreeing to table the meeting at this point, but will possibly table the meeting after the applicant has presented the evidence.

Chair Judd asked the applicants if they were represented by counsel and they were not.

Staff Report

Amy McNeill presented the Staff Report. **Exhibit D**

Opening Statement

Applicant, Kim Crenshaw Henson, distributed the Event Contract. **Exhibit E**

Larry Henson stated that the application addresses all of the neighbor's concerns.

Kim Henson stated they bought the property two years ago. The property had been vacant for five years. It was in bad shape and the owners, after a lot of negotiation and assuring the sellers that the house would not be torn down and apartments built, restored the house to its original splendor. They have spent a lot of money and put a lot of hard work into making the home a show place. It was purchased with the intention to use it at as a wedding venue. Sanford needs this type of venue. It will be a high scale and top-of-the-line venue. There are no other venues in the area with a historic home and outdoor garden space. It will bring another level of class and style to Hawkins Avenue. They are proud to have been able to restore a historic home and make it a showplace in Sanford. They hope they will attract people from Southern Pines, Chapel Hill, Pittsboro, Raleigh and Durham to Sanford.

Kim Henson addressed the application requirements.

Larry Henson stated that the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved because they will have a maximum of 70 guests and are only proposing one evening wedding a week, on Saturdays. The events will end promptly at 10:00pm. All guests will have to respect their home. They want to host elegant events, not parties. This is their home and they will attend all functions. They want events to be very quiet, elegant and subtle. They have changed the pavilion that was going to be on the side and very large; to a porch outside on the back of the house. No concrete or wood. The parking spaces will be grass and not concrete. The drainage will not change. Current drainage problems are due to the elevation of the hill, which Apple Square is below. The developer of Apple Square knew of the issues, because the house was there since 1925. Therefore, the new use will not increase the drainage problems.

Kim Henson stated that they will add trees to help with the drainage issues and that there are only a few spots along the property line that are bare. They propose to plant trees to create a barrier that will help with any problems that are occurring with drainage. The event venue will not cause more water to run onto the neighbor's property.

The Contract (Exhibit D) addresses the concerns of the neighbors. Kim Henson stated that she and her husband are older people and they really only want to have one elegant, beautiful evening event a week. There will be no bright lights.

Larry Henson said that Apple Square currently has a street light for security purposes that is far brighter than any lights that will be used at the event venue, which shines into all of the residents' windows.

Kim Henson stated that no spot lights will be used at the events. They will use only string lights on the porch or inside tents and possibly chandeliers. There will be no other type of lights.

Larry Henson said that there is a huge magnolia tree between the properties and their lights will not penetrate the foliage.

Larry Henson experimented using a decibel noise meter and the speakers that will be used for events. He turned the volume up to 85 decibels and went to the corner of the yard, past the magnolia trees. The level of decibels was 30, which is the same level as rain. They went to the neighbors, who gave them permission, and went to their front doors and heard nothing. Mr. Henson says the contract states that no music can be over 70 decibels.

Kim Henson says that all parking will be in the front of the property. The visitors would turn off of Hawkins onto Morris and the driveway will be the entrance. Therefore, that will help with the flow of traffic. The headlights of anyone leaving would be facing away from the units and towards the venue. Also, the additional hedges would block any lights.

Kim Henson said that the Walk Out Baseball Academy is across the street and people are leaving late a night. The neighborhood has commercial uses directly across the street and it is not a quiet neighborhood.

Larry Henson said this is only one evening event a week. All other events will be during the day. People don't arrive and leave all at one time. They will have people directing traffic into the property and showing people where to park.

Larry Henson said that there will be no hard liquor and anyone displaying drunken behavior will be asked to leave. Only beer and wine in moderation will be allowed.

Kim Henson said she does not care to have wild, drunken parties at her home. It is going to be marketed like a five-star restaurant. Just as her photography business, her reputation, is among the top for over 20 years. Her desire is not to have huge weddings with loud bands, partying into all hours of the night.

Kim Henson would like to host charity events in the house.

Larry Henson wants to make sure their image and the image of Sanford is high class. There are so many homes that have been torn down or are now businesses. This is one of the few homes that is left that is a grand home on Hawkins, and it is their desire to keep it that way.

Larry Henson said if the Special Use Permit is not granted, then they would have to sell the home. They have spent a couple hundred thousand of dollars to restore the home and can't recoup those costs. They don't want this as their home without this use.

Kim Henson said that when they bought the house it was in horrific shape and it was purchased for \$105,000.00. It was just appraised two weeks ago for \$305,000.00. She said that is absolute proof that they have increased the value.

Larry Henson stated that they are only about 80% finished with the renovations. They haven't built the porch or patio; and the home has increased in value three times over. A grand home that is worth that kind of money and potentially worth more is going to enhance all the surrounding properties.

Attorney Hornick asked the applicant to speak more about each of the condition and the standards that they are required to meet.

Kim Henson stated that the how use will not materially endanger the public health or safety that is addressed in the contract, specifically how guests are expected to behave, how the parking is handled, and information regarding noise and lights.

Larry Henson said that they will always be in attendance along with others to monitor all events.

Cross Examination: Vice Chair Groce asked is there a handicap bathroom requirement, and if they had to have more than one.

Evidence presented by Staff: Amy McNeill confirmed that there is a handicap bathroom requirement, and at this time the applicant has not had a design professional go in and determine what will be required to meet the needs.

Evidence presented by Applicant: Kim Henson said that a handicap bathroom has already been created. Larry Henson said that they are required to follow all regulations by the inspectors. Kim Henson said that the plans state that everything will be handicap accessible and they are waiting to be told if there is anything additional that needs to be done.

Cross Examination: Vice Chair Groce stated that this may determine how many people may attend events.

Evidence presented by Staff: Amy McNeill stated that was correct, but at this point the applicants didn't want to spend the money to secure the services of a design professional until the Special Use Permit was granted.

Evidence presented by Applicant: Kim Henson said that they haven't created the ramp into the house, but the bathroom to be used as been upfitted as a handicap bathroom. Larry Henson said that until the Special Use Permit is granted, they do not want to spend the money on ramps and such.

Cross Examination: Board member Groce wanted to know if the applicant understood that there would be a threshold of people that the home would accommodate.

Evidence presented by Staff: Amy McNeill stated that a maximum capacity has not been determined by the Fire Marshal, which is why there is language in the report that applicant would have to comply with all applicable codes. At this time, the information in the agenda is the level of detail that the applicant is willing to provide until they have zoning approval. The applicants don't want to spend any more money, even on design professionals, without knowing if they will be able to follow through with the request.

Evidence presented by Applicant: Kim Henson said that it would be \$20,000 or more to finish the project.

Cross Examination: Vice Chair Groce stated that he is not asking that they do it, but making sure they understand the process.

Evidence presented by Staff: Amy McNeill said that the downside is that if the Special Use Permit was granted for a certain number of people and yet the Fire Code said they could only accommodate half that many, then the applicant would have to comply with the Fire Code.

Cross Examination: Vice Chair Groce just wanted to make sure the applicant was aware of the requirements.

Evidence presented by Applicant: Kim Henson said that during weddings, the bridal party will be the only ones allowed in the house. There will not be 70 people in the house.

Cross Examination: Vice Chair Groce when they discuss item #1, public safety, he asks because it is vague in the application.

Evidence presented by Applicant: Larry Henson said that will have to follow all guidelines of Fire Marshal or other inspectors. Kim Henson said that she understands that if the Special Use Permit is granted, that she will still have to comply. Larry Henson said they cannot open up a public venue with out the Building and Fire Codes being met.

Cross Examination: Vice Chair Groce stated that codes are confusing, because it is an existing home and not a new build and not a direct path.

Evidence presented by Applicant: Larry Henson stated that he knows the departments will follow up with making sure they meet the codes. Kim Henson stated that they are legally bound to codes; and she would write it in the application if needed to make the Board comfortable that she will meet the requirements. Larry Henson said that legally they have to

comply or the venue cannot be opened to the public. Kim Henson said the site plan, in the application, shows that there is handicap parking and a walkway to the porch. The bathroom is off of the porch. Larry Henson said that if the Building Code requires more than one handicap bathroom, they will create an additional bathroom.

Cross Examination: Chair Judd asked that if they park on the grass, how would it be determined how many parking spaces would be allowed.

Evidence presented by Applicant: Kim Henson said they would measure and section off the parking area with posts that will indicate where to park. Something very pretty and classy; with the addition of people directing where to park.

Cross Examination: Chair Judd asked if the code said they could have 30 parking spaces; then would they have 30 posts.

Evidence presented by Applicant: Kim Henson said you wouldn't need that many stakes. Larry Henson said the ordinance says the parking spaces have to be so wide; and they have made sure and will be allowed 30 spaces. Kim Henson said that there will be posts down the middle so you will be able to tell where to park. Larry Henson also said there will be people directing parking. Kim Henson said there will not be 100 cars coming onto the property, and they will not all be coming in at the same time. Larry Henson said there is a Presbyterian church up the street that has over 200-500 people on Sunday coming in and out on Hawkins. They have no traffic problems.

Larry Henson said that he believed they have addressed all the issues; and Kim Henson said that she could expand on any items as necessary.

Chair Judd stated that the problem is that when the deliberation process starts they have to answer all the questions; and if the applicant has not given the evidence or proper information, then they can't answer the questions to be able to properly vote for or against.

Larry Henson stated they have tried to address each question. He said they felt that the value of their home would enhance the surrounding property values because it is a beautiful home and not apartments at the location. It has already increased three times in value and will increase again before the home is finished. Therefore, it will not devalue property values.

Amy McNeill told the applicants that they needed to address Item #2 and so forth.

Attorney Hornick said that it was at the Board's pleasure, but he felt they needed more evidence and to address the other questions and requirements.

Kim Henson stated that the use meets all the required conditions because of the contract and they have agreed to adhere to the rules.

Cross Examination: Vice Chair Groce asked Staff, Amy McNeill, what are the conditions and specifications of the Special Use Permit for this use.

Evidence Presented by Staff: Amy McNeill stated that per the UDO there are no specific unique design standards for this type of use. So, the Board would need to look at the property and see if there were any conditions that should be imposed based upon something that is unique about its character. There are general design standards such as a certain number of required parking; and there is a landscape buffer that is required between the proposed use and adjoining property owners. The applicant has expressed a desire to leave the existing landscaping as a buffer and to simply enhance it. The existing landscape buffer meets the requirements.

Evidence presented by Applicant: Kim Henson stated that there is really heavy foliage and old growth trees around the entire property. The house is not visible, without looking down the driveway, from the road. The trees are oaks, pines, and magnolias. The photos presented show only two small areas where you could even see any neighbors, which are adjacent to Apple Square. Kim Henson said that a privacy fence could be installed, but she felt that the trees were more aesthetic and would help with the drainage issues.

Larry Henson said that this is two acres of land and most houses are on smaller lots in the City limits of Sanford.

Kim Henson stated that because of the lack of foliage in the winter time, there will not be any weddings in January – March. This is to accommodate the neighbors, because the foliage will be sparse. Larry Henson said there are two reasons, because there are few weddings in the winter and they want to go to the tropics in the winter.

Attorney Hornick asked what evidence the applicant had regarding what affect the proposed use will have on the adjacent or abutting property owners' values.

Kim Henson said that the biggest evidence is that they have increased their property value from \$100,000.00 to \$300,000.00.

Cross Examination: Vice Chair Groce asked if there were copies of the appraisal.

Evidence presented by Applicant: Kim Henson stated that she did not have the appraisal at the meeting, but would provide it to the Board. Larry Henson stated that if you are going to be next to a beautiful stately home and not a bunch of apartments, from a realty view point that would be much more valuable and desirable.

Cross Examination: Vice Chair Groce said that the Board has to have evidence; and it is not an opinion of applicant or neighbors. He said that the applicant has certainly spent money to enhance the property as opposed to letting it deteriorate.

Evidence presented by Applicant: Kim Henson said that they propose taking a beautiful old home and being able to use it to serve a community, but still keep it as a home. Larry Henson said that logic dictates that an old southern home that was one of the grandest homes in Sanford, that has been restored and brought back would enhance the property values around it

than if was torn down and something else built on the site like apartments. Kim Henson said that, given the type of venue proposed, no one would be able to tell if it would or would not hurt the property values down the road. Kim Henson said she feels it would be an enhancement to the community. Larry Henson said that due to the appraisals and logic it is clear that it will enhance the values.

Attorney Hornick asked if the applicant had any documentation about the value other than their opinion. He said that the neighbors are going to say that in their opinion it is going to harm their values because of strangers coming to the property. He said then it becomes your opinion vs. their opinion and the Board won't be able to determine which one is correct. He asked the applicant if there was any other evidence that would suggest that the venue would not substantially injure adjacent property owners.

Evidence presented by Applicant: Larry Henson said that they could certainly supply the appraisal and an expert to testify. Kim Henson said that she believes that you would almost have to have a crystal ball to predict the future.

Attorney Hornick suggested hiring a real estate appraiser.

Larry Henson said they have gotten an appraisal and they would supply that documentation

Cross Examination: Vice Chair Groce asked if apartments could be built on this particular lot.

Evidence presented by Staff: Amy McNeill stated yes, the zoning is R-12.

Cross Examination: Vice Chair Groce asked about the density.

Evidence presented by Staff: Amy McNeill said the maximum density is 3 ½ units per acre, which would be approximately 9 apartments, without rezoning.

Vice Chair Groce asked if the applicant could have a party every weekend at their house and invite all their friends and park in their front yard.

Amy McNeill said yes, because the land use would still be a single-family dwelling.

Cross Examination: Chair Judd asked the applicant to expand on the requirement that the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area.

Evidence presented by Applicant: Kim Henson said that the use would bring more beauty to Hawkins Avenue and that she thinks it will make the property more beautiful. Larry Henson said that they visited Jimmy Haire, who had photographs of the homes on Hawkins Avenue in 1930, and that they are one of the few property owners that have a home left on Hawkins Avenue. He wants to make sure that the home is enhanced and completely brought back to the way it was in 1925. Kim Henson said that they will be very proud of the home, just like

the one they renovated in Apex. They relocated a two-story, 2,500 square foot home that was going to be torn down four miles down the road and made it into a showplace. There was an acre of gardens for her photography and it was very well known on Hwy 751. They bought the property for \$35,000.00 and sold it for \$680,000.00. Kim Henson said she knows how to take old homes and make them beautiful. Larry Henson said that is their whole purpose is to enhance the neighborhood, to make it more. Kim Henson said that they want Sanford to be proud of this home. Larry Henson said the Chamber of Commerce, Council members and others have all said that this would be a good thing for Sanford, and because of that they kept going to make it so.

Cross Examination: Board member Jackson stated that the application stated there would be 60 decibels for sound and DJ's, but testified to 85 decibels.

Evidence presented by Applicant: Larry Henson said that 85 decibels is the study they did to provide information that it wouldn't impair any property. The decibel dropped to 30 at the end of the property and nothing at the doors of the neighbors in Apple Square. Larry Henson said that this was done to show that at even higher volumes than they would have it, the sound wouldn't impact the neighbors.

Attorney Hornick asked if the City has a noise ordinance that says specific maximums for noise levels.

Evidence presented by Staff: Amy McNeill stated that the City has a noise ordinance but it is not part of the local zoning ordinance, so she is not familiar with the specifics.

Evidence presented by Applicant: Kim Henson stated that the events would end an hour before the City ordinance requires.

Attorney Hornick stated that he wanted to make the applicant aware that the City Ordinance would have a maximum decibel level.

Larry Henson stated that they researched this matter and determined that they are below the maximum level. Kim Henson said they would not have any live bands, unless it would be a string quartet.

Cross Examination: Vice Chair Groce asked if that information was available tonight.

Evidence presented by Staff: Amy McNeill stated that the information in the City Ordinance was not available tonight at the meeting.

Attorney Hornick stated that from a legal standpoint, even if the Board did somehow approve a Special Use Permit that allowed noise levels above what is authorized by the City Code, they still couldn't have noise above that level because it would be illegal.

Cross Examination: Vice Chair Groce asked if there was a lighting code.

Evidence presented by Staff: Amy McNeill stated that there was a very general statement in the zoning ordinance that says that light needs to shine on your property and not on the adjoining property owners, basically be a good neighbor. She said that typically she makes the people aware, they provide the lighting information, and if she gets complaints she will reach out to the applicable party.

Chair Judd asked Edwin Patterson if he had questions for the applicants.

Cross Examination: Edwin Patterson mentioned testing levels to 85 decibels. He said that if you look at a noise level chart, and he has been involved in a plant facility, 85 decibels is equivalent to a loud radio. That is nowhere near the level of a PA system or perhaps playing music through speakers. If you check 85 decibels, there is no wonder you would get a low level at the neighbors' house because it is not that high.

Attorney Hornick asked if staff could pull the City Noise Ordinance. He wanted everyone to be clear on the fact that, regardless of whatever information is presented on their application, they are limited by what the City Code states. Without a Special Use Permit, and it being a single-family lot, they would be allowed to make the same amount of noise no matter the use.

Evidence presented by Applicant: Kim Henson said she did research on the average DJ decibel levels. It is generally a broad range and they don't go over 85 decibels, which is the reason they tested at 85 decibels. Larry Henson said 85 decibels is the equivalent to noise of power tools and jack hammers. Kim Henson stated that across the street is an auto body shop which is loud with car noise. Larry Henson said he tested that with a sound meter and that was 120 decibels. They aren't trying to have loud parties. They want to have elegant events.

Clerk, Angela Baker, gave the Board the City Noise Ordinance. **Exhibit E.**

Cross Examination: Edwin Patterson stated that the application said the property was 2.32 acres, but, if you run the numbers on the plat, it is exactly 2 acres. He said that it is a popular thing now for wedding parties to get together the night before the event. If the house is having a Saturday night wedding, will the bridal party be able to stay at the home the night before.

Evidence presented by Applicant: Larry Henson said that if there is an event the night before, it will be inside the house and not outside. No one the night before will be outside. The house only sleeps six people, so it will not accommodate a lot of people. They have a home, not a hotel.

Cross Examination: Edwin Patterson questioned the grass parking. If parking occurs week after week on a grass parking lot and it rains, you going to have quagmire. He cannot imagine that it will be usable over time with people in dress shoes getting in and out of their cars and walking on a grass parking area.

Evidence presented by Applicant: Larry Henson said that other venues have grass parking areas and have no issues, with two or three weddings a week. Also, they will not allow it to

be a quagmire, because people will not want to have their events there if that occurs. Kim Henson said that the yard has been there for 100 years and it is solidly packed. Her daughter has a Ford F150 pick up truck and drives across the yard and there are no issues.

Cross Examination: Edwin Patterson said that the parking volume would include caterers, peripherals, and support staff that would come and go with the wedding in addition to the participants in the wedding.

Evidence presented by Applicant: Larry Henson said there will be individual parking for the bride and groom and a concrete driveway is already in place for those with special needs.

Speaking in Favor

Joni Martin, 1313 Bickett Road, Sanford, NC. She said that she is speaking in support of the proposed Special Use Permit. As has been stated earlier in the evening, there is Light Industrial zoning as well as commercially zoned properties, and all along Hawkins Avenue and there are different zoned properties with residential mixed in the area. This property was once vacant for many years and it attracted vagrants and vandalism. As a resident of the neighborhood, she is very pleased to see that the Henson's have completely restored this beautiful home in the hope to use it as a venue for small gatherings. In order to save these older historic homes in the community, which are such a vital part of history, people have to be creative and make it feasible for these restorations that preserve the historical integrity of these homes. A venue like this would be a beautiful location with a wonderful home that has a beautiful garden and grounds. Hopefully, it might even spur business along Hawkins Avenue that would support this type of business. As stated earlier, there would be no added impervious materials for parking, so the drainage will remain the same as it is currently. The noise levels will remain low and they will have to abide by the current City noise ordinance. She stated that she has experience with the noise ordinance at Depot Park and all noise has to be shut off at 10:00pm, and is uncertain about the decibel part. She added that where she lives on Hawkins Avenue they can hear a church over on Burns Drive regularly on Sunday mornings. They also hear the noise of a resident on Saturday nights. A venue like this is no different than a private resident with the noise levels that go on. The parking will be kept to the property of the Henson's and not on the public street. The events will be over by 10:00pm and only one event on the weekends and not during the winter months. She said that if you travel outside of Sanford and many other historic district communities across the state, there are many cities like Southport, Raleigh, Southern Pines and Pinehurst close to us that have venues of this sort in residential areas and when you see them they are gems of a community. They also help to bring tourism to our community. They also attract business, add to tax base, and they need the support of the community. Thank you.

Joan Griswold, 513 Apple Lane, located in the townhome community of Apple Square off of Hawkins Avenue. She has reviewed the Special Use Permit application of Kim and Larry Henson for developing their property at 1121 Hawkins Avenue as a wedding and special events venue. She has looked at the before and after photographs included in the application and at the photographs of previous properties the Henson's have renovated. She has visited

the Henson's property before and after the renovation and period reconstruction. The Hensons are very skilled and talented in their endeavors to create a beautiful property. They have turned a house that was vacant and deteriorating into a Sanford showplace. As more and more couples are choosing venues in lieu of places of worship for their weddings, it seems very fitting that a wedding venue would be perfect for the Henson's beautiful property. Once the gardens are completed, the Henson's property will be, to her knowledge, the best garden venue in the City. There will surely be out of town guests attending weddings. What a wonderful opportunity to showcase our City's attractions and events such as the Temple Theater, Depot Park, the beautiful murals, free summer concerts, art shows, and various other events throughout the year to only name a few. The economic impact will certainly benefit Sanford. Parking on the Henson's property will be kept to a minimum. No massive flood lights will be used and only low decibel music will be used for elegant events. The Henson's have said they will address any concerns the residents of the Apple Square might have. They have also said that it is truly their desire to be good neighbors. It is her belief that a wedding venue will in no way affect the quality of life for the residents of Apple Square. Approvals should not be based on personal speculation, but on whether or not the proposed use will be an asset to the community. If Sanford is to grow and establish a sound economic base, we must accept change and welcome new businesses. She supports the application being approved. Thank you.

Closing Statements:

Larry Henson stated that they plan on creating an elegant place that will enhance Sanford and to be good neighbors. They have addressed all the requirements of the application and the concerns of the neighbors. If there is anything else that is a concern, they are most definitely willing to look at it and to do anything to make sure they are good residents of Sanford.

Edwin Patterson stated that if you follow the details about no noise, no lights, no late times allowed for events, he doesn't know who will use the venue.

Larry Henson stated that he felt there are people that would like to have a wedding in a beautiful southern home.

Kim Henson stated that their daughter did a destination wedding in the islands. She would have had exactly that kind of wedding with 50 guests.

Attorney Hornick asked that, before any further discussion is held, if the neighbors had anything more to summarize, such as why the applicants haven't met the standards required by the Ordinance.

Edwin Patterson said he didn't have anything further to say.

Chair Judd summarized the testimonies.

He said that Larry and Kim Henson wanted to enhance their home in Sanford and be good neighbors. Willow trees will be planted to help with the drainage. No spot lights will be

used. The noise decibel levels will not exceed 70 decibels. Parking will be on site and no parking on the street. The events will be over by 10:00pm, and will be held only on Saturdays. They have enhanced their property by \$200,000.00.

He said Edwin Patterson stated that a radio is not comparable to a PA system. The property is on 2 acres of land and not 2.32 acres. Parking on the grass will increase the drainage issues. The neighbors are concerned with tenants staying on the property.

Chair Judd stated that the summary is intended to be the record of what has been presented and that they may offer any objections, corrections, or additions that will more accurately present their case.

Chair Judd stated that the granting of the Special Use Permit is based upon four findings of fact. Each finding requires a majority vote by the Board to be approved. When voting, the Board must render a decision on each of the required findings and must state a reason for approval or denial of each finding of fact. The Board members should indicate for each required finding the evidence on which the finding was based. On the basis of these findings, a Board member should offer a motion to either grant or deny the Special Use Permit. This motion should be discussed and any suitable conditions appended to it.

Chair Judd stated that if one of the required findings fail, they all fail.

In granting the Special Use Permit, the Board of Adjustment shall find:

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved.
2. That the use meets all required conditions and specifications.
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity.
4. That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with all adopted land use plans.

Attorney Hornick stated that given earlier discussion by the Board, it would be an appropriate time, before considering the individual findings of fact, for the Board to discuss if they feel like they have sufficient evidence to make a decision. If they do, then they could begin discussing the findings of each individual fact. If they don't then that would be an appropriate time for the Board to make a decision on continuing the hearing until next month. Those are the options for the Board at this time.

Chair Judd opened it up for discussion for the Board.

Member Anderson asked if there was documentation that could be provided regarding statements that were made, for example an appraisal. He said that he would like to take the applicant's word regarding the value of their home, but evidence is evidence.

Amy McNeill asked that, since earlier in the meeting it was established that the neighbors have standing, in the event that Board does not continue the meeting, will the neighbors not have an opportunity to present additional evidence.

Attorney Hornick said that the Board heard the applicant's presentation and the neighbor's concerns about the applicant's presentation. If the Board decides they do not have the information needed or did not receive sufficient evidence to make a decision on the application tonight, then both the applicant and the neighbors will present evidence at the next meeting. The determination that the neighbors have standing has been made, regardless of whether this meeting is continued or not.

Vice Chair Groce stated that if the hearing is continued, then specific items need to be required, such as an appraisal. There are some vagaries about the design, number of people and such. The agenda packet that was mailed contained all of the documentation provided by the applicants.

Attorney Hornick stated that he would be hesitant to advise the Board to ask for specific things from the applicant or the neighbors at the next hearing. He would suggest that the way the Board should handle the matter, if a continuance is granted, is to simply instruct the applicant and the neighbors to bring any additional evidence which they feel may prove that they meet the findings of fact. He would not advise the Board to give specific instructions to either side. He would suggest that, regardless of what happens, it may be appropriate for both sides to consult a design professional or an attorney that can advise on what evidence would need to be submitted from each perspective to prove that the standards are met or are not met. This would be the best way for each side to provide competent, material evidence to the Board.

Vice Chair Groce said that if the Board is to hear more stuff, it has to be factual. The hardest thing about these cases is the information provided needs to be evidentiary and not "I think". Opinions are not evidence from a professional concerning property values, noise levels and drainage issues. If the case is continued to allow more evidence, professionals need to be provided to give the evidence; otherwise a decision needs to be made tonight.

Attorney Hornick said the point is, the Board is saying that they do not feel that they have enough evidence to make a decision. If the Applicant cannot bring additional evidence to support the decision, then the application cannot be approved. Conversely, if the neighbors were to bring competent, material, substantial evidence at the next meeting that proves one or more of the four standards are not or cannot be met, then the application cannot be approved. The point is that there is a resolution at the next meeting one way or another. Either the applicant presents evidence that satisfies all the conditions are met or they don't. If the

neighbors present more evidence than the applicants and convince the Board that one or more of the conditions are not met, then the application is denied.

Vice Chair Groce said to look at item number two, which is that the use meets all of the required conditions. The conditions are not created by the applicant or the neighbors. They are within the UDO. Amy McNeill says it meets all the required conditions. I don't think either party can bring us anything else to help make that decision.

The Board adjourned for a five minute break.

The Board resumed the hearing.

Chair Judd asked Amy McNeill to go over the notice and the legal requirements.

Amy McNeill stated that there is a requirement for mailing a notification to the adjoining property owners at least ten days prior to the hearing date per the General Statutes. The postmark met the ten days requirement. Signs were also posted on the property and there were two legal notices advertised in the newspaper.

Attorney Hornick noted that the legal requirement is from the date placed in the mail, not from the date received.

Board member Willett stated that he personally needed more information.

Board member Anderson stated that he could use more information.

Board member Jackson stated that he didn't know what more information could be presented.

Larry Henson stated that they had spent a lot of money to get the venue in place and that they don't want to have to pay more money for professionals to prove the findings, when they feel that they have already proven the findings themselves. They started working on the application in April and would like to have a decision made tonight.

Attorney Hornick pointed out for everyone's information that if members of the Board don't feel like you have sufficiently proven a point and they vote not to approve one of the findings, then that means the SUP is denied.

Larry Henson stated that he understood and wanted a decision made if possible.

Attorney Hornick asked the applicants to verify that they would rather have a vote tonight and be denied, if that is ultimately what happens, than to have this case continued to allow an additional month to hire professionals or an attorney.

Kim Henson stated that she would like an opportunity to present the appraisal as requested by the Board.

Attorney Hornick suggested that a professional should be hired to provide sufficient evidence to prove that the findings of fact are met, for example a professional appraiser. Assuming that the appraiser was an expert and professional, then the burden is met. The point being that the applicant has a very clear burden to meet. He understands that it may seem difficult and confusing and that the applicants do not want to spend more money, but that is why you have professionals, to help you understand. The neighbors are also entitled to hire professionals to help show that the applicants have not met the burden. He is not advocating for either side, but that it could be helpful to all parties to hire professionals.

Larry Henson asked how they didn't meet the four findings of fact.

Attorney Hornick said that is not what the Board is saying, but they don't personally believe you have presented enough evidence. It doesn't mean that you haven't or want at some point, but they are not comfortable taking a vote at this point. He asked the applicant if they really want a decision tonight or if they were comfortable continuing the matter for another month.

Kim Henson stated that she would agree with a continuance.

Board member Anderson stated that the Board discussing the items and bouncing off ideas, may provide more information as to what the Board needs to make a decision. He said that regarding item number three, that the use will not substantially injure the value of adjoining or abutting property owners, common sense and logic dictate that someone putting a bunch of money into a house is going to improve the property value and presumably surrounding property values, but he would like to see documentation.

Vice Chair Groce stated that appraisers could be hired, but you have to not only look at the values of the properties across the streets and such. There is a lot of mixed use in the area. Once upon a time, the property owners probably didn't like having townhomes in the neighborhood of McCracken Heights. Not that it is wrong, but it did it hurt the values. It becomes subjective. If he is a homeowner and he has a party every weekend, it may or may not hurt the value of the property. The bedrooms of the townhomes are on the front of the properties, but the driveway divides the properties. The indication was backing up to the property, and there are cars driving up and down; cars going in and out past them; it is in the front yard to the large extent except for 507 and 509. Finish by 10 pm. If the SUP is granted, there need to be conditions. He feels that if the Board continues with the hearing, there is a lot of vagueness. The Applicant thinks they have answered all the questions, but the question that this use will not materially affect endanger public health and safety and you state that all safety is outlined in the attached documents. The list needs to spelled out so the Board can see it. Personally, there are conflicts because the Applicants numbers are fluctuating with cars one day, with people setting up or not setting up. There are 9,900 cars a day. The traffic impact on that if they are staying on the property; and not staying on the sidewalks, not on Morris Street, is nothing. There are a lot of things to take into consideration. He has been across the street at Line Drive, and spent 1,000-2,000 hours there in his lifetime, on every Saturday. Saturdays are not the high traffic day.

Kim Henson stated that she is willing to meet whatever conditions the Board would like to place on the permit and that she felt that greenery would be better than a privacy fence.

Vice Chair Groce said that regarding the buffer, it appears that they don't have to create an additional buffer. Amy McNeill stated that was correct and that the proposed buffer met the UDO requirements. The UDO doesn't get specific as to the type of buffer, evergreen vs. deciduous.

Board member Willett stated that his concerns are the property values and the issue with the decibels. The application states that the decibels will be limited to 60.

Kim. Henson said that was suppose to state 70. It was an error in the application.

Vice Chair Groce asked where the 70 decibels would be, at the property line.

Larry Henson stated that 70 is at the point of origin and it drops to 30 at the end of the property.

Kim Henson said that the porch or tent would be enclosed spaces.

Vice Chair Groce stated that if the applicant says that they are going to limit the noise to a certain decibel, then the question becomes, where it will be measured.

Larry Henson stated that it would be measured at the point of origin with a 99% effective sound meter and that they will not know the exact decibel until an event is held.

Chair Judd asked if the noise meter was calibrated.

Larry Henson stated that it is a calibrated tool that was used at the point of origin, edge of the property, and at the door of a condo. The noise level was measured it to make sure there was no impact on the neighbors.

Attorney Hornick stated that the meeting discussion needs to get back to taking a poll and figuring out the consensus regarding whether or not the meeting will be continued. There needed to be four affirmative votes on each finding of fact to be approved.

Gordon Anderson stated that, on the issues on which he expressed concerns, if there is some other way to summarize the opinion they have shown that they're not going to damage property values, he is open to discussion.

Kim Henson asked what kind of expert would the Board require.

Attorney Hornick said that has been clearly stated. Under the NC Rules of Evidence, which are not binding on Quasi-Judicial Boards, but are strongly suggested guidelines, the way you would prove that you are substantially injuring adjacent property values or not is to hire an appraiser, conduct an appraisal of surrounding properties, and determine whether those

property values will be harmed or not by the proposed use. Then you would have the appraiser come to a hearing and testify to how they conducted their review and what factors they considered. It would be up to the Board to determine whether they agree with the appraiser or not.

Larry Henson asked if the Board realized how much an appraiser would cost. He stated that they already have an appraisal on their house. To do additional appraisals is thousands of dollars spent for no reason.

Vice Chair Groce stated that they did not bring the appraisal with them to the hearing. The flip side is that if the neighbors want to oppose it, then they have to spend the money also. If neither side wants to spend the money, then the Board makes their best guess. If neither party is not going to do it, then the Board will make a decision tonight. But, if we are going to come back in a month, and we are going to hear more vagueness and not factual evidence, then he is willing to make a decision tonight. The difference is that if the applicant brings evidence and the neighbors bring evidence, then the Board can make a decision based on information documented on a piece of paper. He sees a lot of good merits in the application, but he doesn't see that anyone has proven anything.

Edwin Patterson heard the request about the appraisal value and how much it has increased. He stated that the neighbors represent a million dollars' worth of property values and they feel they will be taking a hit if the property goes from a quiet residential property to a "party center".

Vice Chair Groce said the question is, would it make any impact at all. We don't know that answer.

Larry Henson asked if an appraiser could determine if a property is going to be a "party center".

Vice Chair Groce said that an appraiser could go to another town with a similar venue, determine the value of the surrounding properties and then determine if the venue has impacted the surrounding properties in any way. None of us know. We only know what the applicant has said and what the neighbors have said. There is no expert at this meeting.

Amy McNeill clarified that, if the Board were to agree to continue the meeting, it would give an opportunity for both the applicant and the neighbors to present additional evidence. At this time, the applicant may or may not be willing to present additional evidence and the neighbors may or may not be willing to present additional evidence.

Kim Henson stated that she would be willing to present additional evidence.

Edwin Patterson stated that he and the neighbors would be willing to present additional evidence.

Attorney Hornick advised that if the Board decides to continue this hearing, it would give the parties a month to arrange to meet with staff and to determine what may help their presentations. Continuing the hearing provides an opportunity to gather more information. It sounds like right now that some members of the Board are unpersuaded by the evidence that has been presented thus far. This would allow an opportunity for the applicants to correct that.

Edwin Patterson asked if it is Amy McNeill and her group that they would need to meet with.

Attorney Hornick stated that, for everyone's information, the City Code and UDO are online on the City's website. All the standards are a matter of public record. Everyone has the same opportunities. The only difference is that the applicants know what information the Board would like to have.

Board member Willett stated, going back to item number three, the one Board member Anderson is also hung up on, that the applicant has proven that the property value has increased; however, that is not what the Board is asking. The Board is asking if, by using this property as an event venue, it is going to substantially injure the adjoining property values. It has nothing to do with the improvements made to the house. It is how the proposed use would affect the way the applicant wants to use the property. There is nothing in the paragraph that addresses that issue.

Larry Henson stated that logic dictates that the increase in his property value will increase the adjoining property values.

Board member Willett stated that proving the findings is about facts and not logic. An appraiser needs to provide information on property values.

Kim Henson said that if a realtor is needed to provide this information, they will get an appraiser.

Attorney Hornick advised that, based on the Rules of Evidence, a lay person who does not have expertise in a field cannot testify to their opinions on specialized matters. For instance, he couldn't testify to property values, because he has no expertise or training in those matters. Unless he has some factual basis or evidence that he could present to the Board, his opinion could not be relied upon since he is not an expert. If there are issues that either side wants to present evidence on, that are specialized, technical and outside the knowledge of the average person, that evidence needs to be presented by an expert. An expert can say that they went to college, studied real estate and, based upon education, know that in situations similar to this one what the affect on adjacent property values will be. Again, another reason that it is useful for both sides to consult with advisors who have expertise is that they will help to navigate what evidence is sufficient or insufficient to reach a finding.

Vice Chair Groce made a motion to table the hearing for 30 days, until October 9, 2018, at 6:00pm. Board member Anderson seconded the motion. The motion carried unanimously.

Attorney Hornick stated for the record for everyone to keep an eye the City's meeting calendar. That information is online. If, for whatever reason, the next regularly scheduled meeting is cancelled, presumably this case would be continued at the following regularly scheduled meeting.

Amy McNeill stated that she will contact the parties and notify them of the meeting date.

Larry Henson asked if the testimony presented tonight would have to be repeated at the next meeting.

Attorney Hornick stated that all of the evidence that was presented at this meeting is a matter of record. That is not to say that it would not be helpful to the Board for Mr. Henson to summarize the evidence and provide additional evidence at the next meeting.

Vice Chair Groce stated that the hearing would not start over, it would simply continue at the next meeting.

Attorney Hornick stated that if anyone in the audience wanted to make a brief general comment, limited to two minutes, it would be appropriate at this time.

Mary Solis, 507 Apple Lane, stated for clarification that Apple Square is not an apartment complex, it is a townhome community. She has lived there for four years. It is a community of ten seniors and it is their neighborhood. It is unique area. She is glad that this beautiful home has been restored. It is a unique situation. She does not want lose their quiet little neighborhood. She presented **Exhibit** to show the drainage issue and the view from her front door into the venue site.

Larry Henson wanted to make a rebuttal.

Attorney Hornick stated that the public was allowed to make comments and this was not evidentiary.

A motion to adjourn was made by Vice Chair Groce, seconded by Anderson, and the motion carried unanimously. The meeting adjourned at 9:00 pm.

**MINUTES OF THE REGULAR MEETING OF THE
CITY OF SANFORD BOARD OF ADJUSTMENT
SANFORD, NORTH CAROLINA**

The City of Sanford Board of Adjustment reconvened in regular session in the Buggy Factory Conference Room at the Buggy Factory, 115 Chatham Street, on the meeting from Tuesday, September 11, 2018, at 6:00 PM, until October 9, 2018, at 6:00 PM.

ROLL CALL

Members Present: Roger Judd, Chair
Van Groce, Jr., Vice Chair
Gordon Anderson
Ron Willett
Randy Jackson, Alternate

Members Absent: Ann Barkley
Justin Hyde

Staff Present: Amy McNeill, Zoning Administrator
Angela Baker, Clerk to the Board

OPENING STATEMENT DRAFTED BY AL BENSHOFF OF THE BROUGH LAW FIRM, LLC FOR THE SANFORD BOARD OF ADJUSTMENT WAS READ BY CHAIR JUDD.

Vice Chair Groce made a motion to reopen the public hearing, seconded by Board member Anderson, the motion carried unanimously.

Attorney Jonathan Silverman, representing Apple Square Homeowners Association, made a Motion to Intervene. **Exhibit**

Administering of Oath: Chair Judd called all participants speaking in favor of or against the Special Use Permit, as well as staff, to come forward to be sworn in for testimony. Petitioners, Larry and Kim Henson; Lisa Bradley; Paulette Williams; Edwin Patterson; Jane Karseras; Martha Griffith and staff person Amy McNeill, appeared and were administered the oath.

Opening Statement

Larry Henson stated that they would like to start with the issues that were not addressed, the property values not being compromised by the event.

Chair Judd asked if there was a witness present and ready to give testimony.

Kim Henson stated that they would call an expert appraiser who prepared comps with properties that were similar to their property. Historic homes in the city limits, with houses nearby and businesses nearby.

Kim Henson stated that three event venues were compared. Also included was the Henson appraisal. **Exhibit**

Kim Henson said that two venues were in Raleigh and one was in Cary. They are all historic homes in a neighborhood with single-family homes either behind or next door and with commercial abutting.

Attorney Silverman made an objection on behalf of Apple Square; no competent basis, opinion only. He requested to see the Exhibit before it was passed along to the Board members.

Attorney Silverman objected to the relevancy because we are not located in Wake County; the appraiser has not been qualified as an expert.

Attorney Hornick stated that this would be determined and asked the expert witness to come forward.

Lisa Bradley, Certified Real Estate Appraiser since 1995. She attended Dan Moore Real Estate in Greensboro, NC, and is certified as a Residential Appraiser.

Chair Judd stated that the Board finds her to be qualified to give expert testimony.

Attorney Silverman made an objection for the record.

Lisa Bradley stated that she had looked at properties that are similar to the Henson's, although they are in Wake County. They are wedding venues; in town; with a variety of residential and commercial mixture. They are similar to the Henson property although the location is in Wake County.

Attorney Silverman objected to characterization that the properties are similar to the Henson property, lack of foundation.

Attorney Silverman stated that he acknowledges Lisa Bradley is a Certified Real Estate appraiser. The specific objection is that no one has any idea as to what these historic homes are used for; hours of operation; how many people go in and out; proximity to other residential dwellings. That foundation would need to be laid for it to have meaning for this Board to find facts and make conclusions. Whether Ms. Bradley knows about that he is unsure, and they are in Wake County.

Kim Henson stated that there are not places in Sanford like their venue.

Larry Henson stated these homes are just like the venue they are proposing.

Attorney Silverman stated that he didn't think Ms. Bradley had any knowledge that she had shared so far that these place or comps in Wake County are what the applicants are doing in Sanford. He has yet to see a case where comps have been used from other parts of the state.

Kim Henson stated that the comp venues are full-time, operating all times and days of the week. Their proposed venue is part-time.

Attorney Silverman said that he is objecting as to how they know the operation of the venues.

Larry Henson said that Ms. Bradley has been by the homes to prepare the comps.

Kim Henson said that the websites stated the hours of operation and how many people they accommodate.

Attorney Silverman objected, the website is hearsay.

Lisa Bradley stated that she has attended a wedding at Tucker House and there were approximately 150 people. There are houses across the street and commercial property on the other side.

Chair Judd asked Appraiser, Lisa Bradley, to discuss the property values and if they had any impact on the adjoining property owners.

Lisa Bradley stated they have increased their property value.

Attorney Silverman objected, because she doesn't know the condition of their property at the time of purchase. Reading the presentation, it was not in good condition, so if you buy stuff in disrepair that maybe its market value.

Larry Henson said that their house was deteriorating greatly and would bring down the value of the neighborhood.

Attorney Silverman stated that this is a quasi-judicial proceeding and rules of evidence apply.

Kim Henson stated that they bought the house for \$105,000 and it is now appraised for \$315,000.

Attorney Silverman stated that the way you use a home will substantially injure the value of the adjoining property owners.

Lisa Bradley said that there is another wedding in Sanford that has acreage and that the surrounding three properties have sold this year at list price. If a wedding venue is hurting

property values then list price and sell price would not be the same; and the houses would not be selling.

Attorney Silverman made a motion to strike based on the fact that if something sold for list price, it doesn't mean that the wedding venue didn't diminish its value. The issue is, have they done any type of appraisal work on these factors.

Chair Judd asked Ms. Bradley what she appraised the home at currently.

Lisa Bradley stated that, per the NC Appraisal Board, she wasn't supposed to talk about the appraisal, but since the client was present she would be allowed.

Attorney Silverman objected and asked if she followed the appraisal guidelines in appraising the "dance hall".

Larry Henson objected, derogatory remark.

Attorney Silverman stated a "banquet hall" and asked Ms. Bradley if she followed the guidelines in appraising the real property.

Lisa Bradley stated that yes, at the day of the assignment the appraisal did not reflect the issue.

Attorney Silverman asked if this was just a pure market appraisal analysis of the property as of July 20, 2018.

Lisa Bradley said yes.

Attorney Silverman asked what kind of comps were used to arrive at that appraisal.

Lisa Bradley stated that the comps are listed on the appraisal.

Kim Henson stated that the comps came from the Wake County GIS.

Attorney Silverman asked Ms. Bradley if she went out and found her own comps and where they were located.

Lisa Bradley stated yes and they were in Sanford.

Attorney Silverman stated that has nothing to do with Wake County. When looking at the comps were they looked at as residential dwellings or as commercial venues for weddings, banquets and other social occasions.

Lisa Bradley stated that the appraisal reflects strictly single-family residences.

Attorney Silverman stated that this is not an appraisal of the place for the purpose of receiving a SUP.

Lisa Bradley stated, yes.

Larry Henson asked Ms. Bradley, in her professional opinion, if the wedding venue would bring down the value of the adjoining houses or the community.

Attorney Silverman objected on the basis of no foundation, and the appraiser hasn't done the work.

Chair Judd asked to let the Applicant question the expert witness.

Larry Henson asked Lisa Bradley if she had testified in court proceedings as an expert in the past.

Lisa Bradley said yes.

Larry Henson asked if she was an expert witness in the truest degree.

Attorney Silverman objected to the point.

Lisa Bradley said yes.

Larry Henson asked Lisa Bradley if a wedding venue would bring down the values of the adjoining property.

Attorney Silverman objected to lack of qualification and lack of foundation.

Lisa Bradley stated that, based on the proximity of the dwelling and with mixed uses within the neighborhood, her opinion was that a wedding venue is not going to negatively affect property values. This is based on the fact there is already a wide range of uses. There are small homes, nicer homes, and commercial properties.

Kim Henson asked Ms. Bradley to speak to the values of the dwellings located behind Apple Square currently; would it be a type of property that would help or hurt.

Attorney Silverman objected to the form, the lack of foundation, and the lack of expertise.

Lisa Bradley stated that none of them have sold, so it is hard to say, but yes.

Attorney Silverman made a motion to strike.

Kim Henson asked Ms. Bradley to speak to the Tucker House and the property values at 408 N. Pearson Street located 200 feet from the Tucker House.

Attorney Silverman mad a motion to strike the Tucker House for lack of relevance and lack of foundation.

Lisa Bradley stated that 408 N. Pearson Street is located near the Tucker house, the tax value is \$272,000.00 and it sold for \$318,500.00. It appears that those property values are increasing.

Vice Chair Groce asked where the property was located, inside the beltline Wake County.

Lisa Bradley said that was correct.

Attorney Silverman made a motion to object based upon lack of foundation and lack of relevance.

Kim Henson stated that the Board requested information on homes that were similar in nature to their home, within a city limit. There are not any homes like this in Sanford.

Vice Chair Groce stated that they have to figure out if the venue is going to hurt property values. That is the bulk of the meeting. Now, there is not going to be a lot in Sanford. What has to be figured out in this situation is Wake County is a little different than Lee County. He doesn't disagree that this is the closest venue that could be found. The Board has to understand that a shoe box in the inner city and the value would not be decreased based upon the use. He said that he is a builder. And the Board has to figure out what the applicant's expert has to say. Then if Apple Square has an expert they will have to figure out what they have to say. There are no exact compares to anything that is being talked about, here or they. That are what appraisals are, they are an opinion based on things being looked and compared too tonight. The Board has to figure out where the reality this case is, when both sides are finished.

Larry Henson stated for the record that the Matthews house is not in the beltline, it is in Cary, a small town like Sanford.

Vice Chair Groce asked the applicant to continue with the discussion of the houses in the Exhibits presented to the Board.

Kim Henson went on to the next house, the Merrimon-Wynne House that has been an event venue for 20 years.

Attorney Silverman objected based upon lack of foundation.

Kim Henson stated that the property sitting directly behind the house, no buffer or driveway; it is property line to property line. The property are condos. They were built after the venue and less than ten years ago. She asked Lisa Bradley, expert, to testify what price range the homes have been selling.

Attorney Silverman made a motion to strike.

Lisa Bradley said the condo sold for \$318,000, and it was a one bedroom with a value of \$270,000.

Attorney Silverman objected to relevancy.

Kim Henson made the point that as a builder you wouldn't put build that type of property close to a venue if you were afraid that type of venue would hurt your property values.

Attorney Silverman object to move and strike the Merrimon-Wynne house; lack of foundation, speculation and hearsay.

Kim Henson spoke about the condos on John Haywood Way. 510 John Haywood Way sold for \$470,000, in 2016. 520 John Haywood Way, condo #101, sold for \$325,000 in 2017. 520 John Haywood Way, condo #102, sold in March 2018 for \$507,500. The house she is speaking about currently is 520 N. Blount Street, which was built in 2015 and the tax value is 1,081,599.00.

Attorney Silverman made a motion to strike, hearsay, lack of relevance and foundation.

Chair Judd asked if all these homes that they are speaking about are in Raleigh.

Larry Henson said yes, but she will speak about homes in Cary also.

Kim Henson asked Lisa Bradley to speak about the Matthews house on Chatham Street in Cary, which opened as a wedding venue in 2001. The area homes were built in the 1950's. She asked Lisa to speak about the home at 321 W. Chatham that sits directly next to the house.

Attorney Silverman made a motion to strike the testimony.

Lisa Bradley stated that she had recent sales information on the properties. Tax value was \$160,000 and it sold for \$210,000. Another house, 323 W. Chatham, had a tax value of \$158,309 and it sold in April of 2017 for \$360,000. There again, you are seeing sales prices increasing.

Vice Chair Groce asked when the tax valuation was done.

Kim Henson said the tax valuation was in 2016.

Attorney Silverman made a motion to strike, speculation and irrelevancy.

Kim Henson said that the tax value information was on the Wake County website.

Kim Henson asked Lisa Bradley about the tax values for the new homes that were right within the area, two or three houses from the Matthews house at 111 S. Dixon and 116 S. Dixon.

Lisa Bradley stated that it is a new build and the tax value \$512,000.

Attorney Silverman objected and moved to strike.

Kim Henson asked Lisa if she felt that, in her expert opinion, the property values are being hurt by the venues being close to neighboring homes.

Lisa Bradley stated that people are not building half a million-dollar homes in areas where property values are deteriorating.

Larry Henson asked Lisa Bradley if she would address their property and the homes located on Pine Street.

Lisa Bradley said that typically buyers are looking for homes for what they are investing. Typically, if investing a million dollars, buyers would want to be in a million-dollar home. If buyers are investing \$30,000, then they will be in a \$30,000 neighborhood.

Kim Henson asked how it would impact a place if the people living directly behind you had “section eight” houses that were worth \$30,000 and in disrepair, would it be a negative impact.

Attorney Silverman objected, lack of foundation, relevancy and speculation.

Lisa Bradley would not answer the question because it would be discriminatory.

Attorney Silverman stated that he did not have any further questions for Lisa Bradley.

Closing Summary

Larry Henson said that testimony was given stating that the adjoining property will not be devalued by the event venue use. At the last meeting, three out of four of those steps about safety were addressed. All agree those were okay. He said that they didn’t address the property values. He said he felt he had done that greatly tonight. Also, would like to address that if you look at the map that there are commercial properties directly across the street. Behind the condos there are \$30,000 houses and behind that there is commercial on that side of the street as well. There is no way that their property could be looked at as any way, shape, form or fashion will bring down their values of their condos.

Kim Henson stated that the other commercial properties that are across the street are not high-end establishments. One is an auto body shop and the businesses are not “kept” buildings. What they are looking to do is to bring a very high-end venue to the area. It is not a “dance hall”, nor a “party house”; it is a small hall wedding venue.

Larry Henson said they will not have 24/7 events. They are looking at one night event per week, per month; no more than a Saturday night from 6pm-10pm and it is over at 10pm. The

other events would be during the day and no night time events. The neighbor's patio area nor bedrooms are facing their property. They are all off the back of the condos which are facing the other houses. Sound was tested inside those condos and you hear nothing.

Attorney Silverman asked Mr. Henson if he could live with one night a month.

Larry Henson said no, one night a week.

Attorney Silverman asked Mr. Henson if he could accept a restriction from this Board if they were to grant a permit.

Kim Henson asked for one night wedding per week, on Saturday.

Larry Henson stated that most venues are busy every single night of the week. Any venue, including the Hawkins House, is busy every night. They are talking about one night a week, on a Saturday that would affect no one. There will be teas and such inside the house, but only one outside event per week.

Attorney Silverman asked if he could accept the restriction of one night of activity per week.

Kim Henson said they live there and they don't want to do stuff outside their home every night, so they would be good with that.

Attorney Silverman asked what time would be reasonable to have the whole operation cleared out, including staff.

Larry Henson stated that at 10:00pm the events would stop; all guests. The clean-up would be done by 11:00 pm.

Attorney Silverman asked if they could live with the condition that someone will be directing traffic as cars come in and go out.

Kim Henson said yes. Mr. Henson said that someone will definitely be directing traffic. The traffic will be coming in on Morris Street and that will be one the opposite side from where the condos are located.

Attorney Silverman asked if they would accept that all the parking be on their property and no on-street parking.

Kim Henson said certainly. Also, they will not be doing business in January, February and the first two weeks of March. It will be winter-time and the neighbors will be able to see through the foliage.

Attorney Silverman asked if they could accept that restriction.

Kim Henson said yes. Larry Henson said that to be good neighbors they will plant fast growing evergreens at the boundary that will take care of the drainage problem and so that you will not be able to see into the property.

Chair Judd asked Attorney Silverman to call his witnesses.

Attorney Silverman called Paulette Williams.

Paulette Williams, broker / owner of Paulette Williams Realty of Sanford. Been here since 2001. Purchased property at Apple Square.

Attorney Silverman asked Ms. Williams how long she has been a realtor in Sanford.

Paulette Williams said she received her degree from Wake Tech in 1980.

Attorney Silverman asked if she had been helping people buy and sell real estate for over two decades.

Paulette Williams, said yes.

Attorney Silverman asked if Ms. Williams had some idea of property values in the neighborhood.

Paulette Williams, said yes.

Attorney Silverman asked if she had knowledge of property values city and county wide.

Paulette Williams, said yes. She belongs to the Federal Board and the Raleigh Triangle Board of Realtors.

Attorney Silverman asked Ms. Williams if she lived in Apple Square.

Paulette Williams, said yes.

Attorney Silverman asked if she viewed real estate as being a home and an investment.

Paulette Williams, said yes.

Attorney Silverman asked if she would like to see her investment increase in value or decrease in value.

Larry Henson objected, speculation and biased witness.

Paulette Williams, said increase.

Attorney Silverman asked Ms. Williams based on her knowledge of the market as a realtor, if she thought that this project was going to be increasing and or not injuring the value of your property, would you be wasting your time and taking up the time of Board.

Paulette Williams said that she felt that it would decrease the value of her property.

Larry Henson objected, speculation. There is no evidence.

Vice Chair Groce stated they need facts and evidence; not "I feel like".

Attorney Silverman asked if Ms. Williams had an opinion as to the impact this venue will have on her dwelling based on all her years as a realtor.

Paulette Williams said that her opinion is that being a home owner at 105 Apple Square, her property values will be decreased based on people that purchase homes in this town do not want to listen to loud music; other noise; and lights. Commercial properties that are located around her property close at 5:00 pm, do not reopen until Monday, and do not open on weekends. Being a property owner, she is speaking on behalf of herself. She works seven days a week and when she comes home at night, she would like her quality of life to not change. She wants to be able to come home and do yardwork and sit on patio. From her patio she can see the backyard of the venue.

Kim Henson objected based on speculation.

Attorney Silverman asked Ms. Williams how many homes she has sold in Lee County.

Paulette Williams stated that this year it has been over 40.

Attorney Silverman asked Ms. Williams if she was taking her experience as a realtor into consideration in rendering her decision about her property.

Ms. Williams said yes.

Attorney Silverman asked Ms. Williams if she had an opinion about the fair market value of just her unit, without a wedding venue.

Larry Henson objected to opinion.

Ms. Williams stated without a wedding venue the market value of her home would be \$129,000, based on what she paid for the property and improvements that have been made to the property.

Chair Judd asked Attorney Silverman if he was trying to establish that Ms. Williams was an expert witness.

Attorney Silverman stated that she is offering her lay opinion and that people can testify as to the value of their own property unless they are qualified as an expert. He is limiting the question to Ms. Williams and her property.

Attorney Silverman asked what her opinion was of her property value, with the wedding venue.

Ms. Williams stated that with what had sold recently, \$118,000.

Attorney Silverman asked Ms. Williams why she believed that her value would go down \$10,000.

Ms. Williams said that when people move to town they ask about the homes and property values; lights and noise. She has to divulge that information as a licensed Real Estate Agent. She has to tell them about all of the commercial properties and other stuff around the home.

Attorney Silverman asked Ms. Williams if she was suggesting that Line Drive Baseball, Car Quest isn't close by in the area.

Paulette Williams said that she tells them about all the business that are in the area.

Attorney Silverman asked Ms. Williams if those business bothered her being in the area.

Paulette Williams said no, because they are closed on the weekend and they are not outdoor based.

Attorney Silverman asked Ms. Williams if that was her concern, being outdoor activity.

Paulette Williams said yes, because the quality of life would be different. When she comes home after working seven days a week, she would like it quiet and to be able to enjoy her home with no noise.

Larry Henson objected because it was opinion.

Chair Judd told the applicant they could ask Ms. Williams questions at this time.

Larry Henson asked Ms. Williams how long ago was it when the property sold for \$118,000.

Paulette Williams said a year and a half.

Larry Henson said that there was no idea of an event venue being there.

Paulette Williams said, at that time no.

Larry Henson asked at what price Joan Griswald now has her property listed.

Paulette Williams said that she didn't know it was listed.

Larry Henson said it was listed for \$125,000, which is more with an event venue being proposed.

Paulette Williams said you could list anything at any price, that doesn't mean it will sell for that amount.

Larry Henson said that it does mean that they believe it will sell for that price.

Paulette Williams said that is between the agent and the buyer.

Larry Henson asked Ms. Williams, what she based the noise and lights on.

Paulette Williams said that she didn't know how you could have a venue with 70 cars; open venue with music; and no noise.

Larry Henson said that there is noise that will go into the apartment. He proved it with decibels and the statement from Joan Griswald. He said that he knew Ms. Williams was upset and did not like change.

Larry Henson asked if Ms. William's patio faced the venue.

Paulette Williams said no, but she can see in the back yard.

Kim Henson asked if her patio faced Bickett.

Paulette Williams said her patio does face Bickett, but it was all open.

Kim Henson asked if she had a privacy fence.

Paulette Williams said she has a six foot fence, but because the property is higher around her, she can see over the fence into their yard.

Kim Henson said she was confused. She thought tonight was about evidence and facts.

Attorney Hornick stated that the purpose of the hearing tonight was to provide additional evidence. They were advised that they were required to prove to the Board that the use would not pose an adverse effect on adjacent property values. In order to testify to the effect that the use will have on adjacent property values, you are required to present expert testimony or fact evidence to that extent.

Kim Henson asked if the other side would need to do the same thing.

Attorney Hornick stated that as Mr. Silverman has pointed out, an individual property owner is entitled to present an opinion as evidence about the value of their own property. So, what he did was ask Ms. Williams about her opinion of her own property values.

Kim Henson asked if that if an opinion being considered as fact had validity in a court session.

Attorney Hornick said that the testimony that Ms. Williams gave has whatever weight the Board finds. Just like all the evidence the applicant has presented. The Board will consider whatever evidence they hear and they will decide how much weight that evidence is granted.

Kim Henson said that she was still very confused. She said she thinks before the process was started months ago, they were told it doesn't matter what people think. What she is trying to establish and understand, is what she thinks she is hearing is that opinion means as much as fact.

Chair Judd said that Attorney Silverman should be questioning his witnesses at this time.

Attorney Silverman stated that he would call Edwin Patterson, and to expedite the process he would call the sworn witness collectively. Jane Karseras; Martha Stevens also appeared. Martha Stevens was not previously sworn; Chair Judd administered the oath.

Attorney Silverman clarified that Martha Griffith is also Martha Saddlewhite on the adjoining property owners list and that she does not live there, but rents her townhome.

Attorney Silverman clarified that Edwin Patterson does not live in Apple Square, but owns a townhome where his mother-in-law resides.

Attorney Silverman asked if the neighbors have seen the application; heard prior testimony; or heard the testimony given tonight.

The neighbors agreed, yes.

Attorney Silverman asked if they would allow Mr. Patterson to be the spoke person.

The neighbors agreed, yes.

Attorney Silverman asked Edwin Patterson if he had an opinion satisfactory to himself, as to whether or not the proposed use would impact negatively the value of the unit that he owned.

Edwin Patterson said yes.

Attorney Silverman asked if he would have come to the meeting if he thought the use was neutral on the value or would enhance the value.

Edwin Patterson said no.

Attorney Silverman asked what was his opinion as to the value of the proposed use on the unit that he and his wife own.

Edwin Patterson said that the value will depreciate because it is an issue when listing a property because you have to tell someone that there is a wedding or party venue located next to your property that it will be lit at night, that it may have bands, caters coming in and going, and that it will have traffic coming and going. That is not in the best interest of a person seeking a quiet domicile to spend the night.

Attorney Silverman asked if he was aware that there are commercial properties on Hawkins Avenue, in close proximity to Apple Square.

Edwin Patterson said that they are across the street and they conduct their business during normal business hours, most open 8:00am and close around 6:00pm in the evening.

Attorney Silverman asked if any of the businesses were outdoor.

Edwin Patterson said no, not that he is aware of.

Attorney Silverman asked if he had seen 75 vehicles at any of the businesses.

Edwin Patterson said no.

Attorney Silverman asked if there was any other basis for his opinion that this proposed use would diminish the value of your property.

Edwin Patterson said he thinks that among other things that they will port-a-johns; and not very attractive for a residential situation.

Attorney Silverman asked if there was any other basis for his opinion about the value of his property.

Edwin Patterson said no.

Attorney Silverman asked Ms. Karseras if she heard Mr. Patterson's testimony and are you willing to adopt that as your sworn testimony before this board.

Ms. Karseras said yes

Attorney Silverman asked Ms. Stevens if she heard Mr. Patterson's testimony and are you willing to adopt that as your sworn testimony before this board.

Ms. Stevens said yes.

Attorney Silverman asked Ms. Griffith if she heard Edwin Patterson's testimony and are you willing to adopt that as your sworn testimony before this board.

Ms. Griffith said yes. Her townhome is the closest one to the proposed venue. It is 505 Apple Lane. The back patio will be directly affected by any lightening and noise. There is no buffer. She said that from the patio you can look up and see the property and lightening or noise.

Mr. Patterson said that there was a comment earlier, that there was some denial of bedrooms facing their property. The six units at the top of the hill all have bedrooms directly facing the property.

Vice Chair Groce asked if that was the master bedroom.

Edwin Patterson said that it is not.

Vice Chair Groce asked for clarification that you have the front bedroom and then the driveway and you park in front of the condo.

Edwin Patterson said that was correct.

Attorney Silverman asked Ms. Griffith to point out her condo on a map as 505 that is the closest unit.

Vice Chair Groce asked Ms. Griffith if she rented her unit and how long she has owned the unit and how long she has rented it.

Ms. Griffith replied yes that she rents her unit and she has owned it since 2014. She bought the unit from her mother and planned to keep it for herself for when she decides to downsize. In the meantime, she is renting it.

Chair Judd asked the applicant to ask questions and not battle with the witnesses.

Kim Henson said that there would only be 40 cars on the property during the events. There will be no port-a-potties outside. The venue will not have more people than will be allowed with the bathrooms in the home. They stated that there would only be one outdoor event a week and during the months January, February and the first half of March there would be nothing.

The neighbors agreed that they heard those statements.

Kim Henson said that there would not be any spot lights; only string lights or solar lights, no bright lights. In the porch or in a tent and along pathways.

The neighbors agreed that they didn't know that information.

Ms. Griffith asked if that was part of the record.

Kim Henson said yes, it was part of the record.

Chair Judd reminded Kim Henson that she was suppose to be questioning the witnesses on their testimony.

Kim Henson asked if the neighbors ever see or hear the cars coming or going from Line Drive, because they live directly across the street and their bedroom looks into Hawkins. They see cars leave there at 8:00pm – 9:00pm at night.

Edwin Patterson and Ms. Griffith said they don't live there.

Kim Henson asked if they had an opinion.

Attorney Hornick said that they can testify as lay witnesses about their opinion about the value of their own property. If that is the opinion you are soliciting then those questions can be asked.

Kim Henson asked if the value of your property would be hurt if your neighbors were party people who had parties every weekend, even 5 nights a week, loud music and people coming and going.

Eddwin Patterson said that would be a rather extreme request of a situation, but of course he would be disturbed by any night that was non-conducive to getting a good night's sleep and getting rest.

Kim Henson asked if there was anything that would keep a property owner from having parties every night.

Edwin Patterson said that it would depend on what the prescriptions were written on the property.

Kim Henson asked if they had not been or been good neighbors in the two years they have lived there.

Edwin Patterson said that he thinks a good neighbor is a good residential property owner. Not trying to turn a residential property into a business next door.

Kim Henson asked if he felt in his opinion that the property that we bought that was in very in bad disrepair and is now worth three times the value, has hurt or helped your values.

Edwin Patterson said that he didn't know if that has had any affect on it. If your request for rezoning lessens his property value then that is why he is here. He doesn't think that you enhancing your property has changed his because she is not creating a nuisance.

Vice Chair Groce asked Mr. Patterson, that he thought he stated that he felt like he would have to disclose if it was a wedding venue next to his house you sold.

Edwin Patterson said yes that the Realtor would have to disclose the information.

Vice Chair Groce said that his question is that is not zoned that way and someone is throwing parties every night or once every week on the weekends; and you say I can't take it anymore I got to get out of there, but it is not zoned for a SUP, do you have to disclose that.

Paulette Williams said that if the buyer asked that question then you have too.

Vice Chair Groce said if they don't ask, do you volunteer it.

Paulette Williams said yes, she does.

Vice Chair Groce asked is it required and do all real estate agents do that.

Paulette Williams said that it is not required.

Attorney Silverman said it would probably be a good lawsuit if you didn't.

Vice Chair Groce said that potential buyers have asked if a neighbor was black, or gay, or are they this or are they that. He said if you do that now you get a discrimination lawsuit against you.

Attorney Silverman said there is a difference between race, gender, and sexual orientation than living next to a party neighbor or someone who has a marching band in their yard.

Vice Chair Groce said people don't disclose what the neighbors are like; they are not your best friends and it is a tricking thing about talking about your neighbors. Neighbors change.

Attorney Silverman says a SUP runs with the land and that is the difference.

Paulette Williams said she always tells people to sit in the area and see what goes on and call the police.

Larry Henson said he would like to finish cross examining the witness.

Larry Henson asked that if he listened to AC/DC in his back yard very loud, every day until 10:00pm, what they could do about it.

Attorney Silverman said that he would object because he doesn't think this has anything to do with anything.

Larry Henson said he thought it did, because there were a lot of things that could happen with neighbors like that.

Edwin Patterson stated that he would find out how good of police force we had.

Larry Henson stated that there wasn't a regulation against that.

Edwin Patterson said that if it gets on his nerves, and the neighbors are bothering them, and he has recourse.

Larry Henson asked is there not a street lamp in the parking lot.

Edwin Patterson said there were two street lamps on the property.

Larry Henson asked how bright the lights are.

Edwin Patterson said they are dull and he does not have lumen reading on them.

Larry Henson said they are the same as regular street lights.

Vice Chair Groce asked if they are the sodium vapor and not the new Led.

Edwin Patterson said I don't think so.

Larry Henson asked are you aware that Joan Griswald has her property for sale for \$124,000 and will divulge there is an event venue, and she feels that she will get that for her property.

Edwin Patterson said he was not aware of that.

Vice Chair Groce stated that Attorney Silverman was representing the HOA. At the last meeting there were members of the HOA that stated they were not opposed to the wedding venue. Are those people here, and is there a unanimous HOA decision?

Attorney Silverman said that it is not a representation that all ten units are opposed.

Chair Judd asked the opposition to summarize their evidence.

Attorney Silverman thanked the Board for their service, and apologize for rendering objections, there were for the record and not to undermine the process or take up time. Tried to avoid being duplicative. First of all, everyone has honed in on the #3 issue and that is whether or not the use is going to substantially injure the value of the adjoining property owners. As he reads the quarry case, one of the last decisions of an Appellate court in our community about the burdens of proof, he believes the petitioners got the burden on that. He said that Ms. Bradley has been offered in court as an expert, and he believes she is an expert. He said he thinks she did a good job ascertaining the fair market value of the house that is being discussed as a residential structure, but that answers nothing whether or not the use proposed for the house substantially injures the value of the abutting property. He respectfully suggests that everything she had to say about these venues in Wake County that

did or didn't do to the adjoining property has zero to do with what this proposed use has to do with the folks that reside in Apple Square. It is not apples to apples comparison. If someone found a wedding venue in midtown Manhattan and said that wedding venue increased the value of the condo next door by 8.7 million dollars, you would shrug your shoulders and say what does anything in NY have to do with Sanford, and you would be absolutely correct. Respectfully suggest that whether or not someone built expensive condos beside some type of venue in Raleigh has nothing to do with anything in Sanford, suggest that this Board cannot find and should not find that this proposed use will not substantially injure the value of the abutting property. Beyond that because we have these Boards to bring the collective wisdom of the community together, and couldn't make them up of judges and make them a legalistic approach to the problem, we don't. We ask citizens to serve. The common-sense thing is that even though it is not unanimous, 6 out of the 10 units have taken the time to come here and tell you that they don't like it. Applying good judgement and wisdom and what you know about our town to ask yourselves why have these folks hired an attorney. Why have they bothered to come here tonight? They are not being cavalier for your time and don't want to keep you from families or concerts. They have come here because they are concerned about the value of their property. If you bought Ms. Bradley's position that the best thing in the world that could ever happen to that little stretch of Hawkins Avenue is to have a wedding venue, they would be helping to pay for the renovations and we wouldn't be here tonight. These are all bright, well spoken people who have substantial investments and ties to our community. They haven't come here because they want to devalue their property, but to protect their property. That is the true common-sense answer to that issue and as your Counselor has advised that it is the law of the state, that individual property owners do get to define the value of their property. The persuasive evidence that is before you that the majority of the folks that live out there, are really concerned about this and the majority believe that this is going to devalue their property. At the end of the day, that is that is the answer to the question. Ask that you hold against the petitioners on issue #3 because these neighbors either rent their homes or live there and these nighttime activities devalue their property and they don't want it out there. It is not kin to a bad neighbor. That is not the analogy. There are different rules to deal with bad neighbors. They have improved the house and there is no question that fixing up the house was a benefit to the neighborhood. That is not the issue before the Board. The issue is what they want to do with the house and that is what injures the value. We ask that you not issue the permit.

Chair Judd summarized the evidence that Mr. Henson brought in an expert witness, Ms. Bradley and was identified as an expert appraiser. Ms. Bradley testified about homes similar to the applicant and that it would not decrease the value of adjoining property owners. The wedding venue would be one Saturday evening a month from 6pm-10pm and everyone gone by 11pm. The homeowners hired Attorney Silverman to represent them and had the property owners testify to their opinion about their property and the values; noise; cars and lightening. Attorney Silverman objected and wanted the SUP to be rejected because item #3 would substantially injure the adjoining properties.

Chair Judd asked for a motion to close the public hearing, moved by Vice Chair Groce. The motion was seconded by Board member Anderson, and the motion carried unanimously.

Chair Judd stated that once the public hearing is closed that it is for Board discussion only and no one would be allowed to speak unless the Board asked for clarification.

Chair Judd stated that the summary is intended to be the record of what has been presented and that they may offer any objections, corrections, or additions that will more accurately present their case.

Chair Judd stated that the granting of the Special Use Permit is based upon four findings of fact. Each finding requires a majority vote by the Board to be approved. When voting, the Board must render a decision on each of the required findings and must state a reason for approval or denial of each finding of fact. The Board members should indicate for each required finding the evidence on which the finding was based. On the basis of these findings, a Board member should offer a motion to either grant or deny the Special Use Permit. This motion should be discussed and any suitable conditions appended to it.

Chair Judd stated that if one of the required finding fail, they all fail.

In granting the Special Use Permit, the Board of Adjustment shall find Findings of Fact.

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved.

Discussion:

Vice Chair Groce stated that the applicants indicated that they have renovated a bathroom. It was asked if there were more renovations to be done and, if there were 50 cars of people attending an event, if one bathroom was enough. The applicants have indicated that if something else needed to be done on a permanent basis, it would be done. The Board has heard that 50 cars would be added to the 9,000 cars a day on Hawkins Avenue. If adding 50 cars a week is a small amount. Public health and safety, they are entering off a street onto a street and are willing to have someone directing traffic. There should be a condition of someone directing traffic to promote public safety.

There was no further discussion.

Motion: Vice Chair Groce moved that it will not materially endanger the public health and safety located where proposed and developed according to the plan as submitted and approved because the traffic counts are in the 45,000-60,000 range per week, and they are only going to add traffic on one day in addition to what a residential home would have; the willingness of the owner to provide someone to direct traffic to help people to park and leave the site; if there are additional bathrooms needed from a construction stand-point, the venue will be required to have permanent facilities that will accommodate the number of people that 40 cars that have been requested per the application. Those factors will not materially endanger the

public health and safety. The motion was seconded by Board member Anderson. The motion carried unanimously, by a show of hands.

With no further discussion, Chair Judd called for a vote. The motion carried unanimously, and a record of the vote is as follows:

Ayes: Roger Judd, Chair
Van Groce, Jr., Vice Chair
Gordon Anderson
Ron Willett
Randy Jackson, Alternate

Noes: None

2. That the use meets all required conditions and specifications.

Discussion:

Vice Chair Groce said that no evidence has been presented that the use doesn't meet the specifications. Planning staff said that a SUP may be allowed in this zoning district, if the use complies with all of the restrictions and conditions.

Chair Judd asked if they met all required conditions.

Amy McNeill said that there are no supplemental design standards for this unique use. The general design standards of the zoning ordinance would apply and for this use and they only include parking and the landscape buffer between the house and the townhome community next door.

Vice Chair Groce said that what has been indicated is that the existing buffer meets the standards, but there is some willingness to enhance the buffer. The zoning ordinance states that you have to have a certain number of trees within the buffer and there is enough vegetation that it qualifies; however, there is willingness by the applicant to add some additional trees to enhance the buffer.

Board member Anderson inquired if it was part of the plan to add additional trees as a buffer.

Amy McNeill stated that this is a preliminary site plan and there is a final site plan that is created and submitted to staff for review/approval. There is also a final site inspection before the event venue can open. If there is a gap in the landscaping, then they will be required to plant additional trees so that the intent of the landscape buffer is met, even if the existing vegetation meets the numerical point requirement.

Motion: Board member Willett moved that the use meets all required conditions and specifications because it meets the applicable parking and buffer standards for the particular use of the property. The applicants will plant an additional buffer of fast-growing willow

trees that will help block the view and help with drainage issues and erosion control; and they will also not be open from January until the middle of March. The motion was seconded by Board member Anderson. The motion carried unanimously by a show of hands.

Amy McNeill stated that a willow tree may or may not be appropriate for this location considering the soil and other factors and suggested that the board allow a willow or willow-like tree or a large evergreen tree to be planted to enhance the buffer.

With no further discussion, Chair Judd called for a vote. The motion carried unanimously, and a record of the vote is as follows:

Ayes: Roger Judd, Chair
Van Groce, Jr., Vice Chair
Gordon Anderson
Ron Willett
Randy Jackson, Alternate

Noes: None

3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity.

Discussion:

Board member Anderson said the Applicant provided an expert witness and 4 or 5 of the neighbors could only testify about their opinion of their own property. You have competing claims. The reason you heard that their property values would be injured would be because of lights, noise, and frequency of the parties. In both of the hearings we have heard from the applicant that those concerns have been addressed.

Vice Chair Groce said that we have the ability to stipulate conditions that help minimize those impacts. It was also discussed that if they keep it residential and someone wants to use it and be a bad neighbor; do you have the ability to control that, short of calling the police. Any neighbor with a long driveway can have people at their home to entertain anytime. To some degree are you injured by the prospect of a something going on for an hour once a week for 9 ½ months of a year. Appraisals are opinions regardless of where they are located. They all state that as of this date this is what we think. There are lots of opportunities for people to object to any change.

Chair Judd said that basically all property owners say it will or won't hurt their value, based upon what they want.

Vice Chair Groce stated that, regardless of values, there is something that is happening drastically across the street that impacts values. The question for the Board is if it is left residential, there is nothing there, and their property is worth X and whatever value you want to assign to it. The question becomes if the Board is going to let them have something one

night a week, with 40 cars, how much does that affect the value or does it affect it at all. And if it does, simply on that, we have heard we think it might. We have had an appraiser say that it didn't in these cases. We understand that the cases are not here, we don't know their operating hours, parties, and we have no indication as to what these people are doing with their venues; something every night, 50-100 cars, nothing about parking or those things would have been good to hear. We understand that there is a different market where some of those houses are versus what is here. What is here is hotter than what it was 2 years ago. So, it comes down from what we heard and now the Board has to determine where the truth lies.

Board member Jackson said we have to determine whose opinion matters the most.

Vice Chair Groce said that the applicants had an appraiser provide testimony; she is not from here, but she is a certified appraiser. Attorney Silverman had the neighbors testify and they are from here and they live next door. An affirmation has to be made based on the testimony. The question becomes if the venue is there and events are held once, twice or three times a month or every weekend or if they offer free weddings for their grandchildren or family; what is the real impact. There are some businesses on Hawkins Avenue that are open on nights and weekends.

Board member Jackson said that he hasn't heard anything that would substantially injure the value of the property. Everyone has an opinion, but he hasn't heard any evidence great enough to overcome the initial request.

Motion: Board member Jackson made the motion the use will not substantially injure the value of the adjoining or abutting property owners based on evidence presented by the expert appraiser for the applicant verses the opinions of the adjoining property owners. Board member Anderson seconded the motion, and it carried unanimously by the show of hands.

With no further discussion, Chair Judd called for a vote. The motion carried unanimously, and a record of the vote is as follows:

Ayes: Roger Judd, Chair
Van Groce, Jr., Vice Chair
Gordon Anderson
Ron Willett
Randy Jackson, Alternate

Noes: None

Discussion:

4. That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Land Use Plan for Sanford and Lee County.

Discussion:

Board member Anderson said that at the last meeting, staff said that it is in harmony with the land use plan.

Motion: Board member Anderson made a motion, that the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the surrounding area, because Staff confirmed that it is permitted under the UDO as a Special Use Permit and it is going to largely maintain its use as a residential property in area with mixed residential and commercial uses and it conforms with the land use plan. Board member Willett seconded the motion, and it carried unanimously by the show of hands.

With no further discussion, Chair Judd called for a vote. The motion carried unanimously. The record of the vote is as follows:

Ayes: Roger Judd, Chair
Van Groce, Jr., Vice Chair
Gordon Anderson
Ron Willett
Randy Jackson, Alternate

Noes: None

Discussion:

Vice Chair Groce suggested placing conditions on the permit, including, guests out at 10pm, staff out at 11pm; open from March 15 to December 31; buffer to include willow or evergreen trees. The Special Use Permit runs with the property. The owners live there and have the Special Use Permit and they have to be somewhat good neighbors. The problem becomes when they don't want to be the owners and operators any longer.

Amy McNeill said that the primary use must be a residence and it could also be a wedding venue if the Special Use Permit is approved. Whether or not the owners lived there and operated it; or whether the home is rented and operated by the tenant; it wouldn't matter. The owner could not let someone else operate the wedding venue that did not reside at the house.

Board member Anderson asked if the permit is associated with the property.

Vice Chair Groce said the Special Use Permit runs with land and not the owners and that is the issue. What has to happen is we need to make sure the next owner resides at the property.

Attorney Hornick said that local governments cannot regulate ownership of property through zoning. The Board cannot put a restriction on the approval stating that the owner of the property must reside at the property during the term of use during the SUP.

Amy McNeill asked if the residential occupant of the property is the only one who can operate the event center.

Attorney Hornick said that you could certainly stipulate that the property must be used primarily for residential use in order for the SUP to remain valid.

Vice Chair said that the Board didn't ask about the properties in the comparison; if someone lived there 365 days a year or if it was just a commercial venue. Those things could impact what goes on that the venue.

Chair Judd said Attorney Silverman argued that it didn't matter about the status of the venue; just that the venue impacted the residential properties.

Vice Chair Groce said that the question still remains that there is still a lot that we don't know about the properties in the comparison. We heard about values, but not about what they are zoned or their occupancies. The only fact was that the event center use didn't hurt the values.

Chair Judd said Attorney Silverman didn't think it was good evidence because it wasn't in this town.

Vice Chair Groce said he gets that, but we need a stipulation to apply that is fair. This has to be a residential use. If it is a residential use and no one rezones it and no one is living there and they are just having a party every Saturday night is that legal under these conditions and SUP.

Attorney Hornick said that he didn't see why someone couldn't own it and not reside their full time and host one event per week on a Saturday night, so as long as they comply with all the other stipulations and approvals and representations that they made in their submitted plans.

Amy McNeill said that since it is zoned residential, it would have to be used as a primary residence in addition to the SUP.

Vice Chair Groce said that if no one is living there, that is his point.

Board member Jackson asked if the property is sold would this exemption would not apply.

Vice Chair Groce said no, it still runs with the land.

Attorney Hornick said that it runs with the land, so basically the next owner would automatically assume the SUP.

Board member Jackson asked if you could stipulate that difference.

Vice Chair Groce said no, that is the problem with a SUP. It doesn't revert back to its original residential use when/if sold. It always has the opportunity to be a wedding/event venue. At some point, if you are not careful, it is no longer a residence, but a commercial piece of

property. This is a SUP in a residential section and that is what needs to be clarified. It is not about the owners and their current situation. It is about trying to look down the road and anticipate the repercussions and to determine if there any way we can minimize the impact.

Amy McNeill clarified that, first and foremost, the land use is a primary residence.

Attorney Hornick stated that you could certainly stipulate that in order for this property to be operated as an accessory wedding/event venue that it needs to be occupied, whether by an owner or by a tenant. He said that if you don't include this stipulation, so long as someone owns it and it remains a single-family residential dwelling with either the owner living there at some point or renting it out, then this SUP is allowed indefinitely.

Vice Chair Groce said that there needs to be some kind of stipulation. It does not affect the current owner, but anyone who would buy it in the future. It would provide some reassurance that it doesn't become a commercial venue, with no residential occupancy.

Attorney Silverman suggested that operator must occupy the house as their residence in order to maintain the permit.

Attorney Hornick stated that would work because it was not regulating ownership. It would be whoever is hosting the wedding venue was the resident of the home.

Board member Jackson requested that a stipulation be made regarding parking.

Attorney Hornick said it was part of the plan; therefore, they could not increase the number of spaces unless it was requested to amend the SUP.

Attorney Silverman wanted to make sure that the one night per week is stipulated.

Attorney Hornick said that was not included in the application so it needed to be a stipulation.

Amy McNeill wanted clarification of the outside event.

Vice Chair Groce said that the stipulation is one outside event per week, finished by 10pm and staff gone by 11pm.

Attorney Silverman suggested the traffic control and limiting the lighting to string lights as a condition.

Mr. Henson clarified that there may be a rehearsal, but it would only be the wedding party at another time, not an event.

Attorney Silverman said that is why the neighbors didn't want it; it is a slippery slope.

Attorney Hornick said that a rehearsal dinner could be considered an outdoor event; separate event. That is the problem with something that is so undefined. The Board needs to consider what an event is.

Vice Chair Groce said no flood lights; only lights inside the tent; and solar lights to light walkway.

Amy McNeill said there will be someone to direct traffic in and out for nighttime events; parking on premises and not on the street.

Vice Chair Groce made the final motion to approve the Special Use Permit, based on the preceding findings, the information in the application, and that the proposed use appears to meet all of the local requirements; with the following conditions:

1. The dates and time allowed for events will be from March 15 to December 31 with one night event per week, finished by 10pm and all staff cleared by 11pm.
2. The operator of the venue must occupy the home as a primary residence in the order for the SUP to be valid.
3. There will be personnel to direct traffic in and out during nighttime events.
4. Lights will be limited to string lights; solar lights; and under the tent lights. No street lights, yard lights or flood lights.
5. All parking will be on the premises and none on the street.
6. No port-a-johns.
7. Parking will be limited to 40 spaces as demonstrated on the site plans.
8. The venue will comply with the City of Sanford noise ordinance.
9. The landscape buffer will need to be increased in the gap areas and supplemented with trees with a minimum of 5 feet tall at the time of planting.

Board member Anderson seconded the motion, and it carried unanimously by the show of hands.

With no further discussion, Chair Judd called for a vote. The motion carried unanimously. The record of the vote is as follows:

Ayes: Roger Judd, Chair
Van Groce, Jr., Vice Chair
Gordon Anderson
Ron Willett
Randy Jackson, Alternate

Noes: None

Chair Judd said that the Special Use Permit is granted. This decision is effective upon filing the written decision with the Clerk to the Board. This decision shall be subject to review by the Superior Court. If anyone is dissatisfied with the decision of the Board, an appeal may be

taken to the Lee County Superior Court within 30 days after the decision has been filed in the Clerk to the Board in the Planning Department.

ADJOURNMENT

With no further business to come before the Board, the meeting was adjourned on motion of Vice Chair Groce, seconded by Board member Anderson, and unanimously carried. The meeting was adjourned at 9:00 p.m.

Adopted this _____ day of _____, 2019.

BY: _____
Chair Roger Judd

ATTEST:

Angela M. Baker, Clerk

CITY OF SANFORD LEGAL NOTICE

Notice is hereby given that the City of Sanford Board of Adjustment will conduct a Special Called meeting on Tuesday, March 12, 2019 at 3:00p.m. in the Buggy Conference Room on the first floor of the historic Buggy Company Building at 115 Chatham Street, Sanford, NC to approve the minutes from the September 11, 2018 and the October 9, 2018 meetings. This meeting is being held to approve minutes only. There are no cases to be reviewed and no public hearings will be held.

Further information may be obtained by contacting the Sanford/Lee County Zoning & Design Review Department at 115 Chatham Street, Sanford, NC 27330 or by calling 919-718-4656. Upon request and with 24-hour notice, the City will provide an interpreter for the hearing impaired or any other auxiliary aid.

Cualquier ciudadano que tenga preguntas o comentarios de las cosas al referido, puede comunicarse a el departamento de desarrollo para Sanford/Condado de Lee, llame al (919) 718-4656.

Thank you.

By Bonnie Davis, City Clerk

Please publish in the Legal Notices Section of the Sanford Herald on Friday, March 8, 2019. If you have any questions regarding this notice, please call Amy J. McNeill at 718-4656, ext. 5397. Charge to Account 30031885 and refer to as City of Sanford Board of Adjustment Notice.

Please send publisher's affidavit to the Sanford/Lee County Community Development Dept., P.O. Box 3729, Sanford, NC, and attention: Angela Baker. Thank you.