

**FLORENCE BOARD OF ADJUSTMENT  
FLORENCE GOVERNMENT CENTER  
BUSINESS MEETING  
JUNE 8, 2016  
7:30 P.M.**

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Mr. Pieper called the meeting to order at 7:35 P.M.

**BOARD MEMBERS PRESENT**

Mr. Timothy Pieper, Chairman  
Ms. Lois Evans, Vice-Chairwoman  
Mr. Louis Kelly  
Mrs. Jamie Nieves

**BOARD MEMBERS NOT PRESENT**

Mrs. Linda Schaffer

**LEGAL COUNSEL PRESENT**

Mr. Dale Wilson

Mr. Wilson stated that an inquiry had been made by Mr. Thomas Breidenstein and Mr. Jerry Miniard regarding the scheduled public hearing item. The inquiry was whether Mr. Kelly had a conflict of interest based on any relationship between the Mary Rose Mission and Gerald Dusing, one of Mr. Kelly's law partners. Mr. Wilson stated that Mr. Kelly believes that there is no conflict, as he and his law firm have no direct or indirect interest in the outcome of this case, and that he felt comfortable being able to make a decision on this case without any influence.

Mr. Kelly stated that he believes that Mr. Dusing has done some volunteer work with Mary Rose Mission, and may have done some pro bono volunteer legal services. Mr. Kelly did a conflict check at this firm and stated that Mary Rose Mission is not, or have ever been, a client of his firm. He has no financial interest in any outcome. He does not know anyone from the Mary Rose Mission by name or face. He believes that he has no conflict and has discussed this with Kevin Costello, the Planning Commission's Executive Director.

Mr. Wilson asked Mr. Breidenstein if he wanted to put anything on the record. Mr. Breidenstein said that Mr. Miniard was advised by Mr. Dusing that there was a conflict and assumed that news of the conflict would have been noted throughout the firm.

Mr. Wilson stated that Ms. Debra Pleatman, attorney for the Mary Rose Mission, may wish to make a statement for the record. Ms. Pleatman stated Mr. Dusing has performed some volunteer work for the Mary Rose Mission. They are represented tonight by Ziegler & Schneider. She stated that there is no conflict from a legal standpoint. Mr. Pieper asked if a vote was necessary on this issue. Mr. Wilson responded that no vote was necessary.

**APPROVAL OF THE MINUTES**

Mr. Pieper stated the Board members received copies of the minutes of the Florence Board of Adjustment meeting of April 13, 2016. He asked if there were any comments or corrections. Ms. Evans made a motion to approve the minutes as written and Mr. Kelly seconded the motion. Mr. Pieper called for a vote and it carried unanimously.

**AGENDA ITEMS**

1. **Request of Jerry Miniard for an Appeal of the Zoning Administrator's decision regarding a hotel use determination for real estate owned by Agris V. and Barbara Z. Kruza. The approximate 0.35 acre site is located at 6608 Dixie Highway, Florence, Kentucky.**

Mr. Pieper opened the public hearing. Kevin Wall, Zoning Administrator for the City of Florence, presented the Staff Report, which includes Exhibits A through E. Mr. Wall explained that the request is for an Appeal of a Zoning Administrator's decision. He stated that administrative decisions are to be based on the literal wording of the zoning regulations, and appeals are granted on the basis of whether an error has been made. It's not like a Conditional Use Permit where the Board determines whether or not a specific proposal is suitable at a specific location. In short, the Board needs to determine whether or not the decision is a correct reading of the code. It's not a popularity contest, and it's not a matter of whether a proposal is deemed distasteful.

Mr. Wall explained that he was presented with a proposal for a use determination for 6608 Dixie Highway. There are several letters in the Staff Report exhibits which explain the chronology of events, beginning with a similar proposal for a nearby site at 6603 Dixie Highway, which is also zoned C-2. The proposal is for transient lodging accommodations that are rented to the general public for a fee. No social type services are part of the proposal. Mr. Wall noted that the Board has the record on which the decision was based.

Mr. Kelly asked what was the difference between the initial proposal for 6603 Dixie Highway that was denied and the current proposal. Mr. Wall responded that the first proposal was for a different site across the street. Mr. Wall determined that the initial proposal was more reflective of a homeless shelter and transitional housing facility. It was laid out in a dormitory style with communal bathrooms. The operating plan said that they would give first preference to families with children.

Mr. Kelly asked if they would charge the same rate for everybody. Mr. Wall said that he didn't know, but that question could be asked of the Mary Rose Mission representatives. The key provisions in the definition of hotel is that they charge a rate and the accommodations are available to the general public. Mr. Wall stated that the zoning regulations require that they have a rate, but it doesn't stipulate the amount.

Mr. Kelly if "open to the general public" means "first come, first serve." Mr. Wall responded yes and that the zoning regulations don't specify a dollar amount for the rate, just that there is one. The proposal at hand was to rent rooms to the general public on a daily basis.

Mr. Breidenstein made a presentation for the Appellant, and distributed a three ring binder of documents (Exhibit A). Mr. Breidenstein introduced Mr. Miniard, who owns the property at 6614 Dixie Highway. Mr. Breidenstein said his address was 100 East RiverCenter Boulevard in Covington, Kentucky 41011. He also said that he used to work for the Planning Commission as a Zoning Enforcement Officer, has a degree in planning from Miami University, is a certified planner with the American Institute of Certified Planners, is

the Chairman of the Glendale, Ohio Planning Commission, and is the Secretary of their Board of Zoning Appeals.

Mr. Breidenstein said that the Board can approve, deny, or approve the request with conditions. He stated that the Zoning Administrator decision has several errors. The City Council visited this issue in December of 2014. They chose not to adopt a Zoning Text Amendment to allow homeless shelters. Mr. Wall also exceeded his authority in KRS 100.271 because he did not apply the literal terms of the regulations. The definition of hotel says that they must include additional services such as restaurants, conference centers, and recreation facilities. Nothing of that sort was presented to Mr. Wall. The C-2 zoning text says that hotels and motels must also include convention facilities. Nothing was presented to Mr. Wall to indicate that any convention facilities were proposed by the Mary Rose Mission. He said that Mr. Wall stated that he doesn't have the authority to add or take anything away from the regulations, but Mr. Breidenstein said that is what occurred.

Mr. Breidenstein said that the decision was in error because it was based on incorrect or arguably fraudulent information. The Mary Rose Mission ran a monthly newsletter after the decision was made which said that they have been granted permission to open a homeless shelter. The Mary Rose Mission posted on their Facebook page that they received permission to open a homeless shelter.

The decision is in error because Mr. Wall relied upon permitting schemes which are outside of zoning, namely determinations from the Board of Health and the Building Inspector. Another error is that the decision is contrary to the intent and purposes set forth in Article 10 of the zoning regulations. This article deals with commercial zones, the C-2 zone in particular.

The decision is also contrary to the "future land use map of Florence" which characterizes this area as commercial as described in the Comprehensive Plan. This is not a hotel, it's a homeless shelter with a "hotel label slapped on it" so it's contrary to the Comprehensive Plan.

Another error is Mr. Wall allowed a use from the PF zoning district in the C-2 zone. Homeless shelters are provided for in the PF zone. The final error is that this decision has a negative financial impact on the City of Florence and Boone County. They believe that the property will be converted to tax exempt status and will not pay property taxes to the detriment of Boone County.

Mr. Breidenstein explained his "book of exhibits" (Exhibit A). They show a long history of the Mary Rose Mission wanting to operate a homeless shelter somewhere in Boone County. These efforts were thwarted due to a literal interpretation of the zoning code. They switched gears and found a way to shoehorn the use in an inappropriate way. He stated that Exhibit 1 is a copy of the MLS listing with photographs for the property at 6608 Dixie Highway. The building is not a hotel. Exhibit 2 is the C-2 district text. There is nothing in the intent which would conform to a charitable type organization like the Mary Rose Mission. This is a commercial district for commercial enterprises. On page 10.5, the specific purpose of the C-2 zone shows that it is a commercial district and not one that allows charitable uses. There is no evidence which suggests that Mr. Wall considered the intent and purpose of the zoning district in his decision. The principally permitted uses in the C-2 zone

allow “hotels and motels including convention centers.” No convention center is part of the Mary Rose Mission proposal. The C-2 text also shows the different kinds of uses that are permitted in this zone. It’s clear that the charitable use that the Mary Rose Mission is proposing just doesn’t fit into that general category. The C-3 and C-4 zones also permit hotels and motels including convention facilities. The interpretation to allow this use as a hotel by implication must also apply to the C-3 and C-4 zones. There are other classifications which allow hotels, and there are other classifications which allow bed and breakfasts. The implication of this interpretation is much larger than just this one property. If this interpretation would stand, there could be homeless shelters in every commercial district. This is the same zoning code that applies to Boone County, Walton, and Union.

Exhibit 3 is selected portions of the definitions section of the zoning code. Mr. Breidenstein read the definition of “hotel or motel and apartment hotel.” The definition includes the phrase “and provides additional services such as restaurants, conference rooms, and recreational facilities.” Mr. Wall’s interpretation does not address this part of the definition. The record does not indicate that Mary Rose Mission would provide any additional services. The additional services would need to be of the type mentioned in the definition and can not be something unrelated to a hotel. Mr. Breidenstein also referenced the definition of “transitional housing facility.” An earlier interpretation determined that the Mary Rose Mission proposal more closely fit that definition.

Mr. Breidenstein read the intent of Article 12 of the zoning regulations. This district is more for service or charitable organizations as evidenced by the principally permitted and conditional uses listed in this zone. Transitional housing facilities are listed as a conditional use in the PF district, but is not applicable in the City of Florence. An application could not be made for a homeless shelter under this category in Florence. That’s probably why the proposal was “shoehorned” into the definition of a hotel. Exhibit 5 is a 5/15/14 e-mail from Cindy Carris of the Mary Rose Mission to Kevin Wall. It asks about running a temporary housing facility for the homeless at 7 Shelby Street in Florence. Mr. Breidenstein read the description of that proposal from the e-mail. There is nothing in that description that says hotel.

Exhibit 6 is an e-mail from Kevin Wall dated 5/19/14. In this e-mail Mr. Wall states the description from the Mary Rose Mission is more of a transitional housing facility. There is no hint that this would be a hotel. Mr. Wall noted that the decision in that e-mail could be appealed to the Board of Adjustment and there is no record of an appeal. Exhibit 7 is an e-mail dated 8/27/14 from Michael Duncan of Ziegler & Schneider who was hired to help the Mary Rose Mission with a zoning text amendment for a “temporary housing facility” in the C-1 district. They identified a property at 7607 Dixie Highway for a potential facility. The proposed language suggests that this use would be a homeless shelter. It includes criteria for how they would operate.

Exhibit 8 is an e-mail chain dated 10/23/16 where Mr. Wall gives his thoughts on a zoning text amendment for a homeless shelter to Mrs. Carris. This resulted in a newspaper article (Exhibit 9) about the Mary Rose Mission wanting to open a homeless shelter. The Mary Rose Mission had begun operating a temporary homeless shelter during the previous winter. There is no evidence that zoning approval had been granted for it. It had been open for the entire month of February.

Exhibit 10 is a continuation of the effort to open a “temporary housing facility,” which is a homeless shelter. The third page of this exhibit includes a fleshed definition of “temporary housing facility.” Exhibit 11 is a 12/1/14 memorandum from Joshua Wice to the Florence City Council which explains that they received a request for a zoning text amendment. This memorandum points out that a temporary housing facility is more akin to a transitional housing facility, which is already defined in the code and listed in the Public Facilities district. Mr. Wice questioned whether it was necessary to amend the code. Exhibit B of this memo is a map which shows all of the areas that would be affected by such a change. This interpretation opens a huge swath of commercial districts in Florence. The effort to amend the code failed. Exhibit 12 is a report of the City of Florence Planning and Zoning Committee to the full City Council which recommended denial of the text amendment due to its far reaching geographic ramifications. Exhibit 13 is the minutes of the 12/16/14 City Council meeting where the recommendation of the Committee was accepted by the full City Council.

Exhibit 14 is a 1/12/15 newspaper article about the proposed shelter and which does not describe the use as a hotel. Mrs. Carris was quoted as stating that they were going to regroup and find another way to do this, and that it will be a real challenge.

It was in November of last year that there was any hint of this use being a hotel. Exhibit 15 is letter dated 11/2/15 from Cindy Carris to Kevin Wall asking whether a proposal qualified as a hotel for 6603 Dixie Highway, which is in a C-2 zone. This letter included a description of the use and a floor plan. What’s significant about this letter is that although the proposal is being called a hotel, it describes a homeless shelter. They would give lodging to guests on an overnight basis only, have a check-in time at 7:00 in the evening, have assigned sleeping arrangements, check out time at 8:00 in the morning, and give first priority to families with children. This property is across the street from the subject property at 6608 Dixie Highway. Mr. Wall’s response is Exhibit 16, a letter dated 11/6/15 which critiques the proposal. This letter outlines several reasons why the initial proposal did not meet the definition of hotel, but was characterized as more of a lodging house or transitional housing facility and not permitted in the C-2 zone. The 11/6/15 letter outlines several options which could be pursued by the Mary Rose Mission. They could reformulate the proposal in an effort to meet the definition of hotel.

Exhibit 17 is an e-mail dated 11/24/15 from Cindy Carris to Kevin Wall which included a revised floor plan and description of the use. The revised description says that they will rent rooms to the general public on a daily basis for a fee. Mrs. Carris talks about it being handicap accessible, a modern facility with water closets in the rooms, and consistent check-in/check-out times. Exhibit 18 are inquiries from Mr. Wall and the Mary Rose Mission to the Building Inspector and Health Department about whether the proposal for 6603 Dixie Highway is a hotel under their regulations. This leads to the error mentioned earlier that the zoning decision was based on improper consideration of regulations that are outside of the zoning requirements. Mr. Wall’s decision is in a letter dated 1/28/16 (Exhibit 19). This letter concludes that with the changes made by the Mary Rose Mission, the use is a hotel in the C-2 district.

The next exhibit, Exhibit 20, is the most important. At some point following Mr. Wall’s decision that the proposal for 6603 Dixie Highway was a hotel, the Mary Rose Mission issued a monthly newsletter dated 3/20/16 which makes it clear that their mission is to

serve the homeless. Nothing in the newsletter would indicate that they intend to operate a hotel. The proposed facility is a homeless shelter, despite Mr. Wall's interpretation. Apparently the property at 6603 Dixie Highway fell through, which moved the proposal to the subject property at 6608 Dixie Highway. Exhibit 21 is a 3/28/16 e-mail from Cindy Carris to Kevin Wall. In this e-mail Mrs. Carris explains that it would be the same operational plan that had been proposed for 6603 Dixie Highway. Exhibit 22 is e-mail correspondence with inquiries to the Building Department and Health Department about whether they consider the proposal to be a hotel. Based on the request of the Mary Rose Mission and discussion with other officials, Mr. Wall reissued his opinion in a letter dated 4/1/16 that the proposal for 6608 Dixie Highway was a hotel and not any type of homeless shelter (Exhibit 23). Mr. Wall provided a very cursory review of the definition of hotel and totally excluding any of the additional services that the definition requires. He also ignored that there are no convention facilities as required with hotels in the C-2 district.

The third page of Exhibit 24, which is a screen shot from the Mary Rose Mission Facebook page, has an entry dated 4/7/16. It states "the Mary Rose Mission is beginning a new ministry. A place where the homeless can sleep in a soft bed and a warm blanket." Mr. Breidenstein stated that this is evidence of their true intent to operate a homeless shelter on this property and also evidence which they withheld from Mr. Wall. It also includes a link to a newspaper article entitled "Mary Rose Mission plans 30-bed inn for the homeless." There's no evidence on the Facebook page or elsewhere which indicates that the Mary Rose Mission made an effort to correct this headline. Exhibit 25 is the news article with highlighted passages which demonstrates that this will be a homeless shelter. Mrs. Carris states in this article that they found a way to work around the zoning issues. This points to the error that not all of the zoning requirements were satisfied and why this interpretation should be overturned.

Exhibit 26 is a printout of the PVA property card for the existing Mary Rose Mission property on Main Street. The property class is exempt from property taxes because they are a charitable organization. The Exhibit 27 is the property card for 6608 Dixie Highway. The property class there is listed as commercial/retail. The tax bill in 2015 was \$2,880.00. He suspects that the Mary Rose Mission would apply for tax exempt status for that property.

Exhibit 28 is the Articles of Incorporation for the Mary Rose Mission from 1995. The purpose of this nonprofit corporation is the relief of the poor, distressed, handicapped, and underprivileged, and distribution of funds for such purposes. There is nothing which indicates that their purpose is to operate a hotel for the general public. That would be totally contradictory to all of the purposes set forth in their Articles of Incorporation. The Articles also say that they will not engage in propaganda or attempt to influence legislation. There may have been a violation of that when they sought a zoning text amendment from the City of Florence. That concludes the Appellant's exhibits. The exhibits tell the story of all of the errors that Mr. Breidenstein outlined at the beginning of his presentation. He asked his client Mr. Jerry Miniard to speak.

Mr. Breidenstein asked Mr. Miniard to give his name and business address. Mr. Miniard responded that his name was Jerry Miniard and his business address is 6614 Dixie Highway, Florence, Kentucky 41042. In response to Mr. Breidenstein, Mr. Miniard confirmed that his property was next to the subject property. His property is within several feet of the common property line.

Mr. Breidenstein stated that there was discussion about a potential conflict of interest at the beginning of the meeting, and that now was his opportunity to speak about that issue. Mr. Miniard stated on 4/14/16 he was contacted by a friend who told him about the proposal for 6608 Dixie Highway. He called the property owner, Mr. Kruza, and asked if they were going to operate a homeless shelter. Mr. Miniard stated that Mr. Kruza told him that "they're going to call it something, and they're going to charge something." Afterwards he called attorney Gerry Dusing to represent him for an appeal of Mr. Wall's opinion. He said that Mr. Dusing knew all about the situation and could not talk about it because he has a conflict. He then contacted Mr. Breidenstein.

Mr. Breidenstein asked if he had any personal issues with homeless shelters. Mr. Miniard responded absolutely not. He believes that anyone with good moral views should take care of the less fortunate. He stated that he has been very blessed in his life. He believes that the Mary Rose Mission has good intentions. He has worked through the Welcome House and interviewed the homeless. He and his family make the event part of each Christmas. The zoning laws should be applied consistently to protect people's investments and not circumvent the requirements.

Mr. Breidenstein stated that the standard of appeal is that someone is aggrieved by the decision. He asked Mr. Miniard to describe how he was injured or aggrieved. Mr. Miniard stated that he has owned the property since 9/20/00 and has put a lot of money into it. He put about a half million dollars worth of repairs into it in addition to the purchase price. He purposely chose Florence for his business. He had the privilege of practicing with Phil Combs for twelve years. Mr. Combs moved from Covington to Florence for comfort and security. Mr. Miniard stated that he doesn't believe that all homeless people are bad or dangerous. He had previously worked at 6601 Dixie Highway and purchased the building at 6614 Dixie Highway so that he and his clients would be comfortable. One time he found a homeless person sleeping at the front door. People come and go at all hours, and sometimes staff are there by themselves. He said that there are homeless people with drug and alcohol problems, and this could scare off clients and cause problems for his tenants and employees.

Mr. Breidenstein asked if he had looked into the zoning of the property when he purchased it. Mr. Miniard responded that he knew it was commercial and it wasn't something that would permit a use that would diminish the value of the property. That's why he purchased the property and put in a large investment. Mr. Breidenstein stated that concluded his questions of Mr. Miniard.

Mr. Pieper asked if there were any questions from the Board. There was no response from the Board members.

Ms. Debra Pleatman stated that she had questions for Mr. Miniard. She asked if after he had talked with Mr. Dusing, if he called Mr. Breidenstein right away. Mr. Miniard responded yes. Ms. Pleatman stated that Mr. Miniard had filed the appeal under his own name and asked why he didn't have Mr. Breidenstein do it. Mr. Breidenstein stated an objection to this question and stated that it's not relevant and protected by attorney/client privilege. Mr. Wilson stated that Ms. Pleatman can ask the question but that Mr. Miniard can choose not to answer it. Mr. Miniard stated that he didn't understand the question and asked her to rephrase it. Ms. Pleatman stated that Mr. Miniard drafted the notice of appeal and signed it, so why didn't Mr. Breidenstein prepare the notice? Mr. Miniard stated that he thought that it was his obligation to prepare it, but he's a personal injury attorney and not a zoning attorney. Ms. Pleatman asked if he thought that he had to prepare the notice as the applicant. Mr. Miniard stated that she knows the rules of ethics and she is indirectly asking

about a matter of attorney/client privilege. Ms. Pleatman said that Mr. Miniard stated that he learned about it on about 4/15/16, but the notice of appeal is dated 4/29/16. What is right then? Mr. Miniard stated that he had to request documents from the City of Florence and Planning Commission and that he didn't learn about the proposal until 4/14/16. He received the documents on 4/18/16. It takes time to digest the information and not all of the documents were provided.

Ms. Pleatman stated that Mr. Miniard's claim of injury is the anticipation of homeless people being around his building. Mr. Miniard stated that he talked with his tenants and neighbors and they have fears that people will not come to their businesses. This is not a homeless issue. What if some other type of use wants to call themselves a hotel and further damage the business community? If this type of interpretation stands then people will offer him less money at the point that he wants to retire and sell his business. There is also the issue of loss of clients, fear of tenants, and diminution of value of his property.

Ms. Pleatman asked Mr. Miniard if the Turfside Inn is across the street from his property. Mr. Miniard said that it is not. It is probably two tenths of a mile away. She asked if it can be seen from his property. Mr. Miniard replied that it would be difficult. It's approximately four to five buildings to the north on the opposite side of Dixie Highway. Ms. Pleatman asked it's not exactly the Ritz of hotels, is it? Mr. Miniard replied that it doesn't have anything to do with this particular use. Ms. Pleatman asked if anyone who stayed at the Turfside Inn wandered down to his property or other businesses nearby that he's aware of? Mr. Miniard replied that he didn't know anything about that and he doesn't keep track of it. He's only concerned with people within ten to fifteen feet of his property. Ms. Pleatman asked what about the property at 6603 Dixie Highway? Isn't that right across the street from his property? Mr. Miniard replied that it is. Ms. Pleatman asked why didn't he object to that property? Mr. Miniard replied that nobody told anybody about it. Nothing was published, just like this case. The only reason that he learned about it was because there was a newspaper article published about it on 4/12/16. He was informed about it by Phil Combs on 4/14/16 and filed his appeal as soon as he could get his information together.

Ms. Pleatman asked Mr. Miniard, aren't the injuries that you are claiming that will be suffered speculative in nature? Mr. Miniard claimed that they are not. Ms. Pleatman asked if he had some proof of them. Mr. Miniard replied that he didn't think that he needed statistical data about homeless people coming and going. Since September 1989 he's seen only one homeless person near his office. This proposal will involve thirty people coming and going. If there are too many people and not enough available rooms, where are they going to go? Will they go behind his building, to the Crown Plaza, to the veterinarian next door to him, or behind the vacant dental facility? He stated that he has a legitimate belief that he will suffer harm in that there will be situations for drugs and alcohol since many of them have drug and alcohol problems as well as psychological issues. He stated that he sees that as a real harm to the community. He believes that it is common sense.

Ms. Pleatman asked if he was familiar with the soup kitchen that the Mary Rose Mission runs on Main Street. Mr. Miniard stated that he is not. Ms. Pleatman asked if he did any investigation regarding whether there were any homeless people there or any problems as a result of it. Mr. Miniard replied that he tries to keep his nose in his own business. He saw that they run a soup kitchen and he was happy that someone would fill a need and doesn't have a problem with it. He said that it's at least a mile from his office and he has no reason to look into it. Ms. Pleatman asked if he was aware of any other business in Florence that had any issue with the soup kitchen. Mr. Miniard replied that he was not.

Ms. Pleatman asked Mr. Miniard if he had any statistics which say that there aren't any homeless people in Florence? Mr. Miniard stated that's not the basis for his appeal. The basis for his appeal is to make sure that the issue is fully vetted. He stated that it's not about him or the homeless but about the rule of law. You can't call a homeless shelter an inn. That's the relevant question.

Ms. Pleatman stated a homeless shelter doesn't charge a daily rate, correct? Mr. Miniard replied that he doesn't know what the mission is planning on doing. Ms. Pleatman said her question was about homeless shelters and not this mission. Mr. Miniard stated that the appeal is about this mission at this property. Ms. Pleatman responded that he had asked her to ask about homeless shelters. Mr. Miniard said to his knowledge homeless shelters do not charge a rate. He doesn't think that's what is going to happen here. They may give their guests a dollar to take in a dollar. He doesn't think that any money will really be exchanged. It's just a scam or a shell game. He thinks that the Mary Rose Mission will give them money to trade back to try to circumvent the zoning authority. Ms. Pleatman said that again he was speculating, correct? There is nothing to base that on. Mr. Miniard stated that the basic logic is that if you have no money, and you're homeless, where are you going to come up with the money? The only way to get it is if someone gives it to you. He said that is his logic, and maybe he's wrong. He appreciates that the only way they could win the appeal is to make it about the homeless. It's not about the homeless but the rule of law. This is a C-2 zone and this homeless shelter is not allowed pursuant to the City's ordinances and zoning laws. If he was asked a question about that, he would love to answer it.

Ms. Pleatman stated that Mr. Miniard made this about the homeless. She stated that the Mary Rose Mission inn fits the definition of hotel and the rule of law, and that Mr. Miniard made this about the homeless. This is a not in my backyard, didn't care when it was across the street, and don't have a problem with the hotel down the street, but it's next to you. Ms. Pleatman said that she has no further questions. Mr. Miniard stated that he had no previous knowledge of Mr. Wall's 1/28/16 ruling about 6603 Dixie Highway. It's not published anywhere and doesn't appear in the newspaper. It's a private letter from Mr. Wall, the Zoning Administrator, to the mission. Nothing was published regarding Mr. Wall's decision for 6608 Dixie Highway. It came out publically for the first time in a newspaper article on 4/12/16, eleven days later. This is not about the homeless but about a commercial zone. The rule of law applies here. People can't plan their lives and investments if they don't know what can go at a specific location.

Mr. Breidenstein said that he had nothing further either and said that it might be logical to ask other people who are in favor of the appeal to speak. Mr. Wilson said that the Board should hear from Ms. Pleatman and her client first and then ask for testimony from anyone in the audience.

Ms. Pleatman passed out a floor plan for the proposed facility (Exhibit B) and began her presentation for the Mary Rose Mission. Ms. Pleatman stated that she went to law school with Mr. Breidenstein and Mike Duncan taught them. Ms. Pleatman stated that the Board knows that they have a good staff with the Boone County Planning Commission. They are very meticulous, they go through everything, and sometimes people disagree. The difference is that this issue is black and white, it's about a definition. It's been through a process and the proposal has changed. The Mary Rose Mission started out many years ago and their mission is to help the poor. Being poor does not necessarily equate to being homeless. It may mean that they are without a home for a temporary time. The mission is not meant to serve the scary homeless people that live under a bridge.

The soup kitchen was a tough hurdle for Florence. It has persevered, it's a beautiful building, and it's been successful. There have been no issues with panhandling, vagrants, or problems with business owners. They serve an evening meal. They serve hundreds of people and unfortunately, it's a need. The low cost hotel that the Mary Rose Mission is proposing is not a shelter. It's simply to be transient lodging accommodations at a minimal cost. The Mary Rose Mission can monitor it and keep it clean and pristine just like the soup kitchen. These are people who are dedicated to volunteering and that's what they want to do.

The appeal is about the definition. Ms. Pleatman said "transient lodging accommodations on a daily, weekly, or monthly rate, to the general public," and not the homeless, the mentally challenged, the drug addicts, the heroin addicts, or the alcoholics. It is for people who are between times with children and families in school. They may be working but have lost their apartment and need a place to stay. The mission will have regular check-in/check-out times. They will have staff on the premises. They will have separate rooms and each room has its own shower, water closet, and sink. The Board of Health requires towels, soap, shower, water closet, and sink for hotel rooms. The "Building Code" has also looked at it and they must have a mop sink and a drinking fountain in the lobby. There is a lobby. They will also have washers and dryers for a charge. They will have parking for customers which have automobiles and the cars will need to be removed every morning after check-out. If they have people loitering they will call the police.

What Mr. Miniard and Mr. Breidenstein are looking at is a transitional housing facility. The difference is that is a residential based facility where people go and live temporarily everyday. They leave their stuff there and they have a cubby to put their belongings in. The Mary Rose Mission will not be doing that. They may be able to have their mail sent to a transitional housing facility, but not to the Mary Rose Mission facility. A transitional housing facility provides rehabilitative services. That will not happen at the Mary Rose Mission inn. It will just be a very small, reasonably priced hotel. It's not going to have medical services, mental health services, or job search abilities. It's simply going to be a hotel just like any other hotel. Ms. Pleatman said the original goal was to open some type of shelter, but the proposal has changed.

Ms. Pleatman called Cindy Carris, president of the Mary Rose Mission to the podium for questions. Ms. Pleatman asked Mrs. Carris to describe her involvement with the Mary Rose Mission. Mrs. Carris stated that she is the current president of the board of directors and the executive director of the Mary Rose Mission kitchen on Main Street. Ms. Pleatman asked if they have had any problems with the soup kitchen, complaints from business owners, or homeless people hanging out. Mrs. Carris replied no. There was a lot of fear when they first purchased the building about what kind of people it would bring. What they found out was they had no problems at all. There were fears of people loitering and that there would be crime, such as their guests trying to break into other people's cars. Nothing like that has ever happened. Mrs. Carris stated that she has a friend who left her purse on the seat of her car with an open window while she was in the soup kitchen and it was still there when she returned.

Ms. Pleatman said that there has been a lot of talk about the purpose of the Mary Rose Mission, and the original purpose discussed in newspaper articles. Is the purpose of the Mary Rose Mission to cure homelessness? Mrs. Carris responded that they got the idea in the winter of the "big freeze," which she believes was 2014. They didn't have a homeless shelter, but they found a church who would provide funds for people who didn't have anyplace to go to stay in hotels, such as Travel Lodge or Super 8. She said they received donations and grants to help pay for people to stay in area hotels. They did this in the

month of February and housed as many as 22 people, some for as long as a week. She said that they saw some people residing in hotels long term, such 3 to 5 years. At the Turfside Hotel, there is a family who has lived there for 20 years and they pay \$700 to \$800 a month for housing. This is similar to the Knights Inn which was condemned for Building Code violations.

What they found is that there are people who are temporarily without housing. The original plan was to do a homeless shelter. Health Point on Dixie Highway was going to give them 10,000 square feet for a homeless shelter, for free. Mrs. Carris said they couldn't open a homeless shelter, so the plan evolved to the Mary Rose Mission inn. She said that she discussed the idea of a hotel with Mr. Wall, and began reading zoning codes, which she found challenging. She wondered how could Turfside Hotel operate in that manner and we can't? She said that the mission has delivered groceries there. They want to be able to open an inn to house people in a clean environment, but not house them permanently. They don't want to be a landlord, they just want to provide temporary lodging so people have a place to stay.

Mr. Kelly asked that if he personally decided to go stay there on a Wednesday night, can he do that? Mrs. Carris responded absolutely. What she found from the Mary Rose Mission kitchen is that many of their guests are working or elderly. She stated that the inn would absolutely be first come, first served. Mr. Kelly asked, even if there's someone doing financially worse than me, and comes in right behind me, and there is one room left? Mrs. Carris responded absolutely. She said that they are rule followers. At the Mary Rose Mission kitchen they adjusted their plans to meet the Health Department rules. As a hotel, the facility will absolutely be first come, first served.

Mr. Kelly said that they stated that a daily rate will be charged, but will that money be coming from the Mary Rose Mission? Mrs. Carris responded no. The guests will have to come up with that money. She said that she has found that most people can come up with some money when it is for food or lodging on a temporary basis. It is her experience that very few people are homeless for 365 days a year. They are homeless for a week or a couple of days because they get behind on bills or their car needs a repair so they need to put money aside to fix their car so that they can go to work. Mrs. Carris said that they had a young man who came to the Mary Rose Mission who said that he worked, but lost his apartment after he had paid his rent and was living out of his car.

Ms. Pleatman said that the requirements for a hotel under the zoning regulations have been discussed. You need to charge a daily rate and you need to have check-in/check out times. Mrs. Carris agreed. Ms. Pleatman asked if they were going to store belongings. Mrs. Carris responded no. Ms. Pleatman asked if cars would be parked in the lot after check-out times. Mrs. Carris responded absolutely not.

Ms. Pleatman said that Mr. Breidenstein talked about where the definition of hotel says that it will include other services such as restaurants, conference rooms, and recreational facilities. Ms. Pleatman asked if they were going to provide a continental breakfast. Mrs. Carris responded absolutely, according to the Board of Health. Ms. Pleatman asked Mrs. Carris if she was aware of other hotels in Florence. Mrs. Carris said that she knows that the Stay Lodge does not have recreation facilities, and was sure that they did not have conference or convention facilities. The Turfside Hotel does not have any of those services, nor did the Knights Inn.

In response to Ms. Pleatman, Mrs. Carris confirmed that they would need to provide soap, towels, shampoo, and sheets to meet the Board of Health's requirements. They would also

provide a washer and dryer for a charge. Ms. Pleatman asked if they would provide any services such as social services, counseling, medical, drug, or rehab treatments? Mrs. Carris responded absolutely not, we're not qualified for that.

Ms. Pleatman said lets look at Exhibit #20 (Mary Rose Mission newsletter), which is dated March 2016. It talks about opening the Mary Rose inn, correct? Mrs. Carris responded yes. Ms. Pleatman said that this is obviously before the approval from Mr. Wall for 6608 Dixie Highway. She asked if this was when the Mary Rose Mission was still considering the property at 6603 Dixie Highway? Mrs. Carris responded yes. This newsletter talks about families that have children that go to school but don't have anywhere to sleep at night and says that we have seen people that are temporarily homeless due to illness or unexpected car repair. She asked, these are the people that you're talking about serving, correct? Mrs. Carris responded correct. Ms. Pleatman said we're not talking about the chronic homeless who are homeless because they suffer from mental issues, they don't take their meds and wander the streets, or the veterans who don't get treatment and end up on the streets. These are everyday people who have fallen through the cracks, correct? Mrs. Carris responded absolutely, but it has to be first come, first served.

Ms. Pleatman asked, so you don't know what you'll get? Mrs. Carris responded that was correct. Ms. Pleatman said that when we look at Exhibit #24 (Mary Rose Mission Facebook page) in Mr. Breidenstein's book of exhibits, he pointed out that it was intended to be a place where the homeless could get a soft bed and a warm blanket. She said that these people may or may not be homeless since it's first come, first served, but this doesn't mean that you're just trying to open shelter does it? Mrs. Carris responded no. Ms. Pleatman asked about the newspaper article. Did you really mean it to sound like you were trying to get around the zoning code? Mrs. Carris said that she never used the term "homeless" during the whole conversation with the reporter. Mrs. Carris said that the reporter stated that she understood that they were trying to open a homeless shelter. Mrs. Carris said that she responded no, we're trying to open the Mary Rose inn. Mrs. Carris said that she never used the terms "shelter" or "homeless" in the conversation. Ms. Pleatman asked if there was anything else that Mrs. Carris would like to state. Mrs. Carris said no.

Mrs. Evans asked if she could ask Mrs. Carris some questions. Mrs. Evans asked if Mrs. Carris remembered how many beds were intended for the original proposal. Mrs. Carris responded that no floor plan had been developed for the Health Point site, but she thought that it would have been between 50 and 100. Mrs. Evans asked how did they determine the number of beds that they may need. Mrs. Carris responded that they looked at the available space, how many would fit based on legal requirements, and how to make it the best area for their guests. Mrs. Evans said, so it was just based on the size of the space, so really you don't know what numbers you might need? Mrs. Carris said that they will need as many beds as they can get. She said that she didn't really understand the question.

Mr. Kelly asked how many people can be in a guest room? Mrs. Carris said 38 people total. There would be 6 per room, and one room has 8. Mrs. Evans said she thought she saw 22 beds on the floor plan. Mrs. Carris said there are 19 on the plan in six rooms. Mrs. Evans asked if she thought that would be adequate. Mrs. Carris responded yes, it should be more than enough. When they opened up the kitchen, she thought that they would solve the hunger problem and have 500 people. That wasn't the case. She believes there will usually be empty rooms at the inn. She said that there is a fear that people will be lining up and creeping in the woods, but that won't be the case.

Mrs. Evans asked if she knew the homeless figures for Boone County. Mrs. Carris said that she has the figures but does not know them offhand. She said that there are several definitions of homeless. There are "homeless" who live out in the woods and then there are people who live in places like the Turfside Hotel and the Stay Lodge. There are others who move around between family members. That's why it's pretty gray.

Mrs. Nieves asked how they would deal with cars left after 8:30 in the morning. Would they just be towed away? Mrs. Carris responded affirmatively. It probably won't be necessary since it's their only way of getting around. Mrs. Nieves asked in respect to Mr. Miniard's concern about people loitering, have they had any conversations about partnering with the Florence Police Department, doing drive-bys to make sure that there's not random people in the area. Mrs. Carris said that they did that when they opened the kitchen on Main Street. They had the police come in and give them safety tips because they didn't know who their guests would be. They presented the police with questions about ridiculous scenarios that never happened. They were told just to call 911. They have had to call 911 twice for medical issues.

Mrs. Evans asked Mr. Wilson if some of the hotels in the area, such as the Turfside Hotel, are grandfathered and that is the reason why they don't have some of the facilities that are now required? Mr. Wilson said that he wouldn't be surprised if some of them are grandfathered, but maybe Mr. Wall would know. Mr. Wall stated that he's sure the Turfside probably is, and that hotels are built routinely in Boone County. He doesn't know the inner workings of all of them, but facilities such as convention centers are not very common.

Mr. Kelly asked if the offering of a continental breakfast and/or laundry facilities qualify as additional services such as restaurants, conference rooms, and recreational facilities in context of the hotel definition. Mr. Wall responded that Mr. Breidenstein paraphrased the definition and said that a hotel "must" have additional services. The code doesn't say "must." It says "and." It is not an exclusive list or a very specific list. It is a representative list. It is unlike the first part of the definition which is very affirmative and definitive. The second part of the definition is permissive. Mr. Kelly responded ok.

Mr. Pieper asked if there were any questions or comments from the Board. There were none.

Mr. Breidenstein asked questions of Mrs. Carris. Mr. Breidenstein noted the previous discussion between Ms. Pleatman and Mr. Miniard and asked Mrs. Carris if she had feared the homeless in the past. Mrs. Carris responded yes. Mr. Breidenstein stated that is mentioned in his Exhibit 14. He read a quote attributed to Mrs. Carris in a 1/12/15 newspaper article in which she said that at one time she had feared the homeless. He asked Mrs. Carris if she can appreciate the fact that Mr. Miniard and others may have fear of the homeless? Mrs. Carris responded absolutely, people can be fearful and ignorant. She said that she had two council members who have come to the Mary Rose Mission to volunteer and have since changed their opinions. Their fears have all gone away.

Mr. Breidenstein said that Mrs. Carris stated earlier that they would serve people who are between times. He asked if that is an explanation of who they were serving. Mrs. Carris stated that she wasn't sure what he meant. Mr. Breidenstein asked if she would agree that people who are between times is not the same as the general population. He wants to be sure who their guests will be. Mrs. Carris stated that anybody can stay there. She said that she made a commitment to follow the law and it says it has to be first come, first served. Mr. Breidenstein asked if they would be prepared to shut down their doors if an enforcement action was brought because they turned away cash paying customers in favor

of the homeless. Mrs. Carris said that they can't favor one customer over another. She said at the Mary Rose Mission they serve meals from 4:00 to 6:00. If someone comes in at one minute after 6:00, they won't serve them, even though they may be hungry.

Regarding ancillary services, Mr. Breidenstein asked Mrs. Carris to confirm that they would serve a continental breakfast. Mrs. Carris stated that was correct and confirmed that it would only be available to guests. Mr. Breidenstein asked if she would agree that in a traditional sense a restaurant is open to the public. Mrs. Carris disagreed with this statement. She said that non-guests can't go to a Holiday Inn and have the complimentary continental breakfast. Mr. Breidenstein said that a restaurant in the traditional sense is open to the public and doesn't just serve a small population. Mrs. Carris said that their facility is fashioned after a Holiday Inn Express where the only restaurant service is breakfast in the morning to their guests.

Mr. Breidenstein said that if he understood correctly, that's the only additional service that they are proposing. Mrs. Carris stated that they would also offer laundry services. Mr. Breidenstein asked if she would classify laundry services the same as a conference room, recreation facility, or a restaurant? Mrs. Carris responded in comparison to the Stay Lodge or Turfside Inn, yes. Mr. Breidenstein asked that because perhaps that those operations are in violation that the proposed facility can violate as well. Mrs. Carris responded absolutely not. She said that her understanding is that additional services such as convention facilities are allowed but not required.

Mr. Breidenstein asked if she explained to Mr. Wall that they would have laundry services and a continental breakfast. Mrs. Carris responded yes. Mr. Breidenstein said that he must have missed that. Mrs. Carris stated that Mr. Wall informed them that they needed to contact the Board of Health. Mr. Breidenstein asked if the Board of Health had other requirements for hotels. Mrs. Carris replied yes and that those requirements pertain to the provision of towels, sheets, shampoo, soap, and various items. Each room has to have its own bathroom, it has to have a mop sink, and water fountain in the hall. The led to the first changes in the plan. She said regarding the additional services, they told the Board of Health that they wanted to serve a continental breakfast, but didn't want to open another commercial kitchen. Mr. Breidenstein asked if that was a conversation between her and the Board of Health. Mrs. Carris responded yes.

Mr. Breidenstein referred to the Mary Rose Mission newsletter and their services to the public. Is there anywhere in that newsletter or any other official publication where it mentions that it's a hotel open to the general public? Mrs. Carris said that she doesn't know and hasn't looked. Mrs. Carris said that their mission has evolved over time. Mr. Breidenstein said that there isn't nothing on their Facebook page which explicitly says that it's open to the general public. Mrs. Carris said that she hasn't looked at it recently. She said a Facebook page doesn't give the whole picture. Mr. Breidenstein said that may be correct, but it's the message that the Mary Rose Mission chose to put out to the public. He said that he had no more questions.

Mr. Pieper asked if there were any questions from the Board. There were none. Mr. Pieper asked if there was anyone from the audience who wished to speak.

Ms. Pleatman said that she had a follow-up witness. She asked the witness to identify himself. He stated that his name was Jim Lazzari, he has been a Boone County resident for 28 years, and that he is a registered architect in Kentucky and other states. His firm, FRCH Design, does work around the country. They do a lot of hospitality work for major hotel chains. He stated that he understood that the purpose of the meeting was to

determine whether the proposal complied with the zoning requirements, health department requirements, and building department requirements. He said that he must look at this in a black and white manner. He said that of all of the requirements that he must follow as an architect, these plans follow.

Ms. Pleatman asked Mr. Lazzari if he drew the plans. He stated that he drew these plans and the early sketches for the other property locations. He put into visible form the thoughts that Mrs. Carris and the Mary Rose Mission had. He said that Mrs. Carris would refer to it as a shelter, and he would respond that you can't have a shelter in Florence or Boone County. She would call it something else and then refer to it as a shelter again, and Mr. Lazzari would remind her that you can't have a shelter, or a youth hostel, or a bed and breakfast because the owner must reside on the premises. Mr. Lazzari said that he advised them that the only possible venue they would have is to look at it as a hotel business, because that is the only thing that complies with the zoning regulations for that property. He said that the six rooms shown is the maximum that will work for that property.

Regarding conference rooms and additional uses, Mr. Lazzari said that this proposal is only for six rooms, it's not two hundred and fifty rooms. Two hundred rooms is usually the threshold associated with having conference rooms, banquet facilities, or having a separate restaurant. It's not really applicable to a six room hotel. The lobby itself acts as a conference room and seating area for the continental breakfast. It's a matter of square footage. Everything here complies with hotel regulations. The room sizes are what you would find in most typical hotel chains across the country. That's the basis of the design. Each room has the required bathroom. They meet the ADA and exiting requirements for this facility. The plan is based on codes, regulations, you name it.

Ms. Pleatman stated that Mr. Lazzari was called to answer any questions in addition to discussing the drawing. Mr. Pieper asked if the Board had any questions for Mr. Lazzari. There were none.

Mr. Breidenstein asked Mr. Lazzari when did he draw the plan. Mr. Breidenstein said that he did not see a date on the plan. Mr. Lazzari stated it was done over the past month after visiting the property. Mr. Breidenstein asked if he had visited the property before that. Mr. Lazzari stated that they first reviewed it with the Mary Rose Mission, and then prepared sketches, and further developed the plan. Mr. Breidenstein said that it was his understanding that Mr. Lazzari suggested that this use should be characterized as a hotel. Mr. Lazzari responded yes. Every project goes through the process of reviewing zoning regulations to determine what is possible. The zoning regulations do not allow for homeless shelters, that's why it's a hotel. He keeps hearing everyone focus on the homeless, but this is for the general public use and that's what it's drawn to be.

Mr. Breidenstein asked Mr. Lazzari if he could point to where the restaurant facility is on this plan. Mr. Lazzari said that there's not a restaurant on this plan. Mr. Breidenstein asked if he could point to where the recreational facilities are on the plan. Mr. Lazzari said that there aren't any recreational facilities. Mr. Breidenstein asked about conference rooms. Mr. Lazzari said that the lobby can be used as a conference area if needed. Mr. Breidenstein asked that it's simply labeled as a lobby, correct? Mr. Lazzari responded that the proposal is only for six rooms and there will be a limited number of people at the facility. Mr. Breidenstein asked if they planned for any convention facilities. Mr. Lazzari replied not for a six room hotel. He would challenge anybody to find a six room hotel anywhere in this country that has convention facilities.

Mr. Breidenstein commented that beds are drawn on the plan. Are those single beds or bunk beds? Mr. Lazzari said that it's based on a twin bed layout and they can be bunk beds if needed. In response to Mr. Breidenstein, Mr. Lazzari stated that there are nineteen beds on the plan and confirmed that it would be thirty eight if they were bunk beds. Mr. Breidenstein asked if he knew the parking requirement for thirty eight beds. Mr. Lazzari replied that he did not know off the top of his head. Mr. Breidenstein asked if he knew how many parking spaces were available on the site. Mr. Lazzari said that had not been part of the process up to this point. The property would need to facilitate the parking spaces required. Mr. Breidenstein asked if he had been asked to map out the parking spaces on this property. Mr. Lazzari stated not at this time. Mr. Breidenstein stated that he had no further questions.

Mrs. Evans asked if non-related people could be in the same rooms. Mrs. Carris responded yes. Mrs. Evans asked if that was permissible under hotel regulations. Mrs. Carris responded yes. Mr. Lazzari said that he could answer that question based on a double room occupancy. Mrs. Evans expressed that she understood from that perspective. Mrs. Evans asked if the hotel would be locked. Mrs. Carris asked if she meant like a regular hotel where you have to use a key card. Mrs. Evans responded affirmatively. Mrs. Carris said yes, it will be locked at night. Mrs. Evans asked how many employees will be on the premises. Mrs. Carris replied that they are all volunteer right now. They would have three to four at check-in and check-out times, and two overnight. Mrs. Evans asked where will the volunteer employees would be throughout the night. Mrs. Carris referred to the check-in area and the kitchen-storage area on the floor plan. Mrs. Evans asked if they would be sleeping. Mrs. Carris responded no, that's why they have two people. Mr. Pieper asked Mrs. Evans if that was all of her questions. Mrs. Evans responded yes.

Mr. Pieper asked anyone from the audience who wished to speak to come up to the podium.

Mr. Jack Haney stated that he operates A-1 Gun at 6704 Dixie Highway. He's in his thirtieth year of sobriety in a twelve step program and he has had many encounters with homeless and mentally ill people in that program. He runs a food pantry with a church, and has been a trustee with two different churches. He has done extensive work with the homeless. Even though the Mary Rose Mission representatives keep saying it's not a homeless shelter, we keep focusing on the word homeless and that it's to serve people without a home. That's his definition and a common sense definition of homeless. What we're really doing here is putting lipstick on a pig. It's his experience with the homeless that a lot of them are mentally ill. He has seen cases where people become homeless through no fault of their own as well, but there's no way to differentiate who's homeless through no fault of their own or who's mentally ill. He has a high risk business because there is five to six hundred guns in his gun shop. He has been operating in Florence for almost four years at two separate locations and has had a break-in. He said for the record that if it is approved he will be first in line to rent one of the rooms for a year. He said he wants them to take his reservation tonight because when he rents a room, he rents the whole room. When he goes to a hotel he doesn't stay with five strangers or ten strangers depending on how many beds will be stacked up. He plans on being able to come and go during at night. If you get hungry you leave to go get something to eat since they're not operating a restaurant. He wants to know that his car will be parked there safely. Mr. Haney said that he lives thirty miles away and that's the reason he needs a room here. If it's going to be cheap and open to the public he wants to be the first one on record to rent that room. He said that they're trying to circumvent the law, and that it's a clear and present danger to the security of his business. He stated that he pays a lot of taxes. He doesn't want to put his business at risk.

He has a substantial investment in the business and what Mr. Miniard said about the devaluation of his property is common sense. It's common sense that this mission will apply for tax exempt status. You don't have to state statistics to know that these things are going to happen, and it's a danger to his business. This has been under the radar and they're trying to circumvent the law. They don't need a zoning change if you call it a hotel, and that's the whole purpose for this appeal tonight.

Mrs. Evans asked where his business was located. Mr. Haney replied at 6704 Dixie Highway, across the street from JD Byrider at the corner with Dixie and Bustetter. He joked for her to stop by because he needs to sell some guns.

Mr. George Higdon said that he's been a resident of Boone County for about forty years. He's owned a building adjacent to this property for about eighteen years. He said that we have a homeless problem in Boone County. There are people who are forbidden to come into the Frisch's and Bob Evan's restaurants on Dream Street because they cause problems and are obviously homeless. One of them has been around for several years. They come by every morning and get the cigarette butts out of the sand. He's never heard of a hotel that didn't charge anything and was tax exempt. The tenants in his building include a beauty shop, a church, and the Northern Kentucky Community Action Center, which is a nonprofit which helps people with rent and utilities. There are a lot of women who work in his building and they are not happy about this proposal. He thinks that we are talking about the unintended consequences. It's a noble cause and he doesn't have any problem with that. When the county built a rehab center for people with drug addictions they didn't put on Main Street in Florence and in a residential area. They put it on Weaver Road adjacent to the interstate. The only thing close to it is the Keebler cookie factory.

Mr. Higdon stated that he thinks that is one of the main problems here. He has found homeless people sleeping in a recessed area by his building several times. He knows it's a problem and he feels sorry for them, but he also feels sorry for his tenants. If they don't feel safe there, they're going to move. At one time he had four hundred and forty four tenants in Boone County because he was in the commercial real estate business. He doesn't know what to tell these women what's going to happen because there have been some pretty bad instances at Frisch's and Bob Evan's with these people out on the street panhandling and approaching other people. It scares these women when they come to get their hair done and want to walk out to their car. They're going to arrive in the evening and put them back out in the morning. Where are they going to go from 9:00 or 10:00 in the morning until they come back in the evening? They're going to loiter right around that community, right around that neighborhood, and that's the unintended consequences. It's going to be an attractive nuisance. If anyone has ever been to San Francisco, it's not a pretty picture.

Mr. Michael King said that he owns the property at 6605 Dixie Highway, which is right next to 6603 Dixie Highway where someone tried earlier to ramrod this in. He said that he's not against the homeless. People tonight kept mentioning the Stay Lodge. Has anyone checked the records of the Kentucky State Police of how many sexual predators are living in that area, or living around in the other hotels? They mentioned the Knights Inn and Super 8. Have we forgotten what happened there prior to tonight, about a year ago and how long it's taken to straighten that mess out? He agrees with the other speakers. Its' going to hurt his building that he rented out. They're not going to want to be there anymore.

Mr. George Higdon returned to the podium. He said that he was recently playing golf with his nephew who just retired from the Erlanger Police Department and mentioned the proposal to him. He said that his nephew stated you do not want this, you're going to have

problems. Mr. Higdon said that he did some internet research and found that 80 percent of the homeless walking the streets have substance abuse problems. With the heroin problem we don't need to complicate it further.

Mr. Doug Blackburn said that he lives on Nicholas Street. He has been a renter at 6589 Nicholas Street for almost three years. It has been a nice quiet street and he has small children. He has several concerns as a parent. He agrees that facilities like this are needed, but they shouldn't be in certain areas and that's why there is zoning. He's familiar with zoning because he is an assessor in Kenton County. Words and definitions have meaning that need to be followed strictly. If you don't, you get illegal uses which manipulate values. No matter what you call this, it will be referred to as a shelter. He said that if there was a shelter nearby, he wouldn't rent there because he has an obligation to protect his kids. There's a possibility that you're not able to do any type of screening of who's going to be there. Whether the rooms are dormitory style or not, there's a lot of variables which indicate that it's not going to be a hotel. He believes that zoning is there for a reason, and if there are areas already designated for them in the county, that's where they need to be. Don't try to circumvent or manipulate language and definitions in order to accommodate them.

Mr. Michael King returned to the podium. He said that he thinks we have lost focus. He thought the purpose of the meeting was to see if the zoning was followed according to Mr. Wall. According to what Mr. Miniard said, we have not. Everybody is for the homeless, but the real issue is did that gentleman over there follow the rules that are laid out in black and white or has he interpreted what he wants to meet the needs. That's the real question.

Ms. Elisha Connerman said that she was a resident on Nicholas Street. Her main concern is that she has two children. There are twelve families on the cul-de-sac that sits behind that building. There are children and women. What are we supposed to do in a situation that we aren't prepared to defend ourselves in? Her daughter is 8 years old. Everybody on that street has the school bus stop directly beside that building. Her 8 year old daughter stands beside that building every morning and gets off the bus there every afternoon. She stands out there with her 2 year old toddler and she can't bear the thought of her children picking up a needle and asking "mommy what's this?" She can't bear the thought of her daughter looking at someone and having to explain things people do. She's not ready for that. She's 8. There's middle school teenage girls up there, and high school girls. Just recently in Florida, there was a little 13 year old girl snatched by her hair from her mom at a store, and the mom couldn't get her daughter from this predator. He was dragging her through this store. Ms. Connerman said that she imagines that being her life. Her son and daughter deserve to play in their front yard. If they get turned away, where are they going to go? That entire street is lined with woods. They're going to go to the woods and going to be next to her children's bedrooms where they sleep. They're going to be in her backyard which is lined with woods. There's more homes of duplexes with children beyond. She can hear them playing in the street just like her children. She doesn't leave her children unattended. Now she doesn't even know if she wants her children to be outside. She said that she doesn't own a business and it won't manipulate what she makes at a business. She doesn't want anything to happen to her children or her so she wouldn't see her children grow up. She doesn't want her children exposed to adult situations. That's why she lives on a cul-de-sac. It's quiet, it's great. This will force her out of her home. She hopes that it's considered. They're at the school bus stop every morning and every afternoon.

John P. Roth, Jr. said that he was the owner of the property at 6603 Dixie Highway. It's the old Dixie News building. He had been in negotiations with the Mary Rose Mission about

selling his building to them for about six months until the negotiations fell apart. He thought everything was a done deal. The property was listed with a realtor and thought it was going to sell for the listing price. The offer that they came back with was for one third of the listing price and less than one half of the assessed value. The project will lower the tax value of the neighborhood. Not only will they not pay taxes, but they wanted to buy his building for less than half of the assessed value. He said no. Mr. Roth said that he asked them how they were going to do it. He said he was told that they would rent rooms for a dollar a day, and they were going to pay for it themselves. His concern with it being across the street is that his property still has an assessed value and he's paying taxes on it. If they're going to devalue the neighborhood, as they tried to do with his building, he can't handle that. That's why he's at the meeting. He didn't know the project was approved. He got a certified letter with the public hearing notice. He wasn't going to say anything, but the distrust and dishonesty of this group was terrible with him. He was led along for six months thinking that he was going to sell his building to them at the listing price, then they gave him a price that was ridiculous. He couldn't tolerate that. He said since his property is the one at 6603 Dixie Highway, about half of the paperwork for this issue pertains to his property.

Mr. Pieper asked if there was anyone else who wished to speak. Seeing none, he asked if there were any comments or questions from the Board.

Mrs. Nieves asked what was the daily rate. Mrs. Carris said that it had not been determined yet. Mrs. Nieves asked if she had an idea of the rate. Mrs. Carris said that they really don't. They are taking everything one step at a time. Mrs. Nieves asked what would they do if they had tenants that didn't want to leave, since it's a civil issue. Mrs. Carris said that's never been an issue with the kitchen on Main Street. When it's 6:00 it's time to go and they go. They are very grateful and it's never been a problem, ever. Mr. Kelly said that he could clarify the issue. When you have a business and some is told to leave and they don't leave, it becomes a trespass issue and law enforcement can become involved. Civil issues are more of if you owe me money and you haven't paid. Mrs. Nieves asked about the guest rooms. Would men and women stay in the same rooms? Mrs. Carris responded that men and women would stay in different rooms.

Mr. Pieper asked if there were any other questions or comments from Board. Seeing none, he asked if anyone else would like to speak.

Doug Blackburn returned to the podium. He said that he didn't hear where the Mary Rose Mission was in the hotel business. For instance, if he's a Shell, he doesn't go open a car lot, or if he's a mechanic, he doesn't go open a business he doesn't know anything about. They're a shelter business and not a hotel business. There's a lot of restrictions that have been disclosed, such as men and women staying in separate quarters, which don't make it look like a hotel.

"Denny" (female, no last name given) said that she was a senior advocate for senior citizens. She said that she knows a lot of people, including a lot of her seniors, who go the Mary Rose Mission kitchen. She said that it was stated that there wasn't any bad activity there, but one of her seniors got robbed at the kitchen. She lives on the street where that building is located. Nothing was stated about helping the people that live on that street. There's people who raise children on that street and nothing was mentioned about the people on Nicholas Street and their families. It was more or less about the place where you use your vouchers and the children that were riding their bikes and protecting the children in that area, but nothing was mentioned about the houses that are adjacent to that street. That we have to walk out our doors and see that building. She said that she loves homeless people and helps homeless and elderly people. She gives to everybody. She

said that she doesn't care who's in the building, and it "bit her bad" that there's no effort to protect the people on that street or that they weren't mentioned. What's going to be the price? Three dollars? Four dollars? For a transient that easy money. So we're talking about drug needles and children walking to catch the bus stepping on something. That's what we're talking about, protecting people in that neighborhood. It's not a hotel, it's a homeless shelter. They're going to check out on Monday, go find some money on Tuesday, rob somebody on Thursday, and then they'll be back in that same exact spot. It's not going to be a hotel.

Mr. George Higdon returned to the podium. He said that if this is a business, for every business that he owns he carries general liability insurance. If he's opening a hotel or homeless shelter and bringing in people off the street and their baggage, and not searching them, they're not going through the TSA, wouldn't they carry liability insurance if something happens like a man walks out of there and grabs a little girl, or a little girl grabs a needle and gets HIV? He just wonders how they would ever get liability insurance to cover that. He certainly wouldn't open a business without liability insurance.

Mr. Pieper asked if there were any comments from the Board or anyone else. Mr. Breidenstein said that they've heard enough testimony today and he isn't going to add to it. He reminded the Board that this is an issue of the rule of law. The rule of law was broken by Mr. Wall's interpretation by failing to interpret the code based on the literal terms of the zoning regulations. That is a direct obligation from statute and from the very zoning regulations that he was sworn to uphold. He stated that he prepared fairly lengthy findings of fact and conclusions of law that he would like to submit to the Board that they can use in their deliberations. Mr. Wilson said that Mr. Breidenstein can tender them, but he recommended that the Board not look at them until Ms. Pleatman has had an opportunity to speak and the Board begins their deliberations, and then the Board doesn't have to look at them if they don't want to. Mr. Breidenstein's "Motion for Grant of Appeal with Findings of Fact and Conclusions of Law" were submitted to Staff for the hearing record (Exhibit C), but were not distributed to any Board members.

Ms. Pleatman said that she would go back to what one of the speakers said. She thought that we had lost the focus or purpose of the meeting. It is a zoning determination by Mr. Wall. Did he correctly apply the definition of hotel? It's not about the popularity contest. It's not about speculation of all the horrible things that might happen, or the speculation of all the good things that can happen. It's about whether or not the Mary Rose Mission inn meets the definition of a hotel. That's the rule of law that we talked about and the black and white definition that we talked about. That is what the Board has to decide. Ms. Pleatman thanked the Board for their time.

Mr. Pieper asked if there were any comments from the Board or if anyone wished to make a motion. Mr. Wilson reminded the Board that this is the time that they are deliberating in public, so the public needs to hear them. If they ask questions among themselves they need to speak into their microphones so the public can hear.

Mr. Kelly stated that he was prepared to make a motion and is prepared to explain his motion. He said that he has been looking at the definition and how the proposal fits it, as that is the ultimate question. He said the definition states "a facility which offers transient lodging accommodations on a daily, weekly, or monthly rate to the general public. It provides additional services such as restaurants, conference rooms, and recreational facilities. Such a facility does not allow a sexually oriented business." He stated that he believes that Mr. Wall is correct. They are offering transient lodging accommodations on a daily, weekly, or monthly rate. It doesn't say what the rate has to be and he doesn't think

that this Board or government should be in the business of telling lodging facilities what they have to charge or establish a base minimum. They can do that. It says services "such as" restaurants, conference rooms, and recreational facilities. It's not an exhaustive list, and he believes that if they provide laundry services and a continental breakfast that meets it because not every hotel that he stays in has a conference room or a restaurant. He said that he understands everyone who came and spoke against it. He doesn't think that they aren't justified, he understands it, and thinks their concerns are legitimate, but to him it's simply a question of the rule of law. It meets the definition. They came and originally said that they wanted to do a shelter and the answer was no. Then they changed the proposal and wanted to be selective about who they served and were told that they could not do that. Under the rule of law, if they meet the definition they should be able to do it. He said that he doesn't mean to be flippant. It's just his motion and the Board doesn't have to second it or agree with it. He understands everyone who spoke against the Zoning Administrator's interpretation and doesn't mean to diminish them. As a rule of law, if it fits, it fits.

Mr. Kelly moved to deny the appeal and uphold the Zoning Administrator's determination. Mr. Pieper asked if there was a second. The motion failed for lack of a second.

Mr. Pieper asked if there was anyone else who wished to make a motion or if there was any discussion. Seeing none, Mr. Pieper moved to grant Mr. Miniard's request regarding the hotel decision simply because he believes that we kept bending and every time something came up we just changed to meet that particular hurdle. He asked if there was a second. Mrs. Evans seconded the motion.

Mr. Pieper asked for a roll call vote. In response to Mr. Pieper, Mr. Wall clarified that the motion was for granting the appeal. Mr. Pieper, Mrs. Evans, and Mrs. Nieves voted in favor of the motion. Mr. Kelly voted against the motion. The motion to grant the appeal passed by a vote of 3 to 1.

#### **OTHER**

No other business was discussed.

#### **ADJOURNMENT**

Mr. Pieper asked for a motion to adjourn. Mr. Kelly so moved and Ms. Evans seconded the motion. Mr. Pieper called for a vote and the meeting adjourned by unanimous consent at 10:16 P.M.

**APPROVED**

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**Timothy Pieper, Chairman**

**Attest:**

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**Kevin Wall, AICP  
Zoning Administrator**

Exhibit A - Appellant's List of Exhibits - June 8, 2016

Exhibit B - Mary Rose Mission Inn, Boone County, 6608 Dixie Hwy. Florence, KY 41042 floor plan

Exhibit C - Motion for Grant of Appeal with Findings of Fact and Conclusions of Law