

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – AUGUST 26, 2008

A Special Meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on August 26, 2008. Chairman Malinowski called the meeting to order at 7:15 p.m. noting that if the matter is not concluded by 10:00 p.m. it will be continued until a future meeting.

Those present:

Zoning Hearing Board: David Malinowski, Chairman
 Paul Bamburak, Vice Chairman
 Jerry Gruen, Member
 Anthony Zamparelli, Member
 Paul Kim, Alternate Member

Others: Nancy Frick, Director Zoning, Inspections & Planning
 David Truelove, Township Solicitor
 James Majewski, Township Engineer
 Michael Angelastro, Township Engineer (Remington
 Vernick & Beach)
 Allen Toadvine, Zoning Hearing Board Solicitor
 Matt Maloney, Supervisor Liaison

Absent: Gregory J. Smith, Zoning Hearing Board Secretary

AMENDED APPEAL #08-1481 – THE FRANKFORD HOSPITAL OF CITY OF PHILADELPHIA, INC.

Mr. John Van Luvanee, attorney, was present on behalf of the Applicants. The original Application dated 6/20/08 was marked as Exhibit A-1. The Amended Application dated 7/24/08 was marked as Exhibit A-2. Attached to the Application is a one-sheet plan dated 5/30/08 which was marked as Exhibit A-3. A letter dated 7/29/08 from the Lower Makefield Planning Commission regarding the Special Exception recommendation was noted. Mr. VanLuvanee stated they have not seen this document. The letter was marked as Exhibit B-2 and a copy was provided to Mr. VanLuvanee.

It was noted Exhibit B-1 was a letter dated 7/24/08 from Mr. VanLuvanee concerning the filing of the Amended Application and requesting that the matter be continued.

Mr. Toadvine stated if there is anyone who wishes to request Party Status, they should provide their name, address, and phone number on the pad provided. Mr. Toadvine stated Mr. VanLuvanee may have questions for anyone requesting Party Status. Those

present requesting Party Status were provided an opportunity to sign at this time. It was noted that the Township has requested Party Status. Mr. Truelove stated if any residents wish to participate in any questioning during the proceedings, they will have to request Party Status. Mr. Toadvine stated even if they do not have Party Status, the Board will ask for comments and whether or not they are a Party, they can still be recognized.

Mr. Toadvine stated he does not feel the Board received the original Application and asked if there is any need now for the Board to have the original Application. Mr. VanLuvanee stated he did not feel this was necessary. He stated the only change between the original and the Amended Application was to clarify that the requests for Special Exceptions are for both a hospital use and a medical office use. The original Application was filed only for the hospital; and after discussion with the Township staff, the Applicants had an indication that the staff took the position that it was two separate uses because it was a medical office building and a hospital even though they are proposed to be used as an integrated facility. He stated they therefore amended the Application and two Special Exceptions are being requested.

Mr. Toadvine stated the following have requested Party Status:

Robert Riviezzo
Joseph Scogna
William Koehler
Alisa Belcher
Residents Against Frankford - Geoffrey Goll
Residents Against Frankford/Lindenhurst Homeowners' Association –
Irene Koehler

Mr. Robert Riviezzo was sworn in. Mr. VanLuvanee asked if he is requesting Party Status individually or on behalf of an entity in which he has an interest. Mr. Riviezzo stated it is on behalf of the entity, Newtown Office Development Partners, LP. Mr. VanLuvanee asked if that entity owns property in Lower Makefield Township, and Mr. Riviezzo stated they own the property directly across the street from the subject property on Stony Hill Road. He stated he has been authorized on behalf of Newtown Office Development Partners to enter an appearance. Mr. VanLuvanee asked if it is a Corporation, and Mr. Riviezzo stated it is a Limited Partnership. Mr. VanLuvanee asked Mr. Riviezzo if he individually is a General or Limited Partner, and Mr. Riviezzo stated he is not. Mr. VanLuvanee stated on the basis of the current record, he objects to Newtown Office Development's standing as he feels the entity would need to be represented by counsel given the nature of the entity or at the minimum by its General Partner. Mr. Riviezzo stated he has a letter authorizing him to participate on their behalf.

Mr. Truelove asked Mr. Riviezzo who are the partners who authorized him to appear on their behalf. Mr. Riviezzo stated it was the Senior Vice President of that entity, who was unable to attend this evening. Mr. Truelove asked if the Senior Vice President or someone he may authorize to appear on his behalf including counsel, may appear at a future Hearing if necessary, and Mr. Riviezzo stated this is possible. Mr. Riviezzo stated he could present the letter he has authorizing him to appear on their behalf. Mr. Truelove stated this would be hearsay, and the Rules of Evidence call for them to be able to cross-examine the person who submitted the letter.

Mr. Toadvine stated this is a Limited Partnership, and Mr. Riviezzo agreed. Mr. Toadvine asked the name of the General Partner, and Mr. Riviezzo stated it is Bergen of Newtown, Inc. Mr. Toadvine asked the President of the Corporation, but Mr. Riviezzo did not know. Mr. Riviezzo stated he is not an Officer or Director of Bergen nor is he an attorney.

A short recess was taken at this time. The meeting was reconvened at 7:35 p.m.

Mr. Malinowski agreed to sustain Mr. VanLuvanee's Objection. Mr. Toadvine stated the Board has indicated that with regard to Newtown Office Development Partners, since Mr. Riviezzo is not an Officer or a General Partner of the Corporation, it would not be appropriate to recognize him as representing this entity. Mr. Toadvine stated he feels it is likely that this matter will not be concluded this evening; and at a future meeting if an attorney and/or the President or Vice President of that entity can be present, he feels the Board would be inclined to recognize Party Status for that entity.

Mr. VanLuvanee stated they have no objection to the Party Status requested by Joseph Scogna.

Mr. VanLuvanee stated the next listing is Residents Against Frankford with the name Irene Koehler. Ms. Koehler was sworn in and stated she lives at 25 Spring Lane which is approximately half mile up Lindenhurst Road. She stated she is the closest property to the subject property on the right hand side of Lindenhurst Road. She is a resident of Lower Makefield Township. Mr. VanLuvanee asked if she is appearing individually or as an agent for Residents Against Frankford. She stated Residents Against Frankford is a recently-formed citizens group that is currently organizing and is seeking to hire an attorney. Mr. VanLuvanee asked if she is seeking Party Status as an Individual or on behalf of the yet-to-be formed organization. Ms. Koehler stated she is requesting Party Status on behalf of the currently-formed organization. Mr. VanLuvanee asked if it is a Corporation, and Ms. Koehler stated not yet. Mr. VanLuvanee asked if it is a Limited Liability Company, and Ms. Koehler stated it is not. Mr. VanLuvanee stated it has not been organized, not formed, and has no status at the present time. Mr. VanLuvanee stated his understanding is that Residents Against Frankford is not an organization that has been formed with the Commonwealth of Pennsylvania, and Ms. Koehler agreed.

Mr. VanLuvanee asked if there is any type of Agreement that exists which joins the group together in some way, and Ms. Koehler stated there is not. Mr. VanLuvanee asked if they have a Membership List, and Ms. Koehler stated she does not have it available at this time. Mr. VanLuvanee stated at this time it is an unincorporated group that does not have a Membership List. Ms. Koehler stated they have a Membership List, but she does not have it with her.

Mr. VanLuvanee objected to Residents Against Frankford.

Mr. Truelove asked Ms. Koehler if this is an unincorporated association, and Ms. Koehler agreed. Mr. Truelove asked if they are associated for one particular purpose, and Ms. Koehler stated the purpose is that they are against Frankford Hospital buying the property and building a hospital. Mr. Truelove asked if this is their common interest and only interest at this time, and Ms. Koehler agreed. Mr. Truelove asked if they anticipate they may have more members in the future in addition to those on their membership list currently, and Ms. Koehler agreed. Mr. Truelove stated he would argue against the Objection at this time.

Mr. VanLuvanee stated the problem is that they do not know who the entity is.

Mr. Toadvine noted Mr. William Koehler has also requested Party Status, and Ms. Koehler stated this is her husband.

Mr. Toadvine asked the number of members of Residents Against Frankford, and Ms. Koehler stated there are ten at this time. She stated there is a list. Mr. Toadvine asked if she is aware whether all of the members on the list are residents of Lower Makefield, and Ms. Koehler stated they are. Mr. Toadvine asked if she is aware of what type of legal entity it will be, and Ms. Koehler stated she believes they are going to incorporate and hire an attorney.

A short recess was taken at this time. The meeting was reconvened at 7:40 p.m.

Mr. Malinowski stated the Board will allow Party Status, but would request an updated listing of the members' names and addresses by the next meeting; and if they hire an attorney, that his information be provided as well. Mr. Toadvine stated they should provide everything they are giving to the Board to Mr. VanLuvanee and Mr. Truelove as well.

Mr. VanLuvanee asked Ms. Koehler if she is also representing Lindenhurst Homeowners Association, and Ms. Koehler agreed to eliminate this. She also stated she is not asking for individual Party Status, and is only requesting Party Status on behalf of the organization Residents Against Frankford.

Mr. Geoffrey Goll was sworn in. Mr. VanLuvanee asked if he is requesting Party Status as an Individual or as part of Residents Against Frankford, and Mr. Goll stated he is requesting Party Status as a member of Residents Against Frankford.

Mr. William Koehler was sworn in. He stated he owns the property at 25 Spring Lane which is in Lower Makefield Township approximately one half mile from the subject property. Mr. Koehler asked if he is requesting Party Status individually or as a member of Residents Against Frankford, and Mr. Koehler stated he is requesting Party Status individually as his property is the closest residence to the subject site. He is appearing in opposition to the Application. Mr. VanLuvanee asked his major opposition to the project.

Mr. Truelove objected. Mr. VanLuvanee stated it may be that an individual is an employee of a competitor or has an interest based on employment or other affiliation; and Mr. Truelove agreed to withdraw the objection based on this explanation.

Mr. Koehler stated he has no interest other than being a resident and feels it will change the complexion of the neighborhood.

Mr. VanLuvanee did not object to Mr. Koehler's Party Status.

Ms. Alisa Belcher was sworn in and stated she lives at 26 Spring Lane which is across the street from 25 Spring Lane. She stated her mother owns the property. Ms. Belcher stated she herself has lived at that property off and on for fifty years. She is requesting Party Status individually. Mr. VanLuvanee asked her objection – whether it is personal or based on an affiliation or pecuniary interest possibly with a competitor. Ms. Belcher stated it is personal since she feels having such an organization on the corner will impact the neighborhood and their way of life.

Mr. VanLuvanee did not object to Ms. Belcher's Party Status.

Dr. Joseph Scogna was sworn in. Mr. Truelove asked if he is a neurosurgeon, and Dr. Scogna agreed. Mr. Truelove asked if he has privileges at Frankford Hospital, and Dr. Scogna stated he does along with privileges at St. Mary's and Lower Bucks. Mr. Truelove asked if he has a pecuniary interest in the development if it proceeds, and Dr. Scogna stated he does not.

Mr. Toadvine stated at this time the following have Party Status:

Dr. Joseph Scogna
Mr. William Koehler
Ms. Alisa Belcher
Residents Against Frankford – Irene Koehler and Geoffrey Goll

Mr. Toadvine asked who would be the spokesperson for Residents Against Frankford if an attorney is not hired; and Ms. Koehler stated an attorney will be hired. Mr. Toadvine stated if an attorney is hired, the attorney would be directing the proceedings as far as the questions are concerned, and Ms. Koehler agreed. Mr. VanLuvanee stated he has an on-going objection to Residents Against Frankford because further information that may lead to additional grounds to oppose them may still come about as they get more information as to the members and how they form themselves. Mr. Toadvine stated Mr. VanLuvanee will be given an opportunity to review the list of members once it is provided; and if there are issues, they can be raised at that time.

Mr. VanLuvanee stated this is an Application for two Special Exceptions. He stated both of the uses they seek to have approved as Special Exceptions are uses which the Board of Supervisors of Lower Makefield Township have legislatively determined are appropriate in the Zoning District in which the property is located. He stated they are not asking for a use that is not permitted by the Zoning Ordinance. He stated the burden they have is to show that the objective criteria of the Zoning Ordinance can and will be met by the Applicant. He stated he feels it is curious that the Board of Supervisors has already determined to oppose the Application prior to hearing the evidence and that they are objecting to a use which they have already determined is appropriate. He stated he hopes that the Zoning Hearing Board will not prejudice his clients' right to a Hearing. Mr. VanLuvanee stated he read in the newspaper that the Supervisors are opposing this Application on the basis of traffic and environmental impact, and he stated traffic is never a grounds to turn down a Special Exception. He added that with regard to the environmental impact from one use to the next, they will be able to point out, it cannot be grounds at this stage to turn down the Special Exception because the area and dimensional criteria that apply to the Hospital use apply to every other use that is permitted on the property. He stated there is nothing unique about a hospital that would create any more of an environmental impact than an office building. He stated the Applicant' burden is to meet the objective criteria. He stated the Board of Supervisors has already determined that the uses are appropriate in this District.

Mr. Roy Powell was sworn in. He stated his business address is Frankford Hospital, Knights and Red Lion Roads, Philadelphia, Pennsylvania. He stated he resides in Lower Makefield Township. He is employed by Frankford Health Care Systems as the Chief Executive Officer. The Applicant is Frankford Hospital, City of Philadelphia Inc. which is a non-profit corporate entity in Pennsylvania. Frankford Health Care Systems is a non-profit corporation itself and is the parent of a number of subsidiaries, including Frankford Hospital, City of Philadelphia, Inc. Frankford Hospital is incorporated as a non-profit in Pennsylvania organized and operated under the laws of the Commonwealth. It houses three acute care hospitals – one in Frankford, one in Torresdale, and one in Bucks and also serves as the parent for a number of other subsidiaries where they take care of medical office space and a variety of therapeutic and diagnostic services for local communities. Mr. VanLuvanee asked Mr. Powell his job responsibilities as President

and Chief Executive Officer of Frankford Health Care Systems, and Mr. Powell stated he is responsible for the daily operations of the facilities and services that are provided subject to a Board of Directors.

Mr. VanLuvanee stated the Lower Makefield Township Zoning Ordinance defines the term “hospital” as “an institution licensed by the Commonwealth of Pennsylvania providing primary adult care services and medical or surgical care for persons suffering from illness, disease, injury or other abnormal physical or mental conditions and including as an integral part of the institution, related facilities such as laboratories, out-patient facilities, rehabilitation facilities or training facilities.” Mr. VanLuvanee asked Mr. Powell if the facilities that Frankford intends to develop on the subject property meet that definition, and Mr. Powell agreed.

Mr. VanLuvanee asked Mr. Powell why they are seeking to establish a new hospital location in Lower Makefield. Mr. Powell stated for many years Frankford has provided services to individuals in Northeast Philadelphia and Lower Bucks County. He stated many of the residents that originally resided in Northeast Philadelphia have moved to Lower Bucks County, and they have asked the Hospital to follow them. The Hospital felt they were satisfying that need through the acquisition of the former Delaware Valley Medical Center. He stated it has been determined that the limitations of that site would be very difficult to overcome. He stated the site has significant visibility issues with the Sheraton in front of it, and they have had many individuals complain about the fact that they cannot find it. He stated the site also has access issues as it is developed on a grade which is difficult for senior citizens and other individuals with orthopedic problems.

Mr. Toadvine noted at this time that he is on the Board of Directors of Lower Bucks Hospital and also serves as their Secretary. He stated he does not feel this should cause any problem.

Mr. Powell stated the building itself was constructed in such a way that it is difficult to fix. He stated there are many problems with the wiring, HVAC, and a variety of structural issues which would need to be fixed and/or replaced just to sustain the building and building new would be more economical. He stated the footprint of the existing building is also very limiting. He stated they want to design a hospital that is one of the most efficient in the entire United States. He stated they need to have a new footprint. He stated most hospitals built twenty to thirty years ago are very self-limiting. He stated in the past Hospitals have been added onto, and there are many inefficiencies built in. He stated they want to build a new facility that will take advantage of all current technologies, will be efficient on space, will be good for practitioners and good for the community. He stated when they do this, they can pass along that savings and feel they can produce a product that will be 10% to 15% less expensive than anyone else by virtue of this planning process if they can build in an open area. He stated the existing site is surrounded by commercial enterprises; and for them to invest in rebuilding that campus,

buying and leveling adjacent commercial properties, it would put a “band-aid” on the current situation so it makes sense consider other alternatives.

Mr. VanLuvanee stated the subject property is a forty-one acre parcel and asked if Frankford Hospital of City of Philadelphia, Inc. is the present equitable owner of the property; and Mr. Powell stated they are acquiring it. There is an Agreement of Sale in effect with the owner of the property, Edward Fleming, to acquire the property. Mr. VanLuvanee marked as Exhibit A-4 the first and last pages of the Agreement of Sale between Frankford Hospital of City of Philadelphia and Edward Fleming. Mr. Powell stated the Agreement of Sale is in full force and effect as of today.

Mr. VanLuvanee asked about the site selection criteria and why the subject site meets those requirements. Mr. Powell stated when they started looking into Bucks County to satisfy the patient demand and their own strategic interest, they looked further north and west. He stated they have had discussions for some time with Thomas Jefferson University and wanted to find a site that met both their goals. Thomas Jefferson was interested in something much closer to I-95 and Route 332. He stated initially they had discussions with Holy Family but the amount of property that would be available would not work. He stated the Fleming property then became available, and it met all their needs and interests. He stated it does have access to I-95 and 332 and is reasonably close to the current site so that relocating the current patient base would be practical. It also has the added advantage of a population growth dynamic going forward. The location to Holy Family is attractive, and they feel they can do some educational opportunities with Holy Family which will allow them to create jobs for the area. They also feel the area itself is extremely desirable which is why he lives here; and they feel that they will be able to attract high-quality individuals to the area. The primary reason they went ahead with the purchase was because of their sense that the Zoning requirements permitted it.

Mr. VanLuvanee asked what services will be provided at the Hospital and the medical office buildings. Mr. Powell stated they hope to build a full-service, comprehensive hospital that will have a full range of diagnostic and therapeutic services. They anticipate two additional office buildings – one largely ambulatory care and one a medical office building for physicians who independently want office space. He stated in the ambulatory care building there will be provisions for ambulatory surgery and other kinds of out-patient services that make sense to be housed purely in an out-patient site. They also want to have them integrated with the in-patient site so that there is maximum efficiency. They would like to have a fully-integrated, fully-seamless system. This system will involve all three buildings.

Mr. VanLuvanee asked Mr. Powell’s opinion as to why the Hospital will benefit Lower Makefield Township. Mr. Truelove objected. Mr. VanLuvanee asked Mr. Powell’s opinion as to whether the Hospital will have an adverse impact. Mr. Truelove objected as he does not feel it is relevant for this Witness to offer this opinion.

Mr. VanLuvanee stated in the Zoning Plan it indicates that the three buildings will total 455,000 square feet with the two medical office buildings will be approximately 40,000 square feet each; and Mr. Powell agreed. The Hospital will be approximately 375,000 square feet. Mr. VanLuvanee asked if Frankford Hospital will own all three buildings, and Mr. Powell stated this is their plan. Mr. VanLuvanee asked if the space in the medical office building will be leased to physicians or other health-care providers, and Mr. Powell agreed that they feel independent physicians will lease space in the medical office building but not the ambulatory care building. Mr. VanLuvanee asked if the physicians who will lease the space are different than staff physicians, and Mr. Powell stated there are two type of physicians that would work at the Hospital – employed physicians as well as a number of independent physicians that practice at multiple hospitals and they often lease space in a medical office building like this.

Mr. Toadvine asked about the emergency room. Mr. Powell stated currently they have an emergency room at the Bucks County campus and see approximately 23,000 patients per year. They anticipate approximately 28,000 visits per year at the new facility. He is not sure of the size of the emergency room they anticipate although he could provide this. Mr. Gruen stated when the Applicants made a prior presentation to the Township, Mr. Powell stated there would not be emergency-room service. Mr. Powell stated this is incorrect, and they indicated that they do not anticipate doing Trauma. Mr. Gruen asked the difference between Trauma and Emergency Room, and Mr. Powell stated Trauma is a special designation that you go for to provide a certain level of service, and they are not looking for this at this point.

Mr. VanLuvanee stated a previous presentation before the Township involved a concept that provided for a Hospital that was larger than the current proposal, and Mr. Powell agreed. Mr. VanLuvanee asked the factors relevant to sizing a hospital and related medical office buildings, and Mr. Powell stated one area is the number of beds to be offered, another is the range of services to be provided, and finally the amount of overhead space to be provided. He stated they recognized the Township's concerns about traffic, and the vast majority of overhead services that would be typical in a hospital of this nature will be provided at a different site. He stated if there were a free-standing community hospital, you would have a number of administrative services on the premises. He stated they have three campuses and therefore can provide administrative services at another campus to support this campus which will allow them to have less personnel on this site. Mr. VanLuvanee stated if they did not have this capability, the facility would need to be larger, and Mr. Powell agreed.

Mr. Toadvine asked the number of beds proposed, and Mr. Powell stated they plan on 225 beds and anticipate approximately 20% of those would be intensive care. At the current location, they have 120 open at this point.

Mr. Kim asked the nearest Trauma Center for Bucks County, and Mr. Powell stated it is St. Mary's.

Mr. VanLuvanee asked if the hospital is established at the proposed site, what benefits does he see the hospital could provide to the residents of Lower Makefield. Mr. Powell stated he feels there could be short-term and long-term opportunities. He stated in the short term there will be a significant amount of construction on site and the Fees for Permits and a portion of the salaries paid to the workforce will likely be channeled back into the community. He stated on a longer term basis they feel they will be paying, through the medical office building, tax support for the School system in excess of \$100,000. He stated they intend to invest in some of the businesses such as banks in the area, and they have strong cash reserves. He stated he understands that there is at present some gap in the fiscal impact analysis between the revenue and expenses, and they would be more than happy to talk about a way to close that gap.

There was discussion on parking as it relates to the number of staff at the Hospital, and Mr. Powell stated they believe there will be approximately 50 doctors employed and another approximately 50 that are independent. He stated not all of them would be on site at any given time. He stated in total they believe there will be no more than 1300 total employees. In addition, they feel at a maximum there will be another 200 support staff for the independent physicians for a total of 1550 individuals spread out seven days, 24 hours a day – not on site at any one time.

Mr. Gruen asked if it would add additional people if they were a teaching hospital. Mr. Powell stated he is considering all type of individuals in the 1550 estimate and this would include residents and faculty, etc.

Mr. Malinowski asked what the hospital would offer Lower Makefield that it currently does not have since there is a hospital in close proximity. Mr. Powell stated they have done demand studies, and there are still a substantial number of individuals who are leaving the area. They feel this hospital will offer the opportunity for individuals to seek care locally. They also feel it can enhance the area from a standpoint of being attractive from an employment standpoint.

Mr. Bamburak stated it was indicated that the medical office building would pay property taxes, but the hospital proper would not, and Mr. Powell agreed. Mr. Bamburak asked if the ambulatory care building would pay property taxes, and Mr. Powell stated some piece of that could end up paying, but as it is presently designed in all likelihood, it would be part of the not-for-profit structure.

Mr. Kim noted the other Hospital in the area, and asked Mr. Powell if they feel that hospital cannot service the community. Mr. Powell stated looking at objective data, a significant number of individuals are still leaving the area for health care services, and they feel that they can provide a service that will cut into that number.

Mr. Gruen asked if they are going to provide any special health services such as a program where Township citizens could sign up and get their health care at a lower cost. Mr. Powell stated they believe that they can design the facility efficiently and have it at very low cost. He stated he feels one of the major issues in hospitals is staffing, and the only way to cut costs in staffing is to be as efficient in terms of use of space, sharing space, and making sure there are not as many individual departments. They feel they can overcome this by building this facility in a new, ground-up fashion which will in turn allow them to operate at a much lower cost which could then be passed on to the consumer. He stated he feels in the future everyone will be paying more out of pocket so people will be shopping for health care. He stated he feels they can offer a competitive advantage for the community. Mr. Gruen stated he was more interested in whether they were going to have their own insurance program where you can sign up with the Hospital to get all medical needs met. Mr. Powell stated they have not considered this, but if there was enough interest, they would consider it.

Mr. Toadvine stated there was concern about how much they would offer in terms of free health care for the indigent. Mr. Powell stated they had not planned on this; but if the community were concerned about this, they could discuss it. He stated this is not a problem at their existing location, and they did not feel it would be a problem at the new location, but they would be open to discuss it.

Mr. Bamburak stated they have indicated they could offer care at a lower cost; however, he felt there were fixed reimbursement rates for any given procedure. He stated the consumer would still be billed at the reimbursement rate no matter the rate being charged by the Hospital. Mr. Powell stated he feels that in the future people with private, commercial insurance will shop for insurance and will be able to buy different types of insurance with more out-of-pocket personal responsibility. He stated in the next five to ten years there will be more transparency in all doctor offices and hospitals in terms of price, cost, and quality. He feels if they build the project as anticipated, they will be able to produce a product that is at least 10% to 15% less expensive than anyone else. He stated he feels that in the future, there will be an out-of-pocket responsibility for the consumer which he feels will grow. He stated if the overall cost is reduced, the consumer's piece of it will be reduced as well.

Mr. Kim asked where they feel the doctors will come from who will lease space in the medical building. He asked if they will be pulling them from the spaces in the community where they are already leasing office space which will result in vacant office space in the community. Mr. Powell stated he feels the majority will be new physicians

that they recruit. He stated they have a number of doctors who are looking for space at their current facility which they cannot provide to them. Mr. Kim asked if these fifty new physicians will be not be competing against the local doctors in the community. Mr. Powell stated he feels half of them are already in the community although some could be competition.

Mr. Gruen asked if they feel what they are showing is a final plan, or will they have to construct additions to the building ten to fifteen years in the future. Mr. Powell stated while this is not their intention, they cannot anticipate what will happen ten to fifteen years in the future. Mr. Gruen asked if the number of beds they are requesting is sufficient for them to make a profit; and Mr. Powell stated with the efficiencies they anticipate, they will be able to satisfy their needs.

Mr. Truelove asked if this is a concept plan or a concrete plan, and Mr. Powell stated they have a concrete plan, but they are still in development.

Mr. Truelove noted the current facility on Oxford Valley Road, and asked the distance from Lower Makefield. Mr. Powell stated it is approximately 3 ¼ miles. Mr. Truelove asked if this is from the proposed new location or from the Township line, and Mr. Powell stated it is from the proposed location. He stated it is approximately one half mile from the Township line.

Mr. Truelove asked if they performed a study that estimated the costs for renovations of the existing site, and Mr. Powell stated they originally engaged architects as this was their original intention. Mr. Truelove asked the estimated cost. Mr. VanLuvanee objected. Mr. Malinowski allowed the question, and Mr. Powell stated at a minimum it would be in excess of \$200 million although this did not take into account acquiring surrounding properties such as the Sheraton in order to overcome the visibility issue. The study was completed at least one year ago.

Mr. Truelove noted the current facility is located in Falls Township, and asked if he or any representatives of Frankford, have had meetings with Falls Township officials about a proposed move; and Mr. Powell stated they did have one or two meetings. Mr. Truelove asked if he recalled having a meeting in April, 2008 with some Falls Township officials where he indicated that they would keep part of the facility active in Falls Township, and Mr. Powell stated they did tell them they were considering this. Mr. Truelove stated he understands they told them they were considering expanding the current activity even though they were going to move part of the facility to Lower Makefield. Mr. Powell stated he feels he may have said they were looking at trying to expand the current facility; and at a minimum they wanted to determine the use the current facility would have long term. He stated it is still their plan to try to do something at the current site.

Mr. Truelove stated Mr. Powell testified that they plan to relocate to Lower Makefield, and Mr. Powell stated this is true for the patient base. Mr. Truelove stated Mr. Powell also indicated that they still intend to maintain some level of activity at the current location in Falls Township; and Mr. Powell stated what they are considering is the idea of housing a significant amount of the administrative services at the Falls Township site. Mr. Truelove asked if there are plans to keep any of the hospital-related activity in Falls Township, if the plan proceeds for Lower Makefield. Mr. Powell stated they intend to move the acute care functions as they presently exist; but they are not sure about rehabilitation or specialty services which may still be a consideration for the site in Falls Township. Mr. Truelove if these would be outpatient services; and Mr. Powell stated they have not determined this as yet.

Mr. Truelove asked if they would plan on sharing staff between what would remain in Falls Township and what is proposed for Lower Makefield, and Mr. Powell stated they propose to have as many of the overhead functions off the proposed site as possible and placed at other sites.

Mr. Truelove asked if they have rehabilitative and specialty services at the current facility; and Mr. Powell stated they do not have rehabilitative services at the current site and would have to move those services from another one of their related facilities or work in partnership with another entity that would like to do this. Mr. Truelove asked if they would then have staff, physicians, other professionals, and clerical workers that would be shared between the rehabilitation facility that would remain in Falls and the proposed Lower Makefield site. Mr. Powell stated a program like rehab would be a closed program and likely just staffed at that current site. He stated they would probably share overhead personnel as he indicated earlier. Mr. Truelove asked the type of rehabilitation that would take place and asked if it would be joint replacement, stroke recovery, or some other type of rehabilitation; and Mr. Powell stated it would be the more traditional definition of stroke and to some lesser extent joint replacement. He stated there is very specific criteria for rehab programs. Mr. Truelove asked if this would require physicians who are specialists, and Mr. Powell agreed. Mr. Truelove asked if it could involve orthopedists, neurologists, nuero-surgeons, anesthesiologists, and pain management specialists, and Mr. Powell agreed. Mr. Truelove asked if they do not anticipate this same type of professional staff at the proposed Lower Makefield site, and Mr. Powell agreed. Mr. Truelove stated he assumes the Falls Township site would also include ancillary staff and support staff such as technicians and therapists, and Mr. Powell agreed. Mr. Truelove asked if they anticipate having a rehabilitation facility at the proposed Lower Makefield site, and Mr. Powell stated they have not made a final decision on this but it would be at one site or the other – not both.

Mr. Truelove stated Mr. Powell mentioned specialty services and asked what those would be comprised of. Mr. Powell stated they anticipate offering a full array of cancer services, cardiac, possibly neuro-surgery, and orthopedics. Mr. Truelove asked if these are currently offered at the Falls Township site, and Mr. Powell stated they offer some cancer services and are increasing their cardiac services. They offer significant orthopedic and some neuro-surgical services. Mr. Truelove stated this would require from a physician standpoint – oncologists, cardiac physicians and related ancillary staff, and Mr. Powell agreed. Mr. Truelove asked if they anticipate the Lower Makefield Township site will include staff that would perform these same types of tasks, and Mr. Powell stated the anticipated site in Lower Makefield would have oncologists, orthopedics, cardiac, and neuro-surgery. Mr. Truelove stated he assumes the Falls Township location would not be a surgery location, and Mr. Powell stated they do not anticipate that being a full service hospital mimicking the proposed site. The Lower Makefield site would include surgery.

Mr. Truelove stated they are also affiliated with Thomas Jefferson University Hospital, and Mr. Powell stated they are a subsidiary of Jefferson Health System. Mr. Truelove asked if they share services and staff with other Jefferson affiliates other than the Frankford family. Mr. Powell stated the Jefferson affiliated institutions include Thomas Jefferson University, Thomas Jefferson University Hospital, and the Main Line System. He stated recently Einstein which was a former member, separated and they have gone their own way. He stated the fourth member is Magee Rehab Hospital.

Mr. Truelove asked if they share staff with those other Jefferson affiliated institutions at their current location, and Mr. Powell stated they have some faculty and some residents from the University currently at the Torresdale location.

Mr. Truelove asked if the proposed location would include a teaching component, and Mr. Powell stated they are assuming that this will be the case. Mr. Truelove stated this would increase the number of staff over the current Falls Township location because of the teaching component, and Mr. Powell stated currently they do have a teaching component at the present site which is an Osteopathic affiliation which is a remnant from the time when the Hospital was Delaware Valley Medical Center. Mr. Truelove asked if they would continue this affiliation at the proposed location in Lower Makefield, and Mr. Powell stated they have not determined the mix going forward.

Mr. Truelove stated according to their Website, it indicated that the current location in Falls Township is a 184-bed medical/surgical facility. He stated Mr. Powell testified this evening that they have 120 beds, and Mr. Powell stated most hospitals are licensed for a certain number of beds, but they not necessarily have that number of beds open. He stated they currently have 120 beds opened and staffed. He stated originally that campus had a number of semi-private rooms, but they have converted a number of those rooms to

singles so this brings down the number. Mr. Truelove stated what they are proposing for the proposed location will be close to twice what they currently have, and Mr. Powell agreed.

Mr. Truelove stated the Website also indicates that the currently location has in-patient and out-patient, emergency medicine, orthopedics, neuro-surgery, urology, and rehabilitation medicine. Mr. Powell stated they do not currently have a rehab facility at that location. He stated he does not recall that they had a rehab facility at that location although he feels they did have a skilled nursing facility. Mr. Gruen stated he was offered rehab at their current location three years ago after he had knee replacement surgery. Mr. Powell stated there are rehab services post-surgically, but there is not a rehab center. He stated you can have a licensed rehab unit where you take care of in-patients that require fairly sophisticated follow up to stroke, joint replacement, etc. and you can also do physical therapy which they do at the current location which is follow-up rehab for orthopedics. He stated they have physical therapists and physiatrists available for post-surgical care. What they anticipate possibly moving to the current location would be the most sophisticated, comprehensive unit. At the Lower Makefield facility at a minimum, they would have the current capabilities for post-surgical care but they have not yet decided whether they will have the more comprehensive rehab program.

Mr. Truelove asked if they still perform occupational medicine at the current site, and Mr. Powell stated he feels they do on a limited basis. Mr. Truelove asked if he anticipates maintaining that at the current location or establishing it at the Lower Makefield site, and Mr. Powell stated he feels occupational, speech, and physical therapy will all be provided at the new site. These are all currently provided at the existing site.

Mr. Truelove asked if there would be an increased number of anticipated patients in those areas, and Mr. Powell stated if they are successful they do anticipate an increased number by about 50% because of eliminating obstacles such as visibility, access, etc. Mr. Truelove asked about staffing compared to the current numbers, but Mr. Powell did not have this figure.

Mr. Truelove stated oncology is not listed on their Website, and Mr. Powell stated they do anticipate offering oncology services at Lower Makefield, but they have not decided the range. He stated at the existing site, they do offer some oncology services including surgical oncology and medical oncology although much medical oncology today is done in the doctor's office. He stated they do not currently have radiation oncology on site at Falls at this point.

Mr. Truelove asked is what is established at one location determinative of what is provided at the other location; and Mr. Powell stated it has a basis, but it is not ultimately determinative. Mr. Truelove asked if it is related, and Mr. Powell stated there is some relationship.

Mr. Truelove asked if the current Frankford system shares staff, and Mr. Powell stated they do. Mr. Truelove asked if they anticipate sharing personnel if the Lower Makefield facility were constructed, and Mr. Powell stated the majority of shared personnel for Lower Makefield would be overhead and management staff and it would probably be based at the Falls Township location. They do not anticipate staff coming from the Torresdale or Frankford campuses. Mr. Truelove asked if this included physicians, and Mr. Powell stated possibly some physicians, but it would be more likely that there would be a separate, dedicated staff. The only exception is that they do hope to re-locate the Nursing School and are in discussion with Holy Family about integrating this. The Nursing School would most likely be in the Holy Family arena if they integrate the schools. Mr. Truelove stated Holy Family has a facility in Newtown Township adjacent to the proposed facility in Lower Makefield, and Mr. Powell stated this is where they would anticipate having this program if they can work out a relationship that makes sense for both parties.

Mr. Truelove asked the size of the Nursing School, and Mr. Powell stated it is approximately 100 individuals with ten to twelve faculty. Mr. Truelove noted the Lower Makefield proposal and asked if the numbers of people on site included the possible Nursing School, and Mr. Powell stated it does include that as it is part of the teaching program. Mr. Truelove stated teaching would also include Residents and Interns, and Mr. Powell agreed. Mr. Truelove asked the total number of Residents and Interns they would anticipate working with during the week at the Lower Makefield site, but Mr. Powell did not have this number.

Mr. Truelove stated Frankford purchased the Falls Township location in 1999, and Mr. Powell agreed. Mr. Truelove asked if Mr. Powell was part of management at the time it was purchased, and Mr. Powell stated he was. Mr. Truelove stated the facility was previously known as Delaware Valley Medical Center, and Mr. Powell agreed. Mr. Truelove stated that building was built in 1984.

Mr. VanLuvanee stated he would like to object at this point and stated while he has allowed Mr. Truelove to ask a number of questions about Falls Township, he now questions the relevance as it has nothing to do with the proposal in Lower Makefield. Mr. Truelove stated one of the components is traffic; and although Mr. VanLuvanee indicated that traffic is rarely a reason for turning down a Special Exception request, it is still an issue that is specifically in the Special Exception part of the Zoning Ordinance and is a key part because of probable effects on highway traffic and also the general health, safety, and welfare issue. He stated since it was requested to discuss the benefits to Lower Makefield Township, one of the issues he would question is whether nine years at one location and then finding out the facility is obsolete may be a harbinger for things to come for Lower Makefield which is a genuine concern by the Township as to whether the facilities will be built and in ten to fifteen years may be obsolete. He feels it is necessary to ask the questions he has raised.

Mr. VanLuvanee stated any conclusions to be drawn from this would be purely speculative and it is not up to the Board to speculate on something that is beyond the objective criteria in the Ordinance. Mr. Truelove stated he feels that any issues with regard to the future of health care are also speculative. Mr. VanLuvanee stated he did not ask any questions about the future of the health care system and feels these were questions raised by the Board.

Mr. Malinowski stated he would like to see the discussion brought in a little bit as he feels they are getting a little far a field.

Mr. Truelove stated Mr. Powell indicated that one of the reasons they wanted to leave the current location was because of accessibility, etc, and he asked if those conditions were not there when they purchased the facility in 1999, and Mr. Powell agreed they were but added while they recognized the existence of the limitations, they did not fully anticipate how significant they were. He stated in the last nine years they have gone through the whole process of trying to address the physical facilities. As an example he stated they built a cath lab, but when they did this, they had no way of knowing the kinds of problems they would encounter within the physical structure which resulted in significant additional costs.

Mr. Malinowski asked what he feels the useful life expectancy would be of the new facility, and Mr. Powell stated he feels it would be a minimum of forty years. He stated the existing facility was built in 1984, and they purchased it nine years ago. He stated they will build the new facility so that it will be built to stand as opposed to all the problems they have encountered at the current facility.

Mr. Kim asked if there is any assurance that the hospital on Oxford Valley Road will be closed if they build the new hospital, and Mr. Powell stated it would not make business sense to run two duplicate operations; but it would make sense to have the Oxford Valley building available for other uses such as corporate overhead and other support services. Mr. Kim asked why they would not commit to closing down one hospital and only have one; and Mr. Powell stated if this was a condition the Township would make, they would consider it.

Mr. Kim stated there is a helicopter pad proposed for the new hospital, and he normally associates this with a Trauma Center. Mr. Powell stated they have no plans to have a Trauma Center. He stated the requirements for Emergency Services often require that you have this kind of back up. He stated they have it at the current site and at the Frankford Hospital. He stated there are occasions when for life safety reasons, you want to be able to move patients out as fast as possible although this is infrequent.

Mr. Truelove noted their current facility has a behavioral unit, and Mr. Powell stated they have an Adult Geriatric Psych Unit. Mr. Truelove stated he believes at one point there was a psychiatric facility there as well, and Mr. Powell stated if it did have this, it probably predated their purchase of the facility. Mr. Truelove asked if they anticipate either of these facilities at the proposed location, and Mr. Powell stated they do not.

Mr. Truelove stated Mr. Powell had indicated that going forward one of the issues facing health care for individuals would be that people would be required to “shop” more; and Mr. Powell stated hospitals and doctors are being exposed in terms of their performance and costs, and by virtue of this he feels consumers will shop more in the future. He stated he also feels people will be paying more out of pocket going forward.

Mr. Truelove stated Mr. Powell had indicated the current location had visibility problems, and he asked if shopping around will change the average patient’s ability to get to a hospital if they know where they are looking to go, and Mr. Powell stated it could and they hope at the new site to be able to achieve cost advantages. They do not feel they can achieve this at the existing location.

Mr. Truelove stated Mr. Powell indicated that they anticipate 28,000 emergency room patient visits in the new facility, and Mr. Powell agreed and stated they are now see approximately 23,000 at the current facility. Mr. Truelove stated part of the proposal is that they would seek new demographics or a larger potential patient base, and Mr. Powell stated they feel the area they are building in does have demand growth going forward. Mr. Truelove asked the ratio they equate with this, but Mr. Powell was unable to answer this. Mr. Truelove asked if this information is something they relied on to make their projections, and Mr. Powell stated the notion of population growth is only one factor.

Mr. Truelove stated Mr. Powell indicated that there were data and studies conducted to show that this move makes sense, and Mr. Powell stated they looked at the construction costs associated with rebuilding the current site and were surprised at the cost to do this adding it did not take into account acquisition of additional property. With that total cost, it made them re-think what to do at the current location as well as the other factors he already noted.

Mr. Truelove stated Mr. Powell was asked about the benefits to Lower Makefield and one was a short-term benefit being the construction-related issues such as Fees and Permits. He asked if there were considered any burdens to the Township or its residents on a short-term basis, and Mr. Powell stated he knows that there were concerns with traffic, and they did their best in terms of staffing design to help this. He stated they are looking to alternate staffing patterns. He stated this would be a highly clinically-oriented facility with very little overhead on site. He stated they anticipate a significant percentage of the workforce working twelve hour shifts which would bring them to and from the facility before and after the busiest hours so they feel there will be less traffic concerns than the

Township would have otherwise. Mr. Truelove asked if this would be support staff, and Mr. Powell stated it would be largely clinical staff – nursing and other kinds of professionals. Mr. Truelove asked if the nurses are organized in a collective bargaining unit, and Mr. Powell stated they are not. Mr. Truelove asked if anyone at this point is negotiating with them in terms of length of shift, and Mr. Powell stated they are not.

Mr. Truelove asked the total project cost including land acquisition, and Mr. Powell stated they feel it could be approximately \$280 million. He stated they still must determine the amount of equipment to be brought from the current facility. He stated they also need to determine exactly what services they will have and they are also still working on the space design to make it as efficient as possible. He stated they hope to reduce the amount of space that was presented to the Township and build a less expensive facility.

Mr. Truelove asked if they are considering radiological equipment, and Mr. Powell stated they are. Mr. Truelove stated he understands that the existing facility offers general x-rays to highly technical CAT scans and angiograms, and Mr. Powell agreed. Mr. Truelove asked what they plan on having at the new facility, and Mr. Powell stated they anticipate having a very comprehensive set of diagnostic and therapeutic radiology services. He added they will probably have at least as much as they do at the Falls facility and probably more, although he is not certain at this time.

Mr. Truelove stated at the Medical office building Mr. Powell indicated that he anticipates that there are physicians who will lease space, and Mr. Powell agreed. Mr. Truelove asked if they have a medical office building at the current facility, and Mr. Powell stated they do not. Mr. Truelove asked if there are any physician groups they have discussed leases with for the new location, and Mr. Powell stated there are a number of individuals who practice at both Torresdale and Lower Bucks as well as faculty at Thomas Jefferson University who have expressed interest in space; but they have not gotten to the point of finalizing this until they have a sense of the commitment going forward.

Mr. Toadvine stated he assumes Mr. Powell is intimately familiar with the operation at St. Mary's Hospital, and Mr. Powell stated he would not say this although he is somewhat familiar. Mr. Toadvine stated they have medical offices there, and Mr. Powell stated he feels this is correct. Mr. Toadvine asked how many beds they have, but Mr. Powell stated he did not know. Mr. Toadvine asked Mr. Powell how he would compare the facility they are proposing for Lower Makefield to St. Mary's in terms of size, services provided, and medical office buildings. Mr. Powell stated in terms of range of services it will be comparable. He stated they may or may not offer a little bit more comprehensive services depending on what they do with Jefferson. He stated from a bed standpoint and medical office standpoint, they will probably be slightly smaller than St. Mary's. He feels St. Mary's on a whole is slightly larger than the new facility will be

since Frankford has multiple campuses and can shift a lot of the overhead services to other locations Mr. Toadvine asked if they have teaching facilities at St. Mary's, and Mr. Powell stated he did not know.

Mr. Kim asked why Lower Makefield needs this hospital as it seems they will just be taking customers from other hospitals.

Mr. VanLuvanee stated it is not incumbent on the Applicant to prove need or community benefit. He stated an Applicant coming in to construct a new office building does not have to explain why there is need for another office building. He stated Mr. Powell can answer the question if he chooses. Mr. Toadvine stated the Board should understand that there are licensing requirements and need-based Applications that will need to be addressed in order to assure the various Governmental entities that there is a need for the hospital, but the Township does not get involved in this. Mr. Malinowski stated given this, the Board members have a vote, and they do need to understand the issues.

Mr. Powell stated he believes competition is a good thing. He stated he feels both institutions can serve the community in a way that will benefit everybody. He stated there is also a large percentage of individuals who are still leaving the community for their health care. He stated he also feels there is an opportunity for them to work with St. Mary's.

Mr. Gruen asked what they are considering to help alleviate traffic concerns aside from offering the staff to come in at off-peak hours. Mr. VanLuvanee stated their next witness will be their traffic engineer who they are offering, not because they believe they need to, but because they know this is a concern of the Township. He stated they do have a full-blown traffic report. Mr. Gruen stated he agrees that the Board of Supervisors may have included in the Master Plan that there can be a hospital at this location; however, the criteria does show that there are conditions that must be met, including traffic. He also noted a hospital produces a lot of waste and grey water and asked if studies have been done whether the sewer system is capable of handling this facility. Mr. VanLuvanee stated they will have engineering testimony to this effect. He stated generally speaking water and sewer are Land Development issues; and if there is not sewer capacity, they will not be able to have a hospital. He stated the procedure this evening is over the use of the property. He stated the other issues do have to be resolved, and there are steps the Applicant must take before a hospital can be built. He stated the Zoning Hearing Board decision will not determine conclusively whether or not a hospital will be built. He stated under Pennsylvania law the Use Approval is the first step in the process.

Mr. Malinowski stated not only will the Zoning Hearing Board's decision not determine whether or not the hospital will be built; there are also a number of people who are against this use. Mr. VanLuvanee stated the fact that people are against them has nothing

to do with the legal issues that the Zoning Hearing Board must decide. He stated they are here to convince the Board that they can meet the Ordinance criteria that will allow Frankford to move ahead to some of the other steps where some of the issues the people may be concerned about will become more relevant such as Land Development issues.

A short recess was taken at this time. The meeting was reconvened at 9:40 p.m.

Mr. Truelove asked Mr. Powell to describe the type of medical waste generated. Mr. Powell stated he is not sure he can provide this information tonight but will make this information available within the next few weeks.

Mr. William Koehler stated Mr. Powell alluded to the fact that many people had requested that Frankford expand their presence in Bucks County and also alluded that a number of surveys had been done with respect to cost, construction, location, and demographics and indicated numerous people were seeking care outside of the area, but he did not present any data or documentation. Mr. Malinowski stated what Mr. Koehler is providing is testimony and he asked Mr. Koehler if he has a question for Mr. Powell. Mr. Koehler stated he feels what Mr. Powell has provided is hearsay.

Mr. Toadvine stated by being granted Party Status, this gives you the right to ask questions of witnesses as they testify. He stated at this point in the proceedings, it would only be appropriate to ask Mr. Powell questions which relate to what he testified to. He stated if Mr. Koehler has a statement or other concern, that will be addressed at a later time. He stated at this point he should only cross-examine Mr. Powell and ask him any questions that have not already been asked.

Mr. Koehler asked Mr. Powell if he has supporting documentation for the statements that he made. Mr. Powell stated he indicated that people were leaving the area for health care services and they do have data that they could share showing the number of individuals leaving the area to seek health care in other area. He stated they also have data on construction costs.

Mr. Koehler asked about the number of people who asked Mr. Powell to increase their presence in Lower Bucks County. Mr. Powell stated he had testified that there were individuals who had originally lived in Northeast Philadelphia and moved to Lower Bucks County; and if necessary, he feels he could produce a significant number of people who would be in favor of this project.

Ms. Alisha Belcher asked for a clarification as to whether or not they would provide geriatric services, and Mr. Powell stated they do anticipate handling geriatric patients.

Mr. Geoff Goll stated Residents Against Frankford would like to reserve their right to cross examine the witness once they have retained counsel. Mr. Toadvine stated it would be inappropriate to have the opportunity to cross-examine this witness at a later date once he is done testifying. Mr. Goll stated they do not have counsel at this time.

Mr. Toadvine stated Mr. Truelove thoroughly cross-examined the witness. Mr. Goll stated Mr. Truelove does not represent Residents Against Frankford. Mr. Toadvine stated while he recognizes this, the same issues that concern the Board were addressed by Mr. Truelove. Mr. Goll stated they may not be the same issues Residents Against Frankford is concerned about. Mr. Toadvine stated he does not feel they can allow this witness to be cross-examined at a later date as it would be inappropriate.

Ms. Koehler asked if this means that since she is part of Residents Against Frankford she cannot speak now without an attorney, but the attorney cannot cross-examine him in the future. Mr. Toadvine stated they indicated that she could be a Party tonight, and if she has any questions, she could ask Mr. Powell. Ms. Koehler stated they are considering a twenty-four hours a day, seven days a week facility and she asked what they will do with noise and lights. Mr. Powell stated assuming they move forward with the planning process, they would be working with the Township on how to present a final product that would mitigate the concerns of the community wherever possible. Ms. Koehler stated this does not mean that they can be mitigated.

Mr. VanLuvanee objected to the line of questioning noting that lighting is handled during Land Development. He stated the Township does have lighting standards which are performance based criteria which would have to be satisfied and that would be the time to address this issue.

Mr. Malinowski sustained the objection.

Mr. Toadvine stated lighting and noise will be handled during the Land Development process.

Mr. Goll asked if the decision that they will not be permitted to have their attorney cross examine this witness at a later time, the Zoning Hearing Board solicitor's decision or the Board's decision. Mr. Toadvine stated he advised the Board, and he assumes that they will follow his legal advice. Mr. Malinowski stated the Board employs Mr. Toadvine, and they do follow his legal advice; and if it is his legal opinion that it is inappropriate to cross-examine this witness at a later time, the Board concurs with his legal opinion.

Mr. Truelove stated Mr. Powell has offered to share the data that was offered including the expansion data, the need for building the hospital, the demographic data, and the polling of people who requested the hospital. Mr. Powell stated he will provide original construction costs, demand data where people sought health care over a year, and which hospitals they went to. He stated he will not be able to provide a specific list of

individuals who has requested that the Hospital follow them. Mr. Truelove stated he would not ask for this unless they had some specific interest other than the need for health care.

Mr. VanLuvanee asked if there are any for-profit hospitals in the vicinity, and Mr. Powell stated to his knowledge the only for-profit hospital is Tenet which is downtown.

Mr. Gruen stated he is still concerned that the citizens group was granted Party status but they do not have an attorney now. He stated he feels they should be able to cross-examine the witness. Mr. Toadvine stated the Board can make any rule they want, but he is not sure that this witness is coming back. Mr. Gruen stated the Board could ask him to come back. Mr. Gruen stated if the group has Party status, he feels they should have the right to cross-examine the witness. Mr. VanLuvanee stated they can do that tonight. Mr. Toadvine stated they had the opportunity to be here tonight with an attorney but they chose not to. He stated they could ask them if they have any questions that their attorney would like to submit, and if Mr. VanLuvanee was willing to address those questions, that would be one way to do it. He stated they do not know at this point when the attorney will be retained. He stated if they give them the right to cross-examine the witness and an attorney is not retained for a month or two, the Board is under an obligation to complete the Hearing within 100 days from this evening; and if they do not, the Applicant is granted their requested Special Exceptions by operation of law. Mr. Gruen stated they could advise the resident group that if they do not have attorney by the next meeting, they would lose their privilege.

Mr. Malinowski stated the Chair has already made a ruling; and if there is a request to Appeal the Chair's Decision, this would be Mr. Gruen's right. Mr. Gruen stated he would like to Appeal this Decision.

Mr. Gruen moved and Mr. Bamburak seconded that the citizens' group will have a right to cross examine the witness at the next scheduled meeting with an attorney; and if they do not have an attorney at that time, they will not extend the right beyond the next meeting. Motion carried with Mr. Malinowski opposed.

Mr. VanLuvanee stated Mr. Powell will check his schedule; and if the attorney can contact him prior to the next Hearing, he will advise the attorney whether or not Mr. Powell can be in attendance at the next Hearing or not. If he cannot make it to the next meeting, Mr. Powell will be produced at a subsequent Hearing.

Mr. Truelove stated it is his opinion based on the Zoning Ordinance that certain criteria must be met, and it is the Township's position that they must be met as far as the Special Exception requirements are concerned. He stated there are reasonable standards based both in case law and in the Municipalities Planning Code which are not just to be deferred to the Supervisors or the Subdivision and Land Development Ordinance procedure. He noted specifically Sub-Section 200-98 A3, and A through F.

Mr. Toadvine stated he does not feel any determination had been made that criteria did not have to be met.

Mr. Truelove noted Sub-Section 3A states: “The proposed uses in accordance with the spirit, and purpose, and intent of the Comprehensive Plan and in conformance with all applicable requirements of this Chapter” (which is the Zoning Ordinance) “and Chapter 178 Subdivision Land Development,” and “B that the proposed location of a public, industrial, or commercial use is suitable with respect to probable effects on highway traffic and that it is suitable with respect to access arrangements in order to protect the major streets and highways from undue congestion and hazard.” He also noted Sub-Section C – “There are adequate sanitation and public safety provisions.”

Mr. Toadvine stated they have not made a determination that these do not apply. Mr. Truelove stated he felt it was indicated that they did not have to provide those at this Hearing. Mr. Malinowski stated he feels this was Mr. VanLuvanee’s opinion that they did not have to apply. Mr. Truelove stated he felt that Mr. Toadvine echoed this as well to some extent as well. Mr. Truelove stated he wanted to make sure that the Board understood that he did not agree with this. Mr. Toadvine stated he indicated that the lighting issue would be addressed. Mr. Truelove stated this would be Sub-Section D. Mr. Toadvine stated the lighting issue will be addressed at the Subdivision and Land Development stage. Mr. Truelove stated under Sub-Section 3D it states “All public, commercial, industrial parking, loading, access, or service areas shall be adequately illuminated at night while in use and that such lighting including sign lighting shall be arranged so as to protect the highway and the neighboring properties from direct glare or hazardous interference of any kind.” Mr. Truelove stated he feels these issues are before the Board in this proceeding.

Mr. Malinowski stated if this were the case, he feels the matter would have to be postponed indefinitely because there are no Final Plans, there is nothing for the Board to look at, and there is no way for the Board to make the determination whether or not the lighting or many of the other items being brought forth this evening apply. Mr. Truelove stated he is only noting what the Ordinance says for Special Exceptions in Lower Makefield. Mr. Malinowski stated when Mr. Truelove presents the Township’s case, he can bring these items up.

Mr. Toadvine stated the way the Board has always addressed these issues was to require the Applicant, if granted the Special Exception, to comply with that provision and to be governed by the Decision of the Township engineer in connection with the Land Development and Subdivision Approval.

Mr. Gruen stated this takes the decision out of the Zoning Hearing Board's hands, and Mr. Toadvine stated this is a Use Application, they do not have Final Plans yet, and they would not have them at this point in time as in many situations involving a Special Exception. Mr. Gruen stated they could show studies of traffic, and Mr. Toadvine stated they have indicated that they will. Mr. Bamburak stated they are not yet done testifying.

Mr. Toadvine stated this Board always requires an Applicant that is granted a Special Exception to comply with certain conditions and one of those is that they will comply with the applicable Township Ordinance as it applies to lighting to the satisfaction of the Township engineer. Mr. Majewski stated the Ordinance is clear that they need to provide evidence as to what they are planning. Mr. Toadvine stated they have never had Final Plans when they come to the Zoning Hearing Board. Mr. Majewski stated they have prepared an extensive amount of documentation for the project that they could probably supply to the Zoning Hearing Board to assist in making a decision. Mr. Toadvine asked if they have Final Plans that have lighting details, etc. Mr. Majewski stated while they do not have Final Plans, knowing what type of lighting would be contemplated for the site would be appropriate.

Mr. Toadvine stated there will be much more testimony including traffic studies.

Mr. Kim stated the Board is making a decision as to whether they can use the land as a Special Exception. He stated with regard to lights and other conditions would they not have to satisfy the various agencies before they can start construction and to secure all the necessary Permits and Applications that are not in the realm of the Zoning Hearing Board. He stated the Board is looking at the health, safety, and environmental impact as to this use, but the minute details of lighting, building construction, and materials would require Federal, State, or local approval before they can begin construction. He stated the Zoning Hearing Board has never scrutinized other Applicants on these details when they apply for a Special Exception.

Mr. Majewski stated Mr. Truelove is just pointing out what the Ordinance says.
Mr. Malinowski stated the Township will be given ample time to present their case.

Mr. Gruen moved, Mr. Kim seconded and it was unanimously carried to continue the matter to Tuesday, September 23 at 7:00 p.m.

Mr. VanLuvanee stated he feels they will need a second meeting date because while the Applicant's traffic engineer can be present on September 23, their civil engineer cannot be present that time and will need to come to a subsequent Hearing. It was agreed that they will reserve time for this matter at a subsequent meeting with time to be determined.

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There being no further business, Mr. Bamburak moved, Mr. Gruen seconded and it was unanimously carried to adjourn the meeting at 10:05 p.m.

Respectfully Submitted,

David Malinowski, Secretary