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Cornwall Development Review Board

Cornwall Town Offices

2629 Route 30

Cornwall, VT 05753

**Re: 1683 West St., Barn on the Flats, LLC (Kayla and Cameron Schaefer)
Conditional Use Application -- Comments by Interested Persons Cheryl and
Marc Cesario, Rebecca Kinkead, Bethany and Andrew Menkart, and Alice and
John Berninghausen**

Dear Members of the Development Review Board:

I have been retained by Cheryl and Marc Cesario, Rebecca Kinkead, Bethany and Andrew Menkart, and Alice and John Berninghausen, and by this letter am submitting comments regarding the Barn on the Flats, LLC Conditional Use Application.

The Conditional Use Application should be denied. The proposed use cannot be reconciled with the Cornwall Land Use Ordinance.

As you know, in the LDR zone an event facility is not a permitted use and the list of conditional uses is short. The application does not identify any category of conditional uses that might even arguably apply, so we have to speculate what the applicants' theory is. The event facility could not possibly be a Bed and Breakfast, a Veterinary clinic, an outdoor recreation facility, a Nursery, adaptive reuse of a facility for light manufacturing or industry, a Professional office, a Residential health care facility, a Telecom tower or a Personal landing strip. All that remains is a Home based business.

This facility could not possibly qualify as a Home based business. Under section 407(1), "A member or members of the family residing in the principal building shall operate the business with no more than two additional non-resident full time equivalent employees," and "The business shall be operated within the principal building or an existing accessory use." The principal building on the Barn on the Flats land is the barn, not a residence. No one resides in the barn or will reside in the barn. The persons who will operate the business will not reside in the barn.

Of course, the Schaefer residence is not on this land, the Schaefer residence is not listed or described in the application, and the proposal is not to operate the business at the Schaefer residence.

The facts that no person will reside in the principal building, and that the person or persons who will operate the business will not reside in that principal building, should end consideration of the application. It cannot qualify as a Home based business.

It is not necessary to consider other aspects of the Home based business criteria, but I also note that the intent of this section is clearly to allow opportunity for a small business. The introductory paragraph states that the intent is to provide more “flexibility” than a Home occupation allows -- not a completely different kind or intensity of business. And subsection (2) states that in addition to the parking spaces for the residence, a Home based occupation must provide two off-street parking spaces. This proposal is for 150 parking spaces.

Were it necessary to consider the Conditional Use criteria in section 355 governing the character of the area, the application also would not qualify. The character of this area, as described in section 260, is agricultural, not commercial. An event facility for hundreds of visitors, with 150 parking spaces, and the septic disposal, noise and traffic problems attendant upon hundreds of visitors, falls far outside the intent of Section 260. Section 260 explicitly states “Public uses, with the exception of recreation, should not be encouraged in this district, in order to guide such uses into Cornwall Village.” In addition, the parking does not satisfy the screening requirements of section 610, which will be a problem both during the daytime and with headlights at night. Also, the noise generated by hundreds of visitors and the music likely will violate the standards of section 810, both at the property line and at nearby residences.

My clients qualify as interested persons because each one of them owns or occupies property either immediately adjacent to the proposed site or very nearby to the site. Each of them will suffer the visual, noise and traffic impacts of the proposed land use. Since septic disposal has not been proposed, my clients may also suffer harm from whatever means the hundreds of guest use to dispose of their septic waste.

The Cesarios also will suffer a harm that illustrates the inappropriateness of this use in a district the purpose of which is to preserve agricultural uses. Their land abuts this land. They raise cattle, by contract with the owners of the animals, on their land. Cattle graze immediately adjacent to the proposed site. The proposed parking lot is next to the property line. There is a deeded right of way through the Schaefer land onto the Cesarios’ land that provides access to hunters on State land further west. The entry is gated to prevent cattle from escaping -- but the gate must remain openable by the public. The value of cattle that the Cesarios graze for other parties is between \$500,000-\$750,000 in any given year. It does not seem possible the Schaefer can safely regulate their hundreds of proposed guests, especially after dark with alcohol involved. It will only take one or two irresponsible guests to jeopardize the Cesarios’ livelihood and what they have spent the last 11 years

building. An event space like this is not in line with the objectives of an agriculturally zoned area.

My clients ask that they be allowed to elaborate upon their concerns at the hearing.

Thank you.

Sincerely,

James A. Dumont

James A. Dumont, Esq.

cc: Ms. Kayla Schaefer, by email