

RICHLAND COUNTY PLANNING COMMISSION

January 5, 2003

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5 *[Members Present: Palmer, Furgess, Lucius, Jackson, Van Dine, Wyatt, Green, Dunbar;*
6 *Absent: McBride]*

7
8 **[Please note sound system was very distorted - more 'inaudibles' than normal]**

9 Called to Order: 1:02 PM

10 CHAIRMAN VAN DINE: I want to recognize we have a quorum for our meeting
11 today. I want to wish everybody a happy New Year. Thank you all for coming, I hope
12 everybody had an enjoyable time; if we can try and keep the cheerful holiday spirit
13 through the rest of the evening. As an initial issue, we have had some legal issues
14 come up that we need to recess into an executive session to discuss, and so therefore
15 we are going to move into executive session at this point in time and we will be back
16 shortly to start our agenda.

17 *[Executive Session]*

18 CHAIRMAN VAN DINE: Ladies and Gentlemen, what has occurred is that, if you
19 recall our December meeting we had election of officers. Apparently, although we have
20 done it in the past, we were supposed to of had our vote for officers at this meeting so
21 therefore we have been advised that our prior vote may not have been a valid vote. So
22 therefore we have to take up an initial state, an initial issue, the voting for officers for the
23 year 2004, as to the Commission. The nominations were done correctly, we're done in
24 accordance with our procedures. So, the nomination for Secretary was Wes Furgess.
25 The nomination for Vice Chair was Barbara Wyatt, and the nominations for Chairman
26 were Gene Green and Norman Jackson. At this point we are going to do our election
27 as to each individual office, starting with Secretary first. Now I will, at this point in time,

1 anybody who has anything they wish to say concerning any of the officers or anything
2 else, you are welcomed to do so. Hearing no discussion, all those in favor of Wes
3 Furgess as Secretary for the year 2004 Planning Commission, please raise your hand.

4 *[Approved: Palmer, Furgess, Lucius, Jackson, Van Dine, Wyatt, Green, Dunbar;*
5 *Absent: McBride]*

6 CHAIRMAN VAN DINE: Although in favor of Barbara Wyatt as Vice Chair for the
7 Planning Commission for 2004, please signify by raising your hand.

8 *[Approved: Palmer, Furgess, Lucius, Jackson, Van Dine, Wyatt, Green, Dunbar;*
9 *Absent McBride]*

10 CHAIRMAN VAN DINE: We are, we have two nominees for the Chairman of the
11 Planning Commission for 2004, they're Norman Jackson and Gene Green. All those in
12 favor of Norman Jackson as the Chairman of the Planning Commission for 2004, please
13 raise your hand.

14 *[Approved: Furgess, Palmer, Jackson]*

15 CHAIRMAN VAN DINE: All those in favor of Gene Green as Chairman of the
16 Planning Commission for 2004, please raise your hand.

17 *[Approved: Lucius, Van Dine, Wyatt, Green, Dunbar]*

18 CHAIRMAN VAN DINE: Mr. Green is elected Chair for 2004, and if you will give
19 us a moment must will realign ourselves and move ourselves around up here so that we
20 are in the right seat location.

21 CHAIRMAN GREEN: As the first matter that's not on our agenda, I want to take
22 this opportunity to thank Howard Van Dine, who has served as Chairman for the last
23 two years. We've had an extremely busy schedule outside of our monthly meetings

1 with you. We've had dozens of hours have gone in to new Land Development Code
2 and other issues that we've faced and Howard has done a really remarkable job of
3 keeping us on track and on course through that process. And I just want to thank him
4 personally, for his efforts in that part.

5 MR. VAN DINE: Thank you very much.

6 CHAIRMAN GREEN: Okay. Our next order of business is minutes for approval. I
7 don't believe we got the December minutes until today, so the only thing we can take up
8 is the consideration of the November 10th minutes. Are there any questions or comment
9 in regards to these minutes?

10 MS. LUCIUS: I move to approve the minutes.

11 MR. FURGESS: Second.

12 CHAIRMAN GREEN: Motion for approval on the second, all those in favor
13 please raise your hand.

14 *[Approved: Palmer, Furgess, Lucius, Jackson, Green, Wyatt, Van Dine, Dunbar;*
15 *Absent: McBride]*

16 MS. WYATT: Mr. Chairman, I'm going to request to defer approval of the
17 December 1st meeting until the February meeting.

18 MR. VAN DINE: Second.

19 CHAIRMAN GREEN: We have a second to defer the December 1st minutes
20 since we just got them today. Any discussion? All those in favor for deferral?
21 Opposed?

22 *[Approval: Palmer, Furgess, Lucius, Jackson, Van Dine, Wyatt, Green, Dunbar; Absent*
23 *McBride]*

1 CHAIRMAN GREEN: We'll defer those minutes. Are there any amendments to
2 the agenda?

3 MR. GOSLINE: Yes, Mr. Chairman, one agenda item at the very end of
4 discussion about open spaces in cluster housing projects, we would like to defer that for
5 one month cause we haven't time meet with the development community [inaudible] a
6 whole issue. So we'd like to table it for one month. That will give us time to meet with
7 homeowners and other interested in this particular issue.

8 MR. VAN DINE: Mr. Chairman, based on the fact that we have not even seen
9 those ordinances it has – has any idea of what we would be voting on even looking at
10 would – I would move that we delete from our agenda the item which is listed under VIII,
11 Amending Section 22-46 (c).

12 CHAIRMAN GREEN: There's a motion on the floor to defer in Other Business
13 the consideration is there a second, any discussion?

14 MR. DUNBAR: Second.

15 CHAIRMAN GREEN: Any discussion? All those in favor of deferring that
16 agenda item?

17 *[Approved: Palmer, Furgess, Lucius, Jackson, Van Dine, Wyatt, Green, Dunbar;*
18 *Absent McBride]*

19 CHAIRMAN GREEN: Any other amendments or adjustments to the agenda from
20 Staff or anybody else? Our first consideration under old business is a reconsideration
21 of the Elders Commons Commercial S/D that we heard at our last meeting.

22 MR. VAN DINE: Mr. Chairman, I believe this is the one I had recused myself
23 on, is that correct?

1 CHAIRMAN GREEN: Yes, sir.

2 MR. VAN DINE: I don't have a form, but if you'll give me a form I'll fill it out in the
3 back room while I sit and wait. I need to recuse myself again for that.

4 MR. GREEN: We'll note, and a copy of that recusal is with the last month's
5 minutes as well. Staff report.

6 **CASE SD-03-312**

7 MR. GOSLINE: Mr. Chairman, note if you will recall this item was discussed at
8 the last meeting and the issue was access to Hardscrabble Road. You asked us to
9 meet with the applicant and come up with a solution or a compromise to the access
10 issue. We did that, the Department is now prepared to support the change, but sort of
11 reluctantly because Hardscrabble Road is such a mess. What the applicant's mitigation
12 is they making a bad situation a little better and we think it's a pretty good deal, so we
13 recommend approval as described on page 10 of the agenda. The applicants here are
14 prepared to discuss it if you want to.

15 CHAIRMAN GREEN: Would the applicant like to make any comments on the
16 facts further from the last meeting?

17 **TESTIMONY OF MR JIM FOOTER:**

18 MR. FOOTER: My name is Jim Footer, I'm with BP Barber, the only thing I can
19 say is after meeting with Staff and clarifying some issues, I think, you know, the road is
20 going to much a safer condition for all purposes.

21 MR. PALMER: I move for approval subject to the conditions on page 10.

22 CHAIRMAN GREEN: We have a motion on the floor for approval subject to the
23 conditions on page 10, with [inaudible] beyond that.

24

1 MR. DUNBAR: Second.

2 CHAIRMAN GREEN: There's a motion to approve for the second. Discussion?

3 Seeing no discussion, all those in favor of sending forward SD-04-122, Elders

4 Commons Commercial subdivision for approval, please raise your hand. Opposed?

5 Thank you.

6 *[Approved: Palmer, Furgess, Lucius, Jackson, Van Dine, Wyatt, Green, Dunbar; Absent*

7 *McBride]*

8 CHAIRMAN GREEN: The next item on our agenda is SD-03-312, Chelsea Park,

9 Phase A subdivision.

10 **CASE SD-03-312**

11 MR. GOSLINE: Yes Mr. Chairman, Members, this is first phase of a subdivision

12 out of West Shady Grove Road, adjacent to [inaudible] Place. This was rezoned, oh,

13 about a year or so ago, the first piece of it is 91 lots. Staff recommends approval.

14 CHAIRMAN GREEN: Any questions for Staff or the applicant?

15 MS. LUCIUS: When I was reading this, I kept getting – felt like I was being

16 jerked back and forth. It says, one of the objectives is to low density and sensitive lands

17 to live for infrastructure, and we are talking about 91 units, on 36 acres. That's low

18 density?

19 Mr. GOSLINE: Yes, this project is zoned RS-1, and the applicants meet the RS-

20 1 requirements.

21 Ms. LUCIUS: Well, then what is high density?

1 Mr. GOSLINE: Well, the, you know, that's a little over three units per acre, and
2 that's RS-1. That's what RS-1 does. It – RS-1 is 12,000 square foot lots, but by the
3 time you add it out you get about 3 1/2 or 3.7 units per acre.

4 MS. LUCIUS: Okay. And it's heavily wooded, with a significant number of
5 hardwood trees? We are going to protect these trees?

6 MR. GOSLINE: They – in the plan I think it shows you, well, it doesn't show up
7 as well as it does in the bigger scale, but they have let a lot of open space. The lots
8 don't go below the 100 year flood elevation. So, it, there will be, you know, the corridors
9 of the creek have been set aside so to speak. This is one of the things that we're trying
10 to encourage all applicants to do, is to cut their lots, stop their lots at the 100 year
11 elevation line and then convey that property or hold it, or deed it to a home owners
12 association or a conservation commission, somebody, so it can start creating these
13 corridors.

14 MS. LUCIUS: That was my other questions, I just can't – low density and that
15 many homes it just doesn't seem me -

16 MR. DUNBAR: I move to approval subject to conditions as is on page 20 and 21.

17 CHAIRMAN GREEN: Have a motion on the floor to move for approval subject to
18 conditions on pages 20-21, do I hear a second?

19 MR. PALMER: Second.

20 CHAIRMAN GREEN: We have a motion on the floor to approve SD-03-312. All
21 those in favor please raise your hand? Opposed?

22 *[Approved: Palmer, Furgess, Lucius, Jackson, Wyatt, Green, Dunbar; Recused: Van*
23 *Dine; Absent McBride]*

1 CHAIRMAN GREEN: Quick question for legal. Do I need to read Mr. Van Dine's
2 recusal for the Record since one exists on the Record for the Elders Common?

3 MS. LINDER: I would recommend that you do, just for the Record.

4 CHAIRMAN GREEN: I'd like to read this into the Record if I could please. Dear
5 Mr. Green, I must request to be excused from participating in discussion or voting on
6 agenda item number IV, regarding Elders Common Commercial subdivision, which is
7 scheduled for review and discussion at today's Planning Commission meeting. It is my
8 understanding of the rules of conduct provisions of the Ethics, Government
9 Accountability and Campaign Reform laws that since a partner in my law firm may be
10 associated with the property of issue, I will be unable to participate in this matter
11 through discussion or voting. I would, therefore, respectfully request that you indicate
12 for the Record that I did not participate in any discussion or vote relating to this item
13 representing a potential conflict of interest. I would further request that you allow and
14 direct this letter to be printed as part of the official minutes and excuse me from such
15 votes or deliberations and note such in the minutes. Thank you for your consideration
16 in this matter. Sincerely, Howard Van Dine.

17 **CASE SD-04-108**

18 CHAIRMAN GREEN: Next on our agenda is item SD-04-108, Longtown Estates
19 subdivision. Staff?

20 MR. GOSLINE: Yes, Mr. Chairman, Members, this is an approved subdivision
21 off of Longtown West Road and Overbrook Drive in the Willow Creek Plantation project.
22 The proposed 42 lots on 34 acres, the Staff has recommended denial of this because
23 the, as you can see if you look at the plan on page 35, most of the site is wetland and

1 below flood elevation and the lots are cut across all these areas and as just mentioned
2 previously we've been trying to counsel applicants to cut their lots off at the 100 year
3 flood elevation line. This particular project didn't do it. It also, in our Staff Report,
4 describes some additional analysis we thought should occur with identification of the
5 wetlands and flood elevation line. We met with the applicant last Monday and he's here
6 to shed some light on some of the discussion.

7 CHAIRMAN GREEN: Is the applicant here?

8 MR. VAN DINE: Mr. Chairman, if I could ask legal a question. If we were to
9 approve this subdivision with, as it looks like, half the lot into a flood zone, are we
10 somehow locked in to not being able to enforce certain provisions, like wetlands or
11 flood? It just seems to me that going along and actually approving a subdivision with so
12 many areas that may be in dispute or issue, does it some how block us from further
13 enforcement of other provisions of the Code?

14 MS. LINDER: In looking at the subdivision plat that's before you, I noticed that
15 there are several lots that look like they are in the wetlands, the approval of subdivisions
16 is just that, you're just approving the division of land for potential individual ownership.
17 That would still, there would still have to be the following of any state and federal
18 requirements as well as our local requirements regarding the wetlands. In other words,
19 if there would be, before you could get a building permit to develop it, you would have to
20 follow all the requirements.

21 MR. VAN DINE: And if they were not able to meet that, would they then have to
22 come back, if they would somehow realign it, they would have to come back to us and
23 get another subdivision approval?

1 MS. LINDER: That is correct.

2 MR. DUNBAR: Does the line that we see delineate the 100 year flood plain?

3 MS. LINDER: I'm not familiar with it.

4 MR. GOSLINE: No. The applicant, I believe, again, has some bigger scale that
5 he can –

6 CHAIRMAN GREEN: If you would give us your name and address. And then –

7 **TESTIMONY OF MR. JIM MAYS:**

8 MR. MAYS: My name is Jim Mays, I'm an engineer, 5 Hardwell Court, Columbia,
9 I represent HAK, LLC, the gentlemen sitting behind me, the owners of this. If you'll
10 notice, I've blown this up and shown in light blue the lineated wetlands line, that has
11 been lineated and surveyed by a registered surveyor in wetlands lineator. Inside of that,
12 inside of that light blue area is a darker blue area. This lighter blue area represents a
13 delineated wetland that has been surveyed, it's been recorded in [inaudible] record.
14 The darker blue area represents an approximation of a flood plain area. I will point out
15 that this, this whole subdivision is at the top of a drainage basin. There's only 70 acres,
16 including this 34 acres that drains through this site. So this wetland is filled by a spring
17 – spring fed more than flood. But there is, I guess associated with any ditch or
18 [inaudible] area of flood plain. And that is by my calculation a maximum extent of 100
19 year flood elevation. The rest of this light blue land is, is just a wetland soil. The water
20 table is, is close to the top, and in every instance, the 100 flood elevation is inside the
21 limits of the wetland. I've also shown here some areas of the lots that comes in close
22 contact with the wetlands area. Even though the developer wanted to exclude the lot,
23 we have, in most instances, I think there are two lots you see the buildable areas,

1 building envelopes that I've shown in orange there, that's a 60 x 60 foot pad. The green
2 area will be a highland area and again the light blue would be the wetlands area. But in
3 every instance, I think that lot, that lot and possible that lot, the buildable area between
4 15,000 and 20,000 square feet. All the other lots need a D-1 zoning which is 20,000
5 square feet. But, you know, we, we intend, the developer intends to record in his
6 covenant and restrictions to meet all federal and state requirements for wetlands. So
7 there is no plan to do any development, clearing or anything in this light blue area.
8 [inaudible] have a homeowners association set up to control that, but they will control
9 that by covenants and restrictions.

10 CHAIRMAN GREEN: What you are saying with regard with the lots in the upper
11 left corner then that they are being platted but there is no way to build.

12 MR. MAYS: No, this lot, here -

13 CHAIRMAN GREEN: Just north of there.

14 MR. MAYS: Okay, that's all one lot.

15 CHAIRMAN GREEN: Okay.

16 MR. MAYS: So they will sell that wetlands area, but there is a 20,000 square
17 foot buildable area outside the wetlands. And again, it's my opinion, there's a building
18 envelope on every one of these lots.

19 MS. LUCIUS: The orange blocks is that what you calling the building envelope?

20 MR. MAYS: That's what I'm calling building envelope, yes. That would be my
21 recommendation for a building site, a house.

22 MS. LUCIUS: But not outside of that orange block?

1 MR. MAYS: Again, I think, I'm not asking for an individual determination that
2 that's where the house be built. That will be determined by the builder. I'm just saying
3 that would be a typical house. That may shift a little bit. That's just a size of a particular
4 house. That shows you relative size to the lot area.

5 MS. LUCIUS: Does that meet setbacks?

6 MR. MAYS: These are set back 35' with a 10', I think it's a 10' side, and a 30'
7 rear, I think, yes.

8 MR. PALMER: See that's not really up for us to determine. We're just breaking
9 up into lots. So if nobody is able to build on that lot and someone wants to buy it that's
10 up to them. All that stuff has to get cleared by these guys.

11 MR. MAYS: We're not asking for any exceptions or anything for setbacks. We
12 will meet -

13 MR. DUNBAR: The builder's [inaudible] to build there home in the 100 year
14 elevation [inaudible] got to be above that flood elevation.

15 MR. MAYS: Right. And also, we will make sure they build outside, outside the
16 wetlands.

17 MR. VAN DINE: I have a serious problem delineating anything and setting aside
18 areas, because once we put this plat in place, houses will go into these spots? I'm not
19 so sure that we ought to be in the business of lining out and impacting the wetlands and
20 the flood areas by allowing these little carve-outs and these little things that they say.
21 This would be the perfect area to have these areas laid out as open space and the other
22 one - [inaudible] better for you to have a smaller lot sizes or something like that and you
23 designate all of the flood areas as oppose to trying to jam all these houses in little spots.

1 MR. MAYS: Again, if may, that little spot is still 20,000 square feet.

2 MR. VAN DINE: I recognize that, that they may be able to wedge something in
3 there but I don't think it's good planning practice to do that. I, while it's certainly
4 something that builders will have to deal with down the road, I'm mean, we're starting
5 the train on the tracks. And I'm not sure why we'd want to start that process at this point
6 in time.

7 MR. PALMER: Well all we're simply doing is, is if we vote to approve this would
8 be to break up into lots. I would, I would be [inaudible] to think that I could tell someone
9 what their liking should be as to what size house they should live in on a certain lot. If,
10 if a builder is able to build a house on there legally and by all of ordinances and laws,
11 state, federal and everything else, and county, and someone wants to live in that house
12 that's there prerogative.

13 MR. DUNBAR: I agree. I think while Carl's point is well taken, we can guide
14 developers to try and dedicate wetland areas. I don't see anything wrong with an
15 individual lot owner owning some wetlands. That's what this does, it's just a function of
16 not having a had a homeowners association set up or a conservation easement set up
17 or something like that. I don't see anything wrong with it. Me, personally, I would enjoy
18 living on a wetland.

19 MR. JACKSON: Yes, but to me, this goes more personally than just a lot owner.
20 I think there is some public interest, protecting the public interest also. We can't have
21 no builder, who builds because he can carve out a house, somewhere on the lot in a
22 flood plain or flood way, and then later on a homeowner has problems.

1 MR. PALMER: I'm saying that to build those homes by our ordinances and by
2 our requirements and by laws to make the home safe to the homeowner.

3 MR. JACKSON: That's true. I understand, at least there's a potential. We are
4 talking about public safety also.

5 MR. PALMER: Right. That's why we have ordinances and laws in place now to
6 make those homes safe.

7 MR. JACKSON: That is true. I cannot support putting a house or just allowing to
8 carve out a lot, you know, in a floodplain, simply because you can put a lot there and
9 then later on. A lot of people who purchase homes and find out later that there's a
10 problem. I just can't support something like that.

11 MR. DUNBAR: Before they can get a building permit, they got to prove that they
12 are going to build above the 100 year flood plain.

13 MR. JACKSON: I understand.

14 MR. DUNBAR: So I mean, there is not potential of them building in the flood
15 hazard area because they got, before they can get a working inspection on a house
16 they have to get a foundation survey showing that they elevation has been met.

17 MR. JACKSON: Well, if there's a potential [inaudible] then I can't support it.

18 MR. VAN DINE: What my concern is that, that we're starting to allow things, to
19 nibble at pieces and to carve out little individual spots here and there. The process that
20 we have to take is to look at this as a planning process. What is good planning and
21 what is good for the community? I just, I can't see that this subdivision as it's laid out
22 here meets either of those criteria.

1 MR. DUNBAR: They've got the proper zoning, if they are meeting subdivision
2 rules [inaudible], then we don't have any choice but to give them approval.

3 MR. PALMER: That's right.

4 MR. VAN DINE: I don't think that's true.

5 MR. DUNBAR: I think it is.

6 MS. LUCIUS: Let's have a vote.

7 CHAIRMAN GREEN: Are there any further questions for the applicant or Staff?

8 MR. DUNBAR: I make a motion to approve, subject to conditions listed.

9 CHAIRMAN GREEN: There is a motion on the floor to approve this subdivision,
10 subject to conditions on page 32. Is there a second for the motion?

11 MR. PALMER: Second.

12 MS. LUCIUS: Can I make a comment before we vote?

13 CHAIRMAN GREEN: Sure, absolutely, we have a motion and a second to send
14 this forward with recommendation to approve this subdivision.

15 MS. LUCIUS: Okay. You said in here Carl, that the applicant was asked to submit to a
16 100 year flood elevation study, and you had not received one, is that still the case?

17 MR. GOSLINE: Yes, that's the case.

18 MS. LUCIUS: You have not received a flood elevation study?

19 MR. PALMER: Is there anything legally binding that the applicant give you one?
20 Or is that just something you want?

21 MR. GOSLINE: Well, the flood, the discussion that we had is correct, they have
22 to build above the 100 year flood elevation, which they'll need to know where that is
23 before they issue permits.

1 MR. PALMER: Right. So that's something you will eventually have to have
2 legally?

3 MR. GOSLINE: Yes.

4 MR. PALMER: But you just don't have it now?

5 MS. LUCIUS: Yeah, but you also state that the flood hazard coordinator has
6 disapproved?

7 MR. GOSLINE: That's because, because we don't – haven't gotten one yet.

8 MS. LUCIUS: Okay.

9 MR. MAYS: If I may, it's our every intention to submit calculations showing that
10 blue line is the –

11 MS. LUCIUS: But isn't that something that we have requested? We really
12 should know has been submitted before?

13 MR. GOSLINE: All these subdivisions that, that are done, are at least subject to
14 Harry's approval. So, that's a standard condition. In this particular case, he had
15 commented on it in the sketch plan. He made the comment to me or whoever did the
16 sketch plan, several months ago, and I think that has been done. We're looking forward
17 to getting it but sometimes it takes a long time.

18 MR. PALMER: But that is something that you will have before anything can be
19 built on the property.

20 MR. GOSLINE: Before we can issue permits, yes.

21 MR. PALMER: Right.

22 CHAIRMAN GREEN: Further discussion? We have a motion on the floor to
23 approve.

1 MR. HICKS: Mr. Chairman, just one comment. This really is to assist the Staff
2 as this process may conceivable continue. It would really be extremely helpful to us if
3 there were some words in the approval of the subdivision that would indicate the
4 Planning Commission's discouragement of the developer at some point, or the builder at
5 some point in the future, coming to the Board of Zoning Appeals with a lot that may or
6 may not be buildable and asking for a variance on the grounds that we meet conditions
7 of that lot that has been approved by the Planning Commission that make it virtually
8 unbuildable, therefore asking for variance to the provisions of the Code in order to build
9 on it.

10 CHAIRMAN GREEN: Is that something that would be appropriate to come up in
11 our standard Staff recommendations that we get with each subdivisions submittal?

12 MR. HICKS: Well, actually, it may well be. This one doesn't happen to have
13 that, and this is a particularly dramatic case. But the potential for that kind of thing
14 occurring, once that flood elevation calculation comes in, if some of these otherwise
15 [inaudible] buildable, then the developer or builder has a very good argument to come to
16 the Board of Zoning Appeals and say this is an unusual and unique situation and the
17 application of the law to this particular lot, that has been approved by the Planning
18 Commission, that has been subdivided, should be able to build on it, I can't build on it
19 because of these provisions, I need a variance.

20 CHAIRMAN GREEN: Has it occurred to Staff that in situations they feel like
21 that's an appropriate comment, that they can include that in their Staff Report?

1 MR. DUNBAR: I don't have any problem with modifying my motion on that. But
2 as a practical matter if that they don't build above the 100 year flood elevation they can't
3 get flood insurance. So, it would be a mute point. But I accept that.

4 MR. VAN DINE: But there are other things beside just the 100 year flood that
5 can impact – some of these lots are just carved out. It's just simply saying the 100 year
6 flood is the only one, the lots slope too much for some reason or some other thing, or
7 just there is not enough buildable space because of the lay of the land. Then they can
8 go to BOZA and say give us a variance. And the problem is, we have set this, we have
9 set that train in motion by, by allowing this subdivision to take place now, as apposed to
10 waiting to find out whether or not there actually are areas in all of these that can be built
11 upon, for not just the floodplain reasons but other reasons as well. So, I mean, I
12 certainly, if it's available and it's buildable then that's one thing, but we don't know that.

13 MR. DUNBAR: Well, I would imagine they've have done the basic topographical
14 surveys on this and they know about where they're going to build.

15 MR. MAYS: If I may, we have done [inaudible] map, this blue line is a wetlands
16 delineated that a flag has been put and surveyed. So it's – there's no doubt in my mind
17 that outside that light blue area, I mean, if topo - it's their job and they may - six feet
18 [inaudible] off on one side of the lot or the other at maximum. But, there's no doubt in
19 my mind, being a professional engineer, saying that every bit of that green area is
20 buildable. I think it's somewhat of a misrepresentation to say that there may be some
21 areas outside of that wetlands line that aren't buildable. And that's what I've been paid
22 money to come up with a set of plans to submit them for.

23 CHAIRMAN GREEN: Mr. Dunbar, if we can get you to amend your motion.

1 MR. DUNBAR: I amend my motion to reflect the Staff's concern over possible
2 unbuildable lots, and I think that's a risk the developer, or the engineer needs to
3 address before they move forward.

4 CHAIRMAN GREEN: Is the amendment acceptable to the second?

5 MR. PALMER: Sure.

6 CHAIRMAN GREEN: Mr. Gosline?

7 MR. GOSLINE: Mr. Chairman, I think it's important, as Jim has shown you, that
8 the wetlands delineation line is pretty well fixed, and I'm assuming that it's [inaudible]
9 approve it and that's considerably bigger than that floodplain elevation is likely to be.
10 Now Jim has approximated what the flood elevation will be, which is in the darker blue.
11 Is that correct?

12 MR. MAYS: That is correct, the wetlands from every area exceeds the floodplain
13 elevation. Thank you.

14 MR. GOSLINE: I think from the Departments point of view, you know, this is a
15 subdivision, this is just another standard subdivision that's overlaying on some
16 interesting natural features and, you know, I'm kind of disappointed something more
17 innovative or creative didn't occur. So that's what, I think Jim, has shown the wetlands
18 delineation in the meeting last week and explained that part to me, that doesn't change
19 the Department's position.

20 CHAIRMAN GREEN: Any further discussion about the motion on the floor? All
21 in favor of approving subdivision project SD-04-108 per the motion please raise your
22 hand. All those opposed to this approval?

1 *[Approved: Palmer, Dunbar; Opposed: Furgess, Lucius, Jackson, Green, Wyatt, Van*
2 *Dine; Absent: McBride]*

3 CHAIRMAN GREEN: Since that motion was defeated we do need another
4 motion on the floor.

5 MR. VAN DINE: Then I move that the request for the subdivision of SD-04-108
6 be disapproved.

7 MS. WYATT: I'll second.

8 CHAIRMAN GREEN: We have a motion and a second for disapproval of this
9 particularly agenda item, any further discussion?

10 MR. DUNBAR: Yes. I will just repeat basically what I said earlier. If we've got a
11 property, a zoned piece of property that can meet all requirements of our subdivision
12 regulations, state, federal laws as it pertains to it, I don't see where we have any right to
13 turn them down. I think we are creating something here that is potential litigation
14 problems.

15 MR. JACKSON: I don't think in this petition, public interest and there is
16 something called safety also, and as long as there are some safety concern, building on
17 or floodplain, or near a flood plain, for example, on streams, that affect the property
18 owner or homeowner, I cannot support it. And it's our duty to make sure that whatever
19 we approve, right, it's in the interest of the public.

20 MR. DUNBAR: That's why we have county, state, and federal laws to do that.
21 And if it meets all those [inaudible].

22 CHAIRMAN GREEN: My concerns over this, if this would have been put into an
23 open space area, but again, I share the concerns about going to BOZA on an individual

1 lot basis here and there, getting variances and having setbacks and having some large
2 lots that might be 50-70' off the road, and other setbacks to get a house on there that
3 might be [inaudible], and if we had a situation where this shown in open space, I
4 [inaudible] problem, but I do think that protection would be affordable by having a
5 common area in the subdivision with the same number of lots. So that was the reason
6 for my vote. Any other input, comments on the motion that's on the floor?

7 MR. MAYS: Can I make a request that we – if we come back with the wetland
8 area, which would include the floodplain area being common area, would that be –
9 would that come back before the February 2nd meeting?

10 CHAIRMAN GREEN: We can elect to defer further consideration.

11 MR. GOSLINE: Well, I believe that deadline was last week, but we could put it
12 on the February if we wanted to.

13 CHAIRMAN GREEN: Is it from the stand point if the request to withdraw their
14 application, can they appear back on the next session?

15 MR. GOSLINE: if it's your will to look at an alternative plan, I would think that
16 what you need to do is table it for redesign to meet - and then however long it takes to
17 get the agenda deadline. The agenda deadline for the February meeting was last
18 Friday.

19 CHAIRMAN GREEN: We do have a motion on the floor - we have an indication
20 from the applicant that they would like to take a look at reworking what they've done.
21 Legally do we need to take a vote?

22 MR. MAYS: Can I ask one more – again we are more than willing to come back
23 with a second plan and we'll do that. Is there any option to approve it based on the

1 delineation of this plan, which I would leave with you, taking every bit of that, or taking
2 the majority of that wetlands area?

3 CHAIRMAN GREEN: I would think, I would defer to counsel, but I think I would
4 need to see what the actual space of the reserved [inaudible] area would be. But we do
5 have a motion on the floor, unless applicant wishes, can applicant withdraw their
6 request at this point, and us not take action on that point?

7 MS. LINDER: If you want to accept the withdrawal.

8 MR. MAYS: As long as we – again, we want to be sure we can be heard in
9 February.

10 MS. LINDER: I believe if you want allow the applicant to be heard again in
11 February, you'd want to defer action on this matter today, another alternative would be
12 is to vote on this particular project that he's presented today, and have the applicant
13 submit a new project and go through meeting the deadlines required by the Planning
14 Department. But that would take until March. If you want the applicant to be heard in
15 February then you appropriate motion would be a deferral.

16 MS. WYATT: Mr. Chair, at this time I'm going to withdraw my second.

17 MR. VAN DINE: I will withdraw the motion, and I will make a motion to defer until
18 the February meeting, to give the applicant the opportunity to review, and take to
19 account the discussions that we've had here.

20 MS. WYATT: And I'll second that.

21 CHAIRMAN GREEN: A motion on the floor to defer until our next meeting. All
22 those in favor of deferral? Opposed?

1 *[Approved: Palmer, Furgess, Lucius, Jackson, Van Dine, Wyatt, Green, Dunbar;*
2 *Absent McBride]*

3 CHAIRMAN GREEN: Please record that as a vote for [inaudible].

4 MS. WYATT: Mr. Chair, I'd like to add to that, as I have in the past, on some of
5 these things. Please make sure that they get put back on the agenda in February.

6 MR. GOSLINE: Yes, Ma'am. What is – for some clarification, what is the
7 Commission's direction about what we should do, what [inaudible] need to do in the next
8 few days, regarding -

9 MR. VAN DINE: My perspective, I think, the best thing that can happen is to take
10 into account what is being discussed up here, and is of the sentiment of this Body, and
11 it seems related primarily to common areas and wedging of houses in the little spots
12 along wetlands and other areas, and those are areas that need to be worked on. My
13 perspective, speaking for myself only, the lower areas, down below the wetlands don't
14 give me any concern at all. And the, even with shrinking some of the lot sizes to get
15 more down in the lower area wouldn't bother me in the least but it's when we start trying
16 to wedge the stuff in around the wetlands area and the flood area those are the things
17 that need to be looked at from my perspective.

18 CHAIRMAN GREEN: And I would echo the sentiment of the Members, the need
19 to look at the land, or some of this land in to open space/common area.

20 MS. WYATT: Can I just ask, did I hear you say that there was going to be a
21 homeowners association?

22 MR. KISTLER: Yes.

23 MS. WYATT: Have you already written up those restrictions?

1 MR. KISTLER: It follows under the long term [inaudible]. It's in the master
2 covenants.

3 MS. WYATT: Okay.

4 MS. LUCIUS: Can I just add to the discussion, just to get it on the Record, that I
5 think, all we've mentioned so far is just flood elevation and what would happen if it
6 floods, but I think we also need to remember our commitment to protecting the
7 waterways and water quality, when we do the land planning. And I look at these
8 pictures and it's a pretty sizeable little creek running through there, we need to
9 remember that the wetlands and the creeks are everybody's and it's not just the
10 concern of the person living right beside it, because the water quality is so important.
11 And I just wanted to add that.

12 **CASE OF SD-04-144**

13 CHAIRMAN GREEN: Thank you. Our next agenda item is SD-04-144,
14 Harborside, Parcel 4 Phase 5 & 6, in Lake Carolina.

15 MR. GOSLINE: Mr. Chairman, Members, this is another phase of the residential
16 portion of the TND(?) portion of Lake Carolina, which is an area behind the Welcome
17 Center and Staff recommends approval.

18 CHAIRMAN GREEN: Any comments from applicant? Any questions for Staff or
19 the applicant?

20 MR. VAN DINE: I move approval subject to the conditions on page 43.

21 MR. DUNBAR: Second.

22 CHAIRMAN GREEN: We have a motion, and a second for approval, subject to
23 conditions as outlined on page 43. Any discussion?

1 MS. LUCIUS: I noticed that the little map on page 47 doesn't match up with what
2 we have on 45 and 46. Is that important?

3 MR. GOSLINE: Well, it's – what you have on 46 is the parcels before it's been
4 divided. Remember, the parcel maps are about a year and half behind reality. It is
5 worthy to point out to everyone that in the Lake Carolina project, all the wetlands have
6 been delineated and all the subdivisions that you see come before you have a 30'
7 buffer, adjacent to those lines, which is [inaudible]. So that makes a difference from the
8 one we just talked about.

9 CHAIRMAN GREEN: Any questions or comments on the motion? Seeing none,
10 all those in favor of sending or approving this subdivision, please raise your hand. All
11 those opposed?

12 *[Approved: Palmer, Furgess, Lucius, Jackson, Van Dine, Wyatt, Green, Dunbar;*
13 *Absent McBride]*

14 **CASE 04-28 MA**

15 CHAIRMAN GREEN: The next agenda item is 04-28 MA. We have a number of
16 people signed up against this particular item. Staff Report?

17 MR. GOSLINE: Mr. Chairman this is a request by Coogler Construction to
18 rezone a piece of property that is basically adjacent to the Post Office in Ballentine, from
19 C-3 to M-1 to permit storage of construction equipment. The Staff recommends denial.
20 We believe that there's enough, there's already commercial property, plenty of
21 commercial property in area and the M-1 zoning would just create more of a
22 precedence to have more M-1 zoning in this particular area. For that reason, the staff is

1 recommending denial. But as you say there are a number of people against for and
2 against. Mr. Fuller is representing Coogler.

3 CHAIRMAN GREEN: Mr. Fuller, if you would come forward, please.

4 **TESTIMONY OF MR. ROBERT FULLER:**

5 MR. FULLER: I am Robert Fuller. I am representing Coogler Construction
6 Company, the applicant in conjunction with this rezoning application on Dutch Fork
7 Road. Coogler Construction Company acquired this site and has been operating the
8 construction company operation that is presently on that site for about five years. They
9 previously were located around the corner, so to speak, on Coon Road, had operated at
10 that site for a good number of years, prior to the five year purchase of the property five
11 years ago. The problem that has arisen here is that the operations of Coogler, which is
12 a grading and excavating landscaping contractor, has its office and its operational
13 operations on this site, which is a little over 10 acres of property. They moved from the
14 other site because this was well in excess as twice as large as the previous site. There
15 is enough room on this site to accommodate the kind of work that they needed to do
16 there, which included all of their office and administrative operations. The location of a
17 truck and equipment service building and the sufficient space on the yard to house their
18 dump trucks and fleet of working equipment for their off-site business; this is a site, at
19 which, the construction company maintains its business, but its business which is the
20 preparation of land for further development, is all off-site of this location. In point of fact,
21 they incurred some difficulty, the only difficulty in the last five years, that we are aware
22 of with anybody in the surrounding area, they brought some heavy rock material on the
23 site and operated, for a short time, a crushing operation of that material. That clearly

1 was not a proper use of a C-3 property, nor would that be a proper use of the M-1
2 property. So it is not, this is not an attempt to be able to do something on the property
3 that they want to continue doing and is not proper for that site. The crushing operation
4 is not an issue that was all removed many, many months ago, and is no longer a
5 concern or consideration at the site. But it is a circumstance in which there is a
6 tremendous difficulty on this particular commercial operation for it's unique type of
7 business to have to qualify its operation and limit its operation in a manor that prohibits
8 it to do its own business on its property. The equipment shop is purely for servicing
9 Coogler vehicles. It's not a terminus for anybody with heavy equipment to get service
10 on. There is not constant stream of traffic of service related instances going on on that
11 property. When Coogler has difficulties with it's own construction equipment it is
12 serviced on that property. Then it goes to the job sites, wherever they are, in Richland,
13 Lexington Counties, anywhere in the Central Midlands. There is a necessity for an M-1
14 classification for them to continue to do that operation on this site. The overnight
15 storage of their dump trucks and their heavy equipment on that site requires the M-1
16 zone. But I would remind you, as I said initially, they began this operation over five
17 years ago. They had some improper advice at the beginning of that period that this was
18 – that the C-3 zoning was all that was required for their operations on the property and
19 at this point in time, they are trying to remediate that problem by rezoning the property.
20 I would call to your attention that the site as it configured and since relative to Dutch
21 Fork Road is a gradual slopping up away from the road and the property depth is over
22 1,200' to the active railroad track that is the back boarder of the property. There is
23 commercial activity on the eastern side of the property. There is commercial zoning on

1 the front portion of the property on the west and there is considerable commercial
2 zoning in the area. Across the railroad track is industrial zoning. What the Coogler site
3 affords the company is a commercial site, the context of some of the zoning ordinance
4 prohibits or would seem to prohibit some of their commercial activities. And if the
5 property were to converted in zoning to M-1, light industrial, it would effect no difference
6 in the actual use of the property from what it is presently being used to do, and that is to
7 simply house those working vehicles on the same property that the office operations
8 and the shop are located. The indication on the agenda is that it would be for the
9 purpose of allowing storage of materials on site; that is not a primary objective here.
10 But there is, I would call to your attention, a substantial depth to this property that
11 enables any activity on that site to be significantly screened from anything else around
12 it. The shop building, for instances, is approximately' feet off of Dutch Fork Road. The
13 area in which the equipment would reside over night is 600 to 800' off of Dutch Fork
14 Road. To the interior of the property where the shop and storage are is, variously 130
15 to 140' to 200' inward of the side property boundaries. It is a large enough piece of
16 property to accommodate what I would pitch to you an essential commercial, not
17 industrial, operation. Our zoning classification to enable the outright use of some of
18 what they are needful of doing there by definition would require the M-1 instead of the
19 C-3 zone.

20 CHAIRMAN GREEN: Thank you very much. Before we start hearing, is there
21 any questions for the applicant or Staff before hear from those signed up to speak? I
22 have just a quick one. The use they currently anticipate for storage and repair is not
23 considered an accessory use for the principal business?

1 MR. FULLER: Not according to the Zoning Board of Adjustments.

2 MR. HICKS: Mr. Fuller argued that point before the Board and the Board
3 decided no, it was not.

4 MS. LUCIUS: How long ago was this zoned C-3? Do you know? The
5 circumstances of it, it's just sitting there all by itself.

6 MR. DUNBAR: It was probably back in the middle 80s. There was a restaurant
7 that operated there for a while.

8 MS. LUCIUS: There is a bar-b-cue place there if I remember.

9 MR. FULLER: That is what is currently the office operation was the Cedar Cabin
10 Restaurant. There was at, at along about the same time there was a boat servicing
11 facility that was on the front portion of the property at Dutch Fork Road. But it has been
12 zoned C-3 for way more than the five years that the Cooglers have occupied it and used
13 it for this specifically.

14 MS. LUCIUS: But nothing else in the area is C-3?

15 MR. FULLER: There's a good – yes, ma'am there's – next to the property on the
16 east side there's a large commercial traffic and there is a small commercial piece on the
17 frontage of Dutch Fork Road to the immediate west of the property. And that map
18 doesn't show it, but across the railroad track there is some additional property. There's
19 a fair amount of commercial in that area including, I might add, certain other
20 construction companies that are able to maintain smaller equipment on their sites as
21 well.

22 CHAIRMAN GREEN: I'll start calling on you folks that have signed up to speak.
23 I would ask you to keep your comments to three minutes and I apologize in advance if I

1 mispronounce or am unable to read your signing. Kim Kirby, if you would, when you
2 address, reach the podium, if you would give us your name and address.

3 MR. VAN DINE: Mr. Chairman, while he's coming up, can I ask Staff a quick
4 question? If I look at the aerial photograph, it looks like it, to a certain degree, the
5 establishment to the southeast of the property, actually the southeast of the commercial
6 that - are those pre-existing or is this map up to date?

7 MR. GOSLINE: No, the aerial [inaudible] March 2000. There are a number of
8 businesses along the north side of Dutch Fork Road in this area, and however, a bunch
9 of them, we're going to have to go back and check the maps, a bunch of them are still
10 zoned rural even though they have been there for a long time. And we're going to have
11 to verify that.

12 MR. VAN DINE: it's just looking down at the aerial, it looks like the one, the
13 furthest building down to the southeast, it looks like there's a whole lot of cars lined up
14 outside of it. And that goes to the -

15 MR. GOSLINE: That's the Post Office. That's the Ballentine Post Office. It's the
16 L-shaped building in the aerial.

17 MR. VAN DINE: No, no. If you go further down.

18 MR. DUNBAR: There are a number of commercial enterprises all the way along
19 there and back toward Irmo. But they may not be zoned.

20 MR. GOSLINE: We're just talking about that. I know that there is a bunch of -
21 there's a lot of commercial development there, the question is whether it's actually
22 commercially zoned. I know that the south side isn't. There is some on the north side
23 and we'll have to verify that map.

1 MR. VAN DINE: I'm sorry.

2 CHAIRMAN GREEN: Mr. Kirby?

3 **TESTIMONY OF MR KIM KIRBY:**

4 MR. KIRBY: My name is Kim Kirby, I live at 311 Primrose Lane, Chapin, South
5 Carolina. I own Cedar Plaza, I'm a partner in that property, which is adjacent to this
6 property to I suppose the east. I apologize to the committee, or the Commission. I'm
7 not that familiar with zoning and what, what an M-1 would do. But I am familiar with the
8 neighbor and the character of the neighborhood. I would like to see the zoning
9 maintained the way it is, because I think that is in the best interest of the neighborhood,
10 and those are my comments.

11 CHAIRMAN GREEN: Thank you sir. Robin Coogler?

12 MS. COOGLER: Mr. Fuller spoke for me.

13 CHAIRMAN GREEN: Okay, thank you. James Kirby?

14 **TESTIMONY OF MR. JAMES KIRBY:**

15 MR. KIRBY: My name is James Kirby. My property is adjacent to the property
16 being discussed. I reside in Chapin, South Carolina also. Approximately nine years
17 ago, I, along with my partners, purchased this property. We looked sometime for
18 property zoned C-3, because it met not only our immediate needs, but it met our long
19 range plans. And those long range plans are still in effect. To stay in concert with the
20 community and the neighborhood. I appreciate very much, the other – Kim said, I don't
21 know much about zoning and certainly don't like the opportunity to come in here and
22 have to pit myself against someone else over a number. We've had peace and enjoyed
23 it and I'm too old to have confrontations, is really what I'm saying. So I hope that

1 everybody can win. But certainly it's C-3, that's what our intentions were, that's what
2 the intentions were of everybody, my realtor called that to my intention when we bought
3 it and it met exactly our long range plans. Thank you.

4 CHAIRMAN GREEN: Conner Mitchell? I'm not sure of the first name, is there a
5 Mr. or Mrs. Mitchell here? Barbara Sillman?

6 **TESTIMONY OF MS. BARBARA SILLMAN:**

7 MS. SILLMAN: My name is Barbara Sillman. I am also a partner in Cedar Plaza,
8 which is the property adjacent to 1720 Dutch Fork Road. I'm also a tenant in that
9 building, also renting approximately a third of it. One of the things I wanted to bring up,
10 is that in that building is the United States Post Office, it is Durable Medical Equipment,
11 it is also an office complex. During the last, and we've owned that since 1995, and
12 we've operated as an office building. The property adjacent that we're discussing today
13 has been a problem. I'm not quite as kind as the Kirbys are, it's been an annoyance for
14 many, many, many months. There's been mountains of boulders on there and crushing
15 of those boulders to the point that you could not even carry on a conversation on your
16 telephone. We've approached them, they assured it was going to stop eventually when
17 they could get though these mountains of rocks. I'm not sure what they're going to do
18 with the property. I hear it's going to be storage of trucks. If anyone would want to go
19 out there and look, it looks like it a huge piece of mining land. It has a cedar cabin in
20 the middle of it, I don't know where there is repair buildings and offices, but there is a
21 cedar cabin sitting in the middle of something that looks like a mine field. I don't know if,
22 they took over our property we had to have a new [inaudible], they drained the lake that
23 was on there by putting boulders on there. I don't know their intent, but it's certainly not

1 in context with the building that we purchased back in 1995. I really respectfully would
2 like to leave our community like it is, and I'm again with the Kirbys. I'm not really sure
3 what we're zoned as, but I do know I'm an office building. I do know that I have
4 reputable businesses in there and I do know that I don't want rocks being crushed, and
5 we're not talking rocks, I'm talking boulders, in mountains as high as you can see. You
6 couldn't see over it. I also have one more comment before my closing, is when I, I was
7 notified this by letter, there has not been a zoning sign on there. Now there may have
8 been one placed, but it's not there today and it hasn't been there since I got that letter.
9 And every day I looked, I even called and complained about it, and, of course, it was
10 through the holidays, so I certainly understand that someone can't run out there and put
11 it. But if I had not been sent a letter, I would not have even known about this meeting,
12 and I wish that I had a little bit more time to notify everyone in our community that has
13 office buildings such as ourselves. I appreciate any consideration to let it remain the
14 same and not let it become mining something next door, thank you.

15 CHAIRMAN GREEN: Joey Coogler?

16 MR. VAN DINE: Mr. Chairman, did I understand that the rock crushing operation
17 cannot be done on that regardless of what the zoning is. Is that correct?

18 MR. HICKS: Yes, sir.

19 CHAIRMAN GREEN: It would require M-2 zoning?

20 MR. HICKS: That's required M-2 zoning.

21 MR. VAN DINE: So the crushing of rock, while there may be storage of rock, but
22 the crushing and any other operation like that, would not be able to take place even
23 under the proposed?

1 MR. HICKS: I believe that operation has ceased, and it couldn't resume.

2 **TESTIMONY OF MR. JOEY COOGLER:**

3 JOEY COOGLER: My name is Joey Coogler, I live at 868 Coon Road. I'd just
4 like to answer some of her questions. Like you are saying, the rock crushing was
5 stopped, it stopped months ago. It will not happen again. Considering that she was
6 saying we filled in a lake, that was all done previously. It was a small pond it was filled
7 in before. The, basically, any issues she had a problem with, we're not doing it
8 anymore. That's all stopped. I'm surprised that she's complaining about the way things
9 are now, considering what it looked like when we first moved in. We did a lot of clean
10 up before we got there. The stock pile of material, would either stop or it would either
11 be moved to the rear of the property. And, you know, us as a company we don't have
12 any problem with trying to work with the neighborhood. If it requires some shrubs and if
13 anybody goes by the site now, you can see we removed the stock piles upfront, the
14 rocks up front, there's only rocks behind the building right now. And they can be
15 removed too. We've already installed a couple burams that can be raised up higher and
16 some shrubs placed on top to make even more of a blinder. We don't mind, complying
17 with anything the neighborhood needs that we can do. And we don't want to have to
18 get rezoned, we'd rather stay C-3, like we are, and just be able to park our vehicles
19 there and service our vehicles, but we don't have a choice on that. So that's – it's not
20 that we want to be rezoned M-1, but that's what we're told we have to do to park
21 vehicles and service our equipment. Which, in my opinion, it's just my opinion, M-1 is
22 for manufacturing, and not, we're a commercial company and we only use the site to
23 park our vehicles on or supplies we have left over a job site that move to another job.

1 We, there's only, except for the people who work in the office, three people, four people
2 in the office, there's normally only at the most two people at the back doing servicing,
3 changing up the motor out or something like that. There's not hardly anybody there
4 during the day. We leave out at six to seven in the morning, we come back, you know,
5 about 5:30 to 6:00 in the afternoon. That's the kind of the time you'll see people there.
6 And most of the time there's hardly anybody at the site.

7 CHAIRMAN GREEN: Thank you. Phil Savage.

8 **TESTIMONY OF MR. PHIL SAVAGE:**

9 MR. SAVAGE: My name is Phil Savage and I'm a resident in the Ballentine area
10 and I'm also in the land development business, and I'm also President of the Ballentine
11 – Dutch Fork Civic Association. I do want to confirm that I also didn't see the sign up
12 there, I noticed on the agenda that it was apparently on there when the picture was first
13 taken. I didn't see it. I also did not get word out. Our meeting is tonight. We meet
14 once a month and the meeting is tonight. So I haven't had a chance to get word out to
15 people that I think would be very interested. I am very sympathetic to the Coogler's
16 predicament. I would like to ask to a question, or you ask a question to the Staff to try
17 and find way, maybe a PDD – that would allow them to continue a use in the refined
18 fashion that they have already agreed to do without rezoning and the reason I'm saying
19 that is this, you are not being asked whether or not their specific use can be done on
20 that 10 acres, the question they are asking you, is will you rezone our ten acres to M-1
21 industrial. So I go to the zoning book, and I look under M-1 industrial, and I look under
22 principal permitted uses, I see truck terminals, freight terminals, automobile junkyards,
23 scrap yards, salvage yards, yards used in pulling of parts used for scrap salvage

1 operations, utilities substations. These are all things that without coming back in front of
2 your or anybody else, my understanding is, they'll be allowed to put right next to those
3 business that have been there. They would not do that intentionally, they would not do
4 that. These folks, from everything I've heard about them are very, very nice folks. We
5 got to find a way. I wasn't at the last meeting, because, I didn't know – I think I was out
6 of town at the time, but I didn't have this big problem with what they specifically were
7 doing, particularly once I saw it was going to be cleaned up. What I do have a big
8 problem with, is coming down to Main Street in Ballentine, one of my major positions
9 that I was running on this year for re-election for the civic association, was that I want to
10 do a street-scaping in Ballentine. We have sidewalks on both sides of the road, it's a
11 big five lane road, and it's commercial all up and down. We're trying to control the
12 growth, the type of commercial that's in Ballentine. The sidewalks go right up to about
13 that area and then stop right there, then it goes back down to two lanes, two lanes. But
14 we want to have a group that will clean up the sidewalks, go to people and talk about
15 cleaning up flagging and extra signing and various landscaping and I've had a lot of the
16 developers that verbally told me they would participate in that type thing. We've got a
17 big interest in that. If you put a junkyard, if you remember the cement plant that's right
18 on 76, right outside Chapin, it took years to get it out, finally it's been cleaned up. And
19 Chapin is all the better for it. The last thing we need is a junkyard there or a utility
20 substation, or all these other things that would detract from these people who are trying
21 to run businesses, they got a dry-cleaning company that's been there for years. And
22 you are going to put that right side, one other little thing, I am a little bit bias in, I also
23 bought the property right beside it. It's a little small track that says C-3. I bought it

1 because I thought it was going to be C-3, and if, if you put a utility substation right next
2 to it or something, or a junkyard, it's worthless. I mean, I over paid. The last thing is, I
3 think that all the plans should be tied to our growth plan. And the comprehensive
4 growth plan, that's what we stated, that's what we tell the people in the group to live by,
5 it shows commercial on the entire main street of Ballentine, Highway 76, from one end
6 to the other. It shows [inaudible] is light industrial, or mixed commercial, light industrial.
7 It's along the interstate, and there is some, maybe there's not enough, if there's not
8 enough, then in the right spot, create more industrial. But I think, and I could be wrong,
9 could they not do a PDD, for a specific use, or agree to put the uglier portions in the
10 back of the property, without rezoning 10 acres?

11 MR. HICKS: A PDD is a rezoning, Mr. Savage, but that's not what they applied
12 for.

13 SAVAGE: But, it would – if they applied for a PDD for their use, it would then
14 become PDD solely for their use.

15 MR. HICKS: They certainly -

16 SAVAGE: And you would get support for that.

17 MR. HICKS: That's at their discretion.

18 CHAIRMAN GREEN: I'd like to call Steve Livingston.

19 MR. FULLER: Mr. Chairman, might I add, just for a second and it may be able
20 to save you some time. I think these proponents who want to speak would be in favor
21 of that. The Coogler's would be perfectly happy to resubmit on a PDD application,
22 including maintaining C-3 zoning on the front portion of the property and deal with Phil's

1 organization and others, with Planning Staff and I think we can get something to work
2 that would be amenable to, to them, to us, and perhaps, to you.

3 CHAIRMAN GREEN: So you are asking to withdraw your application for
4 rezoning at this time?

5 MR. FULLER: I would request permission to amend the application, to convert it
6 to a PDD application and cycle it in at March or whenever the next opportunity is.

7 MR. HICKS: [inaudible]

8 MR. FULLER: Well, I think that time has passed for February perhaps.

9 MR. HICKS: I'm really sympathetic to that request and ordinarily I would say that
10 would be fine, but for PDD, there is really a considerable amount of design work and
11 thought that needs go into that in any case, and how – to ask the applicant to prepare a
12 PDD application, that's adequate to meet the requirements of the planned development
13 district, and then have Staff meet and review it and present it to you, in terms of a Staff
14 Report, I believe that's impossible to do on the February agenda.

15 CHAIRMAN GREEN: I think the key issue for us now, is if there's a desire for the
16 applicant to withdraw this application for rezoning, and to get with Staff and understand
17 what's required of them, you know, whatever that may be.

18 MR. VAN DINE: Can this be done by March? Assuming that they get the
19 information to you in time the deadline?

20 MR. HICKS: Yes, absolutely.

21 MR. DUNBAR: Another alternative might be just to zone the rear portion near
22 the railroad track, M-1, where they need to do their storage and their service work. I
23 think the PDD would probably be preferable.

1 MS. WYATT: Is there going to be any problem with them operating until they
2 come back, in front of us in March?

3 MR. HICKS: Well, they are under some considerable Code enforcement
4 pressure. In fact, have been brought to court and charged, and found guilty of violating
5 the Zoning Code at this point. So that's, a problem. The other problem is, that
6 withdrawal according to the Planning Commission bylaws, has a 90 day waiting period.
7 So.

8 MS. WYATT: Has what?

9 MR. HICKS: Has a 90 day waiting period, for resubmittal for withdrawal.

10 MS. WYATT: Well, do we not have something in place, that says if an applicant
11 is in the process of rezoning that -

12 MR. HICKS: No, if the applicant is appealing a ruling, then the Code
13 enforcement is suspended, but not just for a rezoning process, because the rezoning
14 process can go on for a good long while, and is not certain. And we're not desperately
15 eager to bring Coogler construction back to the court house. And if that's in process
16 we'll certainly be patient, we're taking every opportunity to affect the legal status of the
17 property.

18 MR. VAN DINE: Can we as a Commission defer the [inaudible] on a vote? Do
19 we have the ability to, as a Commission, on motion of the Commission, to defer to a set
20 date to allow the opportunity for all parties to have a better opportunity to discuss the
21 issue?

22 MR. HICKS: I think that's what the applicant's approval [inaudible]/

1 MR. VAN DINE: Well I'm asking that from a legal perspective, is that within our
2 prerogative?

3 MS. LINDER: Yes, sir. You have the authority and prerogative to defer an item
4 to a date specific, and if the applicant is inclined to want to amend his application to a
5 PDD in the March date, would give Staff time to review this application if the applicant
6 would get in all the necessary materials, then that would be appropriate.

7 MR. VAN DINE: Then I would make a motion to defer this rezoning request to
8 the March meeting, subject to the applicant providing sufficient information and
9 documentation necessary for the Staff to prepare a report and that would require the
10 meeting of all deadlines. If deadlines are not met, then obviously it would be pushed
11 back until [inaudible].

12 MS. LUCIUS: Second.

13 CHAIRMAN GREEN: We have a motion and a second on the floor, any
14 discussion of the motion? All those in favor of the motion to defer to our March meeting,
15 please signify by raising your hand.

16 MR. VAN DINE: Subject to –

17 CHAIRMAN GREEN: Subject to

18 MR. GOSLINE: Assuming they do everything by the deadline?

19 CHAIRMAN GREEN: Right. Anyone opposed?

20 *[Approved: Palmer, Furgess, Lucius, Jackson, Van Dine, Wyatt, Green, Dunbar;*
21 *Absent McBride]*

22 CHAIRMAN GREEN: It is deferred.

23 MR. FULLER: Thank you Mr. Chairman, ladies and gentlemen.

1 CHAIRMAN GREEN: Next item on our agenda is the zoning of 04-29 MA. The
2 applicant is Richard Maxheimer, and he is signed up to speak. Staff Report?

3 **CASE 04-29 MA**

4 MR. GOSLINE: Mr. Chairman, Members, this is a proposal to amend existing
5 PUD for the Villages at Hilton, Phase 1, to reduce some of the open space on very few
6 pieces of ground. If you'll look at the fold out on page 62a, I guess, you'll see that
7 there's some shaded areas. The applicant is proposing to reduce – to convert the
8 shaded areas into lot areas. The shade areas are currently part of the open space
9 system in the Phase 1. The reason that they want to do is that the builders who bought
10 those lots will have to put up houses that are too big for the lots that they bought. The
11 Staff recommends denial, even though, we're talking about very tiny pieces of ground,
12 the Staff recommends denial. We should – as a little bit more background, this
13 particular PUD and most PUDs, we worked very hard with the applicants and the
14 engineers up front to accept individual, virtually in this case, individual setbacks for
15 almost each piece of property, because they had a variety of products that they wanted
16 to be able to put in, in the property. So, based on that, we see no reason, why setting a
17 precedence of reducing the open space, just to accommodate somebody who made a
18 bad business decision. Mr. Maxheimer is here to, not surprisingly disagree.

19 **TESTIMONY OF MR. RICH MAXHEIMER:**

20 MR. MAXHEIMER: My name is Rich Maxheimer. I'm the developer of the Village
21 at Hilton, I need to make a couple corrections. First, to a few things Carl just said.

22 CHAIRMAN GREEN: If you can just give us your address for the record please?

1 MR. MAXHEIMER: I live at 105 Hilton Lane in Lexington. Just a few corrections,
2 Carl, if any of you folks are looking at this, this, it says we are actually asking looking for
3 a reduction of the common area, we're not. We're actually asking for an increase in lot
4 area, using some of the common area, but also offsetting the decreased common area
5 by taking away from larger lots. So it nets out at zero. There is no impact on the total
6 area of the common area, whatsoever. One other thing that Carl said was that the lots
7 have been sold. If the lots were sold I wouldn't be here right now. The problem is the
8 lots will not sell at the size that are. There are no builders that will buy these lots. I wish
9 as developers we had magic – the ability to forecast exactly what will sell, obviously we
10 don't. The subdivision is actually more successful, a victim of our own success, they
11 are building larger homes in the subdivision and we cannot, at this size lot, sell these
12 lots. It's not a matter, also, of reducing the price of the lots, it's a matter of the size of
13 the lots. So, the result of what we have, is there's a net of zero. We do not impact
14 common area, it's all internal. Our revisions, it doesn't seem like it's, I know Carl will
15 disagree with this, it doesn't seem like it's that major of deal. It is, it is market driven,
16 and we wouldn't be here right now if it weren't.

17 CHAIRMAN GREEN: Thank you. Questions, comments from the
18 Commissioners? That's all that we have signed up to speak on this particularly
19 rezoning.

20 MS. WYATT: Mr. Chair, I'll make a motion to approve.

21 CHAIRMAN GREEN: There's a motion on the floor to approve the adjustment or
22 amendment to this PUD. Any discussion, or is there a second?

23 MR. DUNBAR: Second.

1 MR. VAN DINE: I do have a question. I see where they want to give some of the
2 common area, but I'm not sure exactly where they are taking away, where on this map?

3 CHAIRMAN GREEN: I believe the color coded map that I have shows the yellow
4 area there increasing the lot size and decreasing common area, and the blue shaded
5 area is the increase in common area.

6 MR. GOSLINE: Mr. Chairman, Rich is correct, there is not a total decrease in
7 open space, but the hardest part of the [inaudible] is that they're going to take the same
8 amount of area that they are decreasing in the center of the project and add it out on the
9 fringe. And that just doesn't make sense to us. It's not the amount here, certainly
10 they're talking about 1,200 square feet, or something, total. But it's the precedent of
11 taking, chopping away at the open space on a PUD just because somebody can – or
12 doesn't think they can build a house on the lot that was there. I just, I think we, we
13 believe that's why we recommend denial.

14 MR. MAXHEIMER: The area where the common area – where we would like to
15 increase the lots, backs up to other lots and has a green common area space in-
16 between. I did the land plan on this property. The primary reason for that green space
17 between the backs of the lots is to develop a foot path to get to the larger common area,
18 which is around a pool, a clubhouse. There's about 45 total acres of common area,
19 centrally located. It wasn't the intent of this plan to have people clean in a 25 to 35' strip
20 of green space behind the backs of these lots. That's something, to allow pedestrian
21 movement through the development to the dedicated large common areas.

22 CHAIRMAN GREEN: Thank you.

23 MS. WYATT: Mr. Chair, I call the question.

1 CHAIRMAN GREEN: We have a motion on the floor, the question has been
2 called. The motion is to send 04-29 MA up to County Council with a recommendation
3 for approval.

4 MR. GOSLINE: Mr. Chairman, you have final authority in this because it's a
5 minor PUD amendment.

6 CHAIRMAN GREEN: Excuse me, a minor PUD amendment. All those in favor
7 of granting the minor PUD amendment, please raise your hand. Those opposed?
8 *[Approved: Palmer, Furgess, Green, Wyatt, Van Dine, Dunbar; Opposed: Lucius,*
9 *Jackson; Absent: McBride]*

10 MR. VAN DINE: Mr. Chairman, can I make one quick comment?

11 CHAIRMAN GREEN: Sure.

12 MR. VAN DINE: While I recognize that the size of this is not that large, and that's
13 probably the reason why I voted as I did on this matter, but I don't want anybody in the
14 development community to get the impression that you are going to be able to come in
15 here and make these adjustments just as a matter of course. I think it's purely the size
16 of this and the location would be the major difference, as opposed to a general principal
17 of these lots, and [inaudible] with any kind of consistency.

18 MS. LUCIUS: Mr. Chairman, I would like to add that that's why I voted the way I
19 did against it because I feel like maybe we are setting a precedent. Even though these
20 are small, so I would like to repeat what Mr. Van Dine said.

21 CHAIRMAN GREEN: Thank you. The next on our agenda is 04-30 MA. Staff
22 Report.

23 **CASE 04-30 MA**

1 MR. GOSLINE: Mr. Chairman, Members, this is a request by Rehobeth Baptist
2 Church to rezone 15 acres of property that they own adjacent to Rice Creek Elementary
3 school from RU to C-1 for office space. The Staff recommends denial, just because
4 we've been very consists in recommending against any commercial zoning on
5 Hardscrabble Road, for any purpose. The traffic – as recently well documented, the
6 traffic is terrible and getting worse, etc, etc. The applicant is here and I'm sure he
7 probably disagrees with my recommendation.

8 MR. VAN DINE: I have a question to ask. Do you see where the site arrow is on
9 this map? That's not the area that was just rezoned, or changed to commercial or
10 something, in area?

11 CHAIRMAN GREEN: Correct. He's talking about on the west side of
12 Hardscrabble.

13 MR. VAN DINE: I'm just trying to figure out, that specific spot though, right where
14 the arrow is pointing is, that's what we're talking about?

15 MR. GOSLINE: No. What you might be thinking of Mr. Van Dine, is about a year
16 ago we rezoned a 20 acre piece opposite the high school at the northeast corner of
17 Hardscrabble and Summit Park Way.

18 MR. VAN DINE: Right. And where the site arrow is located on that is actually
19 that piece of property?

20 MR. GOSLINE: Right.

21 CHAIRMAN GREEN: So the site arrow is pointing to the incorrect piece of
22 property?

1 MR. GOSLINE: No, it's pointing to the correct piece. Oh, you are talking about
2 on the zoning map, I'm sorry, it should be a little bit further down.

3 MR. VAN DINE: I understand all that, but I'm just trying to make sure that in the
4 past, that it was either a commercial project approved where the site arrow is actually
5 pointing.

6 MR. GOSLINE: Yes, you are correct. On the zoning map the site arrow is
7 pointed actually to the piece [inaudible] rezoned about a year ago. The arrow should be
8 a little bit further over to the, looking at the [inaudible].

9 MR. VAN DINE: Are they other on this map that should actually be commercial?

10 MR. GOSLINE: Yes, well, I'm not sure about the piece adjacent to the south,
11 because down at the corner there, the [inaudible] and that sort of stuff [inaudible] and
12 behind that is the residential stuff that [inaudible] is doing. A little bit further down is the
13 one we had earlier.

14 MR. VAN DINE: I understand that Lee Road and Hardscrabble is now pretty
15 much a commercial zone.

16 CHAIRMAN GREEN: Is the applicant here, wish to speak on his application?

17 **TESTIMONY OF MR. JOHNNY GLIMP:**

18 JOHNNY GLIMP: I'm Johnny Glimp, 4123 Hardscrabble Road is my address
19 here in Columbia. I'm a deacon at Rehobeth Baptist Church, and we want to thank you
20 for giving our application consideration. I might point out that Rehobeth Baptist Church
21 has been in this area since about 19 – about 13 years. That whole side from Lee Road
22 coming down to in front of the church beside Rice Creek Elementary, to my
23 understanding has been redeveloped, or rezoned to commercial. The reason Rehobeth

1 wants to rezone that property directly across the street from us, is to be able to, as we
2 look at the current zone is RU, and we say, well, we are going to have some income
3 producing property such as Christian bookstores, something that's going to be a benefit
4 not only to our congregation but to the community at large. Now the traffic as you
5 mention, you are absolutely correct. We're well aware at the traffic problems right there.
6 In fact, Ridge View High School has inquired us about using our parking facilities just to
7 house some of their vehicles that they have coming to their school. We have met with
8 the Army Corps of Engineers, of that 15 acres, about five is wetlands and we are going
9 to do what they said we need to do to protect those. We don't have any immediate
10 plans, however, our desire is to have our property on that side of the road, where
11 everything is zoned commercial C-1. I don't think it's that big of a difference from the
12 RU with the exception of having office space. If we want to have an attorney's office
13 over there to cater to our members, this is what we're requesting.

14 CHAIRMAN GREEN: Thank you, sir. We have two individuals signed up to
15 speak. Sally Mimerck.

16 **TESTIMONY OF MS. SALLY MIMERCK:**

17 MS. MIMERCK: Hi, my name is Sally Mimerck and I live right off of Hardscrabble
18 Road, I live in the Ashley Place Subdivision, and I'm here to oppose this simply because
19 of the traffic on Hardscrabble Road. Anything that has to do with Hardscrabble Road
20 should just be put on hold. I don't think anything should be done, today alone, we've
21 already approved two things here that affect Hardscrabble Road. Behind this one there
22 is two more, that will affect Hardscrabble Road. I got a letter from Lake Carolina the
23 other day stating there's going to be 650 more homes built in Lake Carolina in the next

1 three months. I don't know where that approval come from, but that's going to affect
2 Hardscrabble Road. I'm begging you guys, please, put a halt to anything that affects
3 Hardscrabble Road. I can't get out of my community anymore. That's all I have to say.
4 Thank you.

5 CHAIRMAN GREEN: Thank you. Vanessa English? We don't have anybody
6 else signed up to speak. Staff Report?

7 MR. GOSLINE: The Staff recommending denial, Mr. Chairman.

8 MR. JACKSON: Do you know the length of the frontage of that property?

9 MR. GOSLINE: About 300' or so.

10 MR. GLIMP: No, it's a little bit more than that, sir.

11 MR. GOSLINE: It might be as much as 450'.

12 MR. JACKSON: The only reason why I ask is in the past I've had concern about
13 frontage, but as far as someone access to use their property I cannot support not
14 supporting or giving someone permission to use their property. Also, what you're
15 saying is first come first serve. If they have use on the property earlier, then who comes
16 later will not be able to rezone their property. So I think Hardscrabble Road, why they
17 can't do commercial on it, I don't think we should penalize someone to keep off the
18 road, because the road is crowded now. We just had some discussion last month,
19 about some property and how much access they had to Hardscrabble. And we limit
20 them on access. So I think in this case we should limit them on access they have, but
21 not deny them the right to use all their property.

1 MR. GOSLINE: Mr. Chairman, Mr. Jackson, if the petition for rezoning is denied,
2 we're not denying them the use of the property, we are denying them commercial C-1
3 use.

4 MR. JACKSON: I understand that.

5 MR. GOSLINE: Then access, we have recommended against all commercial
6 zoning for as long as I have been here for Hardscrabble Road, because of exactly
7 what's happened. I'm not singling these people out.

8 MR. JACKSON: I'm not saying anyone is being singled out. I'm just saying
9 access to their property, right? We just discussed last month where one property had
10 too much access, and we would use it make it two instead of four. [inaudible] That's
11 what I'm saying, it's like saying first come first serve, and you guys are too late. So, try
12 some other time 15 years down the road, already the road is widened. In this case I
13 have to support to make a recommendation that it's approved.

14 MR. VAN DINE: I guess my overriding concern is we're starting to do what we
15 said we weren't going to do, in other words strip out the road to commercial along the
16 entire route. This stretch all the way from Clemson Road Interchange is now
17 predominately stripped out with commercial along the frontage road of Hardscrabble.
18 I'm really concerned that we're taking, and in light of the developments going on on Lee
19 Road, right at the interchange there with all the commercial that's gone there, the Publix
20 and all the development that's going in behind that. The commercial that's going in
21 there, it's hard for me to, to justify continually doing that, continually going out further. I
22 don't have a problem with a residential use, especially near the school, and other things

1 of that nature. I have a hard time saying that we ought to just continue marching down
2 the road with commercial in these areas.

3 MR. PALMER: My thought process here is that he's going to [inaudible] except
4 that, but, you know, this is, it seems like when we talk about commercial, we always
5 lump everything in to C-3, and this, seems like to me, this is what C-1 is for here again.
6 It's a buffer, it starts at C-3 and moved it's way gradually down to a C-1 and it's right
7 beside a school, and I have a couple of concerns about the traffic. One, if this does
8 stay rural, if the traffic is a major concern, the last traffic count I got there was some
9 9,500 trips a day, and it goes in front of a site right by that's on Lee Road. If this is a
10 traffic concern, then who is going to want to live in a residential community right on the
11 street like that? But Carl, do you happen to have idea what time a day you took this
12 picture, because I see four cars in maybe a half mile stretch? You know, if it's so
13 difficult to get in and out of this area.

14 MR. GOSLINE: Early afternoon.

15 MR. PALMER: I can understand if it's between 7:00 and 8:00 maybe, in the
16 morning when kids are going to school and when they're getting out of school kind of
17 thing, because there's a Elementary and High school right here, you just kind of expect
18 those kind of problems. And 9,500 cars a day, doesn't -

19 MR. GOSLINE: School was still in session, I remember that because there were
20 kids out on the playground, but early afternoon sometime.

21 MR. PALMER: I mean, I can understand heavy traffic during those times of day,
22 and that's just to be expected around a school. But, you know, this - I mean the photos
23 you took, is just evidence to me, you know, somebody's not going to sit out there all day

1 long trying to get out on the street. But, anyhow, that's my thought process for
2 supporting C-1. I would support this, because it's not C-3, it's a gradual step down, and
3 it seems to me what C-1 is for.

4 MR. GOSLINE: Mr. Chairman, this to set the Record clear, the traffic problem is
5 an average daily problem. It's not, certainly, peaks are going to be at schools and
6 things like that, but the issue here is that there's 200,000 square feet of commercial
7 approved virtually across the street, which will generate, upon build out, 15,000 trips
8 onto a road currently designed for 8,600. That's besides everything else that's being
9 dumped on there. So the traffic is just, well, as we all know and hear almost every
10 month, our concern is that we're continuing to make a bad problem worse by continually
11 rezoning. It's true, what you say, Pat, is the C-1 is the least objectionable of the
12 commercial possibilities.

13 MR. PALMER: And the other option, I guess keeping it rural, would be someone
14 pulling in and out of here with their driveway, and if traffic 15,000 cars a day across the
15 street, who's going to want to live there? When it's really a commercial area, who's
16 going to want to live in the middle of a commercial area like that?

17 MR. JACKSON: But it's like it or not, the area is commercial.

18 MR. VAN DINE: What is a PDD, that the light blue PDD, what is, is that a
19 commercial PDD, and what was the PDD based on?

20 MR. GOSLINE: The light blue, further south on Hardscrabble is, Jeff Clark, has
21 an office, a small office park right there, which has four lots in it, and so some of that is
22 part of, part of the, some of that light blue is part the Publix shopping center and some
23 of it's the office.

1 MR. VAN DINE: Would that equate to a, we can't do it because it's PDD, but
2 equate close to C-1, C-2 commercial?

3 MR. GOSLINE: The four lots are that are there are pretty much going to be
4 office space.

5 MR. VAN DINE: I mean, Pat makes a very good point about the C-1, and I
6 agree with him, and if I felt like -

7 MR. GOSLINE: You mean you agree with Pat?

8 MR. VAN DINE: Yeah, if I felt like we could reach the end and say this is
9 basically as far as we're going down the road for commercial, that might be one thing.
10 But what I would hear is over and over again, and that's the concern I have, is that in
11 some point in time we have to draw the line. The C-1 makes as much sense as
12 anything in the area, if we can say this is as far as we're going.

13 MR. PALMER: It's my thought process that all this stuff around Lee, the major
14 intersection of Lee and Hardscrabble, that stuff's C-3 and it looks like it's gradually going
15 down and then you're abutting an elementary school, and a high school, and that type
16 of stuff. It just seems like a natural progression to me. Maybe I'm way off on my
17 thinking, but - and then when you look on the other side of the high school on our map,
18 it's already residential.

19 MR. VAN DINE: But there are two sides of the street, and I'm looking at the
20 other side that's starting to progress down.

21 CHAIRMAN GREEN: Any further discussion?

22 MS. LUCIUS: I would just like to add some real numbers to the discussion. I
23 think, everything I've heard, what Pat said, what Howard said, what Barbara said, what

1 Norman said, all make sense, I agree with everything they said, it's a hard decision. But
2 the real numbers are, according to Carl, if we approve this, on top of what we've already
3 approved, we would put 32,000 trips on a road designed to serve 8,600.

4 MR. GOSLINE: It's more than 32,000, we're already approved 32,000.

5 MS. LUCIUS: We've already approved 32,000 trips on a road designed for
6 8,600. And I just think those real numbers need to go into the discussion.

7 MR. FURGESS: It may not be real.

8 MS. LUCIUS: Well, they may not be real, but we do go by these figures, now we
9 take them in consideration when we make these decisions.

10 MR. FURGESS: Carl, also the C-1, the zoning that's C-1, is that the side of the
11 road where we have on this picture, where you have the sign?

12 MR. GOSLINE: Excuse me?

13 MR. FURGESS: Where you have the sign, your notice, your notice here on the
14 picture here.

15 MR. GOSLINE: The sign was, when we approach the property, we take a picture
16 of the sign.

17 MR. FURGESS: I mean to say, that's what's going to be zoned C-1, that's
18 supposed to be zoned C-1?

19 MR. GOSLINE: What Mr. Glimp said, is not all of the property is C-1able, so to
20 speak, from the back part of it, you can't develop it anyway. So you're not really going
21 to get 15 acres worth of C-1 type, you might get 10 or whatever the number is.

1 MR. FURGESS: Where I'm getting the conflict is in one of your statements a few
2 minutes ago, you stated that coming down Hardscrabble Road, most of it's commercial,
3 C-3?

4 MR. GOSLINE: Some of it, it's zoned, there's various zoning all the way down to
5 Clemson. It's primarily commercial land use, and most of it is retail commercial, except
6 for portions of the property adjacent to the Publix shopping center, which is office.
7 Across the street is office – in the center itself is 200,000 square feet of retail office mix.

8 MR. JACKSON: I make a motion for approval.

9 CHAIRMAN GREEN: We have a motion for approval, is there a second?

10 MR. PALMER: Second.

11 CHAIRMAN GREEN: There's a motion and a second.

12 MR. GOSLINE: Who seconded?

13 CHAIRMAN GREEN: Mr. Palmer. Further discussion on the motion?

14 MR. JACKSON: The only thing I'm saying is that most of the area is commercial,
15 there's two or three parcels there are rural and limits the use of the property owner.
16 [inaudible] if you're not in the building industrial, I guess it's tough luck. But I can't see
17 first come first serve, and we went through so much to discuss or to accommodate
18 some people in building industrial to accommodate some driveway for access to their
19 property to rezone it. And now we're saying we've done enough so we should cut it off
20 and deny other people in the area to rezone their property on a street where it's
21 commercial.

22 CHAIRMAN GREEN: I believe the applicant would like to -

1 MR. GLIMP: With all do respect, you talk about the traffic and also too, our
2 neighbors and our friends, we are well aware of the traffic, but if the land wasn't
3 rezoned, I mean, we just approved – how can I go back to the congregation that lives in
4 the area and say this has been denied for a C-1, not that you've denied it, but you just
5 approved additional traffic for Lake Carolina. And they are continuing to build homes.
6 I've lived on Hardscrabble Road for fifteen years before any of those subdivisions. It
7 seems like to me, I'm wondering when did we take into consideration the traffic, that's
8 all?

9 CHAIRMAN GREEN: Thank you sir. We have a motion on the floor and a
10 second. Any further discussion on the motion? The motion is to send 04-30 MA
11 forward with a recommendation for approval, all those in favor of the rezoning and
12 recommendation to County Council that it be rezoned, please raise your hand. All those
13 opposed?

14 *[Approved: Palmer, Furgess, Jackson, Green, Dunbar; Opposed: Lucius, Wyatt, Van*
15 *Dine; Absent: McBride]*

16 CHAIRMAN GREEN: We are recommending Body for zoning changes, this will
17 go to County Council with a recommendation from the Planning Commission for
18 approval. Their meeting and public hearing on this will be held on the 27th of January.
19 Then everyone will be given an opportunity to make any further statements there that
20 they would like. Thank you.

21 CHAIRMAN GREEN: Next on our list is 04-31 MA, the applicant.

22 **CASE 04-31 MA**

1 MR. GOSLINE: Mr. Chairman, Members, this is a request to rezone a piece, a
2 46 acre piece from RU to PUD-1. This same property came to you a few months ago
3 for RS-1. You all approved, but it got to County Council and they in essence sent it
4 back for you to consider it PUD on the piece of property. The Department agrees that a
5 PUD is a more appropriate in this particular location, but we've recommended denial,
6 until we think there is a much better layout, much better solution to the development to
7 this piece of property than just laying a simple subdivision, normal subdivision
8 configuration on top of it. For that reason we've recommended denial, or tabling,
9 actually recommend tabling until we can get a better, what we believe to be a better
10 response to the natural resources on that site. Mr. Unan is here and representing the
11 applicant.

12 CHAIRMAN GREEN: Just a question for Staff. Does this application meet the
13 requirements of – all the requirements of the PUD submittal?

14 MR. GOSLINE: Yes.

15 CHAIRMAN GREEN: Does the applicant wish to speak?

16 MR. PALMER: I have just one question for Carl. The reason you recommend
17 we table we this is just you didn't like the layout?

18 MR. GOSLINE: That's correct. We think that in the PUD process, Mr. Palmer,
19 we believe that one of the intents of the PUD process is to be a little bit more innovative
20 and a little bit more creative in the way a project is developed. This particular project, or
21 particular - as designed is just a conventional subdivision. If you look at the Exhibit B on
22 page 87, that whole area to the back is low and wetlands, the pond is a wonderful
23 amenity that could be incorporated into some better design. That's our major -

1 MR. PALMER: You just didn't like how it was laid out.

2 MR. GOSLINE: Correct. The applicant's gonna disagree with me.

3 MR. VAN DINE: Why exactly did Council -

4 MR. GOSLINE: I wasn't there.

5 MR. VAN DINE: I'm just curious as to whether they said anything in particular as
6 to why it would either being sent back or be changed to a PUD or what?

7 MR. GOSLINE: I don't have a clue.

8 CHAIRMAN GREEN: The applicant is here to speak.

9 **TESTIMONY OF JOSEPH UNAN:**

10 MR. UNAN: Mr. Chairman, Members of the Commission, my name is Joseph
11 Unan, I'm a resident of Richland County, 64 Laurel Springs Road. This is a 66 lot
12 subdivision on a 46 acre tract of land, of which at least nine acres is pond/damn, and
13 floodplain. Approximately 20% of the property is designated as such. That land would
14 be left intact and undisturbed to be used as a lake amenity. When I presented this
15 before Mr. Gosline, my intent was for him to review it, and critique it for us, which he did.
16 And I told him that myself and the developers will be here to explain whatever the plan
17 is lacking and gladly enhance it. We intend to use the lake as an amenity by building a
18 children's playground area, picnic tables, gazebos, and/or shelter, a few benches,
19 jogging trails, walking trails, all of that will be built around the pond, but not necessarily
20 behind the seven or eight lots that are fronting on the pond. The developer is
21 committed to the landscape ordinance that Richland County currently has and plans on
22 leaving a landscape allowance for every one of those lots to be implemented by each
23 builder and that would be in the covenant. We had a tree survey done on the property

1 and located approximately 100 or so cypress and cedar trees and the plan presented to
2 the Commission shows that not one single tree will be taken down. We plan on
3 preserving all of these trees, as well as planting additional hardwood trees for each lot.
4 Ornamental lights, light poles, will also be installed similar to what currently exists at the
5 City of Columbia/Vista area. We also plan on installing concrete sidewalks as we
6 develop the subdivision. The intent was also in keeping with the looks of the adjacent
7 properties. We would buffer and/or install a fence along Rhimer Pond Road to establish
8 some sort of a community look for the development. We intend to landscape the
9 entrance and build a monument wall. This is going to be a nice development, we're
10 gonna be averaging approximately three quarter acre per lot. We are not looking to
11 develop an RS-1 or RS-3 type of development. I mean, we will have, I don't know what
12 the ratio is, approximately one and a half lots per acre. With me are the developers, I
13 don't know if they want to add anything else.

14 CHAIRMAN GREEN: Question for Staff. [inaudible] mentioned with regard to
15 tree preservation, etc, are those part of the PUD application?

16 MR. GOSLINE: Part of our reasons for denial, I think we've went through some
17 discussion about that. They technically met the submission requirements. However, it's
18 our feeling that some of the issues that Joseph has been talking about, some of the
19 things that he's talking about putting in, they weren't very well explained in the
20 documentation, and it may very well be that it's better than it appears, than what was
21 submitted. The tree protection, of course, would have to follow any -

1 CHAIRMAN GREEN: The tree protection approach that they talked about, is that
2 part of their submittal saying that they would not cut down any of the existing cypress or

3 -

4 MR. GOSLINE: I don't recall, I don't think so. Not in so many words Mr.
5 Chairman.

6 MR. UNAN: I'm looking at Exhibit B. If you notice the line of trees that were
7 located, this would be a property line between lots, so chances are nobody's gonna
8 touch those trees. I mean, we promise we won't, but once we sell each lot, the
9 individual, that area is not going to be in the building envelope area. We can show it,
10 but even the road as it meanders, or as it goes through the property, the light green
11 area is the farm area and as you can, you know, we tried our best to follow the area that
12 is already cleared. I mean – when people buy lots, they aren't buying trees, and
13 obviously, we don't intend to clear any more than what is already cleared on the
14 property. We want to preserve whatever is left, tree wise.

15 MR. GOSLINE: Mr. Chairman, if I might. I think part of the problem of this that
16 the Department has with it is that many of these things are not clear, clearly stated in
17 PUD like they should be. A PUD is very different rezoning as you all know, but you
18 need to be very, very specific about [inaudible] or how much they are and what they're
19 going to be, and a lot of detail. And in general that was part of our major reasons for
20 asking, or recommending that we table it so they go back and rework some of this stuff
21 and be more specific.

22 MR. VAN DINE: Mr. Chairman? On 26-70-115, it has the designation of woods,
23 with regard, in general, to development plan. Personally, I don't see a general

1 development plan before us at all. 26-71-15, says specifically, "Prior to requesting
2 rezoning of land unit development, the Planning Commission must recommend
3 approval of the general development plan." We do not have before us a general
4 development plan. We have not been asked to review a general development plan.
5 We don't have a valid planning, rezoning request in front of us, in my opinion. Specific
6 ordinance requires that it be here prior to any rezoning request being requested.

7 CHAIRMAN GREEN: I turn to counsel with regard to the appropriateness of the
8 application.

9 MS. LINDER: Mr. Van Dine is absolutely correct. The ordinance requires you to
10 review a general development plan, if you don't have before you, you do not have an
11 application to make a decision on.

12 CHAIRMAN GREEN: Do we have a complete application to -

13 MS. LINDER: The applicant may have submitted a general development plan,
14 but the ordinance requires you to approve a general development plan.

15 CHAIRMAN GREEN: In your opinion then we don't have one, some actionable
16 information -

17 MS. LINDER: If you have the same agenda, I don't believe you have it in front of
18 you.

19 MR. VAN DINE: Mr. Chairman, based upon that, I would make a motion that we
20 table this pending the opportunity for the applicant to come back with the specific
21 requirement that is listed in our Code, so that we can look at it and approve the general
22 development plan, prior to a request for rezoning.

23 CHAIRMAN GREEN: We have a motion on the floor to table, is there a second?

1 MS. LUCIUS: Second.

2 MR. PALMER: I have a comment to make though before we do it. If the
3 information was submitted, and Carl seems to think we have everything we need, was
4 that submitted?

5 MR. GOSLINE: I think it's important that, what we look at Exhibit B, in regards to
6 the fact, that it's not called, [inaudible] Mr. Van Dine is correct. That appears to be, in
7 our mind, sufficient to be an overall development plan. That's what the applicant
8 intended it to be. It is not very clear, in many ways, about the lots and other things, but
9 we probably stretched the envelope in terms of the decision about some of these things
10 more than we should.

11 MR. PALMER: That's my major concern, is you tell the applicant that he's got
12 everything, and then you send it to us, and everybody goes through this whole process,
13 and then now we get a simple question to legal counsel that you guys could have made
14 a month ago, or whenever this was submitted. You guys could have made that same
15 question, and gotten the same answer that we just got, and now everybody has come
16 out here, and there's people out here to speak for it and against and different things. I
17 don't see how it got this far without being a complete package.

18 MR. GOSLINE: To answer your question, Mr. Palmer, is that the Department
19 determined that Exhibit B was intended to be the overall development plan. And the
20 rest of the material on the checklist was, was met. In our discussion of this, in the Staff
21 Report, we pointed a lot of discrepancies that, that should have been clearer but when
22 you go down the checklist, did they have it? Yes. Did they have it? Yes. Did they have
23 it? No. Yes. No. Yes. No.

1 MR. PALMER: So then I us having a motion to having to defer because it's not
2 a complete package isn't correct, because it is a complete package.

3 MR. GOSLINE: No. Your motion is fine, I'm just telling you that we made the
4 determination that we accepted Exhibit B to be the overall development plan. In our – in
5 the text our discussion regarding the Staff Report, we noted that it was not incomplete
6 so much, but - the problem with the Code is Mr. Palmer, it says, do you have one?
7 Yes. It doesn't say anything about precisely what needs to be determined to be the
8 overall development plan. That's the problem. When we get these in here, we cut the
9 applicants slack, but we also explain to them that, every chance we get, that, you know,
10 we don't think this is very complete.

11 MR. PALMER: But it does, but you tell people that it does comply with all the
12 regulations.

13 MR. GOSLINE: It's out determination that it did. They submitted something, and
14 we – and that's what we determined to be the overall development plan.

15 MR. PALMER: I just have a fundamental problem with you telling people – our
16 Department and our Staff telling somebody that they have a complete package and it's
17 a simple question to ask legal counsel if they have it or not, before all these people get
18 out, and everything else comes –

19 MR. GOSLINE: That's okay that, that we have disagreements with the Legal
20 Department. That's okay.

21 MR. VAN DINE: Mr. Gosline, there is your litmus, it's in the Code, that map does
22 not comply in any way, shape, or form to the list of what is here. There isn't – that map,
23 in and of itself, does not provide even half of the required things that are listed.

1 According to our Code, we are supposed to approve the general development plan
2 before it's even hear for us on a rezoning. That is the Code. That is written right there.

3 MR. GOSLINE: I don't disagree with you Mr. Van Dine, but every bit we've done,
4 has a quote "general development plan" as part of the whole package.

5 MR. VAN DINE: This is not a general development plan.

6 MS. WYATT: This is happened before Carl. This has happened before.

7 MR. UNAN: Excuse me Mr. Chairman, can you tell me what exactly this plan is
8 lacking? For example?

9 CHAIRMAN GREEN: Ms. Linder?

10 MS. LINDER: I believe when I asked where the general development plan was
11 in the descriptive statement, I believe there is a descriptive statement. What I guess the
12 problem was, it was not reproduced and distributed to you, the Commission. But it
13 appears the applicant did submit a descriptive statement.

14 CHAIRMAN GREEN: So we have an incomplete package before us to consider?

15 MR. PALMER: From Staff, not the applicant.

16 MR. UNAN: We submitted a 13 page document. Not just, not just a location
17 map or a drawing of the development.

18 CHAIRMAN GREEN: I don't believe that it's – am I correct in – is my package
19 the only one that's missing, or are all packages misses it?

20 MR. GOSLINE: No. The only thing that we put in the agenda package was
21 Exhibit B, which is, quote "the overall development plan". In our Staff Report, we talk
22 about some of what we felt were deficiencies in the written document that they provided
23 to go with this.

1 CHAIRMAN GREEN: We have a motion on the floor to table. One thing I would
2 like to be – at least provide some direction on if we move forward with this motion is, are
3 we tabling this because we don't have the full report, or are we tabling it because we
4 want to see additional information from the applicant? I think it's important that we at
5 least get some guideline.

6 MR. JACKSON: I think there's some misunderstanding somewhere.

7 MR. VAN DINE: My motion is based on the fact that we don't have in front of us,
8 the requirements that we have to meet in order to vote on this. If it's in the Staff's
9 hands, then we should have it.

10 MR. PALMER: I agree. And that's my problem.

11 MR. VAN DINE: It's not the applicant's fault for doing so. But we need to be
12 approving those documents prior to us taking up the rezoning, in accordance with our
13 statutory requirements. If they're there, we need to see that because it's our
14 responsibility to approve it.

15 CHAIRMAN GREEN: We have a motion on the floor to table, and it's been
16 seconded. Any further discussion?

17 MR. DUNBAR: Yeah, I think we are holding the developer up for no fault of their
18 own. If we had had this complete information, I don't disagree that maybe it's not here,
19 but if he submitted it to the Staff, then it's our problem not his, that it's not his
20 responsibility. So, I have a problem with holding them up, based on, you know, we've
21 approved PUDs with this kind of information before. And obviously there can't be
22 engineering until they know they got zoning. So we can't get a lot more than this
23 anyway. Other than the details that are in their narrative. So I object to tabling it, and I

1 think, I don't know what we can do, if there's information at Staff level that we can give
2 [inaudible] – but I object to tabling it.

3 CHAIRMAN GREEN: Further discussion?

4 MR. PALMER: I would, I would after listening to Mr. Dunbar, I would object to
5 tabling, because I have no problem with this plan. The only problem that I have with it,
6 was that if what we were doing by approving it, would not have been legal. And that's
7 something for, you know, Staff and legal counsel to determine. I have no problem with
8 this plan, and, you know, according to Carl, even with this plan, he meets all the
9 regulations for a PUD. So, it's the same case that we had before, if he meets all the
10 regulations, I don't see how we can possibly deny him. But if it's a legal issue, then that
11 something completely different.

12 MR. VAN DINE: I think that, that Ms Linder has told us that it is a legal issue,
13 that we do not have sufficient documentation before us to move forward on this in
14 accordance with our statutory requirements. That's the basis of what my motion is.
15 While I sympathize the Department, in my opinion, has got to pick up the slack a little bit
16 on this particular issue, and they have been duly chastised, and, you know, we
17 anticipate that this won't happen again in the future.

18 CHAIRMAN GREEN: Further discussion?

19 MR. GOSLINE: Mr. Chairman, let me make sure we can all understand. We
20 believe that the literal –

21 MS. WYATT: We understand what you understand, I think you've told us twice.

22 MR. DUNBAR: Let me make one more statement and just – when any other
23 PUD has come in here, we don't get the full narrative. I don't remember ever seeing

1 one. So for us to stop and [inaudible] we don't have the rest of the information in front
2 of us so we can't do it. We've approved every PUD that I've ever been involved in, in
3 about 16 years without the narrative and the other information. It's generally been the
4 subdivision the applicant and the Staff review it, whatever information it had in it's file.

5 MS. WYATT: Mr. Dunbar, I beg to differ with you, but we sat right in here within
6 the last year, the – a piece of property on Farrow Road, I think, that you were involved
7 in, that you had to recuse yourself. I think that [inaudible].

8 MR. DUNBAR: Well, it may have been, exception, but for example, I don't
9 remember Stewart Mungo bringing in on those 1000 acres, that we sat here and had in
10 that package all the information besides the development layout.

11 MR. VAN DINE: And if you recall correctly, that was a major issue that we had
12 with him was that we didn't have a phasing plan. We didn't have any of the stuff that
13 was required for it.

14 MS. WYATT: [inaudible]

15 MR. DUNBAR: I mean, as an entity we approved it.

16 MR. TOMMY FOWLER: Mr. Chairman, can I say one thing. I was sitting up
17 there, fat, dumb and happy, I'm Tommy Fowler, and I live on 1032 Langford Road,
18 which is, as the crow flies, two hops from here, this place. I'm a lawyer, I represent
19 Lower Richland, LLC, the developer. I have here, and the point of it is, what the public
20 could have come and viewed, they could have come and viewed what was submitted. I
21 have this, if you'll give me 10 minutes, I'll hike it to the copy shop. We've been waiting –
22 working on this since this September. A whole lot of money is tied up. The reason, and
23 Mr. Van Dine had asked while ago, why we're back here, these two young ladies, I

1 believe if I'm right on my faces, showed up and were interested in it being a PUD. We, I
2 believe had RS-1. So Mr. Glimp said, "Okay, we'll go back and make it a PUD". So
3 that's why we're here, to try and comply with what these ladies were interest in cause
4 we all live up here.

5 AUDIENCE MEMBER: Excuse me. Can you please point out specifically
6 referring to and who you're talking about. They seem to be –

7 MR. FOWLER: I believe they were at County Council. I may – I remember
8 faces. But you asked why? And I'm pretty sure of that fact, but be that as it may, I've
9 got this here, I can make the copies myself, don't mind doing it, cause they had it. It's
10 just – we've been sitting around with this thing for a mighty long time.

11 MR. PALMER: Well we sent it forward for approval, did we not? And it was sent
12 back to us, so I know this thing has been several months. We already approved it the
13 first time as RS-1. Let's – I don't understand what the hold up is with the PUD. I'm
14 saying I don't understand why –

15 MR. UNAN: Can I answer that? I think the public once they saw RS-1, they
16 asked the question, "What is RS-1?", and we said, "12,000 square feet per lot", and all
17 of a sudden they are thinking we're putting approximately four homes on an acre,
18 quarter acre lots, and that's when the County Council suggested the use of PUD, which
19 would then commit us to three quarter acre lots, you know, whatever we submit is going
20 what we go with. RS-1 was too general for the public.

21 MR. PALMER: I understand. My comment was, us as a Body as a Commission,
22 we've already approved an RS-1 on this site. I don't see why anyone on this

1 Commission would not look favorably upon this PUD plan. That's what I was saying,
2 RS-1 has already been approved.

3 MR. JACKSON: I don't think the applicant should be penalized for what was
4 presented to us by Staff. It shouldn't be in front of us if there's a problem, unless there's
5 a misunderstanding.

6 MR. VAN DINE: Mr. Chairman, I with draw my motion to table, if the second is
7 withdrawn. However, I don't believe that we are complying with our statute. If the
8 Commission deems that they wish to vote on this at this time, then I will withdraw my
9 motion, but I hesitate to say we are free and clear, because we do not, in my opinion,
10 meet the statutory requirements of what must be submitted and reviewed by this
11 Commission. If the second will agree to withdraw the second, then I will withdraw the
12 motion to table at this time.

13 MS. LUCIUS: Will we be –

14 MS. WYATT: Then I think, then I think, at least, I would like to point out, that if
15 we go against legal, and if residents out there file a lawyer suit, they've got a strong
16 case.

17 MS. LUCIUS: Will we be locked in here at this time?

18 MS. WYATT: Because we sat right here, and were told by our legal advisor that
19 we're doing this wrong.

20 MS. LUCIUS: You don't think this is good enough?

21 MS. LINDER: Mr. Chairman, what I would like to just maybe clarify is I do
22 believe a descriptive statement was submitted. I believe that is the major component
23 that you're lacking. If you want to recommend approval, you would be approving the

1 general descriptive statement that the applicant submitted. The problem is you have
2 not reviewed it yourselves, you would be trusting what the applicant submitted, and
3 what Staff is selected to report back to you. But I do believe there is a descriptive
4 statement of what would meet the requirements in our Code of ordinances.

5 MR. PALMER: Could we not just defer this for fifteen minutes and take a look at
6 it, would that not meet?

7 MR. DUNBAR: Do we have somebody who could go down and make copies for
8 us?

9 CHAIRMAN GREEN: Let us defer this for a few minutes. I do not want – there's
10 some people that are signed up to speak against, we've been talking about the motion
11 to table. What I would like to do, subject to a motion from the Commission is, is to
12 maybe soon as we get copies of this back, is to take a brief recess and let the
13 Commission Members look at the descriptive statement, see if they feel like it's
14 adequate and comfortable in voting on this. I do recognize there are people here to
15 speak against it. Is that the sense of the Commission?

16 MR. JACKSON: We can move to the next item.

17 CHAIRMAN GREEN: We'll move it to the next item, while we waiting for copies.
18 Is that acceptable to the Commission?

19 MR. VAN DINE: But I think we need an opportunity to take a short break and
20 review it.

21 CHAIRMAN GREEN: Right. Soon as we get those back, then if we will, we'll
22 just move this back behind the next item, as soon as you get the copies back.

23 CHAIRMAN GREEN: The next item on the agenda is 04-32 MA.

1 **CASE 04-32 MA**

2 MR. GOSLINE: Mr. Chairman, Members, the next request is to rezone 163
3 acres from D-1 to RS-1. This is located adjacent to the Longcreek Plantation project on
4 the west side of Longtown West Road. This is, as you can see by the aerial, it's a very,
5 we think a beautiful site, that has nice wooded areas and wetland running through the
6 middle, which connects into the existing lake at Longcreek Plantation. Staff
7 recommends approval to RS-1 zoning.

8 CHAIRMAN GREEN: Is this the road that, is this the property that abuts the
9 upper end of 1000 acres?

10 MR. GOSLINE: Pretty close. Pretty close

11 MS. LUCIUS: You've got denied. You've got "not be changed"

12 CHAIRMAN GREEN: The Staff's recommendation for clarity's sake is that the
13 Staff recommending approval for rezoning?

14 MR. GOSLINE: Correct.

15 MR. VAN DINE: These are dirt roads that are -

16 MR. GOSLINE: Yeah, the road that you see on the aerial, it's Hobart Road, and
17 Hobart Road comes through the Mungo, Villages of Longtown, it comes up adjacent to
18 this property, and Hobart Road runs through a very small piece of the Villages at
19 Longtown. There's some – there's been a lot of discussion about realigning this road to
20 have a direct connection somehow between Longtown and Farrow, over the railroad
21 track. The applicants, while we discussed that with the applicants, they were amenable
22 to building some right-of-way across the bottom piece. If you look at the aerial, at the
23 bottom piece, it could potentially line up straight, straight across. However, that would

1 mean that some of the of Villages at Longtown would have to redesign to allow a road
2 to come straight through there if that's what eventually happens. Anyway, the Staff
3 [inaudible] RS-1.

4 CHAIRMAN GREEN: Is the applicant here to speak?

5 MR. GOSLINE: Yes, Joseph Unan, is representing this property.

6 **TESTIMONY OF JOSEPH UNAN:**

7 MR. UNAN: Hi again. Joseph Unan, 64 Laurel Springs Road. We plan on
8 adding actually two developments to the residential subdivision that has average of
9 three quarter to one acre lot, I'm sorry, half an acre to a three quarter lot, and one that is
10 slightly smaller. The larger lots are going to be the number of lots, I believe we came up
11 with were approximately 90, and the other side of the subdivision will house 150 smaller
12 lots. A total of approximately 240 lots. We have contacted Mr. Stewart Mungo, and he
13 is agreeable to share in the costs with us for realigning or relocated Hobart Road.
14 Obviously, a revision or a amendment to this plan will have to prepared.

15 CHAIRMAN GREEN: Thank you. Sally Mimerick.

16 **TESTIMONY OF SALLY MIMERICK:**

17 MS. MIMERICK: Hi, I'm Sally Mimerick. I live in Ashley Place, here again. I'm
18 opposing this again. I know this isn't right on Hardscrabble Road, but any development
19 that's being built down there on Longtown Road has a direct impact on Hardscrabble
20 Road. And I know what you said earlier about the picture being taken with only four
21 cars on it. I don't know when that was taken, but that's a situation where you would
22 have to sit there all day long to get a picture with only four cars on it. I live there and I
23 drive it everyday and it's not just during school time. We continue to approve things

1 because we don't want to deny owners the use of their property. I've heard that. What
2 about the owners who live there and who bought there to be more in a rural area, and in
3 the last three years, it's turned into total commercialization. Not one penny has been
4 set aside to fix these roads, not one dime, from this state of this county. Who's gonna
5 fix this road? Are the builders gonna fix this road? Are the developers gonna fix this
6 road? Who's gonna do it? You sit here, and you continue to approve. You've
7 approved Lake Carolina this morning, 52 units to be built. You've approved the
8 commercialization change on the other one on Hardscrabble Road for the church.
9 You've got the other one who was set aside until next week or so, that one will probably
10 be approved. You've got this one, which you will probably approve. And you've got the
11 other one that was just ahead of this, the 46 acres, that you will probably approve.
12 That's over 400 more homes in our neighborhood that's gonna drive on that road, and
13 you figure two to three more cars each home, you're looking at another 800 cars on a
14 road, two or three trips a day. It's already 28% over capacity. We've got to put a
15 moratorium on this building and commercialization until the state decides what they are
16 gonna do with Hardscrabble Road. When are we gonna widen that road? All the way
17 down, not just the small sections, the gentleman this morning is talking about, between
18 Piggly Wiggle and Elders Common, but the whole thing, because it affects the whole
19 thing. If you widen it there and you don't widen it down by Lake Carolina, it's just gonna
20 continue to back up. People that live down here on Longtown Road and Longcreek
21 Plantation area come up Lee Road and get on Hardscrabble Road to go out to Clemson
22 Road to go on to 20. Happens all the time. I see traffic up and down Lee Road
23 constantly on Hardscrabble Road. Something needs to stop, and it's up to you guys to

1 change it. Nobody else can but you. I'm gonna send a letter to my Council member.
2 I'm sending a letter to our Governor, and I'm sending a letter to our Congressman. This
3 has got to stop. It's getting too much until the state decides that they are gonna fix the
4 road, to keep approving things, and not charging impact fees, these developers and
5 these builders, and our roads can not take it, is irresponsible on your part. That's the
6 only thing I got to say, thank you.

7 CHAIRMAN GREEN: Thank you. Gene Todd.

8 **TESTIMONY OF GENE TODD:**

9 MR. TODD: Gene Todd, 137 Miles Road, Columbia, I am with Southland
10 Developer, I've got one other partner. We met with Terry McSwain, and Ralph Pierson,
11 in the group just before Christmas and, actually are waiting for an agreement to be
12 drawn up on this property to realign Hobart Road. Stewart is already taken that into
13 consideration on his piece, which is adjoining us, and we have agreed in principal not
14 only to realign it, but to pave a road called New Hobart Road. It goes from Longtown
15 Road across the railroad tracks, and Stewart's gonna pave his portion of it, and we'll
16 pave our portion of it, and we're also donating \$50,000 a piece to the cross arm. And
17 the county just has to come up with the other \$154,000. So we're doing what we can to
18 alleviate the traffic problem, where it go out on 555, which would take a lot of traffic, not
19 only on Hardscrabble, people going to work, but would take it off Longtown, and
20 Terrytown Road going on out. So they'll be able to go to 555, Jenkins Brothers
21 Road[inaudible].

22 CHAIRMAN GREEN: Thank you.

1 MR. VAN DINE: Has there been any discussion with the Norfolk Southern about
2 a new, [inaudible] crossing, has it gotten to that point?

3 MR. TODD: Our agreement was to do it, and let the County deal with the
4 railroad. We don't want to deal with the railroad.

5 MR. GOSLINE: Sometimes, you might not want to get the answers to the
6 questions you ask, you know?

7 **TESTIMONY OF ELAINE KELLER:**

8 MS. KELLER: I'm Elaine Keller. I live at 1077 Wooten Road, and I have very
9 serious concerns about this development. It seems like Blythewood is starting to
10 become another St. Andrews. It's bad enough now, we have the manufacturing
11 facilities around us, on old Hobart, which is now closed, another manufacturing
12 company has moved in. The Jenkins Brothers road is full of manufacturing. We've got
13 [inaudible] plant in front of us. And now I have concerns about this property being
14 developed behind us, because our property abuts it. I had to go through three months,
15 after I got the initial approval from you folks, to move a manufactured home out there to
16 help my disabled sister. And what I went through to try and get a mobile home out
17 there, and my land sits higher and this land slopes. Now, how can they justify building
18 homes in this wetlands area, when I had to fight to get my home put out there to help
19 my mother and my sister? And this land is – so what are they going to do with this
20 sloping property? Are they going fill it in with sand or whatnot? What's going to happen
21 to the creek that runs through our property? Will it be filled with silt? Will it be closed
22 off, will it be re-routed? You know, what about the deer and hawks and whatnot that live
23 out there. I mean, I'm an environmentalist as well. Even the surveyors that came up on

1 our property and surprised us, even mentioned how boggy that land was through there,
2 and tried to get access to that property line through us with their equipment, and we,
3 you know, did not give them permission to do so. So I just can't understand, for me to
4 just move out to Blythewood on a temporary bases to help my sister and my mother,
5 and what I went through to get out here, and then their wanting to build a subdivision
6 behind us, right at us. So next thing you know, these people are going to be
7 complaining about having mobile homes sitting next to them. You know, I just don't
8 understand, and I'm just wondering about, what we are going to do for the gullies back
9 there? You know, are they gonna fill it in with sand? Has any corporate surveys been
10 done, DHEC, the Army Corps of Engineers, and what preservation efforts are going to
11 be put in place if this development comes in? Will there be a buffer of trees between
12 our property and theirs, or are they just going to come right up to us at our backdoor?
13 I'm just asking that that be taken into consideration, because I definitely did not move
14 from Kershaw County back to Richland County only to live in another Harbison area.
15 Thank you.

16 CHAIRMAN GREEN: Thank you. Yvonne Hill.

17 **TESTIMONY OF YVONNE HILL:**

18 MS. HILL: I'm Yvonne Hill, and I live at 1085 Wooten Road, and I've been there
19 probably 35 years. And this land, was given to my husband when he was only two
20 years old, and he passed away in '94, and it's left to me now, and my children. On this
21 map, it's wrong. You got the line at the bottom part of our homes, and that's wrong, you
22 literally just knocked us off of it.

23 MR. GOSLINE: Which map are you talking about ma'am?

1 MR. PALMER: I think she's got the GIS map off line.

2 MR. GOSLINE: Once again folks, the parcel maps are not accurate and we're
3 working on trying to get them accurate. So when you pull them up, they aren't
4 [inaudible] current, accurate or complete.

5 MS. HILL: Well, I have my original, and I'm going by my original, where my
6 markings are. Whoever you surveyors were, some of their markings are wrong. Where
7 the end of it comes to Hobart Road, they've got that one wrong. I know exactly where
8 it's at. We've done tracked it. My husband told me where it was at before he passed
9 away. So they're taking part of my property from that.

10 CHAIRMAN GREEN: Let me assure you, they can't rezone any of our property.
11 If you aren't the applicant, you can't have your property rezoned. The map could be
12 wrong, the aerial wrong, so on that particular issue, your concern that your property
13 being rezoned without your knowledge.

14 MS. HILL: Well, I know they've done things before and not give us any attention
15 about it and we've complained about that. And, I just want to make sure that I get my
16 rights on this, and I want it done while my children – while I'm still alive and my children
17 will know the facts. Because if they build these homes right up against us, they're not
18 going to put something there and then complain about us being there, because I told
19 them right flat, we were there first. You got an excuse or a complaint, move. And I'm
20 gonna tell you one thing too, you build them slab homes, my daughter has dealt with
21 those type homes, and flooded and her two neighbors, won their case on that, so you
22 better take into consideration that if you gonna put slab houses out there on that wet
23 land you gonna be sued, cause these people sued and won. I would not recommend

1 any homes being back there in that flat land. Because when they put that pipe through
2 there, we gave them permission to put that pipe through there, and you gonna put
3 houses on top of those pipes? Somebody's gonna be in for a big surprise if one's to
4 crack.

5 MR. GOSLINE: Mr. Chairman, ma'am where is your property? Specifically
6 where is it?

7 MS. HILL: It's on Wooten Road, it comes – it joins Hobart Road. It's in-between
8 Wooten Road and Hobart Road, you can't see it from 555, you'll have to come around.

9 MR. GOSLINE: Wooten is the one adjacent to the railroad track?

10 MS. HILL: Yeah, it comes across the railroad track.

11 MR. GOSLINE: Okay. I believe, Mr. Chairman, Members, that the lady is talking
12 about the area in white, west of the subject site.

13 CHAIRMAN GREEN: Ms. Hill, did you have any other comments that you
14 wanted to make?

15 MS. HILL: No, but I just feel sorry for the people that buys the homes if they
16 putting in there. Cause we're on the top of the elevation, and my daughter had to put
17 out \$200 for nothing, when I was out there trying to get her out there and came over
18 here. One of your employees told her she would have to put out the money to get
19 somebody to go down there and say, 'hey you're in a flood area, you're not gonna get
20 flood insurance'. I said, "Well, I hadn't had it in forty years, I'm not about to get it now."
21 Cause that's way down at the bottom, and we're up on the top elevation. And I would
22 appreciate it if her money was returned to her for that. It was ridiculous.

1 CHAIRMAN GREEN: This Commission doesn't handle those kinds of things, but
2 we appreciate your comments today.

3 MS. HILL: Thank you.

4 CHAIRMAN GREEN: Ms. English? That's all we had signed up to speak on this
5 issue. Questions, comments by Commission Members?

6 MS. LUCIUS: Is this in a flood area?

7 MR. GOSLINE: Well, yes, I mean, portions of this site are, if you look at the
8 aerial, you can see the wetlands.

9 MS. LUCIUS: I can see them, you can see the [inaudible].

10 MR. GOSLINE: Certainly a portion of the 163 acres is wetland area.

11 MS. LUCIUS: So is RS-1 suitable for that kind of development?

12 MR. GOSLINE: But they won't be able to develop in there. The applicant has
13 said that they are talking about, in essence, two separate projects, one on the south
14 side of what is essentially the creek wetland, and one on the north side. So it's the
15 same discussion that we had a little earlier, those wetland areas won't be able to be
16 developed.

17 MS. LUCIUS: I understand that, but I think the first step is very important. I think
18 that this is something we need to look at.

19 MR. GOSLINE: Yes. I think that, if you look at the aerial, I believe that the lady
20 is talking about, if you look the aerial where their space to the west of the line, between
21 [inaudible] and the railroad track. That little road right in there is Wooten Road, so she's
22 right in there someplace. So she's right, she is up higher, but we can see that there is a

1 creek or a lowland that runs pretty much east and west and goes into the road on the
2 other side of Longtown West Road.

3 MS. LUCIUS: I understand that those things will be taken into consideration, and
4 I understand that. I just think it's important for us to recognize sensitive lands.

5 MR. VAN DINE: I think because of all the earlier in the discussion we just had,
6 we're not going to be taken under [inaudible]. That was part of the issue we just had
7 with that whole one subdivision. We're not going to worry about that until we have a
8 building [inaudible]. We keep pushing it further and further down the line, and
9 [inaudible] we get so far down the track. So, I think your point is very valid, and we
10 need to be looking at it upfront as to some of the things and what should and should not
11 be done.

12 MS. LUCIUS: Thank you.

13 MR. VAN DINE: Can I ask a question on the road issue? Are you planning on if
14 the New Hobart Road is extended through, are you going to give – are you going to
15 build on the old roads, somehow - what I want to make sure is we're not putting a new
16 road in but you're still going to use the old Hobart Road, and so now you actually have
17 two at grade crossings and that kind of stuff going on.

18 MR. TODD: Part of our negotiations was that we get closed Sharp Fork and
19 Hobart Road, which go through our property, and for doing that, we build one straight
20 line.

21 MR. VAN DINE: I just want to make sure we weren't actually adding on in the
22 area and make further issues. You're talking about closing off those, the old dirt roads
23 and making a paved one.

1 MR. TODD: Both of them, if you look your thing, you'll see how that road comes
2 and does like this, it'll come straight to Longtown.

3 MR. VAN DINE: Thank you.

4 CHAIRMAN GREEN: That's all we have for public comments, so any comments
5 or questions from Commissioners?

6 MR. DUNBAR: Mr. Chairman, I make a motion that we send it to County Council
7 with a recommendation for approval. And with the understanding that wetlands
8 regulations, from county, state, and federal is all going to be complied with and flood
9 elevations as well. Those are concerns that I think, this part of the property actually
10 makes the neighboring property desirable. In other words, the develop the property and
11 having this as an amenity, the wetlands, the wildlife, and all of that, I think they'll
12 maximize that and have to comply with all those regulations. I feel pretty good about it,
13 I think it's a good piece of property. RS-1 is the lowest density we've got and currently
14 using in that area, and I think it fits in very well with the neighborhood.

15 CHAIRMAN GREEN: We have a motion send this forward with a
16 recommendation with approval, do I hear a second?

17 MR. PALMER: I'll second with the comments that that's the reason we have
18 these regulations, state and federal, is for stuff like this. That's not a thing for us to get
19 into as a Planning Commission, that's someone else's thought process as to what rules
20 and regulations make these kind of things safe. And for us to try to get into all aspects
21 of that, it just would be amiss. I agree that there's other rules that handle those type
22 things, and I believe that RS-1, by looking at the map, zoning map, and surrounding

1 areas, that it fits in nicely with the surrounding areas on both sides, so I would second
2 the motion.

3 MS. LUCIUS: I would respectfully disagree, that it's not our place to look those
4 things.

5 MR. PALMER: Not to look at them, I mean, to look at them yes, but as far as we
6 need to take into consideration that there's other entities that make rules and
7 regulations and govern those things.

8 MS. LUCIUS: I understand, but we are one layer of the process.

9 MR. PALMER: I'm not saying no look at it, I don't mean that. But I'm just saying
10 that other entities make rules and regulations and laws according to those things.

11 MS. LUCIUS: I understand, but I think we are supposed to be a Planning
12 Commission, planning, and I think without taking that into serious consideration, we're
13 not really planning. If weren't supposed to question these things, I don't think we would
14 even be here.

15 MR. PALMER: I'm not saying question, but as the far as the safety and whether
16 someone should live down there or not, that kind of stuff, that there –

17 MS. LUCIUS: I understand.

18 MR. JACKSON: [inaudible]

19 MS. LUCIUS: I just don't know. I know RS-1 is the least intrusive residential
20 classification that we have now. I think this would be a good, probably a good case
21 where we could use something that we want to move toward in our new ordinances with
22 even fewer homes, environmentally sensitive. That's just the only point I wanted to
23 make.

1 MR. VAN DINE: I want to echo that I agree with Marsha on the fact that I think
2 this Body, by it's very mean, is a Planning Commission. As a Planning Commission we
3 are charged with doing more than simply rubber stamping things because we think
4 somebody else down the road may have done something. Our job, on this
5 Commission, is to look at all aspects of what is going on, and find out whether it fits
6 within the plans, and whether it fits within what is good for the community as a whole.
7 That's what we have to be looking at. While I don't disagree that this, and I will be
8 voting in favor of this particular rezoning request, I think that we need to sit back and
9 start to look at what we're supposed to be doing up here as a Planning Commission. I
10 think that we are starting to say it's somebody's else responsibility, it's somebody else
11 does this, somebody else does that. We're here to pull it all together and make sure
12 that all of it fits within what we're supposed to be doing from here on out.

13 CHAIRMAN GREEN: I think it's another classic case, if you look at the
14 comprehensive plan for the County, this calls for high density and medium density
15 development in this area, but it speaks again to, to the often discussed subject to the
16 fact, that this county does not have a current comprehensive plan that is consistent with
17 what's gone on in the last four or five years, and we as Commission need to continue to
18 remind Council of the need for an up to date, true comprehensive plan.

19 MS. LUCIUS: And I think people are becoming more environmentally aware and
20 when these areas we're designated for industrial or residential, high density, low
21 density, or whatever, I just wonder how much was that was taken into account, or was it
22 at all? The fact that this land is boggy, that it's heavily wooded. I mean, do we just
23 stamp that, well, that looks like that would be good for residential, or did we really take

1 the land itself, did we take that as important as we should? I'm not sure we do. So for
2 that reason, I think a lot times, even though it's in keeping with the maps, I have to
3 question those maps, those maps are old and that's all I have to say about that.

4 CHAIRMAN GREEN: We have a motion on the floor.

5 MR. DUNBAR: One final comment, cause I don't want anybody thinking that I'm
6 in favor of just rubber stamping the development, but I don't think - most everybody
7 that's on this Commission has never actually developed property and knows the
8 process the developer goes through after they get through zoning, before they can ever
9 turn dirt. And that's DHEC, it's DNR, it's Army Corps, it's all this stuff So there are a lot,
10 lot of processes protecting water quality, and other issues that we're all concerned
11 about. It's not that we're not concerned about it. And I think that [inaudible] and it's
12 adjacent to a flood area, they've got to show an elevation showing that they are going to
13 be well above [inaudible]. The process is not like, if we don't do it, nobody else is going
14 to . I mean, there's multiple checks in place.

15 MS. LUCIUS: I know that there are people that do that, but I think Howard said it
16 very well when he said that we should pull those things together and we should be
17 aware of it, even if some of that's actually going to, you know, carry out the actual
18 permits.

19 MR. DUNBAR: That's why when we approve one, we have a list of conditions
20 and they have all those things on them.

21 MS. LUCIUS: I understand that

22 MR. PALMER: That's what I was getting at, was that it wasn't up to us to say
23 well, you need to be, you know, we have Army Corps of Engineers and different things

1 like that. That's their field of expertise and that's my sole point. It wasn't that we didn't
2 need to plan. My planning looks at the surrounding area, the way things are going, the
3 way things are moving, in the area and that kind of stuff.

4 MS. LUCIUS: That's part of it.

5 MR. PALMER: Right. I understand what you're saying, but I wanted to make
6 sure that I was clear and that's what I was getting at, that we have other check points,
7 and those people have expertise in those fields that we don't.

8 MS. LUCIUS: Exactly.

9 MR. DUNBAR: Mr. Chairman, I call the question.

10 CHAIRMAN GREEN: The question has been called, there's a motion on the
11 floor to send this forward to County Council with a recommendation for approval. All
12 those in favor of the motion please raise your hand. All those opposed?

13 *[Approved: Palmer, Jackson, Green, Wyatt, Van Dine, Dunbar; Opposed: Furgess,*
14 *Lucius; Absent: McBride]*

15 CHAIRMAN GREEN: This will be sent to County Council with recommendation
16 of approval. There will a public hearing and a meeting with County Council on January
17 27th, for their further consideration. We will stand adjourned for about fifteen minutes.

18 MR. GOSLINE: Mr. Chairman, if we might do one quick thing, and that's the
19 street names.

20 CHAIRMAN GREEN: It's not going to be adjourned, we're simply standing out
21 fifteen minutes to give everybody, we have a PUD application, we've got other matters
22 too tonight to take up. We've got other agenda items anyway. I'd like to get this done
23 as quickly as we could. I tell you what, let's take a ten minute break rather than fifteen.

1 I would ask Commission Members to sit down, spend the time to look at the planned
2 unit development guidelines that were submitted with 04-31 MA.

3 *[RECESS 3:54]*

4 CHAIRMAN GREEN: We are returning to agenda item 04-31 MA. If we could
5 please come to order. We're returning to agenda item 04-31 MA. Now that I would
6 assume Planning Commission Members have had an opportunity review the planned
7 unit development guidelines that were handed out to us on the break. I would reopen,
8 there were some people here that had been signed up to speak with regard to this and I
9 will recognize them now. First name on my list is Sally Mimerick.

10 **TESTIMONY OF SALLY MIMERICK:**

11 SALLY MIMERICK: I'm up already? Hi, guys it's me, remember me? I'm back
12 again. Again, I'm here against this project. Rhimer Pond Road, and Hardscrabble
13 Road, again it's just going to cause way too much traffic. And I heard earlier, the past
14 Chair say your job is to plan these different communities, and I don't see planning. I do
15 see rubber stamping. I see everybody coming in saying they want this, they want that,
16 and you discuss a few items and you rubber stamp it. And you don't look at what did
17 you approve last month that was a half a mile down the road? What did you approve
18 three months ago, that was a half mile down the road? I know that Lake Carolina was
19 approved quite some time ago. That's had a huge impact on us and it's still growing.
20 And now you want to do this other development down here on Rhimer Pond Road and
21 Hardscrabble Road, which is gonna have another impact on us, along with the Mungo
22 development down on Longtown Road, along with this other one that you just now
23 approved. When are we gonna get our road widened? What can you tell me about

1 that? Are there any funds in the state or the county government to widen our roads?
2 You can't keep approving these things until somebody knows how our roads are going
3 to be handled. How are you going to handle the traffic and the safety for the people
4 getting in and out of their homes by adding all these more homes? You can't do it
5 unless you change our roads. What are your plans for that as our Planning
6 Commission? None, I take it? We need something done, and I'm going to be here
7 every month and you're gonna hear from me every month, every time something comes
8 up for – that's gonna impact Hardscrabble Road, I'm gonna be here, and you're gonna
9 hear from me, and you're gonna start saying, please don't let this lady in here. You've
10 got to stop. I'm asking you, it starts with you, and I know you can recommend denial
11 and it still goes to County Council and they are gonna have to make their final decision.
12 But I'm asking you to don't approve anything else affecting Hardscrabble Road until you
13 know what they're gonna do to fix it. We're already 28% over capacity. How much
14 more over capacity are we going to be in six months, nine months, or a year? How
15 many more accidents are we gonna see on Hardscrabble Road? I invite each and
16 every one of you to come sit at my house and try and pull out of my driveway – not my
17 driveway, but my street, that goes into my community any time of the day or night. You
18 will not be able to pull out without sitting and waiting, and as far as making a left hand
19 turn, forget it. The only way you are gonna go is making a right and that's anytime of
20 day or night. Please, stop approving all these projects until the road is fixed. Thank
21 you.

22 CHAIRMAN GREEN: Vanessa English.

23 MR. PALMER: Can I just make one comment? Which subdivision was that?

1 MIMERICK: I live in Ashley Place.

2 **TESTIMONY OF VANESSA ENGLISH:**

3 VANESSA ENGLISH: Finally I speak. What I would like to -

4 CHAIRMAN GREEN: If you would for the Record give your name and address.

5 ENGLISH: Oh, I'm sorry. My name is Vanessa English, I live at 596 Rhimer
6 Pond Road, in Blythewood, and I've been there since 1991, so I've been there thirteen
7 years I guess now. I'd like to first read this statement from my husband and I'd like to
8 make some comments myself. "Ladies and Gentleman, we have owned our property in
9 Blythewood since 1987. Our motivation for moving to Blythewood was the rural zoning
10 and the lifestyle that it offers. This zoning was consistent with our views on how we
11 wanted to live and raise our families. Having lived in many large cities and having
12 maintained a hectic lifestyle, the idea of settling in a community with large parcels, low
13 density, and country roads, was most appealing. When we moved to Blythewood, there
14 was probably four or five homes on our one mile stretch of Rhimer Pond Road. Since
15 then, several more homes have been built and they have been consistent with the
16 current zoning. What has been created is a lovely, mixed community, complete with
17 horse farms, country estates and manufactured homes with a feeling of unity and
18 serenity. This zoning change request is not consistent or compatible with it's current
19 development, nor is it consistent with the current land use plan. The beauty of Richland
20 County is its diversity. If we allow every developer to do what he or she desires for the
21 express purpose of making money, not only will we have disgruntled and unhappy
22 residents, but more importantly, a community that can not meet the needs of the added
23 stresses. Roads, schools, police, and fire services, will all be affected. We could

1 continue to name other reasons why we, as a family, are against this zoning change.
2 However, these are just a few of the concerns, which have weighed heavily on our
3 minds. Vanessa and I want continued development in Blythewood for sure, but the
4 development under the same zoning guidelines that we bought into when we moved to
5 Blythewood. Thank you for the opportunity to voice our concerns. We respectfully ask
6 that you vote no. Sincerely, Alex English." You know, I just don't know what more I can
7 say. It's totally, totally unfair to allow a community to develop under a zoning ordinance,
8 have it developed that way, and then just decide that you're going to allow a developer
9 to come in, snatch a piece of land, and put in what he wants. The community has
10 developed already. What we have here is a Christmas tree farm that broke off a parcel
11 of their land and sold it. Now, I can break off a parcel of land and sell it, but is that right
12 then to allow, a subdivision to just come in and disrupt everyone else's lives? This is
13 not like there's just all this extra room, and extra land, just out there with nothing on it.
14 No water, no sewer, no power, no development, that needs to be developed. What's
15 going here is someone just wants to put some money in their pocket. And yeah, you
16 know, they can put money in their pocket, because hey, if I were specifically just
17 wanting to make money, that would be perfect. With what's developed around it,
18 throwing this little subdivision, surrounded by this lovely community? Sure it's gonna
19 sell, absolutely it's gonna sell, is it right? Is it fair? And is it just? We have all paid our
20 taxes to live in this community, developed the way it is for too many years, and a lot of
21 taxes, I may say. Now for you to just decide that, oh somebody wants to come and
22 throw a subdivision in there just to make some money. Oh mind you, this is someone
23 who doesn't live in the area, not planning to live in the area, has really no concern about

1 the community, which is already developed, but just wants to make some money off of
2 it. It's wrong, it is wrong. I know, in my heart, you've already made up your minds, I
3 mean, you've had mud thrown in your face today, we've all watched it. Your Staff didn't
4 have you adequately prepared. We've been waiting for over three hours. The people,
5 or the applicants who are proposing this zoning change, you're concerned about them
6 wasting their time, and the money that they have invested in trying to get this
7 development going. But, that's not – that's the cost of doing business. You know,
8 there's risk involved, and you have to invest money, and maybe it will work out, and
9 maybe it won't. But it is wrong, it is unfair, it is just down right mean spirited and
10 disrespectful, to allow something like this to go on in a community which has developed
11 so beautifully for the sake of making money. Obviously, I am so against this, I can't,
12 you know, I just can't stand it. I just can't stand it. But somewhere the madness does
13 have to stop. Somewhere it has to stop, and we should be able to have a community in
14 Richland County that's rural. Just as though we should be able to have a community in
15 Richland County that's PUD, or however, C-1, C-3, all the other zoning regulations that
16 you have, we should be able to have rural zoning as well. Why do you have to take that
17 away from us, or why would want to take that away from us? Now let's be diverse.
18 Let's think about everybody. Let's be fair. Thank you.

19 CHAIRMAN GREEN: Thank you. That is everybody that has signed up on this
20 particular agenda item. I'll open the floor for discussion on the commission.

21 MS. LUCIUS: You don't remember how we voted? I mean, you said we
22 approved the RS-1, but I'm wondering how the vote split out. Do you remember, was it
23 a close vote, was it unanimous?

1 MR. GOSLINE: I don't, from my recollection.

2 MS. LUCIUS: You don't remember?

3 MR. GOSLINE: [inaudible] it was not close, but I - it was not a close vote, but -

4 MS. LUCIUS: I mean, someone has said, you know, that we approved it and I
5 would just like to know how closely did we approve it?

6 MR. GOSLINE: We could go back and we could find out, but my recollection is it
7 wasn't a particular, it wasn't a close vote.

8 MS. LUCIUS: I didn't know this had come before us before because if I had
9 known I would have gone back and looked at the minutes.

10 MS. WYATT: I would just like to take this opportunity to say that we have spent, I
11 have spent discussions about the last five years, we're doing a Land Development
12 Code. It stresses how important the rural communities are. There is probably not a
13 nicer or prettier piece of property than rural areas along Rhimer Pond Road. Almost
14 every parcel that is in [inaudible], and I might add that as a real estate agent I had
15 [inaudible], but it's not deed restricted, prohibited to be subdivided. We are going down,
16 if this is approved, and change the whole character of that area. And for that reason
17 alone, those two reasons, that we need to keep the rural and we can't change the
18 character of existing neighborhoods that are especially deed restricted as those are, I
19 must that say I feel very strongly that we have to deny this request, and I am also
20 putting that in the form of a motion at this time.

21 MS. LUCIUS: I would like to second the motion and add that I have felt before
22 on other cases that sometimes we tend to look at rural almost like we look at D-1, as a
23 holding pattern until they get to do something better, and I agree 1,000 percent with

1 Barbara that we, I think rural is as important as any of the other classifications and that's
2 why I would have to second this. I think it's still usable as rural. I don't know I voted
3 when we changed it to RS-1. I would hope I would have voted against it. For that
4 reason I have to support the motion.

5 MR. HICKS: Mr. Price is going downstairs to look at those records.

6 CHAIRMAN GREEN: We have a motion and a second to send this forward with
7 a recommendation for denial. Any discussion on the motion?

8 MR. JACKSON: I am glad there's some concern about saving rural communities.
9 I've been fighting to preserve the rural communities and there's some comments about
10 roads and more roads and how roads are built [inaudible] and everything. [inaudible]
11 The CTC, County Transportation Committee, they have funds also to widen and pave
12 roads. What's been happening is that you have people in rural communities [inaudible]
13 roads for 30 years and didn't comment and the road wasn't paved. It's still not paved.
14 Clemson Road was just widened a few years ago. So there are agencies that's
15 responsible. The county is just part of [inaudible]. But there are agencies that are
16 responsible for paving roads or providing funds for various studies. As a Commission,
17 we have guidelines. Sometimes we have to follow those guidelines, we can say
18 somewhat to some degree in our decisions. But I just wanted to address the concern
19 about building roads, widening of roads and traffic congestion is not [inaudible] the
20 county, but there's funding and there are organizations in place now doing studies and
21 funding available for what [inaudible] also. But I have a certain concern about the rural
22 community and keeping the rural character on some parts of the county.

23 CHAIRMAN GREEN: Further discussion on the motion?

1 MR. VAN DINE: [inaudible] the property is still available for subdivision in three
2 quarter acre lots. It is not, it's like these areas would not be available for subdivision
3 under the rural zoning. While I think that's an important thing that needs to be
4 considered and dropping down to a 12,000 square foot, seems the character of this
5 area would be less than desirable considering what's built around it. So I think one
6 thing we do need to keep in consideration is that it does presently have [inaudible], it
7 does presently have the ability to use for residential, granted at a higher acreage. So I'd
8 just like everybody to keep that in mind.

9 CHAIRMAN GREEN: Any further discussion on the motion?

10 MS. LUCIUS: I'd like to hear the results of how the vote went for RS-1.

11 MR. HICKS: If we've got the correct property, and I believe we do, because it
12 was RU to RS-1, Rhimer Pond Road a mile west of Hardscrabble. It was case 04-17-
13 MA, and somewhat the same testimony. Let's see, I'm trying to find where the motion
14 is. Mr. Dunbar made a motion to approve that request. Mr. Jackson seconded it.
15 Approved: Palmer, Furgess, Lucius, Jackson, Van Dine, Green, Dunbar, McBride;
16 Absent: Wyatt]. It was unanimous.

17 MR. HICKS: What month was that, October?

18 MR. HICKS: Yeah, October 2nd. [inaudible] look at the case.

19 MR. VAN DINE: I would call the question.

20 MR. HICKS: Yeah, it had to have been the same parcel [inaudible].

21 CHAIRMAN GREEN: We have a motion on the floor to send this forward with a
22 recommendation for denial. All those in favor of recommending denial to County
23 Council please raise your hand. All those opposed?

1 *[Approved to deny: Furgess, Lucius, Jackson, Wyatt, Van Dine; Opposed to deny:*
2 *Palmer, Green, Dunbar; Absent: McBride]*

3 CHAIRMAN GREEN: This will go forward with a recommendation for denial to
4 Richland County Council, which will hear this motion on January 27th. Is that right Carl?

5 MS. LUCIUS: But with the RS-1 we would have seen the subdivision plat later.

6 CHAIRMAN GREEN: Later.

7 MS. LUCIUS: In this case, we approved this, we're approving this plan?

8 CHAIRMAN GREEN: We've already got a denial.

9 MS. LUCIUS: Right, I know. I just wanted to add that because I just wanted to
10 clarify why I was [inaudible] at this, because I too did not think it was very good
11 planning.

12 CHAIRMAN GREEN: And we have ended the public [inaudible] zoning changes
13 section of the agenda.

14 MR. VAN DINE: Real quick. When these plans come in, the general description
15 plans, would you make sure that there's either a statement that there is no [inaudible]
16 taking place or that there is a [inaudible] requirement that must be included in the
17 planning packages? One of the requirements of our [inaudible] it has to meet
18 [inaudible]. So you can tell anybody that's coming in that they need to describe the
19 [inaudible] aspect of it.

20 MR. GOSLINE: Yes, sir.

21 CHAIRMAN GREEN: I have a technical question for Staff. If or when Council
22 considers this request, on page three of the guidelines that they would submit to us at
23 the beginning, there is a sentence that says, "A 6.3 acre lot may be further subdivided if

1 the residential lots are open space." When we approve a PUD can there be language
2 that's acceptable in there that says we may do something different?

3 MR. GOSLINE: No. As far as the discussion in our Staff Report was that was
4 one of the discrepancies that we identified.

5 CHAIRMAN GREEN: So irrespective of what Council does, that sentence would
6 come out or Council would approve this?

7 MR. HICKS: We would recommend that it come out. We've had several other
8 comments on the description statement [inaudible].

9 MS. LUCIUS: Mr. Chairman, also in the descriptive statement on page 10 it's got
10 a statement that wetland areas [inaudible] aside as open space. I don't think wetland
11 areas qualify as open space, do you? [inaudible]

12 MR. GOSLINE: We have no definition of open space. We have used, we've had
13 projects where the open space was under power lines, ponds -

14 MS. LUCIUS: Aren't we putting into the new Code a definition of what qualifies
15 as open space, but we don't have it in the current Code?

16 MR. GOSLINE: That's correct.

17 CHAIRMAN GREEN: Let's move onto our next agenda item. We have road
18 name approvals.

19 MS. WYATT: Mr. Chairman, I move to approve these.

20 MR. PALMER: Mr. Chairman, just one thing. What are the chances of us getting
21 these full packages that are submitted to you guys?

22 MR. GOSLINE: Excuse me?

1 MR. PALMER: Can we just come down and get these full packages from you
2 guys, I guess, for whatever is submitted to you guys?

3 MR. GOSLINE: Yeah, but this -

4 MR. PALMER: Not this one, but [inaudible]

5 MR. GOSLINE: Yeah, what we will do and we've done in the past is we require
6 the applicant to give us enough copies, 45 copies, enough for everybody. That was one
7 of the problems with this one, we didn't get enough. We didn't even get enough to give
8 to the Planning Commission.

9 MR. PALMER: Okay, thank you.

10 CHAIRMAN GREEN: We'll move onto to the next agenda item. There's a
11 motion that's been made to approve the new road names passed out to you, subdivision
12 and street name approval. Do I hear a second?

13 MR. VAN DINE: Second.

14 CHAIRMAN GREEN: Any discussion? Those in favor of approving the
15 proposed subdivision names and street names please raise your hand. Opposed?

16 *[Approved: Palmer, Furgess, Lucius, Jackson, Green, Wyatt, Van Dine, Dunbar;*
17 *Absent: McBride]*

18 CHAIRMAN GREEN: We move to our next agenda item and the only other thing
19 I show is the discussion of the landscaping provisions. I guess my first question now,
20 Michael, I was asking you this about this earlier. We currently have a schedule before
21 us for two work sessions with County Council. One on the 14th of January and one on
22 the 15th. The last time I spoke to a County Council Member, they told me, "Well, that

1 was just a tentative schedule. I'm not sure." Do we have any final, absolute clarity as to
2 these two meetings?

3 MR. CRISS: No, sir, not final, absolute clarity. But, I can [inaudible] infer that the
4 meeting on the 14th will occur and the meeting on the 15th will not occur. The meeting
5 on the 14th is on the Council bi-weekly calendar, as is the following meeting of the 15th,
6 but only tentatively, and that's because subsequent to the establishment of this calendar
7 the County Council voted to go on retreat at [inaudible], out of town, starting Thursday
8 the 15th. And I just don't see how the meeting on the 15th can happen. Now I have no
9 further word as to a second work session with the Planning Commission. So I'm holding
10 to this calendar, except for the January 15th date at this time.

11 MS. WYATT: January 14th we feel very comfortable we can mark that off our
12 calendars.

13 MR. CRISS: The 14th is good, 5:00 to 9:00, 4th floor back conference room. All
14 right, but not the 15th.

15 CHAIRMAN GREEN: Okay, another question I had is that the Councilperson I
16 spoke to was under the impression they would have a full approved or recommended
17 document from the Planning Commission. Of course, we have to finish landscaping. I
18 don't know how far we will or won't get tonight. Is that a contingency of this meeting on
19 the 14th?

20 MR. CRISS: No, no contingency. The Council is well aware in the letter of
21 transmission from the Chairman, former Chairman Van Dine, to Chairwoman Scott of
22 County Council that landscaping has yet to be resolved by the Commission and that the
23 Commission hopes to forward landscaping recommendations to Council this month of

1 January. I'm going to pass out a copy of the final version of the transmittal letter as
2 signed by former Chairman Van Dine so you can also have that for your records. You
3 only have a draft.

4 CHAIRMAN GREEN: We have before us, I assume the 12/1/03 version that we
5 have in red ink is the same as the one that 12/1/03 is printed in blue.

6 MR. CRISS: The vicissitudes of Microsoft Word. That's the track changes
7 feature and depending on which computer operator, user prints the file, it comes out as
8 either principal and secondary authors, but the colors, the red versus blue has no
9 particular significance. They're all changes to be brought to your attention.

10 CHAIRMAN GREEN: Okay. We will start moving through this the same way we
11 worked through it before and see what questions or issues we will have and see if we
12 can move this particular item forward. I assume that on the - there are a number of
13 exhibits that go with this. I assume we're awaiting final text agreement before they go
14 forward. Does anybody have any questions or comments?

15 MR. VAN DINE: Are we using the one that is red and blue?

16 CHAIRMAN GREEN: Right. We had those prior comments or changes on page
17 175. Does anybody have anything, any issues they want to raise on page 175? Page
18 176? I am still unclear on 176 under "Exemptions for Single-Family Detached Two
19 Family Dwelling" section. Who is responsible for what in the landscaping of
20 subdivisions? What the original lot subdivider is responsible for and who's responsible
21 thereafter. For instance, the street protective yard, if the sidewalk is owned - I don't see
22 how the original developer can deal with the street protective yard, if all they're doing is
23 putting in the roads and subdividing the lots. Now I'm not sure to what degree this can

1 or can't require the subdivider who sells the lots to a builder or individuals can do with
2 regard to the street protective yard. I understand the tree protection. I understand the
3 buffer because that's around the external rim of the development. But I don't
4 understand the street protective yard being what the original developer would do.

5 MR. VAN DINE: The way I read this it says is the construction in the subdivision,
6 single-family, two family is subject to the street protective yard. Not saying the initial
7 developer [inaudible] because the word "initial development" has a strict -

8 CHAIRMAN GREEN: But then it says the [inaudible], it says, "Individual single-
9 family detached dwellings located on a [inaudible] lot shall not be subject to the
10 requirements." So why go buy a lot in a subdivision and hold it for four or five years and
11 decide later that I'm ready to build on it now. Am I exempt from that, or -

12 MR. VAN DINE: The wording [inaudible] individual single-family detached, two
13 family dwelling with Certificates of Occupancy, they have a subdivision that did not have
14 any kind of dwelling or building on it cannot have a Certificate of Occupancy, so that is
15 the restrictor that says that adding to existing lots, existing homes, existing buildings,
16 they would not be subject to the requirements of the section. However, construction
17 that takes place in a, one of those developments will be subject to those particular
18 provisions.

19 CHAIRMAN GREEN: Am I the only one that that confuses? If I am, I'll just
20 move on.

21 MS. ALMEIDA: Mr. Chairman, [inaudible] sometimes these subdivisions have
22 homeowners associations and when they're putting their by-laws together and they're
23 requiring [inaudible] part of the subdivision, that's normally a requirement that's put in

1 there and the person purchasing that lot, even though they're not, they may not be
2 developing that lot, and that's something that needs to be discussed. What's been
3 happening in other jurisdictions where you buy into a subdivision that has a
4 homeowners association, the builder that you choose was required to do whatever is
5 required of that development. Normally, they will have certain limited or small
6 requirements such as [inaudible] the frontage of the property. So that would be
7 something that would be put into the homeowners association, I would think. But that
8 would pretty much address those lots that were purchased and the individual owners
9 [inaudible].

10 CHAIRMAN GREEN: So moving down to the proper transition requirements,
11 that's only a lot by lot basis and not the responsibility of the developer, of the
12 subdivider?

13 MS. ALMEIDA: Where are you looking?

14 CHAIRMAN GREEN: Because it says, however, you [inaudible] development,
15 you have construction in the subdivision.

16 MS. ALMEIDA: Right.

17 CHAIRMAN GREEN: Shall be subject to the buffer transition.

18 MS. ALMEIDA: Well, if the developer is developing the entire parcel, like a
19 Mungo or Centex or something, they agree to everything. He is responsible for
20 everything at that time.

21 CHAIRMAN GREEN: What if that subdivider is building no homes and is not
22 involved in the construction in a subdivision as we've worded it here?

1 MR. VAN DINE: I would think that that [inaudible] maybe the subdivider is not
2 subject to the protective transition or buffer transition [inaudible]. Say, for example, if
3 Mr. Dunbar buys a lot in a subdivision, he is subject to those requirements because he's
4 doing the building, to make sure that it's in compliance with those.

5 CHAIRMAN GREEN: Who's responsible on the periphery of the subdivision
6 around the outside lots to provide the proper buffer yard between subdivision and the
7 adjacent pieces? Is that the responsibility of the homeowner?

8 MS. ALMEIDA: They would have to preserve that portion.

9 CHAIRMAN GREEN: That's what I'm not clear on in here. I know we jump back
10 and forth between the initial development and the construction in, but it's just not - I
11 don't think we're - I'm still confused about who's responsible at what stage to do what.

12 MS. ALMEIDA: Well, the buffering would have to be reserved on the front end.

13 MR. VAN DINE: I think you have to read this entire ordinance in full on a rational
14 basis. I don't see how a initial developer coming in can deal with street protective yards
15 or something that he's not -

16 CHAIRMAN GREEN: That's what I'm saying. [inaudible] the buffer, to me we
17 have a bit of a mixture here of things that the initial developer should do, that the home
18 builder should do -

19 MR. VAN DINE: But I think what we're taking out by getting rid of the initial
20 developer [inaudible] construction in, I think what we said is these are the things that
21 you have to meet. Who has to meet them is dependent on who would be disturbing the
22 land in order to make [inaudible]. I know there's a better way to say it than that.

1 MS. ALMEIDA: We have so many scenarios, so we can't address each and
2 every instance with that. So it's a generic menu, so to speak.

3 MR. HICKS: [inaudible] Whoever is on the site at the time to do the work is
4 responsible for protecting those trees. [inaudible].

5 CHAIRMAN GREEN: Anybody else have any questions on 176? 177?

6 MR. VAN DINE: I do have a question on 177 under (B)(2). Based on the motion
7 that we made and they were passed, under (2)(a)(iii), which exempted existing
8 buildings, the expansion requirement of 25% was supposed to have been removed
9 because it was any kind of change to that existing structure, whether it be the expansion
10 of floor space or expansion of parking would have brought the landscape requirements
11 back into existence. That was -

12 MR. PALMER: Back in existence for the expansion of parking.

13 MR. VAN DINE: For the expansion of the building.

14 MR. PALMER: For example, if you've got a -

15 MR. VAN DINE: Wait a minute, hold it. The motion that was done, and if we
16 have to come up with the minutes for it, the motion that was on the table was that we
17 were going to make existing structures and vehicle surface areas not subject to this,
18 unless there was expansion of the floor space or an expansion of the existing parking
19 area or the parking requirement. Now, I don't recall right now whether or not the
20 parking requirements became, or the landscaping came full applicable to that new
21 property or not. We might need to look at the motion for that. But I know that 25%
22 portion of it does not read into that document. There was no 25%.

23 MS. ALMEIDA: That's true.

1 CHAIRMAN GREEN: I don't know whether we need to revisit that issue, but if a
2 builder that has a minor expansion that's got to be brought back into full compliance,
3 then it's going to defeat one of our objectives.

4 MR. PALMER: Well, I don't know if made the motion correctly or not, my intent
5 of the motion, and if we need to readdress it then that's fine, is that - and the best
6 example I can come up with is if you've got a 100,000 square foot building that's vacant
7 with a parking lot, and for some reason somebody needs 110,000 square feet, that
8 additional 10,000 square feet and the additional parking requirements that would be
9 required under our rules on parking and that type stuff, that 10,000 square feet and the
10 additional parking would all have to fully comply with the new rules and regulations.
11 The stuff that's there, existing now is fine. There's nothing, you don't have to do
12 anything with it. But the addition, that's where you start getting into having to fully
13 comply with all this stuff.

14 MR. JACKSON: That's what I understood.

15 MR. VAN DINE: How do you define the - where the cutoff is for the extra
16 expansion? How do you define where your, the 10% increase in floor space, where is
17 10% compliance going to take place? Where do you deal with that?

18 MR. PALMER: For example, if you added 10,000 square foot on the side of the
19 building, then you've got to have the tree-scaping, whatever that comes in with this, and
20 if you've got to add another, I don't know, 40 parking spaces or whatever it is, then
21 those 40 parking spaces have to comply with this. Whatever you add has to comply.

22 MR. VAN DINE: Well, let's assume for a minute that you're not changing the
23 configuration of the parking. Where's the 10% go? Where do you put it?

1 MR. PALMER: Well, if you don't have to add anymore parking then you don't
2 have to add anymore landscaping.

3 MR. VAN DINE: You have 10,000 square feet that you've just added to your
4 building.

5 MR. PALMER: Whatever side buffer yard or anything like that comes in, then
6 that's where you -

7 MR. VAN DINE: Where are you going to put the 10%? How are you going to
8 figure out in that parking lot where that 10% goes? What constitutes 10% compliance?
9 What are you doing? I mean -

10 MR. JACKSON: If you have to add. You may not have to have 10% for parking.
11 You may not have it. I think of Decker Boulevard, Decker area, mall area as an
12 example that [inaudible].

13 MR. PALMER: But the tenant that was looking to come in there and redevelop
14 that property said, "well", and I don't know how many square feet that thing is, but just
15 say if it is 100,000 square feet, but the tenant said, "Look, our model, our prototype says
16 that we've got to have 110,000 square feet." Are we going to tell the guy that if you
17 have to have that - just you need to go find another piece of property, go out and buy
18 something and build something new, or are we going to let that guy have 10,000 square
19 feet and let that new stuff come in compliance with our rules and regulations and leave
20 the old stuff alone?

21 MR. VAN DINE: I think that we need a review of the motion that was passed
22 because that is exactly what the motion was. If you are increasing the parking spaces

1 or you are increasing the floor space, you must bring the property, not just that 10%,
2 that property in full compliance.

3 MR. PALMER: No.

4 MR. JACKSON: That's not the way I understood it.

5 MR. VAN DINE: I can't help what you understood. Please. I can't help what you
6 understood. The motion was stated [inaudible] and it was voted on. So if we are going
7 to go back, we need to go back and review the motion and if you want to look at it
8 again, then look at it again. But that is the motion that was on the table and passed and
9 part of this particular part.

10 MS. WYATT: If we're going to start changing motions that we've already
11 approved, I want to go back and address -

12 MR. JACKSON: I'm just saying what I understood. [inaudible] wrong. The
13 discussion we had was that any additional piece that was added would have to comply.
14 If it was stated wrong, well maybe it was stated wrong. But that was my understanding.

15 MR. VAN DINE: Where are you going to make the compliance take place?

16 MR. JACKSON: We discussed it already.

17 MR. VAN DINE: Where?

18 MR. JACKSON: We already discussed it.

19 MR. VAN DINE: I've given you your scenario. You want 10,000 additional
20 square feet. Where are you going to put it?

21 MR. PALMER: If you have to add 10,000 square feet, you've got to have the
22 land to put the buffer yard and that kind of stuff that is around that 10,000 square feet.

1 CHAIRMAN GREEN: Quick question. Michael's gone to look for a copy of the
2 motion. Why don't we, if we could, move to other issues and we'll - that's obviously a
3 major issue we've got to address. Let's let Michael find that language before we come
4 back to that and see exactly what the nature of the motion is and whether we need a
5 reconsideration. With the exception of obviously part of what was tied up in there was
6 the renovation and reuse that was stricken out of there, and I believe that, if memory
7 serves me, that was tied up in that overall motion.

8 MR. JACKSON: Right.

9 CHAIRMAN GREEN: Renovations would be exempted if we dealt with these
10 expansions. However we end up [inaudible], so we will skip that as well. Page 178? I
11 just had a question on the top of the page in paragraph, new paragraph (3) where it
12 says "Parking Reductions to Facilitate Compliance". I just - maybe we should cite the
13 section in the Code that refers to parking spaces as required by section - simply a
14 reference back to that parking chart.

15 MS. ALMEIDA: That might be - the reason that this portion was put in here
16 originally was to facilitate the [inaudible] sites, the reuse [inaudible].

17 CHAIRMAN GREEN: I understand. All I'm saying is just let's cite the section of
18 the Code somebody can flip to to find out what their parking requirements, whatever
19 that parking chart, section is. I guess my question under (4) is, is (4), if I'm following this
20 correctly, maybe I'm not because the numbers change, these - this section talks about
21 exemptions. Does item (4) belong in the exemption section, the existing vehicular
22 surface area?

23 MR. VAN DINE: I'm not sure the existing [inaudible] area is exempt.

1 CHAIRMAN GREEN: Go back up to (B) at the top of page 177. Maybe we've
2 just got too many strikeouts to figure out - it says (B) Must comply with the requirements
3 set forth in this section, except for the following:" Then we go (1), (2), (3), (4). And I'm
4 just wondering if that paragraph is misplaced or if I'm reading it right.

5 MR. VAN DINE: I think that is an exception because you have full compliance,
6 but it's saying that if you're using existing vehicular surface -

7 CHAIRMAN GREEN: I just wonder why that's in the exempt section.

8 MR. VAN DINE: If it's full compliance you have to meet those yards, but if it's
9 [inaudible] any existing vehicular surface. So if it's existing already, you're not going to
10 have to meet the requirements of that for full compliance. In essence what I think
11 they're saying is you don't have to come back [inaudible] don't have to come back and
12 add a buffer transition or street protective yard for an existing parking surface. So if
13 new construction takes place then you have to meet those requirements. If it had
14 existing surfaces, you do not have to meet the buffer transition and street protective
15 yard requirements. I think (3) we have to come back to again. If we want to come back
16 to the motion [inaudible] with (3) deals with the parking requirements as well. If we're
17 coming back to the other issue, that [inaudible].

18 CHAIRMAN GREEN: Any other questions or comments on 178? Just a very,
19 very minor point on the trees (2)(B), maximum of 25 [inaudible], do we want to say a
20 maximum of three? I think we have a maximum requirement. That's just a minor issue.

21 MR. VAN DINE: I think we ought to make it five.

22 CHAIRMAN GREEN: A maximum of five?

23 MS. LUCIUS: Yeah, I was thinking minimum of three.

1 CHAIRMAN GREEN: Anything else on 178? 179? The only thing that was
2 brought to me on 179 is that, and I guess you could always apply for a variance, is on
3 cul de sac streets you may have, may not have 40' frontage if you leave out the
4 driveway. It's at the bottom. Wouldn't that be practical to put a, that on some cul de
5 sacs you have literally driveways right there on the street frontage? So [inaudible]
6 something protected in the approved lots with frontage of less than "X" feet are exempt
7 from that or -

8 MR. VAN DINE: Do we have minimum width, lot widths?

9 CHAIRMAN GREEN: Yes. Pat do you run into that often?

10 MR. DUNBAR: Yes [inaudible].

11 MR. VAN DINE: Do we have a minimum lot width?

12 MR. CRISS: Some districts do.

13 CHAIRMAN GREEN: Residential.

14 MR. CRISS: Your zoning district comparative table might be a handy shortcut to
15 that.

16 MS. ALMEIDA: We're just stating that the, depending on what your frontage is, I
17 mean, if you have a frontage and your going to plant the larger trunk tree, you're going
18 to need or you should plant 40 to 50' apart. It's not actually telling you, what we actually
19 say is you need one tree per lot. So it's just getting into spacing requirements, not
20 necessarily telling you what your requirements are.

21 MR. VAN DINE: I think you have to look at the top of 180 and the things in that
22 whole sentence - no street protective yards shall contain less than one shade tree. If,
23 in fact, you have multiple pie shaped lots coming into a cul de sac, each street

1 protective yard would be relating to each piece of property. So you may not be able to
2 fit those.

3 MR. HICKS: [inaudible] right at the curb there.

4 MR. CRISS: The minimum lot widths in the rural district proposed to be 120', so
5 too with the rural residential, 120'. The residential, single-family estate district proposes
6 a 100' minimum lot width. Residential, single-family low density, 75'. The residential,
7 single-family medium density is 60'. Residential, single-family high density, 50'.
8 Manufactured home district, 60'. The residential, multi-family medium density proposed
9 to be 50'. Residential, multi-family high density proposed to be 50'. I believe those are
10 all the districts that have a minimum lot width.

11 MR. VAN DINE: But each of them would fall within that parameter of 40' or 30'
12 for a small [inaudible].

13 CHAIRMAN GREEN: Unless you had a [inaudible].

14 MR. HICKS: You don't measure that with [inaudible]. You're measuring spacing
15 between trees, aren't you?

16 MR. DUNBAR: I'm talking about the minimum lot width.

17 MR. HICKS: Oh, the minimum lot width, you don't necessarily measure that at
18 the front of the building line. You measure - it's a bit complicated. It's a lot easier to
19 draw than to explain, but when lots come to a point like that or close to a point, you pull
20 back so you've got the minimum lot width and that's where you start and measure your
21 front yard setback because that's where you have the legal lot width [inaudible]
22 throughout the entire lot. You have to have it somewhere, your frontage to start your
23 front yard.

1 MR. VAN DINE: But it could be 30' at the road and 50' [inaudible] the lot.

2 MR. HICKS: Yeah, that would achieve your compliance at that point.

3 MS. ALMEIDA: On page 179 under (2) it gives you that calculation [inaudible].

4 MR. DUNBAR: But if you could put it anywhere in the [inaudible]. That shouldn't
5 be a concern unless [inaudible]. That may be one that we had to work with the
6 inspectors to try to, you know, have a flag [inaudible].

7 CHAIRMAN GREEN: Anything on 180? 181? 182? 183? Just a little
8 clarification here. Under masonry walls under (B)(2) Materials, "The wall shall not be
9 cinderblock." What about changing that to "the exterior surface of the wall shall not be
10 cinderblock." Because you can stucco over a cinderblock. And just say the exterior
11 surface of the wall. Anything else on 183?

12 MS. LUCIUS: [inaudible].

13 CHAIRMAN GREEN: Where do they come out of?

14 MS. LUCIUS: Page 183? It's been so long, I can't remember now.

15 CHAIRMAN GREEN: The bottom, see §26-

16 MS. LUCIUS: Yeah, where is that?

17 MS. ALMEIDA: It would be on page 186(J). Front yard tree protection.
18 [inaudible]. Any trees within the buffer areas or tree protective yard [inaudible].

19 CHAIRMAN GREEN: Did that answer your question?

20 MS. LUCIUS: Yeah, I think so. I understand. This has gotten cold.

21 CHAIRMAN GREEN: Any other questions on 183? 184? 185?

1 MR. DUNBAR: I have a question and it goes back to the definition of [inaudible].
2 What is the definition of tree protective yard [inaudible]? In other words, from the size of
3 these trees that are protected in the tree protective yard and buffer yard [inaudible]?

4 MS. ALMEIDA: Yes.

5 MR. DUNBAR: That's part of the definition of tree protective yard, isn't it?

6 CHAIRMAN GREEN: It is.

7 MS. ALMEIDA: Well [inaudible] existing trees, is that what you're saying?

8 MR. DUNBAR: Well, what page are we on again, Gene?

9 CHAIRMAN GREEN: We're going now to page 184.

10 MR. DUNBAR: Okay. I'll just hold my comments until we get to tree size
11 [inaudible].

12 CHAIRMAN GREEN: On 185 under (3)(B), Plant Quantity, I thought we changed
13 that to vehicle surface areas to vehicle parking areas. On the first line we say, "Plant
14 Quantity" [inaudible] where surface areas already planted, I thought we agreed to
15 change that to vehicular parking areas.

16 MS. ALMEIDA: We did, yes.

17 CHAIRMAN GREEN: I mean, I believe that's a typo that [inaudible] 20 parking
18 spaces, not 200. Then again under (E) where it says Large Vehicular Surface Areas,
19 instead of having parking display areas at the end, I just think it would be clearer if we
20 said parking lots and vehicular display areas greater than two acres in size, rather than
21 sticking that part in parenthesis. Just say "Parking lots and vehicular display areas
22 greater than two acres in size". And leave out the large vehicular and bring up the
23 parking lots to the head of the sentence. It's clearer to me.

1 MR. VAN DINE: If you're going to do that you have to do it under (D)(1) because
2 the first part of (D)(1) is larger vehicular.

3 CHAIRMAN GREEN: Right.

4 MR. VAN DINE: For reading sake, I think we better leave it the way it is because
5 it's [inaudible] because otherwise you're going to have to start, every place you have
6 large vehicular surface area, you're going to have replace it with parking lots and
7 vehicular display areas.

8 CHAIRMAN GREEN: Well, the only problem I would have with that, Howard, is
9 the vehicular surface areas is a defined term in the document. We didn't define
10 something different than -

11 MR. VAN DINE: You're right.

12 CHAIRMAN GREEN: Parking lots and display areas. So we would have those
13 two changes from vehicular surface areas to just read parking lots and vehicular display
14 areas. Another question here, and maybe this gets us back to the issue of the vote we
15 took last time. It just says here, "In addition to the requirements set forth in §26-
16 176(G)(3)(b) above, all new and expanded surface areas greater than two acres . . .".
17 Does that conflict with our 25% language?

18 MR. VAN DINE: Where are you?

19 CHAIRMAN GREEN: I'm on the bottom of 185, in (E). After that title we just
20 talked about, I'm just wondering if this conflicts with at least what's presently written
21 earlier that says in addition to the requirements set forth in 26-176(G)(3)(b) above, all
22 new and expanded vehicular surface areas greater than two acres. We have the 25%
23 language. Wouldn't that be in conflict with it?

1 MR. VAN DINE: Well, I think there's a conflict with the thing that says all new
2 vehicular surface areas would have to meet it regardless. It wasn't 25% at all.

3 CHAIRMAN GREEN: Whatever we end up doing, we just need to - this needs to
4 be looked at. This sentence needs to be looked at.

5 MR. VAN DINE: We should expand it or not expand it because it's a separate
6 issue [inaudible].

7 CHAIRMAN GREEN: Well, I guess just the word [inaudible]. That's what I had
8 circled. Any other questions on 185? 186?

9 MR. PALMER: I've got a question at the end. Under (J), it says, "No grand trees
10 may be removed unless determined there is no alternative due to unavoidable grading .
11 . .", etc. Is that saying that if there's a grand tree in the middle of a shopping center,
12 there is an alternative not to build a shopping center there. Am I reading that wrong,
13 where it says, "There's no alternative to unavoidable grading or because of required
14 configurations of such utilities for buildings"?

15 CHAIRMAN GREEN: Well, if it's determined it's unavoidable then they permit it.

16 MR. PALMER: But I guess it would be avoidable if you didn't actually build a
17 100,000 square foot shopping center and you only built a 40,000.

18 MS. WYATT: It comes back to the building, so -

19 MR. PALMER: I just wonder if it can be determined, I mean, maybe not with this
20 Staff, but with maybe one 10 years down the road. Is that open for interpretation is
21 what I'm asking? Because it says, ". . . no unavoidable . . .".

22 MS. WYATT: [inaudible].

1 MR. VAN DINE: No because I think [inaudible] no alternative due to unavoidable
2 grading or because of the required configuration of the essential utility or building. And I
3 think that means if you're building your footprint, 100,000 square feet, that's your
4 building. So that [inaudible]. That's the way I read it.

5 CHAIRMAN GREEN: Who actually makes that determination? Is it a Staff
6 determination? BOZA?

7 MS. ALMEIDA: Staff and [inaudible].

8 MR. VAN DINE: They would appeal.

9 CHAIRMAN GREEN: Appeal to?

10 MR. CRISS: The Board of Zoning Appeals.

11 MR. VAN DINE: That's handled in the other -

12 MR. PALMER: [inaudible] conceivably if somebody wanted to build a rectangular
13 building and then there was a grand tree 10' out in the parking lot. Would they build a
14 little extension out of the footpad and knock that tree down if they wanted to? If they
15 didn't want to do all the requirements around the stuff?

16 MR. VAN DINE: I mean, you can always sneak anything - or try and sneak
17 anything -

18 MR. PALMER: I was just wondering.

19 MR. VAN DINE: I think if it's an odd shape to the building like that, they're going
20 to be questioned about the [inaudible].

21 CHAIRMAN GREEN: Anything else on 186? 187? I simply know that the top of
22 where we changed 10" to 9" and I just don't know remember us talking about that.

1 MS. ALMEIDA: Because a 9" in diameter is a 20" in circumference, [inaudible].
2 A 10" diameter is not a 20" in circumference.

3 CHAIRMAN GREEN: So conceptually we could change either the 10 to nine or
4 we could change the 28 to -

5 MS. ALMEIDA: Well, our existing Code has 28 in circumference, so.

6 MR. DUNBAR: My question related to the tree protective yard [inaudible]. If you
7 have a grading issue [inaudible] grade away from houses and the high [inaudible] of
8 tree is 10' from your house and you can't meet your grading, is the definition of tree
9 protective yard far enough away from the building envelope that you would [inaudible]?
10 You follow me?

11 MS. ALMEIDA: Well, your street protective - are you talking about the front of
12 the property?

13 MR. DUNBAR: Well, anywhere on the property. Specifically, you want to - the
14 biggest problem we have with protecting trees is if you've got a tree that's got a canopy
15 and you're building let's say a two-story house right next to it within 10', you can't protect
16 the tree. Plus it's going to have impact on the foundation of the house. So where are
17 you, let's say, exempt from that requirement? In other words, [inaudible]?

18 MS. ALMEIDA: Well, that's when you would go to the mitigation and you would
19 say, "Look, I need I need to cut those down because of X,Y, and I will replace them with
20 two of equal value or . . .".

21 MR. DUNBAR: Unless there's already enough trees there to -

22 MS. ALMEIDA: That's right.

1 MR. HICKS: I'm thinking it's rarely going to take place because the tree
2 protective yards start at the property line and move inward and generally don't encroach
3 on the building envelope. They shouldn't because [inaudible].

4 MR. DUNBAR: I mean, even if they came to the building envelope you would
5 [inaudible].

6 MR. HICKS: By building envelope I'm not talking about footprint. I'm talking
7 about the area on the lot in which you can build, which is considerably larger than the
8 building [inaudible].

9 CHAIRMAN GREEN: [inaudible] from that language that you add near the
10 bottom that says, [inaudible]. Do we define [inaudible] necessary area anywhere? I'm
11 trying to think of why we made that change.

12 MS. ALMEIDA: We made that change because [inaudible] is required. They
13 only need to do the plan for the area that is affected, not the entire parcel. So that's -

14 MR. VAN DINE: I think what we're trying to say was Mr. Mungo, [inaudible]
15 1,000 acres because we're not, you do have the lesser of the areas [inaudible].

16 MS. ALMEIDA: We're minimizing the area that you would have to do a plan,
17 [inaudible].

18 CHAIRMAN GREEN: Anybody have anything else on 187? 188? Under the
19 Mitigation, I'm assuming that mitigation policy refers to a lot that the tree is on?
20 Anybody else have any questions or comments?

21 MR. VAN DINE: [inaudible] the reality when we think about all these things.
22 When somebody has a huge tract of land they're in there under the accepted silviculture

1 [inaudible] of any value. So [inaudible] that we're talking about is probably never going
2 to come into play.

3 MR. PALMER: I have a question on page 188, why we took out language, "not
4 to exceed". As I read that it says the Zoning Administrator may require tree
5 replacement at a ratio of 4 to 1. He may require 4 to 1, he may require 5 to 1, 10 to 1.
6 It says that he can require 4 to 1. Well, he could require a whole bunch of things.

7 MR. VAN DINE: I think this is a flat statement. It says 4 to 1 ratio.

8 MR. PALMER: It says it may, not shall.

9 MR. VAN DINE: But he may require replacement at a ratio of 4 to 1. If he
10 doesn't require the 4 to 1, I don't think he can require it.

11 MR. PALMER: But he can also required anyway.

12 MR. ALMEIDA: No.

13 MR. VAN DINE: No.

14 MR. CRISS: He may choose not to require at all.

15 MR. VAN DINE: I think the way it's written here there's two options.

16 MR. PALMER: Either require 4 to 1 -

17 MR. VAN DINE: Or require nothing at all.

18 CHAIRMAN GREEN: But not to exceed the [inaudible].

19 MR. PALMER: Yeah, that's what I was thinking.

20 MR. VAN DINE: He can also provide for more latitude and say 2 to 1 as
21 opposed to 4 to 1, which would make sense.

22 MR. PALMER: Why was that 3 changed to 4?

1 MR. VAN DINE: Because of the discussion we had, but I can't remember what
2 we did.

3 MS. ALMEIDA: These are changes that you all made, so.

4 MR. VAN DINE: I think everybody [inaudible] I think we need to reinsert the "not
5 to exceed" language.

6 MS. ALMEIDA: So you do want the "not to exceed 4."

7 CHAIRMAN GREEN: I don't know why we changed it to 4.

8 MS. LUCIUS: I don't either.

9 MR. PALMER: [inaudible].

10 MR. VAN DINE: Well, the one that was done on November 4th originally said 4 to
11 1, then it went to 3 to 1, now it's back to 4 to 1.

12 MR. PALMER: Did we change it to 4 to 1?

13 MR. VAN DINE: It was originally 4 to 1. Then it was converted back to 3 to 1,
14 and on November 24th we brought back the 4 to 1. I can't tell you why.

15 MR. PALMER: I don't know either.

16 CHAIRMAN GREEN: Any other questions or issues other than the major point
17 that we have with regard to -

18 MR. PALMER: It ought to say "not to exceed 4 to 1".

19 MR. VAN DINE: Yeah.

20 MR. DUNBAR: I've got an administrative question and it probably has been
21 answered. There are all kinds of combinations and possibilities that are going to exist
22 with this thing [inaudible]. I mean, if we had a lot of heavily wooded lots that were built
23 on, a lot of things have to be taken out of the site, the building site, but then other trees

1 have to be taken out just to thin it out to where they would be healthy. How is that going
2 to work when there's specific requirements for not taking out trees of certain sizes
3 without replacing them with more trees? I mean, how are we going to deal with that?

4 MS. ALMEIDA: Well, the 9" in diameter tree is [inaudible] large too. [inaudible]
5 tree is large. It's not -

6 MR. DUNBAR: But that's, I mean, it's a tree this big. It's not unusual to have 10
7 or 12 of those in the front yard of a house, where literally one or two would be better
8 from the standpoint of being able to grow more healthy.

9 MR. PALMER: It also has to do with the grass and stuff too. You can't - grass
10 won't grow around a bunch of trees.

11 MR. DUNBAR: I don't know if we can answer the question here because
12 [inaudible].

13 MR. VAN DINE: Don't we have something on here that says something about
14 healthy trees or something like that? The introductory language I thought said
15 something about -

16 MR. DUNBAR: It says all trees in fair or better condition are to be protected. At
17 the top of page 7?

18 MR. VAN DINE: Yeah, I thought at the beginning it said something -

19 MS. ALMEIDA: Well, we're not encouraging anyone to [inaudible].

20 MR. JACKSON: How do you adjust tall trees close to a house, that they, you
21 know, could fall?

22 MS. ALMEIDA: Well, that would be a hazardous tree.

23 MR. JACKSON: Well then, it just seems kind of [inaudible].

1 MS. WYATT: It's a single-family residential home.

2 MR. JACKSON: But I'm just saying -

3 MS. WYATT: The way that sounded it sounded like a single person.

4 MR. JACKSON: I'm just saying the concern is that the cost, you know, cutting a
5 tree while doing development, [inaudible] potential that these trees would cause
6 anything else, a forest, and some trees just have higher branches because they grow so
7 high. Say you put a house there, there's no longer a concern. I've seen where people
8 are scared that - you have a heavy wind this tree will tumble because it's top heavy
9 because it doesn't have a support [inaudible] but houses there. So you have some
10 concerns also, and then for the individual landowner, it's going to be costly now to go
11 back and cut these trees down, additional cost on them while in the development
12 process when the developer is doing the site, they can calculate the height of the trees
13 to the potential danger to the property, of the house.

14 MS. ALMEIDA: Well, it's usually the beginning stage when they come in with
15 their lots and they show what areas they're going to preserve, they usually go ahead
16 and calculate what they're going to keep and what they're not. And a site visit is done
17 and if that's fine, there's discussions going back and forth, normally they won't leave two
18 or three trees right up against a house. They don't want to cut it down -

19 MR. JACKSON: Yeah, [inaudible] trying to keep it from the house, but trees
20 eight feet tall or something like that, so that was a concern.

21 MR. DUNBAR: That'll happen in the stage of the house [inaudible]. I've got a lot
22 in Lakeside subdivision that's got a lot of trees on it and I come in and get those
23 [inaudible] just to know that I'm going to try to comply with these requirements?

1 MS. ALMEIDA: That is correct.

2 MR. DUNBAR: Because I'm going to go clear the lot as soon as I get the
3 building permit [inaudible].

4 MS. ALMEIDA: Right.

5 MR. DUNBAR: And then by the time the inspector gets there, he isn't going to
6 know what trees were there before.

7 MS. ALMEIDA: Well, [inaudible] subdivision property is when we're looking at it,
8 not when [inaudible] development at that time. We're looking at it at that time and we'll
9 have a copy of what was approved and what's supposed to be retained on the property.
10 [inaudible] a tree that's 20" larger and needs cutting down at that phase, then you come
11 before us and say, 'Look, I need to cut this down because . . . '.

12 MR. DUNBAR: [inaudible] circumference?

13 MS. ALMEIDA: Right.

14 MR. VAN DINE: I think that the other thing that also, the trees that create a
15 hazard, those trees are going to be [inaudible] anyway. And also you've got the other
16 requirements of the protective yards and whatever that [inaudible] taller trees would be
17 taken out during the construction process, provided the other requirements are met. It
18 seems to me that there's certain requirements that you have to have [inaudible], and as
19 long as you stay within those requirements, you can take care of those.

20 MS. ALMEIDA: Well, that's [inaudible] tree.

21 MR. VAN DINE: I just remember someplace in here they talked about [inaudible]
22 I don't know whether it was here or someplace else where they talked about trees is
23 that they can maintain a healthy condition [inaudible].

1 CHAIRMAN GREEN: Mr. Criss, did you have any luck on the motion?

2 MR. CRISS: No, I haven't found reference to it in my personal notes. I'm going
3 to have get to the actual transcription to see if we have anymore success there.

4 MR. VAN DINE: It seems to me that the best thing to do is - apparently there
5 was some confusion as to what the motion was [inaudible] Mr. Palmer or someone who
6 voted in favor of the motion last time could just reopen the entire discussion.

7 MR. CRISS: Perhaps that would be -

8 MR. VAN DINE: And we go back and relook at it [inaudible] we can talk about
9 the [inaudible] here.

10 CHAIRMAN GREEN: I have a concern that we are discouraging reuse of
11 existing buildings.

12 MR. VAN DINE: And I think what the [inaudible]

13 MR. PALMER: I make a motion to reopen the discussion.

14 MR. DUNBAR: Second.

15 MR. PALMER: That was not my intent. My intent is to encourage development
16 of infill property and also understand the other side of the coin of while we need to
17 encourage it, we also need to somehow be able to bring, start bringing some of this stuff
18 into compliance on things. And my thought process was was that, for example, like I
19 said, if you've got a 100,000 square foot building and you add 10,000 square feet, which
20 may add an additional, I don't know, 20 or 30 parking spaces, then wherever you build
21 fresh, added on to it, then that's what has to come into compliance. I just think that's the
22 easiest and simplest way for us to try to encourage it. And also encourage people to
23 come back in to infill a piece of property.

1 CHAIRMAN GREEN: Let me ask, who was the second for that motion last time?
2 Whoever seconded that motion - Pat, did you second the -

3 MR. DUNBAR: I seconded the motion to -

4 CHAIRMAN GREEN: It's now reopened, he withdraws the second, whatever.

5 MR. VAN DINE: I'm sorry, a point of order. We need to vote to reopen the
6 motion.

7 CHAIRMAN GREEN: All those in favor of reopening this issue for discussion?
8 All opposed?

9 *[Approved: Palmer, Furgess, Lucius, Jackson, Green, Wyatt, Van Dine, Dunbar;*
10 *Absent: McBride]*

11 CHAIRMAN GREEN: It's reopened.

12 MR. DUNBAR: Pat and I agreed in principal -

13 MR. PALMER: Right.

14 MR. DUNBAR: And still do on the, we want to encourage reuse of some of these
15 old unused shopping centers. I have trouble picturing how you end up with, let's say
16 that - so you've got this parking lot out here and you've got this bare private parking lot
17 *[inaudible]* it's bare, it doesn't have any trees because we didn't require them. Then we
18 have 20 spots over here with a nice little island -

19 MR. PALMER: Well, maybe you have a minimum like we have the minimum of
20 two acres. If you add two acres of parking to a site, then you've got to come in with half
21 the requirements or something. I don't - that was my best stab at trying to get it -

22 MR. DUNBAR: I don't know the answer to it, but I think we do need to
23 encourage, without requiring, it'd be nice if had a magic wand and said everything's

1 going to be in full compliance when they do the deal, but that ain't gonna happen
2 because nobody's going to redevelop these old buildings.

3 MR. JACKSON: Okay, what I understood from the discussion is if there is an old
4 abandoned shopping mall or shopping center, why would someone want to come in and
5 tear up the parking lot and spend all that money putting trees because it costs so much
6 to do that. It would be easier for them to plan a property somewhere else.

7 MR. PALMER: Right.

8 MR. JACKSON: So you try to encourage these developers to redevelop piece of
9 properties, and the only thing we could ask is that if you're adding, that's what I
10 remember from the discussion, you have to bring whatever action is done into
11 compliance.

12 MS. LUCIUS: If there was some kind of incentive. I agree with you on an
13 incentive to make them want to do it. A little bit, maybe not the whole thing, but do a
14 little bit more. I'm thinking when you're talking about an abandoned shopping center, I
15 think about the one on Bush River Road.

16 CHAIRMAN GREEN: The old Target, Burlington Coat Factory?

17 MS. LUCIUS: Yes. That's horrible. I always picture that, you know, I
18 understand what you're saying. I will agree that if there was some way, some incentive
19 - and I don't know what it is.

20 MR. DUNBAR: Marcia, to use your example, this - if somebody came and
21 redeveloped that site, it's unlikely they're going to expand it.

22 MS. LUCIUS: Right.

1 MR. DUNBAR: So what if, and I think the way this was written out it's 25% of
2 expansion of space, right? What if we allow ones that don't expand space to live with
3 the current requirements, but the 25% expansion does kick in 100%? Because in most
4 cases the old shopping centers are going to get redeveloped as in the footprint they are,
5 they're just going to be reconfigured and not expanded.

6 MR. VAN DINE: What about the 25%, what about the 0 to 25% window that we
7 now have? With 25% full compliance you're saying no change [inaudible]?

8 MR. DUNBAR: What I would [inaudible] if you've got up to 25% you don't have
9 to do anything, but if you get 25% then you've got to do full compliance.

10 MR. PALMER: Well, another thing that comes to my mind too is, for example,
11 somebody's got an acre and a half piece of property with, I don't know, an old 1,000
12 square foot building sitting on it and it's on an infill piece of property. It's all run down
13 and there's all kind of stuff going on on the property that shouldn't be going on. How do
14 we get somebody to come in and buy that acre and a half piece of property to put a
15 10,000 square foot building on if they've got to bring the whole site into compliance?

16 MS. LUCIUS: Well, that's what I'm talking about, incentive. I don't know what it
17 is, I'm just throwing that out.

18 MR. PALMER: Because if they come in, they're not going to use that 1,000
19 square foot building. They're going to knock that down and put a new building on it,
20 which is going to enhance the neighborhood, enhance the area and revitalize things
21 and, you know, I'm, you know, Decker Boulevard revitalization and that kind of stuff, and
22 the turnover of the property and stuff, people are just going to continue to sprawl and go
23 further out northeast, further out, you know, everywhere else, rather than come back to

1 these areas if they've got to start doing, knocking down the old stuff, which costs
2 money, they're tearing up the parking lots and then start fresh. Why not just go out and
3 get fresh dirt and do it out there?

4 MR. VAN DINE: One of the things I, part of existing structures, there is a need
5 to try and get people to come back in to use those structures. To the extent that we're
6 dealing with those areas and saying, you know, it's encouraged it if you do it, but we're
7 not going to mandate that you do something, that really doesn't, I mean, I would prefer
8 that they had to do something, but on the other hand I can certainly live with the fact
9 that people are coming into [inaudible]. But when people are expanding the very
10 scenarios [inaudible] 2,000 square foot building and they're going to have to come in
11 and put a 10,000 square foot building, I think something of that magnitude should have
12 to come into full compliance because not only are they changing the floor space
13 dramatically, but they're changing the entire dynamics of what is going on in that area.
14 And I think with those particular areas, they're going to get revitalized and they're going
15 to be done in the scope of what you're talking about because there is a need for
16 whatever it is in that area, and the area then becomes the attraction, not whether or not
17 the piece of property is torn down or not.

18 MR. PALMER: I don't agree with that. If somebody has - looks at a piece of
19 property and they say, 'Well, I can do my business here. I've just got to knock this
20 building down and build a new building. Or I can go two miles down the road or a mile
21 down the road and there's a virgin piece of property sitting there'. Which one are they
22 going to take? And then you've an old abandoned building that's being used for, you

1 know, whatever by, you know, yeah, and it's just all run down. It's just going to continue
2 to sit there until the virgin land around it gets taken up.

3 MR. VAN DINE: But then why do we even have a landscaping code? Because
4 that's new construction -

5 MR. PALMER: Well, this isn't just something you throw your hands up.

6 MR. VAN DINE: No, that's the epitome of new and that is the definition of new
7 construction is to tear down something and put something new in its place. If you're
8 going to put something new in its place, then it ought to try and come in compliance with
9 present codes. If you're talking about taking existing structure, trying to get somebody
10 to come into the existing structure, deal with that existing structure and within the
11 confines with the laws that exist, that's an entirely different topic all together than
12 actually building a new building by leveling the old one and putting something else in
13 there.

14 MR. PALMER: Leveling the building isn't the same as leveling the parking lot,
15 you know?

16 MR. VAN DINE: If you're talking about leveling buildings -

17 MR. PALMER: Well, what I'm saying is is that if somebody comes in and then
18 takes out a whole building, and old shell of a building, and puts up a brand new one, the
19 parking lot's going to stay there.

20 MR. VAN DINE: And I think they ought to come in compliance with all the
21 provisions of the Code.

1 MS. ALMEIDA: Our existing Code requires that if you renovate, if you increase
2 or expand 50% or more, you're required to come into compliance with the Landscaping
3 Code. If you renovate property and it's 50% or more of the value of the existing -

4 MR. PALMER: Well, we can't do it by value because -

5 MS. ALMEIDA: Well, that's how it is right now. If it's 50% or more of the existing
6 cost of the building, and we get that from the tax assessor's office, it triggers the
7 landscaping requirement.

8 CHAIRMAN GREEN: The thing I think we have to stay away from is using the
9 appraised value of buildings, which is -

10 MR. JACKSON: Like I said, the discussion we had, what I remember was
11 addition to the building, not [inaudible].

12 MR. PALMER: I can understand if you're coming in and you're taking over a
13 whole four acre tract of land that's got a whole bunch of stuff on it and you come in and
14 master plan it. But I'm talking about, all over our county there's these little parcels.
15 They're just cut out, just individual owners, and some of them have old run down
16 buildings on them. Like, for example, the old bank building that's right in front of
17 Columbia Mall. I don't know who owns that, but to get somebody to come in there and
18 re landscape all that stuff, or to use that old bank building, or for example, at the corner
19 of Decker and Trenholm Extension, there's an old bank sitting there. Nobody's going to
20 come in there and use that old bank building because it's only good for a bank. And the
21 place it was sitting on in the lot is in the middle of the lot, which is - doesn't work. So
22 what I'm saying is, is if you get somebody to come up there and use that corner, rather
23 than have that old bank building sitting there and run down with weeds and everything

1 else, there's got to be some kind of incentive not, that we don't have to put more
2 restriction on them to come in, we need to give them some kind of reason to come back
3 and say, 'Hey, yeah. Instead of going out and cutting down two acres of trees and
4 paving it and that kind of stuff, I'm going to come back in and readapt this piece of
5 property and use for something good for the community.'

6 CHAIRMAN GREEN: Well, right now the language we have in front of us is
7 renovations are exempt, reuses are exempt as long as they don't change the footprint,
8 and the language as it was written, either correctly or incorrectly, provides that anything
9 up to 25% expansion is exempt. Is that correct? Does anybody have any motions in
10 terms of the language that they're wanting to change this differently?

11 MR. CRISS: I would note, Mr. Chair, that having a measurable threshold is
12 administratively clean, streamlined, simple. I agree, let's stay away from appraised
13 value, but you know, footprint or gross floor area of the buildings, that's something we
14 can keep up with.

15 MS. ALMEIDA: And I will also note that from a design standpoint, if you're going
16 to renovate property as far as bringing it up to compliance of current landscaping, you're
17 going to [inaudible] half or all of it, but this 10% and these percentages, you know, from
18 a design standpoint will not look right. And it will be very hard to administer.

19 MR. VAN DINE: My concern with the expansion on the language that's written in
20 here is 25% more gross floor area, 25% more parking, if I use, right or wrong, I use
21 Decker Boulevard strip, while there may not be anymore land that you could actually do
22 this on or expand, if that's 100,000 square feet of space in there, that means another
23 25,000 square feet of space can be built and nothing has to be done, and all you have

1 done now is enhance the problem down the road, so that down the road another 25%
2 could have done when it gets abandoned the second time around. Allowing the
3 expansion not to have some requirements for the landscaping is not meeting the
4 obligations that this Landscape Code is trying to apply. That's it. If Decker wants to be
5 fixed up under its present space and the present parking, then I'd rather have them use
6 it than not use it. But to allow something that large to expand itself and then become a
7 problem down the road is creating a bigger problem for us and all we're ending up doing
8 is doing what unfortunately is happening to the roads around here and that is we can't
9 do anything about it because we keep building on top.

10 MR. JACKSON: Nothing's guaranteed. I mean, that's a chance you have to
11 take.

12 MR. VAN DINE: I'm not willing to take it.

13 MR. JACKSON: Well, I'm just saying, just to leave it indefinitely and it's run
14 down, than someone, give some incentive to use it for what they'd like to use it for, I'd
15 rather them use and spend their money and, you know, [inaudible] than all of this
16 criteria they have to meet.

17 MR. PALMER: I mean, Howard, it sounds nice and it sounds nice and it sounds
18 great, but it's just not practical. It's just not going to happen in the real world. I mean,
19 you know, you're going to end up with vacant buildings and somebody's going to go
20 down and cut down a bunch of trees we're trying to save and trying to protect to build
21 another shopping center.

22 MR. DUNBAR: [inaudible] if you had that 25% example Howard's using, have we
23 relaxed our parking requirements for commercial parking?

1 MR. CRISS: Not substantially and we have maximums now.

2 MR. DUNBAR: We have - [inaudible] they're going to increase that abandoned
3 building 25%, they've still got to have the minimum parking. You know, unless they've
4 got more land to put into it, that would be impractical for them to do, wouldn't it? Now
5 [inaudible] increase the site that met the old minimums for parking and increase the
6 building 25% without increasing the size -

7 MR. CRISS: Many of our existing parking lots are super sized.

8 MR. DUNBAR: They're waiving their minimum?

9 MR. PALMER: Right.

10 MR. CRISS: So it really depends on the site topography and how much of a
11 building footprint expansion you're talking about.

12 MR. PALMER: Yeah, that's just some of the concessions you're going to have to
13 make in order to get redevelopment in some of these areas. It's just a reality.

14 CHAIRMAN GREEN: Well, page 177, we have specific language that, right or
15 wrong, is front of us. Does anybody have any motions or recommendations for changes
16 to the language we've have on 177?

17 MR. VAN DINE: Well, on 178, you've already got the parking reduction is
18 [inaudible] of reduction in the number of off street parking by 10% to help people get in
19 compliance with some of those provisions. That's one area where we provided an
20 incentive that allows some things to happen. I just - we are closing this [inaudible] by
21 saying 25%, we do it on a percentage basis, particularly when you have the size of
22 some of those other buildings that are [inaudible]. We're just, we're opening ourselves
23 up to big time problems.

1 CHAIRMAN GREEN: Howard, do you have a motion? Something you'd like to
2 change that to?

3 MR. VAN DINE: Well, I mean, my vote is that everybody has to become
4 compliant, but that's not -

5 MS. LUCIUS: I'll second that.

6 MR. VAN DINE: Rationally speaking I think I can sense where that one's going
7 in a hurry. But I think that the points made about existing structures needing to come
8 into compliance as they sit right there is a very valid point. You probably would not get
9 people to come into full [inaudible] compliance. I would like to see the existing
10 structures, if they maintain the parking surface or they maintain the existing structure,
11 floor square footage, fine. You've got your reduction, the other one that we talked
12 about. You don't have to come into compliance with it. But if you start to expand,
13 [inaudible] and you knock the whole thing down and start again, that is true new
14 construction and there's a reason why you're buying that piece of property if you don't
15 intend to use that building is because you think the property has value to your business.
16 So therefore the knocking down of the building becomes something that you're willing to
17 absorb the cost of. So I don't see that the concern with saying if you're knocking a
18 building down to put something else in place that that automatically is going to save you
19 someplace else. There's a reason why that property is there. It may be the cost, it may
20 be other things.

21 CHAIRMAN GREEN: We already have that language here now [inaudible] if you
22 rebuild you've got to come into full compliance.

23 MS. LUCIUS: That's in here?

1 CHAIRMAN GREEN: Under the new construction. By definition it's for new
2 structures.

3 MR. PALMER: So Howard, finding somebody in this day and time to come in
4 and fit in exactly to an existing structure, it's just not practical. It just doesn't happen.

5 MS. WYATT: It worked for Wal-Mart on Two Notch.

6 MR. DUNBAR: We've got language here that we have some disagreement on.
7 Why don't we take a vote on this language and see if we disagree, if we have a majority
8 to even leave it like it is. And then maybe substitute things that don't work.

9 CHAIRMAN GREEN: Is your motion to adopt basically 177 as written?

10 MR. DUNBAR: Yes. And I'm not necessarily saying - I'm just throwing that out
11 to get a vote on it so we can see where everybody stands.

12 MR. VAN DINE: If we're doing that we would not need to include the language
13 on 176 in that? Don't they all work together?

14 MS. WYATT: On page what?

15 MR. VAN DINE: 176 where it's - (2)(a)(3).

16 CHAIRMAN GREEN: We're really talking about, I guess -

17 MR. VAN DINE: On 176(2)(a)(3), is in direct relation to what we're talking about
18 under page 177 [inaudible].

19 CHAIRMAN GREEN: Your motion, Pat, is potentially that we adopt (2)(a)(3)?

20 MR. VAN DINE: I think his motion is to adopt (2).

21 CHAIRMAN GREEN: Adopt (2) for applicability as to -

22 MR. DUNBAR: Let's do that. Let's try that and see what it does.

1 MR. VAN DINE: So that would be all of (2), which would be page 176 to 177 to
2 where?

3 CHAIRMAN GREEN: To the bottom of 179.

4 MR. VAN DINE: No, I say we're going to -

5 CHAIRMAN GREEN: Where it says "plantings"?

6 MR. VAN DINE: Yeah, you're right.

7 CHAIRMAN GREEN: We've got a motion on the floor that we should
8 recommend to County Council the language contained in paragraph (2) labeled
9 "Applicability", which runs from page 176 through, to almost the end of page 179.

10 MS. WYATT: Does that mean the motion needs a second?

11 CHAIRMAN GREEN: Yes, is there a second to that motion?

12 MR. FURGESS: Second.

13 CHAIRMAN GREEN: There's a motion and a second that we adopt, or
14 recommend to County Council -

15 MR. VAN DINE: I'm not sure what we're voting on here because the numbering
16 system is so screwed up I can't figure out where things - 2(a) and here's a 2(b).

17 MR. CRISS: I think we used the parentheses [inaudible] mistakenly instead of
18 brackets, so -

19 MR. VAN DINE: What is actually, what's written under (b)? I see where (b) is,
20 where is (c)?

21 MR. CRISS: It looks like to applicability runs all the way to page 185.

22 MR. VAN DINE: Well, that's what I -

23 CHAIRMAN GREEN: I look at the bottom of 179 where it says "Plantings".

1 MR. CRISS: But that parenthetical is in the same indentation as the one and two
2 above it, so it's not [inaudible].

3 MR. PALMER: Is this any new - I thought we had something in here about a two
4 acre parking lot, is that right?

5 CHAIRMAN GREEN: We had some changes that we made to that [inaudible]
6 certainly some clarifications.

7 MR. VAN DINE: I think we need to talk about 185(3)(e), and that deals with
8 expanded and two acres in size for particular parking spaces. I think that plays into it.

9 MR. DUNBAR: Why don't we deal with the concept first and then we can try to
10 [inaudible] an agreement on the impact. Does that make any sense?

11 CHAIRMAN GREEN: One of the concepts is that with the renovation or reuse of
12 any existing building is exempt.

13 MS. WYATT: That's one concept.

14 CHAIRMAN GREEN: One concept. And the point that was made by some
15 people last time was until they know the whole concept it's hard to take in pieces.

16 MS. WYATT: My concept is that they have to come in compliance just like
17 everybody else.

18 MR. DUNBAR: Why don't we take that concept and vote on it and see if we can
19 stage it out to where we actually need to be? In other words, if the [inaudible] concept
20 is Barbara's condition that everybody's got to comply regardless, why don't we take a
21 vote on that and see if we get any agreement on that?

22 MR. PALMER: What do you mean, everybody's got to comply regardless?

1 MR. DUNBAR: Any kind of renovation, they've got to come into full compliance.
2 If they spend a dollar for any reason. Let's have a quick vote on that and dispense with
3 that thought. I make a motion, so we can get a vote on something, that everything has
4 to come in full compliance as a concept, and then we can deal with - I'm not saying I
5 would vote for that motion, but I'm going to make a motion just to get a vote on it.

6 MS. LUCIUS: Okay, I'll second.

7 CHAIRMAN GREEN: All those in favor of that motion, raise your hand. All
8 opposed?

9 *[Approved: Lucius, Wyatt; Opposed: Palmer, Furgess, Jackson, Green, Van Dine,*
10 *Dunbar; Absent: McBride]*

11 CHAIRMAN GREEN: Next is the existing structures. Forget about renovations
12 and reuse, right now it says, 'Existing structures are exempt from the requirements of
13 this section unless they're involved in new construction or expansion.'

14 MR. PALMER: Where are you?

15 CHAIRMAN GREEN: I'm on 176, "Existing building structures and vehicular
16 surface areas are exempt for requirements of this section unless they're involved in new
17 construction or expansion." So we're exempting anything that exists now. If you don't
18 touch them and you don't do anything to them, the way this document's written is that
19 they are exempt.

20 MS. LUCIUS: If you're just moving into the building -

21 CHAIRMAN GREEN: You just move into the building.

22 MS. LUCIUS: You're exempt.

23 MR. VAN DINE: You can renovate the interior, you just cannot increase the -

1 MS. LUCIUS: Footprint.

2 MR. PALMER: Which paragraph are we on again?

3 CHAIRMAN GREEN: On 176.

4 MR. PALMER: Why would you not be allowed to do that anyhow? Why do we
5 need a vote on it?

6 MR. DUNBAR: [inaudible].

7 MS. LUCIUS: I'm trying to understand the motion.

8 MR. PALMER: Unless they are involved in new construction, I don't -

9 MR. DUNBAR: So if you, let's say you want to buy one of these, it's dump and
10 you get the same [inaudible] and you just upgrade it to a nice looking building, the
11 inside's brand new, we don't mess with it.

12 CHAIRMAN GREEN: Well, it depends on how you classify renovation.

13 MR. DUNBAR: Where's renovation even mentioned?

14 CHAIRMAN GREEN: The [inaudible] renovation. It's on the bottom of 177 cause
15 we struck it off.

16 MR. DUNBAR: Okay, so that doesn't even apply.

17 CHAIRMAN GREEN: See the problem we had last time is that there was a
18 feeling among some folks that they were giving one thing they wanted to give something
19 else back. And it's hard for us to vote on these things individually because there's -

20 MR. DUNBAR: Why not try out this concept? If we have an existing structure,
21 but you're not going to increase the parking, you're not going to increase the footprint,
22 you can do anything as far as renovation to bring it up to standards without having to do
23 all the landscaping.

1 CHAIRMAN GREEN: And that's what this says now.

2 MR. DUNBAR: I throw that out as a concept and see if we have support on that.

3 MR. PALMER: [inaudible]

4 CHAIRMAN GREEN: Pat's looking to reconfirm an issue that we don't deal
5 outside of the footprint of the building. You can do anything you want to [inaudible] the
6 Landscape Ordinance.

7 MS. LUCIUS: Is that what this says now?

8 MR. VAN DINE: (d)(1) [inaudible] on page 177. Does that pick up your issue of
9 the 10% increase that they would have to come in compliance? That that 10% would
10 have to come into compliance.

11 MR. PALMER: Right.

12 MR. VAN DINE: Isn't that what it's saying?

13 MR. PALMER: Right. Also I want to have something in here - I like the two
14 acres because I think about the small pieces of property that we've got so much of in
15 this county that are infill pieces of property. I want to [inaudible] have to revitalize those
16 kind of things. And I think two acres is probably a good, a good job. I mean, you look
17 all up and down Two Notch Road [inaudible].

18 MR. VAN DINE: One, I mean, (d)(1) picks up -

19 MR. PALMER: (d)(1) sounds fine to me. That's what I was getting at. Any new
20 stuff would have to comply.

21 MR. VAN DINE: And by exempting, if we go back in and we say existing
22 [inaudible] structures don't have to comply. Everybody else has to comply, then all of a

1 sudden we go over here on 185 and say unless you reach a two acre threshold then
2 you don't have to comply either.

3 MS. ALMEIDA: No, what we're saying in 185 are the big, old shopping centers
4 that have - if you have a parking lot that's two acres or greater, in addition to your
5 landscaping what you're going to have to do are the actual planted medians.

6 MR. VAN DINE: Alright so then on 185 the two acres only relates to the
7 [inaudible] plantings?

8 MS. ALMEIDA: That is correct. It's not the site, it's the vehicular surface area,
9 parking area, whatever you want to call it. If you have, if you're going with the parking
10 area, then it's 200 parking spaces or more triggers this, these planting strips.

11 MR. VAN DINE: So this [inaudible] doesn't exempt someone building a new two
12 acre lot [inaudible].

13 CHAIRMAN GREEN: No.

14 MR. VAN DINE: Alright.

15 MR. DUNBAR: I think what we've got is we've got an agreement that something
16 [inaudible]. The concern is where between that and 25% expansion do we deal with it?

17 CHAIRMAN GREEN: Right.

18 MR. DUNBAR: So let me try another one. I make a motion that we approve it as
19 is with 25%. Let's see if that flies.

20 CHAIRMAN GREEN: There's a motion on the floor that we recommend the
21 language on 177 in paragraph 2 with regard to expansions as is written. That's 2(a)(b)
22 and (c).

1 MR. VAN DINE: Can I just offer an alternative to that? As initial steps to vote on
2 whether existing structures should have to comply with this ordinance. [inaudible]

3 CHAIRMAN GREEN: We just did that one.

4 MR. VAN DINE: I didn't think we got to that.

5 CHAIRMAN GREEN: Yeah.

6 MR. DUNBAR: If somebody will second my motion we'll get a vote and see
7 whether it goes.

8 MR. JACKSON: I second it.

9 CHAIRMAN GREEN: Okay, the motion is to recommend to County Council that
10 expansions less than 25% are exempt from these requirements. Those that are 25% or
11 more of an expansion are required to meet the requirements spelled out in 2(a),(b) and
12 (c) on page 177.

13 MR. PALMER: Can we somehow get a breakdown of this thing like we did
14 earlier with small and large developments that perhaps with small developments say it's
15 a, you know, 2,000 square foot building, that means a 250 square foot or 500 square
16 foot addition is going to make me come into compliance. Can we do some kind of
17 percentages for smaller structures, less than 100,000 and for larger structures more
18 than 100,000?

19 CHAIRMAN GREEN: Well, we have a motion on the floor right now that - lump
20 all buildings together and anything that's a 25% or more gross floor area expansion, 25
21 or less is exempt. Is there a second?

22 MR. JACKSON: Yes, I seconded.

1 MS. LUCIUS: If I understand the way this is written is full compliance will only
2 affect 25% or the whole thing?

3 MR. VAN DINE: If it's [inaudible] you don't have to come into any compliance on
4 any of these expansions until you hit 25% of the size.

5 MS. ALMEIDA: An expansion of 25% of the gross floor area would trigger 50%
6 compliance in the parking lot. Okay, the full compliance and the buffer transitions and
7 street protective yard have full compliance [inaudible]. That's what that means.
8 Anything over 25% increase in gross floor area, so they're not required to do the entire
9 parking area, they're only required to do 50%.

10 MS. LUCIUS: That was why I was asking.

11 MR. PALMER: Yeah, but my thought process is 25% of 100,000 is a lot more
12 than 25% of 2,000. That's why there needs to be some kind of a - to address your
13 concerns.

14 MR. VAN DINE: I just - I will tell you that I think that while existing buildings need
15 to have some concessions to help them operate and to get back in use, allowing the
16 25% figure that we're talking about, as it's stated in here, I mean, we are exposing -
17 there's a whole lot of different areas with a whole lot of [inaudible] and we can't do 25%
18 [inaudible]. If I understand what your issue is [inaudible] trying to it to a smaller size, I
19 don't know what the breakdown is of that, but 100,000 square foot building adds 25,000
20 square feet worth of floor space and we don't have to do anything, and you can add - if
21 you've got five acres of, or four acres of parking you can have another acre of parking
22 and not have to meet any of these requirements. And that's going from bad to worse.
23 I'd almost rather us stick with what we have now.

1 MR. DUNBAR: Right, and my motion doesn't mean I supported that position. I'm
2 just breaking it up.

3 CHAIRMAN GREEN: So we have a motion on the floor and a second to adopt
4 the language that currently is shown under "Expansion" on page 177. Any further
5 discussion? All those in favor of the language as it's written on 177, those paragraphs,
6 raise your hand. All opposed?

7 *[Approved: Jackson, Green; Opposed: Palmer, Furgess, Lucius, Wyatt, Van Dine,*
8 *Dunbar; Absent: McBride]*

9 CHAIRMAN GREEN: Would anybody like to call for substitute language?

10 MR. PALMER: I think we need to break it off into larger or smaller. It might be
11 some more work, but you know, [inaudible] for I don't know how long now.

12 MR. JACKSON: How about any addition has to be compliant?

13 MR. DUNBAR: I make a motion we change the 25% -

14 MS. WYATT: [inaudible]. So what was yours, half compliance? Is that what
15 you just said?

16 CHAIRMAN GREEN: He just said it would apply to the extended area only.

17 MR. JACKSON: Yeah, because that was the discussion we had previously that
18 what is added, that's the only piece would be -

19 MS. WYATT: Can't you see that almost being [inaudible] one end of the building
20 that looks very nice and the other -

21 MR. JACKSON: What I'm saying is exactly -

22 MS. WYATT: Which end of the building do you want to rent in? I can assure you
23 -

1 MR. JACKSON: [inaudible] take the time to decorate it or paint it or to make it
2 look acceptable. I'm not saying leave junk over here and over here it looks good.

3 MS. WYATT: [inaudible].

4 MR. JACKSON: [inaudible] And if somebody builds adjacent to that property,
5 right, it's going to look the same. [inaudible]

6 MS. ALMEIDA: It's going to be very difficult [inaudible] if they add six parking
7 spaces.

8 MR. JACKSON: Well then what works? I'm just saying.

9 MS. ALMEIDA: Because otherwise it would be 50%, that you know, 25, 50, I
10 mean, it gets -

11 MR. JACKSON: I understand. I understand, but I'm just saying, say a property
12 next to that property and someone decides to put a [inaudible] the building [inaudible],
13 I'm just saying that's [inaudible], right? Because you can't have a car dealership with
14 [inaudible]. You don't have to have a [inaudible] or anything.

15 CHAIRMAN GREEN: What if the approach was that let's say we dropped it
16 down to 20% [inaudible] that were less than 5,000 square feet. It would be a 20% rule,
17 but in no case would it apply to any expansion under 5,000 square feet. That would
18 take care of somebody -

19 MR. PALMER: Well, we say expansion, that doesn't get rid of the problem of -

20 CHAIRMAN GREEN: Well, whatever the number is.

21 MR. PALMER: When you say expansion, that doesn't get rid of the problem that
22 are on Decker. That's not going to be expansion, that's going to be a [inaudible].

1 CHAIRMAN GREEN: Right now the way this thing's written, that's new
2 construction, we haven't changed the definition of new construction. If you knock a
3 building down now, no matter what size it is, you've got to be in full compliance.

4 MR. PALMER: Even if you use all the parking lot and everything out there.

5 CHAIRMAN GREEN: If you knock the building down -

6 MR. DUNBAR: I make a motion to change from 25% to 10%.

7 CHAIRMAN GREEN: There's a motion on the floor to change the 25%
8 expansion to 10%. Is there a second?

9 MR. VAN DINE: The 10% means what?

10 MR. DUNBAR: That means if that if you go above 110 then you've got to come
11 into full compliance.

12 MR. VAN DINE: You're adding 10% more to the gross floor area or 10% more in
13 existing -

14 MR. DUNBAR: In the whole building as it currently sits.

15 MR. VAN DINE: Then you must come to full compliance for any expansion and
16 50% compliance [inaudible] vehicular surface area?

17 MR. DUNBAR: Right. [inaudible]. If you went to 100, if you just increased it 9%
18 you don't have to do anything. We've got to come up with a number we can live with is
19 the point. We've got about 10 different ways of [inaudible], so -

20 MR. PALMER: I don't think this path is the right track to go on, us trying to pick
21 an arbitrary number, just - [inaudible].

22 MS. LUCIUS: You're saying [inaudible].

1 MR. DUNBAR: No, I'm saying that if you go above 10%, you've got to comply
2 100%. So if you go out and buy that old run down shopping center and you're going to
3 [inaudible] less than 10% you don't have to do anything. Above that you've got to do
4 everything. As it is now, except in the expansion [inaudible]. Everything else stays the
5 same except the 25 goes to 10.

6 CHAIRMAN GREEN: There's a motion on the floor to send forward to County
7 Council a recommendation that with regard to expansion a 10% addition would trigger
8 subparagraphs (a), (b) and (c) [inaudible].

9 MR. VAN DINE: And it would have no impact on [inaudible].

10 CHAIRMAN GREEN: [inaudible].

11 MR. VAN DINE: I will second it.

12 CHAIRMAN GREEN: There's a motion and a second for the 10% rule on
13 expansion. All those in favor of recommending the 10% cut off please raise your hand.

14 MS. LUCIUS: [inaudible].

15 CHAIRMAN GREEN: We're looking at [inaudible] except we changed the 25% to
16 10.

17 MR. CRISS: A threshold that would trigger landscaping requirements sooner for
18 more projects.

19 MS. LUCIUS: But it would be [inaudible]. Well, that's not exactly right then.

20 MR. PALMER: Yeah, it is.

21 MS. LUCIUS: It is?

22 MR. PALMER: Do you think we could possibly come up with a three or four
23 person sub-committee to meet within a week to come back with some alternatives?

1 CHAIRMAN GREEN: I don't know [inaudible]. We have a motion on the floor of
2 10%.

3 MR. DUNBAR: Just so everybody will understand what we're voting on.

4 CHAIRMAN GREEN: We are changing the language in paragraph 2 under
5 Expansion to read, "Any structure in which there is an expansion that equals 10% of the
6 gross floor area or 10% of the existing surface parking area . . ." then (a), (b) and (c) as
7 written would apply. That's the motion on the floor.

8 MR. VAN DINE: Up to 10% though do not have to comply.

9 CHAIRMAN GREEN: Right. There's a motion and a second.

10 MR. VAN DINE: On the parking area - Marcia, 50% on the existing parking, full
11 compliance on the additional parking.

12 MS. LUCIUS: Okay.

13 CHAIRMAN GREEN: That's the motion we have on the floor.

14 MR. VAN DINE: [inaudible] if your expansion of gross floor area or existing
15 parking area were to increase by 10%.

16 MS. LUCIUS: Fifty percent on existing parking.

17 MR. CRISS: And full compliance on the other two paragraphs.

18 MS. LUCIUS: Okay. I've got it.

19 CHAIRMAN GREEN: Those in favor of the motion please raise your hand.
20 Those opposed?

21 *[Approved: Furgess, Lucius, Jackson, Wyatt, Van Dine, Dunbar; Opposed: Palmer,*
22 *Green; Absent: McBride]*

23 CHAIRMAN GREEN: Okay.

1 MR. VAN DINE: So do I understand that now we have taken care of 2(a)(3),
2 2(b)(2) and all the other [inaudible], correct?

3 CHAIRMAN GREEN: On 2(a)(3) we didn't change [inaudible], 2(b)(2) we
4 changed to 10%.

5 MR. VAN DINE: Alright just to clarify, to go back to page 185, 3, other than
6 making the changes [inaudible] we're not making any changes to [inaudible], correct?

7 CHAIRMAN GREEN: That is correct.

8 MR. VAN DINE: And the only other change that we made was to add that in the
9 not to exceed on [inaudible].

10 MS. WYATT: Mr. Chair, at this time I'd like to make a motion that with these
11 changes that we've voted on, that we send this forward to County Council with a
12 recommendation of approval.

13 MS. LUCIUS: Second.

14 CHAIRMAN GREEN: We have a motion and a second. Any discussion?

15 MR. PALMER: Yes. I would like to see some kind of [inaudible] these small
16 parcels of land, but if that's not something that you guys want to see then that's fine.
17 But trying to get somebody to come in and redevelop a small piece of land [inaudible]
18 we're just going to continue the [inaudible] of small, unused, undesirable buildings along
19 our major traffic corridors. These are small guys that don't have that much money. You
20 know, for example, a guy that's working for somebody else on a, in a car audio shop
21 and he thinks he's got enough money built up and enough [inaudible]. Well, he's not
22 going to go out there and redevelop the shopping center. He's going to go out and find
23 a building or something, but most of the time [inaudible] it's going to cost more to bring

1 that building up to code than it is to spend a couple thousand dollars knocking down a
2 building, something fresh that looks good and it helps the community and it makes
3 everything look better. There's some small piece of land, small parcel and if he's got to
4 come into compliance with all the landscaping and everything else, the parking lot and
5 all that kind of stuff, then it's just a burden on somebody that's trying to come back in
6 and redevelop the community.

7 MR. JACKSON: [inaudible].

8 MR. PALMER: Right, a small business. I would just like to see something like
9 that to help small business owners.

10 MR. DUNBAR: Pat, there's nothing to keep us from modifying [inaudible].

11 MR. VAN DINE: I think the problem with that is all we're doing is, we're not
12 [inaudible] advancing the landscape requirements of this county in compliance. Even
13 taking that step I think that someone coming in [inaudible] coming in and put up a shop,
14 he's not going to come in and level that building. That type of person is going to come
15 in and adapt that use with the building that is existing. The person that's going to level
16 is somebody who comes in and says, 'I'm going to level this and I'm going to expand it
17 to 5,000 square feet and then I'm going to sell it for a greater profit'.

18 MR. PALMER: That's not true.

19 MR. VAN DINE: And - well -

20 MR. JACKSON: [inaudible] and there's no incentive to fix it.

21 CHAIRMAN GREEN: Is there a size, something less than a given size would be
22 exempt?

1 MR. PALMER: I'm not talking about large stuff. An acre and a half I guess, an
2 acre.

3 MR. VAN DINE: I don't think we want to [inaudible] any size like that because
4 our [inaudible] to fix this county -

5 MR. PALMER: I think we're fixing the county by encouraging people to come
6 back and [inaudible] on Two Notch Road coming into the city and redevelop those areas
7 rather than put an additional burden on the small business community. You're giving
8 them an incentive to come back in and do that.

9 CHAIRMAN GREEN: If you want to bring some specific language let's look at it
10 and submit it to Council.

11 MR. PALMER: But it would be part of this package.

12 CHAIRMAN GREEN: No, it would come subsequently. We have motion on the
13 floor to send this forward to Council. Discussion on the motion? My only problem is I'd
14 like to see it at least one more time. I mean, I just -

15 MR. CRISS: Mr. Chair, if it pleases the Commission we would like to republish
16 just section 176, Landscaping Standards, just showing the changes you made today
17 and get your consensus on the correctness of the language. Then we will transmit it to
18 County Council under cover of a letter from the Chair.

19 MR. VAN DINE: I make a condition we do it the way we did it before. We'll make
20 the changes, get it to us. We have the opportunity to get with Mr. Green and talk about
21 -

22 MR. CRISS: Coordinate.

23 MR. VAN DINE: If Mr. Green does not have any comments from anybody -

1 MR. CRISS: Then we'll turn it all to blank ink and forward it to County Council. I
2 expect we'll try to get that done this week.

3 CHAIRMAN GREEN: That's your amended motion, what you just said?

4 MR. VAN DINE: Yes.

5 CHAIRMAN GREEN: We'll vote on the amended motion. Those in favor, raise
6 your hand. Those opposed?

7 *[Approved: Furgess, Lucius, Jackson, Green, Wyatt, Van Dine, Dunbar; Not Voting:*
8 *Palmer; Absent: McBride]*

9 CHAIRMAN GREEN: Any further business to come before the Commission? Do
10 I hear a motion for adjournment?

11 MR. VAN DINE: So moved.

12
13 *[Adjourned at 6:35 p.m.]*