

RICHLAND COUNTY PLANNING COMMISSION
April 9, 2018

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[Members Present: Prentiss McLaurin, Beverly Frierson, Stephen Gilchrist, David Tuttle, Mettauier Carlisle, Ed Greenleaf [in at 3:12], Wallace Brown, Sr.; Absent: Heather Cairns, Karen Yip]

Called to order: 3:05 pm

CHAIRMAN GILCHRIST: Good afternoon. I would like to call the April 9th Planning Commission meeting to order. Please allow me to read into the Record: In accordance with the Freedom of Information Act a copy of the Agenda was sent to radio, TV stations, newspapers, and persons requesting notification, and posted on the bulletin board located in the County Administration office. Thank you very much. Go ahead.

MR. TUTTLE: How many cases are, are left today on the Agenda?

MR. PRICE: We have five cases but one was withdrawn so you'd have four.

MR. TUTTLE: So, so my particular Agenda doesn't have –

CHAIRMAN GILCHRIST: 18 –

MR. TUTTLE: - 18 –

CHAIRMAN GILCHRIST: 18-10.

MR. TUTTLE: - 9 or 10.

CHAIRMAN GILCHRIST: I have 10 here.

MR. TUTTLE: Mr. Chairman, if –

CHAIRMAN GILCHRIST: Yes, sir, Mr. Tuttle.

MR. TUTTLE: - if you could ask if the Applicant happens to be here for Case No. 18-010, Sloan Road?

CHAIRMAN GILCHRIST: Linda Powell?

1 MR. PRICE: Excuse me, the applicant submitted a letter to Staff asking that this
2 case be withdrawn.

3 CHAIRMAN GILCHRIST: Okay.

4 MR. PRICE: And it was administratively granted.

5 CHAIRMAN GILCHRIST: Okay.

6 MR. TUTTLE: Okay, Mr. Chairman, I'd like to make a motion that we approve the
7 Consent Agenda with the exceptions of Case 1., 2., 3, and 4.

8 MR. BROWN: Second.

9 CHAIRMAN GILCHRIST: Okay, so moved and properly seconded that we
10 approve the Consent Agenda as amended. All in favor signify by raising your hand. All
11 opposed?

12 *[Approved: McLaurin, Frierson, Gilchrist, Tuttle, Carlisle, Brown; Absent for vote:*
13 *Greenleaf; Absent: Cairns, Yip]*

14 CHAIRMAN GILCHRIST: Alrighty. First case. 18-008 MA.

15 **CASE NO. 18-008 MA:**

16 MR. PRICE: Okay, the first item is Case 18-008 MA. The Applicant is Tony
17 Cates, the location is 1045 Marina Road. The Applicant is requesting a rezoning of 17.3
18 acres from Rural to General Commercial. Staff's recommendation for this request is for
19 disapproval. This was based on, this was based on the Comprehensive Plan
20 recommends that the, because this is located in a neighborhood activity center, that the
21 commercial or institutional uses necessary to support the common day-to-day demands
22 for the surrounding neighborhoods for goods and services as well as supply limited local
23 office space demanded by neighborhood businesses. It is Staff's opinion that the

1 requested zoning of General Commercial is not consistent with these objectives and
2 policies as it will permit more intensive uses than this, than the Comprehensive Plan
3 recommends. Also, Staff feels that this would create a fragmented zoning pattern along
4 Marina Road by leapfrogging the Rural district zoned parcel adjacent to the subject
5 parcel. For this reason Staff recommends disapproval.

6 CHARIMAN GILCHRIST: Okay, any questions for the Staff? We do have a
7 couple persons signed up to speak. When we call you up please come to the mic,
8 excuse me.

9 MS. HEGLER: Chairman, before you do that can I ask you to do a public notice
10 announcement, or did I miss that?

11 CHAIRMAN GILCHRIST: I think you may have missed that, but I can certainly do
12 it again.

13 MS. HEGLER: No, you're good. Thank you.

14 CHAIRMAN GILCHRIST: Okay, great. So we'll give you two minutes to come
15 and, and present your case to us. When we call your name give us your name and your
16 address for the Record. The Applicant, Richard Bennett?

17 **TESTIMONY OF TONY CATES:**

18 MR. BENNETT: For the record, Tony Cates and I'm the Applicant with Richard
19 Bennett who is the owner, so I'll speak on his behalf then he'll add something. First off I
20 wanna just thank y'all for taking the time to listen to us today for this request. Also, and
21 wanted to thank Staff for how helpful they were in this process. First thing I wanna
22 discuss is the neighborhood activity center. As stated in the Staff's proposal here it
23 states it should provide the commercial uses necessary to support the common day-to-

1 day demands of the surrounding neighborhoods. This area is a lake-based community,
2 it was established because of the lake, it is growing because of the lake, and the road
3 we're on is even named Marina Road. We are proposing a boat storage facility and,
4 with the lake being the common reason for this community, we feel like a boat storage is
5 definitely providing the commercial uses for day-to-day demand for this area. So when
6 we were looking at it we figured out that can, during our pre-app, can fall into two
7 different areas, either the GC or the Neighborhood Commercial. When we looked at the
8 map that's online right now is shows the parcel to the north and I guess northeast of us
9 as General Commercial. And in looking at it there's no other Neighborhood Commercial
10 in the area, so being contiguous, being with the area we decided to submit for General
11 Commercial. We found out that there's a discrepancies between the online map and
12 what the County has in their records as the parcel to the northeast of us is not actually
13 General Commercial. And so that was the first we heard of not being contiguous, but I
14 would like to bring up kinda three different points as to why I think this rezoning does, or
15 we do favor rezoning. One is I feel like we still are contiguous cause across Marina
16 Road is a General Commercial use so contiguous across the road would make us one.
17 Two, we're the next parcel down Marina Road that is commercial, the corner is a bank,
18 the next piece is, is currently used as a communication tower, and then this parcel. So
19 again, we're the next one in line. And three, there was a precedent set a couple years
20 ago that the Marina restaurant and apartments was rezoned to General Commercial on
21 Marina Road with nothing else contiguous around it. So this Commission and the
22 Council showed that Marina Road can handle General Commercial. So, you know, we
23 feel like those three things kinda favor rezoning. The other two things I wanna talk about

1 real quick are, are demands in this area are traffic and schools. First the traffic, it's a
2 huge issue and you'll hear it probably from the community, they don't want extra traffic.
3 Well, we are in the process of deed restricting and coming up with some kinda
4 document that will limit this parcel to only boat storage facility. We're working with the
5 community, we've been to two meetings with them and we think we're getting close to a
6 final document now. And that use with a 400 unit boat storage would generate 15 trips a
7 day. In the current zoning they could have 17 houses which would generate 75 trips a
8 day. If this was rezoned to what is contiguous which is RS-MD that would generate 70
9 homes and 315 trips a day. So this is the least extensive for traffic in the area. The other
10 I'd like to talk about is the school district. There is a –

11 CHAIRMAN GILCHRIST: You got one more minute, I'm gonna let you take –

12 MR. CATES: I'm just about, I'm just about done.

13 CHAIRMAN GILCHRIST: Yeah.

14 MR. CATES: The school district, which that's a major issue. You know Lake
15 Murray Elementary is already busing people to two other schools. This is not gonna
16 create any extra pressure on the school district. So with that, I mean, our opinion is we
17 meet the Comprehensive Plan, we're contiguous to GC, we've taken care of two major
18 concerns on Marina Road, and with that we would just ask the Planning Commission to
19 recommend approval to City [sic] Council. So thank you.

20 CHAIRMAN GILCHRIST: Thank you, Mr. Cates. Leslie Tweed?

21 MR. PRICE: I don't think he gave his address?

22 CHAIRMAN GILCHRIST: Okay. Mr. Cates, we need your address, please, for
23 the Record.

1 MR. CATES: 955 Old Cherokee Road, Lexington, South Carolina 29072.

2 CHAIRMAN GILCHRIST: Thank you. Mr. Tweed?

3 **TESTIMONY OF LESLIE TWEED:**

4 MR. TWEED: I'm Leslie Tweed, I live at 111 Saratoga Road, Irmo, that's right off
5 of, right there in Ballentine off Marina Road. I've been there 21 years. One correction I
6 wanna make is that the Lake Murray Marina, that had been commercial long before I
7 even lived there 21 years ago so when the apartments went in, that was not something
8 – it could change, I mean, it had the opportunity to do it because it was General
9 Commercial. I've been a part of the Ballentine Civic Association for the last 20 years
10 and president, vice-president, many, many times but not currently. In this particular case
11 we've evaluated this project and what he has to say about impact on schools and
12 highways, it's true about the amount of people that would come and go and that's
13 actually not too bad of an idea. The size of the vehicles could be of interest, but one of
14 my main concerns here is that if this were to be turned into a commercial property but it
15 could be something where in zoning, and I don't know zoning inside out, but where you
16 had things like PUDs or PDDs that was absolutely a planned thing. Because when they
17 came to our meetings, they were at two meetings, weren't at the last one, and they gave
18 us some, like large poster things that represented a vision of what something like this
19 might be, but it was not their renderings, it's not that they had them done, it was
20 somebody else's project that had done. And they also showed, like an aerial view of the
21 layout of buildings, etc. with not, you know, real tall and 24 hour storage, beautiful walls
22 around it, nice setbacks and everything, so they painted a rosy picture but there's been
23 no follow through on any specifics of their project. Without any kind of guarantees to the

1 community that what they propose would actually be, we have to ask for this to be
2 denied. If in the future this could be wrapped up and all the specifics as we have used,
3 people are very knowledgeable and are developers that have given them information
4 about what deed restrictions we're looking for for it not to change, I don't see that we
5 would have to oppose this, if it could ever come down to exactly what it's supposed to
6 be.

7 CHAIRMAN GILCHRIST: Thank you, sir.

8 MR. TWEED: Thank you.

9 CHAIRMAN GILCHRIST: Appreciate it.

10 MR. TUTTLE: Mr. Chairman, if I could interrupt to ask Staff a question?

11 CHAIRMAN GILCHRIST: Yes, Mr. Tuttle.

12 MR. TUTTLE: I just wanna make sure –

13 MR. TWEED: A question for me?

14 MR. TUTTLE: No, no, for Staff.

15 CHAIRMAN GILCHRIST: No, sir. Staff.

16 MR. TUTTLE: You know, we're always in a unique position here in the fact that
17 what's before us is a straight rezoning. And we can only go by the zoning that's before
18 us and it's not a PDD so there aren't guarantees, etc. So my understanding is what's
19 before us would be anything that's allowed under the GC classification in Richland
20 County would be allowed if this were to pass. A use is not anything that's in front of us,
21 it's the entire category, is that correct?

22 MR. PRICE: You're correct. And also I wanted to make sure I interject to that. If
23 there is a, some type of agreement, some of the covenants with the restrictions placed

1 on the property, Richland County would not be a party to that. So that would actually be
2 between the developer and the citizens, but we would not be a party to that.

3 MS. HEGLER: Nor able to enforce.

4 CHAIRMAN GILCHRIST: Nor able to?

5 MS. HEGLER: We would not be in the enforcement of that.

6 CHAIRMAN GILCHRIST: Enforcement. Thank you. Thank you, Mr. Tuttle. Robert
7 Hale?

8 MR. HALE: I have nothing.

9 CHAIRMAN GILCHRIST: Okay. Alright. Tanya Hall?

10 **TESTIMONY OF TANYA HALL:**

11 MS. HALL: [14:39].

12 CHAIRMAN GILCHRIST: We still you to repeat it for us.

13 MS. HALL: Yeah, I will.

14 CHAIRMAN GILCHRIST: Okay.

15 MS. HALL: I'm at 1108 Marina Road so I'm the closest to that property. So I
16 concur with everything that Leslie has said also, but to the Marina, the impact of those
17 apartments and the Marina's always been there but since the apartments have been
18 built we have increased traffic on that road, speeding, numerous drunk driving events,
19 things of that nature. The concern for a lotta people is, I went out to the community and
20 knocked on doors and talked about this, is it is the traffic impact, getting in and out of
21 Marina Road at that point. Also just the aesthetics and conformality [sic] of being a
22 neighborhood. So you see all these people are coming out to, to speak so it is truly a
23 neighborhood, so having, keeping that neighborhood feel and, and many of us have

1 grown up around there, have been there for a long period of time, we wanna continue to
2 see and protect the aesthetics in our neighborhood. So the noise, traffic, you know, light
3 pollution, the crime increases when you go into commercial and things like that. So we
4 are working with the developers to kinda come up with some, you know, ideas; deed
5 restrictions, get a better understanding of what they're doing, but until that comes to
6 fruition I'm opposed.

7 CHAIRMAN GILCHRIST: Okay, thank you. Don Lowman?

8 MR. LOWMAN: I have nothing to add.

9 CHAIRMAN GILCHRIST: Okay, thank you. Ray Sansbury?

10 MR. SANSBURY: I have nothing to add.

11 CHAIRMAN GILCHRIST: Okay. Kitt Forrester?

12 **TESTIMONY OF KITT FORRESTER:**

13 MR. FORRESTER: Yeah. I didn't come here with the intention of speaking but
14 I'll just – my name's Kitt Forrester, I'm at 116 Ballentine Point Road, which is off of
15 Marina Road. I've been there about 20 years and the, like everyone else, seeing the
16 traffic increase. I don't necessarily agree with the prepared, the initial remarks that this
17 is a community thing because our community, this may be an opportunity for them to
18 see where there's an opportunity to store boats near the lake, but from living there I
19 don't see that there's a significant need for the people that live in that community to, to
20 have this additional storage. But my primary issue is the traffic and just trying to make a
21 left turn off of Marina Road. Currently in a normal vehicle it's difficult but when you start
22 pulling boats behind large vehicles, cause these are from my understanding quite large
23 boats up to 35' or something, it could, you know, it could take 10 or 15 minutes to make

1 a left-hand turn at that point. And, because there's a traffic light within a block of Marina
2 Road there's no additional traffic help, you know, there's no more lights and you can't
3 put a light in there we understand, and so it's just that turning left would be very difficult.
4 The, the boat ramp at the end of Marina Road is not available to big boats, so they have
5 to come outta that thing and go up to the main drag and take a left or take a right, and
6 so that in and of itself is a huge impact for everybody that's waiting behind those
7 vehicles. So that's it.

8 CHAIRMAN GILCHRIST: Thank you, sir. Sandy Rollins?

9 MS. ROLLINS: I concur with Mr. Forrester and Ms. Hall.

10 CHAIRMAN GILCHRIST: Okay. Winston Giles.

11 MR. GILES: Nothing to add.

12 CHAIRMAN GILCHRIST: Okay. Is this Ketterly? Okay.

13 **TESTIMONY OF MELBA KETTERING:**

14 MS. KETTERING: Hi. I'm Melba Sue Harsey Kettering. My dad was W.G. Harsey
15 who purchased the land acre on 1908 Marina Road. That is on the point but we're in the
16 cove, not on the big side where the last point in the lake begins. Okay, daddy didn't
17 [inaudible 18:50] till '55, so I've only been up there 64 years. I saw the beauty of
18 everything go away and the houses come and the houses come and the houses come.
19 Wells Marina was the great place to go. Alright, when, I forget his name I just remember
20 his daddy was the only liquor dealer in this State, when he decided to put his HUD
21 structure in, I have nothing against HUD, I worked in operating rooms, trauma and all
22 around, you know, for neurology, nutrition – excuse me, I'm nervous –

23 CHAIRMAN GILCHRIST: Take your time.

1 MS. KETTERING: - for brain surgeons and I was the first person at the lake that
2 as a first assistant for a surgeon who was not a doctor or a nurse. I have taught the only
3 accelerated class in this State. I have a good memory, I can't forget anything. Now my
4 memory tells me that mother and I watched the front of that pre-assembled structure go
5 up in three pieces. Nobody would buy in there and the man that owned it had to leave
6 the country – too many law suits I assume. Now, just the fact that they're there, I'm
7 trying to say I have nothing against HUD, I just thought it was for people like me and
8 people I work with, buying large homes because of HUD. So then you find out, well your
9 government dollars for HUD are being spent for people like that man who had plenty of
10 money. But they didn't have any people interested in the project. So he goes to HUD,
11 they give him the money, we're paying for that. And the crime increased more than
12 significantly, especially out on the point because they think we're rich. Well, you don't
13 have to be rich – it cost daddy's \$775 to buy that acre. So you don't have to be rich, you
14 just have to plan ahead. The, the speed limit going into the cove is 25, coming out
15 before that 25 is a 45 mile an hour sign.

16 CHAIRMAN GILCHRIST: Yes, ma'am.

17 MS. KETTERING: Okay, now the kids and the adults that come down the street
18 every day and drive down the street, I'm the only person with cameras and microphones
19 and I can prove anything that happened if I wanted to, but the point being is I've had my
20 yard destroyed, they come in and they broke a brand new heron water figure that I had
21 bought, it was a lotta money. They break everything, they pull my irrigation outta the
22 ground.

1 CHAIRMAN GILCHRIST: Ms. Kettering, I've got a lotta people that wanna speak,
2 so if you could help me in bringing it –

3 MS. KETTERING: I know, I'm gonna hurry up.

4 CHAIRMAN GILCHRIST: - yes, ma'am.

5 MS. KETTERING: Doing this to Marina Road would be a sin and a crime
6 because we don't, nobody, if you can't put your boat in on your lot it goes on a guy lift
7 and SCE&G's pushing for those lifts. And so there's no boats that need to be stored
8 there. I found them two other properties, one with a boat ramp, so I at least have been
9 looking. But this would be no good for nature or us to change this because we were a
10 small community, an actual neighborhood, and now we're not.

11 CHAIRMAN GILCHRIST: Well, thank you so much for your testimony.

12 MS. KETTERING: Oaky. Thank you for allowing me to speak.

13 CHAIRMAN GILCHRIST: Melba?

14 MS. KETTERING: That's me.

15 CHAIRMAN GILCHRIST: Oh, is that you? Alright.

16 MS. KETTERING: I signed in wrong.

17 CHAIRMAN GILCHRIST: Marty Smith?

18 AUDIENCE MEMBER: She had to leave.

19 CHAIRMAN GILCHRIST: She had to leave? Okay. And is that Barbara?

20 AUDIENCE MEMBER: Yeah, we have nothing to add.

21 CHAIRMAN GILCHRIST: Okay. That is all that I have signed up to speak.

22 Questions, comments? Motions? Excuse me, sir, we closed the public part of this
23 session.

1 AUDIENCE MEMBER: Only three words.

2 CHAIRMAN GILCHRIST: Please. Any motions, Commission Members? The last
3 traffic study that we received on this was back in 2016? Is that right?

4 MR. PRICE: Yes.

5 CHAIRMAN GILCHRIST: Do we know when these are released, just for curiosity
6 purposes?

7 MR. DELAGE: They're roughly updated every April is what the timetable is.
8 However, that can always be delayed.

9 CHAIRMAN GILCHRIST: Sure. Alright. Any additional questions for our Staff?
10 Motions?

11 MR. BROWN: Mr. Chairman, I think that the suggestion was that the developer
12 was trying to work with the community so that they have an opportunity to come back at
13 a future date once they work that out, is that correct?

14 CHAIRMAN GILCHRIST: That certainly sounds like something that's being
15 discussed.

16 MR. BROWN: Given that, I move that the recommendation of Staff to County
17 Council that 18-008 MA be sent on to County Council with a recommendation of
18 disapproval.

19 CHAIRMAN GILCHRIST: Okay, it has been moved that this case be sent to
20 Council, forward to Council with a recommendation of disapproval. Is there a second?

21 MS. FRIERSON: I second that motion.

1 CHAIRMAN GILCHRIST: Okay. It's been moved and properly seconded that we
2 send Case No. 18-008 MA forward to Council with a recommendation of disapproval. All
3 in favor signify by raising your hand.

4 *[Approved: McLaurin, Frierson, Gilchrist, Tuttle, Carlisle, Brown; Abstained: Greenleaf;*
5 *Absent: Cairns, Yip]*

6 CHAIRMAN GILCHRIST: Alright one abstention, is that right? Okay. We are a
7 recommending Body to County Council and they will meet back in their Chambers on
8 April 24th.

9 MR. PRICE: I'm sorry, was that unanimous?

10 CHAIRMAN GILCHRIST: We had, with the exception of Mr. Greenleaf. He had
11 abstention.

12 AUDIENCE MEMBER: What time on the 24th is that?

13 CHAIRMAN GILCHRIST: Seven o'clock.

14 AUDIENCE MEMBER: In the evening?

15 CHAIRMAN GILCHRIST: Yes, uh-huh.

16 AUDIENCE MEMBER: Thank you.

17 CHAIRMAN GILCHRIST: Sure. Thank you all. Folks, if you'll quickly exit for us so
18 that we can move on. You can take your conversations outside. Thank you. Okay. Next
19 case. Next case. Will someone please shut that door for us? Thank you.

20 **CASE NO. 18-009 MA:**

21 MR. PRICE: The next item is Case 18-009 MA. The Applicant is Mohammad
22 Tabassum, 7125 Monticello Road. The Applicant is requesting the County to rezone a
23 1.7 acre tract from Rural to General Commercial. Staff's recommendation for this

1 request was for disapproval. It was based on the recommendations and objectives of
2 the Comprehensive Plan. According to the Comprehensive Plan, non-residential
3 development may be considered for location along main road corridors and within a
4 contextually appropriate distance from the intersection of a primary arterial. The subject
5 property is not located near the intersection of a primary arterial and that was the basis
6 for Staff's recommendation. Just one of the things to point out, you know, one of the
7 things that we did look at, there, there is General Commercial and Light Industrial which
8 was zoned M-1 that's adjacent to this particular parcel. It's been there for quite a while.
9 However, Staff's recommendation was based strictly on the Comprehensive Plan.

10 CHAIRMAN GILCHRIST: Okay. Questions for the Staff? We have a couple
11 persons signed up to speak. Again when we call you up please give us your name and
12 your address for the Record. The Applicant, Muhammad Tabassum?

13 **TESTIMONY OF MUHAMMAD TABASSUM:**

14 MR. TABASSUM: Yes, sir.

15 CHAIRMAN GILCHRIST: Please.

16 MR. TABASSUM: Sir, I'm as green as a tree here to come to this Planning. I had
17 no idea, I'm just retired, disabled Veteran and I bought this piece of land three or four
18 years ago. And now thought maybe I'll build something and make a living, I was gonna
19 sell some shoes to the VA. And I don't know why is this [28:23 inaudible] there's a huge
20 company next door to it. And I guess I have to ask them, okay what did you do to get
21 the approval while mine got disapproved. So I have nothing to add, sir.

22 CHAIRMAN GILCHRIST: Mr. Muhammad, could you give us your name for the
23 Record, please?

1 MR. TABASSUM: My name is Mohammad Tabassum.

2 CHAIRMAN GILCHRIST: And address, I'm sorry.

3 MR. TABASSUM: 8016 Exeter Lane, Columbia, South Carolina 29223.

4 CHAIRMAN GILCHRIST: Okay. Thank you, sir. Are there any questions for Mr.
5 Tabassum?

6 AUDIENCE MEMBER: Yeah, what did you say you were gonna sell?

7 CHAIRMAN GILCHRIST: Excuse me, sir. Sir, sir, no, no, no, no. We can't, we
8 can't.

9 AUDIENCE MEMBER: Can't do that?

10 CHAIRMAN GILCHRIST: No, no, no. Are there any questions from the
11 Commission for the Applicant?

12 MR. BROWN: Mr. Chairman?

13 CHAIRMAN GILCHRIST: Yes, sir, Mr. Brown?

14 MR. BROWN: The community association is requesting that this be deferred.

15 CHAIRMAN GILCHRIST: Okay.

16 MR. BROWN: And so at the appropriate time I will make that motion so they
17 have an opportunity to work with the Applicant on this request.

18 CHAIRMAN GILCHRIST: Thank you, Mr. Brown. Any additional comments for
19 the Applicant? Thank you, sir.

20 MR. TABASSUM: Okay.

21 CHAIRMAN GILCHRIST: Pat Benson? Please give us your name and address
22 for the Record.

23 **TESTIMONY OF PAT BENSON:**

1 MR. BENSON: I'm Pat Benson, I live at 7323 Monticello Road. I'm a lifelong
2 resident of Monticello Road. This property is adjacent to some rental property my
3 brother and I have inherited recently and that's – I didn't know anything, what he wanted
4 to do. The last I heard there was a Mr. Kahn involved cause he approached us about
5 buying the rental house next door to open up a used car lot. And, you know, and that's
6 what I thought maybe they were gonna do, try to put a used car lot in there. And so
7 that's why I signed up as opposed. The other thing is I don't know how much land is he
8 gonna be using for whatever he's got in the plans, but the, the ground tapers off down
9 into a hollow behind and he'd do a lotta grading, and I know down the road where Mr.
10 Kahn graded across from Dollar General he got a stop work order on it cause he didn't
11 do things properly down there. And so that's why I was concerned. And also this
12 property backs up to Columbia International University. So it's next, right there at the
13 field at Ben Lippin. So that's all I got to say. Thank you.

14 CHAIRMAN GILCHRIST: Okay. Thank you, sir. That is all we have signed up to
15 speak.

16 MR. BROWN: Mr. Chairman?

17 CHAIRMAN GILCHRIST: Yes, sir, Mr. Brown?

18 MR. BROWN: The community association, the neighborhood association has
19 requested this matter be deferred to give them an opportunity to meet with the Applicant
20 to discuss this proposal, and I so move deferral.

21 MR. GREENLEAF: I second.

22 CHAIRMAN GILCHRIST: Okay.

23 MR. TUTTLE: Mr. Chairman, if –

1 CHAIRMAN GILCHRIST: So moved and seconded. Questions?

2 MR. TUTTLE: If I may? I think it might be appropriate if we could ask the
3 Applicant if he's willing to meet with the association before we defer. If he's willing then
4 that's probably good. If he wasn't for some reason then we probably could go ahead
5 and rule today.

6 CHAIRMAN GILCHRIST: Yes, sir, I would agree.

7 MR. TABASSUM: Sir, I didn't know – yes, I'm, you know, I'm for it. But I don't
8 know even the association, I'll find out what they are.

9 CHAIRMAN GILCHRIST: Thank you. Okay, it's been moved and properly
10 seconded that we move, that we defer this case until –

11 MR. GREENLEAF: I'll withdraw my second.

12 CHAIRMAN GILCHRIST: You're withdrawing your second?

13 MR. GREENLEAF: Um-hum. Deferring?

14 CHAIRMAN GILCHRIST: Well, we still need a second to defer it. Yes. So are you
15 withdrawing it or? Okay, so it's been moved and properly seconded – Staff wanna
16 comment on that? Cause I thought you were –

17 MR. PRICE: No, I mean, I guess just Staff's, or maybe it's just me, question is,
18 while this may be deferred, you know, what, is there something in particular you may be
19 looking for coming back that would be different than what you have before you now?
20 Cause I think you, one of the things that you pointed out previously, you know, you have
21 what's before you and if we can't narrow this down to a particular use so would we have
22 – the request will be the same. Just wanted to point that out.

1 MR. BROWN: It may very well be the same and the recommendation from the
2 Staff may be the same, but I think it's always good when property owners and the
3 community have an opportunity to get together and resolve any issues. If this is, does
4 not comport with the Comprehensive Plan of there's some other real reason not to
5 approve it, then consider it at that time. But give them a chance to sit down and discuss
6 it.

7 MS. FRIERSON: And Mr. Chairperson?

8 CHAIRMAN GILCHRIST: Mr. Frierson?

9 MS. FRIERSON: My statement is a little different from Mr. Wallace. When the
10 Applicant and the community have the opportunity to converse with each other the
11 Applicant may decide to withdraw or amend or something of that nature. But I too am in
12 agreement that wherein there is perhaps some conflict, if it can possibly be resolved by
13 the parties talking about it prior to our taking a stand, that's appropriate, so.

14 MR. BROWN: The request did not come from the Applicant, Mr. Chairman, it
15 came from the neighborhood association.

16 CHAIRMAN GILCHRIST: That's correct. That's correct. Any additional comments
17 from the Commission? So we have a motion on the table.

18 MR. TUTTLE: Mr. Chairman?

19 CHAIRMAN GILCHRIST: Yes, sir, Mr. Tuttle?

20 MR. TUTTLE: So we're deferring this action, we probably need a closing date or
21 something on that, don't we?

22 CHAIRMAN GILCHRIST: Yeah, is it to our next meeting or when, Mr. Brown?

1 MR. BROWN: I would think hopefully by next meeting. Since they, since they
2 made the request I would assume that they will go ahead and meet. The Staff can
3 check with them and find that out and bring it back on the Agenda, Mr. Chairman,
4 whether it's next meeting or the next two meetings. Now, but to allow them time to be
5 able to, to do it.

6 CHAIRMAN GILCHRIST: What is the process for deferring a case? Typically?
7 For, for us if, if a Commission Member chooses to defer a case?

8 MR. PRICE: When you defer you typically defer to a specific date.

9 CHAIRMAN GILCHRIST: Okay.

10 MR. PRICE: Sure, there may be something that you want to allow them to meet,
11 but it's just so much more effective for Staff to know what particular date you're
12 deferring this to.

13 CHAIRMAN GILCHRIST: Okay, so –

14 MS. HEGLER: We have to pay for advertising again, post the property again.

15 MR. TUTTLE: Mr. Chairman, that was gonna be one of my questions. Can you
16 even meet your requirements to have this come back before you by the next meeting?

17 MR. PRICE: Yes.

18 MR. TUTTLE: You can? Okay.

19 CHAIRMAN GILCHRIST: Okay.

20 MR. BROWN: By the May meeting.

21 CHAIRMAN GILCHRIST: Okay, by the May meeting.

22 MR. TUTTLE: Cause typically in a situation like this we would see the Applicant
23 ask for the matter to be withdrawn to a future date, but.

1 CHAIRMAN GILCHRIST: Right, that's, you know, that's kinda what I was asking
2 about the deferment deal, how does that work. Okay.

3 MR. PRICE: We have it down to, to run our normal newspaper for the May
4 Agenda.

5 CHAIRMAN GILCHRIST: Okay. Alright, it's been moved and properly seconded
6 that we defer Case No. 18-009 MA until our May meeting. Okay. All in favor by deferring
7 this case signify by raising your hand? All opposed?

8 *[Approved: Greenleaf, McLaurin, Frierson, Gilchrist, Tuttle, Carlisle, Brown; Absent:*
9 *Cairns, Yip]*

10 MR. BROWN: Mr. Chairman, could we ask that Staff get with the Applicant? I
11 guess Ms. Becky Bailey needs to be notified that we did defer as per their request so
12 they can get with the Applicant. So there won't be any hiccups on that. Just let Ms.
13 Bailey know that – cause she sent the letter in.

14 CHAIRMAN GILCHRIST: I think Mr. Price has a copy of this. Okay. Mr. Tuttle,
15 did you –

16 MR. TUTTLE: Perhaps I can make it, offer a suggestion, perhaps.

17 CHAIRMAN GILCHRIST: Sure.

18 MR. TUTTLE: Maybe the Applicant can have my copy of this letter that was sent
19 to us with the contact information and be incumbent upon the Applicant to do the follow
20 up rather than Staff, cause I'm sure, I think that might be outside of Staff's purview.

21 CHAIRMAN GILCHRIST: I agree.

22 MR. TUTTLE: If that's okay?

23 CHAIRMAN GILCHRIST: Yeah, I think that is appropriate.

1 MR. PRICE: Mr. Tuttle? We have one.

2 MR. TUTTLE: Okay.

3 CHAIRMAN GILCHRIST: Yeah, they got it.

4 MR. BROWN: The Applicant is not familiar with the process and I just think we
5 need to be fair with these things.

6 CHAIRMAN GILCHRIST: Okay.

7 MS. HEGLER: And if I may offer for clarity. So it is not a requirement for your
8 decision making that these meetings occur. You, please know that Staff does
9 recommend that these conversations occur, we certainly also advise all applicants that
10 they contact their Councilpersons. So if you saw a little hesitancy from us it's because it
11 is difficult for us to get involved in things that aren't even really required by our
12 regulations, so I appreciate the thought that you, to ask that the two private entities
13 speak cause it's a little bit outside of our regulatory authority.

14 CHAIRMAN GILCHRIST: And so persons going before Council, just to be clear
15 this case will not go before Council.

16 MR. PRICE: It would not go to Council until at least May.

17 CHAIRMAN GILCHRIST: May, okay. Alright. Great. Thank you. And case
18 number 3. Withdrawn.

19 MR. PRICE: Yes, we're on Case 18-011.

20 CHAIRMAN GILCHRIST: 18-011.

21 MR. PRICE: Yes, sir.

22 CHAIRMAN GILCHRIST: Okay. Alright, Case No. 18-011 MA.

23 **CASE NO. 18-011 MA:**

1 MR. PRICE: Okay. The next case that's before you is 18-011 MA. The Applicant
2 is Carl McClure, the location is Mt. Olive Church Road. The Applicant is requesting to
3 rezone 13.8 acres from Rural to LI, Light Industrial. Staff's recommendation is for
4 disapproval, and this is based on the Comprehensive Plan. This particular parcel is
5 located within the Rural land use designation of the Comprehensive Plan and the
6 proposed zoning which would permit light manufacturing, warehousing and other
7 commercial uses will be out of character for the Comp Plan's recommendations to limit
8 commercial activity to a rural activity center. As this particular location is not located at a
9 rural activity center, so Staff recommends disapproval.

10 CHAIRMAN GILCHRIST: Okay. Any questions for our Staff? We have a couple
11 persons signed up to speak. Again, give us your name and your address for the Record.
12 The Applicant, Carl McClure?

13 **TESTIMONY OF CARL MCCLURE**

14 MR. MCCLURE: Good afternoon. Carl McClure, 172 Crystal Cove Court, Chapin.
15 I'm a realtor representing the seller and she came and she, she and her husband own
16 this property and after he passed away, a few years after that she decided to, it was
17 zoned commercial and she decided to have it rezoned to Rural so the taxes would be
18 less on it. She was semi-retired and would make it much more easier on her. Well, she
19 asked me to sell it for her and we have a, someone who wants to purchase it and turn it
20 into a nursery. It backs up to the interstate and a weigh station, and the gentleman that
21 wants to buy it only wants a small portion, a slender part of it there for his warehouse
22 and, and some of his things that he stores. And his clients, his agents are here to

1 represent him to tell you more about that particular part of the business, but my client
2 just wishes to have it rezoned to commercial so, to sell the property.

3 CHAIRMAN GILCHRIST: Okay, any questions for the Applicant? Thank you, sir.

4 MR. MCCLURE: Thank you, sir.

5 CHAIRMAN GILCHRIST: Wallace Hubbard?

6 **TESTIMONY OF WALLACE HUBBARD:**

7 MR. HUBBARD: Thank you, sir. I'm the owner of the property that was all around
8 that, matter of fact I sold off a lot of it, but I still own everything that joins the property
9 that he's got here. I don't know whether y'all know where, but the road, there's a
10 property line where his property begins, the road is actually my road. That is not a public
11 road. When I was, got the property some 10 years ago it included a road from the end
12 of access road that comes from Old Chapin Highway, that is a paved road coming to the
13 end of it, and it stops. Well, there's enough room for him probably to create a road of his
14 own from his property all the way out to the paved road, but that property is not a public
15 road where his property is marked and that's where my mark was before he bought it. I
16 had the opportunity to buy it before he did. I didn't want it because it was a tax deal and
17 I wasn't interested in it. But all my property's over there. I used to have about 60, 70
18 acres over there but I'm down to 15 acres, which all of it joins his on the other side from
19 the interstate. If you're looking at it from the interstate the long piece that goes down
20 there, all my property joins his. And the road is actually on me, it's a dirt road,
21 unimproved road, and it goes all the way to the corner where it turns left, if you're going
22 out Mt. Olive Church Road. But going from east to west direction as the interstate goes,
23 all that property along there, my property butts right up to his and is inclusive of that

1 road, so that's something that Council or somebody needs to take a look at because
2 that road belongs to me and is part of my property. And I'm sorry, I didn't give you my
3 full name and address.

4 CHAIRMAN GILCHRIST: Yes, sir.

5 MR. HUBBARD: Wallace Hubbard, and I'm at 340 Indian Creek Circle, and
6 Chapin, South Carolina.

7 CHAIRMAN GILCHRIST: Thank you, sir.

8 MR. HUBBARD: That's on Lake Murray.

9 CHAIRMAN GILCHRIST: Thank you. Appreciate it.

10 MR. HUBBARD: And I have no problem with it going commercial and helping him
11 and seeing that, but I want to see it [43:56 inaudible] because I'm interested in the rest
12 of that stuff becoming commercial one day, hopefully.

13 CHAIRMAN GILCHRIST: Yes, sir, thank you. Mark Bolding?

14 **TESTIMONY OF MARK BOLDING:**

15 MR. BOLDING: Yes, my name is Mark Bolding and my address is 19 Hilton
16 Glenn Court in Chapin. And I am here today to primarily speak on behalf of the
17 proposed purchaser of this property. He was extremely sensitive on the front end to the
18 contiguous nature of the surroundings and does not have any desire to upset the nature
19 of the proposed, or of the area as it exists at the moment. This use is primarily a storage
20 for his own product of landscaping material. The traffic usage, and again I agree with
21 Mr. Hubbard, we're unaware of this and will be more than happy to have conversation
22 directly with him. I don't know what the procedure is relevant to these kinds of steps but
23 from a perspective of the Staff recommendation and it not being of the nature of the

1 community or of the area, this property does, it's a very long and narrow parcel that
2 primarily has road frontage or has right-of-way frontage along I-26. The issue of the
3 weigh station is right there so in reference to any kinda noise factor the use of the
4 property by the proposed purchaser is primarily to store this material, come in in the
5 mornings, load the material onto several work trucks, a maximum of 10 to 12
6 employees, it's not a high traffic concentration issue, and then to park for the day, be
7 gone for the day and then return in the evenings. So from a perspective of the use of
8 this being anything other than what we're describing it to be designated for a residential
9 subdivision development, no subdivision would look at this parcel because of its shape
10 and its design, so that is out of practical use for this parcel. Also, again as referenced
11 earlier the Staff may not be aware of something that has been created post-application
12 of a design for the parcel and the location and building and this kinda thing and they
13 would only utilize roughly three acres or three to four acres of the 13.8 acres anyway.
14 So again, we're willing to work with anyone in particular in terms of overcoming any
15 objections and at this point we'll listen to your recommendations.

16 CHAIRMAN GILCHRIST: Thank you. Thank you, sir. That's all we have signed
17 up to speak. Are there any comments?

18 MR. BROWN: Mr. Chairman?

19 CHAIRMAN GILCHRIST: Yes, sir?

20 MR. BROWN: Question. This Mt. Olive Church Road, does that connect to this
21 property?

22 CHAIRMAN GILCHRIST: Is this Mt. Olive Church Road?

23 MR. PRICE: Let me pull it up again.

1 MR. BROWN: Cause I got the impression from the Applicant that it didn't, that's
2 the reason I asked the question.

3 MR. PRICE: Yes, Mt. Olive Church Road dead ends into this parcel.

4 MR. BROWN: Okay, so it, it does have access to a public road.

5 MR. PRICE: Yes, sir. You can see it right –

6 MR. BROWN: Not a private road, that's a public road.

7 MR. PRICE: - you can see –

8 MR. BROWN: No, I'm not just asking – it's a public road.

9 MR. PRICE: Oh. Yes, sir.

10 MR. BROWN: Okay, now is there another road that's at the end of this property?
11 I don't see the arrows so I don't know whether it's north or south, but right along I-26
12 that, is that connected to the property?

13 MR. PRICE: We didn't – did you see another exit?

14 MR. DELAGE: Mr. Olivet Church Road goes into it to where at some point
15 afterwards there is, like a named drive but it doesn't have direct access, meaning it
16 doesn't have an entrance onto I-26.

17 MR. PRICE: It becomes an easement.

18 MR. BROWN: Yeah.

19 MR. PRICE: Yes, sir, that's an easement.

20 MR. BROWN: That's an easement, so that's not a road.

21 MR. PRICE: Yes, sir.

22 MR. BROWN: Alright, but Mt. Olive does connect the property to a public road.

23 MR. PRICE: Yes, sir.

1 MR. TUTTLE: Old Hilton Road.

2 MR. BROWN: Okay, alright, I just – thank you.

3 CHAIRMAN GILCHRIST: Where's the easement?

4 MR. BROWN: The easement is that little – right at the narrow –

5 CHAIRMAN GILCHRIST: Oh yeah, okay. Got it.

6 MR. BROWN: - that's the easement.

7 CHAIRMAN GILCHRIST: Okay. Any additional comments? Questions, motions?

8 MR. TUTTLE: Mr. Chairman, I'll make a motion we send Case 18-011 MA – hang
9 on a minute, I'm not ready.

10 CHAIRMAN GILCHRIST: Okay, any additional comments? Additional motions?

11 MR. BROWN: The issue here, Mr. Chairman if I understand it correctly, is a part
12 of this is the change requested is RU, is that correct?

13 CHAIRMAN GILCHRIST: Yes, sir.

14 MR. BROWN: And the other part of it is LI. And the LI has to do with storage of
15 landscaping equipment?

16 CHAIRMAN GILCHRIST: Well –

17 MR. BROWN: That's one of the uses, it can be used for it, that's I guess –

18 CHAIRMAN GILCHRIST: Well, storage is one of the uses under LI, yes.

19 MR. BROWN: Storage, okay. And RU is the part for a daycare center?

20 CHAIRMAN GILCHRIST: Is that right, Mr. –

21 MR. PRICE: A daycare center can go into RU.

22 MR. BROWN: Okay. Alright.

23 CHAIRMAN GILCHRIST: Okay. Mr. Tuttle?

1 MR. TUTTLE: I'm trying to understand how we would come to the Comp Plan.
2 Mr. Chairman, I'll give it a try. I'd like to make a motion that we send Case 18-011 MA
3 forward to Council with a recommendation for approval. And since I went against Staff's
4 recommendation and their recommendation was based upon the Comprehensive Plan
5 having a rural land use designation, I'm gonna contend because of its, its frontage on I-
6 26 that maybe that wasn't the most appropriate use for that particular section.

7 MR. BROWN: I'm gonna second that motion for the same reason that Mr. Tuttle
8 made the motion. Plus it's isolated and it, and it really is right along the interstate. I'm
9 agreeing with you.

10 MR. TUTTLE: I, I know. [Laughter]

11 CHAIRMAN GILCHRIST: Yes, ma'am, Ms. Frierson?

12 MS. FRIERSON: Mr. Chair, before we vote would Mr. Tuttle be kind enough to
13 restate his motion?

14 MR. TUTTLE: I don't know if I can. [Laughter] So here's where we are, so I think
15 it's an appropriate use, however, it contradicts Staff's disapproval. And I think they hung
16 their hat on the fact that this is a rural land use designation area, and because of the
17 particular shape of the parcel and its location against the interstate and so forth, I think
18 that that LI would be an appropriate use for that area because it wouldn't necessarily
19 impair any of the surrounding property. That's basically what I was –

20 MS. FRIERSON: Thank you.

21 MR. TUTTLE: - that's what I was trying to say.

22 MS. FRIERSON: Okay.

23 CHAIRMAN GILCHRIST: Mr. Brown, you still good with that?

1 MR. BROWN: Yes.

2 CHAIRMAN GILCHRIST: Okay, alright.

3 MR. BROWN: I support his motion.

4 CHAIRMAN GILCHRIST: Okay, it's been moved and properly seconded that we
5 send Case No. 18-011 MA forward to Council with a recommendation of approval based
6 upon Mr. Tuttle's recommendation. All in favor signify by raising your hand. All
7 opposed?

8 *[Approved: Greenleaf, McLaurin, Frierson, Gilchrist, Tuttle, Carlisle, Brown; Absent:*
9 *Cairns, Yip]*

10 CHAIRMAN GILCHRIST: Again, we are a recommending Body to County
11 Council. They will meet back in these Chambers on April the 9th. Thank you all. Alright,
12 Case No. 017 [sic] MA. We have a PDD.

13 MS. HEGLER: Okay, I thought it was under consent?

14 MR. TUTTLE: Oh, it was?

15 MR. PRICE: Yes.

16 MR. TUTTLE: Okay.

17 CHAIRMAN GILCHRIST: Oh, okay.

18 MR. TUTTLE: I thought, because it was – just for clarity it's under Other
19 Business, was that part of the Consent Agenda as well?

20 MR. PRICE: I think everything that you were gonna take action on, but –

21 MR. TUTTLE: Okay.

22 MS. HEGLER: But if you feel better discussing it we can.

1 CHAIRMAN GILCHRIST: I mean, it's a PDD. We're good. Alright. Land
2 Development Rewrite action.

3 MS. HEGLER: I do not believe we have any update there. Furiously drafting and
4 they continue to take input as received. So no new updates.

5 CHAIRMAN GILCHRIST: When do we expect to get a next update from them
6 about that?

7 MS. HEGLER: I suspect some time. I mean, what we're gonna do is as, I think
8 they're probably working on the easier elements as we speak.

9 CHAIRMAN GILCHRIST: Yeah.

10 MS. HEGLER: And that will help us determine how we wanna break this up and
11 give you pieces. They don't have an upcoming trip as consultants if you will to visit. I
12 mean, they won't be prepared to do that until they have a pretty solid draft to go over
13 and for people to review. What we need to work out with them is a schedule for getting
14 pieces that we can submit to you [55:32 inaudible] so you're not getting it all at once.
15 But they're feverishly writing, I mean, they still have another year or so in their scope,
16 so. No reason to feel they're not on track, it's just nothing really to present at this point.

17 CHAIRMAN GILCHRIST: Okay. Alright, Rules and Procedures. We have, I think
18 everybody had a copy of these in their Agenda, I mean packet, and I hope that, for
19 those of you who had comments relative to our Rules and Procedures that you sent
20 those into the Staff. And we certainly can take a minute to go through some of these. I
21 do see some, some of the modifications we talked about from our last meeting.

22 MR. PRICE: Does anybody need a copy?

1 CHAIRMAN GILCHRIST: I need a copy. You know, if we can a minute to go
2 through these and just see if there's anything that's glaring. You know, under the – we
3 just had an interesting situation about deferring.

4 MR. PRICE: Yes.

5 CHAIRMAN GILCHRIST: And one of the reasons why I kinda wanted that to go
6 forward was because of what the Rules said. So I, let's talk about that for a minute
7 because the Rules say, under deferments, section 1, that we may grant the request for
8 deferral and shall state for the Record the date of the meeting of which the matter shall
9 be heard again. But I sense some hesitation about whether or not that, I mean, if that's
10 a natural kind of rule then I, I mean, I don't know why we're – I'm making the
11 assumption that any Commission Member may be able to make that request based
12 upon our Rules.

13 MS. FRIERSON: Mr. Chair, state the section that you are referencing, please, in
14 the –

15 CHAIRMAN GILCHRIST: Section 14, deferral.

16 MR. PRICE: It would be on page 8.

17 MS. FRIERSON: That's what I need, page 8, thanks.

18 CHAIRMAN GILCHRIST: You know, I do think that is, I mean, I know we have to
19 figure out the nuance of that, but I do think that there are times when that is very
20 appropriate, particularly when somebody comes in and says, well you know, we all
21 wanna work together. Well, I mean, I think we do need to give people an opportunity.
22 Now how we do that, I mean, I, we can talk about how we do that and I appreciate Mr.
23 Tuttle making the recommendation that the two private entities get together and figure

1 that out. But what I, what I hope we don't do is, is to create a situation where people
2 wanna have that conversation or wanna get together and do that. And sometimes the
3 planning meeting is the only time that folk have ever even met to even consider
4 something like this. So in situations like that if we, as a Commission believe that that is
5 something that's warranted, yeah we, we need to have the ability to make that happen.
6 So. Any feedback on that?

7 MR. BROWN: I think if we're gonna be a Planning Commission we need to do
8 that – if you're gonna have community input you need to do that because the final
9 analysis, people gotta be happy with this at the end of the day so that the surrounding
10 property owners as well as the people who are on the agenda, have their parcel on the
11 agenda, are happy. I think if you, if you can pull that off that's good. That doesn't mean
12 that you're going against the Comprehensive Plan, doesn't necessarily mean that you
13 are moving outside of whatever zoning requirements we have established. You have
14 these steps for a reason. But the, the bottom line is we're not the ones living in that
15 neighborhood, they are, and so give them a chance to basically talk. And we may come
16 back with the same conclusion, no. And here's why.

17 CHAIRMAN GILCHRIST: Well I just, and let me you why I'm kinda adamant
18 about it. When I first came on this Commission some years ago I was at a meeting and I
19 won't call the group out that made this comment, but I asked a question and I was new
20 on the Commission at the time so I didn't know if I was supposed to ask this question or
21 not but I asked in the meeting. I said, "Did you guys talk to the community?" And
22 everybody in the audience said, "No!" And they, and the applicant said, "No, we didn't
23 have to." Now, on the, the reality of that is he's absolutely right, that they did not have to

1 talk to the community. But the community was saying, you know, we would've sat down
2 and listened to these people had they talked. So that's always, I mean, I get that, that
3 the rules doesn't require that they have to do that. But I also think that in times where if
4 people are saying, we're willing to have conversation with each other, we need to have
5 some rule in place to allow that to happen. Does that make, I mean, so Commissioners
6 y'all tell me if that makes sense of not.

7 MR. TUTTLE: Yeah, I would think typically the applicant, and I understand this
8 applicant, it may have been the first time they would've been through the process and
9 so forth, but typically the applicant would, would come up and say, hey we might be
10 able to reach some consensus on something, can we, you know, can we step back and
11 I'll withdraw it. I just worry that if it's not a requirement, and I voted for the motion, but
12 you know, we may set a precedent one day where an applicant doesn't want to meet or
13 meet again and arbitrarily this Commission could defer his action to some future date,
14 and you know, they may not want that. So if we did it I think we, at a minimum, we
15 oughta ask the applicant if that's what they want, because they may not want, there may
16 be a reason they want to move forward; they may feel like they're in good shape and
17 they're gonna get it up on whatever they're trying to do or, you know. I'm just, I
18 understand this case, I mean, I felt like they, you know, I know as a, just a matter rote
19 when you come in to do a rezoning application Staff always says, you need to meet with
20 the neighbors, you need to meet with the neighbors, you need to meet with the
21 neighbors, I mean, that's just – not as a requirement but as a general good practice
22 that's what you should do, right?

23 CHAIRMAN GILCHRIST: That's right.

1 MR. TUTTLE: And then I guess sometimes people don't understand it or they
2 don't know who the neighbors are or where the association is in some of these areas
3 because it's, you know, it's just houses, you don't know who to talk to, right?

4 MR. BROWN: Yeah, and I agree with you on that, that's the reason I asked that,
5 that the, the applicant be given the name and number of the president of that
6 association. Generally I would agree with you, but arrogance is one of the problems we
7 confront today and we don't need that, because you know, we're all neighbors in the
8 final analysis and we need to, we need to somehow respect each other and get along.
9 And if folk would do that, 9 times outta 10 you can iron these problems out. But if a
10 person is saying, this is my right and that's it, I don't know about you but it turns me off. I
11 can't, I can't handle that, I'm sorry. It just seems to me that we ought to get people
12 together; Staff may have the same recommendation, that's their job, they do that, they
13 follow the rules, that's what they're supposed to do. But we're supposed to be able to
14 have a little bit of judgment in there that's a little different than theirs. We may agree
15 with Staff, we may say to the Staff, you may be right to a point, however . . . , you know.
16 That's why I just think we have to have that kinda room. County Council has to have
17 that kinda rule. Because people have gotta get along in the final analysis.

18 CHAIRMAN GILCHRIST: Just one other thing I wanted to just bring to
19 everybody's attention; thank you Mr. Tuttle and Mr. Brown for that discussion. Section 5
20 and Section 6 under *Ex Parte* Communication and Conflict of Interest, it seems to me
21 that, I mean, we, we should be able to merge those two sections I think rather than
22 having one section that speaks to whatever this is, when the Commission takes a *quasi*,
23 let's see, if contact with a Member – I guess the second paragraph of the highlighted

1 area that's in red – to potentially be a part of the Conflict of Interest section. I think. That
2 just jumped out at me when I was reviewing this thing.

3 MR. TUTTLE: So depending on how you read Section 5, if an applicant sends an
4 email to the Commission Members that's *ex parte* communication.

5 MS. HEGLER: Right, and I think all this is saying is that you would disclose that.

6 MR. TUTTLE: Yeah. Doesn't mean you have to recuse yourself.

7 MS. HEGLER: No.

8 MR. TUTTLE: Cause I've received a letter from the applicant, I've received a
9 letter from the homeowners association, I've received whatever, right, so – because we
10 do get that from time to time.

11 MS. HEGLER: Yeah, I would say that this is probably more, and Geo correct me
12 if I'm wrong, is this is if there's an individual Commission contact versus when you
13 receive an email or Mr. Price or Tommy, you know, receive an email they send it to all
14 Commissioners, we do the same with Council.

15 CHAIRMAN GILCHRIST: Right, um-hum.

16 MS. HEGLER: That immediately, I think, takes you out of any level of –

17 MR. TUTTLE: But technically that's not made public so it's not part of the public
18 meeting.

19 MS. HEGLER: Right.

20 MR. TUTTLE: I mean, I'm not trying to make something complicated that's not,
21 I'm just saying that that would, it technically would, that we could clearly publish all of
22 those if we wanted to with the Minutes. I don't know.

1 CHAIRMAN GILCHRIST: Well, let's talk about that for a second. So if, if
2 someone from the public contacts one of these Commission Members, help me
3 understand how you've thought about that? I mean, y'all wrote that section so, or
4 somebody, whoever.

5 MR. PRICE: It was [1:06 inaudible].

6 CHAIRMAN GILCHRIST: So who, help me understand how you thought about
7 that section, if contact with a Member is such that it compromises or appears to
8 compromise the ability of the Member of the Commission to render a fair and unbiased
9 decision in an appeal, in an appeal, it shall be the duty of the Member to disclose the
10 contact on the Record at the start of the meeting. A Member or the majority of the
11 Commission Members present determine that a particular contact warrants recusal the
12 Member shall not participate in either the discussion or any vote concerning the appeal
13 that was the subject of the contact.

14 MR. BROWN: Well but now if somebody sends you a letter saying that they have
15 a concern about something and you throw it in the trash, you know, I mean, how has
16 that affected your ability to make an objective decision? Or even if you read it, how are
17 you going to –

18 CHAIRMAN GILCHRIST: That's the question.

19 MR. BROWN: - it may or may not affect your ability to make an objective
20 decision.

21 MR. TUTTLE: So the theory here is that I get a letter no one else received and I
22 say, "Hey guys, I got a letter." And then this Commission can say based upon questions

1 or whatever of me getting that letter, “Mr. Tuttle, you have to recuse yourself from this
2 matter.” Isn’t that what that says?

3 CHAIRMAN GILCHRIST: Well, but I guess my –

4 MR. PRICE: I’m sorry, which section are we in? Are we looking at section –

5 CHAIRMAN GILCHRIST: We’re at Section 5.

6 MR. BROWN: Section 5.

7 MR. PRICE: We’re referring to –

8 CHAIRMAN GILCHRIST: Page 4.

9 MS. FRIERSON: [1:08 inaudible] that’s what threw us off.

10 CHAIRMAN GILCHRIST: Oh, oh I’m sorry guys.

11 MS. FRIERSON: Yeah, not the article versus, there’re lots of section 5’s.

12 CHAIRMAN GILCHRIST: That’s Article II, Section 5.

13 MS. HEGLER: I think it comes down to how you wanna be contacted and the
14 appropriateness of the perception of that. And I think that the concern could be that if
15 you did receive a letter that only went to you, it could be framed in such a context that
16 spoke to Mr. Tuttle in a way that would not have spoken to everyone else. And you’re
17 just human, that’s all it is. And so the best way to avoid a conflict of interest and any
18 potential lawsuit is simply to disclose. So at the time – and you do this almost always – I
19 mean, when you do get a letter, I mean, you did it today, I mean, everybody was in
20 receipt of a letter, it did not appear to warrant any undue biased from anyone. I mean,
21 you simply said, we’re in receipt of this letter, we think a meeting’s a good idea, we
22 voted to defer. If somebody were to disclose that they received a letter and, you know, I
23 think this is a really good point and the rest of the folks didn’t have the privilege of that

1 point, that's when you have a problem I think, is that you've had your decision somehow
2 influenced in a way that the others didn't have the same privilege. So it's just I think
3 disclosing that point, so however we word that. And you know, again truly it's up to you,
4 that perception, I mean, it's a transparent age, we're contacting people in all sorts of
5 different ways right now and it just, it's how you wanna be open about information that
6 you get. I don't think it happens very often. Obviously this has never come up before.
7 And we do a good job as Staff of just sending it to everybody. And I think sometimes we
8 do get a request, hey will you just send this to so and so; we won't, we will send it to all
9 just to make sure that that playing field is even and you are getting the same sort of
10 information.

11 CHAIRMAN GILCHRIST: Well, let me ask a different question.

12 MR. PRICE: I want to point this out, make sure – I'm catching up here, I'm sorry.

13 CHAIRMAN GILCHRIST: That's alright.

14 MR. PRICE: The Article II, Section 5, when you're talking about *ex parte*
15 communication, in this particular case, for this particular section what we're talking
16 about is when the Planning Commission takes on a role of *quasi-judicial*, not like what
17 you're doing today. You know, if somebody sends you a letter today about this rezoning
18 case, you're not in the role of *quasi-judicial*. I think this particular section only refers to
19 when you're in that particular role.

20 CHAIRMAN GILCHRIST: Okay.

21 MR. PRICE: So there's a distinction from this one and some of these –

22 MR. TUTTLE: Expand on that thought, what, where would that *quasi-judicial* role
23 start and end?

1 MR. PRICE: The *quasi*-judicial – that’s why we need Legal now – but no, if you, I
2 mean, well you have final say on these issues, you have final say and the Code actually
3 references when you will take on that role. But this is when, you know, you have final
4 say and your actions can be appealed; you have the final say and it can be appealed to
5 circuit court, such as I think the one we have with Mr. Brick.

6 MR. TUTTLE: Right.

7 MR. PRICE: In that area. You took on the role because what you’re doing is you,
8 the decision of Staff or the actions of Staff were being appealed to you. So that’s when
9 you were in the role of *quasi*-judicial. You are not *quasi*-judicial on, when you’re taking,
10 when you’re reviewing the Map Amendments. So that, I think that’s the difference.

11 MS. HEGLER: The difference is when you’re simply making a recommendation
12 versus you are actually the final County decider. And that only happens in certain
13 appeals of Staff. I think we would make that clear though in this *ex parte*
14 communication. And I suspect, Geo this is based on similar language that BOZA has in
15 their Rules, right?

16 MR. PRICE: Yes.

17 MS. HEGLER: Cause BOZA’s almost always *quasi*-judicial.

18 MR. TUTTLE: Yeah, cause with BOZA the only place to go is to circuit court,
19 right?

20 MS. HEGLER: Right.

21 MR. PRICE: Correct.

22 MS. HEGLER: And you have very few places within your authority that that’s
23 true. I guess Road Names and certain appeals of Staff.

1 MR. PRICE: The appeal of land development decisions.

2 MR. TUTTLE: Yeah, some of the older stuff that maybe is grandfathered in
3 where the Planning Commission approved sketch plans or something like that might be
4 a – cause there'd be nowhere else to go, that doesn't go to Council for approval so that,
5 we would be the end of the line on that.

6 MS. HEGLER: Yeah, a few of those.

7 MR. TUTTLE: Yeah, I mean.

8 MS. HEGLER: Yes. Geo, I think those are development review, there are a
9 couple.

10 MR. PRICE: Yeah, there are a few but there's really more, like I said I, I didn't
11 bring my Code today so I apologize. But the Code does specifically address when a
12 matter is taken to appeals or taken to the Planning Commission as opposed to the
13 Board of Zoning, and that's why I said there's a distinction in this particular section. So
14 it's not, you know, you got a letter saying, I hope you, you know, I don't want you to
15 approve this particular rezoning or request.

16 MR. TUTTLE: I would assume that if we're going into that role it would be
17 obvious to us and you guys might lead us to say, "You're now in this *quasi-judicial* role."

18 CHAIRMAN GILCHRIST: Yeah, but I think, I think you're right on the clarity of the
19 language, particularly judicial, *quasi-judicial* side of it. We probably need to make that a
20 little bit clearer. Ms. Frierson?

21 MS. FRIERSON: I was gonna say that if we're gonna use that terminology, and
22 I'm not a lawyer, I think that in that section we need to have a brief explanation of what it

1 is and perhaps specific examples of what entails that. Cause that'd make it clearer for
2 me, and for everybody else I would imagine.

3 MR. PRICE: Or we just, yeah I think it'd be easier just to go ahead and kind of, if
4 nothing else spell out what *quasi-judicial* is.

5 MS. FRIERSON: Yes.

6 MR. PRICE: And just have that here.

7 CHAIRMAN GILCHRIST: Alright. Any other comments on this, everybody?

8 MR. PRICE: I'm sorry, I think Staff knows well enough to know I'll beat something
9 to death, so I apologize. But I wanted to kinda go back to something that y'all had
10 stated, and I probably have more reservations and I probably will always, whenever you
11 send something back for the community and the applicant to get together. Again, that's
12 your prerogative. The only thing I, at least from my opinion, the two things that should
13 be addressed, one is kind of establish what it is that they should be getting together to
14 discuss as opposed to, just get together and y'all talk about this and come back. Usually
15 there should be something specific that you should be looking for cause you asked
16 them to meet to come back. And also, one of the, probably my biggest concern is when
17 they leave here, and Mr. Tuttle you pointed this out earlier today during one of the
18 cases, a lotta times people leave here and they go and meet with the community and
19 they come back and what it does is it stops, they're no longer talking about the zoning
20 itself, they're talking about what it is they're doing on that property. So you may come
21 back next month and everybody is just as happy; we met with the applicant, we're, we
22 have an understanding, we support this particular request and so on and they go on.
23 Goes forward with a recommendation, maybe gets approved by Council and then

1 something changes, that one particular use is not what's being developed on the site.
2 Maybe the way they said they were going to operate, maybe the restrictions they plan to
3 put on the property, they don't do it. Now they're looking at Staff or, you know, well
4 really Staff saying, well we met, this is what they decided they would do. So that's
5 always a fear once it leaves here that we're not talking about the rezoning itself, we're
6 talking about what the applicant is proposing to do in a specific use.

7 MR. BROWN: But I –

8 CHAIRMAN GILCHRIST: Sure, Mr. Brown.

9 MR. BROWN: - I think the answer to that is Staff has made its recommendation,
10 the recommendation is there. What the Commission has said is, defer it and give them
11 an opportunity to resolve the issues around why it's disapproved, okay? If in fact they
12 come back, they still have to come back to Staff and they still have to – cause we don't
13 make up these Agendas, okay? So if, they have to come back to Staff and if Staff is still
14 saying they are still not complying with the Comprehensive Plan, they are still not
15 complying with the guidelines that have been agreed to by not only this Commission but
16 County Council and it doesn't comport, then Staff has an obligation to tell us that and
17 then we can make a decision.

18 MR. PRICE: Yeah, the discussions that they will have outside are not going to
19 change Staff's opinion.

20 MR. BROWN: It probably, it may not.

21 MR. TUTTLE: Where I think Geo's going is where this hypothetically could get
22 cloudy is they seem to think that a deed restriction relative to something solves the
23 problem. Okay, so if in a case, maybe not this case but, so they all go and meet and the

1 applicant says, I'll put a deed restriction that I won't have anything but boats storage on
2 this property forever and ever and ever. Okay? There's no way for this Body to rule on
3 that because there's no – the County cannot enforce that. So once we rule GC, it's GC.
4 The fact they had an agreement to do whatever, the guy, the applicant could change his
5 mind, he could sell it or whatever and it can be anything on that GC list regardless of
6 what agreement they had. So all Geo's saying, and we can make that point in the
7 meeting, but he's just saying that you may have people go away and come back and be
8 happy and think they've solved it, and ultimately they don't, or if they do think they
9 solved it and it gets approved they could be in for heartburn later because there's really
10 no teeth to that. Now, in the old, old days before the Supreme Court changed it you
11 used to could do a one-off PDD and I could say, if you let me do this oil changing center
12 here, I'll put 12' trees up, this, that, and the other, and it was a nice, neat bundle, right,
13 and you could negotiate with the neighbors as to what you did. Supreme Court said that
14 was illegal, you can only do that when you have multiple uses on a property, not a
15 single use. So a lotta times people go back and they think that they can negotiate with
16 the developer to get trees and this, that, and the other, relative to zoning, but that's no
17 longer an instrument on the table anymore. So it's a confusion there with the public.

18 CHAIRMAN GILCHRIST: That is, very much so. So that's illegal for a –

19 MR. TUTTLE: For a single use PDD, they ruled that's spot zoning and you can't
20 just – now, if you have a, if you had a mixed use, if you had apartments and a tire
21 changing center on the same property that could be a mixed use thing and you could
22 get the PDD on that if it was the right size, etc., etc.

23 CHAIRMAN GILCHRIST: But if something is not a PDD does that fall within –

1 MR. TUTTLE: Yeah, so there's, there's nothing, and you guys tell me where I'm
2 wrong, there's nothing the neighborhood and the applicant can work out that the County
3 could ever enforce.

4 MR. PRICE: No.

5 MR. TUTTLE: But that's what zoning is though, right, it's an enforcement of these
6 Rules so once they go out and they think that they've got a deed restriction that it's only
7 a boat thing, if they don't put that in, it can be anything in the GC category, or whatever
8 that case was. Maybe it was LI, or whatever it was.

9 MR. BROWN: But what you're saying is that the Supreme Court has ruled, I
10 guess it's the US Supreme Court?

11 MR. TUTTLE: I think it was the State Supreme Court.

12 MR. BROWN: Or State Supreme Court has ruled that deed restriction is
13 unenforceable.

14 MR. TUTTLE: No, that's not what I said. No. I said that the single use PDD or
15 PUD is no longer possible.

16 MR. BROWN: No, no, no, I understand that part.

17 MR. TUTTLE: No, a deed, you can have a deed restriction.

18 MR. BROWN: Well, that's –

19 MR. TUTTLE: But it's only enforceable in a court of law, not through the County.

20 MR. BROWN: Well of course, but that's where it would have to be enforced
21 anyways in a court of law.

22 MR. TUTTLE: But my point is though, so when I say yes, you can rule this GC
23 and they leave here and County Council says, yes it's GC, if they don't put the deed

1 restriction in place there's no, it's still GC. It'll ultimately have to be a lawsuit between
2 those two parties.

3 MR. BROWN: No, and I'm agreeing with you. But there's a difference between
4 that and a deed restriction, that's what I'm saying. The deed restriction is a little bit
5 different and I'm asking what did the court rule on deed restrictions?

6 MR. TUTTLE: They had no reason to rule on that cause [1:20 inaudible] in their
7 purview.

8 MR. BROWN: Alright. And I know that on, with respect to who can buy property
9 based on race, on religion and all that, the Supreme Court said that's unenforceable.
10 The United States Supreme Court said that's unenforceable. They didn't say it was
11 illegal, they said it wasn't enforceable, so therefore you can do it. So now, but when
12 you're talking about the use of property have the state or the federal supreme courts
13 ruled on that?

14 MR. TUTTLE: Well, so, so, like we're talking about this Body doesn't have any,
15 we don't have any purview over uses. We grant zoning categories in any of those uses.

16 MR. BROWN: I understand that and I'm in agreement with you. What I am saying
17 is on that specific property that's under consideration, if they said we have a deed
18 restriction that basically says that the only purpose that you can use this property for is
19 X, and on the basis of that we're asking you to approve this change so that they can do
20 X. They cannot then switch it to Y because of what's in the deed, that's the question that
21 I'm asking.

22 MR. TUTTLE: Yeah, I guess it's – I don't know, we're kinda in a rabbit hole, but –
23 it's kind of a timing thing, right? If I have a piece of property that I put a self-imposed

1 deed restriction on that says there will never be anything taller than a one-story building
2 on this property. Okay? And I have that and I come in to you and say, I wanna develop
3 this in a different category but it's always gonna be one story because I have a deed
4 restriction in place, that might let this committee do something that they wouldn't do
5 otherwise. But the timing to me seems to be the odd thing cause we're gonna give them
6 approval for a zoning way before – cause the seller would never put a deed restriction
7 on before they had the property rezoned.

8 MS. HEGLER: Unless there's such a thing as a contingent deed that would –

9 MR. BROWN: Yeah, but see that's something they've gotta resolve. Not us.

10 MS. HEGLER: But you would be continuing to deny the rezoning till that
11 happened.

12 [Inaudible discussion]

13 MS. HEGLER: I think, too, I mean, one of the bigger concerns for us is that the
14 community doesn't understand that and then they become the enforcers of something,
15 they need to get an attorney, they need to, you know, take – if the developer doesn't do
16 what they said they would do. And they're the ones taking them to court. And I'll tell you
17 the first call they make when they can't achieve that is to us saying, why did you let this
18 happen, what do we do? You know, and so that's why, I mean, it's supposed to be a
19 very high level, I don't disagree with talking to communities at all, absolutely, and that is,
20 that is important. You have to also somehow assume that that's what created the
21 guidelines with which you're working under. There's been public input on the Comp
22 Plan, there's been public input on the future land use planning part. There's public input
23 on the Code that you're enforcing. Obviously that's not as clean as it can be. It's never

1 as clean as it should be, people don't wanna get engaged at that point, but the
2 community is not without a voice. It's just that it's at the front of something that may
3 have happened many, many years ago and it's a much long term, you know, sort of
4 impact that it has on them. But it's, you know, we've looked at other places, our
5 consultants are looking at this, I mean, I think this is something you guys are gonna be
6 grappling with. Code rewrite, they are definitely grappling with what do you do about
7 requiring community input? If at all. And so I think you have to have a lot more
8 conversations about this because it's definitely gonna come up. They hear that from
9 citizens, it happens in other places. I understand the City of Columbia – Geo, do they
10 require it or are they saying, encouraging it?

11 MR. PRICE: They don't require it in the City.

12 MR. TUTTLE: They encourage it, they do not require it.

13 MS. HEGLER: Yeah. So I mean, I think you're gonna see something similar here
14 where we're already trying to do that and get ahead of it. The other thing is how do you
15 identify who are they supposed to talk to, who's the community, how proximate, how
16 large, where do you draw the line at where they have to stop talking? You know, it just
17 gets difficult, so I mean, I don't think what you did was wrong or incorrect, I think it's just
18 you're gonna find those residual impacts to that and we'll just kinda have to see how it
19 goes. I don't know how they're gonna do a deed restriction on property that we haven't
20 rezoned. I don't know how you're gonna feel comfortable rezoning something based on
21 a single use that doesn't already have a single use, it's kind of a, I think your best bet is
22 to deal with the uses through the zoning through the Code rewrite so that you are more
23 comfortable. Instead of somebody asking for in this situation he wanted to sell shoes, he

1 shouldn't have to go through to the highest General Commercial zoning designation to
2 be able to do that. Y'all need more variety –

3 CHAIRMAN GILCHRIST: Sure, no doubt.

4 MS. HEGLER: - in the uses allowed within the zoning districts. That's gonna be
5 your ultimate tool for helping to avoid some of these situations.

6 CHAIRMAN GILCHRIST: I agree.

7 MS. HEGLER: You're just uncomfortable with certain zoning districts because
8 they just allow so much. And the citizens are too very logically. We are too. So you're
9 gonna have a lot more, I don't know if control's the right word, but a lot more comfort in
10 how you go about rezonings if we get better with the uses that are allowed with them.
11 And you won't feel the need to talk about things like deed restrictions. It should be right
12 up front. You should be looking at the property to say, any single one of these uses
13 would be appropriate on this property, easy-peasy, yes I approve it. Really when you
14 have reservations about any uses you should be saying no. But, but because that's so
15 spread and you like what the person is saying it's hard to, to go there, so I mean, I,
16 hopefully that's gonna give you a lot more comfort and kinda work through some of
17 these community issues cause it's not gonna be presenting a use that would be
18 unacceptable to a community.

19 MR. BROWN: But you've also gotta be careful not to box yourself in to the point
20 that you cannot make an adjustment. That, that's part of the issue.

21 MS. HEGLER: Um-hum.

22 MR. BROWN: Even now.

23 MS. HEGLER: True.

1 MR. MCLAURIN: I got one question.

2 CHAIRMAN GILCHRIST: Yes, sir.

3 MR. MCLAURIN: On deferrals. On number 2, during its subsequent
4 consideration of this matter the Commission may take action to go out to the project
5 with or without the applicant's consent. Would somebody explain that to me?

6 MR. PRICE: Okay. I'm sorry, what page are you on?

7 CHAIRMAN GILCHRIST: Page 9.

8 MR. PRICE: Well, what it's centrally saying that if someone comes in today and
9 the matter is deferred.

10 MR. MCLAURIN: Okay.

11 MR. PRICE: So you grant a deferral. And let's say you defer to next month. Well
12 now there's your subsequent consideration of the matter. You get to, you can rule on it,
13 you don't have to wait, you know, on the applicant. You've already established that,
14 hopefully I'm correct here, that the, that you deferred this to the next month, that's when
15 you said it would be, you can take action.

16 MR. TUTTLE: Is there any more public hearing on that item?

17 MR. PRICE: No, there'll be a public hearing on it. I mean, unless y'all change that
18 up. Let me say public input. On this. Unless you want to establish that in your Rules, I
19 mean, Council, you know, once they have the public hearing that's pretty much it. But
20 they'll take action. You know, so your cases, do you want to say, well we had a public
21 hearing, we just want this matter to come back before us next time? We're going back,
22 that's essentially when it comes back before you the next time you can take action on it.

23 MR. MCLAURIN: The applicant does not have to be here.

1 MR. PRICE: The applicant may decide not to show up, he may, but you can take
2 action on it.

3 MR. MCLAURIN: Okay.

4 MR. CARLISLE: I'm a little bit fuzzy about my understanding, the way this reads
5 at the beginning of it. It says, an applicant may request that action regarding a project
6 be deferred and how so. Okay, so the applicant can request a deferral. Planning
7 Commission deferral it says, the Commission may grant the request for deferral. And
8 when I'm reading that my understanding is that, that we cannot initiate a deferral. As I
9 sort of think we did today.

10 MS. HEGLER: That's interesting.

11 MR. CARLISLE: And this appears that the request for a deferral must come from
12 the applicant. And it must, maybe must isn't the right word but that's the way I interpret
13 this, it must be, prior to the, bringing up the issue, so we can't be discussing it and then
14 say, oops we're in the middle of a discussion so it's too late for anybody, us or the
15 applicant, to, to provide a deferral for this thing. Am I reading this correctly? Is that
16 something we need to address?

17 MR. BROWN: Yeah, I think you are and I think we do need to address it.

18 MR. PRICE: I believe that section actually is really more for kinda outlining what
19 the applicant, what the, what they can ask for, essentially what the applicant can ask for
20 a deferral. And if he does this is what happens with it. Whereas with the Planning
21 Commission I believe y'all are actually, you have a number of choices whenever you
22 hear a map amendment, you can approve it, you can deny it, you can defer it. So I
23 mean, all of those are, you know, at your liberty when a case comes before you, but this

1 particular section that you're referring to is, is stating when the applicant asks for a
2 deferral this is what happens.

3 MR. BROWN: I think if I understand your [1:30 inaudible] is the applicant the only
4 one, can the Commission only take an action to defer if the applicant asks?

5 MR. CARLISLE: That's the way I'm reading this language.

6 MR. TUTTLE: In that section, I think there's another section that maybe outlines
7 the Commission's ability to do that.

8 CHAIRMAN GILCHRIST: Yeah, and, and –

9 MR. TUTTLE: Cause there could be a case and I think we may have seen it here
10 there's maybe a technical issue that we would need Staff to report back on potentially,
11 and that would be a typical reason where the Commission may say we wanna defer that
12 and Staff will get back to us with an answer relative to A, B, C, or D. Perhaps.

13 CHAIRMAN GILCHRIST: In Section A below that it goes into point 1 and 2 that
14 talks about the Commission may grant the request for deferral and shall state for the
15 Record the date of the meeting at which the matter shall be heard again.

16 MR. TUTTLE: That's what he's talking about, he's saying on that, in that
17 particular section you're reading, you can grant deferral that the applicant's asked for.
18 Geo's saying there's another area that covers our ability to do that independent of that.

19 MR. BROWN: Where is that?

20 CHAIRMAN GILCHRIST: Where is that?

21 MS. HEGLER: Section 5, under Article III is voting, I mean, it seems that there
22 might be a place there that you can say, a Member must make a motion to include

1 approve, deny or defer. Yeah, you often may defer text amendments. We don't often do
2 Map Amendments.

3 MR. BROWN: But I think that we need to have some wiggle language in here
4 that's not just us [1:32 inaudible].

5 MR. TUTTLE: Well, I think that's what you're saying is Section 5 gives us that
6 right, doesn't it?

7 MS. HEGLER: Yeah, there's a section that says, a Member must make a motion
8 for the Commission to vote on an item, and you could just stipulate there that a motion
9 may include approve, deny, or deferral, right?

10 MR. BROWN: Yeah, but it should – what I think, and again please correct me if
11 I'm wrong on this, I think what the concern here is it should not just be the applicant's
12 request. The Commission may independently do that, okay, and not necessarily
13 dependent upon the request from the applicant. It could be like we did today based
14 upon the request from the neighborhood association. That's basically is what we had
15 discussed.

16 MS. HEGLER: Agreed. So we can put that in there.

17 MR. BROWN: So we need that, we need some language in there I think, Mr.
18 Chairman, that addresses that and makes it legal for us to do it.

19 CHAIRMAN GILCHRIST: Yeah, my interpretation of that was what we're talking
20 about now earlier with that section, but yeah.

21 MR. PRICE: Well do you want to actually also state in here if the community asks
22 for a deferral do they have to state certain grounds why they're asking for it?

23 MS. FRIERSON: No.

1 MR. BROWN: No.

2 MR. PRICE: I'm only asking, I'm only asking – playing devil's advocate here.

3 MS. FRIERSON: No.

4 [Inaudible discussion]

5 MR. BROWN: No, we don't need to do that.

6 MR. PRICE: You took a letter from a community that said, we wanna defer this.

7 So the next case, the next case somebody comes in and you get another letter. Letter
8 from the community says, you know, we would like this to be deferred again. On what
9 grounds would you deny that?

10 MR. BROWN: No, I didn't say that. We were looking for flexibility for the
11 Commission, not the community. I mean, we said, at least I said that the neighborhood
12 association requested a deferral so they could talk to the applicant. And another reason
13 that I did that is because the applicant was totally confused about the whole thing.
14 Okay? And did not understand what he needed to do. So, you know, and I just think you
15 gotta be human about these things too. Give people a chance to talk and, and get
16 together. But no, I don't think you need it in there about what the community can or
17 cannot do, I think it's what the Commission can or cannot do.

18 MR. PRICE: Okay.

19 MS. FRIERSON: I agree.

20 MR. TUTTLE: I think your point's well taken, Geo. I think when Longcreek comes
21 in and says, we want this project to be deferred we'll have a hard time. [Laughter]

22 MR. PRICE: No, they'll –

23 MR. TUTTLE: That would be delayed –

1 MR. PRICE: I know, and I think what people will start doing, and they're gonna
2 ask that because, you know, when you do these things – and I know, I don't, I'm not the
3 biggest talk to the community person before a request. Most of the Staff is, and they'll
4 tell you that, I'm not. But you know, whenever you do you do kind of set a precedent just
5 as, you know, any action that we take. And so you just have to kinda be careful with
6 that. And we [1:35 inaudible] that everyone is gonna come in and –

7 CHAIRMAN GILCHRIST: No, I get that, I, I guess –

8 MR. BROWN: We have to use our judgment.

9 MS. FRIERSON: Right.

10 CHAIRMAN GILCHRIST: Well, that's kinda where I was gonna go. I mean, I, I
11 think, and I don't know if the Rules should speak to it rather than the Commission have
12 the authority –

13 MR. PRICE: The Commission can defer, take action on any item, you know,
14 either by approving, denying, or deferring the action.

15 CHAIRMAN GILCHRIST: But I mean, I think that satisfies –

16 MR. PRICE: Yeah, right.

17 MS. FRIERSON: And I think with a Chairperson as skilled as the one we have he
18 or she in the future will navigate such pitfalls in a very appropriate manner. I know
19 there're always pit, you know, holes, what do you call those things, potholes but I think
20 that we have the skill and the ability to navigate that.

21 CHAIRMAN GILCHRIST: While at the same time looking responsible. [Laughter]

22 MR. BROWN: Okay, Mr. Chairman. [Laughter]

23 MS. FRIERSON: Mr. Chairman?

1 CHAIRMAN GILCHRIST: Yes, ma'am, Ms. Frierson?

2 MS. FRIERSON: Article III, Section 10, page – oh gosh – 7, we brought this up
3 previously, it's not listed here but this is what I propose, again it's Article III, Section 10
4 on page 7 after letter D I propose the following new language, insertion of a letter E
5 which would state, a new letter E: Upon completion of the above, of D above, the
6 applicant may have up to three minutes to rebut. And remember we talked about that
7 before and we talked about the reasons why that's necessary. And then for the rest of it
8 we would just have to change those letters and then for item F it would become, Upon
9 completion of E above and then the rest could remain the same.

10 MR. PRICE: So you wanna establish a time for rebuttal?

11 MS. FRIERSON: Right. So like after letter D the insertion of a new letter E which
12 would read: Upon completion of letter D above, the applicant may have up to three
13 minutes to rebut. And then the F would be just as it's stated there but it would then say,
14 Upon completion of E above, and the rest would remain the same. And that last thing
15 would be a letter G as opposed to a letter F.

16 MR. PRICE: Alright, do you want to also include – I know we say two minutes
17 and I'm not sure exactly where that is.

18 CHAIRMAN GILCHRIST: Yeah.

19 MR. PRICE: Do you want to establish that, that, you know, citizens have two
20 minutes to speak on an item or?

21 CHAIRMAN GILCHRIST: That's what we've been saying.

22 MR. CARLISLE: If you say two minutes, for instance, or any particular amount,
23 let's say there are 50 people who come to speak against this thing, they get two minutes

1 each and we're, if you're going to have a rebuttal and you say, okay everybody else got
2 two minutes so you get two minutes, how does that play out? I'm just not sure that a
3 specific time on that works.

4 CHAIRMAN GILCHRIST: Well in the past, I mean, we, you know, we've asked
5 people when there's been a huge amount of folk here, if you're saying the same thing
6 just say I'm [1:39 inaudible] what they just said. But –

7 MS. HEGLER: Well, I'll tell you what Council does is they actually limit cases to
8 30 minutes.

9 MR. CARLISLE: Okay.

10 MS. HEGLER: So if they have a particularly large case and there're a ton of
11 people in the room they will establish at the front end that they'll spend 30 minutes on
12 that case. And they will go back and forth between the for's and the against speakers
13 until that time runs out. Now you hardly ever have that many for so I think the rebuttal
14 would still be appropriate probably in that scenario.

15 CHAIRMAN GILCHRIST: Yeah, we need the rebuttal.

16 MS. HEGLER: But what they'll do is they'll just make it clear that if you're just
17 gonna do a lotta the 'I agree', 'I concur', 'I say the same thing', they limit that to 30
18 minutes. It seems to be fairly effectively. Geo, would you say that you see them –

19 MR. PRICE: Right, I –

20 MS. HEGLER: I don't see the citizens being put off by that, I kinda thought they
21 would be but they seem okay with it.

22 MR. PRICE: I wanna mention another thing Council has, after 30 minutes they
23 pretty much have a good idea of what direction the community wants them to go, and

1 also the applicant. Now, I would also ask, do you want to, do you want to still continue
2 to limit the time of the applicant during his presentation to two minutes, or do you want
3 to expand that a little more?

4 CHAIRMAN GILCHRIST: You know, I've seen, I think the applicants do need a
5 little more time to give their presentation. Maybe three minutes, I mean, that's, I don't
6 know.

7 MS. FRIERSON: We could say up to three on the front end and up to three on
8 the back end, and hopefully he or she would not take a total of six.

9 CHAIRMAN GILCHRIST: That two minutes is tough for them.

10 MS. FRIERSON: Yeah, say up to.

11 MR. TUTTLE: Yeah, there's some municipalities that give the applicant 10
12 minutes to present.

13 CHAIRMAN GILCHRIST: Oh, do they?

14 MS. FRIERSON: We don't need 10 minutes.

15 MR. TUTTLE: It depends on what you're doing, right, if it's a straight corner lot
16 rezoning, but if it's a development plan it could take – I mean, Staff normally does a
17 good job summarizing it, but.

18 [Inaudible discussion]

19 CHAIRMAN GILCHRIST: Maybe we could give them, well I don't wanna say up
20 to five minutes, then people will take –

21 MR. TUTTLE: They're gonna take whatever you give them.

22 MS. FRIERSON: That's true.

23 MR. PRICE: Or more.

1 MS. FRIERSON: But again, that can -

2 CHAIRMAN GILCHRIST: I say we can do three minutes.

3 MS. FRIERSON: Yeah, and in order to keep it under control that's when our
4 Chairperson has to be firm but professional.

5 MR. PRICE: And remember at any time, these are your Rules so you can, you
6 can waive or amend them on the fly as you so desire.

7 CHAIRMAN GILCHRIST: So any other questions on this, on this? I would ask
8 you all to, to definitely go back and take a look at that section on the *quasi-judicial*
9 piece.

10 MR. PRICE: Yeah, I have that down to spell that out a little bit more, so what
11 you'll do is you'll get that.

12 CHAIRMAN GILCHRIST: Just so that we got that clear before we take a vote on
13 it.

14 MR. TUTTLE: Mr. Chairman, I make a motion that we conclude the meeting.

15 CHAIRMAN GILCHRIST: Okay, you don't want my Chairman's Report?

16 MR. TUTTLE: Oh, I'm sorry. [Laughter]

17 CHAIRMAN GILCHRIST: You're fine Mr. Tuttle, that means I get 10 minutes.

18 [Laughter] No, go ahead and make your motion. Second?

19 MR. GREENLEAF: Second.

20 CHAIRMAN GILCHRIST: Alright.

21

22 *[Meeting Adjourned at 4:50pm]*