

1 MR. VAN DINE: Huh?

2 CHAIRMAN PALMER: You gotta say the road names.

3 MR. TUTTLE: That was your motion.

4 MR. VAN DINE: Avalon Springs, Glenwood Springs, Berkeley Springs, Ramsey
5 Springs, Jordan Springs, Palm Springs, Mercy Springs, Silver Springs, Bagby Springs,
6 McCrady Springs and Meadow Springs.

7 CHAIRMAN PALMER: We have a motion and a second to approve the road
8 names as listed. All those in favor say aye. Those opposed?

9 *[Approved: Cairns, Westbrook, Tuttle, Palmer, Gilchrist, Van Dine, Theus, Brown;*
10 *Absent: McDaniel]*

11 CHAIRMAN PALMER: Okay, Subdivision Review. Allow me to read this into the
12 Record if I may. Dear Mr. Palmer, I must request to be excused from participating in
13 discussion or voting on Agenda Item No. SP 13-40 regarding The Apartment
14 Community which is scheduled for review and/or discussion at today's Planning
15 Commission meeting. It is my understanding of the Rules of Conduct, provisions of the
16 ethics, government accountability and campaign reform laws that since I have a
17 financial interest in the project I will be unable to participate in this matter through
18 discussion or voting. I would therefore respectfully request that you indicate for the
19 Record that I did not participate in any discussion or vote relating to this item
20 representing a potential conflict of interest. I would further request that you allow and
21 direct this letter to be printed as part of the official Minutes and excuse me from such
22 votes or deliberations and note such in the Minutes. Thank you for your consideration in
23 this matter. Sincerely, David Tuttle. Okay. Case SP 13-40.

1 **CASE SP 13-40:**

2 MR. LEGER: Thank you, Mr. Chairman. You should have a report in your
3 [inaudible] provided to you. Nothing additional to add. We do have Mr. Carroll
4 Williamson who is our interim Subdivision Land Development Administrator here to
5 answer any questions that you have.

6 CHAIRMAN PALMER: Do we have any questions on the project?

7 MR. VAN DINE: I have a couple of real quick questions if I could.

8 MR. WILLIAMSON: Carroll Williamson, Interim Land Development Administrator.

9 MR. VAN DINE: Am I reading it correctly that Hilton Drive, which is listed on and
10 shown on the map is actually going to open out onto Hardscrabble Road?

11 MR. WILLIAMSON: That was one of our questions too. And so they need an
12 encroachment permit and that's why they requested that cause it, that's what it appears
13 on the site plan but it's, they don't have an encroachment permit, it's part of the
14 submittal so that's something we need if that's the case. I think on the original regulation
15 plan for Lake Carolina that, actually that was shown at a different location but right in
16 that same area, but we need further clarification on how that's gonna work.

17 MR. VAN DINE: And if I'm looking at the plat that's been submitted with the
18 parking and everything else, and then I go over to the photograph that, with the layout, it
19 looks like there are PDDs and there's a 20, 30 and 40, which would appear to be as part
20 of this. Am I missing something or is it further over or how do I read this map?

21 MR. WILLIAMSON: Well, it is a little confusing cause the parcels, some of the
22 parcels are on there and some aren't. That's why I was requesting some clarification on
23 those parcels. Specifically, I'm not sure what that 20, 30 and 40 are referring to.

1 MR. VAN DINE: Do you have the –

2 MR. WILLIAMSON: I don't have that. I have the aerial.

3 MR. VAN DINE: The aerial is with the – do you see where there's the –

4 MR. WILLIAMSON: I think those are –

5 MR. VAN DINE: - are those actually not shown on the plat that we have, those
6 would be to the right?

7 MR. WILLIAMSON: They were not shown on the plat. That's something that's
8 generated by the Tax Assessor.

9 MR. VAN DINE: Okay, those are to the right of what we have in front of us?

10 MR. WILLIAMSON: Oh, those plats are on there.

11 MR. VAN DINE: They're part of the property.

12 MR. WILLIAMSON: They're part of the project; I thought the 20, 30 and 40 were
13 not shown on the plan.

14 MR. VAN DINE: Because the area that's outlined in blue does not include those
15 three –

16 MR. WILLIAMSON: Right.

17 MR. VAN DINE: - as part of that, so.

18 MR. WILLIAMSON: I just, on that map I had to select one parcel to show, but it
19 includes those three additional parcels as well.

20 MR. VAN DINE: Alright, so when we're dealing with this, those would be included
21 in the map that we have.

22 MR. WILLIAMSON: Yes, sir.

23 MR. VAN DINE: Okay. Thank you.

1 CHAIRMAN PALMER: I just have one question. The electricity out in this area,
2 when this project is built, all that stuff will be approved as far as the wattage and the
3 ampage and so forth and so on that the current residents that are there will not be
4 hindered by what goes on here as far as the lines and stuff that are out there?

5 MR. WILLIAMSON: That is not something that we review, so I couldn't answer
6 for sure.

7 CHAIRMAN PALMER: But it is something that goes through the normal building
8 process?

9 MR. WILLIAMSON: Yes, that's correct.

10 CHAIRMAN PALMER: That all that has to meet current standards and there's
11 regulation in place for that and so forth and so on?

12 MR. WILLIAMSON: They have building plans submitted as well.

13 CHAIRMAN PALMER: Okay. Alright, thanks.

14 MR. VAN DINE: From Staff's perspective other than what's in our Report do you
15 have any objections to what's being presented or?

16 MR. WILLIAMSON: No, sir.

17 MR. VAN DINE: Have there been any issues raised by people that you're aware
18 of?

19 MR. WILLIAMSON: No.

20 MR. BROWN: Mr. Chairman?

21 CHAIRMAN PALMER: Yes, sir.

22 MR. BROWN: All of these single-family, is this zoned for single-family or multi-
23 family?

1 MR. WILLIAMSON: It's zoned PDD and so it's multi-use. It's not specific in that
2 area what is going to be going there. It didn't, on the original plan it didn't say multi-
3 family only in this, on this particular area. But it's generally understood multi-use.

4 CHAIRMAN PALMER: But the PDD does allow for this use to come on the site?

5 MR. WILLIAMSON: Yes, correct.

6 MR. THEUS: And allows for certainty for the entire development and they're well
7 within that as I understand it.

8 MR. WILLIAMSON: Yes, sir.

9 MR. BROWN: Okay, then the, Mr. Chairman, given the layout of that total area
10 and the type of construction out there has this been discussed with the folk who live out
11 there?

12 MR. WILLIAMSON: Not that I'm aware of.

13 MR. BROWN: So they're not aware of it?

14 MR. WILLIAMSON: I don't think there's been any – Mr. Tuttle could probably
15 speak but as far as the county and as far as I've been involved, there's been no
16 discussion with the public.

17 MR. VAN DINE: This wouldn't be posted, would it? This would not require a
18 posting.

19 MR. THEUS: It's not a rezoning.

20 MR. WILLIAMSON: No.

21 MR. BROWN: It's a use, is that right?

22 MR. WILLIAMSON: Yes.

23 CHAIRMAN PALMER: But it's part of the approved use.

1 MR. WILLIAMSON: It's a part of the PDD.

2 CHAIRMAN PALMER: That's already been approved for that area that is of
3 public record that anybody that moves into Lake Carolina has that available to them to
4 know what they're moving into; that this is a possible use on this site.

5 MR. WILLIAMSON: And it's, you know, all Lake Carolina development comes
6 before the Planning Commission.

7 CHAIRMAN PALMER: Right.

8 MR. WILLIAMSON: Ordinarily we would all deal with it at Staff level.

9 CHAIRMAN PALMER: Right. These don't even come before us anymore. It's just
10 because of when this was approved that it was still that way.

11 MR. VAN DINE: Mr. Chairman, in light of all that's been said I would move that
12 we accept this as conditional approval subject to the conditions set forth on Items 1
13 through 6 of our Report.

14 MR. THEUS: Second.

15 CHAIRMAN PALMER: We have a motion and a second. Any other discussion?
16 All those in favor say aye. Any opposed?

17 *[Approved: Cairns, Westbrook, Palmer, Gilchrist, Van Dine, Theus, Brown; Recused:*
18 *Tuttle; Absent: McDaniel]*

19 CHAIRMAN PALMER: Okay. Alright next case, Case No. 13-24 MA.

20 **CASE NO. 13-24 MA:**

21 MR. LEGER: Thank you, Mr. Chairman. We do have two map amendment
22 applications this month. The first one is Project No. 13-24 MA. He Applicant is Mr.
23 Charles Marshall Jr., the property is located on Windsor Lake Boulevard. It's a little over

1 four acres in size, currently zoned RS-LD, which is residential, single-family, low
2 density. Mr. Marshall is requesting the OI, Office and Institutional District. The single-
3 family residential district is the original zoning from 1977. The classification has
4 changed from RS-1 to RS-LD. The properties in the vicinity are for the most part
5 residential in nature to the north, south and east, also zoned RS-LD, as is the subject
6 property. To the west we've got Two Notch Road which is, contains property that's
7 zoned GC. Between the subject property and Two Notch Road is a railroad right-of-way
8 which is a, pretty much forms an extensive buffer between Two Notch and the subject
9 property, and also separates the commercial uses of Two Notch Road from the subject
10 property. The subject contains a homeowners' association clubhouse, a swimming pool,
11 kind of a vacant lot and some tennis courts. It is surrounded by a chain link fence.
12 Otherwise that's what makes up the subject property. The vicinity really is made up of
13 residential structures on a two lane local residential collector, which is Windsor
14 Boulevard. Not a whole lot other to say other than the vicinity is made up of residential
15 use, the subject property is the clubhouse, the clubhouse is separated from the non-
16 residential use by the railroad track over on Two Notch. Water and sewer are provided
17 locally through the City of Columbia, or Richland County. Our Comprehensive Plan
18 recommends suburban use for this property where commercial office use should be
19 located on, or at traffic junctions or where extensive commercial use is located. We
20 really did not find that to be the case. In addition, the site should not encroach upon
21 residential use and we found that to be the case. For these reasons the Staff could not
22 support the rezoning request from RS-LD to OI and recommends disapproval of the
23 application at this time. If you have any questions I'll be glad to try and answer them.

1 CHAIRMAN PALMER: Any questions for Staff? Okay, when I call your name if
2 you would come down and take the podium and if you'd give us your name and address
3 for the Record we'd appreciate it. And if you could limit your comments to two minutes
4 it'd be great. Charles Marshall Jr.

5 **TESTIMONY OF CHARLES MARSHALL JR.:**

6 MR. MARSHALL: My name is Charles Marshall Jr. Address is 864 Longtown
7 Road West and that's in Blythewood, South Carolina. When I purchased the property,
8 well first of all let me just say that I own a home in the neighborhood so naturally I would
9 not be trying to put anything in the neighborhood that would, would destruct that, that
10 would not be tasteful. I own a home in the neighborhood, I bought out there in 1985.
11 That particular piece of property that we're discussing now to rezone has been utilized
12 for the same thing that I'm trying to utilize it for now, which is basically recreation. That's
13 why it has a clubhouse, a swimming pool, a tennis court, volley ball court, basketball
14 court, those types of recreational things. I only want it rezoned so that we can be within
15 the legal aspect and perspective of what we need to do. I only, only want it rezoned so I
16 can do recreational and the recreational will be the exact same thing that they have
17 been doing there for the last 40 years or more. Therefore, I know that in most
18 communities they have a clubhouse, even the communities they're building today, they
19 have a clubhouse. This clubhouse had ran down. The reason I was able to obtain it was
20 because of the fact that they let it just run down, down, down. I came in, I put a lot of
21 money into it with the ignorance of not knowing that I would not be fully supported by
22 the neighborhood, because I would think that they would want a nice, tasteful type

1 clubhouse, swimming pool, etc. in the neighborhood. My, I know my two minutes are
2 probably up but I do want to say this in closing -

3 CHAIRMAN PALMER: Sure.

4 MR. MARSHALL: - is that I have no intent of doing anything other than the
5 recreational activity for which they have done over the years. And if we're talking about
6 the fact that it's in a neighborhood, there are clubhouses in just about every
7 neighborhood that you can – and this one, not only is it in the neighborhood but it's
8 adjacent to Two Notch, so the only thing that's between it and Two Notch is the railroad
9 track. There's a unit cross the street from it that's commercialized as well. With that
10 being said hopefully that I can earn the respect and the cooperation of the
11 neighborhood to support me on doing this and I think their only fear is that I'm going to
12 do something other than a recreational activity. That's my intent, that's all, the only thing
13 I want to do.

14 CHAIRMAN PALMER: Thank you.

15 MR. MARSHALL: Thank you.

16 CHAIRMAN PALMER: Mr. Marshall, let me just explain something to you and
17 also to people in the audience real quickly. I, I don't think it has anything to do with you,
18 and this board, whatever decision that this board makes to recommend to County
19 Council, it has nothing to do with trusting you or, or trusting what you want to do with the
20 property. But the zoning classification that is put on the property, whatever it is, runs
21 with the property not with you. And you may have every great intention in the world but
22 at some point the property will change hands and then whatever is allowed under that
23 zoning classification can go there without a single peep from anyone in the

1 neighborhood. So I don't think it has anything or would have, I know it wouldn't from my
2 aspect, have anything to do with trusting you or what you want to do or anything else.
3 But what we as a body have to look at are all of the uses that are allowed under that
4 zoning classification and do we think that all or any of those uses are appropriate for
5 this site, not just what you want to do. And that's what the zoning, overall zoning is in
6 the county. It, we can't specifically say that you can use it as a clubhouse and nothing
7 else in the zoning classification. You or anyone else that buys the property 20 years
8 from now or 30 years from now, so I just want to explain that to everybody, when you
9 ask for a zoning change you're asking for every use in there, not just the one that you
10 want to do.

11 MR. MARSHALL: Okay, sir, I have two things I would like to address if it's okay.
12 And that is, the first one is the fact that over the years it's been used for the exact same
13 thing that I am asking that it be used for. It seems like to me now once I came in and put
14 money into it and fixed it up and then want to offer it to the neighborhood as, at a very,
15 very reasonable rate, in other words we're talking \$150 per family for membership, and
16 if it has been utilized for this over the years how are they able to utilize it for the exact
17 same thing but yet instill am I not permitted to utilize it for the exact same thing that they
18 were utilizing it for? Because I don't want to make any changes to that.

19 CHAIRMAN PALMER: Okay. What's the second question?

20 MR. MARSHALL: Second question is, basically is there any way to write in to the
21 zoning that once the property changes hands back, in other words let's say I sell the
22 property, can this property automatically be converted back to residential property? I
23 mean, can that be written in to -

1 CHAIRMAN PALMER: No, sir.

2 MR. MARSHALL: - the 01?

3 CHAIRMAN PALMER: Hum-um (negative).

4 MR. MARSHALL: Okay, well that was my questions, sir, I had. You know, I –

5 CHAIRMAN PALMER: Okay, well we'll find out the answer to your other one in
6 just a minute.

7 MR. VAN DINE: Mr. Chairman, can I ask a question of Staff? This is, would be
8 considered a non-conforming use, is that correct? What is there presently is it would be
9 considered a non-conforming use or is it a conforming use or? I mean, what's the –

10 MR. LEGER: A clubhouse would be a conforming use. But it's my understanding
11 once that is privately owned and offered to the neighborhood it becomes more of a
12 privately operated recreational facility. I think Mr. Price, our Zoning Administrator, might
13 have to reflect on that a little more than I, but as far as I know if it's a homeowner's
14 association clubhouse and supported through the homeowner's association, it would be
15 an allowed use.

16 CHAIRMAN PALMER: My understanding is this particular facility has offered
17 public memberships for some time now.

18 MR. MARSHALL: That is correct, sir. That is correct. I did not buy it from the
19 association, I bought this from a group who had formed the LLC and I don't know when
20 they obtained it or anything of that nature. However, I did not buy it from the association.

21 CHAIRMAN PALMER: Right.

22 MR. MARSHALL: I purchased it from the people who had ownership which was a
23 private club.

1 CHAIRMAN PALMER: Mr. Price?

2 MR. MARSHALL: And they were operating it for the exact same thing for which I
3 would like to operate it.

4 MR. VAN DINE: So at the very least what we're talking about is, at the worst a
5 non-conforming use and at best it's allowed simply because of what's been going on. Is
6 that correct? I mean, if Mr. Price needs to answer that question that's fine.

7 CHAIRMAN PALMER: I'm sorry, sir. We've got the Zoning Administrator behind
8 you that is probably gonna answer the question for us.

9 MR. PRICE: Just wanted to give some clarity. Normally you will find, you know,
10 the pool and the clubhouse as part of one of the amenities of a community. It's my
11 understanding that this was always kind of a privately owned use so to answer your
12 question, there's no license for it, we haven't had one for quite a while so it would be a
13 non-conforming use.

14 MR. VAN DINE: But it can continue as a non-conforming use.

15 MR. PRICE: Well, actually let me – it was non-conforming but due to the, we
16 haven't had a license or any type of permitted use on there for quite a while, thus that
17 non-conformity would have been lost. So right now in order for them to come back in
18 and get a license to use this, they would need to bring it into compliance and that would
19 be by rezoning.

20 MS. CAIRNS: Well, let me – based on the presentation of Mr. Marshall, is it
21 possible it was operating as a private club without a business license for some period of
22 time?

1 MR. PRICE: Yeah, we run into that a good bit where people have been kind of
2 using it they just never had a license for quite a while.

3 MS. CAIRNS: Do we know when it actually stopped being used by the previous
4 owners?

5 MR. PRICE: No, we don't.

6 CHAIRMAN PALMER: I can personally tell you that it's been, it's been not that
7 long ago, my children go to school on that road and I, I've seen them advertise even last
8 summer pricing for joining the club.

9 MR. PRICE: You've seen it actually operated?

10 CHAIRMAN PALMER: Right.

11 MR. PRICE: Okay.

12 CHAIRMAN PALMER: And I know that they've been struggling and I've seen
13 some work going on on the site, but there have been memberships there not that long
14 ago.

15 MR. PRICE: And I think we may have discussed this but I know from my travels
16 going there over the last five years, you know, it does seem like on and off, you know, it
17 seems like it's been vacant for a while and then, you know, maybe it has been operated
18 but –

19 CHAIRMAN PALMER: Yeah.

20 MR. PRICE: - I seem to observe more vacancy than I have activity.

21 CHAIRMAN PALMER: Yeah, I mean, I've seen the sign out there that, you know,
22 they were advertising the memberships and stuff but I, I honestly think that this is one of
23 those cases where we need to take a step back and look at it and see, look, you know, I

1 understand if I lived in that neighborhood I would certainly be afraid of it and we still
2 have some more people to speak to it, but you know, if the current owner wants to use it
3 and he's not even expanding the building, he's not even making it grow, you know, but I
4 would imagine cleaning up the tennis court, cleaning up the basketball, cleaning up the
5 pool, tighten things up, I mean, seems like this is one of those cases where we need to
6 find a way to say, look you, this is a legal non-conforming use.

7 MR. PRICE: I think we can, you know, of course it's your decision if we just go
8 ahead and proceed on and I think just based on, let's get some more information from
9 the residents in this area, that's something maybe we can look at afterwards.

10 CHAIRMAN PALMER: Yeah.

11 MR. TUTTLE: And Mr. Chairman, if I may. I'm just trying to understand, what,
12 what triggered the rezoning request?

13 MR. PRICE: Mr. Marshall, he came to the counter and we were discussing what
14 he was proposing to do with the property.

15 MS. CAIRNS: So sort of like the previous owner just did it under the table, he's
16 trying to do it proper and so he got caught. [Laughter]

17 MR. PRICE: Yes.

18 MS. CAIRNS: I mean, cause that's the thing, it's not like he should lose the non-
19 conforming use because the previous guy didn't get a permit.

20 CHAIRMAN PALMER: No.

21 MS. CAIRNS: I mean, that's the thing is if the previous person had had a permit
22 he'd be fine. Now whether the previous person should've gotten one or not, but then it
23 would've come to light sooner.

1 CHAIRMAN PALMER: How about – and we still have some more folks, but while
2 you're up there, can you operate this type of facility under the TROS District?

3 MR. PRICE: I'll take a look at that.

4 CHAIRMAN PALMER: Traditional Recreational Open Space?

5 MR. PRICE: I can look at that while you proceed.

6 CHAIRMAN PALMER: Alright. Any other questions for Mr. Price? Alright, Robert
7 O'Brien, followed by Debra Prescott.

8 **TESTIMONY OF ROBERT O'BRIEN:**

9 MR. O'BRIEN: Good afternoon. My name's Robert J. O'Brien, 9604 Highgate
10 Road, Columbia 29223. First of all I'm the president of the Briarwood Neighborhood
11 Association, which the swimming pool and the clubhouse all fall into. I'm gonna try to, if
12 I, give me an extra minute or so to kind of summarize this cause there's been questions
13 that come up about who owned it, who this. The neighborhood had always run the pool
14 area, then it took, then they ran into some tough times, they sold off some of the
15 property. Somewhere along the line money came up missing, nobody knows, and they
16 sold off some more property. Then the, what happened was we didn't have that many
17 people being members from our neighborhood so a group that was heading up the
18 association opened it up, they said, well we need to get more people in, so what they
19 did, they opened up membership to outside our neighborhood. There's where some of
20 the problems occurred. So what happened was they started selling off some of that
21 property next to the railroad just for the railroad to have a right-of-way. They kept getting
22 deeper and deeper in debt and then finally they didn't pay taxes for two years and, I
23 believe it's two years something like that, and that's when Mr. Marshall was able to pick

1 up that piece of property. He also picked up the bigger property there when they tried to
2 sell that to keep the pool going. And, and I just want to make things straight, I have
3 talked to Mr. Marshall the last several years about, hey what would it take for us to buy
4 the pool? Well, I'll work with you, I'll work with you. Never came back to me to make an
5 announcement, hey you want the pool, I'll sell it to you. Cause I know what he paid for
6 it. So the idea that we don't want the pool is a mis – last night we had a neighborhood
7 association meeting, we had over 100 people that showed up for the meeting. We also
8 were kind enough and gave Mr. Marshall a chance to stand up and defend his, what
9 he's doing there. And he had plenty of time, people answered questions, or asked
10 questions and he answered them. So it isn't that we're against him, what the neighbors
11 are fearing is that you, with this change in the zoning the big lot next to the pool, he
12 could come in there and put in karate place, doctor's offices, things like that, which
13 increases cars. Then if he approves that, the person across the street could say, hey
14 wait a minute, you just approved zoning for him, I want to open up a daycare. And so
15 you got this ball just rolling over and the next thing, the neighborhood's got all kinds of
16 businesses in it. So the neighbors signed a petition last night, I can make that available
17 to the Staff here. But I think what we, we have to keep in perspective is that, and I don't
18 think it's coming out clear and I'll be honest about it cause I, I know Mr. Marshall for a
19 long time, we're both retired military, the big thing is he got a bundle of money that he
20 forked out for that big lot, he forked out a bundle of money for the pool area, and then
21 he put a bunch of money into fixing up the clubhouse, which really looks nice. But the
22 bottom line is you don't put money, and I know some of you are business, you don't put
23 money into a business of some sort unless you're gonna make money on it. How's he

1 gonna make money, get a return on his money? He's got to do something and as
2 you've got people coming in, he's not gonna sit there with the amount of money he's
3 invested in that area without turning some money. And then if he turns it, he says, hey
4 I'm going belly up, I'm gonna sell it. Well, then we got some guy coming in that is, we
5 don't know what he wants to build there, so we're saying cut it off now. We would like to
6 work with him if we can find a way to sit down and work something and I would entertain
7 representing the neighborhood, the idea if we could take that section where the pool is
8 and work something out that we let him run the pool and at the close, if he decides, I
9 can't make it with the pool, then it reverts back from the IO, or OI, I get them all – but
10 the other section we don't want that touched at all. Cause he had told me for a long time
11 he was gonna build homes in there after he bought that. So that concludes my – do you
12 have any questions for me?

13 CHAIRMAN PALMER: No, sir. Appreciate it.

14 MR. TUTTLE: I, I do have a question for Staff.

15 CHAIRMAN PALMER: Yeah.

16 MR. TUTTLE: Let's say the homeowners bought the pool back –

17 MR. O'BRIEN: I'm sorry?

18 MR. TUTTLE: - this is for Staff, I'm sorry.

19 MR. O'BRIEN: Oh.

20 MR. TUTTLE: If the homeowners bought the pool back, how, how would it
21 become a conforming use ever?

22 MR. LEGER: Well, it's my understanding that the homeowners association use,
23 clubhouse, pool, amenities, it's like an amenity area in a typical subdivision.

1 MR. TUTTLE: Okay, so, so the use would be tied to ownership?

2 MS. CAIRNS: And membership.

3 CHAIRMAN PALMER: But the use is still not allowed in – it's a private piece of
4 property, it's not part of the development, so it's just like you buy a lot in any
5 neighborhood that's not actually a PUD and then you can come put a clubhouse on it.
6 You can't do that. That's the same thing here.

7 MR. TUTTLE: Yeah, I'm just trying to understand how it would ever get back to –

8 MR. PRICE: If that were the case they would have to go through the same
9 process that we're doing right now.

10 MR. TUTTLE: But what could, they would have to go to the same zoning
11 classification?

12 MR. PRICE: Yes, sir.

13 MR. TUTTLE: OI?

14 MR. PRICE: Yes, sir. And we're still looking at TROS, but they would still have to
15 go through the process. You know, this is a little different than, like I say, you have your
16 typical, well the subdivisions that we're aware of now that typically pop up and they
17 have the amenities already tied up within there. But in this case I think you could look at
18 this more of kind of a neighborhood and it's a separate parcel that's there, and I guess
19 it's not really part of, you know, Windsor Lake Subdivision where here's the amenity
20 center. So they would have to come back through the full process.

21 MR. TUTTLE: So if I'm understanding you there's no way for this pool to operate
22 the way it has –

1 MR. PRICE: We're, once again we're, we just called and the last license they had
2 there was in 2011, so the last, I guess you could say fully legal use of it, if you go
3 through license and permissibility was in 2011. But then we also will take into
4 consideration maybe the just didn't renew it, but evidently they, if it's changed
5 ownership then during that time and nothing's happened then I still feel that the non-
6 conformity may have been lost.

7 CHAIRMAN PALMER: So basically this parcel as it currently sits would need to
8 be sold to a single individual who wants to live in this as single-family residence.

9 MR. PRICE: Currently as it's zoned, yes, sir, that would be the use.

10 CHAIRMAN PALMER: Okay. Alright, Debra Prescott?

11 **TESTIMONY OF DEBRA PRESCOTT:**

12 MS. PRESCOTT: Good afternoon, I am a member of the Briarwood community.
13 My parents are homeowners in that community. Most of the people that are in that
14 community are in their late 60's, 70's and 80's, these are not people that are gonna be
15 at a swimming pool. Last night we were told it would be used and rented out for, you
16 know, \$50 an hour to anybody who wanted to rent it. We're concerned about parties,
17 we're concerned about the noise level, we're concerned about bringing people that are
18 not in the community into that community which is gonna increase our traffic, our crime
19 rate. And when they had offered it to other people before we've had shootings in that
20 area. People get out in the parking lot, get into arguments, you know, there are just a lot
21 of bad things that happen. This is right on Two Notch road across from Bi-Lo shopping
22 center and the area is, is not conducive to bringing in this type of, you know, thing.
23 We're having noise late at night and this is not something the community wants. Not to

1 say Mr. Marshall will do it but if he decides to flip that property in a year once he gets
2 the zoning, they can come in and do whatever they want, then that is what we're
3 concerned about. This is an elderly community, there are 600 homes in that community.
4 We have one of the lowest crime rates in the area because we watch out for each other,
5 and this is not something that we want in our community. Thank you.

6 CHAIRMAN PALMER: Thank you. I can't make out the first name but is it
7 Desert? Followed by Frank Norvill.

8 **TESTIMONY OF [INAUDIBLE] DESERT(?):**

9 MS. DESERT: My name is [Inaudible], 2912 Hobcat(?) Road. I want to second
10 what our president Jim O'Brien has said and I oppose zoning for [inaudible]. I have lived
11 in that neighborhood for 30 years happily, much half of my life and I would like to, for it
12 to be kept preserved pretty much the way it is. If there is a possibility to have a pool
13 without having to rezone to OI, where it's just really what Mr. Marshall said, he doesn't
14 want to do anything more than that, I would be okay with that. But as others have
15 mentioned he has invested a lot of money in there and by just offering for \$150 to I don't
16 know how many people in the Briarwood, I wouldn't be one of the ones who would want
17 to go swim there and be a member. I don't know how he will recoup his money. So
18 that's all I have to say.

19 CHAIRMAN PALMER: Thank you. Frank Norvill, followed by Wayne Stone,
20 Store?

21 **TESTIMONY OF FRANK NORVILL:**

22 MR. NORVILL: My name is Frank Norvill. I live at 9500 Highgate Road. Lived
23 there since 1982. I went to school at E.L. Wright Middle School which is there so I've

1 known the neighborhood for a long time. It is a nice neighborhood, it's a relatively quiet
2 neighborhood. I mean, we have, every once in a while we have the loud noise and stuff.
3 Windsor Lake Boulevard's probably the biggest problem with traffic coming through and
4 it's a cut through from Alpine Road to No. 1 Highway. If the pool could be designated
5 just for pool area and a recreation area I don't think anybody would have the problems,
6 but the problems come in, and it's not against Mr. Marshall here, I went up and I toured
7 the pool house, he has did a lot of work, he has improved it. But changing the zoning to
8 OI like you stated was the next person that comes along can put in whatever. And
9 there's a whole, as y'all know, there's a whole list, last night in our meeting, I forgot your
10 name, but he presented most of the things and some of them had restrictions and some
11 of them didn't. So you've got a lot, there's a lot of things in there that have no
12 restrictions so when you change the zoning, somebody come along, wants to put in one
13 of these establishments that has no restrictions they can do it without anybody being
14 able to do anything about it. And not saying that Mr. Marshall is not a man of his word
15 but he's like me, he's like a lot of people that live in the neighborhood, we're getting
16 along towards the golden years and we might not be around. And the next people that
17 come along might not have the same feelings in the neighborhood. One of the biggest
18 reasons that I live in the strange house that I live in, it's a flat roof house which is
19 unusual for this area, but it backs up to Sesqui State Park, so we're bordered on one
20 side by Sesqui State Park, we're bordered on the other side by the railroad track, and
21 basically that's it. You know, you're not going to a lot of places in our neighborhood
22 unless that's where you want to go. And that's the only problem we have I think is the
23 future of changing the zoning. Thank you.

1 CHAIRMAN PALMER: Thank you. Wayne [inaudible]?

2 **TESTIMONY OF RAYMOND STOVER:**

3 MR. STOVER: My name is Raymond Stover, I live at 2804 Bancroft Road. I've
4 been at that address since 1981, 30 plus years. Of course I live there in Briarwood and I
5 have seen just a few changes in the neighborhood since I've been there, but for the
6 most part it's been a very quiet and very peaceful neighborhood, reserved only for
7 residences. And I want to state very, very [inaudible] that I am against any change in the
8 zoning act. I think once you make a change and it's already been stated that you're
9 going to allow other kinds of things to happen to the peace and tranquility of our
10 neighborhood, and for that reason I am against any change. And I do know that there
11 may have been a great deal of investment by the current owner in the property that
12 we're talking about. But I'm afraid based on what has been said it's a little difficult to get
13 the kind of return on the money that has been invested based on the kind of recreational
14 habits that we have today. Many, especially young people, find other ways to amuse
15 themselves, to recreate other than just coming to a club and I'm afraid that that is not
16 going to be a return based on what the owner wants to do. And I just sympathize with
17 him but I'm afraid that if we make a change that we're going to allow other kind of
18 elements to come in in order to make this profit. So I'm speaking on behalf of me and I
19 think that I would like to see the neighborhood reserved strictly as a residential
20 neighborhood and leave the zoning status as it currently is. Thank you.

21 CHAIRMAN PALMER: Thank you. That's all we've got signed up to speak.

22 MR. VAN DINE: Mr. Price, did you find out anything about the TROS?

1 MR. PRICE: Yes, sir. TROS does allow for a number of uses in there such as
2 swimming pools and, I guess if it was a, with the swim and tennis clubs, I'm not sure
3 that's exactly what that's going to be. Also maybe a public or private park if we're gonna
4 try to throw it into that kind of category. So it would allow for those type uses.

5 CHAIRMAN PALMER: So you would, under your assessment, be able to put
6 what's currently there under one of those categories?

7 MR. PRICE: We, I would need to, I would like to talk to the Applicant about, you
8 know, all of his future uses for this property first. But, I mean, if you're just talking about
9 maybe just the tennis courts and just the swimming pool this probably could go in there.

10 MS. CAIRNS: But it's the clubhouse that seems to be giving heartburn.

11 MR. PRICE: Right. That would be, that could be used for –

12 MS. CAIRNS: It's common for a tennis court and a swimming pool to have a
13 clubhouse.

14 MR. TUTTLE: Yeah. Well, aren't all the –

15 MR. THEUS: You have to have restrooms for a swimming pool.

16 MS. CAIRNS: Yeah, you have to have –

17 MR. TUTTLE: Golf courses, when they went under TROS, I'm assuming the
18 clubhouses went under as well?

19 MR. VAN DINE: That is correct.

20 CHAIRMAN PALMER: Yeah, and they also have basketball courts, I mean, just
21 look at Wildewood, I mean, you got tennis courts, swim club, basketball.

22 MR. PRICE: Yeah, we included that, yes, sir.

23 MS. CAIRNS: Yeah, I mean, it seems like it'd be a fit.

1 MR. PRICE: And once again, like I say, I would want to talk to the Applicant
2 about his, you know, all of his intended uses rather than just locking him in to just those.

3 CHAIRMAN PALMER: Yeah, but even if they are, even if there are other ancillary
4 uses, like let's just say he wants to put a Putt-Putt course or whatever, I mean, those
5 are, that's what that classification was intended for was for open air, recreational
6 spaces. Whatever is encompassed in those, I mean, you know.

7 MR. PRICE: I don't disagree with you on that.

8 CHAIRMAN PALMER: Yeah, okay. Just as long as there's no ominous uses that
9 were intended.

10 MR. PRICE: Well, there's that question.

11 CHAIRMAN PALMER: Right, okay.

12 MR. PRICE: If this turns into a, which you would have the option of, you know,
13 rental facilities, but I guess you could do that with a number of the –

14 CHAIRMAN PALMER: Picnic tables or something?

15 MR. PRICE: - clubs you see right now. Well, you know, just rentals, just the
16 building. I don't know what's in the building, it could just be a rental place.

17 MS. CAIRNS: And if you think about, if somebody had a property that was almost
18 entirely a clubhouse and they put a basketball hoop out back and said it's traditional
19 open space, it's kind of like at what point do you have enough open space to support
20 the clubhouse? And the Code doesn't address that so I think maybe that's some of, you
21 know, is there – cause you think about a golf course, you've got acres and acres and
22 one clubhouse. But at some point the continuum goes too far.

23 CHAIRMAN PALMER: Yeah.

1 MS. CAIRNS: I'm not saying this one does, but. I mean, yeah if someone just
2 opened a clubhouse and put a basketball hoop up and said it's traditional open space.

3 MR. VAN DINE: But the rental for most of the TROS, I mean, our club house is
4 rented out. I mean, for weddings and other things like that, so I mean, we're not –

5 MR. PRICE: No, I wasn't, I'm not saying that that can't be done, just want to just
6 make sure that we've established all of the uses that he wants, so just kind of throwing
7 that out there, additional.

8 CHAIRMAN PALMER: Well, it's not gonna slow this down either way. Whatever
9 our recommendation is to Council, Council's gonna do with it whatever it is, and if he
10 does, if the Applicant Mr. Marshall does want to come back in under a different zoning
11 classification, he can either move forward with what he currently has on the table or he
12 can pull that off and come back in with another classification. Moving forward with this
13 isn't gonna hamper that.

14 MR. PRICE: No, it doesn't, not at all.

15 CHAIRMAN PALMER: Okay.

16 MR. TUTTLE: With that being said, Mr. Chairman, I'd like to make a motion that
17 we send Item 13-24 MA forward to Council with a recommendation of disapproval.

18 MR. THEUS: Second.

19 CHAIRMAN PALMER: Any other discussion? All those in favor of the motion
20 please say aye. Any opposed?

21 *[Approved: Cairns, Westbrook, Tuttle, Palmer, Gilchrist, Van Dine, Theus, Brown;*

22 *Absent: McDaniel]*

1 CHAIRMAN PALMER: Okay, and we are a recommending Body to County
2 Council. They will meet back in these same Chambers on, what day?

3 MS. LINDER: July 23rd.

4 CHAIRMAN PALMER: On July the 23rd, and so Council will take it up at that time
5 and I would recommend that everybody be back here or perhaps work something out
6 with Staff as to what can possibly be done on this thing.

7 MR. VAN DINE: And Mr. Marshall, in the interim time I would suggest that you
8 get with Mr. Price and talk about some of the things that have been raised here today
9 and perhaps the two of you can deal with something.

10 MR. MARSHALL: [Inaudible] I would like to ask is there any way that I could
11 continue to do exactly what they was doing in the past?

12 MR. VAN DINE: You'll have to talk with Mr. Price, that's not something we can
13 decide.

14 CHAIRMAN PALMER: Yeah, I think Mr. Price can help you. Okay? Next case,
15 Case No. 13-25 MA.

16 **CASE NO. 13-25 MA:**

17 MR. LEGER: Thank you, Mr. Chairman. The Applicant in this case, and I will
18 apologize for hopefully not butchering the name or the pronunciation, but Mukesh
19 Thakkar. I did my best.

20 CHAIRMAN PALMER: You need to leave that to me, I do that.

21 MR. LEGER: The acreage in this case is about one and three quarters, it's
22 currently zoned RU which is our Rural Residential District. The Applicant is requesting
23 the RC Rural Commercial District. The RU District is the original zoning district from

1 1977. There are, in this instance if you had the opportunity to go out and visit the site,
2 you will have found that the majority of uses in the immediate vicinity of this site are
3 residential, manufactured housing or tree formed or vacant properties, modular homes
4 and so forth. The zoning surrounding the property is of a rural residential nature except
5 for those properties that are in the Town of Blythewood, many of those are zoned
6 General Commercial. The subject property is currently occupied by a convenience store
7 and as part of that convenience store, was at one time a, kind of a minor automobile
8 repair garage because there is a one door bay where the automobile repair took place
9 to the left side of the structure. There's also a residential home to the rear of the
10 commercial business and also kind of a commercial structure you see there in the
11 photograph that is currently, as far as I'm aware, not being used. Again, for the most
12 part the surrounding area is residential in nature. This part of Wilson Boulevard is a two
13 lane collector. Our Comprehensive Plan recommends suburban in this vicinity, again
14 where commercial and office should be located at traffic junctions or in locations where
15 other commercial uses are established. We did not find that to be the case. This area is,
16 for the most part exclusively residential except for the subject property. It's not at a
17 traffic junction and is really surrounded by residential use. Because in our opinion this
18 property did not comply with the Comprehensive Plan and would tend to encroach on
19 residential use, the Staff was unable to support the request and recommends
20 disapproval at this time. If you have any questions I'll be glad to try and answer them.

21 MR. TUTTLE: Mr. Chairman, I have a question.

22 CHAIRMAN PALMER: Absolutely.

1 MR. TUTTLE: I'm just, I want to understand the process better for something
2 that's a non-conforming use to lose that status. Can somebody just walk me through
3 what triggers that and what the durations are? Thank you, Mr. Price.

4 MR. PRICE: Okay, I'm dying over here, so. Should know this off the top of my
5 head.

6 MR. VAN DINE: Mr. Chairman, while Mr. Price is looking can I ask a quick
7 question of Staff?

8 CHAIRMAN PALMER: Sure.

9 MR. VAN DINE: The property across the street, which is within the Town of
10 Blythewood which sits between Wilson Boulevard and Farrow Road, do you have any
11 idea what that is zoned as part of Blythewood's zoning?

12 MR. LEGER: Immediately across the –

13 MR. VAN DINE: Cause see, if you look at the photograph on page 13, this area
14 is depicted as being part of Blythewood and it's, there's an area that's between Farrow
15 Road and Wilson Boulevard where Farrow Road joins Wilson Boulevard. Do we know
16 what that property is zoned?

17 MR. DELAGE: The one that's at least contiguous to the east is RU. There, since
18 the parcel lines aren't exactly showing up I think there might be a portion where this
19 arrow is that might be something else, but it would have frontage on Farrow Road. I'm
20 not 100% without being able to look at the GIS, but it was verified with the Town of
21 Blythewood and it is zoned their equivalent of RU. I believe they use the same
22 designation as RU as well.

1 MR. VAN DINE: Where is the area that we were talking about the Town of
2 Blythewood had commercial zoning?

3 MR. LEGER: On the first page of the Staff Report, the, essentially the second
4 paragraph attempts to explain that. We don't really have a map that shows you those
5 parcel lines and those zoning classifications but, let's see – and so other than that
6 paragraph of explanation, I'm not sure I can give you much more information.

7 MR. VAN DINE: And that's sort of where I – because the last sentence says, the
8 general commercial district parcel east of the subject parcel, located along Farrow
9 Road, located in the Town of Blythewood. And I'm trying to figure out where that is in
10 relation to – cause east of it is into the area I just talked about.

11 MR. LEGER: The street?

12 MR. VAN DINE: Yeah.

13 MS. CAIRNS: Well, and the other thing, just, this is a tract of land I drove past
14 daily for a couple of years. The stand of trees to the north of the property is no longer a
15 stand of trees, it's an enormous, electrical power thing. It's, it's, I don't even know how
16 to describe it. It's a series of giant power poles where power comes in and goes back
17 out, it's not a substation I don't think, but it's no longer trees, it is completely cleared to
18 be some kind of a strange – the power lines come down Wilson Boulevard, they go in
19 there and change direction and head down Farrow Road. That's no longer a stand of
20 trees and that will never be residential. It's just happened so recently that this
21 photograph still shows that it's a stand of trees.

1 MR. DELAGE: I believe that's the one east of the – oops. This is the general
2 commercial parcel that is in the Town of Blythewood that's east of the site with the
3 frontage along Farrow Road.

4 MR. VAN DINE: And all the rest of it you say is RU?

5 MR. DELAGE: Yes, sir.

6 CHAIRMAN PALMER: And then I would imagine the site to the north between
7 the railroad track, Farrow and Wilson is general commercial as well, right? Right there?

8 MR. DELAGE: This one right here?

9 CHAIRMAN PALMER: Yeah.

10 MR. DELAGE: Yes, sir.

11 CHAIRMAN PALMER: And then even though that power grid area is zoned
12 probably rural, where the trees are at right now –

13 MS. CAIRNS: Yeah, that no longer a stand of trees.

14 CHAIRMAN PALMER: Yeah, yeah. Even though it's zoned rural it's pretty hot.

15 MS. CAIRNS: It's utility, not a –

16 CHAIRMAN PALMER: Yeah.

17 MS. CAIRNS: Yeah.

18 MR. PRICE: I had to go back to answer a question by Mr. Tuttle where he was
19 inquiring about non-conforming uses. Under 26-257 of our Land Development Code (B),
20 when you have a non-conforming use this is what determines when it's discontinued.
21 The owner is, has in writing a public statement indicating intent to abandon the use, a
22 conforming use or a non-conforming use of lesser impact has replace the original non-
23 conforming use, the building or structure housing the non-conforming use has been

1 removed, the owner has physically changed the building or structure or its permanent
2 equipment in such a way as to indicate clearly a change in use or activities or
3 something other than the non-conforming use, and finally the property structure or use
4 has been vacant or completely inactive for 12 or more months. So, you know, I, I can
5 tell you that if, this is probably not quite as simple as it may seem, on a daily basis we
6 have citizens, applicants coming in just about every day where they're trying to establish
7 a use and they say, well we've been there for a couple of years, we've been there,
8 somebody else was there, but we go back and we don't see a license for years. So
9 what we're trying to do is also trying to balance, you have a use there and legally you
10 should have a license for it versus someone, you know, maybe they've continued the
11 use, you know, one of those sites where everybody's driven by, you've seen it for years,
12 you know they've been active, they just didn't come in, let's say in the past year, and get
13 a license. You know, we'll try to work with them. But then you also have the other ones
14 where the owner has just been, the property owner as they've been renting the site, you
15 know, rent it to you, you go in there for a couple of months but then you're out, it's
16 vacant for a few months, next person comes in. There's never been a license for there.
17 You know, so those are the things we have to look at with these particular type of uses
18 that come in. In this particular case I know way back when I first started, going out there
19 I remember when there was a garage and a convenience store. But the convenience
20 store has continued its use, but when we went to look at a license, and it wasn't just
21 when the Applicant came in, I think he had a tenant that was gonna come in, was prior
22 to that also that we found that there was, there was never a license, the garage had
23 really not been used. So we couldn't, that use we determined to be abandoned,

1 vacated. So the convenience store is allowed to remain but we, but the use with the
2 garage is why they're really here. So convenience store is non-conforming, the garage
3 is not.

4 MR. TUTTLE: So if, if I own a building and my tenant leaves and I'm actively
5 marketing that building and I can't find another tenant, I have no way to get a license
6 because I don't want to – I'm just curious, I'm just trying to understand.

7 MR. PRICE: There's a provision, there's a provision in our Code, and that's not to
8 say that if you have a building that you have to find, the first person that walks in on that
9 last, you know, within that year where you say, there's no way in the world I would ever
10 rent to you but I'm desperate, that's not what we're saying. But you have to show some,
11 you've been actively maintaining the building and you've actively been trying to find
12 tenants. But we, once again that's something else that we have to go through on a daily
13 basis of dealing with potential property owners. They tell us this, a lot of times there's
14 nothing to prove that you've actually been doing that.

15 MR. TUTTLE: Okay, fair enough. Thank you.

16 MR. PRICE: Okay.

17 CHAIRMAN PALMER: Alright, any other questions for Staff? Mr. Thakkar, would
18 you come up and take the podium for us?

19 **TESTIMONY OF MUKESH THAKKAR:**

20 MR. THAKKAR: Good evening gentlemens and everyone. My name is Mukesh
21 Thakkar and I am on 10447 Wilson Boulevard. Okay, I just bought this property one
22 year back and when I bought this property at that time, garage was there. Carl was
23 there, a mechanic guy who is repairing the car and everything out there. But there is

1 one thing is for sure, that I have not been in the garage and haven't look at it that
2 whether this gentleman have a license or not. That is for sure, I have not checked it out.
3 That is why, whatever it is, is it stupidity or foolishness, whatever it is. But when I just go
4 for the closing, bought the property and at the time of the closing we really strictly
5 [inaudible] that I want completely record for this of all property, I don't want any old
6 tenant in the property. So that's why they just took one month to make it all clear and
7 then we go for the closing. And after the closing, when I get gentleman who can run a
8 garage, because in a garage there is, everything is there, the lift up bay, and everything
9 up there, it is a running garage. So my concern when I bought the property is only one,
10 that I can, whatever the money I'm investing so I'll put it on rent for the store, the garage
11 or the house or the side office and something so I can cover my money and I can pay
12 the mortgage and I will be okay, everything will be fine. But after some time when I just
13 making a lease copy with my, one of the tenant for a garage. And he go to retail license
14 first, he brought the retail license. Then he come to the downstairs to take the business
15 license. So the business license people say, you have to go to, over here with the
16 planning/zoning people. When they go, so they says that you cannot get the license
17 because this is on a non-used or whatever it is on there. So he come back and then I
18 come over here with this gentleman, with this gentleman we have a number of the time
19 meeting with this, that what is my fault? This is a grandfather property, old property out
20 there, everything was existing out there. And when I am coming over here and to pay
21 you the license fee and put myself in a legal channel, so that is my fault. Or I'm stupid or
22 he was a wise man who never got for a license and make the money and never pay the
23 tax. I have paid the retail license, I'm coming to you for a business license, I'm ready to

1 pay the tax, my tenant is out there, I want to be put myself in a legal channel, so what I
2 am supposed to do? And I'm here. So it is my request that if it can be convert, because
3 this is not like that it has been built to day, it has been built maybe 30 or I don't know,
4 but it's a very old property, HUD property out there. And everything was existing from
5 the day one, it is running. So this is there. And if you will look at the Google map so you
6 can see all kind of the photographs and everything's out there that they're garage
7 people and the cars are existing, it was there. So I'm not telling, or I don't want to be
8 proved that this was there or this was there or something like that. But this is the only
9 reason that why we bought that property. So it is my request that if you will permit us so
10 I can run the garage, we can go on a legal channel, we can pay the license fee and we
11 can pay the taxes or whatever it is out there. So it's up to you. Thank you.

12 MR. TUTTLE: I have another question, I'm sorry, I'm just throwing questions out.
13 Ms. Linder, does BOZA have the ability to reinstate a non-conforming use after it has
14 been terminated?

15 MS. LINDER: No, they do not.

16 MR. TUTTLE: Okay, thank you.

17 CHAIRMAN PALMER: Mr. Price? Does the Code call for you to have to use a
18 business license or is that open to your interpretation as to what you use as to when
19 that one year date is?

20 MR. PRICE: I knew you were gonna ask that question. No, the Code does not.

21 CHAIRMAN PALMER: So if he can present you something that would convince
22 you, such as a bill from SCE&G, SCE&G saying that this last bill we sent was in, you

1 know, January to Mom & Pop LLC, then that would be pretty convincing that it was an
2 actual operating business in there at that time.

3 MR. PRICE: I think in this particular case I would want more than just an electric
4 bill cause I don't know if that's tied to the other use that's there. I would really like to
5 know, I mean, maybe some receipts from the previous owner showing –

6 CHAIRMAN PALMER: Yeah, I'm just trying to think of –

7 MR. PRICE: - [inaudible]

8 CHAIRMAN PALMER: - it from his side, there's no, there's no, maybe the
9 previous owner, a rent check or something to him but that's still not gonna tell you what
10 the business was, but –

11 MR. PRICE: Correct.

12 CHAIRMAN PALMER: - there's no reason for the previous operator of that
13 convenience store/service station to cooperate with Mr. Thakkar to give him anything,
14 so I'm looking at for him getting out on his own and finding something else that'll satisfy,
15 what that may be to prove to you that it's been within the last year.

16 MR. PRICE: I, I mean, really I would need some evidence of the previous use
17 that was there. Once again, I will go back to, if there was a previous garage or like, you
18 know, I'm sure that they charged people for it, there should be some records of them
19 charging and what it was they did.

20 MR. VAN DINE: But even if we leave it as a non, legal non-conforming use
21 somehow I guess it still has problems with upgrades and –

22 CHAIRMAN PALMER: I don't think he wants to do that though. He doesn't want
23 to do that.

1 MR. VAN DINE: Well, I'm just saying, there still is an issue that existed if they
2 wanted to, I don't know, do work on the building, upgrade the building, do something
3 like that, that could be created because it's a legal non-conforming use, right?

4 MR. PRICE: Really when you're talking about the expansion of the building,
5 potential expansion of it, that's where the problems would occur. As long as he's doing,
6 in this case non-conforming use is the convenience store, as long as they stay within
7 that existing square footage they're fine, but if he wanted to expand into where the
8 garage portion was or make it even making it a little larger, even adding a porch onto
9 the back, that would not be permitted.

10 MS. CAIRNS: This, so this has been zoned RU since 1977, but that building's
11 been there longer.

12 MR. PRICE: Correct.

13 MS. CAIRNS: So it was put, and did RU eve allow a gas station and filling
14 station?

15 MR. PRICE: No, ma'am. I mean, you, I think as the Planning Commission has
16 witnessed over the past few months, Bluff Road, there are a number of commercial
17 uses that have been there that still maintain a rural zoning that have either been
18 abandoned or just, the structure's still there. But they've – the zoning has not changed.

19 MS. CAIRNS: Yeah, but I think that this structure's been used either, you know,
20 it's my understanding it's got three things going on; gas station, a convenience store
21 and a repair shop, right, all in that one building?

22 MR. PRICE: Okay.

1 MS. CAIRNS: You know, two or three of those have probably been going on
2 continuously.

3 MR. PRICE: Right.

4 MS. CAIRNS: Since it was mis-zoned.

5 MR. PRICE: And I think there was a restaurant on the property.

6 MS. CAIRNS: There's a, that's the building on the side.

7 MR. PRICE: Right, but it's still on the same parcel.

8 MS. CAIRNS: Yeah. Yeah, so the four uses that have all been non-conforming
9 since the day the zoning was applied.

10 MR. PRICE: Correct. And for a lot of people it's not a big issue because they
11 were able to continue to use it the way they wanted to so it, you know, maybe it was,
12 you can say it was lack of foresight on their part, maybe on county's side to go out,
13 maybe being a little proactive to say, I have a commercial use I want to protect my
14 interest. I would like to rezone it.

15 MR. TUTTLE: But just – so each independent use has to prove its use if there
16 are three different uses?

17 MR. PRICE: They're different uses.

18 MR. TUTTLE: I mean, one use wouldn't –

19 MR. PRICE: No, because each –

20 MR. TUTTLE: - because clearly the building hasn't been abandoned.

21 MR. PRICE: The convenience store does not grandfather in the use of the
22 garage.

23 MR. TUTTLE: Okay.

1 MR. PRICE: Or the existing restaurant.

2 MS. CAIRNS: If one were tenant were to – so if you rent to one tenant who just
3 opts not to have a mechanic on staff for 12 months the non-conformity is lost to the
4 landowner.

5 MR. PRICE: Correct.

6 MS. CAIRNS: Even though it's been there for longer than the zoning, all of it.

7 MR. TUTTLE: Well, it's not necessarily been non-conforming of the one use, it's
8 non-conforming of all the non-conforming uses.

9 MS. CAIRNS: Right, yeah there's four uses at that property.

10 MR. TUTTLE: So you lose them all by virtue of the one.

11 MS. CAIRNS: Right, well no, no, you lose each one.

12 MR. VAN DINE: Mr. Chairman, if I could real quick.

13 CHAIRMAN PALMER: Mr. Van Dine.

14 MR. VAN DINE: We seem to be trying to find a way around the issue of how to
15 make it happen and frankly from my perspective we've got, this is a joinder of two rather
16 substantial roads in this part. That would make it a major node at an intersection. There
17 are already commercial uses that are spotted throughout. The Town of Blythewood
18 owns part of that, has already shown an inclination to have it commercial, at least on
19 Farrow Road, which would lead me to believe that if the other parcels came in at that
20 node they would also be looking at commercial. I'm not so sure that this isn't a proper
21 place to put the commercial –

22 MS. CAIRNS: Right.

23 MR. VAN DINE: - because it actually sits at that node.

1 MR. PRICE: Right, and, and understand that we're preparing the Staff Report so
2 a lot of times we are kind of basing it on the Comprehensive Plan. And a lot of the
3 discussions that you have, we also do, but we really try to stick with where the
4 Comprehensive Plan is leading us, with the understanding that you as a Planning
5 Commission are able to take our recommendation and what we've used, but also look
6 as you're doing now at the area and, you know, the changes.

7 MR. VAN DINE: Mr. Chairman, in light of what I have just said and as a basis for
8 going against Staff's suggestion of disapproval, I would move that we send this forward
9 with a recommendation of approval. Changing this to general commercial –

10 MS. CAIRNS: Rural commercial.

11 MR. VAN DINE: Rural, whatever, rural commercial, I'm sorry, and because it is
12 not the full level of general commercial but it also has been shown by Blythewood and
13 other areas that this is an area that could turn commercial at any time.

14 MR. BROWN: Second.

15 CHAIRMAN PALMER: And I just want to add to the Minutes, because I know
16 some Councilmembers read the Minutes, that a lot of the discussion –

17 MR. VAN DINE: You're gonna be in trouble now because you just said that.

18 [Laughter]

19 CHAIRMAN PALMER: - I know, but that a lot of the discussion –

20 MR. PRICE: Your name, please?

21 CHAIRMAN PALMER: Yeah, that a lot of the discussion has been about us
22 trying to find a way to do it but a lot of that was based on the fact that we saw this as a
23 commercial site, a lot of us did, I don't know if everybody did, as a commercial site and

1 trying to get that figured out. And I just would like the Council to not think that we just all
2 of a sudden to a quick conclusion but that that was the gist as well.

3 MS. CAIRNS: Yeah, and I would agree too that, I mean, not only is it very, very
4 close to a major intersection of Farrow Road and Wilson Boulevard, at some point I'm
5 sure Farrow Road will be moved southward to T up that intersection better.

6 CHAIRMAN PALMER: Right.

7 MR. THEUS: I think all of 21 eventually between I-77 and Farrow Road is gonna
8 be commercial.

9 MS. CAIRNS: Yeah, but that intersection's gonna, I'm sure that that point gets
10 narrow cause that's not a great intersection now.

11 CHAIRMAN PALMER: Okay, so we got a motion and a second. All those in favor
12 of the motion please say aye.

13 *[Approved: Cairns, Westbrook, Tuttle, Palmer, Gilchrist, Van Dine, Theus, Brown;*
14 *Absent: McDaniel]*

15 MS. LINDER: Just for clarification, was there only one person signed up to
16 speak?

17 CHAIRMAN PALMER: There was no one signed up to speak so we just let the
18 Applicant speak.

19 MS. LINDER: Very good, thank you.

20 CHAIRMAN PALMER: So we have a motion and a second, let's revote. All those
21 in favor say aye. Any opposed?

22 *[Approved: Cairns, Westbrook, Tuttle, Palmer, Gilchrist, Van Dine, Theus, Brown;*
23 *Absent: McDaniel]*

1 CHAIRMAN PALMER: That concludes our Map Amendments but I do want to
2 mention as part of that case since it's not on our Agenda right now, if we could bring
3 back in the next months or so since we're taking August off, if we could readdress that
4 non-conforming structure, if we could readdress the non-conforming issue, the legal
5 non-conforming issue in our Code and kind of clarify that, get some -

6 MR. PRICE: And, and that's something we can look at.

7 CHAIRMAN PALMER: Yeah, I'm thinking August may be a good month to do
8 that. Since we don't have any cases.

9 MR. PRICE: Okay.

10 CHAIRMAN PALMER: Maybe?

11 MR. PRICE: That's up to you.

12 CHAIRMAN PALMER: Okay.

13 MR. PRICE: I, I work in August so.

14 CHAIRMAN PALMER: Okay, just whenever.

15 MS. CAIRNS: The other thing, actually to piggyback on that, one of the things
16 that I'm curious about and, is this, you know, that if you are a non-conforming use, you
17 know, that if you are a non-conforming use and let's say you don't have a
18 grandfathering problem but you want to do, it's my understanding that if you want to do
19 any alteration you're dead in the water. I mean, can there be some diminimus?

20 MR. PRICE: It's the expansion of the use. Everything you do on it the interior of it

21 -

22 MS. CAIRNS: Right.

23 MR. PRICE: - changes, that's permitted. It is really when you start to expand it.

1 MR. CAIRNS: But, I mean, again is there a precedent anywhere to allow some
2 diminimus expansion? I mean, if it's just to add a utility, I mean, like if somebody wanted
3 to add a utility closet they'd be, like or use of the deck, I mean, if you just needed to fix a
4 deck or put a deck on. I'm just curious if we should have some –

5 MR. VAN DINE: One thing is might be, let's say that you had two outdoor pumps
6 and you didn't have a cover over it, you want to add a cover. That would not be allowed.

7 CHAIRMAN PALMER: Yeah, we've had that before. We've had that before.

8 MS. CAIRNS: Yeah, and that's what, I mean, that's what I'm talking about, truly a
9 – I mean, it just seems like we ought to, we've got so many non-conforming uses.

10 MR. TUTTLE: It seems as though there ought to be a way for Board of Zoning
11 Appeals to be able to address some of these items on a one-on-one basis.

12 MR. PRICE: The Board of Zoning Appeals can hear cases where there is a non-
13 conforming use, where they can permit the change from one non-conforming use to
14 another. But once a non-conformity is lost then of course it's not eligible to go before the
15 Board. And we've had those cases where someone has said, I had this use – I'm not
16 sure if you were on at that time.

17 MS. CAIRNS: Yeah, no I've seen some of those, yeah.

18 MR. PRICE: Right. And they've wanted to come in and make it either a use,
19 either a lesser use or a use that seems to be more compatible with that district.

20 CHAIRMAN PALMER: How do you prove a hardship in that case?

21 MS. CAIRNS: No, it, it's not a hardship requirement, it's just, like if you have a
22 dry cleaner that's a non-conforming use and you want to make it a convenience store –

1 CHAIRMAN PALMER: It's just basically a public hearing and if nobody has a
2 problem with it, the Board –

3 MS. CAIRNS: - right, you have a meeting and say, I want to –

4 MR. PRICE: A special exception, not a variance.

5 MS. CAIRNS: Yeah, but it's not a hardship kind of thing, yeah.

6 CHAIRMAN PALMER: And I guess that's where it'd fall under, like say I had a
7 shopping center with four bays in it that was a legal, non-conforming shopping center
8 and I had a nail salon move out and I wanted to rent it to a cell phone store.

9 MR. PRICE: Um-hum (affirmative).

10 CHAIRMAN PALMER: You'd have to come in front of the Board of Zoning
11 Appeals to be able to get the cell phone store. Every new use that came in there, even
12 though it's a commercial use, you have to come before the Board of Zoning Appeals
13 and –

14 MR. PRICE: Right.

15 CHAIRMAN PALMER: Wow. Okay.

16 MR. PRICE: Once again, remember the uses are non-conforming –

17 CHAIRMAN PALMER: Right.

18 MR. PRICE: - and really not, weren't meant to be in the district that they're
19 located in.

20 MR. TUTTLE: Well, with the exception some, some had a zoning imposed upon
21 them when there was no zoning that may have pre-existed.

22 MR. PRICE: Right.

23 MS. CAIRNS: Like this gas station.

1 MR. PRICE: Well, it, I mean, it –

2 MR. TUTTLE: I mean, clearly this gas station pre-dated the zoning, the
3 underlying zoning.

4 MR. PRICE: Correct.

5 MS. CAIRNS: Well, in theory that's why we have all our non-conformings.

6 MR. PRICE: Right.

7 MR. TUTTLE: Yeah.

8 MS. CAIRNS: In theory.

9 MR. TUTTLE: Yeah.

10 CHAIRMAN PALMER: Yeah. They certainly shouldn't have been –

11 MS. CAIRNS: Answer to the question was, was it meant to, you know, when it
12 was established as a non-conforming was the plan or the hope or whatever that
13 someday it would convert into conforming or was it just –

14 CHAIRMAN PALMER: And even so that took place back in '76/77 so what was
15 planned back then –

16 MS. CAIRNS: Yeah, 40 some years ago.

17 [Inaudible discussion]

18 MS. CAIRNS: No, I know and it wouldn't matter what the intent was but, I mean,
19 you know, was it that, okay we've got this gas station but we sure hope someday it goes
20 under and we get houses there, or was it just, let's just call it all rural?

21 MR. PRICE: Right, and I think, you know, not to harp on this but it's one of those
22 things if you look at how the county has, over the years, if you look further south of the
23 site we know there's a lot of industrial in that area.

1 MS. CAIRNS: Um-hum (affirmative).

2 MR. VAN DINE: Right.

3 MR. PRICE: And so, you know, maybe this is one of the cases where if you're
4 gonna rezone, you know, those hundreds of acres to maybe an industrial use, maybe
5 we, what should've been looked at is, let's just go further down and look at the entire
6 area rather than just what came in before us.

7 MR. TUTTLE: That's a good thought.

8 MR. PRICE: Proactive zoning.

9 CHAIRMAN PALMER: Alright. Y'all ready, Text Amendments? Mr. Price, we
10 appreciate your efforts today. Text Amendments.

11 **TEXT AMENDMENT #1:**

12 MR. PRICE: I'm sorry. The point of this is just as we do as we were just
13 discussing with non-conformities is to try to get a little more clarity into certain terms that
14 we have within our Code. And one of those is contiguous. Currently as you have in your
15 package, contiguous, [inaudible] as having a common boundary of 10 or more feet in
16 length. And what we wanted to do was just kind of give a little more clarify. One of the
17 issues that I've had and what this will address, you can take, and I'll just use a road,
18 let's say you have a two lane road and someone on one side comes in on the corner
19 and rezones their property to commercial, well the person across the street, you know,
20 in my opinion based on this definition, should be able to come in because I don't use a
21 road as a separator cause if you look at our maps, and so the zoning really runs to the
22 middle of the road so that person across the street is eligible to come in and ask for a
23 rezoning. Well, that's simple when you're talking about a nice two lane road. What about

1 an interstate? You know, what about other uses, you know, railroad lines? What about
2 lakes? And what this does is this will kind of give us a little more clarity and allow us to,
3 to be able to determine who will be eligible to come in for a rezoning when the
4 properties are not adjoining.

5 CHAIRMAN PALMER: My only, my only thing with it is it may cause some
6 problems. And I'm okay either way, but just so that people know, the Ethics Commission
7 does not view land across the street as a contiguous piece of property when you go
8 through the recusal process of whenever you have to recuse yourself. So I'm not sure if
9 this Code would somehow effect that in some kind of way, but I personally like it when
10 the governmental bodies that effect what we do all agree. Like we were talking about
11 with the ABC or the Guinyard liquor license for the property line and all that kind of stuff.
12 It just, it – I'm okay with whatever, I just want people to know that there's gonna be a
13 difference there that may cause a conflict.

14 MR. TUTTLE: Well, my understanding –

15 MR. BROWN: Mr. Chairman? I'm sorry, you go ahead.

16 MR. TUTTLE: My understanding is like in the annexation process that the road is
17 not relevant.

18 MR. PRICE: Correct.

19 MR. TUTTLE: So we would be going in direct contradiction to that.

20 MR. PRICE: Yes, but I think a good example is if you go on I-20 right at the
21 corner of Clemson Road and I-20 where the, I think it's the Chevrolet dealership is
22 located. Well, the city annexed that piece. But then the city jumped across I-20 and
23 went to those hotels and the apartments and they annexed those. Okay, so that's fine.

1 The question becomes if that was a rezoning would it, do we look at that as being
2 contiguous? You know, with I-20 being there. Cause then I think that that's the purpose
3 of this Text Amendment.

4 MR. TUTTLE: Well, and that's my point. I think at some point we might have to
5 defend, one of the two would ultimately have to be defended; whether it be the, you
6 know, cause you're interpreting the same thing two entirely different ways.

7 MR. PRICE: Right, but we don't annex.

8 MS. CAIRNS: But that may be a very typical thing that the context matters as to
9 which definition. I mean, my concern with this is, you know, and I think our packet here
10 supports it, is do we really know what is principle arterial roads and what are minor
11 arterial roads? Is that a well-established set, set of roads?

12 MR. PRICE: No, I think as we go through this on a daily basis that we find that
13 some roads have changed and I think that what we use to make that determination –

14 MS. CAIRNS: I mean, but is there, is there an index kept? I mean, cause isn't
15 that what our school issue is largely about today?

16 MR. PRICE: Yes.

17 MR. VAN DINE: Well, and the other thing is if you read the Minutes from the,
18 when we talked about the schools the last time –

19 MS. CAIRNS: Right.

20 MR. VAN DINE: - there was a question of who designated what and there
21 seemed to be a difference of opinion as to what was connector, arterial, whatever the
22 terms were, within the last school that we looked at. So whose rules are we going to
23 use? Are we gonna use the SCDOT classifications? Are we gonna use, we have our

1 own classifications? And it seems to me that you might want to at least reference
2 whatever definitional section you're going to have for which of those terms would apply
3 and whose definitions apply.

4 MR. BROWN: But Mr. Chairman, I also think you raised a good point which had
5 to do with the Ethics Commission. So I think that we need to also look at it from that
6 standpoint. And going back to Mr. Van Dine, is to reference that in here also. Reference
7 the Ethics Commission in this.

8 MR. VAN DINE: Right. I don't think we can change the Ethics Commission's
9 opinions or whatever and, and I think relative to the Ethics' opinion, whether it's
10 contiguous for zoning purposes or not, they've established a criteria by which
11 Commission Members have to apply, and we have to follow that rule. And I don't think it
12 sets up a conflict here, you just have to understand that if you're –

13 CHAIRMAN PALMER: Right, I just wanted people to understand that, that our
14 definition is in conflict with other governmental bodies that – they're over us.

15 MS. CAIRNS: Yes. Yeah, that's – no big deal.

16 CHAIRMAN PALMER: Yeah, but I, I understand. But I just wanted to make that
17 clear and also open the door to talk about the other issue, which is the licensing that's
18 regulated differently that we'll talk about later. But anyhow, so I guess after all that
19 discussion, is this something that is extremely urgent or something we can massage
20 and bring back or?

21 MR. PRICE: No, sir. Once again, this is just, we're just trying to get a little clarity.
22 I think this came up in a previous meeting but we were just trying to come up with a

1 definition that we felt would just kind of give us a little more guidance as these come
2 about.

3 CHAIRMAN PALMER: Well, I think we've just got to have something that defines
4 where we pull our principle and minor arterial roads, our road classifications from, which
5 category we're using.

6 MS. LINDER: Now we do have a definition for both minor and principle arterial
7 roads in our Code book.

8 MS. CAIRNS: Yeah, but do we have all of our roads indexed as one of the other?

9 MS. LINDER: I'm not, I don't know the answer to that question.

10 MS. CAIRNS: I mean, cause I just want to avoid the, the school problem.

11 MR. VAN DINE: The only thing I would point out about this particular thing is, if
12 you look on page 42 when we were dealing with what Council had said, under one of
13 the Text Amendments it says that they gave first approval to the Text Amendment and
14 gave direction to Staff to propose a better way to define contiguous. That's a direct
15 request from Council that this definition be dealt with. I don't know whether they had it
16 as some kind of, something that was important to them that they wanted to push
17 through or not, but I'd just point out that it is referenced in our notes.

18 MR. PRICE: It looks, I don't believe there's anything pending but I think there
19 was a concern from a previous case.

20 MR. VAN DINE: Mr. Chairman, I would suggest that Staff, in light of the
21 conversation we've had here today, Staff go back and do another edit to the ordinance,
22 including some of things that we were talking about here today, such as whose

1 definition applies, whose designation applies and those type things and in our
2 September meeting come back with a revised version.

3 CHAIRMAN PALMER: And just to that point, it may even be easier, Geo, I don't
4 know, if you don't classify them as principle and minor arterial, if we don't have all the
5 roads designated that way, but as a center divided, two lane road or whatever that may
6 change quicker than what the names of them may change, just do to the size of the
7 road, you know, or maybe on the, the speed limit or the traffic count or something. I
8 mean, something that you can physically say, okay this is, and that you see changes
9 immediately with what goes on and is not two years behind coming out of DOT or
10 whatever than what's actually on the ground. Just a thought.

11 MR. PRICE: And what we'll also do is we'll also look at the definitions that we
12 have within our Code, because if we have definitions that we feel we're comfortable with
13 we can just reference our Land Development Code.

14 CHAIRMAN PALMER: Right. Okay. Great.

15 MR. VAN DINE: Do we need a motion to defer this?

16 CHAIRMAN PALMER: Yeah.

17 MR. VAN DINE: I would move that we defer this for further work by Staff in
18 refining the definition.

19 MR. BROWN: Second.

20 CHAIRMAN PALMER: So we have a motion for Staff to bring this back at their
21 convenience once they feel like they've got it in a better position I guess, is that right?

22 MS. CAIRNS: Um-hum (affirmative).

23 CHAIRMAN PALMER: And a second. All those in favor say aye. Any opposed?

1 *[Approved: Cairns, Westbrook, Tuttle, Palmer, Gilchrist, Van Dine, Theus, Brown;*
2 *Absent: McDaniel]*

3 CHAIRMAN PALMER: Okay. School District, Lexington Richland School District
4 5.

5 MR. LEGER: Thank you, Mr. Chairman. We have a new middle school proposed
6 in Lexington Richland School District 5. It's, the proposed location is very near the
7 intersection of Broad River Road and Freshly Mill Road and Mt. Vernon Church Road
8 where they all kind of converge at Broad River Road. The entire site is approximately
9 120 acres in size, currently contains the Kate Center which is a new technical school in
10 the district, which has been completed, the construction. It also contains the new high
11 school #4, which is underway currently, mostly completed but underway. The school
12 district is also requesting adding a new middle school on that site to the, kind of the
13 northwest of that 120 acres. The property is zoned RU, which is our rural residential
14 district and you have some language in here as to the rationale behind why this
15 application has come before you. Basically state law requires the Staff to look at new
16 development of schools be in compliance with our Comprehensive Plan. Without going
17 through the whole Staff Report, there have been some applications for development
18 over the last 10 or so years, you have a listing of those which are mostly all single-
19 family residential development, those are identified on page 22. There are a number of
20 applications that have been approved for subdivisions and they have developed. They
21 are single-family homes in each subdivision except for one which is number 4 I believe
22 which is, I think it's the Portrait Hill Development which is located to the northwest of the
23 middle school site. It's yet to develop, it has proposed almost 500 units. And all of this to

1 identify the fact that there is residential development proposed and/or taking place in
2 the vicinity of this school district site in this proposal. The majority of the zoning in the
3 area is either RU, a Planned Development District, is very rural in nature, contains a
4 residential use, utility substations and the schools. The water has been extended to the
5 site, sewer has been extended to the site as well. And because of the approval of the
6 technical school and the high school site a couple of years ago construction has taken
7 place on the intersection of Broad River Road and Freshly Mill Road. If you had the
8 chance to go out there you will have recognized that. Previously that intersection was
9 two lane road in all directions, currently it's either three or four lanes in all directions.
10 The intersection has also been signalized so there have been substantial improvements
11 to the roadway. Not quite sure at this point if Staff will agree that it, that road is an
12 arterial or not, however, we will recognize that there's been significant improvement to
13 the road. Based upon the fact that the road improvements have taken place out there,
14 the character of the area has changed because of the residential development, because
15 of the road improvements, because of the school locating out there, with all this change
16 having taken place the Staff felt like the application is in compliance with our
17 Comprehensive Plan and can support the request at this time. If you have any
18 questions we'll be glad to try and answer them.

19 MR. BROWN: Mr. Chairman?

20 CHAIRMAN PALMER: Yes, sir, Mr. Brown.

21 MR. BROWN: The road improvements, are those two lane or four lane?

22 MR. LAGER: Road improvements?

23 MR. BROWN: Yes, sir.

1 MR. LEGER: At that intersection of Freshly Mill and Broad River, they are either
2 three lanes or four lanes at this time. From two lanes.

3 MR. BROWN: The third lane being a turning lane?

4 MR. LEGER: That's correct.

5 MR. BROWN: Where does the four lane come in?

6 MR. LEGER: Let's see. Obviously there are two lanes going either direction, in all
7 directions, and – let's see. Going north on Broad River Road is three lanes, a left hand
8 turning lane toward Mr. Vernon Church Road. Let's see, Freshly Mill Road going south
9 toward Mt. Vernon Church Road is four lanes. It has a right hand turn lane and a left
10 hand turn lane. Mt. Vernon Church Road going north is four lanes as well and has a left
11 hand turn lane and a right hand turn lane.

12 MR. BROWN: From, I guess this is Richardson Road, does that run into Broad
13 River, am I reading that correctly? From where Kennerly Road runs into Broad River.
14 And then going all the way back down towards the interstate, is that going to be four
15 lanes or two lanes?

16 MR. LEGER: I'm not understanding the location here.

17 MR. BROWN: From Kennerly Road, which comes into Broad River.

18 MR. LEGER: Okay, Kennerly Road doesn't actually intersect with Broad River.

19 MR. BROWN: Okay, then it's Freshly Mill Road.

20 MR. LEGER: Correct.

21 MR. BROWN: Alright, and to Broad River.

22 MR. LEGER: Okay.

1 MR. BROWN: From that road back to the interstate, which is 26, is that four lane
2 or to be four lane or two lane?

3 MR. LEGER: Broad River Road?

4 MR. BROWN: Yes.

5 MR. LEGER: It's, it's, for the most part it's two lanes.

6 MR. BROWN: Is it going to remain two lane?

7 MR. LEGER: It's – I, at this point I don't have any information that would indicate
8 that there are any, there's any funding for improvements to that road at this time.

9 MR. BROWN: Alright then, from Freshly Mill Road going back up towards where
10 76 divides off Broad River, that fork up there? Going up Broad River towards Harbison.

11 MR. LEGER: I'm not –

12 MR. BROWN: On Broad River itself.

13 MR. LEGER: Okay.

14 MR. BROWN: If you go north up Broad River and you go towards, if I'm reading
15 this correctly.

16 [Inaudible discussion]

17 MR. BROWN: Okay. My concern is from where that new high school is going in
18 and Broad River Road itself, how much of Broad River is gonna be four lanes as
19 opposed to two lanes?

20 MR. LEGER: I'm not aware of any funding at this time for that improvement to
21 take place.

22 MR. BROWN: And yet the Highway Department is saying it can handle the traffic.

23 MR. LEGER: That's my understanding, yes, sir.

1 MR. BROWN: Thank you.

2 CHAIRMAN PALMER: I've got a question. And I just wanted to go over our role
3 in this as the Planning Commission.

4 MR. LEGER: Yes, sir.

5 CHAIRMAN PALMER: We are simply to take a look at this because of the state
6 statute when we passed the Comprehensive Plan, is for us to take a look at this school
7 use on this site and see if it's in conformity with our Comprehensive Plan.

8 MR. LEGER: That's correct.

9 CHAIRMAN PALMER: And take a vote yes or no.

10 MR. LEGER: Correct.

11 CHAIRMAN PALMER: If we vote no then there needs to be some notifications
12 that go on, the school has the ability to proceed forward with it. If we vote that it is not in
13 conformity with the Comprehensive Plan and they decide to move forward then all of the
14 construction plans, utility plans, lines that are put in the ground, everything has then got
15 to be presented back to the Planning Commission for us just to review, is that correct?

16 MR. LEGER: I don't think so.

17 CHAIRMAN PALMER: Well, that's what you wrote up here. This is what this
18 says.

19 MR. LEGER: It's my understanding that plans for the school have to go to the
20 DRT.

21 CHAIRMAN PALMER: Telephone, sewer, gas, utilities or electric supplies utilities
22 and providers whether publicly or privately owned whose plans have been approved by
23 the local governing body or state or federal regulatory agency of electric supplies,

1 utilities, providers, who are acting in accordance with the legislative delegation rights
2 pursuant to blah, blah, blah, blah, blah, are exempt from this provision. These utilities
3 must submit construction information to the appropriate local Planning Commission.

4 MR. PRICE: I don't think this is so much for the school, once you approve the
5 school, I mean, the understanding is they're gonna have these type of utilities there.

6 CHAIRMAN PALMER: I'm saying if, if we vote not that it is not in conformity with
7 the Comprehensive Plan they have to make their public notification –

8 MR. PRICE: Correct.

9 CHAIRMAN PALMER: - for 30 days before they can proceed.

10 MR. PRICE: Um-hum (affirmative).

11 CHAIRMAN PALMER: Then they proceed forward, then it's my understanding
12 that all that stuff then has got to be resubmitted –

13 MR. PRICE: No.

14 CHAIRMAN PALMER: - to the Planning Commission.

15 MR. PRICE: No, sir.

16 CHAIRMAN PALMER: Okay.

17 MR. PRICE: If they were, you know, once again to use another example, we've
18 discussed the widening of Hard Scrabble Road.

19 CHAIRMAN PALMER: Right.

20 MR. PRICE: Or if somebody was putting in a new road, that definitely needs to
21 come, that should come before the Planning Commission. Once again it's kind of
22 changing up the character of that area. In this particular case you're looking at a site

1 where if the school can go there of course the understanding is these are the utilities
2 and services will be there on that site.

3 CHAIRMAN PALMER: Okay. So what's in front of us is just the simple question,
4 not a rezoning, not anything else, is this, does this use, this school, this middle school
5 comply with the Comprehensive Plan, yes or no.

6 MR. TUTTLE: Mr. Chairman, I'd like to make a motion that the new middle school
7 before us today is in conformance with the Comprehensive Plan.

8 MR. THEUS: Second.

9 CHAIRMAN PALMER: We have a motion and a second. Is there any other
10 discussion? All those in favor say aye. All those opposed?

11 *[Approved: Cairns, Westbrook, Tuttle, Palmer, Gilchrist, Van Dine, Theus, Brown;*
12 *Absent: McDaniel]*

13 CHAIRMAN PALMER: Okay. Alright, so Director's Report, Zoning Public Hearing
14 Report? This is just in our package for our review, right?

15 MR. PRICE: Yes, sir.

16 CHAIRMAN PALMER: Development Review Team Report?

17 MR. PRICE: Yes, sir.

18 CHAIRMAN PALMER: Any other business? I got one thing I want to mention just
19 for us to be thinking about before next month and it's just something that I see in my
20 industry. Are we coming back in August just to – do we have some work stuff, or we put
21 that off, right?

22 MR. PRICE: We put that off because I think the understanding was that maybe
23 Staff had something to bring to you. But see, we really don't.

1 CHAIRMAN PALMER: Okay.

2 MR. PRICE: That can't wait.

3 CHAIRMAN PALMER: One thing to just think about maybe for September is that,
4 and I've seen it occur several times in our industry, that there's a difference between
5 how the county views the ability to get a business license as a drinking establishment
6 and how the Department of Revenue views it. The Department of Revenue goes from
7 front door to front door in their distance, we go from property line to property line, corner
8 of property line. So there's a discrepancy there. And the second thing is, the distance
9 from churches, that a church can be in a general commercial zoning, they can take up a
10 1200 square foot space in a shopping center and come in and then everything around it
11 in that general commercial zoning, even if you own a parcel next door or down the
12 street or whatever, it kicks out that ability even though the church has made the
13 decision to locate in a general commercial zoning. So just something to think about that,
14 I mean, if we want to change it, change it, if we don't, we don't but perhaps if you're in a
15 general commercial zoning where you know these kind of activities can occur and
16 church still decides to go there, maybe they shouldn't still be protected from that type
17 use. I don't know, just something to think about.

18 MR. VAN DINE: Is that a local or is that state?

19 CHAIRMAN PALMER: That's our classification as to how Geo will give a
20 business license to – not Geo but the county will give [laughter] the county will give a
21 business license to somebody who wants to open a bar, a sports bar or whatever, that
22 you have to then look, and I can think of a specific case where there's a, it's not even a
23 church but it's a center that's a business operation for a religious establishment that's in

1 a shopping center across the street, completely kicking out a restaurant across the
2 street that wants to change from a restaurant use to a drinking establishment, which is
3 like a sports bar type thing.

4 MR. VAN DINE: That's part of our local Code that's creating that problem?

5 CHAIRMAN PALMER: Right. So, I mean, I understand out in the rural areas and
6 all that kind of stuff but if a church makes a decision to go into a general commercial
7 zoned shopping center they may need to know that, hey there may be a bar that opens
8 up three bays down in the same shopping center, you know. You're in a commercial
9 area. So I don't know, just thoughts.

10 MR. VAN DINE: So technically church could come in and just take up a piece of,
11 a parcel just to block any kind of liquor establishments or –

12 CHAIRMAN PALMER: I mean, they don't even have to meet. I mean, you can
13 have three people in your congregation.

14 MR. VAN DINE: Okay.

15 MR. TUTTLE: Well, just to add to the theme of the day, in that particular
16 hypothetical would that then make the drinking establishment non-conforming use?

17 MR. PRICE: No.

18 MS. CAIRNS: If it already exists they're good.

19 MR. PRICE: If it already exists then they're not considered to be non-conforming,
20 they're a permitted use outright. If they were there before the drinking establishment.

21 MR. TUTTLE: Thank you.

22 CHAIRMAN PALMER: Yeah and then if there's something that goes in, like a large
23 shopping center, let's say one on, let's say there's a shopping center on – I don't know –

1 MR. PRICE: Two Notch Road, Decker?

2 CHAIRMAN PALMER: Pick an area, you can go Garners Ferry, wherever you
3 want to go, and it's a large parcel that has a church and 1200 square feet, it's not from
4 that front door way down the street to the next opening door, it's from that huge parcel
5 that comes all the way over here, then it kicks out all the stuff that's from that area. So
6 the way we interpret it in the county is from property line to property line. The
7 Department of Revenue goes from front door to front door, which is why there's a huge difference
8 when you look at big parcels and property lines.

10 MR. TUTTLE: So in theory you could be an acre away and still be –

11 CHAIRMAN PALMER: Oh yeah, yeah.

12 MR. PRICE: And Mr. Palmer and I had this discussion the other day where there
13 was one that came in in the industrial area off of Bluff Road and based on our
14 measurements, I went from the back of the property line, the back of the building,
15 property line, across the street, across the warehouse, across another street, across
16 another warehouse, and ran into a residential zoning. I'm sorry, there was a railroad line
17 there also, and a residential zoning. That's what disqualified that potential location for a
18 use.

19 CHAIRMAN PALMER: Yeah, so it gets – that's just something that I think needs
20 to be corrected. I just see it over and over again.

21 MR. TUTTLE: So what's your request?

22 CHAIRMAN PALMER: That we either, that we need to go front door to front door
23 from establishments and that the churches not be protected, if you want to use that

1 term, I don't like that, but they not be protected in the commercial zoning classifications
2 because they've made a decision to get into, to operate in commercial atmosphere, they
3 too need to be aware of what they're getting into when they come into those areas.

4 MR. BROWN: Mr. Chairman, how would that conflict with what the ABC
5 Commission would approve?

6 CHAIRMAN PALMER: I think we could become in conformance with, with the
7 ABC Commission, how they – because now you, when a person comes in to get a
8 business license they say, well I can get my liquor license but I can't get my business
9 license. So one of the two needs to change and I know Department of Revenue ain't
10 changing.

11 MR. VAN DINE: You think?

12 CHAIRMAN PALMER: So I would be hopeful that we could change so that the
13 people that are out there in the community that are looking to open businesses can, can
14 know that there's, alright if I can get my liquor license I can get my business license.
15 Well, if I can't get my liquor license – one's not good without the other.

16 MR. TUTTLE: So just to, so your request is for Staff to review this particular
17 anomaly and come back –

18 CHAIRMAN PALMER: For them to come back with recommendations. I have my
19 own recommendations but – I do, but I'm not sure they're in conformity with, and Staff
20 may not want to do anything and it may be something that maybe we need to come up
21 without the Planning Commission, but I'm not sure the Planning Commission has a
22 good batting average when we present changes to Council. So.

23 MR. BROWN: When is our September meeting?

1 CHAIRMAN PALMER: First Monday in September.

2 MR. BROWN: That's Labor Day.

3 MS. CAIRNS: Second Monday.

4 CHAIRMAN PALMER: Well, there won't be any Chair then. Are we gonna try to
5 do something that Thursday maybe then?

6 MR. PRICE: I think y'all may have already adopted that. Looking at the calendar
7 right now.

8 MR. LEGER: I show it on September 5th.

9 CHAIRMAN PALMER: Okay. Do we have a motion to adjourn and a second?

10 MR. VAN DINE: So moved.

11 MR. GILCHRIST: Second.

12 CHAIRMAN PALMER: All those in favor say aye.

13 *[Approved: Cairns, Westbrook, Tuttle, Palmer, Gilchrist, Van Dine, Theus, Brown;*
14 *Absent: McDaniel]*

15 CHAIRMAN PALMER: None opposed.

16

17 *[Meeting adjourned at 2:50pm]*