

1 development through the dissemination of geologic information. And we've been
2 working quite hard for the last eight years to put geology information into a digital
3 format. And also we're trying to get the word out through the different counties across
4 South Carolina that geologic information, although it may be limited, may exist in your
5 County and that we hope that you will begin to use this information, for no other reason
6 than to have everyone on the same sheet of music. Having geologic information
7 available tends to remove opinions and emotions when you're dealing with very delicate
8 issues. It's very interesting to me when they talked about the development down in the
9 Congaree floodplain, everybody's talked about levees and they've always talked about
10 flooding over the top of them yet no one has discussed flooding under them and that is
11 probably a stronger possibility. No one has mentioned that the Congaree River is a
12 graded south of Highway 77 which means the river bottom is higher than the adjacent
13 floodplain. And when you see that much development what you see if that they'll come
14 in, they'll cut down all of the trees, move in heavy equipment, scrape all the soil away
15 and then when I ask them about geology I'm told they have the soil information. What
16 we have here and what we produce, and this for one seven and a half minute
17 quadrangle, we produce the geology and it shows you what is there. We produce a
18 cross-section to show you what's in the subsurface, we give you an expanded
19 explanation of the units that are there and we tell you how those units relate to one
20 another. I hope that in the future we'll be able to work together and I hope that you will
21 start to use this information. Thank you.

22 CHAIRMAN MANNING: Thank you. Next on the agenda for New Business is
23 the Case No. SD-07-21, Steeplechase Subdivision. We have a number of people here

1 to speak for and against this project and I would hope that y'all could not be repetitive in
2 the presentation. We want to hear everybody we can but if you've got the same
3 information as the previous speaker we would ask you not to do that. At this time Anna
4 could you bring us up to date?

5 **CASE NO. SC-07-21:**

6 MS. ALMEIDA: Yes, Mr. Chairman. According to our last meeting Staff has
7 acquired additional information from the file and has provided that to you in your packet.
8 We have emails from DOT. We have your appeal letters of the adjoining property
9 owners. You will see a conditional sketch plan letter that was issued by the
10 Development Review Team and that will be found on page 10, which identifies in detail
11 the seven conditions that needed to be complied with for sketch plan approval. We
12 have also included for your information a traffic diagram and DOT encroachment permit
13 applications that the applicant is working with DOT. And a response letter from DOT
14 and that would be found on page 21 through 22.

15 CHAIRMAN MANNING: I think what we'll do is ask Mr. Weaver, who I think is a
16 representative for the developer of this project, to come down and speak first and then
17 allow him to speak at the end after all those opposed have an opportunity to speak.

18 **TESTIMONEY OF BOB WEAVER:**

19 MR. WEAVER: Mr. Chairman, I'm Bob Weaver. I represent the owners of
20 Steeplechase and also the plans you see before you. This has been a long process,
21 you know, with, especially now with the appeal. We did get conditional approval on
22 October 11th. We had a conditional approval letter dated November 7th. We addressed
23 all the comments that was in the letter she just mentioned to you. We revised the plan,

1 sent the plans back on November 13th and then we heard about the appeal after that.
2 We've been working with DOT and the County on the accesses. Also mentioned in
3 your reports an original master plan that was done by B.P. Barber when Steeplechase
4 was first planned. hat we're doing is connecting to state DOT roads that are stubbed
5 out on this property. If you want me to point those out I will or I can answer questions at
6 the end after you hear the other people. But we have basically three roads we're tying
7 to. We did a traffic study that came in with our plans originally. There's no access to
8 Trotter Road here. You have some serious problems on Trotter Road with vertical sight
9 distance and horizontal sight distance if you're familiar with this area. I personally
10 looked at it. We've looked at the elevations. It will not meet DOT standards as it is to
11 put an entrance on Trotter Road. I just want to make that clear that we looked at all
12 possibilities here. And you also have some roads across from Trotter Road that dump
13 into Trotter Road in front of this development. The old master plan a long time ago
14 showed putting driveways on Trotter Road but we all know you can't driveways now on
15 Trotter Road. You'd have people backing out into the road that would be a serious
16 situation. We also have a big concern about the 2003 International Fire Code. You
17 need to have interconnectivity in your neighborhoods. Any subdivision we do now in
18 Florence County over 31 lots we have to put in a rear entrance or an alternate entrance
19 or an emergency entrance. So that's pretty common now with the Fire Department. We
20 did get your original approval, conditional approval, so I would hope you would consider
21 emergency vehicles being able to go in and out of this place and have good flow,
22 connectivity. If you overload one road then you've created a problem for the other
23 roads. So that's why we have all three roads connected. You will see one road on your

1 map that we did not connect to which comes in at a bad angle out of the existing
2 subdivision. And if you have any questions after the other people speak I'll be glad to
3 answer those but this project – we need to move forward with it. It's been awhile.

4 MR VAN DINE: Can I ask a question? Mr. Weaver, this site map which we have
5 which is the application for a [inaudible] permit does not actually have a request for an
6 encroachment onto Trotter Road.

7 MR. WEAVER: Yes.

8 MR. VAN DINE: Have you actually made an application to DOT to put a road out
9 onto Trotter Road at all?

10 MR. WEAVER: We looked into it but the horizontal sight distances would not
11 allow it. I did not apply for it.

12 MR. VAN DINE: Okay. So as we sit right here there has not been an application
13 made to DOT regarding an access onto Trotter Road?

14 MR. WEAVER: No, there has not.

15 MR. VAN DINE: Thanks.

16 MR. MURRAY: Mr. Chairman? Mr. Weaver? May I? I have a question for you,
17 a statement. My concern is that in anything in which we do in developing land or what
18 have you there is a – there should be a coordinated effort and if this project is going to
19 infringe on someone else's ability to enjoy their home, sanctity and what have you. I
20 heard you say just now that because of the horizontal and the, what we have on Trotter
21 Road now would now allow anyone to put anything else on there. It seems that you are
22 the representative of that project would have gotten with the Highway Department and
23 not take your opinion and make a decision based on what you think but rather it would

1 have been better had you at least tried. Because a lot of the projects we have and a lot
2 of the things we have done in South Carolina has been because we have not tried. We
3 have been presumptuous. That's not always good. Okay? If you have any problems
4 you've got the legislature there that works with the Highway Department. You have
5 your other governmental agencies. So what do you all do when you sit down to plan a
6 project?

7 MR. WEAVER: Can I clarify the issue with the Highway Department? We did
8 communicate with the Highway Department about putting an entrance on Trotter Road.
9 They said if you meet the sight conditions we would not disapprove or if you meet all the
10 DOT conditions we would not disapprove putting an entrance on Trotter Road. So we
11 did communicate with the Highway Department. It's not on the permit but we did
12 communicate with them. I think you have the emails. But we did. We tried to do that.
13 So we looked at all the alternatives on the access.

14 CHAIRMAN MANNING: Can you explain what the requirements with DOT were
15 and how you could not meet those on Trotter Road?

16 MR. WEAVER: When you're – when you have a certain speed limit you have a
17 certain sight distance you have to meet based on that speed limit. And if you're
18 traveling around the horizontal curve you come out of this entrance – say if we put an
19 entrance to Trotter – to this subdivision off Trotter Road. When those people come out
20 they need to be able to see to the left and see to the right a certain distance for it to be
21 safe and to meet DOT standards. That's the horizontal. The vertical curve would be
22 the same way trying to look over the hill to the left or a valley and the same thing to the

1 right when you come out of the subdivision or any subdivision. You need good sight
2 distance both ways.

3 CHAIRMAN MANNING: So it was your opinion or an engineer's opinion that you
4 could not meet those requirements regardless of where a road location would be?

5 MR. WEAVER: That's correct.

6 MR. MURRAY: Well, somebody's going to have to tell me something. I'm a little
7 lost this morning because when you go back over by Bluff Road and you look at kind of
8 at the stadium and all those houses and condos there and starting over there it's selling
9 for a half million and a million dollars and the fairground right there. You have more
10 area over on the Trotter Road area to see than you have over there and they're putting
11 them in there so somebody's opinion ain't too good.

12 [Audience applause]

13 MR. WEAVER: We have to rely on DOT for encroachment permits and the
14 County's Planning and Review Staff and we try to accommodate every review comment
15 and answer all of them.

16 MR. VAN DINE: Was there ever approached of having a – where Rabbit Run
17 comes into that area - of having a stub out at that point which would make sense on a,
18 what's basically a four-way stop at that area?

19 MR. WEAVER: Which road is Rabbit Run? I'm not familiar.

20 MR. VAN DINE: Well, it may not be Rabbit Run, it may be -

21 MR. MURRAY: Do you know where [inaudible] at?

22 MR. VAN DINE: Down at the bottom the road that comes vertically up on the
23 picture. Right down there.

1 MR. WEAVER: So you're talking of this intersection here?

2 MS. ALMEIDA: Yes.

3 MR. WEAVER: Where the red dot is?

4 MR. VAN DINE: Yes.

5 MR. WEAVER: That's at an angle. That's not even 90 degrees. So if we tried
6 putting an entrance here we'd need to be offset 200' away from it or either lined up with
7 it.

8 MR. VAN DINE: So that's not capable of being a four-way stop?

9 MR. WEAVER: If you redesigned this intersection on Rabbit Run to where it's 90
10 degrees into Trotter Road I think you could do it, yes, sir. Because that's where your,
11 that's where your sight distances – you have sight distance problems here on this curve.
12 Your existing road is on the backside of that curve. If you put an entrance coming out of
13 our subdivision here you can't see to the left and the right because you're on the other
14 side of the curve.

15 MS. CAIRNS: The existing – I have a question – the existing road Pinckney that
16 comes out onto Trotter Road, I mean, does it not have the same sight distance issues?

17 MR. WEAVER: This road? You still have a curve but to the left you would have
18 more of a sight distance problem.

19 CHAIRMAN MANNING: Excuse me one second. I would appreciate the
20 audience not interfering in the process. He should be afforded the courtesy of being
21 able to speak without interruption and so should the Council, the Commission. So we
22 would ask you at this time to stop the laughing or commenting on somebody's
23 testimony. Thank you. Excuse me.

1 MR. WEAVER: Did I answer your question?

2 MS. CAIRNS: Yeah. But I'm asking - that Pinckney Road which is likely to bear
3 a fair amount of this traffic as it exits the new subdivision appears to be on an equally
4 bad sight distance issue. So while it's existing, increasing its volume may not be the
5 best - I mean, well that's why I want, you know, but a formal application to DOT about
6 hey we're about to generate x number of additional vehicular trips, you know, that they
7 may have some issue with increasing the traffic on what's already a bad intersection
8 and just because it's existing, you know. And I think that's what, you know, the idea that
9 Rabbit Run, maybe an improvement to the intersection of Rabbit Run would have been
10 part of a DOT requirement. Maybe even to fix the problems with Pinckney.

11 MR. PALMER: I know that DOT has looked at that intersection and they have
12 recently gotten their reports back and it does not merit intersection improvement. They
13 looked at putting a signal there and they have finished with their studies and it does not
14 merit a signal.

15 MS. CAIRNS: But even taking into account the addition of this proposed
16 development and all the vehicular trips that it's going to generate? Maybe as is it
17 doesn't but, I mean, we're not looking as is, we're looking as developed. Because, you
18 know, it sounds like there's never been a formal application to DOT about what's exactly
19 going to happen with all these additional homes and the vehicular trips they're going to
20 generate.

21 MR. WEAVER: We did do an application to DOT.

22 MS. CAIRNS: I thought you said a minute ago -

1 MR. WEAVER: No, they have our application. In fact it's almost approved.
2 We've answered all their comments. They've had it over two months since our original
3 meeting.

4 MR. VAN DINE: But the application does not have anything accessing onto
5 Trotter Road?

6 MR. WEAVER: That's correct. Before we submitted the application to DOT we
7 explored what you've been asking me about having an access on Trotter Road.

8 MS. CAIRNS: Well, I have another question. Early on as you first stood there
9 you talked about eliminating the stub out I think I believe on Rawlinson Place which is
10 the middle road? You said there was a kink?

11 MR. WEAVER: There's a jog in the property line. Yeah, you have to put the
12 map back up to see it. Here's Rawlinson Road. I – not a kink but it's a jog in the
13 property line here. Having these other roads we didn't feel there was a need to have a
14 fourth one when you have three. There is a small road that's already stubbed out – a
15 DOT road.

16 MS. CAIRNS: But there's – okay. I mean, the jog in the property line didn't –
17 doesn't affect the alignment of that road as a possible -

18 MR. WEAVER: No. But it's, it's not – it's at an angle here when you come into
19 this road. It's not a 90 degree angle. We try to make all intersections 90 degrees. It's
20 safer.

21 MS. CAIRNS: But it's – again an existing? Okay.

1 MR. WEAVER: That's correct. Our density here, just for information purposes,
2 is not very high. It's 1.69 lots per acre and every lot's over 18,000 square feet. We're
3 not as dense as the neighborhoods across the, across Trotter Road.

4 CHAIRMAN MANNING: Any more questions?

5 MS. CAIRNS: What's the total number of -

6 MR. WEAVER: Seventy-five lots.

7 CHAIRMAN MANNING: Thank you, Mr. Weaver.

8 MR. WEAVER: Thank you.

9 VICE-CHAIRMAN ANDERSON: Jerome Pressi?

10 **TESTIMONY OF JEROME PRESSI:**

11 MR. PRESSI: Thank you, Mr. President. Before I get started I want it to be
12 known that it's clear to me and other residents -

13 MR. FURGESS: State your name and address.

14 MR. PRESSI: I'm sorry. Jerome Pressi. I'm at 209 Pinckney Drive and I'm the
15 homeowners' president for Rawlinson Place. Again, before I get started I want it to be
16 known that it's clear to me and other residents of Rawlinson Place that the
17 Steeplechase developer has met state law requirements for this development.
18 However, we are concerned about the safety of our citizens and the problems this
19 development could have on our neighborhood. Is meeting the minimum standard the
20 best thing to do when the safety of citizens are in jeopardy? One question we have is
21 whether plans for a holding pond will affect our well water? Will the wells of 43 homes
22 and families be contaminated by a holding pond? So far no one has been able to
23 answer this question. We continue to request that consideration be given to providing

1 access to Steeplechase development from Trotter Road. Mr. James Hubbard in
2 January from DOT toured this area with me and informed me that an entrance off
3 Trotter Road is feasible and would be in the best interest of the roads in our subdivision.
4 Mr. Hubbard explained that our roads are made of some [inaudible] type material which
5 is stone and rock with tar covering. This would require an A treatment type material to
6 repair them. They're not made of asphalt. So since the roads at Rawlinson Place are
7 not made of asphalt they aren't conducive to high volume traffic or heavy vehicles such
8 as school buses, construction traffic, etc. This being the case we would be subject to
9 road damage and repairs more frequently especially as our subdivision would likely be
10 used as a cut through for vehicles accessing neighborhoods in the surrounding areas
11 such as Surry Place and Chandler Hall. All these neighborhoods access Trotter Road
12 and it doesn't get any curvier than those roads – than those subdivisions, I'm sorry.
13 When the need for repairs exists the developer will be long gone and we will be left with
14 a neighborhood with major problems. We also have concerns about the safety of
15 vehicles leaving Pinckney Drive as you just pointed out to access Trotter Road. Drivers
16 at this point are unable to see around the curve due to a blind spot. Having resided at
17 Rawlinson Place for the past two years I have come close to having several accidents
18 at this point. It is apparent that routing two-thirds of all traffic from 75 new homes to this
19 point would create a portentous and numerous problem – numerous accidents, I'm
20 sorry. Trotter being the corridor of the Steeplechase development [inaudible] of ingress
21 and egress and blind spots will not be a problem. Therefore it would safer to create
22 access points directly to this development. We also continue to find Trotter Road to be
23 the best point of access for first responders to address emergencies in the

1 Steeplechase development. On September 13, 2007, Ms. Anna Almeida voiced
2 concerns about these plans to the engineers of this development. At that time the
3 engineers were instructed to make a request to DOT for an entrance off Trotter Road.
4 Prior to this Mr. Norman Jackson, our Councilman, recommended the developer get
5 input from residents of Rawlinson Place before planning this development. That didn't
6 happen. Had either or these recommendations been followed we probably wouldn't be
7 here today. With the few changes we all could say that we have looked out for the
8 safety of our citizens and wellbeing of both the existing neighborhood and the new
9 development. We only have one opportunity to get this right and for that reason we're
10 calling on this Commission to address our concerns. Thank you.

11 MR. ANDERSON: Shirley Branham? We're going to ask that the next person on
12 the list just come down and get ready to speak after Ms. Branham. Billy Branham and
13 then next is Richard Lucas.

14 **TESTIMONY OF SHIRLEY BRANHAM:**

15 MS. BRANHAM: My name is Shirley Branham and I reside at 1000 Rawlinson
16 Place Road and I think we are basically, my husband and I on the same page. We are
17 concerned about several issues but the first issue that I would like to raise is at the first
18 meeting that we had with the developer he spoke of continuing the same houses on the
19 same amount of land that our neighborhood has. Everybody in our neighborhood has
20 an hour – I mean, an acre or two acres of land. If this was the process then we wouldn't
21 have all these traffic areas that we're having to deal with. When we invested in our
22 homes, and I owned my land 10 years before I ever built on the house and I've been
23 there 18 or 19 years, we bought this property because of the location and because we

1 had an acre or two acres of land. I have eight grandchildren that play in my yard. I feel
2 safe with them there. We are concerned about this traffic because of our children, our
3 grandchildren, and the loss of our investment in our neighborhood. The developer has
4 not followed through with what we were told from the very beginning of what his
5 intentions were for this property

6 CHAIRMAN MANNING: Ma'am, may I say something? We sympathize with the
7 situation about lot sizes and density but the appeal that's before us today is not based
8 that. Safety, road access, the dry pond, those are the issues that we need to
9 [inaudible].

10 MS. BRANHAM: And it will be a safety issue.

11 CHAIRMAN MANNING: Thank you.

12 MR. ANDERSON: Mr. Branham?

13 **TESTIMONY OF BILL BRANHAM:**

14 MR. BRANHAM: Thank you. Bill Branham is my name. I live at 1000 Rawlinson
15 Place Road. I live on the corner of Rawlinson Place and Pinckney and I see all the
16 traffic that comes by every day because I'm retired. And I count approximately 150 cars
17 that come through our neighborhood between the morning and the afternoons. Now
18 these people are coming from different neighborhoods going to Trotter Road as a
19 shortcut rather than go the way that they should go. This is a lot of extra traffic that
20 we're going to have plus this other traffic from this new neighborhood coming in. That's
21 all I have to say. Thank you.

22 MR. ANDERSON: [Inaudible] that Carl McIntosh and Lorie Wozniak .

23 **TESTIMONY OF RICHARD LUCAS:**

1 MR. LUCAS: My name is Richard Lucas, Senior. I live at 205 Pinckney Drive.
2 Good afternoon to the Planning Commission. I will be addressing just two issues. The
3 first one is Mr. Weaver made a statement that on Trotter Road that he could not be able
4 to place driveways but on the opposite side of Trotter Road there are driveways in the
5 existing homes that are presently there and they do egress in and off onto Trotter Road.
6 My next comment is that I live right there at 205 Pinckney Drive and I would like to make
7 the statement that, as my neighbor just did, is that it is extremely unsafe at – when you
8 turn to get on to Trotter Road off of Pinckney Drive there is already a blind side and the
9 cars go from 35 to 45 in there. At 45 when they pass Rabbit Run and that's only 250' by
10 the time they make that turn to come on to pass Rawlinson, Pinckney Drive they're in
11 excess of speeds of 45 miles an hour and for additional traffic to come out through the
12 new subdivision into our subdivision out onto Trotter Road I feel is an unsafe act.
13 Thank you for your attention. Are there any comments of me before I depart?

14 **TESTIMONY OF CARL MCINTOSH:**

15 MR. MCINTOSH: My name's Carl McIntosh. My wife and I, Ann Vickers, we live
16 at 133 Steeplechase North. We are an adjacent property owner. I don't want to repeat,
17 you know, as you asked, Mr. Chairman, but I would underscore. One of my concerns
18 has been that I expressed early on was an answer to the question of whether this is
19 going to be a retention or a detention pond and how that is going to effect the
20 groundwater or any other impacts it might have. Also the aesthetic part of that too. If it
21 is a detention pond and it's going to serve as a landscape feature that would make it a
22 lot more, you know, desirable and I think from my perspective make it a little easier to
23 maybe try to support this thing a little bit. The other thing that I was kind of surprised

1 that we got the news that the study had been completed on about Rabbit Run and
2 Trotter and that they don't think the intersection should be designed. I would like to
3 have the opportunity to see what they did say and what the results were. I didn't think
4 they had their counters out there very long but maybe it met whatever their standards
5 are. But Rabbit Run and Trotter is a very interesting intersection and it is very close to
6 Pinckney and Trotter. And I come out of Pinckney every day. I commute over to
7 Sumter to work and it is – it's pretty hairy through there, all through there. So I think that
8 it would behoove us all to try to get DOT to do a little bit more work out there and see
9 what is going on and what can be done. And I do think a four-way stop would be an
10 excellent way to slow things down through there. I hadn't heard that before. I think
11 that's a great idea. Thank you.

12 MR. ANDERSON: Lorie Wozniak and then next would be Bubba Clou and
13 Margie Clou.

14 **TESTIMONY OF LORIE WOZNIAK:**

15 MS. WOZNIAK: Hi. My name is Lorie Wozniak and I live on the corner of
16 Pinckney and Steeplechase North and I was the one who submitted the request to DOT
17 to see if we could get a light along with the rest of the subdivision signed a petition. And
18 actually I was kind of floored when they had turned it down. And I called after it was
19 turned down and I ask them what, you know, what do you have to do to, you know, put
20 a light there and he said, that it didn't meet the requirements because they only go out
21 there for two hours. And it met the requirements for one hour but not two. And so then
22 I asked him what if we put a stop sign there and lower the speed limit from 45 to 35, and
23 they said that they would investigate it, they would review it, and get back to me. And I

1 just want to say that this gentleman over here that represents the developer did not
2 request that a road put out there. They requested an impact study and when they say
3 that they asked for one it wasn't for, to put a road through. It was for an impact study
4 and that has not been done yet. The other thing I wanted to say is that to the north of
5 our subdivision – I think you've got to look at the whole area, not just the subdivision
6 that's been put in because the area – see where that great big white sign that says,
7 proposed site? That is vacant land and it's 52 acres. Now that could also have come
8 through our subdivision because they won't want to go through to Trotter Road either.
9 So then where does that leave us? It leaves us with two subdivisions which we are now
10 trapped in the middle to funnel everybody's roads into. And so in order, you know, for
11 another 75 homes we'll probably have another 75 homes on the other side. So then
12 what do we do? I mean, does it not take into account future planning? That's all.
13 Thank you.

14 MR. ANDERSON: Bubba Clou?

15 AUDIENCE MEMBER: [Inaudible]

16 MR. ANDERSON: Okay. Thank you. And Margie also? Larry Clark and then
17 George Hayes.

18 **TESTIMONY OF LARRY CLARK:**

19 MR. CLARK: Good afternoon. My name is Larry Clark and me and my wife
20 resides at 22 Sasanqua Circle. And my main concern is when I purchased my home I
21 purchased my home because of the location that it's in and of course the population and
22 the neighborhood itself. And my biggest concern is what's going to happen to the price
23 of my home in the next few years if this development goes up? Because we know that

1 once it goes up the price of the homes will probably start to come down because of the
2 condition of the neighborhood. Thank you.

3 **TESTIMONY OF GEORGE HAYES:**

4 MR. HAYES: Yes. Good afternoon. My name is George Hayes. I reside at
5 1011 Rawlinson Place Road. My question is to Mr. Weaver is that I don't understand
6 how he said that he can't put a road at Rabbit Run because when I come out on
7 Pinckney Road and I look to my left and to my right it's almost like a derby. I mean, it's
8 getting really difficult to make that turn now. And also we have young kids driving to
9 high school. They're using our stop sign as a – they're doing rolling stops and they're
10 not stopping at all and sometimes they even go across the street into that exit road, and
11 the traffic's really getting heavy and I'm sure you heard this before but I'm here to tell
12 you I'm concerned about the original integrity of the neighborhood and also the safety.
13 Thank you.

14 CHAIRMAN MANNING: That concludes the public input portion of the agenda
15 for this case. I'll entertain some discussion of Staff or Mr. Weaver if anybody has any.

16 MR. VAN DINE: Can I ask you a question here? January 3rd letter it says,
17 "Please provide an impact study to include the entrances to the new development as
18 well as other intersections." Has an impact study been performed and if so, where is it?

19 MS. ALMEIDA: We've required a traffic management plan which addresses
20 traffic impact and we have a copy of it. We provide a copy –

21 MR. VAN DINE: This was from DOT.

22 MS. ALMEIDA: We provide a copy to DOT as a courtesy. It would – the
23 applicant would have to give them an additional copy.

1 MR. VAN DINE: Is the impact study that DOT is requesting, is that the
2 management plan that you have or is it something in addition to that?

3 MS. ALMEIDA: The applicant would have to – I will say that normally when
4 we've required the traffic management plan DOT accepts those traffic management
5 plans. I don't know if that was provided ahead of time and DOT is asking for additional
6 information. That would have to be something for the applicant to respond.

7 CHAIRMAN MANNING: Anna, in your letter of November the 7th, there are
8 seven items [inaudible] in addition to the comments. Of those seven, you know that
9 we've got an issue with access on Trotter Road but it wasn't defined in your letter but
10 are any of those other seven items, conditions for approval, have they been met or are
11 we only dealing with the dry pond, road access issues as [inaudible]?

12 MS. ALMEIDA: Well, several of the conditions of the November 7th letter have
13 been received. We have not gotten a formal approval from our fire marshal as of yet
14 and that is condition two. Our Public Works Department is still reviewing the plans so
15 that is condition three that has not been addressed – satisfied I should say, to date.
16 And of course condition five and condition seven is still outstanding.

17 MR. VAN DINE: Do you consider the January 3, 2008, as meeting condition six?

18 MS. ALMEIDA: We would under normal circumstances, yes.

19 MR. VAN DINE: And that is still asking for additional information from DOT?

20 MS. ALMEIDA: True.

21 MR. VAN DINE: So that has been met at this point either then; correct?

22 MS. ALMEIDA: True. Yes.

1 CHAIRMAN MANNING: I guess from a legal question we've got to be specific in
2 what we are allowing as part of this approval? And I'm a little bit confused as to what is
3 before us today. Whether it's just a total letter of conditions, conditional approval that
4 you've submitted or, you know, specific items?

5 MS. ALMEIDA: Well okay, the Development Review Team when we reviewed
6 this subdivision we accepted the layout. Okay? We accepted the minimum lot size
7 because it's by right. It did not require zoning. It met those conditions. It met our
8 multiple access requirements that we obviously advocate for. But of course our
9 condition, one of our conditions is stipulated on obviously DOT's approval because they
10 are DOT roads. But as far as our Land Development Code it met our criteria and that's
11 all I can tell you.

12 MR. VAN DINE: Is the appeal designed at this point in time – what are we being,
13 are we being asked to require something to be done or are we just – the appeal is don't
14 allow it to go forward or do allow it to go forward? Those are the two options; is that
15 right?

16 MS. ALMEIDA: Correct. You either disagree with the Development Review
17 Team, their findings in the layout and you want further information from DOT or you
18 agree with Development Review Team's decision and they're – they advocate – I mean,
19 those are your two choices.

20 MR. PALMER: Does that decision that we make need to be based in some fact
21 that DRT missed something or do something correctly or?

22 MS. ALMEIDA: It can be. I can be the fact that you go a step further and want
23 further information from DOT before you go ahead and approve or disapprove a layout.

1 CHAIRMAN MANNING: You know, I guess it goes back to whether or not Staff
2 should have requested an access point into Trotter Road [inaudible] time or not. And,
3 you know, I know we met subdivision requirements -

4 MS. ALMEIDA: Right.

5 CHAIRMAN MANNING: - [inaudible] but from a planning standpoint was it a
6 good idea to have an access into Trotter Road and I guess the only thing I can say to
7 that is the only way you're going to know is require that as a submittal.

8 MS. ALMEIDA: Right. To request additional information. I was just given here
9 something from our code under the decision of the Planning Commission and there are
10 several findings. And one, the proposed project complies with the policies and
11 objectives of the County comprehensive plan. The proposed project complies with the
12 purpose scope provisions of this chapter which are the design standards and of course
13 the traffic management plan which was submitted. So these are findings that you all
14 have to take into consideration.

15 MR. VAN DINE: So in essence we could as a body – and I'm not suggesting that
16 this is what we do – we could as a body say that the traffic management plan was not
17 comprehensive enough in order to - because it did not address the Trotter Road issue.

18 MS. ALMEIDA: Correct.

19 MR. VAN DINE: That would be one of the options. That sounds to me in
20 essence with the basis for the appeal is at this point in time is that since the Trotter
21 Road was not reviewed and DOT did not come down definitively on that issue that that
22 is an open point?

23 MS. ALMEIDA: That is correct.

1 MR. VAN DINE: Is that a fair statement?

2 MS. ALMEIDA: Yes.

3 MR. VAN DINE: Mr. Chairman, just to get things started here. I would make a
4 motion that we uphold the appeal and request that the applicant provide additional
5 information in the form of an application to DOT and DOT's response relative to an
6 access point on Trotter Road. I won't sit here and suggest that I have an idea of where
7 that ought to be from an engineering perspective but at the very least there ought to be
8 something that has been asked and answered before we just go forward and do this.
9 So that would be in the form of a motion.

10 MR. FURGESS: Second that.

11 CHAIRMAN MANNING: Well, I've got one other question that maybe you can
12 address it in your motion. We do have a second?

13 MR. MURRAY: Yeah. He had two seconds. Mr. Chairman, my concern is that
14 we don't want to hold Mr. Weaver and the developers up nor the homeowners in that
15 particular area. If there seems to be some question about time, I'm concerned with the
16 time, and I would like to see us complete this appeal process. If there is a problem with
17 us from the County not being able to get the state Highway Department to move in a
18 reasonable fast way I wish you would let us know and then we – we're Richland County
19 so our Richland County Delegation could really work toward speeding the process up.

20 MS. ALMEIDA: Right.

21 MR. MURRAY: Making sure folks are doing what they are supposed to do.

22 MS. ALMEIDA: Well, until this appeal is resolved this cannot go forward.

23 MR. MURRAY: Okay. But what I'm saying –

1 MS. ALMEIDA: As far as expediting the response –

2 MR. MURRAY: That's correct.

3 MS. ALMEIDA: - time from DOT.

4 MR. MURRAY: Um-hum, um-hum (affirmative). So we won't have that problem
5 any more. Get this done and open the door so we won't have that.

6 CHAIRMAN MANNING: I guess one of my concerns is the motion doesn't speak
7 to any of the other issues that were addressed in the conditional approval and I think we
8 need to put the appeal to bed once and for all. We don't want to have this come back
9 before us again. So I hope that your motion can address any other issues.

10 MR. FURGESS: You mean the seven?

11 CHAIRMAN MANNING: [Inaudible] DOT. Or either limit it to DOT.

12 MR. VAN DINE: Well, I think that my way of looking – points two and three are
13 things that are internal to the Department and they're in the process of making those
14 recommendations. The fire marshal's either going to say yea or nay or the – and then
15 Public Works is going to have their input as to the actual plans. So to me two and three
16 were not even issues that we needed – that were part of the appeal. My understanding
17 was the appeal was based upon this traffic issue and on the dry pond issue. Those
18 were the only issues that I think were before us in the actual appeal. So, I mean, my
19 motion dealt with the traffic management plan and the SCDOT. I frankly have not heard
20 enough information, while I understand the concerns with the dry pond, I have not heard
21 enough information one way or the other to say that it's bad or good and I don't have a
22 position relative to that. I mean, that's something that's going to have to be taken up
23 during the land clearing process and the other processes and how they actually take

1 care of that dry pond area. That's – to me that's done internal to the actual land
2 development process as opposed to something from the appeal. So my issue it seems
3 is just limited to this access point onto Trotter Road. That's all my motion is designed to
4 resolved.

5 MR. ANDERSON: Just a quick clarification. So the applicants are going to put in
6 an application for an access onto Trotter Road. If that is allowed then we will continue
7 with the appeal and would – they have – I guess they would have to go back to the
8 DRT, resubmit their plans.

9 MS. ALMEIDA: Well, their design would change.

10 MR. ANDERSON: Okay.

11 MS. ALMEIDA: Yes.

12 VICE-CHAIRMAN ANDERSON: And if DRT denied it, done.

13 MR. MURRAY: [Inaudible]

14 MR. ANDERSON: DOT. Did I say DRT?

15 MS. ALMEIDA: Right.

16 MR. VAN DINE: I'll be honest and tell you if DOT comes back and says, nope
17 we're not going to let it happen then I don't think that there's any more that we can do
18 even with all of what's being sent out by the individuals. That's a DOT decision and if
19 they want to let it happen they're going to let it happen. But until we actually have a
20 definitive statement yea or nay from them I think we should require that step to be taken
21 prior to moving, letting the actual development move forward.

22 MR. PALMER: But no one's talking about not allowing the accesses at
23 Steeplechase and two accesses in the neighborhood, right?

1 MR. VAN DINE: I personally those make sense but it also makes a lot more
2 sense for it to be coming out onto Trotter Road which would alleviate the amount that
3 would be funneled through those areas.

4 MR. PALMER: Well, the only thing I'm thinking is you've got a couple of months
5 in there because he's going to have to redesign and take a lot out somewhere and get it
6 redrawn out and then he's got to get his civil guys out there. There's a ditch out there –
7 I went out and looked at the property. There's a ditch that's got to be piped. He's got to
8 go out there and shoot topos and present the package to DOT the way they want it
9 presented with, you know, sight lines and different things drawn up from the civil guys.
10 You know, you're talking two months to probably get an application in and then, you
11 know, DOT's got what 45, 60 days to respond or something?

12 MR. FURGESS: Pat, some things we can't worry about. We need to do what we
13 need to do.

14 MR. PALMER: All I'm saying is that to allow, somehow allow the project to go
15 forward with, you know, the front side. I mean, if nobody's about not allowing those, I
16 mean, I don't know – I don't know what you can do. You see what I'm saying?

17 MR. VAN DINE: I mean, I see what you're saying but there also comes a point in
18 time where at some point you have to have dotted all your i's and crossed your t's
19 before you start moving forward with your project. If this is something that has not been
20 done then they have not met the requirements for moving forward. This is one of the
21 requirements that I'm suggesting we ought to have in this project is to have the answer
22 as to whether it ought to be on Trotter Road or not.

1 MR. PALMER: It's just a problem I've got. We talk about this all the time
2 [inaudible. And once they know what the rules are they can assess the project, take a
3 look at it and see if it makes sense or not. What we've done here is we've got the rules
4 that are in play in our code, the developers met the rules, but yet we want to go a step
5 further in this case and require something above and beyond what our rules say. And I
6 just don't think that's really fair to, I mean, if we want to change the rules, we change the
7 rules but he's met all the requirements of the DRT. The DRT says go forward with it.
8 You know, we've got those stub out roads in there for a reason. They've been there,
9 you know, for quite some time. No, it's not news to anybody that these are DOT roads.
10 You know, the developer's met all the requirements and now we want to go a step
11 above and require something else out of the developer when all the development
12 community wants to know is what are the rules and what do we play by but it seems like
13 it's always a moving target for some reason.

14 MR. VAN DINE: I would suggest that he has not met all the requirements
15 because that's why this very appeal is before us is whether or not all the requirements
16 are met. The other thing is simply because someone comes forward with a plan to put
17 something into an area does not mean that they get that right simply because it moves
18 forward. I think we are in a position where they have not met a specific provision of
19 what is being required. In this instance though that provision is met the project ought to
20 be in suspension. It's as if they didn't meet some of the other provisions. The fire
21 marshal says, no, I'm not going to allow that to happen. That shuts it down. So this is
22 simply a suggestion that at this point in time we have a condition which has not been
23 met, has not met the appeal issue regarding that access onto Trotter Road and that

1 ought to be an issue that's resolved. Now I understand what you're saying about timing
2 and all the rest of it.

3 CHAIRMAN MANNING: Anna, as far as the appeal is concerned, the motion that
4 we've got before us dealing with access.

5 MS. ALMEIDA: Correct.

6 CHAIRMAN MANNING: No other issues. If we don't take any other issue up are
7 those – is that presumed that they don't, that those appeals aren't -

8 MS. ALMEIDA: That's the only thing I can – yeah. We can only presume.

9 CHAIRMAN MANNING: Okay. I just don't want us to come back before, you
10 know, have this come back before us on another issue.

11 MS. ALMEIDA: Um-hum (affirmative).

12 MR. ANDERSON: So this would put it to bed.

13 MS. ALMEIDA: Well, you know, there's nothing in the code that addresses that.

14 MR. PALMER: So the request is for the developer to make a formal request of
15 DOT for an access on Trotter?

16 MR. VAN DINE: Correct.

17 MR. FURGESS: Correct.

18 MR. PALMER: And if that is -

19 MR. VAN DINE: If that's rejected?

20 MS. ALMEIDA: We'll report back to you. It would have to be brought back to
21 you, that evidence.

22 MR. PALMER: So it's got to come back anyhow.

23 MS. ALMEIDA: That is -

1 CHAIRMAN MANNING: Why would it come back to us? I mean, I thought the
2 issue -

3 MS. ALMEIDA: Well, you would have to make it – render a decision that that
4 information -

5 CHAIRMAN MANNING: Not if the decision's built into the motion.

6 MR. VAN DINE: Yes.

7 MR. ANDERSON: Yeah. That's what I was thinking too.

8 MR. VAN DINE: My opinion the decision is built into the motion.

9 MS. ALMEIDA: Okay.

10 MR. VAN DINE: If DOT says, no, then there's nothing else that we can do one
11 way or the other.

12 MS. ALMEIDA: Okay.

13 MR. VAN DINE: I mean, so – I mean it is built in. If DOT comes back and says,
14 no, no way, then I think our decision has been met, the project goes forward.

15 MS. ALMEIDA: So then the Planning Commission –

16 MR. VAN DINE: Why would you have to come back here?

17 MS. ALMEIDA: - would deny the appeal?

18 MR. VAN DINE: Huh?

19 MS. ALMEIDA: If DOT comes back indicating that they will not approve an
20 access point on Trotter then it is the pleasure of the Board to identify in your motion that
21 it would be a denial of the appeal?

22 MR. VAN DINE: Yes.

1 MR. PALMER: Just to clarify the process here, I don't think the developer's
2 going to be able to go to DOT and say, tell me anywhere – I mean, he's going to have to
3 present where he wants the access point on Trotter to be. And, you know, we could be
4 here for different points, different places. I mean, you know, the developer could put it,
5 you know, in a place he knows that it won't happen and he, I mean how? Do you see
6 what I'm saying, Howard?

7 MR. VAN DINE: I hear what you're saying and I would hope the developer would
8 not take that approach to spend the money to put civil engineering down on paper to
9 simply get something that says no. I mean, I would think he would want to do his
10 project to the best of his ability and it seems to me access onto Trotter if it's, if it's
11 available is [inaudible].

12 MR. PALMER: Yeah. But he's already, the developer's already told you he tried
13 to do it and he doesn't see a spot where he can put it at.

14 MR. MURRAY: But that wasn't his decision. DOT would have to make that
15 decision.

16 MR. VAN DINE: The motion is as stated. Mr. Chairman, I'll call a question so we
17 can -

18 MR. FURGESS: Go ahead.

19 MR. VAN DINE: I mean, we're going around in a circle.

20 CHAIRMAN MANNING: We have a motion on the floor and a second. All in
21 favor of the motion raise your hand? All opposed?

22 *[Approved: Cairns, Murray, Anderson, Manning, Van Dine, Furgess; Opposed: Ward*
23 *and Palmer; Absent: Green]*

1 CHAIRMAN MANNING: Motion is that [inaudible] with DOT approval or not, and
2 you don't need to come back –

3 MS. ALMEDIA: Um-hum (affirmative).

4 CHAIRMAN MANNING: - if DOT rejects the proposal. Thank you. Next on the
5 agenda -

6 **CASE NO. 08-01 MA:**

7 MS. ALMEIDA: Mr. Chairman -

8 CHAIRMAN MANNING: - for Case 08-01 MA.

9 MS. ALMEIDA: Mr. Chairman, this application you might remember came before
10 you back in September of 2007. The applicant is before you today. He has increased
11 the acreage of the PDD. It is nine acres. The existing zoning is O-I and the applicant is
12 proposing a PDD. The site is currently located on Farming Creek Road as you can see
13 from our slide. Again the parcel is approximately nine acres and we have approximately
14 720 linear feet of frontage on Farming Creek Road. The project was reviewed by the
15 Development Review Team and you can see on page 24 there were several conditions
16 that were requested. The PDD in and of itself is intended to allow the flexibility. Staff
17 has reviewed this. We have looked at the Farming Creek Road which is a two-lane
18 farm market road, rural in nature. The traffic counts were taken on Broad River Road
19 which is northeast of the site. That's where count station 147 is located. And it is a
20 Level or Service F. The intersection is or has been – is in the works of being upgraded
21 by DOT to include a left-turn lane. I believe they have installed that. And it is part of a
22 larger project for the Broad River Road area that begins at Koon Road and ends at
23 Dutch Fork Road. And of course we believe that this work has been completed so

1 we're hoping that these Level of Service F may have changed but to date we don't have
2 those numbers. The site is on the – the one side of the proposal or the PDD is an
3 existing rail line. Across the street we have single-family homes on large tracts, an
4 active farm, some pasture land and basically Staff believes and it has seen the area is
5 rural in nature. It does have a little intrusion of commercial and industrial uses. There's
6 an existing boat business at the corner of Farming Creek Road and Broad River Road,
7 approximately 800' from the site. Small businesses but nothing major. The property
8 currently does not have water and sewer. The applicant is proposing – it is a trucking
9 business to house lowboy trucks and equipment. They go from site to site and they
10 come back here and put their equipment for repair. The applicant is proposing
11 screening around the entire property. The front of the PDD, they are proposing a
12 commercial component office. Can you go to the other? Is there a slide of the PDD?
13 Go further down. Down. Right there. Thank you. As you can see there's five out
14 parcels, one main entrance, and two subsequent entrances on Farming Creek Road.
15 The project that the industrial use would be located is towards the back of the property.
16 And that's about all I can tell you about the property. The applicant is here. As you can
17 see if the Planning Commission wishes to approve this PDD the conditions that Staff
18 has composed are found on page 26 and 27, but Staff's recommendation is for denial.

19 MR. VAN DINE: Are they just – the PDD is just setting up uses? I'm not sure
20 exactly.

21 MS. ALMEIDA: Yes. The PDD is a component of the industrial use and
22 commercial office towards the front.

1 MR. VAN DINE: Any specific list as to what commercial uses or other things
2 might be allowed?

3 MS. ALMEIDA: They have listed some and it was – it's in the document. The
4 applicant can further explain that in great detail.

5 MR. ANDERSON: Stan Mack?

6 **TESTIMONY OF STAN MACK:**

7 MR. MACK: Good afternoon. I'm Stan Mack. I'm with ReMax Real Estate
8 Services. Mr. Richardson is also here who owns the property. He's owned it for 14
9 months. This is the third time I think I've been before you folks and we've made
10 changes each time and withdrew it. As of May last year you approved it with the back
11 portion being a PUD which is where we're going to have the outside storage, leaving the
12 front part neighborhood commercial which is what it is now, with your approval of eight
13 to one. Then we went to Council and Mr. Malinowski who has this area said that he had
14 no problems with it other than he made us change the entrance to the back portion. It
15 was at the lower section next to the railroad tracks. We moved it up to the middle of the
16 property. We're leaving the front five and a half acres Neighborhood Commercial.
17 Whoever buys it's going to utilize it under the Neighborhood Commercial uses. The
18 back part's going to be screened. They wanted – he wanted us to change the whole
19 thing to a PDD. Rather than the back three and a half acres a PDD and the front
20 Neighborhood Commercial he asked that we make the whole thing a PDD and that's
21 what we've done now. And we were approved two weeks ago by the DRT
22 unanimously. And I will add something to what Ms. Anna was saying a while ago.
23 When the Staff reviews this and I was told this by Jennie a long time is what they go by

1 is the 2020 land use plan for that area which still shows that it's all a rural farming
2 communities. You notice a new Wal-Mart going down the street. There's another boat
3 facility under construction now. A new convenience store was just built two blocks away
4 and there's a heating and air conditioning company directly across the street. So
5 there's a lot of mixed uses in the neighborhood.

6 MR. VAN DINE: Mr. Mack, I'm looking at the document here. It looks like there
7 are 20 commercial uses that would be in the front portion. There's a list here.

8 MR. MACK: Yes, sir. That's the list that we put together. I mean, there's some
9 other uses that we can utilize. They just – Mr. Malinowski wanted a list of the type of
10 people we're going after to sell the front five lots to. And they all basically come out of
11 Neighborhood Commercial. There's not gonna be any heavy industrial or automobile
12 repair shops or anything like that.

13 MR. VAN DINE: So this is a list of permitted uses that would be on the far -

14 MR. MACK: Yes, sir. Yes, sir.

15 MR. PALMER: How do you access the lot to the right, Stan?

16 MR. MACK: You probably can't see it from there but there's a road if you go in
17 the middle road that goes to the back portion their driveway's to the left. Which one you
18 talking about now, which -

19 MR. VAN DINE: Way over to the right.

20 MR. PALMER: The far right.

21 MR. MACK: The far right?

22 MR. PALMER: Yeah.

1 MR. MACK: That lot's going to be sold with number four. That was caught
2 whenever this site plan was being done. It's really going to be four lot sales instead of
3 five. The one in the corner is going to go with number four. But there is access to it.

4 MS. ALMEIDA: We were going to recommend interior.

5 MR. MACK: This lot would have another road coming across here giving access
6 to this one. My intention is to sell these two together.

7 MR. ANDERSON: Carl Becker?

8 MR. MACK: Thank you.

9 **TESTIMONY OF CARL BECKER:**

10 MR. BECKER: My name is Carl Becker. I'm with Ideal Construction Company.
11 Just to make a clarification, we are a general contracting and utility construction
12 company and what will be going there, we have our main office off of Broad River Road,
13 exit 97 Peak and our corporate headquarters will remain there. What will be moved to
14 this area will be our vehicle maintenance for our equipment and that area. Most of our
15 equipment will be on a jobsite. As with any construction company if you have
16 construction equipment onsite you're not making money with it. So that will be there
17 just for vehicular maintenance and also storage of any materials that we may have;
18 surplus, excess from any jobs that will remain there to utilize on additional further
19 projects. As was mentioned we're meeting the County requirement of maintaining a 25'
20 vegetative buffer all the way around the property to provide screening. It's currently
21 wooded and we're going to design our clearing in such a way to let 25' remain on the
22 perimeter all the way around the abounding properties of that to facilitate that. Our
23 storm drainage has been set up such to – we're master planning it to be able to

1 construct all the ponds that are shown. They will all link together and we will meet,
2 certainly meet pre and post, do our best to reduce the peak, reduce the post-
3 development flows as a courtesy for the neighboring properties that they will discharge
4 on and also meeting water quality concerns that might be with the water that we will trap
5 and release over a 24-hour period to any contaminants, sediments, such to fall out.
6 Such that the water will be clean or it will help the water to be clean as it comes out and
7 discharges. It will eventually go into a pond and into a creek system that goes off the
8 back property.

9 CHAIRMAN MANNING: Will the upper detention ponds be put in prior to selling
10 the front lots off?

11 MR. BECKER: Yes. All the infrastructure will be put in. There is a – also to add
12 there is a 54” water line, City of Columbia ownership that runs along our side of the
13 property that we will tap onto. That’s how we’ll get drinking water, potable water to the
14 site. And we will have to – there is no sanitary sewer. We will be constructing a lift
15 station and such that all the parcels shown on our nine acres will have access to tie to
16 that and we’ll have to construct a force main that will go down the backside of
17 Friarsgate, down near the Highway 6 portion down there and that’s how we’ll provide
18 utilities to the site. But all the infrastructure will be put in place at the time we do our
19 construction out there.

20 MR. ANDERSON: Bobby Richardson?

21 **TESTIMONY OF BOBBY RICHARDSON:**

22 MR. RICHARDSON: I have nothing really to say more than what they have but
23 I’ll be glad to answer any questions.

1 CHAIRMAN MANNING: Well, if you need to speak come to the podium and say
2 your name and address please?

3 MR. RICHARDSON: My name is Bobby Richardson. I'm with Ideal Construction
4 Company. Any questions?

5 CHAIRMAN MANNING: Oh, I thought you had something to say.

6 MR. RICHARDSON: No. I just – that's what I was saying that I'd be happy to
7 answer any questions you may have.

8 MR. ANDERSON: Mr. C. David Koon?

9 **TESTIMONY OF C. DAVID KOON:**

10 MR. KOON: Yes. My name is David Koon. I border the property between the
11 railroad and on the far side, on the [inaudible] side. The main thing I've said all along
12 just worried about the run off. A lot of it will be going down through my pond and a lot of
13 it will come off the right corner and head across me back down to Friarsgate. It's a
14 good bit of run off coming off of that and the highway. The main thing I'm concerned
15 about I'm – the project's fine with me. They'll be a good neighbor but as long as the run
16 off is controlled no problem. Thank you.

17 MR. ANDERSON: Mr. Howard Dye?

18 **TESTIMONY OF HOWARD DYE:**

19 MR. DYE: Howard Dye of 1008 Farming Creek Road. Could you tell me the list
20 of the proposed uses for the front part? Could you read some of what that could be?

21 MR. VAN DINE: If you'll give me a moment, certainly.

22 MR. ANDERSON: I can read them. Institutions, school facilities, physical fitness
23 centers, governmental offices, health care facilities, places of worship, professional

1 offices, barber shops, construction, general contracting with outside storage,
2 construction special trades with outside storage, employment services, engineering,
3 funeral homes, pet care services, photocopying and duplicating services, photography
4 studios, real estate and leasing offices, travel agencies, art dealers, book, and caterers
5 with no onsite consumption.

6 MR. DYE: I have no further comment then. No objection.

7 MR. VAN DINE: Can I ask just so I understand? What is the objection that
8 Planning Staff has to this project?

9 MS. ALMEIDA: Well, just the mere merits of what a PDD is supposed to be. We
10 feel it doesn't meet the innovative design, flexibility of what the PDD is designed for.

11 MR. VAN DINE: The actual uses that they're talking about or?

12 MS. ALMEIDA: The layout, the – yes.

13 MR. VAN DINE: Do you have any problems with that?

14 MS. ALMEIDA: Oh, as far as the uses, no.

15 MR. VAN DINE: So it's the fact that it's being requested as a PDD as opposed to
16 a straight rezoning which is the Department's –

17 MS. ALMEIDA: Position – yes.

18 MR. VAN DINE: And when it was before us the last time as – the back portion
19 was here did the Staff recommend approval?

20 MS. ALMEIDA: Denial.

21 MR. VAN DINE: Huh?

22 MS. ALMEIDA: Denial. It has been recommended for denial.

23 MR. VAN DINE: What was the reason for denial at that point?

1 MS. ALMEIDA: Because of the rural nature of Farming Creek Road and the
2 surrounding areas. If you look at some of the photos it's not conducive to this kind of
3 development.

4 MS. CAIRNS: I'm just confused because a second ago you said that the
5 Department didn't have any problems with the uses.

6 MS. ALMEIDA: As listed.

7 MS. CAIRNS: Okay.

8 MS. ALMEIDA: But we – in and of itself as a principle of uses, but we do have a
9 problem with rezoning this property to a PDD. It's just – the density –

10 MS. CAIRNS: But the – I mean, the uses are for the front parcels right and the
11 back parcel has got –

12 MS. ALMEIDA: Correct.

13 MS. CAIRNS: - a lousy outside storage of construction equipment.

14 MS. ALMEIDA: Staff recommended denial on all three even at a straight
15 rezoning. We don't feel that this should be rezoned period. It is too early. Can you go
16 to the zoning map, number three? We're just, you know, a lot of your commercial is up
17 towards Broad River as Mr. Mack very succinctly put it. There is a lot of development
18 going on on Broad River Road but not on Farming Creek Road.

19 MR. VAN DINE: Isn't this already Neighborhood Commercial?

20 MS. ALMEIDA: It is office.

21 MR. PALMER: Industrial.

22 MS. ALMEIDA: Um-hum (affirmative). It's O-I.

23 MR. ANDERSON: And I guess you can't have outside storage with O-I; correct?

1 MS. ALMEIDA: That is correct.

2 MR. VAN DINE: [Inaudible] Neighborhood Commercial [inaudible].

3 MS. ALMEIDA: It is incorrect.

4 MS. CAIRNS: Is this a - I'm sorry. I mea, remember being confused with this
5 slightly before. I mean, is this a PDD for just the front five lots or is it a PDD for the
6 whole thing?

7 MS. ALMEIDA: For the whole thing, the nine acres. They've brought in the
8 entire parcel, yes.

9 MS. CAIRNS: Because where on the PDD does it allow for the use in the back
10 that we all know is the intended use because the list doesn't encompass that use.

11 MR. VAN DINE: That list –

12 MS. ALMEIDA: No. It's stipulated. The list is for the proposed –

13 MS. CAIRNS: For the front five?

14 MS. ALMEIDA: Correct. Right.

15 MR. MACK: May I say something? The original request by instructions of the
16 Planning Commission last May was to zone the back portion PDD so that we could
17 have the outside storage. Then when I took it – then you approved it when we brought
18 it back eight to one. Then when I took it to County Council Mr. Malinowski said I would
19 rather see you move the entrances ingress and egress to different locations and have
20 the entire nine acres rezoned PDD. So that's why we're back now per your and
21 Malinowski's request.

22 MS. ALMEIDA: That is correct.

1 MR. VAN DINE: Mr. Chairman, I would make a motion we send this forward with
2 a recommendation of approval. I think that we approved this last time in the position of
3 simply having it as storage in the back. Certainly the moving it to the front and also
4 incorporating those front sections as well now in a PDD certainly has more control over
5 what will go in there and what could be done. Based on that I think we ought to send it
6 forward with a recommendation of approval.

7 MR. ANDERSON: We need to include the subject to the conditions?

8 MR. VAN DINE: Yes.

9 MR. ANDERSON: Subject to the conditions, I second.

10 MR. PALMER: I take it the applicant's had a chance to look at the conditions?

11 MR. MACK: I drew them up.

12 MS. ALMEIDA: No. The conditions of Staff that you submitted.

13 MR. MACK: Oh, I didn't draw that up. No. We're well aware of that. I thought
14 you were talking about the uses for the front. I'm sorry. No. We're well aware of that
15 too. Yes. We've changed this PDD twice. We've had the DOT report done twice.

16 CHAIRMAN MANNING: We have a motion to approve and a second. All in
17 favor say aye?

18 MS. ALMEIDA: With conditions?

19 MR. VAN DINE: With conditions.

20 CHAIRMAN MANNING: All opposed?

21 *[Approved: Murray, Ward, Palmer, Anderson, Manning, Van Dine, Furgess; Opposed:*
22 *Cairns; Absent: Green]*

23 MR. MACK: Thank you very much. I appreciate it.

1 CHAIRMAN MANNING: Next on the agenda is Case 08-02 MA.

2 **CASE NO. 08-02 MA:**

3 MS. ALMEIDA: Mr. Chairman, the applicant David Gantt is requesting that the
4 parcel as you can see from the screen, it's approximately one acre. It is currently zoned
5 Neighborhood Commercial. He's requesting that it revert back to RU Rural. The site is
6 located on Pond Side Lane which intersects Blythewood Road and backs up to the
7 subdivision called Cobblestone in the Town of Blythewood. Pond Side Lane is a two-
8 lane local road currently maintained by Richland County and as stated before the site is
9 completely surrounded by the Town of Blythewood. Blythewood is not interested in
10 annexation. The applicant is proposing a landscaping business. The surrounding area
11 is commercial and residential in use and Staff recommendation is for approval. We feel
12 that this commercial use would be a good buffer between the residential and the
13 existing neighborhood commercial uses in this park. It is a commercial park that – can
14 you go back to that – that has previously been subdivided. It was RU; it was rezoned to
15 Neighborhood Commercial. They have subdivided and we feel the location of I-77 there
16 is an existing landscaping business in there and we feel that they would be good
17 neighbors.

18 MR. VAN DINE: Can I ask you a question?

19 MS. ALMEIDA: Yes.

20 MR. VAN DINE: Will there be access from this onto Links Crossing Drive?

21 MS. ALMEIDA: No.

22 MR. VAN DINE: Okay.

1 MS. ALMEIDA: Off the Record they do have an unofficial connection because
2 they're doing some work for Cobblestone that we have seen just for ease of coming in
3 and out with their equipment because they're providing a service to Cobblestone. But
4 no, their main entrance and exit will be from Pond Lane unto Blythewood Road.

5 MR. VAN DINE: Okay. So they're not going to have to bring other trucks and
6 whatever –

7 MS. ALMEIDA: No.

8 MR. VAN DINE: - in the back through University Club, back along Links and
9 come in the back way [inaudible] access -

10 MS. ALMEIDA: Right. Right.

11 VICE-CHAIRMAN ANDERSON: David? Can't read it. Gort?

12 **TESTIMONY OF DAVID GANTT:**

13 MR. GANTT: Good afternoon. I'm David Gantt and I own that piece of property
14 adjoining the site. It's still rural. And we provide the landscaping and maintenance for
15 the Cobblestone Park development that we back up to. That came up a minute ago and
16 we do not have access other than to get our equipment in and out of the property. It is
17 not a thoroughfare for the public to come through at all. We have an electronic gate that
18 we use, our crews use to come through there. We need to expand over into that site.
19 It's more – what do you say – level for us to do, to store our trailers and that kind of
20 thing and I'm just trying to increase my property there so I can, you know, have better
21 use of the first piece I bought.

1 MS. CAIRNS: What's the business on the aerial photograph? We can see a – to
2 the right like under the word, under the arrow basically. There's an existing structure
3 like the catty-corner to the lower right in the box.

4 MR. GANTT: Yes. It's no longer there. It's been demolished when they did the
5 subdivision – when they did the park.

6 MS. CAIRNS: Okay.

7 CHAIRMAN MANNING: Any other questions?

8 MR. ANDERSON: Wait. We have one more person. It looks like Dan Creed?

9 MR. CREED: Sir, I signed up just in case there were any questions.

10 MR. VAN DINE: Mr. Chairman, I'll make a motion we send this forward with a
11 recommendation of approval.

12 MR. FURGESS: Second.

13 CHAIRMAN MANNING: We have a motion and a second. All in favor please
14 raise your hand. All opposed?

15 *[Approved: Cairns, Murray, Ward, Palmer, Anderson, Manning, Van Dine, Furgess;*
16 *Absent: Green]*

17 MR. PALMER: I want to say something though. You know, Blythewood keeps
18 wanting to have a joint Planning Commission and that kind of stuff but yet they don't to
19 fill in their holes like this. You know, I mean, it seems like it should be a two-way street
20 wouldn't you think?

21 MR. VAN DINE: I'll let you know that in fact directly across from my house in
22 Forest Acres are two lots which are still part of Richland County which have nothing
23 except Forest Acres and Arcadia Lakes entirely surrounding them, yet -

1 MR. PALMER: Yeah. But we don't hear a lot out of Forest Acres but we do hear
2 a lot out of Blythewood saying we want to have input as to what's going on around our
3 town limits and this and that but they have no interest in annexing this. I mean, it
4 doesn't make any sense.

5 MR. VAN DINE: Agreed.

6 MR. PALMER: Don't come crying when someone beside you get zoned
7 something you don't like.

8 MR. MURRAY: Pat, you've got a new man up there. Let him get his stuff
9 together. Y'all will get some cooperation up there. [Inaudible]

10 CHAIRMAN MANNING: Next we've got Case No. 08-03.

11 **CASE NO. 08-03 MA:**

12 MS. ALMEIDA: Yes, Mr. Chairman. The applicant is Summit Contractors. The
13 site is approximately 28.11 acres. The existing zoning is heavy industrial. I'd like to
14 make that note on the Staff Report. It is not light industrial; it is heavy industrial. The
15 proposed zoning request is residential medium – I'm sorry, RM-HD. The site is located
16 at the northwest corner of Long Green Parkway and Clemson Road where you see the
17 arrow. It has approximately 436 linear feet along Clemson Road but along the entire
18 stretch of Clemson Road it is bound by an existing guardrail. Their only entrance or exit
19 would be on Long Green Parkway. We've had a lot of development in the area across
20 the street. There was a new church that has been built. We have also a commercial
21 subdivision by those photos going in in that quadrant. We have classified Clemson
22 Road as a two-lane collector road currently maintained by DOT. The nearest count
23 station we located on Farrow Road and the level of service has come up a Level of

1 Service B. And the applicant has made a request or an assumption to Staff that they
2 want to put in some apartment buildings, higher density in that location and Staff's
3 recommendation is for approval.

4 MR. VAN DINE: Just out of curiosity. Both on page 44 and 45 it says, M-1, L-1,
5 to RM-MD. Is it MD or HD?

6 MS. ALMEIDA: It is incorrect. We had some handwriting issues and we –

7 MR. VAN DINE: So it's going to HD?

8 MS. ALMEIDA: HD. We called the applicant and verified that. That's RM-HD
9 and the currently zoning is HI.

10 MR. ANDERSON: Charles Waite?

11 **TESTIMONY OF CHARLES WAITE:**

12 MR. WAITE: Mr. Chairman, Planning Commission Members, my name is Charlie
13 Waite. I'm vice president of Southern Contractors. We're located at 6877 Phillips
14 Industrial Boulevard in Jacksonville, Florida. And I'm here to answer any questions that
15 you might have considering our – in consideration of our rezoning request. Dan?

16 MR. CREED: And I'm Dan Creed and also available.

17 MR. PALMER: I make a motion to send this forward to Council with a
18 recommendation of approval.

19 MR. VAN DINE: Second.

20 CHAIRMAN MANNING: We got a motion and a second to send this forward with
21 approval. All in favor please raise your hand by saying aye. Opposed?

22 *[Approved: Cairns, Murray, Ward, Palmer, Anderson, Manning, Van Dine, Furgess;*
23 *Absent: Green]*

1 MR. WAITE: Thank you.

2 CHAIRMAN MANNING: Next on the agenda 08-04 MA.

3 **CASE NO. 08-04 MA:**

4 MS. ALMEIDA: Yes, Mr. Chairman, we have an existing site, Trip Construction
5 approximately 1.15 acres. The existing zoning is RU, Rural. The applicant is
6 requesting a general commercial use. The site is located on Longtown Road, north of
7 Clemson Road. It has approximately 247 linear feet of frontage along Longtown Road.
8 Longtown Road is a two-lane undivided collector road currently maintained by DOT.
9 We have located the nearest count station on Longtown Road and the Level of Service
10 is coming up Level of Service C. The subject parcel in the back has an existing
11 commercial use of construction offices which we found out has been in existence prior
12 to the zoning being adopted in 1977, so it's a pre-existing use. The site is surrounded
13 by residential properties varying in density. And Staff is recommending denial. I also
14 want to note that there is a parcel south of here that is GC in nature and that was
15 approved and it encompasses about 39 acres of general commercial and it is vacant as
16 of today.

17 MR. VAN DINE: And just for clarity, you know, if you look on page 53, the upper
18 portion has now been worked on and they actually have laid roads in. That Big Game
19 Loop, there's a large development of smaller lots which also – well, it doesn't show
20 here, they have an access out onto Longtown Road.

21 MS. ALMEIDA: Yes. It's the subdivision River Station. Yes.

22 MR. VAN DINE: But this does not an access onto Longtown. It does in fact have
23 an access out onto it?

1 MS. ALMEIDA: Yes, it does.

2 MR. ANDERSON: Mr. David Armstrong?

3 **TESTIMONY OF DAVID ARMSTRONG:**

4 MR. ARMSTRONG: David Armstrong, 8400 Wilson Boulevard.

5 CHAIRMAN MANNING: Are you signed up to speak in favor of this, Mr.
6 Armstrong? I wonder if you wanted to –

7 MR. ARMSTRONG: No, I own it.

8 CHAIRMAN MANNING: You're on the sign-up sheet. Do you care to say
9 anything about the project, about the rezoning?

10 MR. ARMSTRONG: I'm here to answer any questions like the rest of the
11 gentlemen.

12 CHAIRMAN MANNING: Thank you.

13 MR. VAN DINE: Is this a carved off site or is this just one – the actual parcel
14 itself, is that carved off of a larger piece?

15 MS. ALMEIDA: It has been subdivided, yes.

16 MR. VAN DINE: This area that was just cleaned up? The whole front was, all of
17 the vines and the trees and everything else was that cleaned up just recently?

18 MS. ALMEIDA: Yes.

19 MR. VAN DINE: Okay. All right.

20 MR. PALMER: Mr. Chairman, I make a motion to send this forward to Council
21 with a recommendation of approval based on the fact that it is, the Level of Service is a
22 C. It's not a safety issue and it's a smaller tract and it seems to be at a node.

23 MR. MURRAY: A who?

1 MR. PALMER: At a node at an intersection.

2 MR. VAN DINE: All right. That intersection itself is a –

3 MS. ALMEIDA: That's an access drive.

4 MR. VAN DINE: - neighborhood, it's a neighborhood road into Heather Green.

5 It's not really a –

6 MR. PALMER: Well, the pictures I'm looking at -

7 MS. ALMEIDA: No. There's an existing drive to the back of the property for the
8 construction.

9 MR. VAN DINE: No, he's talking about across the other side onto Heather?

10 MS. ALMEIDA: Yes. That's the entrance to Heather Green.

11 MR. FURGESS: But the road don't go straight across through the property?

12 MR. PALMER: It looks like it does.

13 MS. ALMEIDA: The road across the street goes to the back of the property
14 which is the construction company, and it's a drive.

15 MR. FURGESS: Oh, okay.

16 MR. ANDERSON: And that's - that construction company, all that stuff on 53,
17 that's construction storage right there?

18 MS. ALMEIDA: That's the road that goes to the back of the construction
19 company.

20 MR. VAN DINE: It's not a road, it's a driveway.

21 MS. ALMEIDA: Driveway.

22 MR. ANDERSON: Driveway.

23 MR. FURGESS: Driveway? Okay.

1 CHAIRMAN MANNING: We've got a motion on the floor. Do we have a
2 second?

3 MR. ANDERSON: Second.

4 CHAIRMAN MANNING: We have a motion on the floor and a second. All those
5 in favor –

6 MR. VAN DINE: Mr. Chairman, I'm just a little concerned that we're extending
7 commercial further down this road. When we dealt with the areas down near that Hilda
8 Drive and further down we had indicated that that area was going to be the extent of the
9 commercial to keep it at the node where Longtown and Clemson came in. By moving
10 this down further down here allowing it to go general commercial it seems to me that
11 we're getting away from that we just trying to strip out the road down here. And while it
12 is a Level C right now, the amount of building that's going on out there it's going to
13 become something other than Level C very soon. And if we start to move that then I
14 can see the next parcel coming in with a larger parcel saying, Well, you know, we're
15 between two commercials, and so I'm not in favor of it and certainly it can continue to
16 operate under it's present conditions as it is right now.

17 MR. PALMER: But he can't expand.

18 MR. VAN DINE: He can't expand. I just think -

19 MR. PALMER: It's probably not rural, do you think?

20 MR. VAN DINE: No. But I think that that area's more of a residential area than
21 extending the commercial further and further down the road. And I don't see that that is
22 a node. That simply is the entry drive into Heather Green at that point. So I'm not in
23 favor of it changed to general commercial.

1 CHAIRMAN MANNING: We have a motion on the floor and a second. All in
2 favor raise your hand. All opposed?

3 *[Approved: Palmer, Anderson; Opposed: Cairns, Manning, Ward, Murray, Van Dine,*
4 *and Furgess; Absent: Green]*

5 MR. VAN DINE: Mr. Chairman, in light of the vote I would make a motion we
6 send this forward with a recommendation of denial.

7 CHAIRMAN MANNING: We've got a motion on the floor. Is there a second?

8 MS. CAIRNS: Second.

9 CHAIRMAN MANNING: A motion for denial. All those in favor please raise your
10 hand. All opposed?

11 *[Approved: Cairns, Manning, Ward, Murray, Van Dine, Furgess; Opposed: Palmer and*
12 *Anderson; Absent: Green]*

13 CHAIRMAN MANNING: This will go forward with a recommendation of denial.
14 We are a recommending Body. Council will meet on what date?

15 MR. FURGESS: The 26th.

16 CHAIRMAN MANNING: The 26th. *[Inaudible]* this Board for their consideration
17 *[inaudible]*. That concludes the –

18 MR. VAN DINE: And if you want to talk with Staff they can explain more about
19 what's going on in the process that we go through for what happened here today. It
20 would be easier for Staff, for them to tell you what's going on.

21 CHAIRMAN MANNING: That concludes the New Business. We take a short –

22 MS. ALMEIDA: We have road names.

23 MR. PALMER: I make a motion to approve road names.

1 MR. VAN DINE: Second.

2 CHAIRMAN MANNING: All in favor?

3 *[Approved: Palmer, Anderson, Cairns, Manning, Ward, Murray, Van Dine, Furgess;*
4 *Absent: Green]*

5 CHAIRMAN MANNING: We'll take a five-minute break.

6 *[RECESS] [Manning out at 2:45 p.m.]*

7 VICE-CHAIRMAN ANDERSON: Let's call this meeting to order or back to order.
8 I'd like to make a change to move Decker Boulevard in front of – in Section VII, B in
9 front of A. Does anybody have a problem with that?

10 MR. PALMER: I think you need a motion though.

11 MR. VAN DINE: So moved.

12 MR. PALMER: Second.

13 VICE-CHAIRMAN ANDERSON: All those in favor?

14 *[Approved: Palmer, Anderson, Cairns, Manning, Ward, Murray, Van Dine, Furgess;*
15 *Absent: Green]*

16 MS. RUTHERFORD: Good afternoon. I want to present to you – I'm Tia
17 Rutherford, the Neighborhood Planner – I want to present to you formally the Corridor
18 Redevelopment Overlay for Decker Boulevard. As you recall in last month's work
19 session you guys or Planning Commission extensively went through the overlay district
20 and there's a few points that we do want to make sure is understood as we move
21 forward. Again, this is a option end or optional overlay district to be applied to – to be
22 applied at the will of the property owner when they're ready to redevelop their property.
23 Again, it is not mandatory. Okay? The Corridor Redevelopment Overlay district is

1 being done in conjunction with the Decker Boulevard Master Plan. This is one of the
2 implementation phases for that master plan and it did ask for regulations to assist in the
3 redevelopment of commercial and residential. Here is your master plan study area in
4 the red. Again, a two-mile stretch of road from Two Notch Road to Percival as it
5 includes the greater Woodfield Park and Woodfield Park neighborhoods. The zoning of
6 the area – we’re dealing primarily with the area zoned GC, General Commercial. Okay.
7 This is currently what Decker Boulevard looks like, this is what it can look like if we
8 approve the language before you. Currently we roughly have about 180,000 square
9 feet of vacant properties. Again, this number was used in 2005 when the master plan
10 was done. It’s probably a little bit less than that now. And if, at complete build-out
11 you’re looking at approximately 500,000 square feet of new commercial build-out.
12 Okay. We’re looking at the hill currently what the Bi-Lo shopping center currently looks
13 like with the new redevelopment overlay language. We’re going to encourage higher
14 densities and multi-story buildings.

15 MR. PALMER: What do you mean by encourage?

16 MS. RUTHERFORD: The new regulations have higher density requirements
17 with it so currently right now in the GC zoning district you’re allowed to build up to three
18 stories – 35’. The new district will allow more than that. So we’re going to get a multi-
19 story.

20 MR. PALMER: All right. For example on the Bi-Lo center there. Somebody
21 comes in and buys the Bi-Lo center, they want to tear it down and just put in a typical
22 neighborhood shopping center. If this plan is passed they can do that?

23 MS. RUTHERFORD: Um-hum (affirmative).

1 MR. PALMER: With no, you know, credence given to this plan. They don't even
2 got to look at the plan. They can just come in under the current zoning and –

3 MS. RUTHERFORD: They have a option of using the redevelopment overlay or
4 they have a option of using what is allowed in the current zoning.

5 MR. PALMER: Okay.

6 MS. RUTHERFORD: Okay. Again, the recommendations to apply the overlay
7 we're going to increase the development potential by increasing density, height of
8 buildings, the uses. We're reducing parking standards and reducing the buffers. Again,
9 form based is what this overlay district is moving towards. The purpose of it to promote
10 revitalization of the area, to encourage reinvestment in, and the re-use of the area.
11 Okay. In order to move forward we need it to have a redevelopment plan. That is the
12 Renaissance Plan for Decker Boulevard. The next step is overlay and again we're
13 creating higher densities, mixed use, form based standards for buildings, and street
14 design, design of public spaces. Again, the focus is really on the design of the building,
15 the form, not necessarily what the use is. The use is secondary. We're focusing on
16 mixed use areas and a mixture of different types of housing, definitely promoting in-fill
17 within this area. Decker Boulevard definitely has opportunities there. And again greater
18 attention to the streetscape. The form based code, just to give you guys an overview,
19 deals with the streetscape, the frontage, the building placement, and parking location,
20 the height, roof type, building design, and lastly the use of the building. First floor for
21 mixed used commercial areas. First floor windows and doors, at a minimum 60% of the
22 building façade needs to be windows and doors. Building entrance needs to face the
23 street. Building materials, we need to have a list of those. Again, right now maximum

1 height for General Commercial is three stories or 35'. With the new regulation it's going
2 to be the width of the fronting road. Illustration for Decker Boulevard. The width of the
3 road is 65' so that can get us anywhere from four to five stories, again increasing the
4 density. Multi-story buildings.

5 MR. FURGESS: So what you, in Decker Boulevard what you're trying to do is
6 cut all those little strip malls that you have along that corridor? Because you've got
7 them on both sides. You got oriental and -

8 MS. RUTHERFORD: Um-hum (affirmative).

9 MR. FURGESS: Everybody mixed in there together.

10 MS. RUTHERFORD: We're giving the options for redevelopment and again
11 increasing the density, not necessarily restricting strip malls or that type of building but
12 allowing a developer to come in with multi-stories. Okay? Again, currently GC allows
13 for three-stories or 35'. The new overlay, the width of the fronting road, 65', four to five
14 stories, six stories plus with a special exception. No maximum lot coverage. If you just
15 take a look at what your current GC allows and what the CRD would give you the
16 redevelopment opportunities are a lot better with the new overlay. Building setbacks.

17 MR. FURGESS: [Inaudible] houses.

18 MS. RUTHERFORD: We are encouraging mixed use so you can do your
19 commercial as well as your housing in the same areas. Okay?

20 MR. FURGESS: Behind these different, the businesses?

21 MS. RUTHERFORD: Um-hum (affirmative). Exactly.

22 MR. FURGESS: Keep it the same but dress up the front?

1 MS. RUTHERFORD: Yes. Or you can do commercial on the first floor and
2 residential on the stories above.

3 MR. FURGESS: European style?

4 MS. RUTHERFORD: Yeah. Okay. Currently in GC minimum setback for the
5 building is 25'. We're reducing that to ten feet with a maximum of 50'. So again we're
6 bringing buildings closer to the road. Right now we're reducing parking minimums as
7 well for retail use. Currently it's for every – four spaces for every 1,000 square feet.
8 We're reducing that to one space for every 1,000 square feet; drastic reduction in
9 required parking. Currently for GC buffers between uses, for CRD there are no buffers
10 within a district so if you have like uses you're not required to have a buffer in that
11 district. Whereas GC requires that you have so many feet in between each use. We're
12 still requiring screening for the solid waste areas. Okay. Currently in GC you're
13 required to put in a five-foot sidewalk. CRD is going to give you anywhere from a 5' to
14 16' sidewalk. Okay. In GC currently freestanding signs can be built up to 50'. With the
15 new overlay ground mounted signs, no detached pole signs, and no billboards. Cutting
16 down on the air litter. What's really interesting about this is that in GC currently your
17 building height is restricted to 35' yet your sign can be about 15' higher than your
18 building. So that's the irony. In GC residential subdivisions 10% of the area and 50% of
19 that needs to be useable. CRD again for your recreation and open space 2% of the
20 area mixed used, 75% useable and we do have a payment in lieu option. We are
21 asking that your streets within your developments are interconnecting. We're looking
22 for upgraded streets in accordance with the redevelopment plan. That Decker
23 Boulevard Master Plan did focus on several intersections that needed to be improved.

1 Driveway spacing standards are going to be necessary. Planting strips required.
2 Landscaping, street lighting, and traffic management plans. Okay. Just a list of some
3 uses that are not going to be permitted. If there's a current use that fits this category it
4 would considered legal non-conforming.

5 MR. PALMER: I have a question to ask. What do you mean it's a legal non-
6 conforming? I thought it could operate as is unless they [inaudible] opted in this
7 program.

8 MS. RUTHERFORD: Can still operate as is unless it closes its doors for 12
9 months. It cannot come back in as that use. So if you're currently –

10 MS. CAIRNS: Right. I guess – I think maybe what he's – you know, if you've got
11 a current outdoor – you know, say manufacturing use there that's allowed by use as is, I
12 mean, you would just not opt in and make yourself a legal non-conforming. You could
13 just stay as – you could just not opt in. Stay under the current zoning.

14 MR. VAN DINE: How do you even become a legal non-conforming if this is an
15 overlay district which is only applicable if you opt in. I mean – yeah. If it's only an opt in
16 then whatever the underlying zoning is still gets to deal with everything that's under
17 there so I don't even think it becomes a non-conforming because you can do it under
18 whatever zoning you have on that piece of property.

19 MS. RUTHERFORD: Okay.

20 MR. VAN DINE: And because the only other way that you're doing this is you're
21 saying this now becomes the overriding zoning over this property and that's not what I
22 thought we were doing here. I thought we were doing an opt-in for people who wanted
23 to take advantage of these situations.

1 MS. RUTHERFORD: Right. But again, the goal is to get the corridor
2 redeveloped and our intentions is that with the CRD it's so attractive that you would
3 want to opt in, essentially.

4 MR. VAN DINE: I recognize that but we're not changing the underlying zoning.

5 MS. RUTHERFORD: No. We're not changing the underlying zoning.

6 MR. VAN DINE: If we don't change the underlying zoning then in fact you are
7 allowed to do anything that would be within that underlying zoning. If – in fact a pawn
8 shop could go some place then that pawn shop could still go there unless that property
9 owner says I'm going to go into the CRD and then it might be excluded.

10 MS. RUTHERFORD: As long as the baseline zoning doesn't change.

11 MR. VAN DINE: And if I'm not – am I hearing it incorrectly? I mean, are we
12 changing the baseline zoning?

13 MS. RUTHERFORD: No. If – there's still going to be considered GC. They're
14 not going to ask for a different type of zoning for that area.

15 MR. VAN DINE: Okay.

16 MS. LINDER: I'm clear then when I drafted the language on page two of the
17 ordinance? It talks about that once an owner applies to the Department to get the CRD
18 overlay district that only one set of standards is going to apply.

19 MR. VAN DINE: I'm not talking about that. If he applies and wants to come into
20 the CRD, that's fine. I'm talking about the owner who doesn't apply for anything and
21 says I've got this piece of property, I understand that they're trying to redevelop this but
22 you know what? I'm going to stick with what I want. We can't restrict his uses on that
23 piece of property because he's never applied.

1 MS. LINDER: Correct.

2 MR. VAN DINE: Okay.

3 MR. PALMER: So let me just throw out an example. Decker Jewelry and Pawn
4 on Decker, if he closes his doors today and six months from now – just take for example
5 this has passed. Six months from now he decides, you know what, I don't want to be a
6 jewelry store anymore, I want to be a payday loan lender. He can open that business
7 even though this has passed.

8 MS. RUTHERFORD: Well, six months from now once this is approved that piece
9 of property's value has just now skyrocketed and he could probably get more –

10 MR. PALMER: But that's not what I was asking.

11 MS. RUTHERFORD: - more for the property.

12 MS. LINDER: But the answer to the question is yes.

13 MS. RUTHERFORD: Yes.

14 MR. PALMER: The answer is yes.

15 MS. RUTHERFORD: He'll be fine.

16 MR. VAN DINE: And it maybe even more economically viable for him to change
17 that but he still has the option to do what he wants to do at that point, at that location?

18 MS. RUTHERFORD: Within the parameters of that zoning.

19 MR. VAN DINE: Of the original zoning that was there.

20 MS. RUTHERFORD: Um-hum (affirmative). Right. So if that type of business is
21 allowed within that zoning district he'd be allowed to have that.

1 MR. PALMER: Is that type of – like assuming payday lending is allowed in the
2 GC district he would be allowed to open that business even though this has been
3 passed?

4 MS. RUTHERFORD: Right.

5 MR. PALMER: Because he has not opted into this program?

6 MS. RUTHERFORD: Right. Optional.

7 MR. VAN DINE: There are a few things that I'm having a little bit of problem with
8 the way it's written up, is I don't see any place that it is clear that this is opt in. It's
9 implied in a lot of the verbiage that's on page two but I would like to see something that
10 specifically says, this zoning overlay is an opt-in, that the owner has to opt into it before
11 it applies.

12 MR. PALMER: That it cannot be, it's not, it cannot be implied by, you know,
13 Council or anybody else.

14 MR. VAN DINE: Unless the zoning is officially changed to something that is fixed
15 on that piece of property it is an opt-in and I just – when I'm reading it I can read
16 between the lines and I can make the arguments and all the rest of it, but I think we
17 need to just say it. And I even went so far as to say you have a line, Once the overlay
18 district is applied for by the owner.

19 MS. CAIRNS: Well, but I think that part of the issue is that first the County
20 Council has to designate an area as eligible -

21 MR. VAN DINE: That's true.

22 MS. CAIRNS: - to opt in. That's why it's like a two-step process. Then we just
23 need to make it clear that it's a two-step process and have two sections, you know.

1 MR. VAN DINE: However we do it I just want it to be clear that this is in fact an
2 opt-in, that the opt-in requires an affirmative act on the part of the owner of the property.

3 MS. RUTHERFORD: It was our intent to make it clear in the language you have
4 but we'll firm it.

5 MR. VAN DINE: I can't – I can pull that out through implication and through
6 various pieces but I'd like to see it flat out stated.

7 MS. RUTHERFORD: Okay.

8 MR. PALMER: Correct.

9 MS. LINDER: My understanding is that if you've got property zoned General
10 Commercial that once we place the overlay district on it you'll have the CRD overlay on
11 it but you'll have the General Commercial standards that you're going by. It's going to
12 be an overlay on top of the General Commercial. You pick one or the other's standards.

13 MR. VAN DINE: But you need to make, you need to make the affirmative
14 request to go from the underlying to the overlay and what I'm saying is this is not clear
15 that that is an affirmative requirement or request that has to be made by the property
16 owner.

17 MS. LINDER: Underlying standards stay in place until such time as the property
18 owner applies?

19 MR. VAN DINE: That's the kind of thing that I'm looking for, something along
20 those lines.

21 MS. CAIRNS: It says that.

22 MS. LINDER: It's in there.

23 MR. VAN DINE: I don't see that.

1 MS. LINDER: Paragraph two.

2 MR. FURGESS: The overlay district applies [inaudible].

3 MR. VAN DINE: Why did I think that was not applicable? Hold on.

4 MS. RUTHERFORD: Are we clear; does that suffice?

5 MR. VAN DINE: We can go ahead. I'll come back to it in a minute.

6 MR. PALMER: Let me ask this question. What if somebody doesn't want to take
7 part in this program; say the – one of the homes that are there, you know, that are there
8 on Decker. Say it's never been rezoned and it is, you know, LD district or something.
9 They wanted to come in and be rezoned something that's not called for in the plan. In
10 other words the plan calls for that corner to be, you know, general commercial in the
11 bottom and residents on top. That's not what the owner of the property wants to do. He
12 doesn't – he wants to do some other kind of zoning which makes sense under normal
13 conditions but since we have this plan in place it doesn't comply with the plan. Will the
14 plan be used as it is now for a basis for rezoning?

15 MS. RUTHERFORD: Yes. Because it is a master planned area. And the intent
16 is that master planned areas, if the applicant is coming before to make the request they
17 would submit their applications through that process with Planning Staff and the master
18 plan would be used as a part of reviewing the application.

19 MR. PALMER: So in that case it wouldn't be opt in, it would be imposed upon
20 property owners?

21 MS. CAIRNS: Well no because you could always keep your existing zoning. I
22 mean, he could leave it as is. It's just that if he were to make a map amendment
23 request the fact that it's in the master planned area would become an issue.

1 MS. RUTHERFORD: And then it would be before you guys, DRT and probably
2 before you as well.

3 MR. PALMER: Have the property owners been noticed that there's looking to be
4 an overlay district applied to their property?

5 MS. RUTHERFORD: There were some here and we do have a couple of
6 property owners in the audience with us but yes, we have met with property owners,
7 we've met with –

8 MR. PALMER: I'm saying has there been a notice sent out to the individual
9 property owners of the property that's effected here that their property is looking to be
10 over – have an overlay district applied to it?

11 MS. RUTHERFORD: We filed the chain of public information as stated by the
12 County. So it was noticed –

13 MR. PALMER: But you did notify individual owners?

14 MS. RUTHERFORD: It was noticed, it was noticed in the paper.

15 MR. PALMER: You notice – I mean, seems like when we're looking to put
16 overlay district on someone's property that they would be sent a notice.

17 MS. RUTHERFORD: But we haven't rezoned it so we don't have to post
18 property as you would with a rezone. It's just change in language.

19 MS. LINDER: The language [inaudible] is the text creating the standards for the
20 overlay. We need to do another rezoning or map amendment to apply the district and at
21 that point I believe there'll be some communication with the individual property owners
22 when we actually go to rezone the map to place overlay. This is just establishing the
23 text.

1 MR. VAN DINE: And here's my reason why, why I didn't think of this particular
2 language took it to the extent that I wanted. It says, "to have the standards of the
3 overlay district apply." I think that it has to be more than just the standard. It has to be
4 that it falls under the actual overlay district and all of the conditions that are here. The
5 word standard to me has a more restrictive meaning than perhaps the overall
6 application.

7 MS. LINDER: I believe it was Staff's intention to place the overlay district as sort
8 of an umbrella over the whole district and to do that without the property owner
9 specifically coming and saying place this umbrella over me, but that they wouldn't be
10 required to meet the standards of that umbrella overlay until they come to the
11 department and say we want these standards and then they'd be getting up to
12 underlying standards.

13 MR. PALMER: But no one can impose those standards on the property owner,
14 Council or anyone?

15 MS. LINDER: Correct. You have the umbrella overlay district hanging out there
16 available to anybody who wanted it but the property owner would not have to reach out
17 to anyone to accept that.

18 MS. PALMER: Did we take into account the property that's in Forest Acres? I
19 know there are some tracts that are in this plan that are in Forest Acres.

20 MS. RUTHERFORD: It applies to Richland County.

21 MR. PALMER: Just Richland County?

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

1 MR. PALMER: What if you've master planned an area that you can't master –
2 that you can't plan for?

3 MS. RUTHERFORD: The intention is still apply it to Richland County.

4 MR. PALMER: Okay.

5 MS. RUTHERFORD: Okay. I mean, it, we're, unfortunately this is one of those
6 areas where the line is very, very gray and it does jump a couple of parcels up and
7 down the street so we've tried to draw the lines as accurate as we could to include
8 Richland County property. All right. Uses permitted by right again, accessory
9 dwellings, dwellings single-family detached, zero lot line, two family, multi-family. Many
10 residential uses are not allowed in the NC-GC in OI zoning districts. And residences
11 should not comprise more than 75% of the use of the land. Okay. Again, currently this
12 is what Decker Boulevard looks like 2015; with the use of the CRD we could this type of
13 development - multi-story mixed used development with both residential and
14 commercial.

15 VICE-CHAIRMAN ANDERSON: Thank you very much. We have a couple
16 people signed up to speak. Mr. Wallace Wright?

17 MS. RUTHERFORD: They've left. The Wrights have gone.

18 VICE-CHAIRMAN ANDERSON: Okay. Bill Theus?

19 **TESTIMONY OF BILL THEUS:**

20 MR. THEUS: Thank you. My name is Bill Theus. Walter Taylor who was here
21 for awhile and had to leave is, he and I own the Decker Mall together as well as the
22 Target store which we've now converted to climate controlled storage. Based on what
23 I'm hearing here my thunder's pretty well stolen. If it is in fact truly optional where we

1 can forever be zoned GC and live under those guidelines then I can go back to my
2 office with my useless notes. If I – this is just purely hypothetical, but if I want to go in
3 there tomorrow and tear everything down and rebuild a Wal-Mart and nobody can stop
4 me, I'm okay. Or anything that's currently allowed under General Commercial and
5 there's no – nothing further required of us as a result of this than what we have now
6 only if we want it, then I'm okay.

7 MR. PALMER: That's my understanding.

8 MS. RUTHERFORD: That is the understanding. That's how it will be applied.

9 MR. THEUS: Okay. All right.

10 MR. PALMER: I'm with Howard though. You know, this Staff may not be here
11 10 years from now and we're running into problems with interpretations from other
12 members of our County now with interpretations of things. I just want things to be very
13 clear because it's our understanding and we're all in agreement here there maybe a
14 whole new set of people interpreting this 10 years from now.

15 MR. KOCY: Mr. Palmer, my notes say that the first paragraph, first line will say,
16 this overlay is optional for a property owner. Does that work?

17 MR. PALMER: That works for me.

18 MS. CAIRNS: Well but it – okay. I mean, yes, but the idea is that County's going
19 to apply the overlay so the option exists to apply the -

20 MR. KOCY: Correct. Correct.

21 MS. CAIRNS: We have to figure out how to phrase it.

22 MR. KOCY: We'll make sure it is extremely clear in the very first line it's an
23 option.

1 MS. CAIRNS: [inaudible] requirement that the overlay are optional.

2 MR. KOCY: Right. That it is an option. We're not changing the base zoning,
3 we're just making an optional set of development standards, development options
4 available for a property owner and it's the property owner's selection to whether he opts
5 in or not.

6 MR. VAN DINE: As long as it's clear in the text that this is an option I don't have
7 a problem with anything we're talking about.

8 MS. RUTHERFORD: That sounds like a motion.

9 MR. PALMER: Do we need see that language prior to – what are we – are we
10 sending up something to Council here today or?

11 MR. KOCY: We'd like to

12 MR. VAN DINE: Mr. Chairman, I will make a motion that we send language up
13 for review and adoption by Council with the proviso that there's a provision which
14 specifically discloses that the application of the standards are optional at the request of
15 the property owner.

16 MS. LINDER: I'll rephrase that paragraph two then.

17 MR. VAN DINE: However we need to do it and that is my motion.

18 MR. PALMER: And not to be imposed by Council or any other -

19 MR. VAN DINE: That's [inaudible] optional at the request of the owner.

20 MR. PALMER: I'll second that.

21 VICE-CHAIRMAN ANDERSON: All those in favor please signify by raising your
22 hand. Opposed?

1 *[Approved: Cairns, Murray, Ward, Palmer, Anderson, Van Dine, Furgess; Absent:*
2 *Manning, Green]*

3 VICE-CHAIRMAN ANDERSON: All right. The next text amendment letter A,
4 ordinance to amend special requirements for sexually oriented businesses.

5 MS. LINDER: We have attorney Mullen Taylor to make a presentation for you.

6 **TESTIMONY OF MULLEN TAYLOR:**

7 MS. TAYLOR: Members of the Planning Commission, thank you for your time.
8 My name is Mullen Taylor. I'm with the law firm of Willoughby and Hoeffler and I
9 represent Richland County in pending litigation brought by several sexually oriented
10 businesses against Richland County. The case was filed in Fall of 2007 and as a result
11 of that lawsuit, in light of that lawsuit the County is revising its regulations pertaining to
12 sexually oriented businesses. In the interest of brevity I will now just refer to sexually
13 oriented businesses as SOBs but I want you to know that it's nothing derogatory
14 towards this class of business. It's just simply a shorter way of describing the type of
15 businesses that are regulated under the Land Development Code that is of interest to
16 us today. First off, a little bit about the lawsuit. It is a challenge primarily under the First
17 Amendment of the United States Constitution. Erotic dance and expression is entitled
18 to some protection under the First Amendment. It's certainly not equated to political
19 speech but it is given some protection under the First Amendment. The complaint
20 alleges that our ordinances intend to suppress or censor their expression of erotic
21 dance as well as other issues dealing with the First Amendment and it does not give
22 them an adequate means of performing their expression so to say. The government
23 can regulate sexually oriented businesses, SOBs so long as it's content neutral. And by

1 that I mean the regulations do not attempt to suppress the erotic dance itself. Plenty of
2 folks object to that on moral reasons, other reasons but Richland County and other local
3 governments cannot or at least cannot and successfully survive challenge any sort of
4 regulations that really go towards the particular expression itself. What local
5 governments do and what Richland County has done is regulate the location, the place,
6 the manner. It's typically called time, place, manner regulations. So you're not reaching
7 to the particular expression itself but how that expression is conducted, where it is
8 conducted, and other types of regulations but not impinging to a great degree on the
9 type of expression. The regulations in order to pass muster, the Constitution must
10 advance a substantial government interest and they must leave alternative means of
11 communication available in the County. The ordinance amendment or series of
12 amendments that you have before you I hope it is a – let's see. I think you have it
13 before you. It's a 16 page, 17 page document that's got strikes and adds. I'm not going
14 to go through blow by blow what these amendments are. I'm just going to give you an
15 overview of these. If you have any questions I'll be happy to answer them. But the first
16 and most important thing that this ordinance does is to augment the County's rationale
17 for adopting these ordinances. As I said, it must advance a substantial government
18 interest. The Supreme Court has said that preservation of the urban quality of life and
19 protection against urban blight is a substantial government interest that is accorded high
20 respect. So under that rubric you find typical rationales for these types of ordinances is
21 to protect against increase rates of crime, protect against the potential for decrease in
22 property values for surrounding areas, protect against or reduce litter, sexual
23 exploitation, lewdness, elicit sexual activity. There are what's called secondary effects

1 all these things that I just described. So as I said before in order to pass muster under
2 the Constitution, we are regulating those secondary effects not the expression itself.
3 And local governments in order to provide this justification and rationale in order to meet
4 the requirements of the Constitution refer to and rely on what's called secondary effect
5 studies. What I had passed out to you is a nice summary of 43 SOB land use studies. I
6 provide this for your summary. I hope you appreciate that. Richland County Council is
7 getting multi-volume sets of notebooks that have the entire studies. Their Planning
8 Director – I have provided the Planning Director a full copy of the studies that Richland
9 County Council's considering so if you're interested in looking at any one particular or all
10 they shall be available in the Planning Director's office. But if you look at the ordinance
11 the augmentation of the secondary effects and the rationale is found under the purpose
12 and findings. And there is a great deal of addition in this ordinance to describe the
13 secondary effects or at least identify them as something that the County can rely on that
14 shows the adverse secondary effects that these types of businesses bring. The County
15 can also rely on findings that are contained within cases that judges have decided in the
16 past. We can rely on common sense. We can rely on anecdotal evidence from the
17 local community and of course we can rely upon studies that the local government itself
18 may produce. We are not required to produce our own local study of the impacts that
19 are found here specifically. It doesn't prohibit us from doing so but most challenges to
20 these types of ordinances survive based on reference and reliance upon other
21 communities' secondary effects studies. So the majority of the revisions that you find in
22 this ordinance deal with fortifying I guess the County's rationale and justification found in
23 its purpose and findings. Secondly, it updates the definitions of sexually oriented

1 businesses and addresses some enforceability issues. While we're making revisions to
2 this ordinance we might as well deal with some particular difficulties that we have
3 encountered or may encounter in dealing with that. An example of updating the
4 definitions are in describing certain types of adult movies. The mediums, the times
5 have changed; instead of video cassettes, I think it's more appropriate to identify DVDs
6 and other electronic means. Enforceability issues that we're looking at are streamlining
7 some of these definitions so that they're easier to enforce and also there are some for
8 example location restrictions in here dealing with the, no SOB locate within a church,
9 school, residential zone and its current form it also says, residential use. There's been
10 difficulty in determining what is residentially used as opposed to a residential zone.
11 That has been struck. Those types of things are not major substantive issues but
12 mainly just dealing with updating the ordinance. And lastly you will note if you flip
13 through this ordinance change it completely eliminates the permitting requirements that
14 are in here. The ordinance has locational standards or prohibitions and it has permitting
15 requirement. We felt that the permitting needed to be deleted entirely from the Land
16 Development Code and instead we have replaced that permitting requirement in the
17 business license ordinance. So there's a companion ordinance that is going before
18 Richland County Council which is this Land Development Code amendment as well as
19 extensive amendments to the business license ordinance. Are there any particular
20 questions you may have about [inaudible] ordinance amendment, amendments?

21 MR. PALMER: I have a question.

22 MS. TAYLOR: Yes, sir.

23 MR. PALMER: It talks about 1,000' from residential, from any residential district.

1 MS. TAYLOR: Yes.

2 MR. PALMER: Would our general commercial zones, since it does allow for
3 residential uses, would that be classified as a residential district?

4 MS. TAYLOR: No. It's got to be zoned residential.

5 MS. CAIRNS: Yeah, but by right general commercial you can put multi-family.

6 MS. TAYLOR: Well, the way it is now revised currently it prohibits within 1,000'
7 of residential zone and residential use. The way this revision is is it deletes the
8 residential use and only prohibits within 1,000' from those parcels that are zoned
9 residential.

10 MS. CAIRNS: But I would – I mean, it would be – but I mean, zoning of general
11 commercial allows residential use.

12 MS. TAYLOR: And I hear what you're saying. What I'm saying is no, it does not.

13 MS. LINDER: What we can do is amend that language to make it very clear that
14 it's zoned residential.

15 MS. CAIRNS: Right. But is general commercial zoned residential when
16 residential use can be 100% of the use?

17 MS. LINDER: No. Actually have the zoning designation, residential. It would
18 have to be an RS-LD, RS-MD, RS-HD.

19 MS. CAIRNS: Yeah. But if you've got a parcel of land that under the general
20 commercial zoning someone has built apartment complex exclusively.

21 MS. LINDER: That would not protect that person.

22 MR. PALMER: Well, we need to protect that person.

1 MS. CAIRNS: Yeah. And I mean, also we have the same issue in our rural
2 zoning. I would offer that some of our rural is considered sort of residential rural and
3 some of it's sort of considered commercial rural.

4 MR. PALMER: We do have a lot of residential that's in rural that are one acre
5 lots.

6 MS. TAYLOR: That is – feel free to recommend what you like. That's – you
7 certainly have that ability to do so from a legal perspective and not from a policy
8 perspective. The difficulty with the residential use as opposed to the residential zoning
9 is determining the residential use. In talking with your Planning Staff there's been some
10 difficulty as far as identifying what that may be. So from an enforceability standpoint I
11 have problems with how to identify that and how can SOBs determine where they may
12 locate. Keep in mind that one of the requirements that local governments must make, is
13 to meet as far as these ordinances go is there must be alternative means of
14 communication. There must be available parcels for them to locate. There's not a
15 particular bright line where, you know, if you have over 50 you're fine, if it's, you're
16 under you know 50 you're not. Depends on the location and the context. I can tell you
17 that in state Supreme Court here in South Carolina when Richland County was
18 challenged under its SOB regulations about 10 years, 15 years ago, 16 parcels were
19 upheld as meeting that requirement. I can't tell you what that would be today.

20 MS. CAIRNS: Was the 16 an allowable amount?

21 MS. TAYLOR: It was upheld for that particular case by the state Supreme Court.

22 MR. VAN DINE: I think the problem that's being raised is we're trying to get
23 some of these newer areas; out at Sandhills is a prime example – where they have

1 residences above retail or other business on the ground floor. And what I'm hearing
2 from you is that we would not be able to protect the residences above from having a
3 sexually oriented business down below.

4 MS. TAYLOR: If they're in general commercial you're right. Now if there's a way
5 in, I mean, my only issue is the enforceability of it. How to determine that? If there's a
6 way to solve that problem I don't have – I hear your concern and that certainly can be
7 addressed.

8 MS. CAIRNS: I mean, outside of the problem that it might [inaudible] overly
9 broad but to say that it's residentially zoned or zoned such that it allows residential use.
10 That would be almost everything. We don't have very many uses that don't allow it, I
11 think.

12 MR. PALMER: Well HI, LI.

13 MS. CAIRNS: There are some, sure, but.

14 MR. PALMER: M-1, that do not allow residential uses.

15 MS. CAIRNS: You know, so either zoned residential or zoned such to allow
16 residential use by -

17 MS. TAYLOR: Um-hum (affirmative). I mean, the current ordinance – it
18 recognizes residential use.

19 MR. PALMER: Why is that difficult to go knock on the door and see if somebody
20 lives in the house?

21 MR. CAIRNS: They come and go.

22 MS. TAYLOR: I think I would have to refer that to your Planning Staff to answer
23 that.

1 MR. PALMER: Why is residential use difficult to use?

2 MR. PRICE: I mean, clearly if I were to go to a structure and knock at a door,
3 somebody comes to the door, okay. We can establish that but what are the cases of
4 there's a home that's been vacant for awhile. Because actually the way our code is
5 written it could sit there for more than that 12 months, 12 consecutive months and still
6 be considered a residential use. It could be – you could look at a structure such as – I
7 think that's the hard part. Just seeing a building there; is it residential, is it commercial?
8 It may be in a commercial zoning district but if it's still – it's tried to maintain a residential
9 use we just said go ahead and disqualify the SOB location.

10 MR. VAN DINE: Don't we presently have file in the [inaudible] district?

11 MR. PRICE: GC.

12 MR. VAN DINE: That's it?

13 MR. PRICE: That's it. I think one of the issues, I mean, as you bring up, you
14 allow, you only allow the SOBs in the GC district but you also allow multi-family in the
15 GC district. I mean, even our previous code allowed for single family in a GC district. It
16 would seem like that would kind of, you know, eliminate potential areas for a sexually
17 oriented business just for the fact that you allow those residential uses.

18 MR. VAN DINE: What would be wrong with taking it out to LI or HI districts as
19 opposed to GC and expand and putting it in those classifications which do not have any
20 residential components with them? Then you wouldn't have any issue with residences
21 at all.

22 MS. TAYLOR: Are you talking about in addition to general commercial?

23 MR. VAN DINE: No. I was saying –

1 MS. TAYLOR: In replacement of general commercial? I couldn't tell you if that
2 would work without looking – going back to the Planning Staff and asking them to show
3 me how many parcels that makes available for SOBs.

4 MS. CAIRNS: When you're talking about making available you're – are you
5 referring to both the zoning and the necessary setbacks from the uses like the – I mean
6 are there setbacks from day cares and churches and [inaudible]?

7 MS. TAYLOR: Right. Right. At the end of the day not only those that are
8 located in general commercial but those meet those 1,000' distance requirements, right.

9 MR. PALMER: You're going to find more parcels that will meet your
10 requirements in HI and LI than you will in GC because those are already isolated away
11 from most of these other uses like schools and the –

12 MS. TAYLOR: From a legal standpoint the more the better. I mean, that – I am
13 just tracking what the County's policy has been since 1987 on using GC but if there is
14 another way, another zoning designation that allows parcels – a reasonable number of
15 parcels. As a matter of fact the parcels don't have to be economically viable. They just
16 have to exist.

17 MR. PALMER: Why don't we just change it to HI and LI and then do it from any
18 – and do it from – all I'm concerned about is, you know, we've got PDDs out there that –
19 are those zoned, are those classified as being zoned residential? And then you've got
20 GC district where you've got apartments.

21 MS. CAIRNS: PDDs I'm sure would exclude it.

22 MR. VAN DINE: And I also think a PDD is not a GC zone. A PDD is a separate
23 zoning all together.

1 MR. ANDERSON: What goes in that?

2 MS. CAIRNS: What gets classified – yeah, what is a PDD? We have to
3 investigate what's internal to it?

4 MR. PRICE: I believe in there you can – I can make a determination. One of the
5 problems with the LI or the HI district, I mean, really looking at the code the HI really
6 doesn't allow for many commercial type components within that district; it's more for
7 your industrial type uses. And if you look at your LI district I think we may just taking a
8 guess, we may actually have three or four parcels in the County that is an LI, and you
9 would have more rezonings taken to come in.

10 MS. CAIRNS: But I think it's – I mean, but it sounds like if we change the
11 requirement from residential zone – from residential use to residential zone in GC
12 basically the existing residential in GC would stop being a block. So it would go up
13 from 16 but would also permeate areas that [inaudible] ultimate desire of the County.

14 MR. PALMER: So no one has a problem with the use? Is it you or is it legal?

15 MS. TAYLOR: The only problem I have with it is the, in consulting with the Staff
16 the difficulty in determining what parcels aren't a used residential. I mean, if that's not a
17 problem I don't have a problem with it.

18 MR. PRICE: I mean, if I go out – say I'm going out to a site and it's zoned
19 general commercial and I go – there's a wooded area and there's a structure there; is
20 that residential or not? It hasn't been used in awhile.

21 MR. PALMER: Then it's obviously not residential use because it's not being
22 used residential.

1 MR. PRICE: But the way our code reads, the way our code reads if it's a non-
2 conforming structure as long as the owner has been maintaining the house up to
3 building code standards, has been marketing the house in a residential way, it's
4 considered residential still. It's non-conforming, it's not lost.

5 MR. PALMER: Okay. Well, then it's considered residential then.

6 MS. CAIRNS: There's a lot of gray.

7 MR. PALMER: You just answered your question, right?

8 MR. PRICE: Yeah. But you said [inaudible] parcel sitting there for years?
9 You're going to use that as a way to eliminate [inaudible]?

10 MR. PALMER: It would have been marketing it and -

11 MR. VAN DINE: I guess my problem has gone away from residential use to
12 something that picks up that idea is that – and I'm just thinking along Rosewood or
13 something like that – forgetting about the schools that are there. you've got little parcels
14 of commercial, little pockets that back up to the neighborhoods on Rosewood and the
15 other areas down there. We're allowing them – I know that's where Chippendoll's was
16 or whatever the name of it was up there. But that particular – I mean, allowing it in GC,
17 residential use might be right next door.

18 MR. PALMER: Or right across the street. I mean, I'm thinking about Two Notch
19 and Decker.

20 MS. TAYLOR: Or behind it.

21 MR. VAN DINE: Or behind it, right. If – you're not solving the problem by
22 protecting the residences from all of the secondary effects if in fact you're allowing the

1 GC parcel that has surrounded on three sides by residences to operate a sexually
2 oriented business.

3 MS. TAYLOR: That's a very point and two things I'd like to say about that. First,
4 the court does not require us to actually solve it. As long as we take some steps and in
5 an intent to solve it. So we can't, we don't have to – it's not, the burden is on us to show
6 how this will completely eliminate or completely protect, however, you know. We have
7 to show that there's some reasonable connection there. The situation you're describing
8 is seen many, many times discussed in these other secondary effect studies and
9 particular more urbanized areas where they do have a commercial strip and
10 immediately behind it is residential. The 1,000' requirement comes in from these
11 studies that show that crime or reduced property value is at its worse right immediately,
12 I mean, right next to it at the site of the SOB and then the further away from it that
13 potential disperses or reduced. For those communities that have really dense urban
14 environments where there is a back up of residential right behind it they either make a
15 decision of looking at the available parcels and say, hey you know we're going to go
16 with it or they reduce that 1,000' requirement. You see some urban areas that's got a
17 500' restriction or 750'. I've looked – thought about that as one possibility. There is a
18 problem that I want you to know of and you're the policy setters, not me. But we have
19 to consider what the City of Columbia's regulations are and currently they are the same
20 as ours. If we reduce that footage requirement for example would we then be
21 encouraging SOBs to leave the city or at least not consider the city and enter into the
22 County? I mean, consistency is a legitimate point to consider.

1 MR. VAN DINE: How does the City of Columbia handle its residential issue that
2 we're talking about?

3 MS. TAYLOR: Well, from my understanding they don't have any currently in the
4 City of Columbia.

5 MR. PALMER: I think we've got to put -

6 MR. VAN DINE: If we just leave it at GC I think we're opening, we're opening the
7 door up too much if it doesn't have a tie-in to residential. The word use is what the
8 problem is and we need to come up with some way [inaudible] principal use or some, I
9 mean -

10 MS. TAYLOR: Okay.

11 MR. VAN DINE: - something that -

12 MR. PALMER: You know, residentially inhabited at the time of the application or
13 something.

14 MS. CAIRNS: Yeah but that - what if it's been empty for a day? There's just
15 been a foreclosure. It's going to sit for three or four months but it will be reoccupied
16 again without question, you know.

17 MR. PALMER: I don't know. I mean, we're talking -

18 MS. CAIRNS: We saw the use argument a lot in BOZA like there were lots of
19 times where whether a property was residential use became very [inaudible] and difficult
20 to solve.

21 MR. PALMER: Well, that's when it just comes down to our illustrious Zoning
22 Administrator as to what he calls a use.

23 MS. CAIRNS: Yeah. But you want to also avoid arbitrariness.

1 MR. VAN DINE: Right.

2 MR. KOCY: And the difficulty with use is uses can change daily and when do
3 you decide when it's residential use when somebody calls to complain? When
4 somebody actually went to the application in the business license process? When
5 another competitive use shows up nearby and somebody uncovers a residential use to
6 try to knock the original SOB out of competition? It becomes a nightmare for me and
7 that's why I like the proposed language. The GC zone within thousand and it can't be
8 within 1,000' of a residential zone. It makes it very predictable for both the applicant
9 and for me to enforce the regulations.

10 MS. CAIRNS: But would you not agree that at this point it's arguable that GC is
11 a residential zone because of its use for 16 -

12 MR. KOCY: No. GC is a resident – is a commercial, mixed-used zone that has
13 the potential for a residential component. Many places of the County the residential
14 component has not been applied.

15 MS. CAIRNS: Right. But, I mean, but as it stands right now it doesn't require
16 mixed use. I mean, it could 100% residential in GC.

17 MR. KOCY: That's correct.

18 MR. PALMER: That doesn't require any further approval just by right.

19 MR. KOCY: That's correct. But it's not residential zoned. If someone is
20 concerned about moving into a community that doesn't have go-go dancers they will
21 chose a residentially zoned neighborhood, not a mixed use.

22 MS. CAIRNS: Oh, you give owners far too much credit.

23 MR. KOCY: Well.

1 MS. CAIRNS: I mean, there's no way someone's gonna know buying, moving
2 into an apartment complex whether it's - what it's zoned. Whether it's zoned residential
3 or zoned GC there's no way they're going to know.

4 MR. KOCY: Residential uses are applicable in almost every zoning category we
5 have so if we have whatever the potential use could be I think that we set the County up
6 for either making arbitrary decisions or just going back to litigation because we have
7 essentially zoned SOB's out of existence in the County.

8 MR. PALMER: Well, your same argument applies though for the place or
9 worship. I mean, those could be here today and gone tomorrow as well just like a
10 residential use. I mean, someone could open a storefront church - the church of Pat
11 Palmer open next door. I mean, it's a one-month lease so you can't open an SOB.

12 MR. KOCY: Right. But if the church disappears then there's no conflict on the
13 storefront's church and the SOB could come back and apply.

14 MR. PALMER: Right. But the residential use though, I mean, it's the same
15 argument, right? It's tough to apply because, I mean, the church could be here today
16 and gone tomorrow just like the person living in the house.

17 MR. KOCY: Well, to further complicate matters and I'll defer to legal counsel
18 churches have a whole different set of rules that residential uses don't have that are
19 protected by the Supreme Court and the Constitution and everything else and that's just
20 a whole another legal argument I don't want to have today. But I'm saying that
21 residential use as opposed to residential zoning makes this much more difficult to apply
22 and to defend and to enforce.

1 MR. VAN DINE: I guess I'm trying to figure out is there a way we can carve out
2 of the general commercial district multi family that's found there? Is there a way to say,
3 yeah you can have it in GC district but it can't be within 1,000' of an apartment complex
4 or some other component like that because I understand your argument. I actually
5 follow it a little bit as far as someone who's living in a general commercial as an
6 individual whose move into it, but a lot of the multi-family is put in general commercial
7 because it's just as easy to put it there to be able to, and also incorporate commercial
8 uses as opposed to going to multi-family district itself. So is there a way to carve out
9 the apartment complexes over a certain size or something like that, you know, or within
10 1,000' of an apartment complex holding 10 apartments or more or some other
11 mechanism like that?

12 MR. KOCY: That would be a very ambitious mapping program for us to go out
13 today and figure out where every residential use exists, every 10-unit apartment
14 complex exists on non-residentially zoned property.

15 MR. VAN DINE: There's one particular - back behind Providence Northeast
16 Hospital there are two large apartments back there. The road leading in is as I recall
17 mostly commercial. Those are not zoned as residential parcels. I think they're zoned
18 something else. They may even be general commercial parcels for all I know.

19 MR. PALMER: Why do you need to map it?

20 MR. KOCY: How else would I know for enforcement or the potential SOB owner
21 when he comes in for a business license know whether a site is within 1,000' and could
22 be applied?

23 MR. PALMER: You've got to go look. You got to go get in your car and look.

1 MR. VAN DINE: What, what is, I mean, let's – you may not know, what does -

2 MR. KOCY: I can't tell by looking whether it's 1,000'.

3 MR. VAN DINE: – [inaudible] say, what does Myrtle Beach say because Myrtle
4 Beach has an awful lot and Horry County has an awful lot of those down there that they
5 have to control? What have all of those areas talked about as far as their requirements
6 for placement? As I recall and I may be dead wrong about this but Horry County was
7 sued by all of the SOBs 10 years ago and they were upheld for requiring them to have
8 to actually move after a certain length of time in order to fall – come within that
9 [inaudible].

10 MS. TAYLOR: I mean, I can't answer the question as to what these particular
11 Planning Departments are doing, if they're struggling with the same issue about
12 residential use within GC. You are right, Horry County is a great example. I mean,
13 Richland County's been sued twice in state court. Greenville County's been sued,
14 Horry County's been sued in state court. None of those cases dealt with the issue that
15 you are struggling with now. I mean, there certainly has had certain aspects of
16 ordinances struck or upheld but this is not one of them. I wish – I don't have any clarity
17 for you on that.

18 MS. CAIRNS: Let me ask you this. Would the – has anyone, I mean, you were
19 saying – I think you offered that as it's written now there were 16 parcels at least at the
20 time of the last lawsuit that allowed it. I mean, how much, how much more is going to
21 be eligible for SOB when we go from residential use to residential zoning? I mean, are
22 we suddenly making much more land available for SOBs?

23 MS. TAYLOR: No.

1 MS. CAIRNS: Because of the distance, setbacks -

2 MS. TAYLOR: Right.

3 MS. CAIRNS: - from all the uses?

4 MS. TAYLOR: Right.

5 MR. PALMER: But the distance is already there though.

6 MS. TAYLOR: A thousand feet, right.

7 MR. VAN DINE: I think, and I'll go [inaudible] Clemson Road and Longtown
8 Road. Those are presently houses but the area is zoned commercial. It was just
9 zoned, a huge ball of that was zoned to a commercial, which means you are going to
10 increase and allow in that area because it's moved out from the intersection. I don't
11 know how far it is down the road that they've gone but it's all the way past – they're
12 actually selling all of those as out parcels down the road in both directions. So I think
13 you're going to expand the area just right in there. There's a church that's at least
14 1,000' down the road or more.

15 MS. TAYLOR: Well, you know, my issue is just the ability to enforce it. And
16 listening to your comments here this afternoon I don't have a problem with leaving it as
17 is, meaning leaving residential use as long as internally within the County, you know, we
18 can devise some improved way of identifying that residential use.

19 MR. PALMER: I think we work towards that end. Let's just get some solutions
20 towards that end.

21 MR. VAN DINE: And I think if we just go a straight general commercial it may
22 make it easier for the mapping purposes but I think we have opened up a greater area

1 of land for those uses than you think. I mean, I really believe that you're going to
2 expand the areas and the places that those businesses will be able to open.

3 MR. PALMER: Agreed.

4 MS. TAYLOR: That suits me fine. I mean, the issue I raised is merely that of
5 enforceability. That particular change in the ordinance is not in my opinion necessary in
6 order to comply with the Constitution. What I will ask you is that you recommend
7 approval with or without that residential use, whichever your preference or discretion is
8 on that. And if you would also consider including in your motion that any other changes
9 subsequent to this meeting that the counsel, legal counsel feels is necessary to comply
10 with the Constitution that you would also recommend that, and I would – so we would
11 be – will not have to go back to the Planning Commission for any time in which we may
12 have for example in a subsequent hearing before County Council a change brought by
13 the industry that is legitimate change and we ought to go back and make that change.
14 I'll be happy to come back and update this Body every month while this is taking place
15 to let you know what changes there may be and of course if there is any substantive
16 policy changes to the ordinance you certainly wouldn't be required to revisit it and make
17 your recommendation. My concern is that we are under a scheduling order in which we
18 have a timeframe in which to amend the ordinance and then have the plaintiffs amend
19 their complaint and then we subsequently amend the answer. That can be changed
20 and they were certainly willing to do it but I'd like at this point to be able to try to keep
21 within the timelines of this litigation.

22 MR. VAN DINE: Let me ask this. How hard is it for the Planning Department to
23 come up with the idea of where they want the boundaries drawn, or how they want that?

1 I mean, how do you say it's easier for you to do it if you just say residential zone but all
2 I'm hearing is it's going to take a lot of effort. Frankly from a legal perspective when
3 somebody writes me an answer to discovery that says it's overly burdensome my first
4 response back to them is tell me why.

5 MR. KOCY: We have a data layer on the GIS system of various zoned
6 properties. So it's very easy for me to come up with a – bring up the GC general
7 commercial zoning and then draw 1,000' buffer around, at a nearby residentially zoned
8 property and I'll know which is in and which is out. If you ask me to come up with GC
9 property that does not have residential uses on it I have to do a physical inspection
10 throughout the County because I don't know what the current uses today of all the GC
11 zoned properties. I suspect that many of them are zoned and used non-residential but I
12 have no idea which might be zoned non-residential but are used residential and that is a
13 constantly shifting target. I'm comfortable knowing that I'll know when zoning changes.
14 It has to come before you; it has to go in front of County Council. So that is a big deal.
15 I'll be aware of that. But uses can change. Residential uses can pop up on non-
16 residential property and I've got no way of knowing. A good example is on Decker
17 Boulevard now. There are some single-family homes on Decker Boulevard that are
18 used for commercial uses, insurance agencies, offices for used car lots. A car lot can
19 disappear tomorrow and the house can be converted to a residential structure and I'll
20 never know that it's no longer a business use. Even though it's in a commercially zoned
21 corridor it can come and go as residential and I'm not aware of it without a physical
22 inspection. So it puts the burden of proof on me to tell an applicant you can't go there
23 because that house, even though it's zoned commercial, is residentially used today.

1 MR. PALMER: How many of these applications do we get? I mean, is this so
2 huge, I mean, are getting like 1,000 of these a year or something? Or do we get like
3 five and you've got to drive out there five times?

4 MR. KOCY: I have no idea because currently we – Geo, how many do we get a
5 year, do you know?

6 MR. PRICE: We get a couple of inquiries. Normally when I talk to them at the
7 counter I look at them and say, well let's look at the map. You won't be able to establish
8 this as a sexually oriented business because, you know, within the setbacks. So they
9 change their mind and say, okay well just be a regular club. A few weeks later.

10 MR. PALMER: In other words you don't get that many applications for SOBs?

11 MR. PRICE: No.

12 MR. PALMER: Okay. So the amount that we do we've got to get in the car and
13 go out there and look.

14 MR. PRICE: Well, one of the reasons why we don't is because most people are
15 under the impression they won't get them through the County anyway. It's too much of
16 a hassle so they just [inaudible] an application.

17 MR. PALMER: Well that's not going to change is it?

18 MR. PRICE: Well, I mean, if we can establish some legal areas it may.

19 VICE-CHAIRMAN ANDERSON: What about throwing in there something – the
20 word vacant? You know, for uses, what about vacant? Like unused GC that's not
21 being built out at all and we would know via the permit process, right, if a residential use
22 was going in that area?

23 MR. KOCY: Vacant [inaudible] undeveloped.

1 VICE-CHAIRMAN ANDERSON: Undeveloped, I'm sorry. Completely
2 undeveloped GC. We would know if a residential use is going in that area via permit;
3 correct?

4 MR. KOCY: Yes.

5 VICE-CHAIRMAN ANDERSON: Is there any way to track that so that as the
6 residential use goes into the GC that immediately is exed off? I know, I understand it's
7 a moving target but, I mean, we were just looking at several properties zoned GC that
8 didn't have a thing on them.

9 MR. VAN DINE: I think that is going to end up being more susceptible to the
10 [inaudible] because you're carving up the actual district into different things and I think
11 you're gonna be, you may be in worse shape than just residential use. I guess my –
12 one of the concerns I've got is that we're talking about residential zoned district. What
13 are we including in that classification?

14 MR. PALMER: Anything that starts with RS.

15 MR. KOCY: Correct.

16 MR. VAN DINE: So would rural be considered as applicable to have one of
17 these businesses?

18 MR. PRICE: No. Rural PDD among some of the other districts would have to be
19 evaluated for the type of district they should fall into.

20 MR. VAN DINE: So it's only general commercial that we're talking about?

21 MR. KOCY: Correct.

22 MR. PRICE: Yes. Maybe if we, I was speaking to Mullen, maybe if we were to
23 state that in the GC district you would have to have a separation from the non-

1 conforming residential uses as opposed to your multi-family which will be permitted
2 outright. And so you would have to observe the 1,000' setback from those uses but if
3 we're just talking about a structure that's been sitting there residential.

4 MR. VAN DINE: So it's not a non-conforming use in general commercial.

5 MR. PRICE: A single-family structure would be a non-conforming use. A duplex
6 would be considered a non-conforming use. Only multi-family is a permitted use in the
7 GC district.

8 MR. POPE: I apologize. I didn't come to say anything but I do have to say this
9 one thing. One of the things, and I hope this gives you a little bit of comfort. I don't
10 have an answer to a better way of using something other than the GC because believe
11 me we've thought long and hard about this and if it was ready made solution we'd
12 already have it for you and would be presenting it to you. But one of the things – the
13 best part of probably what we're doing is is actually taking the permitting out and putting
14 it on the business license side. Now it's going to be very difficult for someone to come
15 in and say exactly what Mr. Price just mentioned about well they're not going to go
16 through the hassle. We don't have any club's licensed as SOB, zero. But we have a lot
17 of them that came in and said well we're a restaurant or we're just a club. So it's going
18 to be very difficult if not just about impossible for them to come in under the guise of
19 something else. And a lot of these things are going to have to go back through the
20 renewal process so that's the other parallel component that Ms. Taylor's talking about
21 as to what's going before the County Council. So really the strength I think is in this
22 two-part component. The GC is one which I don't know what better solution we can
23 come with that. But I think all of the parts that we're dealing with and then with the

1 1,000' requirement really is going to put us in a much better position to be able to
2 regulate these things on the front end before they ever get any type of a license or go-
3 ahead from the County.

4 MR. PALMER: I think you're really opening up the amount of parcels that are
5 available for SOBs, legal SOBs if you go by zoning and not use. You've got to go by
6 use.

7 MR. KOCY: Well, it's zoning and 1,000' buffer.

8 MR. POPE: That's right.

9 MR. KOCY: I mean, it might appear – you might look at a map and see all this
10 red GC and think holy mackerel we've opened up the door but when you apply the
11 1,000' overlay on top of it it takes out most of the County.

12 MR. POPE: And I would concur.

13 MR. PALMER: A thousand foot from – but it's only from the schools, day cares,
14 and churches.

15 MR. KOCY: And residentially zoned –

16 MR. PALMER: And residentially zoned property.

17 MR. KOCY: - properties. Correct. In part.

18 MS. TAYLOR: Day care, secondary, elementaries, public and private schools.

19 MS. CAIRNS: There's not much of the County left.

20 MR. VAN DINE: Are we –

21 MS. TAYLOR: There really isn't.

22 MR. VAN DINE: Are we going to look at the business license [inaudible] taken
23 out or is that – that doesn't have to come before us at all.

1 MS. TAYLOR: That's right.

2 MR. PALMER: Are you classifying multi-family zoning as residential zoning, RM-
3 HD?

4 MR. KOCY: Yes. It is classified as multi – as residential zoning, not as GC
5 zoning.

6 MR. PALMER: Right. RM-HD is a residential zoning?

7 MR. KOCY: Correct.

8 MS. CAIRNS: It doesn't have to be RS which was what was offered.

9 MR. KOCY: Correct. It's an R, it's not a GC. It's an R.

10 MS. CAIRNS: Okay.

11 MS. TAYLOR: The addition of residential use actually reduces the number of
12 available parcels in Richland County.

13 MR. PALMER: Right. That's the goal here.

14 MS. CAIRNS: Well, let me ask you this because I think, I mean, it sounds like,
15 you know, that we're caught a lot on this use zoning but what, in terms of you asking us
16 today to vote on this there's a lot of other stuff in here which is what's linked to the
17 litigation that needs to go on; is that -

18 MS. TAYLOR: That's right. I mean, the relationship to the litigation is as I
19 mentioned the test that we must meet in order to withstand any challenge.

20 MS. CAIRNS: But I mean there's changes in this ordinance that don't have
21 anything to do with this nuance of use versus zoning.

22 MS. TAYLOR: That's correct.

23 MS. CAIRNS: Which are, yeah. Okay.

1 MS. TAYLOR: I mean, the use versus zoning what that goes to that's important
2 in our litigation is do we have sufficient number of parcels within Richland County for
3 these places to go to.

4 MS. CAIRNS: Oh, cause like today you couldn't tell how many parcels are
5 eligible because of the use.

6 MS. TAYLOR: It's difficult. Yes.

7 MS. CAIRNS: I get it; I get it.

8 MS. TAYLOR: I mean, the number of parcels that are available just looking at
9 the 1,000' restrictions and the GC zoning district puts us at a number below 25, without
10 excluding those that are residential use which is difficult to determine.

11 MR. PALMER: Can we see that map?

12 MS. TAYLOR: I do not have it with me. I can get to you. It is something that I
13 would rather show you in Executive Session.

14 MR. PALMER: You don't have it today?

15 MS. TAYLOR: I do not have it today.

16 MR. PALMER: Anybody have it today? Geo?

17 MR. PRICE: [inaudible]

18 MS. TAYLOR: I'm just not at a point in terms of this litigation where I would – I
19 mean, it's up to you. If you ask for it in public session we can certainly do that and
20 provide it to you but I'm not confident at this point that it's something that we need to
21 present in a public setting at this point.

22 MR. VAN DINE: Run for me again the 1,000' separations. What?

1 MS. TAYLOR: Residentially zoned property, primary and secondary schools,
2 both public and private, day cares for children, and parks that are adjacent to a
3 residential use. Am I missing anything? Oh, place of worship. Yes. Churches, how
4 obvious. Yes.

5 MR. VAN DINE: But why is the park being limited to adjacent to a residential
6 use? Because we're going to out on Garners Ferry Road, they've got the whole County
7 complex out there, sports fields and everything else. Why wouldn't parks, sporting
8 arenas and stuff like that?

9 MS. TAYLOR: That's an entirely a legitimate question and that's something that
10 can be changed. I was looking at it in just in terms of how to, you know, comply with the
11 Constitution and not necessarily change anything I didn't have to. The thinking behind
12 that is because you don't want indecent exposure or other kinds of elicit sexual activity
13 occurring next to residential zones where you would have the presence of minors and
14 children.

15 MR. VAN DINE: But the same would be true of –

16 MS. TAYLOR: That's correct.

17 MR. VAN DINE: - Polo Road –

18 MS. TAYLOR: You're right.

19 MR. VAN DINE: - and all of the other areas where they have youth soccer
20 games, youth whatever. So at the very least I think you need to expand that list to
21 include parks and other things in general not just next to a residential [inaudible].

22 MR. FURGESS: I have a question. Mixed used areas - here in residential
23 areas?

1 MS. TAYLOR: Not just any park. It's -

2 MS. CAIRNS: Adjacent to a residential district.

3 MR. FURGESS: Where you have a pharmacist drug store on the other side
4 behind the person live in the house that have a little day care but DHEC said that she
5 could have five or six people. Can you put in those SOBs by that?

6 MR. PALMER: Has to be 1,000' from a day care.

7 MR. VAN DINE: Has to be 1,000' away.

8 MS. CAIRNS: Well it says a child day care center. I think might eliminate the
9 home base day cares. I mean, we have home base day cares.

10 MR. KOCY: [inaudible] residential so it would be, already be [inaudible].

11 MR. FURGESS: But sometimes some of them are mixed though. They're in
12 neighborhoods where commercial things are by them. It could be on the corner or -
13 because that's up my way there's a lot of that going on.

14 MR. KOCY: No. I understand the question. But the home based day care is in a
15 home which is zoned residential.

16 MR. FURGESS: Right. But across the street is a -

17 MR. KOCY: SOBs are prohibited within 1,000 of residential. It's already
18 prohibited.

19 MR. FURGESS: Okay.

20 MR. PALMER: What about if they're operating that day care out of a home that's
21 a legal non-conforming in a GC district?

22 MR. CAIRNS: Then you're back to the whole use issue though.

23 MS. TAYLOR: No. That [inaudible] day care. Day care's day care.

1 MR. VAN DINE: Day care would be – you'd have to say 1,000' from the day
2 care.

3 MR. PALMER: Day care centers? What are you saying? Does that mean
4 something different then just a day care?

5 MS. CAIRNS: Yeah. Depends on what side I'd have to argue. I mean, right?
6 Honestly.

7 MR. PALMER: What's the definition of day care center? Can we define it?

8 MS. TAYLOR: I believe, don't we have a definition in the Land Development
9 code? I don't have the entire code with the definitions in front of me.

10 MR. PRICE: Day cares centers typically [inaudible].

11 MR. PALMER: Thirteen or more? Let's make that down to the one or whatever.
12 What's the smallest thing we've got? What's their normal? What if somebody wants to
13 keep two or three kids; what's that called?

14 MR. PRICE: Home occupation.

15 MR. KOCY: Home occupation. Residential.

16 MR. PRICE: I don't believe anybody's going to rent [inaudible] kids in there.
17 [inaudible].

18 MR. PALMER: Could.

19 MS. CAIRNS: It has to be occupied as a home.

20 MR. PALMER: Right.

21 MS. CAIRNS: Which isn't – yeah.

22 MR. PALMER: I guess my – the million dollar question is if we put use in there
23 are you saying that you can't defend it?

1 MS. TAYLOR: No, I'm not saying that.

2 MR. PALMER: You're saying it's just going to be more difficult, Joe; is that right?

3 MR. KOCY: I think it's going to be very difficult.

4 MR. PALMER: But it can be done?

5 MR. KOCY: It's going to be very difficult and it's going to be constantly changing
6 and I'll have no idea, no certainty on the accuracy of any data we have. I could do a
7 sweep of the County next week and at the tail end of next Friday tell you that this map
8 and this data set is correct as of today and the next day it could change.

9 MR. PALMER: My only thing is that for the amount of SOB applications we get
10 as soon as someone comes and applies for it, you know, we've got 10 days to reply or
11 whatever but during that 10 days somebody's going to need to get out and go get in the
12 car and go look to see if there's a residential use somewhere within 1,000'.

13 MR. KOCY: And how does one guess 1,000'?

14 MR. PALMER: That's not a guess.

15 MR. KOCY: That's the other.

16 MR. VAN DINE: Let me ask it this way, if I can. Is it possible for you to take all
17 of these areas that would be excluded through the 1,000', through the non – because
18 it's near residential zoning. Is there a way for you to give us an idea of how many
19 parcels that actually would consist of?

20 MR. KOCY: Yes. Based on Mullen's original recommendation of zoned resident
21 – I mean, GC sites minus 1,000' from residential and day cares and parks and schools
22 and places of worship.

1 MR. VAN DINE: Now it's go back [inaudible]. If we were to incorporate what I'm
2 suggesting parks in general, not just parks next to it; is that going to change the number
3 that you think you'll have?

4 MR. KOCY: I don't know the County layout well enough to know that what parks
5 aren't adjacent to residential, what parks are surrounded by non-residential.

6 MS. TAYLOR: And I can't give you a definitive answer but I think the answer
7 would be no; it would not change the number of parcels.

8 MR. VAN DINE: Is it possible through Executive Session for you to provide us,
9 since it is, it's involved in litigation, to provide us with a map that details where and how
10 many parcels that would be. And I think and I may be wrong but if I'm hearing correctly
11 the parcel number is going to be sufficiently low but it's not going to – that we may be
12 creating a tempest in a teapot with what we're talking about here. And if we see the
13 map it may be able to carve out a lot of stuff so that we can ultimately come to a
14 resolution by saying this is the number of parcels and if that's it, okay, we're okay with it.
15 Can we do that?

16 MS. TAYLOR: I would say yes.

17 MR. VAN DINE: What's the timing as far as when this needs to be done?

18 MS. TAYLOR: Under the current scheduling order – well, my plan was to have
19 the third reading of this take place by the end of February in order to give us a full 30
20 days in order to have an amendment of the complaint – I'm sorry. Well, yeah. Actually
21 third reading would be the first week in March but, you know, for the most practical
22 purposes just take that chunk of next month. I keep wanting to say it's – this is
23 February. I keep thinking this is January, excuse me. So the deadline for amending the

1 pleadings is April 1st. Now I can ask the opposing counsel and they will almost certainly
2 give us an extension of time and we can file that and that's fine.

3 MR. VAN DINE: It just seems to me it'll be so much easier if we had visually
4 what we're talking about as opposed to aerial A. We don't really know. So and I think
5 from my perspective it'll make it easier for me to make a decision if I actually had that. If
6 we have to get an Executive Session because of the thing then so be it.

7 MS. TAYLOR: Okay. That suits me fine. But can I ask something of the
8 Commission?

9 MR. VAN DINE: It depends on what you're gonna ask.

10 MS. TAYLOR: Can we have a special called Planning Commission? Do we
11 need to wait for another 30 days? That's just my concern.

12 MR. PALMER: We can do it tomorrow.

13 MS. TAYLOR: Can we do it within a shortened time period.

14 MR. KOCY: We can't do it tomorrow because everybody that does GIS for the
15 County is at the statewide GIS conference this week so. We can do it next week but we
16 can't do it tomorrow.

17 MR. VAN DINE: How about Friday of this week? For the whole week?

18 MR. KOCY: This week is out.

19 MR. PALMER: How come we got all of our conferences struck from our budget?
20 Another issue.

21 MR. VAN DINE: How about let's set up something the beginning of next week
22 then and let's look at, because it's only going to be a half hour I would assume that it's
23 going to take to deal with all that. So what's convenient for everybody next week?

1 MS. TAYLOR: Whatever's convenient for you, is convenient for me. But I want
2 to make sure I understand what you're looking – you want a map of the parcels that
3 currently meet the requirements under the ordinance that is under enforcement right
4 now, not the amendments.

5 MR. VAN DINE: I would like to see what map -

6 MS. TAYLOR: Comparison.

7 MR. VAN DINE: - a comparison as to what it would be now and if you use your
8 new language that you're talking about what would that – what parcels would that entail.

9 MS. TAYLOR: Okay. What about, do you want any sort of maps that may show
10 any sort of, you know, like an addition of another zoning district? Anything that may
11 give you some comparison along those lines? Not changing the 1,000' but –

12 MS. CAIRNS: The existing SOBs.

13 MS. TAYLOR: None of the existing SOBs currently meet the requirements of the
14 County.

15 MR. VAN DINE: Is there a thing that says they can't have two side-by-side?
16 They have to be 1,000' or something?

17 MS. TAYLOR: From each other. Right. It's the dispersal method as to opposed
18 to the concentration method.

19 MR. VAN DINE: You know, depending – realistically depending on what that
20 shows if it doesn't show that many that are there under what you're proposing then we
21 would be better off not adding in a few more of the zoning districts because that's only
22 more areas for them to attack and make a target of enforcement.

1 MS. TAYLOR: Well what I'm saying - and I'm just [inaudible] you know, for the
2 sake of conversation that the map that shows the available parcels including the
3 residential use, that the residential use is out the door. That is such a low number then
4 if we are going to keep the residential use within the ordinance then we've got to find
5 some other way of expanding the available parcels. That's what I'm thinking.

6 MR. PALMER: Well, under the current thing with the residential use we had 16
7 parcels?

8 MS. TAYLOR: That was 20 years ago. I can't assure -

9 MS. CAIRNS: [Inaudible] that we can't, under the current ordinance you can't
10 make a map showing where it's allowable because you don't know where the residential
11 uses are.

12 MR. KOCY: That's correct.

13 MS. TAYLOR: That's correct.

14 MR. KOCY: I cannot come back - we've just been asked to create - come back
15 with a map. I can't make a map by next week showing GC parcels with and without
16 residential uses.

17 MR. VAN DINE: And I'm not suggesting that you do. I'm suggesting we take the
18 map that's in existence now even though we know it's probably outdated and all the rest
19 of it and show us what under your proposed language and the park issue that we talked
20 about what that would - what map that would, and what that map would show.

21 MR. KOCY: The GC zoning with everything in 1,000' carved out -

22 MR. VAN DINE: Right.

23 MR. KOCY: - so it would show what - where you could legally put an SOB?

1 MR. VAN DINE: Right.

2 MR. KOCY: We can do that.

3 MR. VAN DINE: Let's talk about getting together next week for a special call
4 sometime.

5 MR. PALMER: Let's do it next Monday.

6 MS. TAYLOR: And – wait a minute.

7 MR. VAN DINE: That's fine.

8 MR. PALMER: That way nobody's missing any more work.

9 VICE-CHAIRMAN ANDERSON: Do we have enough money to buy lunch?

10 MR. PALMER: According to where we go.

11 MS. TAYLOR: Mr. Van Dine, I want to make – oh wait.

12 MR. PALMER: We need to take up another donation [inaudible]. Should we
13 meet at Platinum to do the meeting?

14 MS. TAYLOR: Want to do a little field investigation?

15 MR. PALMER: They had a great lunch buffet.

16 MS. TAYLOR: So when is this scheduled?

17 MR. PALMER: Okay. So I make a motion to postpone, table this vote until
18 Monday the 11th at a special called meeting. Right here, I guess.

19 MS. HAYNES: Let me make sure Chambers is available.

20 MS. LINDER: Okay. If these Chambers are not available we can have a
21 conference room available.

22 MR. PALMER: Yeah. Just let us know where so we're here at 2020 Hampton,
23 12:00 o'clock next Monday.

1 MR. FURGESS: Does the public have to know about this?

2 MS. LINDER: Yes. The public will be notified.

3 MR. PALMER: And you mentioned under this current, under the current
4 proposed language there's about 25. You've already got them mapped out? There's
5 about 25?

6 MS. TAYLOR: Yeah. I'm just trying to give you a ballpark figure without –

7 MR. PALMER: [Inaudible] you've already seen them.

8 MS. TAYLOR: Yes.

9 MR. PALMER: So you don't have to – we don't have to do anything with GIS
10 then, you've already got the map?

11 MS. TAYLOR: That only shows residential zoned rezoned districts not
12 [inaudible] use.

13 MR. PALMER: So you've already got it?

14 MR. KOCY: I don't know. I haven't seen it. I can't – I don't know where you saw
15 [inaudible] or Betty or?

16 MS. TAYLOR: Um-hum (affirmative).

17 MR. KOCY: Okay.

18 MS. TAYLOR: Yeah. What I don't know is the residential use.

19 MR. PALMER: Well, we're not worried about that.

20 MS. CAIRNS: Nobody does.

21 MS. TAYLOR: Right.

22 MR. PALMER: So we can meet this week then if it's already available, right?

1 MR. KOCY: I don't know where this map is and the two ladies – one of the two,
2 well both ladies that might have done the map.

3 MS. TAYLOR: I must have been talking to Geo when that discussion was taking
4 place. I have a map. It's in my office so I can bring it. I mean, so there's no – if you're
5 not looking for, you know, the actual drive out and look and visually inspect in terms of
6 residential use then yeah.

7 MR. PALMER: Well, she's got the map in her office.

8 MS. TAYLOR: Yeah.

9 MS. CAIRNS: Yeah. Go grab it. No. I'm kidding.

10 MR. PALMER: How far away is your office?

11 MS. TAYLOR: On Richland Street across from the Federal Courthouse. I can
12 get somebody to deliver it if you want to wait. I mean, I can call somebody – what time
13 is it now?

14 MR. PALMER: Four-thirty.

15 MS. TAYLOR: I can call and get a runner to come deliver it if you want to wait.

16 MS. CAIRNS: It's probably easier than coming back, right?

17 MR. PALMER: Yeah. Let's just do that.

18 MS. TAYLOR: Okay.

19 MR. PALMER: And Joe can go get some beers for us.

20 MR. VAN DINE: All right. If we're going to do this then we need to go into
21 Executive Session.

22 MR. PALMER: Do you want to vote proxy? [inaudible].

23 MS. CAIRNS: [inaudible] house [inaudible]

1 MS. TAYLOR: That's right.

2 MS. CAIRNS: I don't know if that was me that's a pretty good drive.

3 MR. VAN DINE: Let's take a quick break for a minute, okay?

4 *[RECESS]*

5 VICE-CHAIRMAN ANDERSON: Call the meeting back to order.

6 MR. PRICE: [Inaudible]

7 VICE-CHAIRMAN ANDERSON: Okay. Thank you.

8 MR. VAN DINE: Mr. Chairman, I believe we need to go into Executive Session in
9 order to take legal advice.

10 MS. TAYLOR: We could all stay out here?

11 MR. VAN DINE: Hold on. I don't believe you're allowed to stay and record our
12 Executive Session.

13 *[EXECUTIVE SESSION]*

14 MS. LINDER: Members of the Planning Commission. The Planning Commission
15 went into Executive Session to receive legal advice. No action was taken during that
16 Executive Session and it was just for information only. Thank you.

17 VICE-CHAIRMAN ANDERSON: Thank you. Motion to adjourn?

18 MR. PALMER: I make a motion to adjourn.

19 MR. VAN DINE: So moved.

20 MS. LINDER: Are we scheduling?

21 MR. PALMER: We rescheduled for next –

22 MS. CAIRNS: I say do we need an action on the agenda item issue?

1 VICE-CHAIRMAN ANDERSON: Do we need to set that as a motion, the work
2 session?

3 MS. LINDER: Yes.

4 MS. CAIRNS: We have an agenda item.

5 MR. VAN DINE: Will we be making a motion to table this until our Executive
6 Session. I'm sorry – our work session.

7 MS. LINDER: Yes.

8 MR. VAN DINE: Then I move that we go back into session at this time.

9 MS. CAIRNS: Second.

10 VICE-CHAIRMAN ANDERSON: All those in favor?

11 *[Approved: Palmer, Anderson, Cairns, Manning, Ward, Murray, Van Dine, Furgess;*
12 *Absent: Manning, Green]*

13 MR. VAN DINE: Mr. Chairman, I would move that we table for the time being
14 until our work session the ordinance regarding the sexually oriented businesses until we
15 have the opportunity to obtain more information.

16 MS. CAIRNS: There will be an Executive Session [inaudible]?

17 VICE-CHAIRMAN ANDERSON: All those in favor?

18 *[Approved: Palmer, Anderson, Cairns, Manning, Ward, Murray, Van Dine, Furgess;*
19 *Absent: Manning, Green]*

20 MR. FURGESS: That will be Monday? Monday at 12:00 o'clock?

21 MR. PALMER: Monday at 12:00.

22 MR. VAN DINE: Monday is not going to work because they're all gone at this
23 point in time. They have to have the information for us as far as the mapping so.

1 MR. KOCY: Two weeks perhaps? Two weeks from today? Does that work?

2 MR. VAN DINE: How about the 18th? Monday, the 18th.

3 MS. LINDER: Wait, wait, wait. I think that's a holiday.

4 MR. PRICE: It is.

5 MS. CAIRNS: February 18th?

6 MS. LINDER: February 18th is what's proposed.

7 MS. CAIRNS: That's Julie's birthday.

8 MS. LINDER: It's President's Day.

9 MR. PALMER: Who takes off President's Day?

10 MS. LINDER: We can have Executive Session [inaudible] if you want.

11 VICE-CHAIRMAN ANDERSON: What about Tuesday, the 19th?

12 MS. CAIRNS: Is that Valentine's Day?

13 VICE-CHAIRMAN ANDERSON: No, the 14th.

14 MR. VAN DINE: Tuesday, the 19th.

15 MS. CAIRNS: At noon, here?

16 MR. KOCY: At noon someplace. It might not be just – yes, here in the County
17 Complex, yes.

18 VICE-CHAIRMAN ANDERSON: So has everybody got that?

19 MS. CAIRNS: I've got it.

20 MR. KOCY: Tuesday, the 19th, 12:00, 1:00 o'clock.

21 MR. PALMER: Did you say noon?

22 MR. KOCY: One.

23 VICE-CHAIRMAN ANDERSON: Motion to adjourn?

1 MR. VAN DINE: So moved.

2 MS. CAIRNS: Second.

3 *[Approved: Palmer, Anderson, Cairns, Manning, Ward, Murray, Van Dine, Furgess;*

4 *Absent: Manning, Green]*

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[Meeting Adjourned at 5:45 p.m.]