

RICHLAND COUNTY PLANNING COMMISSION

September 8, 2008

[Members Present: Julius Murray, Pat Palmer, Christopher Anderson, Deas Manning, Eugene Green, Wes Furgess; Absent: Cairns, Ward, Mattos-Ward]

Called to order: 1:00 p.m.

*** Note: Sound system problems make some portions difficult to hear ***

CHAIRMAN MANNING: I'd like to call the September 8, 2008 Planning Commission meeting to order. At this time I'd like to read in the public announcement. "That in accordance with the Freedom of Information Act a copy of the agenda was sent to the radio and TV stations, newspapers, persons requesting notification, and posted on the bulletin board in the lobby of the County Administration Building." I think everybody's gotten a copy of the Minutes. Did everybody have a chance to review them?

MR. GREEN: Do we have Minutes in this [inaudible]?

CHAIRMAN MANNING: From the July 7th.

VICE-CHAIR ANDERSON: Mr. Chair, after reviewing the Minutes I make a motion that we approve.

CHAIRMAN MANNING: Got a motion to approve. Second?

MR. MURRAY: Second.

CHAIRMAN MANNING: Motion and a second. All those in favor please raise your hand.

[Approved: Murray, Anderson, Manning, Green, Furgess; Abstained: Palmer; Absent: Cairns, Ward, Mattos-Ward]

MR. PALMER: I don't think I was at this one. That's the one I missed.

1 CHAIRMAN MANNING: Let the Record stand that Mr. Palmer did not vote on
2 that. Minutes approved. Anna, any agenda amendments?

3 MS. ALMEIDA: Mr. Chairman, under – we are handing out the last element of
4 the Comprehensive Plan which is the priority investments. I'd like to add that to the
5 Agenda.

6 CHAIRMAN MANNING: That would come in before road name approvals?

7 MS. ALMEIDA: Yes, sir.

8 CHAIRMAN MANNING: Any other additions or –

9 MS. ALMEIDA: No, sir.

10 CHAIRMAN MANNING: - deletions?

11 MR. GREEN: Mr. Chairman, I would like to request that we add two other topics.
12 One is Roper Pond consideration for purposes of getting some legal clarification, and
13 secondly the issue of having a definition for a front yard. Is that something we just take
14 up or do we need a motion to add it to the Agenda?

15 MS. LINDER: [Inaudible] can take that up today you need to add it to your
16 Agenda.

17 MR. GREEN: Mr. Chairman, I would move that we add those two items to the
18 Agenda.

19 CHAIRMAN MANNING: Okay. We have a motion to add it to the Agenda. Have
20 a second?

21 MR. FURGESS: Second.

22 CHAIRMAN MANNING: A motion and a second. All those in favor please raise
23 your hand. Any opposed?

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

3 CHAIRMAN MANNING: So where would we take that up, after priority
4 investments?

5 MS. LINDER: Yes, sir.

6 CHAIRMAN MANNING: Comp plan? Okay. Map amendments?

7 **CASE NO. 08-24 MA:**

8 MS. ALMEIDA: Project 08-24 MA, Frank and Patrick Chapman. This project is
9 located on Two Notch Road, approximately .70 acres. The property is currently zoned
10 M-1. The request is to be rezoned to GC, General Commercial. Two Notch is a
11 principal arterial currently maintained by DOT. The subject parcel contains 170.13' of
12 frontage on [inaudible] Road as you can see from our diagram. This site currently has
13 an existing retail business and they're requesting the GC because the M-1 does not
14 allow for certain retail uses. It is compatible with what is seen along Two Notch Road.
15 It would bring this parcel into more conformance, and Staff is recommending approval.
16 If you're unfamiliar with the area, found northwest of the site across from Two Notch and
17 across from the railroad tracks is the Village at Sandhill. We are south of – where's
18 that, Fore Avenue. It makes good sense so Staff recommends approval.

19 CHAIRMAN MANNING: So the zoning's M-1, it's got retail uses, this is to bring –

20 MS. ALMEIDA: They're trying to add some additional retail uses that would not
21 be allowed in the M-1 district. We have also looked at the proposed Comprehensive
22 Plan and it does conform, very compatible.

23 MR. PALMER: Are we starting to use that new Comp Plan?

1 MS. ALMEIDA: No, because it hasn't been codified but Staff feels that it would
2 be something good to at least bring forth and enlighten the Planning Commissioners
3 that it does seem to be compatible with what we're proposing.

4 CHAIRMAN MANNING: Any other questions of Staff? At this time we have to
5 speak for the project, Patrick Chapman. Patricia. Patricia Chapman, would you come
6 down, please?

7 **TESTIMONY OF PATRICIA CHAPMAN:**

8 MS. CHAPMAN: We own the property and we just –

9 CHAIRMAN MANNING: Ma'am, could you come down to the podium and state
10 your name and address, please?

11 MS. CHAPMAN: My name is Pat Chapman and I live at 113 Sunningdale Drive,
12 Lexington, South Carolina. We own the property and we would like to have it rezoned
13 in order to be able to lease parts of the building to a wider arrangement of tenants.

14 CHAIRMAN MANNING: Any questions for Ms. Chapman? Thank you, ma'am.
15 Next we have Leila Washington.

16 **TESTIMONY OF LEILA WASHINGTON:**

17 MS. WASHINGTON: I'm Leila Washington and I live at 1140 Weldon Place
18 Drive, Elgin, South Carolina 29045, and I am one of the retailers there leasing from Ms.
19 Chapman.

20 CHAIRMAN MANNING: So you're here in favor of this?

21 MS. WASHINGTON: Yes.

22 CHAIRMAN MANNING: Do you have anything else you would like to tell the
23 Commission?

1 MS. WASHINGTON: No. Just in favor of it.

2 CHAIRMAN MANNING: Alright. Thank you.

3 MS. WASHINGTON: Thank you.

4 CHAIRMAN MANNING: That's all that's signed up to speak.

5 MR. PALMER: I make a motion to send it forward to Council with a
6 recommendation of approval.

7 MR. MURRAY: Second.

8 CHAIRMAN MANNING: Got a motion and a second. All those in favor please
9 raise your hand. All opposed?

10 *[Approved: Murray, Palmer, Anderson, Manning, Green, Furgess;; Absent: Cairns,*
11 *Ward, Mattos-Ward]*

12 MR. GREEN: Just a quick question. I mean, if you go back to the zoning map
13 from this aerial, and I don't know – I guess we can't pull back any farther than that right
14 now, but all this stuff lining up on Two Notch Road, M-1, you know, we have a right as a
15 Commission to bring forth rezoning requests. If we're not better off looking at this, I
16 mean, all those businesses are retail businesses, if it's not a strip or road we ought not
17 look at and do a mass rezoning to get in conformance with what's really there and so
18 individuals won't have to constantly go through this, it may be well worth us considering
19 doing that.

20 MS. ALMEIDA: That is something that we're looking into as far as the
21 Comprehensive Plan.

22 MR. GREEN: Because there are uses in M-1 that none of us want going on Two
23 Notch Road, in that section of road and I think it would save a lot of people like these

1 folks the necessity to come down here and have to do this. Is that something maybe
2 Joe that the Staff can look at over the next 30, 60 days that maybe something we want
3 to – I don't remember in seven and a half years the Planning Commission's ever
4 exercised its right to initiate a rezoning but this might be a case that we ought to do it
5 on.

6 MR. KOCY: I recommended - next month we'll have the entire Comprehensive
7 Plan before the Commission. Let's address that first but this is in keeping with the
8 Comprehensive Plan [inaudible].

9 MR. GREEN: Thank you.

10 CHAIRMAN MANNING: Case No. 08-25.

11 MR. FURGESS: Mr. Chair, would you state to the clients that just left that they
12 need to come to County Council on the, it goes before County Council and the date.

13 CHAIRMAN MANNING: What are the dates?

14 MS. ALMEIDA: The 23rd. The zoning public hearing is the 23rd.

15 CHAIRMAN MANNING: Ms. Chapman, the public hearing is on the 23rd. You
16 need to be there.

17 CHAIRMAN MANNING: Okay. Is the PA off?

18 MS. ALMEIDA: [Inaudible] connected it back on. Can you hear me? No?

19 MR. GREEN: You weren't in the AV club in high school, were you?

20 **CASE NO 08-25 MA:**

21 MS. ALMEIDA: No. Okay. Next map amendment is 08-25. The applicant is Dr.
22 C. L. Hardy. It is the New Covenant Assembly and the location is on Piney Grove
23 Road. The acreage of the site is approximately 3.30 acres. As you can see from your

1 Report on page 11, there was a variance granted on the adjacent church property and
2 that was for a parking variance. The church as you can see from page 15, the aerial, is
3 actually at the corner of Piney Grove and Piney Woods Road. There's a [inaudible]
4 there. The applicant is requesting to have the property rezoned from Rural to OI. Piney
5 Grove Road is classified a minor arterial currently maintained by DOT. Lot three has
6 approximately 209.84 linear frontage from Piney Grove Road and lot ten contains 152
7 linear feet on Piney Grove Road as well. Lot three after careful review and speaking to
8 the applicant will remain undisturbed. Lot ten is proposed as a single – as a family life
9 center which has ties to the existing church. Currently from our [inaudible] are not
10 permitted under the RU zoning for the church and therefore the family life center will be
11 an extension of that existing church service, promoting its use. So they could not do it
12 under the RU zone and therefore are going for the OI, and Staff is recommending
13 approval.

14 CHAIRMAN MANNING: Questions for Staff? Signed up to speak we have Dr.
15 Hardy.

16 **TESTIMONY OF DR. C. L. HARDY:**

17 DR. HARDY: Good afternoon. My name is C. L. Hardy, Pastor of New Covenant
18 Assembly Church. I reside at 60 – well that's where – the church is 602 but I live at 301
19 Lost Creek Drive in Columbia. Of course I'm in support of this. I've spoken with our
20 neighbors, the people across the street and various other neighbors and they are in
21 support of what we want to do.

22 CHAIRMAN MANNING: How big will the life center be?

23 DR. HARDY: Approximately 20,000 square feet.

1 CHAIRMAN MANNING: And this would have classrooms and –

2 DR. HARDY: Yes, sir. Classroom, exercise room, cafeteria, walking track,
3 elevators, and other things.

4 CHAIRMAN MANNING: Any questions of Dr. Hardy? Thank you, sir.

5 DR. HARDY: Okay.

6 CHAIRMAN MANNING: O'Neal Vanderhorse?

7 **TESTIMONY OF O'NEAL VANDERHORSE:**

8 MR. VANDERHORSE: Good afternoon. My name is O'Neal Vanderhorse.
9 Pastor Hardy's church just happens to be in my neighborhood and I just – yesterday I
10 just saw the signs yesterday. I was kind of upset because the signs are facing the
11 wrong direction. If I'm driving down Piney Grove Road the signs are facing the street so
12 you basically cannot see the sign. And so I had to stop my car, get out the car, walk
13 across Piney Grove Road and observe that you had a meeting this afternoon. I have no
14 problems with that. Pastor Hardy is going to – I live further down the road. I live about
15 another quarter of a mile down in Bonnie Forest Subdivision. So I don't have any
16 problems with the development of that property. It's going to improve and it's going –
17 the only thing I wanted to really hear is that you said it's going to be a community type
18 affair, which I like, you know. I don't think it's just going to be for the members of
19 Covington [sic] church. That's the only problem that I have with it and I would take this
20 back to our subdivision because not too many people know about what's going on over
21 there. Okay? If you're not a member of Pastor Hardy's church you don't really know
22 what's going on. So that's the only thing that I have here that the message that I want
23 to take back to the Bonnie Forest, you know, community is that this is what he's got

1 planned for that. And try to do a better job with those signs on the Planning Board.

2 That's all I have.

3 CHAIRMAN MANNING: Thank you.

4 MR. VANDERHORSE: Thank you.

5 CHAIRMAN MANNING: Anna, does anybody know about the signage out there,
6 I mean, is -

7 MS. ALMEIDA: We have pictures. We posted the property according to the
8 Code. It does face the street and, I mean -

9 CHAIRMAN MANNING: I didn't ride out there but.

10 MS. ALMEIDA: There's actually, if you look in your package you can kind of see
11 a snippet on page 16.

12 MR. PALMER: You can see it on 17 as well.

13 MS. ALMEIDA: 17?

14 MR. PALMER: At the bottom.

15 MS. ALMEIDA: I mean -

16 MR. PALMER: What he's saying is [inaudible] the other way?

17 BRIAN: Yeah, Mr. Chair, I posted the property - Brian [inaudible], Assistant
18 Zoning Administrator, I posted the property both times for the Planning Commission and
19 the Zoning Public hearing. They were posted properly. It just faces - instead of at an
20 angle if you're driving by [inaudible] two signs but it was properly posted.

21 CHAIRMAN MANNING: Okay.

22 MR. GREEN: I think it's a good point though. Sometimes when you're on a long
23 stretch of road that doesn't have stop signs or traffic lights if it's - you're looking at it

1 when you're moving towards it it's easier to know there's something there than if it's
2 parallel to the road and you're looking straight ahead. You really don't see it until you're
3 past it.

4 CHAIRMAN MANNING: Next we have Darin Holcomb.

5 **TESTIMONY OF DARIN HOLCOMB:**

6 MR. HOLCOMB: Thank you, Mr. Chairman. I'm here representing the church.
7 I'm with Cox & Dinkins, Incorporated and obviously I'm in favor of the rezoning and
8 we've done some preliminary work on the property and water, sewer, and utilities are
9 available and it appears that Piney Grove Road will be able to support the development
10 in terms of getting access. So from an engineering standpoint we believe it's a good
11 move and think it's a benefit for the community. I'd happy to answer any questions that
12 you guys have.

13 CHAIRMAN MANNING: Anybody have any questions?

14 MR. GREEN: Only, is the main entrance into this property going to be lined up
15 with the road that's across the street?

16 MR. HOLCOMB: Yes.

17 MR. GREEN: Okay. Thank you.

18 MR. HOLCOMB: You're welcome.

19 MR. PALMER: And I may have missed it but why is this not – I'm sorry, any
20 other questions?

21 CHAIRMAN MANNING: Thank you.

22 MR. HOLCOMB: Thank you.

1 MR. PALMER: Why would this not be a, you know, an accessory use or for the
2 church, I mean.

3 MS. ALMEIDA: Life centers are not accessory – well they're accessory uses but
4 they're not allowed in the RU. RU currently allows for churches.

5 MR. PALMER: So what do they have to do to call it a church, just hold a church
6 service once a year in it?

7 MS. ALMEIDA: That would be the Zoning Administrator's call but we allow for
8 places of worship in rural areas so that they don't have to rezone. But once they start
9 expanding their uses, you know, child care, things like that, then it becomes more of a
10 business aspect and therefore is not allowed outright in the RU.

11 MR. GREEN: And that's a function of the fact that they may provide services for
12 people that aren't members of their congregation?

13 MS. ALMEIDA: That is true, like the day care.

14 CHAIRMAN MANNING: And other zoning classifications, R-1, would you run
15 into the same problem for – it would have to be an accepted use in those zoning
16 classifications to not have to come back?

17 MS. ALMEIDA: Right. It would have to be accepted.

18 MR. PALMER: Wow! That's - I know of lots of churches that have gymnasiums
19 that they open to the public. They have, you know, day cares on site that are open to
20 the public that aren't just for their members.

21 MS. ALMEIDA: Right.

22 MR. PALMER: So that's – those would have to be rezoned?

1 MS. ALMEIDA: Right. It's by the use, not the membership. We go by the use,
2 not the membership. It's irrelevant whether it's just for church members.

3 MR. PALMER: So how do you classify a church?

4 (?): The churches are now in all districts but the uses are not since the code
5 changed in 2005. It used to allow those type uses like they have now a gym and
6 [inaudible].

7 MR. PALMER: Correct.

8 (?): [Inaudible].

9 MR. PALMER: I think we need to address that because I don't want to have to
10 come in here for commercial zoning that's in residential areas for gyms that are
11 accessory uses for churches.

12 (?): [Inaudible].

13 CHAIRMAN MANNING: Something we might want to take a look at.

14 MR. PALMER: I'll get something on the Agenda for next month.

15 MR. GREEN: Mr. Chairman, I would like to make a motion to send this forward
16 with a recommendation of approval to County Council.

17 MR. FURGESS: Second.

18 CHAIRMAN MANNING: Got a motion and a second. All in favor please raise
19 your hand. All opposed?

20 *[Approved: Murray, Palmer, Anderson, Manning, Green, Furgess;; Absent: Cairns,*
21 *Ward, Mattos-Ward]*

22 MR. PALMER: Everybody who has one now it's illegal non-conforming use?

23 MS. ALMEIDA: If they currently have it operating, yes.

1 MR. PALMER: So if it's closed for a certain amount of time or if they have to do
2 a certain amount of upfits to it they've got to come into conformity?

3 MS. ALMEIDA: But we've had several that have been [inaudible].

4 MR. PALMER: I understand but there's a lot more that aren't. But what I'm
5 saying is –

6 MS. ALMEIDA: If they expand.

7 MR. PALMER: - if they expand or if they spend a certain amount of money on it,
8 what's it more than half the value in renovations or something, they've got to come into
9 conformity?

10 [Inaudible discussion]

11 CHAIRMAN MANNING: That would be tough to do.

12 MS. ALMEIDA: Well, we are getting these mega churches that are operating
13 seven days a week providing many, many, many other services that truly the intent of
14 the Code when it was written was just for service and, or providing some sort of service
15 [inaudible] a service.

16 MR. PALMER: Well Anna, you know, the New Testament Church did meet
17 seven days a week in the New Testament.

18 MS. ALMEIDA: I wouldn't know.

19 MR. GREEN: It may be worthwhile just reviewing the definition we have for
20 accessory use and see if that, it's clear enough for folks with the Code, just may be
21 worth looking at. I mean, I see the point that the Staff has and I don't know if the Code
22 says that right now but I understand the issue.

23 MR. PALMER: I mean, that gets into like Supreme Court issues, you know?

1 MR. KOCY: Not really. The church, yes. The accessory part -

2 MR. PALMER: It's according what you classify as a church I guess.

3 MR. KOCY: Well, like basketball courts and schools – or schools, yes. But
4 basketball courts and gymnasiums and day cares and stuff, ahhh. And then you like the
5 opportunity and I believe that you might too to look at the site to make sure that
6 [inaudible] build on the site, traffic, traffic safety, cars exiting, traffic volume on a road.
7 That's why I think the Code wisely separates churches from accessory uses.

8 MR. GREEN: I mean, the Code says that accessory uses are permitted in all
9 districts currently.

10 MR. KOCY: No.

11 MR. GREEN: Yeah. On page 548, at least in mine, under Accessory Uses and
12 Structures, accessory uses are outright permitted in all districts, 26-141. It's my page
13 548. And then if you go to the definition of accessory use –

14 MR KOCY: You're correct.

15 MR. GREEN: - it's very broadly written. I'm not taking a position on either side
16 of what we should or shouldn't do. I'm just saying my interpretation of the current Code
17 is that if it's accessory use it's outright permitted.

18 MR. KOCY: Right.

19 MR. GREEN: No matter – then it gets to a matter of interpretation of whether it's
20 an accessory use or not or principal use. But the worship service would almost have to
21 be deemed to be an accessory use to function as – of a life center under the way our
22 current Code's written.

1 MS. ALMEIDA: But I will also – in the first paragraph of that term on page 447,
2 the structure or structures and the parcel on which it is located in on which persons
3 regularly assemble for religious worship. This is not the case.

4 MR. GREEN: I'm just saying we may, we just may need to look at it. I'm not
5 arguing one way or the other.

6 MR. KOCY: We'll add that to the list.

7 MR. GREEN: You're almost through with the Comprehensive Plan, what else
8 you got to do, right?

9 MR. KOCY: [inaudible] November [inaudible].

10 CHAIRMAN MANNING: Text amendments.

11 MS. ALMEIDA: Page 20. [Inaudible] a request by one of our Planning
12 Commission Members regarding the completion/timeframes of submission packages.
13 Our current Codes reads that all applications must be submitted the last day of the
14 month, I'm sorry. [Inaudible] read that right.

15 [Inaudible discussion]

16 MS. ALMEIDA: Right. But it's the last working day of the month for the
17 subsequent month's Planning Commission. That's how we currently have it organized.
18 And as you can see on page 20 underlined, this is the change in the wording that was
19 requested. "Only complete application packages received prior to the first day of the
20 month shall be scheduled for the following month's Planning Commission meeting and
21 have the following words scratched out, 'and application deadlines for such meetings'."

22 CHAIRMAN MANNING: [Inaudible]

1 MR. GREEN: Why don't ya'll come down to the front row, maybe you can hear
2 better.

3 CHAIRMAN MANNING: We're having a little problem today.

4 MR. PALMER: We've got two seats up here available only [inaudible].

5 CHAIRMAN MANNING: Any questions for Staff?

6 MR. GREEN: I assume one of the keys here is complete after the word
7 [inaudible] complete? I know that'd been an issue.

8 MS. ALMEIDA: Staff has ten days. Apparently it's the submission date. Even
9 though there are months that the last day of the month is a Sunday or a Saturday which
10 is not a working day there have been some requests that that wording be changed.
11 Staff still has ten days to review the application and deem it complete and we find that
12 this is a problem when people submit on the very last day. But I want to assure the
13 Planning Commission that all of our applications have this very clearly stipulated and it's
14 in all of our documentation and we reiterate this to everyone that comes to a pre-
15 application meeting that these are definite deadlines. We need to adhere to these
16 deadlines due to obviously the numbers that come in to be fair and equitable to
17 everyone.

18 CHAIRMAN MANNING: I'm assuming you think we're going to go back and
19 having more of these applications every month.

20 MS. ALMEIDA: Well, next month you are going to be inundated.

21 MR. KOCY: You have ten for next month.

22 MR. GREEN: The economy's getting better, huh?

23 MS. ALMEIDA: I guess.

1 MR. GREEN: Good.

2 MR. PALMER: Make a motion to approve.

3 MR. GREEN: Second.

4 CHAIRMAN MANNING: A motion and a second. All those in favor please raise
5 your hand. All opposed?

6 *[Approved: Murray, Palmer, Anderson, Manning, Green, Furgess;; Absent: Cairns,*
7 *Ward, Mattos-Ward]*

8 CHAIRMAN MANNING: Page 24.

9 MR. KOCY: Mr. Chairman, this next amendment is totally replacing the county's
10 current lighting standards, review standards. These new standards are a collaboration
11 of the lighting industry, lighting engineers and the Dark Sky Society. [Inaudible]

12 CHAIRMAN MANNING: Well, that's a little bit scary.

13 MR. KOCY: It provides sufficient light for pedestrian and traffic safety and also
14 safeguards to prevent light pollution, that's where your Dark Sky folks come in. It
15 recognizes the special needs of the outdoor retail like automobile dealerships and
16 reduces the standards for athletic fields so schools can put up lights without having to
17 come before the Board of Zoning.

18 CHAIRMAN MANNING: I guess from reading through this it's, you know, it's
19 pretty comprehensive but what's really driving the change in the Code? This request
20 from the Dark Sky or the industry or are you having complaints about lighting and, you
21 know?

22 MR. KOCY: We've had a couple of Board of Zoning Appeals on lighting pole
23 heights in the car dealerships, and doing research in the industry I think that our

1 previous Code is geared toward preventing light pollution or light spilling out, you know,
2 into the sky or [inaudible] properties. In talking with lighting engineers new technology
3 [inaudible] fixture that goes over the light bulb. It's called a full cut off fixture that
4 prevents light from going [inaudible] ground and depending on the type of hood you get
5 prevents light from spilling over onto neighborhood properties. So it's best addressed
6 just by calling for full cut off [inaudible] and then maximum wattage of lights to prevent
7 light pollution and spill over. Just new technology is progressing more rapidly than our
8 Code [inaudible].

9 CHAIRMAN MANNING: Well, I'm certainly not a light engineer and don't quite
10 understand all of the language in here and I'd like to talk to some of those people.
11 Somebody who, I don't know who helped craft the language for this amendment but I
12 have concerns about the liability issue one. I don't know how it affects existing retail
13 and commercial places, office buildings. Not to say that - I'm in favor of limiting
14 intrusions into somebody else's property where that would be detrimental. I'm certainly
15 in favor of stopping that but what's the difference in a gray pole and a black pole? You
16 know, just things in there that I really don't understand it. I'd like to get somebody to
17 bring me up to speed on as a part of evaluating.

18 MS. ALMEIDA: One of the big issues we've had in car dealerships and retail
19 businesses are the height of the poles.

20 CHAIRMAN MANNING: Right.

21 MS. ALMEIDA: Eighteen feet apparently is not sufficient for these businesses.
22 Number one you have to have many more poles to meet the needs of lighting the site
23 so therefore the higher - we met with some professionals in the industry where the color

1 of the pole limits what you, the higher the pole the more you can see it but if it's light
2 colored, silver, white it becomes –

3 CHAIRMAN MANNING: Blended.

4 MS. ALMEIDA: - it just drops into the background.

5 MR. KOCY: Less intrusive.

6 MS. ALMEIDA: Less intrusive. So it's not so much the height of the pole that
7 should be the problem, it's the amount of light and that's how this is crafted. But Mr.
8 Kocy will surely bring someone in.

9 CHAIRMAN MANNING: Well, would that impact SCE&G who provides a lot of
10 poles? Maybe not in the automobile dealerships, maybe that's a special manufacturer
11 but.

12 MS. ALMEIDA: SCE&G was quite amazed that our [inaudible].

13 MR. KOCY: [Inaudible]

14 MR. GREEN: Quick question, and this relates to the language with regard to
15 parking lot lighting shall be turned off within 60 minutes after the end of business hours.
16 I was just curious as whether the Sheriff's Department had [inaudible] and what their
17 thoughts were on it?

18 MR. KOCY: Pole power lighting. It's not off, it's just it goes down to like a
19 nightlight setting.

20 MR. GREEN: This just says, "parking lot lighting shall be turned off." I was just
21 curious. The Sheriff's Department –

22 MS. ALMEIDA: The security lighting levels.

23 MR. KOCY: That's security lighting levels. It's pole power lighting.

1 MR. FURGESS: Number three? [Inaudible]

2 [Inaudible discussion]

3 MR. GREEN: But it doesn't say the whole parking lot can remain at security
4 lighting levels. It says only those near building entrances and entryways. I was just
5 curious for a really big parking lot if the Sheriff's Department is going to have concerns
6 over dark parking lots.

7 MR. KOCY: We can amend that to read consistent with outdoor retail [inaudible].

8 CHAIRMAN MANNING: [Inaudible] in Section 6-B or C. "Golf driving ranges
9 must use elevated tee boxes [inaudible] mode." And most of them do have an elevated
10 tee box but –

11 MR. KOCY: [Inaudible]

12 CHAIRMAN MANNING: So you're not saying it's got to slope downward and the
13 lights at the end have to be a certain height. That wasn't [inaudible].

14 MR. KOCY: This is a new renovation in the lighting and golf industry. You're
15 really, you're standing on top of the spotlight [inaudible] banging your ball as opposed to
16 the more traditional parallel series of phone poles with huge spotlights on; those are
17 difficult and cause a lot of [inaudible] landing without lighting up the entire
18 neighborhood.

19 MR. PALMER: How are you going to see the flight of your ball and what's –

20 CHAIRMAN MANNING: Especially if you've got a wicked hook.

21 MR. PALMER: What's more offensive to the next door neighbors, the constant
22 Whack! Whack! or the light that gets turned off at 11:00 o'clock or whatever? That's
23 amazing to me. A driving range.

1 CHAIRMAN MANNING: Any other questions for Staff?

2 MR. PALMER: No. I agree with you though Deas, I would like to see what this
3 all means from – the lumines and where we're at now what's the standard parking lot at
4 now and all that kind of stuff.

5 CHAIRMAN MANNING: Joe, could you get somebody in here just to educate us
6 a little bit before we -

7 MR. KOCY: I can invite them [inaudible].

8 CHAIRMAN MANNING: Did the [inaudible] state industry have any input in this
9 or participate in -

10 MR. KOCY: I have not asked for their input. I can invite [inaudible].

11 CHAIRMAN MANNING: Rebecca, would you like to?

12 MS. BEST: I'm Rebecca Best, 1411 Medway Road and work for the Realtors'
13 Association and the Homebuilders. I emailed this out a little while ago to the
14 commercial group that met with Joe last week and got several comments back. Folks
15 wanted to have time to ask some questions and look at so if ya'll would consider that
16 we'd appreciate it.

17 CHAIRMAN MANNING: Would you please get back in touch with them and ask
18 them show up?

19 MS. BEST: I will. I've had a couple of them ask me for contacts, who they can
20 talk to and some of the commercial guys want to get a little further.

21 MR. KOCY: Mr. Chairman, I could suggest perhaps we want to bump this to
22 November just because October is going to be a busy meeting and that'll give me plenty
23 of time to meet with the commercial realtors and [inaudible].

1 MS. BEST: That'd be great, thank you.

2 CHAIRMAN MANNING: Thank you.

3 MR. GREEN: So moved.

4 CHAIRMAN MANNING: So we'll defer that to November?

5 MR. MURRAY: How about to December?

6 MR. KOCY: [Inaudible]

7 MR. GREEN: Do we need a motion for that?

8 MR. KOCY: [Inaudible]

9 MR. GREEN: Mr. Chairman, I would make a motion that we defer the change
10 the lighting section of the Code to our November Planning Commission meeting.

11 MR. MURRAY: Second.

12 CHAIRMAN MANNING: Have a motion. All in favor raise your hand. All
13 opposed?

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

16 MS. ALMEIDA: The following text amendment on page 31 has got to do with
17 PDDs. Our current Code, when it was enacted in 2005, changed the existing PDDs into
18 what we have today. One of the provisions that Staff was made aware of was that there
19 were expiration dates on these PDDs. Okay? A two-year expiration. And one of the
20 things that they have to do is go back before Council. Our existing PDDs currently go to
21 the DRT for a review, conceptual review, and then we bring them to the Planning
22 Commission. Just some comments through just working with the Code a couple of
23 years we felt that we needed to eliminate the DRT as far as PDDs are concerned

1 because it is a map amendment, and come straight to the Planning Commission with
2 Staff recommendation to eliminate that 30-day process in going before that Board. One
3 of the reasons we felt adamant about this is because once the map amendment is
4 approved the applicant, once he submits his sketch still needs to go to the DRT for that
5 sketch approval. So in essence the way the Code is written today, they go to the DRT
6 twice. One is a map amendment and then of course one is a sketch. We felt by going
7 to the DRT once the map amendment has been approved, there is a lot more detail in
8 the sketch that the DRT can comment on, the fire marshal and all the other entities that
9 really bring their comments to light for the applicant. The timeframes have remained the
10 same, okay? And we are clarifying the verbiage that explains what happens to the PDD
11 once the two years have expired. Right now the wording allows for it to go to Council to
12 either be reinstated as a PDD or for Council to initiate it as a rezoning of some other
13 type that would come back to the Planning Commission. So that's what this is, this
14 wording has been cleaned up in order to be more clear.

15 CHAIRMAN MANNING: So really there's three elements to it. One is to
16 eliminate the DRT.

17 MS. ALMEIDA: The PDD [inaudible].

18 CHAIRMAN MANNING: For review but it's going to come back.

19 MS. ALMEIDA: It has to come back anyway, yes.

20 CHAIRMAN MANNING: And purpose of the DRT to begin with was to give them
21 guidance in the plan or just to approve or deny the plan?

22 MS. ALMEIDA: Well, the DRT gives guidance as far as how something is laid
23 out. Our fire marshal, pretty much their comments remain the same which is secondary

1 access, making sure that road widths adhere to. At that time of map amendment
2 normally their sketch is not perfected to that point. We do solicit comments from all
3 departments but we felt that it's just from timeframes we just wanted to eliminate that
4 step.

5 MR. PALMER: So how would the Staff come up with a recommendation for
6 approval or not?

7 MS. ALMEIDA: We would still have written comments from everyone. We just
8 wouldn't have to meet as a body.

9 MR. PALMER: Well, who would make the decision as to whether to approve or
10 not to approve the zoning request?

11 MS. ALMEIDA: You all.

12 MR. PALMER: As far as you guys, your recommendation for approval or not?

13 MS. ALMEIDA: Well, just like Staff reviews any recommendation. We hear what
14 everyone has to say. We see if it's compliant with our Comprehensive Plan like any
15 map amendment and then we make a recommendation to the Planning Commission.

16 MR. PALMER: Who's we?

17 MS. ALMEIDA: Staff.

18 MR. PALMER: Which members of Staff make the recommendation?

19 MS. ALMEIDA: It would be everyone.

20 MR. PALMER: You're in agreement?

21 MS. ALMEIDA: Planning Department, Zoning, Soils and Water.

1 MR. PALMER: How do you get to a determination though? How do you get to a
2 – if one party doesn't like it and one party does like it, how do you get to an agreement
3 on it? How do ya'll get to a consensus or do you or does just person just override?

4 MS. ALMEIDA: The majority.

5 MR. PALMER: You vote on it as a majority?

6 MS. ALMEIDA: To make sure that it's compliant with the Comprehensive Plan
7 and obviously some reviews weigh more heavily than others.

8 MR. PALMER: Okay.

9 CHAIRMAN MANNING: Any other discussion?

10 MR. PALMER: I guess that's the same thing for the DRT?

11 MS. ALMEIDA: Right.

12 MR. PALMER: Some departments weigh heavier than other departments as far
13 as the DRT is concerned?

14 MR. KOCY: No. DRT is strict compliance with county regulations. You don't
15 have an option, you need to get approval from the DRT. All the DRT is to inform
16 various agencies issuing technical comments on the various aspects of the site plan or
17 the subdivision.

18 MR. PALMER: As to whether they – it's a black or white issue with DRT?

19 MR. KOCY: Correct. You either meet your [inaudible] or you don't. There's a
20 traffic impact or there's not. There's a proper buffer or there's not. The lot layout,
21 zoning density, proper side yards and front yards and back yard setbacks.

22 MR. PALMER: And the subjective part comes in prior to that with the map
23 amendment?

1 MR. KOCY: Correct.

2 MR. PALMER: Okay.

3 CHAIRMAN MANNING: Anna, do you want to discuss the length of time, why
4 that's an issue, the two years? That was, that's basically you're saying it's staying the
5 same?

6 MS. ALMEIDA: It is staying the same but we're clarifying as to what happens to
7 the PDD zoning once it expires.

8 CHAIRMAN MANNING: What happened previously?

9 MS. ALMEIDA: Well, as the Code is written today it goes before Council, Council
10 can initiate reinstating the PDD, the master plan, it can choose to rezone the property to
11 something else, or it can ask to rezone the property back to what it was before. What
12 we are stating is that it automatically reverts back to what it was, the underlying zoning.

13 CHAIRMAN MANNING: It says that if the applicant has not applied for
14 appropriate state and federal permits and does not have the site plan or sketch plan
15 approval. Now they could have that. They could have the site plan and sketch plan
16 approval but not all the federal permits? What if you're phasing a PUD and you got a,
17 you determine you've got a wetland that you've got to go get permitted, it wasn't in
18 phase one?

19 MS. ALMEIDA: Well, you have to apply. You don't have to have approval but as
20 long as you've applied.

21 CHAIRMAN MANNING: I just think you could run into trouble that way having it
22 written like that. You may not even know that you have to, that you're in need of a

1 permit. You could have gotten phase one done, you know, say that takes three years to
2 complete.

3 MS. LINDER: There is a process that the applicant can ask for an extension of
4 this. So it's not, you know, if they're going to run into problems and it's going to take
5 three years then they can apply for a one-year extension, or actually for – yeah, a one-
6 year extension.

7 CHAIRMAN MANNING: Would that have to be based on, I don't have phase
8 two?

9 MS. LINDER: I think it could be based on any reason. So would not necessarily
10 have to end after two years if the applicant comes in and says, I need more time.

11 CHAIRMAN MANNING: So there's no reason to be held up on it. In other words
12 I don't have my permits, I don't have my sketch plan for phase two. They just need an
13 extension of time because the market said [inaudible] not absorbing this project as fast
14 as we want, that's okay?

15 MS. LINDER: Yes. And I am reading this and that's a County Council decision
16 that they can extend that for another year.

17 MR. GREEN: For indefinite one-year periods or for one, one-year period?

18 MS. LINDER: One. A one-year extension.

19 MR. GREEN: So it doesn't, it can be rolling one-year extensions or?

20 MS. ALMEIDA: [Inaudible]

21 MR. PALMER: So what's the problem with the language we have now? It just
22 goes in front of Council and what Council's agendas too busy or something or?

1 MR. KOCY: The problem with the language now, the language says that if the
2 development is not initiated, and we don't know what initiated means, because it doesn't
3 define initiated. It doesn't say initiate [inaudible] this type of permit or this type of
4 approval.

5 MR. PALMER: So do we need just to define initiated or do we need to [inaudible]
6 what happens to it afterwards? Because to me I would think –

7 MR. KOCY: It's two problems. One is initiated and we've tried to define initiated
8 here by saying, "apply for appropriate state and federal permits and [inaudible] sketch
9 plan review." To us that's an action that somebody had to initiate it. The second
10 question is what happens when the approval expires? It doesn't say it reverts back to
11 the previous zoning classification. It just says, "the PDD expires."

12 MR. PALMER: But it goes in front of Council for them to either extend it, go back
13 to the previous zoning.

14 MR. KOCY: Or it expires.

15 MR. PALMER: Right.

16 MR. KOCY: What does expire mean?

17 MR. PALMER: What's the problem with it going back to Council for their
18 determination on it?

19 MR. KOCY: We'd just like to provide Council some guidance –

20 MS. ALMEIDA: Timeframe.

21 MR. KOCY: - what expires means.

22 MS. LINDER: From the time that the PDD would expire to when it could go to
23 Council there would be this lapse of no zoning on place on that property. And

1 [inaudible] automatically revert. We'd always have a continual zoning classification on
2 the property along with standards for that property.

3 MR. PALMER: I would think it would keep PDD zoning until it was heard by
4 Council.

5 CHAIRMAN MANNING: Well, you also might have vested rights in it. I mean,
6 you may have put improvements in [inaudible] improved the project but you hadn't
7 started a phase or you hadn't done that sketch plan so you may have a –

8 MR. KOCY: [Inaudible] then you would need some sort of approval so that would
9 give you, that would answer about initiated. So yeah that answers the [inaudible]
10 question [inaudible] question.

11 MR. GREEN: So I'm not confused, let's take a Lake Carolina for instance. It's
12 got 17 phases and if they've done no planning or permitting for the 17th phase. They
13 know they want to do low density but all it is is shown on the PDD as phase 17.

14 MR. KOCY: They've done 16 phases so they have initiated the PDD.

15 MR. GREEN: But it says here, "and does not have site plan approval for the
16 entire tract of land that comprises the PDD." The way I read that is that the entire tract
17 has to have site plan approval within two years and I just have to guess that multiple
18 phased PDDs -

19 MS. ALMEIDA: But you're talking about a subdivision. We have PDDs that are
20 small in nature, you know, [inaudible].

21 MR. GREEN: I understand the issue. I'm just, the way I read this though that I
22 were Lake Carolina I would have to have all site plan approval for the entire –

1 MS. ALMEIDA: Not site plan approval in Lake Carolina, it's a subdivision so
2 you'd have sketch, sketch plan and you would have preliminary and bonded and final.

3 CHAIRMAN MANNING: And that could be inappropriate. I mean, I would think
4 that a project that size you'd have to have all that in place.

5 MS. ALMEIDA: No, as long as you have a sketch approval for the concept.

6 CHAIRMAN MANNING: Do they have all six plans, all phases approved?

7 MS. ALMEIDA: Well, Lake Carolina's under a Development Agreement and
8 they're under [inaudible].

9 CHAIRMAN MANNING: All right. Let's forget the development agreement. Do
10 they have them all?

11 MS. ALMEIDA: They're pretty much – well, now that they've acquired another
12 piece off of Kelly Mill Road they still have that [inaudible].

13 CHAIRMAN MANNING: Well let's go take it back a step further. The second
14 year of the PUD, back then it was PUD, did they have all phases planned?

15 MS. ALMEIDA: They had a master plan that was approved.

16 CHAIRMAN MANNING: Is that enough?

17 MS. LINDER: I would think so.

18 CHAIRMAN MANNING: Well, it's just confusing to me the way it's written. It
19 says in two years if you don't have it -

20 MR. PALMER: I'm sure they haven't applied for their wetlands and stuff from the
21 Corps because they haven't even delineated some areas of the land [inaudible] knew
22 they were going to be in –

1 CHAIRMAN MANNING: Is that a requirement, Joe, that all delineations for all
2 the property be done for a PUD within the first two years or prior to the application?

3 MR. KOCY: We're just looking for some guidance. We have at least one PDD
4 out there that has, nothing has happened in over two years. Nothing has happened.
5 There have been no permits, no sketch plans, nada and so that makes it very clear that
6 on that aspect if nothing has happened it's hard to define [inaudible] define initiated
7 when not one action has occurred. And then we have the PDDs that at the end of two
8 years they're built, fully constructed, approved [inaudible] gray areas in between
9 [inaudible] highway, wetlands delineations or a preliminary plan [inaudible] plans we
10 have some idea of what's going on on site.

11 MR. PALMER: Well what's the problem with the PDD not being initiated? I
12 mean, I guess there's some sort of problem that after two years -

13 MR. KOCY: [Inaudible] been initiated.

14 MR. PALMER: I'm just saying what if that number was five years. I mean, is
15 there really a problem that a PDDs been approved and two years from now they haven't
16 moved on it? I mean, is that -

17 MR. KOCY: [Inaudible] two years [inaudible].

18 MR. PALMER: I mean, but is that an issue?

19 MR. KOCY: I would think that some PDDs after two, three, five years, the
20 surrounding neighborhood and community and market might change that the initial PDD
21 if it hasn't been initiated might not be compatible with the [inaudible]. It might be an
22 opportunity for the Council to go back and reexamine the initial concept.

1 MR. PALMER: Okay. So I think that at the end of the two years if they have not
2 been initiated when they come in and pull any kind of permits it's going to say well no,
3 sorry, you've been three years and you haven't started. You've got to go back in front
4 of Council to get it reapproved.

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

6 MR. KOCY: That's what the Code currently says.

7 MR. PALMER: So what's the problem with that then? Instead of it just reverting
8 back to its old zoning because that might not be the correct zoning either if the
9 neighborhood has changed.

10 MR. KOCY: That's correct.

11 MR. PALMER: So just come up with a timeframe that says if you haven't, I
12 mean, they could stay out there for ten years and the guy may think he has the zoning
13 but when he comes in for his permit.

14 MR. KOCY: But the difficulty is if the PDD expired [inaudible] underlying zoning.
15 You can't have a gray spot on the map that says no zoning. There needs to be some
16 zoning classification there.

17 CHAIRMAN MANNING: We've got Cliff Kinder here to speak against this. Do
18 you want to address the Commission?

19 **TESTIMONY OF CLIFF KINDER:**

20 MR. KINDER: Mr. Chairman, Commission Members, I'm not speaking against it
21 at all but that was the only choice I had. I'm not totally for it but I'm against it. I am also,
22 don't want to appear ungrateful because –

23 MR. PALMER: That's what I was going to say. It sounds like [inaudible].

1 MR. KINDER: I'm the recipient of a very generous interpretation that Staff made
2 on a PDD that I've got that has had no earth moving taking place because Richland
3 County Council has help up our sewer for four years. But that's a different issue. I'm
4 concerned –

5 CHAIRMAN MANNING: [Inaudible]

6 MR. KINDER: Beg your pardon? I think this is another example of a part of the
7 Land Development Code that was poorly written. I think there is a merit justification for
8 a sunset date on a PUD, a PDD but I don't think it's two years. And I also think you
9 could help an awful lot by determining what initiated means. And I would argue from a
10 developer's point of view that by the time we get a PDD approved we have certainly
11 initiated an awful lot of check writing and a lot of expense just to get the map
12 amendment and the PDD ordinance approved. So I'd like for you to consider that that
13 would be sufficient justification for the verb initiate. The other part of this ordinance as
14 it's proposed that bothers me is that, Deas you hit on it, and that is federal permits that
15 are out of anybody here in this room's control. It's very easy to envision a piece of
16 property that would get PDD designation and the developer or the initiator would have
17 gotten the preliminary wetlands opinion that everything could be handled with
18 nationwide permits and find out after the fact that the Corps on insisting on individual
19 permits. Well, gentlemen, at that point two years won't do it. And then you get back to
20 an argument about whether you've applied for a wetlands permit that hasn't been
21 issued because they've told you to go back and apply for another kind of wetlands
22 permit that you're not ready to apply for yet which would be the case if it shifted from a
23 nationwide to an individual permit. So in the interest of clarity and writing something

1 that I can understand so that I don't need to bother Joe and Anna about these sorts of
2 things, I would suggest that this amendment be re-written so that initiated began when
3 the PUD was, the ordinance passed. And that some more reasonable date, maybe five
4 years, be allowed because two years is too short. Maybe five years is too long but two
5 years is too short.

6 MR. GREEN: Something longer than two years for the permitting phase.

7 MR. KINDER: Well, the way I read this and I might be wrong, you've got to apply
8 for your state and federal permits or get your site plan or sketch plan approval. Now I'm
9 not sure if you get site plan or sketch plan approval at the county level that obviates
10 your need to have made application at the federal level. That's a gray area that I can't
11 understand from this draft. But it's very difficult to get your site plan finished with any
12 degree of moral or intellectual integrity unless you know what your wetlands are. I
13 mean, it'd be very easy for us developers to come in here with a sketch plan that
14 showed proposed wetlands or suspected wetlands or possible wetlands but it really
15 wouldn't be worth the paper it was written on until we knew exactly what those wetlands
16 were. So again this seems to be a step toward clarification but it also seems to raise
17 three or four other types of questions that would create more ambiguity further down the
18 road. That's my opinion. Thank you.

19 CHAIRMAN MANNING: Too I think the Corps approvals are only good for five
20 years and they expire and you've got to reapply and if you're out, you know, a large
21 project and didn't do that in a timely way you may not get the same delineation on the
22 second go round. So how would the Staff handled that, that type?

1 MR. KINDER: You're absolutely correct. The Corps permits are good for five
2 years and if you don't, I mean, you could have a big project, you could have an ongoing
3 transition of Corps permits –

4 CHAIRMAN MANNING: Right.

5 MR. KINDER: - that would go out 15 years.

6 CHAIRMAN MANNING: That's not going to be -

7 MR. KOCY: Well, we would [inaudible], the Corps permit expired we obviously
8 couldn't recognize it as an approved permit nor could an applicant submit it as an
9 approved permit so it might require [inaudible]. I disagree with Mr. Kinder slightly. I
10 agree with you that if you apply for a federal wetlands permit we would view that as you
11 had applied. They might respond back and say you need individual permits not a
12 nationwide permit but in my eyes you still applied for the permit and you're going
13 through that permit application process. You have initiated a permit.

14 MR. KINDER: I appreciate that point of view but I think it opens up the possibility
15 that people more unscrupulous than I might apply for something they knew they weren't
16 going to get just to get you off their back. I think, I really think it can be clearer and
17 shorter and less ambiguous and less able to be gained by unscrupulous developers.

18 [Laughter]

19 [Inaudible discussion]

20 MS. BEST: I would just say duly noted.

21 CHAIRMAN MANNING: What's the language in the Code right now? What does
22 it say about permit?

23 MR. GREEN: It doesn't say anything.

1 CHAIRMAN MANNING: It doesn't say that before you submit a sketch plan or -

2 MR. GREEN: Oh, I'm sorry.

3 CHAIRMAN MANNING: - design for DRT to review that you have permits in
4 hand or made application -

5 MS. ALMEIDA: Page 34.

6 CHAIRMAN MANNING: What page?

7 MS. ALMEIDA: Page 34 of your packet.

8 CHAIRMAN MANNING: Okay. That's it?

9 MS. ALMEIDA: Everything that's crossed out [inaudible] in there now.

10 MR. KOCY: The paragraph under Arabic numeral four. "If the planned
11 development is not initiated within two years the development approval shall
12 automatically expire." And the County Council may, not shall, may initiate a rezoning to
13 another - that puts us in a bind. What is initiate and if the County Council chooses not
14 to initiate another zoning then what's the property zoned?

15 CHAIRMAN MANNING: Well, we've got one project I guess that's a problem.

16 MS. ALMEIDA: Yes.

17 MR. KOCY: At least one.

18 CHAIRMAN MANNING: And it's clear that we've got some issues that we'd like
19 or need to address in the Code but I don't think that particular project needs to drive the
20 whole process. Do you all want to take a stab at crafting some language to address
21 some of your concerns?

22 MR. GREEN: I guess a question for Staff based on the conversation that you've
23 heard today would you all see some room for further clarification based on what you've

1 heard today? And if you do maybe give, ask Staff to bring it back to us next month, if
2 they understand kind of the nature of what the questions have been today. I think we're
3 headed in the right direction but I think the number of people that aren't clear on what it
4 means suggests that maybe we need to take it to another, you know, a little further
5 detail or explanation.

6 MR. KOCY: I'd appreciate a little guidance [inaudible].

7 MR. PALMER: I think it should be a longer timeframe than two years and I think
8 there needs to be somewhere, some happy medium that will be defined as initiate and I
9 don't think the wetlands permits can be part of that. If there's some other trigger point
10 that the Staff has other than sketch plan approval.

11 MR. GREEN: My biggest question was the parenthetical phrase for the entire
12 tract of land that comprises the PDD. I mean, when I read this it said to me that a large
13 multi-phased PDD would have to have entire site plan and sketch plan approval within
14 that first two years.

15 CHAIRMAN MANNING: And that was my major concern as well. Section 2D
16 taking that out and changing the language on that is fine with me, and I think
17 implications [inaudible] the DRT.

18 MR. GREEN: I think it's got some good things, I just think with maybe just a few
19 more tweaks we can get it in the right place.

20 MR. PALMER: What, you just take out the entire tract of land?

21 MR. GREEN: Well, whatever they, you know, want to be sure, I mean, I just
22 want to just off the top of my head say that cures it but.

1 MR. PALMER: I also know that two years is not long enough for a PDD
2 [inaudible].

3 MR. KOCY: [Inaudible] not want to include wetlands permits as an appropriate
4 permit to apply for?

5 CHAIRMAN MANNING: Do you require it now?

6 MR. KOCY: I'd like to require it now. As you pointed out without a wetlands
7 permit you really can't begin site plan approval and if we don't include applying for a
8 wetlands permit as initiating we're going to put a lot of developers in a jam.

9 CHAIRMAN MANNING: I really don't have a problem. I think we're being foolish
10 if we don't but I guess going back to what Mr. Kinder was concerned about is the
11 interpretation of application versus being a recipient of [inaudible].

12 MR. KOCY: Appropriate [inaudible] unscrupulous developer not that there are
13 any of those in the county. If someone was trying to –

14 MR. GREEN: Or room. [Laughter]

15 MR. KOCY: - [inaudible] permit you could certainly declare that that was an
16 inappropriate permit and that this [inaudible].

17 MR. PALMER: [Inaudible] apply for a wetlands permit but you don't give them
18 anything they want. It's just a bunch of junk that you apply for but yeah you've applied
19 for it.

20 MS. ALMEIDA: But we're trying to just keep some sort of activity on this PDD is
21 what we're trying to do as well.

1 CHAIRMAN MANNING: Are you going have to do [inaudible] work to apply for
2 the permit? I mean, it's not something you go out and apply for. You've got to put a lot
3 of information into it.

4 MR. KOCY: [Inaudible] information the Corps will deny you the permit and once
5 the decision's been made you don't get it. So that might kill your application too.

6 CHAIRMAN MANNING: And I think too having clarification on the extension.

7 MS. ALMEIDA: Yearly extension.

8 CHAIRMAN MANNING: Rolling the extension, how does that work? I think we
9 need to address that as well.

10 MR. PALMER: And it simply says that you may apply for, not that you'll be
11 granted the extension.

12 MS. ALMEIDA: [Inaudible]

13 CHAIRMAN MANNING: Well, if you've initiated something –

14 MS. ALMEIDA: Then you wouldn't have to.

15 CHAIRMAN MANNING: - then it just doesn't apply?

16 MR. KOCY: Correct.

17 MR. PALMER: So what, we'll take a look at it next month?

18 CHAIRMAN MANNING: Is that time enough, Joe, to come back?

19 MS. ALMEIDA: Yeah.

20 MR. KOCY: [Nods yes]

21 CHAIRMAN MANNING: Okay.

1 MR. GREEN: I make a motion that we defer further consideration of changing
2 this to the PDD language of the Code until our next monthly meeting for purposes of
3 additional Staff language clarification.

4 CHAIRMAN MANNING: Got a motion.

5 MR. PALMER: Second.

6 CHAIRMAN MANNING: Got a motion and a second. All in favor raise your
7 hand. Opposed? None.

8 *[Approved: Murray, Palmer, Manning, Green, Furgess; Absent for vote: Anderson;*
9 *Absent: Cairns, Ward, Mattos-Ward]*

10 CHAIRMAN MANNING: Thank you. Priority investment.

11 MS. MUSUEL: Hi. My name's Erin Musuel. Matt Noonkester and myself are
12 here today to present the community facilities element, priority investment element of
13 your Comprehensive Plan. Our role in the project, again, we're just going to
14 summarize, we have been here in June and we presented a draft version of the
15 community facilities element for review and comment and we have since taken into
16 consideration those comments and feedback that we received on that element and have
17 provided you with an updated version of the community facilities element and we have
18 provided a draft of the priority investment element that is new, first time reviewed by the
19 Board. So for the community facilities element we have just some minor changes
20 based on the feedback that we received at the previous meeting. We will go into these
21 in a little bit of detail. But one of the main concerns was having more up-to-date figures
22 for the sewer numbers in terms of average daily demand and capacity at the sewer, of
23 the sewer providers and we have been able to obtain 2007 data from DHEC on that and

1 based on those figures we re-ran the Community Viz model to reflect those more up-to-
2 date figures. We, for the priority investment element we have done the data inventory
3 and analysis and have drafted goals and implementation strategies in the same method
4 that have been done for the other plan elements. And we will also be talking about an
5 inter-governmental coordination aspect of the priority investment element which
6 requires to get feedback from other agencies and jurisdictions on the projects proposed
7 in the element so that's where we're going with that. Again community facilities we just
8 wanted to briefly address where we have, what updates we have made since we last
9 met with you guys in June. The sewer numbers as I mentioned have been updated and
10 we added one implementation strategy from the previous draft of the report which is just
11 to implement capital projects in accordance with the ten-year capital improvements
12 program. As far as the revised scenario planning analysis last time we were with you
13 guys we presented a little bit on Community Viz and how it works. And now since that
14 time we have gotten copies of the draft population and land use elements that you guys
15 have been given by county Staff and we've gotten more up-to-date figures from those
16 elements and we've worked with Staff to develop a model that's specific to Richland
17 County and that matrix has also been included at the back of the community facilities
18 element. That's a new addition from the previous draft. So those are the only changes
19 to the community facilities element. At the end of the presentation we'll be happy to see
20 if you guys have any comments or questions on that and we'll just move forward with
21 the new element which priority investment. Basically the legislation regarding comp
22 plans in South Carolina was amended to include this Priority Investment Act which was
23 adopted in 2007. The Act requires some revisions to the housing element which was

1 already an element required in the comprehensive planning process and the addition of
2 two new elements, the transportation element and the priority investment element. And
3 in correlation with that is this concept of priority investment areas which were identified
4 in the county's land use element on the future land use map which has already been
5 presented to you by county Staff. But specifically the priority investment element is
6 documents that capital improvement needs and available revenues in the county over a
7 ten-year planning horizon. And it involves, well I mentioned inter-governmental
8 coordination where these planning projects will be sent to agencies and jurisdictions
9 that we've worked with the county to identify in order to get feedback and comment on
10 the projects before we finalize what projects are included in this draft element. So
11 basically how we've developed this element, we had a kickoff meeting with Staff and
12 then we did our data inventory and analysis which we obtained materials from the
13 Finance Department on the county's ten-year capital improvements program and the
14 annual capital budget as well as conducted stakeholder interviews specifically with
15 Daniel Driggers, the Finance Director. We worked on the background report which is
16 culminated into the draft document that you guys have been given a copy of in which
17 case we're looking at all of the available revenue sources, both what the county is
18 currently utilizing and others that are available to the county that aren't currently being
19 utilized in terms to determine how much revenue the county has, what kind of costs
20 we're looking at for proposed projects to determine what the funding gap is, what – if
21 there is more projects out there than the county has money to fund and wrote that into
22 the draft document and we're here to do, basically to brief you guys on that and we'll
23 work on the updates and revisions after this meeting to present you guys with the final

1 draft of the element. Basically this slide is just giving you a list of all the major headings
2 of the topics that are discussed in this element. Again because it's so new they haven't
3 been done very, across the state. This is one of the first ones and so this is, work with
4 county Staff in terms of developing what we think, you know, absolutely satisfies the
5 requirements of the element. Existing Revenue Sources. Again so this is one half of
6 the equation in terms of what is the county currently utilizing now. Where's the revenue
7 coming from and basically going through the reports and talking with Daniel Driggers to
8 determine either a range of time - and these numbers are still, we're going to talk about
9 the charts and why they're not filled in exactly yet is because we're still working to
10 determine over time like get an average of the funds available or either their most recent
11 year funding availability for each type of revenue source to determine what we can likely
12 project will be the funds available from these sources over the ten-year planning
13 horizon. And these are the sources that are currently being used by Richland County.
14 And then we've also provided a description of other available revenue sources that
15 under South Carolina law could be utilized by the county but currently are not being
16 utilized. And on the other side of the equation from the revenues are what are the
17 needs and based on reviewing of the capital improvements plan and the annual budget
18 and basically reviewing the draft elements, the other draft Comprehensive Plan
19 elements we've comprised a list of 42 individual candidate projects and again these are
20 all the projects that have been mentioned by relevant agencies and jurisdictions as
21 projects that they foresee being in need over the next ten years, and the project costs
22 associated with those projects is around a billion dollars. And so basically we can see
23 that that's a lot of money and more money than, you know, will be available on the

1 revenue side of things which kind of highlights the fact that there needs to be some kind
2 of system in place in terms of prioritizing these projects and actually getting them listed
3 in the CIP and then into the annual budget which is mostly try to – this slide is kind of
4 trying to stress that information. The fact that a project is listed in this element of the
5 plan does not mean that it has received funding and the steps for what you do with this
6 chart of all these projects where you go with that information. And so basically in this
7 element you've identified all of the candidate capital projects, that's every single project
8 by every department, what they think their needs are going to be over the next ten
9 years. And then you take that information and you have to prioritize those projects and
10 those projects make it into the ten-year CIP which you have already adopted. And
11 every year you review that CIP to finalize the annual capital budget and so those are the
12 projects that actually get into the list of those projects that are going to be funded based
13 on the available county revenue.

14 CHAIRMAN MANNING: Let me ask you a question. Who established the
15 criteria for the 42 projects? Who's -

16 MS. MUSUEL: Sure. Those projects were mainly taken from the adopted
17 Capital Improvements Plan with –

18 CHAIRMAN MANNING: The Capital Improvements Plan?

19 MS. MUSUEL: Um-hum (affirmative).

20 CHAIRMAN MANNING: We have one?

21 MS. MUSUEL: Yes. It's written by the Finance Department. I don't know if we
22 have a copy. I didn't bring my copy with me but [inaudible].

23 CHAIRMAN MANNING: Never knew we had one.

1 MR. NOONKESTER: Let me just add a little clarification as well. There is a ten-
2 year capital improvements plan that is being maintained out of the Finance Department
3 right now. It was presented to the Commissioners in February last year, or, this year
4 and that's why we couldn't get it until then. I can't speak to the action or if action was
5 taken so maybe the word adopted – we don't want to make misleading. But there is a
6 prepared document that's maintained in the Finance Director's office that has ten-year -

7 CHAIRMAN MANNING: I don't remember ever having a plan come before us.

8 MR. PALMER: You must mean Council.

9 MR. NOONKESTER: Yes. I'm talking about County Council.

10 CHAIRMAN MANNING: Okay. Well it's never come to the Planning
11 Commission.

12 MS. MUSUEL: That's out – those are where those projects came from, that
13 document that went before Council.

14 CHAIRMAN MANNING: Okay. So they have adopted the priority of those,
15 basically those 42 projects to their list?

16 MR. NOONKESTER: There's a list right now that includes all the projects that
17 are being requested with some type of fiscal year in which they would occur. It doesn't
18 always mean that for years out especially past five years out that they've matched
19 revenues to needs at this point. But it's just trying to get them on the radar screen and
20 as they come closer to the current year is when they start to get more refined and then
21 eventually into the annual budget.

22 CHAIRMAN MANNING: Well, wouldn't that have to come back before the
23 Planning Commission to be approved?

1 MR. KOCY: [Inaudible] budget document. It's a Council document. It's really a
2 compilation of proposed future capital improvements of the county. It may or may not
3 come before the Planning Commission.

4 MR. GREEN: So you wouldn't know, you know, if we had a question about a
5 specific line item you may not necessarily know why it's there or what it's there for?

6 MR. NOONKESTER: At this point in time I can tell you the source of that line
7 item which would be most likely the capital improvements plan but not always. I can't
8 tell you how it got into that document though.

9 CHAIRMAN MANNING: By state law though in order to – if you're going to
10 charge impact don't you have to have a capital facilities plan that comes before the
11 Planning Commission blessed by the Council with the funding source attached?

12 MR. NOONKESTER: Specifically responding to the impact fees, cause we do do
13 a lot of that work, it does require that a capital improvements plan be associated with
14 the impact fee study that enumerates the projects that would be benefited by the impact
15 fee. One of the reasons that does go through the Planning Commission is because by
16 state law the Council has to direct the Planning Commission to do the study. And so
17 when they do the study they do a justification report. You also do a capital
18 improvements plan and then you have the ordinance you'll be commenting on. So
19 traditionally that's why the Planning Commission has gotten involved in that type of
20 capital improvement planning is it's mandated that the Planning Commission bring it
21 forward to the County Council.

22 CHAIRMAN MANNING: Well, it would be my recommendation that if the
23 Planning Commission [inaudible] necessary as part of these 42 projects and the capital

1 improvement plan we ought to start from scratch. Take them out, you know, we have
2 no idea what these are all about. You know, we haven't had any communication with
3 Staff or the Finance Department as to the merits of all that, and it'd seem to me that this
4 should be, if it's going to be part of the Comprehensive Plan that discussion takes place
5 with the Commission [inaudible].

6 MR. PALMER: If you're gonna vote on it you need to know what it's about.

7 CHAIRMAN MANNING: Right. So if we were to adopt the Comp Plan I'd rather
8 do it without this attached since we have not had any input in it.

9 MS. MUSUEL: Well, one thing that we haven't got to yet that I was going to
10 mention I think maybe in a minute or two is the fact that what we're, as the requirement,
11 this inter-governmental coordination requirement, that Staff would send this document
12 to, within county departments and also we've identified with county Staff 30 what you
13 call relevant adjacent, relevant and adjacent jurisdictions which is how they word it in
14 the language of the Act, to comment on the projects and so that way we'll have the most
15 up-to-date list of what their current needs are so everyone can review this list and we
16 can amend it or revise it based on feedback that we receive during that process.

17 CHAIRMAN MANNING: I guess going back to the criteria though do you happen
18 to know what the criteria was? I mean, did it have to be the dollar amount or did it have
19 to be an operational shortfall or what was the criteria for the projects?

20 MR. NOONKESTER: And your point is noted that we can't defend the projects
21 that are currently in there in the line items. I think what's interesting though and to your
22 point is because the Priority Investment Act was approved that required this as part of
23 the Comprehensive Plan it now forces the Planning Commission to be part of the capital

1 improvement planning process. One suggestion we could have without overstepping
2 bounds here, Joe, tell me if I'm wrong but we have additional meetings within our
3 contract, potentially some type of a work session would be appropriate where we had
4 representation from the authors of that document. At this point in time really our role is
5 to be the vehicle that moves us forward towards a finished element but if we need more
6 players in order to determine what projects get in we are more than comfortable having
7 a follow up meeting in which we have more people here.

8 CHAIRMAN MANNING: Thank you.

9 MS. MUSUEL: Let me see what else do I need to? So I just explained to you
10 basically that aspect of is because that I think was one of Daniel Driggers' concerns was
11 how is this, he wanted to actually use the information that we utilized from this process
12 in order to update those documents that we mentioned, the Capital Improvements Plan
13 and the annual budget. So that is a requirement of the Act and a step that we would
14 take to move forward is to get comment and feedback from all of the agencies that were
15 listed in the document. So the same with all the other elements that you guys have
16 reviewed, we have goals and implementation strategies for this particular element as
17 well and those are in more detail in the draft document you received but the three goals
18 that have been drafted for this element are to provide adequate facilities and services in
19 a fiscally prudent manner, to strengthen intra-governmental and inter-governmental
20 coordination to improve the quality and timeliness of the information shared between
21 stakeholders, and then to manage the county's debt efficiently to ensure long-term
22 financial health of the county, and then all of the implementation strategies associated
23 with those goals are listed in your document, and a lot of them have come from policy

1 documents that we obtained from the Finance Department and we're trying to stay
2 consistent with what their goals are as well so. So where we are now, what we have left
3 to do for these two elements are basically to get ya'll's blessing on the community
4 facilities element to see if those changes that we made are what was needed to sign off
5 on that element, and then we need to get more comments and feedback on this draft
6 that we have just presented to you today on the priority investment and we need to go
7 through that coordination process that I described to you and at that point we will turn
8 over all the documents to the county to move forward in the public outreach part of the
9 planning process. Do you guys have any other questions on any of the materials?

10 CHAIRMAN MANNING: Any other questions? Thank you.

11 MR. NOONKESTER: If it's not out of place we can ask one question of you. As
12 was mentioned this is really sort of cutting edge for South Carolina. You're only the
13 second local government to go forward with this Act. And so because of it if you really
14 read the state law it's a little loose in terms of interpretation. Understanding that we
15 need to go back through the tables for the line item projects, what about the overall
16 understanding of the document, what was included, what wasn't included, was there
17 anything you wished that we may have missed?

18 MR. GREEN: I don't understand how the projects were come up with, what they
19 mean, how they're relevant to the land use plan? I just, this doesn't really tell me
20 anything. This could be written for any county in any state. This doesn't tell me
21 anything. There's several projects that I just scratch my head to understand what
22 they're doing in here. If you've got to show expenditures for them they aren't even

1 appropriate to be in here. There's just not enough here for me to even understand what
2 we're doing.

3 MR. KOCY: Mr. Green, I think that you raise a very good point and that's the
4 whole reason that there's this capital improvement element in the Comprehensive Plan.
5 We aren't the only jurisdiction that capital improvements are [inaudible] into a budget
6 document. That is very comprehensive and lengthy and not [inaudible] our process
7 [inaudible] little thought is given to where the funding is going to come from, when is it
8 going to be done, this year or this decade? It's just a holding list for county projects, for
9 large county projects and the capital improvement process in this element is to give,
10 expand the budget process to allow for expanded dialogue in county dialogue as to
11 when and how are these things are going to occur and you raised the million dollar
12 question. How do the [inaudible] improvements correlate to the comprehensive plan?
13 In my mind should we be spending, you know, where are we spending the large
14 investments for public infrastructure in relationship to the comprehensive plan. So yes it
15 is confusing and that's the whole reason we're having these continuous dialogue so we
16 have a better understanding of where are these expenditures and how do they relate to
17 the comp plan and when are they going to occur, this year or next year or the next
18 decade or are they even feasible to ever have. And not just have a capital improvement
19 program to be a wish list of county [inaudible] projects. This is sort of a reality check for
20 a capital improvements program.

21 CHAIRMAN MANNING: Any other questions? Thank you. [Inaudible] going
22 forward with capital projects would it be out of order to look at the ones that would
23 impact the land use plan and let us know that this could have bearing on it or it shouldn't

1 and there might be some things in there we would totally oblivious to. I think we're
2 going to take us a legal clarification on Rimer Pond?

3 MR. GREEN: Roper Pond.

4 CHAIRMAN MANNING: Roper Pond. I don't know about the rest of the
5 Planning Commission Members, and let me just tell everybody up front I'm going to
6 have to recuse myself if this issue comes in front of us anyway, but I've got a lot of
7 phone calls from folks out in the Arcadia Lakes area about zoning issues with regard to
8 the zoning for what appears to be an apartment complex proposed at Roper Pond. For
9 those of you who don't know where that is, it's probably, if you're standing on the front
10 of the property on Two Notch Road, on Trenholm Road you can see the back of Dent
11 Middle School. That's probably the quickest reference point I can give you. And I
12 guess my question is when I got all these phone calls and I said well how is the property
13 zoned and the response was it's properly zoned for the use that's intended, I started
14 scratching my head as to why people calling me felt like it might be an issue to be
15 reviewed or voted on by the Planning Commission. I guess my thought is I heard this
16 was going to be on the agenda next month is just to get a clarification if there's, there's
17 no need to get two or three hundred people in this room for them to be told at the
18 beginning of that meeting that there's no issue that the Planning Commission is to rule
19 on. I mean, if there is, that's fine. I guess my question was I've read the – I've tried to
20 read the Code and how it relates to what our role would be and what's going on
21 surrounding this development and I'm not clear as to if we have a role, and if we don't
22 are we doing the community a disservice by letting them think that there's some vote

1 could be taken at the next Planning Commission meeting irrespective of the fact that I'll
2 be recusing myself.

3 MS. ALMEIDA: Under the Code, under the Richland County ordinance adjacent
4 property owners have the right, and it's very broad as I'm sure you've read, have the
5 right to appeal the DRT decision and that's what they're doing.

6 CHAIRMAN MANNING: On any basis or does it have to be defined?

7 MS. ALMEIDA: Well, of course they have to be very specific as to –

8 CHAIRMAN MANNING: So they've got to have standing –

9 MS. ALMEIDA: - their appeal.

10 CHAIRMAN MANNING: - they've got to be specific in their appeal.

11 MS. ALMEIDA: Yes.

12 MR. GREEN: DRT has approved the project?

13 MS. ALMEIDA: They have conditionally approved the project, yes.

14 MR. GREEN: Thank you.

15 MS. ALMEIDA: The property was rezoned back in 2004, I believe it was and we
16 have the Minutes of the Planning Commission meeting we could provide you.

17 MR. PALMER: And it's my understanding that the DRT's role is simply as a
18 checks and balances for black and white issues?

19 MS. ALMEIDA: Operational standards. We go by this Code.

20 MR. PALMER: So they have - they had said, for example it says you've
21 approved a 20' setback and we believe the Code says that there should be a 25'
22 setback. So they're appealing something like that? Or what would the appeal be based
23 on? I guess we have to wait and see what the appeal would be based on.

1 CHAIRMAN MANNING: Well you've got it. I mean, is it –

2 MS. ALMEIDA: I have not read the letter; we received it today.

3 MR. KOCY: I can run downstairs. I received a letter today [inaudible].

4 CHAIRMAN MANNING: Well, you can email it [inaudible] but I think - when you
5 read it was it specific in the appeal or was it just they didn't like what DRT said?

6 MR. KOCY: It was specific in some of the appeals and many of their questions
7 were zoning related or were issues that [inaudible].

8 CHAIRMAN MANNING: But do you think there's a legal basis for it?

9 MR. KOCY: For many of them, no.

10 MR. PALMER: Even is there is a legal basis then the DR, and it's a black and
11 white issue and one person's right and one's wrong that doesn't have anything to do
12 with the use, it has to do with the construction of the premises I would imagine; correct?

13 MS. ALMEIDA: For information submitted [inaudible].

14 MR. PALMER: So the appeal will not be based on the use is incorrect. It'll be
15 based on something with construction [inaudible]?

16 MR. KOCY: The uses [inaudible] appeal is the use is inappropriate.

17 MR. PALMER: So that has no basis for an appeal?

18 MR. KOCY: [Inaudible] basis for [inaudible] and it has no basis for the DRT.

19 MR. PALMER: So in my opinion it would not be considered by this Board.

20 MR. KOCY: One of the other comments is that the driveway placement is too
21 close to the school and hazardous. DOT issue is the road access [inaudible].

22 MS. ALMEIDA: [Inaudible] our input and we work closely with DOT.

1 MR. PALMER: DOT's approval to [inaudible] the county's approval I would
2 imagine.

3 MS. ALMEIDA: They normally will not approve something until they have
4 received comment from Richland County.

5 MR. PALMER: I guess we've just got to wait and see what it says – the process.

6 CHAIRMAN MANNING: Of course you've got a chance to review it [inaudible]
7 email us a copy of the [inaudible] comments of that but I'm like Gene, I don't, I don't
8 know that they have the right to appeal to determine whether that right is [inaudible] I
9 guess we say either yea or nay or ya'll say yea or nay and then they've got their right to
10 go to circuit court.

11 MR. KOCY: [Inaudible] you say yea or nay.

12 CHAIRMAN MANNING: Is that the way it works?

13 MR. KOCY: I just provide a copy of the letter. [Laughter]

14 CHAIRMAN MANNING: [Inaudible] Staff's position write them back and say we
15 don't see any basis for –

16 MR. KOCY: We don't have that option.

17 CHAIRMAN MANNING: - an appeal.

18 MR. PALMER: So in other words it has to be an agenda item and then at that
19 point we would have to say whether there was any basis for the appeal or not, or
20 whether we agree with the appeal or not?

21 MR. GREEN: Whether the issues being raised were appealable I guess is my
22 question?

23 MR. ANDERSON: Appealable to be a zoning issue?

1 MR. GREEN: [Inaudible] the legal opinion of county Staff or is the appeal based
2 on appealable issues?

3 MR. ANDERSON: Yeah. Will ya'll give us a recommendation?

4 MS. ALMEIDA: [Nods no]

5 MR. ANDERSON: No? She quickly shook her head, didn't she?

6 MR. GREEN: I think everybody in the room's gonna recuse themselves.

7 MR. PALMER: I live too close to it. I drive past it twice a day.

8 MR. KOCY: [Inaudible] description of what an appeal is and what your role is, I'll
9 go make photocopied real quick and let her bring it.

10 MR. ANDERSON: Okay. That'd be great.

11 MR. PALMER: I would think you have to put it on the agenda and hear it and just
12 at that point rule that nobody here is [inaudible] comment on the use of the property
13 [inaudible] appeal has been geared towards x, y, and z not being correctly done by the
14 DRT.

15 MR. GREEN: I don't see how the Planning Commission itself can determine
16 whether it's a legally appealable issue. We've got to have legal direction.

17 MR. ANDERSON: That's what I was thinking too. I mean, how is the Planning
18 Commission going to say that that's –

19 MR. PALMER: I was gonna say, there's no guidelines to say what's appealable
20 and what's not. It just says that [inaudible].

21 MR. GREEN: Somebody's got to, there has to be a legal interpretation of the
22 Code. I don't know.

1 MR. PALMER: I want to find out how the DRT works. I just don't understand
2 that.

3 CHAIRMAN MANNING: I could see. [Laughter]

4 MR. GREEN: You ought to actually put something in that you have to go through
5 the process.

6 MR. PALMER: You don't get to go to the meeting.

7 CHAIRMAN MANNING: Oh, yeah, you do. Oh, yeah.

8 MR. PALMER: And you see a vote?

9 CHAIRMAN MANNING: I did.

10 MR. GREEN: They like you, Deas.

11 [Inaudible discussion]

12 MR. GREEN: You're not recording. We're on a break.

13 [Break]

14 MS. LINDER: Conditions for an appeal? The code does provide for right of an
15 appeal made to the Planning Commission and it would be based on what it is. They're
16 saying in their letter of application or in their letter for the appeal as to what you would
17 look at. But according to the code you're going to have some discretion to say yes this
18 appeal is substantial and we can act upon it, or this appeal has no merit and we deny
19 the appeal. But you would make a formal decision to either review it, deny the appeal
20 or you can say, yeah, we're going to look at this and we've got to make some changes,
21 Staff made an error.

22 CHAIRMAN MANNING: But the only way to really be fair in that process is hear
23 what they've got to say and then to have Staff comment on those positions because

1 Staff's got to review it from the DRT standpoint and we've got to have a basis to say it
2 has standing or it doesn't. I don't think it'd be good if all of us were sitting here
3 thumbing through the Code trying to figure out well is it an appealable issue or not
4 based on some interpretation [inaudible]. I would like some clarification on what they're
5 appealing on from Staff in helping us make a decision whether it's worthy or not.

6 MS. LINDER: And I believe Staff will have all that information to you at the next
7 month's meeting that you could review that. The person that's making the appeal would
8 be able to present their case. It is a public hearing. It does have to be advertised in the
9 paper and then Staff would certainly be able to address any questions you had that the
10 person appealing would raise.

11 CHAIRMAN MANNING: And would you offer an opinion from a legal standpoint?

12 MS. LINDER: If any of you need a legal opinion I would be certainly available to
13 you.

14 CHAIRMAN MANNING: Would you review what Staff sends us before we
15 [inaudible] to make sure you agree or don't agree?

16 MS. LINDER: I would have to review what Staff has but I would be very, I would
17 want my personal perspective to be very careful to stay off of your realm of discretion. I
18 mean, there's certain things I can do and certain things I cannot do, certain things that
19 the County Council by the ordinance have said this goes to the Planning Commission
20 for a Planning Commission decision.

21 CHAIRMAN MANNING: Well, I hear what you're saying. I wish the process was
22 a little bit clearer [inaudible].

23 MS. LINDER: I believe the first step would be to look at what's being appealed.

1 CHAIRMAN MANNING: [Inaudible] took up a lot of people's time. I don't know
2 where it went but -

3 MS. ALMEIDA: You will have all supporting documents on the appeal.

4 CHAIRMAN MANNING: Right.

5 MS. LINDER: But the person that's making the appeal has the right to appeal
6 and to appear before you.

7 CHAIRMAN MANNING: I understand, but the basis for the appeal that I want to
8 know.

9 MS. ALMEIDA: Well, the only requirement that the Planning and Development
10 Services Department has as far as when we get an appeal in, as far as the decision
11 whether we bring it to you is whether they're an adjoining property owner that's
12 aggrieved and if it meets that requirement we must bring it to you.

13 CHAIRMAN MANNING: But on say the issue of the encroachment permit
14 [inaudible].

15 MS. ALMEIDA: We'll address that.

16 CHAIRMAN MANNING: You address it so that, you know -

17 MS. ALMEIDA: Yes.

18 CHAIRMAN MANNING: - we look at, you know, the site distance, we looked at
19 the traffic counts, whatever the criteria was DRT for to make then this is it and DOT
20 approved it. I want to know that basis not just [inaudible] I want [inaudible] hundred feet
21 back down the road [inaudible] can't do it. But whatever the reasons for their concerns
22 are should be addressed by Staff [inaudible].

23 MS. ALMEIDA: So you do want this on the agenda for October?

1 CHAIRMAN MANNING: Well, what you're telling me is that we really don't have
2 anything to say about it. I mean, they do have a right to an appeal. The Code says
3 they have to appeal before the Planning Commission, and then we'll make a decision
4 whether they go forward or not. I guess at that point if we deny the appeal then they
5 have the right to appeal to a circuit court; correct?

6 MS. LINDER: That is correct. I believe that the person making the appeal would
7 have to show that Staff or the Development and Review Team erred in applying the
8 standards.

9 CHAIRMAN MANNING: Or the Planning Commission?

10 MS. LINDER: If they disagree with the Planning Commission's decision then
11 there would be another appeal to circuit court.

12 CHAIRMAN MANNING: Right.

13 MR. PALMER: And since this goes to circuit court then we take on a *quasi*
14 judicial role which means that nobody should talk to anybody about it prior to the case?

15 MS. LINDER: That would probably be a recommendation I would advise, yes.

16 MR. PALMER: So the people that would come to the podium would then be put
17 under oath; correct?

18 MS. LINDER: That would be something we could do, yes.

19 MR. PALMER: It'd be like a Board of Zoning Appeals meeting? Because the –
20 we used to take on that role when we had approval of subdivision approvals. Because
21 the testimony will be admissible in court.

22 CHAIRMAN MANNING: Do we have to allow multiple people to speak?

23 MR. PALMER: Two hundred or so.

1 MR. KOCY: Only about 50 showed up at the DRT [inaudible].

2 CHAIRMAN MANNING: Do they have to be an adjoining property owner or can
3 they be residing in the neighborhood?

4 MS. ALMEIDA: No. It's go to be adjoining.

5 MR. PALMER: To speak?

6 MS. ALMEIDA: No, to make the appeal. So yeah.

7 CHAIRMAN MANNING: Alright so really the only person we have to listen to is
8 the appellant.

9 MS. ALMEIDA: Adjoining property owners.

10 MR. KOCY: There's a whole row of adjoining property.

11 CHAIRMAN MANNING: So we've got more than one appellant?

12 MR. KOCY: We have got 22 people that have signed this letter.

13 MR. PALMER: Have we verified they're all adjoining property owners?

14 MS. ALMEIDA: We just got this.

15 MR. PALMER: I bet they're not.

16 MS. LINDER: Reading a little bit from the ordinance it says, "The Planning
17 Commission, after conducting the public hearing may deny approval, table the
18 application pending submittal of additional information, or approve the application for a
19 land development permit. The decision on the land development permit application
20 shall be by a majority vote of the Commission as set forth in the by-laws of the
21 Commission."

1 MR. PALMER: Which means that we would have to be presented with all the
2 information the DRT was presented in order to make a decision as to whether or not a
3 development should go forward or not?

4 MS. ALMEIDA: You will get all information.

5 MS. LINDER: And then it says, "Appeals of the decision of the Planning
6 Commission by a person who may have a substantial interest in the decision must be
7 taken to the circuit court within 30 days after actual notice of the decision and must
8 encompass all issues for appeal."

9 CHAIRMAN MANNING: So substantial interest would mean somebody in the
10 neighborhood not just an adjoining property owner?

11 MS. LINDER: Somebody that would have interest and it would be up to the
12 circuit court to rule on whether they have standing to appeal.

13 CHAIRMAN MANNING: Not substantial interest -

14 MS. LINDER: The circuit court; correct.

15 CHAIRMAN MANNING: - to us, on the appeal to us?

16 MS. LINDER: No.

17 CHAIRMAN MANNING: The criteria that adjoining landowner and that's it? You
18 need to go through the list [inaudible] adjoining landowners.

19 MS. LINDER: If you have one adjoining landowner you would still, you would
20 hear the appeal.

21 CHAIRMAN MANNING: Excuse me?

22 MS. LINDER: If you're looking at the list of signatories and you have one
23 adjoining landowner then you would hear the appeal.

1 CHAIRMAN MANNING: Right, but all right let's just say Mr. Shields, because
2 he's number one on the list, is not an adjoining landowner.

3 MS. LINDER: Okay.

4 CHAIRMAN MANNING: He lives in the neighborhood. Would he have the right
5 to appeal?

6 MS. ALMEIDA: Not according to the DRT.

7 MS. LINDER: No.

8 CHAIRMAN MANNING: Alright. I'm just asking you to go through the list of
9 names –

10 MS. ALMEIDA: Yeah. We will.

11 CHAIRMAN MANNING: - to determine whether he is an appellant, a proper
12 appellant or not. And I guess we will limit discussion to the appellants only.

13 MS. LINDER: Well, you are having a public hearing so that -

14 MR. PALMER: I don't think [inaudible] Code again.

15 CHAIRMAN MANNING: We're having a public hearing, we're hearing an appeal.

16 MS. LINDER: I think we're hearing [inaudible] informed the public where
17 information may be examined.

18 MS. ALMEIDA: It could be interpreted that the actual person making the appeal
19 has to be an adjoining property owner but if you want to speak on the matter.

20 MR. ANDERSON: We've got ten next month?

21 MR. PALMER: I would think to cover your bases you would need [inaudible]. It's
22 going to be appealed to circuit court anyhow automatically. I'm out of town next month
23 anyhow so.

1 MR. GREEN: [Inaudible] for a quorum?

2 CHAIRMAN MANNING: It's going to be hard to get a quorum [inaudible]. Well,
3 it's what we've got to do.

4 MS. LINDER: There's a question of whether you have to take it up in October.
5 The ordinance says it's the next available and if October is not available to hear this
6 matter then you could schedule it for another meeting.

7 CHAIRMAN MANNING: Well, have they submitted it timely?

8 MS. ALMEIDA: They have and you have 60 days in which to act.

9 CHAIRMAN MANNING: Say that again.

10 MS. ALMEIDA: You have 60 says in which to act. They submitted this
11 September 8th.

12 CHAIRMAN MANNING: And is that timely to get on the next [inaudible]?

13 [Inaudible discussion]

14 MS. ALMEIDA: November 3rd is the Planning Commission meeting.

15 CHAIRMAN MANNING: November 3rd?

16 MS. ALMEIDA: Correct.

17 MR. ANDERSON: That's the first Monday.

18 CHAIRMAN MANNING: So what you're saying is that, they can't get on the
19 October agenda?

20 MS. ALMEIDA: I'm sorry. What did you say?

21 CHAIRMAN MANNING: They can't get on the October agenda is what I'm
22 saying?

23 MS. ALMEIDA: They can but you do have a very full plate.

1 CHAIRMAN MANNING: Pat's going to be out of town next month.

2 MR. PALMER: I'm going to be looking at some property I think in November out
3 of state too. [Laughter]

4 CHAIRMAN MANNING: What month would you like to be here?

5 MR. PALMER: It's according how this discussion ends. [Laughter] No, I'll be
6 here.

7 CHAIRMAN MANNING: I'd just as soon go ahead and get it over with. And I
8 would guess, do we have any control where we hear it on the agenda at this point or
9 can we make a motion?

10 MS. ALMEIDA: You can make a motion to when you want to hear it.

11 CHAIRMAN MANNING: Well, I'd like for it to come up at the end(?).

12 MS. ALMEIDA: At the end(??)

13 MR. PALMER: We control the agenda, right?

14 CHAIRMAN MANNING: Excuse me?

15 MR. PALMER: Doesn't the Chairman control the agenda?

16 CHAIRMAN MANNING: Well, I mean, we can do that on the date of the hearing
17 if we want to but I'm asking you do you have any voice in how that happens right now?
18 I'd prefer it go to the end. Get everybody else out of the way.

19 MR. FURGESS: And some of them might leave.

20 [Inaudible discussion]

21 MR. PALMER: Did you get that on there too?

22 MR. ANDERSON: There may be some amendment to the Minutes next month.
23 [Laughter]

1 CHAIRMAN MANNING: You [inaudible] clarify that though the way that came
2 out. That could be read as people who are up front. So you don't have any idea of
3 what my intent was.

4 MR. PALMER: Wes is gonna to say, I didn't say that that, change the Minutes.
5 [Laughter]

6 MR. GREEN: Are Minutes published?

7 MR. KOCY: Yes.

8 MR. GREEN: Until we adopt them? Are not published until we adopt them? So
9 if we were to table the Minutes of this meeting indefinitely they would not be postable
10 and accessible? Read these Minutes carefully [inaudible].

11 MR. PALMER: So that nothing that happened during this meeting would take
12 affect then until the Minutes are approved. [Inaudible] amend the Minutes next month if
13 you'd like to if they're not transcribed properly you would – [Laughter]

14 MR. KOCY: [Inaudible] an 18-minute gap. [Laughter]

15 CHAIRMAN MANNING: [Inaudible]. Gap would be noted.

16 MR. MURRAY: Put some music in it.

17 CHAIRMAN MANNING: This is what happens when you have a short agenda.

18 MR. ANDERSON: We really stretched this one out.

19 CHAIRMAN MANNING: Okay. We've got – I guess we're done with the –

20 MR. GREEN: I've got a quick question about we had discussed getting a front
21 yard definition.

22 MS. ALMEIDA: Yes. And I apologize. I thought that was covered in the July.

1 MR. GREEN: I've got six months left so I'll be getting fussier as we get close to
2 the end of that six months.

3 MS. ALMEIDA: We will have a definition for you.

4 MR. GREEN: Thank you.

5 MR. PALMER: I've got one thing too. I'd like next month if we could address the
6 issue on Windsor Lake Boulevard with the curb cuts. There is a PDD over there where
7 they were supposed to have shared driveways on a turn, on Windsor Lake Boulevard. I
8 think I brought it up last month.

9 MS. ALMEIDA: We didn't meet last month.

10 MR. PALMER: Or the month before last, in recent months. Mr. Gosline knows
11 what I'm talking about.

12 MR. GREEN: Mr. Chairman, I move that we adopt the proposed street names
13 contained in our Staff Report.

14 MR. ANDERSON: Second.

15 MR. PALMER: Even less street names now too.

16 CHAIRMAN MANNING: A motion and a second. All in favor raise their hand.

17 *[Approved: Murray, Palmer, Anderson, Manning, Green, Furgess; Absent: Cairns,*
18 *Ward, Mattos-Ward]*

19 MR. MURRAY: I have a question, please. This one that I saw that I didn't
20 understand, Kingdom Landing Way; is that some kind of church or something they're
21 putting down there?

22 MS. ALMEIDA: Excuse me?

1 MR. MURRAY: On page 37. [Inaudible] street names? Private road off Chain
2 Gang Road, Kingdom Landing Way.

3 MS. ALMEIDA: I don't put these together. Ms. Alfrieda Tindall from Addressing.
4 She gets these requests and we'll just give her a call.

5 MR. MURRAY: Frieda?

6 MR. MURRAY: It's down in Lower Richland, south Eastover.

7 MR. GREEN: Move to adjourned.

8 CHAIRMAN MANNING: Move to adjourn. Meeting adjourned.

9

10

[Meeting Adjourned at 3:00 p.m.]