

**RICHLAND COUNTY PLANNING COMMISSION**  
**January 4, 2010**

1  
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3  
4 *[Present: Cairns, Westbrook, McDaniel, Tuttle, Palmer, Manning, Furgess, Mattos-*  
5 *Ward, Gilchrist (in at 1:08)]*

6  
7 Called to order: 1:02 p.m.

8 VICE-CHAIRMAN PALMER: This meeting is called to order. In accordance with  
9 the Freedom of Information Act, a copy of the Agenda was sent to radio and TV  
10 stations, newspapers, persons requesting notification, and was posted on the bulletin  
11 board located in the lobby of the County Administration Building. The first item is the  
12 election of officers. At our last meeting I think we had nominations for the three offices.  
13 Who did we have on those? On the nominations we had Mr. Steven Gilchrist for  
14 Secretary. Do we have a motion to the effect?

15 MR. MANNING: Mr. Chairman, I'd like to make a motion [inaudible].

16 VICE-CHAIRMAN PALMER: Okay.

17 MR. FURGESS: I second.

18 MR. MANNING: Do I need to repeat that?

19 VICE-CHAIRMAN PALMER: So there's a motion and a second to elect Mr.  
20 Steven Gilchrist as Secretary. All those in favor, please signify by raising your hands.  
21 Those opposed?

22 *[Approved: Cairns, Westbrook, McDaniel, Tuttle, Palmer, Manning, Furgess, Mattos-*  
23 *Ward]*

24 VICE-CHAIRMAN PALMER: For Vice-Chair, we have a nomination of Mr. Deas  
25 Manning. Do we have a motion?

1 MR. TUTTLE: I'd like to make a motion that we nominate Mr. Deas Manning as  
2 Vice-Chair.

3 VICE-CHAIRMAN PALMER: We have a motion, do we have a second?

4 MR. WESTBROOK: I'll second.

5 VICE-CHAIRMAN PALMER: Those in favor, please signify by raising your hand.  
6 Those opposed?

7 *[Approved: Westbrook, McDaniel, Tuttle, Palmer, Manning, Furgess, Mattos-Ward;*

8 *Opposed: Cairns; Absent: Gilchrist]*

9 VICE-CHAIRMAN PALMER: We had a nomination of, well me, Pat Palmer, for  
10 Chairman. Do we have a motion to that effect?

11 MR. FURGESS: I make a Motion that Pat Palmer be the Chairman.

12 VICE-CHAIRMAN PALMER: We have a motion, do we have a second?

13 MR. MANNING: I'll second.

14 VICE-CHAIRMAN PALMER: All those in favor, please signify by raising your  
15 hand. Those opposed?

16 *[Approved: Westbrook, McDaniel, Tuttle, Palmer, Manning, Furgess, Mattos-Ward;*

17 *Opposed: Cairns; Absent: Gilchrist]*

18 CHAIRMAN PALMER: Okay, presentation of the Minutes for approval,  
19 December, 2009. Has everyone had a, an opportunity to read the Minutes? Are there  
20 any objections?

21 MR. FURGESS: I move we accept the Minutes.

22 MS. MATTOS-WARD: I second.

1 CHAIRMAN PALMER: We have a Motion and second. All those in favor to  
2 accept the December Minutes, please signify by raising your hands.

3 *[Approved: Cairns, Westbrook, McDaniel, Tuttle, Palmer, Manning, Furgess, Mattos-*  
4 *Ward; Absent: Gilchrist]*

5 CHAIRMAN PALMER: Are there any, any road name approvals? We don't have  
6 any, do we? No road names?

7 MS. ALMEIDA: No.

8 CHAIRMAN PALMER: Okay. And Agenda Amendments?

9 MS. ALMEIDA: Yes Mr. Chairman, there is a, an amendment found on page  
10 two, please strike out, in the paragraph where it says compliance with pending  
11 comprehensive plan, it is the adopted comprehensive plan. And that's the only  
12 amendment.

13 MS. CAIRNS: You're talking about the very first sentence of the very last, under  
14 the gray bar?

15 MS. ALMEIDA: Yes.

16 MS. CAIRNS: Okay.

17 MR. TUTTLE: I think it's page three.

18 MS. CAIRNS: Yeah, I'm sure it's everywhere.

19 MS. ALMEIDA: Yes, but just to make note for the Record.

20 MS. CAIRNS: So just strike the word pending when it refers to the '09 Comp  
21 Plan?

22 MS. ALMEIDA: Correct.

23 CHAIRMAN PALMER: Okay, do we have a motion to amend the Agenda?

1 MR. MANNING: Mr. Chairman, I'd like to make a motion that we adopt the  
2 language of the Comp Plan [inaudible].

3 CHAIRMAN PALMER: Do I have a second?

4 MR. TUTTLE: I'll second.

5 CHAIRMAN PALMER: All those in favor of amending the Agenda, please signify  
6 by raising your hands.

7 *[Approved: Cairns, Westbrook, McDaniel, Tuttle, Palmer, Manning, Furgess, Mattos-*  
8 *Ward; Absent: Gilchrist]*

9 CHAIRMAN PALMER: Well, case number 10-01 MA.

10 **CASE NUMBER 10-01 MA:**

11 MS. ALMEIDA: Yes, Mr. Chairman and Planning Commissioners, the applicant  
12 and property Albert McGee, Jr. is requesting a rezoning from RM-HD to OI. The  
13 acreage of the site is .406, less than a half acre. The current zoning reflects the original  
14 zoning as adopted in 1977, and the parcel contains approximately 160' of frontage  
15 along South Beltline Boulevard. The zoning request is being accommodated under our  
16 Chapter 26, as you can see under Summary Page 1. Under that Chapter 26-52, the  
17 zoning for parcels less than two acres can be accommodated due to the OI zoning  
18 contiguous to an existing commercial or residential zoning district, which this does  
19 apply. The proposed zoning as reviewed by Staff would not compliment the existing  
20 multi-family land uses. As you can see from the previous slide, to the south, west and  
21 east of the subject parcel, as you can see there is no OI request in those areas. The  
22 City of Columbia parcels are south, east and west and they are zoned RG-2. The RG-2  
23 zoning category is the equivalent of the Richland County Land Development Code for

1 RM-HD, which is the current zoning of the parcel. North of the subject parcel, as you  
2 can see, are residential, single-family parcels either zoned RS-MD or RS-2, which is the  
3 City of Columbia's zoning. Northwest of the existing site, along South Beltline  
4 Boulevard, you'll see office and institutional zoning parcels do exist that contain multiple  
5 structures, including residential and, and barber shops for instance. The parcel has  
6 direct access onto South Beltline Boulevard and Withers Drive. The office institutional  
7 district allows a number of commercial uses outright, such as convenience stores and  
8 gas pumps, funeral homes, etc. The RM-HD does not allow the majority of those  
9 commercial uses permitted outright under the OI district. The RM-HD does differ in  
10 minimum lot area, which affects maximum height and parking compared to the OI  
11 district. Water and sewer service is available on the site and is provided by the City of  
12 Columbia. The RM-HD is more in character with the surrounding area and land uses  
13 and Staff feels this is not compatible to what the applicant is requesting of OI.  
14 Therefore, Staff's recommendation is for a denial.

15 CHAIRMAN PALMER: Okay, any questions for Staff?

16 MS. CAIRNS: Is the current use as a daycare, evidenced by the photograph?

17 MS. ALMEIDA: Yes.

18 MS. CAIRNS: Is that a grandfathered use or an allowable use under the zoning?

19 MS. ALMEIDA: It is a grandfathered use.

20 CHAIRMAN PALMER: Is that it?

21 MR. MANNING: The purpose of this is to bring something into conformity? Or -

22 MS. ALMEIDA: It is, it's an existing childcare center. They're not denied their  
23 current use on the site.

1 MS. CAIRNS: I mean, are there any non-restrictions for it just staying  
2 grandfathered from the county?

3 MS. ALMEIDA: No.

4 CHAIRMAN PALMER: I believe the applicant is here? Mr. Albert McGee?

5 MR. MCGEE: Yes, sir.

6 CHAIRMAN PALMER: And if you could, when you take the podium, if you could  
7 give your name and address?

8 **TESTIMONY OF ALBERT MCGEE:**

9 MR. MCGEE: My name is Albert E. McGee, Jr., I live at 224 Rucker Road, which  
10 is on Lake Murray, which is still in Richland County. I have other properties, 905  
11 Walter's Lane in Columbia, South Carolina, which is also Richland County. I have been  
12 paying taxes on this property for approximately 25 years, we've had the daycare there.  
13 And where if you, you probably could check the police records, we have had no  
14 problems with the police. In fact we invited the police to radar because our property sits  
15 where it's a good radar spot and I've helped with them quite a bit. And the reason I  
16 want to change this is I'm getting to be 66 years old and I'd like to rent the property, but  
17 I'm not sure about the zoning, I, I'm not familiar with the Codes at all, I just put that  
18 Code down. I just want it so I can rent the property maybe as housing, not, not as  
19 housing, but as office space to maybe a CPA or a doctor. I don't want to screw up this  
20 property. It's been mine for 25 years and I sure don't want the price to go down any  
21 lower. We're currently in the ghetto at this minute, if you're familiar with that property  
22 you will find it there. I can't imagine living there and I used to paint this building myself  
23 and I've been painting it for 25 years, I've spent a lot of nights there changing the walls

1 and I tell you right now I didn't want to spend any nights there, I didn't paint at night, it's  
2 just scary to me people coming up there walking all the times of the day and night. This  
3 is not a, a location - in the daytime, there's no problem, we have no problems with  
4 anybody breaking in or none of that. We have a break-in about every four or five years,  
5 and we had one maybe in the last six months, of course we have nothing for them to  
6 take, nothing but TVs and they're not flat screens, so they don't bother us too much.  
7 We haven't lost anything in the building in years. It's probably been about 15 years  
8 since we actually had to replace anything for breaking in and breaking the windows or  
9 the doors, but that's my contention, I don't want to spend that kind of money, I'm 66, I  
10 don't want to borrow a bunch of money to convert it, if I was in twenties or thirties or  
11 forties, I probably would do that. But I just, but like I said I'm not set on the zoning,  
12 that's up to y'all. I just applied under that particular Code, if you can think of a different  
13 Code for me I'd like to rent the building and I, I, I see the daycare, we had a daycare at  
14 the end of our street to go bankrupt, down at the railroad tracks, if you're familiar with  
15 that part of our, our road and our daycare has not done well in years, but I've been  
16 subsidizing by another daycare center that we have in Chapin, which is unfortunately in  
17 Lexington County. I prefer Richland better and I've had better success with this  
18 particular one. Luckily I worked for Ford Credit 32 years and I've been able to keep this  
19 building afloat and I'd like to continue to do that. The only choice I know if I can't get it  
20 zoned, I'd have to tear the building down and then we all lose; y'all lose the tax and I  
21 lose the building. But I do want to keep that property for my, my two, two boys, 34 and  
22 32, and I know, I really, I'm a diehard, I don't want to sell it, I really don't. I want to keep  
23 it and if there's any way that you can think of a way for me to keep it, that's my attitude,

1 that's my point. I think this building has been used, in 1945 it was built some time  
2 during World War II, it was a grocery store, I don't know whether y'all remember that. I  
3 wasn't in Columbia, I was in Sumter, South Carolina, that's my home. And then I  
4 acquired the property I think in '84, April of '84. And looking back Vivian Pate had it in  
5 '82, looking back further than that, The University of South Carolina, it says Carolina  
6 Development, is that the University of South Carolina? I looked it up this morning in the  
7 deed section, it looks like The University of South Carolina had the property and one of  
8 my parents, when he was 47 years old said he went, he went to school there as a, as a  
9 student in daycare. And in 1962 it looks like the federal Marshals took control of this  
10 property and that's as far as I got back to. I think Woodlands Terrace got it about 1971  
11 and they actually developed it as condos and that's what you know it as today and then  
12 that's my point, I mean, I'm not hard to get along with, I, I've paid the tax on it, probably  
13 approximately \$100,000.00 since I been had it, it's around \$4,000.00 now today and all  
14 taxes have been paid on it currently every year. If you can find somebody to help me  
15 out, I'd appreciate it and I'm, I'm not, like I said if you want to zone it a different way it's,  
16 you know, or a different commercial way so that I can rent it other than as a daycare I  
17 appreciate it.

18 CHAIRMAN PALMER: Thank you, Mr. McGhee.

19 MR. MCGEE: Thank you.

20 CHAIRMAN PALMER: Questions for Mr. McGee? Questions? Thank you. Any  
21 discussion from the Commission?

22 MR. TUTTLE: Anna, had Mr. McGee applied for any other type of commercial  
23 designation, would Staff's view of this have been any different?

1 MS. ALMEIDA: No, sir.

2 MR. MANNING: So it would be Staff's position that if the lease of the daycare  
3 expired, that it would have to revert to the multi-family?

4 MS. ALMEIDA: At, at this time, yes -

5 MR. MANNING: Well that's -

6 MS. ALMEIDA: - due to the surrounding area. We've been in touch with the City  
7 of Columbia and their possible annexation further on in the future and their feeling is the  
8 same that the surrounding area is residential multi-family and they want to keep the  
9 integrity.

10 MS. CAIRNS: Well and it's not just that if a lease is expired, it's that, if it sat  
11 vacant without efforts to -

12 MS. ALMEIDA: Right for over a year.

13 MS. CAIRNS: - lease for a year.

14 MS. ALMEIDA: That is correct.

15 MR. TUTTLE: And, and if I'm not mistaken, if they wanted to make substantial  
16 additions or upgrade they would be prohibited?

17 MS. ALMEIDA: No, they can, they are allowed to upgrade.

18 MR. TUTTLE: But they couldn't expand?

19 MS. CAIRNS: I think the site wouldn't allow it.

20 MS. ALMEIDA: They could -

21 MR. TUTTLE: Well irrespective of that, would they be limited by that?

22 MS. ALMEIDA: They would be limited for expansion. Or let Mr. Price speak to  
23 that, those issues.

1 MR. PRICE: Yeah, normally you're telling me to turn the air conditioner up. The,  
2 they could, they could only make renovations to it internally, they couldn't expand it,  
3 make it larger. And also as far as a non-conformity, they are allowed to, it always, it can  
4 be a daycare and let's say a year went by that it was not occupied, as long as it's being  
5 maintained according to the Building Code and also being marketed, you know, that  
6 year really doesn't apply. It's a way for them to dispute the, the year abandonment or  
7 vacancy.

8 MR. MCGEE: Well let me ask you this, if we keep it as a daycare, then that's the  
9 same as it is?

10 CHAIRMAN PALMER: Yes, sir. Well, to keep it as a daycare -

11 MR. PRICE: The, the other option that does have available is to also, besides  
12 rezoning is to apply to the Board of Zoning Appeals for a special exception to convert a  
13 non-conforming use to another non-conforming use and the Board of Zoning Appeals  
14 would look at the proposed use to see if it's more in character with the permitted uses  
15 within that district. But that would be for every change to the property.

16 CHAIRMAN PALMER: For every use change?

17 MR. PRICE: Yes, and it would also, once again everything would have to take  
18 place internally in the building and it still would not allow any expansions.

19 CHAIRMAN PALMER: Do you understand that Mr. McGee?

20 MR. MCGEE: Yes, sir.

21 CHAIRMAN PALMER: Okay.

22 MR. MCGEE: No changes on the outside, just the inside.

1 CHAIRMAN PALMER: Right, and every time that you would like to change the  
2 use, if there's no zoning change, every time that you would like to change the use, say  
3 you did want to go to a, a tax office, they would need to go in front of the Board of  
4 Zoning Appeals and get that approval, if there is no zoning change.

5 MR. MCGEE: But right now we, we okay with the daycare center?

6 CHAIRMAN PALMER: Yes, sir.

7 MR. MCGEE: [Inaudible]

8 CHAIRMAN PALMER: Yes, sir.

9 MR. MCGEE: [Inaudible]

10 CHAIRMAN PALMER: That's right.

11 MR. TUTTLE: But if, and just so I understand it if Mr. McGee wanted to go and  
12 refinance the property, whomever the lender would be would only be able to lend  
13 money based upon that use in the current zoning, is that correct?

14 CHAIRMAN PALMER: Correct, which is -

15 MS. CAIRNS: I don't, that's -

16 MR. TUTTLE: Well my only point there is you're, you're severely limiting the  
17 possibilities for this, it could only be torn down and made multi-family, which I don't  
18 know that, from an economic standpoint that that would make sense.

19 MS. MCDANIEL: But from a neighborhood standpoint that would make sense. I  
20 am familiar with this area and that's the very edge of where the neighborhood and  
21 residential areas begin. So, allowing other office or industrial uses would be out of  
22 character with the surrounding neighborhood.

1 MR. TUTTLE: But there, there, it, isn't it, I'm sorry, isn't, isn't there a barber shop  
2 and a, and a pierce, a piercing place, tattoo place across the street?

3 MS. MCDANIEL: Those are across the street.

4 MS. CAIRNS: But they're up the street, too, though, they're up, I mean, they're  
5 in the next block up.

6 MS. MCDANIEL: And the other, other office industrial that provides the  
7 continuity to allow a less than two acre -

8 MR. TUTTLE: Right, but the pinks across the street does not really help  
9 [inaudible] on the block.

10 MS. CAIRNS: Well the, the tattoo shop is up in the red.

11 MR. TUTTLE: Right.

12 MS. CAIRNS: Up by the -

13 MR. TUTTLE: But the pink's the barber shop, correct?

14 MS. CAIRNS: Well I don't -

15 MR. TUTTLE: [Inaudible] directly across the street is my point.

16 MS. CAIRNS: Well, but this one, it didn't need continuity because it was, it's a,  
17 there's an exception that OI can go in if it's next to a residential.

18 CHAIRMAN PALMER: But the pink is a category, but my only issue with this is,  
19 is that we're dealing with a .4 acre site and there's a structure that's sitting on it currently  
20 that obviously does not comply to new building code standards, with landscaping and  
21 retention and storm water and parking and everything else that if this site were to be  
22 redeveloped as multi-family as it's currently zoned, I don't know how you fit one unit on  
23 there, much less, you know, the, the seven or eight that would be allotted to. I, I, I don't

1 know how you could redevelop this site as a .4 acre site and what the, the use of the  
2 land would be other than using the current structure that's on it for whatever uses may  
3 be suited for that current building. And that's, that's my only issue with it, I mean, it's  
4 not, we're not dealing with a landowner who's got 10 acres and is trying to redevelop  
5 the site, I mean, this is a current structure on, it could not be built on that land as is right  
6 now and if you go to redevelop this site I don't know what building you would put on  
7 there, other than -

8 MS. CAIRNS: Which might mean, I mean, but that would be maybe possibly the  
9 same argument with rezoning, but what you're talking about is a, a lot that's in a  
10 residential area, that, that, you know, the city, you know, Staff is saying the best is to  
11 keep it residential, you know, the City of Columbia, which my guess is someday they'll  
12 be, it'll be in the City of Columbia, but it should be residential. I mean, it's a  
13 grandfathered anomaly, it can continue to exist as it is, but if it doesn't it needs to  
14 conform to the surrounding land uses.

15 MR. TUTTLE: Here again I just want to restate there's a lot directly across the  
16 street, so I mean, I, I don't know what the argument would be that it's okay across the  
17 street, but this couldn't, couldn't, [inaudible].

18 MS. MCDANIEL: But that's just a small corner across the street. The vast  
19 majority of the area surrounding it is residential.

20 MR. TUTTLE: There's quite a bit of commercial that fronts Beltline now, South  
21 Beltline, all up and down South Beltline.

22 MS. CAIRNS: Not all up and down it.

23 CHAIRMAN PALMER: The problem we have here is we've got a -

1 MR. TUTTLE: Well no -

2 MS. MCDANIEL: It's just at that intersection.

3 MR. TUTTLE: Well no there's a, there's a meeting hall, about another block  
4 down the left there's a Lion's Club or Rotary or -

5 MS. MCDANIEL: [Inaudible]

6 MR. TUTTLE: -no, it's a Lion's Club or Rotary or something on the left and then  
7 if you -

8 MS. MCDANIEL: That's past it -

9 MS. CAIRNS: No, that's -

10 MR. TUTTLE: - and, any way.

11 CHAIRMAN PALMER: And the problem we have here is we're, we're on the  
12 border of Richland County and the City of Columbia and, and our maps don't show what  
13 the City of Columbia has on these sites, which I know Rosewood is a very  
14 commercialized area, as well as this front part here. I mean, there's, what a beverage  
15 store or something here on the corner -

16 MR. TUTTLE: And there's a real estate office down -

17 CHAIRMAN PALMER: - yeah, a real estate down one of those -

18 MS. CAIRNS: Yeah, on Rosewood, but that's the whole thing is that that's on  
19 Rosewood, which is definitely a commercial corridor with some residential, but this is  
20 going up Beltline, which is, which turns into a, a residential area and this is just allowing  
21 commercial creep into a residential area. So comparing it with Rosewood is just, we're  
22 basically saying anytime you're anywhere near anything you, and you know, the Staff  
23 has given us what the existing zoning is in the City of Columbia and it's all residential. I

1 mean, on page two, they've provided for us what the City of Columbia zoning is and it's  
2 residential.

3 CHAIRMAN PALMER: I don't personally, I don't have an issue with the  
4 commercial creeping in because that's why, that's why we have different grades of  
5 commercial zoning for is for them to slowly move their way into residential areas.

6 MS. CAIRNS: With gas stations?

7 CHAIRMAN PALMER: Well, let me finish. But one of my issues would, would be  
8 with the type of classification that was requested. Perhaps maybe it's, it's too loose of a  
9 zoning classification and I don't know what I would vote if it was, if it came back as  
10 something else, but I, I know that's, you know, the reason that we have different grades  
11 of, of commercial, so that everything is not a mall and it goes slap into a one acre  
12 residential area. But I, I do think that perhaps that the OI classification may be a little  
13 too aggressive for this site.

14 MS. ALMEIDA: Mr. Chairman, one of the difficulties that the applicant would  
15 have is in order to rezone to any other classification, he would have to acquire property,  
16 it's a two acre minimum. Therefore, the only classification he could fit into would be the  
17 OI because of the lack of two acres.

18 CHAIRMAN PALMER: Do you know why OI has that two acre minimum?

19 MS. ALMEIDA: No, but we're going to look into it.

20 CHAIRMAN PALMER: Yeah, I would say -

21 MS. CAIRNS: Would the daycare be a grandfathered, would the daycare be an  
22 allowable use OI?

23 MS. ALMEIDA: I believe so, yes, yes.

1 CHAIRMAN PALMER: What's the reason for the two acre minimum in the first  
2 place, do you know?

3 MS. ALMEIDA: I, I'm unfamiliar.

4 CHAIRMAN PALMER: Geo? Do you know what the reason for the two acre  
5 minimum for a rezoning is anyhow?

6 MS. CAIRNS: Probably to avoid spot zoning.

7 MS. ALMEIDA: That's true.

8 MR. PRICE: [Inaudible].

9 MS. CAIRNS: It's standard, it's sort of a standard thing, because of spot zoning,  
10 spot zoning is fundamentally illegal.

11 MR. MANNING: Unless it's a contiguous -

12 MS. CAIRNS: Unless it's part of a, part of a larger plan.

13 MS. ALMEIDA: Part of a, yeah.

14 MR. MANNING: Or like zoning?

15 MS. ALMEIDA: Yes.

16 MS. CAIRNS: I mean, you have to - right -

17 MR. MANNING: If it was, if it was abutting and OI?

18 MS. CAIRNS: Right, well then it's, then the theory is it's part of a contiguous, it's  
19 an overall plan because you've already got something there, but if you, to simply go into  
20 an area and pick out a little piece to rezone it, without it being part of some  
21 comprehensive plan is spot zoning, which is illegal.

22 CHAIRMAN PALMER: But they obviously haven't thought that since '77 on this  
23 piece of property.

1 MS. CAIRNS: It's grandfathered, which is -

2 CHAIRMAN PALMER: No, I'm saying they allowed an OI.

3 MS. CAIRNS: Right, I guess, I mean, that's what she's saying is it's, it is a weird  
4 anomaly that OI allows that.

5 MS. ALMEIDA: Yeah.

6 CHAIRMAN PALMER: So if it's, then it can't be spot zoning if it's allowed in OI -

7 MS. CAIRNS: Not necessarily, the law isn't constitutional because it's written.

8 MR. TUTTLE: Mr. Chairman, I would like to make a motion that, on the project  
9 10-01 MA to move forward for approval.

10 MR. MANNING: Second.

11 CHAIRMAN PALMER: We have a motion to send this forward with a  
12 recommendation of approval to Council. Any other discussion?

13 MS. ALMEIDA: I need Findings of Fact.

14 CHAIRMAN PALMER: In order for us to make a motion against Staff, you need  
15 to make a motion based -

16 MR. TUTTLE: I think, alright I would make, I would make it based upon the, the  
17 OI being directly across the street and commercial being adjacent to that, that is it  
18 conforming within the, the neighborhood, or is an acceptable use in the neighborhood.  
19 Is that something like what you're looking for or?

20 MR. MANNING: And OI is the only use [inaudible].

21 MR. TUTTLE: That's a good point, too, the fact that the OI is the only way it  
22 could be rezoned.

23 CHAIRMAN PALMER: We have a motion and a second. Any other discussion?

1 MR. MCGEE: Can I say something?

2 CHAIRMAN PALMER: No, sir, I'm sorry.

3 MR. MCGEE: Okay.

4 CHAIRMAN PALMER: I, I do appreciate, we've given you every - thank you. We  
5 have a motion and second. All those in favor to send case number 10-01 MA forward to  
6 Council with the recommendation of approval, please signify by raising your hand. All  
7 those opposed?

8 *[Approved: Tuttle, Palmer, Manning, Furgess; Opposed: Cairns, Westbrook,*  
9 *McDaniel, Mattos-Ward, Gilchrist]*

10 CHAIRMAN PALMER: Okay, we need another motion.

11 MS. CAIRNS: I make a motion that we move case forward, case 10-01 MA, that  
12 we deny the request for the map amendment.

13 CHAIRMAN PALMER: Do we have a second?

14 MR. GILCHRIST: I second.

15 CHAIRMAN PALMER: We have a motion and a second. I'd just like to say that  
16 the only reason for my vote on this is because of the zoning rules that we have and the  
17 size of the lot and that this is the only zoning classification [inaudible], I mean,  
18 [inaudible] the Record. Any other discussion? All those in favor of sending case  
19 number 10-01 MA forward to Council with the recommendation of denial, please signify  
20 by raising your hand. All those opposed?

21 *[Approved: Cairns, Westbrook, McDaniel, Mattos-Ward, Gilchrist; Opposed: Tuttle,*  
22 *Palmer, Manning, Furgess]*

1 CHAIRMAN PALMER: Mr. McGee, we are recommending Body to County  
2 Council, they have the final say on what happens on this piece of property. They are  
3 going to meet, when is their meeting?

4 MS. ALMEIDA: January 26<sup>th</sup>.

5 CHAIRMAN PALMER: On January the 26<sup>th</sup> in the same, these same Chambers  
6 and if you would like to show up at that meeting, it is recommended and they'll take  
7 action on your case then.

8 MR. MCGEE: What time is that on the 26<sup>th</sup>?

9 CHAIRMAN PALMER: Six, seven, 7:00 o'clock. Thank you. The next item?

10 **TEXT AMENDMENT:**

11 MS. ALMEIDA: Mr. Chairman, you have a text amendment before you on the  
12 storm water regulations.

13 MS. MATTOS-WARD: I can't hear you.

14 MS. ALMEIDA: I'm sorry, can you hear me? Alright, I'm sorry. Mr. Sparty  
15 Hammett, the Assistant County Administrator is here, Mr. David Hoops and Srinivas  
16 Valavala from our Department of Public Works to answer any questions regarding this.  
17 This text amendment went before the round table directed by County Council. These  
18 were the recommendations that were accepted and they are before you for review and  
19 any questions you may have, you can direct those questions to Staff.

20 MS. LINDER: And, and just a point, you did see this Ordinance in September of  
21 last year and the round table has made some additional modifications to it.

22 MR. MANNING: So the round table has met and their final, I mean, that's  
23 complete, that there is no more round table discussions that will take place?

1 MR. HAMMETT: There's no more round table discussion on the Storm Water  
2 Ordinance. Two of the 22 principles from the development round table Phase II  
3 addressed storm water that was development principles 17 and 22, and the storm  
4 water, and the development round table Phase II group met two incorporate those  
5 principles into the pending Storm Water Ordinance. In addition we also looked at five  
6 pages of comments that Bill Flowers from Civil Engineering had and we also  
7 incorporated many of those concerns or issues into the, this revised version. So this is  
8 the, the version that has been approved and signed off on by the development round  
9 table.

10 MR. MANNING: And has this version been adopted in text only by the Council or  
11 has the Council approved this document and it's being sent back to us? Or on this side,  
12 is this, is this, or are we getting the first bite of the apple here?

13 MS. LINDER: This, this is coming to you directly from the round table and it's  
14 going to have a second public hearing on January 19<sup>th</sup> and it will be before Council for a  
15 third and final reading on the 19<sup>th</sup>. And so we're asking you to look at this Ordinance  
16 with the revisions in it as it's presented and you either recommend approval of it or if  
17 you're not comfortable with it, recommend denial. But it will be going forward on the  
18 19<sup>th</sup>.

19 MR. TUTTLE: And, but we would also have an opportunity to amend it?

20 MS. LINDER: You will have an opportunity to make comments that we can  
21 forward, but we're not amending the Ordinance at this time. But we can, if you make,  
22 make recommendations, we can certainly share those recommendations, but we're not

1 going to incorporate them into the Ordinance until we're directed by County Council to  
2 do so.

3 MR. MANNING: Well then what is the purpose of bringing it back to the Planning  
4 Commission?

5 MR. GILCHRIST: Yeah, that's what I'm saying.

6 MS. LINDER: This is for your information, as a, as a courtesy and if you have  
7 any feedback that you would like to provide to us, we welcome that. But again the  
8 round table was a group of staff and the development community and environmental  
9 folks and it was a consensus of, a consensus on how we reached this, this language.

10 CHAIRMAN PALMER: How are the round table members, how are they elected  
11 or appointed or, or who are they?

12 MR. HAMMETT: The, the development round table members were all, the phase  
13 II members were all part of the phase I, the phase I members, the environmental  
14 community, they selected members, the Conservation Commission, as well as the  
15 Appearance Commission, they selected their members for phase I. The HBA actually  
16 selected the development round table members for phase I and then what we did with  
17 phase II is the environmental group and the development community group selected  
18 their four members. So each, there were 12 members, I actually facilitated, I was a  
19 non-voting member, we had four Staff members that participated, four development  
20 community members that participated and four environmental. The four Staff members  
21 were Amelia Linder, Anna Almeida, David Hoops and, and Srinivas Valavala. The four  
22 development members were Darren Holcombe, Bill Flowers, Bill Dixon and Doug

1 Bridges was the fourth. The four environmental were Carol Kasowski, John Greggo,  
2 Bob Guild and Tracy Swortout.

3 CHAIRMAN PALMER: And I guess, do you think it's proper that someone who's  
4 appointed by the Council for say the Appearance Commission should be involved in the  
5 round table as well? I'm saying do you think a member of the Appearance Commission,  
6 who's appointed by County Council should be involved in the round table and then be  
7 supporting information? The Conservation Commission or the Appearance Commission  
8 or anything else?

9 MR. HAMMETT: We, basically what we try to do is try to get cross-  
10 representation from environmental, developmental, community, a development  
11 community and Staff so that we could come together and, and have everyone with  
12 equal members at the table. I know one of the concerns in phase I was that there was  
13 a, a feeling from the HBA that the numbers, that we had too many Staff at times, other  
14 outside representatives. So what we really did and what I enforced from the beginning  
15 was that there were four, you know, members from each group at each of the meetings.

16 CHAIRMAN PALMER: The problem I have, Mr. Hammett is that basically what it  
17 sounds like to me, and I didn't notice until I just got here about two or three minutes ago  
18 and just heard what this is, is that we've had another group of people put together to do  
19 what the job of the Planning Commission is. And that group of people was put together  
20 to take a look at a storm water ordinance and to make recommendations on that and we  
21 are not to make recommendations on it, we are simply here, it's simply here for  
22 information as a courtesy to us, but not to make changes to it and that is what upsets

1 me a little bit that another group was put together to do what the Planning Commission's  
2 job is.

3 MS. LINDER: Well if you would like to make recommendations, again you can  
4 certainly forward those to County Council, but this, the round table process was at the  
5 direction of Council and this had been before you in September and you had  
6 recommended approval at that time. And Council is free to make any amendments  
7 after that they want to and so there's no requirement by law that this Ordinance come  
8 back to the Planning Commission. You have had your chance to make your, your  
9 recommendations and I guess this is as a courtesy and if you would like to make  
10 additional comments, we can certainly forward those to County Council.

11 MR. MANNING: Mr. Chairman, I think that the Commission has been somewhat  
12 misled by the process, I think, you know, we, we did some pretty tough work back in  
13 September if that's when it was and took it, it came to us, we, we made  
14 recommendations, came back with a recommendation to the Council and then it went to  
15 them, it bogged down significantly, it took a tremendous amount of time to get the ball  
16 moving again. I'm glad the round table and the Commissions and the groups got  
17 together to move this process forward, but it was clearly our understanding that this, this  
18 would come back to the Council if there was big revisions to it. And there have been  
19 and I think some of them have been good, but I agree with the Chairman that the  
20 process here is, is not correct. For us to, to be here today with this type of Ordinance in  
21 front of us to merely hear what the round table discussion is, I think it, it circumvents  
22 what the Planning Commission's here for.

1 MS. ALMEIDA: Well Mr. Manning, I, I think because, and you very distinctly  
2 made a statement, we've been working on this storm water, it's been going back and  
3 forth for more than 12 months and there, there was a lack of consensus. The Council  
4 believed that the round table, because it was a diverse group coming together and  
5 being able to come to a consensus, giving that option to them that was their, their  
6 request. We felt that the Planning Commission needed to at least see the document  
7 and see the changes that were made, but we wanted you all to know that there was  
8 consensus between all three groups.

9 MS. LINDER: And I would like to also add I don't, I, I do believe that you as a  
10 Planning Commission had valuable input to put into this document and I think the  
11 recommendations you made back in September were good ones and have been, and  
12 most of them have been left alone.

13 MR. MANNING: Then why would we not be asked to do it again if they were  
14 good recommendations? I, you know, whether they're good or bad, it really doesn't  
15 matter, but the purpose of the Planning Commission is to take proposals from Staff and  
16 the community and Council and try to codify them and have a debate over them and  
17 we're not being allowed to do that in this process and I, I just feel like to circumvent it  
18 and, and I made this comment when we got started that there should have been, rather  
19 than sending this kind of Ordinance to the Planning Commission and say vote on it  
20 today, there should have been some workshops and discussions on it. We could, we  
21 could have been done with this a long time ago, a long time ago. But because of the  
22 way this thing has been run, we're back at the same place we were when we got  
23 started.

1 CHAIRMAN PALMER: Mr. Tuttle?

2 MR. TUTTLE: I'm kind of in a unique position because prior to my appointment  
3 to the Planning Commission, I was a participant in the round table process and I, I do  
4 think that there were a lot of very positive things that came out of the various groups  
5 coming together to try to create something that made sense. However, I was always  
6 under the impression as a participant in the round table that the document would come  
7 back before the Planning Commission, for the Planning Commission to understand it,  
8 have the opportunity to make amendments and then it would pass back through. I  
9 guess it, the legal question is how much of the document has to be changed before it's  
10 substantially changed and has to originate back at the Planning Commission.

11 MS. LINDER: I, I don't think that that is the question. Documents, whether they  
12 change or don't change, they change a little or change a lot, are irrelevant as, as to  
13 whether something comes back to the Planning Commission. The statute is very clear  
14 that when changes are made at a public hearing, then it needs to go back.

15 MR. TUTTLE: Okay, but we -

16 MS. LINDER: But these changes were not made pursuant to any public hearing.

17 MR. TUTTLE: Okay, but I, I guess where it gets a little cloudy is there were  
18 several different storm water ordinances that were being discussed a year ago or  
19 whenever it was. Okay? And then one of them went to Council and then was sent back  
20 and the round table process started. So where did you start with the amending? Did  
21 you amend the one that had the reading at Council?

1 MS. LINDER: The, the Ordinance that the Planning Commission approved in  
2 September went to a zoning public hearing and I believe that it was at that point where it  
3 just got deferred to the round table.

4 MR. TUTTLE: Okay, so I mean, there was, you know, there were even some of  
5 the basic concepts of that original document have been modified substantially since  
6 then. For instance the, the entitled properties section is significantly different. I was  
7 always under the impression as a participant and I think we were even told that it would  
8 come back before the Planning Commission and then Planning Commission would  
9 make recommendations and then it would go back to Council. I'm, I'm just, the, these  
10 gentlemen are saying from their perspective the process was different than they  
11 thought. I was on the other side of the fence and I'm saying from my perspective it's  
12 different than what I was told. I'm not sure how we reconcile that, if we don't have any  
13 right to amend it, then we don't have a right to amend it, but that wasn't what we were  
14 told.

15 MS. LINDER: I, I apologize if there's any miscommunication, it has been a long  
16 process. You as a sitting Planning Commission again can make recommendations on  
17 changes, we can forward those, but unless County Council agrees to take up those  
18 recommendations, we can't change the Ordinance at this point.

19 CHAIRMAN PALMER: But, but it's your opinion that there has not been any  
20 substantial change? There hasn't, there hasn't been any change from the public  
21 hearing in, to the document that is in front of us today.

22 MS. LINDER: The, the changes were not made pursuant to that public hearing.

1 CHAIRMAN PALMER: So my question to you then is should it not just be sent to  
2 us as information only and not receive a vote? What's the purpose of a vote today?  
3 Because we voted as a Planning Commission to send something forward to Council,  
4 Council can do with that whatever they like. And as far as I'm concerned if they don't  
5 change it or they do change it or, or you as the attorney says that it doesn't need to  
6 come back to the Planning Commission, what we were told or we weren't told, all that is  
7 what it is, but why is it back in front of us if we are not looking to make changes to it, put  
8 our input into it, send them something different than what they sent us, or if we're just  
9 looking for an up or down vote, there's no reason for that. And I don't want to waste my  
10 time, the Commission's time or anyone else's time doing that.

11 MR. HAMMETT: The, the reason we're sending it back with a vote is that, that  
12 you do have the opportunity to make recommendations, so we did that as a courtesy.  
13 What, in discussing this with Amelia, we, one of the things was, is we're in a crunch for  
14 time in getting this passed, so we extended, we had the December 1<sup>st</sup> deadline where  
15 the Storm Water Ordinance was, our deadline with DHEC, we pushed that back two  
16 months, so we've got until February 1<sup>st</sup>. So what we wanted to do is bring this back, we  
17 could have just had it on the agenda for informational purposes, but we clearly wanted  
18 to bring it back to the Planning Commission so that you can make recommendations  
19 and those recommendations will be forwarded to Council. The, this is the, the, this  
20 version of the Storm Water Ordinance is a consensus document that was approved by  
21 the development round table which Council in the, in the December meeting, accepted  
22 all of the development principles and authorized phase II of the, the round table. So we  
23 have to bring their document back before Council, but as a courtesy we wanted to bring

1 the document back to the Planning Commission to at least give you the opportunity to  
2 forward any recommendations. You know, it, Council clearly could choose to make  
3 amendments based upon the recommendations of, of the Planning Commission. Now  
4 the -

5 MS. LINDER: And if the Chair desires we do have Staff that can go over with  
6 you what those changes are that are different now from what you saw in the document  
7 in September.

8 MR. TUTTLE: Okay, just, just so I understand, one of the reasons I understood  
9 that Planning Commission doesn't have more involvement in this is due to time  
10 constraints? Is that what I understood?

11 MR. HAMMETT: That's correct.

12 MR. TUTTLE: Because, because there's always been an issue relative to the  
13 timing of this. Is there a hard deadline from DHEC at this point? Because I wasn't  
14 aware that's ever been formalized.

15 MR. HAMMETT: Right. What we had, the, the deadline that we had from DHEC  
16 was December 1<sup>st</sup> and so we sent a letter to DHEC extending the deadline two, two  
17 months to give us to February 1<sup>st</sup>.

18 MR. TUTTLE: Was that, was the December 1<sup>st</sup> deadline, was that, I was under  
19 the impression that was something that Richland County picked, that that wasn't  
20 something that DHEC had imposed.

21 MR. HAMMETT: Yes, we, we, actually the deadline was originally in, Srimi, I  
22 think it was originally July, we extended, this is at least the second time we extended  
23 the deadline. What we had to do in responding to DHEC is give them essentially an

1 implementation plan, so this, the Storm Water Ordinance was one of the components  
2 that we had to comply with. So in our implementation plan we had passed the Storm  
3 Water Ordinance by, I think the first timeframe may have been July, so we had to  
4 extend that to allow for when Council sent the document to the development round table  
5 to allow for that time, so we extended, we asked for a, an extension to December 1<sup>st</sup>.  
6 When we had the, the meeting, Council meeting where we didn't have a quorum, that  
7 made it physically impossible to get the document prepared by December 1<sup>st</sup>, so that's  
8 when we asked and received the, an extended deadline from DHEC until February 1<sup>st</sup>.

9 MR. TUTTLE: On the items on your implementation list that don't relate to this  
10 document specifically, are all those complete and ready to go? I, I guess my point  
11 being if there are three other outstanding issues and you're not going to comply anyway  
12 because those aren't ready, then should this have to be fast-tracked relative to that?

13 MR. HAMMETT: I'm going to let Srinu answer that.

14 MR. MANNING: Before, before we get into that, I, I've got one other point.  
15 When this document came to us initially, it came with the same need, I mean, you were  
16 under a deadline to meet with DHEC and we took it up at that time trying to facilitate  
17 that need. And so when the county comes back to us now after a year's delay and says  
18 we've got to do something by February, it seems a little bit disingenuous to me. I just, I  
19 don't understand how the process can stop and start and then be, and then come to the  
20 Planning Commission and ask us to either do something or nothing under those kind of  
21 timeframes when it's that important to the county. Some, something's not clicking right.

22 MS. CAIRNS: I, just one thing I've heard from Staff and in this is that, you know,  
23 the question was asked is the only reason we're doing it this way is because of time and

1 the answer from Staff was yes, however a few minutes ago Staff also said in, it sounds  
2 that what we've been told is this is a perfectly legitimate way based on our rules to do  
3 this and that it basically was Council's decision to do the round table as a way to get to  
4 a final document. So saying that the only reason we're here today in this posture is  
5 because of time, I don't think is necessarily an accurate statement. You know, we are  
6 here because the rules allow it and we are here because this is in essence, it sounds  
7 like what Council decided to have happened. I mean, so, so the fact that we are, been  
8 given a relatively short opportunity to make amendments to this and, and in the form of  
9 recommendations, is something that Council decided, which is allowed in their rules.  
10 So I think that is, you know -

11 CHAIRMAN PALMER: Right, I'm seeing all that, but I also I'm -

12 MS. CAIRNS: - it's not just, but I mean I don't, I don't think it's accurate or  
13 genuine to say the only reason we're here in this posture is because of time because  
14 the facts belie that.

15 MR. TUTTLE: Well, if, if that's the case there's no sense in spending time going  
16 through the -

17 MR. MANNING: Well, it's typically with an Ordinance we send a  
18 recommendation to the Council and there's a substantial change to it, it comes back, it's  
19 coming back generally for our input and vote, whereas in this case it's for information  
20 only. I, I came today prepared to discuss a lot of things which I feel at this point are  
21 somewhat being negated by the process. You know, I could have written this out and  
22 sent it to the Council as an individual citizen and it would have had just as much affect  
23 as, as what we have today. So I just think that -

1           CHAIRMAN PALMER: I, I agree that the process, why, when something comes  
2 to us at the Planning Commission, we put time, effort, energy into it, vote on issues,  
3 send something forward to Council and then at that point they decide to get the  
4 community together and put a document together is wonderful, they should have done  
5 that before, but they did that after if left the Planning Commission. Well, well now to  
6 send it back, that document, which should have come to us first for us to take a look at  
7 and send forward to Council, now they're sending it back to us and, and are saying  
8 whether you like it or not, this is what we're gonna pass, the issue that I have is with the  
9 process and the Council can do that with the process and that's fine and if you want to  
10 send it to us for information that's fine, but don't send it to us for a rubber stamp is the  
11 only issue I have. We, we've taken it up once at the Planning Commission, we put a lot  
12 of time and effort and energy into it and we sent forward to Council what our thoughts  
13 were as a Planning Commission and we voted on those. Now to send it back to us with  
14 the, with the efforts of either saying you like it or you don't like it or, you know, vote yes  
15 or vote no, just to possibly maybe get some sort of cover for, you know, perhaps if  
16 there's a legal issue down the road that we should have sent it back to you, we've got to  
17 vote on it or something, I, I don't agree with whatsoever. If you're gonna send it back to  
18 us and we're, and it's in our packet as if it's an item for us to take up and the Planning  
19 Commission Members put time and effort into it, we need to do that, or it just doesn't  
20 need to get a vote from the Planning Commission period. That's the issue I've got with  
21 it. Any other Commissioner thoughts?

22           MR. GILCHRIST: Let me ask this question, the, if we choose not to take any  
23 action on this, what happens?

1 MR. HAMMETT: It will be forwarded to Council at the January 19<sup>th</sup> meeting. It's  
2 already scheduled for a public hearing on January 19<sup>th</sup>.

3 MR. GILCHRIST: Okay.

4 MR. TUTTLE: If, so if we had thoughts or potential adjustments to the document,  
5 then we couldn't get those on Record as individuals, so we would have to propose  
6 those as a group and then the Planning Commission recommended this as a change?  
7 So any changes that we would have we would have to discuss line item by line item and  
8 then vote on them and then if it passed then that would, that's the only way any of our  
9 thoughts would go to the Council, is that correct?

10 MS. LINDER: If, if you have thoughts as a Planning Commission on  
11 amendments, we would forward those. If you have individual ones, you can present  
12 those individually at the public hearing.

13 MR. TUTTLE: Right, but I'm saying the only way we could formulate one as a  
14 Commission would be to, to discuss each, each line item and vote on it?

15 MS. LINDER: That is correct.

16 MR. TUTTLE: And then that's the only way that it would go forward, is that  
17 correct?

18 MS. LINDER: That is correct.

19 CHAIRMAN PALMER: And then while we move forward to Council, the  
20 Council's recommendation to us, or the round table's recommendation to us to move  
21 forward to Council as is and then there would be a second recommendation which  
22 would then be the Planning Commission's recommendation, which would then move  
23 forward as well?

1 MS. LINDER: We would present your amendments on a separate addendum or  
2 memo to Council, the Planning Commission recommends these changes on page 24,  
3 they want this change and, and -

4 CHAIRMAN PALMER: It would be if, if there was any change to the document  
5 that was sent to us, there would be a vote for denial and then there would be a vote for  
6 the amendment, each one?

7 MS. LINDER: That County Council would do?

8 CHAIRMAN PALMER: No, that we would do.

9 MS. LINDER: That, yes.

10 CHAIRMAN PALMER: Because we, we would vote to deny it as it currently sits.  
11 If we don't agree with every word on it, we need to vote for denial.

12 MS. CAIRNS: If that's your theory, that's your theory.

13 CHAIRMAN PALMER: Well, that's, that's the question I'm asking the legal  
14 attorney.

15 MS. LINDER: You could recommend approval with this amendment and you  
16 could put that recommendation on the Record.

17 MR. MANNING: Or denial, right?

18 MS. LINDER: That is correct.

19 CHAIRMAN PALMER: So it's, it sounds like - well we, we've got some folks  
20 who've come here and have signed up to speak and we, we've, we've advertised it as a  
21 public hearing, so we'll move forward in that, that effort as a public workshop I guess, if  
22 that's the technical term for it.

1 MS. LINDER: This a public meeting and you, you traditionally have allowed  
2 public members to speak at your meetings.

3 CHAIRMAN PALMER: Okay, we've got two members, two people signed up to  
4 speak. Mr. Bill Theus and Mr. Walter Taylor and if you would take the podium and give  
5 us your name and address for the Record.

6 **TESTIMONY OF BILL THEUS:**

7 MR. THEUS: I thank you Mr. Chairman and Commission Members. My name is  
8 Bill Theus, I live at 1521 Tanglewood Road in the city and in the county. I'm here  
9 specifically to talk about the title property definition that's in the Ordinance in front of  
10 you, I, this is, I'm a broken, broken record on this issue. A year ago or whenever it was  
11 when this, when this first came out of Planning Commission the entitled property  
12 exemption was expanded per the language on the 8 ½ x 11 sheet that you're getting  
13 right now. The problem I have with the definition per the Ordinance is that it requires,  
14 as written in front of you, it requires land owners to know exactly what, to get plan  
15 approval and development plans and all that, you need to know exactly what's gonna go  
16 on your piece of property. And I'm here to discuss two properties that Walter Taylor and  
17 I own and we're just small guys here in town, I presume it's a widespread issue for  
18 others that just don't know about it yet. Both of these properties were bought in the last  
19 three to five years after a significant amount of due diligence, land planning, rezoning  
20 and at great expense and I might add with lots of bank debt. Both properties have  
21 commercial lots, which we hope to sell, they back up to wetlands and/or streams. Both  
22 of them have minimal, minimal depth as they exist today and with adding, adding  
23 buffers to them will kill the values of these lots. If you would start with Blythewood

1 Crossing, the exhibit, this is out at U-21 and I-77, the yellow is a waterline that we have  
2 installed at our expense, the orange is sewer line that we have installed at our expense,  
3 the road leading into the property is a road that we built at our expense. The hatched  
4 area that you see throughout this exhibit is the land that is lost to us with a 50' buffer.  
5 We spent three and a half million dollars for the land, we spent another million-eight for  
6 improvements, the lots that are shown conceptually here, they're not already subdivided  
7 because we don't know what the users going to be. The user may want an acre, they  
8 may want two acres, it depends on where you're going to put the line, so we've, these,  
9 these lots are hopefully T-d up to sell when the economy improves. The area is growing  
10 as you probably know, down Turkey Farm Road just a little ways, a new high school is  
11 under construction; there will be a traffic light here at Turkey Farm. When you look at  
12 lot five there for example, on the right hand side of our new road, think about a  
13 Walgreen's for example which will pay \$15 to \$20 a square foot for the site they want,  
14 which means that's a million dollars plus or minus if they can get it on there, which I  
15 contend they cannot if we have that buffer there. If you go to the next exhibit, Ballentine  
16 Crossing at I-26 and the Peake exit, it as well shows the yellow is the waterline we've  
17 installed, orange is the sewer line we've installed, we've also stubbed in a new  
18 construction, a newly constructed road there, all that's very, we just turned the road over  
19 to the county in the last couple of months, the same issue there, there's no specific use  
20 yet known for that. He gave me his, the other guy gave me, gave me his time, Mr.  
21 Taylor. We put all of this in at the expense of roughly \$400,000. We would ask, we are  
22 asking for, for protection by expansion of the entitled property exemption to, to be what  
23 it was when you first approved this. We are all for clean water, I just think we need to

1 make a distinction between properties that have been largely developed and those that  
2 are laying fallow as investment out in the, you know, that have not been touched, and I  
3 thank you for your time.

4 CHAIRMAN PALMER: Any questions for Mr. Theus? Thank you. Now the  
5 entitled properties language that came out of the round table I guess mimics pretty  
6 closely to the state legislation, right? As to when a property is vested?

7 MS. CAIRNS: What page is that, the entitled property?

8 MS. MCDANIEL: Page seven, it's on page seven.

9 CHAIRMAN PALMER: Ms. Linder?

10 MS. LINDER: The current definition of entitled property is on page seven of your  
11 Agenda. I, I'm not sure what it previously read as.

12 MR. MANNING: What page?

13 CHAIRMAN PALMER: Page seven? The entitled, the entitled language, the  
14 entitled properties definition is very closely related to the state legislature which is,  
15 which gives vested rights for a piece of property?

16 MS. ALMEIDA: So you're talking about vesting -

17 CHAIRMAN PALMER: Right.

18 MS. ALMEIDA: - by state legislature?

19 CHAIRMAN PALMER: Right.

20 MS. ALMEIDA: Yes, it is very close, it talks about having sketch plan approval,  
21 yes.

22 CHAIRMAN PALMER: So in reality putting this language in our Ordinance  
23 doesn't do anything above what somebody is already granted from state, state rights?

1 MS. ALMEIDA: As far as vesting?

2 CHAIRMAN PALMER: Right.

3 MS. ALMEIDA: Correct.

4 CHAIRMAN PALMER: It doesn't, it doesn't go any further than what it states, so  
5 there's really no reason to put it in there because, I mean, they have those rights  
6 anyhow, right?

7 MS. CAIRNS: It's still worth putting in there.

8 MS. ALMEIDA: You still need to put it in there.

9 MS. MCDANIEL: Well, in vesting, it deals with your right just to develop the  
10 property, not the requirements of what you have to do for storm water, so I think it is  
11 necessary to have that in this [inaudible].

12 CHAIRMAN PALMER: Well, I can very, very clearly see where this is an issue  
13 for me personally. I just see that me, in my opinion, it's, this is an issue and this is the  
14 reason – well, I think I was even the one who made the motion to send the entitled  
15 properties language forward from the Planning Commission, you know, that we had in  
16 our Planning Commission recommendations because I could see where this would be  
17 an issue for people all across the county.

18 MR. MANNING: [Inaudible] reason for that being, I mean, the previous  
19 recommendation was?

20 CHAIRMAN PALMER: Is there a spokesperson for the round table that can  
21 explain perhaps why -

22 Ms. Cairns: Well, I mean I, I think that it -

1 CHAIRMAN PALMER: - as to why this entitled language was taken out or  
2 changed?

3 MS. LINDER: Well, well, we're deleting, we're defining entitled property, we, we  
4 define words or phrases of words that are used in a document so there's no  
5 misinterpretation and that word entitled property is used in the Ordinance.

6 CHAIRMAN PALMER: Right.

7 MS. LINDER: And so we're defining it.

8 MR. TUTTLE: Right, but I, I think more specifically Mr. Palmer's question was  
9 what, what was the genesis of the change from the original entitled property definition  
10 passed by this Body last September until now? What, what was the difference? Why,  
11 why did it change?

12 MS. CAIRNS: Well I mean, I would just -

13 MS. LINDER: I, I don't recall what it's definition was in September.

14 MR. TUTTLE: Here, I can show you, I mean, that was in the, that was in the  
15 handout that Mr. Theus just gave you.

16 MS. CAIRNS: This one? Well, I mean, clearly, I mean, I, you know, to a certain  
17 extent clearly the, the definition in our packet brings more property under the Ordinance.  
18 So I think what's the reason it's to bring more property under the Ordinance, which will  
19 improve our water quality in the county faster.

20 CHAIRMAN PALMER: I was, I was more concerned with, with why the round  
21 table came up with the change. Mr., Mr. Flowers were you on the -

22 MR. FLOWERS: Yeah, my name is Bill Flowers, I was on the, the round table,  
23 both versions of the round table and I just want to go back to a point that Mr. Hammett

1 made earlier that the round table, the second round table was charged with looking at  
2 the, the current version of the, of the Ordinance as drafted by the Staff in addressing  
3 those two principles. It specifically it addressed it, and as we had time we also  
4 addressed a few other concerns that were raised, but we did not look at the entire  
5 Ordinance, that was the Ordinance that was presented by the Staff and we amended it,  
6 [inaudible] to those two principles, those two storm water principles only. So we never  
7 really addressed the entitled property issue directly in the round table.

8 CHAIRMAN PALMER: Well, so this document as a whole was not voted on or, I  
9 guess it's improper to say then that the, that the round table II as a whole agreed on this  
10 storm water document?

11 MR. FLOWERS: That's, that's correct. That, that would not be a -

12 MS. LINDER: The, the -

13 MR. FLOWERS: - true statement.

14 MS. LINDER: - the, in general the items that are highlighted or in blue font, were  
15 the changes that were made, that the round table had a consensus on, it, it's sort of  
16 highlighted in the areas that the round table took up and I think you'll see that blue font  
17 throughout the Ordinance.

18 CHAIRMAN PALMER: I understand, but this, this is, this is completely abnormal  
19 in that the, the round table we were told earlier addressed this document that's in front  
20 of us.

21 MS. LINDER: They addressed two principles -

22 MR. HAMMETT: What the round table did, was to incorporate development  
23 round table principles 17 and 22 into the pending Storm Water Ordinance, so essentially

1 when Council adopted back in May the, more the Lexington model, this was, this  
2 language was taken from the, that model. So what we did was, as a round table is we  
3 incorporated those two principles in the, into the pending Storm Water Ordinance, as  
4 well as Bill Flowers with Civil Engineering had about five pages of comments and  
5 concerns, the development round table decided to open up and revisit those concerns  
6 and, and we did because he had a lot of good issues that, that there was some  
7 ambiguity that we took out of the Ordinance. I think the, some kind of concerns, some  
8 issues that would have been a concern both from Staff's perspective in the review  
9 process and as well as from the development community, so that's basically what the  
10 Storm Water did, is it incorporated the two development round table principles related to  
11 Storm Water into the pending Ordinance, as well as cleaned up some of the other  
12 issues that were brought by one particular member of the development round table to  
13 that body.

14 CHAIRMAN PALMER: But this is not a document that is approved by the round  
15 table?

16 MR. HAMMETT: No it, the, the round table, all of the round table members  
17 signed off on agreement, on their agreement that they agreed with the incorporation of  
18 development round table principles 17 and 22 into the pending Storm Water Ordinance.  
19 So that's, that's, and that was our task from Council, Council basically sent the pending  
20 Storm Water Ordinance to the round table for a report, the phase I of the round table,  
21 there were two other principles that came out of phase I that directly addressed storm  
22 water, phase II took those two principles and incorporated it into the pending language.

1 MR. TUTTLE: Okay, here again I was confused as a member of the round table.  
2 I thought after the principles were decided upon, the whole Ordinance was going to be  
3 rewritten. I, I guess I'm wrong, and then I guess the answer to my earlier question, the  
4 entitled properties language that's in the document now comes from the Lexington  
5 Ordinance? Well, it would have to because that's what Council passed, correct?

6 MR. SRINIVAS VALAVALA: Mr. Chairman and Commission, Council made some  
7 changes to the Ordinance when we presented it during the second reading, Council did  
8 some changes that includes Lexington County, part of it, they're asking us to do some  
9 changes just as it is, as in Lexington County, but make 85' and a lot of other stuff and  
10 effecting the property also, the stuff that came during those changes -

11 MR. TUTTLE: Well I'm confused -

12 MR. VALAVALA: - but as it -

13 MR. TUTTLE: - no, no sir, or is it your contention that when Mr. Jeter made his  
14 motion to adopt the Lexington County Ordinance with the two changes, if memory  
15 [inaudible], the entitled properties was one of those changes?

16 MR. VALAVALA: I think so, we need to, we need to check back.

17 MR. TUTTLE: Can somebody pull the Minutes of that?

18 MR. VALAVALA: If, if, if that is the, I think -

19 MR. TUTTLE: Because of we started with the wrong document, then we started  
20 with the wrong document, but I don't remember Mr. Jeter saying anything about entitled  
21 property.

22 MS. LINDER: It would take some while to find the Minutes.

23 MR. TUTTLE: Well, it's online.

1 CHAIRMAN PALMER: Isn't it online?

2 MS. LINDER: I'm sorry?

3 MR. TUTTLE: It's on line.

4 CHAIRMAN PALMER: We can look it up online.

5 MR. VALAVALA: Is the document that I have in my hand is the, is the document  
6 that we started, when we, when we started the discussion, that one I have it in my hand  
7 and that language is already there at the time.

8 MR. TUTTLE: Right and I appreciate that, I just know there were three different  
9 versions that were floating around and I just want to make sure that, that what you  
10 started with was what Council asked us to start with. I don't have a Lexington document  
11 in front of me so I don't know.

12 [Inaudible discussion]

13 MR. HAMMETT: Okay, on, on page 29 of the pending Ordinance, what we did  
14 with entitled property is there was no definition at the beginning of the Ordinance itself,  
15 so we essentially, there are a couple of, the definitions that we pulled to the front of the  
16 Ordinance on page 29 of the pending Ordinance, the - well on page 29 of the pending  
17 Ordinance, which is up on the Internet right now, which is the standing Ordinance, it  
18 indicates all entitled property, entitled property means any property that prior to, insert  
19 date the Ordinance was adopted, has received a land development permit or sketch  
20 approval or preliminary plan approval. Essentially with the round table all we did is that,  
21 that definition was already in the document, we pulled, the reason this is in blue, we  
22 pulled that definition to the front of the document.

23 MR. TUTTLE: You don't happen to know which page that is in our book?

1 MS. LINDER: The, the definition is on page seven.

2 MR. TUTTLE: Of our book or?

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

4 MR. MANNING: That's it?

5 MS. LINDER: That's the definition.

6 CHAIRMAN PALMER: But I think -

7 MS. LINDER: The, the document that Mr. Hammett just showed you, it was, it  
8 was the definition that was put further in the, in the Ordinance, but it would, it would  
9 really be appropriate if we're going to define a term of, of art, or a term, we put it under  
10 the definition section. So we took it out of in the depth of the Ordinance and brought it  
11 up to the definition section.

12 MR. HAMMETT: So really the only action that the development round table did  
13 with, with the entitled property is, is take the definition from the body of the document  
14 and pull it up to the front.

15 CHAIRMAN PALMER: We're being asked to vote on the entire Storm Water  
16 Ordinance, correct?

17 MS. LINDER: Correct.

18 CHAIRMAN PALMER: The round table, when the meeting was called, were they  
19 informed that they would have comments, they would be able to make comments on the  
20 entire document or were they, they were informed they would just be able to make  
21 comments on two specific sections, is that correct?

22 MR. HAMMETT: The, basically our task from Council was to incorporate the two  
23 principles into the Storm Water Ordinance, but I did open it up to the development round

1 table to, as I indicated Bill Flowers had five pages of concerns that we opened up and,  
2 and looked at in further detail and really some of it was just cleaning up some of the  
3 language. Also, taking out some of the ambiguity that existed, but the task of, the, the  
4 primary task of the development round table phase II as, as set up by Council was to  
5 incorporate those two principles into the Storm Water Ordinance. So essentially what  
6 the development round table members signed off on is their agreement with the  
7 incorporation of the principles into the Storm Water Ordinance.

8 CHAIRMAN PALMER: And we're being asked then to take, to re-look at the  
9 entire document as a whole? Not just what the round table looked at?

10 MS. LINDER: The, the Ordinance that's in your package is what we're asking  
11 you to look at.

12 CHAIRMAN PALMER: Which is more than what the round table looked at?

13 MS. CAIRNS: It sounds like the -

14 MS. LINDER: The Ordinance that's in your package is the Ordinance the round  
15 table signed off on. No changes were made after the, this document that is in your  
16 package was sent to all round table members and all 12 members signed off on it.

17 MR. TUTTLE: Right, I, I think Mr. Palmer's point is that absent those two  
18 sections that were addressed by the round table, there's been no input or opportunity to  
19 change any other part of the document in this process a year later. Is that fairly stated?

20 CHAIRMAN PALMER: Well, that, that's what Mr. Flowers just said, is that he  
21 did, he did not check off on the entire document, simply on those two sections.

22 MS. LINDER: Yes, we, we looked at the two principles and we had to find out  
23 how to fit those two principles into the document.

1 MS. CAIRNS: It wasn't two sections, I mean, that's sort of what the, the -

2 MR. TUTTLE: I mean, I under, I understand all that -

3 MS. CAIRNS: Yeah, I mean, it, it doesn't always sound like it does from other  
4 Commission Members. I mean, it's not that the round table looked at two Code  
5 sections, they came up with two principles which were incorporated back into this Code,  
6 wherever they needed to be.

7 MS. LINDER: Correct.

8 MS. CAIRNS: Affecting whatever sections they needed to to get the principles  
9 into Code.

10 MS. LINDER: And then, and then we clarified it and we made some  
11 typographical, or we made scrivener's changes just because it, it read better in a certain  
12 different way, so we just cleaned it up, but without - anything I would have done would  
13 not have been without the round table's consensus on.

14 MS. ALMEIDA: And let's not forget the five pages from Mr. Flowers.

15 MS. LINDER: Correct.

16 MR. TUTTLE: And we assume those related to those?

17 MS. ALMEIDA: Excuse me?

18 MR. TUTTLE: I assume those relate to the two, two areas which was -

19 MS. ALMEIDA: No, they, they ventured outside those two principles.

20 CHAIRMAN PALMER: Well, if the other members, the other three members of  
21 the development side and the other four members of the environmental side were not  
22 informed to bring comments as it related outside of the two sections?

1 MR. HAMMETT: No, what, what we did is when Bill Flowers presented his  
2 concerns to me, what I told him and what I told the round table members that if there  
3 concerns and the members were agreeable to hearing those concerns, then they were  
4 opened up. So there were, there were other issues that were brought up as well, but it  
5 had to be a consensus of the group. Basically Council, County Council empowered the  
6 development round table to move forward with these two principles, incorporate those  
7 into the Storm, pending Storm Water Ordinance and bring back a Ordinance that all 12  
8 members could, could agree upon as it relates to the incorporation of those two  
9 principles.

10 MR. TUTTLE: Okay, as, as a matter of business, if, if I want to propose an  
11 amendment to this, how would I do that? Because generally you would, you would -

12 MS. LINDER: You would do it as a motion -

13 MR. TUTTLE: Okay.

14 MS. LINDER: - telling us exactly what you wanted amended, we would put it in a  
15 memorandum to Council what you wanted to amend.

16 MR. TUTTLE: Okay, I would like to make a, a motion to amend the entitled  
17 properties definition and exchange it for this one that's, that's here, that was distributed.

18 CHAIRMAN PALMER: Do you want to read that into the Record?

19 MR. TUTTLE: On entitled property, entitled property means any property that  
20 prior to the adoption of this Ordinance has been subject to either development activity or  
21 governmental approval. Development activity means: I: a proper owner has  
22 commenced construction of a building of, or any of, any portion of potable water  
23 distribution, transportation system, sanitary sewer distribution, or transportation system,

1 a storm water drainage system or a public road; II: the property owner has commenced  
2 grading or other land disturbance activities. Governmental approval means issuance by  
3 Richland County or other applicable governmental authority of a permit to commence a  
4 development activity or approval by Richland County of subdivision of the property, of a  
5 plan development district zoning for property, or of a sketch plan for development of the  
6 property. If a development activity or governmental approval has occurred with respect  
7 to any tract and such tract was subsequently subdivided or the, or in the future is  
8 subdivided by approved subdivision plat and all subdivided parcels that were part of the  
9 original tract shall be considered entitled property.

10 MR. MANNING: Second.

11 MS. CAIRNS: I think I would just like to sort of make comments that I think that  
12 this definition, I mean, I can remember previously having some discussions about this, I  
13 certainly don't remember the specifics, but I think it's sort of important that there be  
14 some discussion of the fact that this definition of entitled property would incorporate an  
15 enormous amount of property that would keep it outside of this new Ordinance and  
16 would continue to cause the county water quality problems, which is why we're where  
17 we're are. So I think any definition, I mean, my, my feeling is this definition is far too  
18 generous to inclusion of property and certainly we don't have any numbers to show, but  
19 I, my, my reading of this definition is that it's, would incorporate enormous amounts.

20 CHAIRMAN PALMER: My question then is with the information that Mr. Theus  
21 has presented us, do you, do you feel there's any validity to his argument or do you just  
22 completely dismiss what he's presented as being an issue in the county?

23 MS. CAIRNS: I feel that this definition is way too broad.

1 CHAIRMAN PALMER: Do you have -

2 MS. CAIRNS: I can't, I can't go to his specific, I, I, I'm not gonna look at his  
3 specific, you know, issues and say based on these two things and what he sees as  
4 potential difficulty with marketing his property because of something the county needs to  
5 do to fix our water quality, that we should therefore adopt the definition that would  
6 incorporate tons of land into a definition. I mean, I'm not willing to believe that the only  
7 way to solve what he sees as, as issues, ignoring the issues of the water quality in the  
8 county which is a big deal, that this is the solution.

9 MR. MANNING: But -

10 MS. CAIRNS: You know, so I mean, I think that, that this entitled property  
11 definition does allow property to avoid this if it's far enough along in its development.  
12 You guys understand these definitions, but, I mean so do I, but I think this offered  
13 definition is, almost eviscerates this Ordinance for, for probably years and years and  
14 years and years.

15 MR. TUTTLE: Yeah I, I'm sorry Deas, you can go ahead.

16 MR. MANNING: There was a, there was an amendment in our recommendation  
17 to Council, we don't know why that was eliminated or changed. Can you pull the  
18 language it, on what we approved in our previous recommendation to Council?  
19 Because it's similar to this.

20 MS. CAIRNS: I mean, that's what, to a certain extent I think that's, that's also  
21 one of the issues that we should consider is that, that I know, I mean, my recollection is  
22 that we sent something at least very similar to this up to Council before and that is what  
23 came back, which I think may be a statement of Council.

1 CHAIRMAN PALMER: Yeah, but we don't take statements of Council, we're,  
2 we're a recommending Body to them and we don't take instruction from them as to what  
3 we should or should not vote on.

4 MS. CAIRNS: Well, I mean, we can keep -

5 CHAIRMAN PALMER: I voted on it last time -

6 MS. CAIRNS: - we can continue to recommend it over and over, but I just, you  
7 know, I mean -

8 MR. MANNING: That's what we're being asked to do today is either recommend  
9 something or not.

10 MS. CAIRNS: Right, but I, you know -

11 MR. MANNING: We've got a motion on the floor for an amendment.

12 CHAIRMAN PALMER: Is it possible to, to pull the language that we sent to, to  
13 Council previously?

14 MS. LINDER: I'd have to go to my computer desk because I'm probably the only  
15 person that has saved the different versions and I can pull my tracking sheet as well as  
16 to when you took it up and when Council took it up. If you wanted to recess?

17 MR. TUTTLE: But you know, is, is a, just a point relative to your argument, I, I  
18 don't know how you make the assertion that it's a significant or abnormal or a huge  
19 amount of property, I mean, you're talking about property that has started the  
20 development process, that's not raw land that's just sitting there waiting to be developed  
21 one day, there's, there's been some sort of agreement between the county and the, and  
22 the purchaser or the owner of the property to move forward with something where  
23 people have spent significant monies, time and effort to do something and then with the

1 stroke of a pen we're talking about completely changing that and I just don't think that's  
2 appropriate. I, I disagree with the argument that it, that it, that the amount of properties  
3 this brings into play is this big, I, I don't have any way to do that, I doubt it's that big.

4 MS. CAIRNS: Well, I just do that because the definition is so generous, you  
5 know, if, if, you know, some land disturbance activity or the, the building of something in  
6 that it incorporates all the future subdivisions of any of that entitled property. I mean,  
7 so, I mean, it would, it could potentially bring in, if you've done one thing along a  
8 frontage road, all of the acreage that was originally owned by that person when that was  
9 done would suddenly become entitled property, regardless of when it gets developed,  
10 which I, which, that's why I say I think, you know, reading of this is that - and, and I  
11 mean, this, you know, the, the definition that we've got has an entitled property, you  
12 know, if there's an approved plan.

13 MR. TUTTLE: But in the, in the real world you, you can't, there, there are  
14 developments in town that are in their 14<sup>th</sup> and 15<sup>th</sup> year of development activity that  
15 were still not designated as to what they might do in one of the final parcels of that  
16 property because you don't know what the market might dictate on a 15 or 20 year  
17 project. It's, it's unfair to ask somebody to come and subdivide parcels of this size,  
18 trying to guess on what the market's going to ask them to do in 15 years.

19 MS. CAIRNS: Well, what's a land development plan approval, wouldn't it, I  
20 mean, you're talking about if, you know, I mean -

21 CHAIRMAN PALMER: Well, if you receive a land development plan approval is  
22 a tremendous amount of commitment.

23 MS. CAIRNS: Yeah, it's a plan, a preliminary plan.

1 CHAIRMAN PALMER: Yeah, a land development permit is -

2 MS. CAIRNS: That's your final step.

3 CHAIRMAN PALMER: [Inaudible].

4 MS. CAIRNS: The preliminary plan is your first step.

5 CHAIRMAN PALMER: [Inaudible].

6 MS. CAIRNS: But I mean, there's got to be something that allow the county to  
7 start improving, improving the water quality and if, if we are, if we, you know, so what  
8 you're saying is that is that we need to adopt an Ordinance that should keep certain  
9 undeveloped parcels out of it's coverage that might be 15 or 20 years down the road?  
10 Well, that's not particularly tenable for the county in the terms of having to improve  
11 water quality. So if something's gotten some level of development, even though it may  
12 be 20 years before that piece of dirt actually sees something happen, we're gonna use  
13 a 20 year old Ordinance that we had to replace because it was causing us water quality  
14 problems because 20 years ago a developer made a commitment to do something that  
15 he was going to wait 20 years, you know, it's like no, no, no, you can't, it's not -

16 CHAIRMAN PALMER: Yeah, but they've been working on this along, it's not like  
17 somebody puts money in now and puts a road in and says nah, let's shove that one for  
18 the next 20 years -

19 MS. CAIRNS: Well, I don't -

20 CHAIRMAN PALMER: - these, and in reality, I mean, you, you don't spend  
21 money unless you're planning on making money and so somebody's not going to go  
22 spend money just for the fact of hey I'd like to put a road in. They're, they're working  
23 towards the end, they're, they're trying to get there and that's what this language is

1 trying to do is to get, you know, these, these guys and gals out there who have looked  
2 to develop these properties and because of the economic slow-down or whatever's  
3 happened, a lot of plans have gotten put on hold, as we can see at the Planning  
4 Commission level -

5 MS. CAIRNS: I'm not -

6 CHAIRMAN PALMER: - and they haven't gone to the development process  
7 stage because they don't want to pay the engineer, they don't, they don't have the  
8 money to pay them, but there's an advantage -

9 MS. CAIRNS: I, I understanding that, but at the same time we need to start  
10 bringing land into a water treatment system that protects our waterways. You know, I  
11 mean, we're balancing, you know, and, and basically what you're asking to say is if, if  
12 some developer has made some commitment on some level then their property is  
13 exempt. And that's -

14 CHAIRMAN PALMER: Well, but you don't -

15 MS. CAIRNS: - that's not a balance, there's no balance there.

16 CHAIRMAN PALMER: - [inaudible] quantify it, I mean other, other than, other  
17 than going as we see the land development sketch plan for preliminary plan approval,  
18 approval, which is, are tremendous steps and tremendously costly to get done and not  
19 to mention the fact that you've got to know exactly what you want to do, where you want  
20 those lines to be at, which you don't know until you get the tenant.

21 MS. MCDANIEL: Well, and if you haven't really started developing the property  
22 yet, then you still have the opportunity to incorporate these storm water requirements  
23 down the road, it's just going to be an additional cost and you're just gonna have to

1 factor that in. I think, I don't think we can trade off water quality for possible  
2 development of some property down the road.

3 MR. TUTTLE: Well, okay, but, but we're making a huge leap here, we're, we're  
4 making the assumption that, that this property can't be developed in any way that's  
5 environmentally sensitive and that, that's not fair either. Whether we have the buffer or  
6 not, there is still a way for the water quality to be maintained.

7 MS. MCDANIEL: Certainly.

8 MR. TUTTLE: I mean, most likely these, these parcels will be developed  
9 commercially and have their own retention basin which will collect the water and then  
10 disburse in a very small area, so I mean, I -

11 MS. MCDANIEL: But it won't necessarily be in compliance with what new  
12 development has to comply with.

13 MR. TUTTLE: But what you're, what you're gonna do from an economic  
14 standpoint is you're gonna stifle large scale developments where people that, that have  
15 owned land, had a vision they were trying to develop something over a long period of  
16 time, you, that, that's no longer gonna happen because they can't have any security.  
17 There's people that have developed, I mean, I'm a part of one that's a, that's a 15 year  
18 old project that has been a boom for Richland County. I don't even want to talk about  
19 the, the tax revenues, etc. that Lake Carolina has provided the county and without  
20 protection long-term from what the regulations might be, there's no way to develop a 20  
21 year project, you just can't do it. And it's not fair to pull the rug out from people halfway  
22 through the process because they have no idea what somebody might want on parcel

1 12 years from now. That's just, that's just not an ethical way to do business in my book.  
2 So I have a motion on the table, I don't know if there's more discussion or not.

3 CHAIRMAN PALMER: I mean, there's, there's infrastructure already in and for  
4 them to, for you to say that there's just, there's no significant, I mean, they don't know  
5 what they're doing, it's, it's crazy, they're putting infrastructure in. But yet they're not  
6 protected under the current proposed entitled property language, although not to  
7 mention the significant investment in the land itself of which you lay out the project, what  
8 you conceptually think it's going to look like and you see if it's gonna make money for  
9 you or not. And, and now, and now the amount of land that's being taken out of this,  
10 would certainly have been taken out of the purchase price because of the buffers that  
11 are in there would not have been included in the purchase price in the first place  
12 because it would have been useless land.

13 MS. MCDANIEL: You have to draw a line somewhere though and any land  
14 disturbance activity, if you've done any land disturbance activity you don't have to  
15 comply with these storm water provisions, that is unreasonable.

16 MR. TUTTLE: Well, now wait, wait a minute but a land disturbance activity,  
17 there's a process and you have to go through the process to be permitted to do land  
18 disturbance activity. You can't just go out and arbitrarily start clearing and claim that  
19 you've had that, you've been through a process with the county.

20 CHAIRMAN PALMER: You can't just go rent a bulldozer and start clearing out -

21 MR. MANNING: If you've already done the land disturbing process with this and,  
22 and I think the argument was after the fact, the buffers can be [inaudible] the property,  
23 going to the original intent. So after the fact, the rules changed and, you know, if, if they

1 had come in with a land plan knowing that the buffers were going to be required on that  
2 property, they probably would have done it a lot differently.

3 CHAIRMAN PALMER: Mr. Hammett?

4 MR. HAMMETT: Yes, one thing I'd like to add on page 45 is, there is a section  
5 on waivers, so that's the, that's the other option that some of these individuals would  
6 have with the existing language and with that they could appeal to, they could ask for a  
7 waiver to Public Works and the way if you look on the bottom of page 45 if Public Works  
8 were to turn that down, then that waiver appeal would come back before the Planning  
9 Commission. So, there is, you know, an option to address some of these issues  
10 through, through the waiver process.

11 MR. TUTTLE: Yeah, I, and Sparty I had a question, that was one of the things I  
12 highlighted is, is that a function of the Planning Commission or that would be the  
13 responsibility of BOZA?

14 MS. CAIRNS: It says that it's Staff and then us.

15 MR. HAMMETT: It's Public Works and then the Planning Commission.

16 MR. TUTTLE: So the Planning Commission can be a – okay.

17 MS. ALMEIDA: Would be the appeal body.

18 MR. HAMMETT: Yes, would be, the Planning Commission would be the appeal  
19 body so that, there is, it's, it's not like there's not some provision, you know, for  
20 hardship. They could appeal, also and, and we, and we really had, you, you know, we,  
21 with the development round table there was a good balance so the concerns of the  
22 development community, there were concerns of course expressed and they were very,  
23 as far as the waiver language and everything, within this version of the Storm Water

1 Ordinance our development committee members were very involved in, in the wording  
2 of this language.

3 MR. MANNING: Mr. Hammett, in, in the case of a PDD, the appeals come back  
4 to the Planning Commission. We, we had one recently, Arcadia Lakes, and that appeal  
5 was not granted by, by us and it went on to Circuit Court I, I believe. Would that be the  
6 case in this situation, if an appeal here?

7 MS. ALMEIDA: Right, you would appeal, the applicant could appeal the decision  
8 of Public Works. So the, the request for the waiver would be submitted to Public Works,  
9 Public Works would make their determination, if it was unacceptable with the applicant,  
10 then that recommendation, that appeal would then go to you all, to the Planning  
11 Commission.

12 MR. MANNING: And if that, that appeal was not granted, is there an appeal  
13 beyond that? As, is there -

14 MS. ALMEIDA: The Circuit -

15 MR. MANNING: - some legal relieve asked?

16 MS. ALMEIDA: - Circuit, they could, they could go to Circuit Court.

17 MR. HAMMETT: Right.

18 MS. CAIRNS: If the, if the waiver is granted by Public Works?

19 MS. ALMEIDA: No, if the waiver is granted -

20 MS. CAIRNS: But if the, if the waiver is granted, can an interested party appeal  
21 the grant of the waiver?

22 MS. ALMEIDA: I believe they can, yes, any party could.

23 MS. CAIRNS: Okay.

1 MS. ALMEIDA: Yes.

2 MS. CAIRNS: Because that's what we had in Arcadia Lakes, was the neighbors.

3 MS. ALMEIDA: Correct.

4 MR. HAMMETT: Yes, that was discussed.

5 MS. CAIRNS: So it would be the same, same sort of scenario, it could play itself

6 out?

7 MS. ALMEIDA: Yes.

8 MR. HAMMETT: Yes.

9 CHAIRMAN PALMER: And what defines a hardship?

10 MS. ALMEIDA: On page 45, is it also -

11 MS. CAIRNS: Well it's generally unique, unique features of that site that make

12 compliance with the Ordinance -

13 MR. TUTTLE: But wouldn't that mean in, in this specific example we have in

14 front of us that for each parcel that was contiguous to the buffer they would have to

15 come and each time separately appeal? Go to Public Works and do that and if that

16 didn't work then they would have to go and subsequently appeal each time?

17 MS. ALMEIDA: However the applicant wanted to do it.

18 MR. TUTTLE: I mean, I, I just don't understand. I mean, we, we need to, we

19 need to be able to grant people that are involved in the process at some stage, some

20 level of certainty from a financial standpoint so they know how to go forward. To say

21 that you can come back and, and, you know, the, the waiver process might be good if

22 you are looking at a specific piece of property that you didn't already own and you could

23 see if you could work your way through the process. But for something you already

1 own, to have to go back on each parcel and go back before Public Works and then if  
2 that didn't work here and then each other party could come back and, and argue that  
3 you shouldn't have been approved at Public Works and all that's – I, I don't think we're  
4 kicking the ball any further down the field.

5 MR. MANNING: Well, I'd like to have the waiver provision in there, I think we  
6 need a waiver provision.

7 MR. TUTTLE: I, I don't disagree with that.

8 MR. MANNING: I think you need to define vested rights or entitled properties -

9 MR. TUTTLE: I agree.

10 MR. MANNING: - more clearly in this -

11 MS. ALMEIDA: From, from a Staff perspective I just have concern about any  
12 governmental approval. You could have an approval from the Feds and they are not  
13 looking at Richland County Storm Water. You can have an approval from Utility and  
14 that's done way ahead of time before subdivision and they do not look at Storm Water  
15 Regs. You have a lot of entities that are giving out approvals at the very preliminary  
16 stage and they are not looking at the fine picture, they're looking broadly and not looking  
17 at the same concerns that we would be. So that, from a Staff perspective, is concerning  
18 to me.

19 MR. HAMMETT: In, in addition there was, if, if you look on the bottom of page  
20 42, number nine and the top of page 43, number 10, this was also some language that  
21 we put in because one, one thing that this version of the Storm Water Ordinance does is  
22 it gives flexibility based upon the site, so it's not a one size fits all, 40, 85, 50, 100. So if  
23 you look at number nine, if all on site storm water run-off is captured and routed through

1 a permanent water quality basin and there is no sheet flow discharging in the buffer, the  
2 buffer area can be reduced to 25'. This is intended to apply in limited situations such as  
3 small commercial developments. And number 10, also, so the, if you, if you look  
4 throughout this version what we have is a lot more flexibility to meet the needs of the  
5 development community based upon the site.

6 MS. SWARTOUT: I didn't hear you close out public comment, did you close out  
7 [inaudible] able to give public comment?

8 CHAIRMAN PALMER: Yes, ma'am, because they were here to sign up.

9 UNKNOWN FEMALE: I understand, but usually you open it beyond those just  
10 signing up. I was kind of waiting for that, I know you haven't finished and I don't want to  
11 interrupt, but -

12 CHAIRMAN PALMER: Okay, we can, we can address that through a vote of the  
13 Planning Commission I guess.

14 MR. FURGESS: What about the motion on the floor.

15 CHAIRMAN PALMER: Yeah, we'll, we'll address the motion and then we'll go  
16 forward on other things. Anna, real quick, I just want to address one thing and I may be  
17 reading it wrong, but I think the governmental approval in this, in this definition, I think  
18 that it's pointing every time to a Richland County -

19 MS. CAIRNS: Or other applicable governmental authority.

20 MS. ALMEIDA: Yeah.

21 CHAIRMAN PALMER: So, so the Staff's problem is, or other applicable  
22 governmental authority were taken out would relieve the heartburn of Staff.

1 MS. ALMEIDA: Well, if the City of Columbia approved a water line, which they  
2 have done without Richland County approval, which I will take this Wilson Boulevard  
3 one, this PDD was approved with a buffer along the entire frontage of Highway 21 and  
4 that was a contention we had early on, no fault of the applicant, which then we tightened  
5 language on buffer where you can't put utilities in buffers that are required. And that  
6 was one case in point that the City of Columbia, because of ease, went ahead and  
7 threw those water lines and I will say exceeded 15' in width and cut a swath through  
8 that buffer that was required by the Planning Commission on their PDD. Again, not the  
9 applicant's fault because the City of Columbia decided that's where they were going to  
10 put the water line.

11 MR. MANNING: But, but the water line can't be put in until the county has  
12 approved an overall land disturbance permit.

13 MS. ALMEIDA: We do not see, we did not see the water line -

14 MR. MANNING: You didn't see the road and the water line and all of that before  
15 you approved it?

16 MS. ALMEIDA: We did not approve the water lines, the City of Columbia went  
17 ahead and approved it through the buffer, yeah. We now have language that has  
18 tightened up to eliminate that.

19 CHAIRMAN PALMER: Just, just for my benefit, just, on either one of these,  
20 would Richland, what would Richland County have approved on these?

21 MS. ALMEIDA: The subdivision, the overall lot layouts.

22 MR. MANNING: And the county would have had to approve the, the road  
23 layout?

1 MS. ALMEIDA: At sketch plan, um-hum (affirmative).

2 MR. MANNING: At sketch?

3 MS. ALMEIDA: Sure.

4 MR. MANNING: And the city would have had to approve the water line?

5 MS. ALMEIDA: Well -

6 MR. MANNING: Because that's the only authority in the area to do that?

7 MS. ALMEIDA: Sure.

8 CHAIRMAN PALMER: So would these projects be exempt from the current  
9 Ordinance under the current proposed entitled property language?

10 MS. ALMEIDA: Well, if they do have sketch plan, they have to adhere to the  
11 permit validity, the vesting, they have to make sure that they get their extensions in.  
12 Now of course PDDs, but yes, as long as they keep their extensions up to date, they  
13 have their approvals. Now if they lapse, that's a different story.

14 CHAIRMAN PALMER: How long are the extensions granted for?

15 MS. ALMEIDA: I believe the first approval is for two years and then you get five  
16 extensions, one year extensions after that, but they have to be applied for. But from a  
17 Staff perspective again I will say these are of course just two out of many.

18 CHAIRMAN PALMER: Right.

19 MS. ALMEIDA: Which, but in general a, a development that would come in and  
20 get an approval from the city to extend a water line, that's just too broad, that could be  
21 anybody.

22 CHAIRMAN PALMER: I'm taking it, as, as long as the issuance by Richland -

23 MS. ALMEIDA: And I've not analyzed as this -

1 CHAIRMAN PALMER: Right.

2 MS. ALMEIDA: - this was just handed to me right now, so.

3 CHAIRMAN PALMER: Right.

4 MS. CAIRNS: I think it's important though to look at this entitled property  
5 definition with the waiver ability in the back and so if you've got something that doesn't  
6 fall into land development sketch plan or preliminary approval and yet you've got an  
7 existing lot that, that the restrictive application of this Ordinance causes a hardship, you  
8 can ask for a waiver.

9 CHAIRMAN PALMER: Right.

10 MS. CAIRNS: You're not gonna just be able to blanket exempt a large tract of  
11 land because some development approval occurred somewhere on it.

12 CHAIRMAN PALMER: But I completely agree with Mr. Tuttle and we have a  
13 prime example of that, of the last case that came in front of us and to your question it  
14 said can a person who has interest in the site -

15 MS. CAIRNS: Right.

16 CHAIRMAN PALMER: - that site, I don't know if that's still been decided,  
17 [inaudible], Roper Pond or whatever it is.

18 MS. ALMEIDA: I've not heard anything further.

19 CHAIRMAN PALMER: But they have, that has been tied up for a year and a  
20 half? I mean, it's a tremendous amount of time and, and to come in on each one of  
21 these and to go through that same exact process that if you have a -

22 MS. CAIRNS: But with the, but I mean, that we keep getting is this disconnect  
23 that you've got, I mean, without looking at anything specific although there's one

1 specific thing, Staff is basically saying that what's been handed to us without making a  
2 final determination is likely to fall into this entitled property. So if you've got individual  
3 lots and you've done all your stuff, you're probably in entitled property. What we're  
4 looking at are large tracts of land that have seen little and haven't gotten to this level of  
5 approval that, that the waiver would be for the whole thing, not for all the individual  
6 parts.

7 MR. MANNING: But this is, you know, this could apply to a small piece of  
8 property. This, this could happen to somebody who started putting water and sewer in  
9 a year ago and, and could be done and sold out whenever the market turns. It doesn't  
10 have to be a 20 year project.

11 MS. CAIRNS: But they probably have an approved plan.

12 MR. MANNING: They probably do.

13 MS. CAIRNS: Right.

14 MR. MANNING: But what, what, why should we not get entitled property right on  
15 the front end so we don't have to rely on waivers?

16 MS. CAIRNS: Well but I, I, I think that waiver is -

17 MR. MANNING: I'd rather -

18 MS. CAIRNS: - a much better way to go than -

19 MR. MANNING: - right now.

20 MS. CAIRNS: - pass this entire property that would just pick up, you know, it  
21 would be too broad.

1 MR. MANNING: Do we want to, Anna, wait for the language to come back and  
2 then go ahead and move forward or do we want to just take his motion up and move  
3 forward now?

4 MS. CAIRNS: And can we make a motion to open the floor back up for public  
5 comment?

6 CHAIRMAN PALMER: Well, we have a motion on the floor as it is. So we have  
7 a, a motion -

8 MR. MANNING: You, you got a motion on the floor and you got a second and,  
9 but I asked Ms. Linder to get the previous language that we had adopted.

10 CHAIRMAN PALMER: Which was discussion about that motion -

11 MR. MANNING: Right.

12 CHAIRMAN PALMER: - and seconded. So we do need to wait on that  
13 language, I guess Ms. Linder has gone to get.

14 MR. HAMMETT: Yes, she has.

15 MR. MANNING: Can we defer action?

16 CHAIRMAN PALMER: Well, we, we'll just defer this, this motion until Ms. Linder  
17 gets back and move forward with additional, on other issues. Do we have a motion? I, I  
18 guess there's a request to make it, do we have a motion to open the floor?

19 MS. CAIRNS: Yeah, I make a motion to open the floor for additional discussion  
20 from the public.

21 MR. TUTTLE: I'll second.

22 CHAIRMAN PALMER: I have a motion and a second to reopen the public  
23 discussion. All those in favor, please signify by raising your hand. All opposed?

1 *[Approved: Cairns, Westbrook, McDaniel, Tuttle, Palmer, Manning, Furgess, Mattos-*  
2 *Ward, Gilchrist]*

3 CHAIRMAN PALMER: We'll leave the sign-up sheet up here and if you would  
4 like to speak on this issue, please come down and sign-up. We're gonna take a three to  
5 five minute break and if you want to sign-up on this issue, please come down and sign  
6 up.

7 *[BREAK]*

8 CHAIRMAN PALMER: We'll call the Planning Commission back to order. We've  
9 got a few more individuals signed up to speak. Tracy Swortout?

10 **TESTIMONY OF TRACY SWORTOUT:**

11 MS. SWORTOUT: I'm sorry, it's difficult to pronounce the last name. Tracy  
12 Swortout, Superintendent of Congaree National Park and I'm speaking just on behalf of  
13 myself, not on behalf of the development round table. I was part of the development  
14 round table, the big round table and then also a part of the smaller 12 person round  
15 table. And I just really wanted to come up and say, you know, we've been in this  
16 process for more than a year, as many of you have, and have seen many iterations of  
17 the plans. I was really pleased with the opportunity to get together environmental  
18 groups, development leaders, as well as members of the Staff to find a solution that was  
19 very reasonable and wasn't all give or take on anyone's side. I mean, you know, I can  
20 tell that from my personal perspective representing the park, I was here advocating for a  
21 hundred foot buffers in certain areas and I think that what we've come up, come up with  
22 now is something that is not only going to work for the county, but is all, is also going to  
23 result in a huge time and cost savings when it gets to individual requests for

1 development down the road because I think what you're going to find less of is a lot of  
2 these coalitions on either side bashing each other and, and, you know, having problems  
3 with every single development that comes down the pike. I do think that this is a  
4 consensus solution and consensus basically is meaning in this case that no one side  
5 wins everything and I think that, you know, from the environmental community we  
6 certainly saw lesser buffers that we wanted in some areas, but enough in other areas to  
7 accomplish what some of the key goals were. Because when we stripped away the sort  
8 of politics of the situation and really focused on the issues, what it was at the core that  
9 we were attempting to do, what developers needed to do their job to maximize their  
10 profits, given some sort of environmental protections and what the environmental folks  
11 really needed to protect the waters given some relinquishing of some of the ground that  
12 we stood on trying to protect at all costs, I think we've come up with something, and this  
13 is a testament to the hard work of the county Staff, that is extremely unusual and I  
14 wouldn't want us to, to hold up progress just for perfection. What we said was these  
15 were two principles and the task that county gave us was to take those two principles  
16 and incorporate them the best we could into the Ordinance that we had. The first step,  
17 or should I say maybe the third or fourth step, and something that's going to be much  
18 longer, there will be other principles that need to be incorporating into the Code of  
19 Ordinances and I think that that's something that's over the long haul going to improve  
20 the Code of Ordinances and make for lesser side bashing when we get to every kind of  
21 development. So I just want to thank the county for giving us an opportunity to be in this  
22 process and I would encourage you, no matter what you decide to vote on now, you

1 definitely, you know, learn about what we did, but also recognize that what you see is a  
2 product of consensus.

3 MR. MANNING: Ms. Swortout?

4 MS. SWORTOUT: Yes, sir.

5 MR. MANNING: I just want to reiterate what I said earlier, I think the  
6 Commission as a whole appreciates all the work that everybody in this room's done, but  
7 just like you mentioned being a part of the process and having your input, that's what  
8 the Planning Commission is here to do and there's a little confusion as to what roles  
9 we're all playing here. So, we're not necessarily speaking out against the document  
10 that's before us, but the process that, that got it here. And we do have questions and  
11 concerns and, and rightfully we should be asked to participate in that process. So, as  
12 you have said, you know, hopefully this will bring about a better document but it's a little  
13 bit confusing the way we've gone about it.

14 MS. SWORTOUT: Yes, sir and, and I hope that the Commission uses this  
15 opportunity to send recommendations forward to the Council that the Council can use  
16 along with what the round table was asked to do when they developed, you know, what  
17 they put before the public. Thank you.

18 CHAIRMAN PALMER: Ryan?

19 **TESTIMONY OF RYAN NEVIAS:**

20 MS. NEVIAS: Ryan Nevias, 1620 Crestwood Drive. I'm also the project  
21 coordinator for Sustainable Midlands. I'd just like to take a step back and, and put in the  
22 Record that we are all here together as, to comply with the Clean Water Act. It is a  
23 Federal requirement that the county, that everyone in the county, the Planning

1 Commission, the Conservation Commission, all of the citizens must comply with. There  
2 was a great cost to our county that has already been paid, not only in the \$800,000 fine  
3 that DHEC levied against us for not keeping our waters clean, but, and, and in fines that  
4 will be levied in the future if we do not find a way to clean up our waters. There is also a  
5 cost to the health and welfare of our citizens. I do recognize that individual landowners  
6 are invested, but I also want to remind you that the citizens have also already paid  
7 dearly because of our inability to get together and find a way to comply with, with our  
8 Federal requirements. So I would urge us all to move forward very quickly so that we  
9 do not incur additional fines, that we can clean up our waters, that our future  
10 development and people coming to live here and to bring their businesses to our  
11 Midlands area, desperately needed jobs, won't take a look and see that we have  
12 impaired rivers and stream ways and say this is not a place where we want to be. So, I  
13 urge you to consider that as we move forward and do so quickly and in the best way  
14 possible. Thank you.

15 CHAIRMAN PALMER: That closes again our public input section. Ms. Linder,  
16 do you want to give us the report out?

17 MS. LINDER: Yes, sir. Looking at my tracking sheet I can sort of go back and  
18 look how we got to this, this part. You first, you first took this up, I guess this came out  
19 of the Development Services Committee of County Council back in October, excuse  
20 me, September of 2008, and it was before you on October 6<sup>th</sup> of 2008, and you deferred  
21 it at that time. But then on November 6<sup>th</sup> of 2008, you recommended approval of the  
22 Ordinance that was in front of you, with the following amendments, which is a, was  
23 presented to Council in memo form, which I presented to all of you. So that, your

1 amendments were in red and you had the entitlement language that you recommended  
2 in November and it was given to County Council. County Council then, and that was  
3 November, so it went to a Zoning Public Hearing in November, on November 25<sup>th</sup> of  
4 2008, and County Council had a public hearing and then they made some additional  
5 changes and amendments.

6 CHAIRMAN PALMER: Ms. Linder, can I stop you right there?

7 MS. LINDER: Yes.

8 CHAIRMAN PALMER: On 11-25 of '08 -

9 MS. LINDER: Yes.

10 CHAIRMAN PALMER: - Council had changes at a Zoning, at a public hearing.

11 MS. LINDER: Yes.

12 CHAIRMAN PALMER: And under your definition if Council has changes at a  
13 public hearing -

14 MS. LINDER: It has to come back to you.

15 CHAIRMAN PALMER: - it has to come back to the Planning Commission.

16 MS. LINDER: And so it's properly before you.

17 CHAIRMAN PALMER: It took over a year for that document to get back to us.  
18 On January the 4<sup>th</sup>, we're being asked to pass that today when it's taken over a year to  
19 get back to us?

20 MS. LINDER: Or, or make recommendations to it, yes, sir.

21 MR. TUTTLE: Well, now -

22 MS. LINDER: And again -

1 MR. TUTTLE: - just so I'm unclear, is it, is it coming back to us open to be  
2 changed in form or are we merely stuck with adding suggestions?

3 MS. LINDER: You're, you're able to make recommended changes to it and I  
4 would present those changes to County Council in memo form, the same way I did in  
5 November of 2008, saying you recommend approval, but you want these changes  
6 made. Now as far as the entitlement language, Council has already seen your  
7 recommended entitlement language, but again if you want to say it again, hey, we  
8 recommend this entitlement language that's in red here we can certainly, I can do a  
9 memo saying you want that in.

10 MR. TUTTLE: I, I'm -

11 MR. MANNING: Well what -

12 MR. TUTTLE: - confused, I'm sorry Deas. I'm, I'm, if, if it came back to us -

13 MS. LINDER: Yes.

14 MR. TUTTLE: - then we wouldn't, wouldn't we send a complete document back  
15 to them for, for approval or not approval?

16 MS. LINDER: No, not necessarily. A lot of times, and I would say that in most  
17 cases when you make recommendations to text amendments we take those to Council  
18 in a memorandum form, saying the Planning Commission recommends approval and  
19 this is what they want. But when there's something this controversial, we would not  
20 make amendments based on your recommendations because it has to be a County  
21 Council decision, so we would make those amendments that you want in a  
22 memorandum form and then Council could consider it, but it would be a Council action.

1 MR. TUTTLE: I'm just confused again. Sometimes you would change the  
2 document and other times you wouldn't? Based on whether it's controversial or not? I  
3 mean, I'm a bit confused.

4 MS. LINDER: At, at, at this, at this point, this is what Council had directed us to  
5 do. I, Ms. Almeida was, was pointing that out to me.

6 MS. ALMEIDA: Mr. Tuttle, we've in the past have presented to Council different -

7 MS. LINDER: Formats.

8 MS. ALMEIDA: - formats and we have been reprimanded several times.  
9 Sometimes we put wording in red, sometimes strike through and Council said no, just  
10 we want a, just a memo showing us those changes and we will incorporate or not  
11 incorporate because we were just going back and forth on different formats. But this is  
12 the format of choice that has been going to Council where we put a memo together and  
13 identify those different paragraphs and these are the recommendations. It's easier for  
14 reading and so Council doesn't have to go digging through the entire document, for  
15 ease of review. So that's why we put together a memo.

16 MR. MANNING: So are we being asked to approve this document and make  
17 suggestions, changes or disapprove this document and make suggestions? What -

18 MR. HAMMETT: Basically what, what we're asking you to do is, is exactly what  
19 you did before when this other version of the Ordinance was brought before you. On  
20 November 6<sup>th</sup> you recommended second reading approval of the proposed Storm Water  
21 Ordinance with the following amendments. So basically at that time Amelia prepared a  
22 memo with the Planning Commission's recommended changes, a six page memo, and  
23 that's really what we're asking today is, is the recommended changes. So, it's really no

1 different than what was, what occurred when the document was brought back before  
2 you back in, on November 6<sup>th</sup> of 2008. Amelia would prepare a memo that would  
3 outline the recommended changes of the Planning Commission, we approve with the  
4 recommended changes.

5 CHAIRMAN PALMER: Would, would it be proper to recommend denial of this  
6 format, but recommend approval of another document?

7 MS. LINDER: I'm, I'm not sure, you, you're saying you want to direct us to do  
8 another document?

9 CHAIRMAN PALMER: What I'm saying is, is the way that this has proceeded in  
10 the past is that there's, sometimes the Planning Commission recommends denial on an  
11 issue, however if you make these changes, then we would recommend approval.  
12 That's not the way it gets to Council, the way it gets to Council is we approve it, we just  
13 would like to see these changes in it, which is completely different than saying we don't  
14 agree with this document as it is, we would agree with the document if you made these  
15 changes.

16 MS. LINDER: I can phrase it that way on the memo, saying in essence the  
17 Planning Commission recommends denial of the Ordinance unless these changes are  
18 made.

19 CHAIRMAN PALMER: Correct.

20 MS. LINDER: Or subject to the following changes being made, then they would  
21 recommend approval.

22 CHAIRMAN PALMER: Correct, okay.

23 MS. LINDER: I, I can do that.

1 CHAIRMAN PALMER: Okay.

2 MR. MANNING: So do we need to -

3 CHAIRMAN PALMER: What we need to do is we need to move that -

4 MR. MANNING: - make that motion -

5 CHAIRMAN PALMER: We need to move forward on discussion of this issue and  
6 whatever issues you or any other Member of the Planning Commission have, we need  
7 to discuss those issues, make an individual vote on each one of those issues, the same  
8 way we did it a year and a month ago.

9 MR. MANNING: But first we would have to either approve or disapprove the  
10 document with changes.

11 CHAIRMAN PALMER: Well, if we, if we change one single thing in the  
12 document, the way that it's gonna read is that the county, that the Planning Commission  
13 recommends denial of this Ordinance as is unless change A, B, C and D are made and  
14 here are votes for A, B, C and D, whether 5-4 or whatever, 6-3.

15 MS. MCDANIEL: It doesn't have to be that way.

16 MS. CAIRNS: As I said, cause I mean, there may be some changes that, that,  
17 you know, I mean, there are some things in here I would like to have some discussion  
18 from, partly because I found it either confusing or ambiguous, that I don't think are  
19 necessarily going to fall into the binary only okay if then, you know? I mean, because I  
20 think we just need to have discussion about other issues, I mean, if there is discussion  
21 about the entitled property definition, but I mean, there were some other things that I  
22 came across when reading the Ordinance that -

23 MR. MANNING: So -

1 MS. CAIRNS: - you know -

2 MR. MANNING: - what you're suggesting is we, we take each issue -

3 MS. CAIRNS: We just sort of go through the document -

4 MR. MANNING: - and we, we have discussion and vote on each one of those  
5 issues and then at the end of the discussion we will vote to either approve the document  
6 with that, these changes or disapprove the document? One way or the other it's gonna  
7 be with changes.

8 MS. CAIRNS: Right, but I just, I mean -

9 MR. MANNING: Is that, I'm just asking you is that what you were -

10 MS. CAIRNS: I mean, I just think, I think there's different, I think there are some  
11 changes that we may all agree we want these changes, there's other changes I think  
12 that we, we're gonna have disagreement as to whether we want -

13 CHAIRMAN PALMER: Which is exactly what I'm saying that each individual  
14 issue is gonna have a vote on it, that we, we -

15 MS. CAIRNS: Right, but, but like some of the changes, like, you know, I may  
16 have a change back here on page 18 that I, that, that while I recommend the change, I  
17 wouldn't deny, I wouldn't say if you don't make this change I'm gonna say no to this  
18 Ordinance.

19 CHAIRMAN PALMER: No, but that's why we vote on issues and then the  
20 Planning Commission has an approval or a disapproval. It's not one, one Member of, of  
21 the Planning Commission either does or not, so the, the Planning Commission as a  
22 whole will either disapprove or approve of this document. Okay? So, yes ma'am?

1 MS. LINDER: I, I believe Mr. Tuttle made a motion on the entitled property, I'm  
2 not sure I heard a second to that.

3 CHAIRMAN PALMER: We do have a second, I, it was seconded.

4 MS. LINDER: So you haven't voted on that yet?

5 CHAIRMAN PALMER: We have not voted on that, we were waiting for you to  
6 come back.

7 MS. LINDER: Okay.

8 CHAIRMAN PALMER: Do you want the same motion to move forward or?

9 MS. CAIRNS: So do you want to vote on the motion? So do we have a motion,  
10 what to -

11 MR. TUTTLE: I'd like -

12 MS. CAIRNS: - substitute the definition for entitled property?

13 MR. TUTTLE: Yeah, that was -

14 MS. CAIRNS: Can you repeat your motion, please?

15 MR. TUTTLE: Well I was, I don't want to read the whole thing again. The motion  
16 was to substitute the definition for entitled property.

17 MS. LINDER: And I believe that motion is in red on the screen.

18 MR. TUTTLE: Yes. However, I would like to after the research you provided, I  
19 would like to amend it and strike under governmental approval, means the issuance by  
20 Richland County or other applicable governmental authority - I'd like to strike other  
21 applicable governmental authority. And I think that speaks to Staff's concern, I mean, is  
22 that correct Anna? And that would be my motion on the table, which I guess I ...

23 MR. MANNING: And I would second that motion.

1 CHAIRMAN PALMER: We have a motion and a second to amend the entitled  
2 property definition. Any other discussion? So someone would need an approval from  
3 Richland County then to be covered under this entitled property language? The City of  
4 Columbia wouldn't work or DOT or anything else? Okay, we have a motion and a  
5 second. All those in favor of amending the entitled property definition language to the  
6 motion of Mr. Tuttle, please signify by raising your hand. All those opposed?

7 *[Approved: Westbrook, Tuttle, Palmer, Manning, Furgess, Mattos-Ward; Opposed:*  
8 *Cairns, McDaniel, Gilchrist]*

9 CHAIRMAN PALMER: The motion carries. Alright, next issue?

10 MR. TUTTLE: Mr. Chairman, how is the best way to do this? Do we want to just  
11 go page by page or do we want to go individual, Member by Member?

12 CHAIRMAN PALMER: I think we should do individual, Member by Member and  
13 maybe they'll be covered, what other people may have. I see that Deas has quite a  
14 few, you want to go first?

15 MR. MANNING: I, I've got, it's not all of these are changes, some of it's  
16 clarification -

17 CHAIRMAN PALMER: Right.

18 MR. MANNING: - and just request for information. The, the Design Manual, with  
19 the BMP Design Manual shows up a number of different places, along with the storm  
20 drain design standards, when will the details of that language come before us? Is, is  
21 that drafted now or?

22 MS. LINDER: I'm sorry, what, what's the question?

23 MS. ALMEIDA: The Design Manual.

1 MR. MANNING: The BMP Design Manual.

2 **TESTIMONY OF DAVID HOOPS:**

3 MR. HOOPS: I'm David Hoops, Director of Public Works. The Design Manual is  
4 in existence. Of course it will be upgraded to be in conformance with the future  
5 regulations. We've had discussions among the round table group that they would also  
6 be involved with the, with the development of any new ETLs that need to go in it. The  
7 Design Manual is exactly that; it, it is a guideline for consultants or for people applying  
8 for permits to, to guide them through the process.

9 MR. MANNING: So, is that, is that something then in your opinion would come  
10 back before the Planning Commission to be codified?

11 MR. HOOPS: It's not codified I don't believe, no.

12 MR. MANNING: Okay. But we, but will we be privy to see that or [inaudible]?

13 MS. LINDER: That would be, that would be an information only upon request.

14 MR. MANNING: Excuse me?

15 MS. LINDER: You could see it upon request, but it would be information only.  
16 Design Manuals and policies are, are strictly County Council.

17 MR. MANNING: Well, then, okay, I, I guess Mr. Chairman, I would ask later, if  
18 somebody on the Planning Commission would be able to sit in on the round table  
19 discussion.

20 MS. ALMEIDA: Mr. Manning, that design guideline it, it's on the website under  
21 Public Works, so it's on-line, it's open to the public, but we can get you a copy.

22 MR. MANNING: But the way this reads it was new language being drafted. I, I  
23 was under the impression that that was not complete yet, so, I just -

1 CHAIRMAN PALMER: So the, who has the ultimate authority to say this is in the  
2 Design Manual, this is not in the Design Manual, is that you Mr. Hoops?

3 MR. HOOPS: Yes.

4 CHAIRMAN PALMER: But you take input from really anybody?

5 MR. HOOPS: That's correct.

6 CHAIRMAN PALMER: I mean, the, the round table, well I guess is something  
7 that the, the Council likes, I mean, if, if John Smith wanted to say, you know, Mr. Hoops  
8 I think it should be in the Design Manual, you would take that into consideration and  
9 maybe or maybe not, but it's your call?

10 MR. HOOPS: That's correct. What, what we're looking for in the Design Manual  
11 is good engineering guidance basically.

12 MR. MANNING: Thank you. If you go to -

13 MR. HAMMETT: Just one thing to add with the Design Manual, what, when we,  
14 the last time we revised it we had an open committee meeting and, and invited anyone  
15 who wanted to attend from the development community to attend the meeting, we'll do  
16 the same thing -

17 MR. MANNING: Okay.

18 MR. HAMMETT: - likewise.

19 MR. MANNING: Thank you. I had a question on page 15, item number four,  
20 exemptions. It talks about land disturbing activities on agricultural land for protection of  
21 plants and animals useful to man. That's somewhat subjective to me, I think we  
22 eliminate useful to man, either we're growing crop plants or I don't understand the need  
23 for useful to man.

1 CHAIRMAN PALMER: Do you know where that came from? And what the  
2 definition of a plant or an animal useful to man is?

3 MS. LINDER: I, I do not know where it came from.

4 MR. HAMMETT: That's language from DHEC.

5 MR. MANNING: From DHEC?

6 MR. HAMMETT: Yes.

7 CHAIRMAN PALMER: But we don't know what it means?

8 MR. MANNING: Well, it can't be for anything illegal [inaudible].

9 MR. VALAVALA: It's for anything like any disturbance activity which are useful  
10 for raising animals [inaudible].

11 MR. MANNING: Well, that's my point. I mean, obviously it, we're not gonna pass  
12 laws that allow somebody to do something that's illegal, so, growing crops and plants  
13 and the benefit of animals that's agricultural I, I don't see any use, any need to put  
14 useful to man in. Then that just becomes something that somebody will say well that  
15 property is not used for or this shrubs not used for -

16 MS. CAIRNS: Well, it's probably what does keep out illegal activity though  
17 actually.

18 MR. MANNING: What do you mean?

19 MS. CAIRNS: I mean, if you had a marijuana field, you could, you know, I mean,  
20 that's the one, you know, I'm not, but it's true, but I mean that, leaving in useful to man -

21 MR. MANNING: Well -

22 MS. CAIRNS: - you know, I mean, because that is, you know -

23 CHAIRMAN PALMER: It's already illegal.

1 MR. MANNING: It, backup, we're not -

2 MS. CAIRNS: No, but you, you can't -

3 MR. MANNING: - not trying to legalize something that's illegal.

4 CHAIRMAN PALMER: No, you can't. I guess do you have a motion then?

5 MR. MANNING: I have, I have a motion that we remove useful to man from that  
6 language on page 15.

7 CHAIRMAN PALMER: I'll second that.

8 [Inaudible discussion]

9 CHAIRMAN PALMER: Yes. Alright, we have a motion and second to remove  
10 the words useful to man from the Ordinance under E-1, Exemptions. Any other  
11 discussion? All those in favor in removing the words, please signify by raising your  
12 hands. All those opposed?

13 *[Approved: Cairns, Westbrook, Tuttle, Palmer, Manning, Furgess, Mattos-Ward,*  
14 *Gilchrist. Opposed: McDaniel]*

15 MR. MANNING: One, one other question. I had one other question that it, that  
16 dealt with exemptions, when you say agricultural, does there need to be a definition with  
17 that? I mean, does it, does it have to be property zoned agricultural or just an  
18 agricultural use? Does it have to be a specific size?

19 CHAIRMAN PALMER: For an agricultural exemption from the successor?

20 MR. MANNING: Right. Is there any trigger to that? Because that would apply  
21 also to the forest land, too.

22 MS. LINDER: Did you take a vote on the useful to man definition, deletion?

23 CHAIRMAN PALMER: We did, we voted for that.

1 MS. LINDER: And, and what was that a six/three?

2 MS. CAIRNS: No, it was 8/1.

3 MS. LINDER: 8/1?

4 MS. CAIRNS: Yeah.

5 MS. LINDER: 8/1? Okay.

6 MR. MANNING: Somebody wants to grow some pot.

7 CHAIRMAN PALMER: Good night. Who's the pot grower over here?

8 MS. MCDANIEL: Excuse me, what?

9 CHAIRMAN PALMER: Who's the pot grower over here? Who's the pot grower?

10 MS. CAIRNS: Well, not me.

11 MR. TUTTLE: Who's the one?

12 MS. CAIRNS: That's my brother, [laughter] that's been well documented though.

13 MR. MANNING: Is there be a definition Ms. Linder to agricultural lands?

14 MS. LINDER: No, there's not.

15 CHAIRMAN PALMER: Is there, is there one for forest land?

16 MS. LINDER: No, there's not.

17 MR. MANNING: Well, that's, that's fine, I just, you know, I hope that there won't  
18 be any size or limiting factor zoning, I mean, you could have a commercial piece of land  
19 having agricultural on it, forest land, you know, trees being produced on it.

20 CHAIRMAN PALMER: Who would determine this?

21 MS. LINDER: The Zoning Administrator. In questions of interpretation, the  
22 Zoning Administrator has that authority.

23 CHAIRMAN PALMER: Geo, how would you interpret these right now?

1 MR. PRICE: Good question. [Laughter]

2 MS. CAIRNS: Like any good judicial officer he doesn't make a ruling in the  
3 abstract.

4 [Inaudible discussion]

5 CHAIRMAN PALMER: Name and address, please? [Laughter]

6 MR. PRICE: It's a good question that you've raised because just on my normal  
7 zoning duties, the question comes up what is agricultural and we've been kind of  
8 dealing with the Assessor's Office trying to come up with some definitions in terms of  
9 how to enforce that. And that may be a good way to reference what they use currently,  
10 because that may be something we have to come back with to amend the Land  
11 Development Code, forestry and agricultural.

12 MR. MANNING: The way I would read it is it would be use and it wouldn't be  
13 zoning and it wouldn't be a limitation on size. Is that the way you would interpret it?

14 MR. PRICE: Well, it has, definitely has to be use zoning.

15 MR. MANNING: And we do have AG zoning?

16 MR. PRICE: [Inaudible].

17 MR. MANNING: Well an AG assessment.

18 CHAIRMAN PALMER: Then that would go under assessment then.

19 MR. PRICE: Yeah it, the assessment would come from the Assessor's Office.

20 MR. MANNING: Right.

21 MR. PRICE: And I believe there, if you have 10 acres -

1 MR. MANNING: Well it, what I'm saying is I, I don't want to restrict this to lands  
2 that only have an AG assessment, because there are lands out there that are producing  
3 crops and forestry that aren't, don't have AG use, they could be commercial.

4 MS. CAIRNS: Well, I mean, I would also argue that I would like to make sure  
5 that this exemption wouldn't allow somebody to clear their buffer because they have a  
6 goat grazing and therefore they say that it's land disturbing activity for the production of  
7 my goat milk and therefore I can clear my buffer because it falls under this exemption. I  
8 mean, seriously, come on.

9 CHAIRMAN PALMER: But you just pulled out useful to man because those  
10 goats are useful to man.

11 MS. CAIRNS: I know, well I'm not saying that the deletion of that would affect  
12 that, but I mean, think that, I think that if, if I did that in my backyard and cleared my  
13 buffer to put a goat out, I'd be, I might have a hard time claiming that that was  
14 agricultural -

15 MR. MANNING: Well I, I would agree with you.

16 MS. CAIRNS: - and so I think leaving this, instead of just land, you know, and I,  
17 you're right, we don't have a zoning classification for land and then if the backyard isn't  
18 big enough to qualify for an AG exemption, but the City of Columbia is going to start  
19 letting me have chickens out there. So, you know, but I just think that, I think that  
20 leaving that, you know, while it's not defined and tight it certainly gives the Zoning  
21 Administrator an opportunity to say no, no, no, no, you can't clear your Lake Murray  
22 buffer and put a goat out there and call it land for the production, you know, agricultural  
23 land.

1 MR. MANNING: I would, I would agree with that and I would, I was trying to  
2 determine whether there was any limitations or restrictions based on a definition -

3 MS. CAIRNS: Right.

4 MR. MANNING: - of agricultural, so we, we can move on with that.

5 CHAIRMAN PALMER: And appeals from the Zoning Administrator go to BOZA?

6 MS. CAIRNS: Yes, and if unhappy then to the Circuit Court.

7 CHAIRMAN PALMER: Right, okay. Is there any interest to perhaps tighten that  
8 up before it gets to Council? Or just leave it as is? What's the Staff's perspective? Is  
9 there any interest to tighten that up before it gets to Council?

10 MS. ALMEIDA: I think we should, yes, I would recommend.

11 MR. HAMMETT: Yes, we'll develop -

12 [Inaudible discussion]

13 CHAIRMAN PALMER: On the 19<sup>th</sup>?

14 MR. HAMMETT: Yes, yes, we'll, we'll develop definitions.

15 MS. CAIRNS: Specific to -

16 CHAIRMAN PALMER: And then come back to us because we'll have a public  
17 hearing? [Laughter]

18 MS. ALMEIDA: We could email it to you.

19 MR. MANNING: Are you still there? Page 16, 1B, an engineering question,  
20 water shall not be allowed to flow in any one direction more than 200'? Can you clarify  
21 that for me, why that's been such an issue?

22 MR. HOOPS: What page was that again please?

23 MS. CAIRNS: Sixteen.

1 CHAIRMAN PALMER: This is ours, I, I don't know if that will correspond to what  
2 you have, so it's 16 of ours.

3 MS. CAIRNS: Well, yeah, I mean this, this is the exemption and the, when the  
4 landowner can do their own thing?

5 MR. HOOPS: Correct, and, and this was, this was discussed quite a bit in our, in  
6 our round table meeting. I, I think it, it's an attempt to quantify the size of parcels and,  
7 and the thought being that an area that, that, trying to define a size where, where  
8 professional input is needed to make sure that storm water controls are done properly.

9 MR. MANNING: But don't we want water to flow where it's supposed to go?

10 MR. HOOPS: Oh, absolutely, absolutely, but, but -

11 MR. MANNING: Don't we want to try to eliminate putting it in a pipe?

12 MS. CAIRNS: No, but what's interesting, this is the, this is the exemption of  
13 when a landowner on a tract of land an acre or less can do it without professional input.  
14 And, I mean, you know, your square one acre is 208 x 208, so basically it's, it, you  
15 know, you're already limited that this B only applies when the homeowner themselves is  
16 trying to do their own storm water plan and they've already got to be under an acre. So  
17 the only way they would be flowing more than 200' is if they had a, you know, a  
18 rectangular shaped parcel and they were going length-wise.

19 MR. MANNING: But this, this only applies to the, to the individual lot.

20 MR. HOOPS: To the, and to the exemption of that person not having to have a  
21 professional design his plan.

22 MR. MANNING: And that requirement is not later used in the document?

23 MR. HOOPS: No.

1 MR. MANNING: So it, it was eliminated from the previous document?

2 MR. HOOPS: To, to my memory that's the only place this appears is in the  
3 exemption of the -

4 MR. MANNING: Okay.

5 MS. CAIRNS: Do it yourself -

6 CHAIRMAN PALMER: But if a person had a rectangular lot and they wanted to  
7 build on the rear of the lot, this, this may come into play for them?

8 MR. HOOPS: It could, it could, but in, in our judgment you're, you're getting a, a  
9 land disturbance that's so large that we need to make sure it gets properly addressed.

10 CHAIRMAN PALMER: But don't you already, don't you already restrict it to one  
11 acre?

12 MR. HOOPS: Well, as you said you could have a long narrow lot -

13 CHAIRMAN PALMER: But it could still be less than an acre -

14 MR. HOOPS: - that, that would be less than an acre -

15 CHAIRMAN PALMER: - in area -

16 MR. HOOPS: - right, but, but because this person is conveying water over such  
17 a long disturbed area, we feel that, that it needs to be addressed properly and  
18 professionally.

19 MS. CAIRNS: It's not that they can't do it, they just need professional oversight?

20 MR. HOOPS: That's correct.

21 MR. MANNING: Okay. While you're up there, you might as well stay up there.

22 MR. HOOPS: Okay.

1 MR. MANNING: Page 26, 2A – 24 hour storm event of .5 inches or greater, is  
2 that the standard that we use right now? Twenty-four hours, .5

3 MR. HOOPS: Yes, that, that's and that's the DHEC standard.

4 MR. MANNING: That's the DHEC standard?

5 MR. HOOPS: Conforming to.

6 MR. MANNING: And, and basically what you're gonna require is that someone  
7 monitor that within 24 hours of that rain event?

8 MR. HOOPS: Yes.

9 MR. MANNING: And what is it now? Is there a standard now?

10 MR. HOOPS: We're still, we're under the standard now.

11 MR. VALAVALA: Yeah, under the standard now.

12 MR. HOOPS: Yes.

13 MR. VALAVALA: So it's a state standard -

14 MR. MANNING: It's what?

15 MR. VALAVALA: It's a State standard, DHEC standard.

16 MR. HOOPS: It, that whole section right there is just standard.

17 MR. MANNING: So that's, that's not something that we have any leeway in?  
18 Okay.

19 MS. CAIRNS: I, no I just on that section I just had one question. Is it, if, if I, do I  
20 decide ahead of time whether I'm a one every seven days or every 14 days or when, I  
21 mean it's an either/or, right? I can either say I'm gonna inspect every seven days or I'm  
22 gonna inspect every 14 and whenever there's a big event?

1 MR. HOOPS: That, that's correct and that's established when we have a  
2 required, preconstruction conflict -

3 MS. CAIRNS: Okay, so my pattern is pretty set?

4 MR. HOOPS: Right.

5 MS. CAIRNS: And that's what I wanted to make sure.

6 MR. HOOPS: That's, that's established with your permit.

7 MS. CAIRNS: Okay, good, thank you. Okay, okay, good, thank you, go ahead, I  
8 just -

9 MR. MANNING: Page 23, E10? What is untreated storm water?

10 MR. HOOPS: Effectively it's any storm water that there hasn't been something  
11 done to improve it's quality, such as flowing through a buffer, flowing through a storm  
12 water interceptor, flowing through some, some sort of best management practice  
13 devices which removes sediment and, and improves the quality -

14 MR. MANNING: Right, so it's either a detention pond, a retention pond or a  
15 buffer area, but this treated or untreated doesn't refer to any water treatment to take it  
16 beyond that standard?

17 MR. HOOPS: That's correct.

18 CHAIRMAN PALMER: Would flowing over rift-raft would that be considered  
19 [inaudible]?

20 MR. MANNING: It would be whatever -

21 MR. HOOPS: Rift-raft really is only for the, the reduction of erosion, it really  
22 doesn't have much water quality improvements to it.

1 CHAIRMAN PALMER: When you say much though that means, implies that it  
2 does have some.

3 MR. HOOPS: There is some and, and an engineer would, they would take that  
4 into account in his plan when he, when he prepared a plan.

5 CHAIRMAN PALMER: So it would be treated then?

6 MR. HOOPS: Yes.

7 MR. MANNING: On page 34, I think there needs to be definitions for perennial  
8 and intermittent streams, and ephemeral streams in B1.

9 MS. MCDANIEL: There are standard definitions for that.

10 MR. MANNING: Well, I mean, it's, it, there should be a definition attached to the  
11 Ordinance so that it's clearly defined what we're talking about. You can go look up,  
12 whatever what intermittent means, I just want to make sure our definition is. There was  
13 some discussion earlier that, you know, there was blue lines on the map and, you know,  
14 that would define this and that would define that and I just want to make sure that we  
15 understand what those things are. Is it the lay and flow for 12 days, 10 days, 20 days?  
16 Is it, you know, so many CFS, you know?

17 MR. HOOPS: Do, do we know, still have intermittent and continuous streams in  
18 the Ordinance?

19 MR. MANNING: Yeah.

20 MR. HOOPS: Okay, because I thought the, what, what the round table did was  
21 come up with a, a definition that we were basing our buffer requirements on  
22 jurisdictional lines rather than streams.

1 MR. MANNING: Well, it mentions jurisdictional lines, but it says applicability  
2 water quality buffers are required along perennial and intermittent streams, waterways,  
3 shorelines, etc., and then it goes on to exemptions, ephemeral streams, ditches, man-  
4 made ponds, so on and so forth and I just thought that needed to be clarified -

5 MR. HOOPS: If we -

6 MR. MANNING: - if it's, but if you're eliminating it and using jurisdictional lines,  
7 that's, how does a jurisdictional line apply to a perennial stream? If it's not a flood plain  
8 or a flood way or a wetland?

9 MR. HOOPS: Yeah, what we came up with a jurisdictional line is, can be applied  
10 to a body, a body of water, a stream, a wetland, it's a line that's determined by the Corp  
11 of Engineers and that's why the round table felt that that was something that could be  
12 very fairly applied without any problems of, of interpretation.

13 MR. MANNING: So what you, what you would suggest is that we take perennial  
14 and intermittent out and put jurisdictional waterways?

15 MR. HOOPS: I, I'd have to, I'd have to look at the, this particular instance, but  
16 that's what we did throughout the rest of the Code to, to try to be very clear with what  
17 we were trying to -

18 MR. MANNING: Do we need to make a motion on that?

19 CHAIRMAN PALMER: That's a pretty good issue, Mr. Hammett do you  
20 remember how that went down?

21 MR. HAMMETT: I, I agree with David that we did decide to go with the  
22 jurisdictional line.

1 MR. MANNING: So would it be appropriate to make a motion that in section 2,  
2 page 34, applicability, that we eliminate perennial and intermittent streams and put in  
3 well, but that ... with waterways -

4 MS. CAIRNS: Like it says according to jurisdictional determination -

5 MR. MANNING: Hum?

6 CHAIRMAN PALMER: Why can't you do it throughout the document?

7 MR. MANNING: Right.

8 CHAIRMAN PALMER: Just make sure it's covered throughout instead of that  
9 one area?

10 MR. MANNING: Right, I'll make a motion that we delete perennial and  
11 intermittent streams and I guess that would include waterways, well you can't eliminate  
12 waterways and shore lines because there's reference to those in other parts of the  
13 Ordinance.

14 MS. CAIRNS: But at the end of that sentence it says according to the Army Corp  
15 of Engineers jurisdictional determination, it -

16 MR. MANNING: Well -

17 MS. CAIRNS: - so, I mean, the, that whole sentence is -

18 MR. MANNING: - right, so jurisdictional -

19 MS. CAIRNS: - qualified by that so I don't think -

20 MR. MANNING: - wetlands then would be defined, I mean, jurisdictional line  
21 would be defined as any water body or what? How would you define that?

1 MS. LINDER: A, a jurisdictional line is defined on page eight of your Ordinance.  
2 It, it's a line identified or approved by the U.S. Army Corp of Engineers describing areas  
3 to be protected under the Clean Water Act.

4 MR. MANNING: Okay, then I'll withdraw my motion. Page 35, the ephemeral  
5 streams, is there a definition for that?

6 MS. CAIRNS: Ephemeral?

7 MR. MANNING: The definition in the dictionary is lasting a day, a short time,  
8 short lived or transitory. I mean, I just want some language to say what it is.

9 MS. CAIRNS: I mean, that's, yeah, I mean, when there, when there is no  
10 definition, the dictionary is where you turn. It's not exactly what any officer of the Court  
11 would say, but I mean, that's -

12 MR. HOOPS: We'll just add that definition.

13 MR. MANNING. Okay. One other question as it relates to ditches and manmade  
14 ponds, it says outside of the natural hydraulic connectivity. Now most ditches are  
15 connected to some type of hydraulic connectivity.

16 CHAIRMAN PALMER: As well as manmade ponds and lakes.

17 MR. MANNING: Right.

18 MR. HOOPS: Most, but there are some conditions where, where something is  
19 unique to a, a property that has no out fall, a pond or, or a ditch. So what we're saying  
20 is if it's, it's not part of a system which in, in affect ultimately covers, carries public water,  
21 we're, we're not making it conform to our regulations.

22 MR. MANNING: If you had a ditch that was connected to a wetland it would be, it  
23 would be a part of the hydraulic?

1 MR. VALAVALA: If, if there is a ditch, there is a small ditch, you wouldn't be  
2 having a jurisdictional line.

3 MR. MANNING: Wouldn't have what?

4 MR. VALAVALA: It won't be having a jurisdictional line, jurisdictional line. So  
5 the, the buffers which we define is from the jurisdictional line, but the normal ditches that  
6 won't be in jurisdictional lines from the Corp and that's why when we use the perennial  
7 and intermittent streams, those are the streams which the Corp identifies the  
8 jurisdictional line.

9 MS. MCDANIEL: So does the [inaudible] outside of the natural hydraulic  
10 connectivity only modify lakes and manmade ponds?

11 MR. VALAVALA: If, if there are manmade ponds which are away from, isolated  
12 from the connectivity, the hydraulic connectivity, they don't get under exemptions, they  
13 don't cover, it is a pond by itself, or it is a ditch by itself [inaudible] nowhere and there is  
14 no requirement for a force on that, on the ditch or a pond. And on the normal ponds,  
15 on, on the normal ditches if there is no jurisdictional line identified by the Corp those  
16 are not intermittent or perennial streams, [inaudible] those are small out of connectivity  
17 streams.

18 CHAIRMAN PALMER: So I guess you can have a manmade pond or something  
19 by a well, pump water into it or something?

20 MS. CAIRNS: Beaufort County, there are tons of them over in Beaufort County.

21 MR. HOOPS: I mean, you know, it could still have water running surface flow to  
22 it, but if it doesn't have -

23 CHAIRMAN PALMER: No discharge?

1 MR. HOOPS: - a discharge point to a recognized stream, it's not gonna be under  
2 our regulations.

3 MS. CAIRNS: Those are actually, they're really common in Beaufort County in  
4 all the sub, in all the design, well, we used to do them all the time down there and it  
5 was, it was to keep them outside of regulations. We could have ponds in our  
6 subdivisions that were outside of regulations because they were well fed.

7 MR. MANNING: If you dug a, a pond down to the water table and had a ditch in  
8 it and took it to a river or stream, perennial stream and it, it didn't flow all the time, but  
9 how, how, would that ditch be required to have buffers?

10 MS. CAIRNS: Because you connected it to something.

11 MR. HOOPS: Yeah, you've made it a part of the system when you connect it to -

12 MR. MANNING: Even though it's an outgoing, not a headwater?

13 MR. HOOPS: That's right.

14 MR. MANNING: Would that not take into account on any agricultural ponds that  
15 are already there anyway?

16 MR. HOOPS: That's correct.

17 MR. MANNING: Okay. Does anybody want to take over for a minute?

18 MR. TUTTLE: Yeah, I've got a couple that were right here around the section  
19 where you are if you don't mind. Page 34, E, I'm sorry, I'm on the wrong page, 30, 35,  
20 number 3. If I'm interpreting this right it means if I live on Lake Murray and I want to add  
21 on to my house I couldn't unless I just went vertical?

22 MR. HOOPS: Correct.

23 MS. CAIRNS: Within the buffer.

1 MR. HOOPS: Located within a buffer.

2 MR. TUTTLE: Right, but it's already there.

3 MR. HOOPS: Yes.

4 MR. TUTTLE: The house is there, but potentially my whole house could be  
5 under this new buffer line?

6 MR. HOOPS: Potentially, yes.

7 MR. TUTTLE: And so you would preclude me from, I could go vertically, but I  
8 just couldn't expand my footprint?

9 MR. HOOPS: That's right.

10 MS. CAIRNS: Or you could ask for a waiver.

11 MR. TUTTLE: Well I guess, I guess I could use some other BMP, too, if I wanted  
12 to, if I, I could figure out how to capture my roof water and hold it or something, I could  
13 come to you and begin a waiver?

14 MR. HOOPS: That's correct, under, under the waiver process if you find, find a  
15 technical means to create the same outcome that would be considered.

16 MR. TUTTLE: The, okay, page 44, F, it seems a little broad to me that the  
17 development of facilities can't have a commercial pool, a public pool? If you took a  
18 large scale development and, and I mean, the pool could potentially be a mile from the  
19 buffer, why, why would we prohibit it then? Could we not rewrite this where it had to be  
20 a certain distance from, from the buffer? I mean, it precludes you from having a pool,  
21 unless I'm reading it wrong in the section.

22 MS. CAIRNS: It's areas where buffer averaging is precluded.

1 MR. TUTTLE: Yeah, I'm sorry you can't, I, yeah, I got it, I'm sorry, you can't  
2 average buffers if you have a pool on your property, regardless of where the pool may  
3 or may not be? I'm not sure I, I get that one.

4 MR. VALAVALA: Having a pool in the buffer part of the property, if you have a  
5 pool in the buffer, we don't want pools in the buffers, that's what we are trying to do. If  
6 you have a pool somewhere in the middle of the property, we don't have a problem with  
7 that.

8 MR. TUTTLE: Alright, well then should that say pools located within the buffer?

9 CHAIRMAN PALMER: Yeah, cause that's not what it says.

10 MS. CAIRNS: It doesn't say that, yeah.

11 MR. VALAVALA: What we're restricting from that Ordinance is not to have a  
12 pool in the buffer area so with buffer averaging, we're saying that we're not allowing  
13 buffer averaging in the, if you have a commercial pool in the buffer area.

14 MR. TUTTLE: No, I appreciate that but that's not what it says.

15 MS. CAIRNS: Right, and what you're trying to say is you can't use buffer  
16 averaging to get your pool closer to the stream? But that is not at all what it says.

17 MR. TUTTLE: Right.

18 MS. CAIRNS: Mr. Tuttle's -

19 MR. TUTTLE: We actually agree?

20 MS. CAIRNS: Yeah.

21 MR. TUTTLE: You agree with me?

22 MS. CAIRNS: It's not a problem.

1 MR. TUTTLE: Lightening's gonna - so I guess I would make a motion that we  
2 change that to say development or facilities that have commercial or public pools  
3 located within the buffer zone - and not buffer average?

4 MS. CAIRNS: Well, it's not even, it's that the buffer averaging can't be used so  
5 as to allow a commercial or public pool to be closer than what the default buffer would  
6 have allowed. I think that's what you're trying to say.

7 MR. TUTTLE: Would you like to make a motion?

8 MS. CAIRNS: Have that, I mean, but basically I mean, I, I mean I don't think, I  
9 mean the problem is I'm not sure where it's, that, that's the appropriate spot, you know,  
10 because this is, the, the heading is where buffer averaging is prohibited and it's not that  
11 it's prohibited, but it's just that what we want to say is that buffer averaging cannot be  
12 used to allow a commercial or public pool - I make a motion that we amend it to  
13 whatever, whatever section is needs to be in, such that (H)(2)(f) is amended to read that  
14 buffer averaging cannot be used to allow a commercial or public pool to be closer, to, to,  
15 to locate in an area, designated buffer without averaging. You could make it sound  
16 better, but that's the whole thing, you can't use buffer averaging to move a pool closer  
17 than what, without averaging you could do.

18 MR. TUTTLE: Is that the, the language of the motion?

19 MS. CAIRNS: I don't know how it needs to be, I need to work on that, but I  
20 mean, that's the gist of the language.

21 MR. TUTTLE: Well, I mean, I get the spirit of it, I was having trouble with how  
22 the words would go.

23 MS. CAIRNS: [Inaudible] from Staff, too.

1 MR. HOOPS: I think maybe we, we need to address that in that section 2, it's  
2 the header of that whole section because in reality you could, you kind of interpretate  
3 [sic] that same situation with some of these other situations like [inaudible].

4 MS. CAIRNS: Well but I, but when I, I didn't pick up on the pool one, but when I  
5 read through this it made sense to me that these were generally noxious uses and so  
6 the thought was we don't ever want these noxious uses to get closer than the buffer.  
7 And so, you know, but it's, it's true that pools are the one specific thing that you could  
8 have a whole bunch of uses going on that weren't noxious, but you had a pool. You  
9 might want to be doing buffer averaging, but you don't want that to be able to let the  
10 pool get closer.

11 MR. HOOPS: Right.

12 MS. CAIRNS: You know?

13 MR. VALAVALA: But if the pool is, but if the pool is, [inaudible] noxious, the  
14 [inaudible] averaging [inaudible].

15 MS. CAIRNS: So maybe what it just needs to say is that, is that buffer averaging  
16 cannot be used to adjust the location where a pool would otherwise be allowed to, just  
17 in relation to the buffer. That's what -

18 MR. VALAVALA: [Inaudible] area is, or the language? Even in hot spot areas,  
19 because in hot spot areas we don't want [inaudible].

20 MR. TUTTLE: Right, I just, I always kind of view things from a Master Plan  
21 perception and if you had a huge development you could have a, a, an animal kennel, a  
22 veterinarian on site that wouldn't be anywhere near the buffer, I wouldn't want to

1 preclude us from averaging, doing buffer averaging way away from that particular use.

2 And the way it's written it's kind of -

3 MS. CAIRNS: Well, they would probably be on their own lot though.

4 MR. TUTTLE: Well, are you looking at it from a development standpoint or from  
5 an individual lot? Because you're not generally going to buffer average on your  
6 particular owned lot.

7 MR. VALAVALA: [Inaudible] the same language.

8 MR. TUTTLE: Well, I agree they have a problem with, this is a problem. David,  
9 do you think there's a way that you could take this and put it under a different heading  
10 or, or reword that to, to -

11 MR. HOOPS: I, I think paragraph two, that the header actually needs to be  
12 adjusted to, to be more specific and say that, you know, that averaging cannot be used  
13 when, when it results in any of these types of uses falling within, what the minimum  
14 buffer would be.

15 MS. CAIRNS: There you go, you got it.

16 MR. TUTTLE: If we got that language, then that's what we need to do.

17 MS. CAIRNS: That's our motion.

18 MR. TUTTLE: Will you repeat it one more time David? [Laughter]

19 MR. HOOPS: Buffer averaging cannot be used for the following listed uses that  
20 – bad English, but you'll take care of that - that will result in any of these uses falling  
21 within the minimum buffer.

22 MR. TUTTLE: So that's a, that's a motion.

23 MS. CAIRNS: Repeat that?

1 CHAIRMAN PALMER: Who makes that motion, David?

2 MS. ALMEIDA: It was -

3 MR. TUTTLE: Yeah, the language David just spoke of, I'd like to make that my  
4 motion.

5 MS. CAIRNS: I'll second.

6 CHAIRMAN PALMER: We have a motion and a second. Any other discussion  
7 on the issue? All those in favor, signify by raising your hands. Those opposed?

8 *[Approved: Cairns, Westbrook, McDaniel, Tuttle, Palmer, Manning, Furgess, Mattos-*  
9 *Ward, Gilchrist]*

10 CHAIRMAN PALMER: Jump in when you got something.

11 MS. CAIRNS: Well, I've got a -

12 MR. MANNING: Heather?

13 MS. CAIRNS: Yeah, I've got a few things, let me just go back, because we've  
14 touched on some of them certainly. Oh, page 18, the top paragraph, the last sentence  
15 says that storm water detention may be required if excessive water problems are known  
16 to exist. I don't like the like known to who, by when, where. I mean, should it not just be  
17 that these may be required if excessive water problems exist in the area? You know,  
18 just delete are known to? Because to me it just makes a lot of ambiguity as to when  
19 were they known, who were they known to, well, I didn't know -

20 CHAIRMAN PALMER: Where's that again at, Heather?

21 MS. CAIRNS: It's the, the top paragraph, like the last, the very end of the  
22 paragraph. I think the words are known to should be struck and adjust that.

1 MR. TUTTLE: Should the word excessive be included? I mean, how do you  
2 quantify that?

3 MS. CAIRNS: That's fine, excessive water problems exist in the area. I mean,  
4 yeah, the whole thing is interpretation, but I just think the are known to is, brings in too  
5 much ambiguity.

6 MR. TUTTLE: David, was the goal there for it to be on the, the impaired waters  
7 list, is that what's referring to? What other kind of excessive water problems are there?

8 MR. HOOPS: I think this reference to, to excessive water problems are, are  
9 water quantity problems because we're talking about detention, retention systems.

10 MR. TUTTLE: Right, but wouldn't that, so, so just to walk me through an  
11 example, if there's a raw piece of land that's discharging X and I come and develop that  
12 and, and whatever system it's conveying to can't handle that, then you would require  
13 me to hold more than X back?

14 MR. HOOPS: Correct, it, it would be more of a, a downstream capacity problem  
15 rather than an onsite problem possibly.

16 CHAIRMAN PALMER: So Heather, was that a motion from you?

17 MS. CAIRNS: Yeah, I mean, I just, I mean, discussion, but I just think it, I mean  
18 unless somebody can explain to me why it needs to say are known to, I just think it sort  
19 of causes -

20 MR. MANNING: So the motion is basically to delete?

21 MS. CAIRNS: Motion to delete the words are known to.

22 MR. MANNING: Second.

1 CHAIRMAN PALMER: We have a motion and a second. Any other discussion?

2 All those in favor, please signify by raising your hand.

3 *[Approved: Cairns, Westbrook, McDaniel, Tuttle, Palmer, Manning, Furgess, Mattos-*  
4 *Ward, Gilchrist]*

5 MS. CAIRNS: I had, this one was more just a, a curiosity on page 21, 3A, it talks  
6 about the fact that storm water management be addressed on a watershed basis? Is it,  
7 are these known, I mean, what size watershed, what, I mean, watersheds can be  
8 infinitely defined. I mean, are there, are, is there a map of like set watersheds of a  
9 certain number in the county or something? I mean -

10 MR. VALAVALA: Yes, we, we do have, we do have a set of watersheds in the  
11 county, however, by the site, the engineer will delineate the watershed area for that  
12 particular site.

13 MS. CAIRNS: But I mean, so are those, so I mean, I, I mean, so like if I bought  
14 this one piece of dirt I could find out which watershed you guys considered it to be a -

15 MR. VALAVALA: To that particular site.

16 MS. CAIRNS: So that you guys have like watershed maps adopted by Staff or  
17 something?

18 MR. VALAVALA: Yes, we do have, we have do have watershed maps that are  
19 adopted by, I mean, we means not the county, DHEC itself has the watershed, the sub  
20 watersheds and the bigger watershed maps.

21 MS. CAIRNS: Okay, that was, I mean, to me it was just, it was kind of warm  
22 fuzzy language, but it, you know?

1 MR. VALAVALA: What we are saying is like [inaudible] use a single property  
2 kind of a -

3 MS. CAIRNS: No, I think it's a good, I think it's a good approach, it's just that -

4 MR. VALAVALA: [inaudible] watershed approach.

5 MS. CAIRNS: It's just a matter of how, you know, how micro the analysis is on a,  
6 on a watershed.

7 MR. VALAVALA: And the engineer can define that.

8 MS. CAIRNS: Okay.

9 MR. VALAVALA: What area that, that particular site leads to which watershed.

10 MS. CAIRNS: I mean, I didn't have any changes needed, I just thought it was a  
11 little bit vague. Oh, page 25, item 8 talked about these are limitation times. It says the  
12 practice shall not be installed in fill materials as pipe, and then it gives the reason why  
13 as piping along the ground may cause slope failure. I would recommend that you strike  
14 the reason and just say that the practice should not be installed on fill materials and  
15 eliminate the reason because then what you're doing is opening up the argument that  
16 somebody's gonna come forward and say, oh no, but that's not true on my particular  
17 slope. Okay? So I just make a motion that we strike the, after the word material, that  
18 as piping along, strike -

19 MR. TUTTLE: But, David, wouldn't there be an instance where you might have  
20 to create the entire pond on a fill material and compact that?

21 MS. CAIRNS: But it's, I mean, we've got, I mean, that would be changing the  
22 whole thing. What they've got here is they're saying it shall not exceed five percent.

23 MR. TUTTLE: Well, and I don't disagree with that but -

1 MS. CAIRNS: And not be installed.

2 MR. TUTTLE: But I mean, I -

3 MR. HOOPS: I think the, you're relying on infiltration to, to handle some of your  
4 volume needs to be on virgin ground, particularly if what happens [inaudible] will lose all  
5 [inaudible]. So I think in this case it's, it's, the main point is that you shouldn't, shouldn't  
6 rely on infiltration if you've filled the soil at that location. Again that -

7 MS. CAIRNS: But this whole section is right, talking about infiltration practices?

8 MR. TUTTLE: Okay, but I mean, in, in the real world when you're grading the  
9 bottom of a pond generally speaking you're going to cut and fill to some level and go  
10 back over it and compact it. To, to go in there with a blade and get it just perfect to five  
11 percent without any cut and fills is gonna be difficult in the real world.

12 MR. HOOPS: Yeah, in the real world.

13 MR. TUTTLE: Yeah, okay.

14 MS. CAIRNS: And I still just make a motion that we strike as piping along the  
15 natural fill ground may cause slope.

16 CHAIRMAN PALMER: Where's this at again?

17 MS. CAIRNS: The back, the back of that section 8, it's strike the words as piping  
18 along the fill natural ground may, no, ground interface may cause slope failure, strike  
19 that part of that, so that it simply says also the practice shall not be installed in fill  
20 material, period, semi-colon, or period, whatever the proper, or some variation on that.

21 CHAIRMAN PALMER: Well Mr. Hoops, do you think that may present an issue  
22 in real world, in a real, real world situation?

1 MR. HOOPS: No I, my recommendation would be to leave that section in there.  
2 I have no problem with taking out that explanation for it, but I still think it's, our, our goal  
3 to get, get a system of that nature to work properly is to install it in virgin soil. Yes, it  
4 gets disturbed when the, during the contract, or construction process, but, we, we still  
5 need to have something to try to enforce that.

6 CHAIRMAN PALMER: Do we have a second?

7 MS. MCDANIEL: I'll second.

8 MR. MANNING: What was the motion?

9 MS. CAIRNS: Strike the wording after the word material in the second sentence  
10 of number 8.

11 MS. MCDANIEL: I seconded.

12 CHAIRMAN PALMER: Any other discussion? All those in favor of the motion,  
13 please signify by raising your hands. Those opposed?

14 *[Approved: Cairns, Westbrook, McDaniel, Tuttle, Palmer, Manning, Furgess, Gilchrist;*  
15 *Absent for vote: Mattos-Ward]*

16 MS. CAIRNS: I missed one, on page 20, I don't know if it's a scrivener's error,  
17 but B3, construction or perimeter controls, is it supposed to be construction of perimeter  
18 controls?

19 MR. HOOPS: I'm sorry, what's the question?

20 MS. CAIRNS: I just don't know if the second, in number three, should it be  
21 construction of perimeter controls? Or is it construction or perimeter controls? I mean,  
22 it's talking about sequencing.

1 MR. VALAVALA: Restriction activity [inaudible] where that includes your  
2 temporary constriction.

3 MS. CAIRNS: So is or correct?

4 MR. VALAVALA: Or is.

5 MS. CAIRNS: Okay, I just wasn't sure. On page 26, on the top line it talks about  
6 for the proper control of mosquitoes or other vectors? I just, is that, I mean, is it or other  
7 pests? I mean, maybe I don't know what the word vector means.

8 MS. MCDANIEL: Yeah, it's vector.

9 MR. VALAVALA: It's to control it -

10 MS. CAIRNS: Is it? Okay. Fine. Thank you, I just learned from that one. Okay,  
11 page 27, 6-A14, elevations of any structure potentially damaged or potentially, I was  
12 thinking maybe impacted? Because if you're, if you're doing your, your analysis correct,  
13 you're not going to show any damage, but you might show a thing that could potentially  
14 be impacted. I don't know, it's not a big deal, but I just thought. I thought it was unduly  
15 restrictive to have it say damaged, it would be better -

16 MR. HOOPS: The impact is even a little lesser term for that -

17 MS. CAIRNS: The impact is - - right, I mean it would include more -

18 MR. HOOPS: - so, I certainly would agree -

19 MS. CAIRNS: - yeah.

20 MR. HOOPS: I'd have no problem with that.

21 MS. CAIRNS: I just, I -

22 MS. LINDER: Should, should, should it read elevations of any structure that  
23 would be potentially damaged?

1 MS. CAIRNS: Sure, I mean – or, but just potentially impacted, that’s the whole,  
2 you know, you’re trying to show, you, you know, you want, you know, backing up about  
3 the whole risk analysis and this total analysis and you want to know the elevations of  
4 the structures that are potentially impacted.

5 CHAIRMAN PALMER: Yes, but doesn’t that get back to that whole discussion  
6 that came where you can’t show a no-rise because if you throw a rock into a, you’re  
7 gonna have impact.

8 MR. HOOPS: Right.

9 MS. CAIRNS: But that was in flood areas.

10 MR. HOOPS: Yeah, this, this is not relative to, to -

11 MS. CAIRNS: I mean, does anybody – that’s all, I just thought potentially  
12 damaged was too restrictive and potentially impacted was more encompassing and  
13 would be potentially more useful with the analysis. I would make a motion that we  
14 change damage to impact.

15 MR. TUTTLE: Second.

16 CHAIRMAN PALMER: Would that, would that make this requirement more  
17 restrictive?

18 MS. CAIRNS: It makes it more [inaudible].

19 MS. LINDER: Could it be elevations of any structure that would be potentially  
20 impacted, the future tense?

21 CHAIRMAN PALMER: Explain to me what this is doing?

22 MS. CAIRNS: Yeah.

23 CHAIRMAN PALMER: Mr. Hoops?

1 MR. HOOPS: Let, let me, here again, this is not an area that we spent any time  
2 on, this was part of the original documentation, so we haven't studied this in great detail.

3 CHAIRMAN PALMER: I just know there's a big difference between the word  
4 damaged and the word impacted.

5 MR. TUTTLE: Yeah.

6 MR. HOOPS: This section, I think it's discussing the use of an alternative design  
7 storm and, and it's, it's outlining what you have to, wish to have a, utilize a different  
8 designs storm, you have to satisfy these criteria.

9 CHAIRMAN PALMER: Right.

10 MR. HOOPS: And personally if I had a request like that come to me and it said  
11 they were showing elevations on the structure that the water would rise to, I probably  
12 would not accept that as a -

13 MS. CAIRNS: I just read, every, every section with the same detail, whether it's  
14 an obscure one or a major one, I'm sorry.

15 MR. MANNING: Yeah. But I think that's what they're trying to describe is a -

16 MS. CAIRNS: And we can just leave it as is, that's fine.

17 MR. HOOPS: If you, you come to the county with a request for a, for an  
18 alternative, this is the information you have to provide that then we can make it a  
19 judgment, is this acceptable.

20 CHAIRMAN PALMER: So do you withdraw the motion?

21 MS. CAIRNS: That's fine. Alright, here we go, page 36, and we're back into the  
22 stream buffers thing, under number F, or section F, because we talked about, you know,  
23 what the setbacks are and E talks about wetland areas is 50'. Well, it's just I got with E

1 and F, it's like for any wetlands the buffer shall be 50', but is it from the wetland or from  
2 the stream, then with E? Because then on F it talks about wetland areas not associated  
3 with streams, it's, it's the wetland plus 50.

4 MR. VALAVALA: It's from the [inaudible] line.

5 MS. CAIRNS: So that's why the second sentence saying that the width is  
6 independent, you may still have to setback more than 50 because of the wetland? So  
7 we don't have a specific, so if you have a wetland associated with a creek, the buffer is  
8 only from the creek and not from the wetland?

9 CHAIRMAN PALMER: The way that reads.

10 MR. HOOPS: No actually, actually I think, yeah, F, F is saying that if you have a  
11 wetland that's, that is effectively wider than 50' adjacent to a stream, then the buffer will  
12 be, will still incorporate the wetland and it will go outside the 50' buffer.

13 MS. CAIRNS: Well, but if the wetland is 60' wide -

14 MR. MANNING: It would be a 110'.

15 MS. CAIRNS: - there's, well see that's what I, I, that's what G says. I just, I think  
16 it would be much clearer if, if you look at the bottom of G, it talks about the 50' being  
17 particular, being perpendicular beyond the wetland edge and I think for E and F,  
18 delineating wetland areas with the stream, the buffer shall be at least 50', it's like from  
19 the wetland or from the perennial stream?

20 CHAIRMAN PALMER: So is the wetlands part of the buffer or do you have to  
21 start the buffer at the end of the wetland?

22 MS. CAIRNS: That's what I'm asking.

23 MS. LINDER: So just add from the jurisdictional line.

1 CHAIRMAN PALMER: I thought that the, it was from the, the line from the Corp,  
2 not from, I thought that did away with the whole top of the bank issue and all that kind of  
3 stuff.

4 MR. MANNING: We were gonna [inaudible] intermittent stream to a -

5 MR. VALAVALA: From the jurisdictional line.

6 MS. CAIRNS: From the jurisdictional line of the wetland or the jurisdictional line  
7 of the stream?

8 MR. VALAVALA: Wetland, an isolated wetland, it will be the -

9 MS. CAIRNS: But these are not isolated wetlands, these are sort of, E and F are  
10 talking about wetlands associated with a creek, okay, whether they're perennial or  
11 intermittent.

12 CHAIRMAN PALMER: The buffer doesn't start until the end of the wetland.

13 MS. CAIRNS: But I don't, I don't think this is clear, that that, I just think it would  
14 be more clear if it said there will be least 50' perpendicular beyond the wetland edge.  
15 Just like it does in G, I think it should say that in E and in F.

16 MR. TUTTLE: I think they're contradictory, I think they're saying two different  
17 things.

18 MS. CAIRNS: I think these guys are saying different -

19 MR. TUTTLE: No, I'm saying the way E's worded and the way G's worded are  
20 opposite.

21 MS. CAIRNS: Right, which would make someone potentially argue that E and F  
22 apply to the stream, not to the wetland and that there was no buffer beyond the wetland.

23 MR. TUTTLE: And that's, and that's the way I read it.

1 MS. CAIRNS: Right.

2 MR. TUTTLE: That, that, until you read G and -

3 CHAIRMAN PALMER: What was the goal of the round table? Did they want to  
4 tack on a buffer on top on the wetland? Or was it -

5 MS. CAIRNS: I think, I think G implies that, that the goal is that you should be  
6 50' away from a wetland edge, but E and F don't say that, but I think that, I mean, it's  
7 interesting that you would protect a buffer away from a creek more than you would  
8 protect a wetland associated with a creek, which is what G does.

9 CHAIRMAN PALMER: Are you guys sure this thing is ready to move forward on  
10 the 19<sup>th</sup>?

11 MS. ALMEIDA: Yes.

12 MS. CAIRNS: I mean, you don't get it both ways.

13 MR. TUTTLE: Yeah, I mean -

14 MS. CAIRNS: I mean, because it, because it starts out with [inaudible]  
15 delineated wetland areas, the buffer's 50', but if you drop out the parenthetical in the  
16 middle it's not, but then when you throw in that, I think you make it ambiguous. I mean,  
17 I do think that the intent is, it should say for the delineated wetland areas associated  
18 with streams the buffer shall be 50' perpendicular beyond the wetland edge.

19 MR. TUTTLE: Well now, but was the purpose to protect the stream or the  
20 wetland?

21 MS. CAIRNS: Either or, either or both.

22 MS. LINDER: But the -

1 MS. CAIRNS: But I don't know, I know, no I know, I mean I, I get, I get it. But I  
2 mean, I think, I think the sentence is more, less tortured to read the buffer being 50'  
3 from the wetland, but I don't think that's enough to say that that's a less tortured  
4 reading. I think it should be more clear.

5 MR. VALAVALA: So it's more a consensus document. [Inaudible] I mean, we all  
6 agreed on that sentence.

7 MS. MCDANIEL: But what does that mean?

8 MS. CAIRNS: But what does it mean?

9 MR. VALAVALA: The intent is to measure it from the, the intent is to measure it  
10 from the -

11 MS. CAIRNS: [Laughter] That's the crux - well, no I'm just the -

12 MR. VALAVALA: From the jurisdictional line of the wetlands, if, if you ask me,  
13 that's my personal opinion, right?

14 MR. HAMMETT: Yes.

15 MR. VALAVALA: I believe it to be.

16 MS. MCDANIEL: Well, was it the consensus to leave it intentionally vague?

17 MS. CAIRNS: Yes.

18 MS. MCDANIEL: Apparently so.

19 CHAIRMAN PALMER: Well, the, the purpose of this whole Ordinance is to  
20 protect the water. The wetlands already have their own protection and wetlands act as  
21 a filter.

22 MR. VALAVALA: And, and water -

1 MS. MCDANIEL: But there are ecosystems within the wetlands themselves that  
2 need protection, it's not just the running water.

3 MR. TUTTLE: But the, but this -

4 CHAIRMAN PALMER: But that's the purpose of this -

5 MS. MCDANIEL: Well, it is.

6 MR. TUTTLE: Yeah, this Ordinance has nothing to do with, no I, no, no, if, if you  
7 look at the edict from DHEC it has nothing to do with ecosystems and environmental -

8 MS. MCDANIEL: To protect [inaudible] and aquatic ecosystem.

9 MR. TUTTLE: That's not in DHEC's language.

10 MS. MCDANIEL: Well, that is the purpose of this.

11 MS. CAIRNS: Yeah, but G definitely makes it clear that we're protecting, we're  
12 putting buffers on wetlands.

13 CHAIRMAN PALMER: Well E and F, two of them don't do that.

14 MS. CAIRNS: Well no, no I, I would not argue that E and F say that the  
15 measurement is from the stream. I would say E and F, I think the less tortured reading  
16 is that it's from the wetland edge, but I think it, I think it opens it up for debate and I think  
17 we don't need to leave in the Code a sentence that we already know can be tortured.

18 MR. TUTTLE: Sparty, but it was my recollection that the 50' buffer from the  
19 jurisdictional line was independent of any wetlands determination. I mean, if the  
20 wetlands were 30', the buffer was 50'. If the wetlands were 100', the buffer was 50',  
21 because you clearly can't build on a wetlands anyway. And I'm not sure the purpose of,  
22 I don't remember in the round table us wanting to tack it onto the outside of a wetland.

23 MR. HOOPS: Right.

1 CHAIRMAN PALMER: I can remember when we debated this a long time ago, it  
2 was a very clear discussion about whether we're gonna measure this from the top of the  
3 bank, whether we're gonna measure the wetlands, where it's gonna be measured from.  
4 And I thought that I heard earlier in this discussion that you guys did away with all of the  
5 top of the bank talk and all that kind of stuff and went with the jurisdictional lines that are  
6 out there.

7 MR. HOOPS: That's correct.

8 CHAIRMAN PALMER: And the reason for that then is to go, to protect the  
9 streams and waters, the waters of this county. Wetlands already have their own  
10 protection and this document is not done by DHEC to protect wetlands, it's done to  
11 protect the streams and the water quality of this county. So why would we impose  
12 buffers on wetlands when the purpose is to, to make the waters clean?

13 MR. VALAVALA: I think a, I think Tracy, Tracy from the development round  
14 table, she brought up a point saying that the wetlands were part of the ecosystem, it  
15 was, it was a Corp of Engineers ruling saying that the wetlands are part of the storm  
16 water system and this was brought up by Tracy, Tracy -

17 MS. LINDER: Swortout.

18 MR. VALAVALA: Swortout.

19 MS. CAIRNS: Tracy National Park System.

20 MR. TUTTLE: Wait a minute, wait a minute, wait a minute. The, from the round  
21 table discussion there are clear notes that describe what was agreed to in consensus. I  
22 mean, we, we had this discussion ad nauseum.

23 MS. CAIRNS: But do you remember why G is so different then?

1 MR. TUTTLE: We didn't, we didn't, I wasn't in the group that tried to codify it.

2 MS. CAIRNS: Okay, because I can, I mean, I can, you know, I, I hear you guys  
3 and I think that, I think it, there was discussion about the fact that we weren't addressing  
4 wetlands and we, you know, that E and F were meant to read 50' from the creek, but  
5 then G belies that. And I can see that the second sentence of E and F is what would,  
6 you know, say that the reading of E and F, where it's to the creek is not a tortured  
7 reading because otherwise the second sentence would be [inaudible] or whatever that  
8 word is. But G goes the way other way and just says we're gonna use the wetland, I  
9 mean, that's why I just think those three need to be more consistent.

10 MR. TUTTLE: Well, I can't -

11 **TESTIMONY OF JIM WILSON:**

12 MR. WILSON: Mr. Chairman, if I may comment? I'm Jim Wilson with the  
13 Conservation Office and I was not part of that round table discussion, but per the intent  
14 of protecting the wetlands, because we've had impacts to wetlands, which is a county  
15 violation, the same as a stream, it's the jurisdictional waters of the U.S. and the Corp  
16 looks at it and DHEC both looks at it as an ecological area. So when you clear  
17 development land right down to the boundary of the wetland and you put up two silt  
18 fences or three silt fences or whatever you want to to protect wetland, we've had  
19 numerous sediment loads into wetlands and several developers have already been  
20 fined personally because of violation of impacts on a wetland. And that also goes  
21 against the county and the permit process because we're in charge of that jurisdiction of  
22 protecting the wetland, as well as streams. So, you know, it can be argued either way,  
23 but it's not so much just the waters of creeks, because the wetlands do provide that

1 somewhat vegetative filter to the stream. But we have to have some vegetative buffer  
2 or some water quality feature, whether it's a buffer or something else, or just staying  
3 away from it, some protection for the wetland itself as an eco-sensitive area, which is  
4 under the DHEC permit anyway. And so we will be fined if there are violations to a  
5 wetland as well as a stream, so where we draw that line I don't know, but I think the  
6 intent, at least from the Natural Resource Office is that we do provide some buffer  
7 protection to our wetlands as a sensitive eco area.

8 MR. TUTTLE: But, but Jim the, the, the, you know, in your comments just now  
9 you were talking about how the, the wetlands form a vegetative buffer to the stream, so  
10 then if we add another buffer to the wetlands, aren't we really buffering the buffer?

11 MS. CAIRNS: Not if -

12 MR. WILSON: We are for, with justified reason as I explained.

13 MS. CAIRNS: Yeah, the wetlands need a buffer.

14 MR. TUTTLE: But don't we already that -

15 MS. MCDANIEL: [Inaudible] to retain that purpose -

16 MR. TUTTLE: Yeah, but the, the, isn't there, correct me if I'm wrong, if there's  
17 already a separate function that delineates wetlands and permits, it doesn't allow you to  
18 encroach on wetlands, to discharge sediment into wetlands, etc., etc., that's already a  
19 process in place, am I correct?

20 MR. WILSON: That is correct, you can build within a wetland with a permit. Or  
21 you can mitigate -

22 MR. TUTTLE: Right.

23 MR. WILSON: - and actually impact a hill or -

1 MR. TUTTLE: Sure, sure.

2 MR. WILSON: - encroach on a part of the wetland with the Corp permit and  
3 mitigate the difference. But from my general perception of protecting the eco-sensitive  
4 areas, the wetlands are just as sensitive as the stream itself, even though there is a  
5 value in the wetland being the buffer to the stream. We really have not done a good job  
6 in protecting the wetland itself and when the Corp asks the developer to delineate a  
7 wetland, they'll flag that boundary of what's jurisdictional and they'll clear to that flag  
8 line. On a 20% land slope, clear on a 20% percent land slope with a flag line and  
9 maybe one silt fence around the wetland.

10 CHAIRMAN PALMER: But if they give -

11 MR. WILSON: The first rain -

12 CHAIRMAN PALMER: Aren't they -

13 MR. WILSON: - the first rain it's damage.

14 CHAIRMAN PALMER: But aren't they fined currently if they get in that?

15 MR. WILSON: Yeah, they are.

16 CHAIRMAN PALMER: So we already have rules in place that -

17 MS. MCDANIEL: But then the -

18 MS. CAIRNS: No, but the problem is that we can't have -

19 [Inaudible discussion]

20 MS. CAIRNS: Right, and the county pays and we all pay and that's why we're  
21 here to stop.

22 MR. WILSON: Well we need to be more responsible from a planning standpoint  
23 to at least integrate some BMPs to help protect sensitive areas, NS again I'm not

1 arguing the round table one way or the other, I'm just pointing out that the wetlands in  
2 Richland County are also a part of that sensitive eco-area that we need to find a  
3 solution to fit.

4 MR. MANNING: Jim, what was utilized for the storm water run-off and it, you  
5 know, conditions or, or circumstances in sheet flow into the -

6 MR. WILSON: Right, right.

7 MR. MANNING: And is you cleared right up to it, you would not be able to -

8 MR. WILSON: Correct.

9 MR. MANNING: So how would you utilize a wetland in that scenario?

10 MR. WILSON: You would, I think you would back off of it enough that you would  
11 have a proper sheet flow discharge that would allow the wetlands to function like they  
12 should. Right now we've got a lot of pipe discharges in, in the wetlands.

13 MR. MANNING: Right.

14 MR. WILSON: That are causing some problems just because what comes  
15 through the conveyance of the pipe system and we don't allow enough room to  
16 dissipate the energy of that pipe flow, spray it back out and let it become sheet flow into  
17 a wetland, then it really serves a, a function of a filter. But right now we've got pipe  
18 discharges 10' away from a wetland and we're just really getting a lot of discharge from  
19 the watershed and from the upper lands feeding through a drainage system or a storm  
20 pipe that ends up in the wetlands. So, I think the wetlands can really be a tool, an asset  
21 for us if we use them properly. And if you control maybe more of the water to the point  
22 you convey it to sheet flow before it's discharged, then we may accomplish the same

1 thing rather than a buffer. But we've got to find a way I guess of not dumping on the  
2 wetlands -

3 MR. MANNING: Well, some of the problems that we've had in previous  
4 documents before the Planning Commission was that science, you know, you didn't say  
5 X, Y and Z and DHEC wasn't requiring it for everybody, it was a big buffer [inaudible], a  
6 lot of studies, so there was some confusion about what, what was the best thing.

7 MR. WILSON: Right.

8 MR. MANNING: In your, in your opinion on a wetland buffer scientifically what  
9 would it need to be if it just, I mean, obviously you've got to take slope into  
10 consideration, so on and so forth, but if it was a, a fairly flat piece of land that was to  
11 function, what, what would you, what would you suggest?

12 MR. WILSON: There was a wide range of difference between validating buffers  
13 for different reasons. I know Staff looked at Watershed Institute, EPA, science  
14 guidelines that are out there that advocate, the most effective buffer on sheet flow was  
15 100', to remove a number of elements, not just sediment with your phosphates and  
16 some of your other elements that actually cause some of the phosphorous levels in our  
17 creeks and so forth that DHEC's concerned about. A hundred feet really was the  
18 optimum recommendation, it may not be practical in all cases, but for water quality  
19 component, 100' was recommended and I think the round table seriously looked at that  
20 from the standpoint of, and I think Tracy talked about it earlier, 100' is ideal, Lexington  
21 has 100', but that may not be right for Richland. So the round table's recommendation  
22 that I support is 50' as a baseline for planning with waivers for exemptions that can get it  
23 down to 25' and also site specific analysis of each development site to look at the land

1 slope, look at the vegetation, look at the proposed development type that's going on  
2 there, and then make a recommendation based on the 50, should it come down to 25,  
3 should you use buffer averaging, or is it impaired water that you actually should require  
4 75' instead of 50? But the site specific to that development plan, but I think the round  
5 table came up again with a solid compromise that HBA and others were in agreement  
6 on, we can't have it all and 100 may not be practical from an environmental standpoint,  
7 but 50 gives us a baseline for planning and when you buy a piece of property as a  
8 developer, you know you're looking at 50' and you may can adjust that with a variance,  
9 but you're know you're looking at 50. But if you also buy a piece of land that DHEC has  
10 already said it on, the stream is on the impaired list, you may be looking at 100', but you  
11 ought to know that as a developer before you buy that piece of property that you may  
12 have 100' buffer because it's an impaired stream. All of that data is public information  
13 that would help all of us do a better job. Going back to Mr. Manning's question really, I  
14 think 50' ensures backing off of streams and wetlands far enough to provide an  
15 adequate level of water quality filter that DHEC has mandated us to take a proactive  
16 approach and I think 50' answers DHEC's question and it gives us some latitude for  
17 planning and, and application.

18 MR. MANNING: Well, but the question is, is it 50' on a stream, 50' on a wetland  
19 in addition to it? I think there's some confusion as to what the round table agreed to do.

20 MR. WILSON: And I was not a part of that, I'll let Davis, he was a part of the  
21 round table, I'll let him address that.

22 MR. HOOPS: I, I'm sorry for the confusion because it, we were involved with a  
23 lot of stuff here. This, this section, these sub-sections E, F and G do establish buffers

1 for wetlands and that's why there's no reference there to the jurisdictional line because  
2 on wetlands there aren't. So these sections do explicitly apply a 50' buffer to wetlands.

3 MS. CAIRNS: So if we just simply, if we took the words that are at the very end  
4 of G, perpendicular beyond the wetland edge, and added that E, after the word E in 50',  
5 and the same in F after 50' so that the, you know, 50' perpendicular beyond the wetland  
6 edge is the same in E and F, at least 50' beyond perpendicular, beyond the wetland  
7 edge? It eliminates the ambiguity that -

8 MR. HOOPS: Okay, yeah, I, I see what, and, and I think why, why the  
9 perpendicular measure was added to the last one, those were considered to be isolated  
10 wetlands, that might be circular in nature whereas the other ones are probably more  
11 linear being along streams. But it, it certainly doesn't affect -

12 MS. CAIRNS: You can leave the word perpendicular out -

13 MR. HOOPS: Yeah.

14 MS. CAIRNS: - and say 50' beyond the wetland edge. But the key is, is that I  
15 just think it should be more clear in E and F, that the 50' is measuring from the wetland  
16 edge, not from the stream.

17 MR. HOOPS: And I certainly wouldn't have a problem adding that 50'  
18 perpendicular in E and F.

19 CHAIRMAN PALMER: But you're looking to protect isolated wetlands as well?

20 MR. HOOPS: Yes.

21 MS. CAIRNS: Yeah.

1 MR. HOOPS: In fact there was a discussion of that issue because of future  
2 development in the southern part of the county where this is probably going to be a  
3 greater issue.

4 MS. CAIRNS: Those have been a huge issue.

5 MR. MANNING: Does, does the state still control isolated wetlands?

6 MR. HOOPS: Yes, in fact, that, that's where the discussion got to, was that we  
7 would have to rely on the state to identify those.

8 MR. TUTTLE: Does the NPDES permit speak to the protection of wetlands?

9 MR. VALAVALA: Yes.

10 MR. TUTTLE: It does?

11 MR. VALAVALA: Um-hum (affirmative), it does.

12 MS. CAIRNS: Well, I'll make a motion that the words perpendicular beyond the  
13 wetland edge be added after the word feet, as in at least 50' and, and F.

14 MR. MANNING: Say that again?

15 MS. CAIRNS: The words perpendicular beyond the wetland edge be added to E  
16 and F, such that they will each read shall be at least 50' perpendicular beyond the  
17 wetland edge.

18 MS. MCDANIEL: I'll second that motion.

19 CHAIRMAN PALMER: We have a motion and a second. To me, I understand  
20 that this language, is this some of the language that came out of the round table or is  
21 this something that wasn't addressed? Is it one of the consensus documents that you  
22 can look to that everybody signed off on?

23 MS. LINDER: This, this was not part of the round table amendments, no.

1 MS. CAIRNS: And I would say that, I mean, I offered this amendment just to  
2 clarify the language, not as a change. I'm not proposing that this is a change, just that  
3 it's a clarification. I mean, I would almost ask that the document that goes to Council  
4 sort of explains that that's not intended as a change. I mean, it's clearly not, it's just  
5 trying to make it clear.

6 CHAIRMAN PALMER: Me, personally, I'm not going to support the motion  
7 simply because I don't think that the 50' buffer should apply to wetlands because the  
8 purpose of this document is not to protect ecosystems, but to protect the waters of the  
9 county and wetlands do do that, where there are not wetlands then the 50' buffer would  
10 then do that. So I'm gonna make a motion next to that affect, which would mean that I  
11 wouldn't support changing this language. That's the reason, that's the only reason, I  
12 understand that your motion is just to clarify -

13 MS. CAIRNS: I got you, I follow you, I follow. So we have a motion to add the  
14 language and a second.

15 CHAIRMAN PALMER: We have a motion and a second. Is there any other  
16 discussion? All those in favor, please signify by raising your hand. All opposed?

17 *[Approved: Cairns, Westbrook, McDaniel, Mattos-Ward, Gilchrist; Opposed: Tuttle,*  
18 *Palmer, Manning; Absent: Furgess]*

19 MR. MANNING: Mr. Chairman, just for the Record, I, I'm not opposed to  
20 buffering wetlands, but I, I would like to take that issue up separately.

21 CHAIRMAN PALMER: I think it, that's what I'm saying, I don't think it belongs in  
22 this, in this document and, and it's, number one it's already addressed in other  
23 regulations and then if people violate that then they're in trouble, they got to pay fines

1 and anything else, and if we don't think that that's regulation is tough enough, let's  
2 address that regulation where that is. But this document I think people need to  
3 understand has to do with the, with the waters of this county, the lakes, the streams -

4 MR. MANNING: Well -

5 CHAIRMAN PALMER: - all this kind of stuff and that, I, I, we're trying to clean  
6 the water up.

7 MR. MANNING: And I think Mr. Wilson demonstrated that the buffer does help  
8 that effort, just is it 50' carte blanche?

9 CHAIRMAN PALMER: Right.

10 MR. MANNING: Does it, does it need to be 100'? Does it need to be 10'? You  
11 know -

12 MS. CAIRNS: Actually I'm, I'm just, I'm just trying to clarify the Code.

13 MR. MANNING: I would like to -

14 MS. CAIRNS: Before we, can I, I actually have one more, just ambiguity. In  
15 section D on the same page, the last sentence says if these streams have associated  
16 flood as described above, flood plains, flood ways, flood studies?

17 MR. MANNING: Where are you, Heather?

18 MS. CAIRNS: Part D, the last sentence. I just think there's a word missing. If  
19 these streams have associated flood as described above, flood what? I don't know if  
20 it's supposed to be flood plain or flood way. I offer no answer.

21 MR. MANNING: Could it be flood study?

22 MR. HOOPS: I -

1 MR. MANNING: That's what it appears to me to be. That's just, you're, you're  
2 talking about flood studies above in D and C.

3 MS. CAIRNS: They have flood way in B and C and they talk about flood plain, I  
4 mean, it might be flood, I just in reading it, it didn't make sense, so I just highlighted it. I  
5 mean, I think it probably is flood way because that would make it more similar to B, the  
6 difference being perennial versus intermittent.

7 MR. HOOPS: And I, I agree, I believe that's, it, it was intended to be flood way, I  
8 think the, the word just got left out.

9 MS. CAIRNS: Yeah, I think because that, because that makes it, that makes it a  
10 parallel with B - in areas where a flood way profile has been completed upon a  
11 perennial stream and along jurisdictional intermittent stream has an associated flood  
12 way. I just don't know why they described it -

13 CHAIRMAN PALMER: Is that a motion or -

14 MS. CAIRNS: I'm, I'm just offering, I mean, I, I'd be curious as to the other's  
15 reading.

16 MR. MANNING: Well, if that, it is to read flood way, I would, I wouldn't  
17 [inaudible]. The reason for it is it, you can have a flood way without a wetland that is far  
18 larger than 50 or 100' and it could have no, no trees or shrubs on it.

19 CHAIRMAN PALMER: I thought that was the whole reason that we did, that the  
20 round table did the 50' as the buffer, I mean, and not, not using the, the flood way, flood  
21 plain lines and the top of the bank or -

22 MS. CAIRNS: Well, but if you're in a flood plain it's a big deal.

1 CHAIRMAN PALMER: No, you can't do anything anyhow, I mean, it could go  
2 way beyond a 50'.

3 MS. CAIRNS: Right.

4 MR. HOOPS: in a flood way, but in a flood plain you can -

5 MS. CAIRNS: Right, flood plains are different.

6 CHAIRMAN PALMER: Not much, the way we're starting to regulate them. It's  
7 about becoming the same thing. So, so what do we say here?

8 MS. CAIRNS: We're waiting for the other talking heads to offer their opinion.

9 MR. HOOPS: We, we believe that that, that that was supposed to have stated  
10 flood way and that's just, a word has been left out in there.

11 MS. CAIRNS: So it's a scrivener's error.

12 CHAIRMAN PALMER: Do, do we need a motion on that or are we just gonna  
13 say that's just a typo or?

14 MR. MANNING: I, you know, my personal opinion I'll make this as a motion that  
15 flood way is already regulated just as the wetlands are regulated and the flood way  
16 does not necessarily coincide with the flood, with the wetland. And I think we're over-  
17 regulating something that's already regulated. And I, I would make a motion that we  
18 delete paragraph D.

19 MS. CAIRNS: Oh, not the whole paragraph.

20 MR. MANNING: Because we are already, already the flood way is 50' from and  
21 the buffer would be 50' -

22 MS. CAIRNS: Well but the, not just referring to the flood way, I mean, the first  
23 sentence in paragraph D talks about the fact that you've got a 50' buffer.

1 MR. MANNING: Well, 50' buffer would remain, you're gonna have that  
2 regardless of the flood way anyway, aren't you?

3 MS. CAIRNS: Right, but I just think we should fix, I think we should, I mean, if  
4 want it independent, but I think we should have a motion. Do you guys agree that it  
5 should have been flood way?

6 MR. HAMMETT: Yes.

7 MS. CAIRNS: I mean, that it's just a scrivener's?

8 MR. HAMMETT: Yes, flood way.

9 MS. CAIRNS: Okay, so I would make a motion that we correct the word in the  
10 second sentence of D from the word flood to the word flood way as a correction of a  
11 scrivener's error.

12 MS. LINDER: And, and I'm wondering if as described above needs to be in  
13 there?

14 MS. CAIRNS: It seems, you know, unnecessary.

15 CHAIRMAN PALMER: You tried it again didn't you?

16 MS. CAIRNS: I did, it doesn't do well with me. You shouldn't make such fun of  
17 me though.

18 CHAIRMAN PALMER: I couldn't do it either.

19 MS. CAIRNS: It's a bad one, I just need to ditch it. I couldn't spell it to save my  
20 life.

21 MS. LINDER: Could we put and before associated, and associated flood way?

22 MS. CAIRNS: Well I, I mean, I don't know why it doesn't just read the same as  
23 B, but I guess it is different in B.

1 MR. HAMMETT: It's -

2 MS. CAIRNS: I don't know, it's just weird that these are worded so different, but  
3 I'm not trying to rewrite the whole thing. But this is stream buffers, oh I see in B, yeah A  
4 and B, yeah perennial streams and then B clarifies that it's either the flood way or 50'.

5 MR. HAMMETT: Okay, can, can we offer just to delete the last sentence under  
6 D?

7 MS. CAIRNS: Okay, because the theory is that flood ways are covered  
8 anyways. I mean, is there ever a flood way on an intermittent stream?

9 MR. HOOPS: [Nods yes]

10 MS. CAIRNS: There are? Okay.

11 CHAIRMAN PALMER: I don't want to be around for that hundred year flood.

12 MS. CAIRNS: Our street filled up the other day. I don't live anywhere in a flood  
13 zone.

14 CHAIRMAN PALMER: Is that the motion? Heather, do you want to make that  
15 motion?

16 MS. CAIRNS: I just wanted to make the motion to change the word flood to flood  
17 way.

18 MR. MANNING: Delete [inaudible]?

19 MS. CAIRNS: No, I didn't make that one.

20 CHAIRMAN PALMER: Does anyone want to? You don't have to.

21 MS. CAIRNS: I mean, I feel that's a change and I'm not trying to make a change  
22 here, I'm just trying to correct a scrivener's error.

1 CHAIRMAN PALMER: Okay, Heather has a motion to add the word way at the  
2 end of flood. Is there a second?

3 MS. LINDER: Could, could, would, would Heather accept an associated flood  
4 way? I think that would read better, too, an associated flood way.

5 MS. CAIRNS: Well I don't, that's fine.

6 CHAIRMAN PALMER: Anybody second?

7 MS. MCDANIEL: Second.

8 CHAIRMAN PALMER: Those in favor, please signify by raising your hand.  
9 Those opposed?

10 *[Approved: Cairns, Westbrook, McDaniel, Tuttle, Palmer, Manning, Furgess, Mattos-*  
11 *Ward, Gilchrist]*

12 CHAIRMAN PALMER: I'll make a motion to delete the sentence.

13 MR. MANNING: Second.

14 CHAIRMAN PALMER: Per Staff's recommendations.

15 MR. MANNING: If the streams have associated flood ways?

16 CHAIRMAN PALMER: If these streams have an association flood way, the same  
17 requirement would apply to [inaudible] 50' and delete the sentence. We have a motion  
18 and a second. Is there any other discussion?

19 MS. MCDANIEL: Is it really Staff's intent to delete that provision? I mean, that  
20 changes the -

21 MR. HAMMETT: It, it really doesn't change. I mean, that, that sentence really  
22 doesn't add, add any value.

1 MS. CAIRNS: That's because flood ways are, they're [inaudible] areas anyways.  
2 Right? Yeah.

3 MR. HAMMETT: Yes.

4 CHAIRMAN PALMER: All those in favor, please signify by raising your hand. All  
5 those opposed?

6 *[Approved: Tuttle, Palmer, Manning, Mattos-Ward, Gilchrist; Opposed: Cairns,*  
7 *Westbrook, McDaniel, Furgess]*

8 CHAIRMAN PALMER: Okay.

9 MS. CAIRNS: I might be done, hang on.

10 MS. LINDER: What was it, what was the vote on that?

11 MS. CAIRNS: That was 5/4.

12 MS. LINDER: 5/4 in favor of deleting it?

13 MS. CAIRNS: Correct.

14 CHAIRMAN PALMER: Yeah.

15 MS. CAIRNS: Oh, okay, page 42, G5, it's talking about adjustments to the width.  
16 It talks about that if, if my adjacent land use, if the land I don't own has bad stuff, I have  
17 to have more buffer on my side?

18 MR. HOOPS: I, I believe the intent is land, the adjacent refers to land adjacent to  
19 the buffer. Whether it's a, if there's a use adjacent to it.

20 MS. CAIRNS: So on my land?

21 MR. HOOPS: Uh-huh (affirmative).

22 MR. TUTTLE: So basically just saying if you have a septic tank you have to add  
23 25'.

1 MS. CAIRNS: Okay, cool.

2 MR. HOOPS: Correct.

3 MS. CAIRNS: If that's what it says that's fine. And I was maybe getting tired.  
4 And then, okay, on page 43 H1D, it's talking about averaging on both sides of a creek  
5 and then the very last tail of the sentence is but it must be applied to both sides of the  
6 stream independently. I think it should be on each side of the stream independently.  
7 So how can you be both independent?

8 MR. MANNING: You may not own the other side.

9 MS. CAIRNS: Well yeah, but I mean, but then it's an, but it's talking about  
10 stream buffering shall be applied to each side of the stream independently. If the  
11 property includes both sides, buffer averaging can be applied to both sides, but must be  
12 applied to both sides independently? It doesn't make sense.

13 MS. ALMEIDA: To each side.

14 MS. CAIRNS: To each side independently.

15 MR. HAMMETT: I think it should, it should be each.

16 MS. CAIRNS: Yeah, so I make a motion that we change the word both to the  
17 word each in the last sentence of D, each side, I guess we have to drop the "s" to get  
18 the grammar really true.

19 MS. LINDER: So in two places or one place?

20 MS. CAIRNS: It's there, I think it's the only -

21 MS. ALMEIDA: Just the last one.

22 MS. CAIRNS: It's saying if the property being developed includes both sides,  
23 buffer averaging can be applied to both sides, but, you know, basically you have to do

1 your, each side has to average accurately so you can't push, you can't put what, all on  
2 one side?

3 MS. ALMEIDA: Right.

4 MS. CAIRNS: Twenty-five on one side and 75 on the other, you've got to  
5 average 50 on both, each side. Okay.

6 CHAIRMAN PALMER: Is there a second?

7 MS. CAIRNS: Oh yeah, so that was my motion.

8 CHAIRMAN PALMER: Is there a second?

9 MR. MANNING: I second.

10 CHAIRMAN PALMER: Alright, all those in favor, please signify by raising your  
11 hand. All opposed?

12 *[Approved: Cairns, Westbrook, McDaniel, Tuttle, Palmer, Manning, Furgess, Mattos-*  
13 *Ward, Gilchrist]*

14 MS. CAIRNS: Aren't you guys glad I fell asleep then? I'm done.

15 MR. MANNING: Mr. Chairman?

16 CHAIRMAN PALMER: Deas?

17 MR. MANNING: I want to go back to page 36, we were dealing with the buffers a  
18 minute ago. And we were actually looking at item D and deleted the last sentence of  
19 that, but I want to address item B. I don't think that the buffer boundaries should be  
20 based on the flood way or flood plain limit. They're not necessarily associated with  
21 wetlands, they are already protected for other reasons and you can't do certain things in  
22 the flood way, and I think we're over-regulating that. I think it's just got a no disturb  
23 zone which disallows you from being able to do anything in there and you are taking a

1 lot of property and making it useless. So I would recommend that we delete the  
2 language that equals the width of the flood way, it should be never less than 50' and I  
3 think that deleting the language equal to the width of the flood way.

4 CHAIRMAN PALMER: So what you're saying is you've got the 50' buffer no  
5 matter what?

6 MR. MANNING: Right.

7 CHAIRMAN PALMER: And then whatever happens after the 50' is under the  
8 flood way regulations?

9 MR. MANNING: Correct.

10 CHAIRMAN PALMER: Okay.

11 MR. TUTTLE: I'll second then.

12 CHAIRMAN PALMER: We have a motion, do we have, and we have a second.  
13 Any other discussion? All those in favor, please signify by raising your hand. All those  
14 opposed?

15 *[Approved: Tuttle, Palmer, Manning, Furgess, Gilchrist. Opposed: Cairns, Westbrook,*  
16 *McDaniel, Mattos-Ward]*

17 MS. LINDER: Could, could you just read what the language got, what, what  
18 language got struck?

19 MR. MANNING: Basically you would delete: the buffer shall be equal to the  
20 width of the flood way. It should read that the buffer will be no less than 50', or that the  
21 buffer will be 50'.

22 CHAIRMAN PALMER: Well, because if you say less than 50' and you would still  
23 [inaudible].

1 MS. LINDER: So the buffer shall be 50'?

2 MR. MANNING: Right.

3 CHAIRMAN PALMER: Okay, anything else?

4 MR. TUTTLE: I, I have one. David, you may can walk me through this one on  
5 page 50, item B2, under plan developments or town and country developments. If I'm  
6 reading that right are you saying that the storm water conveyance channels and so forth  
7 have to be maintained by the homeowner's association and the county won't, won't take  
8 them?

9 MR. HOOPS: That's correct.

10 MR. TUTTLE: Wasn't one of the purposes in the round table to try to promote  
11 open storm water conveyance?

12 MR. HOOPS: Yes, yeah I, I -

13 MR. TUTTLE: But isn't that kind of contradictory to that, to one of those  
14 principles? Because, I mean, you would discourage a developer from using open  
15 channel conveyance wouldn't you? Are you saying any storm water system in a  
16 planned development has to be owned and maintained by the HOA?

17 MR. HOOPS: Let me, we, I, I know we had considerable discussion about this,  
18 because of course the goal of this is to utilize channels in their existing condition  
19 whenever we can, but there is a section that we addressed in here after a lot of  
20 discussion on when, when is it justified to improve the channel because of capacity  
21 needs or flood control or something of that sort. I, I don't know that this section 2 is, is  
22 saying that they particularly have to be improved, all we're saying is the county doesn't  
23 want to be in the business of maintaining facilities that are, say natural streams or, or

1 waterways that are to the rear of properties if it's not a part of the flood way drainage  
2 system.

3 MR. TUTTLE: But, but then in turn wouldn't you probably discourage developers  
4 from trying to use that natural stream? Wouldn't they probably pipe it and just dedicate  
5 the storm water pipe to you?

6 MR. HOOPS: Well, it -

7 MR. TUTTLE: Are you saying you're not going to take care of storm water in  
8 planned developments?

9 MR. HOOPS: We, we would prefer not to, to maintain storm water facilities  
10 outside of the public right-of-ways of our roads, is really kind of our goal. You know,  
11 we'll, we'll do it when it's necessary to be, to make it a consistent system.

12 MR. TUTTLE: You know, I, I, mean, obviously you open up all kinds of, of worms  
13 there because these residents in this planned community are going to pay the same  
14 taxes that the ones that are in the community where you're maintaining the storm water  
15 system are.

16 MR. HOOPS: Um-hum (affirmative).

17 MR. TUTTLE: And yet they're gonna have the extra burden of having to maintain  
18 that system through their HOA. So I just worry that that's gonna somehow reduce the  
19 planned development activity.

20 CHAIRMAN PALMER: And what if the HOA doesn't maintain the buffer?

21 MR. HOOPS: That, well there's, there's, in, in the HOA and, and this is a  
22 planning issue that when, when you establish a HOA there are some legal requirements

1 there that requires them to do so. And if they created a nuisance I would presume the  
2 county could bring legal action against them to make them do so.

3 CHAIRMAN PALMER: What if the HOA dissolves?

4 MR. HOOPS: Can't, you know.

5 MR. TUTTLE: But just the, just this theory though, I'm just trying to understand it,  
6 so it, the county's path is now they're going to burden people in a planned development  
7 as opposed to people that aren't in them, in a PDD?

8 MR. HOOPS: Well, I don't know, are, are, I think going that path doesn't  
9 particularly designate a planned development, it's, it's pretty much any development.  
10 We would like to keep storm water in natural channels and, and we would like, for  
11 instance the, the, the whole maintenance issue like with retention basins, which is a  
12 really big issue for us - yeah, this, okay -

13 MR. VALAVALA: It's, it's existing, they're not doing any change.

14 MR. TUTTLE: This is a, an existing where, I'm sorry?

15 MR. VALAVALA: Existing in the Ordinance right now.

16 MR. TUTTLE: In the existing Ordinance? And this is, I'm, I'm just confused, this  
17 is for open storm water conveyances only?

18 MR. HOOPS: Yeah.

19 MR. VALAVALA: So you would not be making any changes.

20 MR. TUTTLE: But I just, I just worry that if you're a developer you wouldn't, I  
21 mean, there would, there would be no benefit to have an open storm water  
22 conveyance?

1 MR. HOOPS: Yeah, yeah. As I said it, it, as I recall that issue is addressed  
2 elsewhere where we, we try to promote -

3 MR. TUTTLE: Right.

4 MR. HAMMETT: - in open channels and natural channels when, when  
5 conditions allow.

6 MR. TUTTLE: Thanks for the clarity.

7 MR. HAMMETT: And that's actually addressed on the next page, 51 C where we  
8 added language in there to address, it's the intent of the regulations that exist in  
9 drainage channels within buffer areas be maintained in their natural conditions  
10 whenever possible and whenever engineering is feasible. So that's the top of the next  
11 page.

12 MR. TUTTLE: And that's what, I'm sorry, so that's within a buffer, is this other  
13 area, the, the first section I talked about, is that just relating to, to the buffer areas only  
14 or is it any drainage channel?

15 MR. HOOPS: Yeah, this, this is not for, as, as Srini pointed out this is not a,  
16 specifically for buffers, this is for channels. It's just in, in delineating that, that the goal is  
17 to not have channels on private property, of course to have them in, in delineated rights-  
18 of-ways or easements or whatever.

19 CHAIRMAN PALMER: Anybody else? Anybody else? Anybody?

20 MR. MANNING: Yeah, we've got a little bit more to go. On page 41, J1A, all  
21 property lines shall terminate at the quality buffer? My, my concern with that is, if we  
22 can achieve the same thing by a dedicated easement, I, I understand why you'd want it

1 there, but what it could do is create smaller lots in the process that may not comply with  
2 the compatibility of the area. I mean, it's just, it's taking up more land -

3 MS. CAIRNS: This is -

4 MR. MANNING: - that the lot is going to be determined by what's platted.

5 MS. CAIRNS: But this was if you were going to dedicate, dedicate the buffer  
6 area to the county.

7 MR. MANNING: Right.

8 MR. HOOPS: And you don't have to.

9 MS. CAIRNS: Right, you don't have to.

10 MR. MANNING: Well, I mean why would it not, I mean so you don't have to, it  
11 could be a dedicated easement to, to the county?

12 MR. HOOPS: Well, or if it could be utilized as some of the clear space relative to  
13 the zoning or something like that.

14 MR. MANNING: Open space?

15 MR. HOOPS: Yeah.

16 MR. MANNING: So there would be no penalty to, to provide by easement versus  
17 dedication and by deed?

18 MS. CAIRNS: Well, they can be just on, but they can be just private property  
19 owned by the private property owner. It's just, it's just dedicated buffer.

20 MR. HOOPS: That's correct.

21 MS. CAIRNS: I mean, your, your, subdivision lots can run into the buffer, it just  
22 doesn't need -

1 MR. MANNING: Well, the subdivision lot could run through the buffer, too. The  
2 buffer could be a part of a lot or not?

3 MR. HOOPS: Yes, sir. Yeah, the buffer can be on privately owned lots, it's just  
4 a, a -

5 MR. MANNING: Okay.

6 MR. HOOPS: - regulation of use -

7 MR. MANNING: As long as that's the case, I'm fine.

8 MS. CAIRNS: Yeah.

9 MR. HOOPS: Yeah.

10 MR. WILSON: Mr. Chairman, could I add one comment just from Mr. Manning's  
11 point on easements because it has been very effective, several developers have  
12 enrolled development property with the county for easement purposes as a  
13 conservation tax write off. And so what we would encourage, if it is a buffer, in the early  
14 stages of the sketch plan to identify really what's buffer and what's easement and it may  
15 even be 100' of buffer is voluntarily put into an easement because it's too costly to  
16 develop or it's too steep or other reasons. The IRS has criteria that qualifies that land  
17 because it's protecting a water body, that buffer, or that 100' or that 300' of upland area  
18 feeding to that stream all qualifies for a, the conservation write off. So, through the  
19 Conservation Commission that County Council authorized for the county to accept  
20 development easements as a part of a development plan that would give you the  
21 development dollar write off, not agriculture value and not just tree value, but if you  
22 could make 20 lots in that buffer, it would give you that write-off over a 15 year period.  
23 So I only interject that as a incentive for working with the Planning Department up front

1 to, to do that and, but the county is committed to accept that easement and monitor that  
2 easement on an annual basis, but it's still private property. Or you could donate it to the  
3 county as some did last year, donate it, the title to the county as a buffer control areas  
4 as well. So there are a couple of flexibilities in that, but I just wanted to re-emphasize  
5 that point that, that flexibility is in there to give you a buffer, but also get some return on  
6 it.

7 MR. MANNING: Page 37, B1D, the added language on the minimum number of  
8 crossings, 1,000', and I know most developers are not gonna want to cross it anymore  
9 than they've got to and it's costly. But you could in fact create a situation where you're,  
10 the cul-de-sac length is what for Richland County now, 800'? So you could have a  
11 situation where you're not in compliance with that part of the Code couldn't you? Every  
12 1,000' and you don't want to cross it anymore than you've got to?

13 MR. HOOPS: I, I think the 1,000' was, was established as a goal and as it, as it  
14 further goes on that if the applicant demonstrates like topography or, or possibly  
15 wetlands that, they, they may have to do it differently and, and that's just something  
16 they need to, to demonstrate as a part of their plan process and, and we would approve  
17 less than 1,000'.

18 MR. MANNING: Well I, I just didn't want somebody to be in a catch 22 situation  
19 where they couldn't develop part of their land on the length of the cul-de-sac because  
20 they're only allowed one crossing in 1,000'.

21 MR. HOOPS: Right, yeah, and, and the developers and engineers as a part of  
22 the round table had a lot of discussion about that issue and they were satisfied with this  
23 language, so.

1 MR. MANNING: On the ability to bring in a hardship case?

2 MR. HOOPS: Yes, they, they said the identical thing you said that number one  
3 they, they would wish to not cross it any more than they had to.

4 MR. HAMMETT: In, in fact this was their wording, or this was the wording from  
5 our development committee members.

6 MR. MANNING: And, and why would they use 1,000' say versus 800? Would,  
7 that would -

8 MR. HAMMETT: Just as -

9 MR. MANNING: - coincide with the cul-de-sac?

10 MR. HAMMETT: It was just a, I don't know, I don't know the rationale for the  
11 1,000.

12 MS. ALMEIDA: They didn't take into consideration the 800 limit.

13 MS. CAIRNS: They're, they're different [inaudible], they're totally different.

14 MR. MANNING: One issue that I know you all spent a good bit of time on, page  
15 38, E1, 360 shoreline buffers at Lake Murray. Can you kind of bring me up to speed on  
16 what the round table and Staff's thinking was behind the 360 line? We had discussed in  
17 the Planning Commission earlier that the 360 was an arbitrary line, it could be hundreds  
18 of feet from the water pool or water's edge. So why would you impact, well, you know, if  
19 you had a, I guess two acre lots are exempt, but if you had a five acre lot you're not and  
20 if you had that lot on Lake Murray and you had a buffer that ran in two to three hundred  
21 feet, it seems excessive to me. I want to protect whatever we, do whatever we need to  
22 do to protect the water and it seems to me that should be a constant number, unless

1 you're dealing with slope or certain types of conditions that would warrant something  
2 else.

3 CHAIRMAN PALMER: Why is, why is Lake Murray measured differently?

4 MR. HOOPS: Well, because it is basically a, a Corp of Engineers regulated  
5 dammed lake and, and the 360, 360' elevation is the high water pool. In other words  
6 the, that is the highest water level they can normally allow water to rise in the, in the  
7 lake.

8 MR. MANNING: What's normal?

9 MR. HOOPS: It's like 58. Or is that, no?

10 MS. CAIRNS: As I said I think the, the 360 -

11 MR. HOOPS: I'm sorry, that's normal.

12 MS. CAIRNS: - isn't 362 is the, is the top, I think it's 362 is where you have to be  
13 in order to be out of the flood.

14 MR. HOOPS: Okay, okay.

15 MS. CAIRNS: So that's, yes, 360 is below the flood stage.

16 MR. HOOPS: That's normal for -

17 MR. VALAVALA: The normal -

18 MR. MANNING: 360 is the normal pool?

19 MR. HOOPS: Yeah.

20 MS. CAIRNS: It's been 359 lately, yeah.

21 MR. VALAVALA: [Inaudible] has been brought from the development round table  
22 [inaudible] with the Lexington County because that on the other side of, of the lake and  
23 it stays 363 or [inaudible].

1 MR. MANNING: What was the language we had in there? What was the  
2 elevation then?

3 MR. VALAVALA: Previously?

4 MR. MANNING: From the Planning Commission.

5 MR. VALAVALA: From the Planning Commission?

6 MS. CAIRNS: It probably would have been the 362, because that's the -

7 MR. MANNING: It may have been, I just -

8 MS. CAIRNS: - I think that's the flood way.

9 MR. VALAVALA: 362 [inaudible], the highest pool and [inaudible] the high water  
10 elevation.

11 MS. CAIRNS: Yeah, you've got to be outside of that, I mean, I know that  
12 because, yeah.

13 MR. MANNING: The only reason I bring it up is because we could [inaudible]  
14 somebody [inaudible]?

15 MR. HAMMETT: 363 was actually in the Planning Commission's version.

16 MR. MANNING: 363?

17 MR. HAMMETT: 363.

18 MR. MANNING: And this is 360? Okay.

19 MR. VALAVALA: Under the high water level.

20 MR. MANNING: Enough said. Anybody else? I hate to put y'all through this, but  
21 they've asked us to do this.

22 CHAIRMAN PALMER: Oh, no, you're fine.

1 MR. MANNING: Page 50, 1B - this goes back to something that Heather brought  
2 up about watershed, the size of them -

3 MR. HOOPS: What page?

4 MS. CAIRNS: Fifty-one.

5 MR. MANNING: Page 50, I guess it's 1B, well it starts on 49, but it's actually  
6 over on page 50, the future development calculations used in the proposed storm water  
7 management facilities, that reflect the anticipate future development in high watershed,  
8 is that -

9 MS. CAIRNS: Yeah, what watershed?

10 MR. HOOPS: This would be taking into account upstream watersheds, so that if  
11 you are conveying water through your site, you're an, you're anticipating what the  
12 capacity you're gonna need when upstream review is developed.

13 MR. MANNING: So you're saying you've got to take into consideration the total  
14 build out of a watershed based on what, the zoning in place?

15 MR. HOOPS: Right.

16 MR. MANNING: And how do you apply a timeframe?

17 MR. HOOPS: Well, it's, it's not so much a timeframe, it's just to, to make sure  
18 that you've created the capacity to be able to convey that flow in the future.

19 MR. MANNING: But, you may be dumping your water into a watershed, but it's  
20 not coming through your system.

21 MR. HOOPS: That's true and, and -

1 MR. MANNING: How do you, I, I mean, but why do I need to calculate all of  
2 that? Why shouldn't I only calculate what I am, how I'm going to impact that  
3 watershed?

4 MR. HOOPS: Well, but if you're, if you're conveying water from upstream of you,  
5 you need to make certain that you have the capacity to, to convey that water in the  
6 future. And, and yes our regulations require retention and, and detention but, but, the,  
7 the runoff still changes for, between development, pre-development and post-  
8 development. And so -

9 MR. MANNING: Right, and we have to allow -

10 MR. HOOPS: Right, and, and, what, why this goes into effect is if you look on  
11 the bottom of page 49, the, the, is that the design storms change relative to the size of  
12 the watershed.

13 MR. MANNING: Right.

14 MR. HOOPS: So what we're seeing is if you have a water conveyance taking,  
15 taking water through your development, we want you to use the design storm that's  
16 appropriate for the, for the total upstream watershed so that we have some confidence  
17 that you have the capacity.

18 MR. MANNING: Is, is that currently what our Code says?

19 MR. HOOPS: Yeah.

20 MR. MANNING: It is?

21 MR. TUTTLE: I mean, who would calculate the capacity of the watershed?

22 MR. HOOPS: The, the consultant.

1 MR. TUTTLE: And so I'm, I'm developing parcel A over here and I've got to pay  
2 my consultant to measure the watershed all the way up, upstream, up to what point?

3 MR. HAMMETT: To whatever [inaudible].

4 MR. HOOPS: And that's not that difficult of a calculation, I mean, all we require  
5 is they take a topographic map and, and lay out the area. I mean, they, they would  
6 have to do that irregardless of this regulation because they still have to convey water  
7 through there. All this is saying is take into account what that future use of that land is  
8 and make sure you're, you're creating the capacity for that future use.

9 CHAIRMAN PALMER: How do you calculate future use?

10 MR. MANNING: Zoning.

11 MR. HOOPS: Just check the zoning.

12 MR. MANNING: And that's, that's what I don't understand. I mean, you've got  
13 100 acres right here and the engineer says okay, this water is going here, that water is  
14 going over there, you need to obtain X amount post-development. Somebody way over  
15 here is developing and it's not coming through my facilities, it might end up at the same  
16 place. So I don't understand, I, I don't ever recall having our engineer or my engineer  
17 go calculate somebody else's watershed drainage. I, I, we are asked to calculate our  
18 own drainage and make sure that we do not exceed post-development requirements.

19 CHAIRMAN PALMER: Which is why it wouldn't matter what other people are  
20 doing because they can't exceed that either.

21 MR. MANNING: Exactly.

22 MR. HOOPS: But, but they do do that, believe me, they, they look at, what,  
23 what, any water that comes under your site they have to account for.

1 MR. MANNING: But what if it's not coming onto my site?

2 MR. HOOPS: Well, but that, that's all we're talking about is water that's coming  
3 onto your site.

4 MR. MANNING: But I'm part of a bigger watershed.

5 MR. HOOPS: Sure.

6 MR. VALAVALA: For example -

7 MR. MANNING: But it doesn't say just coming onto my site, it says calculate the  
8 entire watershed.

9 MR. VALAVALA: For example if I have an acre lot and I have a [inaudible] and  
10 the engineer calculates how much water is coming into the ditch [inaudible].

11 MR. MANNING: Well, read it and see if that's what you -

12 MR. HOOPS: I, I see what the comment you're making now. It, it probably  
13 should say upstream water.

14 MR. MANNING: Right.

15 MR. HOOPS: Or tributary watershed.

16 MR. MANNING: Right, but not the entire [inaudible] coming through -

17 MR. HOOPS: Right.

18 MR. MANNING: It should be what's coming through me.

19 MR. HOOPS: That's correct.

20 MR. MANNING: Not the entire watershed.

21 MS. CAIRNS: It's the upstream watershed.

22 MR. MANNING: Well, then I would make a motion that we would amend the  
23 future development to say upstream watershed instead of entire watershed.

1 MR. TUTTLE: I second.

2 CHAIRMAN PALMER: We have a motion and a second. Any other discussion?

3 All those in favor, please signify by raising your hand. Those opposed?

4 *[Approved: Cairns, Westbrook, McDaniel, Tuttle, Palmer, Manning, Furgess, Mattos-*  
5 *Ward, Gilchrist]*

6 MR. MANNING: Page 55, B1, it talks about a dwelling lot. Does that mean a lot  
7 or a lot with a house on it?

8 MS. CAIRNS: This is interesting.

9 MR. HOOPS: Yeah. Is there a, any definition of that?

10 MS. ALMEIDA: No, but I, it seems like when you say dwelling lot that there is a  
11 structure on it.

12 MR. HOOPS: Yeah.

13 MS. ALMEIDA: Or else we'd just say lot. That's in the old Code, that's in our old  
14 Code.

15 MR. HOOPS: Yeah, that's part of the old, I'm sure it's old Code, yeah, I would  
16 think.

17 MS. ALMEIDA: We can clarify that and just - developed lot, single-family, you  
18 know.

19 MR. MANNING: And the reason I bring that up is, is, we've had a lot of instances  
20 where houses are built below street grade tat you can't get back into the gutter in the  
21 street and they sheet flow or grain to the rear of the property into a swale or some open  
22 channel and I don't know if this would require some alteration in the grade that, I mean,

1 normally you don't want to grade property to make it go into the direction that it ain't  
2 supposed to go. Well it kind of reads like that's what we're doing.

3 MR. HOOPS: And in fact, you know, the type of development we're talking about  
4 today with green development the preference would be the sheet flow off of a  
5 developed lot into a buffered stream.

6 MR. MANNING: Right.

7 MR. HOOPS: And that's, that's the ultimate goal of this whole thing.

8 MR. MANNING: Right.

9 MR. HOOPS: So that this really doesn't fit very well with the rest of the  
10 Ordinance.

11 MR. MANNING: Hum-um (negative).

12 MR. VALAVALA: [Inaudible]

13 MR. MANNING: Well, I mean, it depends on where the dwelling is and it, are we  
14 talking about a lot? We've already identified that we can't let water run more than 200'  
15 on a, on, on a single-family lot.

16 MS. CAIRNS: That's only if the homeowner's trying to do it without the  
17 assistance of a professional.

18 MR. MANNING: Yes, right.

19 MS. CAIRNS: That's a -

20 MR. MANNING: But in this situation you might have a lot with a house on it and  
21 it would normally sheet flow like you say. Are, are we gonna be required or is the  
22 homeowner gonna be required to pick that water up and put it into a storm drain, which  
23 we don't want to do. I mean, we're trying to avoid that.

1 MR. HOOPS: I, I would recommend that, I think both G-1 and 2 need to be  
2 looked at relative to our new regulations. I, I don't, I don't think they're -

3 MS. CAIRNS: But these are existing Codes, right?

4 MR. HOOPS: These are, these are in existing Code and we are gonna be going  
5 through the entire Code, we've only addressed two of the things that -

6 MS. CAIRNS: We've just begun?

7 MR. HOOPS: Yeah, we did the hard ones first, though.

8 MS. CAIRNS: Yeah.

9 MR. MANNING: Well, I'm not gonna do a motion if we're in agreement that, that  
10 we can deal with that later.

11 MR. HOOPS: Absolutely.

12 MR. MANNING: Kind of contradicts what we're trying to do. Fifty-eight, 5A?  
13 This area must be designed to provide an aesthetic focal point such as a lake, creek or  
14 other water feature. You're talking about retention ponds, right? And the way we have  
15 to design retention ponds, most of the time they're not gonna look like a lake or a creek,  
16 you know. We, we want to landscape them and hide them as much as we can, they're  
17 not beautiful sites generally and you know, they can be. But it talks about preserving  
18 tree groupings or utilizing existing terrain or geological features of the site, well from an  
19 engineering standpoint you're gonna want that retention pond at the lowest point in the  
20 property. You've got a group, a group of trees there, what are we gonna do? We're  
21 gonna knock them all down and we're gonna put the retention pond there and then  
22 we're gonna plant trees around the retention pond to try to hide it. I mean, it wouldn't

1 make sense to move that uphill, we're gonna lose land and lots anyway, but they need  
2 to be in the most functional place, so if the trees are there, they've just got to go.

3 MR. HOOPS: Again, this is a part of the existing Code and, and I know the, the  
4 small interaction I have with plan review, this is always a problem for us. And, and  
5 you're right, they, the retention basins are usually stuck back in a corner where no one  
6 can see them anyway because the goal is to get them out of the way. Again, this is  
7 something we can take a look at. I, I, we, we've had discussions on how we deal with  
8 the retention basins and storm water management in the past, so.

9 CHAIRMAN PALMER: The, the only fear I've got Deas is if you don't, don't  
10 address it now just like the previous issue, once this storm water issue -

11 MR. MANNING: Right.

12 CHAIRMAN PALMER: - gets off the radar for Council, it ain't getting back on for  
13 a while.

14 MR. MANNING: Well, from a discussion standpoint what would you do to offer?  
15 I, I, I think that obviously from an engineering standpoint they need to go where they  
16 function properly. You know, we're trying, that's one issue, and then the other is we're  
17 trying to make them something they're not. Obviously there's landscape requirements  
18 that are utilized to address how they look.

19 CHAIRMAN PALMER: We already have those don't we?

20 MR. HOOPS: Yeah, typically there's the, the landscape requirements are to  
21 screen them away so that they can't be seen, there's just -

22 MR. MANNING: And that is part of the Code, the existing Code now?

23 MR. HOOPS: Yes.

1 MR. MANNING: Well, if that's the case then I would make a motion that we  
2 delete A, 5A in it's entirety.

3 MS. CAIRNS: And it's only half of B saying that the area has to be either A or B  
4 and in A there's, one of the things is the utilizing the existing terrain. So it's not, it  
5 doesn't seem like it's particularly difficult to conform to.

6 MR. MANNING: I mean, obviously we are required to provide detention or  
7 retention or some storm water management that's going to be approved or disapproved  
8 by the County Engineer when it gets there. So either it functions properly or it doesn't  
9 or it meets the allowable discharge. It seems to me that we're trying to, it's ambiguous  
10 to me, I mean, it just doesn't, doesn't serve a point. You've got a landscape plan that  
11 addresses how we handle the appearance of it.

12 MS. ALMEIDA: But this is existing language that's in our Code right now.

13 MR. MANNING: This is?

14 MR. HOOPS: Uh-huh (affirmative).

15 MS. ALMEIDA: Yeah.

16 CHAIRMAN PALMER: But it's an issue right now isn't it?

17 MS. ALMEIDA: No, is it in, I'm mean -

18 MR. MANNING: Well, you know, if, you know, if it is existing in the Code -

19 MS. ALMEIDA: It is.

20 MR. MANNING: - it creates an issue going forward for me, just, you know, we're  
21 trying to make it as best we can make it now rather than having to come back and deal  
22 with it later. The intent is to engineer these things to where they perform at their peak

1 and they don't look any worse than they already do. I mean, you know, we've got  
2 landscape designs that address the appearance, but I just, I think it's ambiguous or it's -

3 CHAIRMAN PALMER: With fencing, fence them off.

4 MR. MANNING: Well, we fence them and landscape them.

5 CHAIRMAN PALMER: Why would you want to try to make it a focal point?

6 MR. MANNING: Well, if you want to hide it as best you can you do.

7 MR. TUTTLE: Well, I mean, there are occasions, like if you to go to Atlanta and  
8 stuff, some of the, the [inaudible] principles and I've seen where they actually use an  
9 athletic field for retention and stuff like that or they make a mock, you know, if it's a wet  
10 pond they might have a fountain in it or something. But I mean, that's a rarity and it's  
11 certainly we're not seeing it in our area, but that's where that would apply.

12 MR. MANNING: Well, if you could turn it into an amenity that's great, but to  
13 require it to be an amenity -

14 MS. CAIRNS: Well, but it's, I mean, it's saying it's designed to be an aesthetic  
15 focal point or to utilize existing terrain. I mean, that's part of A, so you can, or you can  
16 just simply have the landscaping for the basin as integrated within the entire landscape  
17 plan. I mean, 5 is not particularly difficult to satisfy. And striking A means that then you  
18 can only satisfy the requirements of landscaping by B. I mean, the way it is now you've  
19 got three ways to try and satisfy this requirement.

20 MR. MANNING: Well, it says preserve a tree grouping -

21 MS. CAIRNS: Or -

22 MR. MANNING: - or utilize the existing terrain or geological features of the site,  
23 so what is it? I mean, it's -

1 MS. CAIRNS: Any, any -

2 MR. HAMMETT: Or/are, or B -

3 MS. CAIRNS: So if you're building it at the bottom of the hill, you're, you're  
4 utilizing the existing terrain.

5 MR. HAMMETT: And/or B though, the landscaping for the basin shall be  
6 integrated within the entire landscape plan. That's the way most people are opting to do  
7 it now.

8 MR. MANNING: Then don't, then take out aesthetic focal point because that  
9 directs you to tree groupings and geological features.

10 MS. CAIRNS: It's just one of the options.

11 MR. MANNING: Well, it makes it appear that it's not to me.

12 MS. CAIRNS: Well, let's just -

13 MR. WESTBROOK: Why can't it say this way?

14 MS. CAIRNS: - if you read the whole thing it's fine.

15 MR. MANNING: I read it.

16 MR. WESTBROOK: - that this is the extra option, that's, that's your  
17 interpretation.

18 MR. MANNING: Well, would Staff interpret it that way?

19 MR. HOOPS: Yes, but the way -

20 MR. MANNING: So you would interpret it that, you know -

21 MS. ALMEIDA: We've, we've had no problem to date -

22 MR. MANNING: - it does not meet -

1 MS. ALMEIDA: - Mr. Manning, and to date we've had no problem with approving  
2 landscape plans for basins. I mean, there are issues when you push a basin to the  
3 property line, those were issues and I think those have been rectified -

4 MR. MANNING: And, and that's been modified to provide more -

5 MS. ALMEIDA: - to move away from property line, but we have had no issues in  
6 the past as far as whether they want to fence them and put up a screen or whether they  
7 want to make a focal point -

8 MR. MANNING: Okay.

9 MS. ALMEIDA: - and avoid the pit option, I mean, unless -

10 MR. MANNING: I just thought this was new to, new to the Code, but if it's not -

11 MS. ALMEIDA: This is existing.

12 MR. MANNING: - fine and it's not a problem, fine, and you know, it's either/or.

13 MR. HAMMETT: Yes, and that's, if it's, it says one of the following must be, be  
14 met, so it's either A or B. Most people choose B, but, but some do opt for A, I mean, in  
15 fact we did, we recently had a neighborhood that we gave their detention pond back to  
16 them because they turned it into a recreational area.

17 MR. MANNING: And that's great, I mean, you know, if they can utilize it for an  
18 amenity fine.

19 MR. HAMMETT: Right.

20 MR. MANNING: Okay. Thank y'all for bearing with me.

21 CHAIRMAN PALMER: Okay, who is that for? [Buzzer - Laughter]

22 MS. CAIRNS: Well said Secretary.

23 MS. SWORD: Please forgive me.

1 CHAIRMAN PALMER: Well, I think that before we take a final vote [inaudible].  
2 He's been here for quite a bit of it, we may want to - alright, so the way we proceed in  
3 my opinion is to take a vote whether or not to approve or deny the storm water plan as it  
4 was presented to us.

5 MS. CAIRNS: Without amendments?

6 CHAIRMAN PALMER: Without amendments. And we took amendments and  
7 voted on those amendments I would imagine, I don't know -

8 MS. CAIRNS: Well, I mean, while you're thinking one of the things that I'm sort  
9 of thinking about is that, is that, you know, many of the changes that we've offered in  
10 the last few minutes were, were scrivener's corrections or clarifications and just trying to  
11 clarify things. Certainly the change of the entitled property is a enormous change I  
12 would offer to the plan. So I don't know exactly what your decision would be as the  
13 Chair on how to vote for this, but personally I have a hard time supporting the adoption  
14 of this with the entitled property amendment as offered. I mean, I could support it as is,  
15 I could support it with all of the changes but for that, but I think I would just offer to  
16 Council, or to, to Commission that with the adoption or the amendment of the entitled  
17 property definition, I feel that this Ordinance almost fails on it's face because it's that  
18 much too large a gap in it's coverage. So I don't know whether we can vote in the  
19 manner, or if we just need to vote for it with the amendments, but, but it, you know, if, if  
20 that passes so be it, then we're done. But I think if it fails I'd like to eventually offer  
21 passing it without that in, if that makes any sense, I'm just offering that as, you know,  
22 maybe even why I might be voting against it, because if we only vote for it as amended  
23 I, I feel I have to vote against it only because of the entitled property definition shift.

1 MR. MANNING: Mr. Chairman, I, if you're deciding whether to go forward on  
2 approving this or denying this with the amendments and, and I would prefer to, myself  
3 personally, to, to approve it with amendments. I think there are a lot of people who  
4 have done a lot of work and, and a lot of changes are already in place that, you know,  
5 are valid and rather than say it's a bad document, I'd rather say it's a good document  
6 and that we approved it and would like to make these changes.

7 CHAIRMAN PALMER: I guess the way to move forward then would be to have  
8 someone make a motion to send this document as amended forward to Council with a  
9 recommendation of approval. So we are sending a positive vote forward and not just a  
10 vote for denial, and that the amendments, while some wanted some and some didn't  
11 want others, it, it was the consensus of the Planning Commission that those  
12 amendments be made.

13 MS. CAIRNS: Sure.

14 CHAIRMAN PALMER: So I think that's the way that we should address this as a  
15 Planning Commission. I guess to that effect I'll, I'll be the one to make the motion on  
16 this.

17 MS. CAIRNS: Oh, you can't as the Chair.

18 CHAIRMAN PALMER: Oh, right.

19 MS. CAIRNS: You can't make the motion.

20 UNKNOWN: What?

21 MS. CAIRNS: He can't make a motion as the Chair.

22 MR. MANNING: Well, I talked [inaudible].

1 MS. MCDANIEL: Well, can I ask a question? I, can we approve, make a motion  
2 to send it forward with approval and make that motion separate from our  
3 recommendation? Or do they have to be the same?

4 MR. WESTBROOK: I think they -

5 MS. MCDANIEL: Do they have to within the same?

6 MR. WESTBROOK: - I think they should be in, within the same jurisdiction.

7 CHAIRMAN PALMER: They should because I couldn't vote to send this forward  
8 with approval -

9 MR. WESTBROOK: You disapproved it, if you do that.

10 MS. MCDANIEL: Alright.

11 MR. TUTTLE: Well Mr. Chair, I'd like to make a motion that this Ordinance  
12 doesn't have a number so what, how shall I address it?

13 MS. CAIRNS: Storm water -

14 MR. TUTTLE: To, to send forward to Council for their approval the Storm Water  
15 Ordinance as amended here today, with the, I don't know how many amendments it  
16 was, but the affirmative vote amendments.

17 MR. WESTBROOK: I'll second.

18 CHAIRMAN PALMER: We have a motion and a second. Any other discussion?  
19 All those in favor, please signify by raising your hand. Those opposed?

20 *[Approved: Westbrook, McDaniel, Tuttle, Palmer, Manning, Furgess, Mattos-Ward,*  
21 *Gilchrist. Opposed: Cairns]*

1 CHAIRMAN PALMER: Real quick, do we ever get kind of a synopsis of perhaps  
2 what the Planning Commission has achieved throughout the year or, or has moved  
3 forward, or kind of the [inaudible] or something like that?

4 MS. ALMEIDA: Synopsis?

5 CHAIRMAN PALMER: No?

6 MS. ALMEIDA: Like how many - what would you like?

7 MR. GILCHRIST: Well, we were discussing earlier if in fact there is a document  
8 that the Commission can have that can be passed on to Council of, of what we've  
9 accomplished in 2009?

10 MS. ALMEIDA: Okay.

11 MR. GILCHRIST: If we can get something compiled like that, I certainly would  
12 like a copy of that and have it sent to Council.

13 MS. ALMEIDA: Okay. Who's the Secretary in 2009?

14 [Inaudible discussion]

15 MR. WESTBROOK: Mr. Chairperson, as a new Member, could someone define  
16 the round table position? I'm not, I don't understand it.

17 CHAIRMAN PALMER: I, I agree with that 100%. Where did the round table  
18 come from?

19 MR. WESTBROOK: Yes.

20 CHAIRMAN PALMER: And, and does it, what, what's it's purpose and how long  
21 is it going to be in existence and what is it?

22 MR. WESTBROOK: And what authority does the round table have?

1 MR. HAMMETT: The development round table process was established by the  
2 previous Planning Director as a way to look at certain sections of our Land Use  
3 Ordinance. The round table started in February of this year, excuse me February of  
4 2009, it was an eight month process and there was consensus on the 22 development  
5 principles. The Council actually blessed the, the, approved the 22 development  
6 principles. They appreciated the consensus effort that it brought and see this as a way  
7 or, a good way of moving controversial issues forward. When you've got three bodies  
8 at the table, you've got an equal number of Staff, development and environmental  
9 community, so what we started was phase II of the development round table as  
10 approved by County Council in December. So phase II, what we, what we will do is go  
11 through all of the development round table principles and convert those principles into  
12 Ordinances and then the next phase beyond that, and all those will be brought back  
13 before the Planning Commission and it will not be this rushed manner. I mean, a lot of,  
14 a lot of what with, resulted today is just because of the fact that this Storm Water  
15 Ordinance has been ongoing for 17 months now. So what will happen in the future is  
16 there will be plenty of time to review the Ordinances that are, that are brought forward  
17 from the development round table.

18 CHAIRMAN PALMER: And how do you get appointed to the development round  
19 table?

20 MR. HAMMETT: The, as I indicated earlier, the HBA actually appointed the  
21 original members and what we did is we, the phase II members or a subset of that  
22 original group, a smaller, more manageable working group of four, four, and four – four

1 development, four environmental and four Staff. I'm actually the facilitator for the  
2 development round table.

3 CHAIRMAN PALMER: There's a whole lot of development going on in this  
4 county that does not have anything to do with the HBA.

5 MR. TUTTLE: Well, what, I was going to say to be fair, Sparty, the development  
6 real estate property owner's side, Chamber of Commerce side wasn't made up just from  
7 the HBA, it was a group that the Chamber had an appointee, the Board of Realtors had  
8 an appointee -

9 CHAIRMAN PALMER: But not on the small stuff?

10 MR. TUTTLE: - the development, yeah on the small stuff.

11 MR. HAMMETT: Yes, we, Doug, Doug Bridges was, is a member of, of the  
12 Chamber, represents the Chamber, so he's, he's a member of this -

13 CHAIRMAN PALMER: So there's certain organizations that then appoint  
14 people? I mean. there's got to be a structure to this, right? Because the Chamber has  
15 one appointment, the HBA has one appointment, the, I don't see how other people get  
16 appointed.

17 MR. HAMMETT: It was, it was really, it, it was really informal, it was informal, it  
18 was an informal body that was pulled together back in February. And basically Council,  
19 you know, likes the consensus aspect of it rather than having, you know, typically what  
20 we would have for the, like the Storm Water Ordinance, we go into a Zoning Public  
21 Hearing and the development community lines up their 30 to 40 people, the  
22 environmental lines up their 30 to 40, everybody says the same thing and we really  
23 accomplish nothing. So I, I think the, the process itself is a good process and what

1 you're gonna see as, as we move forward in the future is a consensus we're gonna take  
2 that we're gonna have everyone set at, because what, what, within the Storm Water  
3 Ordinance there was a lot of meeting in the middle. There was some give and take on  
4 both sides. So, you know, that's what, I mean, both sides had to, had to give to, to  
5 reach a consensus on this and what we want to do eventually is go through the entire  
6 Land Use Ordinance.

7 CHAIRMAN PALMER: If, if we're gonna do that, there needs to be a formal  
8 process for how these members get appointed and who's appointed because now  
9 you're talking about redoing the whole Land Development Code, which is really our role  
10 on the Planning Commission and we are the appointed Members from County Council,  
11 which is a nine member Body, which is supposed to make up the county. And that's  
12 really our role is to take a look at Land Development Code issues, so what we're doing  
13 now is, is we've got another body out there that is doing the same role as the Planning  
14 Commission and is now making recommendations whereas before it was simply it had  
15 to be from Council, the Planning Director or the Planning Commission that made  
16 changes to the Ordinance. But what we're doing now is we're getting things out of the,  
17 out of the round table, so I, I just think -

18 MR. TUTTLE: I, I think, and then, I think this particular Storm Water part was  
19 convoluted. I think the way that they envisioned it working before Storm Water ever  
20 came up would be those groups, Staff, environmentalists and whomever would get  
21 together and create some document that would then come to the Planning Commission  
22 for Planning Commission's input, rather than Staff just creating a document from square  
23 one to come before the Planning Commission.

1 MR. HAMMETT: Right, right.

2 MR. TUTTLE: Somehow this got, the Planning Commission got kind of short  
3 changed in this particular episode.

4 MR. HAMMETT: Right, and, and this, and this will not happen in the future. So  
5 what essentially we're talking about is this group doing the pre-work for the Planning  
6 Commission and, and really what you have is the, all sides involved in the process. And  
7 you know, so that's, that's, that's what it does is, is it really gets input from all  
8 environmental, development Staff, rather than just coming from, everything being  
9 pushed by Staff. That's, and that's what you've had before.

10 CHAIRMAN PALMER: It's, I, I agree with the process, I just think it needs to be  
11 more formalized and there needs to be some real broadening of, of perhaps who's  
12 eligible to be on this committee of some sort or, or how you're appointed to it or, or  
13 whatever. It just seems like that it's not a cloak and dagger thing, but I mean, there's,  
14 there's no openness, I mean, you know, how, how do you get on the thing? If you want  
15 to as a citizen of Richland County?

16 MR. TUTTLE: I just, and I'm only speaking, having been a participant, I don't,  
17 you know, and there, there was, there was no formal process. I'm not aware of anybody  
18 that asked to be involved that was turned away. None of the meetings were private  
19 whatsoever. If you weren't one of those six designees, you were certainly allowed to  
20 come to the meetings and have input. But I, I don't disagree maybe there could a, a  
21 more formalized way to -

22 CHAIRMAN PALMER: That's what I'm saying, I, agree with the process, I just, I  
23 think that -

1 MR. HAMMETT: And, and clearly, I mean, clearly we could look at the process,  
2 at the composition as we move forward, but, you know, I, I think the concept itself is, is  
3 a very good concept and I think it's, when we get all of the sides to the table, you know,  
4 it's not gonna take 17 months to pass an Ordinance in the future, so.

5 MR. MANNING: You know, one suggestion that, you know, this did get kind of  
6 wrapped around the axle or whatever before it got, got out of the driveway -

7 MR. HAMMETT: Right.

8 MR. MANNING: - but if, if, if there's issues that are controversial like that in the  
9 future or deadlines it would certainly I think help the process move along without having  
10 a first reading approval and then a gun to our head where they've sent to us a 90 page  
11 document and said we've got to have it tomorrow. Well, we did it, we got through it and  
12 then for them to defer it, defer it, defer it, although the end result was better, you kind of  
13 scratch your head what, what was being said at the time? Why, why was that process  
14 being driven like that? So I would, I just, I hate that the Commission gets circumvented  
15 -

16 MR. HAMMETT: Right.

17 MR. MANNING: - to that degree by having that first reading approval and a  
18 deadline.

19 CHAIRMAN PALMER: Anything else?

20 MR. WESTBROOK: Yeah, I make a motion that we adjourn.

21 CHAIRMAN: I second.

22  
23 *[Meeting Adjourned at 6:00 pm]*