

RICHLAND COUNTY PLANNING COMMISSION**April 4, 2011**

[Members Present: Heather Cairns [in at 1:10pm], Kathleen McDaniel, David Tuttle, Stephen Gilchrist, Deas Manning, Elizabeth Mattos-Ward, Howard Van Dine; Absent: Olin Westbrook, Wallace Brown, Sr.]

Called to order: 1:00 pm

VICE-CHAIRMAN GILCHRIST: We'll call to order the Monday, April 4, 2011 Planning Commission Meeting. In accordance with the Freedom of Information Act, a copy of the agenda was sent to radio, TV stations, newspapers, person requesting notification and posted on the bulletin board located in the lobby of the county administration building. First, we have a presentation of Minutes for approval.

MS. MATTOS-WARD: Mr. Chairman, I'd like to make a correction on the March 7th minutes of the Planning Commission where it says, we will call the March meeting to order, it should be February, it should be March meeting.

VICE-CHAIRMAN GILCHRIST: Okay. A second on that?

MR. MANNING: Second.

VICE-CHAIRMAN GILCHRIST: All in favor, please signify by raising your right hand. All opposed?

[Approved: Westbrook, McDaniel, Tuttle, Gilchrist, Manning, Mattos-Ward; Abstained: Van Dine; Absent: Cairns, Brown]

MR. VAN DINE: Mr. Chairman, since I am new to the position [inaudible] I will not be voting on the Minutes

VICE-CHAIRMAN GILCHRIST: Mr. Van Dine, we welcome you back to the Planning Commission.

MR. VAN DINE: Thank you.

1 VICE-CHAIRMAN GILCHRIST: Look forward to your participation again. Thank
2 you, sir.

3 MR. VAN DINE: I appreciate it, thank you.

4 VICE-CHAIRMAN GILCHRIST: Absolutely. Road Name Approvals. Ms. Linder,
5 in the past when we've done road name approvals, do we have to vote on each one of
6 these individually, or can we vote on them as a block?

7 MS. LINDER: I believe in the past you've done it both ways. My
8 recommendation for the Record is that you state the road name that you're, state the
9 approval of the roads and what the name is going to be.

10 VICE-CHAIRMAN GILCHRIST: Okay. Long Hollow.

11 MR. TUTTLE: Mr. Chairman, I would like to make a motion that we approve the
12 road names as follows: Long Hollow, Flowery Branch, Deacon Elder, Flat Tree, Brown-
13 Parnell and Harriet Morgan Lane.

14 MR. WESTBROOK: Second.

15 VICE-CHAIRMAN GILCHRIST: All in favor please signify by raising your right
16 hand. All opposed?

17 *[Approved: Westbrook, McDaniel, Tuttle, Gilchrist, Manning, Mattos-Ward; Abstained:*
18 *Van Dine; Absent: Cairns, Brown]*

19 VICE-CHAIRMAN GILCHRIST: Are there any Agenda amendments?

20 MS. FONSECA: There are none.

21 VICE-CHAIRMAN GILCHRIST: No Agenda amendments? Okay. Our first case,
22 DRT -

23 MS. LINDER: Mr. Chairman?

1 VICE-CHAIRMAN GILCHRIST: I'm sorry.

2 MS. LINDER: The only amendment would be if you would choose to want to
3 nominate a chair person. That would have to be added to the Agenda. But if you would
4 want to wait until another meeting, that is at your discretion.

5 VICE-CHAIRMAN GILCHRIST: Yeah, I would. I think there are several people
6 that are up to reappointed for the Commission.

7 MS. FONSECA: Correct.

8 VICE-CHAIRMAN GILCHRIST: And I would ask that we wait until our next
9 meeting. We don't need to take any formal vote on that or anything do we?

10 MS. LINDER: No.

11 VICE-CHAIRMAN GILCHRIST: Okay. DRT Appeal.

12 **DRT APPEAL:**

13 MS. FONSECA: Mr. Chairman, the Zoning Administrator or Mr. Brian Cook will
14 slip in and make a presentation on this appeal.

15 VICE-CHAIRMAN GILCHRIST: Okay.

16 MR. VAN DINE: Mr. Chairman?

17 VICE-CHAIRMAN GILCHRIST: Yes, sir.

18 MR. VAN DINE: Unfortunately how this may sound odd, but I have to recuse
19 myself from the first deal because I happen to be on the Board of Columbia Country
20 Club and we are selling the part of the property that is included in this Fox Meadow. We
21 have sold it to these people so, I will step in the back.

22 VICE-CHAIRMAN GILCHRIST: Okay.

1 MS. FONSECA: Mr. Chairman, you will see on page one, is the review Team's
2 Staff Report. On page four is the actual appeal.

3 MR. TUTTLE: Do we have copies of that?

4 VICE-CHAIRMAN GILCHRIST: Some of the Members did not get copies of it.

5 MS. MATTOS-WARD: I don't have it.

6 MR. PRICE: How many do we need?

7 VICE-CHAIRMAN GILCHRIST: I think we need about three of them.

8 MR. TUTTLE: At least.

9 VICE-CHAIRMAN GILCHRIST: You have one?

10 MS. FONSECA: You have one?

11 MR. MANNING: Mr. Chairman, I know time is of the essence, here. Would it
12 make sense to stop the procedure on this particular case and go to our regular case
13 load and come back to this?

14 VICE-CHAIRMAN GILCHRIST: We can certainly do that if that's the pleasure of
15 the Commission.

16 MS. FONSECA: Okay.

17 VICE-CHAIRMAN GILCHRIST: Okay. Text Amendments.

18 **TEXT AMENDMENTS:**

19 MS. FONSECA: As you can see on page one of your packet, we have Chapter
20 26 subparagraph D to provide size restrictions. This was a text amendment that has
21 been before you as far as discussion and found on page one. Staff has defined
22 Agricultural Use you will see in red, and under size restriction D(2), Staff has added the
23 lot size which is greater than two acres and that not 100' setback is maintained from all

1 property lines. And we'll open it for any discussion. I believe at our last meeting we
2 wanted a definition of Agricultural Use.

3 MR. MANNING: Mr. Chairman, if I might.

4 VICE-CHAIRMAN GILCHRIST: Sure Mr. Manning, go right ahead.

5 MR. MANNING: I have a couple of comments. The definition of Agricultural
6 Use, I looked it up in Webster's and came up with a little different definition. A couple of
7 things that concern me a little bit in the current or the suggested definition; one being
8 feed lots, feed lots are something that may require, I'm not sure of this, but may require
9 some DHEC permitting. I know swine and poultry operations, feed out operations
10 sometime require these additional permits and most feed lots are fairly significant in
11 size, so I'm really concerned about having that kind of use on two acres. I think we
12 need to either exclude feed lots –

13 MS. FONSECA: Well, I think it will exclude itself. We're just saying anything
14 greater than two acres. So you are correct, if you're going to have that kind of a use,
15 you'd have property greater than two acres.

16 MR. MANNING: So, but it may be that it needs to be greater than five, if they
17 need – and I don't know what the –

18 MS. FONSECA: Threshold?

19 MR. MANNING: - regulations of DHEC might be and we certainly don't want to
20 be in conflict.

21 MS. FONSECA: Well, the most restrictive would apply, so if DHEC would not
22 allow something on a two acre site, we would not obviously allow it.

1 MR. MANNING: So if somebody came in and applied and there's no DHEC
2 regulation that is governing that, then a feed lot operation could exist on two acres?

3 MS. FONSECA: But, I mean, that might be something for the Zoning
4 Administrator but normally you would have DHEC approval.

5 MR. MANNING: I doubt that situation is going to occur –

6 MS. FONSECA: Yeah.

7 MR. MANNING: - but if it did, we're going to create a problem.

8 MS. MCDANIEL: But I think that this definition of Agricultural Use is really just
9 carving out of what pieces there could be which are agricultural, just because –

10 MR. MANNING: Right.

11 MS. MCDANIEL: - we're adding feed lot into this doesn't mean that there's not
12 some other way that a feed lot or any other use could come into the county. This is just
13 subset of uses that might already be anticipated or might come in. But this doesn't
14 permit anything that wouldn't otherwise be permitted under the Code already; as I read
15 it.

16 MR. MANNING: Well, it would seem to me if what we're doing is we're allowing
17 Agricultural Uses in an RU District, two acres or more, and feed lot under this definition
18 would fall under an Agricultural Use, which I know it does -

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

20 MR. MANNING: - and should, but to put a feed lot operation on a rural tract of
21 land, two to five acres that's surrounded by a neighborhood, we're going to have a
22 problem.

23 MS. MCDANIEL: I agree with that.

1 MR. PRICE: Right, and I think you and I kind of corresponded about that, and
2 this was a definition through some research we found this says. The Staff is more than
3 willing to remove any uses that you feel may be problem and maybe a feed lot such as
4 Other Uses that are found in the Rural District such as somebody was pointing out, say
5 a Poultry Farm, you already have some additional requirements that have to applied to
6 it. Maybe a feed lot may be one, [inaudible] from this use; later on look at adding
7 Special Requirements to establishing that. And that may address some of your
8 concerns.

9 MR. MANNING: Well, I would be in favor of either exempting, deleting feed lot or
10 adding Special Requirement.

11 MR. PRICE: I think at this time, it may be easier just to remove it [inaudible], I
12 don't think that we've had a feed lot come in but [inaudible].

13 MS. MCDANIEL: Well, I'm taking a look at Table 26-V-2 that's already in our
14 Code, and we have listed out uses, Agricultural Uses. We've got animal production and
15 animal production support services. Would those be equivalent to a feed lot in any way
16 I wonder? Yeah, you got, you got swine farms but those are only permitted in M-1 under
17 our current Code. But I think you're probably thinking of like beef cattle or something –

18 MR. MANNING: Right.

19 MS. MCDANIEL: - not swine.

20 MR. MANNING: Correct.

21 MS. MCDANIEL: Which I wonder if that would not already fall under –

22 MR. MANNING: Poultry –

1 MR. PRICE: Yeah, animal production just by the definition that we will use in our
2 like guidance for use, industries that raise or fatten animals for the sale of animals or
3 animal products.

4 MS. MCDANIEL: Then that's a feed lot.

5 MR. PRICE: And that would take care of it; that would be a feed lot.

6 MS. MCDANIEL: So we already allow those, maybe just not –

7 MR. PRICE: Permitted.

8 MS. MCDANIEL: And they're already permitted in RU.

9 MR. PRICE: Right, but there are no standards. So maybe your concern would
10 be maybe there should be some standards for some of their – but this kind of goes back
11 –

12 MR. MANNING: It goes to the heart of the [inaudible].

13 MS. MCDANIEL: Yeah.

14 MR. PRICE: - it goes back to our problem of what is rural?

15 MR. MANNING: Right.

16 MR. PRICE: [Inaudible] a problem until someone comes in and establishes it
17 and everybody would jump around and say [inaudible] certain requirements [inaudible].

18 MR. VAN DINE: Mr. Chairman, it would seem to me that for the time being
19 removing that language and working on additional language with Special Requirements
20 at some point, even to pickup was already in Code under Special Requirements, would
21 be that best way to approach it. And at least at that point kind of know what you're
22 dealing with down the road.

23 MR. MANNING: I agree.

1 VICE-CHAIRMAN GILCHRIST: Are there any other comments about this?

2 MR. MANNING: I wanted to make sure that the definition of Agricultural Use
3 included horticultural activities, growing flowers –

4 MR. PRICE: Yeah, and once again you can add that to it [inaudible].

5 MR. MANNING: So, are you asking us to vote on this today with deleting
6 something or you want to come back and –

7 MR. PRICE: If this is something that can be addressed right now, unless it
8 needs some further discussion or research, we can do that now.

9 MR. VAN DINE: Mr. Chairman, I would make a motion to adopt the language
10 removing the words Feed Lot and including the word horticulture in as an amendment to
11 what's been drafted.

12 VICE-CHAIRMAN GILCHRIST: Second on that?

13 MR. TUTTLE: Second.

14 VICE-CHAIRMAN GILCHRIST: It's been moved and properly seconded, all in
15 favor?

16 *[Approved: Cairns, Westbrook, McDaniel, Tuttle, Gilchrist, Manning, Mattos-Ward, Van*
17 *Dine; Absent: Brown]*

18 MS. MCDANIEL: It does seem to me though that we've got this problem with the
19 RU just sort of hanging out there and we kind of defer dealing with it at every meeting
20 and –

21 MS. FONSECA: Well, we are looking as Staff there is, Staff is actually currently
22 looking at the Northwest Planning Area which is Councilman Malinowski's area with
23 regards to existing zoning, the Comprehensive Plan Priority Investment and one of the

1 things that we are looking at is truly the discussion of rural and maybe identifying rural-
2 residential as something different instead of adding another zoning designation. So,
3 that's something we are going to be – we're toying with and it's just a matter of getting
4 all the information together and coming up with a good size for rural, a minimum size.
5 But that will be coming before you probably –

6 MS. MCDANIEL: Maybe in June?

7 MS. FONSECA: June or July. We're doing a lot of background work so before it
8 goes to Council, we'll be bringing it to you. But that will be a heated discussion for sure.

9 VICE-CHAIRMAN GILCHRIST: That would be great. Okay. Back to DRT
10 Appeal. Does everyone have a copy of this?

11 MR. PRICE: I didn't know if I was going to do it or Anna.

12 VICE-CHAIRMAN GILCHRIST: Oh, okay. Alright.

13 MR. PRICE: Guess I will.

14 **DRT APPEAL:**

15 MR. PRICE: Get my dates right. On November 18, 2010, the DRT reviewed a
16 sketch plan for the Knolls at Fox Meadow. This was a section within an existing
17 development. We did our normal review to ensure compliance. During the review, Staff
18 gave additional approval, there were a few things that needed to make changes on the
19 actual sketch plan. And as you will see, if you'll look in your booklet we have two
20 letters, one that's on page 11 which was the Approval Letter, the original Approval
21 Letter, and one that's on page 12, which was an Approval Letter based on the revised
22 plans. And as you'll notice on page 11, there were conditions of approval, so that's why
23 those [inaudible] approval. During that, after the meeting discussions with Mr. Anthony

1 Dillon, who is a resident in that area, he wanted to appeal the decision of the Planning
2 Commission, excuse me, the DRT.

3 MS. FONSECA: DRT.

4 MR. PRICE: I'm sorry. Appeal the decision of the DRT. It took kind of a while
5 for us to get everything together because we don't do a lot of appeals of the DRT.
6 Upon my review of the Land Development Code, if you will take a look at page, you can
7 use Staff's response on page 10. In the Land Development Code, it states that the
8 Planning Commission shall approve the sketch plan if there are four findings. Those
9 findings are: 1) The proposed project complies with the policies and objectives of the
10 County Comprehensive Plan; 2) The proposed project complies with the purpose, scope
11 and provisions of this Chapter; 3) County Address Coordinator has approved the
12 subdivision name and addresses and the Planning Commission has approved the
13 subdivision names; 4) The proposed project complies with subdivision Sketch Plan
14 Check-List of the Planning Department. In the Agenda that you have, the Applicant did
15 state what issues he saw were not addressed, at least what he thought were not met for
16 your review. And on page 10 Staff had [inaudible] within the Planning Department
17 address each of the standards. The first one regarding the Comprehensive Plan; I think
18 you may have a question on that one because Staff's, it was Staff's determination that it
19 did not meet the, it did not comply with the Comprehensive Plan. That's another one of
20 those issues where the Comprehensive Plan calls for a higher density. The actual
21 project itself actually meets, complies with what's already out there now, RSLD. What
22 the Comprehensive Plan would have called for would be more of an RSMD, which is a

1 medium density or HD, higher density. But as far as the other standards, all of them
2 have [inaudible]

3 VICE-CHAIRMAN GILCHRIST: Mr. Manning?

4 MR. MANNING: Mr. Price, could you refresh my memory as to what happened
5 previously before the Planning Commission? I think this case came to us three or four
6 months ago, maybe?

7 MR. PRICE: What the – yes, sir. If you will look on page two, and as you'll what
8 is identified as proposed Phase I, that did not come before the Planning Commission
9 because that already had the zoning of RSLD. The portions that came before you were
10 the ones, I guess west of the proposed Phase I, those are zoned RU and that's what
11 came before the Planning Commission.

12 MR. MANNING: So, the parcels that are yellow, highlighted by yellow –

13 MR. PRICE: Yes, sir.

14 MR. MANNING: Did not come before us?

15 MR. PRICE: That came before you.

16 MR. MANNING: They did come before us?

17 MR. PRICE: Right, but that is not the subject of this appeal.

18 MR. MANNING: Okay.

19 MR. PRICE: What you see that's been bordered by green –

20 MR. MANNING: Right.

21 MR. PRICE: - that had the correct zoning for the proposed use.

22 MR. MANNING: Right.

23 MR. PRICE: That is what is the subject of the appeal.

1 MR. MANNING: And so, I guess my question is what came before us? I believe
2 the Planning Commission denied.

3 MR. PRICE: Yes, sir.

4 MR. MANNING: So, it went to the Council and was approved and then the DRT

5 –

6 MR. PRICE: It didn't go to Council. It never went to Council.

7 MS. FONSECA: It was denied.

8 MR. TUTTLE: I'm sorry.

9 VICE-CHAIRMAN GILCHRIST: Yes, sir, Mr. Tuttle.

10 MR. TUTTLE: Thank you. There are two separate tracts, if you will.

11 MR. MANNING: Okay.

12 MR. TUTTLE: The green stuff – yeah.

13 MR. MANNING: Those have nothing to do.

14 MR. PRICE: No, sir.

15 MR. TUTTLE: Evidently, the green stuff was zoned in with the other part of Fox
16 Meadow previously.

17 MR. PRICE: It had the appropriate zoning of RSLD.

18 MR. MANNING: Okay.

19 VICE-CHAIRMAN GILCHRIST: I have a Mr. Anthony Dillon signed up to speak.

20 Mr. Dillon? Please give us your name and address for the Record, please.

21 **TESTIMONY OF ANTHONY DILLON:**

22 MR. DILLON: I'm Anthony Dillon at 15 Hunt Cup Lane, Blythewood, South
23 Carolina in the said subdivision Fox Meadow. I have some packets I'd like to pass out.

1 I was here at the planning meeting that you were just discussing, the one that was
2 denied. That was the golf course lots that I did speak in front of you, and basically this
3 is the other part that was the green portion of where the trees and the environmental
4 side was actually a buffer zone for the community and then this came before the DRT
5 and that's why I'm appealing it. But I do have a prepared statement, it's very short. But
6 I want you to look at the following documents inside there just for your record and I think
7 you have some of those already. But when I was researching this as well, I did actually
8 look up the mission of what the Development and Planning Commission actually does
9 and it says, "It's to create a better community by incorporating the best practices for
10 balancing environmental and economic concerns in the County Land Use Regulations."
11 Also, even in previous missions that you've stated you also tried to do a democratic
12 process which I'm here today to actually use; "Planning for Environmental, Healthy,
13 Socially Equitable and Aesthetically Inspiring Communities." So, I'm here to present
14 evidence that validates the homeowners' economic concerns and the aesthetics of
15 future development on this property that we're discussing and not totally entirely about
16 the proper use and zoning of the regulations that you oversee. That actually meets the
17 Mission of what the Commission is here to help, the homeowners that's here, not just
18 the builders as well as the contractors and also the developers. I've prepared several
19 packets for you to look through for your reference, when the sketch plan was handed to
20 me by Mr. Price basically I informed him that I thought that was actually an appeal
21 process just for those builders, developers as well as contractors and it wasn't anything
22 personally related to homeowners or community concern. Basically, what I wanted to
23 point out was in that packet, you'll notice that just as of last month on the web link, you'll

1 notice that it states that our homes when we purchased them, it says that home sites in
2 Fox Meadow run between 1/3 and 1/2 acre and they're approximately low \$200,000
3 homes. And I have verification of four homes exactly beside the property that he's
4 trying to fix and put .25 acre lots in there. That will not meet the mission of what your
5 board is here to do. Okay?

6 VICE-CHAIRMAN GILCHRIST: Thank you, Mr. Dillon.

7 MR. DILLON: Please look through all of this before you make a decision.

8 VICE-CHAIRMAN GILCHRIST: Thank you.

9 MR. TUTTLE: I have a question for Staff.

10 VICE-CHAIRMAN GILCHRIST: Yes, sir Mr. Tuttle.

11 MR. TUTTLE: This property is already zoned –

12 MS. FONSECA: It is [inaudible] –

13 MR. TUTTLE: - there is no zoning change here.

14 MS. FONSECA: That is correct, it is a by-right use, it is zoned properly. The lot
15 sizes are correct. There are minimums and that is why it went to the DRT and the DRT
16 could review that subdivision.

17 MR. TUTTLE: Okay. Just summarize for me then, because I'm confused. So,
18 what is the real basis for the appeal? Is there a technical matter at hand or?

19 MS. FONSECA: There isn't. I believe, if I may, I guess the homeowner Mr.
20 Dillon is questioning the right of the developer to subdivide that piece of property. And it
21 is not part of the golf course in green as seen on your page three.

22 MR. TUTTLE: The underlying zoning in Fox Meadow across the street, what is
23 it?

1 MS. FONSECA: Some was RU and RSLD; RSLD 12,000 square feet. Um-hum
2 (affirmative). Now that's minimum lot size.

3 MR. TUTTLE: Right, so –

4 MS. FONSECA: So you can, as long as you meet that minimum lot size.

5 MR. TUTTLE: Right. So, some of the existing underlying zoning in Fox Meadow
6 is the exact –

7 MS. FONSECA: Is larger.

8 MR. TUTTLE: - some is large but some is the same.

9 MS. FONSECA: I mean, I –

10 MS. CAIRNS: Isn't this - I think this was one where the old lot sizes when they
11 converted to the new lot size –

12 MS. FONSECA: Just a bit larger.

13 MS. CAIRNS: - there wasn't one that quite fit.

14 MR. TUTTLE: Gotcha.

15 MS. CAIRNS: That's why these – yeah.

16 MR. DILLON: Could I say something?

17 VICE-CHAIRMAN GILCHRIST: Go right ahead.

18 MR. DILLON: The document that I printed out that's on the 8 ½ x 14, the one
19 that's highlighted in Fox Meadow that is the golf course lots. That was what was
20 proposed to all of us in the neighborhood. When we purchased our homes, even
21 though our lots are on the same zoning area that you were just discussing, we have ½
22 acre lots. Those little squares are ½ acre. What he's proposing is taking out that wood

1 line right beside the golf course lots that's highlighted and putting .25 acre lots with
2 homes that are less value than what we currently have.

3 MR. TUTTLE: Yeah, if I may Mr. Chairman.

4 VICE-CHAIRMAN GILCHRIST: Sure, go ahead.

5 MR. TUTTLE: Unfortunately, however different people might interpret our
6 mission, we're not really here to relate home values one way or another, we have to
7 look at underlying zoning and by-right zoning and that's really what we have to work
8 with.

9 MR. DILLON: But by approving it, then they will move forward.

10 MR. TUTTLE: There is no approval. The zoning was already in place.

11 MR. DILLON: But the Planning Commission could have asked for specs to see
12 what the homes look like in value of the mission that you're –

13 MR. TUTTLE: No, actually – to be fair we look at zoning. We even aren't
14 supposed to look at use or architectural style or format unless it's in a PUD. So, we're
15 kind of stuck with the underlying zoning.

16 MR. DILLON: So the mission is going to sort of devalue what you're actually
17 pushing for for the community in our area.

18 MS. CAIRNS: It's, I was just going to say it's more – our role is to determine
19 what it should be zoned. It's been zoned RSLD. And once it gets zoned that, so all
20 your like, what's our role, our role is when we do rezoning, you know, to determine what
21 the proper zoning is. And this is –I don't know when this was zoned RSLD, but that's
22 what gave the developer the by-right use to do this.

1 MS. FONSECA: In 2005, when it converted to the new zoning. But found on
2 page 10 in your packet, those are the four items that the Applicant, Mr. Dillon, would
3 have to – or you all, the criteria you would have to review for the appeal from the DRT.
4 So the criteria is found on page 10.

5 MR. TUTTLE: Yeah, and just – I'm sorry [inaudible] –

6 VICE-CHAIRMAN GILCHRIST: [Inaudible].

7 MS. FONSECA: Page four?

8 MR. TUTTLE: But just to reflect, if memory serves as it relates to the
9 Comprehensive Plan, this is zoned less dense than the Comprehensive Plan would call
10 for?

11 MS. FONSECA: It is actually zoned more dense.

12 MR. TUTTLE: Okay. The golf course property is what was used then?

13 MS. FONSECA: That is correct.

14 VICE-CHAIRMAN GILCHRIST: So what action are we being asked to take on
15 this?

16 MS. FONSECA: Found, I guess, on page four of your packet, those are the
17 criterias that you need to look at on the appeal. Did the DRT meet those four criteria?

18 MS. LINDER: I think you're being asked to either to uphold the DRT's decision
19 or to alter the DRT decision.

20 VICE-CHAIRMAN GILCHRIST: Thank you, Mr. Dillon. Discussion?

21 MR. MANNING: Mr. Chairman, I don't see where we technically have a
22 [inaudible] know that [inaudible] comments reflect on our mission but we do not get

1 involved in subdivision review and sketch plans and this rezoning took place at the time,
2 I don't know [inaudible].

3 VICE-CHAIRMAN GILCHRIST: Any further comments?

4 MS. MCDANIEL: So, just one last question.

5 VICE-CHAIRMAN GILCHRIST: Okay, sure.

6 MS. MCDANIEL: After you all gave the conditional approval, first the petitioner,
7 the person who wanted to subdivide the land then made all of those changes?

8 MR. PRICE: Yes.

9 MS. MCDANIEL: And that's the unconditional approval that was seconded?

10 MR. PRICE: Yes.

11 MR. MANNING: I think we've had one other instance where an appeal came
12 before us [inaudible] and Staff, the Commission upheld the Staff's recommendation. At
13 that point, the person that brought the appeal did go forward on to court. So, that
14 certainly is a remedy and it's not to say that there isn't a situation out there that needs to
15 be looked at, I don't know. But, I just don't feel like we have a [inaudible].

16 VICE-CHAIRMAN GILCHRIST: Are you saying you want to put that in a motion?

17 MR. MANNING: Mr. Chairman, I'd like to make a motion on Development
18 [inaudible] Review Team's Project [inaudible]1005, appeal be denied on the basis that I
19 don't [inaudible] have the basis because of the underlying zoning regarding it.

20 VICE-CHAIRMAN GILCHRIST: We have a motion, is there a Second?

21 MR. TUTTLE: Second.

22 VICE-CHAIRMAN GILCHRIST: All in favor of this motion, please raise your
23 hand. All opposed?

1 *[Approved: Cairns, Westbrook, McDaniel, Tuttle, Gilchrist, Manning, Mattos-Ward, Van*
2 *Dine; Absent: Brown]*

3 VICE-CHAIRMAN GILCHRIST: Mr. Dillon, we are a recommending Body, you
4 certainly can take some [inaudible] measures if you choose to do so, but we are
5 definitely a recommending Body. Thank you. Okay. Text Amendments.

6 **TEXT AMENDMENTS:**

7 MS. FONSECA: Mr. Chairman, our second Text Amendment has to do with
8 sidewalks and that is before you again. The Staff has worked on this, added some
9 definitions as you can see on page three. Everything that's underlined. I open the floor
10 up for any discussion or any questions you may have of Staff.

11 VICE-CHAIRMAN GILCHRIST: Comments? Ms. Cairns?

12 MS. CAIRNS: I understand this isn't theoretically the meat of the issue but I've
13 raised it before and actually the issue about the definition that we provide for ADA is
14 simply not the definition of ADA. I mean, when I offered that once before, it was
15 responded back that that came off the Internet. I tried to find that definition of the
16 internet and could not. That is not what the ADA is. The ADA, I mean, I printed them all
17 out and I realize now I didn't grab it off my desk before I came but it's easy to find out
18 that basically the ADA covers public facilities for all people, it provides civil rights. I
19 mean, we need to like – that needs to be struck or redone but there's no way that that
20 definition needs to become part of our law, because that is simply inappropriate and
21 wrong.

22 MS. FONSECA: Okay.

1 MS. CAIRNS: So, I know that's not the core of the issue but, that needs to be
2 fixed.

3 MS. FONSECA: Um-hum (affirmative). Alright.

4 MR. MANNING: [Inaudible].

5 VICE-CHAIRMAN GILCHRIST: Sure, Mr. Manning.

6 MR. MANNING: Anna, in A(1) requires that the sidewalks are five feet abutting a
7 development, four feet along internal roads. Is that an ADA requirement, size?

8 MS. FONSECA: The five feet, external?

9 MR. MANNING: Right.

10 MS. FONSECA: Yes.

11 MR. MANNING: That is an ADA requirement?

12 MS. FONSECA: Yes, it is. We have gotten a hold of DOT as well, all their roads
13 are five feet and if Amelia would like to speak to that.

14 MR. MANNING: Can someone provide us with that information? I'd like to see
15 that they specify certain size sidewalks, external, internal, commercial, corridors,
16 whatever.

17 VICE-CHAIRMAN GILCHRIST: We have someone signed up to speak on behalf
18 of this Text Amendment. Earl McLeod? State your name and your address please.

19 **TESTIMONY OF EARL MCLEOD:**

20 MR. MCLEOD: Mr. Chairman, and Members of the Planning Commission, my
21 name is Earl McLeod, I'm the Executive Director of the Homebuilders Association. We
22 have offices at 625 Taylor Street in Columbia. We have three major concerns and you
23 have to sign up either for or against but we're for and against the Ordinance that you

1 have before you today. We very much believe the county Staff needs some flexibility
2 interpreting the current Code as to when sidewalks should be required or not be
3 required, particularly as those that relate to those sidewalks, abutting the development,
4 is the terminology used in the Ordinance, which are requirements that require sidewalk
5 pretty much on the property line for the entire length of an area to be developed. We
6 don't really have an issue with the internal sidewalk requirements for residential
7 developments. We understand that that's part of the Ordinance and we're willing to live
8 with those requirements. Although, we will say that it should be market driven and, of
9 course, this is not. Some developments the market would dictate the use of sidewalks,
10 some would not. The lack of flexibility in the way the Code or the Ordinance is being
11 interpreted has led to sidewalks that simply should not have been built. And without
12 some type of a plan, a Capital Improvements Plan or an overall plan that the county
13 would determine where, when and if sidewalks are required, we'll continue to have
14 sidewalks built, in our estimation, that probably should not be built. There's numerous
15 examples throughout the county, now, I won't go into that or who is responsible for
16 what. I did look in terms of the South Carolina Department of Transportation Publication
17 Access and Roadside Management Standards and I reference that manual because
18 most of the subdivisions would access a state road and these roads or sidewalks
19 abutting a development would normally be in the right-of-way of a state road. That
20 publication, the only reference I can find to sidewalks is that sidewalks should not be
21 permitted for individual properties unless there is a logical and safe terminus. Logical
22 and safe terminus is important terminology. Can I have another minute, Mr. Chairman?

23 VICE-CHAIRMAN GILCHRIST: Go right ahead.

1 MR. MCLEOD: We object in principle to the fee in lieu provisions in that there's
2 numerous problems particularly in light of today's financing limited options. We asked a
3 bank if they would finance, as part of their loan, this fee in lieu provision for sidewalks to
4 be built somewhere else in the county, one representative of a bank said, absolutely
5 not, if the improvement were not made to that development, they would not provide
6 financing. The third item is that the ADA requirements, there needs to be determined as
7 to which permitted developments would be required to meet those ADA requirements or
8 is it everything going forward to be permitted in the future? Those are my comments.
9 Thank you.

10 VICE-CHAIRMAN GILCHRIST: Thank you, Mr. McLeod. Discussion?

11 MR. VAN DINE: Mr. Chairman, it's kind of interesting that I have come back on
12 at this point in time, because when I left three years ago we were talking about
13 sidewalks at that point in time. And it seems to me that the same issues are here now
14 as they were then. And through a lot of the work I've done over the last three or four
15 years there is a part of this Ordinance which frankly, I don't see how it can – we need to
16 move in this direction, and that is the connectivity of sidewalks. We have sidewalks
17 hanging out there in places where there's no possibility that they will ever connect to
18 anything else. And two examples that I will give you right now, if you go out Farrow
19 Road, look at the new hotel that right out there. One end of that sidewalk is 15' up in
20 the air, it dead-ends at a road right near MB Kahn and there is no way that any sidewalk
21 is ever going to be built beyond that. It seemed to me to be a waste of money and it's a
22 safety hazard as well for those. Second is if you go over near North Woods Golf
23 Course, what is called Blood Diagnostics sits on the corner, they put in a sidewalk.

1 Same thing. One end of that sidewalk dead-ends at a cliff. The problem that exists
2 right now is that – the way I read the Ordinance, sidewalks are required and there has
3 to be something that Staff is able to do it a little logically where the sidewalks are going
4 to be useful or where they're going to have any kind of a purpose. And certain to those
5 areas that I'm thinking about should never have been built. It was a waste of money, it
6 was a waste of effort on the part, and I think Staff would admit that if they had had the
7 option on those areas based upon the surrounding uses, that they would have never
8 have allowed those in there. So, my problem with at least the first part of the Ordinance
9 is there is nothing written that allows Staff flexibility to look at areas. It only gives it to
10 the County Engineer and I don't think the County Engineer in this position is - the
11 language says, "that he may exempt them," and I think they ought to be such that they
12 aren't even required at all in some. So, I have a problem with that particular part of the
13 amendments that are suggested. The other part that I have is this fee in lieu that is
14 taking place is for all intents and purposes an impact fee. It is requiring people to put
15 money into a pot to be used in a different part of the county. That is the definition of
16 taxing on people and it's an impact fee on top of that. If it's going to be called an impact
17 fee it can only be used in a specific area where that impact is going to take place. It
18 can't be used on the other side of the county. I also don't know why someone who is
19 going to be exempted in the conditions I just described earlier where the sidewalk has
20 nothing, why they should pay any kind of a fee in lieu to go anyplace else in the County.
21 So, in principle, I'm opposed to the fee in lieu portion of it. I understand the need to put
22 sidewalks in appropriate places, I understand the need for financing sidewalks in
23 appropriate places. But as Mr. McLeod said, if you get the State of South Carolina says

1 you can't put a sidewalk in our right-of-way, why should you have to pay a fee for
2 something that you're not allowed to do by the state so that you can put the money
3 someplace else; because as it's – somebody had said something about the Lexington
4 statute that was used, well the Lexington statute says, that the money that's put into the
5 account is to be used to build the sidewalks when approval is granted by the owner of
6 the street. Well, the State of South Carolina is never going to grant you the rights. So,
7 why are we giving, why are we talking money away when it's going to have the right to
8 be put in? So, in general, I mean, this goes back three years, four years now that we've
9 been dealing with it. I think the Ordinance has to be written with more flexibility for the
10 Staff to be able to look in reality and at connectivity of sidewalks where it's going to be
11 relevant and I think they need to have, if nothing else, a plan of areas that are going to
12 take place. If I'm out in the rural sections of town or the county, I'm sorry, some of those
13 areas are designed to be built without sidewalks. They're not designed to look like an
14 internal subdivision. This Ordinance requires them to look like an internal subdivision
15 regardless of where they are. So I'm opposed to the amendments as suggested, I think
16 that the – there needs to be more flexibility, there needs to be a better look at
17 connectivity and the fee in lieu has to be looked at in a different fashion than an impact
18 fee to fund other people's projects.

19 VICE-CHAIRMAN GILCHRIST: Thank you very much.

20 MR. MANNING: Mr. Chairman, I would agree with Mr. Van Dine whole
21 heartedly. Without going back over all that, on the Staff or the Engineer who approves
22 these plans, I'm not sure what the – I know DOT has come up numerous times as a
23 deterrent or obstacle to getting sidewalks put in. And once you create that gap, it's

1 never going to be fair. I was coming out Spears Creek Church Road last Friday looking
2 at the sidewalks and there's a block in and block out, a block in a block out. These are
3 with the existing buildings. So, to ask landowners on the periphery of that to do
4 something that gets them to nowhere doesn't make any sense to me. But what I don't
5 understand is why we have all of this and that would really would be an area, in my
6 opinion, that needed some pedestrian sidewalks. There's a lot of commercial areas
7 growing in that area. You know, we've got detention ponds pulled up to the front, the
8 next piece of property doesn't have it, and it's got a sidewalk. The next piece of
9 property doesn't have a detention pond and it doesn't have sidewalk. So, I'm not sure I
10 understand what the criteria is but [inaudible] an engineering standpoint you get that
11 clarified a plan can be [inaudible] and I would be [inaudible].

12 MS. FONSECA: Well, currently Staff is putting together a sidewalk inventory,
13 that's number one. DOT is putting together a sidewalk inventory due to the ADA
14 requirements and everything else. That's why everyone is doing that, to talk about
15 connectivity. DOT's criteria is that if there is connectivity they will allow it in their right-
16 of-way. We have several issues that we're dealing with. Currently, the Code does not
17 allow flexibility at all, period. The pieces of property that Mr. Manning talks about, you
18 are correct, there were developments that were approved prior to the Code coming into
19 effect July of 2005. They were not required to do the actual sidewalk when they were
20 approved. They may not have actually installed or done the infrastructure prior to July
21 of 2005 but they've done it afterwards and that's why you see these gaps. Staff has
22 worked diligently on putting something together to allow some flexibility. But it is very
23 difficult to come up with a criteria that's fair and equitable to everyone. Okay? When

1 you purchase a piece of property, you do your due diligence and you know what's
2 required in the Code and that gets factored into how you're – whether you're going to
3 buy the property or not. The sidewalks that are built, you know, up in the air and out of
4 control, yes, Staff has looked at that and we are addressing that because it was not
5 caught on Staff's end. But these are engineers with licenses who are actually saying
6 that that is engineered in a safe and walkable way. And therefore, I know our County
7 Engineer, we will be dealing with those issues on a case by case basis and we will be
8 calling those engineers in and they will need to be responsible for what they have
9 engineered. They have a liability as well for what they've designed. We have looked at
10 other sidewalk ordinances across the state and yes, we were trying to be progressive.
11 Okay? We have zoning issues like we just discussed, rural. What is rural? Rural is not
12 33,000 square feet. We have subdivisions that are on less than a .25 acre lots in rural
13 country sides that talk about walk ability that have no business being rezoned to that.
14 Okay. So, Staff's trying to work within our parameters to give some flexibility but we
15 also need some guidance. We're trying to make sense of all this. We're trying to say
16 that, yes, there needs to be some connectivity, it needs to be installed safely, it needs to
17 make sense, but we also don't want, you know, moving forward, this would apply to
18 everything moving forward. We would ask that if anyone has any ideas of putting this
19 together, we would welcome that. A fee in lieu made sense only that it would help gap
20 some of those non-existent sidewalks, it would help put sidewalks in areas that it does
21 make sense. We haven't even gotten that far, but we hope that through the sidewalk
22 inventory we can find areas that these funds can go into. We're trying to start
23 somewhere. So, we welcome any recommendation or any thoughts.

1 VICE-CHAIRMAN GILCHRIST: Other comments? Let me ask you this. Several
2 meetings ago, you talked about a group that had been put together a [inaudible].

3 MS. FONSECA: You mean the round table?

4 VICE-CHAIRMAN GILCHRIST: Yeah, the round table, whatever it was called.

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

6 VICE-CHAIRMAN GILCHRIST: You're looking at me kinda strange.

7 MS. FONSECA: Oh, it's just an inside joke.

8 VICE-CHAIRMAN GILCHRIST: It seems to me that, Mr. Van Dine when was the
9 last time you were on this Commission?

10 MR. VAN DINE: 2008, early 2008.

11 VICE-CHAIRMAN GILCHRIST: And we're still dealing with an issue –

12 MS. FONSECA: It's a difficult issue.

13 VICE-CHAIRMAN GILCHRIST: - regarding sidewalks. As I listened to you talk
14 about the Engineer and different people, that's all over the place. It seems to me that
15 there may need to be a discussion with a larger group about how we come up with
16 something that makes sense across the board, so that it gives Staff some flexibility in
17 being able to work the Code.

18 MS. FONSECA: Well, there definitely needs to be criteria that Staff can look at
19 on a case-by-case basis because we don't want to arbitrary.

20 MR. TUTTLE: If I may.

21 VICE-CHAIRMAN GILCHRIST: Yes, sir.

22 MR. TUTTLE: Doesn't seems like we're getting the cart before the horse a little
23 bit? If the Study and Connectivity Plan is underway, wouldn't it make more sense to

1 have that and you help that become part of the guideline and – because I mean,
2 otherwise whatever we came up with today might not be applicable once you have that
3 study done.

4 MS. FONSECA: That is true. The problem is that time continues to pass and
5 we're trying to at least get something to deal with the issues we have today.

6 MR. TUTTLE: And I appreciate that. But realistically, we're probably moving at
7 the slowest pace we have relative to that and I don't see that changing in the short-term
8 so, you know, if we had to call a timeout, now might be a good time to call it until we can
9 get the other done. What kind of timeline would the Connectivity Plan be on?

10 MS. FONSECA: We should have something by the end of the year. Like I said,
11 we're also working with DOT, so they're diligently moving forward and we have Staff
12 working as well. Just so you all know, you know, one of the things that we are looking
13 at and will be before you the 21 Principles that our roundtable has been working on and
14 one of them Complete Streets, I mean, these are all things that we're progressively
15 working towards which call for this sidewalks connectivity, things like that. So, it's all
16 culminating.

17 MR. TUTTLE: Right, I just see so many overlaps. Like for instance, to get in the
18 weeds for a minute, you know, we talk about having an 18" [inaudible] between the
19 sidewalk and the curb. DOT doesn't allow that, they won't maintain that 18", they want
20 sidewalks to abut the curb so they only have to mow one strip rather than two strips.

21 MS. FONSECA: That's interior, that identifies the interior if you read it.

22 MR. TUTTLE: Okay.

1 MS. FONSECA: That was actually devised with the HBA reference, that's
2 interior.

3 MR. TUTTLE: Okay. And I know one of the principles coming up to the
4 roundtable is also the Open Channel Storm Water Ditches.

5 MS. FONSECA: Um-hu, (affirmative). That is correct.

6 MR. TUTTLE: Which could significantly change the ability to have sidewalks or
7 the placement at a minimum. It seems to me there's a lot of things that if we get
8 something inked right now, we're just going to be modifying it for the next six or eight
9 months.

10 MS. FONSECA: We're practically complete with the roundtable discussions so,
11 that document should be before you probably in July at the latest. And you'll see all of
12 those nuances in there. I mean, it's not a simple remedy by any means. But we are
13 getting development that's coming in. We are advocating having these discussions with
14 developers whether it's residential or commercial on the front end, it's not just
15 residential. I mean, we have to deal with these things on the front end and because of
16 the rapidness of how development was occurring previously, it was always discussed,
17 these problems would come back at the back end and that's where you have the
18 inconsistencies and the difficulties in retrofitting. But if these discussions had taken
19 place during a sketch plan on the frontend it could be remedied in many cases. That's
20 all I would say at this point.

21 MR. TUTTLE: If the Ordinance in front of us moved forward, how would we
22 handle existing neighborhoods or parcels or projects that are in some stage of
23 development?

1 MS. FONSECA: Well, there – if they're in a certain stage of development,
2 they've been approved with sidewalks. So, they have to have them. They have to have
3 them installed. We're looking more diligently on the plans, our Public Works
4 Department is, to make sure that they're being designed safely and they'll be installed
5 and walkable and will not, you know, have a, at least have a terminus, safe terminus.

6 MR. TUTTLE: So the – but right now if DOT were to reject the sidewalk, then
7 that issue is gone forever, right?

8 MS. LINDER: That is correct. They have to put it on private property.

9 MR. TUTTLE: Oh, so they'd have to put it on private property?

10 MS. FONSECA: Um-hum (affirmative). They have to provide for it. There is no
11 flexibility.

12 MR. VAN DINE: And if you put it on private property, are you deeding it over to
13 the county for maintenance purposes or the individual's supposed to maintain it?

14 MS. FONSECA: Well, that's the other issue.

15 MR. TUTTLE: Well not to mention –

16 MR. VAN DINE: The reason why I'm asking that is it's on my property somebody
17 gets hurt, I'm responsible whether or not you – which means I've to maintain it even if
18 the county doesn't have it. If the county wants to take it over for maintenance purposes
19 and I either have to officially give them an easement on the piece of property or it has to
20 be deeded over. And either one of those is being done without any benefit of any
21 compensation to the landowner.

22 MS. FONSECA: Well, it's part of your requirement of development in a
23 commercial – let's take a commercial development. The property is valued at a certain

1 value prior to development and afterwards there's normally an increase because you've
2 put a building on it, infrastructure, it is valued so it's not a takings at that point. The
3 liability, you still have people coming into your parking lot, patrons, they get hurt as well.
4 Residential, there might be a different argument there.

5 MR. VAN DINE: I don't have the responsibility if somebody trips on the sidewalk
6 because the slab is raised when it's off of my property.

7 MS. FONSECA: Uh-huh (affirmative).

8 MR. VAN DINE: If it's on my property, then you're requiring me to maintain it.
9 And I'm being required to maintain it without any compensation for the maintaining or
10 the increased liability.

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

12 MR. VAN DINE: So, I –

13 MS. CAIRNS: Some of these are – I know, and I know that some of these issues
14 are addressed in other communities because I know where I come from, the sidewalks
15 run in the right-of-way but the abutting property owner had the responsibility of
16 maintaining it, even though it was in the public right-of-way. And you would get notices
17 from the city if your sidewalk wasn't maintained and you had to fix it. So, I mean, there
18 are other communities that have figured this out; this is not an insurmountable problem.

19 MR. TUTTLE: Right, but as is before us, Heather, if you took the sidewalk to
20 nowhere that a human being has never walked on and you have to maintain that in
21 perpetuity that doesn't seem to make sense.

22 MS. CAIRNS: But that's a separate issue.

23 MR. TUTTLE: It's not.

1 MS. CAIRNS: Well, I mean, but the problem with the walks to nowhere is
2 something that, the solution to that is greater than the issue of whether, you know, who
3 maintains it and is it in the public or private property. There needs to be a solution to
4 this sidewalks to nowhere.

5 MS. FONSECA: Well, we're dealing with that which is taking an inventory and
6 seeing how it would meander and have connectivity. That, we are addressing.

7 MR. TUTTLE: Right, but I'm just saying, if we were to pass this Ordinance in
8 front of us today, and I come in tomorrow and want to develop a new commercial tract,
9 and DOT rejects me for a sidewalk, you're going to mandate the sidewalk has to be on
10 private property.

11 MS. FONSECA: If this sidewalk Ordinance is not amended, yes.

12 MR. MANNING: But that's not totally the case because you had that happen
13 before and there's not sidewalks on some of the property.

14 MS. FONSECA: Currently, our Ordinance does not allow any flexibility.

15 MR. MANNING: I can go out on Hardscrabble and Clemson Road and show you
16 some –

17 MS. CAIRNS: Do you know when they were approved though?

18 MR. MANNING: Yeah, I mean, 2007.

19 MS. FONSECA: Right.

20 MR. MANNING: And there's no sidewalk on them. I think y'all brought some
21 cases to the Planning Commission to appeal sidewalks.

22 MS. FONSECA: But – and we later found out that was not the appropriate body,
23 we could not do that. In no way, shape or form, you know, is Staff 100%, there needs to

1 be work to be done, but definitely we need some guidance. It is not an easy – we try to
2 give it a solution, some solution.

3 MR. TUTTLE: Mr. Chairman, I understand it's difficult and I applaud the Staff for
4 the work because I've seen many iterations of this and I know there's been a lot of work
5 in this document. I just think it's premature without the Connectivity Plan to even go
6 down the road; I'm not sure how you would place value and –

7 MS. CAIRNS: Right. I think we also just have a pretty divergent concept of
8 whether they ought to exist as a fundamental concept or not. I mean, ignoring the
9 sidewalk to nowhere problem, you know, I think that, I know from my standpoint my, you
10 know, when you've got residential density of a certain level, there ought to be sidewalks.
11 When you've got streets that connect those residential areas to commercial areas, there
12 ought to be sidewalks, I mean, that's kind of where I start my day. I don't start the fact
13 that every single road in the whole county should have a sidewalk next to it. But, you
14 know, I know I start with this fundamental concept that we ought to have many, we
15 ought to have them away from the curb, you know, as much as possible, I mean, and I
16 don't think that we even have that. So, I think that's, you know, some of when they
17 come forward, I mean, we definitely have to solve these problems, the connectivity and
18 the grades and stuff like that but, I mean, to me, that's the biggest thing. But we don't
19 even have a consensus of whether we really ought to have as many, you know, I think I
20 know I the view that we ought to have more sidewalks than probably a lot of you guys. I
21 think a lot of you guys are like, you know, market forces, if this developer doesn't want
22 to do sidewalks, it really shouldn't matter. You know, but –

23 MR. MANNING: I don't think [inaudible] say that.

1 MS. CAIRNS: Huh?

2 MR. MANNING: I don't think anybody on this Commission –

3 MS. CAIRNS: Well, I know that – I know the person did. But you know, I do
4 think we have a divergent concept of even how much we want them *per se*, but I think
5 that makes it more challenging, but we definitely need –

6 MR. MANNING: That's a logical debate to have. I mean, obviously there are
7 places in the county, like as you said, don't need them. And I think the HBA [inaudible]
8 said they should be on certain subdivisions on the internal sidewalks, that's not an
9 argument. So, if we do have an agreement that sidewalks are needed and necessary,
10 they can debate away about the sidewalks to nowhere. I think we got fee in lieu and
11 we've got the requirement to have it your property if DOT disallows, you know, a permit.
12 So, I think county needs some flexibility on the sidewalk to nowhere issue. [Inaudible]
13 plan is important. If we're going to adopt something at a workshop when the plan is
14 available and adopt something that, you know. But we do need to change it.

15 VICE-CHAIRMAN GILCHRIST: Mr. Manning, I hear you making a
16 recommendation that we ought to be able to have a –

17 MR. MANNING: Well, it sounded to me like you started off wanting to have a
18 workshop to discuss this further and maybe it will help in identifying some of the issues
19 that we've been hearing from Staff on some of the issues that come before them with
20 DOT and right-of-way, then I'm all in favor of sitting down and talking about it. It
21 certainly ain't [inaudible] to finding a better Ordinance, clarifying the [inaudible] folks to
22 get further guidance on the connectivity. So, I would make a motion that [inaudible] to
23 schedule a workshop to have some further discussion on the sidewalks.

1 MR. VAN DINE: I would second that. I think it's a good idea to sit down and talk
2 with - a lot of this to go over some of the, and actually layout where the issues are that
3 have to be addressed and see if we can address them all at once as opposed to
4 piecemeal. Which we seemed to do a lot of at least when I was around, we were doing
5 it piecemeal.

6 MS. FONSECA: Well, we're doing things a little different but –

7 MR. VAN DINE: And I can see that already.

8 MS. FONSECA: Just a little bit. Why don't we do this, we'll email something out
9 before the next meeting. It would be good to have the roundtable finish up their findings
10 and that would probably give you a good insight as to the work that went into certain
11 other principles. And we can then discuss a possible date and have maybe other
12 professionals in the industry come and we can give you a better timeframe as to how
13 much has been done in the sidewalk inventory.

14 VICE-CHAIRMAN GILCHRIST: Roundtable has completed their work then?

15 MS. FONSECA: They should be completed probably within the next month or
16 so.

17 VICE-CHAIRMAN GILCHRIST: We've got a second. Any other discussion?

18 MS. CAIRNS: What was the motion again?

19 VICE-CHAIRMAN GILCHRIST: Mr. Manning?

20 MR. MANNING: The motion was to schedule a work session to discuss further
21 some of the issues that Staff has been experiencing regarding sidewalks.

1 MR. VAN DINE: Mr. Chairman, I'm not sure we need to have a motion for the
2 purposes of scheduling a workshop. I think that is something that could be done just
3 strictly because –

4 VICE-CHAIRMAN GILCHRIST: What action do we need to take on this?

5 MS. LINDER: You could make a motion to defer until a work session is held.

6 MR. MANNING: Mr. Chairman, I would like to make a motion that we defer the
7 Ordinance regarding sidewalks at this time until a work session is completed.

8 MR. VAN DINE: I second.

9 MS. FONSECA: Just to give us some guidance, is there any specific that you all
10 would like to see? I mean, it's so broad.

11 MS. CAIRNS: I could have all kinds of unrealistic expectations.

12 MR. VAN DINE: I mean, I think even if it's only initially –

13 MS. FONSECA: Um-hum (affirmative).

14 MR. VAN DINE: - where you stand on the connectivity stuff. I mean, I know
15 you're not completed but at least give us an idea of some of the things that you have
16 seen.

17 MS. FONSECA: Um-hum (affirmative).

18 MR. VAN DINE: I think the other thing that we have to address was the ADA
19 issue; what really are the requirements, but I think from our perspective, we probably
20 need to know sizings and stuff like that, if there are breakdowns –

21 MS. FONSECA: Our Public Works has all that.

22 MR. VAN DINE: - of the regulations. The other thing I would like to know is if
23 there's some language that you can conceive of that would give you more flexibility to

1 deal with the Ordinance as opposed to a one-size-fits all because it seems, at the very
2 least, that seems to be a problem that's existed since I was here in 2008. And with
3 more flexibility you would also have more opportunity to – understand, I understand you
4 might not have the criteria but at least the ability to be flexible would be something that I
5 would –

6 MS. FONSECA: And Staff would welcome if you have any information, any
7 sidewalk ordinances that appeal to you all to bring them or email them to us.

8 MR. MANNING: One other question on the appeal on how we were handling the
9 sidewalk appeal. So, there is no mechanism to [inaudible] that?

10 MR. PRICE: Right now the Applicant can ask for a Variance. But one of the
11 things, we've actually been keeping a lot of them on hold at this time, hopefully until we
12 can get this Ordinance amended. Because right now if you go before the Board of
13 Zoning Appeals the chances of you getting a Variance is very slim because what the
14 Board will be looking at is can you do it? Not a matter of, well we prefer not to do it here
15 because sidewalks don't connect or we can't do it here, you know, for various reasons.
16 It's either can you do it and if the answer is yes, then your Variance will be denied. So,
17 right there, I don't know if that's the most appropriate way to appeal on sidewalks so
18 we've been holding it.

19 MR. MANNING: Previously, an Applicant came to DRT and had the sidewalk on
20 there because DRT – because SCDOT wouldn't give them the encroachment permit
21 and y'all were asking them to do that [inaudible] a Variance or you would say you've got
22 to do it and they would just appeal back to the Planning Commission, that was originally
23 in the Ordinance I believe.

1 MS. FONSECA: Hum-um (negative).

2 MR. PRICE: I think that was the original procedure.

3 MS. FONSECA: Yeah.

4 MR. PRICE: And then it was determined that was not the appropriate procedure
5 for the Planning Commission to grant Variances for sidewalks.

6 MS. MCDANIEL: So those Variances that are in a holding pattern, they're just
7 indefinitely deferred?

8 MR. PRICE: Well, we were kind of hoping to see what direction this would take.
9 After awhile we may have to just go ahead and have them proceed.

10 MS. FONSECA: Some have put up bonds and they've been able to go ahead
11 and proceed and they're in abeyance.

12 MR. TUTTLE: But if I applied today and was rejected by DOT, then the next
13 fallback is you'd ask me to put it on my property?

14 MS. FONSECA: Absolutely.

15 MR. TUTTLE: And that's why I can't prove hardship?

16 MS. CAIRNS: Well, that's –

17 MR. TUTTLE: Well, that's why – I mean, that's why you're saying it can be done
18 then? You're saying it can be done –

19 MS. FONSECA: It can be installed.

20 MR. TUTTLE: - I have to do it on my property and take –

21 MS. FONSECA: Correct.

22 MR. TUTTLE: - liability and maintenance on it for perpetuity.

23 MS. FONSECA: Correct.

1 MR. TUTTLE: Then there is nowhere to go after that except administrative
2 court?

3 MS. FONSECA: Correct.

4 MR. TUTTLE: And why if it was a DRT decision would it not come back before
5 the Planning Commission just like the decision earlier? I'm just confused about the
6 mechanics of that. Why would we have looked at the Long Creek situation but not look
7 at the sidewalks? The sidewalk discussion takes place in DRT, correct? DRT says you
8 should put a sidewalk here on your private property. Okay? We're saying that can't
9 come back to this Body. However, we just looked at a case in Long Creek that came
10 back from DRT's decision to this Body. Why was the path available for one and not the
11 other?

12 MS. LINDER: The sidewalks are a requirement. Whatever requirements of the
13 Ordinance, if somebody wants to vary from those requirements that would go to the
14 Board of Zoning Appeals. If you're appealing an interpretation or what DRT did, you're
15 looking to see if the Staff and the DRT followed all the proper requirements for whatever
16 it was the DRT approved or disapproved.

17 MR. TUTTLE: Can you –

18 MS. LINDER: But if there is a requirement of the Ordinance and an Applicant or
19 a developer has to do something and wants a Variance from that, by not doing it, that
20 would go to the Board of Zoning Appeals.

21 MR. TUTTLE: Can you, just for my edification, where in the existing sidewalk
22 [inaudible] does it say you can require me to put it on my property? You might know the
23 section on that; I just want to review that.

1 MS. LINDER: I'm not sure.

2 MS. FONSECA: Under pedestrians.

3 MS. CAIRNS: [Inaudible] require you to put parking lots on your property. I
4 mean, just part of the requirement of you've got to have a sidewalk, [inaudible].

5 MS. FONSECA: Every lot.

6 MS. CAIRNS: I mean, a lot of stuff ends up on you private property.

7 MR. TUTTLE: Alright, but Heather you just made a statement you have to have
8 a sidewalk that connects the – well, if you're in the middle, if you're Westinghouse,
9 you're not connecting to anything.

10 MS. CAIRNS: I understand.

11 MR. TUTTLE: That's not a valid statement.

12 MS. LINDER: I don't believe the Ordinance specifies exactly –

13 MS. FONSECA: Specifically.

14 MS. LINDER: - you have to put it on private property.

15 MR. TUTTLE: So, where, where do we get the ability to force someone to do
16 that?

17 MS. LINDER: The Ordinance says you have to provide the sidewalks. So if
18 you're not going to do it in a public right-of-way, there is no other alternative.

19 MR. TUTTLE: Okay, let me approach it differently. The Ordinance also says
20 that we have to complete it to ADA standards, correct?

21 MS. LINDER: I'm not sure if the current Ordinance says that, but federal law
22 certainly requires that, yes.

1 MR. TUTTLE: Okay, so then if we have a, if you had the perfect piece of
2 property that had this crazy slope, you could in fact require somebody to chew up a
3 significant portion of their property, their road frontage, building a switchback in order to
4 get a sidewalk done, right?

5 MS. FONSECA: Well, no different than requiring you to put a sidewalk to meet
6 that requirement. No different than putting in a parking lot to meet the square footage
7 requirement of a building. It's just it's a requirement of building that building, you're
8 required to have sidewalks, your required to have a bicycle, provide bicycle slots. I
9 mean, it's part of building just like you're required to have a buffer.

10 MR. TUTTLE: Well, then why would, I mean, why wouldn't the county just
11 always require it be on private property?

12 MS. FONSECA: Why would the county always require it?

13 MR. TUTTLE: Why wouldn't they just require it be on private property?

14 MS. FONSECA: We don't a problem with you requiring it, putting on private
15 property. But, many times the site is over built and it can't accommodate it on their own
16 property; utilities, it's the design. You know? The design professional.

17 MR. TUTTLE: Obviously, I'm just lost on this because I understood previously
18 that if DOT said no, that it was over with. Why would you even create the fee in lieu if
19 you were going to – if it's a requirement and you can't do it in the right-of-way then it's a
20 requirement to be on private property –

21 MS. FONSECA: Um-hum (affirmative).

22 MR. TUTTLE: - so where did the fee in lieu come from?

23 MS. FONSECA: As on option.

1 MR. TUTTLE: It's an either or then?

2 MS. FONSECA: Right.

3 MR. TUTTLE: So how does that help the connectivity?

4 MS. FONSECA: We were providing an option for someone as –

5 MR. TUTTLE: No, I understand, I'm just trying to understand –

6 MS. FONSECA: - an out. If you, you know, if it was deemed that the sidewalk
7 could not be put in because it would be – I mean, there's certain criteria here obviously.
8 In practical situations involving utility easements or topography of the existing site, not
9 topography that you're creating, your design professional's creating, elevations, that we
10 would give that option. But obviously, it's not a good one. So –

11 MR. TUTTLE: No, and I'm not trying to be difficult. I'm just trying to understand
12 –

13 MS. FONSECA: The current Code doesn't even allow you that option, so –

14 MR. TUTTLE: No, and - okay.

15 MS. FONSECA: We were trying to work with the situation.

16 MR. TUTTLE: I know, but I'm just saying we keep falling back to there's
17 connectivity issues and that's the reason for the mandate globally. We need to have
18 sidewalks from the tip of the county to the tip of the county, period. That's where we are
19 right now.

20 MS. FONSECA: No, the federal requirement –

21 MR. TUTTLE: But yet if it –

22 MS. FONSECA: - the feds require states to comply with clean air acts. We are
23 in non-attainment zones. One of the things that the COGS, the Central Midlands and

1 other COGS across the state are working towards giving different modes of
2 transportation, attaining – there are certain funding that's states and counties will not
3 receive if you are in non-attainment areas. Those guidelines are still being reviewed by
4 the federal government for the State of South Carolina. One of the things in 2005, when
5 we were rewriting the Code, was to be more progressive, one of the things we were
6 trying to meet was different modes of transportation, meeting those needs. So one of
7 the things that came out of that was sidewalks, allow people the ability to walk
8 somewhere instead of getting in their car, it meet two the criterias. That's how this all
9 came about.

10 MR. TUTTLE: And I appreciate that, I'm not –

11 MS. FONSECA: I mean, it's – just.

12 MR. TUTTLE: - I'm a fan of sidewalks, I've got 40 miles of them, I get that. I'm
13 just trying to understand if it's about connectivity and if it's about checking a box on
14 some federal level but yet we have fee in lieu –

15 MS. FONSECA: Well, that's one of the criteria.

16 MR. TUTTLE: - I don't see how we check the box with –

17 MS. FONSECA: That's one of the criterias. It's not the criteria, but it's one of the
18 criterias, yes.

19 MS. MCDANIEL: Well, I don't necessarily agree with the fee in lieu, but I think
20 the idea was to enhance activity maybe not in the area where it was being built but you
21 could use that money to affect other areas that –

1 VICE-CHAIRMAN GILCHRIST: We have a second on the floor to defer this to a
2 later date and [inaudible] work session. Any other discussion? Let's vote. All in favor?
3 Opposed?

4 *[Approved: Cairns, Westbrook, McDaniel, Tuttle, Gilchrist, Manning, Mattos-Ward, Van*
5 *Dine; Absent: Brown]*

6 VICE-CHAIRMAN GILCHRIST: Alright. Thank you. And you guys will get back
7 with us on –

8 MS. FONSECA: The date.

9 VICE-CHAIRMAN GILCHRIST: - the specifics of that.

10 MS. FONSECA: Yes.

11 VICE-CHAIRMAN GILCHRIST: Great, thank you. Redevelopment Presentation.

12 MS. FONSECA: Ms. Jocelyn Jennings is here to discuss Fair Housing.

13 VICE-CHAIRMAN GILCHRIST: Great.

14 MS. FONSECA: You want to adjourn it?

15 MS. LINDER: Mr. Chairman? There's a question about whether you want to
16 adjourn the meeting and have the presentation or do you want to have the presentation
17 and then adjourn?

18 VICE-CHAIRMAN GILCHRIST: We'll have the presentation and then adjourn.

19 **REDEVELOPMENT PRESENTATION:**

20 MS. JENNINGS: Thank you kindly. This – at the conclusion of your meeting, we
21 asked that we, that you participate in a focus group, Fair Housing focus group and that
22 is where we are today. Thank you so much for having us. We'd like for you to join
23 others in the audience as a Commission to participate. We have the Swyger Company

1 out of Pennsylvania who will conduct this focus group for us. And if you would move
2 forward then we can begin this process. I'd like to also introduce to you the Director of
3 Community Development, Valaria Jackson.

4 VICE-CHAIRMAN GILCHRIST: Is there any Other Business then for the
5 Commission? Did we, did I understand you correct that you want us to adjourn then
6 allow you to [inaudible]?

7 MS. JENNINGS: Well, I know we had discussed that that would be the process
8 unless you want this to be a part of your Minutes and Agenda.

9 MR. VAN DINE: Mr. Chairman –

10 VICE-CHAIRMAN GILCHRIST: Yes, sir.

11 MR. VAN DINE: - this is a focus group and I think it should not be a part of the
12 official Agenda or the official Minutes of the meeting.

13 VICE-CHAIRMAN GILCHRIST: Okay.

14 MR. VAN DINE: So I would move that we adjourn.

15 MR. WESTBROOK: And I'll second.

16 VICE-CHAIRMAN GILCHRIST: Okay.

17 MS. JENNINGS: Thank you.

18 VICE-CHAIRMAN GILCHRIST: Thank you. All in favor? Okay?

19 *[Approved: Cairns, Westbrook, McDaniel, Tuttle, Gilchrist, Manning, Mattos-Ward, Van*
20 *Dine; Absent: Brown]*

21

22

1 VICE-CHAIRMAN GILCHRIST: Any other business? We're adjourned, thank
2 you. Please stay around for the presentation.

3

4

[Meeting Adjourned at 2:21pm]

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