

**RICHLAND COUNTY PLANNING COMMISSION**  
**October 3, 2011**

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*Present: Heather Cairns (1:03 pm), Olin Westbrook, Kathleen McDaniel, David Tuttle, Pat Palmer, Deas Manning, Howard Van Dine, III, Wallace Brown, Sr.; Absent: Stephen Gilchrist*

Called to order: 1:00 pm

CHAIRMAN PALMER: We'll call the Planning Commission meeting to order. Let me read this into the Record for everyone. In accordance with the Freedom of Information Act a copy of the Agenda was sent to radio and TV stations, newspapers, persons requesting notification and posted on the billboard located in the lobby of the County Administration Building. Did everybody get the September Minutes? Did everybody get a chance to read them? Everybody?

MR. TUTTLE: Mr. Chairman, if I may, I'd like to make a motion that we approve the September Minutes or the August Minutes.

MR. WESTBROOK: I'll second.

CHAIRMAN PALMER: We have a motion and a second, all those in favor, please signify by raising your hand.

*[Approved: Westbrook, McDaniel, Tuttle, Palmer, Van Dine, Manning, Brown; Absent for vote: Cairns; Absent: Gilchrist]*

CHAIRMAN PALMER: Okay. Road name approvals?

MR. TUTTLE: Mr. Chairman, if I could, I'd like to make a motion that we approve the road names as submitted in this package.

MR. BROWN: Second.

1 CHAIRMAN PALMER: I have a motion and a second, all those in favor, please  
2 signify by raising your hand.

3 [*Approved: Westbrook, McDaniel, Tuttle, Palmer, Van Dine, Manning, Brown; Absent for*  
4 *vote: Cairns; Absent: Gilchrist*]

5 CHAIRMAN PALMER: Any Agenda amendments?

6 MS. LINDER: I would like to add an Executive Session right after you've done  
7 the amendments and before the Map Amendments for the purpose of legal advice. And  
8 under Other Business on page 2 [inaudible] we would like to defer the By-Laws and not  
9 take them up at this meeting.

10 CHAIRMAN PALMER: Okay, any other amendments?

11 MR. VAN DINE: What was the first one, I'm sorry?

12 CHAIRMAN PALMER: An Executive Session next.

13 MR. VAN DINE: After the Agenda?

14 CHAIRMAN PALMER: Right now.

15 MR. TUTTLE: Do we need a motion on it?

16 CHAIRMAN PALMER: As amended.

17 MR. TUTTLE: I'd like to make a motion that we change, amend the Agenda as  
18 described by Ms. Linder.

19 MR. BROWN: Second.

20 MS. LINDER: Mr. Chairman before you – did you do road names [inaudible]

21 MR. VAN DINE: Yes.

22 CHAIRMAN PALMER: Yep.

23 MS. LINDER: Okay, I'm sorry.

1 CHAIRMAN PALMER: We have a motion and a second to approve the  
2 amended Agenda, all those in favor, please signify by raising your hand.

3 *[Approved: Westbrook, McDaniel, Tuttle, Palmer, Van Dine, Manning, Brown; Absent for*  
4 *vote: Cairns; Absent: Gilchrist]*

5 CHAIRMAN PALMER: There are none opposed. Okay, we're going to take a  
6 minute and go into Executive Session.

7 ***[EXECUTIVE SESSION]***

8 MS. LINDER: Mr. Chairman, [inaudible] into Executive Session for the purpose  
9 of receiving legal advice; no action was taken during that session.

10 CHAIRMAN PALMER: Thank you.

11 MR. VAN DINE: Mr. Chairman, can we make an additional Agenda change,  
12 please? And I would do this in a form of a motion that we move the Text Amendment  
13 referenced related to the institutional, educational and civic use, which is Text  
14 Amendment No. 1, till after we have discussions of Other Business, specifically the  
15 Lexington/Richland School District Five discussion.

16 MR. TUTTLE: Second.

17 CHAIRMAN PALMER: We have a motion and a second. All those in favor of the  
18 motion to amend the Agenda items, please signify by raising your hand.

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

21 CHAIRMAN PALMER: There's none opposed. Okay. Case No. 11-18 MA.

22 **CASE NO. 11-18 MA:**

23 MR. LEGER: Thank you, Mr. Chairman. Can you hear me? Can you hear me?

1 CHAIRMAN PALMER: Yeah.

2 MR. LEGER: Sorry.

3 CHAIRMAN PALMER: But it's not through the microphone.

4 MR. LEGER: I don't want to swallow it. I'll do my best, Mr. Chairman, thank you.

5 We have two rezoning requests here this afternoon. The first one docket no. 11-18 MA,  
6 property is owned – the applicant is Kay Hightower, representing the owner Adams  
7 Northeast AME Church located at 409 Longtown Road and it's a little of over 10 acres in  
8 size. The property is currently zoned RU, Rural District, and the Applicant is requesting  
9 a GC, General Commercial District. RU is the original zoning district applied in 1977  
10 where the property has approximately 350' of frontage on Longtown Road. The  
11 General Commercial zoning district is intended for our, essentially highway commercial  
12 uses and retail office service oriented primarily to arterials and roads with high traffic  
13 volumes. Property uses in the vicinity to the north, we've got a dog kennel and  
14 residence and other residences; kind of a mixed use situation. To the south, we've got  
15 self-storage mini-warehouse running basically east and west for a very long distance;  
16 very little frontage on the road there. To the east, essentially undeveloped and  
17 scattered small scale residential and to the west, we have Heather Green, or more or  
18 less northwest, Heather Green, subdivision which is a fully developed planned  
19 development. The comprehensive plan recommends suburban use for this site where  
20 commercial and office uses should be located at traffic junctions or where existing  
21 commercial and office use is located. The Staff in our analysis has found that this  
22 application meets that intent. Basically, our conclusion surmises that the surrounding  
23 area characterized by a mixture of commercial and residential uses, a majority of

1 commercial uses are located to the south, further down toward, I believe it's Clemson –  
2 is it? Clemson Road, yes sir. There is scattered zoning districts in the area, planned  
3 developments, commercial. The residential is mostly to the northwest. In our opinion,  
4 the zoning meets the intent of the comprehensive plan and meets the intent of the  
5 planned development regulations. We felt that the creek and the floodplain to the  
6 northwest would be a good boundary between the commercial district along Longtown  
7 Road and the property, and the Heather Green subdivision to the north. With that, the  
8 Staff recommends approval of the rezoning request from RU to GC. If you have any  
9 questions, I'll be glad to try and answer them.

10 CHAIRMAN PALMER: Any questions for Staff? We have four people signed up  
11 to speak. If you would, please limit your comments to two minutes and give us your  
12 name and address and when I call you, if you would, please come up to the podium  
13 here. Kay Hightower. Followed by Eunice Miller.

14 **TESTIMONY OF KAY HIGHTOWER:**

15 MS. HIGHTOWER: Good afternoon, my name is Kay Hightower, attorney Kay  
16 Hightower and I speak on behalf of Adams Northeast AME Church. We thank the Staff  
17 for their wonderful recommendation. As the Staff said, it's a – the area is turning  
18 commercial and we would just want to make our property conform with the rest of the  
19 property, so we would hope that you would approve our application. Thank you.

20 CHAIRMAN PALMER: Thank you. Eunice Miller?

21 MS. MILLER: [Inaudible] what Kay Hightower is saying.

22 CHAIRMAN PALMER: Okay, thanks. [Inaudible] Miller –

23 MR. MILLER: [Inaudible]

1 CHAIRMAN PALMER: Reverend Adam China?

2 REVEREND CHINA: Same thing.

3 CHAIRMAN PALMER: Okay, that's all we have that's signed up to speak. Any  
4 thoughts?

5 MR. VAN DINE: Could I ask a question real quick, please?

6 CHAIRMAN PALMER: Go ahead.

7 MR. VAN DINE: Do we ever check to make sure that these rezoning signs  
8 actually remain in place after they're put up once?

9 MR. PRICE: We try to. I mean, do we actually go out there and check the  
10 property on a regular basis, no. But we try to observe them during our normal  
11 inspections throughout the county and even on our way home or in our travels.

12 MR. VAN DINE: The reason for asking is I drive by this place an awful lot and I  
13 have not seen the sign out there. So, I don't know if I'm just missing it as I go by or  
14 what, but.

15 [Inaudible]

16 MR. VAN DINE: Maybe I just go by too fast, I don't know.

17 MR. MANNING: Mr. Chairman, based on Staff recommendation and the fact that  
18 there is no opposition to this plan, I'd like to make a motion that we send this forward  
19 with a recommendation of approval.

20 MR. TUTTLE: Second.

21 CHAIRMAN PALMER: We have a motion and a second, any other discussion?

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

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

3 CHAIRMAN PALMER: Next case, Case No. 11-19 MA.

4 **CASE NO. 11-19 MA:**

5 MR. LEGER: Thank you, Mr. Chairman. The Applicant in this case is Kevin  
6 Steelman, representing Walter and Nancy Smith. The property is located on Rimer  
7 Pond Road and is a little over 16 acres in size. The property is currently zoned RU,  
8 Rural and they are requesting RS-MD which is a medium density district. The property  
9 was originally zoned RU in 1977. There have been no other applications on this site.  
10 It's got a little over 600' of frontage on Rimer Pond Road where the RS-MD district is  
11 intended for single-family use of medium density. That would equate to 8,500 square  
12 feet as a minimum lot size. Some of the uses in the vicinity in zoning RU, essentially  
13 you have rural district in all directions, and residences in all directions except for the  
14 Round Top Elementary School to the east. You also have the middle school located not  
15 too far away. The comprehensive plan recommends suburban in this vicinity where  
16 residential development should occur at 4 to 8 units per acre. The Staff is of the opinion  
17 that the request in this case is in compliance with that. Essentially, if you drive out to  
18 the site, you find a mixture of lot sizes, essentially scattered single-family residential,  
19 large lot, medium lot densities, developed subdivisions, golf courses and institutional  
20 uses such as the two schools; county clubs, Windermere Golf Course, etc. The Staff  
21 felt that this rezoning at this time would allow infill to occur; it would be in compliance  
22 with the comprehensive plan in keeping with those recommendations. Our Staff

1 recommends approval of the rezoning to RS-MD at this time. If you have any questions  
2 I'll be glad to answer them.

3 CHAIRMAN PALMER: Any questions for Staff?

4 MR. VAN DINE: Real quick. If you look at the map, the zoning map here. Our  
5 page 10, it looks like there is a portion that has been put in the "site cross hatching" at  
6 the corner of Longtown Road and Rimer Pond. Is that just an error?

7 MS. ETHRIDGE: That the portion – that's the other portion.

8 MR. VAN DINE: So that's the other portion which is not being sought to be  
9 rezoned or –

10 MR. LEGER: That's correct. It's not a part of the application.

11 MR. VAN DINE: Okay. So, that map should be ignored.

12 MR. LEGER: At that intersection, yes sir.

13 MR. VAN DINE: Okay.

14 CHAIRMAN PALMER: Any other questions for Staff? Mr. Steelman?

15 **TESTIMONY OF KEVIN STEELMAN:**

16 MR. STEELMAN: Thank you. Let me get this where I can speak to it. I thank  
17 you Staff for that recommendation and thank you Council for the time. My name is  
18 Kevin Steelman; I am a resident of northeast Columbia, 215 Lake Carolina Boulevard.  
19 I'm here today on behalf of Land Tech; we're a real estate land developers  
20 headquartered in Columbia with a number of active projects here and in Charleston.  
21 We selected this site for the same reasons that the Staff recommended approval  
22 because of all the utilities being in place at the boundary of the property, the proximity to  
23 excellent schools and the fact that the project is more or less an infill of development or

1 of developed property. Since we put the property under contract with Walter and Nancy  
2 Smith who are the current owners and who do support the Map Amendment, we have  
3 met with Staff to confirm that our plan was in compliance with the comprehensive plan  
4 before we requested the amendment. We subsequently have discussed our plans for  
5 the project with Councilwoman Dickerson to seek her guidance and have also met with  
6 the Round Top Community Association to discuss our plans for the property in advance  
7 of this meeting. We agree again with the Staff that the property – the zoning that we’ve  
8 requested is the best for the property based on the utilities that are place. Thank you.

9 CHAIRMAN PALMER: Thank you. Michael Watts?

10 **TESTIMONY OF MICHAEL WATTS:**

11 MR. WATTS: Michael Watts, 359 Adams Road, Blythewood. I’m representing  
12 myself as well as my grandmother, Lois Rimer, who is homebound and 87 years old,  
13 has resided on the property directly, if you take your map sheet out, directly to the west.  
14 She’s 87; she married my grandfather when she was 15. She’s been there ever since.  
15 My great-grandfather owned this property prior to my grandfather purchasing it from  
16 him. Totally the family there owns approximately, with my property, her property and  
17 another aunt and uncle’s property, about 20 acres that is directly to the west. This would  
18 bound us by, just estimating 1,200 to 1,500’. We are adamantly opposed to this  
19 development; this is too much density in this area. There is no other density zoning that  
20 is quite to this level, even though the comprehensive plan may say or state that it should  
21 be in the future, for future use. Back in 1991 when the Smith’s decided to put a driving  
22 range on this property, I went against my neighbor’s wishes. My neighbors didn’t want  
23 a driving range there and my comment to this Planning Commission at that time was,

1 "I'd much rather have a driving range than a neighborhood". So I'm standing here 20  
2 years later and I'm asking you as Commissioners to spare us especially a highly dense  
3 neighborhood like this. We don't think this is proper use, there's going to be – there's  
4 massive traffic problems as it is because the Round Top school being right there. I have  
5 no idea how roughly 200 cars a day are going to make a left or right turn in an out of this  
6 property as many times as they'll have to. This is so adamantly against the character of  
7 the property that you see on this sheet right here. You know, this little back piece that  
8 you see, this sub-portion was a piece of property that my grandmother sold the Smith's  
9 and they subsequently sold it to Round Top School. You know, the school interrupted  
10 our lives, but we understand children need education and we were okay with that.  
11 We're not okay with this. And we have been really good neighbors to the Smiths and  
12 we would appreciate the Smiths and you all being good neighbors to us and let us keep  
13 a little sanctity and peacefulness in our home. Thank you.

14 CHAIRMAN PALMER: Thank you. Barbara Ball?

15 **TESTIMONY OF BARBARA BALL:**

16 MS. BALL: My name is Barbara Ball and I live at 454 Rimer Pond Road about  
17 2,3 houses down across the road from this property. And first of all I would like to  
18 address the sign issue. We all had the same question that the Commissioner up there  
19 had about our sign. Now, I knew very well this property was for sale and I even knew a  
20 church and I knew a developer was interested so I kept a real close eye to know when  
21 this was going to come up. And a few days ago, I got a call from someone at the Round  
22 Top Community, which is down the road and around the bend from us, it is not the  
23 community there around this, so that was – that's a funny little thing to happen there.

1 And she said, you might want to come over this property's going to be developed. So, I  
2 drove past, I didn't see the sign still. I got to their meeting and Ms. Dickerson even said,  
3 "I didn't see the sign there either, they haven't posted that". Well, then I got an email  
4 that Mr. Developer said, he sent that showed the sign so the sign is like – if you stop  
5 about eight feet before you get to the sign, you can read it. Otherwise, you know, that's  
6 a 45, 50 mile an hour zone, there is no way to see the sign and I was looking for it. We  
7 – Rimer Pond Road, if you know from the past, we already have a lot of people here,  
8 nobody knows about it. Nobody knows about it. And I think in the spirit of the sign  
9 posting, and Geo does a great job, I am not critical of Geo, he is wonderful, but in the  
10 spirit of sign posting, it should be put up so that people see it. It's not just a formality to  
11 fulfill, you know, fulfill a duty, it's so that the neighbors will see it. Secondly, I want to  
12 say real quickly these signs up here that say Uniquely Urban, Uniquely Rural, we don't  
13 mind somebody moving in but pretty soon we're not going to be Uniquely Rural. So I  
14 hope that you will vote against this. We don't mind, if it's zoned properly.

15 CHAIRMAN PALMER: Thank you. Mary Lee?

16 **TESTIMONY OF MARY LEE:**

17 MS. LEE: Mr. Chairman, Commission Members, I'm Mary Lee. I live at 444  
18 Rimer Pond Road, which is directly across the street from the property that's in  
19 question. Unfortunately, I was out of town for a couple of weeks on a little vacation,  
20 when I come back this is all upon us and like Ms. Ball said, any of you that have been  
21 around here for a while know that anything goes on Blythewood we usually have great  
22 representation because we're real concerned about our area. But the few things that I  
23 want to bring up is why was the traffic study done on Longtown Road presented on the

1 website dealing with this property? I mean, you know, you're saying that we could have  
2 so many cars per day and we're not up to that capacity etc., etc., but I mean we're  
3 talking about Rimer Pond, not Longtown Road. And my thought is if we have, you  
4 know, consider 150 to 175 more vehicles twice a day, I mean, that impact alone – this  
5 adjoining Round Top school which is already in place and you know, it really bumps up  
6 the numbers and even your website states that DOT has no plans for improvements  
7 along here. And now any of you that have been on Rimer Pond knows the fact that the  
8 traffic times in the mornings and afternoons entering onto Wilson Boulevard, even with  
9 the traffic light, it can back up for a half mile. So this is just gonna put that much more  
10 traffic on there. And I understand Mr. Steelman used to live in Eagles Glen which he  
11 would have to go out that way, so surely he hasn't forgotten what that traffic's like out  
12 there. But anyway, and then the sewer services that's going to be provided by Palmetto  
13 Utilities, they already having overflow issues, they've been out there several times  
14 within the past year trying to alleviate the fumes and odors that are emitted into the air.  
15 It's right in front of my house. If you'll show on the screen, the one that has where the  
16 two different pictures of Rimer Pond - no. No, no. Well, anyway, I've got a copy of it,  
17 it's on your website, and the one that says travelling east on Rimer Pond Road, if you'll  
18 look across the street from this, that's my mail box. So, I am directly in front of this  
19 property. And maybe a postponement would help us get better organized but I am truly  
20 begging you to, you know, please reduce the density of this. I mean, it's just  
21 overwhelming for us. Thank you.

22 CHAIRMAN PALMER: That's everybody who signed up to speak. Any  
23 thoughts?

1 MR. MANNING: Mr. Chairman, I, you know, I've read the Staff comments and  
2 believe this is a site for infill given that the utilities, school and the roads are there. Now  
3 there is a fair amount of rural surrounding this property so, we've got the issue of  
4 encroachment but, you know, where do you draw the line? I mean, I think there was  
5 some discussion back some time ago about Longtown Road and everything on this side  
6 of the road being built out, but I don't think that we can just look at it just with a straight  
7 line. There is infrastructure there to accommodate the growth but I feel like it, with the  
8 school right there, would fit in.

9 MR. BROWN: Mr. Chairman, question. The issue that was raised by I believe  
10 the last speaker relative to the wastewater and so forth, those issues, has that been  
11 looked at?

12 CHAIRMAN PALMER: I'm not sure if they, you know, they'll have to make their  
13 application for that as the development moves forward to those local municipalities and  
14 if there's capacity for them, they'll be approved. If it is not capacity, it won't be  
15 approved.

16 MR. BROWN: Would Staff address that?

17 CHAIRMAN PALMER: Is that something that you guys look at up front, Geo is  
18 the capacity of the water and sewer? So that bridge hadn't been crossed yet?

19 MR. PRICE: No, sir.

20 CHAIRMAN PALMER: Mr. Steelman, do you have letters from - stating that the  
21 capacity issues out there?

1 MR. STEELMAN: We've had verbal discussions – I mean, we don't have letters  
2 on them yet but obviously that's something we would get long before we'd ever  
3 purchase the property.

4 CHAIRMAN PALMER: Right, right.

5 MR. VAN DINE: Mr. Chairman, if I may real quick.

6 CHAIRMAN PALMER: Sure, absolutely.

7 MR. VAN DINE: I think this is a classic example of our comprehensive plan  
8 perhaps being too far out in front of what we're looking at. It may say it should be  
9 suburban, but the entire area out there surrounding that is large lot rural, and it seems  
10 to me that our comprehensive plan may in fact may be incorrect in this particular area. I  
11 understand that there is a RS-MD over across from the middle school but it seems to  
12 me that this would be an encroachment in this area regardless of whether or not the  
13 utilities are there or not. Just because you have utilities there doesn't mean you  
14 necessarily have to connect into them and make anything worse than it would be at the  
15 present time. I just think that this – in this particular location, at this particular time is not  
16 an appropriate use to try and wedge in that many houses into an area which is large lot  
17 and predominately rural, especially as it goes out further towards the Blythewood. And  
18 Mr. Manning's comment about, you know, Longtown Road and where do you put the  
19 ending. To me, it seems to me the ending ought to be on the entrance to Windermere  
20 side of Longtown, everything inward of that seems to be a progression towards a  
21 commercial or some other type of infill growth. It doesn't seem to me that this particular  
22 location fits with what we're attempting to do.

23 MR. TUTTLE: But if you - Mr. Chairman, if I may.

1 CHAIRMAN PALMER: Yes.

2 MR. TUTTLE: If you look at the color map and you look to the west between this  
3 site and Blythewood in essence, there's clearly other developments that have happened  
4 with similar densities. And the connection of 21 to Longtown Road, seems like a logical  
5 path for growth; as unfortunate as it may be.

6 MR. VAN DINE: If you'll look at those colors, you'll note that those are RS-LD,  
7 which is low density, so therefore, we're not talking about a medium density. Maybe if  
8 we were talking a low density version, I might have a different opinion. But I think that  
9 we're putting too much in too confined a space.

10 CHAIRMAN PALMER: Or if it was located at an intersection, at a node?

11 MR. VAN DINE: Correct.

12 MR. TUTTLE: I – just from personal experience, I think from time to time when  
13 you look at the geometry of a particular tract, and the relative size even though the  
14 zoning classification may allow you great density that the realities in the world don't  
15 really allow you to maximize that density.

16 MR. VAN DINE: However, I think as we've talked about in the past, this Body  
17 needs to look beyond just the application that's here and exactly what is being looked at  
18 for the future. Last month we dealt with the landscape area, the neighborhood seemed  
19 to be all in favor of it. The question is what happens if that landscaping company goes  
20 out of business and all the other things that come in with that. I just think that we have  
21 an obligation to look at what's there and to not intrude on the areas.

22 MR. TUTTLE: I just, you know, personally feel if you don't densify where you  
23 have infrastructure to a limited degree and where you have proximity to two schools,

1 then you continue to add to the sprawl that we've experienced. So, I do think it's an  
2 appropriate infill site if we're going to look at infill to take advantage of the existing  
3 utilities and schools.

4 MR. MANNING: I agree with Mr. – excuse me, Heather.

5 MS. CAIRNS: I just – to me considering this infill just because infrastructure  
6 exists is an inappropriate use of the term infill. I mean, infill is going where there's  
7 density in a spot with no density and you're filling in density where you've got voids.  
8 Places like in the City of Columbia, there's tons of opportunities for infill and I'm sure in  
9 parts of the county, but to me, the fact that there's utilities and therefore, we call it infill,  
10 is just wrong. This – I sort of agree with my member down there, in terms of the fact  
11 that this is a rural area and the fact that the comp plan is calling for densities of 4 to 8, I  
12 think is a miss. I think that respecting the rural nature of this part of the county, even  
13 with its residential development, it still a rural nature with the large lots. So, I don't  
14 know, I just have issue with calling this infill simply because there's existing utilities  
15 because to me that's not the appropriate use of infill because this is a – I mean, to me  
16 this is the antithesis of what we ought to be doing because we're putting tons of density  
17 where there just is not.

18 MR. MANNING: Going back to the comp plan, Mr. Chairman, I know Howard  
19 you weren't involved at that point but you were working very hard leading up to getting  
20 the comp plan approved. One of the problems we all had was is you just putting a  
21 blanket over large parcels of property, there was no other way to do it. So, yeah, it may  
22 be that we overreached when we did that, but it was trying to overreach in a situation  
23 where you knew in the future we were going to need growth and where was that growth

1 gonna be? So, I hear what you're saying about the rural, the comp plan is not a perfect  
2 map to use in all cases but given what I see in the area, it appears to me that it would  
3 be a better site for that type of density than pushing it back out, you know, even further  
4 where you've got some development toward Blythewood with the school being there.

5 MR. VAN DINE: Mr. Chairman, just one final comment and I'll – it seems to me  
6 that we should be working progressively out towards an area, not leapfrogging out to  
7 create a situation where by definition you're going to claim that's an infill site because  
8 there's something going on out here. And it seems to me that a gradual progression as  
9 opposed to this reaching out into the middle of a rural area to start an implosion of that  
10 lifestyle is just inappropriate in my mind. And I understand all the comments that were  
11 made and I respectfully disagree with them but I don't think this is an appropriate  
12 rezoning application.

13 CHAIRMAN PALMER: Any other questions or comments?

14 MR. TUTTLE: Mr. Chairman, if I may, I'd like to recommend that we send Case  
15 No. 11-19 MA forward to Council with a recommendation for approval.

16 MR. WESTBROOK: I'll second.

17 CHAIRMAN PALMER: We have a motion and second all those in favor of the  
18 motion, please signify by raising your hand.

19 *[Approved: Westbrook, Tuttle, Manning; Opposed: Cairns, McDaniel, Palmer, Van Dine*  
20 *Brown; Absent: Gilchrist]*

21 MR. VAN DINE: Mr. Chairman, in light of the fact that the motion failed for  
22 approval, I would recommend we send this forward with a recommendation of denial.

23 CHAIRMAN PALMER: We have a motion, do we have a second?

1 MR. BROWN: Second.

2 CHAIRMAN PALMER: All those in favor of the motion, please signify by raising  
3 your hand. All those opposed?

4 *[Approved: Cairns, McDaniel, Palmer, Van Dine, Brown; Opposed: Westbrook, Tuttle;*  
5 *Abstained: Manning; Absent: Gilchrist]*

6 CHAIRMAN PALMER: Mr. Steelman, we're a recommending Body to Council.  
7 This will go in front of Council on the, what date is that, the 25<sup>th</sup>, October 25<sup>th</sup>, where  
8 they, of course, will have final say on it, we're just a recommending Body. Thank you.  
9 We've got, next is the Text Amendments. We move Number One down, so let's move  
10 on to Text Amendment Number Two.

11 MS. LINDER: Mr. Chairman? Would you – I've been just reminded that since  
12 you went against Staff's recommendations if you could just put on the Record or just  
13 state now the reasons for the denial.

14 CHAIRMAN PALMER: Mr. Van Dine?

15 MR. VAN DINE: I would simply refer back to my earlier statement that was – that  
16 I made. I'm not sure I can say it again in the same way I said it before. So, I would  
17 reference back to my statements as to my reason for the making the motion; based  
18 upon the lack of infill, the inappropriate infill, rural large lot, this is not appropriate. And  
19 the other comments and I don't remember all of them. So –

20 MS. LINDER: I think you made a comment about the comp plan that maybe in  
21 the future this would be appropriate but not at this time.

22 MR. VAN DINE: That was certainly one and also that I thought the comp plan  
23 itself may have been flawed in this particular area.

1 MS. LINDER: Thank you very much.

2 CHAIRMAN PALMER: Okay. Text Amendment Number One.

3 MR. VAN DINE: Two.

4 CHAIRMAN PALMER: Two, sorry.

5 **TEXT AMENDMENT NO. 2:**

6 MS. LINDER: This Text Amendment, you're again dealing with the subdivision of  
7 land. This is a Council motion, that's why this particular language is before you. County  
8 Council had made a motion to adopt language substantially similar to an ordinance that  
9 is in Berkley County. And so what this ordinance would do, we strike all the existing  
10 subdivision to an heir and it would then allow subdivision of lots to family and heirs. And  
11 I think you'll find the new language on page 27 of your Agenda.

12 MR. VAN DINE: Does this have any cross reference to our discussion last  
13 month regarding the size of the road or access or?

14 MS. LINDER: This particular ordinance does not address that.

15 MR. VAN DINE: Does this impact or is this impacted by that discussion?

16 MS. LINDER: I don't believe this ordinance is before you based anything that  
17 Planning Commission stated, this is, came from Council agenda, a Council motion not  
18 to do any further tweaking of the existing language but to actually look at the Berkley  
19 Ordinance and adopt it.

20 MR. VAN DINE: I think my question is, goes more to - let me ask you this, what  
21 happened with the ordinance that we set up last time where we talked about the width  
22 of the right-of-way and the getting access ingress and egress size?

1 MS. LINDER: No action was taken on that ordinance. Instead the motion was to  
2 adopt the Berkley and that went forward.

3 MR. VAN DINE: Is there going to be anything that's going to deal with the size of  
4 that particular -

5 MS. LINDER: No, sir. Right now that ordinance is not going anywhere.

6 MR. VAN DINE: Then how will anybody know – let's assume this passes, how  
7 will anybody know what size ingress and egress they need to have or they need to  
8 dedicate?

9 MS. LINDER: Maybe Mr. Price can address that.

10 MR. PRICE: Yeah, I think essentially the ordinance that you have before you  
11 really doesn't require a road. Essentially you can subdivide this property on a one time  
12 basis with an easement. And as it states, that if they were to, that if any of these lots  
13 are further subdivided, then that easement would have to come into compliance and  
14 become a road.

15 MR. MANNING: Mr. Price, when you say further subdivision do you mean that  
16 the property is divided once again or sold?

17 MR. PRICE: In this particular case, subdivided. What this is saying that is that  
18 you get a one-time subdivision based on easement.

19 MR. VAN DINE: Who gets the one time subdivision?

20 MR. PRICE: When they –

21 MR. VAN DINE: If I – let me give you an example. I own a piece of property; I  
22 give it to these two gentlemen right here who are my heirs. I've had my one time  
23 subdivision; do they get to subdivide it now?

1 MR. PRICE: No, sir. If they did, they would have to bring it into the -

2 MR. VAN DINE: Why?

3 MR. PRICE: - the access.

4 MS. CAIRNS: But on when their estate –

5 MR. VAN DINE: It's theirs.

6 MS. CAIRNS: - opens, when they die and it's their estate devising it out, it could  
7 be eligible for subdivision again under this. But not by them *in divivos*, I mean.

8 MR. VAN DINE: I mean, they may not able to be subdivided again by me, but  
9 they've got a right to subdivide the property to their heirs and family.

10 MS. LINDER: Well, there's plenty of limitations on that second subdivision on –  
11 in our view on this. It's sort of like restricted covenant cannot further divide. It's going to  
12 be a deed restriction.

13 MR. VAN DINE: I mean, I think you've twisted yourself in a knot that you're  
14 gonna never be able to get out of when you keep doing all this stuff to try and solve one  
15 problem, you're creating four and five more. And I think – if I were representing these  
16 two gentlemen right here, I'd walk in there and say, look, that ordinance says I've got  
17 the chance to subdivide it because it's mine and my heirs can have it and they can  
18 subdivide it up amongst themselves and they don't have to have a road. I don't care  
19 what it says about so and so other there did it. I mean, I just think this, this is going to  
20 create more problems than it solves.

21 MR. BROWN: Mr. Chairman? I'm sorry – were you finished?

1 MR. VAN DINE: [Inaudible]. The concept of allowing heirs and family members  
2 to have property divided out makes sense, and I'm not opposed to that. I think there's a  
3 problem, however, with the way we're going about doing it.

4 CHAIRMAN PALMER: Mr. Brown?

5 MR. BROWN: Mr. Chairman, the deed restriction that's referred to, who would  
6 put the deed restriction, who would place that deed restriction on the property?

7 MS. LINDER: I guess it would be actually on the plat itself.

8 MR. BROWN: So that would be done by the county?

9 MS. LINDER: That would be done by the subdivider. The subdivider would  
10 submit a plat.

11 CHAIRMAN PALMER: So the county's now enforcing deed restrictions?

12 MR. TUTTLE: The other thing that's important to remember is this is written, it's  
13 not just heirs, its family and heirs. Spouse, parents, grandchildren, children, etc., so you  
14 don't even have to have an event, correct me if I'm wrong, you don't even to have an  
15 event to subdivide do you?

16 MS. CAIRNS: It says by Will in testate or basically a partition action. A forced  
17 division decreed by an appropriate judicial. So it wouldn't be just a voluntary devised or,  
18 you know -

19 MR. BROWN: The question, my question wasn't answered.

20 MR. PRICE: Well, you could be voluntary.

21 MS. CAIRNS: While everyone's alive without any probate and without any  
22 partition?

23 MS. LINDER: Yes.

1 MR. PRICE: Part of that first sentence – just jump in and it says, “only if the  
2 property is being transferred to the owner’s immediate family members or” –

3 MS. CAIRNS: Or.

4 MR. PRICE: - and you get into it.

5 CHAIRMAN PALMER: Mr. Brown, were you done?

6 MR. BROWN: No, my question wasn’t –

7 CHAIRMAN PALMER: Still waiting on an answer?

8 MR. BROWN: - answered.

9 MS. CAIRNS: Oh, and so by will it could be anybody?

10 MR. TUTTLE: Right.

11 MS. CAIRNS: This is just.

12 MR. PRICE: By Will.

13 CHAIRMAN PALMER: Ms. Linder do you have a response back for Mr. Brown’s  
14 question?

15 MS. LINDER: The language it says here, plats have to show ingress and egress  
16 and contain the following information, which is A through E. Actually, I think it’s A  
17 through D.

18 MR. BROWN: Right.

19 MS. LINDER: There would be a note on the plat stating that they cannot be  
20 further subdivided until a road access is provided. That would be on the plat before the  
21 county would approve the plat and allow the subdivision.

22 MR. BROWN: So in effect the county is requiring the plat and there’s no way  
23 around that, of requiring that wording on the plat and that becomes what it is, period.

1 MS. LINDER: Yes.

2 CHAIRMAN PALMER: Mr. Manning?

3 MR. MANNING: Mr. Chairman, I don't know what has transpired in the Council  
4 meetings on – we've sent language back three or four times on this issue and the  
5 changes we have made that was safety and size and legal issues that are bound to  
6 arise, and I wish we could get some justification why those recommendations have just  
7 been avoided or sent back in some other form. I think the Commission has shown a  
8 willingness to try to deal with this issue over and over again and is concerned about  
9 heirs property. I'm very concerned about it, but I'm also concerned about creating a  
10 problem down the road that the county's not going be able to get out of. And I don't like  
11 deferring something but I guess that would open the door up possibly, Mr. Chairman, for  
12 the Council – say we were taking no action and they could approve it on that basis?

13 CHAIRMAN PALMER: They can, after 30 days.

14 MR. MANNING: Well, how do we avoid that? Because I think the way this is  
15 drawn is bad. You know, the language we sent to them before I think addressed a lot of  
16 the concerns that the community had.

17 CHAIRMAN PALMER: Well, I think for me personally, I was going through with  
18 the previous thing which was sent up. It seems like to me this really over simplifies, it  
19 strikes it down and really puts it in a small bracket and really opens up, I mean, it  
20 completely does away with what we got comfortable with before, the Planning  
21 Commission, that we sent up. You know, that's the language that's been stricken there  
22 now, so we put a lot of work into these, getting this ordinance formulated, now it's  
23 almost like it's a strike through it all, make it super simple, and we'll just deal with the

1 consequences as they come and then we'll starting bringing stuff back to you, that well  
2 we have this issue, we had that issue and let's start changing this and changing that.

3 MR. MANNING: Well, I don't mind simple, but it's not addressing the issues we  
4 were concerned about so.

5 CHAIRMAN PALMER: That's right, yeah.

6 MR. MANNING: I don't know how to approve something in this form.

7 CHAIRMAN PALMER: Well, you know, we don't have to approve something.  
8 We can certainly recommend for denial on this change as is and recommend the  
9 previous language not be changed. Mr. Van Dine?

10 MR. VAN DINE: I agree with one of the comments that you made which is the  
11 over simplification and then things start popping up and keep coming back. I mean,  
12 that's sort of been the *modus operandi* from around here.

13 CHAIRMAN PALMER: Right.

14 MR. VAN DINE: Is – oop, let's deal with the problem when it arises as opposed  
15 to trying to deal with it up front. And I just don't think this does what is attempted to be  
16 done and I personally am not comfortable with recommending that. And based on that,  
17 I would recommend that we send this request forward with a recommendation of denial  
18 of the language which is before us.

19 CHAIRMAN PALMER: There's a motion.

20 MR. TUTTLE: Second.

21 CHAIRMAN PALMER: And a second and a third. Is there any more discussion  
22 on the issue? All those in favor of the motion, please signify by raising your hand. All  
23 those opposed?

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

3 CHAIRMAN PALMER: None. Okay.

4 [Inaudible discussion]

5 MR. PRICE: Well, I know that question will come up and I didn't know.

6 MR. BROWN: I think Mr. Chairman; we ought to tell the Staff just to remark that  
7 we we're looking for the previous language that we've already recommended.

8 MR. MANNING: Mr. Price, I think, you know, there's numerous issues – the size  
9 of the property, the number of heirs or the people who are identified that can do this, the  
10 safety concerns, the right-of-way widths, the legality of the way it's drawn; future  
11 problems being contested legally. I'm sure I'm missing some but there's a number of  
12 them in all of our comments.

13 MR. PRICE: Yeah, I understand that and Ms. Linder's correct, that we could  
14 forward this with really no comments other than it was recommended denial. But it does  
15 help sometimes during the discussion if we can state some reasons why.

16 MR. VAN DINE: The other reason which was eloquently stated was that it's over  
17 simplified. There's just too many loopholes and too many problems that can be raised  
18 just sitting up here thinking of it ourselves and I'm sure there's a lot of other people out  
19 there who can think of a lot of other reasons why it would not be a good ordinance or a  
20 good fix.

21 CHAIRMAN PALMER: Seems like it's going in the wrong direction [inaudible].  
22 Okay.

23 MR. MANNING: That would be a dead-end dirt road.

1 CHAIRMAN PALMER: Alright, Other Business. Lexington/Richland School  
2 District Five.

3 **TEXT AMENDMENT NO. 1:**

4 MS. LINDER: Mr. Chairman, the next issue that you're now dealing with before  
5 you, pursuant to State Statute where it requires that public entities such as schools  
6 come to you to determine whether or not that entity is in compliance with the  
7 comprehensive plan. I believe you have the Staff Report in front of you, the Staff  
8 Report I think speaks for itself. The Staff recommends that or it's in their opinion it does  
9 not meet the comprehensive plan. I believe you might have, I don't know if another  
10 Staff person wants to go further into that, but otherwise I think that maybe the school  
11 district has some thoughts that they want to share with you.

12 CHAIRMAN PALMER: Okay, do we have some representatives from the school  
13 district?

14 MR. HALLIGAN: Yes.

15 CHAIRMAN PALMER: Okay.

16 **TESTIMONY OF BIC HALLIGAN:**

17 MR. HALLIGAN: I am Bic Halligan, a lawyer with the firm of Childs & Halligan;  
18 I'm here with my partner, Keith Powell. We also have with us Bill Flowers who is the  
19 civil engineer for the project out on US Highway 176, and Paul Miscotti who's with  
20 Southern Management who's the construction manager. Neither Dr. Heffner who is in  
21 the hospital with knee replacement surgery nor Carl Fulmer who is the acting  
22 superintendent while he's there could be here today. The district is building a new high  
23 school and a new career and technology center out on United States Highway 176. The

1 purchase, we filed a memorandum Friday, I hope it was in your packages, we have  
2 extra copies here if anyone would like it. But the district put this land together; it's a two  
3 county district about half the land area is in Richland County and about half in Lexington  
4 County. It began putting this land together in 2004. Most of it was acquired between  
5 2004 - 2007. The Bond Referendum was passed, I think in 2008. The design then  
6 began. The first meeting with the county was in May of 2010. The application with the  
7 County was filed, and this is the application to comply with your zoning and land  
8 development regulations. The application was filed June 27, 2010. The DRT approved  
9 it September 9, 2010, in other words, more than a year ago. All of the other approvals  
10 had to then come together; all the DHEC stuff, the State Department of Education,  
11 Office of School Facilities, Department of Transportation, Army Corps, all that stuff has  
12 to come together to begin construction. It started in mid May, the actual construction,  
13 and it's now underway. The Staff Report, and we're dealing now, and we realize that  
14 the County Council has requested that you review this, the Staff Report says that it does  
15 not comply – now this location is 120 acres, almost half a mile on United State  
16 Highway 176, about a quarter of mile on Mount Vernon Church Road. It says it does not  
17 comply with the 2009 comprehensive plan because it is not on an arterial road. So,  
18 their position is that US Highway 176 at this site is not an arterial road. The definition of  
19 arterial road is in the Code and it says, "arterial – a freeway, expressway or a road or  
20 highway that is used or intended to be used for moving either heavy vehicular traffic  
21 volumes or high-speed traffic or both on which average daily traffic exceeds 4,000  
22 vehicles or more. So, you've got – okay freeway, expressway, road or highway, used or  
23 intended to be used for moving either heavy traffic or high speed traffic, so certainly all

1 of those, and on which daily traffic exceeds 4,000. Now I don't know whether it says  
2 intended to be over 4,000 but since 2006, the Department of Transportation, and they  
3 have a station just down the road, it's always been over 4,000 – it's 6,800 in 2010, so  
4 6,800 per day in 2010. And we cited in our paper every year it's been over that every  
5 year since 2006, which is shown on the Department of Transportation website. In  
6 connection with getting your zoning and the land development permits, the district  
7 conducted its own traffic study. And it's a calculated number, Mr. Flowers can talk  
8 about this, but at the site it's a calculated number of vehicles of 6,760. That's by  
9 multiplying by 10 the peak hour traffic. The Staff Report cites that the DOT traffic count  
10 at 6,500 in 2010, that's a little lower than the webpage, and says the design capacity is  
11 8,600. If you look at the 2009 comprehensive plan as I did, page by page, there are 15  
12 maps in there that identify roads as arterial or not. Every map has Highway 176 at the  
13 site as an arterial road, nothing's ever indicated inconsistently with that. So, we say that  
14 the plan says, and it meets all your definitions, that US Highway 176 is an arterial road,  
15 and we find it pretty hard to conceive of how it could not be. Once again, we found that,  
16 you know, the Council's asked you to review it; our position is that completely meets  
17 and is within compliance with your 2009 comprehensive plan. We also have a view  
18 though on the ordinance which we'll be glad to talk about either now or when you get to  
19 that. We do not view the ordinance the same way that the Staff views it. And I'd be  
20 glad to talk about that now, or wait until you actually get to the ordinance.

21 CHAIRMAN PALMER: We'll wait until we get to the ordinance.

1 MR. HALLIGAN: Okay. I think that's everything we have on this point, so unless  
2 you have some questions, I think Mr. Flowers is here and he's got more on the traffic  
3 study.

4 CHAIRMAN PALMER: I have a question per something you brought up. Mr.  
5 Price, do we have those maps?

6 MR. PRICE: [Inaudible].

7 MR. DELAGE: Thomas Delage. The – basically what the map is, is the SCDOT  
8 functional classifications. It's what we use to define the roads. Those classifications  
9 are based upon the road and the character, essentially the designated use for those  
10 roads by SCDOT and the Federal Highway Administration. And essentially the US  
11 Highway 176, Broad River Road is defined in a couple of difference places; one portion  
12 is an arterial going out near the end where you see kind of the blue line, that's the end  
13 of what they consider the urbanized area, everything from that point forward, which is  
14 leading up to the school site is defined by them as a collector road.

15 MR. VAN DINE: Where is the site?

16 CHAIRMAN PALMER: Which intersection on 176 on here?

17 MR. DELAGE: It should be – down a little bit more. The Freshly – West Shady  
18 Grove is where 612 is, if you more northeast along where it's purple, and it comes to an  
19 intersection about three roads, that's where the site is and it's on the southeast, or  
20 southwest corner, excuse me.

21 MR. VAN DINE: What's the black, what's the purple, what's the – I mean? What  
22 does that mean?

1 MR. DELAGE: Those are the different road designations. It should be the purple  
2 is considered a major collector, the – and I don't remember the other colors off the top  
3 of my head, but it does minor arterial, major arterial are some of the other classifications  
4 as well. So the red is a principle arterial, the green is a minor arterial.

5 CHAIRMAN PALMER: And the purple is collector?

6 MR. DELAGE: Yes, sir.

7 MR. VAN DINE: The interstate doesn't fit within an arterial or what is that?

8 MR. DELAGE: They just have them defined as – let's see, yeah, just interstate.

9 MS. CAIRNS: Oh, interstates.

10 MR. DELAGE: Sorry.

11 MR. VAN DINE: I don't know.

12 MR. FLOWERS: Excuse me, I would submit to you that the same is true of the  
13 interstate that beyond that point where the blue line, the interstate is not classified as a  
14 arterial either cause the black definition stops at that blue line, so I don't think that's a  
15 good definition there. This is a 2006 map with the DOT by the way.

16 MS. LINDER: Mr. Chairman, we need a name and address, please.

17 **TESTIMONY OF BILL FLOWERS:**

18 MR. FLOWER: I'm sorry; my name is Bill Flowers with Civil Engineering of  
19 Columbia. And I have a – and I really don't have a copy of it, we have a copy of the  
20 Traffic Impact and Access Study that was submitted to the Staff and accepted an  
21 approved by the Staff, and on the first page of that study it identifies the road as an  
22 arterial road. And it goes on to support that with his data. I spoke with the traffic  
23 engineer that produced this and he said that in his mind, there's no doubt that this

1 section of this road is an arterial. And if you go to the Richland County website and look  
2 at the website, it currently identifies it as an arterial road on every map that we looked at  
3 in the Richland County system. And just, I would have to go back to the intent of the  
4 road when it was constructed too, this is a US Federal Highway that's 212 miles long  
5 connecting communities all the way along the route and the intent clearly was to move  
6 high volumes of transportation from one community to another, which clearly is an  
7 arterial road. I don't think there's any doubt that that's what this is.

8 MR. MANNING: Mr. Flowers?

9 MR. FLOWERS: Yes, sir.

10 MR. MANNING: Did you represent the school district before the DRT?

11 MR. FLOWERS: I did.

12 MR. MANNING: And did you have discussions about what kind of roads you  
13 were going [inaudible]?

14 MR. FLOWERS: There was no discussion regarding the arterial nature of the  
15 road.

16 MR. MANNING: But the traffic report was presented as -

17 MR. FLOWERS: The traffic report was presented at that time, yes.

18 MR. MANNING: And it identified is as an arterial?

19 MR. FLOWERS: That's correct.

20 MR. MANNING: Okay.

21 CHAIRMAN PALMER: Any other questions for the -

22 MR. HALLIGAN: Can I respond to one point?

1 CHAIRMAN PALMER: Sure, then we have some other folks signed up to speak  
2 as well.

3 MR. HALLIGAN: Okay – now your comprehensive plan just says arterial road. It  
4 doesn't go beyond that, it just says arterial road. And I read you the definition that's in  
5 your Code. Now, you have three definitions of arterial. You have arterial, and that's  
6 what I read, then you have arterial road minor and arterial road principal. Road minor  
7 and road principal refer to the DOT functional classification. Not the word arterial. So  
8 when you apply this definition of 4,000 vehicles, etc. to your comprehensive plan with  
9 the facts, this high school satisfies the plan. So, thank you.

10 CHAIRMAN PALMER: Thank you. Any other questions? Mike Sloan?

11 **TESTIMONY OF MIKE SLOAN:**

12 MR. SLOAN: How you doing? I'm Mike Sloan, I live at 1430 Wunder Drive in  
13 Chapin, South Carolina. And looking at this and our response to this, and as they said  
14 earlier, Uniquely urban, Uniquely Rural. The comprehensive growth plan drew a line in  
15 2009, Michael Criss when he were a part of the association; he drew a line showed the  
16 rural aspect vs. the urban. And what I want this group to consider and now I support on  
17 what you on what you're doing with schools coming forth with it, is the schools in  
18 essence when you put them in an area which this is rural, you're creating sprawl bomb,  
19 it's now doubt about it. This particular area out in northwest, we have had an increasing  
20 problem with traffic congestion and so forth and all this comes from haphazard zoning. I  
21 call it hodge-podge zoning, leapfrogging if you like to look at it in that term. And when  
22 you do this, and you make this decision, the impact is devastating on a community  
23 that's not set up for that. Is this school within your comprehensive growth plan? I don't

1 think so, simply by the term of rural. It's a rural area, go back and look at your maps.  
2 You'll see that they leapfrogged and by leapfrogging, what you're getting into is you just,  
3 you're not comply with your plan, and when you don't comply with your plan, the end  
4 result is catastrophic. I mean, we just don't, we can't handle the congestion, the crowd  
5 is 176 arterial, is two lanes arterial, I don't know, you tell me? But go look at it yourself.  
6 We're against this, we're against by type of zoning that would leapfrog this and we ask  
7 that when you look at things like this in the future as well as now, consider the rural part,  
8 cause we're leaving that out folks, we're missing the whole point, we want to grab little  
9 terms and try and stick them to make us justified to be in a rural area, that's what we're  
10 doing here. Justification, to be where we know we're not supposed to be and that's  
11 what I want you to look at when you make your decisions. Don't play on words, use  
12 common sense. The growth plan is common sense and it shows that. And this is a  
13 rural area anyway you term it. Thank you.

14 MR. VAN DINE: Mr. Chairman, really quickly if I can – this Body is not going to  
15 be looking at whether this is rezoned or not rezoned. We don't have any issue at this  
16 point in time with dealing with zoning, it's already zoned, it's already forwarded, we have  
17 to look at whether or not this is, fits within the comprehensive plan based upon the  
18 Staff's conclusions that it's not on an arterial road. So whether or not we site it or don't  
19 site it is not relevant to our discussion here, and for anybody else who's coming up if  
20 they want to talk about any of the other things, I would ask that they please limit  
21 themselves to dealing with the arterial issue because we don't have any say in anything  
22 else. And more importantly, we can't stop it ourselves one way or the other. We simply

1 can make a recommendation for which there are certain things that have to take place  
2 afterwards.

3 MS. LINDER: Mr. Chairman? This map, for this Other Business, this really not  
4 intended to open it up to the public, we have a position whether or not it's compatible  
5 with the plan. Staff has an opinion, the school district and in my opinion, those are the  
6 only two representatives that should be addressing the board regarding this issue.

7 CHAIRMAN PALMER: You're correct.

8 MS. LINDER: When you come to the Text Amendment, of course, then you can  
9 take input from the public.

10 CHAIRMAN PALMER: Correct.

11 MS. LINDER: But it is my recommendation to not allow public input on this  
12 because that's not the point of this discussion.

13 CHAIRMAN PALMER: You're correct. I looked at the wrong sheet but we do  
14 have the option to open any issue up to public input.

15 MS. LINDER: If you have questions of expert witnesses –

16 CHAIRMAN PALMER: Right, okay.

17 MS. LINDER: But this is not are you for the school or against the school, that's  
18 not the issue.

19 CHAIRMAN PALMER: Definitely so, and we should have handled [inaudible].

20 MR. VAN DINE: Yeah.

21 MR. TUTTLE: Mr. Chairman, if I may.

22 CHAIRMAN PALMER: Absolutely.

1 MR. TUTTLE: I'd like to, and I guess we're not sending anything forward we're  
2 just ruling on whether or not we believe the school is compatible with the  
3 comprehensive plan?

4 MS. LINDER: That is correct.

5 MR. TUTTLE: And I would like to make a motion that the school is compatible  
6 with the comprehensive plan and justification for that would be that I do believe this  
7 particular section of US 176, i.e. Broad River Road, is an arterial road and can be  
8 defined – you can find a definition to support that.

9 MR. BROWN: Second.

10 CHAIRMAN PALMER: We have a motion and a second any other discussion?

11 All those in favor of the motion, please signify by raising your hand? None opposed.

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

14 CHAIRMAN PALMER: Alright.

15 MR. VAN DINE: Mr. Chairman, could I ask real quickly?

16 CHAIRMAN PALMER: Absolutely.

17 MR. VAN DINE: In, Mr. Halligan, in your brief you raised an issue about whether  
18 or not the specific Body here even had a right to look at this issue. And I think that just  
19 for future references, state code actually requires us to look at issue relating to the  
20 school and the citing of the code, of the school itself and as a result of that, I don't want  
21 anybody to leave here with the impression that this Body will not be looking at school  
22 siting in the future, that is part of our responsibility and part of our requirements to do  
23 so. While I certainly think that we ought to be looking at it prior to this far down this

1 road, it does require us to actually look at those particular issues. That was just a  
2 comment, there's no –

3 MR. HALLIGAN: Are we into the ordinance because –

4 CHAIRMAN PALMER: No sir, but we'll be there in just a minute.

5 MR. HALLIGAN: Okay, okay.

6 CHAIRMAN PALMER: Thank you though. We're invited to the Seventh Annual  
7 Planning Neighborhood Planning Conference.

8 MR. LEGER: Sorry, Mr. Chairman, I'd like to introduce Ms. Tia Rutherford of the  
9 Neighborhood Improvement Program she would like to invite you all to our conference  
10 coming up shortly.

11 MS. RUTHERFORD: How's everyone today? On a light note, after a long  
12 meeting, on October 22, we will be celebrating the Seventh Annual Neighborhood  
13 Planning Conference. We're inviting you all to come out and participate. It is a free  
14 conference, free breakfast, free lunch. Our keynote speaker is Joe Minacozi(?), from  
15 Ashville. He's going to be talking to us about the economics of land use. So it's going  
16 to be wonderful morning. We also have a Kids City component, we're inviting all  
17 children ages 6 to 12 to come and participate with us. We have some planning  
18 activities planned for them as well as Safe and Sound Town and Mad Science. We  
19 have registration forms for you as well as session descriptions. So, please come out  
20 and join us.

21 CHAIRMAN PALMER: Thank you.

22 MS. RUTHERFORD: Thank you.

1 CHAIRMAN PALMER: Alright, on to the ordinance part of the Lexington County  
2 School District. Ordinance No. 1 then addressing the school's text amendment.

3 MS. LINDER: Mr. Chairman, this ordinance that's in front of you regarding  
4 schools [inaudible] land use found on – well, we're making all schools with special  
5 requirement, we're taking them out of the – some of the districts that now come in with a  
6 special requirement for purpose of complying with the statute, we concluded that some  
7 of the statutory language, and I think that's just on the Record for us, [inaudible] the  
8 application is when people or someone comes in to apply for a school, that they will be  
9 on notice they have to come to the Planning Commission. The substantial language is  
10 on page 22 that will be a part of the special requirements for all the districts, all the  
11 zoning districts.

12 CHAIRMAN PALMER: Okay, any questions for Staff?

13 MR. TUTTLE: Yeah, I have a question.

14 CHAIRMAN PALMER: Okay.

15 MR. TUTTLE: So does that mean going forward that there is no zoning  
16 classification where a school can be built by right?

17 CHAIRMAN PALMER: No, they can be built by right, they just have certain  
18 things they have to do in order to make that occur. There's special requirements not  
19 exceptions, they don't have to get approval from BOZA.

20 MS. LINDER: They would not be allowed in a light industrial, the heavy  
21 industrial, all the other districts they would be by special requirement. They would also  
22 not be allowed in the TROS but other than that, none would [inaudible] have to make  
23 this a new special requirement [inaudible].

1 CHAIRMAN PALMER: Any other questions for Staff?

2 MR. MANNING: Mr. Chairman, how would the process work for – I was  
3 wondering how would the process work with DRT? If somebody were to bring a plan in,  
4 would they come before the Commission to have that plan approved or would DRT look  
5 at it and then we approve that plan, how does that process work?

6 MS. LINDER: I believe we need confirmation with our Assistant County  
7 Administrator but my understanding is that we would present it to you first, and that  
8 would go to the DRT. Our Zoning Administrator feels like it may go to the DRT first and  
9 that's something that administratively we'll figure out. But before the approval, if it did go  
10 to the DRT, it would be approved contingent upon it going to Planning Commission and  
11 following that requirement, should it happen that way.

12 CHAIRMAN PALMER: Well, right now, it's not – I don't think it's a requirement of  
13 any approval that it comply with the comp plan. If we get those two backwards or two  
14 the wrong way and one's dependent on it being part of the comp plan, a conditional  
15 approval based on the Planning Commission's finding on whether or not it's part of the  
16 comp plan is not what the purpose of this is.

17 MS. LINDER: So, your recommendation, it would be it makes more sense to  
18 have the Planning Commission make that determination first and they can take it up to  
19 the DRT level.

20 CHAIRMAN PALMER: Well, the comp plan is not a requirement, I mean, being  
21 in compliance with the comp plan is not a requirement for building a school. And –

22 MS. LINDER: That's correct.

23 CHAIRMAN PALMER: - so if –

1 MS. LINDER: But there is certain step that the school district would have to take  
2 if they're found not in compliance.

3 CHAIRMAN PALMER: Right. But that in no way has a bearing on whether or  
4 not a school will be built or not.

5 MS. LINDER: That's correct.

6 CHAIRMAN PALMER: So to make being in compliance –

7 MS. LINDER: But it could - [inaudible].

8 CHAIRMAN PALMER: - with the comp plan a condition of having the school  
9 approved through DRT –

10 MS. LINDER: No, no. It would not be a condition of compliance; it would be a  
11 condition that it go to the Planning Commission.

12 CHAIRMAN PALMER: Okay. Not for approval but just an additional step that  
13 needs to occur before [inaudible]?

14 [Inaudible discussion]

15 MS. LINDER: Mr. Chairman and other Members, our Zoning Administrator would  
16 have you look on page 22 at subsection (A)(3) and make the recommendation that we  
17 add arterial road in there as well, that would be an additional amendment to the special  
18 requirements. "The primary access should be provided from a collector or arterial or a  
19 thoroughfare road". So if you would accept that amendment to this.

20 CHAIRMAN PALMER: Can we put something in this ordinance as well that  
21 these two – the process to go in front of the Planning Commission as well as the DRT  
22 are not dependent on one another, they can run parallel at the same time since neither  
23 one requires the other one?

1 MS. LINDER: I think we could handle that administratively. We can take note of  
2 that, Mr. Palmer.

3 MR. TUTTLE: Mr. Chairman, if I could. I just want to understand what you just  
4 said because I'm confused.

5 MS. LINDER: On the special requirements for schools?

6 MR. TUTTLE: Right.

7 MS. LINDER: On (A)(d) which would now be (3), it says, the current language  
8 you see on page 22 it says, "primary access to the school shall be provided from a  
9 collector or thoroughfare road".

10 MR. TUTTLE: Right.

11 MS. LINDER: And the Zoning Administrator is recommending that we also  
12 include in this ordinance, collector or arterial road or a thoroughfare; all three types of  
13 roads.

14 MR. TUTTLE: Oh. Okay.

15 MS. LINDER: And without any objection, I'm going to add that to my draft.

16 MR. BROWN: Mr. Chairman, can this thing be corrected and brought back to  
17 us?

18 CHAIRMAN PALMER: I think that's just a minor correction to add arterial –

19 MR. BROWN: Alright, okay.

20 CHAIRMAN PALMER: - in there which it was probably supposed to be in there  
21 to begin with.

22 MR. PRICE: It's in the comp plan as [inaudible].

23 CHAIRMAN PALMER: Right.

1 MS. CAIRNS: I'm just, I'm going to ask this one [inaudible] question for Staff  
2 about whether the, just looking at the state law whether it incorporates private schools?  
3 Because I don't, I mean, just sort of reading this, I'm not sure that the state law requires  
4 private schools be included in this but we're incorporating all schools to have to go  
5 through this.

6 MR. VAN DINE: Actually I think it says structure, whether publically or privately  
7 owned.

8 MS. CAIRNS: Yeah, but right – it doesn't matter how it's owned, but it talks  
9 about a public building for the use, and I'm not sure that a private school is a public  
10 building. I'm just not sure if we're casting too wide a net, that's all. I'm just picking, you  
11 know, I'm not sure that private high schools have to go through this. Maybe they do.  
12 Maybe we want them to.

13 CHAIRMAN PALMER: Okay, we have some folks signed up to speak on this  
14 issue. Let's get to those. Mike Sloan?

15 MR. SLOAN: [Inaudible].

16 CHAIRMAN PALMER: Wayne Duncan?

17 MR. DUNCAN: No, obviously I can't speak on what I want to speak about.

18 CHAIRMAN PALMER: Okay. William Halligan?

19 MR. DUNCAN: [inaudible] first amendment rights.

20 CHAIRMAN PALMER: William Halligan?

21 **TESTIMONY OF BIC HALLIGAN:**

22 MR. HALLIGAN: I'm William Halligan, Bic Halligan and we represent all three  
23 school districts in the county. I have several comments. The first is that the, in our

1 view, the section that's on the board 629-540 is not limited to schools or even public  
2 property or public construction. It says, no new structure, and then you can keep  
3 reading, publicly or privately owned. And so this is a very, very broad, and it deals with  
4 anything, any related plan element. So it's not a narrow thing aimed at just public  
5 construction and certainly not just at schools. So, when you're getting into this, be  
6 aware that it's a, that this statute may have a very broad affect if you view it in isolation.  
7 Now, the second thing is in our view, we know there's an Attorney General's opinion on  
8 this issue, but you have planning, you have zoning and you have land development. In  
9 our view, this is, this statute is aimed at the situation where you don't have zoning,  
10 which follows the land use, you know, element and you don't have land development  
11 regulations which follow the community facilities element. Because those have a full  
12 procedure to follow to get your permit, to review it, all that, appeal it and so on; this  
13 statute doesn't have anything dealing with what happens. Now, it does have the  
14 procedure that you can, if you disagree you can give the notice and publish it. Well that  
15 says, and you have to do that before you contract and start construction. Well, there  
16 are at least three schools in the county that are right now under construction and so  
17 they already have their permits, they're already going forward, the high school that we  
18 just talked about is one of those, high school and career center. So, this really, if you're  
19 changing this adopting a new procedure, it shouldn't apply to anything that's already got  
20 a permit. Now, in your land development regulation under Section 53, you already have  
21 a procedure, after DRT approval, it is supposed to come on to you in the form of a  
22 report. Now it could also come to you as an appeal from the DRT. So, you know, you  
23 already have in this big thick book a procedure for under zoning and under land

1 development regulations for an applicant to go through your Staff to get, you know, their  
2 consideration of the issues. And I think you need to integrate all these procedures  
3 because it's a very complicated process that takes more than a year to get a school  
4 approved. And we would urge you to rethink how this should be integrated with all of  
5 your other regulations. In our view, this is unnecessary, because you do in fact have  
6 zoning and the land development regulations. Any extra hurdle in the school  
7 construction business, I mean, there are more permits and inspections than you can  
8 count and to add another thing to the process may seem to you as if, oh, okay it's just  
9 one more thing. No, it's not. It's an additional thing along with 20 others but we don't  
10 know when it occurs in the process, does this occur at the very beginning without Staff  
11 review? Does it occur, you know, just how does it get to you? That sort of thing needs to  
12 thought through, put into your ordinances. I would suggest strongly discussion with the  
13 other public entities that this affects so that there can be input and exchange of views so  
14 that a process can be figured out and put into place that people know what it is, they  
15 can comply with it early, you know, put it into the planning, put it into the cost structure  
16 and then if you want to adopt an ordinance, do it. But don't do it – I fear that this getting  
17 you just what you said before, it's too simple and it's going to create more problems  
18 than you might imagine right now. Thank you very much.

19 CHAIRMAN PALMER: Mr. Flowers?

20 MR. FLOWERS: I made my comments earlier, thank you.

21 CHAIRMAN PALMER: That's all that we have signed up to speak. Any other  
22 comments?

1 MS. CAIRNS: I think there's – the scope of the state statute really does offer, if  
2 taken as absolute, is that anything that would get built in the county has to come to us. I  
3 mean, it says, no new street, structure can be built until the Planning Commission  
4 reviews it as to whether it's comparable with the comp plan. I mean, this really is sort of  
5 a stunning state statute so I would have pause with incorporating this back into our local  
6 Code. I mean, I don't know how we get around it but, I mean, taken as its absolute, it  
7 just says that if you have a comp plan, the Planning Commission has to sign off, has to  
8 review everything. I mean, I don't know how to read it any other way. Someone could  
9 tell me I'm crazy but when it says, no new street, structure or utility, and then it goes on,  
10 may be constructed until the location, character and extent have been submitted to the  
11 Planning Commission for review and comment as to the compatibility with comp plan.

12 CHAIRMAN PALMER: Ms. Linder?

13 MS. LINDER: If you would request my opinion, I would request an Executive  
14 Session.

15 CHAIRMAN PALMER: Okay.

16 MR. VAN DINE: Before we go too far here. The requirements of *South Carolina*  
17 *Code 6-29-540* is binding upon everybody in the state unless the code itself is found to  
18 be unconstitutional or it's changed by the legislature. We don't have the ability to try  
19 and skirt our way around things, we have to comply with the Code. I agree with what  
20 Heather is saying and that is that this seems to say that we should be sitting up here  
21 seven days a week and looking at something as minimal as perhaps a garage that  
22 somebody wants to put on because that's a new structure. I don't know how to read it  
23 in a way that takes it out of what we're attempting to do here. I understand Mr.

1 Halligan's attempt to parse it out versus zoning or whatever, but the comprehensive  
2 plan deals with zoning and everything internal to it, so I don't believe that you can say,  
3 this is a zoning issue, you don't have to comply with this. I mean, I'm concerned with,  
4 that this particular statute in and of itself is expanding everything that's done on this  
5 Body. I'm not sure it's in conformity with what a Planning Commission is supposed to  
6 do and I haven't looked at the statutes which establish a Planning Commission but it  
7 may be that that particular statute might override some of the concerns that we're  
8 having. And I think before we go too far down the road, I think we probably need some  
9 guidance of just comparison back and forth between some of the various issues about  
10 what our authority is, what we're given by statute, what we're given by our Code here in  
11 the county and see how it compares with this type statute.

12 MS. CAIRNS: I mean, I think to take this state – I mean, I totally understand,  
13 right, you have to comply with state law but to take this statute and amend our Code for  
14 schools only I think I would be reluctant to go forward on that.

15 MR. PRICE: I think it's [inaudible] with y'all and maybe if we to rather than going  
16 forward with this particular amendment, we defer it at this time until we can get some  
17 more information, maybe from the Attorney General and just do a little bit more research  
18 on this, then we can bring it back for you and, you know, for your comments and maybe  
19 bring this ordinance back.

20 MR. VAN DINE: Mr. Chairman, I think that – and I'll make this in a form of a  
21 motion, that we table the discussion on this particular amendment until we have more  
22 time to look at some of the ramifications of what are really going to occur and to get

1 some more guidance from the legal department as well as perhaps getting guidance  
2 from other people out there as to what this really means.

3 CHAIRMAN PALMER: Do we have a second?

4 MS. CAIRNS: Second.

5 CHAIRMAN PALMER: We have a motion and a second to defer the –

6 MS. LINDER: I believe the motion is to table.

7 MR. VAN DINE: Table.

8 CHAIRMAN PALMER: Table.

9 MS. LINDER: A tabling motion will – it will be tabled until a motion is made to  
10 bring it off the table.

11 MR. VAN DINE: That is my –

12 MS. LINDER: There will be no further action on this until we're directed to take it  
13 off the table and direct us to do something with it.

14 MR. VAN DINE: I'm tabling for our purposes –

15 MS. LINDER: [Inaudible].

16 MR. VAN DINE: We're asking you to look into the issue.

17 MS. LINDER: Perhaps you'd want to defer it then, and then we can put it on the  
18 Agenda once we've got those answers. It would have to be another motion to take it off  
19 the table before we can act on it.

20 MR. VAN DINE: Fine, I'll make a motion to defer. I think you're parsing words  
21 too much but that's okay.

22 CHAIRMAN PALMER: Defer until the Staff has done more research into this?

1 MR. VAN DINE: Until additional information and opinion has been provided by  
2 both Legal Staff and others who may be impacted by a statute of this nature.

3 CHAIRMAN PALMER: Okay.

4 MR. TUTTLE: Second.

5 CHAIRMAN PALMER: We have a motion and a second to defer until Staff can  
6 come up with some better information on the issue. All those in favor of the motion  
7 please signify by raising your hand.

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

10 CHAIRMAN PALMER: And there's none opposed. That's all we've got.

11 MR. TUTTLE: I guess I have a question then.

12 CHAIRMAN PALMER: What is it?

13 MR. TUTTLE: How would we handle any subsequent school applications in the  
14 interim?

15 MS. LINDER: We would work under the state statute as we did today.

16 MR. TUTTLE: Thank you.

17 CHAIRMAN PALMER: Mr. Price?

18 MR. PRICE: I'm sorry, I'm trying to explain this correctly here. It is requested  
19 that the Planning Commission have a work session to go over the principals that the  
20 roundtable has been working on. I believe before the main principle was storm water  
21 and right now there're a number of other principals dealing with primarily with  
22 development in which the roundtable has been working on and we'd like to bring it to  
23 the Planning Commission just to kind of go over and answer some questions prior to

1 you taking any action. Which this is scheduled to come before you at the November 7<sup>th</sup>  
2 Planning Commission meeting. And so we were hoping to have a special, excuse me,  
3 a special called meeting prior to, excuse me, work session prior to that meeting to just  
4 kind of go over some of the particulars.

5 CHAIRMAN PALMER: Okay. Can you send us out an email today or tomorrow  
6 with a couple of dates on it for everyone and we'll respond back as to what works?

7 MR. PRICE: I can tell you ideally we were looking at the 2<sup>nd</sup> or the 3<sup>rd</sup> of  
8 November which would be a Wednesday or a Thursday, the beginning of the month  
9 before your meeting. So we can send something out to you, if you would like.

10 CHAIRMAN PALMER: I'm fine. Just send us out something tomorrow and we'll  
11 respond to either the 2<sup>nd</sup> or 3<sup>rd</sup> whichever date suits us better.

12 MR. PRICE: Alright.

13 CHAIRMAN PALMER: That'll work. Anything else?

14 MR. VAN DINE: So moved we adjourn.

15

16

*[Meeting Adjourned: 2:45 pm]*

17