

**RICHLAND COUNTY PLANNING COMMISSION**  
**November 4, 2013**

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*[Members Present: Heather Cairns, Olin Westbrook, David Tuttle, Patrick Palmer, Stephen Gilchrist, Bill Theus, Wallace Brown, Sr.; Absent: Kathleen McDaniel, Howard Van Dine]*

Called to order: 1:30 pm

CHAIRMAN PALMER: Okay, we'll call the November meeting of the Planning Commission to order. Allow me to read this into the Record. 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 bulletin board located in the lobby of the County Administration Building. Everybody get a copy of the October Minutes, have a chance to take a look at them?

MR. BROWN: I just got them today, Mr. Chairman.

MR. THEUS: Just got them.

MS. CAIRNS: Yeah, not been able to review them.

CHAIRMAN PALMER: Okay. Do we have a motion to defer the approval of the Minutes?

MR. BROWN: So moved.

MR. GILCHRIST: Second, Mr. Chairman.

CHAIRMAN PALMER: We have a motion and a second. All those in favor say aye?

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

1 CHAIRMAN PALMER: Adoption of the Agenda? Do we have a, any Agenda  
2 amendments?

3 MS. HEGLER: No, sir.

4 MR. BROWN: Move adoption.

5 MR. THEUS: Second.

6 CHAIRMAN PALMER: We have a motion and a second. All those in favor say  
7 aye?

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

10 CHAIRMAN PALMER: Road Name approvals?

11 MR. TUTTLE: Mr. Chairman, I make a motion that we approve the Road Names  
12 as submitted.

13 MR. GILCHRIST: Second, Mr. Chairman.

14 CHAIRMAN PALMER: We have a motion and a second. All those in favor say  
15 aye?

16 *[Approved: Cairns, Westbrook, Tuttle, Palmer, Gilchrist, Theus, Brown; Absent:*  
17 *McDaniel, Van Dine]*

18 CHAIRMAN PALMER: Okay. Case No. 13-29 MA.

19 **CASE NO. 13-29 MA:**

20 MR. LEGER: Yes, sir, thank you, Mr. Chairman. This Application was discussed  
21 at last month's meeting briefly and it is back before us with more information. The  
22 Applicant, I mean, the project number is 13-29 MA, the Applicant is Bill Dixon. The  
23 property is located with road frontage on Two Notch Road and Greenhill Parrish

1 Parkway, as well as Spears Creek Church Road. The acreage for the site is  
2 approximately 66 acres, currently zoned PDD and they're asking for major change to  
3 the Planned Development District. The property was originally zoned RU, which is our  
4 Rural District, in 1977, and the Planned Development District was a change that took  
5 place in 1999. In the vicinity, to the north we've got property zoned RU and GC on Two  
6 Notch Road, some of which is undeveloped, residential, conservation easement and  
7 railroad right-of-way along Two Notch Road. To the south is part of the Planned  
8 Development District, it's developed in single-family residential structures, part of the  
9 Greenhill Parrish subdivision. To the east as well a part of the Planned Development  
10 District, set of apartment complexes, Legacy Sandhill Apartments. And to the west,  
11 property zoned RU on Spears Creek Church Road, which is residential or undeveloped.  
12 Basically the change to the Planned Development District, again, occupies in the  
13 neighborhood of 66 acres, that portion of the site is undeveloped with moderate slopes.  
14 You have a table in your Staff Report that attempts to identify the types of changes that  
15 are to take place within the Planned Development District. Basically we are going to go  
16 from limited amount of green space, open space, to a little over 11 acres in open space.  
17 We're going to add the RS-HD equivalent, residential units or lots of 7,200 square feet  
18 in size. We're gonna add about 45 acres of the RS-HD development type to the RG-2,  
19 we're gonna take away a little over 11 acres and we're going to add, I'm sorry, remove  
20 approximately 44 acres of commercial use to the site. In addition, there's a slight  
21 change to the traffic circulation pattern. Our Comprehensive Plan recommends  
22 suburban in this vicinity. Basically with the changes we, we feel that the site plan  
23 remains of a mixed use and will meet the density as suggested by the Comprehensive

1 Plan that's between four and eight units per acre. Again, we feel like the proposed  
2 change is in compliance with the Comprehensive Plan and meets the density  
3 requirements, and keeps the development as a mixed use. So with that we recommend  
4 approval of the Application and there are a number of conditions on the last written  
5 portion of the Staff Report. With that we recommend approval.

6 CHAIRMAN PALMER: Any questions for Staff?

7 MS. HEGLER: Chairman, if I may? At the last meeting when we discussed it the  
8 first time I did mention that the Staff had a substantial amount of conversation about this  
9 rezoning. For the reasons that Mr. Leger mentioned, we technically recommended  
10 approval, but we do recognize and think that you may want to consider the fact that it  
11 definitely does change the character of what the intended PDD was. Holland mentioned  
12 the conditions. In addition to those, we would suggest a few others that you certainly  
13 may consider. That the PDD should specify the uses that are allowed within the  
14 remaining commercial sections, you could consider requiring a phasing plan to ensure a  
15 certain amount of the commercial use is built out before the single-family residential is.  
16 We'd like to make some edits to Note #7, which implies that they may use low impact  
17 development storm water facilities, we'd like to see that they do. And also condition F in  
18 your book, or in your Agenda, we, should be stricken.

19 CHAIRMAN PALMER: Okay. Any other questions for Staff? Okay, we have a few  
20 people signed up to speak. If you would, when you come down and take the podium if  
21 you'd give us your name and address and try to limit your comments to two minutes,  
22 we'd appreciate it. Bill Dixon?

23 **TESTIMONY OF BILL DIXON:**

1 MR. DIXON: Good afternoon. I'm Bill Dixon with Mungo Homes. Just a couple  
2 comments to add to Staff's Report. We did increase the, the commercial area in  
3 response to Mr. Manning's, as well as some of the residents' comments at last month's  
4 meeting, to not have such a small amount of commercial to take away from the original  
5 character of the PUD. We increased the right-of-way of the main entrance road off of  
6 Two Notch Road to help emphasize that entrance and bring that through the area to a  
7 centrally located traffic circle. We also reduced the number, total number of allowable  
8 homes to 200 from 250, which this represents a increase in the allowable residential  
9 units in the entire PUD of 42 units. And that's mainly due to the fact that while adding  
10 the 45 acres of single-family, we removed approximately 11 acres of RG-2, multi-family,  
11 and so only results in an increase, a net increase of 42 units. There was some talk  
12 about traffic. The, the reduction of the commercial by reducing that 44 acres greatly  
13 reduced the traffic impact as commercial acre for acre generates a lot more traffic than  
14 single-family residential. Thank you.

15 CHAIRMAN PALMER: Thanks. Ken Simmons?

16 **TESTIMONY OF KEN SIMMONS:**

17 MR. SIMMONS: Thank you. My name is Kenneth Simmons, I live on Spring Lake  
18 Road in Columbia. And as I said last week I was the author of the original PUD and this  
19 PUD amendment and what we tried to do was to incorporate all of the concerns that the  
20 neighbors discussed last week, I think. In addition to what Bill said we do have, as you  
21 see, a main direct access to Highway #1, which was one of their concerns. So now  
22 there are three ways into Greenhill Parrish Parkway. And I'd be glad to answer any

1 questions on the previous PUD or this one, but I think I expressed most of my concerns  
2 last week. Thank you.

3 CHAIRMAN PALMER: Thank you. Deas Manning?

4 **TESTIMONY OF DEAS MANNING:**

5 MR. MANNING: Thank you, Mr. Chairman. First, I wanted to go back to the Staff  
6 Report for a minute. There were a couple items that I would take issue with. One, the  
7 proposed density being increased by 42 units because of the elimination of RG-2, 11  
8 acres approximately. I don't believe that's correct. I believe what you are eliminating is  
9 RG-1, which is, in my calculation, 130 units versus 16 units an acre times 13 units, and I  
10 brought this up to Mr. Smith last week and obviously the Staff Report was already done  
11 at that point. So, you know, we're looking at 42 to 75 units from that, from that  
12 standpoint. Also, in the Staff Report it talks about the traffic impacts and indicates that,  
13 that Spears Creek Church Road, I think, is serving at an LOS of E, and I would take  
14 exception with that. There was a report that was done for the Staff when the apartment  
15 project was done in 2007, that already had it at a Level F. And that Report should've  
16 been, I provided that to you all, but I, we've been unable to find it in the, in the Staff  
17 records. Also, it mentions that Spears Creek Church Road is Item #38 on a list of  
18 improvements from mitigation in the near future. We really don't know when that is, so if  
19 we go forward, you know, how long will it take to get through 38? I mean, we already  
20 know we've got a problem, the problems aren't being mitigated in this proposal. Can I  
21 have a couple more minutes?

22 CHAIRMAN PALMER: Sure.

1 MR. MANNING: Real quick? Going back to the change in the commercial and  
2 the increase by the Mungo Company is a step in the right direction, but in order for this  
3 to be a key design element of the neighborhood, I believe you need at least a minimum  
4 of 15 to 20 acres to have a commercial village to, you know, be connected or feel  
5 connected to the community. The road patterns do change. Obviously some major  
6 roads were reduced and now we've got a road that goes from Two Notch to the  
7 Parkway; one serving as a commercial entrance, I guess the other serving as a, as a  
8 residential entrance. But that will ultimately become a cut-through street. I mean, if the  
9 commercial's really not viable for the, for the Greenhill Parrish project and the  
10 surrounding community, that's what it will become. Buffer areas, we've heard that  
11 there's gonna be an increase in buffer areas. I think on the, on the area to the northwest  
12 of the Parkway there's a green space that's shown as 6.4 acres. I, that's likely to  
13 become a detention pond. I don't know whether that's acceptable as far as your buffer  
14 restrictions. Are buffers gonna be restricted buffers or are they gonna be natural  
15 buffers? I think that's important for y'all to look at today, too. So basically my concerns  
16 are the same; the design elements of the project, by decreasing the commercial area,  
17 the road connectivity is gone, the density, and the traffic impacts, and the buffer areas.  
18 Thank you. If you have any questions for me, I'd be glad to answer them.

19 CHAIRMAN PALMER: Alright. Don Dotson? Followed by Carol Dotson?

20 **TESTIMONY OF DON DOTSON:**

21 MR. DOTSON: Thank you. My name is Don Dotson, I live at 727 Dial Creek  
22 Road in Greenhill Parrish. At our last meeting a statement was made that concerned me  
23 greatly and that, and it was made in the context that the bank was going to be left

1 holding this property for a very long time if this was not approved. This property had  
2 already been sold before the economic downturn, and it would have complied with the  
3 original plan. So that's one thing. I know for a fact that since the downturn, one buyer at  
4 least has tried to go in and purchase this land and not requesting all these changes that,  
5 that we have now. For anyone to think that we have a crystal ball that can, can tell us  
6 what's going to happen with land purchases, I think is just, you're in the wrong business.  
7 You ought to be in the stock market if you can, you can do that. And that, that greatly  
8 concerns me that the way this was said, almost like, well we don't want the bank to  
9 have to hold this for this long. You know, the banking industry is one of the big reasons  
10 we were, we went into this downturn and I'm sorry that they had to foreclose on a piece  
11 of land, but that is bad public policy when you make a zoning change to bail out a bad  
12 business decision like this. Thank you.

13 CHAIRMAN PALMER: Thank you. Carol Dotson? Next is Lucas Richardson.

14 **TESTIMONY OF CAROL DOTSON:**

15 MS. DOTSON: I'm Carol Dotson and I live at 727 Dial Creek Road. My husband  
16 and I built our retirement home in Greenhill Parrish about four years ago. Before that  
17 time we searched high and low in Richland County to find a quality development like we  
18 have in Greenhill Parrish, and we couldn't find it anywhere else and that's why we're  
19 here. It is a unique and desirable community because it has low impact density. And  
20 because of that we have acres of green space, we have miles of walking trails, we have  
21 neighborhood parks with fountains, gazebos and benches, we have open space for  
22 children to play and ride their bikes, in safety, we have open space for neighbors and  
23 families to gather outside, and we have ample sidewalks that provide interaction among



1 communities. Homes are, in this area are surrounded by environmental integrity and  
2 that's what Mr. Manning had in mind when he developed this neighborhood, and we are  
3 greatly appreciative of that. Included in the plan that was originally drawn there are 60  
4 plus acres for light retail, which is also low density the way it is designed. The rezoning  
5 request would change the density impact upward significantly, which would result in  
6 some things you've already heard about; traffic congestion, which is now bad and would  
7 become even worse, configuration of natural contours of the land causing issues with  
8 storm water flow and drainage, traffic pattern changes with possible safety issues, and  
9 in addition to that the neighborhood entrance on Greenhill Parkway, Greenhill Parrish  
10 Parkway would likely change because the current buffering of green space along that  
11 road would be leveled to make room for houses. And what would happen then is when  
12 you pass by Greenhill Parkway you would see back yards now that front on that area,  
13 rather than the nice green buffering that we have. The bank has a price tag on the  
14 property it wants to sell, Mungo has a price tag on the profit it hopes to make, but  
15 residents of Greenhill Parrish value the character of our low density neighborhood which  
16 enhances our quality of life and I do not know how you put a price tag on that.

17 CHAIRMAN PALMER: Thank you. Lucas Richardson and Steven Richardson?

18 **TESTIMONY OF LUCAS RICHARDSON:**

19 MR. L. RICHARDSON: My name is Lucas Richardson and I live at 8 Greenside  
20 Lane. I do not agree with the rezoning of the property. Our new elementary school was  
21 not built to handle the number of people that could move into a high density community.  
22 I hope to build a nature trail from our neighborhood to the school. Now kids can ride  
23 bikes and walk to school. We all feel safe to do this because we do not have too much

1 traffic. This new community would change that for all the kids. Please vote against the  
2 rezoning and help keep it safe for all the children in the surrounding neighborhood.  
3 Thank you for your time.

4 CHAIRMAN PALMER: Thank you. Steven Richardson?

5 **TESTIMONY OF STEVEN RICHARDSON:**

6 MR. S. RICHARDSON: I want to concur with what a lot of my neighbors have  
7 already said this afternoon. One of the, the biggest concerns I have, I've lived in a  
8 neighborhood before that's had to be rezoned because a new developer came in. But in  
9 that case the developer was very active in the community, they invited us to meetings to  
10 explain what they were doing to, to give us a feeling of comfort that it was going to fit in  
11 to the neighborhood. We've not had any such involvement with, with this developer. We  
12 have no idea of the changes that were even proposed today to see if it would change  
13 any of our, our minds on this. So that's one of my, my biggest concerns beside what's  
14 already been stated, that we have been totally left out in the communication with the  
15 developer and what, what could possibly go in that space. Thank you.

16 CHAIRMAN PALMER: Thank you. Amy Cox? And Dennis Powell?

17 **TESTIMONY OF AMY COX:**

18 MS. COX: Hi, Amy Cox, 419 Upland Trail Road in Greenhill Parrish. I also have  
19 two letters that I'd like to give you from homeowners that could not be here today. All I  
20 can say is I concur. Please don't do this. And thank you for hearing us.

21 CHAIRMAN PALMER: Dennis Powell? David Sandit?

22 **TESTIMONY OF DENISE POWELL:**

1 MS. POWELL: Good morning. My name is Denise Powell, I live at 779 Dial  
2 Creek Road. I have two letters here from my previous neighbors who wanted to make a  
3 submission as well. Two are from two lovely students that live in our community that  
4 also, I'm just gonna read the end of their statement, it says, "At my school I am in a club  
5 called Student Government and I think that this is a great note to send. If you get this I  
6 will see what you will do and I will see if you make the right decision about our  
7 community." One of the points I'd like to make, I'd like to reiterate the same thing that  
8 the gentleman just said in the back, we were never informed of any changes that were  
9 made. My husband and I moved here in June, well we moved here last year but we just  
10 built in June and moved into our home. We thought we were building into a  
11 neighborhood that was safe and secure and that would provide a community where we  
12 could walk and run do some of those additional things. I don't know if you've done a  
13 driver's or an assessment in regards to the traffic. I know one was done in 2006 and it  
14 basically said that, my understanding was that it was a high density area. I can tell you  
15 since we've been there since June there has been four accidents right on Two Notch  
16 Road and Spear Creek Church Road, right at the entrance of our Parkway. And as I  
17 was taking my daughter, my 18 year old daughter now to school, the traffic was all the  
18 way down Greenhill Parrish Road. So it is a very high density area despite the fact that  
19 they are going to bring in some additional buffers. There are some additional pictures up  
20 here where you can see that there is a strong curverage [sic] into the road that really  
21 has an impact on how the traffic is coming out. Matter of fact, one day because of the  
22 curve my husband actually almost hit a runner with her baby, so it is a very high density  
23 area. Would everyone whose from Greenhill Parrish stand up please? I'd just like to see

1 a number of whose here to support our community. Thank you so much, and have a  
2 great day.

3 CHAIRMAN PALMER: David Sant –

4 **TESTIMONY OF DAVID SANT:**

5 MR. SANT: Good afternoon, my name is David Sant and I currently live at 106  
6 Turkey Crossing Road. We are property owners in Greenhill Parrish and we are in the  
7 process of building in the sanctuary area. I'm here today because I have concerns  
8 about this rezoning request. My wife and I retired and selected this area because of its  
9 uniquely rural environment with boardwalks and common areas and parks, and the  
10 rezoning is gonna change all that. And it's side by side with Greenhill Parrish and it will  
11 make an impact. And we're very disappointed that that's happening. We're also  
12 concerned about the heavy traffic and it would have been very nice if Mungo had met  
13 with the residents beforehand and maybe alleviated some of these concerns, but I don't  
14 believe that ever happened, and it might be wise to have such a meeting so we could all  
15 discuss what their plans really are and maybe work out some solutions. Thank you for  
16 your time.

17 CHAIRMAN PALMER: Thank you. John Landin? Followed by John Hopkins.

18 **TESTIMONY OF JOHN LANDIN:**

19 MR. LANDIN: John Landin, I live on Dial Creek Road. I moved to the  
20 neighborhood about six years ago and we liked it so much when we decided to build our  
21 dream house we decided to stay in the same neighborhood. We looked all around and it  
22 was just the neighborhood, we had a lot of friends. It's a beautiful neighborhood, like  
23 everybody said the walking trails, the sidewalks, the people know each other and it's

1 just a very good neighborhood. I hate to see the dynamics of that change by changing,  
2 you know, when you pull onto the Parkway it's a pretty area to come into. You look, you  
3 know, you look forward to coming home and seeing that view. I would like to have had  
4 Mungo get together with the community and maybe come up with an idea of what we  
5 could all agree to, and, if that's possible I'd still like to do that, you know. If, cause we  
6 understood there is a, you know, we have to build something there but it would be nice  
7 for it to conform to, you know, what it looks like now at Greenhill. And like Luke said,  
8 you know, the school wasn't built for the, the extra population coming into the –  
9 potentially, so if you'll take that into consideration it'd be nice, too. Thank you for your  
10 time.

11 CHAIRMAN PALMER: Thank you. John Hopkins? Then Jennifer Falesiano?

12 **TESTIMONY OF JOHN HOPKINS:**

13 MR. HOPKINS: My name's John Hopkins. I live at 304 Upland Trail Road,  
14 obviously in Greenhill Parrish. I've lived in the neighborhood for about four years now  
15 and really moved there because of the accessibility to everything around. The traffic at  
16 that time was not so bad. Since living in the neighborhood there's a lot of folks walking,  
17 running, we talk about, you know, the traffic patterns that are going on. I'm concerned  
18 mainly because, well two things, one John just brought up about not, not getting us to  
19 meet beforehand and trying to rezone and, unless I understand it incorrectly, still don't  
20 know what's gonna happen if it is rezoned and what's going on. There's differences in  
21 numbers, houses and other things that we haven't really found out exactly what's  
22 happening still, that's a concern. But also just the traffic patterns that's gonna happen  
23 inside the area and not being safe for the kids that are in the area as well. There is a lot

1 of kids in there walking, playing, adults running. It would be an issue in that one area  
2 where it would become a cut-through for everybody trying to avert through traffic from  
3 Spears Creek Road and Two Notch Road. Thank you.

4 CHAIRMAN PALMER: Thank you.

5 **TESTIMONY OF JENNIFER FALESIANO:**

6 MS. FALESIANO: Good afternoon, I'm Jennifer Falesiano and I live at 415  
7 Upland Trail Road. And I have been in the community for the past 10 years. I have seen  
8 a lot of growth in the community. My kids have grown up there and I have seen the  
9 community go through a lot of changes and a lot of traffic lately, especially. So where  
10 there was one day at 7:30 in the morning I had a car end up in our back yard. So there  
11 is a lot of changes that are going on, a lot of people speeding, a lot of, lot more traffic  
12 than we ever anticipated from the main format that was proposed. So I concur with  
13 everyone else's request and I also ask that you do not approve the rezoning for our  
14 community so we can maintain the integrity of the great community that we all moved in  
15 and aspired to have. Thank you.

16 CHAIRMAN PALMER: That's all we've got signed up to speak. Can we get a  
17 solution to the difference in the increase in residency?

18 MS. HEGLER: I, I do know that Mr. Manning and Mr. Price talked about that last  
19 week. We have no record of the RG-2 change to RG-1, so what's in the Staff Report is,  
20 is what we have on file. If it happened, I mean, we just don't have it on file, so I mean,  
21 the differences would be what Mr. Manning suggested, we just don't have it.

22 CHAIRMAN PALMER: Mr. Manning, do you have any solution to it?

1 MR. MANNING: Mr. Chairman, I believe the confusion lies within the, the change  
2 in the classifications – in 2006 or 7 when the apartments were built, they moved the RG-  
3 2 property that's on the western side down to the other RG-2 property near Old National  
4 Road and combined those two sites to create better access to Two Notch Road. So  
5 they, they took both the RG-2 sites, combined them, the RG-1 site had to come back to  
6 where the RG-2 site was. And so I think that's where the confusion may lay, lie in how  
7 we're dealing with RG-2 versus RG-1. But really there should only be one RG-1 tract  
8 left. The RG-2 properties have been developed.

9 CHAIRMAN PALMER: I guess it's just a matter of technicality and, Deas you  
10 probably know this too, whatever's on record down at the County is what the  
11 development standards are gonna be going forward. You know, if there's, if, if anybody  
12 gets a site rezoned and it's not recorded down at the County and people come down to  
13 pull the zoning on something, they're gonna go by what's on the zoning maps, unless  
14 you have some sort of documentation that –

15 MR. MANNING: Right. There was a PUD amendment done to do this. I can't help  
16 why the County can't find the file on it, but that's what happened. And the traffic report  
17 that I gave you was part of that amendment. When they combined the two apartment,  
18 RG-2 properties together, that impact study was provided to the County to justify doing  
19 it. So I don't know what's happened to the file, but –

20 CHAIRMAN PALMER: Okay.

21 MR. MANNING: - that's where we are.

22 MS. HEGLER: And really, the result would be just a difference in the total yields.

23 CHAIRMAN PALMER: Right.

1 MS. HEGLER: Not even necessarily specific to the rezoning at the moment.

2 CHAIRMAN PALMER: Okay.

3 MS. CAIRNS: How's the, I mean, one of the things that you mentioned is, and  
4 has given me some concern is, that when I read the packet that we were given and it  
5 says that there's this C-3 A, I don't see anything anywhere that offers what can get built  
6 in C-3 A. Is that in the original PUD or is that – but, I mean, cause it's, the map in our  
7 packet that has existing just had C-3 as a class. And now we have something called C-3  
8 A and C-3 B and nowhere do I see anything that shows what can get built in C-3, C-3 A  
9 or C-3 B.

10 MS. HEGLER: I think the reason for the A and the B, and Mr. Dixon can correct  
11 me, is just simply to make it clear that they're focusing on A, that's the part of their  
12 parcel, that's a part of their property. B is off their property. So they were, they're trying  
13 to show an apples to apples comparison to the original. It still comes, it's still the same  
14 as whatever the original C-3 was. And there was not that detail, that's why we asked as  
15 one of the conditions that we need to get that. But the A and the B aren't necessarily  
16 different commercial uses –

17 MS. CAIRNS: Okay, I can follow –

18 MS. HEGLER: - it's just a –

19 MS. CAIRNS: - I can follow, I can understand that. But it's, this C-3 A is being  
20 relocated and C-3 B is where it's always been.

21 MS. HEGLER: Right, but it's still the same C-3 from the -

22 MS. CAIRNS: It's still C-3.

23 MS. HEGLER: - original.



1 MS. CAIRNS: Okay, and so we, we don't know what's buildable in C-3.

2 MS. HEGLER: We don't have that detail.

3 MS. CAIRNS: In the old document nor this one.

4 MS. HEGLER: Right.

5 MS. CAIRNS: Okay.

6 MS. HEGLER: Which is why, I mean, that's why it was one of the suggested  
7 conditions that you can place upon approval if they get it.

8 MS. CAIRNS: And it also sounds like we're not sure even if the map that we've  
9 got shows the proper, based on what Mr. Manning offered, that while this is more  
10 accurate in terms of what's being rezoned than what I think we had last month, again  
11 we're still not being offered necessarily – so this little half page in our packet's saying  
12 this is the original, it may be the original but it's not necessarily the current. Like,  
13 because of the C, RG-1, RG-3, RG-2 flop – you see what I'm saying? This little half  
14 page – I'm, I'm not happy with being asked to rezone something when I feel it's  
15 incomplete package. I think it's more complete than it was last month but I still feel that  
16 it's, you know, and I understand the Staff saying I think that we should, you know, say,  
17 well we need to require the developer to provide land, you know, use types but I think  
18 that should be part of what we're approving. Cause what if he comes up with land, you  
19 know, commercial uses that we're like, well gosh if we'd known that was the commercial  
20 use they wanted, we never would've approved it. And it's after the fact. I mean, I just  
21 don't understand what's the point of adding conditions after we've approved it?

22 MR. TUTTLE: Mr. Chairman, if I may?

23 CHAIRMAN PALMER: Yes.

1 MR. TUTTLE: Could I ask Mr. Manning a question?

2 CHAIRMAN PALMER: Absolutely.

3 MR. TUTTLE: Deas, it seems logical on your initial PDD that, that the C-3 stuff  
4 would've had some permitted uses in that original PDD document or, is that not  
5 available, or they weren't there?

6 MR. MANNING: Of the original – the original PUD did allow for whatever was  
7 done in C-3. It did restrict some things like sexually oriented businesses, retail  
8 restaurants that did not have seating, just drive-thru type stuff, billboards were restricted  
9 along Two Notch Road. There may have been some others in there, but it, it was a  
10 commercial zoning at the time. Which was a C-3 zoning.

11 MS. HEGLER: Yeah, I mean, it's technically anything that our current commercial  
12 allows, minus those that are prohibited on page 3.

13 MR. TUTTLE: Right, so I, I just want to make sure everybody's clear. So there is  
14 a, a distinct limited usage in that zoning category published already.

15 MS. HEGLER: In, in the, yes in the sense that what is currently allowed by  
16 commercial. Yes.

17 MR. TUTTLE: Right. So, so we're not being asked to approve something that we  
18 don't understand what's permitted because we understand –

19 MS. CAIRNS: Well, except for that apparently it's referencing a C-3 zoning  
20 classification we don't use anymore, so you have to pull out archived Code to figure out  
21 what would've been allowed in C-3. Cause we don't have C-3 anymore.

22 MR. TUTTLE: Right, but, but just to be clear, I mean, somebody could go and  
23 develop that C-3 parcel today based upon the original PDD without any further hurdle.

1 MS. HEGLER: Correct.

2 MR. TUTTLE: Okay.

3 MS. CAIRNS: Right. I understand that. I understand that.

4 MR. TUTTLE: Okay.

5 MS. CAIRNS: Yeah, yeah, I mean, that's, I mean, that's one of the things about  
6 this whole, you know, I mean, I understand the community's dislike of seeing what's  
7 now vacant land becoming developed, but you know, the existing zoning allows a whole  
8 lot more traffic than what the proposed zoning is. And, you know, that, I mean, they, the  
9 only way to have a right to keep it vacant is to buy it. I mean, that's, you know, they  
10 don't have a right to just keep it vacant, and, and there is eliminating more apartments,  
11 whether it's eight dwelling units or four dwelling units, or, eight or 16 dwelling units per  
12 acre. But they're definitely getting rid of some apartments. But –

13 CHAIRMAN PALMER: The C-3 classification years ago and does now allows for  
14 16 per acre, correct?

15 MR. PRICE: Yes.

16 CHAIRMAN PALMER: So this whole site would allow for multi-family up to 16 –

17 MS. CAIRNS: No, no, no, this C-3 does not allow 16.

18 MR. PRICE: No.

19 MS. CAIRNS: We talked about that last month.

20 MR. PRICE: No.

21 CHAIRMAN PALMER: Okay, and I just wanted to clarify – cause that was a –

22 MR. PRICE: Correct.

23 CHAIRMAN PALMER: - an area of contention as to whether it did or did not.

1 MR. PRICE: It does not. I wanted to address – even with the, even with the PDD  
2 as it currently stands, if someone came in and wanted to do, develop commercially, we  
3 would still have to go back and pull the commercial designation that was in place, the  
4 GC, when they rezoned it. So we'd still have to do the research on it.

5 MS. CAIRNS: Right.

6 MR. PRICE: So actually, even though there's only a portion left, it's kind of good  
7 to be able to just lock them all into the same commercial uses as opposed to one being  
8 what's in our current Code and then having to go back for that other smaller section, go  
9 back and find out what was happening, what was allowed there.

10 MS. CAIRNS: So it may be just as simple as an administrative, let's just pull  
11 those uses forward and put them in the document, rather than having to pull –

12 MR. PRICE: Exactly.

13 MS. CAIRNS: - but not really changing what's allowable, just making it easier to  
14 access.

15 MR. PRICE: Yes.

16 MS. CAIRNS: Okay.

17 MR. THEUS: Geo, C-3 doesn't allow a mix of commercial and residential?

18 MR. PRICE: It did. But –

19 MR. THEUS: You could do, like ground floor retail and –

20 MR. PRICE: Right, but remember when you did the PDD, I'm sorry you're asking  
21 about residential, correct?

22 MS. HEGLER: No, commercial.

1 MR. THEUS: Well, under C-3, I'm just, this is just vague recollection, you could  
2 do a mixture of residential and commercial as I understand it. But are we running into  
3 density limits, is that what's –

4 MR. PRICE: Well, under the old C-3, you're correct. You could do a mixture of  
5 retail, offices, and also residential. However, when the, this PDD was adopted, the  
6 ordinance was adopted for this PDD, it specifically excluded the, the, it excluded the  
7 residential within that commercial district.

8 MR. THEUS: Okay.

9 MR. TUTTLE: I just want to circle back, make sure I understand. So there are,  
10 we do have a Code that references the C-3 uses, and then we have limitations already  
11 prescribed in the original PDD.

12 MS. HEGLER: Prohibitions, um-hum (affirmative). Yes, sir.

13 MR. TUTTLE: Okay.

14 MS. CAIRNS: Okay.

15 MR. THEUS: Ms. Cairns may have a, I think she's got a good point; if the existing  
16 exhibit is incorrect, where there's a, there's been a revision to the PUD somewhere in  
17 the files, cause this is a technical thing, but are we not messing up procedurally by  
18 referring to a map that's no longer, potentially no longer the applicable map?

19 MR. PRICE: Mr. Manning and I, we met and we discussed this. I can say from a  
20 Staff's input we've looked through the files and I can tell, all the letters I've written over  
21 the years dealing with Wood Creek Farms, this is, what you have before you is the, is  
22 the file I always reference. I have not found another one for an amendment. You know,  
23 once again I don't know why and I don't know what happened as far as any particular

1 amendment for Wood Creek Farms, but as far as having a file for it, we do not have one  
2 downstairs. At least not one that's been found.

3 MS. CAIRNS: Well, let me ask you this. The, it sounds as if the land that sort of is  
4 at the intersection of this Greenhill Parrish Roadway and Old National Highway is  
5 developed as apartments, like across the street from the school?

6 MR. PRICE: Yes.

7 MS. CAIRNS: What density apartments is it, eight or 16?

8 MR. PRICE: Should be eight.

9 MR. THEUS: I think it's heavier. I mean, just eyeballing it, it looks heavier than  
10 eight to me.

11 MR. PRICE: Let me look at that.

12 MR. THEUS: So they could be nonconforming. I mean –

13 MR. TUTTLE: But, but – as it relates to the rezoning that's in front of us, other  
14 than from a comparative perspective, it really doesn't matter whether the lines were  
15 changed or not, because you're gonna, you're agreeing to whatever is proposed today  
16 being placed on that property. So unless you're doing an analysis as to previous density  
17 and uses versus what's proposed now, that's, the squiggles and the, the districts if you  
18 will, really don't matter cause we're putting this new one in place of the old one.  
19 Regardless of whether it was the original old one or a modified old one, these would be  
20 the restrictions on the metes and bounds for that particular area. Is that, is that correct?

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

22 MS. HEGLER: Yes.

23 MR. TUTTLE: Okay.

1 MR. THEUS: I, it's a territory I'm not familiar with, but if we have an exhibit that is  
2 inaccurate and we're altering the PUD based on going from this exhibit to the new  
3 exhibit, is that, I don't know the answer, but is that a, is that procedurally a, an error?  
4 But we're hearing Geo say is he has nothing else.

5 CHAIRMAN PALMER: Well, I think where we sit at, I think people that, that do  
6 this a lot like we do, unless you can bring forward something that contradicts what the  
7 County has on Record, what the County has on Record is what overrides and is what  
8 works.

9 MR. THEUS: Deas.

10 CHAIRMAN PALMER: Deas?

11 MR. MANNING: Going back to the –

12 CHAIRMAN PALMER: If you could?

13 MR. MANNING: What is existing now in the apartment project is 240 units with  
14 220 permitted. I mean, they combined those tracts, the site plans are done, they are, I  
15 can provide you with copies of those. I, I would imagine that the County Staff should be  
16 able to find something on that. But they are permitted and they can't meet that density  
17 requirement unless it's RG-2, so you've had a combination, you've shifted, you know,  
18 the classification from one area to another, which was a good thing. But, you know,  
19 going back to Mr. Smith, I heard him say we can't find anything on Woodcreek. Well, it's  
20 Greenhill Parrish, so I don't know whether there's any confusion in that or not. But  
21 anyway, it is permitted under RG-2 for about 400 and something units.

22 CHAIRMAN PALMER: Okay. That being said, what's in front of us is, I mean, if  
23 that goes into your determination as to whether or not, you know, to what your decisions

1 are but, you know, what's in front of us is, is this rezoning to the RS-HD and it's the C-3  
2 classification out front and the green space and so forth and so on. And it may, it may  
3 fall into your thought process, the increased number of units being from 45 to 70ish, it's  
4 kind of the difference in the, whether it's RG-2 or RG-1 that's up there. So it may be a  
5 mountain out of a mole hill type issue, I don't know. That's for each, everyone to  
6 determine for themselves. But, you know, I, as far as, you know, the traffic concerns,  
7 there would be significantly more traffic if this acreage were to be built out commercial.  
8 And, you know, my understanding was that this, this PDD was done prior to Village at  
9 Sandhills and prior to Killian and all that stuff going on further on out, and you know, the  
10 demand for this amount of acreage for commercial development out in this area is non-  
11 existent at this point, and for quite some time, for the foreseeable future. So a  
12 commercial tract coming in here being developed at some point in the future, I don't  
13 know when, maybe if ever. So either way, I mean, I think that the land at this point sits  
14 vacant whether it's, unless it's rezoned to some sort of residential type application. And I  
15 guess it's just up to everybody to decide if this is too dense or not dense enough, but I  
16 know that when we take a look at what we do as a county and, you know, take a look at  
17 a tract of land with the infrastructure that's in place, we're continuing to move that urban  
18 ring out over and over again, and then we take a look at a site that, that has the  
19 infrastructure in place to handle it, it's something that needs to go into the determination  
20 of what our thought process is. And I know we, we talk about the uniquely urban and  
21 uniquely rural and if we continue to move that, you know, we have these, the people out  
22 in the rural area don't, don't want any more development, you know, the people in the  
23 in-fill say, you know, it's getting too dense or whatever, but you know, that's where the



1 infrastructure is to support these type communities, so I don't, that's just my thoughts on  
2 it.

3 MR. TUTTLE: Mr. Chairman, if I may, I'd like to make a motion that we send  
4 item number 13-29 MA forward to Council with a recommendation for approval.

5 CHAIRMAN PALMER: We have a motion. Do we have a second?

6 MS. CAIRNS: I'd like to ask Staff another question if I could. I'm sorry.

7 CHAIRMAN PALMER: Sure.

8 MS. CAIRNS: I apologize. One of the things that you offered would be a  
9 requirement that the commercial would have to be built at some concurrence or pre-  
10 residential. Have we ever, I mean, do we have any idea of how we would do that? Have  
11 we never done that before?

12 MS. HEGLER: It would just be established as a condition of the approval, but no,  
13 I don't think it's been done before. The reason we're interested in that as Staff is just to  
14 stay consistent and compliant with what a PDD should be, and it's having the mix of  
15 uses. You know, we have a lot of PDDs around the county that aren't proving to have  
16 the mix of uses that state law requires, so it, it's simply – and that you could place upon  
17 –

18 CHAIRMAN PALMER: And I think, personally I think that's an extremely slippery  
19 slope. You go forcing people to build stuff that sits vacant, becomes an eyesore and a  
20 hazard and –

21 MS. CAIRNS: I mean, I don't, in void I think it's a good idea because I think that  
22 if, if somebody wants to make a PDD they are making a statement of a mixed use  
23 feasibility. So I think it would be appropriate, whether it's on the Code level or on the

1 approval of an original PDD that there be some required build of all uses. Because if  
2 you don't have market feasibility and justification for all of your PDD then why are you  
3 doing it if it's not to just scheme the system. I have problems with adding it so late on  
4 such a small portion.

5 CHAIRMAN PALMER: And that may be something –

6 MS. CAIRNS: But I think, but I think – yeah.

7 CHAIRMAN PALMER: - we want to take a look at Code-wise moving forward to  
8 implement that.

9 MS. CAIRNS: But I think that it would make PDDs more honest. And I think that  
10 would be good.

11 CHAIRMAN PALMER: I don't disagree with that, yeah.

12 MR. TUTTLE: But rather than force a developer to do something that doesn't  
13 make economic sense, you certainly restricted the use of their land and therefore they  
14 couldn't rezone that particular parcel that was zoned for the commercial aspect into any  
15 other thing. I would hope this Body would not allow that to happen.

16 MS. CAIRNS: But that's exactly what we're being asked to do and it's exactly  
17 what you just made a motion for.

18 MR. TUTTLE: No, I'm not.

19 MS. CAIRNS: Yeah, cause they had commercial that we're now asking to be  
20 rezoned residential.

21 MR. TUTTLE: But they still have commercial.

22 MS. CAIRNS: But not anything close to the numbers. And we don't have a –

1 MR. TUTTLE: But they still have a commercial – as far as I’m, when I read the  
2 Code for PDDs it doesn’t give you a percentage that’s required for commercial to be a  
3 PDD. It just says you have to have mixed use component.

4 MS. CAIRNS: Well, and, yeah, and again that goes back into, you know –

5 MR. TUTTLE: I certainly have some familiarity with the mixed use in the, in the  
6 suburban town center aspect.

7 MS. CAIRNS: Sure.

8 MR. TUTTLE: And I understand how that can fluctuate and how what you think’s  
9 gonna be appropriate in three years is no longer appropriate and there’s a different use.  
10 So I, I certainly would caution us from going down a road where we require somebody  
11 to build a particular use that may or may not be economically feasible and may not  
12 ultimately benefit the residents.

13 MR. GILCHRIST: Mr. Tuttle, I think I would agree with what, your sentiment there  
14 and I kind of go back to what I heard a little bit earlier, both from the Applicant and from  
15 some of the residents. If that be the case, and I know we deferred this last time and,  
16 because we had a lot of questions about this the last time, and I still don’t, I’m with Bill  
17 here, I’m still not comfortable enough to move forward on this proposal. And in particular  
18 with some of the unanswered questions that I’m hearing, both from the Applicant and  
19 from the community residents, there needs to be some further discussion based upon  
20 what Mr. Tuttle just described, just so that everybody understands exactly kind of  
21 where, where we’re headed with this thing.

22 MR. TUTTLE: Just so I’m clear, what are the open items?

23 MR. GILCHRIST: What are the –

1 MR. TUTTLE: What are the unanswered questions? I just, I want to make sure I  
2 understand.

3 MR. GILCHRIST: Well, one of them, well I think we have a number of folk here  
4 who indicated that they are not sure what's the deal here. And so I think for purposes of  
5 this Body and in particular for purposes of understanding exactly what this consists of,  
6 that I think that there may be needed some further discussions about what this should  
7 look like.

8 MR. TUTTLE: Okay. I just, I –

9 MR. THEUS: My issue was cleared up. If apparently the county, if the county's  
10 file rule then this is what it is.

11 CHAIRMAN PALMER: Right.

12 MR. TUTTLE: Yeah, and the feedback from citizens, which I certainly understand  
13 where they're coming from, I think our package is complete. Now whether they were  
14 privy to some of the items in our package or not is up to Staff's discussion, but I don't  
15 think there's anything that's gonna be added to our package from any further discovery.

16 MR. THEUS: Can I ask a question?

17 MS. CAIRNS: Well –

18 MR. THEUS: Would we be able to stipulate that the proposed buffer be  
19 undisturbed?

20 CHAIRMAN PALMER: Sure.

21 MR. THEUS: Okay, and there's, as I read the existing PDD, there's no buffer  
22 along, there's no buffer there now. So you could, you could have General Commercial  
23 use backing up to the Parkway, the backs of retail shops.

1 MS. CAIRNS: Yeah.

2 MR. TUTTLE: Here you can have 18-wheeler traffic coming to supply those  
3 businesses, etc. on that –

4 MR. THEUS: Most of them are –

5 MS. CAIRNS: Yeah, I mean, I think it's clear that the existing zoning could be  
6 much more noxious than the proposed zoning to the existing residential development.

7 MS. HEGLER: Well, there was always a buffer on the south side of the main  
8 Parkway. Just to be clear.

9 MR. THEUS: The south side, but not the north side.

10 MS. CAIRNS: I would like to, I know we have a motion on the floor, but just add  
11 to that motion that the conditions as listed on page 4 be included, striking condition F  
12 and adding that the allowable commercial uses, based on the original PUD, simply be  
13 typed up and included in the PUD that gets, if indeed it gets approved, if they simply get  
14 listed in there. So it's not a matter of digging through a series of archived documents.  
15 But that they just get picked up and lifted into this amendment.

16 MR. TUTTLE: Mr. Chairman, I certainly accept that amendment.

17 CHAIRMAN PALMER: Was that a second, with those additions?

18 MS. CAIRNS: Sure, I'll second the motion on the floor, with those additions.

19 CHAIRMAN PALMER: Okay. So that's the removal of F and the addition of listing  
20 the commercial applications that were available in C-3 when this original PUD was –

21 MS. CAIRNS: Yeah, and then [inaudible].

22 MR. TUTTLE: With the restrictions.

23 CHAIRMAN PALMER: With the restrictions that were there as well.

1 MS. CAIRNS: Yeah, just to make them, it's just an administrative ease.

2 CHAIRMAN PALMER: Which we should probably do in all of them moving  
3 forward. Okay. We have a motion and a second. Any other discussion?

4 MR. PRICE: Excuse me. Mr. Chair, Mr. Theus also, I wasn't sure if you were  
5 actually making a motion about the buffer. Did you want it to be undisturbed or, was that  
6 a requirement or was it just a requirement that there be a buffer installed there?

7 MR. THEUS: I don't know what the intent is. A buffer leads to other  
8 considerations, whether it's part of the lot or not. Is it, is it, it's shown as open space,  
9 isn't it?

10 MS. HEGLER: The PDD does state that large natural buffers will separate land  
11 uses. Does that keep it undisturbed enough for you?

12 MR. PRICE: So it would be natural, yes.

13 MR. THEUS: Natural? Okay.

14 MR. GILCHRIST: Mr. Chairman, let me just be clear before we take this vote,  
15 and ask this question one more time to Staff. We are sure that this amended proposal  
16 that we're unable to find, no longer exists, is that what you're telling me?

17 MR. PRICE: I've been unable to find it. And I'm thinking –

18 MR. GILCHRIST: I'm sorry?

19 MR. PRICE: I have not been able to find it –

20 MR. GILCHRIST: Okay.

21 MR. PRICE: - and I think even during my discussion with Mr. Manning, that you  
22 know, if he could give me a date, give me a time also, I mean, I think there was some  
23 questions about whether it was done, you know, for the full amendment, going all the

1 way through Council or was there a question, was it done by the Planning Commission?  
2 You know, just take it to the Planning Commission and letting them approve it? Right  
3 now, I don't have those answers either, and if you could give me a date or at least a  
4 time I might be able to look that up, but until now what we have on file is what is current.

5 MS. HEGLER: And I think you could ask Mr. Simmons, he's been the attorney on  
6 this the whole time. I don't – it doesn't seem illogical that it happened, it's just we don't  
7 have a, a more current file. So I don't think that's procedurally a problem. It's just, it  
8 happened and we don't know how it happened, but it doesn't require a change in the  
9 file.

10 MR. SIMMONS: I represented Mr. Manning and, and Mr. Mungo, I did not  
11 represent the person that purchased the property from Mr. Manning, so I, I don't know  
12 anything about that.

13 CHAIRMAN PALMER: Okay. I'm clear on it. You clear on it? Well, the county has  
14 what the county has unless somebody can produce something more current.

15 MS. CAIRNS: Well, I mean, I would offer also that, you know, when we look at  
16 the foldout page in our package that has RG-2 at 13 ½ acres and RG-1 at 16.2 acres,  
17 that's, that is outside of what we're being asked to rezone. So even if it's inaccurate it  
18 doesn't, we're not endorsing those zonings as a part of this rezoning.

19 CHAIRMAN PALMER: Right.

20 MS. CAIRNS: They just, you know, so if they're graphically wrong, they're  
21 graphically wrong, but they serve there for illustrative. It does have an effect as to  
22 whether it's 40 additional, 40 plus or minus additional units or 75 plus or minus  
23 additional units, but you know, I think it's important to know that, that those are

1 additional units, however, the existing plan allowed a few less residential units but a  
2 whole ton of commercial. Whereas now we're, you know, putting in a little bit more  
3 residential, but a ton less commercial, so the overall sort of noxiousness of the use has  
4 gone down. So that's, you know, so while I strive for a lot of accuracy in maps, I can  
5 offer this one doesn't give me a lot of heartburn with all the discussion we've had today.

6 CHAIRMAN PALMER: Okay, so we've got a motion and a second. All those in  
7 favor of the motion please signify by raising your hand. All those opposed?

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

10 CHAIRMAN PALMER: Okay. So we are, we're a recommending Body to County  
11 Council. They'll have the final say on this matter on November the 26<sup>th</sup>, back in these  
12 same Chambers at 7:00. Okay? Next case. We'll give everyone a quick minute to move  
13 out.

14 **CASE NO. 13-34 MA:**

15 MS. HEGLER: One second. Chairman, the Applicant is not here for Case 13-34.  
16 He had the wrong time, he's not in town. You're welcome to proceed if you'd like, but I  
17 just wanted to give you the notice that the Applicant is not here.

18 CHAIRMAN PALMER: Did the Applicant request a deferral?

19 MS. HEGLER: No, he did not.

20 CHAIRMAN PALMER: Okay. We'll move on.

21 MR. PRICE: I called him to find out what the status was. He said he had the  
22 wrong date. He stated, he said, "Can you defer it?" I said, "Well, I'll leave that up to the



1 Planning Commission because of the [inaudible].” He stated that, but I told him I’d leave  
2 it up to you since it’s before you right now.

3 CHAIRMAN PALMER: But he did ask for a deferral?

4 MR. PRICE: [Nods yes]

5 MR. BROWN: Move deferral, Mr. Chairman.

6 MR. THEUS: Second.

7 CHAIRMAN PALMER: Well, before we defer it, we have one person that’s signed  
8 up to speak against and what we may end up doing is deferring this case till next month,  
9 but since you’ve taken time out of your schedule, these will be the same folks that’ll be  
10 up here, if you’d like to come down and speak – you’re certainly welcome to come back  
11 again next month if you’d like, but since you took time out of your schedule I’d like to  
12 see if you’d like to come down and speak to us. We have Janet Robinson.

13 **TESTIMONY OF JANET ROBINSON:**

14 MS. ROBINSON: My name’s Janet Robinson and I live at 1170 Hollis Pond  
15 Road. And I really just want to raise some awareness here. This parcel, can we get a, is  
16 there a possibility to get the map up there? The, that parcel that’s looking to be rezoned  
17 sits on top of Hawkins Branch Watershed, which is a major watershed for our  
18 community. It receives water from over, well I don’t know, it’s several hundred acres.  
19 And I just want you to be aware that this water shed already has irreparable damage  
20 from two other developments. In 2007, we proved in a court of law that Stonington  
21 released more suspended sediment than was allowable by law, therefore contributing  
22 3400 cubic yards of mud to our pond. In January of this year we once again proved that  
23 Hawkins Creek Subdivision allowed more than seven times the allowable suspended

1 sediment to leave their property, and therefore further impact this watershed, and  
2 further impact our property. Did you also know that there's been close to, if not more  
3 than, 100 failed inspection reports against the two developments, yet there has been no  
4 stop work orders placed and no fines imposed. That sends a very bad message to  
5 development in this community. This is not okay. We have a fiduciary duty as a  
6 governing body and as homeowners and responsible developers to protect that which  
7 we have been entrusted to. So as I look through this package I see that there had been  
8 a recommendation for approval based on public services, plans and policies, traffic  
9 impact, etc., but there's a huge component missing and that component is the  
10 comprehensive impact study on a watershed. If you look at this density of, I don't have  
11 my glasses, but it's like 63 homes on this parcel of land, where the point of that, that  
12 property is, that's gonna drop straight into Hawkins Branch and therefore it's going to  
13 further impact this already sensitive watershed. What I'm asking is to defer it and maybe  
14 the fact that Robert wasn't here today can give us an opportunity to look at how this can  
15 be a win/win for him, a win for our – I'm not looking for a third lawsuit. I wasn't looking  
16 for the first one. My family has gone broke fighting to protect the only thing we own. We  
17 have gone broke. This county is not helping us, they're not protecting us, we're still  
18 getting mud. Thursday my ponds were as black as this. Today they're as orange as can  
19 be. I don't know why this county won't stop it, but they won't. If y'all allow this density to  
20 go in, we can kiss our property goodbye. I'm not asking to stop development but I am  
21 really asking for some help here and for some responsible development, cause this  
22 density is not good. Not sitting on top of an already crucial watershed. Thank you.

23 CHAIRMAN PALMER: Thank you.

1 MS. ROBINSON: When will, when will you re-meet?

2 CHAIRMAN PALMER: First Monday of next month.

3 MS. ROBINSON: Okay.

4 CHAIRMAN PALMER: Have you seen the site plan?

5 MS. ROBINSON: The only thing I've seen, I called and I asked, under the  
6 Freedom of Information Act, and I was told nothing had been submitted. Robert Walder  
7 was the one that gave me this.

8 CHAIRMAN PALMER: Here you go.

9 MS. ROBINSON: So I don't know anything.

10 CHAIRMAN PALMER: Here you go. Looks like he's trying to take care of that  
11 bottom part that you're talking about feeding in?

12 MS. ROBINSON: Yeah.

13 CHAIRMAN PALMER: The natural buffer area.

14 MS. ROBINSON: The concern is to put this type, they're gonna have to clear cut  
15 and to clear cut this, I mean, I just know that this, this community is known for wet  
16 weather streams. You know, I know that there were some homeowners that had to sue  
17 developers in Stonington because their homes were built on wet weather streams. And  
18 so when we're in a drought that's great, but then when we start getting a lot of rain, you  
19 know, people take their life savings to build a home and then when they build on a  
20 property that's sensitive like that, it's not exactly possible.

21 CHAIRMAN PALMER: Okay.

22 MR. PRICE: Mr. Chairman, that site plan is for the PDD.

23 CHAIRMAN PALMER: Right.

1 MR. PRICE: And what they're asking for will supersede that approval if they get  
2 this rezoned.

3 MS. CAIRNS: Well, that's the PDD site plan?

4 MR. PRICE: That was the plan for [inaudible] not for what they're proposing to  
5 do. As you stated before, we would never ask the Applicant to give you a plan for a  
6 rezoning, unless it's a PDD.

7 CHAIRMAN PALMER: This is a PDD though.

8 MR. PRICE: No, this –

9 CHAIRMAN PALMER: No, this is going straight to RS-MD.

10 MR. PRICE: They're going from a PDD for the plans that you had before the  
11 PDD –

12 CHAIRMAN PALMER: Oh!

13 MR. PRICE: They're going to RS-MD District.

14 CHAIRMAN PALMER: And so they're looking to go from the 40 some odd lots in  
15 that to 60 some odd lots?

16 MS. ROBINSON: Sixty-three.

17 MR. PRICE: Whatever's allowed, yes, sir.

18 MS. ROBINSON: Forty-two to 63.

19 CHAIRMAN PALMER: Okay. Alright. Does anybody want to hear this case or, we  
20 got a motion and a second to defer. I guess we'll take a vote on that.

21 MR. THEUS: I don't think it's fair to the Applicant.

22 CHAIRMAN PALMER: Yeah, I don't either.

23 MS. ROBINSON: Thank you for listening.

1 CHAIRMAN PALMER: Okay.

2 MS. ROBINSON: I just, you know, I just wanted to raise awareness that this is  
3 kind of a sensitive watershed already.

4 CHAIRMAN PALMER: Alright, thank you.

5 MS. ROBINSON: Thank you.

6 CHAIRMAN PALMER: We have a motion and a second to defer Case No. 13-34  
7 MA until next month. All those in favor say aye. Any opposed?

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

10 CHAIRMAN PALMER: Okay. Next case.

11 **CASE NO. 13-35 MA:**

12 MR. LEGER: Yes, sir, Mr. Chairman. The last zoning application today is project  
13 number 13-35 MA. The Applicant is Mr. Charles Marshall. Mr. Marshall was before the  
14 Planning Commission earlier this summer with a previous request for Office and  
15 Institutional. He is here today to ask for a request for TROS or Traditional Recreation  
16 and Open Space District of a little over four acres of property on Windsor Lake  
17 Boulevard. The property was originally zoned RS-1 and in 2005 that district was  
18 changed to RS-LD, which is our Residential Single-Family Low Density District. The  
19 property is surrounded on three sides by residential use and residential zoning of RS-  
20 LD. Contrary to that, to the west the property is zoned GC on Two Notch Road and  
21 actually across Two Notch Road, and that is occupied by Spring Valley Commons  
22 shopping center and a residence [inaudible]. The property has a little over 600' of  
23 frontage on Windsor Lake Boulevard and is currently occupied by what was the

1 homeowners' association clubhouse, a set of tennis courts, swimming pool and some  
2 open space adjacent to the clubhouse. If you've been able to drive through the area  
3 you'll find the majority of that area is made up of residential subdivisions, Windsor Lake  
4 Subdivision and Briarwood, and this site is actually at the entrance to those  
5 subdivisions. Our Comprehensive Plan recommends suburban use on this site and you  
6 have the objective for, in suburban, recommendation for recreational use there and it  
7 talks about being adjacent to or within residential development, providing for  
8 connectivity in the surrounding area and so forth. The Staff, in its analysis, has found  
9 that doing so would meet the, rezoning this site to TROS would meet the intent of the  
10 Comprehensive Plan to provide recreational and open space use, and also connectivity  
11 to other properties. In conclusion, basically our Staff supported the request for TROS  
12 because it was at an entrance to the subdivisions or is near subdivisions and provided  
13 open space and recreational use. We also did not anticipate much redevelopment  
14 opportunity on this site because of the way it's developed. And for those reasons we  
15 recommended approval at this time.

16 CHAIRMAN PALMER: Any questions for Staff? Charles Marshall? Do you have  
17 anything you'd like to add to the Staff Report? You don't have to, it's just – do you have  
18 anything you'd like to add? Yes, sir. Okay, thanks. Robert O'Brien? And then Wayne  
19 Stoven?

20 **TESTIMONY OF ROBERT O'BRIEN:**

21 MR. O'BRIEN: Before I begin, I'd like to know, is Mr. Marshall going to speak  
22 today? Can we have him go before us? Cause he's for it, we're against it.

23 CHAIRMAN PALMER: No, sir, he doesn't have to speak. He, he doesn't –

1 MR. O'BRIEN: He said he was.

2 MS. CAIRNS: He'd like to speak.

3 CHAIRMAN PALMER: You'd like to come down and speak? There's something  
4 you'd like to add? To the –

5 MR. MARSHALL: Yeah.

6 CHAIRMAN PALMER: Okay.

7 [Inaudible discussion]

8 **TESTIMONY OF CHARLES MARSHALL:**

9 MR. MARSHALL: My name is Charles Marshall. I'm presently the owner of the  
10 clubhouse at 9875 Windsor Lake Boulevard. The last time I was in here I spoke with  
11 your, and Mr. Chairman, one of the things that really gave me a warm feeling was the  
12 fact that when the individuals from the association said that that clubhouse had been  
13 closed for a period of time, you said that you'd carry your children to Windsor  
14 Elementary School and that you had noted that it had been opened. The other thing that  
15 gave me a warm feeling was the fact that the young lady said that if this clubhouse has  
16 been used for the last 40 some years or whatever and doing the exact same thing and  
17 now that Mr. Marshall is presently the owner of it, why shouldn't he be able to do the  
18 same things that they have been doing all the time? And that's all I've asked for. And I  
19 will not be back before you after today. I will not be back before you.

20 CHAIRMAN PALMER: Okay.

21 MR. MARSHALL: If Mr. O'Brien and the 1/4<sup>th</sup> of the members of Briarwood  
22 Association is all that they have in the Association, they have over 600 homes there but  
23 only, it's less than a 1/4<sup>th</sup> that's a member of the Association. I've never heard of that

1 before. However, if they kick against it, I will not be back before you today. I will take  
2 some other action or will do something else with the property. I will leave the property  
3 sit, I will let it do whatever, but I will not be back before you. I'm not here to fight this. I'm  
4 only here to offer them an opportunity to have, to do the same thing that they've been  
5 doing all the time. And the big thing that everybody is trying to say, oh we have this  
6 activity and we have this activity and they have this activity here, nobody complains  
7 when they put up a CVS pharmacy, a Walgreen and another drug store all on the same  
8 corner of each other, but yet and still that's been a big fight that we have all of these  
9 different – give people an option. If, and everybody's concerned about – give me one  
10 more minute, please.

11 CHAIRMAN PALMER: Sure.

12 MR. MARSHALL: Everybody's concerned about whether I'm gonna starve to  
13 death because I'd lose money on this place. Let that be my concern. If I don't make  
14 money it, or if I, I'm not in it to make money, first of all. I've been blessed so I'm trying to  
15 do something – I own a house in the community, I lived in that house for over 20 years. I  
16 bought in that community back in '85. I still own the house, so this is not about whether  
17 I'm trying to develop something that's going to bring the neighborhood down. Marshall is  
18 serious, so he's not gonna bring the neighborhood down. He's trying to do something to  
19 enhance the neighborhood. And I've asked numerous of people and Mr. O'Brien would  
20 be honest about it, I think he will note the fact that the place was an eyesore and if you  
21 go by there today you will see that it has been greatly improved. Now, I've taken up  
22 entirely too much of your time, but I do want to say this. An injustice against anyone is  
23 an injustice against everyone. And I leave it at that.



1 CHAIRMAN PALMER: Thank you.

2 MR. MARSHALL: Thank you very much, Mr. Chairman, and I appreciate it. You  
3 will not see me before you again.

4 CHAIRMAN PALMER: Yes, sir. Thank you. Mr. O'Brien followed by Wayne  
5 Stoven?

6 **TESTIMONY OF ROBERT O'BRIEN:**

7 MR. O'BRIEN: My name's Robert J. O'Brien, I'm, live at 9604 Highgate Road,  
8 there in the Briarwood neighborhood. I'm president of the neighborhood association  
9 there and again, we find Mr. Marshall giving us wrong facts. What I'd like to – we didn't  
10 come here to say we want this turned down, what we came here today was to bring  
11 some concerns that the neighbors have brought to us. And these are some of the things  
12 that, parking outside the area on Windsor Lake Boulevard, that's a big concern. Another  
13 one is traffic flow. If you'll notice on there, you come over the railroad tracks from Two  
14 Notch Road, you have to turn into their parking lot right there. That's a very congested  
15 area because you've got a street coming in this way and you got the, Windsor coming  
16 that way and then you turn into the swimming pool. These are concerns that people  
17 have. The other thing, noise after 10:00pm at night. I'm just bringing up what people are  
18 saying to me to pass on. The, the – what is concerned is, are there gonna be any kinds,  
19 is there a restriction on the type of sign they could put out there? We don't want to end  
20 up with one of these neon signs out there you see going up and down Two Notch Road,  
21 things like this. It's the entrance to our neighborhood; the north side, the south side  
22 comes in off Alpine. So we're concerned about that. Mr. Marshall, what we're concerned  
23 about from him is that he doesn't really, all he says that he's gonna do the same thing

1 they've done for the last four years. We don't have really a problem with that, but when  
2 we ask questions we don't get, everybody is, the question they're asking is, why does  
3 somebody spend \$300,000 on a piece of property if you're not gonna run a business  
4 there? And people just don't take \$300,000 – these are, I'm just relating to you people  
5 why you spend that kind of money, these are their concerns. So I've eaten up enough of  
6 your time. Like we said, we're not here to say turn it down, but we want you to consider  
7 some of these things when you vote on what the Staff is recommending. Thank you  
8 very much for your time.

9 CHAIRMAN PALMER: Thank you. Wayne Stover?

10 **TESTIMONY OF WAYNE STOVER:**

11 MR. STOVER: Good afternoon. My name is Wayman Stover and I live at 2804  
12 Bancroft Road. Bancroft Road is in the Briarwood community. The same community in  
13 which the property that is under consideration. Now, I've lived there for 30 plus years  
14 and I can attest to the tranquility and the peacefulness of the neighborhood and I've  
15 seen changes. So I am familiar with the neighborhood. First of all, let me say that I  
16 commend the current owner of this property, I can see that the physical appearance of  
17 the property has changed. And I commend him for that, I think that that is not the major  
18 concern that our neighborhood has. Now, as has been already said, the property in  
19 question has been used as a private club for many, many years, some 40 years I, I  
20 believe, as a private club. And if you take in consideration that a private club own the  
21 property with private membership and it came under the, under the regulation of this  
22 particular club. Now, we're concerned about if a change is made from RS-LD,  
23 Residential Low Density to TROS, which is designated as Traditional Recreational

1 Open Space, it would change the potential use of this particular property. Now, we're  
2 told that it could be used for recreation, rental to various groups. Now, Mr. Marshall has  
3 said he plans to use it, certainly, for the same purpose in which he, it has been used.  
4 And that may be good intention, he may just use that. We're looking down the road, if  
5 it's changed to a different status, then we believe that it can be used for rental, for  
6 recreational and social groups. Now, this is the major concern, if you allow it to be  
7 rented to multiple groups on multiple occasions, you're likely to have multiple potential  
8 problems and that is the major concern that we have. If it's going to be used for current  
9 status from which it has been used, then we suggest there's no need to change the  
10 status of the zoning. Thank you for your consideration.

11 CHAIRMAN PALMER: Thank you. That's all I've got signed up to speak. Yes,  
12 sir?

13 MR. BOYD: I didn't sign up to speak but I would like to.

14 CHAIRMAN PALMER: Okay. Give us your name and address?

15 **TESTIMONY OF ANDRE BOYD:**

16 MR. BOYD: Yes, sir. Good afternoon, my name is Andre Boyd, I live at 9604  
17 Dunbarton Drive in Briarwood Subdivision. And I've lived there for about 15 years. And  
18 reflecting on some of the comments that were previously made, in regard to the past  
19 performance of the clubhouse, as it was stated, it was very run down and Mr. Marshall  
20 has put quite a bit of money into it in sprucing it up, it's a very nice facility now. It used to  
21 be an open facility where it really was only being able to use in the summertime  
22 because you really didn't have any enclosure. He's enclosed in quite a bit of that and,  
23 where it can be used for multi functions throughout the year. Yes, rental is one of those

1 things, but in the past that was happening as well, but it was limited to the members that  
2 were part of that group. And their membership was \$250 to \$300 per year, and not  
3 necessarily to resident within Briarwood Subdivision, outside people as well. I think what  
4 Mr. Marshall is proposing to do is open it up to the Briarwood neighborhood for  
5 membership at a much more nominal and affordable fee. So I am for rezoning this so  
6 that it can be used for, again, as the same thing it was being used for before, but in  
7 better relocation and much more economical. Thank you.

8 CHAIRMAN PALMER: Thank you. That's all we've got. Any thoughts or  
9 comments?

10 MR. BROWN: Mr. Chairman, if there are none I move approval, that this be sent  
11 forward as recommended by the Staff.

12 MR. WESTBROOK: Second.

13 CHAIRMAN PALMER: We have a motion and a second. Any other discussion?  
14 All those in favor of the motion please signify by raising your hand.

15 *[Approved: Cairns, Westbrook, Tuttle, Palmer, Gilchrist, Theus, Brown; Absent:*  
16 *McDaniel, Van Dine]*

17 CHAIRMAN PALMER: And there's none opposed. So again, this is a  
18 recommending Body, this will be in front of Council on November the 26<sup>th</sup>, back in these  
19 same Chambers. Text Amendment?

20 **TEXT AMENDMENT #1:**

21 MS. HEGLER: Mr. Chairman, before you is a Council-initiated text amendment  
22 to, I guess, delete the separation between churches, places of worship and bars or

1 drinking places within the General Commercial zoning district. So that's the only change  
2 you see to that, that the 400' or 600' setback requirements would be deleted.

3 CHAIRMAN PALMER: Okay. Well, I can, there's no one signed up to speak on it,  
4 by the way. I can just speak to this through personal issues, which arise several times  
5 throughout the year, that in small strip centers, a landlord can rent something out 1,000,  
6 1,200 square foot space within a 50,000 square foot shopping center to a place of  
7 worship, which may or may not meet, which may, I mean, that place of worship is a very  
8 broad term, it doesn't mean that they have regular scheduled meetings or any certain  
9 number in their congregation or anything else. Let's say, for example, that Columbia  
10 Mall rented out one of their interior spaces to a, you know, some sort of a religious  
11 organization, that whole property where Columbia Mall sits, anything within 600' of that  
12 parcel could not be a bar or a sports club or anything like that. So we, at least in my  
13 industry we run into this quite a bit where there's a small strip center that's got  
14 something that's classified as a place of worship and 600' around it you can't, you can't  
15 do anything with it, which is difficult. And I understand where this through process  
16 comes from, is that if churches or places of worship decide to locate in a General  
17 Commercial zoning classification, they need to understand that this is where the county  
18 designates for commercial activities to occur and that, you know, I would support this,  
19 that at least in my opinion that if you're looking to start a church somewhere and you go  
20 into a General Commercial zoning classification, you probably need to understand that  
21 there's some commercial activities that you may not agree with. But it's kind of like the  
22 last man in, once a church goes in then everything else after that can't, can't be a  
23 drinking place, but anything before that, that was in before the church is fine. And if the

1 church ever leaves and decides to move somewhere else or defaults on their lease or  
2 whatever and they're no longer in operation, then that rule doesn't apply anymore. It's  
3 just, it's really a quagmire to try to figure out. So, and it's not from front door to front  
4 door, it's from property line to property line, which really knocks out a lot of spaces, so.  
5 I'm in support of it, but that's the thought process behind it.

6 MR. BROWN: Mr. Chairman, I'm gonna say this and I'm a Baptist Deacon.

7 CHAIRMAN PALMER: Right.

8 MR. BROWN: And I am concerned about every time you move throughout the  
9 community now, you're seeing a church.

10 CHAIRMAN PALMER: Um-hum (affirmative).

11 MR. BROWN: And I'm not so sure that a lot of these churches are churches.

12 CHAIRMAN PALMER: Right.

13 MR. BROWN: Just to be quite frank with you.

14 CHAIRMAN PALMER: I, I agree, and this is, it's a –

15 MR. BROWN: And, and that's, and I know that's a biased statement.

16 CHAIRMAN PALMER: Right.

17 MR. BROWN: But I'm still stating it, because I think that has a tendency to have  
18 too much of an impact and it is not for the Lord.

19 CHAIRMAN PALMER: Oh, I understand.

20 MR. BROWN: It may be for the Internal Revenue Service, but it's not for the  
21 Lord.

22 CHAIRMAN PALMER: I understand. Everywhere they go, every one of these –

23 MR. BROWN: I'll leave that alone after that.

1 CHAIRMAN PALMER: - that's placed in one of these little small strip centers, it  
2 knocks everything out. And I understand where you're coming from. I married a  
3 preacher's daughter, so. But anyhow, that's my thought process on it, commercial areas  
4 are for commercial uses. I'm not saying 100% if a church wants to locate in them, they  
5 can locate in them, but they've got to understand that they're locating in a commercial  
6 classification, so. Anyhow, that's my thought process on it. Anyone else?

7 MR. THEUS: I move we recommend the Text Amendment as written.

8 MR. GILCHRIST: Second.

9 CHAIRMAN PALMER: We have a motion and a second. Any other discussion?  
10 All those in favor please signify by raising your hand. Any opposed?

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

13 CHAIRMAN PALMER: And Comprehensive Plan Update?

14 MS. HEGLER: Yeah briefly. If you recall at the last meeting I introduced that we  
15 will be updating the future land use and priority investment areas of our Comprehensive  
16 Plan that was directed by Council and certainly Staff supports that. So probably every  
17 month I'll just try and give you some updates. We issued an RFP to select a consultant  
18 and that RFP closed on Friday, so we'll be reviewing those and hopefully get started  
19 mid-December.

20 MS. CAIRNS: How many submissions did you get?

21 MS. HEGLER: I don't know yet, I have not heard from Procurement. They, it was  
22 due at 4:00 on Friday, so I'm sure they're still going through the packages.

23 CHAIRMAN PALMER: Zoning Public Hearing Report?

1 MS. HEGLER: Those two reports are just [inaudible].

2 CHAIRMAN PALMER: How are we looking on our Applicants for Planning  
3 Commission?

4 MS. HEGLER: Suzie, a couple? Four or five?

5 MS. HAYNES: We have some but Council has not decided.

6 MS. HEGLER: That's on the Agenda tomorrow night?

7 [Inaudible discussion]

8 MS. HAYNES: As of right now it's two.

9 MS. CAIRNS: Within a few minutes maybe three?

10 [Inaudible discussion]

11 CHAIRMAN PALMER: So we'll be meeting back here in these same Chambers  
12 next Monday, the first Monday of December. Do we have a motion to adjourn?

13 MS. CAIRNS: So moved.

14 MR. THEUS: Second.

15 CHAIRMAN PALMER: A motion and a second. All those in favor say aye?

16 *[Approved: Cairns, Westbrook, Tuttle, Palmer, Gilchrist, Theus, Brown; Absent:*  
17 *McDaniel, Van Dine]*

18

19 *[Meeting Adjourned at 2:25pm]*