

BOARD OF ZONING APPEALS

September 1, 2004

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5 *[Members Present: Dorsey, Tolbert, Formyduval, Brown; Absent: Perkins, Young,*
6 *Myers]*

7
8 Called to Order: 1:06 p.m.

9 MR. TOLBERT: Good afternoon. We'd like to welcome you to the September
10 meeting of the Zoning Board of Appeals. We will have opening remarks by Mr. Brad
11 Farrar.

12 MR. FARRAR: Thank you, Mr. Chairman. Good afternoon. I'm Brad Farrar from
13 the Richland County Attorney's Office. I'm going to go over the Board's agenda and the
14 procedures that the Board follows in issuing its decisions and we'll take any questions
15 that you have and we'll get started with the agenda. Couple of housekeeping items. If
16 you're here for Case B, 04-106 V, it's a variance on 13 Island Drive. Applicant's Jeanie
17 Duncan. That case has been deferred. Will not be heard today. And Case 05-07 V, D.
18 Melton, has been withdrawn. If anybody's here for either of those cases, please note
19 that they have been taken from the agenda. The Board of Zoning Appeals is what they
20 call a quasi-court. It's kind of like a court of law, but it's not a court. It's similar in
21 nature. The Board will hear testimony and receive evidence. Evidence being in the
22 form of any documents that you would have for the Board to consider. And they will
23 render a decision in open session. Sometimes a court takes a while to issue its order,
24 but you'll have a decision from the Board, today, on a case in open session. The
25 applicant has up to 15 minutes, you don't have to take the full time, but up to 15 minutes
26 to present his or her case for a special exception or variance - I believe those are the
27 only types of cases we have today - as to why they should be able to do something

1 particular with their property in the form of a special exception or a variance. Those in
2 opposition have up to three minutes per person. Sometimes if we have a big group we,
3 you know, see if there's a spokesperson available. But small group like this, certainly
4 everybody who wants to speak come up and take your full time, if you'd like. And at the
5 end the applicant gets five minutes for rebuttal. Now if you notice the order of
6 presentation, it's applicant, opposition, and then applicant, again. Why is that? The
7 reason for that is it goes back to the quasi-court nature, the burden of proof. The
8 burden of proving why the person should get the special exception or the variance does
9 fall on the applicant, so the applicant gets to go, just like in a court system, consistent
10 with that burden, first and last. The remarks will be under oath. So in a moment I'll
11 swear everyone in who's going to speak before the Board. Do it as a group. And we'll
12 take down the testimony in the event that you would need a transcript or a copy of the
13 minutes for whatever purpose. The applicant can really, or anybody who speaks, can
14 really do anything that's appropriate to get your case across to the Board. If you have a
15 video presentation, that's fine. Usually we'll have that set up in advance. But, you
16 know, whatever's proper for your case is perfectly fine. The Board will consider all kinds
17 of documents. Petitions, list of names that are on a list like that, just are not going to
18 have as much weight as testimony under oath. Just keep that in mind in terms of what
19 you're submitting. Somebody who's taken the time to write a letter, obviously that's
20 going to carry more weight than a petition. So that's just some of the basic things they
21 will consider. Once the decision has been rendered, what's the effect of it? You have,
22 really, a conditional approval or a conditional denial at that point. Well, what's the
23 condition? The condition is that under the rules a case can be reconsidered at any

1 point prior to the minutes being approved from which that case was decided. So,
2 essentially, what that means is September 1st we're going to hear the cases today on
3 this agenda. We come back in the October meeting, first Wednesday in October unless
4 it's a holiday. The Board very likely would approve September's minutes. And at that
5 point you do have a final decision because the minutes have been approved. But under
6 the rules and bylaws and standard parliamentary procedure, any case can be
7 reconsidered before the minutes have been approved. And this would come up, for
8 example, if there was newly discovered evidence or something that couldn't have been
9 presented at today's hearing. Reconsiderations are atypical. It's not likely that you're
10 going to have newly discovered evidence but you could. You could have somebody
11 who, you know, out of the country, couldn't make the hearing, but you need to know this
12 about this case and it's material to it. It can't be "let's try again". Let's have a "do over"
13 type of thing. It's got to be something that's changed in the case that's important. As I
14 say, once the minutes have been approved, you do have a final decision of the Board at
15 that point. And the reason I mention this interim period before the minutes have been
16 approved, I just want to make that you don't take some action in reliance upon a
17 conditional decision where you spend a bunch of money, for example. You come in.
18 You want a 2' variance so you can put your carport in a side yard setback. No
19 opposition. The Board says fine. Sounds good to us. You go out and hire the
20 contractor that afternoon. You spend several thousand dollars. Well, the case could be
21 reconsidered, theoretically and legally. It could be reconsidered. You spent that
22 money. You do it at your own peril. So just keep that point in mind. But it's not an
23 indefinite period. It's as soon as the minutes have been approved. That's the Board's

1 process. Now the appeal process under state law is the other thing you need to look
2 out for. It's something the Board does not have any control over. This is in Title 6 of the
3 *South Carolina Code of Laws*. Anybody who's aggrieved by a decision of the Board
4 may appeal that decision to Circuit Court. You need to do it in Richland County. It's not
5 hard. It's a basic petition that you file with the court. The Circuit Court judge would sit,
6 essentially, as an appellate body at that point. You wouldn't have new testimony.
7 You'd just review the record and if there's some thing that is a matter law was not
8 properly done, if the Board erred in some way, you could have the case overturned,
9 potentially. That's the appeal process. Again, this is not an indefinite period. A person
10 has 30 days after the Board's decision has been mailed to file the appeal with Circuit
11 Court. You don't need to worry years from now if your case is going to be revisited that
12 occurred. Once the minutes have been approved and the appeal period has run, you've
13 got the special exception or variance or you don't, if it was denied. So those are a
14 couple of things you need to watch out for. I mention that as information only. I only
15 represent the Board, but just for your own information. Few other little notes. If you
16 have a cell phone or pager, if you could turn that to "off" or "vibrate" so we don't pick
17 that up on the sound system we would appreciate that. The effect of a vote. The Board
18 of Zoning Appeals consists of seven members. We only have four here today. That is
19 a quorum. You can conduct business with four people, but you don't have a full panel.
20 If for any reason you'd like to have a full panel or you don't feel comfortable going with
21 less than a full panel, you can certainly make that request to the Board. Ask to come
22 back next month. And they're very, you know, routinely will grant that. It's obvious I
23 can't promise they will. But the Board will certainly consider that request. And it may be

1 something that's material to you. Also, you have an even number of folks today which
2 could mean we could have a tie vote, much more likely than if we had an odd number.
3 You can still have a tie if you have an odd number if somebody recused him or herself.
4 But with an even number it could be a possibility. In the event of a tie vote there's a
5 little bit of a peculiar process in the Richland County Code. It's lawful. It's just not your
6 standard - what you might think, but in the event of a tie vote, if somebody makes a
7 motion, for example, to approve a case - ends up in a 2-2 tie, for example, somebody,
8 also will make a contrary motion to deny the case, if that also ends in a tie. If those two
9 votes end in a tie, then you have the case automatically carried over to the next
10 meeting. I mean, it's just, that's what's in the code. Whether it's good, bad, or
11 indifferent that's how the process is. So if we do have a tie vote I'll go over that again.
12 But just keep that in mind when you're factoring whether or not you want to go forward
13 today with your case. The only time the Board will not be present, where it's sitting now,
14 two times, I guess, if they take a recess, that could happen, or if the Board goes into
15 executive session. Now executive session is provided for under the Freedom of
16 Information Act, you know, the open meeting laws of the state. Essentially you can go
17 into executive session for three main reasons: to discuss a legal matter, to discuss a
18 contract matter, or an employment matter. The Board of Zoning Appeals, the only
19 reason they would go in executive session would be to discuss a legal matter, if they
20 want to talk with me or Staff about some legal concern that they would have. They can't
21 go back there and decide the case. They can't take a straw poll and say, you know,
22 "Gee, how are you leaning?" You know, you can't do any of that. You've got to go
23 back, talk about the legal issue just like as if you were talking to your lawyer on the side.

1 Once you take care of that piece of business, come back out in open session, continue
2 with the case. And that's the only purpose for it. Other than that, they will be here.
3 They will decide the cases on motion in open session. I believe that is the bulk of what I
4 had to talk with you about. Is there any question about any of the stuff that I cover,
5 especially the appeal process? Make sure everybody's straightforward on that. Okay.
6 If not, if you need to be signed up on the sheet of paper for the case that you want to
7 speak to, there's a "for" and "against" column. Sometimes it's confusing because of the
8 case is styled. But you need to be on that sheet of paper. If you haven't signed up you
9 can still sign up. Do it after the opening remarks. But, I do need you at this time, we're
10 going to take the oath. If you would, please rise and raise your right hand. I will swear
11 you in as a group. Do you swear or affirm, the testimony you shall give shall be truth,
12 the whole truth, and nothing but the truth so help you God?

13 AUDIENCE MEMBERS: I do.

14 MR. FARRAR: Please be seated. Thank you. It's kind of the honor system here,
15 which is a good thing. But if you said anything other than "Yes" or "I do", you could
16 have said, "No. I absolutely do not swear to tell the truth." I don't know what you said.
17 But anything other than "Yes" or "I do" let me know, otherwise we will consider the group
18 sworn. And I'll turn it back over to the Chairman at this time. Thank you very much.

19 CHAIRMAN TOLBERT: Thank you, Mr. Farrar. If anyone hasn't yet signed up,
20 would you like to sign up at this time, we'll give you that opportunity.

21 AUDIENCE MEMBER: I have a question. There was supposed to have been
22 Case 04-109 SE. Postponed until today. And it's not on your agenda. Has it been
23 rescheduled for some other time?

1 MR. PRICE: Which case is that? Are you the property owner? Trying to rezone
2 a property to a RG-2 zoning, Mr. [inaudible]?

3 [Inaudible discussions]

4 CHAIRMAN TOLBERT: Okay. Mr. Price, we're ready for the first case, please.

5 **CASE 04-105 V:**

6 MR. PRICE: Okay. The first item is Item A. It's Case 04-105 variance. The
7 applicant is requesting the Board of Zoning Appeals to grant a variance to exceed the
8 allowable signage in a C-3 district. The applicant proposes to exceed the allowable
9 square footage for a wall-mounted sign by 17.81 square feet in order to gain visibility
10 from an entrance that comes off of St. Andrews Road. The building is oriented towards
11 Broad River Road. The side of the building faces the entrance with St. Andrews Road
12 and currently does not have any advertisement on the wall. The front of the building
13 currently has a wall-mounted sign that measures 22.09 square feet. The surrounding
14 area is mostly various commercial uses. This is located in the Widewater Square
15 Shopping Center. Applicant is Steve Fitts and the address is 3315 Broad River Road.

16 CHAIRMAN TOLBERT: All right. I have a John Williams signed up first. Is Mr.
17 Fitts? Whose -? Mr. Williams, come forth, state your name and any information you
18 would like to share with the Board at this time, please.

19 **TESTIMONY OF JOHN WILLIAMS:**

20 MR. WILLIAMS: My name is John Williams. I own one of the businesses that's in
21 the Widewater Square and basically I came down –

22 CHAIRMAN TOLBERT: Okay. Hold. Hold.

23 MR. PRICE: We need to get the –

1 CHAIRMAN TOLBERT: Yeah. I need to get the applicant first. You signed up
2 first, so. Okay. Mr. Steve Fitts.

3 MR. PRICE: Mrs. Steve Fitts.

4 CHAIRMAN TOLBERT: Mrs. Steve Fitts. Okay. I'm sorry. I didn't see that on
5 there.

6 MRS. FITTS: Rosemary Fitts.

7 CHAIRMAN TOLBERT: Okay.

8 **TESTIMONY OF ROSEMARY FITTS:**

9 MRS. FITTS: Thank you. I wanted to speak to more of the reason that we
10 wanted to – that the client requests the additional signage on the building. This is for an
11 insurance company and they will have a lot of claims, the cars coming in. And they
12 want them to use that area, the St. Andrews Road entrance area, to come to their
13 building so that they will come to the side of the building instead of parking in front of the
14 building where they will have their cars. They're going to have to go in and out. Have
15 the clients in and out of the parking lot. And instead of being parked in front of other
16 businesses, they prefer to have those, their clients, come to the side of the building so if
17 they come in from the St. Andrews Road area, then they will actually come to the side of
18 the building. And there's plenty of parking on that side that they could be using. So
19 that's what they were wanting to do so that they're not going in and out of the traffic in
20 front of the building between the other businesses that are there. Because they'll have
21 their claims adjusters walking out, their clients walking out and standing in the parking
22 lots and things like that. So that's what they're requesting that for.

23 CHAIRMAN TOLBERT: Okay. Any questions?

1 MR. BROWN: Ms. Fitts, one of the requirements of the zoning ordinance in
2 determining a variance is that the applicant show a hardship that would be created –

3 MRS. FITTS: Right.

4 MR. BROWN: - if the variance isn't granted. What do you perceive to be the
5 hardship?

6 MRS. FITTS: Well, when they would have the vehicles out front trying to park
7 within an area that other people are in and out of, they could be parked trying to make a
8 claim. Walking around the building – I mean walking around the car trying to make the
9 adjustments while people that are trying to get to the other businesses are getting in
10 and out of their cars, trying to park. And they would be trying to just keep it more of a
11 safety issue of keeping their group over to the side so that they're not interacting with all
12 the other people that are trying to come in and out for the other businesses. Because,
13 if you could just imagine being out there with a claims adjuster and you're trying to walk
14 around a car and you're talking about this, just imagine trying to walk, you know, in and
15 out of the traffic like that. Just it's what they mainly get. And the location of this building
16 was, especially that actual part of it, was ideal for this situation because it had that side
17 with that additional parking that's not normally used by the other businesses there. And
18 it's, I mean, it's a substantial amount of parking on that side. And if they could get their
19 cars and claims and activity and traffic in that area, that's what they were wanting to do
20 so it would just get out of the way of the other businesses there.

21 CHAIRMAN TOLBERT: Is there a sign up there now? Or some type of –

22 MRS. FITTS: There's a sign on the front of the building. I think that – well, this is
23 copies of what you have there. But we do have a sign on the front of the building but

1 there's nothing on the side of the building right now. So, if you come in St. Andrews
2 from that direction you're not going to know that they're there unless you actually go
3 around back into the parking area that's shared by all the other tenants there.

4 MR. BROWN: But if there's a sign on the front of the building now and the
5 purpose of putting the sign on the side of the building is to try to get their clients to come
6 to the side of the building, which is probably going to be sort of like herding cats to get
7 them to do that, anyway, but what's going to – why won't the sign on the front of the
8 building be just as likely to have them come to the front of the building as the sign on
9 the side of the building would be to have them to come to the side of the building?

10 MRS. FITTS: Well, I think the front of the building you would be identifying your
11 business, which, I think, is appropriate. You would be identifying your business for the
12 sign on the front, which would be appropriate for your front door, to have a sign there to
13 let people know what business that is. But, again, if you're coming in from the St.
14 Andrew's Road area and you see the driver's choice there, you would be able – you
15 know, they could drive right up to the side of the building instead of getting into the
16 traffic. Because these are going to be cars that have been wrecked, damaged, in some
17 way and we're just trying to get them over to the side so they can be assessed and
18 taken care of that way. And if we could just, you know, get the traffic moving more
19 towards that side instead of interacting, involved, in the other cars.

20 MS. DORSEY: I understand your point but I still don't see how, because it's not a
21 directional sign you're asking for, it's more of an advertising sign.

22 MRS. FITTS: Right.

23 MS. DORSEY: And, you still, again, it's like how are you hurting people if –

1 MRS. FITTS: Well, if you're driving – I'm sorry. Go ahead.

2 MS. DORSEY: It's something that people have – what I'm saying is I think it's
3 something that people have to be informed of, you know, that we need to either park on
4 the side so that - because even having a sign there is not necessarily going to inform
5 them that they have to park on the side and that's what you want it to do.

6 MRS. FITTS: Right. Okay. If we had the sign read there where it said "Driver's
7 Choice Parking Here" or something would we add that, then? Would that - would be
8 acceptable to you?

9 MS. DORSEY: I'm not proposing anything.

10 CHAIRMAN TOLBERT: I'd like to ask you another question.

11 MRS. FITTS: Yes, sir.

12 CHAIRMAN TOLBERT: The people that's going to be coming, are they going to
13 come on a schedule? Do you schedule them to come in or do they just drive up?

14 MRS. FITTS: I would imagine some do have appointments, but others probably
15 would just drive up.

16 CHAIRMAN TOLBERT: Okay. In a claim type situation, do you make them
17 aware of where they have to come to that area to do their claim, right? They would
18 know automatically that you're over there –

19 MRS. FITTS: They would know the address to come to.

20 CHAIRMAN TOLBERT: - but when they call in they have to call to you to tell
21 them where to come to, right?

22 MRS. FITTS: If they called in, yes, they would.

23 CHAIRMAN TOLBERT: So, with that in mind, you could –

1 MRS. FITTS: You could tell them to park on the side.

2 CHAIRMAN TOLBERT: - tell them to park on that side, right?

3 MRS. FITTS: But then, if they don't, then you don't – and that's just when you -
4 they're just wanting to get some more visibility as they're coming in so that, if they don't,
5 then they can get their traffic over to the side of the building. There just needs to be
6 some sort of identification there because when you come around you see nothing and it
7 would be very helpful to keep that type traffic. I mean, if you could imagine, I mean I
8 could imagine if I was going into another store and I had – there were just people
9 always out walking around the car that you're, you know, in that traffic area. So. They
10 were just trying to keep it clean and neat and over to the side. And if people coming in
11 that way could see that, you know, some signage of some sort to keep their folks over
12 to the side and out of the way of other tenant parking so that the other tenants use the
13 other parking that's in front of their store.

14 CHAIRMAN TOLBERT: Any other questions? All right. Thank you.

15 MRS. FITTS: Okay. Thank you.

16 CHAIRMAN TOLBERT: Mr. Williams, please state your name and any
17 information you have to share with the Board.

18 **TESTIMONY OF JOHN WILLIAMS:**

19 MR. WILLIAMS: Yes, my name is John Williams. I own the third business off of
20 the end of the building that she's talking about. And we have a tremendous congestion
21 problem in our strip mall where people come either off of Broad River Road or off of St.
22 Andrews. When they come off of St. Andrews, they see absolutely nothing because of
23 the way that the architect laid out the structure to begin with. You see this mass of

1 blank wall that is the full length of our structure. I believe – the business has just
2 recently moved in. My company's been there for some years, now. I do see a
3 hardship, if you want to discuss hardship, of overloading the front of the buildings with
4 additional traffic that could be shuttled over to the side of the building because there's
5 got to be approximately 30 parking spaces that are there. There used to be a finance
6 company there that they had many more employees than Driver's Choice does and they
7 slid people over there. They didn't have the type of traffic that Driver's Choice is
8 generating. And as a result of this new company coming in, the hardship is that all of
9 Driver's Choice's clients are coming towards the middle of the structure where it is
10 already struggling for parking spaces. My customers struggle to find a place to park.
11 And around the corner, if you go - in that photograph on the far end was what Mrs. Fitts
12 was referring to – around the corner is where this massive parking spot is. And
13 customers migrate to signs, you know, whether or not it's a directional sign or what. But
14 if they were told to, you know, report to a spot, they're going to report to a sign rather
15 than, you know, driving around trying to find the front of the building. Because if they do
16 enter off of St. Andrews, they're not going to know where Driver's Choice is. And then
17 they're going to wind up parking in front and spreading out. Like I say, the hardship that
18 [inaudible] mentioned or Mr. - I can't read your name from here – but you said they'd
19 have to have a hardship is that they're traffic is being forced center, so. I may be
20 redundant right at this point, but I do see a great need for pushing Driver's Choice's
21 customers around the corner. And I thank you for listening.

22 CHAIRMAN TOLBERT: Any questions?

23 MR. FORMYDUVAL: Could I possibly see the –

1 CHAIRMAN TOLBERT: Side?

2 MR. FORMYDUVAL: - picture of the side view again, please?

3 MR. WILLIAMS: There it's not showing.

4 CHAIRMAN TOLBERT: [Inaudible] see in the picture right there. Those pictures
5 don't show it. Is this the picture?

6 MR. FORMYDUVAL: That answers my question. Thank you.

7 CHAIRMAN TOLBERT: You want to see? Here's a picture of it. Mrs. Fitts?

8 MRS. FITTS: Yes, sir.

9 CHAIRMAN TOLBERT: May I ask you another question? Is this on the side by
10 the carwash?

11 MRS. FITTS: Yes, sir. Yes, sir.

12 CHAIRMAN TOLBERT: If that was a smaller – I don't understand how your
13 changing the sign's going to make them realize that they need to park over there. You
14 just want to put a sign on the building saying it's there. And I think you have a sign on
15 the side of the building already stating that you're there, right?

16 MRS. FITTS: No, sir. There's no sign on the side.

17 CHAIRMAN TOLBERT: On the side?

18 MRS. FITTS: No, sir. It was just that would be where we would propose to put it.
19 But the way that it's situated I do believe that if we did have that there that as they came
20 in, with the way that the archway is to walk in, you know, to the front of the building that
21 they would see that and park there to go straight in because that looks like it would be
22 straight in to the building there.

1 MS. DORSEY: I might need to ask the Zoning Administrator, but are they allowed
2 to put up a sign anyway on there and for what they're asking for is to exceed the
3 allowable footage of that sign?

4 MR. PRICE: Yes. Based on what their allowable square footage for a sign, I
5 believe it's like 27'. I'm kind of rounding it off.

6 MS. DORSEY: Okay.

7 MR. PRICE: And they put up a sign that is about 22 square feet. So that gives
8 them 4+ square feet left. And what they're doing is to put the same type sign up will be
9 asking for 17' more, square feet more, than what they're allowed.

10 MS. DORSEY: But they're not prevented from putting a sign up there, anyway,
11 right now.

12 MR. PRICE: No. Once you determine what your square footage is, you're
13 allowed to break that sign up or put it anywhere you want on the building. Just as long
14 as your total signage does not exceed what you are allowed.

15 MS. DORSEY: So they can have a sign on the front and one the side?

16 MR. PRICE: Right. As I stated, they're allowed because - are y'all using a pylon,
17 correct?

18 MRS. FITTS: Yes.

19 MR. PRICE: Okay. So they're allowed 27 square feet. However they desire to
20 break that 27 square feet up, that's at their option. They can do, you know, 10 on the
21 front, 17 on the side.

22 CHAIRMAN TOLBERT: It's a total.

23 MR. PRICE: Yes, sir.

1 CHAIRMAN TOLBERT: Okay. Thank you. Any other questions? Okay. Thank
2 you.

3 MRS. FITTS: Thank you very much.

4 CHAIRMAN TOLBERT: All right. There's no one signed up in opposition. The
5 Chair will now entertain a discussion.

6 MR. BROWN: Personally, I'm extremely skeptical of this request. I think the
7 purpose of the sign is to advertise off of St. Andrews Road. And I am hard-pressed to
8 believe that simply putting a sign up on the side of the building is going to have the
9 desired affect that the applicant's been attributing. I have heard nothing that even
10 approaches a level of hardship.

11 MR. FORMYDUVAL: I have a tendency to agree with Mr. Brown. I think there's
12 some – given that there is some additional square footage that's available for them for a
13 sign, I can't see why an alternative - that would be used. And I tend to agree that just
14 placing a sign with the company's name on it on the side of the building is more of an
15 advertisement than an inducement to park in a certain area without being told exactly
16 that.

17 CHAIRMAN TOLBERT: Any other discussion? No other discussion, the Chair
18 will now entertain a motion.

19 MR. BROWN: Mr. Chairman, I move that Case 04-105 V be denied.

20 MR. FORMYDUVAL: I'll second.

21 CHAIRMAN TOLBERT: It has been motioned that 04-105 V be denied. All in
22 favor of that motion raise your hand. Opposers.

1 [Approved to deny: Dorsey, Formyduval, Tolbert, Brown; Absent: Young, Perkins,
2 Myers]

3 CHAIRMAN TOLBERT: Motion denied. The Zoning Administrator will be in
4 touch. Next case, please.

5 **CASE 04-108 SE:**

6 MR. PRICE: The next item is Item C, Case 04-108 SE. The applicant is Greg
7 Lehman. The location is Forest Shealy Road. It's located at Forest Shealy Road and
8 Three Dog Road. The applicant is requesting the Board of Appeals to grant a special
9 exception for the development of detached cluster housing on property zoned RS-1.
10 There's one amendment to his request. It's on the attachments that I handed to you
11 earlier. The applicant is proposing to construct a 10 single-family detached cluster
12 housing development as opposed to the 20. So he's not asking for a 20 single-family
13 detached cluster housing development. It's going to be a 10 single-family detached
14 cluster housing development.

15 CHAIRMAN TOLBERT: Okay. Mr. Lehman, please come forward and state any
16 information – give your name and address and state any information you'd like to share
17 with the Board.

18 **TESTIMONY OF GREG LEHMAN:**

19 MR. LEHMAN: Thank you. Good afternoon. My name is Greg Lehman and I'm
20 here representing the Mungo Company, located at 441 Western Lane in Irmo, South
21 Carolina. We're requesting that a special exception be approved for cluster housing on
22 this 9.09 acre tract. It's located southeast of the intersection of Forest Shealy and Three
23 Dog Road. It's our plan to combine the property with an adjacent 79.68 acres that were

1 approved for 250 units in a cluster development. This property is presently zoned RS-1
2 and was zoned as such in 1986. The property zoning could allow for the construction of
3 over 30 single-family units. We're requesting that this 9.09 acres be approved for
4 clustering in order to add 10 units to bring the total for the overall development to 260.
5 The proposed development will provide a minimum of 25% common area or open
6 space. This will result in a minimum of 22 acres being set aside as common area. The
7 common area will include landscaped entrances, buffers along Forest Shealy, Johnson
8 Marina, and Silver Point Roads. We're also proposing to provide, within the common
9 area, community parks, a recreation center for the community with a swimming pool, a
10 tennis court, and a community boat ramp and dock, and, also, walking paths. All
11 conditions that were previously agreed to with the Ballentine Dutch Fork Civic
12 Association for the approval on the 79.68 acres and the 250 lots will apply to this
13 approval with the exception of the limit for the 250. The maximum number of units
14 allowed will now be 260. And that was stated in their letter. I'll be glad to answer any
15 questions that you may have. As Mr. Price mentioned, some additional information was
16 supplied to you. Most recently, there is another additional layout, or conceptual plan,
17 that was the last one that was attached and it shows a few changes since the last time
18 we were here.

19 CHAIRMAN TOLBERT: Okay. Any questions?

20 MR. BROWN: Mr. Lehman, if I might. Could you come back up, please? I
21 understood you to say that, I believe, that the amount of open space will be increased
22 from the minimum required 10% to 25% as was laid out in that letter to the Ballentine

1 Civic Association and that pertains to this property as well as the other, larger, 79 acre
2 tract?

3 MR. LEHMAN: That's correct. Anything that we agreed to in the letter, which I
4 don't know if it was attached with the information you have now. The last time we were
5 here you had that attached letter. All those things hold firm with this 9.09 acres, as well.

6 MR. BROWN: Okay. Thank you.

7 CHAIRMAN TOLBERT: And the Ballentine Civic community center up there is
8 aware of your changes and they have agreed with you?

9 MR. LEHMAN: Yes, sir. I spoke with the President of the Ballentine Civic
10 Association last week and made sure that he was aware. And I know Stewart Mungo
11 has been in conversation with some other members, as well.

12 CHAIRMAN TOLBERT: Okay. Thank you. Any other questions? No other
13 questions. Thank you.

14 MR. LEHMAN: Thank you.

15 CHAIRMAN TOLBERT: There's no one signed up in opposition. The Chair will
16 now entertain a discussion.

17 MS. DORSEY: I've had some problems with this plan from the start on a matter
18 of principal just because I don't see this as true cluster housing. I'm not in favor of it. I
19 haven't voted for any that have come up. I don't think buffers constitute open space
20 and I'm concerned about widening of the road, what that does with the proposed, or
21 supposed, open space that the buffer takes up, I think, 20% of what is common, open
22 space, or supposed to be. The conceptual plan, at least one of them, doesn't look like

1 it's even got a walking trail over on the other side, the Forest Shealy Road side. This
2 doesn't live up to the way I see cluster housing described in the intent of the ordinance.

3 CHAIRMAN TOLBERT: Any other discussion?

4 MR. BROWN: Well, I understand Ms. Dorsey's concern that the buffers take up a
5 portion of what is designated as common area for this development. But, even at that,
6 having devoted 15% more of the property to common area than would be required, in
7 my personal view, one sort of offsets the other. [Inaudible] you could argue whether
8 buffer areas are true common areas or not. With the added common area that has
9 been promised, I think it seems to me that that sort of offsets that concern, at least in
10 my mind.

11 CHAIRMAN TOLBERT: Any other –

12 MR. LEHMAN: Is it possible to address the question or the concern about the
13 buffer area? Because I –

14 MS. DORSEY: I don't mind.

15 MR. LEHMAN: I know it came up the last time we were here.

16 CHAIRMAN TOLBERT: Please talk into the mic so we can all hear you.

17 MR. LEHMAN: I'm sorry. I know it came up the last time we were here. And one
18 of the questions was how much of the percentage of that buffer area would be, you
19 know, included or would be involved in the common area. And I actually had some
20 calculation done and it depends on what width we make that buffer. Now one of the
21 things when we first came here on the 79 acres, that was one of the concerns of the
22 community was that we try and keep the rural look of the road by buffering and not
23 having the backs of the houses being able to be viewed, you know, from the roadway.

1 So what we had established in the conceptual plans that you see is approximately a 50'
2 buffer along the road. Now, even 50' or 40', the amount of common area that's used up
3 is between three and five acres. So, you know, and the 22 acres that we have is
4 probably on the low side of what we're going to end up with, to be very honest with you.
5 But, to answer your question, we have looked at the possibility of actually even
6 extending, you know, a walking trail through that buffer, allowing a walking trail to go up
7 to allow access to the school property. There is – there are sidewalks throughout the
8 community, as well. And so we will be connecting those walking trails to the sidewalks
9 in each community. And we expect for the opposite side of Johnson Marina Road, the
10 side between Forest Shealy, the smaller parcel, and the other parcel to be one
11 community. There will be connectivity between those. And all the amenities will be
12 shared between those different sides of the road. So there will be pedestrian access.
13 They will be able to get from the one piece to the other. Hopefully that answers, you
14 know, some of the question that you have.

15 CHAIRMAN TOLBERT: Okay. Thank you. No other discussion. The Chair will
16 now entertain a motion.

17 MR. FORMYDUVAL: Mr. Chairman, I move that 04-108 SE be approved.

18 MR. BROWN: Second.

19 CHAIRMAN TOLBERT: All in favor of 04-108 SE be approved by raising your
20 hand. Opposers? One opposed.

21 *[Approved: Dorsey, Formyduval, Tolbert, Brown; Opposed: Dorsey; Absent: Young,*
22 *Perkins, Myers]*

1 CHAIRMAN TOLBERT: Motion has been approved. The Administrator will be in
2 touch. Next case please.

3 **CASE 02-22 SE:**

4 MR. PRICE: The next item is Item D, Case 02-22 special exception. The
5 applicant is requesting the Board of Zoning Appeals to grant a special exception to
6 permit establishment of a manufactured home on property zoned RG-1. The applicant
7 is Melanie Corbett. The address is 5936 Foster Street. The applicant proposes to
8 remove the existing structure and replace it with an unspecified in square footage
9 manufactured home.

10 CHAIRMAN TOLBERT: Ms. Corbett, you have not signed in. And were you
11 sworn in? State your name and your address and any information you would like to
12 share with the Board, please.

13 **TESTIMONY OF MELANIE CORBETT:**

14 MS. CORBETT: My name is Melanie Corbett. My address is 5936 Foster Street.
15 I'm here to get special exception to replace my burnt-down home with a manufactured
16 home.

17 CHAIRMAN TOLBERT: Okay. Questions?

18 MR. BROWN: Ms. Corbett, what's going to be the size of this manufactured
19 home that you propose to put on the property?

20 MS. CORBETT: We're not sure of that, yet. We wanted to get the special
21 exception before we actually went to go and look. But we're looking at something in the
22 28 by 70 area.

23 MR. BROWN: Is this going to be a new unit or a resale?

1 MS. CORBETT: We don't know, yet. We're preferring a new unit but we may
2 have to get a re-

3 MR. BROWN: I'm sorry. I can't hear you.

4 MS. CORBETT: We're not sure whether it's going to be a new unit or a
5 refurbished unit.

6 CHAIRMAN TOLBERT: Any other questions?

7 MS. DORSEY: When did your home burn?

8 MS. CORBETT: May 19th.

9 MS. DORSEY: Just this past?

10 MS. CORBETT: Yes, ma'am.

11 CHAIRMAN TOLBERT: Any other questions? Thank you. There's no one
12 signed up in opposition. The Chair will now entertain a discussion.

13 MR. FORMYDUVAL: I don't see where this request is in any way adverse or
14 changes the surrounding community and I see no problem with it whatsoever.

15 MR. BROWN: I'd agree. It certainly, whether the manufactured home that's going
16 to be put on there is new or refurbished, it's going to be an improvement over what's
17 there now. And it keeps a family in the neighborhood that's been in that neighborhood
18 and I think both of those are desirable results.

19 CHAIRMAN TOLBERT: Any other discussion? The Chair will now entertain a
20 motion.

21 MR. BROWN: Mr. Chair, I move that Case 02-22 SE be approved.

22 MR. FORMYDUVAL: I'll second.

1 CHAIRMAN TOLBERT: It has been motioned and seconded that Case 02-22 SE
2 be approved. All in favor by raising your hand. Opposes.

3 *[Approved: Dorsey, Formyduval, Tolbert, Brown; Absent: Young, Perkins, Myers]*

4 CHAIRMAN TOLBERT: Motion has been approved. Administrator will be in
5 touch with you. Next case, please.

6 **CASE 05-01 SE:**

7 MR. PRICE: The next item is Item E. The case is 05-01 SE. The applicant is
8 requesting the Board of Zoning Appeals to grant a special exception to permit the
9 establishment of a family daycare on property zoned RS-1. The applicant is Kim
10 Means. The address is 12 Queen Oak Court. The applicant is proposing to operate a
11 daycare for four children, although DSS kind of, you know, they group they, so
12 according to DSS she can go up to six. Staff did not observe any conditions or factors
13 that would negatively impact this community. The applicant is required to provide
14 loading and unloading in an area other than the right-of-way. The Staff believes that the
15 double-car driveway will sufficiently provide a means to meet this requirement.

16 CHAIRMAN TOLBERT: Ms. Means, please come forward, state your name and
17 address and any information you'd like to share with the Board.

18 **TESTIMONY OF KIM MEANS:**

19 MS. MEANS: Hi. My name's Kim Means. I live at 12 Queen Oak Court. And I
20 would like to have a family daycare in my home. I've done this in Ohio and Alabama
21 and I've never had any problems with loading or unloading the children or anything,
22 really. My neighbors, it's always been fine with my neighbors. I haven't lived here very
23 long, but the neighbors in my cul-de-sac are all fine with this, and even show interest in,

1 maybe, having me take care of their kids while they're at work. I'm a very safety-
2 conscious person. And, I mean, if there was any problem with anything, I, you know,
3 would deal with that.

4 CHAIRMAN TOLBERT: Is there a homeowners association in this community?

5 MS. MEANS: Yes, there is.

6 CHAIRMAN TOLBERT: Have you been in contact with them?

7 MS. MEANS: Uh-hum (affirmative). I spoke to the president. He said that was
8 alright.

9 CHAIRMAN TOLBERT: Can you turn back to the backyard? There.

10 CHAIRMAN TOLBERT: There is a fence back there? Okay. On the steps
11 coming down, will you be providing a gate or something for safety?

12 MS. MEANS: There is a gate up at the top there. It's just open. But it's a
13 wooden gate and it closes and locks.

14 CHAIRMAN TOLBERT: Where's the gate?

15 MS. MEANS: It's kind of on – it's to the other side. But it swings out and it will
16 close and it has a lock on it.

17 CHAIRMAN TOLBERT: Okay. Any other questions? Thank you. There's no
18 one signed up in opposition. The Chair will now entertain a discussion.

19 MS. DORSEY: Mr. Chair, I believe this applicant has shown, by the way her
20 house is situated, the double-car garage, the intent to care for just four children, she
21 meets all the requirements that we would look for. And perhaps the deck is of some
22 concern. Maybe a condition applied to that, but I don't see any reason to deny this
23 applicant.

1 CHAIRMAN TOLBERT: Any other discussion?

2 MR. BROWN: I'm usually somewhat skeptical of establishing daycares in what
3 are characteristically residential areas. But, in the situation where none of the adjoining
4 property owners have any concern with it and apparently the homeowners association
5 has no concern with it, I'd agree with Ms. Dorsey. I can't find any legitimate reason to
6 oppose it.

7 CHAIRMAN TOLBERT: Okay. No other discussion? The Chair will now
8 entertain a motion.

9 MS. DORSEY: Mr. Chair, I move that special exception 04-01 (sic) be approved.
10 Perhaps, condition that means are taken to provide that the back is secure, the gate.
11 Oh, I'm sorry. Is that not right? 05-01?

12 CHAIRMAN TOLBERT: Yeah, SE.

13 MS. DORSEY: Okay. All right.

14 CHAIRMAN TOLBERT: Would you like to restate your motion for us, please?

15 MS. DORSEY: I'm sorry. I'll start again. Just to further the discussion for just a
16 moment, the concern with the deck, would that be – would a gate relieve any concerns?

17 CHAIRMAN TOLBERT: The gate would be – my concern would be the gate
18 where the child could come out the back and stumble down the steps and fall. And, you
19 know, I just want to make sure the gate would be secure for the child because, you
20 know, they tend to wander.

21 MS. DORSEY: Of course. I agree.

22 CHAIRMAN TOLBERT: So, you know, you want to make sure that they have
23 ample security for them.

1 MS. DORSEY: Okay.

2 CHAIRMAN TOLBERT: And I think she stated that she did have a lock on it.

3 MS. DORSEY: Oh, I'm sorry.

4 CHAIRMAN TOLBERT: And it was secure. Yeah.

5 MS. DORSEY: Okay. Okay. I'm sorry.

6 MR. BROWN: If she doesn't, the first lawsuit will take care of it – any business
7 she might have had.

8 MS. DORSEY: Okay.

9 CHAIRMAN TOLBERT: While we're still back in discussion, one of the things, I
10 think we still need to put the stipulation in this motion that, when we do make the
11 motion, about it only stays with her name.

12 MS. DORSEY: Oh, yes.

13 CHAIRMAN TOLBERT: Okay?

14 MS. DORSEY: Absolutely.

15 CHAIRMAN TOLBERT: The Chair will now entertain a motion.

16 MS. DORSEY: Thank you. Mr. Chairman, I would move that we approve special
17 exception 05-01 with the stipulation that the special exception stay in force only while
18 the applicant is owner of the home.

19 CHAIRMAN TOLBERT: Is there a second?

20 MR. BROWN: Second.

21 CHAIRMAN TOLBERT: It has been motioned that 05-01 SE be approved with
22 the stipulation that it stays in the owner name as long as she's the owner of the
23 property. All in favor of the motion by raising your hand. Opposers.

1 *[Approved: Dorsey, Formyduval, Tolbert, Brown; Absent: Young, Perkins, Myers]*

2 CHAIRMAN TOLBERT: Motion has been granted. Zoning Administrator will be
3 in touch with you. Next case, please.

4 MR. PRICE: Who seconded that motion, please?

5 CHAIRMAN TOLBERT: Who seconded it?

6 MR. BROWN: I did.

7 **CASE 05-02 V:**

8 MR. PRICE: All right. The next item is Item F. Case is 04-02. It's a variance.
9 The applicant is Gallion Group, Inc. The address is 1529 Broad River Road. The
10 applicant is requesting the Board of Zoning Appeals to grant a variance to encroach into
11 the required front yard setbacks in a C-3 zoned district. The subject property has a non-
12 conforming, 1802 square foot commercial building that was built about 1973. It's non-
13 conforming because it encroaches into the setbacks presently. The applicant proposes
14 to renovate the existing structure, which will cause an encroachment into the front yard
15 setback by 5'. As state, it's already encroaching so that 5' just kind of combines what's
16 already there.

17 CHAIRMAN TOLBERT: Okay. Alex –

18 MR. PRICE: Yeah. We kind of point out, and I believe the applicant will explain a
19 little bit more. It seems like, as they expand out into where the sidewalk is, that with the
20 way that the land kind of angles, it will be actually encroaching into that setback. That's
21 how we've come into the 5'. That's the part where it's going to be encroaching, right
22 there where the sidewalk is.

23 CHAIRMAN TOLBERT: On the side of it?

1 MR. PRICE: Yeah. That's still considered the front. You know you have to go
2 25' back before you get into the side yard.

3 CHAIRMAN TOLBERT: Okay. Alex Poreman, please come forward, state any
4 information you'd like to share with the Board on the project, please.

5 **TESTIMONY OF ALEX POREMAN:**

6 MR. POREMAN: Good afternoon. My name is Alex Poreman. I'm with Triangle
7 Commercial Architecture out of Raleigh, North Carolina. I'm here representing the
8 franchisee and owner, who is in the audience, Mr. Hurander(?) Sing. The property, the
9 Dunkin Donuts franchise, is proposing a renovation/remodeling to the existing building
10 that, when it was erected in 1973, which I understand, predates the existing code. Oh.
11 Excuse me. Predates the existing code being put in force in 1978. The building, as it
12 sits now, is 21' 4" off of Broad River Road and already encroaches into the front yard.
13 And what we're proposing to do is to renovate the building, both internally and
14 externally. Removing the mansard roof, the storefront moves forward only as far as the
15 existing roofline, which brings you forward, as you see in the photograph, to the front
16 edge of the vestibule and squares off the end of the building. The mansard roof will be
17 removed and actually pulled back to the structure. That's a fake front there now. As we
18 understand, any improvements to the building that will require a building permit are also
19 going to require some kind of variance. Since the building pre-existed the code it would,
20 in some fashion, be grandfathered in.

21 CHAIRMAN TOLBERT: Okay. Any questions?

22 MR. BROWN: Sir, if I understand you correctly, the net result is not going to be
23 any further encroachment –

1 MR. POREMAN: No, sir.

2 MR. BROWN: - into this front setback that you already have. It's just a matter of
3 rearranging it. Is that –

4 MR. POREMAN: The existing roofline – yes – the existing roofline that is there is
5 the extent of how far we're going to moving the store front, which, on the side yard – this
6 is actually the front face of the building as you approach it is the side yard – we'll be
7 moving that glass wall forward. And, because of the angle of the lot, it changes from
8 being 21' to being 20 and a fraction. So we've requested that the variance be - to
9 change the existing front yard from 25 to 20'.

10 MR. BROWN: I've got it. Thank you.

11 CHAIRMAN TOLBERT: Any other questions? Thank you. There's no one
12 signed up in opposition. The Chair will now entertain a discussion.

13 MR. BROWN: Mr. Chairman, it seems to me that what the applicant's requesting
14 doesn't in any way represent any greater encroachment on the property than already
15 exists. And the fact that the building predates the inception of the zoning ordinance
16 creates a hardship in terms of doing any kind of renovation to the building whatsoever.
17 It doesn't seem to me that this particular request is one that I wouldn't be inclined to
18 approve.

19 CHAIRMAN TOLBERT: Any other discussion? Okay. The Chair will now
20 entertain a motion.

21 MR. BROWN: Mr. Chairman, I move that Case 05-02 V be approved.

22 MS. DORSEY: Second.

1 CHAIRMAN TOLBERT: It has been motioned and seconded that 05-02 V be
2 approved. All in favor? Opposers?

3 *[Approved: Dorsey, Formyduval, Tolbert, Brown; Absent: Young, Perkins, Myers]*

4 CHAIRMAN TOLBERT: Next case, please.

5 **CASE 05-03 V**

6 MR. PRICE: The next item is Item G, Case 05-03 V. The applicant is the
7 Foundation Development. The location Brighton Hill Place. That's west of Parkland
8 Road. The applicant is requesting the Board of Zoning Appeals to grant a variance to
9 exceed the maximum height for a structure in a C-3 zoned district. We'd like to make
10 one amendment to this. Their original request was from 35' to 41'. Now it is – it should
11 be – 35' to 42'. The applicant proposes to construct a six-building, three-story, 180-unit
12 multi-family development. The subject property is located off of Parkland Road behind
13 the RBMC building. The surrounding area is a mixture of commercial uses. The
14 subject property is abutted by Interstate 277 on the west, multi-family on the south, and
15 office and institution on the east and north. As stated, the applicant proposes to
16 construct a multi-family development that would exceed the allowed maximum height by
17 7'.

18 CHAIRMAN TOLBERT: Okay. Who's going to speak? Mr. - please state your
19 name, any information you'd like to share with the Board on this project, please.

20 **TESTIMONY OF STEVEN CLEE:**

21 MR. CLEE: Mr. Chairman, members of the Board, my name is Steven Clee. I'm
22 with Foundation Development, part of the PRS companies out of Atlanta, Georgia.
23 Here to seek the variance for Wyndom Point Apartments. We're proposing to do 180

1 units. To give you a representation of the type of product we're bringing in, this will be a
2 combination of brick and hardy plank exteriors, use of – which are - upgraded,
3 architectural, asphalt shingles on the roof, which are more than your typical 3-tab
4 shingles. Our property will have 6 buildings, fully amenitized, with fitness center,
5 swimming pool, tennis courts, a playground. We have a program that our company puts
6 in place at all of our properties called The Lighthouse Program designed for kids as an
7 after school program, free of charge to our residents, where it's a supervised, you know,
8 homework supervision, you know, life skills type training type thing for the kids as
9 opposed to having an undirected, after school activity, which is appealing to single
10 parents and has been very well received in our other communities. To give you an idea
11 of the type of quality that we're talking about, as you come into our property leasing
12 center, this is sort of representative, at the bottom here, of the clubhouse and the type
13 of architecture we're talking, combining brick and stack stone. Interior of the clubhouse
14 is represented down here in a photo from a similar property. So I think what we're
15 bringing to the community will be very well received, especially as these apartments are
16 designed as affordable housing. What it brings is a higher standard of affordable
17 housing to people that otherwise couldn't afford to live in these type of communities.
18 And, in addition, this is a gated community. So. In terms of the variance we're seeking,
19 this property is located on the - well, I guess I would say, we're seeking this to be a
20 three-story development, which would allow us to protect more trees as opposed to
21 having a more spread out two-story development. I mean it's consistent with the
22 community as on the same road that we're building on, right down, you know, 200 yards
23 down the road is Greenbriar Apartments, also a three-story apartment building that

1 exceeds the 35' height variance. Adjacent to the back of our property is Paces Run, a
2 three-story apartment community that exceeds the 35' height restriction. And adjacent
3 to our side is an office building that is approximately 50' high. So I don't think that what
4 we're proposing is inconsistent or will not fit well in the neighborhood. I think it fits
5 perfectly. And, per the site plan that you can see here, the 180 units that we're
6 proposing, as I said here, we've got another apartment community to the back of us.
7 The office building 50' high is adjacent to us here. The other apartment community is
8 on the other side. What we're proposing here is 180 units, which will generate a density
9 of 10.67 units to the acre. The zoning for this property would allow for, as we calculated
10 it, in excess of 250 units. But we're electing to develop at a much lower density with no
11 plans, or possibility for future addition of further units. And, in concert with our plan, that
12 enables us to have more tree save areas around our property as opposed to spreading
13 out these units. To stay under a 35' height requirement we'd have to spread out and
14 have more surface runoff and more hard area and demolish more trees. As far as
15 hardships to our project, we feel that because other communities that we will be
16 competing with were allowed to have three-story buildings, which is typical in today's
17 architectural style and consistent with what you see not only here in the Columbia area
18 but throughout the southeast, and that if we weren't allowed to build three-story
19 structures it would cause a great increase to our cost and as our costs increase that
20 cost increase gets passed on to the renters. Our rents would increase and that would
21 make us less competitive and unable to fairly compete with others who've been allowed
22 to build at this height. Our competition has built units that are 9' height in ceiling height.
23 In an effort to not impose on the area in the community any more than we need to,

1 we're willing to put in 8' high ceilings. But, even doing so, we will still exceed this height
2 restriction of 35'. And I would mention that in changing the request from 41' to 42',
3 that's because our actual height as we finally designed these building, we believe the
4 very peak of the building will be 41' and three quarters of one inch. So we're less than
5 an inch over the original proposal of 41'. And then lastly I would say that if we're
6 required – if we go to a – if we were to go to a two-story structure, in order to get the
7 economies of scale necessary to make this a financially feasible property for us, we
8 would have to do more units, still allowable by zoning but more than we had intended,
9 which would cause us to adopt another financing plan because our financing is only
10 going to allow us to do the number of units we're proposing. And if we're forced to go
11 down another financing plan, that would be a less favorable financing plan for our
12 company. So, with that said, we greatly appreciate the Staff's recommendation for
13 approval and would be grateful if the Board voted to approve this recommendation.
14 Thank you.

15 CHAIRMAN TOLBERT: Before we ask any questions, does the other gentlemen
16 have anything they'd like to share with the Board?

17 MR. CLEE: They're here to support. We have the developer who's in charge of
18 this project with me and - Jeff Sherman, and Jim Larkin is our civil engineer who might
19 be able to answer some of the technical questions in regards to buffers, setbacks,
20 things of that nature.

21 CHAIRMAN TOLBERT: Okay. I think my first question would be is that knowing
22 the ordinance in this before you designed the building, why would you go build – make
23 this design knowing the restriction?

1 MR. CLEE: It's a function in our business of economics. The properties that we
2 do throughout the southeast and even into Illinois and Missouri are three story in nature.
3 It's very typical in the multi-family industry to build a three-story structure. If you build
4 two-story structures, which a lot of that was done in the 60's and 70's apartment
5 construction, you're unable to get the costs to where you want them to make them
6 viable and allow you to have a reasonable rent for the community. Your cost of your
7 concrete goes up per unit. Your cost of your roofing goes up per unit because you're
8 not able to get a height. And that's why you see not only us proposing that but other
9 communities here and elsewhere proposing that height.

10 CHAIRMAN TOLBERT: I'm still kind of confused. You didn't really answer my
11 question. Kind of walked around a little bit.

12 MR. CLEE: I didn't intend to.

13 CHAIRMAN TOLBERT: But knowing the facts that you have now and that you
14 knew before you made the design, why would you design something knowing that you
15 were going to impede a zoning ordinance?

16 MR. CLEE: What we did is we looked at the surrounding community. We spoke
17 to Staff as to what the likelihood and reasonableness of having our property approved
18 for a variance and we designed it accordingly. We didn't just blindly go down and say,
19 "We're going to do a three-story building, you know, ignore the ordinance, you know.
20 We can do what we want." We designed with the hopes and anticipation, per
21 discussion with Staff and other experiences we've had in other jurisdictions of having
22 this variance approved.

23 CHAIRMAN TOLBERT: Any other questions?

1 MR. BROWN: What's your fallback position if this variance isn't granted?

2 MR. CLEE: The fallback position would be we would go back to the drawing
3 board to see if we could make a two-story structure, demolishing a much greater
4 percentage of the trees, smaller buffers, less tree save area in the property, and
5 increase the amount of units, again, so we would have to go with a different financing
6 structure. We'd have to pursue different equity partners, different loan partners. We've
7 already gotten term commitments for both debt and equity. So we would start over.
8 And, you know, in all likelihood if we couldn't do the site or something very closely
9 similar to what we're proposing, we would probably be forced into not moving forward
10 with the deal and we'd lose out on this opportunity to develop. That - I don't know that
11 we could make it financially feasible to develop it in compliance with the 35' height
12 restriction. Which I think others have experienced the same thing and that's why they
13 built the same height buildings we're proposing.

14 CHAIRMAN TOLBERT: What kind of traffic study did you do in this area,
15 knowing where this area is? If there's any traffic study done in this area because I know
16 you're behind a business over there along, I think it's Blue Companion or Blue Cross or
17 something over there?

18 MR. CLEE: We haven't conducted a traffic study at this point, yet. We'd be
19 happy to conduct one, but we have - I can tell you generally, from our experience with -
20 this our 33rd apartment development we've done in the last few years, this is a - the
21 number of units we're proposing here will be much less impactful than in other areas
22 and in other roads and other intersections that we have developed in in which traffic
23 studies were done, and the conclusions were that, you know, example: a 250 unit

1 development, a 330 unit development, other things of that nature, larger developments
2 in busier areas had less impact or were concluded to have no impact such that you
3 would need a traffic light or things of that nature. There is a traffic light at the end of
4 Brighton where it meets Park. And Brighton is a side road to 277, very low volume
5 traffic. It dead ends into Greenbriar Apartments. So it's really just Greenbriar
6 Apartments and us and a small mental health care facility. So. From our experience, I
7 can just tell you that the conclusions of the traffic study will be no change recommended
8 to the existing light, no addition of a deceleration lane into our property. It would
9 basically conclude that it's not going to have any real impact on the area.

10 CHAIRMAN TOLBERT: Any other discussion? Questions? No other questions.

11 Thank you.

12 MR. CLEE: Thank you.

13 CHAIRMAN TOLBERT: There's no one signed up in opposition. The Chair will
14 now entertain a discussion.

15 MS. DORSEY: I wanted to ask Staff was Greenbriar and the other, what were the
16 circumstances for their increase? Was it special exception or?

17 MR. PRICE: I couldn't find any –

18 MS. DORSEY: [Laughter]. Oh, no.

19 MR. PRICE: I could not find any.

20 MS. DORSEY: Oh. So they're non-conforming or what?

21 MR. PRICE: Yes, I would assume.

1 MR. BROWN: I want to remember that at least one of those came in and got a
2 variance and I'm not sure at this point in time off the top of my head which one it was.
3 But I'm quite certain that at least one of them did obtain a variance.

4 MS. DORSEY: Okay.

5 MR. PRICE: He may be correct. I, at the time going through our records, I didn't
6 see any. But –

7 MS. DORSEY: Oh, my God.

8 MR. PRICE: But that's not to say Mr. Brown is wrong.

9 MS. DORSEY: Oh, I'm not implying [Laughter]

10 MR. BROWN: Which one is the later point in time between Greenbriar and the
11 other one?

12 CHAIRMAN TOLBERT: Paces.

13 MS. DORSEY: Paces Run?

14 MR. BROWN: Paces Run. Greenbriar, isn't it?

15 MR. CLEE: Paces Run, we believe, is a newer community.

16 MR. BROWN: More recent?

17 MR. CLEE: More recent community than Greenbriar.

18 MR. BROWN: That's the one, I think, that came in and got the variance that I
19 remember.

20 CHAIRMAN TOBLERT: Any other questions, Ms. Dorsey?

21 MS. DORSEY: No. I've got a little question about the – well, it's not actually a
22 question, a comment about - I'm not quite confident that the three-story building is child-
23 friendly. But I can let that pass. I don't like the feeling that if I don't do this, what the

1 applicant could do is going to be worse. And in a lot of these types of cases that's what
2 we're faced with. I think Staff made a good point, however, with the comment that
3 current regulations don't address current changes in architectural design. I don't think a
4 three-story building along or in that area is out of place. I am very concerned that the
5 others don't seem to be documented. I think it's unfortunate. One thing you said – the
6 applicant said – about the 8' ceilings, if you had an 8' ceiling would that bring your
7 height down somewhat? Or how did that work in with your final equation?

8 MR. CLEE: The proposed variance contemplates 8' ceilings.

9 MS. DORSEY: Eight-foot ceilings. Okay. Okay. Well, I like the design in that
10 they did point out that there's a heavier buffer. And as far as current architectural
11 trends, I just think that's a very good point. It's unfortunate we have to go around the
12 ordinance and that the ordinance can't come up to pace with the things that we have to
13 deal with. But, I'm not entirely opposed to this although I do have some misgivings.

14 MR. FORMYDUVAL: I don't - I'm not entirely opposed to it, either. And I do feel
15 like the request fits within the current use of this property within this community. I am
16 somewhat concerned with the idea of granting a request based on possible mistakes -
17 or maybe that's not the right word – things that were granted in the past. Two wrongs
18 don't make a right. But that being said, I really have no other objections.

19 CHAIRMAN TOLBERT: My concern, still again, is that you design something and
20 based on, again, old things that happened in the past. So that you're going to design a
21 building and bring it before us and say that you're going to build three-story building.
22 And to me it only seems like it's just a money issue to me. It doesn't seem like you're
23 really concerned about the community. You're concerned about how much profit's

1 going to be made. Given that community's expanding they do need housing in there,
2 but knowing the ordinance and what it says and you go ahead and you build one before
3 you even consider that we need to take the ordinance into consideration before we even
4 build it. So it would seem to me it was built on a money issue, not on a concern issue,
5 to me. That's my feelings about it.

6 MR. BROWN: I share Ms. Dorsey's concern that sometimes I feel like we're
7 getting bullied into passing something. But if you don't do this, then here's what we're
8 going to do. But having said that, it's a fact that they do back up to a multi-story office
9 complex. There are apparently at least two other apartment complexes in the
10 immediate vicinity that are similar in height. That's not a persuasive point to me and I
11 don't think it should be to any Board Member. But I do tend to agree with them in that
12 perhaps the ordinance is outdated in imposing a 35' height restriction on structures of
13 this type. And quite frankly I'm dubious that the average bear could tell the difference
14 between 35' and 42', anyway, particularly if you're looking at it in surroundings where
15 the other buildings exceed that. So, all that being said, while I have some reservations I
16 guess they don't rise to the level that I'd find to vote against it.

17 CHAIRMAN TOLBERT: Any other discussion? No other discussion, the Chair
18 will now entertain a motion.

19 MR. CLEE : Not to overspeak when I probably shouldn't say anymore. I didn't
20 know if there was an opportunity to address the comments.

21 CHAIRMAN TOLBERT: I've asked for a motion. Thank you. Anyone need to
22 hear before the motion goes any other – need any other information? The Chair will
23 now entertain a motion.

1 MS. DORSEY: Mr. Chair, I move that the variance request for 05-04 (sic) be
2 approved. Am I on the right one?

3 CHAIRMAN TOLBERT: Wrong one.

4 MS. DORSEY: I'm on the wrong one.

5 CHAIRMAN TOLBERT: 05-03.

6 MS. DORSEY: Let me take that back. Restate my motion. Mr. Chair, I move
7 that the variance request for 05-03, Foundation Development Group, be approved.

8 MR. BROWN: Second.

9 CHAIRMAN TOLBERT: It has been motioned that 05-03 V be approved. All in
10 favor of the motion by raising your hand.

11 MS. DORSEY: Mr. Chair, I'm sorry. Do we need to make a stipulation about it
12 being 42 instead of 41' since that's what's in our request?

13 MR. PRICE: You can even though it's part of the Record now.

14 CHAIRMAN TOLBERT: It's now on our records, already.

15 MS. DORSEY: Okay. All right. I take that back. All right. Sorry.

16 CHAIRMAN TOLBERT: All right. You want to redo that motion one more time?

17 MS. DORSEY: Okay. Mr. Chair, I move that case number 05-03, variance
18 request for Foundation Development, be approved.

19 CHAIRMAN TOLBERT: Is there a second?

20 MR. BROWN: Second.

21 CHAIRMAN TOLBERT: It has been motioned that 05-03 V be approved. All in
22 favor by raising your hand. Opposers? Motion's been approved.

1 *[Approved: Dorsey, Formyduval, Brown; Opposed: Tolbert; Absent: Young, Perkins,*
2 *Myers]*

3 MR. CLEE: Thank you.

4 MR. PRICE: Mr. Chair?

5 CHAIRMAN TOLBERT: Yes.

6 MR. PRICE: Would it be okay if we took like a two minute break?

7 CHAIRMAN TOLBERT: Yes. The Chair will now entertain a motion for a recess.

8 MR. BROWN: So moved.

9 CHAIRMAN TOLBERT: All in favor. Opposers.

10 *[Approved: Dorsey, Formyduval, Tolbert, Brown; Absent: Young, Perkins, Myers]*

11 CHAIRMAN TOLBERT: The Chair will take a recess.

12 *[BREAK]*

13 CHAIRMAN TOLBERT: The Chair will now entertain a motion to go back into
14 open session.

15 MR. BROWN: So moved.

16 CHAIRMAN TOLBERT: Second?

17 MR. FORMYDUVAL: Second.

18 CHAIRMAN TOLBERT: All in favor.

19 *[Approved: Dorsey, Formyduval, Tolbert, Brown; Absent: Young, Perkins, Myers]*

20 CHAIRMAN TOLBERT: All right. Next case, please.

21 **CASE 05-04 V:**

22 MR. PRICE: Next item is Item H, Case 05-04 V. The applicant is requesting the
23 Board of Zoning Appeals to grant a variance to encroach into the required front yard

1 setback in a planned unit development zoned district. The applicant is John Scheper.
2 The location is 29 Hilton Glen Court. The subject property is unoccupied, single-family
3 residential structure. The applicant proposes to encroach a portion of the structure one
4 foot into the required 25' setback.

5 CHAIRMAN TOLBERT: Mr. Scheper, please come forward. State your name,
6 address, and what you would like the Board to do.

7 **TESTIMONY OF JOHN SCHEPER:**

8 MR. SCHEPER: My name is John Scheper, address is 115 Dutch [inaudible],
9 Chapin. Thank you for hearing my request. If you look at the plat on this you can sort
10 of see what the problem is. We've got that front right corner over the setbacks by
11 approximately a foot. Now, the error is mine. I've been in building for about 20 years.
12 My company's been in since '89. We build five to 10 houses a year and I lay them all
13 out. And I laid this one out a little too close. I would like you to understand and
14 consider what I did wrong here. It was an error probably more out of lack of knowledge
15 than, and I've been in it awhile and I think, you know, as always, as we grow older we
16 constantly learn, hopefully not this way. But when I laid the house out – and I'll tell how
17 typically we lay a house out. We pull the pins on the corners. Pull a line on them. We
18 pull our setback. Pull a line on those. And it creates what we call a building envelope.
19 And this house fits in that envelope without a problem. But if you look at the plat – I
20 gave you a handout – if you'll look the actual plat versus the subdivision plat, you can
21 see as that road comes into that corner, the lines on the side property lines come off the
22 road at a sharp angle. Typically what we've done in the past is simply pull up that
23 angle, that property line from that pin. In this case I pulled 26' and you make a mark.

1 And that gives us the foot over setback, which in most cases is ample enough space to
2 build a house without being over. But if you look at that, when you pull that string, that
3 tape, at a right angle like that you're not actually 25'. Of course, I've argued with the
4 surveyor till I was blue in the face. Went to my developer and he saw it my way, too.
5 But there's sometimes you just – things that seem commonsense are not always
6 commonsense to some people. At any rate, when the surveyor, excuse me, when the
7 foundation man laid that out he had a set of strings to go by and he kept the house
8 within those strings. But the error was that 26' was not enough based on an angle. If
9 you back up and look at 22 – 21, you'll see what I was talking about. If you pull directly
10 away from the road, you're pretty much at 25' and those make sense. And as you get
11 into that curve, it's sort of hard to tell with a curve exactly where your setback's going to
12 be. So that's how we got where we are. And our request is a foot, it's about a foot
13 hanging over on that corner. We've got trees in the back. We could have pushed the
14 house back without a problem. My concern was not to knock all the trees down. If you
15 look at the pictures, you'll see there is tree. I don't know if you have any of the back.
16 There is a tree in the back that we're trying to save. And, as I do on most of my houses,
17 try to save as many of the trees as we can. And in this case right here we probably still
18 could have moved it back a little bit. But that's that one error. Just pulling off at an
19 angle instead of pulling it straight is what caused the problem here.

20 CHAIRMAN TOLBERT: I'm sure you only found this out after it was done, right?

21 MR. SCHEPER: Well, if it had been the other way, if I was going to encroach on
22 a piece of property, I think I try a little more than just the corner. So, yes, it was well

1 after. This has been known now for a couple of months and the house has been
2 finished for a couple of months. It came to our attention during a sale.

3 CHAIRMAN TOLBERT: At least you're honest.

4 MR. SCHEPER: Well.

5 CHAIRMAN TOLBERT: And I think I can understand what happened there,
6 myself. And you're the one that was doing measurements and taking the
7 measurements?

8 MR. SCHEPER: I have nobody to blame but me. Now this subdivision has
9 multiple setbacks. If you look on that – not for any excuse – but if you'll look on that plat
10 I gave you. If you look at the Commons Court area, they're got a 10' setback in the
11 front and a 10' in the back and zero on the sides. And if you look at lot 13, it's got a 70'
12 setback. So the setbacks in the subdivision are random. I've talked with the developer
13 and asked him, you know. And had he did it 20' I'd probably done the same thing. But
14 I'd asked him about that. And he said he didn't know why they set it back 25'. Most of
15 the houses we build in the area typically have approximately 20' setback, on average.

16 CHAIRMAN TOLBERT: Any other questions, any questions?

17 MR. BROWN: Mr. Scheper, what do you propose to do if the Board doesn't grant
18 you this variance?

19 MR. SCHEPER: Well, there's not a whole lot I can do. I could tear the corner of
20 the house out and prop it up with a stick, I guess. But it's really not much you can do.
21 The garage – I mean I could tear the front of it out. The garage is already short. The lot
22 slopes, so in the back I've got, you know, like I say, 2' off the ground. In the front, if you
23 look at the steps – and it's hard to see in that picture – you've got about a 5' rise. And

1 on a 20' garage, a 21' garage, you have steps coming from that rise down into the
2 garage. So in this house right here, that cut that garage to a little less than 18'. So,
3 while it's a two-car garage, the left side's really not useable unless you use a small car.
4 The right side, you can put a full size car in there. But then, if I cut back another foot to
5 accommodate the front of that, then, you know, you won't be able to get a car in there.
6 And, of course, the expense. You're probably looking, you know, \$7000, \$8000 to tear
7 the front out and redo it. And, there again, you know like I say, it was unintentional. No
8 builder intentionally goes over the lines that I know of. I've never met one. And we're
9 not interested in incurring senseless cost.

10 CHAIRMAN TOLBERT: Any other questions? Thank you. There's no one
11 signed up in opposition. The Chair will now entertain a discussion. Discussion?

12 MR. FORMYDUVAL: I really have a hard time with cases such as this. I've been
13 critical in the past of builders for what I felt were lack of due diligence and finding
14 setbacks, building into these areas. In this case I feel like the only problem, just as he
15 said, just made a slight error. And that does happen. I feel for the situation. I'm very
16 hard pressed to find a hardship that justifies a variance in this situation.

17 MR. BROWN: I've got the same problem. It's refreshing to hear someone come
18 in and just candidly admit that they made an error without trying to blame somebody
19 else for it or something that was beyond their control or whatever. That's what we
20 normally hear. And it's not easy to come in and say, "I'm the one that did it." Having
21 said that, I'm sort of in the same situation Mr. Formyduval is. I'm hard pressed to find a
22 hardship as much as I may want to.

23 MR. SCHEPER: May I address that question?

1 CHAIRMAN TOLBERT: Board? He'd like to address it.

2 MR. BROWN: Oh. All right. That's fine with me.

3 CHAIRMAN TOLBERT: Come forward, please.

4 MR. SCHEPER: The question is "Is there a hardship?" And there really is. It's
5 quite expensive to tear the front off. And, you know, we don't make that kind of money
6 on houses to afford to tear them off. So like I say, it was not an intentional error. But
7 the hardship is there. It would be very expensive and it renders a house, you know,
8 almost useless in the front because I need to move it back an entire foot. It's already,
9 with the steps coming down from the house because the house is elevated in the front.
10 You know, I could have moved it back. The further you move it back, though, there's a
11 wash area back there – I talked with Geo about this – as I move that back I get into the
12 subdivision between the two houses there's a wash area. And you move it back you get
13 closer and closer to that wash area. And I wanted to stay out of that and wanted to
14 keep the trees. And, of course, I surely don't want to tear the front of it out. There is a
15 hardship, though. It's the difference between making a living and not. And, like I said,
16 the developer and I've built the houses on the street and other people I've built for don't
17 have a problem with it. If you look at the drive on there, you'll see that that driveway's
18 longer than the rest of the driveways because of the way the house sits on the lot. The
19 house doesn't appear – it actually looks like it's further off of the road than the rest of
20 them. Is the way that easement and that right of way comes through there to cause that
21 lot to be [inaudible]. So there would be some hardship. I appreciate you considering it.

22 CHAIRMAN TOLBERT: Mr. Brown, do you want to make any comments?

23 MR. BROWN: I've made my comment.

1 CHAIRMAN TOLBERT: Any other discussion? No other discussion?

2 MR. FORMYDUVAL: I'm wondering out of curiosity, what is the slope of this lot
3 from the back to the front? Do we have any information or calculation, on that?

4 MR. PRICE: Maybe the applicant can answer that one.

5 CHAIRMAN TOLBERT: Do you have any -

6 MR. SCHEPER: No, sir, I don't. The house is approximately 18" on the back left
7 corner. And the front right corner where the steps go in the garage is about 4½'
8 [inaudible]. That's about a 30 something foot wide.

9 MR. PRICE: Just to kind of interject. Staff did observe that - we were out there
10 most of the lots out there were relatively flat in nature. I believe even the house beside
11 it was a little flatter as opposed to sloping upward as this one is. [Inaudible] Yeah. You
12 can kind of see around. And even some of the other pictures that - I mean even I was
13 a little confused at first on some of the adjacent lots that I thought were definitely
14 encroaching into the setbacks. But they weren't, but that's just because they were on a
15 flatter as opposed to going upward.

16 CHAIRMAN TOLBERT: Okay. Any other discussion? No other discussion? The
17 Chair will now entertain a motion. The Chair will entertain a motion. The Chair will
18 entertain a motion.

19 MR. PRICE: Maybe Legal can help out in this instance. I'm not sure. Maybe
20 Legal, Legal may be able to interject in this and have a suggestion.

21 CHAIRMAN TOLBERT: The Chair will entertain a motion to go into Executive
22 Session.

23 MR. FARRAR: You don't -

1 CHAIRMAN TOLBERT: Need to? Okay. You want to share some information?

2 MR. FARRAR: Yeah, Mr. Chairman. I apologize. I had another piece of
3 business when this case started. But in looking at the case we're talking about, I
4 understand, one foot into the required setback. You're talking about a 0.3-acre tract.
5 And a house that size probably tough to fit on that building footprint. And I see in the
6 discussion there's no negative impact. This is in keeping with the surrounding area.
7 You're probably looking at the diminimus, or the negligible, impact that this would have.
8 And a lot of times your hardships in proportion to the extent of the request, and if you're
9 talking about a 10, 20', you know, request you're probably looking at a bigger hardship
10 than a 1' request. And, while the cases talk about – there's kind of this perception that
11 you can't have any financial impact to consider as part of the hardship; that really it can't
12 be exclusively the hardship. But you can certainly consider the cost to the applicant of
13 having to, you know, reconfigure the house in proportion to what the request is in terms
14 of the hardship. So the financial component is there, it just can't be the exclusive basis.
15 So that, with the diminimus impact, or the negligible impact of a foot that's not affecting
16 the area, if you were inclined, could form a basis for a hardship. You know, it's up to
17 you.

18 MR. BROWN: Having said that, I've struggled mightily to come up with
19 something. I was not inclined to vote against it if I could avoid it. Based on the
20 information from Mr. Farrar, I'll move that Case 05-04 V be approved. The hardship
21 being the diminimus nature of the encroachment, the size of the lot vis-à-vis the size of
22 the house, and the financial consideration involved in modifying the house to remove
23 the encroachment.

1 CHAIRMAN TOLBERT: Is there a second?

2 MR. FORMYDUVAL: I'll second it.

3 CHAIRMAN TOLBERT: It has been motioned that 05-04 V be approved with the
4 hardship stated in the motion. All in favor by raising your hand. Opposers?

5 *[Approved: Formyduval, Tolbert, Brown; Opposed: Dorsey; Absent: Young, Perkins,*
6 *Myers]*

7 CHAIRMAN TOLBERT: Motion's been approved. Next case, please.

8 **CASE 05-05 SE:**

9 MR. PRICE: The next item is Item I, Case 05-05 SE. The applicant is Florence
10 McCants representing Wesley United Methodist Church. The location is 344 McRae
11 Street. The applicant is requesting the Board of Zoning Appeals to grant a special
12 exception to permit the establishment of a church with an addition on property zoned –
13 oh, excuse me. It's just an establishment of a church and it's going to be an actual
14 fellowship hall on property zoned RG-1. The applicant proposes to construct a 2200
15 square foot fellowship hall. The subject property is located in a community of homes off
16 of River Drive. The adjacent parcels southeast and west of the subject parcel are
17 single-family residential structures. The parcel north of the subject property is a multi-
18 family residential development. I guess if the Board grants this special exception the
19 fellowship hall will be combined with that existing structure to make one and the lots are
20 being combined at this time.

21 CHAIRMAN TOLBERT: Okay. Ms. Florence McCants, please come forward.
22 Give information that you would like to share with the Board on this project, please.

23 **CASE 05-05 SE:**

1 MS. MCCANTS: Good afternoon, Members. My name is Florence McCants and
2 I'm a member of Fellowship Hope Church, Wesley United Methodist Church, as with
3 several of my other church members here today. And for all intent purposes, we have
4 just outgrown ourselves. And that's a good thing considering that we are a church
5 facility. In the past we have been a site for GED courses to help others in the
6 community, as well as the surrounding communities, to further educate themselves. We
7 provide a pantry ministry, a clothing ministry. We have worked with the youth in the
8 neighborhood and propose to always want to do so. But with where we are now we're
9 very confined as far as space. And what we would truly not want to do is have to
10 provide or cut back on some of the services that we're already offering just in order to
11 maintain what we're doing right now. So what we're doing is we're somewhat
12 overlapping ourselves. And basically what we'd like to do is just to add on to our
13 property and building, keep growing.

14 CHAIRMAN TOLBERT: Okay. Any questions? No questions? Thank you. We
15 have others here scheduled to speak. Is there a representative or you all would like to
16 speak? Okay. All right. Let's see. Robbie. Is there a Robbie there?

17 AUDIENCE MEMBER: [Inaudible]

18 CHAIRMAN TOLBERT: Okay. You Roosevelt? You're passing yours? Scott,
19 you want to speak? Pass?

20 MS. SCOTT: I pass.

21 CHAIRMAN TOLBERT: Okay. Reverend Austin. Is he here?

22 MS. MCCANTS: He's not here to speak.

23 CHAIRMAN TOLBERT: Oh, okay.

1 MS. MCCANTS: Thank you.

2 CHAIRMAN TOLBERT: Is there anyone else in the group that wants to speak?
3 Okay.

4 MR. BROWN: Didn't Reverend Austin come in before and get a special
5 exception to put this building in originally?

6 MS. MCCANTS: Yes, sir, we did. We just, at that time, didn't take into
7 consideration the demands of the community, the neighborhood, and our growth and we
8 realize it.

9 MR. BROWN: This is down across from Roosevelt [inaudible]?

10 MS. MCCANTS: Yes, sir, it is. In Broad River Heights community.

11 MR. BROWN: I remember.

12 CHAIRMAN TOLBERT: Yeah. I remember. Okay. Thank you. Any other
13 questions for any - no other questions? There's no one signed up in opposition. The
14 Chair will now entertain a discussion.

15 MR. BROWN: Mr. Chairman, it's obvious that the programs that this church is
16 presenting are worthwhile. Certainly in light of the events that have occurred in the last
17 few days, programs of this sort are extremely necessary. I'd certainly endorse it
18 wholeheartedly.

19 CHAIRMAN TOLBERT: Any other discussion? No other discussion. The Chair
20 will now entertain a motion.

21 MR. BROWN: I move that Case 05-05 SE be approved.

22 MS. DORSEY: Second.

1 CHAIRMAN TOLBERT: It has been motioned that 05-05 SE be approved. All in
2 favor of the motion by raising your hand. Opposers?

3 *[Approved: Dorsey, Formyduval, Tolbert, Brown; Absent: Young, Perkins, Myers]*

4 CHAIRMAN TOLBERT: Motion's approved. Next case.

5 MS. MCCANTS: Thank you.

6 **CASE 05-06 SE:**

7 MR. PRICE: The next item is Item J, Case 05-06 special exception. The
8 applicant is requesting the Board of Appeals to grant a special exception for the
9 development of detached cluster housing on property zoned RS-2. The applicant is
10 Douglas Van Schaik. The location is at Hope Road and Sesqui Trail. Once again, the
11 property is zoned RS-2. The applicant is proposing to construct an 86 lot, single-family,
12 detached cluster housing development. The subject parcel is about 24 acres. Just to
13 kind of point out, under normal conditions, conditions on the traditional development of
14 RS-2 zoning, this 24 acre tract could be developed for 123 dwelling units. Of course,
15 this does not take into account the land that must be used for infrastructure, buffering,
16 etc. The RS-2 district requires a minimum width of 60' and a lot area of 8500 square
17 feet. Cluster housing allows the developer to substantially build smaller lots in lot width
18 and lot area.

19 CHAIRMAN TOLBERT: Okay. Mr. Van Schaik. Didn't sign in and you wasn't
20 sworn in, right?

21 MR. VAN SCHAIK: No, I have not.

22 CHAIRMAN TOLBERT: Okay. You need to – have to sign in first.

1 AUDIENCE MEMBER: Mr. Chairman, we also have some people that came in
2 late as far as speaking against it and they may be want to be sworn in at the same time.

3 MR. FARRAR: Very good. If we have anybody who needs to be sworn in and
4 sign in we can go ahead and take care of that right now.

5 CHAIRMAN TOLBERT: Please state your name, address, and any information
6 you'd like to share with the Board on the project, please.

7 **TESTIMONY OF DOUGLAS VAN SCHAIK:**

8 MR. VAN SCHAIK: Thank you. My name is Doug, or Douglas Van Schaik. I live
9 at 501 Oak Brook Drive in Columbia. The zip code is 29223-8123. I might note that I
10 live in Wildewood and have done so for 24 years so I'm certainly familiar with the growth
11 of Wildewood and the surrounding areas. And I've had an opportunity to meet a
12 number of neighbors here, today. I'm also the developer of Parkridge at Polo and we've
13 done three phases just up the road on Hope Road. And, in each case, we started at a
14 price point of about \$190,000 on the first 10. We then went to \$200 to \$225 on the next
15 33 lots. And on the phase three our price point will be between \$235 and \$275. I'm
16 speaking of thousands of dollars. This is actually phase four of Parkridge at Polo. And
17 in keeping with intent of the cluster housing development and in keeping with what
18 we've done thus far, what we wanted to do was add a little diversity, a little variety, a
19 little flexibility in our product. And what we'll be doing will be townhouses, upper-end
20 townhouses. So from a comparable point of view it will be certainly on a par with
21 Wildewood. And I think anybody who may have some concerns about cluster housing,
22 which I think usually denotes a little lower end housing, that will not be the case in this
23 particular situation. When I heard that there were nine or 10 people who signed up in

1 opposition, I was I guess a little surprised. And then I found out that they're really not in
2 opposition, *per se*. I think most of them just had questions about what we were going to
3 do. Now, one gentleman had to leave. His name is Dean Stone. He's the president of
4 the Wildewood Glenn Homeowners Association. And he had heard it was going to be
5 really low-end housing and that was his concern. When I explained to him what we
6 were doing, he was quite pleased and basically said he didn't have any opposition. He
7 was really happy, in fact, that that's what we were doing. The net of it is is that on the
8 24 acres, as Geo had mentioned, normally 123 houses would go in without the roads,
9 etc., etc. What we've tried to do is to look at the intent of zoning. And I've been kind of
10 following the Town and Country concept over the years. And without quoting any
11 specifics of what's been proposed with that, because, in fact, it's not law - we're dealing
12 with what we have today - I think you'll be please to note that we've addressed many
13 issues which came up in those discussions. For example, a full 37% of the property will
14 be either open space or a landscape buffer. The perimeter of the property is just a
15 shade under a mile. It's about 5,010'. And virtually the entire perimeter, with the
16 exception of some 400' or so on Hope Road, will actually be buffered with considerable
17 amount of property or landscaping. So the concept was to have it nestled in to preserve
18 nature and to make a high-end housing opportunity with some variety that doesn't exist.
19 The net houses per acre comes to 3.56. And I happened to be in this room a month
20 ago and noticed that there was another developer who had gone forward with cluster
21 housing which was approved. And the density there was 5.1 houses per acre. And the
22 price point was considerable less, less than half for example. So overall we have nine
23 acres of buffered area, or open area, of the 24, 86 units and deed restrictions will

1 include architectural shingles. It'll include brick. I think it'd be a community that
2 anybody'd be proud to live in and certainly a very good neighbor. There are only four
3 houses on Hope Road that would be across from this development. Three of those
4 houses have been there, I guess, since the '70s. They are members of Wildewood
5 community. And the appraisals on those properties are less than what our average
6 price point will be on this community. So the question of "Will it hurt my values", the
7 answer is no. It will not. If anything it'll add to it. Another concern that was expressed
8 to me was what will your deed restrictions be in terms of the size? Three homes – I
9 guess there's actually four homes, now, in Wildewood have a deed restriction, I believe,
10 of 2,500 square feet. We will not be that high as a restriction, but I'd like to point out
11 that you can build large buildings and not have high value. Now what we're going for is
12 quality, really high quality. So I suspect we'll be in the 2,000 to 2,200 minimum. But
13 that does not preclude anybody from building higher than that. And in phase three of
14 Parkridge, we're at 2,200. And the houses going up are all larger than that. Phase 2
15 we were at 1,600 and there's not one home less than 2,100. So I think the quality will
16 be there. The requirement for cluster housing for open space is 15%, I believe. And
17 we're looking at 37%, so we're a full 140% higher than what the minimum requirement
18 asks for. I don't think I have anything else to add other than the fact that during our
19 development of Parkridge at Polo, which has take a couple of years and three phases,
20 any question that's been addressed to me I've done my best to answer in a positive
21 way. I've had a lot of compliments, in fact, from people in the neighborhood about what
22 has developed there, the way we've done it, the product that's there, our
23 responsiveness. And I would hope you would see the same thing here. I've asked Dan

1 Creed, who's the engineer, he's done phase 3 of Parkridge at Polo, will be doing the
2 work here. And if there's any questions anybody may have from him. So, I think at this
3 point I'm finished talking. If there's any questions I'd be happy to answer them.

4 CHAIRMAN TOLBERT: All right. Questions?

5 MR. BROWN: Mr. Van Schaik, one of the concerns that's been expressed, and
6 I'm sure will be expressed, has to do with the impact of your development on traffic on
7 Hope Road and subsequently into Polo Road. Would you care to speak to that
8 particular?

9 MR. VAN SCHAİK: Yes, sir. Well, all I really know is that Planning looked at it.
10 And I know that the state and the county have specific requirements for traffic impact on
11 communities. And my understanding is that the analysis entails using a number of, I
12 think, 9.5 trips per unit. And even with that number, seems to be quite high, we're way
13 below traffic that can be absorbed on Hope Road. So I don't think there would be a
14 problem. Would there be more traffic? Yes. There will be. But there won't be much
15 traffic going all the way down Hope Road. Our entrance is proposed to be on Hope
16 Road a couple hundred feet past Sesqui. And I guess that would impact one or two;
17 when I say impact I mean as far as we go past one or two of the houses that are
18 already there. But Hope Road is a state road. It's a very well built road. It's a very well
19 drained road. As far as coming out on Polo Road, that's one way you could out. The
20 other way you could come out would be through Wildewood Glen, also coming out on
21 Polo Road, but at a different location. So the point is that you're not limited to one
22 intersection. You do have two intersections and the traffic could be disbursed. If I may
23 further elaborate, we looked at the possibility of putting an entrance on Sesqui, as

1 opposed to Hope. But everybody I talked to, engineers and people living in Wildewood
2 Glen thought that was a bad idea. The reason being is if you live in this development
3 and you're coming down Hope Road, you would turn into the community and that would
4 be it. If we had an entrance on Sesqui, you would come down a hill. You would put
5 your foot on the brakes. You would turn right and then within 200' you would make a
6 left turn to go into the community. That way you're cutting in front of traffic on Sesqui
7 coming out to Hope Road. So there would be a lot more potential for accidents, a lot
8 more congestion doing it that way. While I know anybody who lives in a house doesn't
9 like to have a road across the street from them, that happens all the time. And I
10 apologize for talking so much on your question. But I don't think that the impact is very
11 great. But, yes, there will be more traffic.

12 CHAIRMAN TOLBERT: Have you had a discussion with the Wildewood – I
13 suppose there's a homeowners association, right?

14 MR. VAN SCHAİK: I haven't had a discussion, sir, with the homeowners
15 association, *per se*. I did have a discussion, I guess the day before yesterday, with one
16 of the residents on Hope Road, a Mr. Rogers, who I know. I've known him for years.
17 And I faxed, in the spirit of openness and cooperation, which is the only way I'll do
18 anything, a copy of the sketch plan. We had a conversation this morning and he
19 indicated that he had two concerns. One being he suggested that we make the lots on
20 the road have deed restrictions of 2500 square feet, which would be equal to
21 Wildewood's 2500 square feet. Second suggestion he had was that we don't put the
22 entrance on Hope Road, that we put it on Sesqui. I have not had the opportunity to talk

1 to other residents on the street, but I believe they're here, as is the president of the
2 Wildewood Homeowners Association.

3 CHAIRMAN TOLBERT: Any other questions? Okay. Thank you.

4 MR. VAN SCHAIK: Thank you.

5 CHAIRMAN TOLBERT: I think it's Dan Reed?

6 MR. BROWN: Creed.

7 CHAIRMAN TOLBERT: Creed.

8 MR. CREED: [Inaudible].

9 CHAIRMAN TOLBERT: Okay. Thank you. Okay. Is there a spokesman for the
10 association or everyone would like to speak?

11 AUDIENCE MEMBER: [Inaudible]

12 CHAIRMAN TOLBERT: Ray Rogers.

13 **TESTIMONY OF E. RAYBURN RODGERS:**

14 MR. RODGERS: Mr. Chairman and Members of the Board, I am E. Rayburn
15 Rodgers, spelled with a 'D'. I live at 242 Hope Road, Columbia, South Carolina, and zip
16 code is 29223. And I have lived there since 1975. And it's a very nice community. And
17 I would like to commend the developer, Doug Van Schaik, for building a nice
18 development up the hill from us. I don't think those houses have impacted on the value
19 of our house, down at the end of the street, at all. However, this is a little different story
20 and we do oppose the special exception for detached, cluster/townhouse homes for a
21 number of reasons. One, we think very strongly that the townhouse/cluster
22 development will have an adverse affect on the surrounding area. And if it is permitted,
23 it would lower the value of the homes, especially directly across the street from Hope

1 Road, where the proposed development is concerned. Let me tell you why this is true.
2 If you'll take the sheet in your packet that looks like this. I think all of you have that. At
3 least it was given to me by your Staff. On Hope Road where the road leads into the
4 development, my house is the house directly across the street from that. I have talked
5 with a lot of people, but I have not found the first person that would indicate that with all
6 that number of cars coming in and out that area, daily, would not have an adverse effect
7 on my property. And I believe that, too. And I believe, also, that would also be the true
8 with all the houses on both sides of me. If you'll look at the property to the left, he has
9 proposed lot numbers 75 and 74 and then there is a lot there that's pretty large that is
10 not numbered. That home, there is a home on that lot, and that lot size is very
11 compatible with the lots on the other side of the street, on my side of the street.

12 [Inaudible] when we were – yes, sir?

13 CHAIRMAN TOLBERT: Sir. Sir. Excuse me. You only have three minutes.

14 MR. RODGERS: And I've taken up how much?

15 CHAIRMAN TOLBERT: Three minutes.

16 MR. RODGERS: Oh. Well.

17 CHAIRMAN TOLBERT: I apologize, but those are the rules.

18 MR. RODGERS: Okay.

19 CHAIRMAN TOLBERT: I have to go to the next person.

20 MR. RODGERS: Okay. I'd like to thank you for listening to that point and I'm
21 sorry that I'm a slow talker, but maybe these will take up where I've left off.

22 CHAIRMAN TOLBERT: Thank you. Carlos Lacatta?

1 AUDIENCE MEMBER: Carlos is working and he did not get off until 3 o'clock so
2 may come in later.

3 CHAIRMAN TOLBERT: Bill Inabinet?

4 **TESTIMONY OF BILL INABINET:**

5 MR. INABINET: My name is Bill Inabinet. I live at 236 Hope Road. I've recently
6 finished construction of a home. [Inaudible]. It's lot 6 there. I've built a nice house. I
7 feel that zoning laws that were in place, that are in place now, will protect my investment
8 because I have that security that the land around me will be developed in a similar
9 manner. Up the hill, they're building houses, nice brick houses, with 60' frontages. And
10 this needs to be continued on Hope Road that is right in front of my house. And the
11 second point I want to make is that a sense of community needs to be continued down
12 Hope Road. And that's the same kind of logic that the lot size should be conforming to
13 what's all the way down Hope Road and what's continued all the way down to the end.
14 So, that's basically the two points. One is the financial investment. That's why you
15 have the zoning laws in place and they should not be changed halfway in the
16 development. And a sense of community, that it needs to continue on down Hope Road
17 with the established 60' frontages that the R-2 allows. And there should be no
18 exception for Hope Road. If you want to build a development, that's different. You can
19 build it behind Hope Road in that swampland back there. Now that's all I have.

20 CHAIRMAN TOLBERT: Okay. Thank you. Larry Ridlehoover?

21 **TESTIMONY OF LARRY RIDLEHOOVER:**

22 MR. RIDLEHOOVER: My name is Larry Ridlehoover and I represent the property
23 management company for Wildewood Section 1 through 4 in which Hope Road section

1 of Wildewood is located. And I'll try to make a couple of fairly brief points, although I
2 had a two page handout that has some other facts that I'd like to leave with you if I'm
3 not able to finish my three minutes. First of all the 24 acres and 123 total units
4 comprises the gross acreage of this land. There are approximately – there's seven
5 acres of wetlands and another approximately one acre of pond. If you deduct that out it
6 leaves only 16 acres. And if you use the land calculation of RS-2, that yields only about
7 80 (sic) acres under RS-2 current zoning that he would be able to build. And that's the
8 developable, buildable land that remains after, because he can't build in wetlands. And
9 so it's our conclusion that the developer is simply trying to get smaller lots and get the
10 number of units up to make his development more financially viable. The cluster zoning
11 has a number of issues that are required. And, in our opinion, he does not meet the
12 county's own zoning requirements for cluster zoning. He talks about 30%, 37% open
13 space, but this open space doesn't appear to be accessible by anybody that lives in the
14 general community other the lot backs up to the wetland or to the pond. And it appears
15 that he is supposed to be providing recreational space and common area for the whole
16 community to enjoy and he has not done that. The buffers around the perimeter are
17 only part of the individual lots. They're not common area to the general community.
18 And, in my opinion, the intent for cluster housing is to cluster the houses on an area of
19 the land so that more land is available for open space and parks and recreational areas
20 and walking trails and those kind of things. None of that has been provided for. So, in
21 conclusion, in our opinion, Mr. Van Schaik has not met the requirement of cluster zoning
22 and, as the gentleman earlier spoke, that the RS-2 zoning should stand. One further
23 point I will mention is that cluster zoning allows the house to be placed on the very front

1 of the street. The setback under cluster housing zoning says that you have to be 25'
2 from the centerline of the street. And that means on a 50' right-of-way, the house could
3 be on the very front of the street, but there's no sidewalks, no guest parking, and a lot of
4 congestion and traffic and safety.

5 CHAIRMAN TOLBERT: Thank you.

6 CHAIRMAN TOLBERT: Bill Godley? Kotti?

7 **TESTIMONY OF BILL KOTTI:**

8 MR. KOTTI: Mr. Chairman, ladies and gentlemen, I appreciate the chance to
9 speak. I'm a dirt lawyer, a land lawyer. I represent about half of these folks that have
10 shown up and I also represent a number of other people that have bought homes in that
11 area. He's done as fine or better job than any lawyer could do, in my opinion, in
12 speaking of what cluster housing, under the ordinance, is aimed at doing. And I'm
13 going to go past that, then, and concentrate on just my two concerns that I want to
14 express to you from other owners that live around there, and the general community,
15 and that is about safety and about congestion, what Mr. Brown was asking the
16 developer about a few minutes ago. I know you're familiar with the northeast area and
17 with where Polo Road comes in to it, but I want to just take a moment to tell you what is
18 there. You have right there, at the intersection with Two Notch, you have Steinmart and
19 a huge entrance right there and a shopping center with a grocery store across the street
20 and a huge problem right there, particularly with left-hand turns. Number two is, as you
21 come up over the hill, you have Polo Ridge, that the homeowner chairman is here, who
22 I also represent. And it's a development that was built some years ago and they have a
23 major problem getting out. And across from that you have other multi-family housing.

1 As you come down the hill you've got a Baptist church. You've got an Episcopal
2 church. You've got a Catholic church down at the bottom. And you have a Catholic
3 school up on the hill. In addition you have, of course, all the retirement facilities and all.
4 But what you might not be aware of is Richland School District Two has purchased on
5 Polo Road all the way around past the polo fields and they have a 25 acre piece of
6 property to build a school on. In short, folks, whether you're talking about safety or
7 you're talking about congestion, in my opinion you already have a situation in which this
8 would add 1/3 more, excuse me, 50% more cars. That is, if you were going to have, as
9 I think the gentleman said with the correct number of units when you take out the
10 acreage you can't build on. Then what you're really going to have is 50% more units.
11 And what I think you're going to have is 250 to 350 more trips a day. And that's
12 dangerous. And, number two is that is going to cause congestion. And we're already
13 experiencing congestion. Safety to me is a major factor. These folks expected this land
14 to be RS-2. It is RS-2 when it was purchased. It could have been a contract said
15 contingent on zoning rechanging. But it wasn't. It should remain RS-2. Thank you for
16 your time.

17 CHAIRMAN TOLBERT: Okay. Thank you. You all have to forgive me. I'm going
18 to have to go to the doctor's office to read some of these names here. John Hudgens?

19 **TESTIMONY OF JOHN HUDGENS:**

20 MR. HUDGENS: I live at 221 Beaver Dam in Wildewood. Been there a little over
21 20 years. Mr. Kotti said a lot of things I would say. First of all, I would echo some of his
22 things. One to say that somebody in there wisdom zoned this property a number of
23 years ago and we think they were wise in doing that and we think we need to leave it as

1 it was zoned. Mr. Kotti mentioned the traffic problems on Polo Road. I don't think he
2 mentioned the fact that the old Wal-Mart store has about 400 cars there everyday. If
3 you do a traffic count on Polo, the average traffic count may look pretty good. But when
4 you realize that Blue Cross/Blue Shield lets out about 5:00 o'clock, 400 people in the old
5 Wal-Mart store let out about 5:00 o'clock. And all the other things that go on, you have
6 a real problem with traffic. So much so that the churches there have to hire an off-duty
7 policemen to get their people out off of their property on to Polo Road during church
8 service. I go to church at Forest Lake Presbyterian. I come back. Sometimes our
9 minister lets us out early and I come back and you have to stop so that those cars can
10 get out. If you try to turn left out of Running Fox towards Columbia on Polo, that's a real
11 problem. In addition, the recreational facilities on Polo Road have hundreds of cars
12 there at certain times of the year and certain times of the day. Traffic is a real problem.
13 And any additional things – we think that he can leave the property as it's presently
14 zoned and build whatever that required. Thanks.

15 CHAIRMAN TOLBERT: Thank you. Terrence Raitt.

16 **TESTIMONY OF TERRENCE RAITT:**

17 MR. RAITT: I'm Terrence Raitt. I live at 421 Sesqui Trail. My concerns are with
18 regard to traffic. It is a difficult intersection at Polo Road and Hope Road, almost
19 impossible to make a left turn at times. What I believe is going to happen should this be
20 – we get this development or this zoning – much of the traffic is going to end up being
21 rerouted down Sesqui Trail. It's a $\frac{3}{4}$ of a mile out in the other direction to Hope Road. I
22 mean out to Polo Road going south. And you're going to go – it's a 20 mile per hour
23 through that neighborhood and we're talking about a young neighborhood with young

1 children and so on, for the most part they're fairly young. And I think that's a bad
2 situation. Either way I think you're going to have problems with traffic. And, you know,
3 you have fatalities or whatever at Hope Road and Polo Road, I mean, you're inviting
4 lawsuits. And I don't think the county needs that. That's just my opinion. I think Doug
5 has done an excellent job on the other development on Hope Road and Park Ridge.
6 But this one I have a problem with the increase in traffic.

7 CHAIRMAN TOLBERT: Okay.

8 MR. BROWN: Mr. Raitt, may I ask you a question?

9 MR. RAITT: Yes, sir.

10 MR. BROWN: I don't mean to pick on you as a opposed to anybody else that's
11 spoken and if somebody else want's to address it that's fine with me. But while I
12 understand your concern with traffic, assuming this property were developed as it's
13 zoned, RS-2 –

14 MR. RAITT: Yes.

15 MR. BROWN: - Staff finds that you can put approximately 126 lots on it, which is
16 going to create –

17 AUDIENCE: [Negative responses]

18 MR. BROWN: Excuse me. All I'm doing is going by the Staff's report. That may
19 be overly optimistic because of the wetlands and so forth involved. But you're going to
20 be able to put probably at a minimum 70 to 75 to 80 on it at RS-2, which is only 8,500
21 sq. ft. per lot. So you're going to generate, essentially, the same amount of traffic or a
22 similar amount of traffic as you would do under Mr. Van Schaik's proposal. So, while,
23 as I say, I'm not unsympathetic to the traffic concerns at all, I'm not sure how the

1 proposal for cluster housing exacerbates that traffic situation to a greater extent than the
2 existing zoning.

3 MR. RAITT: Well, my comment is based on the supposition that it would increase
4 the traffic. If it didn't my problem really would not exist.

5 MR. BROWN: Well, maybe my question then is how do you see it increasing the
6 traffic over what the current zoning allows?

7 MR. RAITT: Well, from what I understand is that cluster housing allows greater
8 density per acre.

9 MR. BROWN: But not more units than the current zoning allows.

10 MR. RAITT: Well, if it didn't change the traffic I wouldn't have a problem. It was
11 my understanding that cluster housing did increase the density. And if it doesn't then
12 my problem goes away.

13 CHAIRMAN TOLBERT: Thank you. Randolph Weathers?

14 MR. HOPE: Hope.

15 **TESTIMONY OF RANDOLPH HOPE:**

16 MR. HOPE: Thank you. My name is Randolph Hope. My family has lived on
17 230 Hope Road since 1968. I was raised there. And as a child, I basically went through
18 all this property. My major concern is - a number of concerns. One is the use of this
19 land. I'm concerned about wetlands. I've - looking at the proposal of where these
20 houses are, a lot of those houses are right in the middle of some wetlands areas. And
21 I've seen before where developers go in and destroy wetlands. The old saying "It's
22 better to ask forgiveness than permission." And I've seen this, a number of
23 development where they've destroyed the wetlands. I'm concerned about that. There's

1 a lot of wetlands in this area. If you look at the numbers Mr. Van Schaik gave, about 3.5
2 houses per acre, I think if you take out the wetland, you take out the 37% of the land
3 he's not going to build houses on, my math comes out to about 5 1/2 houses an acre.
4 I'm concerned about that. My mother's 80-years old. She lives on 230 Hope Road. I
5 have an adjoining lot on Hope Road. I go by there and see here every day. My
6 concern is traffic. I've been there for many years and I've seen the developments and
7 don't particularly like developments of what's happened over there. But I know what
8 progress is. The houses that are built over there – and Mr. Van Schaik has built some
9 of those houses – are very nice. They kind of fit with what is in the area. But what I
10 have seen over the last three or four years is that traffic has gotten much more heavier.
11 Again, I go there every day to check on my mother. And at times it's very difficult to get
12 out of Hope Road onto Polo Road, especially in the mornings. I've been over there in
13 the mornings with people getting out and going to work, with kids going to school.
14 There're times you have to sit Hope Road and wait up to five minutes to try to get out
15 with the traffic. With another 300 cars in this area, virtually it's going to be impossible to
16 get out on this deal. Mr. Van Schaik, unfortunately, is like a lot of developers. They
17 come into an area and want to put a number of houses, cram a number of housings, in
18 a small area. And after it's done they're not around to handle the consequences. He
19 lives in another section of Wildewood, as I do myself. And when I bought in Wildewood,
20 like a number of people did, they've got nice lots, very low traffic counts. And I'm just
21 very concerned about what this would do to this neighborhood. Safety issue. You
22 made the comment about if it's R-2 you're going to have the same number of houses. I
23 disagree with you on that. I think the housing would be a lot less if you take in the size

1 of the houses that would have to be built, and the wetlands, and the setbacks, and the
2 common areas. I think they'd be a lot less than the figures you've come up with. What
3 we want is this to look like the property that's already there. We don't want a number of
4 houses crammed in there. It will affect the values. A number of developers use up-
5 scale, up-grade, nice housing.

6 CHAIRMAN TOLBERT: Sir. Sir. Excuse me. Your time is up.

7 MR. HOPE: Okay.

8 CHAIRMAN TOLBERT: Okay.

9 MR. HOPE: I would just suggest that y'all just keep this to SR-2 (sic) that it was
10 proposed to do. Thank you for your time.

11 CHAIRMAN TOLBERT: Daniel Stone?

12 AUDIENCE MEMBER: [Inaudible]

13 CHAIRMAN TOLBERT: Okay. And Carl Donnelly.

14 **TESTIMONY OF CARL DONNELLY:**

15 MR. DONNELLY: Good afternoon. I'm Carl Donnelly. I'm President of the
16 Wildewood Homeowners, with sections 1 through 4, Homeowners Organization, which
17 is about 536 homes comprised of what is referred to as Old Wildewood. Hope Road,
18 one side of Hope Road, is part of Wildewood 1 through 4, and has been since the early
19 '70s. My concern, and I'm speaking here, that Hope Road, in it's early design, was
20 really intended as a residential access for a very quiet, removed cul-de-sac. It has
21 changed in character quite a bit because other areas have accessed, as they had the
22 right to, to Hope Road. But it was never designed to be a connector road. And Hope
23 Road, you know, bends. It's got a sharp elbow. And it's really not designed to handle a

1 lot of high traffic. In addition, the water that has been provided as infrastructure,
2 originally those homes had septic tanks and now they have city water through an
3 extended line. But it is not a large capacity line. So anything that you do to put traffic
4 on, and congestion is a concern. I found out about this meeting Saturday night. I've not
5 had a lot of time to prepare. I know Mr. Van Schaik to be a person of high standards
6 and high integrity, but we've not had an opportunity to meet with him. But my concern is
7 anything that increases the density of this area would certainly impact on the perimeter
8 homeowners on Hope Road that are part of Wildewood and that whole area, in general.
9 I, also, would refer you, on your question, if you could direct that question to Larry
10 Ridlehoover, who has 35 years in the experience of development with places like Sea
11 Pines, Deboirdeux, Sea Brook Island, and Lake Carolina, I think he could address your
12 answer as to what the lot placement would be if you took out the wetlands. Thank you
13 very much.

14 CHAIRMAN TOLBERT: Okay. Sowell.

15 **TESTIMONY OF BIFF SOWELL:**

16 MR. SOWELL: My name is Biff Sowell. I live at 21 Charley Horse Road, which is
17 just across the pond dam from Hope Road in Wildewood. I have lived there for 17
18 years. Charley Horse Road runs parallel to Hope Road. It also intersects with Old Still
19 Road, which also runs parallel to Hope Road because it's got a big dead man's turn in
20 it. My major concern is that this application was submitted on July 30th. The
21 regulations, as I understand them, provide that this will be taken up on the first
22 Wednesday of the month, which happens to be September 1st, which in this case is just
23 30 days after the application was made. And that the Wildewood Homeowners

1 Association, which Mr. Donnelly chairs, has not had a sufficient opportunity to study the
2 application and really to formulate an educated position with respect to this application.
3 I live close to Hope Road and I didn't know anything about this application until two days
4 ago. I will also add this one little practical point with respect to traffic. I used to run
5 across Polo Road back when I was a runner. Now I'm old and I'm a walker. So I walk
6 across Polo Road every morning. I walked across there this morning. It's very difficult
7 to get across Polo Road in the morning at about 8:00 o'clock. And I was particularly
8 startled to see a school bus come in to my street, Old Still Road, which parallels Hope
9 Road. And my first thought when it came in there was how was it going to get out of
10 there when it turns around and tries to get back on Polo Road at 8:00 o'clock in the
11 morning because it is very, very difficult to access Polo Road, particularly if you're
12 making a left turn. It's very difficult in the mornings and in the afternoons to even cross
13 Polo Road on foot. So I have the same concern about the traffic. But my primary
14 concern is that there has not been an adequate opportunity for the community to
15 educate itself with respect to this proposal and to respond to it on an educated basis.
16 Thank you.

17 CHAIRMAN TOLBERT: Excuse me. Question for you. Those areas are
18 normally posted. Did you not see the projected area with a green sign down there?

19 MR. SOWELL: No. I mean, I live a half a mile from Hope Road. I've not seen
20 anything regarding this project. Now I'm not saying it wasn't there, but I don't go back
21 there every day. I probably do ride back there out of curiosity about once a month. But,
22 no, I've not seen any notices with respect to this development and knew nothing about it
23 until two days ago. I'm not questioning the compliance, the technical, legal

1 requirements of posting the notices. What I'm saying is is as an equitable matter, or
2 matter of fairness, I don't think very many people knew about this and, certainly, the
3 Wildewood Homeowners Association has not been given an adequate opportunity to
4 study it to educate itself with respect to the development and to respond to it. Thank
5 you.

6 CHAIRMAN TOLBERT: Thank you. Mr. Van Schaik, you may come back for a
7 rebuttal, please.

8 MR. VAN SCHAIK: I really – thank you. I really hardly know where to begin.
9 There were a lot of comments made, some of which are opinion, most of which I guess
10 are supposition. I think it's - what we're seeing is a reflection of change. But what I
11 would like to point out is that Wildewood has been in existence since the mid-seventies.
12 And I guess Mr. Donnelly would be able to tell me better, but I guess there's somewhere
13 between 900 and 1,000 homes in Wildewood at this point in time. This particular
14 property faces four of those 1,000 homes. So when you state that this has a major
15 deleterious, negative, high impact on Wildewood, I have a hard time accepting that. It
16 will affect, to some degree, the four homes in Wildewood who are across the street.
17 There's no question about that. But I don't think it'll affect them in a negative way. The
18 talk about property values going down is, again, supposition. Mr. Ridell, you've recently
19 bought a lot and you've built a home. Can you tell me who you bought the lot from?

20 AUDIENCE MEMBER: [Inaudible].

21 MR. VAN SCHAIK: Oh, excuse me. I'm getting my names mixed up. Mr.
22 Inabinet, can you tell me who you bought your lot from?

1 CHAIRMAN TOLBERT: Mr. Van Schaik, excuse me. You need to address that
2 to the Board.

3 MR. VAN SCHAIK: Okay. Can I ask you to ask him who he bought the lot from?
4 No.

5 CHAIRMAN TOLBERT: You're rebutting what they said to you. We listen for
6 your testimony to establish your grounds for what you want to do from what they have
7 said.

8 MR. VAN SCHAIK: What I'm suggesting is that some of the development has
9 occurred on Hope Road as a result of the actions, economic actions, by the very parties
10 that are opposing this. For example, Mr. Hope's mother, Mrs. Hope, sold 4.8 acres or
11 so a couple of years ago to Mr. Roger Tanden, who developed along Hope Road. He
12 built 10 homes. Mr. Gardner – Mr. Gardner's deceased. But Mrs. Gardner recently sold
13 the lot next to her for somebody to build a home. Mr. Rodgers sold the lot to the right of
14 his house to build a home. And, as you already know, Mrs. Hope sold the home to Mr.
15 Inabinet, the lot to Mr. Inabinet. So, some of the traffic that now is occurring on Hope
16 Road that they don't like has been caused by their very actions, economic actions,
17 actions which I don't think added anything to the community. So, it's kind of like "I've
18 got mine. I've done it. I've lived in Wildewood. We don't want development nearby." I
19 don't think that's appropriate reasons to oppose this particular proposal. When Mr. Kotti
20 talks about the Richland School District 2 buying property on Polo Road, he makes it
21 sound like it's adjacent to this development. It is not. It is very close to Alpine Road.
22 And so traffic coming to that school, should it be built, will not come down from Two
23 Notch Road along Polo Road all the way down. It will probably come from Alpine Road

1 It'll come from Interstate 20 because this particular property is only 1,000' or so, maybe
2 a quarter of a mile, from Alpine Road. So I think what we're witnessing is some
3 hyperbole here on what the impact will be. There were a lot of comments made and I
4 took rapid notes, but this proposal is totally within the spirit of the cluster housing. It will
5 add to Wildewood. It is far higher in what benefits it provides than other cluster housing
6 developments that have been approved. And I don't know, but recently 30 acres sold
7 on Mallette Hill, which is in the heart of Wildewood, for 300 apartments. And I don't
8 know if the people here who are opposed to development that affects four homes in
9 Wildewood, were as strongly opposed to something that really impacts Wildewood. I
10 appreciate the amount of time that everybody has spent. And I would respectfully
11 request your approval of this proposal. Thank you.

12 CHAIRMAN TOLBERT: Any re-question to the applicant? No questions? Thank
13 you, sir.

14 MR. VAN SCHAİK: Thank you.

15 CHAIRMAN TOLBERT: We have heard both sides of the applicant and the
16 opposition. The Chair will now entertain a discussion.

17 MS. DORSEY: Mr. Chair, when I got this plan, I hardly knew where to start and
18 still hardly know where to start in terms of the way I understand the intent of cluster
19 housing and the way these are being calculated, as far as density. The comment about
20 the value of these houses or cluster housing being lesser in value, that's not my
21 concern because cluster housing, in it's true sense, should not decrease value. But this
22 – again, I'll go back to the intent of this ordinance. Some of the things that the intent
23 say is “to provide a means of developing areas of physio-graphic or other physical

1 features to enhance natural beauty and other attributes". Another phrase, "to provide
2 for the use of such lands as recreational space for the residents of such developments".
3 Another phrase, "to encourage innovative design techniques to utilize the environment
4 as a guide to development". What I see with this plan is a lot of unusable space. And,
5 therefore, an application of cluster housing in a way that it was not intended to make the
6 land that's left more economically viable for the developer and yet doing nothing to
7 support the purpose of cluster housing, which might have to do with having this pond
8 access. I'm hearing it questioned that it doesn't say that in the ordinance, that there
9 needs to be some sort of common access. Yet, when you take the philosophy of cluster
10 housing and if you take an approach, it certainly doesn't say that you - it seems like
11 we're applying a free for all to this concept of cluster housing and saying, "Well, since it
12 doesn't say I can't do that or I'm supposed to do that, it must be I can." This buffer area
13 is largely wetlands. It's not being developed in a way for the community that's going to
14 live there. I'm not just concerned with the surrounding community. I'm very concerned
15 with the community that has to live there. The pond isn't being preserved
16 environmentally and it's not being preserved as common space. The question of how
17 it's determined as to how many lots, nobody's making up this idea of density. This is
18 something that's brought to us that we're being told, "Well, if we do this RS-2, 123
19 houses could be put there. But this developer is only going to put 86." Well, that
20 doesn't take into account the unusable space. So that's the density if it's cluster
21 housing. We still don't know the density, if you're talking about houses, we don't know
22 the density if it's RS-2 because that's not taking into account. There's two different
23 ways of calculating this. But we're being brought at with this being houses, density

1 relating to houses. So that's not something anybody's applying to this applicant. That's
2 information that's being brought to us. I take the point about traffic. That, if it's
3 developed either way, there's going to be a traffic increase. I have some concerns
4 about the way traffic is presented to us. I know that it's presented to the Planning
5 Commission in a way that tells you the actual standards of traffic. It's not just a
6 statement of "Well, this won't increase the traffic." You have a formula so that you really
7 understand how much traffic is there. I guess one of the overlying points of all this is
8 that, while these people were being complained about, they didn't ask for a change in
9 zoning. Or they didn't ask for a special exception. They accepted their zoning. For
10 better or worse, they accepted it. And what you are asking for is an exception for this
11 type of zoning. And I don't see where the community surrounding, or more importantly,
12 the community that has to live here is really getting anything back. I see them getting a
13 lot of dense housing with a lot of unusable space. And making use of it – using the
14 concept of cluster housing to make that housing more dense. I think the pond is being
15 used as a development draw. It's not being used in a way that preserves it, in a way
16 that fits the intent of the ordinance. It's not common space. There's no common
17 access. It's common area. There's no common access. If this ordinance is not clear
18 enough to point out what needs to be set in stone, then don't ask me to just take an
19 "anything goes" attitude. Fix the ordinance. But I'm going to take a more conservative
20 approach if it's not going to be spelled out for me. And I don't see this as fitting this
21 ordinance.

1 CHAIRMAN TOLBERT: You've had your time. This is an open discussion for the
2 panel. You've had you an opportunity to speak. This is just an open discussion. She's
3 making a statement. You're not allowed to speak at this. Thank you.

4 MR. VAN SCHAIK: Thank you.

5 MR. BROWN: I don't always agree with Mrs. Dorsey when she states her views
6 on cluster housing, but I do in this case. I think if you look at the proposed plan here
7 and you compare it, say, with the one from the Mungo Company earlier today; in that
8 instance, the common property is spread throughout the development. It isn't all
9 shoved to one corner and where the wetlands also happen to exist. And, so I, too, feel
10 in this particular instance, the proposed plan doesn't really fit the design and the
11 concept of what cluster housing is supposed to be. While I have no objection to cluster
12 housing, *per se*, I don't think that the goals and the objectives of cluster housing are met
13 in this particular development.

14 CHAIRMAN TOLBERT: Any other discussion? With no other discussion, the
15 Chair will now entertain a motion.

16 MS. DORSEY: Mr. Chair, I move that 05-06 special exception be denied on the
17 basis of incompatibility, lack of supporting the intent of the ordinance; that's all.

18 CHAIRMAN TOLBERT: Is there a second?

19 MR. BROWN: I'll second.

20 CHAIRMAN TOLBERT: It has been motioned and seconded that 05-06 SE be
21 denied based on the statements in the motion. All in favor of denial raise your hand.
22 Opposers?

1 *[Approved to deny: Dorsey, Tolbert, Brown; Opposed: Formyduval; Absent: Young,*
2 *Perkins, Myers]*

3 CHAIRMAN TOLBERT: Motion has been denied. Zoning Administration will be
4 in touch. Next.

5 MR. PRICE: We're now into Other Business and I don't believe there's any at this
6 time.

7 CHAIRMAN TOLBERT: Okay.

8 MR. BROWN: Mr. Price, what happened to the bylaws?

9 MR. PRICE: You want to take those up now? What –

10 MR. FARRAR: We can take those up. The problem's been we've been waiting to
11 get a full panel to, you know, to act on them. You could take them up. It's just that - I
12 think they were presented, what –

13 MR. BROWN: I don't know if we can or not. They weren't on the agenda. I'm not
14 sure we can –

15 MR. FARRAR: Well, they were – they were presented to the Board months ago
16 and at any point you could move to act on them. So, I mean that's they're before the
17 Board. I don't know if you want to do that.

18 MR. BROWN: Oh, I'm not suggesting I necessarily want to without more of the
19 Members being here. But –

20 MR. FARRAR: Right.

21 MR. BROWN: - kind of surprised that they weren't on the agenda.

22 MR. FARRAR: I think it's kind of a standing matter. But we can put them back on
23 there.

1 CHAIRMAN TOLBERT: Any minutes to approve?

2 MR. PRICE: Yes. You should have received - did y'all not receive them in your
3 packets?

4 MS. DORSEY: Oh, yeah.

5 MR. PRICE: You get the July. Right. We have the July and August minutes to
6 approve.

7 MR. BROWN: I move the approval of the minutes for the July and August
8 meeting.

9 MR. FORMYDUVAL: I'll second.

10 CHAIRMAN TOLBERT: All in favor? Okay.

11 *[Approved: Dorsey, Formyduval, Tolbert, Brown; Absent: Young, Perkins, Myers]*

12 CHAIRMAN TOLBERT: All right. Anything else come before the Board today?

13 MR. PRICE: No, sir.

14 CHAIRMAN TOLBERT: That's it?

15 MR. PRICE: That's it.

16 CHAIRMAN TOLBERT: We declare the September meeting of the Zoning Board
17 of Appeals closed.

18 *[Adjourned: 4:15 p.m.]*