

BOARD OF ZONING APPEALS

January 9, 2008

[Present: Chairwoman Margaret Perkins, Torrey Rush, Harold Branham, Elaine Perrine, Joseph McDuffie, Susanne Cecere, Peggy Simons]

Called to order: 1:00 p.m.

CHAIRWOMAN PERKINS: I am calling the meeting of the Board of Zoning Appeals to order. Mr. Price is not here. While we are waiting for Mr. Price and the ones up front, I'd like to discuss with the Board about changing some items on the Agenda. I would like to put the Election of Officers at the end of the Agenda if that is okay.

MR. BRANHAM: Do I have to make, make a motion?

CHAIRWOMAN PERKINS: Yeah, yeah, a motion.

MR. BRANHAM: I, I'll make that motion.

MS. PERRINE: I'll second.

CHAIRWOMAN PERKINS: Okay. All those in favor? Mr. Price isn't here, but that's the entire Board.

[Approved: Rush, Branham, Perrine, Perkins, McDuffie, Cecere; Absent: Simmons]

CHAIRWOMAN PERKINS: I guess, the County's Attorney can present to the audience the rules of order.

MR. FARRAR: Thank you, Madam Chair. Good afternoon, I'm Brad Farrar from the Richland County Attorney's Office. Let me explain a little bit about the Board of Zoning Appeals, how it operates and the procedure it uses and take any questions that you may have. The Board of Zoning Appeals is what they call a *quasi* court. It's not a

court of law, but it's similar in terms of how it functions. It'll take testimony from the podium here. The Board will take any exhibits. Most of them are already in the Agenda packet. If you have some last minute submissions, they'll, they'll look at those as well. That's typically the evidence. You could have a video presentation, things like that. Again, that's, those are all things that the Board will consider. One of the things you have to keep in mind about when you, people go to court, you know, 50% of the people who go are not gonna be happy that day. And that's just kind of how that works out. These are contested cases. Sometimes there's no opposition, sometimes there is. So you may not get the results you want, but, but this is the process and I'll explain a little bit about how to appeal if you, if you don't get the results you want. The order of presentation, all these numbers I give you are, are maximum times unless the Board extends them. The applicant has up to 15 minutes to present his or her case for Special Exceptions, Variances; these are typically the cases the Board will hear. You don't have to use that time, you can get up and, and short and sweet and then say what you have to say and sit down, but you can use the full 15 minutes if you, if you feel you need to. This period of time includes witnesses that you would bring, so just keep that in mind, but you have that, that full period. Anybody in opposition has up to three minutes. So this could be, you could have 50 people who each have three minutes and we'd be here a good little while on that. But they, they do have that period of time. You don't have to take that full three minutes, but you certainly can. Spokespersons are welcome, if you want to do that as well. But, but again you have a right to come up and, and be in opposition for that full period of time. And then the applicant has up to five minutes for rebuttal to talk about things that were raised in the opposition portion of the testimony.

So if you notice the order of procedure, the applicant goes first, then opposition, and the applicant comes back at, at the end. And, and why do we have that order? Well, again it goes back to the *quasi* court nature of the proceeding where the applicant bears the burden of convincing the Board why he or she should get the Special Exception or Variance. So you've heard the term burden of proof, this is why that order is the way it is. The Agenda, you just the heard the Board kind of reorder what they're doing. They're going to take an election of officers at the end of the proceedings today, instead of the beginning. We do have a lot of cases, so that's probably what they're, we're doing there, but they can reorder the Agenda. Typically they'll be in the, the, based upon the date the cases were filed, but if, if they need to reorder, they certainly can do that. Some cases will take longer than others, based upon the types of issues, complexity of issues, and those in opposition. Some cases are uncontested, they'll move through here pretty quickly. Others, others may not. Testifying, please, please address all of the remarks to the Board. It's not gonna do you any good to get into witness exchanges with the audience. They, they'll rule you out of order on that, it's not gonna help your case. Please speak into the microphone, the testimony will be recorded. With a hearing, that's important if you need to have the transcript for an appeal. The testimony and, and the remarks that you give will be under oath and the, and in a moment I will swear everybody in a group, kind of speed that process along, but just keep in mind you'll be testifying under oath. You don't want to tell the Board you're gonna do something that you're not prepared to do because they're gonna look at the record. If you say you're gonna have, you know, hours of operations be one thing and it turns out they're not, they're not gonna like that. By the same token, don't fail to

state something that is pretty important to your case. If you're gonna open up something that you, you say is a certain type of business, and it turns out it's gonna be a, an adult club instead of a convenience store, that's, that's probably not something the Board's gonna be real happy with. So just make sure you're, you're open and honest about what you're, you plan to do. Again that's, you can present your case however you want to, but just kind of some points you might want to keep in mind. The evidence that the Board will consider, this is not as a formal court, you don't have to have a witness lay a foundation and that type of thing where you get evidence into the record. It's pretty, pretty relaxed in terms of that characteristic of it. The Board will give appropriate weight to different things that you submit. A petition that's just kind of a laundry list of names, won't get as much weight as somebody who's actually written a letter and put some thought into it or, and that won't get as much as weight as somebody who comes up and testifies under oath. So, testimony and, and documents will be given their appropriate weight by the Board. Okay, the most important thing that I'm gonna talk about is the case disposition and how to go about appealing or reconsidering your case. When the Board issues it's decision, which it will today, which is somewhat different from a court, it can be; sometimes a court will take it, some time to, to give you it's opinion, but when the Board issues it's decision, you have what I would call a conditional decision. Well, what's the condition? Well, the Board's decisions are not final until the Minutes from which that decision, meeting were, were, were given have been approved. So for example, we're at the January meeting, next month when the Minutes are prepared, you will very likely have the Minutes for today's meeting be approved. And so that's when you have a final decision. The reason I

mention this is if you come in, an example I use, if you're gonna have somebody want to put a, a carport in their side yard, maybe it's gonna go a couple feet over into the, the setback and a person comes in, no opposition, it sounds pretty harmless, you get a unanimous vote from the Board and approval and they get excited, they go home and call the contractor and the next day they start pouring concrete and you've got some money expended at this point. Well, nobody came into the, the, to oppose it, but what if your, the neighbor immediately next door, you know, has been out of the country, has been fighting the war somewhere and he comes back and says well gee, I would have been at the hearing if I'd known about it. Well, that's some new testimony, new evidence, new information that the Board didn't have at the previous meeting. What could happen is a Board member could vote to reconsider that case based upon the new evidence, the new information. Well, now you've got a problem because you've called the contractor, you've spent some money and you don't have a final decision. The Minutes have not been approved, so I use that as a word of caution. Just proceed at your own risk until the Minutes have been approved. You're typically going to know if your case is one that might be ripe for reconsideration or appeal, but just kind of a word to the wise on that. Now once the Board's decision has, has been, the Minutes have been approved, you do have a final decision as far as the Board process is concerned. However, there is a provision under state law in *Title VI* that anybody, any person with a substantial interest who is aggrieved by a decision of the Board may appeal that to Circuit Court. Now this is gonna be a, a one judge sitting as kind of an appellate body at that situation, they're not gonna take a whole new bite at the apple and have new testimony. They're just gonna look at the record that occurs in your case and decide if

the Board, as a matter of law, erred in some respect. Now you don't have, a person does not have an indefinite period of time in which to file that appeal. They've got 30 days from the time the Board's decision is mailed. So I guess if you want to take some comfort on when your decision is final, when the Minutes have been approved, when the appeal period has run, you're, you, you should be good to go. But again just, just a couple of things. Any questions about the reconsideration or appeal? Because that's the most important thing I mentioned. Okay, very good. Just a few housekeeping things, if you do have a cell phone or a pager, if you could turn that to off or on vibrant so we don't or pick that up on the sound system, we'd appreciate that. Make sure your names on the sign-up sheet for your case. Even if you're the applicant, you still need to sign up, so we have a record of who testified. It's important for, for the record of the case and if we need to get in touch with anybody for any reason. I get a question sometimes about, you know, gee it's gonna be a long meeting, can I come and go as I need to? Absolutely, this is an open public meeting; we just ask that you use these doors here. You don't want to set off the fire alarms. If there's a fire, we'll go out that door, but other than that, we want to use this one here. Please, you can come and go as, as you need to, we just ask that you do that quietly. The, the Board is gonna be seated where it is right now unless they take a recess obviously or go into Executive Session. Executive Session is something that's provided for under the Freedom of Information Act. This, the only context where this could really come up today is if the Board wants to discuss a legal issue, they want to discuss something with me or Staff about a case or maybe some process dealing with the case. They'll go back into the Council Chambers and, and have that discussion. Now in that private session, you

can't take a vote, you can't take a straw poll, ask somebody how they're leaning, you just deal with a particular legal issue, knock that one out, come back in open session and you continue with the case. It would be as if you're talking to your own attorney, you don't want anybody to listen on that, and that's, that's what that's about. Okay, I believe that's it. There's a long Agenda today, so please bear with us. But if you have any questions, I'll be happy to take those at this time. Okay, if not, what I want to do is if, if you, if you're gonna testify today, whether you signed up on the sheet or not for your case, and you need to do that after, after I get done here, I need you to stand at this time, raise your right hand, I will swear you in as a group. A lot of witnesses today, okay. Do you swear or affirm the testimony you shall give shall be the truth, the whole truth, and nothing but the truth so help you God?

AUDIENCE: I do.

MR. FARRAR: Please be seated, thank you very much. I heard, I, I do. If I heard anything other, if you said anything other than that, like yes you got it, absolutely, let me know, otherwise we'll consider the Board [sic] sworn. One final thing, the Board is a seven member Body, we have six today, that is a quorum and enough to conduct business. If you would like to request a continuance until you can have a full panel, you certainly can do that when your case is called, but this is a quorum to conduct business and at this time we'll turn it back to the Chair. Thank you very much.

CHAIRWOMAN PERKINS: Mr. Price?

CASE NO: 07-38 SE:

MR. PRICE: Okay, the first case, the first case is 07-38 SE. The applicant is Johnny Walker, this is on Blackberry Road. The applicant is requesting the Board of

Zoning Appeals to grant a Special Exception to permit the construction of a communication tower in an RU district. The parcel is 364 plus acres, it's currently undeveloped. The property, the subject property is heavily wooded and undeveloped and as you can see on the aerial there, a lot of it is in the flood zone. The applicant proposes to erect a 275' telecommunication tower within a 10,000 square foot leased area. The surrounding area consists of predominately large tracts that are heavily wooded and undeveloped. This case was originally heard I believe in October and it was granted reconsideration in November, so it's coming back to you as essentially a brand new case.

MS. CECERE: Mr. Price, you did mean John Carpenter, correct? Did I, I thought -

MR. PRICE: Johnny Carpenter.

MS. CECERE: Okay, alright, I thought I heard a different last name.

MR. PRICE: Oh. We'll kind of go through the slides. There's the tower that they're proposing, shows you the site plan for where the tower will be located. Once again, just showing you the area where the tower should be located. This is something I'm sure that Alltel representatives will address, this is the current coverage area that Alltel has in this area and this is their proposed Alltel site coverage.

CHAIRWOMAN PERKINS: Thank you, Mr. Price. We have Mr. John Carpenter? Please state your name and -

TESTIMONY OF JACK PRINGLE:

MR. PRINGLE: Yeah, actually may it please the Board? My name is Jack Pringle, I'm an attorney here in town with Ellis, Lawhorne & Sims and I am representing

Alltel and have been authorized by Mr. Carpenter to act on Alltel's behalf. As some of you may remember from the previous presentations we made, we've got several Alltel and other, oh, I'm sorry.

MS. PERRINE: Excuse me just minute. Madam Chair, I have a statement if it's okay if I could read it and ask of you, if you don't mind?

MR. PRINGLE: Okay.

MS. PERRINE: Is that okay? All the Board members were in attendance at the, when we heard this case in September 5th and October 3rd. Those Minutes reflect all the information that was stated to us, both by the applicants and by the opposition. In order to expedite the proceedings for this afternoon, I'm asking you as the applicant, would you agree to allow those Minutes regarding that Special Exception 07-38 to go in today's Minutes to reflect your request for approval of this Special Exception?

MR. PRINGLE: Yeah, we don't have any problem with that and certainly to the extent that they need to be incorporated by reference or become part of the record, however legal likes to handle it. If you want me to use any, any special language, but that's, that's fine with Alltel.

MS. PERRINE: So that's okay with you?

MR. PRINGLE: Indeed.

MS. PERRINE: Thank, you very much. Is that okay with Mr. Farrar?

MR. FARRAR: Yeah, I mean, the record is, yeah, that's, that's fine.

MR. PRINGLE: Okay, that having been said, certainly since the Board has, has heard this once, well I won't labor the court with, you know, going through the entire application again. One thing that I would mention is since we last asked for

reconsideration and the Board was kind enough to grant reconsideration, there, some additional things have taken place. A number of us had a meeting with the Park Service down at the swamp to discuss possible areas of, of, of agreement going forward. And at that meeting, and certainly the Park Service is here and they can characterize what happened as well, but one of the things that was discussed was that working with the Park Service, Alltel and our environment consultant and their firm discussed in principal doing a study to take place on the site with respect to the site and migratory birds. And that is something that is certainly in its earliest conceptual stages. You know, we discussed it some at the meeting and are in the process of trying to work up the parameters of that particular study and certainly Ken Rosenbaum could certainly speak specifically to the elements of the study. But that's certainly, that's the one thing I believe that you all do not know about. And we, you know, certainly, from Alltel's perspective we believe that, you know, goes to the issue that had been raised by several protestants and the folks that opposed the location of the site as to, you know, to, to do that, to, study of that area in order to, to look at those, at those concerns. You know, just very briefly I think as we've demonstrated previously, the application as filed by Alltel meets all of the standards and requirements that are in the Code for a Special Exception on this site, all the way through traffic impact, vehicle and pedestrian safety, potential impact of noise, lights, fumes, adverse impact on the proposed use on the aesthetic character of the area, the spacing of buildings, as well as those that apply to communications towers. And we feel like, and certainly Alltel's spent a great deal, did a great deal of preparation and time in order to comply with those specific provisions of the ordinance and that the site is necessary for Alltel's coverage needs, and certainly if

you all have any questions about that coverage or how Alltel arrived at this site, certainly we've been through that before, but that it will provide a more continuous, more ubiquitous coverage in areas of the county that aren't otherwise over heavily served by cell phone service and certainly be a benefit to, you know, not only general communication services, but the county's E-911 service provisions that, you know, are very, very important emergency response part of what takes places in the county. And any of us would be happy to any, answer any questions that you might have about any of these specific provisions and we just appreciate your time and appreciate you agreeing to, to hear us again on this.

CHAIRWOMAN PERKINS: Thank you. Are there any questions for Mr. Pringle from the Board? Having agreed to, to Ms. Perrine's read statement, are, there are quite a few people signed up on this list here. Do any of them want to get up and present something to the Board?

MR. PRINGLE: I, I don't believe so. I think they're mostly here just to answer your questions or, or concerns. And given that I think each of them has, has testified previously, I don't believe that we'll, we'll take the time to go. But we, the reason we signed up, we just wanted to make sure that we were, we were doing things right.

CHAIRWOMAN PERKINS: Thank you for that new information Mr. Pringle. Thank you very much.

MR. PRINGLE: Okay, sure.

CHAIRWOMAN PERKINS: The first person we have signed up in opposition to that is Ms. Cynthia Garmin. Am I pronouncing that right? Garmin? Okay.

TESTIMONY OF CYNTHIA GARMIN:

MS. GARMIN: Hello, I'm Cynthia Garmin and I live on -

MS. PERRINE: Am I'm gonna interrupt you –

MS. GARMIN: Okay.

MS. PERRINE: - because I don't want anybody to say I didn't offer the same for you. As you heard all Board members were in attendance at the September 5th and October 3rd meetings. We, the Minutes reflect all the information stated to us both from the applicant and the opposition. In order to expedite the proceedings for this afternoon, I'm asking would you, as the opposition, agree to allow those Minutes regarding Special Exception 07-38 to go in today's Minutes to reflect your request for denial of Special Exception 07-38?

MS. GARMIN: Yes, I will.

MS. PERRINE: Thank you very much.

CHAIRWOMAN PERKINS: Ms., Ms. Garmin, could you come back to the podium please? I think what we kind of failed to do, are you representative in the same community as all the other persons that have signed up in opposition? Such as Mr. -

MS. GARMIN: I'm, I live on the land that's adjacent to the proposed site, so that's my, that's my testimony.

CHAIRWOMAN PERKINS: That's your okay, okay, thank you very much.

MS. GARMIN: Thank you.

CHAIRWOMAN PERKINS: Do you have any questions? Are there any questions for Ms. Garmin from the Board?

MS. CECERE: I just - do you have any new information or -

MS. GARMIN: I don't have any new information.

MS. CECERE: Alright, thank you.

MS. GARMIN: Thank you.

CHAIRWOMAN PERKINS: We have a, is there anyone, Mr. John Grego? Is it, Mr. Grego, please state your name and address for the record for me.

TESTIMONY OF JOHN GREGO:

JOHN GREGO: I'm John Grego at 830 Old Woodlands Road, Columbia, SC 29209.

MS. PERRINE: And I'm going to ask you the same question as I - were you here at the -

MR. GREGO: I was here at the, at the October meeting, yeah, um-hum (affirmative).

MS. PERRINE: Did you speak?

MR. GREGO: Yes, I did.

MS. PERRINE: Do you have any other -

MR. GREGO: Well, yeah because my understanding was that we were told here to focus narrowly on Richland County Code and I wanted to sort of tie earlier comments to, to a specific element of the Code if that's possible. And I'll leave out some, I have a statement that I'll distribute. Now, okay. I'm John Grego, President of Friends of Congaree Swamp. I would like, I'd, I would like to thank the Board for its vote last year to deny a Special Exception in this case. As you will see, there are several instances in the Richland County Code that this project fails to satisfy. For this reason and others, the Board should feel quite comfortable in upholding its decision to deny this Special Exception. Friends of Congaree Swamp opposes the Special Exception in this case

because we believe that the applicant has failed to satisfy multiple regulatory criteria. Let me focus on one of them. In the Richland County Codes, Chapter 26, Article 6, paragraphs 60(D) states that the proposed user must show proof of an attempt to co-locate on existing communication towers. Because [inaudible] of evidence of an attempt to co-locate must show that alternative towers, buildings, or other structures are not available for use within the applicant's tower site search area. In reviewing the environmental site assessment prepared by Environmental Resource [inaudible] for its client, we could find no proof of an attempt to co-locate or to site the tower with existing towers. We feel the applicant has arbitrarily limited the size of the tower site search area in order to exclude consideration of viable alternatives nearby. Co-location is particularly important in this case because the proposed site is so close to Congaree National Park and because the proposed tower would need to be evaluated due to its height greater than 199'. Richland County Code specifically require proof of co-location. Special Exceptions are just that, special, and should not be granted lightly. The burden of proof is on the applicant. For these reasons, Friends of Congaree Swamp urges the Board to confirm its previous decision and deny this appeal as currently constituted. Thank you, and a full statement is included.

CHAIRWOMAN PERKINS: Thank you very much. Are, are there any questions from the Board for Mr. Grego? Thank you very much. We have Ms. Caroline Hunt.

MR. PRICE: She's here for the daycare.

CHAIRWOMAN PERKINS: Oh, she signed up for the, you signed the wrong sheet. Mr. Price, you've - Ms. Carol Kozoski? Please state your name and record [sic].

TESTIMONY OF CAROL KOZOSKI:

CAROL KOZOSKI: My name is Carol Kozoski. I live at 5225 Lake Shore Drive, Columbia, 29206.

MS. PERRINE: I need to ask you the same question then. You were here at the other meetings, weren't you?

MS. KOZOSKI: Yes, ma'am.

MS. PERRINE: Okay, in order to expedite the proceedings for this afternoon, I'm asking would you, as the opposition, agree to allow those Minutes from September 5th and October 3rd to go in today's record to reflect your request for denial of the Special Exception 07-38?

MS. KOZOSKI: Yes, ma'am, and I have just a couple of other thoughts in addition to what was stated the last time. Thank you. I'm Carol Kozoski. I am the Vice-Chair of the Richland County Conservation Commission and I'm a founding member of Friends of Congaree Swamp. Last time I spoke to you about the Friends of Congaree Swamp opposition to the Special Exception. We, this time we would like to oppose a, a Special Exception on the basis of other regulatory violations in addition to those mentioned by John Grego who preceded me. In addition to the conditions in Article 6, Section 26-56(F)(2), Standard of Review, it notes that the Board shall consider adverse impact of the proposed use on the aesthetic character of the environs; that's the issue. Congaree National Park is located within one mile of the proposed site. In spite of the fact that such a significant natural resource was within a one mile radius of the proposed site, park personnel were not contacted during the site assessment, nor was the project's possible impact on the park mentioned in the environmental assessment. People do not travel to National Parks to see unsightly lighted cell towers along the

park's border. The park has recently started a night sky program. A lighted cell tower, the lighting would be unnecessary if the tower were shorter, will definitely detract from the parks visitors' aesthetic experience. We have already heard about the migratory bird issue and I will not repeat that. The park's natural resources, including its wildlife, are an integral component. The integral component of a visit to the park, the applicant did not consider the impact of its cell tower on the aesthetic character of its environs and so failed to satisfy the requirement for a Special Exception. For this reason and others the Board should feel quite comfortable in upholding its decision to deny the Special Exception. If a change in the vote occurs, we would want to see evidence in the record of how the applicant has not met the requirements for a Special Exception. We urge the Board to uphold its original decision to deny this request from Alltel. Thank you.

CHAIRWOMAN PERKINS: Thank you. Are there any questions from the Board? Thank you very much, oh, I'm sorry. We have Ms. Tracy Swortout. State your name and address for the record, please.

TESTIMONY OF TRACY SWORTOUT:

TRACY SWORTOUT: Sure, I'm Tracy Swortout and I'm the Superintendant at Congaree National Park, 100 National Park Road, Hopkins 29061. I provided you with two documents, I just want to - and no, I don't want my prior comments to be considered because I'm gonna focus on something completely different. I provided you with two documents; I've got about three copies up there. One is a copy of a letter and I'm gonna ask you to turn to page two of that, it's a letter to Ms. Melissa Benbee of Fish and Wildlife from ERM. The second is a map, and if you would flip to the map that they

showed that has a circle with the one mile radius, I'm gonna refer to that. Okay, first I'd like to thank you for the opportunity to provide comments from the Park Service. As South Carolina's only National Park and one of the major tourist draws in the area, and an ecologically sensitive area, we appreciate the opportunity to provide further information on this Special Exception request. In Richland County Code of Ordinances, in Chapter 26's section on land development, the purpose and scope of that chapter identifies one of the purposes to protect and preserve the scenic historic cultural or ecologically sensitive areas of Richland County. Congaree National Park is just such an area. As South Carolina's only national park and a United Nation's biosphere reserve and home to an incredible biodiversity and known as a globally important birding area, it clearly meets the Richland County criteria of an ecologically sensitive area within the county. Further, the Code of Ordinances, in Section 26-56 relating to Special Exceptions, states that due to land uses unique characteristics or potential impacts on the surrounding neighborhood and the county as a whole, special uses require individual consideration for their location, design, configuration and/or operation to determine that for the particular location. It goes on to say that such consideration may call for the imposition of individualized conditions to insure that the use is appropriate at an individual location. The Code strongly suggests the use of neighborhood meetings. It's doesn't require them, but it suggests them; that did not occur. And I would like to point to, not this map, the one just before it Geo, the one that's got a little circle that shows a one mile radius. In the letter to, from ERM to Fish and Wildlife that they're require as part of NEPA to communicate with, they identified this as the one mile radius showing that it clearly fell outside the park boundaries. I had our GIS Coordinator put

together a map that shows what the actual one mile radius is and it shows that the park is clearly within the one mile radius. Therefore, in the letter to Fish and Wildlife, who is being asked to comment on the appropriateness of this activity as it is in regard to migratory birds as well as certain endangered species, they misstated the fact that there were no conservation areas. In fact they say, and it's in the first paragraph, that they would underline and put in italics if there were any conservation areas or recreational lands within that one mile radius. Clearly there are both. I'd also like to follow that up by saying that the county says that in its Ordinances that they shall not approve Special Exceptions unless all regulations are met. The Board of Zoning Appeals must consider the following in Section (F)(2)(c), potential impact of rights and noise on adjoining properties, adverse impact on the aesthetic character of the environment, it also outlines the authority of the Board, Board of Zoning to add conditions. If you see fit with all of the problems with this application to actually approve it, then we strongly suggest that you put in place the conditions that were suggested by Fish and Wildlife and by the National Park Service. Fish and Wildlife denoted on a letter that was included in the environmental assessment that they suggested reducing the higher, tower height, height to less than 200'. In our meetings with them we also reiterated to them the Park Service's condition that they reduce the height below 200' so the FAA does not require lighting. That would satisfy our needs and I wouldn't have the opposition to it.

CHAIRWOMAN PERKINS: Okay, Ms. Swortout. Are there any questions for Ms. -

MS. SWORTOUT: If you have questions, I'd be happy to answer them.

MR. MCDUFFIE: Would, would you say that your, your largest sort of issue with the tower then is that it's gonna be lighted and it's gonna be visible from the park at night and, and -

MS. SWORTOUT: Thank you for your question. The, yeah, our, our biggest issue with the proposed tower is two-fold. It's the height, which is 285 or 275', depending on which of the versions of the documents you look at, and because of it being over 200', FAA has a requirement for lighting. The tower, in and of itself at that height, poses potential damage to migratory birds. When you add to that the lighting, particularly in an area of high humidity, what you end of having is sort of a light cloud, which can confuse migratory birds. And, you know, folks might sit here and say well oh yeah, it's birds, you know, we need cell coverage. But this park is an international resource and one of the primary reasons for which the Department of Interior designated as a national park was the biological resources and those include migratory birds. And I would add to that that right now there's a notice of proposed ruling making that the FCC is entering into communications with Fish and Wildlife at the very highest levels in Washington to encourage greater concern for migratory water fowl and that's underway right now, so I anticipate in the future there will be even more restrictions. But it's very clearly stated on the support letter that came from Fish and Wildlife that is used in the environmental analysis that this project, you cannot say that it's not gonna have impact on migratory birds. And the county and this Board has the authority to place on this permit conditions that would insure that the resources of South Carolina's only national park are protected, and I urge you to do that.

CHAIRWOMAN PERKINS: I have one question. I think Mr. Pringle presented to us from Alltel that there had been a meeting between his staff and I'm assuming park officials?

MS. SWORTOUT: Yes, ma'am.

CHAIRWOMAN PERKINS: Correct?

MS. SWORTOUT: Yes.

CHAIRWOMAN PERKINS: Did you not have a discussion about the migratory birds?

MS. SWORTOUT: Sure, I'd be happy to answer that. As was noted earlier, we were not invited to any meetings until after we came to this public forum and noted our opposition. We did meet with them recently and reiterated what has been our consistent concern, which is the height and the lighting. They were unwilling to look for an additional location because they themselves designed a search box based on what they're coverage requirements would be. And they were unwilling to drop the height and potentially do two shorter towers that would have the same coverage, coverage opportunities. When we got to that sort of impasse again, we were discussing, the studies that we refer to are referred to bird mortality studies and they're just that. They study the dead birds, so certainly we'd like to avoid a situation where we're having to go out and pick up dead birds and talk about why they were killed. We'd like to avoid that and I think that it's entirely appropriate for this Board to use its authority to impose special conditions that reduce the height and actually bring it into compliance with both Fish and Wildlife and National Park Service recommendations on height.

CHAIRWOMAN PERKINS: Thank you.

MS. SWORTOUT: Thank you.

CHAIRWOMAN PERKINS: Mr. Dick Watkins?

TESTIMONY OF DICK WATKINS:

DICK WATKINS: Good afternoon. I'm Richard Watkins from St. Matthews, awaiting your question.

MS. PERRINE: In order to expedite the proceedings for this afternoon, I'm asking would you, as the opposition, agree to allow the Minutes from September 5th and October 3rd to go in to today's Minutes to reflect your request for denial of Special Exception 07-38?

MR. WATKINS: I was -

MS. PERRINE: Were you here? You were here?

MR. WATKINS: I was not present for the September meeting, I was present and spoke at the October meeting.

MS. PERRINE: I thought so.

MR. WATKINS: And the, the comments that, that I had submitted in, in October, I stand by those. The comments that I was preparing to offer today, I think have been admirably made by the Superintendent, focusing on the one mile radius actually falling within the, the park boundary.

CHAIRWOMAN PERKINS: Are there any questions for Mr. Watkins from the Board? Thank you very much.

MR. WATKINS: Thank you.

CHAIRWOMAN PERKINS: Mr. Pringle, you can come back for rebuttal.

MR. PRINGLE: Wow! let me start from the beginning to Mr. Grego's point about not having evidence of proof of attempts to co-locate. the application is full of those, including the picture that describe Alltel's coverage area and the areas in which this proposed cell site was designed to cover the gaps. It was designed to cover so that it would provide continuous coverage between Alltel's existing cell sites. In addition we have made clear, not only as that rule indicates that we tried to co-locate, but that it didn't meet our coverage goals and, and needs. But also that other wireless carriers will be able to co-locate on this tower, at least three and perhaps more, so that other towers will not have to be built in this vicinity. So we have squarely satisfied that, that particular regulation, or that particular rule. It was not in the environmental report, but it was in other documents that our RF, our radio frequency engineer submitted that discussed exactly what we did. And understand, as a practical matter we're not gonna build a tower unless we have to. It's unbelievably expensive and co-location is a much more viable financial alternative. We could not co-locate, we tried, it didn't meet our coverage objectives and what we needed to do, so we didn't, we - hence this tower. With respect to Ms. Kozoski's comments about light, the, the tower will not be visible from the park. We've done, actually floated a balloon up to 275' in various parts of the park and in the area around it and it is not gonna be visible from that and I can share this document with the Board if you'd like. I've only got one copy of it, but I'll hand it to Mr. Price. With respect to a, a number of the things that the Park Service mentioned, you know, all I can say to respond to the one mile, the one mile radius is to say that our engineer and the people that did our studies are GIS certified. I cannot respond directly to something that I've been sprung with three minutes ago. This certainly didn't come up in the

meetings that we have, but we stand by the things that we did and we certainly did not, and I don't want there to be any, any implication that we intended to, to do anything that was not straightforward. You know, we stand by what we did and certainly not only that, but we believe, going to the comments about Fish and Wildlife and the things that were recommendations, I think it's important to understand here that it was not as if we went to the table with Fish and Wildlife and just refused to do the things that, or went, went with the Park Service and refused to do, do the things that Fish and Wildlife recommended. Those interim guidelines from 2001 are an integral part of what we do and in fact our application reflected many of the things that those guidelines recommended, such as attempts to co-locate or making co-location available or using a free-standing tower, which we are doing as opposed to one that has guide wires, which would be a much less expensive process for us. And so we came to the table having done all those things because they are part of the way Alltel approaches sighting towers. And so to say that we didn't compromise, well we'd already come so far, we did not go, can't go to 200' as we discussed before. It's because a 200' tower would not provide us the coverage. It just would be a waste of time and expenses and we think, you know, and we think that otherwise we did a number of those things. We've agreed to allow access to the tower, to the Park Service or Fish and Wildlife. You know, we've agreed to do the study, but we think that issues over migratory birds ought to be decided by the FCC. It is not by any means a foregone conclusion what the FCC, which is the regulatory body that regulates a great deal of what Alltel and other wireless carriers do with respect to towers, what they will find or order, if, if anything. And certainly the FCC is the regulatory body that will consider all those comments from all

interested parties, but you all don't need to worry about that because they will, you know, issue things that are consistent with all the comments that are filed in that record and reply comments and consideration by, by that body. And, you know, just to, to sum up again we feel like we've, you know, worked particularly hard on this application to make sure that it complied with every aspect of the rules that are applicable to Special Exceptions and we've done many of the things that mitigate or eliminate the kinds of alleged impacts that have been described by the people who oppose this and I think we're, we're good citizens and we have, you know, we, we've done this in a way that is going to benefit the county by providing for, you know, greater coverage by Alltel which is a rural carrier by and large, does not serve the downtown business and, you know, districts as fully, but is to give some area, some coverage area, good coverage area to areas of Richland County that, you know, we believe are underserved and, you know, all the services that go along with that. And I appreciate your time.

CHAIRWOMAN PERKINS: Thank you, Mr. Pringle. Are there any questions from the Board for Mr. Pringle?

MR. MCDUFFIE: I have a question. I haven't seen the, the document that, that, what was the date that the, that the balloon testing was, was done?

MR. PRINGLE: Yeah, sometime before Christmas I believe.

TESTIMONY OF LESLIE GOREY:

MS. GOREY: I'll state my name for the record. My name is Leslie Gorey and I'm a Senior Site Acquisition Specialist with Alltel. My address is 1101 Matthews Mint Hill Road, Matthews, North Carolina 28105. And we had the meeting, we actually contacted the Park Service the same day of our last meeting.

CHAIRWOMAN PERKINS: Step to the mic.

MS. GOREY: Oh, sorry. We contacted the Park Service the same day that you guys decided to reconsider and had a meeting with them shortly thereafter. The balloon was floated between the meeting that was held in December for reconsideration and the Christmas holidays. I don't know the exact date, but probably some, mid December would be my estimate, the timeframe, I don't know the exact day.

CHAIRWOMAN PERKINS: Are there any other questions? Okay, thank you. Mr. Pringle I'm, I have to go out of order. I think a Melissa Benbi is, okay, she was, for the tower? Is that, were you signed up for -

TESTIMONY OF MELISSA BENBI:

MS. BENBI: I, I [inaudible]

CHAIRWOMAN PERKINS: Okay, I failed to call her name because she was for you and I asked the statement, I thought this was your staff. So, please thank you very much and I'll let you come back and rebut anything that she has to say.

MR. PRINGLE: Okay, alright.

CHAIRWOMAN PERKINS: Ms. Benbi, please come down and state your name and address for the record. Could I get you to sign in opposition? Would you just come up? And just strike it out here and here.

MS. BENBI: Sure. Melissa Benbi, I'm a U.S. Fish and Wildlife Service biologist and I appreciate the opportunity to speak. I was not at either of the previous meetings, but I do have some comments now that I'd like to share with you. The Fish and Wildlife Service is the lead federal agency for managing and conserving migratory birds in the United States. Migratory birds are protected under the Migratory Bird Treaty Act and

the Service is concerned about the cumulative impacts of poorly sighted, poorly lit and/or poorly designed communication towers are having on migratory birds. For this particular communication tower, the Service is concerned about the height and location and recommend that the height be reduced or an alternate tower site be selected. In our May 22, 2007 letter to, back to ERM, the Service determined that the proposed cell tower would have no affect on any federally listed species under the Endangered Species Act. However, under the Migratory Bird Treaty Act, the service determined that the tower design would not minimize impacts to migratory birds due to the tower height. The proposed height is 285, but it may be a little lower than that based on what I heard previously. However, our recommendations are less than 200' and with the lower height, as they mentioned before, that does not require lighting under the FAA requirements. In subsequent meetings, the Service expressed concern about the location of the tower as well as the height. Congaree National Park is an extremely important neo-tropical migratory bird fallout and is along a known migratory bird route. Our recommendations are not to site towers near known migratory bird conservation areas. And I wanted to point out I provided two documents, one is my talking points at our meeting from here and the other is our actual official Service guidelines for sighting towers and I have highlighted the two points that are not met by this particular tower. Conservatively, four to five millions birds are estimated to die each year in tower and guide wire collisions and this is a very conservative estimate. Neo-tropical migratory songbirds migrate at night, making them more susceptible to collision during acclimate weather and potential radiation from towers to migratory birds is also a growing concern. So, one of the things that I did want to bring up that I caught, there was a

mention that there was a balloon that was floated up. It doesn't, as far as I know the Park did not receive a special use permit to have this particular operation conducted, so you might want to look into that. But I appreciate the opportunity to provide these comments. Thank you.

CHAIRWOMAN PERKINS: Ms. Benbi, are there any questions from the Board?

Well, thank you very much.

MS. BENBI: Thank you.

CHAIRWOMAN PERKINS: I'm going to have to allow Mr. Pringle to come back for rebuttal.

MR. PRINGLE: You have to. [Laughter] I promise I'll be brief. With the last point, or the point first, I, I don't think, we didn't float a balloon on the, the swamp's property, so I'm not so sure about that special use. I will certainly surrender myself to Park personnel if we need to on the way out if I, if we violated something. I, I don't think that we have. Certainly, you know, we were doing the balloon on our site to, to simulate the tower and show, you know, what could, whether it could be seen from a ways away. So, anyway, as far as the other arguments, those, you know, again as, as I mentioned the Fish and Wildlife, we consult those guidelines and, and follow them very closely as long as they, you know, they're consistent with, you know, what we need for, for coverage and we complied with very, with many of those. As I mentioned, I won't say them again. You know, and that we didn't get all of them, you know, again we've, it is a part of the process that we use and, you know, many of those things that we did and I would venture to say most of them that we did. The idea, again going back to the 200' towers, that just doesn't work, that will not give us coverage. Two 200' towers, it's the

same thing, our RF, our radio frequency expert can talk about it more, but it's essentially that, you know, in order to provide enough coverage in all directions you can't have two 200' towers because of the limited coverage that it provides and I think we described that in great detail and we think that this, you know, is an efficient use of tower space that will be available for many others. And we think, you know, to the extent that there are impacts, the FCC's proceeding will reflect those and Alltel will be bound by things that the FCC rules and promulgates. And that, you know, we, we certainly are in, are conscious of and cognizant of the concerns, but we have done everything we could to meet those while at the same time provide the kind of coverage that we are obligated to, to our customers and that we think Richland County will benefit greatly from. And I appreciate the opportunity to respond again, thanks.

CHAIRWOMAN PERKINS: Are there any questions for Mr. Pringle?

MR. MCDUFFIE: I, I have, I have a question for Mr. Pringle.

MR. PRINGLE: Yeah.

MR. MCDUFFIE: Based on, based on your map, your, your balloon testing and I don't think you have anything to worry about from not getting a special use permit from the Park because it, it doesn't look like any of your observation points or obviously the point where you floated the balloon from were inside the park, but, you know, how can you make the statement that it can't be seen from, you know, from the Park if none of your observation points were inside the park.

MR. PRINGLE: No, I believe the, I think the -

MS. GOREY: There are two, and I think it's marked NV and those were within the park. That meant the balloon was not visible. We did go to public access, publically

accessible areas within the park. We did not fly the balloon in the park; we flew the balloon where the proposed tower location is. However, we went to publically accessible areas and tried to see if we could see the balloon. As you can see those NVs are in the park and the balloon is not visible. Therefore, it can be implied that the tower would not be visible from those locations and we picked some locations, you know, that tried to site it from different locations such as the Visitor's Center, the entrance, the boardwalk through the swamps and into the camping areas. And it was un, it was not able to be seen, so those are indicated by the NV on the first map.

MS. SWORTOUT: And they did not get a federal permit because that would require a special permit.

CHAIRWOMAN PERKINS: But we cannot, I'm not going to -

MR. PRINGLE: I don't, I don't believe they're actually in the park.

CHAIRWOMAN PERKINS: Yeah, do you have another question?

MS. CECERE: I do. And what time of day was this balloon flown?

MS. GOREY: It was during the daylight hours.

MS. CECERE: Thank you.

CHAIRWOMAN PERKINS: Mr. Pringle, I did hear you say that you're going to get your environmental specialist to do some more work with the study where the, the migratory birds you did, what was your comment? Would you repeat that for me?

MR. PRINGLE: Oh, well certainly at, at the meeting that we had in, I guess it was December, we discussed with the Park Service, you know, the broad outlines of a study that we would do with respect to the site and I don't know exactly how to characterize that where it is, where it is right now other than we've also, you know, tried

to get back with them to further that to take the next step in, in going through that process.

CHAIRWOMAN PERKINS: Are there any other questions for Mr. Pringle or his staff? Thank you very much, Mr. Pringle. Okay, any discussion from the Board?

MR. MCDUFFIE: Just based on what has been represented today, as well as what's, what we discussed in the previous sessions, you know, it doesn't seem to me that they have, you know, met all the conditions, you know, to grant a, a Special Exception. It does seem like it, you know, it potentially has impacts on both the, the, adverse impacts on the aesthetics of the character of the environs and then also, you know, potential impact from the light, on, on the Park in question and on the area, not just in the Park but around the Park. That is a very rural area and it just doesn't seem to me that they've met that.

CHAIRWOMAN PERKINS: Any other comments or questions? There being none, the Chair will ask for a motion?

MR. MCDUFFIE: I'll, I'll make a motion. I'd like to make a motion to deny 07-38 SE based on not meeting the criteria for a Special Exception based on the, the light and also the aesthetic character of the environment.

CHAIRWOMAN PERKINS: Is there a second?

MS. CECERE: I'll second.

CHAIRWOMAN PERKINS: Mr. Price, would you like to -

MR. PRICE: Yes. Okay, we have a motion for denial by Mr. McDuffie and we have second by Ms. Cecere and it's based on the application not meeting the requirements of the Code; specifically that the light, the potential impact of the light on

the surrounding area and also the adverse impact it would have on the aesthetic character of the surrounding area.

CHAIRWOMAN PERKINS: All those in favor of that motion please have a show of hands? All those opposed?

[Approved to Deny: McDuffie, Cecere. Opposed: Rush, Branham, Perkins, Perrine; Absent: Simmons]

CHAIRWOMAN PERKINS: Okay, I'm in a quandary here, Mr. Farrar. There are three who opposed, four I'm sorry who oppose that motion and two who are for it. So, should we have a motion to approve?

MR. FARRAR: Well, under your, yes, ma'am, under the, the formal review portion of Chapter 26-56(F)(1), there's three, essentially three things that the Board can do. They can approve the Special Exception, you can deny the Special Exception, or you can continue the matter to a day certain for additional consideration. That's what the, that's what the Code authorizes you to do. If you made a motion outside of that, it may or may not be permissible depending upon your rules of procedure, but essentially you can approve, deny, or continue, so you have those other options, other motions that you can make.

CHAIRWOMAN PERKINS: Is there a motion for approval?

MR. BRANHAM: So moved.

CHAIRWOMAN PERKINS: Is there a second?

MS. PERRINE: I'll second.

CHAIRWOMAN PERKINS: Okay, all those in favor of that motion?

MR. PRICE: Okay, sorry, we have for Rush, Branham, Perrine, Perkins.

[Approved: Rush, Branham, Perrine, Perkins]

CHAIRWOMAN PERKINS: And those against that motion?

MR. PRICE: McDuffie, Cecere.

[Opposed: McDuffie, Cecere; Absent: Simmons]

CHAIRWOMAN PERKINS: Mr. Pringle, the Special Exception has been approved and Mr. Price will be in touch.

MR. PRINGLE: Thank you for your time.

CHAIRWOMAN PERKINS: Next case.

CASE 08-01 SE:

MR. PRICE: The next case is case 08-01 Special Exception. The applicant is requesting the Board of Zoning Appeals to establish a landfill on property zoned RU. The applicant is Waste Management, which will be represented by Zane Ferris. The location is on Highway Church Road and Screaming Eagle Road. The parcel size is approximately 208 plus acres. The subject parcel is a wooded 200 acre tract which is located between a landfill and a borrow pit. The applicant proposes to establish a landfill as previously stated. The subject party, excuse me, the subject property is located amongst a mixture of scattered residential structures, undeveloped parcels, landfills and borrow pits and Fort Jackson military base. As you can see here this is from GIS, but this is the site. On the left of it is the existing landfill site and here is the borrow pit that came in I believe in the, November, that was recently approved by the Board of Zoning Appeals. And this would be Fort, part of Fort Jackson military base. This was supplied by the applicant, which is actually detailed what each use was in that particular area. Once again this is the site for the proposed landfill and I believe in each

of your packages you've received a lot of information from Waste Management. And also before the meeting I think I gave you additional copies of support letters from the community.

CHAIRWOMAN PERKINS: Thank you very much. I have a Mr. Zane Ferris, would you please come down to the podium, state your name and address and tell the Board what it is you would like to do?

TESTIMONY OF ZANE FERRIS:

MR. FERRIS: Sure, I just brought this because I wasn't sure if we would have an opportunity to have that in front of us.

MR. PRICE: Mr. Ferris, there's a pointer over there also if you want to use that.

MR. FERRIS: Okay, great, thank you. My name is Zane Ferris. I'm a representative of Waste Management. I'm the Director of Landfill Operations for the company. I do have some people in support that I'd like to recognize today. I, we've submitted some letters in support of this project for this Special Exception request and we also work very closely with the community. We have what we call Citizens Advisory Committee where we meet on a regular basis and talk to the community, people who live in our area, and they're very familiar with all of our operations on a daily basis. So we have several supporters. I see people all over, we have several supporters if they'd like to raise their hand to support this, this request throughout the, throughout the area here. Our core business focus in Waste Management is to transport, collect, recycle, and dispose of solid waste. We're an environmental company that has a strong environmental track record over the years, especially here in, in the Richland County area. We have over 104 landfill gas energy projects throughout the nation and two of

which are located here in South Carolina. We have one in Palmetto, at our Palmetto facility up in Spartanburg, where we partnered with the BMW plant up there to provide over 65% of their electrical needs with landfill gas that is a byproduct of the decomposition of waste. We also have one here locally in Richland County. It's a little bit to the west of the, the drawing that you see up there, but we partner with Santee Cooper and Tri-County Electric to provide them four and half megawatts of electricity through the use of a, a turbine. They in turn send that energy over to a power grid operated by Tri-County Electric and send it out to the community. That project, in and of itself started in March of 2006. We began the ribbon cutting and, and started the project then, and we have the potential build out of over 20 megawatts for that facility alone. Some of the other things that I'd like to talk about is that we pride, again I said we've had some people here from the Citizens Advisory Committee and the local community support, so we pride ourselves on being a partner to the community and being a partner to the county in which we operate. Our local facility here has been in operation since the early 70's and we have a subtitle D facility, which means it's a liner system type facility. We can only accept non-hazardous wastes and non-regulated special wastes and it's a subtitle D facility meaning that it has a leachee(?) collection, gas collection, storm water collection systems in place as part of the subtitle D regulations mandated by the state and federal regulations. We've consistently met and exceeded local and state and federal regulations and we are the sole provider of Richland County's municipal solid waste disposal at this time for residential waste. Excuse me, we're currently in a long term partnership with Richland County that started in 1995 for the, for that purpose. Recently on December 17th, Richland County modified their solid

waste management plan to allow existing landfills in Richland County to expand. A copy of that revision for the solid waste management plan was provided to you in the package and Staff as well. So with that, what I have from, what I'm proposing today is an expansion of our existing facility to allow us to be present for a longer period of time in Richland County and continue the partnership with our local community as well as with Richland County. We are going to expand our existing facility laterally and since you have a pointer, and the proposed property that we're talking about is actually highlighted in, in yellow right there as you see. It's an, it's an ideal location. To the south of us we have Fort Jackson army base. We have been in touch with Deputy Garrison Commander Scott Narwall, it's a mouthful, but we've been in contact with him and he is comfortable with our proposal that we're here to present to you today. To the west of us, we have an existing, our existing facility, which is a subtitle D facility. We also have a closed C&D facility. Just to the northwest of this property, or existing to the west is a, an, excuse an approved borrow pit that is currently in use and also just to the north of that, across the Kershaw County line we have Columbia Hauling Facility. We have another C&D landfill, and as mentioned by Staff a little bit earlier on the east side, we have an existing C&D landfill and an existing borrow pit that you've recently approved I believe in November. So the location is ideal, this is the best opportunity for us to be able to use this land for this Special Exception and for waste disposal. I'd like to address now your standards of review. With regards to vehicle and pedestrian safety and traffic impacts, we don't have any proposed or do not see any existing impacts negatively towards those things. This is simply a replacement of the existing capacity, a replacement of our existing operations. Everything is going to be the same. We're

going, not expecting anything over our current traffic volumes, they're not expected to change and our road uses and infrastructures will be used as currently being used from the entrance of Richland, or Screaming Eagle Road to Highway Church Road. We'll continue to use a, a turn lane just to the south of the property, right in this intersection here, there is a turn lane that the Citizens Advisory Committee as well as Waste Management worked with DOT to install in order to enhance the safety in that area to, for a left turn. And Waste Management not only helped with that, but we also were able to donate a small piece of property a little bit less than a half acre to help with that turn lane in its construction for DOT. With regards to potential impact on adjoining properties, since the replacement of the existing landfill facility is requested, we expect no change on hours or methods of operations. This is again a simply, just a replacement. We don't expect any potential impact on adjoining properties. We are there, we are in existence, its industrial activity around the outside of the perimeter of this piece of property, so we don't expect any adverse impacts with regards to that. As far as aesthetics is concerned, due to location of this property, again the proposed use will not negatively impact the aesthetic character of the area and I think Staff also mentioned that as well. Orientation and spacing: There will be limited structures located on the property to support landfill operations and due to the property size and in accordance with DHEC regulations, this should not be an issue. There are a few ancillary facilities, ancillary systems that will be in place, again with storm water collection and with scale operations and that type of thing. The proper zoning to require a Special Exception is RU and this piece of property is currently zoned as RU and we are required and all permits for local, state, and federal requirements will be obtained

prior to construction of acceptance of waste. The ingress and egress must be through a thoroughfare or collector road. Again, we're gonna use the existing access, the existing road structures and so forth that have currently been in use since the early, the early 70's. Again Waste Management, we, we have a, you know, I take a great deal of pride to be able to say that we have an opportunity to work with the community and we have the support of the community. Over the years, this isn't something that just started; this is something we've been doing for over seven years now. I, I'm proud to be a part of it; we've worked with not only the people that live in the area, but local schools. We've got Pontiac Elementary, Dobeys Mill Elementary. We've worked with people that live in our area that are in need during times of maybe their, their health isn't so good or, or whatever the case might be, and several churches in the area as well. We work with them on a regular basis, meet with them on a regular basis, share with them what our operations are doing, how, how we can help. We take into consideration any of their thoughts and concerns and work positively towards whatever their needs are. So it, it brings me a great deal of pleasure to be able to share that with you. Some of the things we've done in the past is the turn lane like I talked about earlier because of, in regards to safety and concerns with safety. We also were able to work on Highway Church Road at the very end of the road down in Kershaw County. There were some concerns about the apron and how safe it was there and we worked with DOT also to, to help develop and enhance that, that area. We've donated on a regular basis to churches and schools and have an open line of communication with the, with the community. And I think you can see that in some of the letters that we have, that, that you've been provided with. We also give tours, education training programs, all those different

things from any of the schools in their environmental, environmental studies groups, as well as Clemson Exchange. I also speak on a regular basis to the DHEC Manager's Training and Certification Class with regard to the Citizens Advisory Group and our program and how we can, we can better be a part and, and an integral part of our, our communities and, and work with them and just be a part of the community that everybody says hey, you know, we want Waste Management to be there. And, and that's what we work on every, on a regular basis. There are too many to name and we did provide you a package with several of the things that we've done over the years and continue to do. So if you have any questions with regards to those, please don't, please just let me know. The property proposed in summary is a request for a Special Exception on a 200 acre, 208 acre tract of land that is in an ideal location surrounded by the industrial activities. We've been a good partner to the community and the county and we meet and comply with all of the standards of review with regards to the ordinance for a Special Exception. I appreciate your time, consideration, and your requests and we're available for questions if you have any.

CHAIRWOMAN PERKINS: Are there any questions from the Board for Mr. Ferris? Mr. Ferris, I do have one. You did say that the, you plan no changes in the operations?

MR. FERRIS: That's correct. Our current hours of operation are not intended to change whatsoever.

MS. CECERE: I have one. Have you had any citations from DHEC?

MR. FERRIS: No, ma'am, we haven't.

MS. CECERE: Thank you.

MR. FERRIS: Not at the local level, no.

CHAIRWOMAN PERKINS: Any other questions? Thank you very much –

MR. FERRIS: You're very welcome.

CHAIRWOMAN PERKINS: - Mr. Farris. There's no one signed up in opposition.

What is, is there discussion from the Board? The Chair will entertain a motion.

MR. BRANHAM: Madam Chair, I would like to make a motion that we approve Special Exception 08-01.

CHAIRWOMAN PERKINS: Is there a second?

MR. MCDUFFIE: I'll second.

CHAIRWOMAN PERKINS: Okay, all those in favor of that motion, Mr. Price would you like to say, yeah, I don't think there's a need to repeat that is there?

MR. PRICE: No.

CHAIRWOMAN PERKINS: Okay. All those in favor of that motion, have a show of hands.

MR. PRICE: We have for: Rush, Branham, Perkins, McDuffie, Cecere.

CHAIRWOMAN PERKINS: All those opposed?

(?): She did not vote for it.

MR. PRICE: Oh, you did not vote for it? Okay, I'm sorry. We need to do that again. We have for: Rush, Branham, Perkins, McDuffie, Cecere.

CHAIRWOMAN PERKINS: All those opposed?

MR. PRICE: Perrine.

[Approved: Rush, Branham, Perkins, McDuffie, Cecere. Opposed: Perrine; Absent: Simmons]

CHAIRWOMAN PERKINS: Mr. Ferris, your Special Exception has been approved and Mr. Price will be in touch. Thank you.

MR. FERRIS: Thank you very much.

CHAIRWOMAN PERKINS: Next case.

CASE NO. 07-54 SE:

MR. PRICE: The, the next case is, the next case is case 07-54. The applicant is requesting the Board of Zoning Appeals to grant a Special Exception to permit the establishment of an auto salvage yard on property zone M1, which is light industrial. The applicant is Bernard Doctor, the location is 700 Old Fairfield Road. The parcel size is a little more than an acre. The existing land use is undeveloped, as you can see from your aerial. The subject property is heavily wooded. The applicant proposes to establish an auto salvage yard. The subject property is located on the backside of Fairfield Road. This is Old Fairfield Road here, this is where - alright. The South Carolina Department of Transportation Maintenance Shop is located north of the subject property; that would be it right here. The applicant has outlined his, his, I guess a development plan for his business and, and it's in your packet.

CHAIRWOMAN PERKINS: Thank you, Mr. Price. Mr. Bernard Doctor, would you please come to the podium and state your name address for the record, and tell the Board what it is you would like to do? Just Mr. Doctor at this time. Oh, I'm sorry, just, this okay, is Bernard [inaudible]? I think Bernard, who? Bernard, you're the - okay.

TESTIMONY OF BERNARD DOCTOR:

MR. DOCTOR: Yeah, my name is Bernard Doctor. I live at 309 Carriage Oaks Drive in Columbia. Like I say we're proposing just, it's, I guess you can say an auto

salvage yard. It's not a typical, it wouldn't be a typical auto salvage yard where you, a lot of junk cars there. Our main thing is to, we'll take the cars, whatever parts are useable, we plan to resell those parts and, and everything else, the shell and unusable parts, we take them to recycling, yeah, recycling to get them out of the yard. I mean, the main thing, I guess the main set-up is we would have, the property is about 200' deep I think. We'd make some sheds, about 150 to 75' long by 10' wide with a shed over it and a four-inch thick piece of concrete to house all the parts. Prior to turn any vehicle apart, our main concern, we would drain all fluids, oils, transmission fluid, coolants and things of this nature and store them in 55 gallon drums that would just be sent out to be recycled. And then once we remove all the fluids, then we would proceed to, you know, demolish the vehicle or take the vehicle apart. Some, like engines and stuff, stuff that engines we decide to sell, those engines we cannot, we wouldn't drain the fuel, I mean, the fluids out of those engines. However, when we store them on the cement slab, the four-inch cement slabs, we plan to make a, a, a containment wall around that slab, say no more than about five or six inches high. I think that's about OSHA's regulation for that. So we, and so if we did have a spill from that engine that was sitting there, the only way it's gonna spill, would be if it was to fall over or whatever. But if we did happen to have a spill, it would be contained within that wall and we could clean that up without it contaminating the, the earth and stuff. And that's basically our, you know, is our use for the land.

CHAIRWOMAN PERKINS: Are there any questions from the Board? Did you finish?

MR. DOCTOR: Yes, ma'am.

CHAIRWOMAN PERKINS: Are there any questions from the Board Members? I have one, Mr. Doctor. I was looking in your company summary that was presented to the Board.

MR. DOCTOR: Yes, ma'am.

CHAIRWOMAN PERKINS: And it said that you were going to put a six foot high chain-link fence.

MR. DOCTOR: Yes, ma'am.

CHAIRWOMAN PERKINS: Are you aware that according to the, the ordinance you have to put up something that is not visible from, you're not - have to be able to see the cars?

MR. DOCTOR: Yes, ma'am, well we, that's why, especially from the main road there, I guess the -

CHAIRWOMAN PERKINS: But a chain-link fence is visible. You would be able to see through that, so you -

MR. DOCTOR: Yes, ma'am, yes, ma'am. Well the same, the chain-link fence would be for security. We could also put a tarp, you know, attach a tarp to that fence to, you know, to hide the view from the public or use some type metal, you know, like this metal similar to venetian blinds to weave into the fence. But we would actually need the fence for security, but we, we could place a, something up there to hide it from, from the view of the public.

CHAIRWOMAN PERKINS: I, yeah, I understand that, but they said - but stocks and supplies should be either stored inside enclosed structures or screened by solid walls, opaque fences, dense evergreen shrubbery or the like. And of course if you put

shrubby there, it has a certain height and the width that you had to do there, so that is a concern of mine. The other thing that I wanted to ask you is with the placement, you said that you're going to put a 240 x 12' shed and then a 30 x 14' building. And it's, but - and then you have to have side yard, front yard, and back yard setbacks, yeah, and you're on, it's not, it's a little bit over an acre. And I can't, and, and you also said something about abutting or putting a fence, I'm looking for it in this book to, to read exactly, to quote you exactly right, in front of the shed that you're going to house the storage and the office building. And I'm not certain how that design would look. I'm a little confused about that. And how long would you keep a, so that it will be a salvage yard rather than a junk yard or a junk, junk yard, how long will the vehicles remain on the, remain on the property once you get them? And how many vehicles will you store on the property before you start dismantling? And then I think you said that there's a scrap metal place not too far?

MR. DOCTOR: Yes, ma'am, about a mile.

CHAIRWOMAN PERKINS: Yeah, yeah from where you are. So those things - give me a clearer picture of -

MR. DOCTOR: Yes, ma'am. Yeah well, you know, as far as the amount of time that the vehicles will be left on the land, it wouldn't be, it should be less than a week's time because it doesn't take long to remove an engine, remove the parts, the known, you know, the known good parts and, you know, get rid of the, the rest of the vehicle. Actually we could take most of the parts off the vehicle within a day, get rid of that vehicle that's not needed, it's not needed anymore and then remove the good parts and

store them wherever they're supposed, supposed to go. So we have no intentions of keeping a car there because we need the space to, you know, continually.

CHAIRWOMAN PERKINS: And so, so approximately if, if, if someone were to come by there or something, approximately how many cars would be given on any one day on that lot?

MR. DOCTOR: I really couldn't say, but I would, I would say no more than 10 to 15 cars I would say at any given time.

CHAIRWOMAN PERKINS: And the other question I had, your summary did not indicate a removal of oil prior to dismantling vehicles, other than those that you tow from garages, insurance companies, and the city law enforcement. But I think you explained in your presentation that you plan to remove all cars that you plan to take the parts from except those engines that you would be selling and you'd have to maintain them on the slab?

MR. DOCTOR: Yes, ma'am.

CHAIRWOMAN PERKINS: Okay, thank you very much. Are there any other questions from the Board?

MS. CECERE: I have. Mr. Doctor, you don't by any chance have a already drawn up plan on what, what you're intending to do? Like where the building is going to be located and where that pad that you're going to pour, the concrete slab with the, a roof over it? And then you said also an office and storage space?

MR. DOCTOR: Yes, ma'am. I, I got my son to draw me a little small blueprint, it's not the final, you know, not, not my final thing. It seemed like as time goes by I continue to, to make different, get different ideas how to, you know, get it done quickly.

CHAIRWOMAN PERKINS: I, I, while you're getting that, you said in your summary you also said that you would have ample parking? Please explain to me instead of using the adjective ample, tell me how many parking spaces you will have, given all the other things that you want to put on this acreage of land?

MR. DOCTOR: Well, actually the only parking spaces we will actually need are for vehicles that actually I operate would be approximately maybe, maybe five or six parking spaces; one for the trucks that we drive and if any customer comes up to buy parts and stuff, we'd have to have about three or four parking spaces for those customers. But other than that, that should be about enough. And this is basically what -

CHAIRWOMAN PERKINS: Mr., Mr. Price, can, yeah -

MS. CECERE: May we see that?

CHAIRWOMAN PERKINS: Is there a, for his operation, what would be the number of parking spaces that he would have to have? That was not in a part of the packet. What is this you're presenting to us, Mr. Doctor?

MR. DOCTOR: It's my, it's a, it's a, a, a drawing that I got my son to do. Here's a smaller copy of it. The shed is the brown area back on the, on the back side, you see a brown colored shape that's going back approximately the length of the property.

CHAIRWOMAN PERKINS: Oh, that's the shed. And you have an awful lot of cars here, parking spaces for the -

MR. DOCTOR: No, ma'am, those are, when I told my son to draw it up, you know, he invented some of his own ideas and put in there. He's an architect, but it doesn't need the, if I'm not going to have that many vehicles there.

CHAIRWOMAN PERKINS: Well I was wondering –

MR. DOCTOR: No, ma'am.

CHAIRWOMAN PERKINS: - from what you just told me that you were only gonna have from 10 to 15 cars at a time.

MR. DOCTOR: Yes, ma'am. That's, that's just his visualization of what he thought I wanted.

MR. BRANHAM: Question. Mr. Doctor, do you own any other property around the parcel that you're proposing to put a car lot on, a car salvage yard on?

MR. DOCTOR: No, sir, I grew up on this property here. My, I think my aunt owns this property, on the, she used to own the property next to this property and I forgot who owns the property next to that property. But I grew up on that, in that area there, on that land.

CHAIRWOMAN PERKINS: Mr. Doctor, I, you know, this, you said this is not representative of your, of what your salvage yard would look like?

MR. DOCTOR: Yes, ma'am.

CHAIRWOMAN PERKINS: Because you're evolving and changing and, and doing it differently. Do you think that you're gonna change it? Oh you, I'm sorry.

MR. RUSH: I was going to ask you a question. Is there any way that we, at this point, make a motion to defer to get more information? Is that possible?

CHAIRWOMAN PERKINS: I think so.

MR. RUSH: Or is there anybody opposed or is there anybody opposed to this? Do you have anybody opposed?

CHAIRWOMAN PERKINS: No, huh-uh (negative). Well, we, we got to let him finish talking.

MR. RUSH: Okay, alright.

CHAIRWOMAN PERKINS: You can do that. Is there anything else?

MR. DOCTOR: No, ma'am, but like I said that, the drawing there is not completely representative of the yard. That's my son's idea of what he thought I wanted. Basically, the main thing I wanted him to show you was the shed there in the back, the brown colored shed. That's the way the shed will look. The rest of that land, other than that building you see there will actually be empty land that we actually work on, just, you know, demolishing cars and then removing them.

CHAIRWOMAN PERKINS: Well, the, the, in reading, just reading your summary, you know, summary, I had, as I stated before, I have a difficult time visualizing how all of this is going to be placed on that, you know, acreage. And this is not a true representation. I, myself would like to see how all of these things are gonna be placed, including the slab that, you know, you plan to put the engines on and where the oil is and that's just my, my -

MR. DOCTOR: Yes, ma'am.

CHAIRWOMAN PERKINS: I guess I'll give this back to you. Are there any questions for Mr. Bernard Doctor? Thank you, Mr. Doctor.

MR. DOCTOR: Okay.

CHAIRWOMAN PERKINS: We have a Mr., I think it's Roosevelt Doctor?

TESTIMONY OF ROOSEVELT DOCTOR:

MR. R. DOCTOR: Yes, ma'am. When he speaks, he speaks, he just spoke for both of us.

CHAIRWOMAN PERKINS: Okay. There's no one signed up for opposition? What's the Board's pleasure? I think Mr. Rush -

MR. RUSH: Yeah I would like to make a motion to defer this case based on even the requirements for a Special Exception, I understand Staff gets more information about operations to determine issues about noise and reports I understand. If you needed more information about operation times to determine the impact of noise, lights, different things like that, also to get a better representation of the layout of this project. So I would like to make a motion to defer based on that.

CHAIRWOMAN PERKINS: Mr. Doctor, Bernard, would you please? What the, what, what a Board Member and there, of course there is, we haven't presented a, a motion for anything, but there seems to be some information that the Board Members would like more information from you before we have a motion to vote on this. And they're asking that it be deferred until such time you can present us with a schematic plan like you did of the actual layout, what the property is going to look like when you have it in its final stages. We'd like to know the hours of operation. Certainly if you don't want us – we've heard the case - to defer it, we can go ahead and vote on it today, but there's more information that some Board Members need before they can make a decision. It's, it's your decision, would you -

MR. MCDUFFIE: Could Mr. Doctor address the hours of operation issue right now?

MR. DOCTOR: Yes, ma'am. Well, actually the hours, hours of operation would be up until, from like 8:00 in the morning till about 5:00 to 6:00 in the afternoon. You know, initially we might go up until 7:00, getting stuff started. But once we get started, 5:00 is, is a, a, you know, the main time we, we'd probably shut down. We wouldn't be there any longer than 5:00.

CHAIRWOMAN PERKINS: Monday through?

MR. DOCTOR: Monday through Saturday.

CHAIRWOMAN PERKINS: So you will be, your, your hours of operation will be Monday through Saturday from 8:00 until 5:00?

MR. DOCTOR: 5:00, yes, ma'am. And, and actually like I said the property layout is simple. I mean, it's, it's a gate here. You know, it's gate, you go in the gate, gate. There's a, a cement slab here about 175' long, cement slab, four inches thick with, with a, a, a guard on it so if you have any spillage, the stuff wouldn't come out. The rest of the land is open, it's an open area other than that, the storage area or the shed that we use to break the, the vehicles down. That's the complete layout of the operation. It's a simple operation.

CHAIRWOMAN PERKINS: So it is, you do want us to go ahead and vote on this? Oh, I'm sorry, Mr., Mr. Joe, Mr. Kocy, Joe Kocy.

MR. KOCY: Good morning Board, I'm Joe Kocy for those of you who haven't met me, I'm the Planning Director. I'd just like to remind you that all this applicant is asking for is permission to go forward with the application process with Planning and Zoning. So, my Department will, along with the Building Department will review his formal application to make sure that he doesn't encroach in any side yards, in any front

yards, in any back yard, that the property is screened. He'll have to get necessary permits to pour a concrete slab. We'll make sure that it's the required thickness with rebar and everything else to insure that all the zoning code and all the building codes are met with. But the first step that the applicant is requesting before he goes to the expense of preparing all these expensive drawings is to get permission from you to use a conditional use on his land. That, that's the first major step. He's not done with the county yet, you're just the first hurdle. Then, then you give him to me and we'll run him through the ringer to get, to make sure that everything he does is according to the book. And that's why he hasn't come to, with all the detail yet because, and I don't blame the gentleman, it's a lot of expense and the, and really the first question is just a thumb's up or down from you is can he go forward with this process. And I'll make sure, if you give him the green light to go forward with the process, I'll make sure that he complies with every county code before he gets done with the process.

CHAIRWOMAN PERKINS: We have Mr. Kocy's endorsement? Mr. Rush, would you -

MR. RUSH: I would like to make a motion to approve based - and recommend that the vacant, any vacancies or abandonment or discontinuance of the, for a period of 12 months will void the Special Exception.

CHAIRWOMAN PERKINS: Can I - and I'd like to add some more if you don't mind. I would like to say that at any point in time during the week there's no more than 10 to 15 cars on the lot to be dismantled, as stated by the applicant himself. That the hours of operation will be 8:00 a.m. until 5:00 p.m. Monday through Saturday. And that, we talked about the chain-link fence and he has agreed that the materials have to, have

to be stored in, inside an enclosed structure or screened by solid walls, opaque fence, evergreens, shrubbery, and everything. Is that?

MR. RUSH: [Nods yes]

CHAIRWOMAN PERKINS: Is there a second to that motion?

MS. CECERE: I second.

CHAIRWOMAN PERKINS: Okay, all those in favor of that motion, have a show - Mr. Price, I'm sorry, would you like to repeat the motion to make certain it meets -

MR. PRICE: Yeah, I, I did have one question for you regarding your amendment to the motion. You were stating that stocks and supplies have to be enclosed? Do you, is that a requirement for you to make it enclosed only? Because if it -

CHAIRWOMAN PERKINS: I'm reading Section 26-152(D)(26)(b): stocks and supplies should be either stored inside enclosed structures or screened by solid walls, opaque fences ... yeah, uh-huh (affirmative).

MR. PRICE: Right, and that's what I was asking, do you, the requiring them to be in or just to meet the requirements of 26(b)?

CHAIRWOMAN PERKINS: Yeah.

MR. PRICE: Just read the requirements of 26(b)? Or to have them just, they have to be enclosed? Do you want them inside of a structure only? Or can -

CHAIRWOMAN PERKINS: I think he said he was building a shed to store the enclosed, I mean, the, according to his document in his summary information. If you look at 2.4: company facility, page 48.

MR. MCDUFFIE: I think what Mr. Price is saying that, is that a shed might, it might not have, it might just be like a pole building, no walls or something like that. And

he was asking if, if you mean that it just has to be screened from view or if it has to be a, a structure with the sides on it?

CHAIRWOMAN PERKINS: Oh, okay because there's an either/or, okay.

MR. MCDUFFIE: Is it just a, a screen from view?

CHAIRWOMAN PERKINS: Yeah, a screen.

MR. PRICE: Okay, so it just meets the requirements for this, this section? Okay, okay.

CHAIRWOMAN PERKINS: So are you gonna -

MR. PRICE: Do we have, do we have a second?

CHAIRWOMAN PERKINS: Yes.

MS. CECERE: I seconded.

CHAIRWOMAN PERKINS: All those in favor of that motion, a show of hands?

[Approved: Perkins, Rush, Branham, Perrine, McDuffie, Cecere, Simons]

CHAIRWOMAN PERKINS: Mr. Doctor, your Special Exception has been approved and Mr. Price will be in touch. Thank you.

MR. DOCTOR: Thank you.

CHAIRWOMAN PERKINS: The next case Mr. Price.

CASE NO: 07-45 SE:

MR. PRICE: The next case is case 07-45 SE. The applicant is requesting the Board of Zoning Appeals to grant a Special Exception to permit the establishment of a family daycare on property zone RS-MD, which is single-family residential, medium density. The applicant is Thomas Dameron and also Lavis Dameron. The location is 2309 Omega Drive. The parcel size is .32 of an acre. The existing land use is

residential. The subject property has an existing single-family residential structure with a two point access driveway that leads to the home. A fence encloses the rear portion of the property. The applicant proposes to establish a family daycare for a maximum of six children. The ages of the children would range from newborn to 10 years of age. The proposed hours of operation are 7:00 a.m. to 5:30 p.m. The subject property is located in a community of single-family residential structures, which is Woodfield Park. Also, I'm not sure of the relevance to it, but the, a Special Exception for the same request was previously approved by the Board of Zoning Appeals. That was case 98-006 SE. The applicant just never proceeded on so then, because they did not start the, the business within a year, the Special Exception was voided. Some slides as you can - here's the aerial level. There's the existing structure. I believe, you will have in your package a site plan of, on the applicant and applied to this property, which would, which included the previous, done as previous approval, it was required to have a circular driveway. As you can see here, and of course there's some leaves here, but it kind of runs along here right behind the tree.

MR. DAMERON: That's after 10 years of growth.

MR. PRICE: Yeah, here's another site. The Staff has been out there, you know, with this area over here, along with the existing driveway they should have adequate room which the Staff feels without having to use the circular driveway. A couple of shots of the rear of the property and there's the, submitted plat of that, with the applicant showing what he constructed from the previous Special Exception request. That's it.

CHAIRWOMAN PERKINS: Thank you. Mr. Thomas Dameron, would you please come to the podium and state your name and address, and tell the Board what it is you would like to do?

TESTIMONY OF THOMAS DAMERON:

MR. DAMERON: My name is Thomas Dameron. I'm actually speaking on behalf of my wife because she's gonna run the daycare, not me. I reside at 2309 -

CHAIRWOMAN PERKINS: Before you begin we have a plat here that says George C. Lee, Sr. and Louise W. Lee, Sr. Are you actually the owner of that property?

MR. DAMERON: Yes, I am, I pay on it every month.

CHAIRWOMAN PERKINS: Okay, thank you.

MR. DAMERON: My, I reside at 2309 Omega Drive. This is my wife Lavoris Renee Dameron, she'd be running the daycare. [Inaudible] free of, of us and we also are members of the Homeowner's Association, which I know is in opposition. But we, we, you know, we just, whatever decided, whatever decision is decided. We've been married for 28 years, it will be 29 years in August. We've done everything together. The reason why we did not proceed on the initial one that we did, that we won the approval for, we were at the time getting ready to take care of, of her, help her father, which was dying of cancer. We were going to, she had been working in daycare and, in daycare for a great period of time and we were going to go ahead and close the, stop working where she was working and come home and be able to provide a, a setting for her father where five or six of his grand nieces and nephews would be able to be around him and come and stay. Which at the time, 10 years ago they were very, very pre-kindergarten age. After winning the approval on January 7, 1999, 12 days later her

father died. So there was no need to proceed on that because that was the reason, original reason that we did. Subsequently she went ahead and did another day care somewhere else and also with the opposition that we met here from the Homeowner's Association, just having purchased the home, just moving into the community, we joined the, the Homeowner's Association after, at the next meeting and we were members of the Homeowner's Association and we participated with them. What we, what we're, where we're presented at now is she's run a daycare for nine and half years or so, but what we're presented with now is regrettably there are other family situations that we need to look at, backing up. They say sometimes things happen for other reasons, but what we're looking at right now is her mother is sick again, my mother died in the same house. I went down to Charleston, we're very family oriented. I went down to Charleston, she fell, broke her arm, she had her own residence down in Charleston, I brought her up here and she stayed with me and regrettably until she died on October 31, 2003. So, we are kind of like the people in the family that kind of take care of the family and that being, being, being aside, this is why we're, we, we would like to go ahead and, and, and plan on proceeding forward. Now there are some points that I wanted to make. We do believe that the traffic impact will be minimal. As you can see the, the circular driveway was installed and I do have a letter from Mr. Terry Brown stating on January 8, on 1998 that we had complied with that and they gave us the letter that said we could go, but by that time we had already decided to, to go on somewhere else and to not, you know, create the, create the problem because the reason that we were doing it was no longer an issue. It was a mute point. The traffic on the, the vehicle and pedestrian safety, again, I, I don't see that that's an issue. You're talking

about six kids, maybe two or three of them are, are siblings, so you may be looking at four, at the most six cars. The hours of operation are between 7:30 and 5:00 or 6:00 in the afternoon. What are the hours of operation? 7:30 to 5:30 or thereabouts. And the potential noise or light fumes, obstruction of air flow on adjoining properties, I don't see where that's pertinent because that's not gonna be an issue. Adverse impact of proposal on aesthetic character of the environment – nobody's gonna, it's not gonna be an issue. And the orientation of spacing approved on buildings – the only thing that we, that we are looking at, Mr. Price, could you show the, the, the plat again? And you said there was a, the only thing, and I don't really want this to be a, a, contingency, but in, if we did this, I was looking at putting a fence from this corner of the house to the edge here and coming out with the fence here up and, and over here. And this would just give us a, an area where the children could play that wouldn't be, that, that would give them access to being able to see the front and such like that and it would give them an access. Because we do have, in one of the pictures, we do have a dog that's out by a tree right in the middle. That's my daughter's dog; we're keeping him right now. But I mean, we don't, we don't want any, we don't want any issues, so we're, we're looking at, at all those considerations also. I, from, from having been here before, I kind of know what's gonna be said in opposition. I will, I, I can address in rebuttal, but I do want to bring forward a couple of points. One, the copy, I did provide the Board with a copy of the covenant and the covenant does not, does not state that we can't do this. It is not, according to the covenant, it is not, it said no obnoxious or offensive trade or activity shall be carried on any lot and shall, and I don't believe this is offensive or, or, or an obnoxious trade. There is a, can we see, Mr. Price, can we see the plat where,

where it just shows the, the, the, the, yeah, the, the, no, the, the one that shows the, I don't know if you have it or not, just keep going through it, going through it, going through it.

MR. PRICE: We probably don't have it.

MR. DAMERON: Yeah, well one, one more. Is that the last one? If not, I have it, I submitted it with the, there, there is a daycare that's, there is a daycare currently that's two-tenths of a mile from our house and I know that, that before it, the last time we were approached with the situation about in violation of the covenant and it was grandfathered. The covenant was in charge, was in place in 1955 and in 1958, so it proceeded, if there's a covenant issue, it proceeded the daycares operation which began in '70. So I, I don't, I don't believe that the covenant is pertinent or germane in this situation. The other situation is that we have, we have won this before and not that that carries a, any weight now, but the decision has already been made that we could do it and I would just respectfully request that if we are denied that, you know, we know why. Because I mean I, I'm, I'm, we're, we're just, we're just trying to, to do a situation and, and as, and as our opposition would note, would, would state, okay, as, as anybody would say contrary, they know us also and they know that we aren't bad people and that we aren't, that we aren't trying to pull the wool over anybody's eyes. So, I'll leave anything else to rebuttal, thank you. Do you have any questions?

CHAIRWOMAN PERKINS: Thank you, Mr. Dameron. Are there any questions for Mr. Dameron? Mr. Dameron, I do have a question.

MR. DAMERON: Yes, ma'am.

CHAIRWOMAN PERKINS: You change your hours from 7:00, 7:00 a.m. to 5:30 p.m. to 7:30 to 5:30 p.m.? Is that what you were saying?

MR. DAMERON: Well, it is, what it is is if you want us to stick for a set of hours, we'll stick for whatever set of hours. But basically what it is is in childcare if, if I, if you want me to state a, a specific time, I would say from 7:00 o'clock until 6:00 o'clock. And basically what that would do is that would give us the, the ability that if we don't have anybody that needs any service before, you know, 7:30, then we don't open until 7:30. But basically what we just, what, just, what we're just trying to do is, is understand that the people we're trying to serve because unlike the other situation where it would be family members, the people that we're trying to serve, we're just gonna try to make it available for them.

CHAIRWOMAN PERKINS: And that would be 7:00 a.m. to 6:00 p.m.?

MR. DAMERON: 7:00 a.m. to 6:00 p.m.

CHAIRWOMAN PERKINS: Monday through Friday?

MR. DAMERON: Monday through Friday.

CHAIRWOMAN PERKINS: Now I have a question -

MR. DAMERON: Now that's, that's subject to constriction, but not expansion. We, we may constrict it. We, we would not expand it, yes.

CHAIRWOMAN PERKINS: Oh, okay. I have a question. You do have a, I did see the dog chained to the fence and I think you did state that [inaudible].

MR. DAMERON: Yes, yes, if, if, if you could go back to that picture please. It belongs to my, to my daughter.

CHAIRWOMAN PERKINS: My question is and you -

MR. DAMERON: She is an apartment right now.

CHAIRWOMAN PERKINS: - you did suggest to the Board that you would put in a fenced in area? I, as, as a suggestion to you, I would not like to see a chain-link fence in that area because little kids or keeping kids that are so young will stick their hands through that. I see the dog tied up, but -

MR. DAMERON: Could, could, could I address that?

CHAIRWOMAN PERKINS: You certainly can.

MR. DAMERON: Could I get, get you to go back to that slide? Okay. No, no, not, yeah, right there, go ahead and then, I, I was going to address your question in a second, but I just wanted, I wanted to show, show you this. What it is is on the situation here, if you, there's a, a pole right there and there, you see the, the area around the tree? There is a, a, chain that the dog can run along, so the dog is limited. The, the front of, the front of the tree right there is the, as far as the dog can go. He can go to the back fence and he can run along that, that, that area right there, but he cannot go anywhere else in the yard.

CHAIRWOMAN PERKINS: That's, that's if, if he is contained with that chain?

MR. DAMERON: Yes. And he, and, and for the past two years, that's - and I will and, and I, and I like I said we're not, we're not even, I mean, my daughter, my daughter has gotten an apartment where she can keep the dog and I'm just keeping him for her when she was in an apartment that she couldn't.

CHAIRWOMAN PERKINS: Okay, so you're saying then to me that -

MR. DAMERON: The dog, the dog will, the dog, I would just say this way, if, if a contingency for, for going forward, the dog will not be there.

CHAIRWOMAN PERKINS: Okay. Are there any other questions for Mr. Dameron from the Board?

MR. MCDUFFIE: I have a question. I, I see, you know the yard is somewhat fenced in, is there a fence all the way around the yard at this point?

MR. DAMERON: Yes, there's a fence all the way, if you go back to the previous drawing, there's a fence. You can go back to the plat, I can show it from there. There's a fence that goes from here to this fence and there's a fence that goes from here to that fence and all of this area is fenced in, and this has a privacy fence. And the boat that's there actually belongs to my next door neighbor and he asked, he, he asked me if would, if he could store it there and I said sure, not a problem.

CHAIRWOMAN PERKINS: Okay. Are there any other questions for, from the Board for Mr. Dameron? Thank you very much, Mr. Dameron.

MR. DAMERON: I just had one more other thing that, I just wanted, I just wanted to again reiterate that this is not something that we've gone into lightly. My wife and I have been together for 28, 29 years and, I mean, we do everything together. And I mean, that's the only thing we can, like say and that's - I appreciate it.

CHAIRWOMAN PERKINS: Thank you, Mr. Dameron.

MR. DAMERON: Okay, thank you.

CHAIRWOMAN PERKINS: Now we have Ms. Lavis Dameron? Please come to the podium and state your name and address.

TESTIMONY OF LAVORIS RENEE DAMERON:

MS. DAMERON: Good afternoon. My name is Dr. Lavioris Renee Dameron and pretty much my husband has said everything that we wanted to say this afternoon. Thank you.

CHAIRWOMAN PERKINS: Are there any questions for Dr. Dameron?

MS. DAMERON: Thank you.

CHAIRWOMAN PERKINS: Thank you very much. We do have some people signed up in opposition and the first is Mr. Ray House. Please state your name and address for the record. And address, please address the Board

TESTIMONY OF RAYMOND HOUSE:

MR. HOUSE: Okay. My name is Raymond House. I live at 1705 Bywood Drive, Columbia, South Carolina. I'm the President of the Woodfield Park Homeowner's Association and we are here today to oppose the granting of this, what's the, the granting of the, you know, change to this property so they can operate a daycare center. We feel that since Woodfield Park is a family residential area that it should be kept that way. By allowing a person or a business to come into your area, it could change the quality and atmosphere of the neighborhood. As Mr. Dameron says, he is a member of the Association. We do know him very well, but we just think that by allowing a business like this in the area, that we will lose control of our area and it's very hard to keep control of our area right now. It's changing all the time. We've also been told by our county and government officials that once you let one business operate in your area, then we cannot stop other businesses from opening any type of business that they want in the area. We do have a covenant with restrictions in the area. It does not specifically state, you know, businesses are excluded, but only activities that could hurt

or take away from the neighborhood. And we feel this could take away from our neighborhood. We have been before the Zoning Appeals Board before and you have voted with our Associations in the past and we hope that you will continue to do so by denying this appeal. There is that daycare center on the corner of Woodfield Drive and East Boundary and that was grandfathered in way before I got there. And, you know, there was no opposition as far as I know at that time, but I, I do not know when that thing come in, took, took, took effect. That's all I have.

CHAIRWOMAN PERKINS: Okay, are there any questions from the Board for Mr. House? Thank you very much.

MR. HOUSE: Thank you.

CHAIRWOMAN PERKINS: Tonya Ellis, come to the podium and state your name and address, or are you? Oh, you don't want to speak? Okay. Patricia Marindino?

TESTIMONY OF PATRICIA MARINDINO:

MS. MARINDINO: [Inaudible]

CHAIRWOMAN PERKINS: That's okay Ms. Marindino.

MS. MARINDINO: My name is Patricia Marindino. I live at 1518 Faraway Drive and I just want to say that we have a lot of respect for Mr. Dameron. We do think very highly of him. The problem is what the, part of the community Woodfield, which is to one side of this, has a proliferation of daycare centers and commercial businesses and it's really I think due to the, it's detrimental to the community. The community doesn't look like it used to in the past. It's brought down the caliber of the neighborhood. It's not neat anymore. We're trying to keep the singular, the single family dwellings that are

in Woodfield Park as intact as we can. And as Mr. House stated, the neighborhood is changing, sometimes not for the better, as, as, all of Columbia, we have a lot of problems in, in all of our areas. And we're trying to stem a lot of that and, and we would like to keep commercial aspects out of the neighborhood. We, we just want to keep it intact and safe and we do have, it's says medium density in the area, but actually it's, it's pretty dense. It's a lot of traffic in the area and all kinds of things have been going on of late. We're, we're trying to correct a lot of that and we just don't think it's a good idea to have daycare. It is, has been stated if you let one in, then we have to let others in and it, it seems to create a problem. I, the Woodfield part of, of our community is, it's not a pretty sight anymore and, and we, we want to, we want to keep the neighborhood intact. That's all I have to say.

CHAIRWOMAN PERKINS: Okay. Are there any questions for Ms. Marindino from the Board? Thank you very much.

MS. MARINDINO: Thank you.

CHAIRWOMAN PERKINS: Ms. Caughman? You don't want to talk? Okay. You have to forgive me, sometimes I'm, I'm not able to pronounce names, but there's a Betty on here and I just cannot - please come down.

TESTIMONY OF BETTY NAVE(?):

MS. NAVE: Main.

CHAIRWOMAN PERKINS: Nay?

MS. NAVE: Nave.

CHAIRWOMAN PERKINS: Main, okay, alright. Would you like to come down to the podium and address the Board? You signed up in opposition? Okay. Ms. Martha Ruff?

TESTIMONY OF MARTHA RUFF:

MS. RUFF: Good afternoon. I'm Martha Ruff and I reside in, at 1917 East Boundary Road, Woodfield Park, just one street over from the Damerons. And the first thing I want to say, the Damerons have been in the Park, I didn't realize it was 10 years already, but we met here 10 years ago; one of the things that I was not aware of that they were ever approved because that day they were not approved to have this daycare center. But as Mr. Dameron said, they joined the Woodfield Park organization and we love them. They are very nice people. They are the type of people that would be acceptable in any neighborhood and they could choose to live anywhere they want to and they would be accepted. And we would like to feel that the Damerons chose Woodfield Park to live and to rear their children 10 years ago because we had fought so hard to keep Woodfield Park the type of place that people like the Damerons would like to live and we have appreciated having them there. But, just because you love and admire somebody, you can't permit them to destroy your property and your neighborhood by doing what they want to do for their reason for doing it. And the Damerons are, I, I want to say this, they are professional young people that still have a lot of choices now and in the future. The majority of us living in Woodfield Park now are retired seniors and we don't have many choices anymore, but it doesn't mean we do not deserve or want to live in the kind of neighborhood that we will live in peace and not be disturbed by destructive forces like commercialism and this is why we're down here so

often to prevent that. In the years past, and I mean there are many, 20 plus that you have cooperated with us, I don't know how many of you have been on the Board that long, but the Board has always cooperated with us in denying commercialism in the neighborhood and we just pray and ask you today to continue to do that so that we will continue to have the peace and quiet that we have in the neighborhood, or as much as possible. Thank you.

CHAIRWOMAN PERKINS: Are there any questions from the Board? Thank you very much.

MS. RUFF: Thank you.

CHAIRWOMAN PERKINS: Should it be Dr. Dameron or Mr. Dameron that would like to come back for rebuttal?

DR. DAMERON: Mr. Dameron.

CHAIRWOMAN PERKINS: Mr. Dameron, Mr. Dameron would you come back up?

MR. DAMERON: You'll have to excuse me, I'm nervous, but I jotted down a few things that they were saying. The zone, the proliferation of, of daycares, I'm just gonna address them point by point as quickly as I can. The proliferation of daycares in Woodfield, which is not Woodfield Park, which is a totally separate entity, mainly happens along Decker Boulevard. And Decker Boulevard, that area on Decker Boulevard is zoned commercially C, I believe C-1 or some areas are C-1 or C-3, but they are zoned commercially, so they have the right to do that and they don't, they, they don't have to go before the Board to get a Special Exception. What we're asking for is a Special Exception simply to be able to keep six children. I don't see how keeping six

children, enhancing the, the, not, not overwhelming, but enhancing the community aspect of the community by offering people to be able, in the neighborhood or wherever to be able to, to, to get childcare provided in a, in a local community setting, I don't see how that deters from, from the sense of family in the, in the area. Single-family dwellings, we're not asking for an exception for a single-family dwelling. As far as the commercialism goes, there are, commercial ventures can happen all the time. I know several people that buy houses around the area because there are a lot of elderly people that the houses are coming up and, and then also the housing bust or whatever, but they buy houses and then in turn rent them out, because a lot of the areas, a lot of the houses in the area are for rent. That is a commercial venture. I mean, it, it, it brings money to the people that buy the house and rent it out, but again it doesn't have the, the, the point of having to come in front of this deliberative body to get approved to do it. It also lowers the, the, the value, which was another issue, it lowers the value of the people that are owning houses in the area if renters proliferate. I mean, I own my home in the area. I mean, I don't want to see my home value deteriorate, but what I, what I'm, what I'm proposing to do, I don't, I do not see where it has a financial impact on the houses around the area. Yes, I understand what is being addressed about commercialism, but like I said commercialism, there's a daycare right around the street. Yes, but and, and it was, and it was grand, they say grandfathered in, but what it was when they were approved, there wasn't a zoning situation that they had to come before and get the Special Exception. And retired seniors, I mean, again looking at the point of being independent my, my wife's father, my mother were, were, had supported themselves all their life. My, my mother lived in her home by herself for 21 years

before, before she had come and move with me because she had broken her arm. This is the type of family environment, of family support that I believe any community benefits from. I mean, any senior would benefit from the situation if they got into a situation to where they couldn't take care of themselves, if their children were willing to step up and do for it. And yes, we do have choices and we are a, a, a young couple and we do have choices and this is one of our choices that we are asking the Board to approve. We're not asking it on a grand scale. We're not asking it to do anything underhanded, serendipitous, or anything like that, we just, we just want to be able to, to provide about five or six kids, and, and this is mainly because we're looking forward ahead and again like I said, I don't want to, to say that, okay, I don't want to say that, that, that we're doing it for my mother-in-law, but my mother-in-law's health is not that good. Now I have traveled with her extensively down to Charleston to check on to, to, to go with her, I go with her all the time to check on her health because that's how I am. And that's how my mother raised me.

CHAIRWOMAN PERKINS: Well thank you, Mr. Dameron. Are there any questions for Mr. Dameron from the Board? Thank you very much.

MR. DAMERON: Thank you.

CHAIRWOMAN PERKINS: The Chair will entertain a discussion. There being none, the Chair will entertain a motion.

MR. RUSH: [Inaudible] because one of my concerns is I don't think we can mandate that, to build a fence on the site can we? We can? Because my concern about the fenced back yard is some of the equipment in the backyard, especially I know the dog may be harmless, but that is a concern of mine.

CHAIRWOMAN PERKINS: But he did say that - I, I, I think and I'm not sure, in his presentation that he would get a prescribed area if the children would go out, so we aren't mandating it. He presented it to us as an idea and, and he also said that he would remove the dog. And I, you know, is that - I'm, I'm sorry is that what -

MR. RUSH: Yeah because, I mean, that's a concern because that would be unsuited for a child's play space, so that is a concern of mine.

CHAIRWOMAN PERKINS: Okay, given that and we do have, Mr. Price said that he does have a copy of the restrictive covenants, does not restrict an activity of this sort. So, the Chair will now ask for a motion. Okay, since ya'll won't do it all at one time, I move that Special Exception 07-45 SE be granted with the following conditions: That the operational hours be from 7:00 a.m. until 6:00 p.m.; a maximum of six children; removal of the dog; and the fencing that was described by Mr. Dameron. I'm looking at the abandonment, to check and see abandonment; vacancy, abandonment or discontinuation for any period of 12 months as verified by a business license will void the Special Exception. Any violation to the conditions placed on this approval will require a re-hearing of the case by the Board of Zoning Appeals. Is there a second?

MR. MCDUFFIE: I'll second.

CHAIRWOMAN PERKINS: Okay, Mr. Price, would you repeat it?

MR. PRICE: Excuse me. We have a motion to approve the Special Exception request by Ms. Perkins. We have a second by Joshua McDuffie, with the conditions that, with the vacancy abandonment, discontinuance for a period of 12 months will void the Special Exception. Any violations, we will include that also, will require a re-hearing of the case before the Board of Zoning Appeals. The time has been amended, is limited

to 7:00 a.m. to 6:00 p.m. and it will be Monday to Friday. The area for the children will be fenced in as the applicant stated and the dog will be removed.

CHAIRWOMAN PERKINS: Okay, thank you Mr. Price.

MR. PRICE: And with the maximum of six children, that's all.

CHAIRWOMAN PERKINS: All those in favor of that motion, let's have a show of hands? Mr. Price

MR. PRICE: Oh, just a minute. Those, those in favor – Rush, Perrine, Perkins, McDuffie, Cecere.

CHAIRWOMAN PERKINS: Those opposed?

MR. PRICE: Branham.

[Approved: Rush, Perrine, Perkins, McDuffie, Cecere; Opposed: Branham; Absent: Simmons]

CHAIRWOMAN PERKINS: Mr. Dameron, your Special Exception has been approved and Mr. Price will be in then, in touch. Next case.

MR. BRANHAM: Madam Chair, before we proceed, I'd like to move for a two minute recess or a five minutes recess please.

CHAIRWOMAN PERKINS: Is there a, a second.

MS. PERRINE: I'll second.

CHAIRWOMAN PERKINS: Okay, there was a second. All those in favor? Okay.

[Approved: Perkins, Rush, Branham, Perrine, McDuffie, Cecere, Simmons; Absent: Simmons]

[RECESS]

CHAIRWOMAN PERKINS: Okay, we'll come back into session. Oh, right, there.

MR. MCDUFFIE: I'll make a motion to do that, to reconvene.

MS. PERRINE: I'll second.

CHAIRWOMAN PERKINS: Okay, all those in favor? Mr. Price?

[Approved: Perkins, Rush, Branham, Perrine, McDuffie, Cecere, Simons; Absent: Simmons]

CASE NO. 07-53 SE:

MR. PRICE: Okay, the next case is case 07-53 Special Exception. The applicant is requesting the Board of Zoning Appeals to grant a Special Exception to permit the establishment of a family daycare on property zoned RU, which is a rural district. The applicant is Carolyn Hunt. The location is 309 Nelson Road. The parcel size is a little more than an acre and it is currently being used as a residential, for residential use. The subject property has an existing single-family structure on the property, with a driveway that leads to the rear of the property. A fence does not enclose the rear portion of the property. The applicant proposes to establish a daycare for a maximum of six children. The ages will range from newborn to four years of age. The hours, proposed hours of operation are 7:00 a.m. to 6:00 p.m. It's in a community of single-family residential structures. It's off of Fairfield Road and this is the rear of the property. I actually spoke to the applicant about, and I notified him that he, if granted approval, he would have to erect a fence and he understood that. He just didn't want to incur the expenses right now without knowing that he was approved. The driveway, the driveway is actually pretty deep. I don't know if you can tell by this picture, but you could probably, probably easily get four cars in the driveway. This goes, because this

car, his car is not parked as far up as it can go. And this is a sketch of his property and I'm showing, you know, the proposed fenced area, if granted approval, and the applicant also states that he would be willing to put some additional parking spaces, let me see, in the front of the home, you know, even looking at this, this in, this actually may not be a bad location for a circular type driveway if that is, you know, the Board's pleasure because of the width of the yard, and if you find that to be necessary.

CHAIRWOMAN PERKINS: Mr. Price, I just have a question and I may have to ask the applicant. It appears on his application, he was talking about his backyard being a part of a park? [Inaudible]

MS. PERRINE: Well, he was going to take the children to the –

CHAIRWOMAN PERKINS: Park? He said – is the rear yard fenced and he says no, temporary community park.

MR. PRICE: That may be, he's going to take the kids to a park temporarily until the fence is up.

CHAIRWOMAN PERKINS: Oh, okay, okay. But you're not certain?

MR. PRICE: No, that's something he would need to state, but I think regardless if you grant the approval, you know, a fence may need to go up, if he's, if it is his intention to ever take the kids out in the back. That's it.

CHAIRWOMAN PERKINS: Okay, I have Ms. Carolyn Hunt, the applicant. Please state your name and address for the record please.

TESTIMONY OF CAROLYN HUNT:

MS. HUNT: Yes, good afternoon. My name is Carolyn Hunt and I live at 309 Nelson Road, Columbia, South Carolina 29203. The day that the gentleman came to

post the sign, I wasn't there to explain a little more than my husband could explain, or when you said park, I would not take the children to a park because I would not have any children on the property until everything is up to where it should be, up to code. I'm very particular about that. This is my first time being in a situation because I'm basically a city person, so all these things I'm not that familiar with, it's fairly new. But what I am familiar with is the care of children and I just wanted to make it known the reason why I want to have the daycare. It's a personal reason and also to bring to the community a need because even though I know that part of the area that I'm living in is light industrial, but we do have the Carolina Center for Inquiry and the Crane Creek Center that opened up recently. So we do have people living in the community, my parents live next door to me and they've been in the community for over 25 years. I've been coming to South Carolina for many years; this is my father's home. And my husband and I, we moved here in '92, and it came about that we moved down here because of this little girl, she's the drive for what I want to do. This is my daughter who passed away at three because of a blood illness and it has always been my dream to provide something for parents and children in a situation that I was in at one time when my child was sick. I don't want to do anything to make the property look like a commercial business, I want it to be a home type environment where families and children can come and feel that their child is in an environment that's like home, but in essence to prepare them for the structured environment of school, at which it should start young. I'm a, I'm a little nervous and I, I, I am trying to express, you know, why I want the daycare. I have here some, you know, that, can I show them? A little bit about myself and the letter that I went out to the community. In '04, I believe we had a meeting at the, at the Fairlawn

Community House and we had explained to some of our neighbors that we did want to have a daycare and they said that was great. My husband and I, we purchased the home because we wanted to have a place that was not in the city, we've been city dwellers all our lives and I love South Carolina and I love the fact that there's nature about and these were part of, these are important things to me for a young child growing up and seeing these things. We have deer that come around the property and like I said I want the environment to be safe for the children. The reason we hadn't started much of anything as far as outside is because it's just my husband and myself right now. We're working on the property and we haven't been there very long. And when we first got there, there were trees everywhere and we had most of them cut down, but we still have a lot of work to do. I just, you know, I, I want it to be an environment where children can, and parents can come in where they can feel a safe environment for their children and a home like environment. I, I know that the driveway goes straight, you know, where there are enough cars to park, but we said that we would try to put a circular driveway where the cars can, you know, enter and exit out at the same time. I would like to have a fence around the whole property, but I would also like to keep some of the forestry area because, you know, of, of, I feel the property and the area there is, is a nice environment for the children. My, my daycare children under care, years ago, a few years ago we got a non-profit status and we wanted to try to provide some type of service for the children in the community and their parents. I don't know, I have a lot to say, but I don't know what to say right now. I just know that it's a passion that I have, it's something that's not going to go away or change. It's a passion that I have, I love children, I've been working with them for many years and I know that

there's a need for the type of family daycare home that I'm offering. I've had parents who have come and already asked me when am I going to be able to accept children and I, I've, I've said to them that I will not accept children until everything is up to, to par. I just, I just, we just haven't started anything because I was advised also by DSS that I needed to get approval first from Zoning before anything would start. As I said I have a lot to say, but I don't, now the words won't come. But I just really it's, it's just very much, it's a very much desired program that I'd like to be involved with and something that I hope will enhance the community and not, you know, bring the community down or pose any type of threat. There are not that many, you know, cars that come through the neighborhood. There is a not a very busy roadway, so the children will be safe. There's a big main highway, 321, but that's quite a distance from my house, so I think the parents will find it easy to get, you know, to and from the, the place where the daycare will be at. And I just feel that it is a, a good venture that I want, would like to go into. Yes, I have that.

CHAIRWOMAN PERKINS: Are there any questions from the Board for Ms. Hunt? I have one. Ms. Hunt, I was, I'm under the impression that you wanted to operate a family daycare?

MS. HUNT: Yes.

CHAIRWOMAN PERKINS: But in these letters that you presented to us, it seems as if you wanted to do a little bit more, counseling?

MS. HUNT: When I say family daycare, I'm speaking about the whole family unit. Though I have, though there are children, there are six children, I don't want to be a big entity, I don't want to be a big daycare, I want to be a personal environment for parents

and their children where they can have a place where their children can stay. Or where also they can meet, we can meet the needs of parents who might have concern of counseling, any issues or insight that we can bring to them.

CHAIRWOMAN PERKINS: Well, what we have before us here today is an application for you to keep six children.

MS. HUNT: Yes, ma'am.

CHAIRWOMAN PERKINS: Is not inclusive of operating a counseling service business and I'm not sure what all the, the mandates are for that. But, you know, whether there's licensure or, you know, for counseling, you know, that ground stuff. What we have here today is what I want to understand.

MS. HUNT: Yes.

CHAIRWOMAN PERKINS: That you're asking to use your residence as a place to work, to take care of six children, in, from the age range of newborn to four years of age?

MS. HUNT: Yes.

CHAIRWOMAN PERKINS: And that is what you're representing to the Board today? Not what you have given us in this letter dated December 4, 2007? Do you [inaudible] children under your association?

MS. HUNT: Yes.

CHAIRWOMAN PERKINS: Not what you have us in this letter dated December 4, 2007.

MS. HUNT: Yes.

CHAIRWOMAN PERKINS: CUCA?

MS. HUNT: Yes.

CHAIRWOMAN PERKINS: Children under Care Association.

MS. HUNT: Yes, that, that, that is a, that is a, a, an acronym of my daughter's name.

CHAIRWOMAN PERKINS: Well I, I, I want to make sure is that you're just here before this Board today –

MS. HUNT: Yes.

CHAIRWOMAN PERKINS: - to keep six children in your home from the ages of newborn to four years of age?

MS. HUNT: Yes.

CHAIRWOMAN PERKINS: Not families? This is just children?

MS. HUNT: No, it's not to keep families.

CHAIRWOMAN PERKINS: Okay.

MS. HUNT: When I, when I say what I say is because there, there are parents that come in and -

CHAIRWOMAN PERKINS: But we're here today with keeping children?

MS. HUNT: Yes.

CHAIRWOMAN PERKINS: This is the only issue on the table, is it not?

MS. HUNT: Yes, yes, that's correct.

CHAIRWOMAN PERKINS: I just want to make sure. Are there any other questions for Ms. Hunt from the Board? Thank you very much.

MR. BRANHAM: I've got one.

CHAIRWOMAN PERKINS: Okay.

MR. BRANHAM: Madam Chairman. On the plat that the Board has been presented in our packet on page 65 –

MS. HUNT: Yes.

MR. BRANHAM: - it shows a, a drawing there that a well on the adjoining property, on the left hand corner over there, down on the bottom left hand corner?

MS. HUNT: Yes.

MR. BRANHAM: Cleared path to the well?

MS. HUNT: That is our well.

MR. BRANHAM: That is your well?

MS. HUNT: Yes.

MR. BRANHAM: Enclosed? An enclosed well or -

MS. HUNT: Yes.

MR. BRANHAM: Okay. Not something a child could fall into?

MS. HUNT: No, no.

CHAIRWOMAN PERKINS: Is that, what's that little house? Is that, is that the pump? Mr. Price do you have a picture of –

MS. HUNT: The little house? That was a house where our pet lived and she has passed away. All those things will be removed. They, I was told that the children needed a place to play in the backyard. I, I originally wanted something on the side, but I was told that I had to be in the back. But I just know that that area will be cleared there and it's just that, as I said it's just my husband and myself, we're doing it so it's, it's kind of slow to come.

MR. PRICE: Excuse me, who told you that it had to be in the back? Was that DSS or -

MS. HUNT: Someone here in your, in your department I gathered, said that it had to be in the back and I wanted the yard where the children could -

MR. PRICE: That is not a requirement.

CHAIRWOMAN PERKINS: The requirement it's just fenced in, it has to be fenced in.

MS. HUNT: Okay.

CHAIRWOMAN PERKINS: Are there any other questions for Ms. Hunt? Thank you very much.

MS. HUNT: Thank you.

MS. CECERE: I, I just want to make sure that you do understand this is only for the daycare, not what you state here in your letter, parent discussion groups, family counseling and medical referral services.

MS. HUNT: This is only for the children, yes.

MS. CECERE: Okay.

MR. MCDUFFIE: Anything else might require additional -

CHAIRWOMAN PERKINS: Yeah, it does.

MS. HUNT: Yes, that, that's, that's a future plan. That, that's the future plan of, of -

CHAIRWOMAN PERKINS: Licensure and degrees and everything.

MS. HUNT: Yeah, that's a future plan that I just wanted to give you an outlook of, of what the organization is, stands for and that's a future plan and I just wanted to start out, I don't, like I said I, I don't want to be any big -

CHAIRWOMAN PERKINS: Well see, this is a business and then that was another consideration in a rural area.

MS. HUNT: Yes.

CHAIRWOMAN PERKINS: What, what we're here today is discussing your keeping six children in your home.

MS. HUNT: Yes.

CHAIRWOMAN PERKINS: From the hours of -

MS. HUNT: Yes, from 7:00.

CHAIRWOMAN PERKINS: Until 6:00 p.m.

MS. HUNT: Yes.

CHAIRWOMAN PERKINS: The letter is not to be included as a part of this packet because we can't accept that as part of the packet because it's totally different.

MS. HUNT: Okay.

CHAIRWOMAN PERKINS: So, and that, and that's what I think Ms. Cecere and I were trying to -

MS. HUNT: Yes, as I said this is my -

CHAIRWOMAN PERKINS: Okay.

MS. HUNT: - first time of, you know, I've, I've never had to address -

CHAIRWOMAN PERKINS: Okay. Well, we just wanted to make sure that you didn't leave away thinking you could do all this stuff in your letter.

MS. HUNT: No, no. This is just, this, like I said this is just my future plan for my organization.

CHAIRWOMAN PERKINS: Okay, okay.

MS. HUNT: And I, I needed to start somewhere.

CHAIRWOMAN PERKINS: Okay. Well, if there are no more questions for Ms. Hunt? Thank you very much.

MS. HUNT: Thank you.

CHAIRWOMAN PERKINS: We have, I guess in support, Mr. Hunt? Would you like to come up and state your name and address for the record?

TESTIMONY OF MR. HUNT:

MR. HUNT: Yes, ma'am. Yes, thank you. She's nervous, I'm nervous, but I'm glad to be here today and have an opportunity to express what my wife and I are all about. We have two children that we adopted. Prior to the adoption, they were what they called border babies and the border babies were babies of parents who had AIDS and we adopted these children before they retained, you know, retained their own immune system. In, in other words before the age of one. Unfortunately, one of the children that we adopted, that we had our foster child had died in 1993. She was the whole inspiration for about, behind what we're trying to implement today. Jessica, who was called Cuca, and Cuca being spelled C-U-C-A is Child Under Care Association. And the name Cuca itself comes from our older daughter who is now 20 and a college student because my baby couldn't pronounce her name for some reason. Alexis was too difficult, so she called her Cuca and this is where we came from. But my wife and I we have an extensive background in child development. We work with special need

children for a number of years. I, myself, have worked 28 years as a mental health counselor, Carolyn as a special needs teacher. So we realize the needs and the wants for children and, and what she wanted to do and what she was expressing in the future is to try to, you know, help these parents and give them information. You know, a, about prevention techniques, you know, and bringing more children into the world with HIV/AIDS. I, but, I, I, I, to end I guess I'm just thankful to be here and I, I just want to say to everyone that you couldn't find a better pair of people who care so much for children that is earnest and honest, you know, and our major need and our major desire is to care for the children. And I pray and hope that you give us that opportunity, thank you.

CHAIRWOMAN PERKINS: Are there any questions for Mr. Hunt from the Board? I do want you to understand also, Mr. Hunt –

MR. HUNT: Yes, ma'am.

CHAIRWOMAN PERKINS: - in light of we're just here, you're just here today making application to keep six children and, and I did hear you say that they, the HIV border babies?

MR. HUNT: Yes.

CHAIRWOMAN PERKINS: But that's our concern, just the six children, you know, in your home.

MR. HUNT: Yes, ma'am.

CHAIRWOMAN PERKINS: Okay.

MR. HUNT: Thank you.

CHAIRWOMAN PERKINS: Thank you. Are there any questions?

MR. HUNT: Thank you all.

CHAIRWOMAN PERKINS: There's no one signed up in opposition. The Chair will entertain a discussion. Okay, there being none, a motion?

MR. MCDUFFIE: Madam Chair, I would like to make motion to approve 07-53 SE, Special Exception for an in home daycare with the stipulations that they create a fenced in area for the outdoor recreation of children and also the standard stipulations that vacancy, abandonment or discontinuance for any period of 12 months, as verified by a business license, would void the Special Exception, and also that any violations and pre-condition placed on this approval will require a rehearing of the case. And for a maximum of six children. And also would provide a place off of the street for the loading and unloading.

CHAIRWOMAN PERKINS: And is there a second to that motion?

MS. CECERE: I second.

CHAIRWOMAN PERKINS: Alright, Mr. Price would you like to repeat the motion?

MR. PRICE: Yes, ma'am. We have a motion for approval from Joshua McDuffie. We have a second from Susanne Cecere with the conditions that vacancy, abandonment, or discontinuance for any period of 12 months will void the Special Exception. Any violation to the conditions placed on this approval will require a rehearing of the case by the Board. A fenced in area be erected prior to the establishment of the daycare. A maximum, this is for only a maximum of six children and that they provide an area for loading and unloading.

CHAIRWOMAN PERKINS: And I think he also said, you know, and that since the traffic flow is an item [inaudible] the pick-up and drop-off?

MR. MCDUFFIE: Be off the street.

MR. PRICE: Right.

CHAIRWOMAN PERKINS: All those in favor of that motion, have a show of hands?

MR. PRICE: Rush, Branham, Perrine, Perkins, McDuffie, Cecere.

[Approved: Perkins, Rush, Branham, Perrine, McDuffie, Cecere, Simons; Absent: Simmons]

CHAIRWOMAN PERKINS: I think that is unanimous. Mr. and Mrs. Hunt, your Special Exception has been approved and Mr. Price will be in touch.

MR. HUNT: Thank you, ma'am.

CHAIRWOMAN PERKINS: Next case, Mr. Price.

MR. HUNT: Thank you all very much.

CASE NO. 07-55 SE:

MR. PRICE: The next case, 07-55 SE, the applicant is requesting the Board of Zoning Appeals to grant a Special Exception to permit an establishment of a family daycare on property zoned RM-HD, which is single, residential multi-family medium density. The applicant Kimecco Lewis, the location is 199 Baynard Court. The subject property has an existing single-family residence with a driveway that leads to a carport and a garage. A fence encloses the rear portion of the property. The applicant proposes to establish a family daycare for a maximum of six children. The ages will range from newborn to two years of age and the proposed hours of operation are 8:30

a.m. to 5:30 p.m. The subject property is located in the Wedgewood community. You can see this, the subject property is located on the corner of Baynard Court and this is Greenfield Road. This is one view of the home.

CHAIRWOMAN PERKINS: That's not, is that it, Mr. Price?

MR. PRICE: Yes, ma'am. On page 69?

MS. CECERE: Page 73?

MR. PRICE: Did I say -

CHAIRWOMAN PERKINS: No, this is, I thought he said 08-02.

MR. PRICE: No, 07-55.

CHAIRWOMAN PERKINS: Oh, I'm sorry, I heard wrong.

MR. PRICE: Okay, I'm sorry. Once again here's a view of the home. Here's a view, this is Greenview, Greenfield Court, Greenfield Road I believe. This is, as stated is on the corner, is the area, I believe the applicant, there, there are a number of ways that the loading and unloading could be accommodated at least from a, Staff's view. There's plenty area over here for backing out and this road does dead end at, at a cul-de-sac at the end. There's a, this is on the side of the property; here's a fenced in area. I'm sorry. It's missing a slide, I'm sorry. But there, this is, on the rear of the property, here's a, it's fenced in, but there, there are two fences. So this is on the side, more toward Greenfield and that may be the area where the children, where the children will be kept for play and the applicant can be more specific on that. But there are two fenced in areas. That's it.

CHAIRWOMAN PERKINS: Ms. Lewis, would you state your name and address?

TESTIMONY OF KIMECCO LEWIS:

MS. LEWIS: My name's Kimecco Lewis and my address is 100 Baynard Court, Columbia, South Carolina 29223.

CHAIRWOMAN PERKINS: Please tell the Board what it is that you want to do?

MS. LEWIS: I wanted to do an at home daycare, keeping six kids, probably five kids at the most because I have a child of my own and with my child that would be six kids. My hours of operation would be from 8:30 to 5:30 and probably all I, all I have to say really. My backyard is fenced in, we have two fences. One fence is on the side of the house and then the other one is in the back of the house. I have a, a porch, patio, a fenced in patio, too and I was also thinking about, you know, having that area as the, the main part where the children would be kept. That's probably it, that's all I really have to say. Any questions?

CHAIRWOMAN PERKINS: Are there any questions for Ms. Lewis from the Board?

MR. MCDUFFIE: Ms., Ms. Lewis, you're only planning on keeping children from newborns to two years?

MS. LEWIS: Um-hum (affirmative).

MR. MCDUFFIE: Okay. And you're not gonna start operating until 8:30 in the morning?

MS. LEWIS: Yeah.

MR. MCDUFFIE: Okay, that seems to be unusual.

MR. BRANHAM: On the questionnaire from Planning and Development, how many employees would be there? Is that one in addition to yourself or just yourself?

MS. LEWIS: It will be just myself.

MS. PERRINE: How old are your children?

MS. LEWIS: My baby, she's five months.

MS. CECERE: Have you had daycare experience?

MS. LEWIS: Yes, I've worked with my cousin, she also owns an at home daycare. I've worked with her for two years part-time, with working at the hospital in medical records.

CHAIRWOMAN PERKINS: At the hospital?

MS. LEWIS: Yeah, in medical records and I also was a sitter at the hospital, so I was working with all types of ages and people. But I no longer work at the hospital. I'm at home full time with my daughter.

MS. CECERE: Do you own this house?

MS. LEWIS: Um-hum (affirmative).

MS. CECERE: And how long have you lived there?

MS. LEWIS: I've been there for four years.

MS. CECERE: I'm sorry?

MS. LEWIS: I've been there for four years.

MS. CECERE: Four years. Thank you.

CHAIRWOMAN PERKINS: And, and you said you have been a, a companion, you've been a sitter?

MS. LEWIS: Um-hum (affirmative).

CHAIRWOMAN PERKINS: Do you sit with the elderly? Or do you sit with -

MS. LEWIS: Elderly, children, suicidal patients, everybody. I sat at the hospital for a year and half.

CHAIRWOMAN PERKINS: Okay. And how long did you work with your cousin or somebody with that?

MS. LEWIS: For two years, um-hum (affirmative).

CHAIRWOMAN PERKINS: And, and that is the extent of your daycare/childcare?

MS. LEWIS: Experience?

CHAIRWOMAN PERKINS: Child care?

MS. LEWIS: Um-hum (affirmative).

CHAIRWOMAN PERKINS: What -

MS. PERRINE: Would there be anybody else living in the home?

MS. LEWIS: Yes, my baby's father.

CHAIRWOMAN PERKINS: Okay, are there any other questions from the Board for Ms. Lewis: Thank you very much.

MS. LEWIS: Thank you.

CHAIRWOMAN PERKINS: We have several people signed up in opposition. If there is a spokesperson for the, the group, I would ask that they come down and, and speak. However, if everyone signed up in opposition would like to present its case, their case to the Board, please do so. The first one on the opposition's list is Maurice Jessie.

AUDIENCE: Excuse me; could you let Mr. Ponds, Ponds speak first. He's got an appointment to go to.

CHAIRWOMAN PERKINS: Mr. Johnny Ponds? If, if that is the - Mr. Ponds would you come down to the podium and state your name and address and give the Board the information?

TESTIMONY OF JOHNNY PONDS:

MR. PONDS: My name is Johnny Ponds. I live at 124 Greenfield Road, Columbia, South Carolina. I've been living there for approximately 25 years. When I moved there, the, the, the area, the neighborhood was considered a cul-de-sac. Since then that designation has completely gone. Greenfield Road has become a through passage road right now that cuts from Alpine back to Winsdor Lake Boulevard. People come down that particular road doing about 30 miles to 35 miles per hour. On that corner where the daycare is considered to be set up, at the end of that street where that daycare is and that's Baynard Court, it is a court. On that particular court, it's a short street and people go in and out all the time. The house sits right on the corner and it will be a danger to have people at that particular court right there on that corner with a daycare there going in and out, with cars going up and down that street. If it was ever an emergency, it's not that wide of a street right there on that corner, if there was any emergency and someone could come down, flying down through there, there would be an accident. Now many times when I leave my house to go anyplace, I've got to go right, that side street right there on the right, I have to go up that street. Many a times I've almost hit people coming out of that court. It's not a, it's a bad spot. And if we're talking about locations, location, when you're talking about a daycare, location is important. That particular house in the neighborhood used to be a pretty spot for our neighborhood. Because it is a prevalent spot because you drive right past it as you drive through the neighborhood. I don't know how long she's been there, but there's been several transitions of that property pretty rapidly in the neighborhood. She says she's been there for a while and she's planning on, well planning on starting a neighbor,

a daycare. It hasn't been a month ago there was a for sale, a for sale sign in front of that property that stayed there for a few months. I'm wondering is this something that will be added to the designation of that property to sell it quick again? We have already established a daycare here and it might a promotional thing to say this property is going to be sold again later. And being that it's already been classified as commercial, that might be just a sales tactics. I don't know if this thing will be approved as a daycare and then maybe next month it will be put up for sale again because that for sale sign just came down when the, the sign was put up to designate it as a daycare. That for sale sign has not been down over a month. No one in the neighborhood has been sequestered or either asked if we approve or are even concerned if a daycare be established there. I asked several neighbors and I do have a petition that was signed by almost everyone on Baynard Court and I'm sure they would have sent a letter along saying no if it had been requested. I did not know the procedure that they would, that a letter would be more important, but I do know bodies would be more important. So I told everyone there please come and voice your opinion whether it's for or against. Your voice need to be heard. Most of the people that I communicated this to said Mr. Ponds I will sign my name, my phone number, and the answer is no and you can communicate this for me. Now I, I'm speaking for myself. The list and the names and the phone numbers speaks to those people. I think location, location, I think it's a bad location, I think it's a dangerous location. I'm proud of the young lady here that's trying to support herself and her family and take care of her kids and I'm surprised that she's only stopping at the age of two. If it wasn't for maybe some of the dangers to keep two year olds inside that particular house in that location where they wouldn't be out in, in,

in, I probably wouldn't have any objection. But I still look at the danger of the traffic. I look at the particular location and I don't think it is the right location for a daycare in the neighborhood. It changes our whole neighborhood.

CHAIRWOMAN PERKINS: Mr., Mr. Lewis, I'm sorry, Mr. Ponds, your time is up and I'm, I'm just trying to get the, get, are there any questions from the Board for Mr. Ponds? I, okay -

MS. CECERE: Mr. Ponds, excuse me, Mr. Ponds do you have a, a neighborhood association?

MR. PONDS: No, our neighborhood we do not have one. We used to have meetings and we did that quite often, but we do not have a neighborhood association to, to my knowledge.

MS. CECERE: Do, do you have a covenant for your neighborhood?

MR. PONDS: No, not, to my knowledge not, to my, some of the other neighbors are here, they might can answer that better, but to my knowledge not. I've been there 25 years and we did have a neighborhood association meeting at one particular point. But somehow those things are not been followed through with.

MS. CECERE: Thank you.

MR. PONDS: I have a doctor's appointment and my wife is here, but we're gonna have to leave.

CHAIRWOMAN PERKINS: Is that Ms. Rachel Ponds you're talking about?

MR. PONDS: Yes.

CHAIRWOMAN PERKINS: Okay.

MR. PONDS: Thank you.

CHAIRWOMAN PERKINS: Thank you. Mr. Maurice Jesse?

TESTIMONY OF MAURICE JESSE:

MR. JESSE: My name is Maurice Jesse. I own the home at 90 Newport Drive along with my brother. We just inherited it from my mother. We've had that house since 1967 in the family and we've had a number of businesses try to open in the neighborhood and somebody in Richland County closed them up. There was a hairdresser opened up, there was cars everywhere in the neighborhood. The county closed them up. We had a wrecker service come in, oh we're just gonna park our trucks here so we won't bother the neighborhood. But the loudspeaker on the house went off 24 hours a day. The county moved them out. Now we've got a daycare that wants to come in and the lady says she's lived there four years. I've never seen the lady before. I didn't know who she was until she stepped up here. And she says that her and the baby's father is gonna run this daycare center. I didn't hear her and the husband are gonna run the daycare center. So I question that part, too. So I think it's wrong, it's gonna lower my property value if we put a daycare in a residential area. And that's all I have to say.

CHAIRWOMAN PERKINS: Are there any questions for Mr. Jesse from the Board?

MS. PERRINE: How long have you lived in the neighborhood?

MR. JESSE: I live in Kershaw County, I own the home. My mother lived there.

CHAIRWOMAN PERKINS: So you own this home?

MR. JESSE: I own the home, yes, ma'am. And my brother -

CHAIRWOMAN PERKINS: The one that she's gonna do the daycare -

MR. JESSE: No, ma'am.

CHAIRWOMAN PERKINS: Oh, okay.

MR. JESSE: If I owned that home it wouldn't be, we wouldn't be here.

MR. BRANHAM: The home you own is next door to the property? Is that what you're saying?

MR. JESSE: The home I own is approximate 350' from that house. It's on Newport Drive. Any other questions?

CHAIRWOMAN PERKINS: Yeah, are there any other questions? Thank you. Now sometimes these old eyes don't see again. I have a Mr. Sim and Smooze. If I, if I'm pronouncing your name incorrectly, please come down to the podium and state your name and address for the record please, sir.

TESTIMONY OF CARL SCHROEDER:

MR. SCHROEDER: My name is Carl Schroeder and I reside at 3629 Rockbridge Road, which is not in this neighborhood at all, I admit that. But I happen to own the house on 212 Greenfield, which is less than a 100' from it. I also own the one on 117 Greenfield on the other side of it. So the house is bracketed between me and what this gentleman said is absolutely correct. The houses on the right hand side is zoned for single-family, low density and they've been that way for years. On the side this house is on, that had got zoned in there is multi-family high density when they built all those condominiums and stuff back there and on Baynard Street also. And that has brought the area of that neighborhood down considerably. And the houses I bought, I bought them for rental property, which is good I think. But those houses, he said are gonna drop in value drastically because of that and the high density behind it. And the, the

traffic on that corner can be extremely difficult. And I think the kicker in this whole thing, when I bought the first house on 117 Greenfield, my daughter-in-law was going through the Sheriff's things that he puts out and it was within a 100' or a 150' of that house back in August or July, there was a registered sex offender living within a 150' of it. I think that's the kettle to kill the whole thing right there. I do appreciate your attention.

CHAIRWOMAN PERKINS: Are there any questions from the Board? Thank you very much. Ms. Lewis, you can come back for rebuttal.

MS. LEWIS: I wanted to state on what the man said earlier about my house being up for sale and that it had been taken off. I did not have the funds to pay my mortgage at that time and I was scared that I was gonna lose my house, so I, I, I took it off the mortgage, I, I, I took it off the, the, I took it off the, I took it off for sale because paid, I caught up with my mortgage and everything. So that's, that, that was that. And about my boyfriend and, and me running the company, my boyfriend will not be there when the children are there. He works from 6:30 to 5:00, so he won't be there. It will just be me with the children and by him being my boyfriend, that shouldn't have nothing to do with it. And that's it.

CHAIRWOMAN PERKINS: Are there any questions for Ms. Lewis? Being none, thank you very much.

MS. LEWIS: Thank you.

CHAIRWOMAN PERKINS: The Chair will entertain a discussion.

MR. MCDUFFIE: I guess my, my major issues would be, for this property would be with the traffic safety. As, as it's been discussed, the coming and going and the fact that that might already be sort of a, a, I won't say congested, but it, it may be a

dangerous intersection there at, at Baynard and, and Greenfield. And, you know, we're talking about, about very young children, so they won't be like outside or anything like that, but just for, you know, the parents coming and bringing them in and dropping them off and picking them up. I also find it, you know, sort of difficult that, that they wouldn't begin operation until 8:30 in the morning. Most of the, most parents I think have to probably be at, to be at a job, you know, probably a little bit earlier than that. I would question those hours. And then it states on the, on the application that they'd have to actually be backing out of the driveway and you're right there at that corner, it might be very difficult to do. So I have no idea even how to handle the comment about there possibly being a sex offender, you know, several houses away. I don't, I don't even know how to touch that one.

CHAIRWOMAN PERKINS: Is, is there any other discussion?

MR. PRICE: Just kind of going with your point. You know, there are other options other than backing out of the property. I mean, they could back out. A couple of things that the Staff did note, you have an option of you could almost build a circular driveway right here. I don't know how much we support that so much, but you do have an option of a circular driveway here and also as, as far as backing out, this is a cul-de-sac. The road dead ends, so there's really limited on traffic access.

CHAIRWOMAN PERKINS: But did he not, did I not hear testimony from Mr. Pond saying that somehow or another they say that, you know, it wasn't a cul-de-sac anymore?

MCDUFFIE: No that, that's Greenfield I think maybe.

CHAIRWOMAN PERKINS: Greenfield?

MS. CECERE: I think he was saying that Greenfield was sort of connected between Pineland Road and Windsor Lake Boulevard and Windsor Lake Boulevard is a heavily traveled road. It connects into Two Notch Road and that's kind of - I know there's a lot of traffic on Windsor Lake Boulevard, I'm familiar with that.

CHAIRWOMAN PERKINS: I'm sorry, I, I, I rudely interrupted you, Mr. Price.

MR. PRICE: Oh, no, not - I mean I was just, just pointing that out that, you know, for, from a traffic standpoint I know as, as Mr. McDuffie addressed, I was just stating that, you know, when we're talking about backing out, there are, you know, other options. And one of those would be to look at his, and I think over the years that has been a concern of Staff, you know, backing out onto, especially if you're near a corner. But however, you know, the limited access to this, to Baynard Court is something that should be looked at also.

CHAIRWOMAN PERKINS: Okay, are there, is there any other discussion?

MR. RUSH: So you don't think there's an issue with having the entrance off of -

MR. PRICE: Greenfield?

MR. RUSH: - Greenfield, and having the circular go -

MR. PRICE: No, I, I still feel that that's an, that's an option. I don't know if, I can't attest to or just, you know, how the traffic, you know, the heavy flow of traffic as it, as it was stated by I believe it was Mr. Ponds. I, I, you know, we've been out there maybe two or three times as a Staff, and I didn't notice any and it could be the hours of the day that I've gone out there. So that's a question, it's really not that heavily traveled, especially during the hours of operation that she's proposing. You know, maybe the 5:30, but the 8:30 I think as Mr. McDuffie was stating, people are gone to work around

that time. So maybe there isn't heavy traffic, so maybe it would be appropriate to come run it out onto Greenfield Road. If not, then, you know, just look at is it really what you would call a traffic impact backing out on Baynard Court when, you know, I would say that there are a number of homes here, but then it does dead end to a cul-de-sac.

MS. CECERE: There's, there's not much frontage is there on that, on that property in regards to like a circular driveway? Wouldn't that kind of -

MR. PRICE: Well, probably not here. I, I would say not, you'd have to go along this portion of the property.

MS. CECERE: It would kind of look, yeah, it would kind of destroy the front yard? The aesthetics? Okay, yeah.

MR. PRICE: Correct, grass. It's important.

MS. CECERE: Well, it is if you live in a subdivision. I like for my grass to look good and I live on a highway.

MR. PRICE: Yeah, but you live deep -

MS. CECERE: Sir?

MR. PRICE: Yeah, but you live deep in the property.

CHAIRWOMAN PERKINS: Okay, is there any other discussion? There being none, therefore the Chair will entertain a motion.

MR. RUSH: I'd like to make a motion to approve based on the fact that it meets all requirements, but in my motion I would like to add a condition of, you know, vacancy or abandonment or discontinuation of a period of 12 months will, will void the Special Exception. And I don't know if we can also do it based on the sale.

MR. PRICE: No, you, I mean, I think this is something we've talked about, Legal and I have talked about before. I think the Special Exception actually goes to the property, not so much the individual. So what you're doing is establishing a use on that property.

CHAIRWOMAN PERKINS: Oh, so, so you're saying not to the person? So that house, it would, if we granted a motion and she left the house, then the next person could come in and operate a daycare? Is that in essence what you're telling us?

MR. PRICE: If they, if, right, if they come in within that 12 month period, yes. I think that kind of goes back to I think some discussions I've had with the Board before. You, you get these type of requests and really Staff could go out, we could take the pictures, we could question the applicant, we could present everything to you. An applicant really wouldn't need to speak to you at all because what you're doing is saying how will this particular use, right here, impact the surrounding area? So that's why we try not to put it, you don't give this, you're not granting this to the individual. I mean, you could imagine, you know, people come up here all the time and say well they don't look right, well let's deny it. This person looks right. So what you're doing is you're actually just granting the Special Exception for this parcel.

CHAIRWOMAN PERKINS: And where were we?

MR. PRICE: Mr., Mr. -

MR. BRANHAM: We have in years past, Mr. Price, put a stipulation in that as long as the applicant maintains and owns that property, that the Special Exception would be good, and that if that applicant should sell that property, then the Special Exception is no good.

MR. PRICE: Well, I'll, I mean, just because you give a [inaudible].

CHAIRWOMAN PERKINS: Can we not table this motion and –

[inaudible discussion]

MR. PRICE: Yeah, talking to Legal. Yes, it has been done in the past, it's just never been challenged.

MR. MCDUFFIE: I mean, I'd like to move to amend Mr. Rush's motion to include that, that any transfer of the property would void the Special Exception.

MR. RUSH: Yes.

MR. MCDUFFIE: And, and, and if anyone else wanted to, to establish a daycare that it would require coming in, you know, a, a new hearing in front of the Board the Zoning Appeals.

CHAIRWOMAN PERKINS: Did you, did you do part 2?

MCDUFFIE: And also that any violation of the conditions placed on this approval would require a rehearing by the Board.

CHAIRWOMAN PERKINS: Do we have a second?

MCDUFFIE: No, I haven't seconded.

CHAIRWOMAN PERKINS: Okay.

MR. PRICE: Alright. Okay, do we have a second?

CHAIRWOMAN PERKINS: No, we didn't a second. I mean, it, no.

MR. PRICE: Oh, we're -

CHAIRWOMAN PERKINS: That's something that we -

MR. PRICE: We would like to go into Executive Session.

CHAIRWOMAN PERKINS: It's on the table, but that's why I was starting to table the motion. Okay, so, a motion -

MR. MCDUFFIE: I'll make a motion to table the original motion as, as amended.

MR. RUSH: I'll second.

CHAIRWOMAN PERKINS: Those in favor? Okay.

[Approved: Perkins, Rush, Branham, Perrine, McDuffie, Cecere, Simons]

CHAIRWOMAN PERKINS: Now is there a Motion pending?

MR. RUSH: So moved.

CHAIRWOMAN PERKINS: A second?

MR. MCDUFFIE: I'll second.

CHAIRWOMAN PERKINS: Those in favor?

[Approved: Perkins, Rush, Branham, Perrine, McDuffie, Cecere]

[EXECUTIVE SESSION]

CHAIRWOMAN PERKINS: Is there a motion to be back into session?

MS. PERRINE: I'll make a motion

MR. MCDUFFIE: I'll second.

CHAIRWOMAN PERKINS: All those in favor?

[Approved: Perkins, Rush, Branham, Perrine, McDuffie, Cecere, Simons]

CHAIRWOMAN PERKINS: Okay. Is there a motion to untable the motion.

MR. MCDUFFIE: I move to take the, take the motion as amended off the table.

CHAIRWOMAN PERKINS: Is there a second?

MR. BRANHAM: Second.

CHAIRWOMAN PERKINS: All those in favor?

[Approved: Perkins, Rush, Branham, Perrine, McDuffie, Cecere]

CHAIRWOMAN PERKINS: Okay. Now is there a motion?

MR. PRICE: I believe what we here is, I believe there's a motion already on the table.

MS. CECERE: Yeah, there's a Motion already.

MR. MCDUFFIE: I, I'd like, I'd like to make a motion to withdraw my amendment to the, to the, Mr. Rush's original motion.

MR. FARRAR: That's fine, that's all you need.

MR. PRICE: Okay. So the motion that's on the table right now is so far that I have a motion from Torrey Rush for approval based on the two conditions that are, that are in your packet under conditions?

CHAIRWOMAN PERKINS: And is there a second to that motion? Is there a second? I, I might remind the Board that if I'm unable to get a second there has to be an opposite motion in effect and I'm going to have to ask for a reason. I can't get a second Mr. Rush, so that motion fails.

MR. RUSH: Okay

CHAIRWOMAN PERKINS: Okay, is there a motion to deny Special Exception 07-55? Is there a motion to deny 07-55 SE?

MS. CECERE: Madam Chair, I make a motion to deny 07-55,, and I feel that the property is not suited for a daycare due to the traffic flow from, from Greenfield Road, from Pine, the connector of Greenfield Road from Pineland Road to Windsor Lake Boulevard, and that it would have aesthetic, the aesthetic character of the subdivision would be violated.

CHAIRWOMAN PERKINS: Is there a second to that motion?

MS. PERRINE: I'll second.

CHAIRWOMAN PERKINS: Okay. Mr. Price, would you like to restate the motion?

MR. PRICE: I have a motion for denial from Susanne Cecere. I have a second for Ms. Perrine based on the traffic impact from Greenfield, I believe that's Drive, from Pineland to Windsor Lake along Greenfield and also the affect, the negative impact it would have on the aesthetic character of the area.

CHAIRWOMAN PERKINS: Okay. All those in favor of that motion, please have a show of hands?

MR. PRICE: Those for, for the motion – Branham, Perrine, McDuffie, Cecere.

CHAIRWOMAN PERKINS: Opposed?

MR. PRICE: Opposed – Rush, Perkins.

[Approved: Branham, Perrine, McDuffie, Cecere. Opposed: Rush, Perkins]

CHAIRWOMAN PERKINS: Well I'm sorry Ms. Lewis, your motion has failed and Mr. Price will be in touch. Next case Mr. Price.

CASE NO: 08-02 SE:

MR. PRICE: The next case 08-02 SE. The applicant is requesting the Board of Zoning Appeals to grant a Special Exception to permit the establishment of a family daycare on property zone MH – manufactured home district. The applicant is Sonya Davis-Kennedy, the location is 122 Tone Street. The parcel is a little less than half an acre. The subject property has an existing manufactured home and a fence encloses a portion of the property that serves kind of the front, front side yard, a little bit into the

rear. The applicant proposes to establish a family daycare for a maximum of six children and the ages will range from newborn to six years of age. The proposed hours of operation are 6:30 a.m. to 6:00 p.m. The subject property is located in the Royal Pines subdivision. And as you can see, you know, you don't have it here, but Two Notch Road runs along, is the main road that will, that will feed into, along Burmaster Drive and Burmaster turns into Tone Street, you can make out the four avenues, so it kind of serves as a circle. Here's the subject property and you see here's part of the fence that serves as part of the front yard. There's plenty of room in there for the loading and unloading of the children. This would be the rear. There's a side door on the back portion of the home. That's one way to enter into the residence. Once again there's the fenced yard. There's the front steps and it just goes all the way to the back. The plat, and I'm sure it will be asked yes, that is a dog right there. There's the plat of the property, but that's it.

CHAIRWOMAN PERKINS: Okay. Ms. Sonya Davis-Kennedy, please come and state your name.

SONYA DAVIS-KENNEDY:

MS. DAVIS-KENNEDY: Well, my name is Ms. Sonya Davis-Kennedy and to correct my address is 122 I-O-N-E Street, Lone, Columbia 29229.

CHAIRWOMAN PERKINS: [Inaudible]

MS. KENNEDY: Okay, I come before the Board today to ask for a Special Exception for the personal use of my property prior to sale or transfer for the use of a family childcare center. I'm a student at Midland's Tech in the nursing and in the early child development program. I have a daughter who's special needs. My daycare, my

home daycare will be for special needs children only. I'm going through the DSS process, the ABC Special Needs Board process. I've taken a class, I, I can't even remember who offered it. I go to several workshops. I am currently enrolled in the Pro-Parents class where we meet once a month dealing with how to care for and how to advocate for children and others with disabilities and special needs. So I ask that you grant me permission today to operate a family childcare center with two part-time helpers from the hours between 6:00 and 6:00 on my property. Any questions?

CHAIRWOMAN PERKINS: You said that you are in, you're attending school to become a Registered Nurse or -

MS. KENNEDY: An LPN, and I'm in the Early Child Development, a double major at Midland's Tech.

CHAIRWOMAN PERKINS: What, what, what is your, since you brought it up, what, how long have you been at Midland's Tech?

MS. KENNEDY: Two years. I've, I've been there two years, what is that '05? My daughter is -

CHAIRWOMAN PERKINS: So you have your licensure?

MS. KENNEDY: No ma'am, no ma'am, I'm in the program. I was going to start the nursing program in January of this year, this month, but instead I wanted to open my childcare center.

CHAIRWOMAN PERKINS: Okay, I'm sorry.

MS. KENNEDY: So I'm putting that on hold until I can open -

CHAIRWOMAN PERKINS: Okay, I didn't understand, okay.

MS. KENNEDY: - a full, a full stand alone, but I'm still enrolled in the Early Child Development Program taking courses.

CHAIRWOMAN PERKINS: Okay, at Midland's Tech?

MS. KENNEDY: Yes, ma'am, at Midland's Tech.

MS. CECERE: Now will you be taking care of just special needs children or -

MS. KENNEDY: Yes, ma'am.

MS. CECERE: Okay, and is there a ramp going to your home?

MS. KENNEDY: At the moment, I explained to Mr. Price, I showed him where we've already had a contractor come out to do the work, but depending on whether I get the Exception or not, it will be designed just for my daughter's use and if I get the Exception, then it will be designed for the use of, of others.

MS. CECERE: Okay, thank you.

MS. KENNEDY: So we are in the process of having done.

MS. CECERE: Thank you.

MS. KENNEDY: Unfortunately, it's not a DSS requirement.

MR. BRANHAM: Ms. Kennedy, do you own the property?

MS. KENNEDY: Yes, yes sir. When we purchased the -

MR. BRANHAM: The plat was [inaudible] listed as George Snow, I was just curious.

MS. KENNEDY: Yes, and the police come looking for them all the time. [Laughter] When we went to, to the, when I went to the office of deeds to get it and I saw that was on there, I was like okay why is his name still on here? And she stated

that because my husband and I hadn't come up and had to ask for one to be drawn up, so that's why their names were still on it. But they're still looking for them.

CHAIRWOMAN PERKINS: Okay, are there any other questions for Ms. Kennedy from the Board?

MS. PERRINE: I have one. You said employees, on your application you put approximately three or four.

MS. KENNEDY: Um-hum (affirmative).

MS. PERRINE: But then two or three of those are gonna be part-times?

MS. KENNEDY: Yes, ma'am.

MS. PERRINE: How many employees will be there -

MS. KENNEDY: With me?

MS. PERRINE: Uh-huh (affirmative).

MS. KENNEDY: I want to make sure that there are two of us there at all times because of the, the nature of the children.

MS. PERRINE: And that's from birth to six years old?

MS. KENNEDY: Zero to six, yes, ma'am.

CHAIRWOMAN PERKINS: So that, you're saying that two will always be in the home?

MS. KENNEDY: Correct.

CHAIRWOMAN PERKINS: Because there are special needs and then you'll have that extra person just in case the other one doesn't -

MS. KENNEDY: Right, because I may have to leave to go to the hospital with my daughter and I can always have that second person to be there.

CHAIRWOMAN PERKINS: Any other questions for Ms. Hunt?

MS. KENNEDY: Ms. Davis.

CHAIRWOMAN PERKINS: I mean, I'm sorry, Ms. Kennedy.

MS. KENNEDY: That's okay.

CHAIRWOMAN PERKINS: Ms. Hunt signed this paper, too, so. Thank you very much.

MS. KENNEDY: Thank you.

CHAIRWOMAN PERKINS: There is no one signed up in opposition and no further applicants, I mean, anyone signed up for the applicant. What is the Board's, is there a discussion?

MR. MCDUFFIE: I'd like to make a motion.

CHAIRWOMAN PERKINS: Go ahead, sir.

MR. MCDUFFIE: I would like to make a motion to approve 08-02 SE and with the usual stipulations of, let's see, vacancy, abandonment or discontinuance for a period of 12 months as verified by a business license will void the Special Exception and any violations of the conditions placed on this approval will require a re-hearing of the case by the Board of Zoning Appeals.

CHAIRWOMAN PERKINS: I'll second. All those in favor of that motion, please have a show of hands?

MR. PRICE: Rush, Branham, Perrine, Perkins, McDuffie, Cecere.

[Approved: Perkins, Rush, Branham, Perrine, McDuffie, Cecere]

CHAIRWOMAN PERKINS: I think that's unanimous, you have your Special Exception and Mr. Price will be in touch. Next case.

CASE NO. 07-58 V:

[Tape malfunction – recorder did not pick up a portion of the meeting and the following testimony was not recorded: George Kreese, Dan Reddick]

[McDuffie out at 4:45 p.m.]

TESTIMONY OF JENNIE SHERRY-LINDER:

JENNIE SHERRY-LINDER: And I would say emphatically that Staff supports the requirement for sidewalks in all new developments and discourages any variance or alleviation from that requirement. However, we acknowledge that the current regulation does not account for exceptional conditions of topography or limitations to the application for hardship to a particular parcel nor any restriction of use for the parcel because of the adherence to this requirement or any detriment to the public safety. Meaning that it's a, it's a very strict statement that says all new developments are required to have sidewalks. It doesn't allow for us to deviate in any way. Now the criteria, all those criteria that I've listed are really reserved for the Board of Zoning Appeals, which is why these are now coming to you for variances. In some cases, you'll see and this, in some of the cases it's because of the, the limiting depth of the property. Maybe in some cases it's because the slope of the topography is so great that the slope is too great for public safety. But again it's not something that I have and built into my regulation to allow for any deviation from the [inaudible] requirement. However, Staff recognizes that we do have a deficiency in that area and I have written a new sidewalk regulation that requires, because we're advocates of sidewalks, either to construct the sidewalk or pay a fee in lieu of. It is not, the actual ordinance is complete, it requires a capital improvements program to be associated with it, which is not finished yet. When

that is finished it will be presented and hopefully reduce the need for these types of variances to come before the Board. But again it's not in place at this time.

MR. RUSH: But you are saying if we do grant or don't grant the waiver and make them put in a sidewalk, we, they would have to come back again for another variance for parking in that – parking or -

MS. SHERRY-LINDER: I have not seen an actual site plan for this, but it would seem to me just again I, speaking without seeing a site plan, to know what the, the depth of that property is, it would be, I, I wouldn't be able to speak without seeing that.

CHAIRWOMAN PERKINS: You know just, I'm thinking that, that railroad somehow has, will eliminate, and if he and, and I think in Mr. Price's presentation he did say that the gauge that the Board could use would be the -

MR. PRICE: The utility pole.

CHAIRWOMAN PERKINS: The utility pole, yeah.

MR. PRICE: And ditches.

CHAIRWOMAN PERKINS: As, you know, and it has encroached, and it has to be on the inside of that, which would make it go into the parking lot. Within our right and I think I, I heard her, she said she is not empowered, but we are with limitations on the topography, the land, the depth of the land and those were things that we could use, that she couldn't, but otherwise she would have granted.

MS. SHERRY-LINDER: Right, as part of State law, the variance from any strict adherence to a regulation is given to the Board of Zoning Appeals.

CHAIRWOMAN PERKINS: Yeah, Board, yeah.

MS. SHERRY-LINDER: That's, that's, that's the reason it's there. Again we recognize that we need some, some mechanism in our ordinance because there's gonna be a lot of these coming up because in this case there was no sidewalks anywhere else, though I would be an advocate to say we start somewhere and put in a sidewalk.

CHAIRWOMAN PERKINS: Are there any other questions for Ms. Linder? If not, the Chair will entertain a discussion. A motion? I would like to offer a motion that, that we grant 07-50, 07-58 V based on the, the topography of the, the, the way the land is shaped and the depth of the, where that, where he's gonna build the building and where the sidewalk would have to go. Is there a second?

MR. BRANHAM: I second.

MS. PERRINE: I second.

MR. BRANHAM: We got several.

MS. PERRINE: Everybody seconded.

CHAIRWOMAN PERKINS: Okay, all those in favor? Did you get that? All those in favor of that motion?

[Approved: Rush, Branham, Perrine, Perkins, Cecere; Absent: McDuffie, Simmons]

MR. PRICE: Rush, Branham, Perrine, Perkins, Cecere.

CHAIRWOMAN PERKINS: It's Mr. Reddick or Mr. Kersey [sic] -

MR. PRICE: Kreese.

CHAIRWOMAN PERKINS: Kreese, your Variance has been granted and Mr. Price will be in touch.

MR. KREESE: Thank you very much.

CASE NO. 08-05 V:

MR. PRICE: The next case is 08-05 Variance. The applicant is requesting the Board of Appeals to grant a waiver to the sidewalk requirements on property zoned M-1 – light industrial. The applicant is Hendon Properties, represented by Travis Butler. The location is Sam's Crossing, which is a new development. It's about a little more than a 35 acre tract. It's currently under construction and the applicant's proposing to construct a commercial development in this area. This area is developing and it would consist of commercial and residential uses. It's along Clemson Road, it's gonna be mostly the commercial and, you know, off of it is where you'll find the residential. As you can see here, this is, this area has changed so much. What this is, the Clemson, the new Clemson Road here and this is Long Town Road, if you're familiar with that. Here's a picture of the site. This is looking I guess westward along Clemson Road. Ricky Lane is one of the new roads that's gonna lead into the, into the development. There's a church right here. This is facing eastward and then once again you can the development. And this Long Town Road. This, this waiver request will be for any portion of the property that's abutting Long Town Road and Clemson Road. And this is supplied by the applicant.

MR. TRAVIS BUTLER: Just, just Clemson Road, yeah.

MR. PRICE: Just Clemson Road? Oh, so you're just on Clemson Road? Okay. This is another instance where the applicant, the applicant can elaborate on this more, but when we spoke to DOT and DOT really doesn't desire to have sidewalks in this particular area, at least on Clemson Road.

CHAIRWOMAN PERKINS: Okay.

MR. PRICE: You know, to kind of change this around.

CHAIRWOMAN PERKINS: Oh, I'm sorry Mr. Butler.

MR. PRICE: You know, it might be more appropriate for Staff to go be, before if Ms. Linder wants to add anything and then the applicant can then speak on that.

CHAIRWOMAN PERKINS: Yeah, I wanted him to speak first, and then she could kind of address the things that he -

MR. PRICE: Then he'll have a chance to -

CHAIRWOMAN PERKINS: Yeah. Mr. Butler?

MR. TRAVIS BUTLER: Yes, ma'am.

CHAIRWOMAN PERKINS: Please state your name and address for the Board?

TESTIMONY OF TRAVIS BUTLER:

TRAVIS BUTLER: I, I, I'm Travis Butler, I'm a developing partner with Hendon Properties and our South Carolina office is located at 928 Washington Street. As Geo amply described, we're asking for a, a variance to waive the requirement for a sidewalk along, just along Clemson Road, as opposed to your last applicant. This is a much larger development and we're blessed with a lot of land to work with. And so we, I'm sorry Geo, could you go back to that site plan? Thank you. So we, we, what we are intending to do it to place sidewalks coming down Long Town Road that's, that's denoted by this darker line here, coming down Long Town Road and then along the entire internal road and then back up Long Green Road. So all we're requesting is a waiver to, to not have to place it along Clemson Road. So, a pedestrian will be able to access the property from either Long Town or Long Green and go across the entire width of the property, just simply not along Clemson. And I guess really our hardship

primarily is two-fold. Number one, as Geo stated, as, when we met with the Department of Transportation obviously several times because this is a project where this, this new road, this, this new part of Clemson Road that they've put in is a five land road and so access into large developments like this are what they controlled access where we only have three points of entry off of Clemson Road. This one here is only a right in, right out and so any development along these, what we call out parcels will be accessed by entering into the property and then coming in through the rear to try to, to help traffic flow along Clemson Road, which is why we think it would make sense to clearly have the sidewalk along the internal road. But because of the amount of traffic generated on a five land road where the speed limit is 45 miles an hour, when we met with the Department of Transportation on site, several different occasions, they said absolutely under no circumstances would they allow sidewalks within their portion of the property and greatly discouraged us from placing sidewalks on our portion of the property along Clemson Road. The second part of our hardship is topography changes, particularly here at the corner of Clemson and Long Town Road. If there were a sidewalk here, the grade change between this area and this area is about nine feet, so it, you potentially would have a sidewalk here that sits nine feet above where a parking lot or retail use will be. And that could be a quite a potential tumble for a pedestrian, which is why the Department of Transportation was adamant about not really wanting them along that road. Yes, ma'am, if you have any questions, I'm happy to answer.

CHAIRWOMAN PERKINS: Thank you very much, Mr. Butler.

MR. BUTLER: Thank you.

MR. SHERRY-LINDER: Do you have any questions of me specific to this site? It's, I mean, it's been explained that the major reason for not wanting to put them on Clemson Road is because of the topography on that one corner. I don't remember if the topography was the same for the entire Clemson Road frontage?

MR. BUTLER: Yeah, well currently the topography is not. We, we just completed what we call rough grading of the property and we put the infrastructure into the development where we, we've actually constructed these roads and have again done what we call rough grading these sites and, and then grassed them to control erosion. However, when these areas are developed and, and understand these are again what we call out parcels, so these kind of properties will be sub-divided into several different parcels and you'll have uses like banks and pharmacies and things like that, when they come into to do final grading for their site plan, this portion of the, of the development will be lowered considerably. Right now there's a general slope basically going from Clemson Road back to Sam's Crossing Drive, which is the, this internal road primarily for erosion control. The final grading of this property is not complete.

MS. SHERRY-LINDER: So that would mean they possibly could have sidewalks on there at the time that you submitted those plans for site review?

MR. BUTLER: I'm sorry, I, I didn't understand what you were saying?

MS. SHERRY-LINDER: In other words it could, it could possibly have sidewalks where the grade would not be that drastic as it is on the corner of Clemson and Long Town?

MR. BUTLER: No, what I'm saying is the grade now is less drastic than it will be when the sidewalks will, will have to be installed. By the time we come to have building

permits, which is when they'll have to be put in, the grade will be lowered and, and create more of a topography change.

MS. SHERRY-LINDER: Again, the Staff, the land development supports sidewalks and again I would say that where the topography is such that the slope is gonna be so great that it doesn't, my Land Development Code does not allow me to grant that variance, but I would also ask for a point of information so that when those sidewalks, when those site plans came in specifically if the grade was not challenged, that they would be required to put them in. Again on that one corner where the current site plan is submitted for a, a retail, on the corner of Clemson and Long Town, that is, that first parcel there, that is, has been shown to be a very high slope, a very deep slope I guess is the word.

MS. CECERE: Oh, okay, let, Geo go back to where it shows that church on Clemson Road, I'm familiar with that, but I don't think that church has a sidewalk does it?

MS. SHERRY-LINDER: No it does not. It was a -

MR. PRICE: No.

MS. CECERE: It does not? It came -

MR. PRICE: They came in prior to the -

MS. SHERRY-LINDER: It came in prior to the Code.

MS. CECERE: And they got a variance?

MS. SHERRY-LINDER: No.

MR. PRICE: It came in prior to 2005.

MS. CECERE: Oh.

MS. SHERRY-LINDER: Right.

MR. BUTLER: If, if I can -

MS. CECERE: That church right there has been there that long?

MS. SHERRY-LINDER: Yes, um-hum (affirmative).

MS. CECERE: I thought it was just built.

MR. PRICE: No, you can get approval of site plans.

MS. CECERE: Oh, okay, so they had a site plan, but the church was just recently erected?

MS. SHERRY-LINDER: Correct.

MS. CECERE: Okay, thank you.

MR. BUTLER: And we, we actually extended the water line along the front of the property down to, to that church. The previous owner of this property owned the property where the church sits now, sold this property to us, and sold that property to them. So we've cooperated a great deal with the church and, and that's correct that they do not have sidewalks. They were not required to put them in across the front and I completely concur with Jennie's assessment that currently the condition of the property, Geo, if you don't mind going to that slide where Long Town is, is shown? Right there, yeah, this is the corner of Long Town and Clemson and currently right here there existing is a great hardship in terms of topography. But again, in the future when the grading is completed, I'm not sure if it will mirror this, but certainly it will be a greater grade change than there is there now and I would hate to think that we would create I guess a lack continuity by having maybe a piece of sidewalk down here and not here, you know.

MS. CECERE: And what is DOT's main objection for not -

MR. BUTLER: Well their, I guess objection is two-fold. Number one, you're on a five lane 45 mile an hour what they call highway and so pedestrian safety from a vehicular standpoint is number one. And number two, because of the grade change, because of the topography, it's dangerous to a pedestrian, particularly children. Like I said if you have a sidewalk sitting nine feet above a parking lot with a steep embankment, with the only thing being in between if someone were to slip off the sidewalk, that obviously wouldn't be good.

MS. CECERE: Mr. Price, this is picture is taken from the church view?

MS. SHERRY-LINDER: The church is behind you.

MR. PRICE: No.

MS. CECERE: Yeah, this way. The church is this way and you're looking down
Clemson Road towards Long Town Road?

MS. SHERRY-LINDER: Correct.

MR. PRICE: Yes.

MS. CECERE: Okay, thank you.

CHAIRWOMAN PERKINS: Are there any other questions? And thank you.

MR. BUTLER: Thank you, ma'am.

CHAIRWOMAN PERKINS: Are there any questions for Planning and
Development Staff? If not, is there any discussion? The Chair will entertain a motion.

MR. BRANHAM: Madam Chairman, I would, excuse me, I would make a motion
that Variance 08-05 be approved with the hardship I guess you would call it being the
topography of the land and the kind of denial of DOT wanting to put sidewalks on

Clemson Road, and for the safety of the of, you might say of the occupants you might say of the property. Is that sufficient?

CHAIRWOMAN PERKINS: Is there a second?

MS. PERRINE: I second.

MR. RUSH: Second.

CHAIRWOMAN PERKINS: Which seconded?

CHAIRWOMAN PERKINS: All those in favor of the motion, a show of hands?

[Approved: Rush, Branham, Perrine, Perkins, Cecere; Absent: McDuffie, Simmons]

MR. PRICE: For: Rush, Branham, Perrine, Perkins, Cecere.

CHAIRWOMAN PERKINS: Mr. Butler?

MR. BUTLER: Yes, ma'am.

CHAIRWOMAN PERKINS: Your Variance has been granted. Mr. Price will be in touch. Thank you.

MR. BUTLER: Thank you very much.

CHAIRWOMAN PERKINS: Next case, Mr. Price.

CASE NO. 08-06 V:

MR. PRICE: Okay. The next case is 08-06 Variance. The applicant is requesting the Board of Zoning Appeals to grant a waiver to the sidewalk requirement on property zoned M-1. The applicant is Jimmy Herndon. The location is 550 Clemson Road. The subject property has as a commercial structure, which is located at the corner of Clemson Road and Quality Court. The proposed use is for commercial use and this area is developing and once again would consist of commercial and industrial uses. This is, let me get here a second to give you an idea. This, this is the Village, the

Village is located here and this is that overpass over Two Notch Road. So as you get down in here, most of this area is industrial in nature. And if I'm correct, I believe it's in here. Now I may be wrong. This is one parcel at one time, that's why so many came up when we were doing, preparing the aerial. But this is the site. This is Quality Court. This is looking east, well I guess east toward, along Clemson Road. I believe the applicant is stating that some of the, the exceptional or extraordinary circumstances based on, on this particular area. This is facing westward. This is kind of a little site plan for the proposed use. I believe it's, is this for a, a variance for Clemson Road and Quality Court or just Clemson Road? Okay. I think, I mean, this, that makes this a little different, the request, because you're granting a variance for two streets here. Unlike the previous one where he was going to do the sidewalks on Long Town, but not on Clemson and this is a case where he's asking for a waiver for the external and the internal sidewalks.

CHAIRWOMAN PERKINS: Jimmy Herndon?

MR. HERNDON: Yes, ma'am.

CHAIRWOMAN PERKINS: State your name and -

TESTIMONY OF JIMMY HERNDON:

MR. HERNDON: Yes, ma'am. Jimmy Herndon, 4313 Old Mill Road, Anderson, South Carolina.

CHAIRWOMAN PERKINS: Tell the Board what is it that you want to do.

MR. HERNDON: Eliminate the sidewalks because of the topography of the land there.

CHAIRWOMAN PERKINS: And it's not just, as I understand from Mr. Price, it's not just on Clemson Road that you want to -

MR. HERNDON: Right, Quality Court only goes in there about 225, 35 feet I believe it is.

CHAIRWOMAN PERKINS: Okay, are there any questions for Mr. Herndon from the Board? If that, that concludes your presentation?

MR. HERNDON: Yes.

MR. PRICE: And the property, additional to Clemson Road [inaudible]

CHAIRWOMAN PERKINS: And, and, and your reasoning for wanting to, to eliminate external, as well as internal sidewalks was what? I'm sorry I did not hear.

MR. HERNDON: I guess the in, the internal is the, is the part on Quality Court.

CHAIRWOMAN PERKINS: What -

MR. PRICE: It's the, right here.

MR. HERNDON: Which is only about, the Quality Court is only about 225' deep off of Clemson Road there. There, there's no, no traffic out there, no, there's nothing, that road just ends, just woods behind there.

MR. RUSH: Are there any more lots back there?

MR. HERNDON: No, there's lots back there, yes, but the road ends. The pavement ends right there.

CHAIRWOMAN PERKINS: Okay, are there any other questions for Mr. Herndon? Thank you very much. Okay, the Staff, we'll hear from, I'm sorry.

MR. PRICE: But, if, if just, to just kind of point out something before Ms. Linder gets started. You know, this is, I want to each of these cases seems a little different.

Here's one, if the remaining parcels back here are developed, unless there's a new ordinance passed, they would be coming to you also requesting a variance on the sidewalks. So, you know, it's kind of like okay do you, if you require the sidewalks here, of course, then it's gonna, the next time when the, when the rest of the properties are developed, you know, they probably will need to have the sidewalks. If you deny the sidewalks here, you kind of cut off a good, cut off a good portion where, where would these sidewalks, if they're required to provide them, lead? So, you know, I can, I can only speak for Quality Court on that one. I believe in the application he does speak of, you know, the creek crossing and the drop off, the, the topography on Clemson Road. But just speaking for Quality Court, you know, you have to look at this in with the bigger picture as opposed to just this one isolated request.

MR. RUSH: Also the sidewalk on Clemson will be right in front of his property, right? That's all their asking for is, right?

MR. PRICE: Right, it will, right here, yes.

MR. RUSH: Right there?

MR. PRICE: Because there's, I don't have it here. There's a, over, over here, this parcel's developed. You know, it was developed prior to the enactment of this, under the current Land Development Code. So they don't have sidewalks.

MS. SHERRY-LINDER: The ordinance specifically states they were, were required to provide sidewalks only on their own, in other words to the, to the, their property line. So they're not required to put it on any, other than their own property line, depending if that's 100' or 200', whatever. So, we're asking for the sidewalks because there is, the Land Development Code changed July, 2005 and all of the new

developments have been required to put sidewalks and we have been getting them. And I'm, I'm hesitating to see the, the hardship here based on the criteria that is before you.

CHAIRWOMAN PERKINS: I think you did give a hardship as, as far as the internal side as just the distance, 200 to 235?

MR. HERNDON: Correct.

CHAIRWOMAN PERKINS: And then -

MR. HERNDON: But that, that's a, that's an industrial area more or less out there and I really don't see the need for the sidewalk out there.

CHAIRWOMAN PERKINS: I, I know, but, but that's not a hardship. I don't think, I think we have to have a hardship and that's, you know, the depth and it's new construction. If you were, you know, re-building or something like the previous application and, and I could understand the highway department not wanting it. You know, you wanting to go on the high, on Clemson Road.

MR. HERNDON: Right.

CHAIRWOMAN PERKINS: But for me, that's, I'm just airing mine, you've got other Board Members here. Are there any other questions for Ms. Linder or, excuse me, is there anything else that you'd like to add, Mr. Herndon?

MR. HERNDON: No.

CHAIRWOMAN PERKINS: Okay, thank you much. I'll entertain a discussion. I'll entertain a motion. Do you want to say something Mr. Price?

MR. PRICE: No, I was just gonna say, I mean, just, just to kind of rehash what your options are on this one. Of course, you could just waive all required sidewalks, just

say no sidewalks required for this development at all, that's it. Or you could require sidewalks on parts of the, the property that abut a road, so that would be Quality Court and Clemson Road. Or you could require sidewalks on one and not the other, so.

MS. PERRINE: Could we require a sidewalk on Quality Court, but not on Clemson?

MR. PRICE: That, that is an option.

MS. PERRINE: Okay.

CHAIRWOMAN PERKINS: Did y'all hear those options as presented by Mr. Price?

MR. RUSH: Could I ask you guys a question? When you said the property on the other side of Quality Court will not, because it was built before 2005 or before the ordinance, are not gonna have to be required to put in sidewalks at all, on Clemson Road?

MR. PRICE: Right.

MS. SHERRY-LINDER: Now that new ordinance, that's, should be in place soon, the capital improvement's program attached to that is when, when there are sections that are not gonna be required to be paying a, a fee in lieu of, those are the funds that we'll be using to connect all those developments that are not required to put in sidewalks. And also the, a new develop, the new code says that if you have a 25% increase in either square footage or parking area, you'll be required to put in sidewalks if you don't have them now.

CHAIRWOMAN PERKINS: Did that answer Mr. Rush?

MR. RUSH: I guess on a property like this will DOT allow you in their right-of-way?

MS. SHERRY-LINDER: The question for DOT has been brought up on the, on the state level. All of the new road widenings and new roads include sidewalks. For some reason on the district level, meaning the level within the Midlands, they are not allowing the sidewalks in their right-of-way, which is, as far as we're seeing in direct opposition to the policy. So we have not worked that out yet and find out what the disconnect is, but all new state road projects include sidewalks, five feet wide, curb and gutter.

MR. RUSH: If we're looking at topo on that adjoining property? If you cross over that street there and it's, now that right-of-way would go further than that, right?

MR. PRICE: Yeah, I mean, the, you know, the right-of-way's got to come somewhere up in here.

MR. RUSH: Yeah, yeah, it's more up in -

MR. PRICE: Yeah, somewhere. Would you construct your, you know, maybe this would help out, would you construct your landscaping up to the property line?

MR. HERNDON: Yes.

MR. PRICE: Okay, so [inaudible]?

MR. HERNDON: This, this is a natural out here. As you get further on down, which you really can't see from this photograph, if you'll turn it back to the, there you go, at the end of that guardrail right there is, is, would actually be in front of our building. You can't see it from this angle. As you drop off down there, the telephone pole that you see sticking up there in the middle of screen, that's about the end of our property

there. If you go straight back off of Clemson Road there, the property drops off. If you go 20', the property drops 40' there.

CHAIRWOMAN PERKINS: So, Mr. Price, restate, because I think -

MR. PRICE: Okay, you want me to state what your options are?

CHAIRWOMAN PERKINS: Repeat, yeah the request, but please restate the request for me.

MR. PRICE: For the applicant?

CHAIRWOMAN PERKINS: Yeah, for the applicant, yeah, from the applicant.

MR. PRICE: The applicant is just requesting a waiver of all sidewalks, all required sidewalks; that would include Clemson Road and Quality Court.

CHAIRWOMAN PERKINS: And it is my understanding if there is development on Quality Court, they're gonna be required to have sidewalks? So if we, it, does the DOT apply on the Clemson Road side here? So we could -

MS. SHERRY-LINDER: Besides, DOT is only for state roads. Quality Court I believe would be a county road.

CHAIRWOMAN PERKINS: Oh, okay. That's what I'm saying, so we could, because of DOT and, and the Clemson Road and the lanes and is, is that a five lane highway as stated before by the -

MR. PRICE: It's a two lane.

MS. SHERRY-LINDER: It's just two lane.

MR. PRICE: It's a two lane, but you know it, I'm sure they have enough right-of-way reserved.

CHAIRWOMAN PERKINS: So Ms. Linder what, what would be the position then?

MR. RUSH: The question is you're not gonna make them go from property line to property?

MS. SHERRY-LINDER: I'm sorry? If, if it's a five lane? I, I would say I'm very surprised personally that DOT thinks that sidewalks on a five lane road is, is a safety issue. I think no sidewalks is a safety issue, so I would be actually pursuing that conversation or discussion with them. I don't understand how you can say that sidewalks would be unsafe. If you have sidewalks, people can walk, they're not in the streets. So I, my position would always be to advocate sidewalks everywhere. I'd just advocate sidewalks.

MR. RUSH: I guess the question is for this particular property, if his property line goes to that light pole, you're not gonna require sidewalks from property line to property line, will you?

MS. SHERRY-LINDER: I'm not gonna require it from property line to what?

MR. PRICE: You mean along the entire line along Clemson Road?

MR. RUSH: From, if you're turning back, yeah because you're turning by -

MR. PRICE: Well yeah, I mean if -

MR. RUSH: So you would require sidewalks from that property?

CHAIRWOMAN PERKINS: If he develops it.

MS. SHERRY-LINDER: Right, I, if it's developed, yeah. And if it's not developed, if it's not developed, they don't have to put sidewalks.

CHAIRWOMAN PERKINS: If it's not developed, yeah, that's what she said.

MR. RUSH: Okay, so they could as of now it could stop right there at that guardrail?

MS. SHERRY-LINDER: Correct, absolutely correct, correct, correct.

MR. RUSH: Okay.

CHAIRWOMAN PERKINS: And she said more development is back up on Quality Control, I mean, Quality Court?

MR. RUSH: Quality Court. You couldn't even develop that other parcel I don't think.

MR. HERNDON: Probably not. I would also add that there, there's not any sidewalks within two miles of this piece of property. There's new development out there now.

MS. SHERRY-LINDER: I can't, I can't, if it's only been, this ordinance has only been in effect since July 2005. So we're only in our, not even second year. You go July to 2005 to July.

MS. CECERE: And it's developing out there.

CHAIRWOMAN PERKINS: Yeah, yeah because it's developing, yeah.

MR. PRICE: And, and once again it also, the ordinance really doesn't take into account commercial versus industrial, you know, versus residential. I mean, and I think you have to kind of make an argument and I think the Staff was even kind of a little, heard the merits of, of trying to avoid having to put in the sidewalks for industrial developments where, you know, really only workers are gonna be there and heavy trucks as opposed to a commercial development such as the one we saw before where you know you're gonna have people in there shopping, going around and actually along

Long Town Road there are a couple of subdivisions that have been developed, so. But this case it's pretty an industrial portion along Clemson Road. So, I mean, that's something else you can look into.

MS. SHERRY-LINDER: Right, the zoning of M-1 allows a wide range of residential, excuse me, of retail and restaurants and it has a wide range, and it's the current zoning, so it doesn't limit it to industrial and -

MR. PRICE: Right.

CHAIRWOMAN PERKINS: Oh, okay, so that's a, that's a consideration?

MS. SHERRY-LINDER: Right.

CHAIRWOMAN PERKINS: If the parcel if, is, is -

MS. CECERE: If it could be -

CHAIRWOMAN PERKINS: It's, yeah, and developed later on? Okay, is there anything, do y'all have any more questions? Is there? Thank you again, Mr. Herndon, I appreciate that. If there's no more discussion, I'd like to hear a motion.

MS. CECERE: I make a motion that Variance 08-06 be denied, that there are no extraordinary or exceptional conditions pertaining to this particular property.

CHAIRWOMAN PERKINS: I second that motion. Would you like to repeat it? Okay, all those in favor, please have a show of hands.

MR. PRICE: This is for Clemson and Quality Court?

CHAIRWOMAN PERKINS: That's what she said, yeah.

MR. PRICE: Okay, those for – Rush, Branham, Perkins and Cecere.

CHAIRWOMAN PERKINS: All those against?

[Approved: Rush, Branham, Perkins, Cecere; Opposed: Perrine; Absent: McDuffie, Simmons]

MR. PRICE: Perrine.

CHAIRWOMAN PERKINS: I'm sorry Mr. Herndon, your request has been denied. Next case Mr. Price.

CASE NO. 08-07 V:

MR. PRICE: It should be our final variance request. If you will give me just one moment for this one. I believe it's case 08-07. The applicant is -

MS. PERRINE: Mr. Price, could we take about a five minute recess?

CHAIRWOMAN PERKINS: Is there a motion?

MS. PERRINE: Oh, I make a motion.

CHAIRWOMAN PERKINS: Okay, okay is there a motion?

MS. PERRINE: I made one.

MR. PRICE: Okay, it was done.

MR. BRANHAM: I'll second.

CHAIRWOMAN PERKINS: Okay.

MS. PERRINE: Okay.

CHAIRWOMAN PERKINS: In favor?

[Approved: Perkins, Rush, Branham, Perrine, Cecere; Absent: McDuffie, Simmons]

[RECESS]

CHAIRWOMAN PERKINS: Do we have a motion?

MS. PERRINE: I make a motion we reconvene.

CHAIRWOMAN PERKINS: Is there a second?

MS. CECERE: Second.

CHAIRWOMAN PERKINS: All in favor?

[Approved: Perkins, Rush, Branham, Perrine, Cecere; Absent: McDuffie, Simmons]

CHAIRWOMAN PERKINS: Mr. Price next case.

CASE NO. 08-07 V:

MR. PRICE: Okay, in the case of 08-07 Variance, the applicant is requesting the Board to grant a waiver to the sidewalk requirements on property zone GC, that's General Commercial. The applicant is Larry Fink. The location is 1007 Castle Pickney Drive. The parcel is a little bit more than a fourth of an acre. The existing land use is commercial. The subject property is, is currently being developed for office and storage use. The parcel currently has a commercial building that's completing the remaining site requirements, which would include sidewalks. The area is comprised of commercial uses west of the subject parcel and residential uses east of the subject parcel.

CHAIRWOMAN PERKINS: This is a PUD development, is it not Mr. Price? A PUD development?

MR. PRICE: No, ma'am.

CHAIRWOMAN PERKINS: It isn't?

MR. PRICE: This is the last sidewalk waiver we have. Page 115.

CHAIRWOMAN PERKINS: 116?

MR. PRICE: 15.

CHAIRWOMAN PERKINS: 116? Oh, it is not a, I'm sorry, okay, I see what you're saying.

MR. PRICE: You know, here's Decker Boulevard. Of course we all know it's commercial, you can turn on Castle Pinkney and you start to get into a residential, but there are a few parcels such as this one that are zoned commercial as you go into the residential portion. This is the site and this is looking toward Decker Boulevard. And this is, I believe this is facing east, I'm not, well I can tell you in a minute, north. Now this is facing north on DuPont Drive. This is facing -

MR. LARRY FINK: That's on Castle Pinkney.

MR. PRICE: - on Castle Pinkey right, when you're looking towards Castle Pinkey. And like I said this is going more into the residential portion and this is facing then on DuPont Drive again and this is the subject parcel. So once again we have this, it's very similar to some of the other cases and you do options as far as whether your approval or denial. We can get to those later after it's presented by Mr. Fink.

CHAIRWOMAN PERKINS: Thank you. Mr. Larry Fink, state your name?

TESTIMONY OF LARRY FINK:

MR. FINK: Yes, I'm Larry Fink, I live at 4723 Trenholm Road, Columbia, South Carolina. I get the same spiel from the highway department that everybody else does. You can't built it on the right-of-way, we don't want you throwing your water into the road. Now right now this thing, well I did have, I got a hold it I reckon, yeah, right here because there's a natural swale that goes down along that road and turns, and the storm drain for everything is right here. And if I turn around and put the sidewalks up to elevation it's gonna block the water coming down and going into the storm drainage system. If I run it across here, it's gonna dam it and throw it across the street. And which in turn, the highway department is gonna come after me for throwing the water

there and if put it up here and it dams the water up and doesn't let it run off these two adjoining properties behind me and get into the storm drainage system, then they're gonna raise some issues with me about where their storm water's going. Right now the owner of the property is who I work for doesn't have any problem with the water flow where it goes. If you'd back that up a little bit, back it up one more time, yeah. See here, this is the only storm drainage system in this entire thing coming all the way down through and there's a pipe right here, too. You know, if I put a sidewalk in here, it's gonna create a reservoir down there here and throw water back up into the street. And then if I put it on the elevation the other way, it's gonna turn around and block up the neighbors behind me, back up in here. Those two adjoining properties come down and drain straight through here. And, you know, that's what it is, it's one of those be damned if you do, be damned if you don't. If I build it to throw water into the street, the highway department is gonna come and have me tear it up. If I put it up and it dams up the water back up here, I'm gonna get complaints from the people behind me. So, what do I do? This is virtually a rebuild. There was a building on here that was approximately the same size, it burnt and then it was removed. There are no sidewalks anywhere else, everything depends on natural storm drainage and if it's dammed up in any way all the way through, it's just gonna create more problems. Plus if I have to put a sidewalk completely out of the right-of-way, then I'm gonna have to re-do my planning plan because it gets, it's heavily planted across that side and down the back and I'm gonna have to completely re-do it. And the way the planning plan is now it's gonna cost me a small fortune, thanks to Ms. Almeida and her staff [laughter]. But, you know, we're

trying to make an attractive piece of property, one that will fit with the neighborhood as much as we can, and not create problems.

CHAIRWOMAN PERKINS: That black tarp -

MR. FINK: That's a silt fence to keep my, when it rains to keep the water from washing the dirt back up in.

CHAIRWOMAN PERKINS: Okay.

MS. SHERRY-LINDER: That, that's during construction?

MR. FINK: Yeah, we're under construction. And I'm just trying to head something off. If I do it one way, it's gonna create a problem, if I do it the other way it's gonna create problem. And it's a natural eco-system that's drained for probably 50 years and not had any problems. And the owner of the property is, you know, he doesn't care that their water drains across it. You know, he's satisfied with it, he bought the piece of property with the knowledge it did that and it doesn't present a problem to him. But installing the sidewalks, you know, can possibly create, you know, two problems that will cause, you know, difficulty for him and, you know, whatever comes down the pipe.

MS. CECERE: Are there two buildings on this property?

MR. FINK: No, there's only one. You're looking possibly at an old plat before it burned down.

MS. CECERE: I'm looking at a picture on page 120. Yeah, yeah.

MR. FINK: No that's, that building there faces Decker Boulevard. That's the Palmetto Gold and Silver building.

MS. CECERE: Okay, oh, okay.

CHAIRWOMAN PERKINS: And yours is behind that, correct?

MR. FINK: Yes, we're directly behind it.

MR. PRICE: [Nods yes]

MS. CECERE: That's just a small little lot, is that what that is? Where do they, where do you park?

CHAIRWOMAN PERKINS: Yeah.

MR. FINK: The parking lot will be right there in front of that roll-up door and the service door in the front.

MS. CECERE: And what kind of building is this?

MR. FINK: It's office and what they do is they bring in, they have cubicles and whatnot, they bring in, it's T-shirts for the Army. They bring them in and catalogue them, sort them, and then send them to Fort Jackson or Fort Riley or whatever.

CHAIRWOMAN PERKINS: And so how many people will be in, working in that office?

MR. FINK: Four.

CHAIRWOMAN PERKINS: This is an office building?

MR. FINK: Yes, just four. You know, five at the outside.

CHAIRWOMAN PERKINS: And then where would, you have a, for lack of a better word, a utility truck you said bringing in something. Now -

MR. FINK: Well, it would be just a small van.

CHAIRWOMAN PERKINS: Oh, a van?

MR. FINK: Yeah, they just bring in a small van type with, you know, cardboard boxes and then they bring them in and then sort them out.

CHAIRWOMAN PERKINS: Are there any other questions for Mr. Fink? Thank you very much, Mr. Fink. We'll now turn our attention to Ms. Linder.

MS. SHERRY-LINDER: Part of the site plan review would require him, not only show the sidewalks, but of course to show his storm water calculations, which would be approved by Public Works for the drainage of the site. And I don't remember the specifics of this development and if, in fact, the calculation show that there's no other way to do the storm water, I would like to see that. Now I, I don't know that I have that information, but the site evaluation is based on all the operational standards. And possibly the, based on what he's doing in the structure and all the other requirements for sidewalk, parking, and buffers, and planting may, in fact, mean that he's overbuilt the site, the building is too large. So I, again, there's a lot of different things that would come into play for me to review that site. I'm not familiar with the site plan, I apologize.

CHAIRWOMAN PERKINS: Are you, Mr. Price, familiar with Ms., what Ms. Linder is speaking of as far as, what she just presented to us?

MR. PRICE: No.

MS. CECERE: I, let me ask you something Mr. Price. When -

CHAIRWOMAN PERKINS: Ms. Anna? Are you familiar with what he, Mr. Frink, Fink is doing?

MS. ALMEIDA: We did look at this site plan and as Ms. Linder said, we take all of those things into consideration. My question would be, and we have tried to, in the recent past, have talked to DOT with reference to putting in sidewalks in the right-of-way. And in fact today I met with a representative from DOT and their policy is obviously to allow sidewalks. Of course, there are those instances where a sidewalks in

their opinion, they would not recommend them in their right-of-way, but they would want to evaluate it on a case by case basis. They do, do not want to go on record blanketly saying that they do not encourage or they would disallow a sidewalk in the right-of-way, but they would want to see each case on a case by case basis.

CHAIRWOMAN PERKINS: Here we have a, a statement in our Agenda by Staff saying that the applicant said, I'm assuming he spoke with the South Carolina Department of Transportation, and they prefer that he not have the sidewalks installed.

MS. ALMEIDA: Well we, we would recommend and we require some sort of dialogue, some sort, something in writing, yes, yes.

MS. CECERE: I have a question. Mr. Price, when it -

MS. SHERRY-LINDER: [Inaudible] these are county roads, they're not state so how does the DOT even come into play here?

CHAIRWOMAN PERKINS: I, yeah I'm just, Ms. Linder, we have that in our packet that is presented to the Board and it just said that, you know, when the Staff visited the site and they give us other information.

MS. SHERRY-LINDER: I understand, I just was surprised that it was a DOT issue.

CHAIRWOMAN PERKINS: Well, if you're surprised, then you're familiar with that, well, well we're sure surprised, yeah.

MS. CECERE: Well, I'm familiar with the property.

CHAIRWOMAN PERKINS: She said she doesn't know how DOT, because it's not a state road. That, that particular area is not a state road, so.

MS. CECERE: When, Mr. Fink, when you applied for this building permit for this building, were you not aware that the county has an ordinance that the sidewalks have to go in?

MR. FINK: Yes, but I did apply for the variance at that time. And you know I, I'm willing to put them in, but you know, who's gonna suffer the consequences if those, you know, the two lots behind me turn around and say I've got a lake back here because you put in the sidewalks? Or if DOT throws, comes back and says well, water is being thrown up here, it's freezing in the middle of the winter time and people are skidding off the road. Are they gonna take it up or, you know, who's gonna accept liability for this?

MS. CECERE: Well I, I, I'm not gonna argue the point with you, but I think that there would be some kind of engineering process that they would figure out okay here is the neighbor's lot and this is how much it slopes and here's the drain. And that's how it works.

MR. FINK: Well, this was approved by Planning and Zoning on Powell Road, the engineer for the county looked over everything and, you know, said, you know, that was correct. You know, it's got the natural drain that's always been there. We're replacing a building that was there before. So, you know -

MR. RUSH: Did that site, did that site plan have the sidewalks on it though? Did it show sidewalks?

MR. FRINK: On the one that was destroyed? No.

MR. RUSH: No, no, no on your plans.

MR. FINK: No, because I had requested a variances and we extended the planning.

MR. RUSH: So it didn't show sidewalks on your plans?

MR. FINK: I not real sure, I don't think so.

MS. ALMEIDA: Because he, he didn't want to show it until he came before the Board, and then if they were denied they would have to -

MR. FINK: Yeah, until we came before the – yeah, and we would come back and redraw that plan and do it. But, you know, I have no problem putting them in, but you know, where is the responsibility gonna lie if it's put in and then -

CHAIRWOMAN PERKINS: Is there, is there a way where Staff could get with them, the engineer?

MS. SHERRY-LINDER: Well when he put those sidewalks on the plans, then they will be forwarded to our Public Works Department who will evaluate his storm water.

MR. FINK: Well, they'd already evaluated the storm water.

MS. SHERRY-LINDER: Without sidewalks? Because they don't -

MR. FINK: Without sidewalks.

MS. SHERRY-LINDER: Well, they're not shown.

MR. FINK: And they said they, you know, because they wanted as much permeable surface as they could for the water to absorb.

MS. SHERRY-LINDER: Well, I understand that, but the sidewalks are required. So, you, you need to give them the whole picture, Public Works.

MR. RUSH: Yeah, and that's where my concern is now. Where would the sidewalks be because it couldn't go in the drainage or -

MS. SHERRY-LINDER: Well, that would be a Public Works issue to determine how they will deal with their storm water.

MR. FINK: Plus right there behind -

CHAIRWOMAN PERKINS: Okay, so, so if he shows where the sidewalks are, if - so, what we may, what we may need to do is defer it until such time as you could get with the county engineer and the with the Public Works Department and work out something, you know, with the sidewalks in, present to them something with the sidewalks in and then perhaps come back to the Board if it's not feasible at that time. What would you say to that, Mr. Fink?

MR. FINK: Well, in order to put a sidewalk in, you're gonna have to encase the city water meter, too because it's right there.

CHAIRWOMAN PERKINS: I didn't hear that.

MR. FINK: I said in, in order to put the sidewalks in, right there where that orange thing sits, that wheel, that's right where the water meter is. It would have to be encased in the sidewalk itself. Either that or I've got to move the sidewalk almost against the building. You know, we've met all the required setbacks and everything and, you know -

CHAIRWOMAN PERKINS: But what I'm hearing is that it was presented, when you decided to do the building, it was presented without the sidewalks in your site plan, so there was no need to, to do all that stuff with the Public Works Department and, and the various other areas? Would you, it, it's a consideration, I mean, you don't have to, we could go ahead and vote on it today and -

MR. FINK: I'd just rather go ahead and vote on it because the other people that were, that have been here didn't have the sidewalks drawn in their site plan either. You know, if I've got to do it, I've got to do it. If I don't, I don't, you know, I just, you know, it's something that worked for 50 years and it's worked well now, but, it's whatever the Board -

CHAIRWOMAN PERKINS: Ms. Linder?

MS. SHERRY-LINDER: Yes, ma'am.

CHAIRWOMAN PERKINS: I would like to ask you one other question.

MS. SHERRY-LINDER: Sure.

CHAIRWOMAN PERKINS: What, what would be it, just hypothetically if the Board decided to not grant this request and the, and the sidewalks were put in and we had the problem of water flowing or backing up into the streets, what, where would that lead?

MS. SHERRY-LINDER: The sidewalks won't be put in, I mean the, the plan won't be approved unless Public Works determines it, with those drainage calculations, that there will be no problem with the, the way the water flows or drains. They won't be done. In other words it has to have a plan, whether it's, how, however that plan is -

CHAIRWOMAN PERKINS: So this case before us today is, is -

MS. SHERRY-LINDER: Because he didn't want to show the sidewalks on his plans to, to get that evaluation. He doesn't want to do the sidewalks, so he's come before you to grant, to grant him a variance so he doesn't have to show them.

CHAIRWOMAN PERKINS: But I heard his testimony saying that if he has to put them in, he'll put them in.

MS. SHERRY-LINDER: Right, correct.

CHAIRWOMAN PERKINS: So, I, I'm, I'm wondering if, if, if that is his stance before the Board, would it be, because I think we could defer the case without, you know, is there some way that they could get with them because I would not like -

MS. SHERRY-LINDER: No, I understand, I guess my feeling is is that at the current time, there, I, there's no hardship because he hasn't shown -

CHAIRWOMAN PERKINS: And that's what I'm trying to get him to understand that because you haven't had that plan with engineering and just hypothetically I, you, you know, what, what would be your hardship? And how would you present it to the Board and then it gets turned down? And then you have to wait another year.

MR. FINK: is because you're not gonna have a permeable surface for the water to go through so you're gonna create virtually a river.

MS. SHERRY-LINDER: We can't take his word for that.

CHAIRWOMAN PERKINS: Yeah but see they're saying and I think both Staff, you know, representing the areas of their expertise presented that they'd like to have that in writing and we do not have that in writing. We have that particularly, you know, just from you and so I tell you what, thank you very much, I appreciate it and I'll get the Board to discuss it and, and we'll see what we're gonna do.

MR. FINK: Okay.

CHAIRWOMAN PERKINS: Okay? Is there a discussion? I think in lieu of the, of what the Staff has said, has suggested and I think that Mr. Fink also said it doesn't really matter to me if it's, if they're gonna put them in, they put them in and he has no

expense, I think we ought to defer it until we, that he can come back and get with the Staff and I, and we review it at that time. That's my feeling; it's up to the Board.

MS. CECERE: Well, I think that, yeah.

CHAIRWOMAN PERKINS: And, and, and that is, I, I can do that? Defer?

MR. PRICE: Yes, I mean, if you want to defer it, any, any time you want to defer a case for more information, that is up, that's the Board's pleasure.

MS. CECERE: I, I think that's what we need to do in this case because, I mean, I think that some engineer, an engineer needs to tell us, yes, it is acceptable with the sidewalks or it isn't. You know, it's not, it won't properly drain and I, I'm not an expert on that.

MR. PRICE: Okay.

CHAIRWOMAN PERKINS: Okay, is there any other discussion? Is there a motion? Go ahead and make it.

MS. CECERE: I make a motion that case 08-07 should be deferred for additional information from Public Works and Staff.

CHAIRWOMAN PERKINS: I second. Do you want to -

MR. PRICE: Can you be more specific on what the information is?

MS. CECERE: Oh, sorry. The information on the proper drainage if sidewalks are installed on the property.

CHAIRWOMAN PERKINS: Okay, I'll second it. Do you need to -

MR. PRICE: Just writing my notes. Okay, I have a motion for deferral from Susanne Cecere and a second from Margaret Perkins to defer this case until the

applicant provide, can provide additional information on the proper drainage if sidewalks are installed.

CHAIRWOMAN PERKINS: All those in favor of the motion, please have a show of hands?

MR. PRICE: Alright those for: Rush, Perkins, Cecere.

CHAIRWOMAN PERKINS: All those against the motion?

MR. PRICE: Branham, Perrine.

[Approved: Rush, Branham, Perkins, Cecere; Opposed: Branham, Perrine; Absent: McDuffie, Simmons]

CHAIRWOMAN PERKINS: Mr. Frink, Fink, your motion has been deferred and Mr. Price will be in touch. Thank you.

MR. FINK: Alright, do I get the engineer and have the calculations done? Or is the county engineer gonna do the calculations?

MR. PRICE: I'm sure, I think it's on the applicant to provide that information to us.

CASE NO: 07-57 V:

MR. PRICE: Alright, the next case is case 07-57. It's a variance. The applicant is requesting the Board to grant a variance to encroach into the required rear yard setbacks on property zone PDD, Planned Development District. The applicant is George Nicholson; the location is 17 Granbury Court. The parcel is a little less than a third of an acre. It has a residential structure on the property, a 4,000 square foot structure that was constructed approximately in 2006, that seems around the time. The applicant proposes to encroach into the required rear yard by two feet seven inches.

The subject property is located, I'm sorry, it is not in Summer Haven, I apologize for that. It is located in Lake Carolina. To give y'all a history on this, I haven't even, I don't think I spoke to Mr. Nicholson about this. I, I'm assuming this house was under construction some years ago and I did have a conversation with I guess a representative from the builders. And they were at the point where they noticed that there was an encroachment of the house. Like I said, it wasn't finished yet, but it was pretty much framed and just needed, you know, the carpeting and everything else put into the home and they were asking about it. One day I did go out to the site and there seemed to be, to encroach and they did provide me with a plat. And when I spoke to them I told them they would need to get a variance before we would issue any approvals, COs to live in the home. And then one day I believe I got a call or an email from you, you were dealing with Susan, anyway this came to, came to us that the, that the home was being lived in and that it's the same structure as I noted before. I'm not sure exactly how it was approved by Staff or given a CO, but whoever was the developer of this property was aware during that time that it was encroaching. I'm just showing some pictures, I'm sorry about that. And like I said, and this is at the end of a cul-de-sac in Lake Carolina. There's your structure. It's not the entire portion, it's mostly, I'm sorry, right in here is where the encroachment is. It's only a little corner and as you can see here on the site plan, it's just that, that corner that's encroaching.

CHAIRWOMAN PERKINS: Mr. George Nicholson?

TESTIMONY OF GEORGE NICHOLSON:

MR. NICHOLSON: Madam Chairman, my name is George Nicholson. I'm with the firm of Nicholson, Davis, Frawley, Anderson & Ayer in Lexington. We represent the

homeowner Todd Depositer. And what has been represented as the infraction, that very small corner, is 17.3' off of the back property line. There's a 20' setback line there and the triangle, looking from that corner to the right, is about 10' long. So probably the part that is out of kilter here is, doesn't even get to the interior of the house, it's probably within the exterior framing. We are asking this Board to grant us a variance for that portion of that house. And the crunch time comes when Mr. Depositer wants to sell his home, he has to fill out a residential disclosure form as mandated by the South Carolina Code and one of the questions on that form is "Does any part of your property violate any setback lines?" So in order for us to answer that question truthfully, we have to explain yes, it does, but we have thankfully received a variance from Richland County Zoning Board. And that's why we're here. I don't want this to be as difficult as sidewalks.

CHAIRWOMAN PERKINS: Okay. Could you state a hardship for me, Mr. Nicholson, you so eloquently stated?

MR. NICHOLSON: Well the hardship is when Mr. Depositer wants to sell his home, which he does, he has to say yes we have a violation of a setback line and then how do you cure that? Well, frankly we cured it when we closed the transaction through title insurance. We got it for both Mr. Depositer and for the lender. The next purchaser may not have a title insurance company that is as lenient as mine is. The, the hardship is not today, but it is in the future and he is trying to sell his house.

CHAIRWOMAN PERKINS: What, what did, tell me, excuse me, I didn't mean to do that, but Mr. Price, did I hear you say that a, an occupancy was not issued to these people?

MR. NICHOLSON: No, we got a CO.

MR. PRICE: No, what I was saying was when this was first brought to our attention, I explained to a representative that, you know, we wouldn't issue a CO until that matter was resolved as far as the encroachment. Like I said, but over a year went by and, and I think, and I'm sorry Mr. Nicholson it wasn't you, it was Mr. Depositer who had actually made contact with us and when he started talking about his situation, the minute he told me the street I said I know exactly where it is. And, and I was like I couldn't believe that they were in there, so.

CHAIRWOMAN PERKINS: I'm sorry, now, now -

MS. CECERE: So Mr. Price, what you're saying is actually while the house was being built, you told these people, you, you're encroaching?

MR. PRICE: Yes, somebody brought me a plat.

MS. CECERE: And, and, and they, they did not stop and they just kept on doing.

MR. PRICE: Evidently not, right

CHAIRWOMAN PERKINS: But it wasn't the owner, it was the builder?

MS. CECERE: The builder?

MR. PRICE: Yes, because the house, it had not yet been sold yet.

MS. CECERE: And now my question, Mr. Nicholson is when, Mr. Depositer, is that his name?

MR. NICHOLSON: Depositer, yes, ma'am.

MS. CECERE: When he bought he was aware that there was an encroachment?

MR. NICHOLSON: It was pointed out to him at the closing by me that there was an encroachment on the property and that we were able to obtain, see a lender requires

you to have a title insurance policy to protect that lender. That's a federal law requirement. So we were, we were able to get that for the lender and the title insurance company says under our rules we can also issue the title, the same title insurance policy to protect that borrower, it's called an owner's title insurance policy. So we obtained both of those for Mr. Depositer. That does protect him, but that does not spring forward to a subsequent buyer.

MS. CECERE: Well did you, when, when this closing was did you explain that to Mr. Depositer?

MR. NICHOLSON: Yes, ma'am. But I do want to point out to y'all the minuteness of the infraction. I realize it is an infraction, but that's 2.7' at the furthestest point out of kilter. It's probably less than ten square feet in there.

CHAIRWOMAN PERKINS: Are there any other questions from the Board for Mr. Nicholson? Thank you very much, Mr. Nicholson.

MR. NICHOLSON: Thank you.

CHAIRWOMAN PERKINS: There's no one else signed up for or against this variance. The Board will entertain a discussion. The Board will entertain a motion.

MR. RUSH: I would like to make a motion to grant the variance.

CHAIRWOMAN PERKINS: Well, Mr., we, we were trying to think of those words that, it's not a -

MR. FARRAR: Yeah, I think diminimus nature of the, the hardship of, of the condition and also contractor reliance.

CHAIRWOMAN PERKINS: Did you get that Mr. Price?

MR. PRICE: I sure did.

CHAIRWOMAN PERKINS: I'll second it. Okay you want to repeat it?

MR. PRICE: Who gave the motion, who made the motion please?

CHAIRWOMAN PERKINS: Mr. Rush.

MR. PRICE: Okay, we have a motion for approval by Torrey Rush. It was seconded by Ms. Perkins based on the diminimus nature of the request. And also the applicant relied on the contractor reliance for, in this purchase.

CHAIRWOMAN PERKINS: Okay, all those in favor of that motion? Mr. Price.

MR. PRICE: Rush, Branham, Perrine, Perkins, Cecere.

[Approved: Rush, Branham, Perrine, Perkins, Cecere; Absent: McDuffie, Simmons]

CHAIRWOMAN PERKINS: It's unanimous. Thank you. Mr. Price will be in touch.

MR. NICHOLSON: Thank you and may I stand aside?

CHAIRWOMAN PERKINS: Sir?

MR. NICHOLSON: In court we say we may stand aside?

CHAIRWOMAN PERKINS: Yes, you can. Okay, next case Mr. Price.

MR. PRICE: I know it's getting late and I'm not asking for a recess, I just need 30 seconds.

CASE NO. 08-04 V:

CHAIRWOMAN PERKINS: Okay. He's asking for – would you come up and state your name and address for the record and tell us what it is you'd like to do?.

TESTIMONY OF CHRISTOPER WATSON:

MR. WATSON: Sure, my name is Watson. I'm at 332 Woodhouse Drive, Irmo, South Carolina 29063. Okay.

CHAIRWOMAN PERKINS: What is it?

MR. WATSON: Actually that's, the site up there, on the projector, on the screen, that's a lot I purchased back in June to build my personal residence at and it's, I think, I don't know if he's got them on file or not, but I submitted a plan with the house plan pictured on there. It's currently zoned, zoned rural, all the abutting lots to it also are zoned rural. When I purchased the lot back in June, I then went around down the Summer Haven Streets there and met the individuals that currently live there and told them I had purchased a lot, told them I was going to be building on the lot. I asked them what their interpretation of, of what I needed to build there, so at that point I went and picked out two house plans. I went back to the individuals before I came to the variance board and showed them the house plan, told them what I was going to be asking for from a variance standpoint. Since you guys have come out and posted it, I went back to the individuals on the street and actually the people I purchased the lot from, they not only live here, but the original owners of the property live actually to the right side of that shed there. And so I went to them and, you know, of course I, I want to take the path of least resistance. I wanted to get everybody's, do a due diligence process, I wanted to get the interpretation of what they were asking, what they wanted, expected of me. So I haven't had an opposition verbally. I went back to them last week and I said, you know, my hearing's coming up on the 9th. You know, you can email, you can call, you can fax, you can appear and I gave them every opportunity to come and, you know, state their case in front of you guys. The hardship I have is at the lake there it's, 54' wide at the lake. At the front of the lot I'm a 118 wide. My house, the back of my house is proposed to sit at the back, the furthest point of that shed. Let's

see, the, right there would be the back portion of my house. This is my good friend, this is, this is the garage portion, but my good friend Burke and Amy Cromer live in this house right here on the other side of this garage. David and Kim live on the other side and, you know, they're of course going to be influenced the most. There's never been a house constructed on the lot. So they're going to be affected more than anybody. They don't have any objection to it. Out here on Summer Haven Drive, the original people own, basically all of Summer Haven. I went to them and, and you know, actually to her, she's still living and said, you know, do you have any problem with what I'm trying to accomplish and she said no. So I have no opposition, but I am asking for a variance to encroach into the rural setback side on the sides.

CHAIRWOMAN PERKINS: Any question from the Board for Mr. Watson?

MS. PERRINE: I have one.

MR. WATSON: Sure.

MS. PERRINE: The existing metal building carport –

MR. WATSON: Yes, ma'am.

MS. PERRINE: - will that stay or will that be removed?

MR. WATSON: No, ma'am, that's being removed right now. The, the owner, if you flip back a couple screens, you'll see right, right there, that's the, the man who owned that house, there's a, there's a nice house sitting behind that shed there. He actually had that shed for storage and he had a, his RV actually stayed under this part. My friend Burke and I actually bought, he, he had all of it for sale. We bought the house and the lot; we split the house off for him. He just moved in and I'm building a new home on the lot, so that, that shed will actually be taken down by Saturday.

MS. PERRINE: Now you're talking about that little white -

MR. WATSON: No, ma'am, this one right here.

MS. PERRINE: Oh, okay, that's what I was talking about.

MR. WATSON: Yes, ma'am, this one, this one's staying. This is Burke and Amy Cromer's, you know, portion of their garage, but that one right there's coming down.

MS. PERRINE: That's what I was talking about, so that will be -

MR. WATSON: Yes, ma'am, yes, ma'am. And that's a 30 x 30 metal building, concrete, it's a very nice building and I actually ended up giving it away just to, because my house is, is, placed right there.

MS. PERRINE: Thank you.

MS. CECERE: I have a question.

MR. WATSON: Yes, ma'am.

MS. CECERE: What was the, what is the reason that you built the house, could you not have built the house long ways into that lot?

MR. WATSON: I, I, I can. I mean I, I've, I've, being a builder, I've moved quite a few times. My wife says this is going to be our last place we're gonna lay here, so, so I wanted to sort of get what, you know, what appealed us. If we did, if we did long ways, I've got plenty of room long, I mean I have 165' from the water to the back of the house if I'm able to build this house. So I've got plenty of distance long ways, but then you're gonna end up with a very narrow, very tall house and that's not what we've, you know, envisioned, that's not what we really desire to have, so.

MS. CECERE: This is a one story home?

MR. WATSON: No, ma'am, it's actually a, it's a two story house. Actually I sent a blue, a blueprint of it and I attached pictures and I don't know if they ever showed up. That's the first floor.

CHAIRWOMAN PERKINS: So, so what would be your hardship, Mr. Watson because that, if you don't want to turn it that way?

MR. WATSON: Yeah, that, no, I mean, the hardship is based on the size of the lot. I, I went and talked to all the neighbors, each of the neighbors I've talked to, of course a lot of these homes are older homes, have said they've had to go through the variance process because of the, the shapes of the lot, the topography of the lot. It's a -

CHAIRWOMAN PERKINS: But if you turned yours sideways you wouldn't need it?

MR. WATSON: No, it won't fit sideways.

MS. CECERE: I, I mean, not this, excuse me, not this plan wouldn't fit sideways, but a plan, there are houses that are narrow and long and they would fit on this lot.

MR. WATSON: Right. I'm, I'm, I'm sure that's the case, yes, ma'am. So, I mean, in, in talking to all the, you know, the people to my right, they haven't, that house has been there for a while, but the people to the left actually went through the variance process. Sammy and Lisa Mathias from Mathias Sandwich Shop, which would be those people went through it. The man that lives, lives right, Jerry Rye, he's had to go through it three or four different times for different reasons. It's just the lay of the land and the shape of the lot really limits what you can build there. I mean, you can, I don't know, I don't see it on there, but this is actually a plat of it and it gives the width of the lot from

front to back in 20' increments. I don't know if I can show you that figure or not. This is the house end.

CHAIRWOMAN PERKINS: Are there any other questions for Mr. Watson?

MR. PRICE: What, what is the proposed square footage of this house? I'm sorry.

MR. WATSON: Actually heated square foot is about 4,000 square feet, 4,200. There's an area over the garage that, it's depending if, if we're gonna finish that or not, but it will be about 4,000 feet.

CHAIRWOMAN PERKINS: Mr. Price, we just, is, is there anything you'd like to present to the Board on this, other than what's in the packet?

MR. PRICE: No, he's, I mean, I know we take these cases individually, but I mean, he's correct, there have been a number of homes on Summer Haven. I mean, I know my way out there quite well now that they have had to come in for some type of variance requests pretty much in the same nature. It's either a side or, most of them have been side yard setbacks. I think the only objection the Staff would see to building the home, you know, I guess Charleston style, is, is a good term to use is, it's not really keeping in character with the surrounding homes there. Most of those homes you're your traditionally built homes. You know, we've run into this again, you know, we go back to the lake, I guess when new, when Richland County was rezoning and they said oh don't worry about the lake, we'll just keep it rural. And there are a large number of lots up there that just don't meet the dimensional requirements for a rural district. And because of that any, when you apply the setbacks you typically are gonna cause some

type of encroachment or you do restrict it. Of course on the other hand, it could be argued to, to make the house smaller, but then that's –

CHAIRWOMAN PERKINS: Or you could turn it.

MR. PRICE: Well, I mean, there, there are other, I mean, what, you know, just looking at a lot, it pushes, really the lot really isn't that usable probably in the first half of it. I mean, going from the lake going on back because if you started with 54, at the, I guess with the, the part, the portion of the property at the rear, if you subtract 40 from it, so right there you have 14'. So the further you go back of course it's gonna widen out. So I guess the question is is there a point in here where you can reasonably use it, use it for a house?

MR. WATSON: Right. I, I don't know if all you guys reviewed this or not, but as it, he's, he's right, I mean, at the, at the lake at 54 and as you come back, you know, even right below the, the shed, it's, you know, like 81 wide. So if you take 40 away from that, then I'm 40' wide and, and even a Charleston style house would be difficult to get in a 40' wide space, as far as left to right. So, you're right, I mean, there's other things I could build on there, but I mean, I tried to – I'm back away from the lake up on, this lot actually slopes down toward the lake this way, so I'm back, sort of back on the back part of the hill. I'm not blocking anyone's vision, I'm not disturbing anyone's backyard. I mean, I'm sort of, I'm not, I wish there was a picture on there depicting the other two houses beside me, but they're like this and I'm back away from them, so it's not like I'm building a barricade at, you know, on the setbacks and it's gonna be a fortress over there. I mean, there's, on the right hand side of me, which is, which would be this way, there is, their house is quite a bit away from the property line. I mean, they've got their

trampoline and everything on that side. They've got a garden, so there's, I mean, there's plenty of, I mean, it's not like I'm gonna be stacked right on top of them. And these are my friends Burke and Amy on this side right here and, and of course they don't have a problem with it either. I'm gonna try to leave as many trees as I can up here to the front. That's the portion, the front portion of my property line right there. My lot goes all the way over, over there. Well, actually somewhere down over there I guess it is. So, I mean, I'm not, I'm not, I'm not creating hardship for anyone else by placing, you know, the house where, where I've asked for it to be. No one in the area has a complaint against it. Like I said I've gone to them and said come, you know, if you have a complaint, I want to hear about it. Go, go tell the Board or whatever, but I have no complaints from anyone.

MR. PRICE: I'm sorry I was looking at the package, I, I don't know where, what happened to that little statement that's in there, but on page 140, it starts off with Mr. Price and then if you need additional information from me please reply. But I actually was out there and I do have it on my computer downstairs, I should have the message where there, is it the Cromers, Amy and Burke Cromer, I met them when I was out there looking at the site and they did voice their approval of the request.

CHAIRWOMAN PERKINS: Alright, are there any other questions for Staff or for Mr. Watson from the Board? Thank you very much. There being none, the Chair will entertain a discussion. There being none, the Chair will entertain a motion. Is there a motion?

MR. BRANHAM: Madam Chairman, I would make a motion that the variance for 08-04 be approved and the hardship being the topography of the land and the unusual layout of the property.

CHAIRWOMAN PERKINS: Is there a second?

MS. PERRINE: I second.

CHAIRWOMAN PERKINS: Mr. Price would you like to -

MR. PRICE: Okay, I have a motion for approval by Harold Branham and a second from Elaine Perrine. The approval is based on the topography of the land and the layout of the, the, the conditional layout of the parcel.

CHAIRWOMAN PERKINS: All those in favor of that motion, please have a show of hands?

MR. PRICE: Those in favor are Rush, Branham, Perrine and Perkins.

CHAIRWOMAN PERKINS: Okay, those opposed:

MR. PRICE: Cecere.

[Approved: Rush, Branham, Perrine, Perkins; Opposed: Cecere; Absent: McDuffie, Simmons]

CHAIRWOMAN PERKINS: Mr. Watson, you have your variance and Mr. Price will be in touch.

MR. WATSON: Yes, ma'am, thank you folks. Have a great night.

CHAIRWOMAN PERKINS: Next case.

CASE NO. 08-03 V:

Mr. PRICE: Okay, I did hand you a guess an amended Agenda. For some reason case 03, 08-03 was left off. It's in your package, it's on page 145, but -

MS. HAYNES: And you have a sign in sheet, too for that one.

MR. PRICE: Right so, and it was advertised and everything. The applicant is requesting, this is case 08-03 Variance. The applicant is requesting the Board of Appeals to grant a variance to exceed the maximum square footage for an accessory structure on property zoned RU. The applicant is Janet Laveck. The location is 716 Heyward Brockington Way. The parcel size is about an acre, I mean, eight acres, excuse me. The subject parcel is a large tract with a single-family structure under construction. The section of the property where the proposed accessory structure will be located is cleared. The applicant proposes to construct an accessory structure 2,240 square feet that will exceed the allowed square footage for an accessory structure by 1,040 square feet. According to the applicant, he wants this size to place his tract, there's a lot of large equipment, he said this, he said that he uses to, you know, in the maintenance of the land and there's a lot of clearing and I guess y'all don't get your regular grass out there. This is the site where the proposed structure will be erected. And here is, this is where the residential structure is being constructed and if you look right behind the wood, in the wooded, behind these trees, you will see, where the area, where the structure is. It's, one thing about it, if this is where the home is, we had to actually kind of walk around this way to get to the building because it's pretty, it dips heavily here. It's, actually it's probably unsafe just to even walk across there. This is just a case as we said earlier where I guess on the, when we were developing, the Land Developing Code was just let's condense everything together and you can have rural, you apply rural, commercial, industrial, and residential standards all in one in a lot of cases, so you have one here. You have a rural, a rural development. And if you think

of a true rural, you're looking at more than one acre at least. Here's a case where eight acres, yet we're restricting the accessories, accessory structure size to that of what you might find in your own residential area. So it's just a matter of just trying to get the code, and hopefully something we can work on, to get the code to actually look at the different situations that may occur and this may be one where your rural districts may be allowed to have larger accessory structures.

MS. CECERE: So actually the existing land use is rural residential or is it rural?

MR. PRICE: It's just rural, rural.

CHAIRWOMAN PERKINS: Ms., oh you're already there.

TESTIMONY OF JANET LAVECK:

MS. LAVECK: I'm here, yes, Janet Laveck. And my address is 4528 Fernwood Road in Columbia. The zip's 29206. This property, my husband and I bought I think in 2004 and when he first showed it to me, I, I mean, I went through that I felt like I was in the jungles of Viet Nam. I mean, it was just solid trees and he, my husband is a very talented man and he has cleared this piece of property so beautifully. And we've got the whole foundation up now and we're gonna be building our house, but like on the back of the house, it's more of a gentle sloping and then, let's see if I can get this to work, but what Mr. Price showed you I think that's it. That's where the building is going to be and in order to clear that, he did have to use his tractor and he's also into restoring vintage cars. He's a member of the Sports Car Club of America and he's just very gifted, talented, and very busy. He has to do something all the time. And this building we bought soon after we bought the property and I think it was in, I'd be guessing, but we bought the building that, that we want to put up and that's our hardship because we

have already paid for it. And it's, I think it's stacked somewhere over here and I don't know how it gets built, but he's done this before and as a matter of fact before we were married, I had my house in Forest Acres and his, he lived a mile from this property and had a large building like this. So when we bought this property and as big as it is, we, we, really didn't even think that it would be a problem, but when my, when I came to get the permits and things it was, because it, it is a large size building, that's what's got me here today.

MS. CECERE: And what did, okay, now what is he going to use the building for?

MS. LAVECK: To store his tractor and to, with his cars that he works on. He's got a, what is it, I can't think of it, a, a Lotus, a Lotus, whatever that is. It's an old car and he restores those and he has a lot of, a lot of equipment that goes, I don't know what they're called. It's, everything looks like a tractor to me, but you know, things that go in the back of it to grade it. He has put, right here at this part, when you first come in, you come in like this, excuse me, and right here this was trash. I mean, people were dumping out here. This is all clear here and he's put fruit trees, apple trees, plums, and some other trees all in here. I like blueberries, he put some blueberry bushes back here for me and he, it, it's just amazing what he's done. And we just really do need that, that building and he'll make it look nice. Everything he does he, he does it the best he can.

CHAIRWOMAN PERKINS: Let me ask you this now he is not doing it to operate a business out of that area?

MS. LAVECK: No. No, ma'am.

CHAIRWOMAN PERKINS: It is for a hobby and he is not going, it is for his personal use?

MS. LAVECK: Yes. Yes, ma'am, absolutely

CHAIRWOMAN PERKINS: Are there any other questions for Ms. Laveck?

Okay, there are no questions. Thank you very much.

MS. LAVECK: Thank you.

CHAIRWOMAN PERKINS: We have a, a Mr. Tom Eflin?

MS. LAVECK: Oh, Tommy Eflin was my attorney and he had an appointment at 3:30 and he had to leave.

CHAIRWOMAN PERKINS: Okay, and I'm not sure that, Ms. Hunt must have signed everything.

MS. LAVECK: Yeah, she did. We asked her.

CHAIRWOMAN PERKINS: To make sure, she, but she didn't sign the right one. She [inaudible]. There's no one in opposition. Is there a discussion from the Board? No discussion, the Chair will entertain a motion.

MS. CECERE: I make a motion that variance 08-03 be granted for the use, that the building will be used for a hobby and storage building. Mr. Price, I want to say that since this is a rural, a rural area and actually the residential does not really apply, is that -

CHAIRWOMAN PERKINS: He's trying to, to, to -

MS. CECERE: Help me out here.

CHAIRWOMAN PERKINS: She's looking for help, Mr. Price, in stating the hardship I suppose.

MS. CECERE: Does it, does it even need a hardship? It doesn't?

MR. PRICE: Just – second. Get a second.

CHAIRWOMAN PERKINS: Okay, Mr. Farrar, could you help us out, please sir?

MR. FARRAR: I, I, unfortunately was on, had to step away when he made his comments, but I think you want to incorporate Mr. Price's comments about the inapplicability of the residential code restrictions to this rural situation.

CHAIRWOMAN PERKINS: Okay, is there a second?

MR. RUSH: I second.

CHAIRWOMAN PERKINS: A second by Mr. Rush. Would you like to repeat it?

MR. PRICE: No, I think we have it. Just, well we can, it's on there.

CHAIRWOMAN PERKINS: Okay, all those in favor of that motion, have a show of hands?

MR. PRICE: Rush, Branham, Perrine, Perkins, Cecere.

[Approved: Rush, Branham, Perrine, Perkins, Cecere; Absent: McDuffie, Simmons]

CHAIRWOMAN PERKINS: Ms. Laveck, you have your variance. Mr. Price will be in touch. Next case.

CASE NO 08-08 V:

MR. PRICE: Alright. Case 08-08 Variance, the applicant is requesting the Board to grant a variance to exceed the maximum square footage for an accessory structure on property zoned rural. The applicant is Freddy Walker. The location is 9933 Wilson Boulevard. The parcel size is a little more than 12 acres. It's used residentially, has a single-family structure on the property and there is another accessory structure on there also. The accessory structure that the variance is being requested for has been constructed and it will exceed the allowed square footage for an accessory structure by 2,800 square feet. As stated this is on Wilson Boulevard. And in this area you'll, while

the area is being developed, there still is a number of large parcels that either haven't been developed or, or been used residentially. I'm going to go over the pictures, here's the subject parcel, the residential structure. Here, this is I believe a, a pool house and there's the accessory structure in the rear property. And this is the structure. The applicant does state that he would like to use this for the storage of a lot of personal items. And also he does a woodworking shop and he also has a tractor, that's very similar to the previous case. And that, that would be it. Here's the parcel, the plat of the parcel.

CHAIRWOMAN PERKINS: Mr. Freddy Walker, please come and state your name and address for the record.

TESTIMONY OF FREDDY WALKER:

FREDDY WALKER: My name is Freddy Walker. I live at 9933 Wilson Boulevard. I have some handouts that I'd like to - thank you. Like I said I'm Freddy Walker. I'm retired after 39 years in the Army and Army Reserves. I've owned my property for 30+ years. It originally was 18 acres and I gave my daughter five acres behind me and they built a house up there, so I've got my grandchildren right there at me. The, the building, as you can see the building is built, but I didn't get a permit. I, I'm gonna read, I'm gonna read the, the little bit that I've written down about what, how it actually progressed. One day after I started construction of the barn, the county building inspector Mike Grubbs came by as I was plowing my garden and told me that I had to get a building permit. He said that he had inspected the building, and it was built to county code, but I would have to apply for the proper permits and go through a series of inspections. Within a few days, I went to Richland County Administrative Office and

applied for the building permit. The Building Department sent me to the Zoning Department where I was told I could not build a building the size I had already built. It had to be 1,200 square feet or up to one-half of the square footage of my home. So at this point I did, I had no idea what to do, so I called Mr. Grubbs and told him I could not get a permit and I told him the reason that I couldn't that they said I couldn't get the permit. He said that I should apply for a variance. Well, I didn't act on this immediately and several months later Mr. Mike Spearman came by the house and, and questioned by wife about the barn and she couldn't answer his questions so he left his phone number and I, and I was to get in touch with him. I, I called him and he said that we needed to, I needed to meet with him and his bosses, Ms. Anna Almeida and Geo Price. And he, he called me back later and he had set up a meeting with the, with Mr. Price and Ms. Almeida. So at this, at the meeting we agreed that I should apply for a variance. Everyone agreed that the, the building had a good appearance so I filled out the proper paperwork and here I am. Now my hardships are that after several thefts on my property, I decided that I needed a building to store my personal property. In the past I've had a 12' enclosed trailer stolen out of my front yard attached to the back of my truck, and several ladders and different items that if I'd had a place to lock them up, then I'd still have them, maybe. And I also needed a place to store my farm implements, my tractor, my garden tools, my lawnmowers, and other things that so far haven't been stolen and to store stuff from my home that's too large to go, to put in the attic. Like I said early, I have grandchildren on the property and the subject of horses have come up. So when I decided on the size of, of the building that I was gonna build, I included enough room for storage of feed and for two horse stalls inside. And to tell

you the truth I didn't know if you build, my property is zoned rural and if you build what I would call a barn, only you can lock it up pretty good, that you needed to have a permit. So, I, I went, I went ahead and built it without a permit and, and when Mr. Grubbs came by I immediately, he said, he told me to go get the proper permits and get it inspected, but I didn't get past zoning. Thank you.

CHAIRWOMAN PERKINS: Are there any questions for Mr. Walker?

MR. BRANHAM: I've got one, Madam Chairman. So you were building the building without a permit and someone came by and told you that you needed a permit, so you went and got a permit?

MR. WALKER: Right, the building inspector, he's a building inspector in our area, Mike Grubbs, yeah. He came by, I was out back plowing my garden and I see this guy come walking down the, down there that I didn't know and he, he came up and introduced, he was real nice, a real nice gentleman. He introduced himself to me and said that that he had noticed that I had built this building and that I, that he didn't see that I had a permit, so he told me to go down and get, he, he had went, he had already looked through the building and he told me I needed to go get the permits and, and call for the various inspections on it. Any other questions?

CHAIRWOMAN PERKINS: Any other questions for Mr. Walker?

MS. CECERE: Mr., Mr. Walker all these people that have signed up here are your neighbors that are saying they don't, they don't have an objection?

MR. WALKER: Yes they are and I have one neighbor with me that's, who owns most of the property across the, 21 from me and I have both, neighbors on both sides of me.

CHAIRWOMAN PERKINS: Any other questions for Mr. Walker? Thank you very much, Mr. Walker.

MR. WALKER: Thank you.

CHAIRWOMAN PERKINS: We have a Mr. Michael Morrison? Please state your name and address for record, please.

TESTIMONY OF MICHAEL MORRISON:

MICHAEL MORRISON: Michael Morrison, 9916 Wilson Boulevard. I'm just here to support Freddy and I own, I don't know, probably six pieces of property right around him and he asked me my opinion of it and I'm here to support him. I don't have a problem. I think the, the barn, if you will, is, is nice and it's not an eyesore to me or gonna hurt my property values in any way. Thank you.

CHAIRWOMAN PERKINS: Any questions for Mr. Morrison? Thank you very much. There's no one signed up in opposition. Is there any discussion? The Board will entertain a motion. The Chair will entertain a motion.

MS. PERRINE: I'll make a motion that 08-08 be approved with the hardship that was stated - Brad, or Geo.

MR. PRICE: Okay.

MR. BRANHAM: I second.

CHAIRWOMAN PERKINS: Do you need to read? Okay. All those in favor of the motion, please have a show of hands?

MR. PRICE: Rush, Branham, Perrine, Perkins, Cecere.

[Approved: Rush, Branham, Perrine, Perkins, Cecere; Absent: McDuffie, Simmons]

CHAIRWOMAN PERKINS: That was unanimous I guess?

MR. PRICE: Yes.

CHAIRWOMAN PERKINS: Okay it was a unanimous decision. Mr. Walker, your variance has been approved and Mr. Price will be in touch.

MR. WALKER: Thank you, ma'am.

CHAIRWOMAN PERKINS: I think this concludes the portion of this public hearing.

MR. BRANHAM: Madam Chairman?

CHAIRWOMAN PERKINS: Yes, sir.

MR. BRANHAM: I know we have to approve the Minutes, but I, I'd like to make a motion that we approve those Minutes and then hold our election until the month of February since it's so late in the day. Do the election, do the election in February.

CHAIRWOMAN PERKINS: In February, yeah, okay, yeah, okay. We have the, we don't have a full Board either.

MR. PRICE: And you don't, you know, no guarantees.

CHAIRWOMAN PERKINS: Yeah, I know it's always that way. Okay, is there a second to that motion?

MR. RUSH: Second.

CHAIRWOMAN PERKINS: Okay, all those in favor of holding the elections next month, a show of hands? Mr. Price?

MR. PRICE: Oh, I'm sorry. Rush, Branham, Perrine, Perkins, Cecere.

[Approved: Rush, Branham, Perrine, Perkins, Cecere; Absent: McDuffie, Simmons]

CHAIRWOMAN PERKINS: What was your other? It took - we also at, at, for next month I, I think we have to do the By-Laws and Procedure? Is that not, not right, Mr. Farrar?

MR. FARRAR: Yes, ma'am. Y'all should have gotten, did everybody get those mailed out? And if, if you have them, you don't even have to put those in the Agenda packet, those are internal, you can them up, you can take them up at any point now since you've had them five days, five days.

CHAIRWOMAN PERKINS: Well, we'll take them up next month, also, if, if - I would, I, I, I wanted to know if I could add another something, I, I'm not sure because all of the Board is not here to add a parliamentarian and a secretary to reinstate the secretary. We, we took it away.

MR. FARRAR: Do you already have one of those?

CHAIRWOMAN PERKINS: No, Geo, huh-uh (negative).

MR. FARRAR: Are you gonna unofficially, what, well how is that gonna work? Is it gonna be a Staff member or is it gonna be a Board Member?

CHAIRWOMAN PERKINS: I would say a Board Member.

MR. FARRAR: No, you can do that, sure, you don't need, you, you've already got - in fact -

MR. PRICE: We could establish the duties of the secretary [inaudible].

MR. FARRAR: I think it's already in your By-Laws. Yeah, you've got 4.2.

CHAIRWOMAN PERKINS: Yeah, but I'm just wondering, you know, if I could do that now, so next month when it comes in I want to make sure I wasn't overstepping.

MR. FARRAR: No, in your, in your By-Laws unless y'all amended these and I didn't know about it, under 4.2 Officers, the Board shall appoint a secretary who may be an officer of the governing authority or of the Board. So when we re-did these, I put it in there so you could put either Staff or y'all. So, so you can elect, I mean, Chair, Vice-Chair and a Secretary, you can do all next month.

CHAIRWOMAN PERKINS: I think that, that moves us just to, if we could just do the Minutes?

MR. BRANHAM: We need to approve the Minutes.

MS. HAYNES: There's one other thing, it's training time again.

CHAIRWOMAN PERKINS: Oh, yeah.

MS. HAYNES: I handed y'all out a calendar of all next year. January has one if you want to go that one, that Continuing Education, but there's no, so mark down what you're month, so it starts with [inaudible] Continuing Education. The only one besides Torrey and Joshua, because Joshua has done half of his orientation, Peggy finally finished hers. Torrey's got to do just one through six. Joshua's got to do three through six. And I circled it for you guys because your terms, of course, you were put on in the middle, so you have longer to do yours. But as far as the rest of the Board goes, I've circled the Continuing Education, so -

CHAIRWOMAN PERKINS: What time is this on the 28th?

MS. HAYNES: Well that, I will have, that's just what I got off their website. I'll get you more information.

CHAIRWOMAN PERKINS: Okay, okay.

MR. PRICE: Well I, I think we find most of the things are 6:00, I think they're from 6:00 to 9:00, just depending on the -

CHAIRWOMAN PERKINS: 6:00 to 9:00, yeah, usually it lasts three hours.

MS. CECERE: Past my bedtime.

MS. HAYNES: Are you interested in the, the 28th of January?

CHAIRWOMAN PERKINS: Well I, I need to look at my calendar.

MS. HAYNES: Okay.

CHAIRWOMAN PERKINS: And perhaps then I'll call you and leave a message, yeah.

MS. HAYNES: Yeah, call me [inaudible].

CHAIRWOMAN PERKINS: I, oh, there's an, an announcement. We need to get these Minutes approved today because I, as I understand it there is an undue hardship for financial, the, the, the Planning Department is having to pay lots and lots and lots of money and we also, did we put in there where, at that next meeting, can we vote whether the Minutes will be verbatim or, we can do that at next meeting, too, can't we Mr. Farrar? Make that determination that they would be verbatim or a summary? Or does it need to be -

MR. FARRAR: Well, I mean, it's gonna need to be verbatim if anybody appeals, they'd, they'd want a transcript, so they'd have the whole deal. Do you have -

CHAIRWOMAN PERKINS: I, I was just thinking in, in the meeting, you know, I, I think it was suggested to us that we would have them, you know, as verbatim, but I don't think we ever took that up that.

MR. FARRAR: I don't know what to tell you cause, I mean, if you don't want them verbatim, probably Staff will get them verbatim because he's got to go through everything to put all the conditions in and I don't why you - it's up to you, I don't know why you would not want them verbatim. But that's up to you.

CHAIRWOMAN PERKINS: Yeah, well I'm, I think to, to make it of record, so that we would know and the oohs and ums, if it, you know, if we put them in there, they would be verbatim.

MS. HAYNES: Or if you want your Secretary to do the summary, you could do that.

CHAIRWOMAN PERKINS: So I just wanted to tell you that. Okay? Okay, so these Minutes that we have today, Ms. Perrine, did you -

MS. PERRINE: It's November's. Every, all the other ones have been approved. We just need to vote on November and they're fine, so. I, I mean, I make a motion to approve them, November.

CHAIRWOMAN PERKINS: Okay, is there, is there any other - okay.

MS. CECERE: I wasn't here.

MS. PERRINE: That's right. Can we vote on them with just three?

CHAIRWOMAN PERKINS: Yeah.

MS. PERRINE: Okay.

MR. FARRAR: That's, that's, you've got enough to conduct business, you've got enough to approve.

MS. PERRINE: Okay, I made the motion to approve them.

MR. RUSH: Second.

CHAIRWOMAN PERKINS: Okay. All those in favor?

[Approved: Rush, Perrine, Perkins]

CHAIRWOMAN PERKINS: Okay, the meeting is adjourned.

[Meeting adjourned at 6:55 p.m.]