

1 CHAIRWOMAN PERKINS: Okay so Case 07-54 SE is deferred and 08-16 -

2 MR. PRICE: Excuse me 08-16 is withdrawn.

3 CHAIRWOMAN PERKINS: Withdrawn, okay. So we're deferring 07-54, it will
4 be April's meeting for -

5 MR. PRICE: Well, actually I would hate to use the, the phrase defer. We just
6 didn't put them down on the agenda.

7 CHAIRWOMAN PERKINS: Okay, you're going to put -

8 MR. PRICE: It will be on next month's agenda. I don't want to penalize them
9 by calling them deferred.

10 CHAIRWOMAN PERKINS: The first order of business is Rules of Order, which
11 will be presented by the county's attorney, Brad Farrar.

12 BRAD FARRAR: Thank you, Madam Chair. Good afternoon, I'm Brad Farrar
13 from the Richland County Attorney's office. I'm gonna review the Board's procedure
14 and take any questions that you might have. The Board of Zoning Appeals is what
15 they call a *quasi* court, it's not a court of law but it's similar in how it functions. The
16 Board will take testimony, look at evidence that's presented in the form of documents,
17 any other documents you care to present that aren't in the Agenda packet, they'll
18 consider those as well, then they'll issue a decision. Now sometimes with a court
19 you've got to wait a while to get a decision; here today you'll have one in open session
20 subject to the condition that I'll talk about in a moment but you will have a decision
21 from the Board following your particular case. The order of presentation, the applicant
22 has up to 15 minutes to present his or her case. You can essentially do whatever you
23 want to do that's appropriate to get the information to the Board. That 15 minutes

1 does include any witnesses that you want to present in your case and the cases today
2 are Special Exceptions and Variances, we may have a reconsideration or two, but
3 those are the types of cases the Board's gonna hear. The opposition has up to three
4 minutes each to state opposition to that case. Sometimes we have a packed house,
5 we, you know, we're very grateful when we hear that there's a spokesperson but in a
6 case like today, obviously it's a small enough group where anybody who wants to
7 come can for the full three minutes. Then the applicant comes back for up, up to five
8 minutes of rebuttal. That rebuttal period, if you notice the order of presentation the
9 applicant goes first and last and you may ask why that is. That goes back to the court-
10 like nature of the process where the applicant bears the burden to convince the Board
11 that he or she should get the Special Exception or Variance, and that's simply what
12 that, that process is about. When you, when you testify today it will be under oath, in a
13 moment I'll swear everyone in as a group who's going to testify. We just ask that you
14 address your remarks to the Board, audience exchanges are not something they're,
15 they're gonna want to, gonna want to hear, that's not going to help you in your case so
16 please address them to the Board. We also need to pick it them up on the sound
17 system in case we need to get a transcript for your, your case later on. The effect of a
18 Board's decision; the decision of the Board becomes final once the Minutes where that
19 case was hear have been approved. So what that means is essentially today's
20 hearing, March '08 hearing, you'll have the Minutes from today's proceeding
21 transcribed and probably available next month. So at the April meeting the Board very
22 likely will take up the Minutes from today's process. Once the Minutes have been
23 approved you've got a final decision of the Board, as far as the, the Board process is

1 concerned. However anyone who is aggrieved by a decision of the Board may appeal
2 that case to Circuit Court. That, you're out of the Board process at that point, now
3 you're in Title 6 of the *South Carolina Code* and essentially what you're going to do
4 there if you want to appeal it is you write a short and plain statement explaining how
5 the Board as a matter of law got the case wrong. And when you go to Circuit Court
6 you'll eventually get a judge, it won't be like the Supreme Court or Court of Appeals
7 where there's several justices. There will be one Circuit Court judge but he or she will
8 be sitting as an appellate court at that point, they will be appealing what came from
9 your proceeding. So that's important because there won't be any new witnesses, new
10 testimony, they're just going to look at the Record, go through it and decide whether or
11 not as a matter of law the Board erred in that particular case. A person does not have
12 an indefinite period of time in which to file this appeal. They have 30 days from the
13 date the Board's decision is mailed. So if you're going down the road, you know, two
14 years from now, gee I wonder if I ever got a final decision from the Board of Zoning
15 Appeals, you do have a final decision once the Minutes have been approved and the
16 appeal period is run. But this is really something that you're probably gonna have a
17 good handle on as to whether or not your case is one that's ripe for an appeal. If
18 you've got a lot of opposition, especially intensity of opposition you can probably, you
19 know, count on the fact that somebody might want to have your case reconsidered or
20 appealed. The point about the Minutes being approved is important because before
21 the Minutes have been approved any, any Member of the Board can make a motion to
22 reconsider a case. So for example, if you had a case that's decided today and
23 something comes up between now and next meeting before the Minutes have been

1 approved that alerts the Board that maybe we need to take another look at this, they
2 can reconsider the case. And the example I give, suppose that you wanted to put a
3 carport that might go into your side yard setback by just even a foot or two, it's not a
4 big, big encroachment at all and you, you come to the Board, there's no opposition
5 and the Board may unanimously grant your Special Exception or Variance request. It
6 may be a Variance if you're going in, in under those circumstances. And you get
7 excited about that and you say well I'm gonna go home that afternoon and call the
8 contractor and have them come out and start pouring concrete and I'm ready to build
9 this thing. Well, you know, a week later your next door neighbor comes back from
10 Iraq, Afghanistan or just out of the country or being sick or whatever and they start
11 seeing you building that and they say well what's this about, I, I never knew there was
12 a hearing, you know, for your, for your Variance request, I want to be heard on that.
13 Well if it's a next door neighbor that's probably something the Board would want to
14 know about, that's somebody who's directly, immediately affected by this. So if that
15 information is communicated to the Board, they could request a reconsideration of the
16 case. And the point of that is you've, you've spent a bunch of money and you
17 basically proceeded at your own risk before the Minutes have been approved. So it's
18 just a little word of caution about that, but again you should have a pretty good idea if
19 your case is, is one that's heading to the reconsideration track. Are there any
20 questions about reconsiderations or appeal, I think that's the most important thing I'm
21 going to mention? Okay, a few house keeping items, if you do have a cell phone or
22 pager if you could turn that to off or vibrate so we don't pick that up, we'd appreciate it.
23 We also get questions from time to time about, you know, is it, is it okay to, to get up

1 and go, I mean, do I have to sit here the whole time? You don't even have to be here
2 unless or until your case is called. The rest of the time it's an open public meeting,
3 you can come and go as you like, we just ask that you please use these doors and not
4 set off a fire alarm, that you please do it quietly, do not disturb the proceedings but you
5 certainly can come and go as, as you need to. Let's see, on the sign up sheet, there is
6 a sign up sheet for each case, sometimes it's a little confusing depending on how the
7 case is postured or structured to know whether or not you should be for or against but
8 you need to be on the sign up sheet so we know who's testifying and we can get in
9 touch with you if it becomes necessary to do so. If you want to be on the sheet but
10 haven't signed up yet, it's not a problem. As soon as I conclude my remarks you can
11 come up to the front and, and get on a particular case. But, well first let me ask you,
12 are there any questions about anything I've, I've covered? Yes, sir?

13 AUDIENCE MEMBER: [Inaudible]

14 MR. FARRAR: Okay, the question is do you need to retain your own attorney
15 for an appeal? You, you do not, you can file an appeal but what the statute says is
16 anyone aggrieved or any interested party I believe is the language, may file the appeal
17 with the Circuit Court. You don't have to get an attorney, it's generally advisable when
18 you're going to court for just, to know about the process, the procedure, kind of just cut
19 through it to, to at least consult an attorney but, but the answer to the question is no,
20 sir you do not have to have an attorney. It may be advisable to consult one or get one.
21 Yes, ma'am?

22 AUDIENCE MEMBER: Filing fee?

1 MR. FARRAR: Filing fee, boy it has gone up. It used to be seventy something
2 dollars, I don't know what it is, who, who -

3 AUDIENCE MEMBER: [Inaudible] 225.

4 MR. FARRAR: Is it, how much?

5 AUDIENCE MEMBER: 225.

6 MR. FARRAR: 225?

7 AUDIENCE MEMBER: It may not be that [inaudible] but at least 150.

8 MR. FARRAR: Whoa! It's been a long time since I've filed a law suit. I've
9 responded to a lot of them but we don't, we don't file a lot of bunch. So the filing fee
10 has gone up apparently it may be, may be as high as \$225. So that's a, that's a big
11 increase from the last time I filed one. Any, any other, any other questions? Okay,
12 again coming back to the, the, the sign up sheet. If you are going to testify in a case
13 today, whether you are on a sheet or not I need you at this time to please stand and
14 raise your right hand, I will swear you in as a group. This kind of, it kind of expedites
15 things to do this all at once. Okay, do you swear and affirm the testimony you shall
16 give shall be the truth, the whole truth and nothing but the truth so help you God?

17 AUDIENCE: Yes.

18 MR. FARRAR: Thank you very much please be seated. I heard a lot of yeses,
19 a lot of I do's. Anything other than that, you got it, you bet, please let me know
20 otherwise consider the group sworn. We do have a quorum present, the Board is a
21 seven Member Board, all Members are present today and this time I'll turn it back to
22 the Chair, thank you.

1 CHAIRWOMAN PERKINS: Thank you, Mr. Farrar. There, is there anyone that
2 needs to sign up on the sign up sheet for a case? There is a, a Thenise Thomas, is
3 she in the audience? Ms. Thomas? She signed up on several cases and I was just
4 wondering if there was one particular case that she wanted to sign up on. She is not -

5 AUDIENCE MEMBER: Excuse me, we can't hear very well back here.

6 CHAIRWOMAN PERKINS: Oh, okay. Thenise, it's T-H-E-N-I-S-E. Okay,
7 thank you. The next business in order is the Public Hearing. Mr. Price, please present
8 the first case.

9 MR. PRICE: Madam Chair, we have the Staff call IT at this time to ask them to
10 ask them to come down to turn the mics up. I believe this was a problem last night
11 with the [inaudible] not here so if y'all could just speak into it a little louder until we get
12 them here.

13 **CASE 07-38 SE:**

14 MR. PRICE: Okay, the first case is Case 07-38 Special Exception. The
15 applicant is requesting the Board of Zoning Appeals to grant a Special Exception to
16 permit the construction of a communication tower in an RU district. The applicant is
17 Alltel Communication, they'll be represented by John Carpenter. The location is
18 Blackberry Road. The parcel size is a little more, more or less 364 acres and it's
19 currently undeveloped. The subject, as stated the subject parcel is heavily wooded
20 and undeveloped. The applicant proposes to erect a 275' telecommunication tower
21 within a 10,000 square foot leased area. The surrounding area consists of
22 predominantly large tracks that are heavily wooded and undeveloped and a lot of
23 wetlands in the area. And I think from previous hearings of this case it is located

1 within a proximity of the Congaree National Park. Once again there's an area, some
2 area, an aerial of the location. As you can see there are a lot of wetlands and flood
3 zones in this area and here we have some information that was provided by Alltel
4 regarding that coverage. I'm not going to get into that right now, I'm sure they'll talk
5 about this during their testimony.

6 CHAIRWOMAN PERKINS: Mr. Johnny Carpenter, please state your name and
7 address for the Record. Just for clarity purposes, Mr. Carpenter, we have a letter in
8 our packet from a Ms. Jill House and she signs her name as agent for Alltel
9 Communications and she states that they want to put a telecommunication tower on
10 Blackberry Road in Gadsden, North Carolina. I just want for the Record that it is
11 Gadsden, South Carolina.

12 **TESTIMONY OF JACK PRINGLE:**

13 MR. PRINGLE: I'm sorry it says what? Gadsden -

14 CHAIRWOMAN PERKINS: North Carolina.

15 MR. PRINGLE: Yes, we want to put it in Gadsden, South Carolina.

16 CHAIRWOMAN PERKINS: Okay.

17 MR. PRINGLE: Madam Chairman, may it please, the Board, my name is Jack
18 Pringle. I'm with Ellis, Lawhorn & Sims here in town. I previously submitted a letter
19 from Mr. Carpenter that gives me the authority to act on Alltel's behalf. I appeared at
20 one of the several hearings in which Alltel has presented and I want to make sure
21 first of all that each Member of the Board has a copy of the correspondence that I
22 sent following the Board's decision to reconsider your previous decision to grant a

1 Special Exception. And if indeed any of you don't have that I'd like to make sure that
2 I give you a copy.

3 CHAIRWOMAN PERKINS: Is that the letter dated February 15, 2008 to Mr.
4 Geo Price?

5 MR. PRINGLE: That's right.

6 CHAIRWOMAN PERKINS: Does the Board, does all Board Members have a
7 copy? They've received it.

8 MR. PRINGLE: Okay. And what I'm asking is set out in that letter and what I
9 want to bring to the Board's attention is to ask the Board to revisit that decision to
10 reconsider the case based upon the fact that the stated reasons that the Board gave
11 of granting reconsideration are not a legal basis to reopen, to rehear this case, and
12 I'll explain a little bit about that. Just to give you a little bit of background this
13 application for a Special Exception was filed in July of last year. It first came up on
14 the agenda in early September. Jill House and Leslie Gorrey appeared, they came
15 from Charlotte, North Carolina and from Carey, North Carolina. At that time there
16 was some discussion, an appearance by the National Park Service and we agreed at
17 that point that we would meet with the National Park Service to discuss their
18 concerns and indeed I believe you deferred the issue. We did so, we met, folks
19 came from Charleston, folks came from Atlanta and met at the park. The issue came
20 back on the agenda on October 3rd. Jill came from Carey, Leslie came from
21 Charlotte, our RF engineer came from Little Rock and our folks came from
22 Charleston. Opposing at that point, the park appeared yet again, Cynthia Garmin
23 appeared, at least two witnesses from Friends of the Congaree Swamp appeared

1 and testified, Dick Watkins testified, and a representative, two people from the park,
2 excuse me testified. At that point you deadlocked on the, on the case and we
3 requested, and, and not only that, but we requested that you, that you reconsider that
4 decision based upon a number of things, and you did so. We met with the park
5 again, the same people, essentially the same people came from Atlanta, they came
6 from Charleston, we met with the park. The case was heard on the 9th of January.
7 We incorporated the Records from the previous, you know, we didn't want to go over
8 that old ground, we incorporated those Records and all we added is the fact that we'd
9 met with the Park Service. At that case, again, Ms. Garmin appeared, Mr. Grego
10 appeared, Ms. Kozoski appeared, those on behalf of Friends of the Congaree
11 Swamp, the Park appeared and somebody from the National Wildlife Service
12 appeared to, in opposition to the, to the case. You granted the Special Exception
13 based upon the evidence in the Record and all the testimony that had been given,
14 both by Alltel and by these opposing folks, and based on the provisions of the
15 ordinance that apply to the siding of wireless towers for purposes of Special
16 Exceptions. Flash-forward a month, apparently petitions for reconsideration were
17 filed by the National Wildlife Service and the Friends of the Congaree Swamp. I did
18 not receive copies of those, I learned about them at the actual meeting when you all
19 considered reconsidering the case. I did not have an opportunity to respond to what
20 was set out therein and didn't have an opportunity to, you know, present on that
21 point. The Board then granted reconsideration based upon misrepresentation or a
22 mistake of fact. And I want the Board to understand what misrepresentation means
23 when you're talking about opening up a case that's already been heard more than

1 once or several times. It means that Alltel and I committed fraud on the court, it
2 means that we intentionally, if indeed when those circumstances, when
3 reconsideration is granted on those circumstances it is something so egregious and
4 so serious that you can disturb something that's final. You, you can't, you, you, it's
5 not appropriate to grant reconsideration based upon things that have already been
6 discussed and testimony that's already been presented to the Board. That's what the
7 Friends of the Congaree Swamp and the National Wildlife Service, who understand,
8 appeared at these hearings and several of them have appeared several times to
9 voice their testimony and the exceptions to that are limited. And not only is it not
10 misrepresentation it's not mistake of fact. Mistake of fact comes under the heading of
11 what Mr. Farrar described to you the kinds of things that keep people, the mistakes
12 that keep people from being able to come present their case, the things that keep
13 people from knowing that a hearing is taking place or they got a notice that had the
14 wrong date on it and as a result they don't get to present and they're prejudiced by it.
15 That didn't happen here, this has been presented over and over and over again.
16 The, the park has known about this and appeared, the Wildlife Service has known
17 about this and appeared, Friends of the Congaree Swamp has appeared over and
18 over again and presented these things and it is, we believe that you have a Record,
19 you have a decision, it was based on the evidence. All the things that you heard, the
20 issues raised, and this is very important point, the issues raised by Friends of the
21 Congaree Swamp and the, and the Fish and Wildlife Service were issues that they
22 raised at this hearing, a hearing in which you, you ruled and granted the Special
23 Exception. So not only, you know, could those issues have been raised, they were

1 raised and they were part of the Record that you considered before you made your
2 decision. And the reason that you have to have some finality in these things, absent,
3 extraordinary circumstances, is because otherwise you'll have situations where
4 somebody keeps, you know, keeps wanting to submit new information, wanting to
5 say something else, wanting to present one argument in a new way, and you never
6 have anything final. You know, going back to the things I said the number of times
7 that we've been, we've been here, it's now been how many months since we filed the
8 application. The, the delay has been, has cost Alltel a very substantial amount of
9 money and time in addition to our witnesses coming and, and, you know, we're
10 happy to, to present when we need to but, you know, we, we have an uncertainty
11 regarding our investment. We've certainly lost revenues that we would have been
12 entitled to from the towers but I guess most importantly, you know, customers in this
13 part of Richland County that is more rural are being denied the benefit of this
14 coverage. And not only the coverage but the kind of E-911 services that we've
15 described before and so, you know, and then on the other side delay only helps the
16 opposition. You know, the longer that they keep stringing us out, you know, there's
17 uncertainty about our operations there, there's no risk involved in continuing to try to
18 make these arguments but at some point it has to stop and I believe you have a
19 tremendously full Record in front of you and you made, you made the decision based
20 upon that Record and that decision should stand. And if indeed, as Mr. Farrar
21 referenced, if these parties continue to have problems with the decision that you
22 make, you made, then they can pursue appeals to, to the Circuit Court but these
23 motions for reconsideration are not an opportunity to relitigate things that could be

1 litigated on appeal because then, you know, where does it, where does it end? You
2 know, again just to, to sum up and I won't take, you know, the full amount of time, I
3 just wanted to make that argument and, and emphasize that finality is, is important
4 and I'm asking you to revisit your decision to T this up again and just go back to your,
5 the decision that you already made, that you made after how many different hearings
6 where, you know, all this testimony was made from all the parties who have shown
7 even the slightest interest in this case. There's not an allegation that somebody has
8 not gotten a chance to weigh in, has not had a chance to, you know, to make their
9 views known and, you know, we think that's, you know, we think that's appropriate,
10 we think that's fair and especially in view of the fact that, you know, not having the
11 opportunity necessarily to respond to these things as they come in. Let me just say
12 also, you know, along with that that I, I want to I guess consistent with my position on
13 this is to lodge a continuing objection to allowing new information from interested
14 parties to, to come in or be considered, you know, for that very reason. You know,
15 that this is all been, all been said before and they've all had numerous opportunities
16 and taken, and more importantly taken advantage of those opportunities to be here
17 and to speak out against this, this project. So, you know, just to be clear and to sum
18 up my request is that the Board revisit it's decision to reconsider this case and, you
19 know, by a vote undo that and just allow its previous decision that has been, you
20 know, by any stretch of the imagination fully litigated, litigated several times to stand
21 because that's, that's legal, that's appropriate and that's, that's fair to everybody
22 involved because nobody's voice has not been heard by the Board on this. And I
23 would certainly, you know, welcome the opportunity to answer any questions you

1 have about how this might work mechanically or, or anything else because this is,
2 you know, you can see from my letter, you know, allegations and findings and
3 misrepresentation took place is something that, you know, we as members of the bar
4 take very, very seriously and I want the opportunity to set the Record straight if there
5 is any thought in your mind that there has been anything that was misleading or
6 deceptive or that constituted misrepresentation. Sure.

7 CHAIRWOMAN PERKINS: Okay, at this time I would ask the Board, I need an
8 answer to a legal question, to have a motion to go into Executive Session.

9 MR. MCDUFFIE: Madam Chair, I will make a motion to take an Executive
10 Session.

11 MS. CECERE: I second.

12 CHAIRWOMAN PERKINS: Alright, all those in favor of that motion, a show of
13 hands?

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

15 *[EXECUTIVE SESSION]*

16 CHAIRWOMAN PERKINS: Is there a motion to go back into Session?

17 MS. PERRINE: I make a motion that we go back in session.

18 MR. MCDUFFIE: I'll second.

19 CHAIRWOMAN PERKINS: All those in favor, have a show of hands.

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

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

22 MR. MCDUFFIE: [Inaudible]. Mr. Pringle. we have kind of conflicting accounts
23 of exactly how far the tower is located from the park in the Record I think, based on

1 testimony that we received from different sources and different individuals throughout
2 this. Could you specify, you know, for me what, what the distance is from the tower
3 to, to the park?

4 MR. PRINGLE: You know, I honestly don't know the distance from the tower to
5 the Park. I think there were certainly some views that you all considered in the
6 context of making that ruling. But I, I have not measured the, the distance.

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

8 MS. CECERE: I have two questions, Mr. Pringle. I think one of the questions
9 in the previous hearings, and I'm not sure you were here at that time, was about
10 whether or not Alltel could, what was that, collocate with someone else and there's
11 no documentation to that affect, to that -

12 MR. PRINGLE: There's, there's plenty, and we've addressed this at each of the
13 hearings we had. Documentation that we submitted that with our RF coverage maps
14 as well as the testimony of Jared Greenwall, and I believe other documentation that
15 indicated that that, that we had attempted collocation and then that wasn't going to
16 meet our, our coverage needs.

17 MS. CECERE: And my second question is how do you keep record of dropped,
18 or how does Alltel keep record of dropped calls? And is there documentation to that
19 fact?

20 MR. PRINGLE: I, I'm not so sure of what, I mean, let me start in answering the
21 question by saying that, you know, my, my point in being up here was to, to make a
22 legal argument to you that the Record was complete and full, and justified
23 maintaining the decision that you made. I, I as I stand here as the legal

1 representative for the company I don't know how Alltel manages dropped calls. All I
2 can say in response is that the company provided the information, the testimony, the
3 documentation that the Board relied on and that the Board made a decision based on
4 the evidence. I am, you know, it would be speculation for me as, as attorney for the
5 company to, to talk about, you know, how it, it maintains records of dropped calls.

6 MS. CECERE: Thank you.

7 CHAIRWOMAN PERKINS: Are there any other questions for Mr. Pringle from
8 the Board?

9 MS. PERRINE: I'd like to ask one. I'm not sure if you would be able to answer
10 it or not. Going back into some of the Records, the height of the tower was listed at
11 275 but there is a lightening rod that's going to be on top, so do you know how the
12 height of the tower with the lightening rod from the ground where it's supposed to be
13 measured from ground up?

14 CHAIRWOMAN PERKINS: If you want to -

15 MS. GORREY: [Inaudible]

16 MS. PERRINE: It's included?

17 MR. PRINGLE: That's all, the height, it's the height is 275'.

18 MS. GORREY: [Inaudible]

19 CHAIRWOMAN PERKINS: If you are unable to answer that question, Mr.
20 Pringle, we can call the next -

21 MR. PRINGLE: Well, again, and I guess that's what you're going to decide to
22 do. Again I would, you know, I would like a ruling from the Board as to whether you
23 are going to consider not going forward with the hearing but, but addressing my

1 request that the Board not reconsider the case. Because you have a Record of the
2 several hearings, you have testimony from everybody who's involved and the reason
3 for reconsidering it was legal and supportable.

4 CHAIRWOMAN PERKINS: Well, I think it's on the Agenda and we allowed you
5 to speak so we're going to allow everybody on the Record to speak and make our
6 decision or answer your question at the end of it.

7 MR. PRINGLE: Okay, that having been said I'm going to continue to lodge the
8 objection about others, others speaking giving the fact that I'm making a legal
9 argument in support of my position and I, I understand, you know, the Board can, the
10 Board can do what the Board wants to do but I think it's, I want to just make that
11 objection on the Record based on the fact that, that, that I still maintain the
12 reconsideration was, was improper.

13 CHAIRWOMAN PERKINS: Thank you very much, sir. Noted. Are there any
14 other questions from the Board for Mr. Pringle? Thank you very much, I think we
15 have Ms. Leslie Gore, Gorrey.

16 **TESTIMONY OF LESLIE GORREY:**

17 MS. GORREY: I'm here but Jack has stated our position. I'm Leslie Gorrey,
18 I'm a Senior Site Acquisition Specialist with Alltel Communications. My address is
19 1101 Matthews [Inaudible] Matthews, North Carolina 29105 and again Jack has stated
20 our position that, you know, we don't feel that this case should be reconsidered, so.

21 CHAIRWOMAN PERKINS: Are there any questions for Ms. Gorrey? Thank
22 you very much. I think this is Mr. Jack Pringle.

23 [Inaudible discussion]

1 CHAIRWOMAN PERKINS: Okay. Now we have Ms., Ms. Thomas, is she
2 present? Thenise Thomas? I asked about her earlier, okay. And people signed up
3 in opposition Ms. Carol Kozoski. State your name and address for the Record.

4 **TESTIMONY OF CAROL KOZOSKI:**

5 MS. KOZOSKI: Yes, ma'am. Madam Chair, Members of the council, I am
6 Carol Kozoski. I live at 5225 Lake Shore Drive here in Columbia. I am a Board
7 member of the Friends of Congaree Swamp and I am Vice Chair of the Richland
8 County Conservation Commission. Richland County regulations for a Special
9 Exception for cell towers state that the applicant must provide proof of an attempt to
10 co-locate their antenna on existing towers. Nothing in Alltel's application shows an
11 attempt to co-locate. On January 9, 2007, Alltel's attorney stated that the Record was
12 full of proof, and I am quoting, of attempts to co-locate. This evidence was and I quote
13 again, "not in the environmental report but it was in other documents that our radio
14 frequency engineer submitted." I'm afraid this statement is incorrect. Friends of
15 Congaree Swamp submitted a Freedom of Information Act request to review Alltel's
16 permit application. We found only three radio frequency coverage plots. One shows
17 current Alltel coverage, another shows Alltel coverage if the Blackberry Road tower
18 was constructed, and the third combines these two plots. In short, there is no
19 evidence of an attempt to co-locate to either of the two towers north of Bluff Road and
20 no coverage map showing that co-location at these sites would not satisfy Alltel's
21 purposes. I urge you to deny this Special Exception because Alltel has not provided
22 evidence that co-location at existing towers would not work. Both existing towers are
23 closer to Bluff Road than the Blackberry Road site and both towers currently have only

1 one antenna array. We share Alltel's interest in improving coverage along Bluff Road.
2 I have a cell, a cell phone too and I go out to the swamp a lot, and are confident that
3 co-locating antennas at existing towers would provide better in-vehicle coverage along
4 Bluff Road than the single tower at Blackberry Road. Thank you.

5 CHAIRWOMAN PERKINS: Are there any questions from the Board? Thank
6 you very much. I have a Mr. John Greg, please state your name and record, your
7 name and address for the Record.

8 **TESTIMONY OF JOHN GREGO:**

9 MR. GREGO: Hi I'm John Grego and I live at 830 Old Woodlands Road. My
10 organization, Friends of Congaree Swamp, submitted an additional Freedom of
11 Information Act request to review permit applications for the two existing towers north
12 of Bluff Road. Nextel's application for a 260' self-supporting tower at Wolf Road near
13 South Cedar Creek included a radio frequency study. There's a series of three maps
14 includes Nextel's coverage at the time, the coverage if they co-located at an alternate
15 site, and the coverage if the Wolf Road tower was constructed, which it has been. I've
16 included a picture of it, it's part of the material that was submitted to you, you can see
17 it from Bluff Road. Nextel's study was a true co-location study. It showed that
18 coverage at an existing site was not adequate, so such studies can be done but we
19 found no evidence that Alltel conducted such a study. In fact Nextel's radio frequency
20 report is very revealing. The engineer writes the proposed site will provide in-car
21 portable coverage on Bluff Road from Meeting House Road East to Fort Dutch Road,
22 a distance of 6.7 miles along Bluff Road. This claim is confirmed by their radio
23 frequency map, which I've provided to you as well. Given that Alltel wants to improve

1 in-car coverage along Bluff Road and that their own engineer claims that a little over
2 six miles of Bluff Road will be covered with what we consider to be in-vehicle
3 coverage, it seems clear that co-location on Nextel's tower would satisfy their needs.
4 Members of the Board, Nextel's coverage map confirms the obvious. A 260' tower
5 with a single antenna array in close proximity to Bluff Road within Alltel's plan service
6 area provides just the coverage they need. Alltel did not satisfy the requirements laid
7 out in county ordinances. I urge you to deny this Special Exception. Thank you.

8 CHAIRWOMAN PERKINS: Thank you are there any questions for Mr. Grego?
9 Thank you very much. We have Mr. Richard Watkins, please state your name and
10 address for the Record.

11 **TESTIMONY OF RICHARD WATKINS:**

12 MR. WATKINS: I'm Richard Watkins, 101 Dudley Street, St. Matthews, South
13 Carolina. One of the questions already today addressed the matter of the height of the
14 proposed tower. There seems to be some confusion in the response as to whether it
15 would be 275' or 285'. I would point out as, that further confusing the issue is the,
16 Alltel's Special Exception application letter in July of 2007, which stated that Alltel is
17 requesting approval for a 250' self-support tower. Alltel's application packet included a
18 letter from Alltel's radio frequency engineer in which he stated that he was writing in
19 support of Alltel's application to construct a 250' wireless telecommunications facility
20 on Blackberry Road. In fact this letter from the radio frequency engineer stated twice
21 250' tower on Blackberry Road. Now if the radio frequency engineer is specifically
22 mentioning 250' tower, doesn't it seem reasonable that the radio frequency plots,
23 which have been submitted as part of that documentation, as part of that application

1 package, would also be based on a tower height of 250'. But yet Alltel is applying
2 apparently for a tower that is 275' or 285', depending on whether the height of the rods
3 on top are, are included in the overall height. And I further point out that the, one of
4 the diagrams as part of the application package shows that Alltel's antenna will be
5 mounted at a center line height of 275'. So again some of the correspondence, the
6 Special Exception application letter, the letter from the radio frequency engineer
7 talking about 250' tower height, but yet Alltel's, the diagrams in the application packet
8 showing the antenna to be mounted at a center line height of 275'. So I just wanted to
9 call to your attention these discrepancies, so far as the, the required height for the
10 coverage area that, that Alltel is wanting to achieve, and then again you've touched
11 already on the - thank you very much.

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

14 MR. WATKINS: Thank you.

15 CHAIRWOMAN PERKINS: And I think this is Mr. Robert Guild. Please state
16 your name and address for the Record.

17 **TESTIMONY OF ROBERT GUILD:**

18 MR. GUILD: Good afternoon Madam Chairman, Members of the Board. I'm
19 Robert Guild, 314 Pallmall, Columbia. I'm an attorney in Columbia and I'm
20 representing the Friends of the Congaree Swamp in this matter. I want to make a
21 couple of legal points for you. First that I believe the Board acted properly and wholly
22 within the parameters of your county ordinance in granting a reconsideration and in
23 rehearing this matter. And on the merits I want to make the point that there is ample

1 basis in the Record based on your ordinances to deny the Special Exception, and the
2 Friends of the Congaree Swamp ask you to so act. Turning first to the question of, of
3 proper reconsideration. I want to simply quote the Chair at the February 6th meeting.
4 Madam Chairman you stated at page four of your transcript, "There's been a motion to
5 reconsider 07-38 SE as the Board has received conflicting information that needs to
6 be evaluated to the credibility of the applicant. Additional information has been
7 received on the tower's compatibility with the zoning district . . . ", and then you called
8 to question. Mr. Pringle doth protest too much, Members of the Board, to suggest that
9 you base your reconsideration decision on any determination or misrepresentation or
10 fraud or any other misconduct on the part of him or his client. You clearly stated the
11 basis for your decision and that's what I quoted from the Record. Your ordinance
12 contemplates reconsideration on a number of grounds that Rule 3.7(A) of your Rules
13 of Procedure, state among other things mistake of law, mistake of fact, but also newly
14 discovered evidence, new evidence and also evidence of a material, clerical or other
15 error. And I think you have amply identified in that motion, Madam Chair, both prongs
16 of the rule that are the basis for reconsideration, namely newly discovered evidence
17 and evidence of a material error in the decision that you had made. You have an
18 opportunity to correct that error today and to deny the request for Special Exception.
19 The basis for that denial are found in your own Code of Ordinances. First, that the
20 grant of this Special Exception contrary to law will adversely affect the aesthetic
21 character of the environs. Namely the only national park we have in South Carolina,
22 the Congaree Swamp National Park absolutely dependent upon protection of the
23 habitat from adverse impacts to wildlife birds migrating through from the tower. I have

1 one more moment and that would be I'd like to site also that the failure to demonstrate
2 proof of an attempt to co-locate has been amply supported in this Record and that's
3 contrary to your ordinance 26-152(D)(24). On that basis we ask you to act today to
4 deny the request for Special Exception for the Blackberry tower, Blackberry Road
5 tower. Thank you. I'll be happy to answer any questions if you have them.

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

7 MR. PRINGLE: Let me read the motion that led to this reconsideration. "I
8 moved to reconsider Case 07-38 SE based on some misrepresentation and possible
9 mistakes of fact", that was the motion that was passed. To say that I protest too much
10 I, I think I'm accurately conveying, you know, what happened and hence, hence my
11 response to it. With respect to these other points about the idea to deny based upon
12 aesthetics. If indeed these are quibbling over these numbers and how they were
13 presented, which is, have all been discussed in documentation; first of all, this map
14 was submitted to, along with the application. It shows exactly how tall the antenna is,
15 that the tower is 275' and that there is a lightening rod on top of it. The 275' is what is
16 used to gauge the setbacks and other information. This was with the application and
17 has always been in the Record from the first hearing and from the day that the
18 application was filed. With respect to the co-location issue, the ordinance says
19 evidence of an attempt to co-locate must show that alternative towers, buildings or
20 other structures are not available for use within the applicant's tower site search area.
21 We provided our applicant site search area and demonstrated, you know, all of that
22 stuff is in the Record. And again, if the, if the idea is to deny based upon aesthetics
23 what do these, these proposed inconsistencies, which have already been clarified,

1 how to they go to material issues that are involved with the case? These have all
2 been said before, these have, all of the positions that have been said here with the
3 exception of the Nextel issue, which I'll address in a second, have all been presented
4 to the Board before and was presented to the Board before you made your decision.
5 Finally, the Nextel co-location, I, I don't even really begin to know how to respond to, to
6 say what Nextel's coverage needs were based on where their existing towers were
7 and compare those to what Alltel's were. We had specific coverage needs in a
8 specific area, and to say that what Nextel did demonstrated that what we did was
9 proper is just, I mean, it's, it's a perfect apples and oranges comparison and I certainly
10 don't think that any of the folks that presented on that have got the kind of background
11 and expertise that our engineer had. Finally, you know, I guess I would like to ask now
12 that the, that the Board has decided to hear all this information that you incorporate by
13 reference the previous Records that have taken place in this case and the documents
14 that have been presented by Alltel, as you did at the last, the last time we got together.
15 And I just hope that you'll, you know, we can keep, we can keep doing this over and
16 over again but you, you made a decision that was based on the, based on the Record
17 and, and took into account everybody's, everybody's concerns and I ask that you
18 approve the, or reinstate your application or whatever, your decision before, whatever
19 that term is in order to reflect that indeed you did decide this case in order to grant a
20 Special Exception. And I'll be happy to answer any questions.

21 CHAIRWOMAN PERKINS: Are there any questions? Okay, thank you very
22 much. I'd just like to say as Chairman I can rule on parliamentary procedure and I

1 think that the reconsideration was in order. And I guess we will review these findings
2 today and ask for a motion and discussion of the case.

3 MR. PRINGLE: Just for clarification did you, on my request to incorporate my
4 reference the Records that have been created in this case thus far, like we did last
5 time?

6 CHAIRWOMAN PERKINS: Yeah.

7 MR PRINGLE: Okay.

8 CHAIRWOMAN PERKINS: Okay is there any discussion on the information
9 that has - thank you Mr. Pringle - that has been presented to us and the Board
10 Members. Is there a motion?

11 MR. BRANHAM: Madam Chairman, I will make a motion to approve Special
12 Exception 08, 07-38.

13 CHAIRWOMAN PERKINS: And it's based on the prior Record, is that -

14 MR. BRANHAM: That's correct.

15 CHAIRWOMAN PERKINS: Okay, would you re – so, you're, there's -

16 MR. BRANHAM: Based on the prior Record of, of the things that we've had I
17 make a motion to approve Special Exception 07-38.

18 CHAIRWOMAN PERKINS: Is there a second?

19 MR. RUSH: Second.

20 CHAIRWOMAN PERKINS: There is a motion on the floor to approve Case 07-
21 38 SE based on the previous Records of hearing the case, it has been second. All of
22 those in favor please have a show of hands.

23 *[Approved: Rush, Branham, Perkins, Perrine, Simons; Opposed: McDuffie, Cecere]*

1 MR. PRICE: For: Rush, Branham, Perrine, Perkins and Simons.

2 CHAIRWOMAN PERKINS: Those who are opposed?

3 MR. PRICE: Opposed: McDuffie, Cecere.

4 CHAIRWOMAN PERKINS: Our prior ruling stands for Special Exception
5 [inaudible].

6 MR. PRINGLE: I very rarely say this but I hope I don't see you any time soon.
7 Thank you.

8 CHAIRWOMAN PERKINS: Next case, Mr. Price.

9 MR. PRICE: If you'll give me one second, Madam Chairman, I need to correct
10 my records here.

11 **CASE 08-13 SE:**

12 MR. PRICE: Okay, the next case, Case 08-13 Special Exception. The
13 applicant is requesting the Board of Zoning Appeals to grant a Special Exception to
14 permit the construction of a communication tower in a RU district. Excuse me. The
15 applicant once again is Alltel Communications. They will be represented by John
16 Carpenter. The location is on Richland Farms Road. The parcel size is a little more or
17 less of 12 acres. It's currently undeveloped and it's heavily wooded. The applicant
18 proposes to erect a 275' telecommunications tower within a 10,000 square foot lease,
19 which will be 100 x 100. The surrounding area consists of predominantly large tracks
20 that are residentially developed. Once again this is at the end of Richland Farms
21 Road, I believe there's another access to it off of Richland Farms Road. The subject
22 tower, compound details I believe that the applicant will be able to provide more
23 information on this.

1 **TESTIMONY OF JILL HOUSE:**

2 MS. HOUSE: Good afternoon. You should have received a letter, again from
3 Johnny Carpenter stating that I would be representing, my name is Jill House. My
4 address is 100 Regency Forest Drive, Carey, North Carolina 27518. We are seeking
5 Special Exception approval for a 275' self-support tower to be located on Richland
6 Farms Road in Hopkins. This tower is intended to provide coverage along Leesburg
7 Road in addition to handing off to Alltel's existing sites in the area. This tower, this
8 tower site was chosen, the parcel is over 12 acres in size and is owned by Cheryl and
9 Lenora Smith. This site allows Alltel to meet their coverage objectives and also is in
10 compliance with Section 26-152(24), your Special Exception regulations pertaining to
11 cell towers. The first of which 24(a) this is a rural use so it is permitted by Special
12 Exception. It will not exceed the maximum height of 300' as it is proposed at 275.
13 There are no residential zoning districts or inhabited residential dwellings within 50'. It
14 does meet the required 225' setback from property lines. We did show an attempt to
15 co-locate, which I will address a bit more in a moment. And this particular tower will be
16 designed to accommodate four carriers in addition to Alltel, showing their willingness
17 to allow other users. The tower will be lit per the FAA's regulations. There will be an
18 eight-foot fence around the perimeter, it will be landscaped in accordance with your
19 requirements. There will be no signage except for identification in other industry-
20 mandated signs. And they do acknowledge that in the event the tower is not utilized it
21 will need to be removed. We also meet these, the general Special Exception criteria;
22 the first of which traffic impact. There will be no traffic impact as this site will be
23 unmanned and will have infrequent site visits of about once a month. Vehicle and

1 pedestrian safety, the site will comply with all local, state and federal codes to protect
2 public safety. Potential impact of noise, lights, fumes or obstruction of air flow on
3 adjoining property, there will no noise or fumes following construction. There will be
4 no obstruction of airflow and again it will be lit per the FAA. Adverse impact of
5 proposed use on aesthetic character of environs to include possible need for
6 screening from view. As Geo stated, this is a wooded parcel over 12 acres in size,
7 which will minimize the adverse impact to adjacent properties and in addition it will be
8 landscaped around the perimeter. And orientation and spacing of improvements or
9 buildings, the site is designed to meet or exceed all of the Special Exception criteria.
10 To further address co-location, Alltel always looks at existing structures as it allows a
11 quicker speed to market and is also more cost effective. In fact 75% of Alltel sites in
12 Richland County are co-locations. The radio frequency engineer addressed the
13 towers in the vicinity in the propagation maps and correspondence that we submitted
14 with our application. The only tower that was close enough to really consider based
15 on the proximity to the search ring coordinates was the Cingular tower, which is on
16 Leesburg Road, and unfortunately this site is located at a lower ground elevation and
17 the mount height on that tower was frankly too low to, to allow it to meet the coverage
18 objectives. So based on the absence of an existing structure that Alltel can utilize to
19 meet their coverage objectives and as we have demonstrated, compliance with the
20 Special Exception regulations, we do ask for approval of this request. And I'll be
21 happy to answer any questions.

1 CHAIRWOMAN PERKINS: Okay, are there any questions for Ms. House? Ms.
2 House, I have one. I think in your presentation you said that, that you're proposing
3 225' away from residential structures or did you say 250?

4 MS. HOUSE: It's 225 from adjacent property lines.

5 CHAIRWOMAN PERKINS: Adjacent property lines.

6 MS. HOUSE: Right, which is the setback requirement for a tower of this height.

7 MS. CECERE: I have a question, Madam Chair. How is the need determined
8 for this tower?

9 MS. GORREY: Again my name is Leslie Gorrey, I'm a Senior Site Acquisition
10 Specialist with Alltel. Do you need my address again? Okay -

11 CHAIRWOMAN PERKINS: Are we finished with you Ms. House? Is, is there
12 any other questions for Ms. House? Ms, do you have a question for Ms. House?

13 MS. GORREY: Jill and I can answer the questions together.

14 MS. HOUSE: I'll have a seat right here.

15 CHAIRWOMAN PERKINS: Thank you very much. You're Ms. Leslie Gorrey?
16 Do you have a question?

17 MS. CECERE: My question was how is the need determined for this tower?

18 MS. GORREY: Our radio frequency engineers evaluate existing coverage as
19 well as areas where we do not have coverage. They did an evaluation of the site and
20 determined that we needed coverage along Leesburg Road, which is South Carolina,
21 South Carolina Highway 262. Again, you know, that's based on dropped calls and
22 things of that nature as well as areas where we just don't have coverage and as you
23 can see in the plots there's not adequate coverage along that highway.

1 MS. CECERE: Okay, my next question then is do you have documentation
2 showing us how many dropped calls there were?

3 MS. GORREY: The lack of coverage is shown so dropped calls is a little bit
4 different than lack of coverage. As you can see in the plots there's not adequate
5 coverage along that stretch of the highway. You can see in there that they've got that,
6 kind of area with the white as well as the red and the yellow. As for coverage that is
7 generated within the system but that is not required to be submitted as part of the
8 application so that was not submitted. But this is more so for the coverage of the site,
9 this is a coverage site put mostly as seen by the hole there, so that's why that
10 information was not submitted because it's not, you don't drop the call when you don't
11 have coverage to have it to start with. Does that makes sense?

12 CHAIRWOMAN PERKINS: How much coverage area will this tower serve -

13 MS. GORREY: If you can see this, see how it fills in there -

14 CHAIRWOMAN PERKINS: What is the total mileage, I guess -

15 MS. GORREY: I'd, I'd have to look on here and, and look at the, actually, I was
16 going to say we'll have to look at the, the scale on there and kind of scale that out.
17 And you guys should have this in your package as well, so it looks like that, that is
18 three miles, it looks like it's a little more than three miles between three and four miles.
19 Alright now I'm scaling this out but look, based on the scale that's provided on the
20 plats that you have, this is the area that will be covered. It looks like it's greater than
21 three miles so it looks like it's about, between three and four miles would be my
22 estimate based on the information that's in the Record. And, and you guys are happy,
23 feel welcome to scale that out yourselves.

1 MS. PERRINE: Are you trying to reach more on Leesburg Road, 262?

2 MS. GORREY: Yes, ma'am, and that's our primary coverage objective.

3 MS. PERRINE: And 601, that area a little bit?

4 MS. GORREY: Let's see. It says specifically Leesburg Road and Highway
5 262, there may be some additional coverage benefits on 601 but that was not the main
6 area that we were trying to cover. The traffic count on that is approximately 5,900 cars
7 per day.

8 MS. PERRINE: Okay, and I know you said that you checked about the towers
9 and I think you had some towers that were named something so I wasn't really quite
10 sure but there are two towers on Tom's Creek Road I believe. Did you try to -

11 MS. GORREY: We did look at those, those are not in our search area as noted
12 earlier that, we are required to look at towers within [inaudible]. We did look at these
13 additional towers also and they were to the north or further to the south of our
14 coverage area so they would not meet our coverage objectives. As you can see with
15 the existing plots and, and we've spoken about this but there, it might have been too
16 close to other towers but we did evaluate those. They were not in our search area and
17 they did not meet the coverage objectives.

18 MS. PERRINE: Okay, even the ones, there are two of Fort Jackson, which are
19 right beside Leesburg Road, you know, they're not really close to each other. Then
20 there, the one on Leesburg and Mount Elon Church Road.

21 MS. GORREY: The Leesburg Road is the Cingular tower that we're speaking
22 of. Now as for the other ones and, and [inaudible] yeah and maybe you can help me
23 point out but this shows the nearest towers and that, there we go. This, this is the

1 Cingular tower that we're noting and that was the one that was the closest to the ring
2 when we evaluated. Unfortunately, as Jill noted the available [inaudible] as well as the
3 low ground elevation would not allow it to meet our coverage objectives and that's
4 Leesburg Road right there. If you could point out to me, you know, we looked at these
5 towers as well. This is a one mile radius and a two mile radius.

6 MR. MCDUFFIE: For clarification your tower is the one right in the middle of
7 that Tom's Creek SARF coordinates?

8 MS. GORREY: This right here is the target coordinates where we would ideally
9 have liked to have been. Now this is not the ring that's provided by our [inaudible] the
10 ring that's provided by ours is actually shaped more like this along the highway, just
11 south of the highway. This is our property, the one that's highlighted in yellow. This is
12 where our tower is proposed to be located.

13 MS. PERRINE: Okay, I think the ones on Fort Jackson would be on the, where
14 would they be Geo, up there?

15 MR. MCDUFFIE: That's that Cingular tower right there on Leesburg Road.

16 MS. PERRINE: Yeah, but there's -

17 MS. GORREY: [Inaudible] and then there's another tower right here also just
18 south of Leesburg Road and that, this is a one mile radius and a two mile radius.

19 MS. PERRINE: Okay, well there's, there's two on Fort Jackson one kind of by
20 Lower Richland Boulevard and then one when you go further down past -

21 MS. GORREY: So they're further away than those towers? I'm sorry, I'm not
22 familiar with the location.

23 MS. PERRINE: But close enough that you all should have seen them.

1 MS. HOUSE: Well, I mean that, those were, that shows the three existing
2 towers that were within the two mile radius and, and none of those met our coverage
3 objectives. They may be slightly outside of that but, I mean, I guess, you know, if the
4 ones that we had looked at those three that are closest and those don't meet the
5 needs then, you know, moving further and further away it, it would just put them closer
6 to existing sites so there would be way too much overlap in coverage.

7 MS. GORREY: And as you can see by that hole where they showed the
8 existing coverage, again we can't get too close to an existing site because it creates
9 an overlap of coverage, which actually is detrimental to call quality as well as it
10 wouldn't meet our coverage objectives. So we did evaluate those shown and again
11 that was not the actual search area, that was just a ring that we did to find areas to,
12 possible co-locations to evaluate.

13 MS. PERRINE: Okay. I think this – okay, did the property owner contact you
14 all or did you contact the property owner?

15 MS. GORREY: No ma'am we, we contact property owners and we receive a
16 ring from our radio frequency engineers. We look at the zoning ordinance, determine
17 which parcels within the ring or just outside of the ring can meet the requirements of
18 the ordinance and contact those property owners. So we solicited interest from
19 various property owners and this was the one that had interest as well as that RF
20 approved.

21 CHAIRWOMAN PERKINS: I have a question, we have a compound detail -

22 MS. GORREY: Yes, ma'am.

1 CHAIRWOMAN PERKINS: - right here and within that area is that future lease
2 area. Is that the future lease area is surrounded by the telecommunication and tower?

3 MS. GORREY: The tower is within that area [inaudible]

4 CHAIRWOMAN PERKINS: [Inaudible] 225', I don't know it, it says future lease,
5 so I don't know [inaudible].

6 MS. GORREY: I just want to make sure. Those are areas for co-locators. That
7 is within our existing compound, that compound will be built when Alltel, if Alltel erects
8 the tower, when we build that. That is for other co-locators so if other people need,
9 have a need in this area they can go in those spots. Sorry, I just wanted to make sure
10 we were looking at the same thing.

11 MS. PERRINE: Does that mean that another tower -

12 MS. GORREY: No, ma'am, there will be an additional antenna array on the
13 existing tower as well as a shelter or cabinet within the existing compound area. So
14 there won't be anything outside of what's originally built for Alltel's use for co-locators.
15 They can put additional arrays on the tower and then put their equipment, their ground
16 equipment within the existing compound and that's what that is showing, room for
17 people that may come to use this tower for, in the area.

18 MR. PRICE: Madam Chair -

19 MR. MCDUFFIE: I, I have a question for Staff very quickly, if I might.

20 MR. PRICE: The, the proposed lease areas that you're looking at will be here,
21 this is an example of what they would be. Just, you probably see those from the road

22 MR. MCDUFFIE: I have a question regarding the, the setbacks that have been
23 determined here. As I read Section 26-152(D)(24) part (c) it says for towers in excess

1 of 50' the setback shall be one foot for each foot of height of tower as measured from
2 the base of the tower, maximum required separation being 250'. So would a 270',
3 275' tall tower not require 250' setback from the property line?

4 MR. PRICE: If you'll just give me a moment to look at that.

5 MR. MCDUFFIE: Alright.

6 CHAIRWOMAN PERKINS: I think that was one of the questions that I asked
7 you.

8 MS. HOUSE: Yes, ma'am and it may refresh you guy's memory to, for me to
9 state that he and I did discuss it and that the interpretation is that it's one foot of
10 setback for every one foot of height of the tower after the first 50', which stands to
11 reason because you've got -

12 MR. MCDUFFIE: It says as measured from the base of the tower though.

13 MS. HOUSE: That was the interpretation that we were given by Staff, which
14 also seems to hold true if you have a maximum allowable tower height of 300' with a
15 maximum setback of 250'.

16 MR. MCDUFFIE: That's, that's why it was a bit confusing to me too.

17 MS. HOUSE: Right.

18 MS. GORREY: And we did ask for clarification from that from Staff before
19 doing
20 tower development.

21 MS. CECERE: I have a question for Ms. House. In your statement you said
22 that if the tower was not needed it will be removed.

1 MS. HOUSE: That's one of your, one of your provisions in the code that we're
2 just acknowledging that in the event, the unlikely event that it's not gonna be utilized
3 in the future that they would be responsible for removal.

4 MS. CECERE: Okay, thank you.

5 MS. PERRINE: I have one more question.

6 MS. HOUSE: Yes, ma'am?

7 MS. PERRINE: Is there anyway that you can tell, you know, the light that is
8 going to be on the top, how far out will that emit, do you have any -

9 MS. GORREY: That's mandated by the FAA and I think that would be
10 dependent upon weather conditions and such so I don't have a, a [inaudible] for that.

11 MS. PERRINE: Any kind of the ballpark figure, you know, like 300 yards.

12 MS. HOUSE: Anything I would state would be a guess. It's a soft white during
13 the day and a soft red at night.

14 MS. GORREY: It's a dual, So it's not as impacting at night so you don't have
15 like a strobe during the night [inaudible].

16 MS. PERRINE: So it won't be strobe?

17 MS. HOUSE: It, it may be blinking depending on the FAA's requirements but it
18 will not be white, it will be red at night.

19 MS. PERRINE: Okay.

20 CHAIRWOMAN PERKINS: We're waiting for Mr. Price's answer, interpretation.
21 Oh, I'm sorry. Go ahead.

22 MR. RUSH: I guess with the proof of co-location, is this your proof right here
23 that, I mean, what is your actual proof?

1 MS. GORREY: I think there's also an RF affidavit that goes into actual verbiage
2 that explains why the nearest co-location will not work for that.

3 MR. RUSH: Okay, so your proof is based on your recommendations or the
4 contact of other towers?

5 MS. GORREY: We do, we do look at availability of other towers first and
6 foremost. As Jill said approximately 75% of our sites within Richland County are co-
7 locations. We have, you know, two before you today but we're also working on other
8 sites that are co-locations within the county. So no it's not that we don't seek to co-
9 locate, it's a much easier process, we don't have to come before you, so we do seek
10 to co-locate first and foremost. When that's not available our radio frequency
11 engineer who, who developed those plots and, and provided the RF affidavit
12 determines whether or not it can meet our coverage objectives. That is shown in the
13 plots as well as addressed in the RF narrative that was provided to you.

14 MR. RUSH: So that's done in house, that's, that's not actually approaching
15 other tower owners and saying, okay is it possible to co-locate on your tower?

16 MS. GORREY: We do evaluate if it's available to co-locate first and foremost,
17 so we look at that and if it is then we evaluate whether that co-location can meet our
18 radio frequency requirements. In this case, the Cingular tower, which was the
19 nearest did not meet our [inaudible] none of those, although we knew which
20 [inaudible] centers were available and where they were, they didn't meet the
21 requirements for the ring. So we did evaluate those, I'm sorry if I wasn't clear before.

22 MR. RUSH: So the ones right inside of that one mile radius would not be
23 appropriate?

1 MS. GORREY: No, sir. As Jill noted the ground elevation is significantly lower
2 as well as the available RAD center, so based on those it would not meet the
3 [inaudible] objectives. And that's noted in that RF affidavit.

4 CHAIRWOMAN PERKINS: So you're asking, so you can go up to an elevation
5 of 300', tell me when you decide to, you're, you're saying that that tower will not help
6 you in reaching the consumers that you want to reach. And you said you didn't want
7 to overlap, is that what I heard you say, I might have mis -

8 MS. GORREY: Overlapping coverage, the reason that that tower is in the very
9 specific location is as you can, you saw in the plots there was an area that was not
10 covered. We were trying to cover that area. The reason that we most likely did not
11 go up to 300 on that was because we're trying to cover that area. The 300 would
12 have overlapped into other existing, as you saw in that coverage there, go back one
13 more, that there is coverage to the east and west. There's just in the middle there, so
14 we didn't need the full height to cover that hole. If the full height would have been
15 needed to cover that hole I'm sure we would have requested that height as well but
16 the radio frequency engineer determines the height that's needed to cover the area
17 that we're seeking to cover. In this case it was 275' and that's why we didn't ask for
18 the 300 because it would have just been overlapping it in the areas that we already
19 have coverage.

20 CHAIRWOMAN PERKINS: And that tower will provide coverage as, as you are
21 estimating that three miles out, is that what -

22 MS. GORREY: Well, a little over three miles is shown on the next map.

1 CHAIRWOMAN PERKINS: So how often is a tower erected, you know, does
2 Alltel put up a tower and it's three miles, I mean, out, or an approximate three miles
3 out of coverage or you do it by radio frequency?

4 MS. GORREY: It depends on the, how much a tower can cover is dependent
5 upon the height of the tower, the terrain, those types of factors. So, you know, a
6 tower here may cover, a 275' tower here may cover that area that we've discussed.
7 As where if you go to the coast and it's totally flat and there's no topography and they
8 don't have dense vegetation, it may cover a greater area. So I'm not sure exactly
9 how that, what, if you could rephrase your question, I hope I answered it. I just, I
10 hope I answered it so feel free to ask again if I didn't, but it's based on that location,
11 what we're trying to cover and again this was the minimum needed to fill in that hole.
12 So that's what we looked at, we didn't ask for the 300 because again it would have
13 been morphing over into those areas to the east and west and north and south where
14 we already have the blue. So we're just trying to meet our coverage objectives with
15 the minimum tower height possible.

16 CHAIRWOMAN PERKINS: Okay, now if I could ask Mr. Price. Are there any
17 other questions while we're still waiting?

18 MS. PERRINE: I have one more.

19 MS. HOUSE: Yes, ma'am?

20 MS. PERRINE: I know you said your tower's going to be 275'. Where, what is
21 the elevation of the area that you're going to -

1 MS. GORREY: The ground elevation at the tower center is 423.6' above sea
2 level. It's, it's on the plans that, these are the coordinates of the tower and just below
3 it shows the ground elevation at that site.

4 MS. PERRINE: So I would assume then that you're going, you would be
5 putting it on the tallest spot in -

6 MS. GORREY: Not necessarily. I mean, we're not going back, I mean, as you
7 see it's towards the front of the parcel, in the site plan. So I mean we, we look for a
8 number of things from the construction standpoint, you know, access, levelness, I
9 mean, a lot of times if you put it at the very top part of a parcel you may, may have
10 some concerns with level and all those things. So we looked at a lot of different
11 factors when, when choosing a site on that. We do try to maximize that but there's
12 also other factors that may not put it at the very, I guess apex of the area.

13 MS. PERRINE: And I guess [inaudible] like I asked you before, with the
14 lightning rod that's going to be on top, then that's going to make it 285' and then
15 how thick is the pad that you're going to have it on?

16 MS. GORREY: This is the tower elevation, it's also included as part of the
17 Record. The top of the tower is at 275, we'll have a 10' lightning rod at 285 and, but
18 as you can see it'll be a triangular shaped tower, a self-supporting tower and the,
19 usually, you know, look at the base is poured into the ground. So there's three
20 cylinders of concrete down into the ground based on the soil that hold the tower up.
21 So what you see from the cement portion above the ground is just a few inches that,
22 where the tower is attached. And the same with where the shelter is located, it's just
23 a few inches of concrete above. So it's not elevated greatly.

1 MS. PERRINE: Okay.

2 CHAIRWOMAN PERKINS: Mr. Price?

3 MR. PRICE: Yeah. I reviewed this, of course, with the assistance of Mr. Kocy,
4 I apologize to the applicant, I may have erred in that so it may be an additional 25'.
5 So I don't think that's going to hurt you, but.

6 CHAIRWOMAN PERKINS: Did you hear that, Ms. House?

7 MS. HOUSE: Yes, I did and, and unfortunately it will in fact hurt us cause we've
8 only got 225' from the property line site and I believe -

9 MR. PRICE: Is that from the tower or the lease area?

10 MS. HOUSE: From the tower to the property line. And I believe this
11 conversation was had long before you and I had it, which was at the early February,
12 otherwise Alltel would not have proceeded with this location. The interpretation was
13 one, one foot of setback for every one foot of tower height after the first 50', and
14 again I remind you that your maximum level tower height is 300' so you wouldn't
15 have one to one with a maximum allowable 250' setback, it would be a 300' setback.

16 MR. KOCY: The code specifically says the maximum setback is 250' which
17 Geo and I were disagreeing; I don't interpret this as saying one foot increase after
18 you get to 50' of tower. I'm reading one foot setback for every foot of tower.

19 MS. GORREY: We did seek clarification on that twice with Staff up until this
20 point. So, you know, again we develop within your, your requirements and your
21 standards. So we, we always clarify when there's any ambiguity and in this case we
22 did that twice.

1 CHAIRWOMAN PERKINS: Okay, so you do understand that it is going to
2 require 250' setback, Ms. House?

3 MS. HOUSE: I'm just begging him to revisit his interpretation cause this is not
4 where we wanted to, to get this different interpretation.

5 MR. MCDUFFIE: At this time I'd like to make a motion to deny 08-13 SE based
6 on the tower not meeting the appropriate setback as, as found in Section 26-
7 152(D)(24).

8 MS. GORREY: May I state there's other people here for the hearing as well,
9 but -

10 CHAIRWOMAN PERKINS: I had him speak and there's a, you know, he's
11 made a ruling, a motion and -

12 MS. GORREY: Is the hearing closed?

13 CHAIRWOMAN PERKINS: It depends on the motion. I, there's a motion on
14 the floor to, to deny Special Exception 08-13. Is there a second to that motion?

15 MR. RUSH: Second.

16 CHAIRWOMAN PERKINS: Okay, the motion to deny Case 08-13 SE, based
17 on -

18 MR. MCDUFFIE: [Inaudible] setback under the 26-152(D)(24).

19 CHAIRWOMAN PERKINS: - has been second. Is there any discussion?

20 MR. KOCY: Madam Chairman? [Inaudible]

21 CHAIRWOMAN PERKINS: Are there any questions from the Staff?

22 MR. KOCY: Yes.

23 MR. RUSH: Maybe an Executive Session.

1 CHAIRWOMAN PERKINS: Executive Session, is that a motion?

2 MR. RUSH: Yeah.

3 CHAIRWOMAN PERKINS: Is there a second?

4 MS. CECERE: Second.

5 CHAIRWOMAN PERKINS: All those in favor? Okay.

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

7 *[EXECUTIVE SESSION]*

8 MR. MCDUFFIE: Madam Chair, I'll make a motion to come out of Executive
9 Session.

10 CHAIRWOMAN PERKINS: A second?

11 MS. PERRINE: I'll second.

12 CHAIRWOMAN PERKINS: All those in favor?

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

14 CHAIRWOMAN PERKINS: Okay, I will have Staff speak.

15 MR. PRICE: Yes, Madam Chair, and the Board Members, after review of
16 Section 26-152(D)(24), it is my interpretation that the information that was provided to
17 the applicant was correct based on that the, the language states that the minimum
18 setbacks for communication towers from certain uses. So we're looking at uses in this
19 particular case. In no case shall a communication tower be located within 50' of a
20 residentially zoning district, residential zoned district. According to the Land
21 Development Code rural does not fall within the residential zoning districts and also
22 states that it should not be located within 50' of an inhabited residential dwelling. Thus
23 if the tower is over 50' then that setback, the setback from that, that inhabited

1 residential dwelling must increase by one foot. I believe just a quick look at, at the
2 plans that were submitted by Alltel, which show that they would meet that setback from
3 that, the residential dwellings in that area.

4 CHAIRWOMAN PERKINS: Thank you very much.

5 MR. MCDUFFIE: Based on, Madam Chair, based on testimony from Staff, I
6 would like to withdraw my, my previous motion.

7 MR. RUSH: And the second.

8 CHAIRWOMAN PERKINS: You withdraw the second.

9 MR. RUSH: Yeah, I withdraw the second.

10 CHAIRWOMAN PERKINS: Okay, that motion has been withdrawn. I think Ms.
11 Gorrey -

12 MS. GORREY: Gorrey.

13 CHAIRWOMAN PERKINS: - Gorrey, you had completed your, were there any
14 questions from the Staff?

15 MS. GORREY: If you have additional questions we're happy to answer those
16 but we don't have any additional testimony at this time.

17 CHAIRWOMAN PERKINS: Okay, thank you.

18 MS. GORREY: Thank you.

19 CHAIRWOMAN PERKINS: I have several people signed up in opposition to
20 this. Is there a spokesperson for the group? And there is not a spokesperson. The
21 Chair would ask that, to present that, that the people who signed up to speak if you
22 would present new information instead of repeated information so that we can arrive at

1 a fact finding decision. Having said that I think this is Mr. Jack Sheely. Could you
2 come to the podium, state your name and address for the Record.

3 **TESTIMONY OF JACK SHEELY:**

4 MR. SHEELY: My name's Jack Sheely, spelled S-H-E-E-L-Y. I'm at 377
5 Richland Farms, I'm adjacent to this property. The property, they're talking about the
6 size of that tower, is that tower, if it falls, is it supposed to stay in the same piece of
7 property it was mounted on? Can anybody answer that?

8 CHAIRWOMAN PERKINS: I'm sorry, I'm sorry what did you, what, what was
9 your question again, Mr. Sheely?

10 MR. SHEELY: The tower's gonna be 285' tall, right? What I draw we need
11 235' from the base of the tower to the property line.

12 CHAIRWOMAN PERKINS: I think it's 275.

13 MR. SHEELY: The tower?

14 CHAIRWOMAN PERKINS: Yes, sir.

15 MR. SHEELY: Well, how big is the base of the tower? Everything's gonna be
16 fenced in, how big is the base of the tower? The property's only 500' wide, mine's 521
17 and I'm 21 ½ feet longer than they are, so they put that tower in that property in the
18 middle of it, if it falls it's gonna cross the line unless it falls straight towards my house.
19 Also I want to know what they're gonna do about the watershed and how it's, one half
20 of the property up on the hill is relatively flat and has no wash offs or anything but the
21 back half of that property and I'm talking about a little more than half of it, drops 100'.
22 There's deep ravines and gullies that feed out onto my property. If they change the

1 watershed off that property in way, shape nor form, the house that I'm building is
2 gonna get washed away. Who claims financial responsibility for that? Does Alltel?

3 CHAIRWOMAN PERKINS: Mr. Sheely, please address the Board.

4 MR. SHEELY: Alright, I've never done this before. I've never had to fight for
5 what I think's right, so. Who's gonna be responsible? Alltel, the property owner, tower
6 owners, how do I go about finding out who's gonna be responsible? The elevation on
7 that piece of property, the way they're talking about it's the only thing suitable to put a
8 tower on? There's two towers, one at Farming Church Road, Mt. Elon Church Road,
9 and one at the end of Harmon Road at Leesburg, they both face Leesburg Road.
10 Across the street there's two other towers on Fort Jackson property. The towers that
11 are sitting out now along side Leesburg Road, the elevations are higher there than
12 what they're putting a tower in here.

13 MS. PERRINE: Are the ones that you were talking about on Leesburg or Fort
14 Jackson, are those the same ones that I was trying to explain where they were?

15 MR. SHEELY: [Inaudible]

16 MR. PRICE: You want me to go back to that one?

17 MS. PERRINE: Please. He's gonna find that -

18 MR. SHEELY: Would you, before you change that picture can I go up to it, I
19 don't see very well, I've been in surgery 12 times to get my vision back, and I can't see
20 that. Can I go up and look?

21 CHAIRWOMAN PERKINS: Yes, sir but I think since you're speaking that the
22 microphone has to go with you. Are they working, Mr. Price?

23 MR. PRICE: They can go, I mean, if he's gonna -

1 MR. SHEELY: I promise I won't say anything, I just want to walk over and look
2 at it.

3 CHAIRWOMAN PERKINS: Then you can, if you don't say anything.

4 MR. SHEELY: I just wanted to see something that had the elevations on it. At
5 least that's showing 430 there and 360 on my property, so instead of 100' difference it
6 was, what 80' difference, 70' difference on that wash out and that watershed. That's
7 my main concern is that watershed. Nobody out there wants the thing, it takes the
8 rural away. I mean we've already got six of them in the area, how many do you need?
9 There's two at 1500 Tom's Creek, I think that's 1500, but it's at the other end of Tom's
10 Creek Road, we can't see those. The two out there at Mt. Elon and Harmon Road, we
11 can't see those but on a low, cloudy night when it's raining, you can see the clouds
12 light up from them things. You put one right over the top of us it's gonna be a flashing
13 yard light, that's all it's gonna be and we don't want it. I tell you want it's gonna do to
14 value of properties and stuff, I paid \$8500 an acre for that little six acres out there and
15 I don't believe I can sell it for that with that tower sitting on it.

16 MS. CECERE: Mr. Sheely, your house is already built?

17 MR. SHEELY: No, ma'am, we've got a trailer sitting there now, we were gonna
18 do it this summer but now that I found out that we're not gonna build a house if that
19 tower goes there. I may fix up the house, trailer and sell the place.

20 MS. CECERE: Thank you.

21 CHAIRWOMAN PERKINS: What's the distance did you say from your house
22 to, to where the site is gonna be? You said -

1 MR. SHEELY: A hundred and eighty feet from my house to the property line
2 and it's probably from the property line to where that tower's gonna be, it's gonna be
3 three, 400' at least, maybe five, 600' cause I walked up to it the other day to see where
4 those rings went and they come out right [inaudible] where that flat ground's at where
5 that tire's gonna go and if they change the watershed we've got a flooding problem.
6 That's me, my brother, the property next to that and two behind it. We're all in the
7 bottom of that gorge out there. We just don't want it and that's all I got to say.

8 MS. PERRINE: You are still trying to find that -

9 MR. PRICE: The towers?

10 MS. PERRINE: Yeah.

11 MR. PRICE: [Inaudible] Garners Ferry Road?

12 MS. PERRINE: No.

13 MR. SHEELY: No, on Leesburg Road...

14 MR. MCDUFFIE: I don't think that they're on the, I don't think they're on the
15 county's site, they're relatively recent.

16 MR. PRICE: Okay, and that's probably [inaudible].

17 MS. PERRINE: But if you go back there then I can kind of explain because
18 Alltel didn't know where they were either.

19 MR. PRICE: Where do you want me to go?

20 MS. PERRINE: To that circle, yeah whatever it's called. Okay, Mr. Sheely,
21 where are the towers that are on Fort Jackson? You know, if you could point to them
22 there.

1 MR. SHEELY: Can anybody show me where Harmon Road comes out at? If
2 you go out Harmon Road to Leesburg Road and you turn left they're two towers are
3 right there, you can see them.

4 MS. PERRINE: Okay, well then there's one further down so there are three
5 then apparently on Leesburg -

6 MR. SHEELY: [Inaudible] one at Harmon Road -

7 MS. PERRINE: - Lower Richland Boulevard.

8 MR. SHEELY: Mr. Elon [Inaudible]

9 MS. PERRINE: Right, they don't.

10 [Inaudible discussion]

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

13 MR. SHEELY: Thank you.

14 CHAIRWOMAN PERKINS: I have Ms. Beverly Sheely. State your name and
15 address for the Record.

16 **TESTIMONY OF BEVERLY SHEELY:**

17 MS. SHEELY: Beverly Sheely, 377 Richland Farms Road, Hopkins, South
18 Carolina. And we, in the short time that the, the notice has been put at the end of our
19 street, now I drive a truck long distance, my husband's hard of seeing so it's very hard
20 for us to get around being that I'm an over the road truck driver. But in the short time
21 I've been, I believe it's been 10 days that they're, the sign has been posted at our
22 street, we have collected some signatures in a petition against -

1 CHAIRWOMAN PERKINS: Hold on, are you saying that it was posted 10 days,
2 Mr. Price, would you immediately answer that. Did you post it [inaudible] what did you
3 say?

4 MR. PRICE: That's probably accurate.

5 MS. SHEELY: They've posted it at the end of our street. Now our street is a
6 dead end, which no one comes down there if you don't live there and I, I believe there
7 was another sign posted on one of the other dead end streets. But that's the only sign
8 posting that we've gotten, there's been no information sent to us, anything about these
9 towers and in the short time we have collected a petition of some signatures in our
10 neighborhood that we would like a continuation if we could to gather more information
11 to possibly get some legal representation so that we can actually fight this properly.
12 Ten days is, is not any time. I've just gotten in off the truck, my husband can't hardly
13 see and he doesn't drive much and most people work during the day so
14 communication's hard to get those that work and those that don't work and if there's
15 any chance that we can get this continued for a proper amount of time that we can
16 prepare for this we'd really appreciate it, if that's at all possible with the court.

17 CHAIRWOMAN PERKINS: Are there any questions for Ms. Sheely?

18 MS. SHEELY: There's a lot of things that we just don't understand about cell
19 towers that we personally would like to research not just have it handed to us by
20 somebody that wants the tower there, and no offense.

21 MR. PRICE: Madam Chair, just for clarification I'm sure this issue may come up
22 again. The Staff, we always insure that the advertisement is in the paper at least 15
23 days ahead. There are times that we may take into consideration what is happening,

1 especially with the weather, when we may post a property and if you remember during
2 that week I believe it was posted like that Friday prior to the meeting. I believe it was a
3 lot of, a windstorm sort of going on and also with a lot of rain. So we take that into
4 consideration because we can put it up, say it was done 15 days in advance but it
5 could be down the minute we leave, so.

6 CHAIRWOMAN PERKINS: The code doesn't require -

7 MR. PRICE: The code requires that we, in notification of putting it in the
8 newspaper.

9 CHAIRWOMAN PERKINS: [Inaudible] yeah, just for the notification.

10 MS. SHEELY: Well, just to clarify that more, I don't mean to interrupt anyone
11 but like I said my husband's real hard of seeing, he's going through all these
12 operations to restore his vision and I drive a truck, we don't get a newspaper. I'm out
13 on the road for two and a half, I've been out for three and a half weeks this time. So
14 it's been well past, so I have had no notification other than at the end of the driveway.
15 He saw it when he walked out to get the mail so that's the only notification that we've
16 actually had and we really would like time to research the idea of this. Computer
17 access and, and whatnot, whatever we have to do to, to gather information and get
18 representation.

19 CHAIRWOMAN PERKINS: Are there any other questions for Ms. Sheely?
20 There are not, thank you very much.

21 MS. SHEELY: Thank you, ma'am, I appreciate your time.

22 CHAIRWOMAN PERKINS: Robert, Ms. Roberts, Carol Roberts.

23 **TESTIMONY OF CAROL ROBERTS:**

1 MS. ROBERTS: My name is Carol Roberts, I live at 209 Richland Farms Road
2 in Hopkins, South Carolina. Our property would be directly across the street from this
3 tower. We just moved here three years ago with the intent of moving to a rural area
4 with the aesthetics of forest surrounding us. We can't see any neighbors and frankly
5 I'd much rather see a neighbor than a tower. We were not notified of this occurrence
6 other than from a neighbor who happened to have see the sign. I never go anywhere,
7 you know, except for the grocery store once a month maybe, and so I did not see the
8 sign, we do not receive a newspaper and I don't understand how come people's
9 properties that were, you know, exactly paralleling where they're proposing this tower's
10 property to be, why we weren't notified. And 10 days is, is not enough time to get
11 together some kind of, of a, you know, an effort to challenge this and if we do have to
12 appeal it, we will and we, we've already gotten some, some signatures in the short
13 period of time that we were given, intentionally so. And but we would be able to get a
14 lot more. We've already talked to several people that are against it but we didn't have
15 the petition with us at the time. So there's a lot of people with a 285' tower that will be
16 able to see that whose property doesn't necessarily have to be adjoining this property.
17 There is not issue about people are not going to be able to get 911 access, people all,
18 even though we're rural have landline access. If someone chooses to have a cell
19 phone only that's their choice. Also these are not large lots, these are five acre lots.
20 I'm on a five acre lot, the two properties adjacent to me are five acre lots, these are not
21 large 360, you know, acre lots like y'all just approved for a tower to go up that no one's
22 going to be, that where they live is going to be affected. We live here. For a frivolous
23 tower with six others in the area, which I have no documentation, and I think I have the

1 right to see it other than someone's word saying that the other towers did not meet
2 their needs, why? They're higher and they're all within a very close area. I don't
3 understand it and I'd like to. I think that's about all I have to say. Any questions?
4 Thank you for your time.

5 CHAIRWOMAN PERKINS: We have Mr. Mike Maylor. I'm sorry Mr. Perry
6 Roberts.

7 **TESTIMONY OF PERRY ROBERTS:**

8 MR. ROBERTS: My name's Perry Roberts, I'm at 209 Richland Farms Road,
9 just right across the street from where they're gonna develop this. I don't know what
10 it's gonna do to the property value. I mean, the trees out there, when I look out my
11 front door about 100, 120', so this is gonna be another 125' above that. I do have
12 Alltel and I've never lost a phone call. I do not need a tower out there to do cell phone
13 calls. So if, you know, I don't know if it's just a money thing or what but we don't need
14 it out there.

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

17 MR. ROBERTS: Um-hum (affirmative).

18 CHAIRWOMAN PERKINS: Now we have a Mr. Mike Maylor. Is Mr. Maylor?
19 How about Ms. Yvonne Brown?

20 **TESTIMONY OF YVONNE BROWN:**

21 MS. BROWN: Afternoon Chairperson and Members of the Zoning Appeals
22 Board. My name is Dr. Yvonne Brown I live at 180 Preston Water Lane where I'm off
23 of Tom's Creek Road. I'm also Chairperson of the Tom's Creek Community

1 Improvement Association. That association includes Tom's Creek Road and all of the
2 adjoining roads, which includes Richland Farms Road. I found out about this special
3 posting when I was delivering flyers to the community the other day for another issue,
4 and one of the neighbors in this little cul-de-sac where the, the zoning poster was, has
5 been posted said she could not come today and, and so I didn't know what she was
6 talking about and she said because of that and she pointed to the sign that was up in
7 the beginning of the woods in this little turn around space at the end of her street. And
8 I was, I was frankly shocked. Now I come before you today not having the benefit of
9 any of the extended information cause frankly I just haven't had time to begin to even
10 call a community meeting for information, gather any data to be able to explore this
11 and so some of the things that I have experienced are, are fairly redundant and have
12 been presented to you today. The first thing I thought of was devaluation of property.
13 All of these towers that are already around us, I can't imagine having another tower.
14 They talk about making it, landscaping it. Well, I don't know if any of you have seen
15 some of these areas where these towers have been placed but how do you dress up a
16 280' tower, 275', whatever it is. The one that has been newly installed at the end of
17 Mt. Elon and Leesburg Road has some gravel and it has, has a chain-linked fence
18 around it. Of course they build and then they leave these things. We're the ones who
19 have to live with it for the rest of our lives if we stay there. Now we have been in the,
20 the area since the 80s. There are people who have lived out in our area for
21 generations. Now we, we have tolerated these, these towers. We have one that is
22 right on Tom's Creek Road and then of course the one that has been newly added but
23 we ask you to look at the fact that this is a residential area, which is rural. We need to

1 keep it that way and just one last thing. When we first came here, my husband and I,
2 we wanted to open up a grocery store on Tom's Creek Road.

3 CHAIRWOMAN PERKINS: Ms -

4 MS. BROWN: And we were told that no, by the -

5 CHAIRWOMAN PERKINS: I'm gonna ask, have to ask you to sum it up and
6 give you a second if you can sum it up.

7 MS. BROWN: I will, I will. I thank you. But this said no and you were emphatic
8 about that and had good reasons for it. I know the land use plans have changed but I
9 ask you today to vote no.

10 CHAIRWOMAN PERKINS: Thank you very much, Ms. Brown.

11 MS. BROWN: Thank you.

12 CHAIRWOMAN PERKINS: Ms. House, you can come back for rebuttal.

13 MS HOUSE: Okay, there's quite a bit to address there. First and foremost we,
14 we do stand by our site selection. We chose this particular parcel because it does
15 meet all of the Special Exception requirements. We have addressed the other towers
16 and how they will not accomplish Alltel's coverage objectives and in addition I'd like to
17 remind you that there is nothing in your code that says towers need to be a certain
18 distance apart. So that's why Alltel, as many other carriers obviously are, are seeking
19 the best possible coverage. With regard to property values, as we have testified
20 before you on a different occasion, Alltel oftentimes does property evaluation studies
21 and has found that there is no impact from cell towers. When you typically see an
22 impact to adjacent property values is when you're looking at something like a hog farm
23 or a paper mill, something that generates significant noise or odor. To speak to Mr.

1 Sheely's point about the base of the tower, each face of the base of the tower is going
2 to be 28', so 28 x 28 x 28. Towers however are designed to collapse on themselves
3 so it would not fall over end to end and we would argue that we're actually in excess of
4 700' from his property line and as we've discussed we do meet the required setbacks
5 of the 225 from the other property lines. With regard to the watershed issue, our
6 understanding is that this is part of the building permit process, so all appropriate
7 permits would be filed. There would be an evaluation, if culverts or other drainage
8 type remedies need to be put in place, that would be done so at that time. And the
9 other big issue that we heard was with regard to notification. We can't really speak to
10 that, that's something that the county's responsible for and is based on the county's
11 requirements. We do hope that we get approval for our Special Exception application
12 today, however if you choose to defer so they can in fact get more information we
13 would be happy to meet with some of the neighbors to further discuss this project. Are
14 there any questions?

15 CHAIRWOMAN PERKINS: Thank you very much, Ms. House. Is there a
16 discussion on 08-13 SE?

17 MR. RUSH: I guess one, one of my only issues is I just want to go on Record
18 to say with the proof of co-locating, I just think that there should be more than just in
19 house, it should be some type of documentation for co-locating as, you know, just
20 saying that we tried and it doesn't work. I think there should be some type of written
21 proof from other carriers or what have you.

1 CHAIRWOMAN PERKINS: Is there any other discussion? There being none,
2 there being none the Chair will entertain a motion. The Chair will entertain a motion to
3 allow or deny 08-13 SE, based on the finding of fact.

4 MR. BRANHAM: What was your motion, Madam Chair?

5 CHAIRWOMAN PERKINS: There wasn't one. I was trying to get one
6 [inaudible]

7 MR. BRANHAM: Oh, I thought you said you made a motion.

8 MS. PERRINE: Well, can I make a, maybe a statement or something.

9 CHAIRWOMAN PERKINS: Okay, if you'd like go back to the discussion phase.

10 MS. PERRINE: Yeah, since the opposition and Alltel has both stated they
11 would like to defer so that perhaps there could be more information given.

12 MR. MCDUFFIE: Alltel didn't say that they wanted to but they said that they
13 would meet [inaudible] if the defense felt like they had not been given proper time that
14 they would, they would, you know, be willing to entertain that; not that they wanted to I
15 think.

16 MS. PERRINE: Well, no I guess not, the wanting to but I think it was nice that
17 they were willing. So anyway I think it was nice that both sides mentioned that.

18 CHAIRWOMAN PERKINS: Let me ask this, if we, if, if there were a motion to
19 defer, what would be, why would we be deferring, I'm just asking?

20 MS. PERRINE: [Inaudible] I know you didn't hear. I just said because it was a
21 nice thing to do.

1 CHAIRWOMAN PERKINS: If, if you'd like, [inaudible] if you'd like to go through
2 the findings and, would anybody like to go through the findings, through the findings
3 [inaudible] on this one?

4 MS. PERRINE: Well, I kind of agree with Mr. Rush in the fact that it would be
5 nice to have something in writing when these companies say they, you know, can't co-
6 locate on another tower. I believe that would help us some.

7 CHAIRWOMAN PERKINS: Okay. Okay, well let's just go through the fact
8 finding. The property is zoned rural, the public hearing posting on the property was
9 there according to Staff. It was posted in the newspaper 15 days prior to the public
10 hearing. The tower will be 275'. It will be 225' adjacent from any property lines, I think
11 that - oh, I'm sorry.

12 MR. RUSH: I'd like to make a motion to approve based on the fact that it has
13 met the requirements of the Special Exception.

14 CHAIRWOMAN PERKINS: There's a motion on the floor to approve Special
15 Exception 08-13 SE based on it meeting the requirements of the -

16 MS. CECERE: Sorry, Madam Chair, I have one more question for Alltel, I'm
17 sorry. In regards to, in regards to, I'm sorry -

18 CHAIRWOMAN PERKINS: Which one did you want to come back to the
19 podium, Ms. Cecere?

20 MS. CECERE: I don't know, I don't know who could answer this. It's in regards
21 to the landscaping. We heard from Ms. Brown that the other cell tower all it had was
22 like a cyclone fence and gravel around it, which I wouldn't consider very pretty.

1 MS. HOUSE: You should have a, a plan in your packet, which has the, the site
2 plan, the compound detail.

3 MS. CECERE: It's on page 37? Is that the one?

4 MR. MCDUFFIE: Yeah, page 37.

5 MS. HOUSE: And there should be actually, an actual landscaping plan, which
6 unfortunately I do not have.

7 MS. GORREY: These are in compliance with the Richland County Code and
8 as shown, let's see what page that is on for you guys. It is page 37, the landscaping
9 plan is in there as well as that it's within a wooded area but there are bushes around
10 the fencing as required by the Richland County requirements.

11 MS. CECERE: And it will have like the cyclone fencing, is that or, is that a
12 requirement or -

13 MS. HOUSE: It's a chain-link fencing but it, it will have 35 Leland Cyprus trees
14 or shrubs that will grow to create an opaque screen and then they'll be mulched at the
15 base as well.

16 MS. GORREY: The Leland Cyprus are the conical shaped evergreen, almost
17 Christmas tree like trees, so that's what will be there.

18 MS. CECERE: Thank you.

19 CHAIRWOMAN PERKINS: Okay, are there any more questions? Okay, would
20 you please restate your motion?

21 MR. RUSH: I would like to make a motion to approve based on the fact that
22 they have met the requirements of the Special Exception.

23 CHAIRWOMAN PERKINS: Is there a second?

1 MS. SIMONS: I second.

2 CHAIRWOMAN PERKINS: Okay, there's a motion on the floor to approve case
3 number 08-13 SE, based on that they have met the, the finding of facts is that they've
4 met it for the Special Exception as outlined in the code. All those in favor of that
5 motion please have a show of hands.

6 *[Approved: Rush, Perkins, McDuffie, Cecere, Simons; Opposed: Branham, Perrine]*

7 MR. PRICE: Those for we have Rush, Perkins, McDuffie, Cecere, Simons.

8 CHAIRWOMAN PERKINS: Those opposed?

9 MR. PRICE: Those opposed: Branham, Perrine.

10 CHAIRWOMAN PERKINS: I, I don't see Ms. House but, okay Special
11 Exception has been approved and Mr. Price will be in touch.

12 MR. PRINGLE: Madam Chair, before you move on, I'm not gonna talk about
13 any case, I wanted to make sure that I apologize to both of you -

14 CHAIRWOMAN PERKINS: You're out of order. I, I can't let you do that Mr.
15 Pringle, I am so sorry.

16 MR. PRINGLE: All I was gonna say was I may have made a remark that you
17 [inaudible] and I took out my frustrations with the interveners and I wanted to apologize
18 to the Planning Staff and to [inaudible].

19 CHAIRWOMAN PERKINS: Next case, Mr. Price.

20 **CASE 08-14 SE:**

21 MR. PRICE: It's Case 08-14 Special Exception. The applicant is requesting
22 the Board of Zoning Appeals to grant a Special Exception to permit the establishment
23 of a family day care on property zoned RS-MD, which is Single Family Residential

1 Medium Density. The applicant is Jennifer Dunlap. The location is 1929 Spotswood
2 Drive, the parcel size is .21 acres, the subject property has an existing single-family
3 residential structure, an extended two-car driveway leads to a carport located on the
4 side of the residence. The rear of the property, I put that it was not enclosed by a
5 fence, it's pretty much enclosed. There's a portion as you go through the garage,
6 under the carport, excuse me, that's open, I just kind of left it there. The applicant
7 proposes to establish a family day care for a maximum of seven children. The ages of
8 the children will range from newborn to five years of age. The proposed hours of, of
9 operation are 6:00 a.m. to 6:00 p.m. The subject property is located within a
10 subdivision of single-family residential structures and that's in the Emerald Valley
11 community. There's a picture of the subject property and it's located on the corner of
12 Marley Drive, which is the main road and I believe it's the only road that leads into this
13 community, and Spotswood Drive. There's the driveway, it's a pretty deep driveway,
14 get a number of cars in there if necessary. Here's another picture from across the
15 street, now I'm showing you to corner of Spotswood and, and Marley Drive. Once
16 again the driveway and this is Marley Drive and here's the rear, as I stated it is
17 enclosed going back, this is the open area. So I didn't mislead you in any way by
18 saying that it's not enclosed. That's it.

19 CHAIRWOMAN PERKINS: Okay. Ms. Jennifer Dunlap, come down to the
20 podium, state your name and address for the Record.

21 **TESTIMONY OF JENNIFER DUNLAP:**

22 MS. DUNLAP: My name is Jennifer Dunlap 1929 Spotswood Drive, Columbia,
23 South Carolina. I am requesting a Special Exception to open a day care in my home

1 of about seven children. DSS require you up to eight, nine you have to have
2 employees and I don't plan to have employees. That's my request is to just have a
3 day care in my home and I'm kind of nervous cause I haven't ever had anyone to
4 make a decision whether I could do something in my home or not. I think that I have
5 adequate space, adequate drive, pick up and drop off space in my drive. I don't live
6 near a school bus stop where children would be standing on the corner with it, it's
7 about a block from me and it's not that many children in the neighborhood to, that ride
8 a school bus. I have talked with several neighbors around me that were okay with,
9 okay with me having a day care there and I do understand that there is a lot of
10 neighbors in the neighborhood that, that is not okay with it. I have, I can say that I am
11 finishing the final phases of becoming a foster parent and so my number, I wanted to
12 get licensed for up to 12 children because I have to include the children that I have in
13 my home as foster children and my grandchildren when they're, they're visiting. So
14 that's why that number is 12, but a minimum of eight children will be in my home at
15 any one time.

16 MS. CECERE: I think the application says seven.

17 MS. DUNLAP: I put seven because DSS told me I would have to include any
18 foster children in the home and my grandchildren but there's not a license that DSS
19 gives you for seven children or, it's either one to six, up to six or seven to 12. So I had
20 to kind of put a medium in there.

21 CHAIRWOMAN PERKINS: Are you telling us that you have foster children
22 now, how many foster children do you have in the home now?

1 MS. DUNLAP: Well, I am not, I don't have any foster children in the home, I'm
2 just in the final phases of finishing up my, to get my license for foster children. DSS
3 will only start you out with one foster child at the time.

4 CHAIRWOMAN PERKINS: So out of the seven, that one that you've got would
5 be included -

6 MS. DUNLAP: It would have to be included, absolutely.

7 CHAIRWOMAN PERKINS: So you are not asking to keep 12 children?

8 MS. DUNLAP: No ma'am, no ma'am.

9 CHAIRWOMAN PERKINS: Okay.

10 MS. DUNLAP: It's just there's no middle ground there for licensing.

11 CHAIRWOMAN PERKINS: Will your day care operate Monday through Friday
12 from 6:00 a.m. to 6:00 p.m.?

13 MS. DUNLAP: Yes, ma'am. I know the - oh, I'm sorry.

14 CHAIRWOMAN PERKINS: Tell me how the, how your, say seven people, you
15 know, coming in to drop off their children, how would they exit your property without
16 backing out into that major road?

17 MS. DUNLAP: Well, they wouldn't back out into a major road, the major road is
18 Marley Drive coming into the neighborhood. There's not a lot of traffic -

19 CHAIRWOMAN PERKINS: Public road.

20 MS. DUNLAP: Okay, okay. Well, the driveway is extended so there is enough
21 room in my driveway and I hope that all seven, all seven parents are not dropping off
22 at the same time and there could not, there may not be seven vehicles at one time
23 because two or three children may be in one car. But the only way, right now, would

1 be to either back out into the street or turn around in that driveway if there's only one
2 car there at the time.

3 CHAIRWOMAN PERKINS: Explain to me how you do a three-point turn in your
4 driveway with two cars there.

5 MS. DUNLAP: My driveway is, with two cars in my driveway, under that
6 carport?

7 CHAIRWOMAN PERKINS: What if, just say we just had two people to show up
8 at the same time.

9 MS. DUNLAP: It would require them to drive, drive, if it was two cars there at
10 the same time it would require them to back out in the drive, in, into the public road.

11 CHAIRWOMAN PERKINS: Yes, ma'am and I'm saying that, that can't happen.
12 So explain to me how they would exit off of your property onto the public road.

13 MS. DUNLAP: Well, if the Board requires me approve, requires me to put a
14 horseshoe in my yard there's adequate room for that as well.

15 MR. PRICE: Madam Chair, I had a question. You said that that cannot
16 happen, that they're not, are you saying that they're prohibited from backing out onto
17 the street?

18 CHAIRWOMAN PERKINS: I'm asking her how she would do a three-point turn,
19 I guess that's what they do to come off of her property onto -

20 MR. PRICE: Okay, well the code doesn't require a three-point turn and also
21 doesn't prohibit -

22 CHAIRWOMAN PERKINS: That was, well that was the closest thing I could
23 come to in identifying what I wanted her to do. How would she get off of that? And the

1 only thing that I could think of [inaudible] to give her a picture with words of what I
2 wanted an answer to.

3 MR. PRICE: One of the things is -

4 CHAIRWOMAN PERKINS: You didn't list it in the packet.

5 MR. PRICE: Well, one of the things that I've stated before is a lot of times the
6 applicants will come in and they will supply some diagram of what they're planning on.
7 A lot of times that was just based on something they've heard, they really haven't
8 taken much thought into it. One of the things that Staff did was, especially because
9 she is located on a corner, we started looking at different ways. Clearly, you know,
10 circular driveway would require that you did the entrance or exit to be here, I think
11 that's too close to put near a, the corner, which is Marley Drive. You aren't gonna get
12 any access off of Marley Drive and, you know, realistically you could put, you know,
13 extend this area here, you know, you can pave this area and turn it into an area but
14 now you're getting back into the three-point turn and a number of cars and not so
15 much that, just I mean, take your old driveway, try to do a three point turn -

16 CHAIRWOMAN PERKINS: [Inaudible] aesthetics from the grassy knoll -

17 MR. PRICE: - that, that could be but even from a safety standpoint try to do a
18 three-point turn in your own driveway's a little hard sometime.

19 CHAIRWOMAN PERKINS: So how, how, are you, let me repeat the question.
20 How would you suggest that these cars approach how she would -

21 MR. PRICE: I would suggest as many of the other cases that have come
22 forward to back out.

23 CHAIRWOMAN PERKINS: Are there any other questions for the applicant?

1 MS. CECERE: Ms. Dunlap, how long have you lived in this home?

2 MS. DUNLAP: Since 1990.

3 MS. CECERE: 19 -

4 MS. DUNLAP: 1990.

5 MS. CECERE: Thank you. And have you had a day care before?

6 MS. DUNLAP: No, ma'am. I've only worked in day care.

7 MS. CECERE: I'm sorry?

8 MS. DUNLAP: I've only worked in day care not a day care in my home, no.

9 MS. CECERE: Thank you.

10 MR. BRANHAM: Will there be someone helping you in the day care?

11 MS. DUNLAP: No, sir that, that only comes into play when you have that ninth
12 child and I don't intend to have nine children.

13 CHAIRWOMAN PERKINS: Is there an outdoor play area for the kids that you
14 have, I didn't see it. Go back to the back yard, please.

15 MS. DUNLAP: In my back yard, yes, ma'am. I have four grandchildren and
16 that was established when my first grandchild was born. I also have that privacy fence
17 where you can't even see into my back yard. My neighbors wouldn't have to worry
18 about the aesthetics of toys all in the back yard.

19 CHAIRWOMAN PERKINS: Now I, I think, Mr. Price, if you'd go back to her
20 carport it is not, you say there's a pathway through there, okay.

21 MS. DUNLAP: Right when you come out of my back door.

22 CHAIRWOMAN PERKINS: Okay [inaudible] put a gate there cause it requires,
23 the code requires -

1 MS. DUNLAP: If it's required yes, ma'am, I would.

2 CHAIRWOMAN PERKINS: How will you, okay, how will the kids be dropped off
3 and picked up? You know, just explain to me that will not obstruct the traffic flow on
4 that road where your driveway is?

5 MS. DUNLAP: Where my driveway is there, there is not, I must say there's not
6 a lot of traffic flow in that area where I am, but kids would, there's only one car in that
7 driveway most of the time and that's from morning to night. There's only one car in my
8 carport, under my carport. I'm the only one that reside in that house. So it's easy for a
9 parent to pull up under my carport, I have a side door up under my carport where I
10 enter into my kitchen where children would be dropped off.

11 CHAIRWOMAN PERKINS: And no parking will be located in the required front
12 yard, will they?

13 MS. DUNLAP: No, ma'am.

14 CHAIRWOMAN PERKINS: And I'm sure you, you will agree to meeting all the
15 federal regulations to operate in a day care?

16 MS. DUNLAP: Absolutely. Most of the year I'm, inspections and everything
17 that DSS is requiring I've already passed, fire marshal inspections, everything for
18 foster parenting I have to do the same thing for day care.

19 MR. BRANHAM: Based on the information that I've heard you've got four
20 grandchildren, do you keep those four grandchildren?

21 MS. DUNLAP: No, sir.

22 MR BRANHAM: Do you keep those four grandchildren?

1 MS. DUNLAP: Unfortunately, my grandchildren mostly visit in the summer time,
2 two of them are located in Colorado Springs and the other two in Charlotte.

3 MR. BRANHAM: So besides a foster child there will not be any other children
4 except the children that you would be -

5 MS. DUNLAP: That's correct.

6 MR. BRANHAM: - paid to keep.

7 MS. DUNLAP: That's right.

8 CHAIRWOMAN PERKINS: I'm still having a problem, if you'll forgive me, Ms.
9 Dunlap, and bear with me for a moment. One of the criteria is, is, you know, for when
10 the clients are picked up or dropped off that you can't obstruct traffic flow on adjacent
11 public roads.

12 MS. DUNLAP: That's correct.

13 CHAIRWOMAN PERKINS: And you keep telling me you're going to back out
14 and you can't back out, you know what I'm saying. So tell me how they will do, if you
15 use a part of your grass or something to turn around on or -

16 MS. DUNLAP: I'm not telling you that they will back out, I'm telling you that
17 whatever is required by the Board, me, I live there so I feel that there's sufficient
18 means for a client to pull into my drive and back out or turn around in my drive. So
19 whatever needs or, or I would meet those needs if that require me to pave a portion of
20 my yard going into my back yard, I would do that. But it's, Ms. Perkins, sometimes
21 when my children, I have two daughters and most of them, most of the time when they
22 come there's two or three vehicles or four at the time in my driveway. And we do that
23 successfully, back out because leaving home, that's what we have to do. We don't

1 usually use the grass to turn around in, so that's what we do. And sometimes my two
2 daughters, their husbands they may be on their way to another state and it's more
3 than one car at the time in my drive.

4 CHAIRWOMAN PERKINS: Okay, thank you so much, Ms. Dunlap.

5 MS. DUNLAP: You're welcome.

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

8 MS. DUNLAP: You're welcome.

9 CHAIRWOMAN PERKINS: We have a Ms. Sharon Bouknight and that -

10 MR. PRICE: Before Ms. Bouknight speaks, I kind of, a point of clarification at
11 least from a Staff's interpretation. Under 26-84(10)(d) where it says client pick up and
12 drop off shall not, excuse me, shall not obstruct traffic flow on adjacent public roads. I
13 believe the intent of that was, in our previous code it did require the drop off to not take
14 place in the right-of-way. That actually was, of course, taken out and this was
15 replaced and I think the intent of that really is to keep people from parking on the side
16 of the road, maybe, you know, to even go back. Sort of like what I did when I actually
17 visited the site, that, that actually would be considered obstructing flow. So that's one
18 of the things that we always look at when applicants apply for a day care is, is there's
19 adequate room on the property or at least if not some place they can pull off where
20 they would not block traffic.

21 CHAIRWOMAN PERKINS: Well, and, and I understand that and I think part of
22 my, my problem was, is if she did, you know, turn around on the grass it would, you
23 know, interrupt the aesthetics, the environment, you know, for that. And then there is

1 no way that she can tell me that all seven people would not show up. So that's what I
2 was trying to get to, so thank you very much for that explanation.

3 **TESTIMONY OF SHARON BOUKNIGHT:**

4 MS. BOUKNIGHT: Hi, my name is Sharon Bouknight, I live at 614 Piney
5 Woods Road, Columbia, South Carolina. I am for Ms. Dunlap opening her day care. I
6 visit her house regular and I always back out in the driveway, I have no problems. I
7 have never had hit nobody or anything and the traffic flow is not that bad in that area
8 right there. She's not in the center of that, that, of Emerald Valley, she's right on the
9 corner just a in and out situation. And I have no problems.

10 CHAIRWOMAN PERKINS: Are there any questions for Ms. Bouknight? Thank
11 you very much.

12 MS. BOUKNIGHT: Thank you.

13 CHAIRWOMAN PERKINS: I have Ms. Barnes again, is she here?

14 **TESTIMONY OF THENISE BARNES:**

15 MS. BARNES: First of all I want to apologize for signing the wrong paper, now
16 we're on the right one. My name is Thenise Barnes, I live at 1925 Spotswood Drive,
17 which is next door to her. I've been living there ever since '93 when I moved back
18 here. As far as I'm concerned the area where she's talking about doing the day care is
19 not, we're almost at the dead end so there's no traffic to be bothered with and if you
20 make the turn to come on our street there's no traffic to be bothered with. Her house
21 is, my house right here, her house is here but if you go up two more houses there's an
22 illegal childcare facility. So -

23 CHAIRWOMAN PERKINS: I don't want to hear -

1 MS. BARNES: - no, no what I'm saying is I don't see anything wrong with her
2 having hers in that corner since it won't block the traffic, you know. Now the one, you
3 said don't do that, but that's what blocks my house up the street, that one up the street
4 blocks me but where she is I think it's an ideal location and that's what I have to say.

5 CHAIRWOMAN PERKINS: Okay, okay. Thank you very much. Are there any
6 questions for Ms. Barnes? Thank you very much. Wayne Davis? Are you going to,
7 go ahead.

8 **TESTIMONY OF WAYNE DAVIS:**

9 MR. DAVIS: Yes, I'm Wayne Davis, my address is 3206 Love Street in
10 Columbia. I'm just, I'm just here on behalf of Ms. Dunlap about opening this daycare,
11 which was planned in advance then and, you know, before she decided to do this stuff,
12 I'm a close friend of hers from, for a long time and I've been up and down Marley Drive
13 a long time and I sit there a couple of days and I count the cars coming up and down
14 Marley Drive and the main neighborhood in Emerald Valley is way behind 1929
15 Spotswood Drive. And I've been on, I've sit there and counted the traffic several
16 evenings and I've counted one to two cars in a 15 minute span, that's how bare the
17 traffic is in that neighborhood and on that corner of Spotswood and Marley Drive, it's
18 no traffic. And I know Ms. Dunlap came here to report her keeping children legally and
19 seven kids in a home, no one wouldn't know. The, the, no one would know [inaudible]
20 of Ms. Dunlap keeping children in her home. I don't, I don't, I don't, I don't see the
21 problem if it's very well planned before she made a decision to do it and the, the only
22 problem I see in here today is the traffic flow and I've sit personally and counted one to
23 two cars in a 10, 15 minute span on that corner. It's no traffic. And to have six to

1 seven little kids in her private home, personally I don't see the effects of it. It's no
2 more than having five or six grandchildren in your home. I have five or six
3 grandchildren when they come, my neighbors don't know they're in my home.

4 CHAIRWOMAN PERKINS: Thank you very much. Are there any questions for
5 Mr. Davis? Okay, thank you. We have quite a few people signed up in opposition, is
6 there a spokesperson for this group? As I've previously, okay there is a
7 spokesperson.

8 **TESTIMONY OF LEON WILLIAMS:**

9 MR. WILLIAMS: Madam Chair and the Board, my name is Leon Williams. I live
10 at 2018 Marley Drive, three houses from Ms. Dunlap. I've been there 28 years and we
11 as concerned neighbors of Emerald Valley would, that would be mostly affected by the
12 change in zoning has drawn up a petition in opposition of 1929 Spotswood Drive being
13 rezoned. We are concerned about the integrity of our neighborhood changing to
14 something that we wouldn't like, and with the large amount of vacant commercial
15 property in Columbia and off Broad River Road, why would a resident area be
16 changed to support commercial? We as members are concerned if the Zoning Board
17 grants the change in zoning what might we see next in our neighborhood? A garage,
18 barbershops, beauty shops? I'd like to thank you for your time.

19 CHAIRWOMAN PERKINS: Are there any questions from the Board?
20 [Inaudible] we aren't rezoning the neighborhood [inaudible]

21 MR. WILLIAMS: No, yeah I understand. We're just concerned about what's
22 coming in.

23 MS. CECERE: Are you representing a neighborhood association?

1 MR. WILLIAMS: Yes.

2 MS. CECERE: And what's the name of it?

3 MR. WILLIAMS: Emerald Valley.

4 MS. CECERE: Emerald Valley, okay thank you.

5 MR. WILLIAMS: Thank you.

6 CHAIRWOMAN PERKINS: Are there any other questions for Mr. Williams?

7 MS. CECERE: Yeah, how long has that neighborhood association been in
8 effect?

9 MR. WILLIAMS: Actively for the last 15 years. And they had one prior to, years
10 back I've heard. But actively for the last 15 years.

11 CHAIRWOMAN PERKINS: Do you see a traffic impact in, in the day care, Mr.
12 Williams?

13 MR. WILLIAMS: I, I don't have a problem with the traffic. Like I say it's on a
14 corner. Your concern, you, you, the concerns that you made is legitimate because
15 you're coming off Marley, it's only one way into Marley Drive, I mean, into, into Marley.
16 We have one entrance and one exit and that's Broad River Road. So the people who
17 live on the end of the, the, the neighborhood, when you turn the corner you're right at
18 her driveway pretty much. If a car's backing up -

19 CHAIRWOMAN PERKINS: The artery is Broad River Road, is that what you're
20 telling me? The major artery from -

21 MR. WILLIAMS: That's the only way in and the only way out. At the light, right
22 at the, the First Citizens Bank, that's the only entrance and exit we have.

1 CHAIRWOMAN PERKINS: But I just heard you say you don't have any there,
2 there would be no problem with the traffic -

3 MR. WILLIAMS: No more than her, if somebody's coming off Marley into
4 Spotswood it's right there.

5 CHAIRWOMAN PERKINS: Can you think of any vehicular or pedestrian safety
6 issues that may come up with your community as, as her having the day care?

7 MR. WILLIAMS: Other than the integrity of our neighborhood, we just want to
8 open up the door, the floodgates -

9 CHAIRWOMAN PERKINS: Say what, sir? I'm sorry.

10 MR. WILLIAMS: We don't have, to open up the door for any and everything
11 coming out our neighborhood. That's why we were concerned about the rezoning.

12 CHAIRWOMAN PERKINS: Okay are there any other questions for Mr. -

13 MS. CECERE: Yeah. Now Ms. Dunlap stated that there was no restrictive
14 covenant saying that there are not, they don't allow day cares in your home, where
15 your home owner's association is in effect.

16 MR. WILLIAMS: This has been talked about but I, I don't know of any.

17 MS. CECERE: Don't know?

18 MR. WILLIAMS: No, ma'am.

19 MS. CECERE: Do you have like bylaws or anything like that where you -

20 MR. WILLIAMS: Could you repeat that?

21 MS. CECERE: Do you have any, any kind of restrictions in your homeowner's
22 association, written?

1 MR. WILLIAMS: We don't have any bylaws, anything that's written concerning
2 that.

3 MS. CECERE: Okay, thank you.

4 CHAIRWOMAN PERKINS: Is there any other questions? Okay. Does
5 anybody from the, I guess I'm, I'm, I'm assuming, and correct me if I'm wrong, from the
6 Emerald Valley Homeowner's Association would like to add but perhaps Mr. Williams
7 could not answer, but only to add. I don't want anything reiterated please.

8 MS. CECERE: Madam Chair, [inaudible].

9 CHAIRWOMAN PERKINS: Oh, okay. Would you state your name and address
10 for the, for the Record?

11 **TESTIMONY OF DEAN WILSON:**

12 MS. WILSON: My name's Dean Wilson -

13 CHAIRWOMAN PERKINS: Were you sworn in?

14 MS. WILSON: You swore everybody in.

15 CHAIRWOMAN PERKINS: Okay, excuse me. Did you sign in, you didn't, okay
16 you did.

17 MS. WILSON: Yes, ma'am. It's Dean Wilson, I live 1920 Marley Drive
18 Columbia. I have lived there since 1969, probably more than anyone has. There is a
19 traffic problem. Her home is right there on the corner of Spotswood and Marley. They
20 fly around Spotswood and they fly up Marley. I've seen them, seen them do it and it's,
21 it would scare me to death to have seven children. What if one gets away from her,
22 she doesn't know that and there could be a child killed right there at Spotswood and
23 Marley Drive.

1 CHAIRWOMAN PERKINS: Are there any questions for Ms. Wilson? Thank
2 you very much.

3 MS. WILSON: Thank you.

4 MS. CECERE: Madam Chair.

5 CHAIRWOMAN PERKINS: [Inaudible]

6 **TESTIMONY OF MARGARET BANGS:**

7 MS. BANGS: My name is Margaret Bangs, I live at 1910 Marley Drive.
8 Jennifer Dunlap has previously applied for Special Exceptions to establish a business
9 and has been denied previously because of the problems it would create in that
10 neighborhood. Also there are bylaws that do prohibit this. Dean Wilson did have a
11 copy of it but she's trying to locate them, there are a few other of the older residents,
12 some of the older residents have gone into nursing homes and we are trying to locate
13 the original bylaws, which do state that this is not allowed. Personally I live four doors
14 away and everyday I spend 30 to 45 minutes walking my dog all through that
15 neighborhood. I pass by Ms. Dunlap's home twice a day everyday that is the only
16 intersection in that entire neighborhood where I have to really watch crossing. Frankly
17 if a daycare center is put there, it's an accident waiting to happen. You denied her the
18 right to put a beauty parlor on that property, so I hope you deny this as well. Thank
19 you.

20 CHAIRWOMAN PERKINS: Any questions for Ms. Bang from the Board?
21 Thank you very much, Ms. Bangs. Are there any other persons in opposition that can
22 add new information to what - would you come down to the podium, please? New
23 information please ma'am, new information.

TESTIMONY OF ROSE O'STRAUSKY:

MS. O'STRAUSKY: My name is Rose O'Straosky. I live immediately in front of Jennifer on Marley, it's 1948 Marley Drive. I've lived there since 1977 and Jennifer knows by personal experience how dangerous Marley Drive is. Even on Christmas Eve back in the 90s one of her own animals was killed because of a fast driver. I can't tell you how many animals have been killed, we've only had one individual hit and that was a child and thank God it was somebody who was going very slow on Marley Drive. And so I think that because of the speed of the traffic that goes down there and I'm sure that the law enforcement can reinforce that because they used to use Marley as a, when they were training the troopers and so they would use Marley as a training area because of the speed that the people would go up and down the drive. Now we have a trooper's car parked and he lives in the neighborhood at one of the top of the hills and it kind of reminds people to not quite go so fast. But living there I've seen cars go way over 50 miles an hour down Marley Drive and if one of those children got out, you know, with people going that fast. And Lois has lost animals and it's just a very, extremely dangerous road, Marley Drive. Spotswood may not be as dangerous but it's very difficult to see sometimes when you're coming out of Spotswood and then when you're going in if there's a child on the road. So that's my new information.

CHAIRWOMAN PERKINS: Thank you very much. Are, is there any, are there any questions? Thank you. Now I think we have one other person signed up on the Agenda and if you would like to speak and give the Board new information you may do so or I'm going to call Ms. Dunlap back for rebuttal.

TESTIMONY OF SANDRA THOMAS:

1 MS. THOMAS: Can I say something first? My mother signed up and it's very
2 difficult for her to walk down there. Can I speak for her?

3 CHAIRWOMAN PERKINS: Yes, ma'am.

4 MS. THOMAS: Thank you. My name is Sandra Thomas and I live at 3713
5 Sydney Road, it's my mother, it's for Vera Gunter, she signed up, I signed up for her.

6 CHAIRWOMAN PERKINS: Oh, yes, yes.

7 MS. THOMAS: She lives directly across from this corner and my mother's 85
8 years old and there are a lot of elderly people in this neighborhood and they
9 constantly, there's a lot of walking, a lot of walking of these elderly ladies on this
10 neighborhood and the, there is sidewalk on one side of the road and it is very difficult,
11 you know. There's, there is a good bit of traffic, the main problem with Marley it is a
12 very hilly road coming down and you have to ride your brake to stay anywhere close to
13 the speed limit. So that's a very dangerous, you know, possibility of someone coming
14 down. Thank you.

15 CHAIRWOMAN PERKINS: Are there any questions?

16 MS. THOMAS: Oh, I'm sorry. I travel that road three or four times a day,
17 usually. Yes, ma'am.

18 CHAIRWOMAN PERKINS: Answer this for me, please. I understand that there
19 was only one entrance into Emerald Valley and that is Marley Drive.

20 MS. THOMAS: Yes, it is Marley -

21 CHAIRWOMAN PERKINS: That is the drive that -

22 MS. THOMAS: Marley Drive turns off of Broad River Road and comes down
23 into Emerald Valley. It's a, let's see about two miles. It dead ends down at the river,

1 there are two roads, three roads turning off of Marley into Emerald Valley of streets.
2 This is the next to the last one at Spotswood, but the only exit out of Emerald Valley is
3 on Broad River Road.

4 MS. CECERE: And tell me again where on Broad River Road it comes out.

5 MS. THOMAS: It's right by I-20, it's one block from I-20, right at -

6 MS. CECERE: After the gas station down there?

7 MS. THOMAS: - there, there's a car wash, Applebee's, a bank, First Citizens
8 Bank. There's a fire station right across the street, you know, Bojangle's, it's an
9 extremely busy intersection. And at 4:00, I mean, I've gotten where when I visit my
10 mother I try to leave before four because of the traffic getting out on to, off of Marley
11 even, turning because - now that's further on up, there's a call center at the front. But
12 there's, my main concern was for the elderly that are walking so much in that area and
13 I know, I have extreme difficulty staying within the speed limit, you know. I try real
14 hard, you know, but you have to ride your brake, you can save a lot of gas by just
15 starting at the top and taking your, you know, just go down. You have to use your
16 brakes I mean it is a -

17 CHAIRWOMAN PERKINS: Any other questions from the Board? Thank you
18 very much. You answered that for me. Is there anybody else who wants to talk from
19 Emerald Valley? Okay, Ms. Dunlap, you can come back and do a rebuttal.

20 MS. DUNLAP: Thank you. Okay, most of the neighbors that have spoken,
21 some live before you ever get to my home, some live, Mr. Williams lives past my home
22 so traffic would not be a problem and is not a problem for him because no one has to
23 come past his home. I was a member of that Emerald Valley Neighborhood

1 Association up until residents started to harass me about a pick up truck that was
2 parked on the side of the street with adequate view up and down Marley Drive and
3 until I called law enforcement out to make sure that I was within my rights and the, the
4 residents in that neighborhood was able to go up and down Marley Drive or see at the
5 corner up and down Marley Drive, I was harassed. So I left that alone and yes, I did
6 apply for a license back in 1990 when I first moved to Columbia to have a, a salon put
7 in my home, a one chair salon. And the traffic was the problem then with the
8 neighbors. I don't have a problem with traffic, the neighbors in my neighborhood, I
9 even walk my neighborhood sometimes. I have a bigger problem with dogs standing
10 as tall as the fence that they have in their yards. I don't have a problem with people
11 running over me or about to run over me when I'm walking in my neighborhood and I
12 don't know why other people would have that problem either. Once you turn onto
13 Spotswood Drive, there is no sidewalk, I have a six-foot property, private fence on my
14 property, how children would get out into the street is beyond me. We have already
15 established the fact that if you approved me for a daycare I would enclose the walkway
16 from my back door under my carport to my backyard. In the summertime, it's
17 extremely hot outside, how many children are gonna be outside in the summertime,
18 summertime when the temperature is 80 to 100 degrees? That doesn't happen. I
19 don't understand how I would let a child get away from me with a six-foot privacy fence
20 in my yard. The traffic, there's no traffic. The backing in and out might be a problem,
21 if I needed to correct that problem I would be able to do that.

22 CHAIRWOMAN PERKINS: Any questions? Thank you very much.

23 MS. DUNLAP: Thank you.

1 CHAIRWOMAN PERKINS: The Chair is now open for discussion in this case.

2 MR. RUSH: I guess my only concern was the obstruction of traffic, which Staff
3 sort of addressed that as far as what obstruction of traffic really means, actually means
4 parking on the side of the street. So if that's what, you know, Staff interpretation of
5 what that means.

6 CHAIRWOMAN PERKINS: And, what, what, did I hear testimony she said
7 there was a truck of hers parked on the side of the street? Did she mention that? Did
8 y'all hear that?

9 MR. RUSH: Yeah I, I think that was something in the past that you were
10 referring to.

11 MS. DUNLAP: That was in the past. I don't have that vehicle anymore and
12 when I said on the side of the street -

13 CHAIRWOMAN PERKINS: Okay, I'm not, Ms, thank you.

14 MR. RUSH: Yeah, and I think that was something she mentioned in the past.

15 CHAIRWOMAN PERKINS: Okay. Is there any other discussion? Somebody -

16 MR. RUSH: Unless Geo, did you see a truck when you were out there?

17 MR. PRICE: No.

18 CHAIRWOMAN PERKINS: [Inaudible] finding of fact.

19 MR. RUSH: I guess the property is zoned RS-MD. Will the proposed daycare
20 or home occupation operate an occupied residence? She said, yes. Would the
21 outdoor play area, yes. And she said that she would, would actually put a fence up
22 between the driveway and the back yard. So I think, you know, without belaboring it
23 and going through each one -

1 CHAIRWOMAN PERKINS: Well, we have, we have to go through each one.

2 MR. RUSH: We have to go through each one?

3 CHAIRWOMAN PERKINS: What will you do for, did she satisfy the
4 requirement in your mind on client pick up and drop off, obstructs traffic flow on
5 adjacent public road? And if not, is there a recommendation? Mr. Rush, that's
6 directed to you.

7 MR. RUSH: Oh, I'm sorry. No, I thought that, you know, when Staff addressed
8 the traffic flow issue, I'm okay with it.

9 CHAIRWOMAN PERKINS: Okay.

10 MR. RUSH: I'm okay with that.

11 CHAIRWOMAN PERKINS: Okay.

12 MR. MCDUFFIE: I agree with Mr. Rush.

13 CHAIRWOMAN PERKINS: Okay. [Inaudible] do a motion, is there a motion?

14 MR. RUSH: I, I would recommend that the Case 08-14 be approved based on
15 the fact that it met the requirements of the Special Exception code.

16 CHAIRWOMAN PERKINS: May I amend it to add the gate, would you amend
17 it?

18 MR. RUSH: Oh, yes, and to also add the, the gate that's supposed to, between
19 the, the driveway and the backyard and that if, you know, any vacancy or
20 abandonment or discontinuance of any period of 12 months that the, it will void the
21 Special Exception, so. And any violation of conditions placed on the approval require
22 rehearing of the case by the Board of Zoning Appeals.

23 CHAIRWOMAN PERKINS: Is there a second?

1 MR. MCDUFFIE: I'll second.

2 CHAIRWOMAN PERKINS: Okay, there's a motion on the floor that Case
3 number 08-14 SE meets the criteria for Special Exception. For those in favor of the
4 motion please raise your hand.

5 *[Approved: Rush, Perkins, McDuffie, Simons; Opposed: Branham, Perrine]*

6 MR. PRICE: Those in favor: Rush, Perkins, McDuffie, Simons.

7 CHAIRWOMAN PERKINS: Those opposed?

8 MR. PRICE: Branham, Perrine. Okay, I'm sorry were you for it Ms. Cecere?

9 MS. CECERE: Yes.

10 MR. PRICE: I'm sorry can we do that again?

11 CHAIRWOMAN PERKINS: All those in favor of the motion please have a show
12 of hands.

13 *[Approved: Rush, Perkins, McDuffie, Cecere, Simons; Opposed: Branham, Perrine]*

14 MR. PRICE: Rush, Perkins, McDuffie, Cecere, Simons.

15 CHAIRWOMAN PERKINS: All those opposed?

16 MR. PRICE: Branham, Perrine.

17 CHAIRWOMAN PERKINS: Ms. Dunlap your Special Exception has been
18 approved and Mr. Price will be in touch. Next case, Mr. Price.

19 *[Simons out at 4:15 p.m.]*

20 CHAIRWOMAN PERKINS: Okay, I move that the Board adjourn for about a 10
21 minute recess.

22 MR. RUSH: Second/

23 CHAIRWOMAN PERKINS: Okay all those in favor?

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

2 *[Recess]*

3 MS. PERRINE: I make a motion to come back into session.

4 MR. MCDUFFIE: I second it.

5 CHAIRWOMAN PERKINS: All those in favor?

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

7 **CASE 08-15 SE:**

8 MR. PRICE: Okay our next case, next item is Case 05, 08-15 SE. The
9 applicant is Lottie Powers, the location is 223 Sunnydale Drive. The applicant is
10 requesting the Board of Zoning Appeals to grant a Special Exception to permit the
11 establishment of a family daycare on property zoned RS-MD, which is single-family
12 residential medium density. The subject property has an existing single, single-family
13 residential structure, an inclining double driveway leads to the home. The rear of the
14 property is enclosed by a fence. The applicant proposes to establish a family day care
15 for a maximum of six children. The ages of the children will range from newborn to six
16 years of age. The proposed hours of operation are 6:00 a.m. to 6:00 p.m. The subject
17 property is located in the New Castle West subdivision. There is a case history for
18 this, it's found in your packets on page 51. There's the subject parcel, and as you can
19 see there's slight incline to the driveway and this is the rear of the yard. I believe,
20 believe Ms. Haynes went to grab a letter, but we do have a letter where Ms. Powers
21 was unable to attend and she's requested that someone speak in her behalf if she can
22 state her name, but we do have a letter stating that.

1 MR. MCDUFFIE: Before she starts Mr. Price, I think we get a, in the packet
2 here a sheet where they've signed off saying that there's no, no covenants, no
3 restrictive covenants and we don't have that.

4 MR. PRICE: Yeah, I've been trying to put that in there.

5 MR. MCDUFFIE: Does that exist?

6 MR. PRICE: Well, we have a, from Ms. Adrienne Roof, correct?

7 ADRIANNE ROOF: Yes.

8 MR. PRICE: She actually signed for Ms. Powers. She has authorization to
9 represent her in this case.

10 CHAIRWOMAN PERKINS: Does she live in that community?

11 MR. PRICE: Ms. Roof?

12 CHAIRWOMAN PERKINS: Yeah. You're signing off on the covenants
13 [inaudible].

14 MR. PRICE: She can address this.

15 **TESTIMONY OF ADRIANNE ROOF:**

16 MS. ROOF: Hello, my name is Adrienne Roof. I live at 2321 Sarah Matthews
17 Road, Columbia, South Carolina 29203. I'm standing in for Ms. Lottie Powers at 223
18 Sunnydale Drive, Columbia, South Carolina. I'm here to try to help establish a day
19 care, a family day care at the property zoned RS-MD.
20 It was posted for a Special Exemption, it was posted in the newspaper for public
21 hearing 15 days prior. The proposed daycare will operate in this residence from 6:00
22 a.m. to 6:00 p.m. There will be an outdoor play area in the backyard, which will be
23 fenced in. The clients will pick up and drop off kids in the driveway of this residence

1 but there will be adequate parking. There will be no obstructions of the main street,
2 which is Sunnydale. And all the regular, federal regulations regarding a home daycare
3 have been met. She has gone through DSS, everything has been approved and
4 everything is a go, we're just waiting for zoning. But no, there will be no traffic to be
5 impacted by this proposal. There will be no affect on vehicle or pedestrian safety.
6 There will be no noise, lights, fumes or obstruction of airflow on adjoining properties.
7 And there should be no adverse impact on the character of the environment. We are
8 making improvements and we are doing, working on the particular property as we
9 speak today. Do you have any questions for me?

10 CHAIRWOMAN PERKINS: Any questions for Ms. Roof? Do we have a picture
11 of the backyard? In, in my packet it shows that there's lumber in the backyard. Have
12 you, is there a specific place that you've designated that that will not be there?

13 MS. ROOF: Oh, that, that will be gone within the next two days. Those trees
14 were actually taken down just for the safety of the children and everything. So that will
15 not be there at all.

16 CHAIRWOMAN PERKINS: Are there any other questions from the Board for
17 Ms. Roof?

18 MR. MCDUFFIE: Can I, can I ask why the Special Exception 97-006 SE and
19 06-09 SE were previously denied? Is that something that I can ask Staff or -

20 MR. PRICE: I think we can actually grab those records but we'll probably have
21 to go through the Minutes to find it.

22 MR. MCDUFFIE: Alright.

23 MS. CECERE: Will you be working for Ms. Powers?

1 MS. ROOF: No, ma'am, she will have the minimum of children -

2 MS. CECERE: I'm sorry?

3 MS. ROOF: She'll have a minimum of kids, it will only be her.

4 MS. CECERE: Okay.

5 CHAIRWOMAN PERKINS: It says on her application there will be a part, one
6 and a part-time person. Is it your testimony that there will only be one person?

7 MS. ROOF: As far as I, I know there will only be one person that will be her.

8 CHAIRWOMAN PERKINS: And it is operating Monday through Friday?

9 MS. ROOF: Yes, ma'am, Monday through Friday.

10 CHAIRWOMAN PERKINS: Are there any other questions from the Board?

11 MR. BRANHAM: Will she be transporting the kids back and forth to the day
12 care? I see you've got a fairly large van out there. Was that, will that van be -

13 MS. ROOF: She, she will not.

14 MR. BRANHAM: She will not.

15 MS. ROOF: No, sir.

16 MS. PERRINE: And she does live in this home, right?

17 MS. ROOF: Yes, ma'am, that's her home. She's been there for over 20 years.

18 MS. CECERE: Is it part of a subdivision?

19 MS. ROOF: The New Castle subdivision.

20 MS. CECERE: New Castle?

21 MS. ROOF: Yes.

22 MS. CECERE: And do they, do you know if they have a covenant or bylaws?

23 MS. ROOF: I am not aware of any no, as far as what she told me they don't.

1 MS. CECERE: Mr. Price, did she sign anything saying that there was not?

2 MR. PRICE: I have a signature from Ms. Roof stating that there are no
3 covenants [inaudible] excuse me.

4 MS. CECERE: I'm sorry?

5 CHAIRWOMAN PERKINS: Do you live in that subdivision Ms. Roof?

6 MS. ROOF: I do not.

7 MS. PERRINE: Why could Ms. Powers not be here?

8 MS. ROOF: Ms. Powers had a car accident a couple days ago and she's not
9 able to actually, she asked me if I would actually represent her.

10 MS. PERRINE: Oh, okay. Thank you.

11 CHAIRWOMAN PERKINS: Are there any other questions from the Board? No
12 one signed up in opposition. Thank you very much Ms. Roof. The Chair will entertain
13 a discussion. Okay, let's go through the findings that were presented. Who would like
14 to -

15 MS. CECERE: On Case number 08-15 SE we found that the public hearing
16 was posted and a notice was posted and it also was posted in the newspaper. The
17 day care will operate from the residence and there is an outdoor play area, which I
18 believe is not, is currently not fully fenced, is that right?

19 MR. PRICE: It's fenced in.

20 MS. CECERE: It is fenced, okay. It was noted that there were tree stumps and
21 some other building materials that would have to be removed by the time this day care
22 would start to operate. There is no obstruction of traffic flow, there is plenty of parking,
23 and the applicant has met all the federal and state guidelines, no traffic impact and no

1 impact on vehicle or pedestrian safety, no noise, etc., and let's see. No adverse
2 impact on the environs, so and the spacing or improvement or buildings [inaudible]
3 would not be appropriate in this, not be considered.

4 CHAIRWOMAN PERKINS: Okay, hearing the finding of facts is there a
5 motion?

6 MR. MCDUFFIE: Madam Chair, I'll make a motion to approve Case number
7 08-15 SE subject to, based on the finding of fact subject to the following conditions.
8 One, that vacancy, abandonment or discontinuance for any period of 12 months as
9 verified by business license would void the Special Exception and two that any
10 violations to the conditions placed on the approval would require rehearing of the case
11 by the Board of Zoning Appeals.

12 CHAIRWOMAN PERKINS: Is there a second?

13 MS. CECERE: I'll second.

14 CHAIRWOMAN PERKINS: Okay, there's a motion on the floor, floor to approve
15 Case number 08-15 SE based on stated finding of facts with the condition that
16 vacancy, abandonment or discontinuation for any period of 12 months will void the
17 Special Exception any violations to the conditions placed on this approval would
18 require a rehearing of the case by the Board of Zoning Appeals. All those in favor
19 please raise your hand.

20 *[Approved: Rush, Branham, Perkins, McDuffie, Cecere; Opposed: Perrine; Absent:*
21 *Simons]*

22 MR. PRICE: Those in favor are Rush, Branham, Perkins, McDuffie, Cecere.

23 CHAIRWOMAN PERKINS: Opposed?

1 MR. PRICE: Perrine.

2 CHAIRWOMAN PERKINS: Ms. Roof, you have your Special Exception and Mr.
3 Price will be in touch. Next case, Mr. Price.

4 MS. ROOF: Thank you.

5 **CASE 08-17 V:**

6 MR. PRICE: The next case is, well the next item is Case 08-17 -

7 CHAIRWOMAN PERKINS: Mr. Williamson, are you here?

8 MR. WILLIAMSON: Yes.

9 CHAIRWOMAN PERKINS: Please sign in. Go ahead, Mr. Price, I'm sorry.

10 MR. PRICE: Item 08-17 Variance. The applicant is requesting the Board of, of
11 Appeal to grant a waiver to the sidewalk requirements on property zoned PDD. The
12 applicant is Dave Williamson. The location is 4546 Hardscrabble Road, parcel size is
13 a little more or less than an acre. The existing land use is commercial structures being
14 erected at, at this time. A 7200 square foot building is currently under construction.
15 The applicant, the, the parcel is being developed for a video store and a yet to be
16 determined use. This area is primarily comprised of commercial structures and uses,
17 and that's, that's on Hardscrabble Road, and residential uses both multi family and
18 single-family on roads off of Hardscrabble. I'm gonna go through some of the pictures
19 just, I'll kind of go through the discussions on this one. According to what I found in
20 the packet from the applicant, the applicant's requesting to have his requirement
21 waived because of an existing gas transmission easement, which runs through a
22 section of the property and also the lack of connectivity for the sidewalks. There's an
23 existing drainage easement along Hardscrabble Road and also the topography, those

1 are the reasons stated. Here's a picture along the property and as you can see, this is
2 the drainage easement, I have a different shot and this is along Hardscrabble Road
3 facing Clemson. Here's another shot. Right here you'll see the gas line that runs
4 through here and then it also goes across the road. This, there are certain parts of the
5 northeast this, this line just runs forever. This is a picture of the subject parcel and the
6 building that's under construction. Headed, I guess this is north toward Lee Road and
7 also Lake Carolina if you're familiar with the Hardscrabble or the northeast area.
8 Another shot. This is another picture of the, from the subject parcel facing south. This
9 road here and also this road, they lead into residential developments, I believe this
10 may be headed toward a multi-family development, but this leads into Ashley Hall and
11 Magnolia Hall, if I have those names correct. Another shot going to the residential
12 portion.

13 MS. CECERE: Mr. Price, this is on Hardscrabble after you cross Clemson
14 Road?

15 MR. PRICE: Yes, ma'am. I'll, if you'll allow me I will actually pull up the, the
16 aerial for it.

17 CHAIRWOMAN PERKINS: Were you sworn in, Mr. Williamson?

18 MR. WILLIAMSON: Yes, yes I was.

19 MR. PRICE: Now headed back this way is Clemson Road. This is of course
20 going down Hardscrabble, there's Lee Road and as stated as you continue down
21 you'll, you'll come to the Summit, a back entrance for the Summit and also going
22 toward Lake Carolina.

23 MS. CECERE: Does any of that area right up there have sidewalks?

1 MR. PRICE: No, ma'am.

2 MS. CECERE: Was it built before -

3 MR. PRICE: Yes.

4 MS. CECERE: - 2005?

5 MR. PRICE: Right. Yes, ma'am.

6 CHAIRWOMAN PERKINS: And this is a PD -

7 MR. PRICE: It's a PDD but it was designated for commercial use so as the site
8 plans have come in for it to be developed it would be required for the, to put, install
9 sidewalks. There's one of the things, as you can see, I guess this, this is the gas
10 easement correct?

11 MR. WILLIAMSON: That's correct.

12 MR. PRICE: That's running through here. One of the things Staff did note that
13 there are a few parcels in this area that are not developed at this time. So I don't want
14 to say - well, you have to look at each case individually, it's kind of like a precedent
15 because these other ones are gonna come in and may, you know, even though they
16 would need to state their own hardship, excuse me, exceptional or extraordinary
17 circumstances exist, they may come in for the same type of request.

18 CHAIRWOMAN PERKINS: Any other questions? There being none, Mr. David
19 Williamson?

20 **TESTIMONY OF DAVE WILLIAMSON:**

21 MR. WILLIAMSON: Yes my name is David Williamson, address is 4594
22 Johnson Road, Middleville, Michigan. I'm the project manager for Rockford
23 Construction, we're the general contractor on this project, we work hand in hand with

1 Family Video and other projects throughout this area. As Mr. Price stated we are
2 asking for a Variance for several reasons. One reason is the major gas easement,
3 which is 40' wide off from, going down for the Carolina Gas transmission. Other is the
4 connectivity, there is no connectivity. We have, there's no other projects or properties
5 in that, this area that we can find that have sidewalks at all. We do have a couple of
6 parcels next to us that are undeveloped at this time but even if we were to require to
7 have sidewalks we're just, just a couple parcels right there that have sidewalks. Just
8 to kind of give you some background on where these sidewalks came into play. Many
9 months after we were going, excuse me, through our building application process this
10 came up at the very end. We were, we were unaware that we were required to have
11 any sidewalks, to put sidewalks around the site is an additional cost of between forty
12 and fifty thousand dollars because of grading, retaining walls or the concrete itself.
13 Now this is all after the fact of when we have put our contract together with Family
14 Video, we were informed with it when we were going through the process of looking at
15 this parcel to build on, and so after Family Video had bought this property and we were
16 finding out that now we have to put a sidewalk on it, so it was a little strange to us.
17 Just to go through, the Carolina Gas transmission that's a 40' easement, we have
18 proposed to them to put a concrete flume to drain our site across their easement.
19 They wouldn't allow it, they won't allow the concrete to go across their easement
20 because they have to go up and down that easement with machinery to check it and
21 they didn't want, they didn't want to be breaking it. So I know that's gonna be an issue
22 with putting sidewalks through that area. Geo, I don't believe we have a picture of the,
23 there's actually vents that, where the proposed sidewalks are supposed to go there's

1 vents from the gas transmission. We would have to have those, pay to have those
2 moved also. I do have more pictures. Along Hardscrabble Road that is a fairly busy
3 road with vehicular traffic. The posted speed limit is 40 miles an hour, where we're
4 proposed to put the sidewalks is within six feet of the side of the road. So that is
5 another issue we're looking at. Also there is gonna be drainage issues with
6 Hardscrabble Road. That is just a ditch for drainage now and so for us to put a
7 sidewalk along that Hardscrabble Road we're gonna be, run into drainage issues with -
8 we're drastically decreasing the amount of drainage of a ditch that we can get down
9 through there. On Elder's Pond, if you look east, I believe it's east on Elder's Pond
10 there is, where we're asked to put the proposed sidewalks there's going to be grading
11 issues. We're gonna have, we'll be required to grade into the existing landscaping
12 buffer that we're required to leave in place so we will be taking down trees to put the
13 sidewalk in also, not to mention having to put a retaining wall to get that, to make it
14 work. Have you got any questions?

15 CHAIRWOMAN PERKINS: Are there questions for Mr. Williamson? I have
16 one, I heard in your testimony that you said that the sidewalks came as an end -

17 MR. WILLIAMSON: It was an, it was one of our -

18 CHAIRWOMAN PERKINS: From who?

19 MR. WILLIAMSON: - what we felt was our final review and final approval, it
20 came at the very end.

21 CHAIRWOMAN PERKINS: With whom?

22 MR. WILLIAMSON: It was with Hope Hasty.

1 CHAIRWOMAN PERKINS: Okay, so it was not with the county it was with
2 some private -

3 MR. WILLIAMSON: No, Hope Hasty is with the County, I'm sorry. Hasty, I'm
4 sorry. I'm sorry. And then at that time I spoke with Mr. Price and kind of expressed
5 our thoughts on that and he let us know what there was, we could approve it then and
6 take that and then we could appeal it later because it was a -

7 MR. PRICE: Okay. Let me explain this to you because he's making it sound
8 worse than what it is. They have a choice, they can make, they can submit their plan,
9 so let's say he said, look I don't want to do sidewalks. Well, if he's not gonna show
10 them on the plans we aren't gonna review them because that is a requirement. So
11 one of the things that we'll tell the applicants, look go and submit your plans showing
12 your sidewalks and we can review them, go through the whole process with, you
13 know, Staff, engineering, all the other agencies and departments that will review it.
14 Then they can still apply for the Variance. If they were to get the Variance granted
15 then they could resubmit some plans without the sidewalks. So what that does is it
16 allows them to go forward with the process as opposed to just waiting, you know,
17 maybe a couple of months until it goes -

18 CHAIRWOMAN PERKINS: But they are aware.

19 MR. PRICE: They are aware.

20 CHAIRWOMAN PERKINS: They are very aware when they turn in that plan
21 with the sidewalks not sited in that plan that they are not -

22 MR. PRICE: The plans, the plans show the sidewalks.

23 CHAIRWOMAN PERKINS: Sidewalks, okay so his plan did show sidewalks.

1 MR. PRICE: Yes.

2 CHAIRWOMAN PERKINS: Oh, okay.

3 MR. PRICE: And, and let's just say if you were to grant the Variance he would
4 have to submit revised plans without the sidewalks.

5 CHAIRWOMAN PERKINS: Okay. Are there any -

6 MS. CECERE: When was this property purchased?

7 MR. WILLIAMSON: I want to say that it was in October.

8 MS. CECERE: Of 2 -

9 MR. WILLIAMSON: Of 2007, yes, we began our process in June of 2007.

10 MS. CECERE: And did a local architect draw up the plans?

11 MR. WILLIAMSON: No, the architect is out of Michigan. Civil engineer is out of
12 Charlotte, North Carolina. Civil engineer being our site engineer.

13 MS. CECERE: Right.

14 CHAIRWOMAN PERKINS: So did he [inaudible] his plans and stuff he did, he
15 did know that the gas easement was there?

16 MR. WILLIAMSON: Yes.

17 CHAIRWOMAN PERKINS: Okay.

18 MR. WILLIAMSON: Yeah, we have very strict rules and regulations with that
19 gas easement. We have to have a member of the South Carolina -

20 CHAIRWOMAN PERKINS: And you also knew at that time that sidewalks were
21 a part of the new ordinance.

22 MR. WILLIAMSON: It was at the, at the very end when we were really striding.

23 CHAIRWOMAN PERKINS: [Inaudible] building.

1 MR. WILLIAMSON: Before we commenced building. We were working
2 diligently to get the building permits so we could move forward.

3 MR. KOCY: Madam Chair?

4 CHAIRWOMAN PERKINS: Yes. Yes, sir?

5 MR. KOCY: May I make a statement please?

6 CHAIRWOMAN PERKINS: Yes, sir.

7 MR. KOCY: This is undeveloped property, it's commercial uses. It makes
8 perfect business sense for me to provide sidewalks. [Inaudible] and pipeline
9 conditions they manage to accommodate these conditions and erect the structure and
10 erect the parking lot. Yes, it might cost a little more money to put a sidewalk in there,
11 but sidewalks are a great pedestrian benefit in this county; especially when gasoline is
12 \$3.30 a gallon these days to enable people to walk safely and not gamble with traffic,
13 to use local retail establishments that are being developed in the county. And
14 unfortunately he's surrounded by vacant properties but this property will be developed
15 and if we allow this site to go without a sidewalk we prevent these people, they won't
16 be able to walk to here and then stop.

17 MR. WILLIAMSON: If I can say something.

18 CHAIRWOMAN PERKINS: Thank you very much.

19 MR. WILLIAMSON: There's no other sidewalks in that, within us -

20 CHAIRWOMAN PERKINS: We understand that yeah but development -

21 MR. WILLIAMSON: Nor are they across the road that are developed down the
22 road. I'm just, my only concern when building an island of sidewalks for our three
23 parcels at this point and -

1 CHAIRWOMAN PERKINS: Because it's the law, you know, unless you can
2 give me a hardship, you know, on why it should, the gas, the gas, you know, that, that
3 was there and you admitted that it was there, you knew it was there. And you knew
4 that the sidewalks were probably most likely even though you found out at the last
5 minute, I asked you and it was before you started building on the project, so.

6 MR. WILLIAMSON: And that was my conversation with Mr. Price cause we
7 were so eager to get going that we could go after a Variance at that time.

8 CHAIRWOMAN PERKINS: Are there any other questions for Mr. Williamson?
9 No one signed up in opposition.

10 MR. WILLIAMSON: There was, I don't know what form I signed up on earlier
11 and I -

12 CHAIRWOMAN PERKINS: Is there, is some, is someone here in opposition to
13 -

14 MR. WILLIAMSON: Not opposition, I'm sorry just another one of my
15 colleagues.

16 MR. PRICE: Madam Chair?

17 CHAIRWOMAN PERKINS: Yes, sir?

18 MR. PRICE: What to just point something out to you, I think we did this at the
19 last case also, or one of the previous cases. If the, if it is the Board's intention to deny
20 the request and require sidewalks I would like, I would like to hear the applicant speak
21 more to the gas easement and the, and any restrictions that may be placed on him
22 from the gas company about putting sidewalks there because even though they may
23 not be able to go right here, sidewalks may be appropriate in here and also at a certain

1 point going along the front. Because when it, you know, I think human nature says if
2 you're walking down here it's your intention to go down, let's say to Publix, you're
3 gonna cut through the parking lot, so.

4 CHAIRWOMAN PERKINS: Well, that may be true, but there's an ordinance in
5 line for that and I don't see that as exceptionally extraordinary because he said that he
6 knew that the gas -

7 MR. MCDUFFIE: It certainly looks like there's a driveway that crosses the gas
8 easement.

9 MR. KOCY: Well, I, I agree with Mr. Price that the Variance might be granted
10 just a short, allow that no driveway over this small part of the easement of the gas line
11 cause I do think that people, if, if, using me as an every, everyday Joe, excuse the
12 pun, and I'm walking across Hardscrabble I might cut into the parking lot if I come to a
13 gas easement. And I certainly don't want to put the applicant between a rock and a
14 hard place where the gas company says no way, no sidewalks and I say oh yes I want
15 to see a sidewalk there. That's an impossible situation for him, so if we're gonna grant
16 a waiver do it only over the gas easement but require it along Elder's Pond Road and
17 along the non-easement areas of Hardscrabble.

18 MR. MCDUFFIE: Mr. Price, can you switch back to the, to the photos for a
19 minute? On, on that photo right there there's obviously a well-worn walking path. I
20 guess that's across the street from where we're looking at but there the people are,
21 people are definitely walking like along Hardscrabble there. I mean, there's certainly,
22 apparently some pedestrian traffic there and I think that we would be, you know,

1 remiss as a Board to, you know, to grant a Variance removing them, obviating the
2 need for a sidewalk there, so.

3 MR. WILLIAMSON: Can I ask the Board that Mr. Bill Soloman, member of
4 Family Video, speak?

5 CHAIRWOMAN PERKINS: Was he sworn in?

6 MR. WILLIAMSON: He was sworn in and we did both sign the sheet so I don't
7 know what sheet we signed, but we did.

8 CHAIRWOMAN PERKINS: Okay.

9 MR. SOLOMAN: My name's Bill Soloman.

10 CHAIRWOMAN PERKINS: [Inaudible]

11 MR. SOLOMAN: Oh, I'm sorry.

12 MS. CECERE: May I ask the Staff a question while we're waiting for that?
13 What, what would take place then over that gas line, what would happen there it just
14 would be left dirt?

15 MR. KOCY: I'd ask the applicant. I don't know what the gas company requires
16 him to do as he's developing on a parcel with a gas line easement.

17 MS. CECERE: Because I'm sure in the city or any place else where there is a
18 gas line and the sidewalks continue -

19 MR. KOCY: This is probably a transmission line -

20 MR. WILLIAMSON: This is a major transmission line for South Carolina, this
21 isn't just a, a service line for a small development. These are eight inch lines with
22 warming runs and for us to even get a drive across there took a lot of negotiating and

1 a lot of additional costs just to get the drive to ramp up and over to get the amount of
2 clearance that we needed for heavy traffic. So for us to move vents, move -

3 MS. CECERE: I mean, you were aware of this when you bought this, well the
4 owner bought this piece of property, correct?

5 **TESTIMONEY OF BILL SOLOMAN:**

6 MR. SOLOMAN: That's, that's the confusion is, is that when we went through
7 the city process and, and got all the different, found out the different rules and
8 regulations to build our building they came to us with here's what the costs are gonna
9 be, this is what you're gonna have to do. We said okay let's go ahead and purchase
10 this property. We purchased it, they then go to try to get their building permit -

11 MS. CECERE: Who's they?

12 MR. MCDUFFIE: By they, you mean?

13 MR. SOLOMAN: Rockford Construction, I'm sorry, I'm sorry. Rockford
14 Construction goes to get the building permit and they now find out hey we need to
15 have sidewalks on there so then, yes they do go back and draw up drawings that add
16 the sidewalks so that we can get through the process. We already own the property
17 so we have to, you know, we have to go through a process to get to this Variance
18 meeting here so that we can show that, you know, we're gonna look at a fifty thousand
19 dollar sidewalk that goes nowhere. You drive up and down Hardscrabble, there's
20 existing buildings all up and down except for that one quadrant where we're at, we're
21 gonna have sidewalks even if our neighbors have them, we still, what are we gonna,
22 go back and forth from each other's businesses on it, walking back and forth? There's
23 none up and down either side of Hardscrabble and when you go back to Elder's Pond

1 the gentleman said there's got, for pedestrian access, even in that development if you
2 go back there and if the new developments behind us add sidewalks, the sidewalk
3 does not, there's no sidewalk from that development, from the housing development
4 all the way up to the, to the new parcels that are undeveloped. So then, so that
5 whoever put in the subdivision that they're gonna go back in and add sidewalks to tie
6 into the new, to the new development, I don't think so. You know, so I mean it just, it
7 seems silly that I've got to spend fifty thousand dollars on sidewalks that are gonna go
8 nowhere and bring me, you know, give any pedestrians any, I mean, that's not safe. If
9 there is a worn path that's not, you know, that's not safe, you know -

10 MR. MCDUFFIE: I agree.

11 BILL SOLOMAN: And I don't want to give them an idea, okay so is everybody,
12 if we're gonna tie into sidewalks all, you know, up and down Hardscrabble and we're
13 gonna get people all the way up and down Hardscrabble to come to us that's one
14 thing. But if you drive out there, if you go look yourself, there are no sidewalks and it's
15 not like the things that are there, they're not going away. It's not like that we're gonna
16 have redevelopment so there's gonna be an opportunity to have a new developer
17 come in and put new sidewalks in, that stuff's gonna be there for years. Thirty years
18 from now we're gonna be the only corner with sidewalks there and that makes no
19 sense, it's not fair. So that's the hardship. I understand I love sidewalks too, I love
20 sidewalks too, that's great.

21 CHAIRWOMAN PERKINS: Your hardship is not there.

1 MR. SOLOMAN: Well, I just, no the, I think the hardship is, is that, is that we
2 have no connection with any other sidewalks and there's none gonna be in the future
3 that I can see, if you drive up and down those roads.

4 CHAIRWOMAN PERKINS: [Inaudible] property that's surrounding that video -

5 MR. SOLOMAN: I'm sorry?

6 CHAIRWOMAN PERKINS: Do you own the property?

7 MR. SOLOMAN: We, we don't and those, and I'm not saying that there's not
8 gonna be sidewalks on those adjacent commercial, if those are commercially zoned
9 properties. I'm not saying that there won't be, I'm just saying that that's a big bill to
10 pay for just some sidewalks that are gonna sit there and not be used for the next 30
11 years or whatever. I'm just throwing a random number out there, but I'm looking
12 around, everything looks nice and new and doesn't look like anything's gonna get
13 redeveloped for a long time. So I can say it may not be a lot of money to, to most
14 people but for the type of business we run, that's a lot of money, fifty thousand dollars,
15 so.

16 CHAIRWOMAN PERKINS: Any questions for, any other questions for Mr.
17 Soloman? There being no other questions, thank you very much.

18 MR. SOLOMAN: Okay, thank you.

19 CHAIRWOMAN PERKINS: We can go through the finding of facts and if you, if
20 he didn't address a particular issue, have a question -

21 MR. RUSH: I have a couple questions, actually the parcels behind their
22 property, are those zoned commercial also?

23 CHAIRWOMAN PERKINS: PDD.

1 MR. RUSH: Yeah, obviously those -

2 MR. KOCY: I think those all are, yes.

3 MR. RUSH: The ones behind them right there.

4 MS. CECERE: And across the street?

5 MR. RUSH: I understand the concern of the applicant but if we don't start
6 somewhere we'll never get this process going.

7 MR. KOCY: Correct.

8 MR. RUSH: With the development, I guess this is a question for, I forgot your
9 name, I'm sorry, no, no yeah Jennie. With the development, and I think there are like
10 restaurants and card shops and different things like that across from Sonic, what are
11 we gonna do with those properties that's been developed? Are there, are we gonna
12 start, you know, will we have to go back with those properties and add sidewalk or,
13 how's that gonna -

14 MS. SHERRY-LINDER: The current ordinance does not address sidewalks as
15 far as expansion. That's one of the things that needs to be added into the ordinance
16 along with the sidewalk ordinance that is presently being worked on and in
17 conjunction with that capital improvements program that will say that, that will allow
18 for those who can't put in sidewalks that need a Variance it would, they would pay a
19 fee instead of not putting in sidewalks. So you either pay or you construct, that would
20 be the two choices. And that monies would be used in areas to, in other jurisdictions
21 where I worked we used it to connect sidewalks of existing places so that basically on
22 the Safe Routes to School Program. So it really is the, what's coming, it's just not
23 brought to fruition yet, so I apologize.

1 CHAIRWOMAN PERKINS: So these conditions of putting in sidewalks are
2 generally applied to all the property in that -

3 MS. SHERRY-LINDER: Absolutely, absolutely.

4 CHAIRWOMAN PERKINS: So that, in the finding of facts that would, you know,
5 would be an answer to that question, and if the Board [inaudible] we can go through
6 the finding of facts at this moment and answer each question. And I didn't
7 [inaudible].

8 MR. BRANHAM: The property is zoned CG, GC. Was notice of the hearing
9 public hearing posted, it was. [Inaudible] 15 days prior to the meeting today. Are
10 there are extraordinary or exceptional conditions pertaining to the particular piece of
11 property. I didn't see any. Do these conditions generally apply to other properties in
12 the vicinity, yes. What, that is future construction now not previous construction.
13 Would the application of this chapter to the particular piece of property [inaudible]
14 prohibit or unreasonably restrict the utilization of the property because of the
15 aforesaid extraordinary and exceptional conditions, I put no, I found no. And will the
16 granting of this Variance be a substantial detriment to the adjacent property or to the
17 public good or will it harm the character of the district, and I put no.

18 CHAIRWOMAN PERKINS: Okay. Board Members, we have heard the finding
19 of facts. Are we in agreement with the way they were answered? If we are is there a
20 motion?

21 MR. MCDUFFIE: Madam Chair, I'll make a motion to deny Variance 08-17
22 based on the fact that there are not extraordinary and exceptional conditions

1 pertaining to the particular piece of property, and that the same conditions generally
2 apply to other properties in the vicinity.

3 MS. CECERE: I second the motion.

4 CHAIRWOMAN PERKINS: There is a motion on the floor to deny Case 08-17
5 V based on the conditions of the sidewalks do generally apply to other properties in
6 the area and that it does not unreasonably restrict the utilization of the property
7 because of extraordinary or exceptional conditions. All those in favor of that -

8 MR. RUSH: I don't know if I can add something, too. I think we mentioned
9 earlier -

10 CHAIRWOMAN PERKINS: Well, you can, yeah you can.

11 MR. RUSH: Because I think we mentioned earlier as far as that portion where
12 the gas line is maybe having the Variance be -

13 MR. MCDUFFIE: I, I would accept that amendment to work around the gas line
14 or -

15 MR. PRICE: Would that not be, that wouldn't be a denial then, right? It'd be an
16 approved Variance but the, but the conditions would be that it only applies to -

17 MR. RUSH: The gas line.

18 MR. PRICE: - the portion where the gas is.

19 MR. MCDUFFIE: So only, only grant a Variance for the portion that has, those
20 obstructed by the gas line.

21 MR. PRICE: Yes.

22 MR. MCDUFFIE: Alright so I, can I rescind my, my earlier motion then and
23 create a new motion; withdraw my earlier motion, create a new motion?

1 [Inaudible discussion]

2 CHAIRWOMAN PERKINS: Okay, we can start over.

3 MR. RUSH: I'll do it if I can remember all that. I would like to approve the
4 Variance for Case 08-17, only for the portion of property that is affected by the gas
5 line.

6 CHAIRWOMAN PERKINS: And I would need an explanation of that because
7 that gas line runs, would you, is there some way that you could stipulate that little
8 part?

9 MR. MCDUFFIE: Within the gas easement?

10 MR. RUSH: Yeah.

11 MR. PRICE: Yes, yes.

12 CHAIRWOMAN PERKINS: Okay.

13 MR. RUSH: Yeah, it crosses the gas easement.

14 MR. MCDUFFIE: It crosses the -

15 MS. CECERE: It crosses the property.

16 MR. MCDUFFIE: Grant the variance within the gas easement.

17 CHAIRWOMAN PERKINS: Yeah, I have a question. It hadn't been seconded
18 yet, so go back to the, to where the gas easement is.

19 MR. PRICE: I have a better picture from another -

20 CHAIRWOMAN PERKINS: I think he used the word, that word - so is it, how,
21 as I understand the gas easement goes all the way down [inaudible] -

22 MR. PRICE: No it's just this little portion here, I wish I had -

1 MR. KOCY: [Inaudible] it starts there and it goes along to there and it crosses
2 under the road. So you'd have a bit of a sidewalk there and it would stop and then
3 the sidewalk will pick up here and continue up the road.

4 CHAIRWOMAN PERKINS: Okay.

5 MS. CECERE: They've got a driveway going across it and a road going across
6 it, I mean, I don't understand.

7 CHAIRWOMAN PERKINS: Okay, is there a second to your motion?

8 MS. PERRINE: I second.

9 CHAIRWOMAN PERKINS: Well, I'm not certain that I can - there is a motion to
10 accept Case 08-17 V -

11 MR. RUSH: Did you understand -

12 CHAIRWOMAN PERKINS: No, I'm not quite sure that I understood the motion.
13 You want to, you're, if we're accepting this then we're saying we're allowing him not
14 to do the sidewalk.

15 MR. RUSH: No, it's only the sidewalk, we're, we're not allowing him to do
16 sidewalks only on that 40' easement. The rest of the property has to be outlined with
17 sidewalks.

18 MR. KOCY: You're only granting this Variance for an itty-bitty portion of the
19 property and that's the gas line easement, that's the only Variance you're granting.
20 Everything else has to have a sidewalk, you're removing just the gas line portion.

21 CHAIRWOMAN PERKINS: Okay, so restate your motion again.

22 MR. RUSH: I make a motion to approve the Variance for 08-17 only on the 40'
23 gas line easement. The rest of the property should be outlined with sidewalk.

1 CHAIRWOMAN PERKINS: Is there a second?

2 MS. PERRINE: I second.

3 CHAIRWOMAN PERKINS: There's a motion on the floor that 07, 08-17 V be
4 approved with the exception of the approximate 40' gas line easement. All those, is
5 that basically what you, okay so it's approval for the 40', right. Okay approval for the
6 40' and everything else has to remain the same. All those in favor have a show of
7 hands.

8 *[Approved: Rush, Branham, Perkins, Perrine, McDuffie; Opposed: Cecere; Absent:*
9 *Simons]*

10 MR. PRICE: Those in favor: Rush, Branham, Perrine, Perkins, McDuffie.

11 CHAIRWOMAN PERKINS: Opposed?

12 MR. PRICE: Cecere.

13 CHAIRWOMAN PERKINS: Next case, Mr. Price.

14 **CASE 08-19 V:**

15 MR. PRICE: Okay. The next item is Case 08-19 Variance. The applicant is
16 requesting the Board of Zoning Appeals to grant a Variance to exceed the maximum
17 allowance of 18' for pole lighting on property zoned GC. The applicant is Jeff Miller,
18 the location is 124 Killian Commons Parkway, parcel size is almost two acres. The
19 existing land use is, is retail, automobile sales. The applicant is – I would like to -
20 [inaudible] okay I was probably looking at the parent track. It is, it's a six-acre tract
21 and I would like the applicant to actually state what his, the current height of the lights
22 were. I thought they were 25' and that's the information I got, but just for clarification
23 if he could state what they currently are so we can establish what the Variance

1 actually would be. The surrounding areas is comprised of a mixture of developed
2 and undeveloped commercial and industrial parcels. And as you can see this is I
3 believe it's interstate -

4 MS. CECERE: I-77.

5 MR. PRICE: - yeah I-77, here's Killian Road in the background here cause I-77
6 should run along here and of course as I stated in the discussion the, the subject
7 parcel's located at a lower grade than Killian Road. This is a view from the corner of I
8 believe it's Taramount(?) and Killian Road or sometimes known as Clemson.
9 Another view, a view looking toward Killian Road. That's it.

10 CHAIRWOMAN PERKINS: Mr. Jeff Mills[sic], please come to the podium state
11 your name and address for the Record.

12 **TESTIMONY OF JEFF MILLER:**

13 MR. MILLER: Yes, ma'am, my name is Jeff Miller, 2907 Providence Road
14 Charlotte, North Carolina. I'm with Choate Construction, we're the design builders on
15 this project. We have a Midlands Honda representative with us and we're, like he
16 said we're looking to get a Variance on the pole height. We have 25' poles on site
17 right now, which was the document that we [inaudible] and had the permit on. At the
18 end of the project we learned that they were too tall so we've met with the Staff,
19 we've met with Anna Amelia [sic], we've talked with the Staff and came up with a plan
20 of reducing half the poles. Kind of like with the Wal-Mart, which is across the
21 interchange on the other side of the road, they have kind of a mixed use height of
22 poles to meet the requirement and this is, the plan that's in your booklet is what the

1 Staff and we had come up with as far as an agreement as a resolution to the
2 situation we're in.

3 CHAIRWOMAN PERKINS: How many, what would, give me a number, what
4 would equate to half the posts?

5 MR. MILLER: I think we have 22, we're just about right in half, there's 22 that
6 are, that meet the requirement and we have about that many above the requirement
7 remaining the same.

8 MS. CECERE: How many with the requirement, 22?

9 MR. MILLER: Twenty-two.

10 MS. CECERE: And how many don't?

11 MR. MILLER: I think it's 22 or 23, I think it's 46, it's right just in half. I can count
12 them if you want. I mean, you can see the red meets the requirement and the green
13 are over, obviously this is a car dealership, so.

14 [Inaudible discussion]

15 MS. CECERE: Yeah it is red and green; little tiny dots, Madam Chair.

16 CHAIRWOMAN PERKINS: What would be, what did you say your hard, your
17 hardship was Mr. Miller, you said Miller?

18 MR. MILLER: Miller, yes, ma'am. Well, the hardship is, is we have poles in
19 place, installed. If we had to cut them all down in half we'd have to tear the parking
20 lot up and increase the number of poles to get the levels that we're looking to get to.
21 So, I mean, that's why in meeting with the Staff we're trying to come to a compromise
22 on this plan of what we can do, you know. And that's why we looked at Wal-Mart that
23 was across the interchange from us that had the mixed use. I know Carrier is next

1 door to us, which does have 25' poles, but I know they've been there longer, so it
2 didn't seem like it was an unreasonable -

3 CHAIRWOMAN PERKINS: Did I understand you to say that you are the project
4 manager, did you not, did you say you were the project manager?

5 MR. MILLER: Yes, ma'am.

6 CHAIRWOMAN PERKINS: Okay. Did you not investigate the lighting with the
7 ordinance here?

8 MR. MILLER: Yes, ma'am we did, we investigated the lighting. We had
9 conversations about the lighting cause on the front side of the permit process we,
10 they asked for light shields, which are deflectors to keep us from having the bleeding
11 of the light off the property. We installed shields and, and answered some questions
12 on the light levels for permitting and then, you know. So, I mean, we answered all
13 the questions that we knew of.

14 CHAIRWOMAN PERKINS: And they didn't at that time give you the pole
15 height?

16 MR. MILLER: The pole heights were shown permitted set of drawings,
17 everything was on the permitting set of drawings, ma'am.

18 MS. CECERE: The poles you had on your permit you had the one 22, it
19 showed 22 to exceed?

20 MR. MILLER: The 25' poles yes. ma'am.

21 MS. CECERE: And were you told that that was not within the code?

22 MR. MILLER: We've talked, I mean, we had some conversations and all the
23 questions were around the shields, what the shoebox, which is the top of the light

1 looked like, and all the questions revolved around that, the emails revolved around
2 that and that was, that was the only thing that we discussed in permitting. And then
3 right -

4 CHAIRWOMAN PERKINS: But the pole, you were saying that the plan was
5 approved as it is by the county?

6 MR. MILLER: Yes, ma'am.

7 CHAIRWOMAN PERKINS: And that -

8 MR. MILLER: Yes, ma'am and then -

9 CHAIRWOMAN PERKINS: - the lighting and all?

10 MR. MILLER: Yes, ma'am, and it was the issue at the end of the project in
11 order to get our CO, so since then we've in good faith cause we did investigate on
12 the front side trying to do what we needed to do and we said alright we'll compromise
13 and we had to come for to get a Variance approval.

14 CHAIRWOMAN PERKINS: But let me ask you this Mr., let me make sure that
15 you filled this application out -

16 MS. CECERE: Mr. Miller, who drew up the plans for this property?

17 MR. MILLER: It was, the civil engineer was Kimberly Horn, electrical engineer
18 was -

19 MS. CECERE: In Columbia?

20 MR. MILLER: No, ma'am.

21 MS. CECERE: In South Carolina?

22 MR. MILLER: No, ma'am, they're out of Charlotte but I know they've got offices
23 -

1 MS. CECERE: But they operate, I mean they -

2 MR. MILLER: Yeah, everybody, everybody's sealed in South Carolina, yes,
3 ma'am.

4 MS. CECERE: So they should be aware of what the lighting would be.

5 MR. MILLER: Yes, ma'am. And it, code wise talked about height with rural
6 areas and as I understand rural areas there was no issue with that as well at the
7 time, so.

8 MS. CECERE: I'm sorry, what? There was no issue -

9 MR. MILLER: I mean, there was never a height issue on the front side of the
10 project. At the back side of the project is where the height issue came in to our
11 poles. It was never brought up, never discussed and never, never became part of
12 the conversation. All it was talk was light bleeding, what the shoebox looked like,
13 making sure we had shields, we submitted the detail on the light shields and then the
14 next day we received the permit, so.

15 CHAIRWOMAN PERKINS: Let me ask you this, did you complete this
16 application for a Variance appeal?

17 MR. MILLER: Did I complete it?

18 CHAIRWOMAN PERKINS: Yes.

19 MR. MILLER: Yes, ma'am, we filled it out.

20 CHAIRWOMAN PERKINS: Okay and, and, and you're stating here that your
21 hardship is needed to operate the car dealership, is that what you're saying?

22 MR. MILLER: Well, I mean -

1 CHAIRWOMAN PERKINS: [Inaudible] different than what you're telling us
2 now?

3 MR. KOCY: Madam Chair, may I interrupt please?

4 CHAIRWOMAN PERKINS: Yes, sir.

5 MR. KOCY: Can I request that we, we table this for a month? I'm, I'm
6 concerned because I'm reading this application for a Variance that says the
7 gentleman needs the lighting to run a car business and yet today I'm hearing that I, I
8 goofed up and I approved a plan that clearly showed 25' lighting structures and, and
9 now he has to get a Variance because I screwed up. This doesn't say I screwed up
10 and that he was given an approved plan for 25' and then I caught it after the fact. If I
11 did screw up I would support this Variance. If I didn't screw up then I would like an
12 opportunity to weigh in on this.

13 MR. MILLER: Honest, I mean, where we're at right now is that's not the
14 argument we came from, become to. I mean, the job's complete we're trying to, we,
15 we wrote a bond, held a check for them to hold so that we can work this out so that
16 we can get our Certificate of Occupancy that, so that they can begin operations. And
17 we're, I mean, we're just here, we're filing a compromise, that's why we met with
18 them and we cut the poles down, I don't know if you want to -

19 **TESTIMONY OF JOHN DUDAS:**

20 MR. DUDAS: My name's John Dudas, I'm with Choate Construction also.

21 CHAIRWOMAN PERKINS: Hold it, hold it.

22 MR. DUDAS: I'm sorry.

23 CHAIRWOMAN PERKINS: You're out of order.

1 MR. RUSH: I guess my, you know, I heard their argument and, you know, their
2 argument is that Staff made a mistake or there was a mistake in planning and
3 approving of a project. If Staff can't rebut that right now, I would like to defer this till
4 next month until we can -

5 MR. MILLER: Can I jump in?

6 MR. PRICE: I was just, I was just gonna kind of, to answer, I mean, I kind of
7 agree with Mr. Kocy here in that seems like we have, I think it's been stated that, you
8 know, Staff did miss the, the height requirements for the lights may have
9 inadvertently approved the plan that had lights that were in violation of our, of the
10 requirement of the Land Development Code. However reading the, the Variance
11 application it seems to state that the lights are needed that height.

12 CHAIRWOMAN PERKINS: [Inaudible] plan.

13 MR. PRICE: Right so -

14 CHAIRWOMAN PERKINS: And that was the reason for, he cannot, and I think
15 the Board member has said that the Staff cannot rebut that at the moment and he'd
16 like to look over the plans and I think he was looking for a deferment or are you
17 headed in that direction, is that your [inaudible]?

18 MR. MCDUFFIE: It does say on here that they met with zoning Staff to get a
19 plan beneficial to everyone in a similar agreement to the Wal-Mart located across the
20 street. So it does state on here that they, you know, that they met with Staff.

21 MS. CECERE: Mr. Miller may, may I ask about who did you meet with -

22 MR. MILLER: We met with Anna and my intentions was not, the beginning of
23 how we got the question to ask me was why are the poles installed and, you know,

1 my intention was not to, you know, point at anybody or say it was missed. It was, it's,
2 that's confusion, it's behind, we're not worried about that, you know, that's why we
3 met with the Staff on the backside so I was just answering questions, I wasn't
4 accusing of, of wrongdoing, so just mistaken.

5 MS. CECERE: Mr. Miller, we want to be fair to you too. We want to be fair to
6 you. If it is, if it was, I feel that if, I would give you every consideration if it was
7 something that had been missed from the beginning. Now if you went in and you put
8 this lighting in and knowing well that those were not within code then, you know, I
9 would have to think differently about it.

10 MR. MILLER: I think where we're at and, and Brian can say but we've talked
11 with the owner and the owner is fine with this agreement that we have with Staff. He
12 is willing to do this, so I mean, I don't think that's an issue.

13 CHAIRWOMAN PERKINS: Okay.

14 MR. MILLER: So we're, we're fine with the different levels and things, yes,
15 ma'am.

16 CHAIRWOMAN PERKINS: Okay, Mr. [inaudible] Mr. Kocy [inaudible].

17 MR. KOCY: Upon chatting with my colleagues I do find out that the gentlemen
18 are correct, it was our oversight and this was a negotiated agreement that both sides
19 came to conclusion on would benefits the property and still be within reasonable
20 Variance of the code. So I, I back away from my claim that - this is worded
21 awkwardly but yes we did miss this on the plan and these gentlemen brought it to our
22 attention near the end of construction so they have a mix of poles that are slightly too
23 high and poles that are the correct height, just like Wal-Mart does across the street.

1 CHAIRWOMAN PERKINS: Mr. Rush?

2 MR. RUSH: I guess with being said cause I, you know, I was making sure it
3 wasn't a, ask for, you know, instead of asking for permission, asking for forgiveness
4 type deal. So with that being said -

5 CHAIRWOMAN PERKINS: We still have to go through the finding of fact.

6 MR. RUSH: Okay, well I'll wait then.

7 CHAIRWOMAN PERKINS: Ms. Cecere?

8 MS. CECERE: Yes, Madam Chair?

9 CHAIRWOMAN PERKINS: I thought you wanted to speak [inaudible] order
10 cause everybody was going out of order.

11 MS. CECERE: No I spoke, I addressed my concern to Mr. Miller but it's been
12 cleared up in the meantime.

13 CHAIRWOMAN PERKINS: Is there anyone else, Mr. Miller, that would like to
14 speak? Mr. -

15 **TESTIMONY OF JOHN DUDAS:**

16 MR. DUDAS: John Dudes with Choate Construction as well. Just here for any
17 questions I guess. It looks like we're moving on but just wanted to say it was our
18 intent to comply from the beginning. There was some confusion and we're willing to
19 work it out.

20 CHAIRWOMAN PERKINS: Are there any questions? There's no one in
21 opposition to this. Would you like to go through the finding of facts?

1 MS. PERRINE: Case number 08-19 V, Variance request to exceed maximum
2 allowed height of pole light, property zoned GC, it was posted in the newspaper and
3 on the property. No extraordinary or exceptional conditions.

4 MR. KOCY: I, I think there are exceptional conditions, there are.

5 CHAIRWOMAN PERKINS: I think there is, yeah.

6 MS. PERRINE: Well, I started to say yes but then it, it says the Variance
7 [inaudible]

8 CHAIRWOMAN PERKINS: [Inaudible] well, are we gonna put that there
9 [inaudible]?

10 MS. PERRINE: Which way do you want to put it, it doesn't -

11 MR. KOCY: That's, that's the exceptional condition, yes, there is an
12 exceptional condition here.

13 CHAIRWOMAN PERKINS: Yes, the Staff erred.

14 MS. PERRINE: Okay, do these conditions generally apply to other property,
15 no. Would application of this chapter to this particular piece of property effectively
16 prohibit or unreasonably restrict utilization of the property because of the aforesaid
17 extraordinary or exceptional conditions, no.

18 CHAIRWOMAN PERKINS: That's yes.

19 MS. PERRINE: Okay, yes.

20 CHAIRWOMAN PERKINS: Did somebody count these light poles and make
21 sure it's [inaudible]?

22 [Inaudible discussion]

1 MR. FARRAR: Madam Chair, Madam Chair. I just suggest if you're going to
2 approve this why don't you just approve the Variance that's been agreed upon by
3 Staff as it's reflected in the Agenda and get a second to that and take a vote on it?

4 MR. MCDUFFIE: Madam Chair, can I make a motion?

5 CHAIRWOMAN PERKINS: Yes, you can.

6 MR. MCDUFFIE: I'll make a motion to approve the Variance as agreed upon by
7 Staff.

8 MS. PERRINE: Second.

9 MR. RUSH: Second.

10 MR. MCDUFFIE: And based on the special conditions created through
11 previous action.

12 MS. PERRINE: Two seconds.

13 CHAIRWOMAN PERKINS: There is a motion on the floor to approve Variance
14 08-19, based on agreed upon meeting with the Staff.

15 MR. MCDUFFIE: And special conditions.

16 CHAIRWOMAN PERKINS: And special conditions. All those in favor of that
17 motion please have a show of hands.

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

19 MR. PRICE: Those in favor: Rush, Branham, Perrine, Perkins, McDuffie and
20 Cecere.

21 CHAIRWOMAN PERKINS: You have your Special, Variance.

22 MR. MILLER: Thank you.

23 **CASE 08-20 V:**

1 MR. PRICE: Okay the next item is item, is Case 08-20 Variance. The applicant
2 is requesting the Board of Zoning Appeals to grant a Variance to exceed the
3 allowable square footage for a wall sign in a GC district. The applicant is the Shoe
4 Department, the location is 327 Killian Road. The parcel size, it's in a kind of strip
5 development so a little more than five acres. The subject property is a newly
6 developed shopping strip. The applicant proposes to exceed the allowed square
7 footage for a wall sign by, according to our calculations 245.98 square feet. They are
8 showing in 312.98 feet and they allow 67, the surrounding area is dedicated to
9 commercial uses. Here's some pictures of the site, they're in your package also.
10 This is a picture from Killian Road facing the, I guess the entrance into the
11 development. This is an existing sign, it advertises for the businesses that are in this,
12 within the Wal-Mart development. This is the subject parcel, the measurements for,
13 to determine what the allowed square footage for a sign, by the linear building
14 frontage and according to my calculations, my calculations says 67 square feet. I
15 believe in the package that you received the applicant is looking to place signage on
16 the front, side and I believe even the rear. This picture is from the Wal-Mart parking
17 lot facing the, facing the subject parcel and this would be Killian Road back here.
18 This is facing east on Killian Road. Okay, and he can state his record, state his
19 name and -

20 CHAIRWOMAN PERKINS: Okay, we don't have a sign in sheet for The Shoe
21 Department and so please - there is no, you know, all I have is the Shoe Department.
22 Is the applicant -

1 MR PRICE: I don't believe we have anybody here from the Shoe Department
2 so we can move on to the next case.

3 CHAIRWOMAN PERKINS: So, no what, what are we gonna do with this case?

4 MR. PRICE: I would ask that we defer this case until I can find out what
5 happened. I do know that, you know, letters are mailed out to the address that's
6 given to us.

7 MR. BRANHAM: I make a motion to defer the case.

8 MR. RUSH: Second.

9 CHAIRWOMAN PERKINS: Yeah.

10 MR. BRANHAM: Next month, or until Mr., or until we can find out some
11 information as to why [inaudible] not here today.

12 CHAIRWOMAN PERKINS: There's a motion on the floor to defer Case 08-20 V
13 until Mr. Price can find out what happened to them. All those in favor have a show of
14 hands.

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

16 MR. PRICE: Those for: Rush, Branham, Perrine, Perkins, McDuffie, Cecere.

17 CHAIRWOMAN PERKINS: Next case.

18 **CASE 08-21 SE:**

19 MR. PRICE: Next item is Case 08-21, it's a Special Exception. The applicant is
20 requesting the Board of Zoning Appeals to establish a landfill on property zoned RU.
21 The applicant is Northeast Landfill, LLC being represented by Robert Fuller. The
22 location is 1581 Westvaco Road. The parcel size 183 plus acres. The existing land
23 use is, existing land us is for a landfill. As stated the property is 183 acres, which is

1 currently utilizing about 42 acres for waste storage, approximately a third of the
2 parcel is located within the FEMA flood zone or the NWI wetlands. The applicant
3 proposes to establish a landfill, which will utilize approximately 36 additional acres of
4 the subject parcel. The subject property is located amongst large undeveloped
5 parcels. This is just a picture of the site, the existing buildings that are out there.
6 Now I need to pull up the aerial so if you'll just pardon me for one second please.
7 You can see the subject site is highlighted here, according to my car, checking the
8 mileage it's about 1.6 miles off of McCords Ferry Road, it's on a dirt road that just
9 goes back here. As previously stated a portion of property, of the property is, either
10 has a flood zone or the wetlands on here and I will show that. So essentially it will
11 establish, the property actually buffers itself in the rear and, and the existing landfill
12 will also buffer, I guess along the front. And as you can see it's really undeveloped
13 and just large parcels with some sort of wetlands going through it.

14 CHAIRWOMAN PERKINS: Robert Fuller.

15 **TESTIMONY OF ROBERT FULLER:**

16 MR. FULLER: Thank you, Madam Chairman. My name is Robert Fuller, my
17 office is at 1728 Main Street. I'm a lawyer here in Columbia, here this afternoon to
18 represent Northeast Landfill Company, which is the operator of this landfill that has
19 been in operation in Richland County since 1988 at this site. I am mindful of the
20 hour, I know you have been here a long time and I am not going to belabor any part
21 that we have made. I would call to your attention what I think is a very ample
22 application package that has both diagrammatic and narrative material in it and would
23 suggest to you that that represents the documents package for this application. It is

1 full and complete and we would make that a part of the Record of this presentation so
2 that you will have that for your consideration. I would also like to say that I am here
3 today with Mr. Chris Hartin, who is the project engineer for Northeast Landfill' with
4 Lee Postal who is the facility manager for the landfill that has been operating in
5 Richland County since 1990, 1988, and Mr. Postal has been it's general manager
6 since 1997. Tim Loveland and Weston Adams are both additional people who have
7 signed in. None of them are planning to speak unless you have questions that
8 require answers that I can't give you in this overview that I will have a pass through at
9 this point. So we are prepared to do whatever you need us to do to support the
10 application. We are not insisting on staying here late to do that, that would be your
11 call. First of all I would like to say that in the analysis of the documents in your
12 package [inaudible] the item is introduced as the establishment of a landfill. In part of
13 fact it is the expansion of the existing landfill to complete the availability of storage
14 capacity on this property to fulfill the Richland County solid waste management plan.
15 The whole idea of this request or expansion is that 42 acres of the 183 acres of the
16 landfill site have already been virtually completed. Twelve acres of that has already
17 been grassed over, it is, it is out of active use entirely. Thirty additional acres is, is
18 under active filling at this point but would be filled within a couple of years. This is the
19 conclusion of the filling of this landfill in Richland County. The 70 acres of woodland
20 that, and wetland that Mr. Price has alluded to is at the rear portion of the site on the
21 site but is not to be developed, cannot be developed, it is protected and will never be
22 encroached on by any of the operations of the landfill. We submit to you that this is a
23 site that is already approved, it is requesting out of this rural zone, the expansion of

1 that facility but does not affect any change in the use of the property and does not
2 encroach upon any of the neighboring properties in any way that is an impact of, of
3 substance against those properties. We have submitted to you in narrative form the
4 reasons and rationale for the request at this time. I would point out to you two things
5 in particular. Richland County has recently identified and agreed that this landfill for
6 the next decade, Northeast Landfill will remain a necessary and integral part of the
7 county's solid waste management plan. It's part of the county's plan that is fulfilled
8 by this expansion area. This is a project that will have to be fully permitted and
9 inspected by DHEC. That is a collateral and, and parallel process that is in motion
10 now, the permit application for this expansion of the landfill is running concurrently
11 through DHEC's processes. We cannot implement the expansion and begin the
12 operations on the expanded portion of the landfill until that regulatory process has
13 been concluded. And DHEC will not approve the conclusion of the, of the permitting
14 process until there's a Special Exception in place that says under county zoning this
15 property can be used for that landfill. So that's why we're here, that's why we're here
16 now, some while in advance of the, of the necessity for utilizing this particular section
17 of the, of the landfill larger site. As you review this I would point out to you that it is
18 an extremely remote area of Richland County. It's almost in Sumter County at the, at
19 one extremity of it on the eastern end but it is surrounded by very large woodland
20 tracts. The only neighboring interest in this area are represented by the Old McGraw
21 neighborhood, a, an unincorporated association of owners within about two miles of
22 the property within, with whom we have had conversation for many years. In fact that
23 association will benefit from the expansion of the landfill because Northeast and its

1 parent company have agreed to provide a community trust for the, the neighborhood
2 organization in that locality. The other nearest neighbor is the Cook's Mountain
3 Timber Company. We have been in conversation and remain in conversation with
4 Cook's Mountain ownership and there has been no opposition expressed by any of
5 those people who have been living in the closest proximity to the landfill that has
6 been operating since 1988. Quickly to, to move into those things that would
7 legitimately raise questions from you, the criteria points of the traffic impact of this
8 expansion. The Highway Department has reviewed the intersection of Highway 601,
9 McCords Ferry Road, which is the, which is the point of access to the plant by means
10 of Westvaco Road that the, essentially serves as the driveway entrance for the plant
11 about a mile and a half off of McCords Ferry or Highway 601. At the location of this,
12 of that intersection, and there is no development property and no transecting or
13 intersecting road on Westvaco between McCords Ferry and the plant site, so there is
14 nothing else that occurs on that entrance road that is not coming in or going out from
15 the, the plant site or the landfill site, basically. The South Carolina Department of
16 Transportation information confirms that at the intersection of US 601 and Westvaco
17 a volume, or average daily trips of 3,900 representing a Level of Service B, which is
18 an extremely above average passage carrying capacity on 601 at that, at that
19 intersection. By application of the reviewing standards that, that the Highway
20 Department would utilize in considering impacts at any place, they have concluded
21 that there would be no measurable impact on that intersection, that level of service
22 although under agreement with Richland County the permitted trips per day into the
23 landfill may be increased, but that is not a sufficient amount of activity in that area to

1 severely or even measurably impact the traffic patterns and volume on that big
2 highway that leads to the, to the property. Further than that, under agreement with
3 the county the landfill will limit it's operating hours to no more than 12 hours a day
4 during the next 10 year period, which is a reduction in the capabilities of operations
5 during that period of time, which will lessen the, the traffic impacts and restrict the
6 impacts during regular work day hours and will not overly burden the roads and
7 particularly not in any nighttime considerations. Vehicular and pedestrian safety,
8 again the up tick in traffic will be virtually negligible for the area, it is an extremely
9 remote site, there is very little within, within the area around it. You can look at the
10 diagrams that began on page 107 in, in your booklet and see that there is virtually
11 nothing within a mile of the property site and very little within almost two miles of the
12 site to be impacted by anything that goes on at the site. There is essentially and no
13 pedestrian activity in that area, I mean, it is all country, deep country and there is
14 simply nothing that would be operated differently other than a, a, an increase in the
15 volume itself out there that would, would be any different than it's been for the last
16 20-odd years. The potential impact, the noise, lights, fumes or obstruction of airflow
17 on the adjoining properties is essentially negligible. Again this, this is a landfill so it, it
18 produces some odors, it produces some gases, it is, it has operations, it has
19 machinery that acts on it, there, there is activity out there but it is so remote that
20 those, those impacts don't impact anybody. They, there is nothing inherently noisy
21 associated with the operation of the landfill and, and the distances from anybody that
22 would be receptors of noise is essentially attenuated by simply the distance, the
23 surrounding vegetation which are heavily wooded hunting preserves and, and

1 unaffected woodlands. And the fumes and the odors of operation from the landfill
2 have been addressed and will continue to be addressed and regulated by DHEC.
3 Daily covering of, of product as it is brought in and a gas collection and control
4 system is installed to, to control any ambient air odors that originate on the site and
5 they simply keep them there. I think the best evidence of there being no real
6 problems associated with is the fact that there are no neighboring users who have,
7 who have come to complain. They have been contacted and kept in the loop by the
8 operations during the past 20 years and are actually agreeable neighborhoods with
9 the Northeast Landfill as it exists in that property, a section of the county at this time
10 and place. There is to be no real vertical construction on the property that would
11 have any, any means of obstructing airflow in the area or off the property and indeed
12 there's nothing else going to happen except the removal of, of earth, the burying of
13 the waste product and the covering it up as an ongoing operation as, as has been the
14 practice there for 20 years. Adverse impacts of proposed use on the aesthetic
15 character of the environs to include possible need for screening from view. Well it is
16 a, a landfill facility. It's a waste management facility but it is, it is virtually invisible to
17 the surrounding property owners and, and it is, it, that won't change. And there are
18 no spacing or orientation of improvements on the property that are going to affect any
19 of the operations out there. I think that if you have reviewed the, the information that
20 has been submitted and if you have any questions we'll address them but we have, I
21 believe effectively covered everything that is required for Special Exception and
22 particularly since this is a necessary continuing part of this Richland County Waste
23 Management plan.

1 CHAIRWOMAN PERKINS: Thank you, Mr. Fuller. Are there any questions
2 from the Board?

3 MS. CECERE: Mr. Fuller, thank you so much for being brief. [Laughter] I do
4 have one question. Have they had any violations at that landsite?

5 MR. FULLER: None.

6 MS. CECERE: Okay, thank you.

7 CHAIRWOMAN PERKINS: I, I don't want Staff to overlook this Mr. Fuller but
8 on page 99 reasonable height of the light, I want to make sure that it's, it's what's
9 standard, will you accept that?

10 MR. FULLER: No, what is the height of the lighting? It, it will be in accordance
11 with Richland County standard.

12 CHAIRWOMAN PERKINS: Okay.

13 MR. FULLER: The one, the ones that are out there would have been installed
14 before the current code but the, it, in the expanding area it'll be, it'll be what it needs
15 to be.

16 CHAIRWOMAN PERKINS: Yes, sir, okay.

17 MR. MCDUFFIE: Mr. Fuller, could you or one of your associates there tell me
18 I'm looking at the figure three here and it, it's showing it looks like 10' [inaudible]
19 contours, I was just wondering how tall the, the planned landfill is going to be. And
20 then also I guess what, how tall the existing landfill operations are?

21 MR. FULLER: Chris Hartin will address that and –

22 MR. MCDUFFIE: Thank you.

23 **TESTIMONY OF CHRIS HARTIN:**

1 MR. HARTIN: Chris Hartin, I'm with Branham Cardwell and I'm at 9715 Kerns
2 Road in Huntersville and my office is based in Nashville. I'm a professional engineer
3 registered in South Carolina and so is my company. It should be about 200', once I
4 [inaudible] it's from the existing ground surface, okay? It's got a three to one slope
5 and what's nice about this with the trees around it you really can't see it once you get,
6 you know, a couple hundred feet away from the landfill, except from on the road. But
7 other than that you really can't see the landfill at all. It's pretty much following the
8 existing height of the landfill we'll take those contours over again onto the expansion
9 area.

10 MR. MCDUFFIE: So, so the, the existing landfill is, is about that tall or -

11 MR. HARTIN: About that tall. It, it's, we're within the requirements, you know,
12 the restrictions on this we're following them pretty much straight across. We'll go
13 straight across with it.

14 MR. MCDUFFIE: So it's not visible say from like the Wateree River or
15 anywhere like that?

16 MR. HARTIN: No, that's what's nice, if you look at the, on the GIS here, all
17 timber tracks surround it. It's the kind of thing we as engineers we like to have landfill
18 sited here cause it's, it's much easier for us, it's much easier.

19 MR. MCDUFFIE: Thank you very much.

20 CHAIRWOMAN PERKINS: Are there any other questions from the Board?
21 [Inaudible] finding of facts [inaudible].

22 MS. CECERE: The property's zoned rural, notice was, a public notice was
23 posted and also a notice was published in the newspaper. The applicant agreed to

1 obtain all, has obtained local, state and federal permits and does have thoroughfare
2 on the road to provide for ingress and egress on the site and there will be no traffic
3 impact and their proposal does not affect vehicle or pedestrian safety. There will be
4 some fumes, which is considered, but the company works with the surrounding
5 communities. And the proposed landfill does not have adverse impact on the
6 aesthetic character of the environs. And, let's see, and the orientation and spacing of
7 improvements of the building is appropriate. I make a, oh okay no motion yet.

8 CHAIRWOMAN PERKINS: No, that was finding of fact, I'm sorry.

9 MS. CECERE: I make a motion that Variance on Case 08-22 be approved.

10 MR. RUSH: Second.

11 CHAIRWOMAN PERKINS: Okay.

12 MS. CECERE: I'm sorry, what? Oh I'm sorry, 08-21. I'm trying to rush this
13 along. I guess the next case probably appreciated it

14 MR. BRANHAM: We appreciate that.

15 CHAIRWOMAN PERKINS: Okay, there's a motion on the floor to approve 08-
16 21 SE based on the finding of fact. All those in favor of that motion raise your hand
17 *[Approved: Rush, Branham, Perrine, Perkins, McDuffie, Cecere; Absent: Simons]*

18 MR. PRICE: Those for: Rush, Branham, Perrine, Perkins, McDuffie, Cecere.

19 MR. KOCY: Madam Chair, the Planning Department will not require sidewalks
20 in this landfill.

21 MS. CECERE: And we appreciate it.

22 CHAIRWOMAN PERKINS: Alright next case Mr. Price.

23 *[Inaudible discussion]*

1 CHAIRWOMAN PERKINS: Mr. Price?

2 **CASE 08-22 V:**

3 MR. PRICE: I'm sorry, I was just trying [inaudible]. Okay, the next item is Case
4 is 08-22 Variance. The applicant is requesting the Board to grant a waiver to the
5 sidewalk requirements on property zoned M-1. The applicant is Blood Diagnosis, the
6 location is Research Drive, a five acre tract. Currently it's undeveloped, the subject
7 property is located at the corner of Technology Circle and Research Drive. As stated
8 it is vacant now. The applicant is proposing to establish an industrial development,
9 which is required to provide sidewalks for compliance with the site plan review. This
10 area is primarily comprised of industrial and office uses. Midlands Technical College,
11 the Northeast campus and Northwood's Golf Course neighbor the proposed
12 development. I won't go too much into the pictures now because I believe they're,
13 what they're preparing to show you should take care of that and I will also hand out
14 some information.

15 CHAIRWOMAN PERKINS: Okay, Mr. Edward Stiefel?

16 MR. STIEFEL: It's Stiefel.

17 CHAIRWOMAN PERKINS: Stiefel, okay. Would you state your name and
18 address for the Record and present your application to the Board?

19 **TESTIMONY OF EDWARD STIEFEL:**

20 MR. STIEFEL: My name is Edward Stiefel, Jr. 110 Centrum Drive in Irmo. I'm
21 the owner of Blood Diagnostics, my partner and I purchased this parcel in research,
22 Carolina Research Park to move our business. We'd like to have a Variance not to
23 build the sidewalk around the property. [Inaudible]

1 CHAIRWOMAN PERKINS: Lambert, is that -

2 **TESTIMONY OF SCOTT LAMBERT:**

3 MR. LAMBERT: Yes, ma'am. My name is Scott Lambert I'm with Govern
4 Design Group, we're the architecture firm that is working with Eddie and Rich. We
5 are located at 1209 Lincoln Street.

6 CHAIRWOMAN PERKINS I am completely out of order, would you accept my
7 apologies -

8 MR. LAMBERT: Yes, ma'am.

9 CHAIRWOMAN PERKINS: - for one moment. Any questions from the Board?

10 MS. CECERE: Mr. Stiefel when did you purchase this property?

11 MR. STIEFEL: We purchased it I believe in April of '07.

12 MS. CECERE: Thank you.

13 CHAIRWOMAN PERKINS: Are there any other questions? Thank you.

14 MR. STIEFEL: I, I do want to add a couple things, now that I just thought of it.
15 This property is an island, does not have anything near it or on it, on the same side.
16 The Research Park does not have any sidewalks whatsoever in the entire park, it's
17 probably at least a dozen business there, none of them have sidewalks.

18 CHAIRWOMAN PERKINS: Do you know when the Technology Park was built?

19 MR. STIEFEL: No, I do not.

20 CHAIRWOMAN PERKINS: Okay it may have not been in the ordinance at that
21 time, so it may probably have been there for any number of years.

22 MR. STIEFEL: Correct.

1 CHAIRWOMAN PERKINS: So that would be the reasoning for no sidewalks
2 there at this point. Alright.

3 MR. LAMBERT: Scott Lambert, Govern Design Group we're the architectural
4 firm that was engaged to work on the project. It's a real exciting project obviously
5 they're, they're excited about a new building and new, new company that they're
6 bringing to Richland County, so it's exciting. We're located at 1209 Lincoln Street so
7 we're in downtown. As, as Eddie mentioned this is a little bit of an unusual site in that
8 it's completely surrounded by roads, not, I don't think there's any other parcel out in
9 the Carolina Research Park that is, that has quite the sighting of this, this project. As,
10 as Eddie mentioned as well there are no sidewalks out there now and we are the
11 second to last, to my knowledge we're the second to last parcel that's even available
12 to be built on. So there's not a lot of potential for long-term development changing
13 and whatnot cause most of the companies out there are already built. Also the kind
14 of businesses that are located in this park are not ones that attract the public and
15 specifically this client has a little bit of unusual set of requirements. They're, it's
16 Blood Diagnostics Incorporated is the name of the company. They actually have a
17 very high level of security that is regulated by national standards. Folks can't come
18 and go into their facility, so it's not like a retail business or anything such as that. So
19 it's, it's a high level of security, folks aren't allowed in and out other than employees,
20 there's checks and balances throughout that. The, back to kind of the big picture of
21 the site, a couple of challenges and I think it's in your packet this, this drawing. We
22 have indicated with the blue line that, that circles the perimeter kind of what we were
23 asked to show per, when we worked with, with, with planning folks and similar to our

1 earlier client we, we didn't necessarily agree that this is what should have, should
2 have happened but by the same token we couldn't hold up the building permit
3 process long enough to go through this process. Timing is important and there's a lot
4 of money at, in line. So we felt like this was our opportunity, I understood this is our
5 opportunity to kind of present our case for, for how this thing, what, our opinion of
6 how this thing should be developed. Just to, just to kind of orient you this is
7 Technology Drive. It's kind of a major road that goes through the development.
8 Powell Road is kind of another artery, it's a secondary road, and then the Research
9 Drive is a dead end that comes in. All the parcels along Research have already been
10 developed. You can see in this board, I'm gonna try to continue talking in the mic
11 while I do this. All of these have already been developed, all the parcels down, this is
12 the Research Drive that I just spoke of. There's no sidewalks of course along here,
13 we've included in your packet a number of photographs, all around the Research
14 Park, not to beat a dead horse but again there's, there's no sidewalks anywhere in
15 this whole area. This is a golf course over here, there's no sidewalks in this area,
16 really just don't see any real demand for kind of a pedestrian traffic throughout this,
17 this whole entire development. And again we're one of the last parcels to, to even be
18 developed so most of it's built out. We, we've kind of taken snap shots, the Richland
19 maps, close in on our site so you can kind of see topography and landscaping as
20 well. One of the things that we were trying to illustrate in the drawing as well as in
21 the photographs is along Powell it is an extremely heavily wooded portion of the site
22 and you can see in this board as well. We have looked at, during the process of
23 meeting with the planning folks, the concept of putting a sidewalk down there,

1 although we really don't think it's a necessary item. The problem with that is there's a
2 number of large evergreen trees all the way down that property line. We've been
3 asked to put the sidewalk on our property, it would entail cutting down a number of
4 trees all the way down the property line and it's not only just physically where the
5 sidewalk would go but it's also to grade the land to be able to put the sidewalk in. So
6 it's, it's multi, multifaceted as well as, my understanding of your guidelines is it also
7 has to be ADA compliant, which means there's all kinds of cross slope issues with
8 actually being able to build a sidewalk that's ADA compliant. So all that to say is
9 definitely feel like that this is hugely encumbered by the landscaping and it really just
10 didn't make sense to us to go in there and start clear cutting all those trees all the
11 way down the property line to put a sidewalk in. As we zoom out on the property the
12 closest residential neighborhood is about a half mile away, down the site, which I do
13 not think you have this one in your packet. If this, this is our site, the closest
14 residential area is down in this, down here. Again we've taken photographs, went
15 and researched this whole area, there's no sidewalks in the residential area, which is
16 already built out. There's also drainage easements that continue down, our site is
17 down this road beyond all these evergreen trees. So even if these were to ever
18 come in and try to do this there would be a huge challenge with them trying to
19 navigate the grades and the drainage easement as it continues down as well as if, if
20 that were to ever happen they'd have to, again clear cut trees down this road. Other
21 than that, the only other factor that we see as even a possibility is the Midlands Tech
22 campus, which is located here. Not that this, not that the Carolina Research Park
23 would really draw people, pedestrians into it, however this, this is one of the, this is

1 the last unbuildable site, which would be located here. If for some reason folks from
2 Midlands Tech would want to come, somehow come back into the park it would seem
3 to make sense to get them across here and go across this part of the site as that one
4 would be developed, but again that would be on the opposite side of a major road
5 from us. And again ours is completely surrounded and it's kind of a pie shaped lot.
6 Furthermore back, I guess back zooming into our site we have worked extensively to,
7 to locate the major tractor trailer access and delivery point at the end of this road and,
8 and we've worked with the neighbors and the Carolina Research Park Authority to
9 strategically locate that to not block traffic, to not have any impact on the other
10 businesses in that area. In that sense if we, if we get, began to put sidewalks in this
11 area we're kind of introducing pedestrian traffic at the end of a road crossing tractor
12 trailer and deliveries. This, this particular corporation has a fair amount of deliveries
13 everyday and it doesn't make a lot of sense to have them encourage pedestrians at
14 a, you know, which don't walk out there currently, to come down to a dead end road
15 and then cross it with tractor-trailer access. I think there are a couple other points
16 that are maybe a little bit out there but, but I think they're concerns to the owner, as I
17 mentioned security on their site. We're not really, they don't want encourage people
18 to come to the site to walk around their site and if, if this is the only site in this whole
19 area that we're to have sidewalks then theoretically if somebody really wanted to
20 walk at lunch they'd come over and park in their, park in their parking lot and walk
21 around their site, which is not something that they're really wanting to encourage to
22 happen. And I, I think again with the security that's going on inside the building,

1 they're not wanting people to come up and knock on the doors, they're not trying to
2 attract the public to the facility. So I think that's the major points. Open to questions.

3 CHAIRWOMAN PERKINS: I have a question.

4 MR. LAMBERT: Yes, ma'am.

5 CHAIRWOMAN PERKINS: Are you building the Blood Diagnosis center or are
6 you moving into a building that's -

7 MR. LAMBERT: It's a, I'm sorry it's a brand new facility, new construction, yes,
8 ma'am.

9 CHAIRWOMAN PERKINS: Okay.

10 MR. MCDUFFIE: I have a question as well.

11 MR. LAMBERT: Yes?

12 MR. MCDUFFIE: How many linear feet about are we talking about?

13 MR. LAMBERT: Total it's almost 1800 square, linear feet, 1800 linear feet. It's,
14 Research is about 660 linear feet, Technology, which is kind of that main road that I
15 spoke of, is 620 feet and Powell is about 505 feet, roughly based on the drawing that
16 you have, this drawing.

17 CHAIRWOMAN PERKINS: And, and, and you stated the, the extraordinary,
18 what was the hardship again?

19 MR. LAMBERT: Well, I think it's multifaceted. I think part of it is the fact that
20 we wouldn't want to cut down all the trees along this road just to put a sidewalk that
21 again is still a half mile from any adjoining even residential area that could have a
22 sidewalk that doesn't now. I think that's part of it as well as there's no sidewalks out
23 there now and I know that's not really a hardship but it's, it's certainly contextual that

1 it wouldn't make sense if this is the last parcel in that area. The security issues with
2 this owner, they don't want the public hanging out in, in their property and I think, I
3 think one other issue and I know you, you all have heard this concern before but, is
4 that the sidewalks being on the property and this isn't solistic to this project is that
5 you're, you're adding a liability to an owner's, owner's scope of, of property and I
6 think from their behave seeing that this is the only sidewalk in the entire development
7 we're actually encouraging the public to go walk on their property, which again
8 increases their liability. I think if the public sidewalks were throughout the
9 development, it's a little different story but we would have a complete ring where
10 people could ride bikes and all kinds of crazy stuff on the property going parking in
11 their parking which then would prohibit them from having the number of parking
12 spaces that they really need for their staff. And, and again just to reiterate this is not
13 the kind of company that has the public coming in. It's, it's not, it's more of a
14 research type building that's, has high security in it.

15 CHAIRWOMAN PERKINS: Thank you. Are there any other questions? No
16 other questions. Thank you very much.

17 MR. LAMBERT: Thank you.

18 CHAIRWOMAN PERKINS: We have Mr. Clay Cannon

19 MR. CANNON: Yeah, I have no further comment.

20 CHAIRWOMAN PERKINS: Okay, David Sickinger.

21 MR. SICKINGER: Sickinger, no further comment.

22 CHAIRWOMAN PERKINS: Okay, do you want to speak -

23 MR. LAMBERT: Nope, nothing else just in case you have any other questions.

1 CHAIRWOMAN PERKINS: There's nobody else signed up in opposition so I
2 guess we'll proceed to the fact findings of this case.

3 MR. MCDUFFIE: [Inaudible] go through the findings of fact. Okay we, Case
4 08-22 Variance. Property zoned M-1, notice was posted also published in the
5 newspaper. Are there extraordinary or exceptional conditions pertaining to this
6 particular piece of property?

7 CHAIRWOMAN PERKINS: And answer as we go through it.

8 MR. MCDUFFIE: Absolutely I would, I would say that the only real
9 extraordinary or exceptional conditions pertaining to this particular piece of property
10 that it is the last piece of property to be developed in this business park. And it does
11 not have a lot of pedestrian traffic anyway and, and also the fact that this business is
12 not a particularly pedestrian friendly business.

13 CHAIRWOMAN PERKINS: Pardon me, can I -

14 MR. MCDUFFIE: Absolutely, please.

15 CHAIRWOMAN PERKINS: I'd like to ask Staff a question. In this technology,
16 in this Technology Center I heard someone say that, you know, it's the last piece of
17 property to be developed in that area. Are there any, if people move in and out say is
18 that, is the technology center a place for eateries or is it just, just for technology?
19 And I know that there have been several businesses in and out of that area.

20 MR. KOCY: Can I answer a broader question?

21 CHAIRWOMAN PERKINS: Yes, sir.

22 MR. KOCY: That property is vacant and will be developed, that's Midlands
23 Tech, that's a golf course today but golf courses have a habit of turning into other

1 uses than golf courses. I recognize that this is not a place that you want the public to
2 be invited to and that's not my concern. My concern is a pedestrian walking along
3 here and walking along here, it would certainly be nice to have some place safe to
4 walk. I would certainly support granting a Variance to eliminate this sidewalk here,
5 it's just, it's, it's a dead end street, there's very little traffic. If these folks want to walk
6 anywhere they can walk on the street and not risk getting run over. That's not a
7 gamble I would like to take on Technology Drive and that is certainly not a gamble I
8 would want to take on Powell Road. So I would suggest, I would support a Variance
9 for sidewalks on two sides of the property, on Research, or on Technology Drive and
10 on Powell Road and grant the Variance for no sidewalk on Research.

11 CHAIRWOMAN PERKINS: Okay, we can continue. Thank you so much, Mr.
12 Kocy.

13 MR. MCDUFFIE: Do these conditions generally apply to other property in the
14 vicinity, I would say, I would say no because we're talking about mostly developed
15 properties. Would application of the chapter to this particular piece of property
16 effectively prohibit or unreasonably restrict utilization of the property because of the
17 aforesaid extraordinary and exceptional conditions, and I would say, I would say that
18 possibly and, and -

19 CHAIRWOMAN PERKINS: In what, tell me how granting, not granting that
20 would restrict [inaudible]?

21 MR. MCDUFFIE: I think that, that it would probably create I guess sort of an
22 attractive area for pedestrians to sort of, you know, do laps around the site cause that
23 was the first thing that I, that I thought and then I asked about what the, what the

1 distance of it was, you know, in terms of feet, I was like, that'd be nice like walking,
2 you know, track kind of thing and so that was really the first thing I thought of and I'm
3 sure that other people that work in the industrial, or in the technology park there that
4 would probably, you know, try to go there at lunch and like you said that park in the
5 lot and, you know, walk loops around on nice days. So that might be a, a hindrance
6 to the, you know, tractor-trailers and things like that getting in and out and to, you
7 know, the general functioning of, of their business there.

8 CHAIRWOMAN PERKINS: So your answer was -

9 MR. MCDUFFIE: I guess, I guess I would say yes.

10 CHAIRWOMAN PERKINS: Okay that, I thought that -

11 MR. MCDUFFIE: I said probably.

12 CHAIRWOMAN PERKINS: Oh, okay.

13 MR. MCDUFFIE: And will the granting of this Variance be a substantial
14 detriment to adjacent property or the public good or will it harm the character of the
15 district, and I would say no, there's no, no detriment to it giving that the conditions
16 that exist everywhere else there. And if I may I'd like to make a motion.

17 CHAIRWOMAN PERKINS: Okay.

18 MR. MCDUFFIE: I will make a motion to grant a Variance for the portion of the
19 property along Research Road to, to not build sidewalks along, along Research Road
20 but to continue to require sidewalks along Technology and Powell Roads.

21 CHAIRWOMAN PERKINS: Is there a second?

22 MS. CECERE: Second.

1 CHAIRWOMAN PERKINS: There's a motion on the floor to approve the
2 Variance for sidewalks on Technology Drive and Powell Road but that they not be
3 built on Research Park. It has been -

4 MR. MCDUFFIE: Research Road.

5 MS. CECERE: Research Road.

6 CHAIRWOMAN PERKINS: Research Road instead of - all those in favor of that
7 motion please have a show of, and based on the finding of facts [inaudible].

8 MR. STIEFEL: Excuse me, I'm sorry you might have a mistake. You want us
9 to build sidewalk where all the trees are and where Powell Road is or do you have
10 that opposite?

11 MR. MCDUFFIE: I'm, I'm gonna go with what the recommendation of Planning
12 Staff was and, and that was to not create a loop sidewalk and go down the dead end
13 road on Research Road but to, to ask you, or to not grant a Variance for the area
14 along Technology Road and also along Powell Road given that, that that area may
15 become, it might be an area that we would like to encourage pedestrian traffic on.

16 MR. RUSH: We have a motion -

17 CHAIRWOMAN PERKINS: Yeah, we have, yeah so, I'm sorry we're gonna
18 have to, there's a, we're out of, we're kind of out of order now. So there was a
19 motion and it was properly second and now we're ready for the vote. All those in
20 favor of that motion please have a show of hands.

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

22 MR. PRICE: All those in favor: Rush, Branham, Perrine, Perkins, McDuffie, and
23 Cecere.

1 CHAIRWOMAN PERKINS: [Inaudible] Mr. Price will be in touch. Next order of
2 business, that concludes the public hearing does it not?

3 MR. PRICE: Yes.

4 CHAIRWOMAN PERKINS: The next order of business is Other Business.
5 There being none, next item on the agenda is the approval of the Minutes. Is there a
6 motion?

7 MS. PERRINE: I make a motion we approve February Minutes.

8 MR. MCDUFFIE: I never saw any Minutes this month whichever ones we were
9 supposed have this month I never -

10 MS. PERRINE: It says February, we didn't do February?

11 MR. MCDUFFIE: Yeah.

12 CHAIRWOMAN PERKINS: So do you want to delay? It was [inaudible].

13 MR. MCDUFFIE: I don't, I don't care to delay I'm just stating that I never saw
14 them.

15 CHAIRWOMAN PERKINS: Okay, can we get -

16 MR. MCDUFFIE: I never got any Minutes this month.

17 MR. SPEARS: I put them in your package.

18 MR. MCDUFFIE: This is what I got in my package.

19 CHAIRWOMAN PERKINS: There's a motion to approve February Minutes and
20 I think Ms. Haynes, oh, I thought you were getting [inaudible].

21 MR. MCDUFFIE: You can approve them without me.

22 CHAIRWOMAN PERKINS: Is there a second to that motion?

23 MR. RUSH: Second.

1 CHAIRWOMAN PERKINS: Okay, and Ms. Haynes would you get Mr. Joshua a
2 copy of February Minutes?

3 MR. MCDUFFIE: No, you can just email them to me. Oh, wait I've got them
4 now.

5 MS. HAYNES: I'm sorry. I don't know why you didn't get it. I'm sorry.

6 CHAIRWOMAN PERKINS: All those in favor of approving the Minutes please
7 have a show of hands.

8 *[Approved: Rush, Branham, Perrine, Perkins, Cecere; Abstained: McDuffie; Absent:*
9 *Simons]*

10 MR. PRICE: Everybody.

11 MR. MCDUFFIE: But me.

12 CHAIRWOMAN PERKINS: Okay, if there is no other business -

13 MR. BRANHAM: I've got one, one question for Ms. Linder. I've got a meeting
14 to go to at 7:00 too so I need to get out of here. Ms. Linder, on the finding of facts do
15 you want us to retain those copies or is the Staff gonna retain those copies or -

16 MS. LINDER: I would appreciate it if you would pass them into me, because I
17 will use those along with the Minutes to create the orders.

18 *[Inaudible discussion]*

19 CHAIRWOMAN PERKINS: *[Inaudible]* turning in the finding of facts to Ms.
20 Linder. This meeting is adjourned.

21
22 *[Meeting adjourned at 6:30 p.m.]*