

**RICHLAND COUNTY PLANNING COMMISSION**  
**January 7, 2013**

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

Called to order: 1:00 pm

CHAIRMAN PALMER: Alright, we will call the January meeting of the Richland County Planning Commission to order. Allow me to read this into the Record. In accordance with the Freedom of Information Act, a copy of the Agenda was sent to radio and TV stations, newspapers, persons requesting notification and posted on the bulletin board located in the lobby of the County Administration building. And I'd like to take this opportunity to welcome Mr. Theus. I think this is his first meeting actually in Chambers, is that right?

MR. THEUS: That's right.

CHAIRMAN PALMER: Well, we certainly appreciate it and welcome aboard.

MR. THEUS: Thank you.

CHAIRMAN PALMER: We'll value your inputs. Election of officers. It's a new year, we need to take a look at the officers and kind of what we want to do and where we want to go with those and I guess we'll open the floor for nominations. Typically we elect a Secretary, Vice-Chairman and Chairman. So we'll open those for nominations at this point.

MR. TUTTLE: So, Mr. Chairman, just so I'm clear, we're looking for nominations and a vote today?

CHAIRMAN PALMER: Correct.

1 MR. TUTTLE: Alright, Mr. Chairman, I'd like to nominate Pat Palmer as  
2 Chairman.

3 MR. BROWN: Second, Mr. Chairman.

4 MR. TUTTLE: Do we want to vote individually?

5 CHAIRMAN PALMER: Do we have any other nominations? Yeah, we'll take  
6 them at once, just with each one. So do we have any other nominations for Chairman?  
7 Hearing none, we have a motion and a second for Patrick Palmer for Chairman. All  
8 those in favor say aye. Any opposed?

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

11 CHAIRMAN PALMER: For Vice-Chair?

12 MR. GILCHRIST: Mr. Chairman, I would like to make a nomination that David  
13 Tuttle serve as our Vice-Chairman.

14 MR. WESTBROOK: Second.

15 MR. TUTTLE: Thank you, Mr. Gilchrist, I appreciate that.

16 MR. THEUS: I'll second that.

17 CHAIRMAN PALMER: We have a motion and a second. Any other nominations?  
18 All those in favor say aye. Any opposed?

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

21 CHAIRMAN PALMER: And for Secretary? Secretary, do we have any  
22 nominations?

1 MR. TUTTLE: For the risk of losing a friendship, I'm gonna nominate Mr. Theus  
2 as Secretary.

3 MR. WESTBROOK: I'll second.

4 CHAIRMAN PALMER: Any other nominations? All those in favor say aye. Any  
5 opposed?

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

8 CHAIRMAN PALMER: Good. Alright, we have the Minutes from December. Do  
9 we have any additions, deletions?

10 MR. TUTTLE: Mr. Chairman, I'd like to make a motion that we approve the  
11 Minutes.

12 MR. GILCHRIST: Second, Mr. Chairman.

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

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

17 CHAIRMAN PALMER: Does any Commission Member have any motions they'd  
18 like to put on the floor for this meeting? Hearing none we'll move along. We have the  
19 Agenda that we need to adopt and we have one amendment to the Agenda that we've  
20 all received prior to the meeting, we have an addition to the Road Names of Duck Pond.  
21 Did everybody receive that?

22 MR. TUTTLE: Mr. Chairman, I'd like to make a motion that we adopt the Agenda.

23 MS. LINDER: Mr. Chairman, it was Duck Court.

1 CHAIRMAN PALMER: Duck Court, I'm sorry. Duck Court.

2 MR. TUTTLE: Mr. Chairman, I'd like to make a motion that we adopt the Agenda  
3 with the change that was just discussed.

4 MR. WESTBROOK: Second.

5 CHAIRMAN PALMER: Any other additions? All those in favor say aye?

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

8 CHAIRMAN PALMER: None opposed. Road Names.

9 MR. TUTTLE: Mr. Chairman, I'd like to make a motion that we approve the Road  
10 Names as presented.

11 CHAIRMAN PALMER: And we've had a request from the 911 Coordinator that if,  
12 during those motions if we would read the names of the roads just for the Record.

13 MR. TUTTLE: Mr. Chairman, White Stork Court, Oyster Catcher Lane,  
14 Shearwater Court, Tern Court, and Duck Court.

15 MR. BROWN: Second the motion, Mr. Chairman.

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

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

20 CHAIRMAN PALMER: None opposed. Okay, Map Amendments, Case No. 13-  
21 01 MA.

22 **CASE NO. 13-01 MA:**

1 MR. LEGER: Thank you, Mr. Chairman. Good afternoon, everyone. The  
2 Applicant in this case is Columbia United [Inaudible]. They're located on Sunset  
3 Boulevard which is just off the interstate. It's currently zoned CC4, which is more of an  
4 industrial type zoning classification in our Crane Creek Overlay Master Planned Area.  
5 The Applicant is requesting CC3, which is more of a mixed use/commercial type area.  
6 The properties were zoned in this fashion in June of 2010. Prior to that the property was  
7 zoned Light Industrial, M-1. The surrounding area for the most part is either  
8 Office/Commercial/Industrial in nature, undeveloped to the north. Most of the property in  
9 the area is part of the Crane Creek Overlay Master Plan and either zoned CC3 or CC4.  
10 Otherwise, the Comprehensive Plan recommends suburban use of the property, and  
11 again it is part of the Crane Creek Overlay where that Master Plan recommends purple,  
12 which is [inaudible]. The property has 65' of frontage on Sunbelt [sic] Boulevard, it's  
13 heavily wooded, part of it is in the floodplain and is currently undeveloped. And again  
14 that's limited frontage on Sunbelt Boulevard. In our analysis the Staff looked at the  
15 vision statements within the Crane Creek Overlay Master Plan and felt that the site met  
16 the majority of those vision statements and for that reason the Staff recommends  
17 approval of the rezoning from a CC4 to CC3. If you have any questions I'll be glad to try  
18 and answer them.

19 CHAIRMAN PALMER: Do we have any questions for Staff? Okay, we have one  
20 person signed up to speak. Stephen Searcy?

21 MR. SEARCY: [Inaudible]

22 CHAIRMAN PALMER: Okay. Does anybody have any questions for the  
23 Applicant?

1 CHAIRMAN PALMER: Thank you. That's all we have. Any motions from the  
2 Commission?

3 MR. BROWN: Move approval as recommended by Staff.

4 MR. THEUS: Second.

5 CHAIRMAN PALMER: Any other discussion? Okay, we have a motion to send  
6 Case No. 13-01 MA forward to Council with a recommendation of approval. All those in  
7 favor say aye. Any opposed?

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

10 CHAIRMAN PALMER: Good. And just for the Record for the Applicants, we're a  
11 recommending Body to County Council. They'll meet back in these same Chambers on  
12 January the 22<sup>nd</sup>, so, for the Zoning Public Hearing on the same matter so I'd  
13 recommend you be here for those as well. Case No. 13-02 MA.

14 **CASE NO. 13-02 MA:**

15 MR. LEGER: Thank you, Mr. Chairman. The Applicant in this case is Circle K,  
16 Inc. The property contains about, I think it's three lots which has frontage on Two Notch  
17 Road, Aubrey Street and Fore Avenue. It's about 1 ½ acres total in size, it's currently  
18 zoned NC which is our Neighborhood Commercial District and MH which is  
19 Manufactured Housing District. Those zoning classifications were applied to the  
20 property in 1977 and those are the original zoning classifications. In the vicinity you've  
21 got General Commercial zoning adjacent as well as MH, which is the Manufactured  
22 Housing District. Along Two Notch Road you have primarily strip Commercial uses and  
23 the Village at Sandhills Shopping Center. Otherwise, either undeveloped or abandoned

1 residential properties and some standard stick built and manufactured home developed  
2 properties. We have about 115' on Two Notch Road, 370' on Fore Avenue and 200' on  
3 Aubrey Street. There was another property that was rezoned across Fore Avenue to the  
4 General Commercial District last year. At that time the Staff in our analysis felt that  
5 Aubrey Street would have made a good boundary for the Commercial District zoning off  
6 of Two Notch Road to the extent where the commercial should be applied. We kind of  
7 applied that opinion in this case and felt that Aubrey Street again served as a good  
8 boundary for the extent of the Commercial zoning. Our Comprehensive Plan  
9 recommends priority investment in this area and feels like that's where growth should  
10 be concentrated and focused. Again, Aubrey Street served as an appropriate boundary  
11 for the Commercial in Staff's opinion and for that reason we recommended approval.

12 CHAIRMAN PALMER: Is this one of those cases – I know that we've kind set  
13 that Aubrey Street and it's kind of a tough process for commercial coming back in – is  
14 this one of those areas where – I know we've talked about in the past kind of notifying  
15 property owners that, look this is kind of what we're thinking in the area, if you were to  
16 come in, you know, kind of the first step to proactive zoning is to notify these people and  
17 say, look, you know, we really think this property needs to be commercial, this is what  
18 our Code has, you know, our Land Development Code is looking at and our  
19 Comprehensive Plan says this, you know, if you would like to come in and apply for, you  
20 know, like for example in this, for this area with the General Commercial, you know, it's  
21 something that we can, you know, waive the fee on or something. I know we looked at  
22 that in other areas such as around the industrial area off of Two Notch across, by  
23 Polliwogs right there, some of that, some of those parcels that obviously don't need to

1 be HI and notifying those property owners. It just seems like in the future, I mean, you  
2 know, this may be kind of a first step that we could do is say, hey look, this property's  
3 not really suited for MH-1 anymore or Neighborhood Commercial. If you'd like to come  
4 in it's something that we think could be accomplished on your behalf or something like  
5 that. I just didn't know if we'd looked at doing that or not.

6 MS. HEGLER: I mean, I think it would be fitting. I, we didn't in this particular  
7 case, this is obviously an application to us.

8 CHAIRMAN PALMER: Right.

9 MS. HEGLER: But it does start to lend itself to laying out a future scenario that  
10 we may consider. I mean, the direction –

11 CHAIRMAN PALMER: And just laying it out to the property owners. I mean, I  
12 know we've looked at this tract in here between Aubrey and Two Notch for a long time  
13 and said this needs to be commercial.

14 MS. HEGLER: Right.

15 CHAIRMAN PALMER: And if we know that that area needs to be commercial, we  
16 can go ahead and kind of, you know, help the process along so the people can look at it  
17 and say, alright I know I don't have that step moving forward and, you know, whatever  
18 else is already properly zoned for me, that kind of stuff, so I don't know, it's just  
19 something we may want to look at in the future.

20 MR. LEGER: It's certainly consideration but there are two properties remaining in  
21 that block; one's Neighborhood Commercial and it has frontage on Two Notch Road,  
22 the other is on Aubrey Street and is zoned MH, it contains two manufactured homes so



1 I, I think if we were to proactively rezone their property then we'd make those properties  
2 nonconforming.

3 CHAIRMAN PALMER: No, no, what I'm saying is sending the letters to the, to the  
4 owners that says, this is where we think this could be a benefit and if it's something you  
5 want to do consider as, you know, and in some cases where we want to encourage it,  
6 maybe we can look at waiving some of the zoning fees as a proactive measure to try to  
7 get them to go ahead and do it. You know what I mean? That's kind of – not, not an  
8 actual proactive rezoning but kind of a, hey this is what we're thinking, have you ever  
9 thought about doing this? So anyhow, just a thought process, cause I know we keep  
10 coming back to this block and it's just such a, I mean, it's an isolated, needs to be kind  
11 of General Commercial thing, so. Alright. Anything else for Staff? Evan Walton?

12 MR. WALTON: Just, you know, just again, kind of like the previous Applicant, I  
13 don't, you know, we were just applying to put a convenience store there. We did  
14 proactively meet with the neighborhood –

15 CHAIRMAN PALMER: Mr. Walton, if you want to, if you want to take the podium  
16 you certainly can, we've just got to get things on Record.

17 MR. WALTON: Okay.

18 CHAIRMAN PALMER: And if you would just give us your name and address for  
19 the Record.

20 **TESTIMONY OF EVAN WALTON:**

21 MR. WALTON: My name's Evan Walton, I'm director of real estate and  
22 development for Circle K, address is 2440 Whitehall Park Drive in Charlotte, North  
23 Carolina. And real quick, you know, we, after meeting with, with Staff we, at the pre-app

1 meeting we, we took some of their considerations and we went forward with meeting  
2 with the neighborhood that's behind there and, during one of their town, or one of their  
3 weekly meetings, and they did give us approval. We showed them site plans, showed  
4 them everything, what we're willing to do and what we're trying to do and they did give  
5 us the nod so that we have their support, so I just wanted to share that with you guys.

6 CHAIRMAN PALMER: Thank you. Any other questions for Mr. Walton? Any  
7 motions?

8 MR. THEUS: I move we approve the rezoning to GC as recommended by Staff.

9 MR. GILCHRIST: Second, Mr. Chairman.

10 CHAIRMAN PALMER: We have a motion and a second to send Case No. 13-02  
11 MA forward to Council with a recommendation of approval. All those in favor say aye.  
12 Any opposed?

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

15 CHAIRMAN PALMER: Okay. Thank you. And I guess next we just have Items for  
16 Discussion, is that right?

17 MS. HEGLER: Yes.

18 CHAIRMAN PALMER: Land Disturbance Permits?

19 MR. TUTTLE: Yeah, Mr. Chairman I had asked that Staff put this on the Agenda,  
20 it's been on there for a couple months and I just wanted to have a brief discussion at  
21 this time amongst ourselves. I ran into a particular situation where there's a 250 acre  
22 golf course that was trying to add a restroom out on the fourth green as a secondary  
23 use and they had to go through the entire land development approval process to add a

1 12 x 12 restroom. And that, in discussions with Staff we thought that, and I'm exactly  
2 sure the logical path to get there, but there ought to be some minimum building size or  
3 minimum, or group of additional uses or something that could be listed and then not  
4 have to go through the full process and pay the full fee. I think in this particular case the,  
5 the fees for the, going through the process were \$850 or \$860, which was probably  
6 about 10% of the whole cost of the building. So, I mean, it's a pretty significant thing for  
7 a little 12 x 12 building. They could've left Port-O-Johns out there, which obviously  
8 would be inferior, and not had to do any of that, so they were actually improving the  
9 property. So I just thought maybe we could put our heads together and, you know, over  
10 time come up, you know, with Staff's help, formulate some threshold where things could  
11 be approved without going through the land development approval process for  
12 secondary use buildings.

13 CHAIRMAN PALMER: Is there anything that you would suggest?

14 MR. TUTTLE: I didn't want to be that forward, I was looking for some input from  
15 others and, including Staff, but you know, it might be something that, that, now that  
16 we've brought it up and, and put it, maybe we could touch it again next month and  
17 maybe that'll give some of the Commission Members an opportunity to think it through  
18 and see some, I mean, you know, where would you guys stand with the, is a minimum  
19 threshold a reasonable thing, square footage threshold? How do you –

20 MS. HEGLER: Well, Staff, we did some real high level just cursory research on  
21 some other counties, what they may do in the way of thresholds, and we didn't find  
22 many that had them so that's why we put it back on your plates to maybe think about,  
23 just have some discussion about some ideas that you may have. There's also a real

1 impact to Public Works and that's where I think when we do get down to talking about  
2 specifics we really want to have Public Works involved. There may be, it may not  
3 require a land development permit and going through the planning process but it does  
4 require Public Works. We have to be very careful about how we categorize whatever it  
5 is that you may come up with. So we can continue to do some more research, put some  
6 tables together of what we find, but it would be really helpful, I think more helpful to us  
7 to have you think of some of those parameters that would work and then have Public  
8 Works involved as well.

9 CHAIRMAN PALMER: So this was like a, a restroom on like #13 or something, a  
10 his and hers, that required a land disturbance permit.

11 MR. TUTTLE: Yeah, the entire process, which Staff was excellent in helping us,  
12 you know, get through that as quickly as we could, but it just still was the process and I  
13 didn't really realize –

14 CHAIRMAN PALMER: And the reason being because it taps into the public water  
15 and sewer and – is that a reason?

16 MS. HEGLER: Well, and it did disturb the land. I mean, we had no, we had no  
17 ability to say it didn't require it is what I think Mr. Tuttle is trying to provide. It did disturb  
18 land, it did have Public Works and Storm Water [inaudible].

19 MR. TUTTLE: Yeah, and in fact in this particular case it didn't tie into any public  
20 utilities. It was well and septic because of the location on the property and etc.

21 CHAIRMAN PALMER: Right.

22 MR. TUTTLE: But there, you know, in theory you do have a storm water thought  
23 process to work through, you know, the, the PUD or PDD for Wood, this is actually in

1 Woodcreek, for Woodcreek would've covered the architectural and the setback  
2 requirements, etc. So those weren't an issue but here again that's an unusual situation  
3 whereas many times you would have those parameters. But, you know, we were hoping  
4 it would be more like just getting a construction permit on a by rights parcel.

5 MS. HEGLER: Like setting the, what that size may be is really the key question.

6 MR. TUTTLE: Right.

7 MS. HEGLER: And not any other factors that another department may need to  
8 consider is where we were kind of stuck.

9 MR. TUTTLE: Because, yeah in bouncing it around, I mean, first you could look  
10 at a, at a cost threshold but then that doesn't really help you with size and orientation  
11 and stuff, so maybe it's just a minimum square footage that –

12 CHAIRMAN PALMER: Is disturbed?

13 MR. TUTTLE: - yeah, that, you know, if you disturb less than, you know, pick a  
14 number, 200 square feet or 300 square feet you don't have to go through the whole  
15 process. Here again, not looking for a resolution today but just wanted to get some,  
16 some interaction and some thoughts working.

17 CHAIRMAN PALMER: Yeah, okay. Alright.

18 MR. TUTTLE: Alright? Thank you.

19 CHAIRMAN PALMER: So you're thinking, you think maybe have some  
20 suggestions in to Staff maybe within the next two weeks, whatever you can come up  
21 with, and then see if Staff can formulate some kind of, some kind of language to have  
22 presented to us. Does that work for everybody? If you come up with any, any thoughts

1 just shoot them over to Tracy or Suzie and then we'll see if we can formulate some  
2 language out of it?

3 MR. TUTTLE: Yeah, and even if it became an amended process, you know, you  
4 wouldn't necessarily have to exempt the entire process, but just be a more streamlined,  
5 amended process or something, we'd just be interested in getting some feedback.

6 MS. HEGLER: I think the dilemma's just fitting everything into the same box.

7 CHAIRMAN PALMER: And the overall point here is the safety of the public and,  
8 you know, going through the building permit process would handle that. The Land  
9 Disturbance Permit I guess is more suited towards, you know, the environmental impact  
10 and so forth and so on that goes on and if that's minimal to begin with, you know.  
11 Anyhow, it makes sense.

12 MR. TUTTLE: You know, it might ultimately be structured to, you know, if you're  
13 disturbing less than, let's just throw out, you know, 400 square feet and you're not within  
14 X feet of a protected wetland or stream buffer, etc. then you have a different path to go  
15 down.

16 CHAIRMAN PALMER: Yeah.

17 MS. MCDANIEL: It would be interesting to know how often this has come up. If,  
18 you're probably not the only person whose dealt with this so if you can look at some  
19 historical data as to whether or not this is been a problem for folks before.

20 CHAIRMAN PALMER: Well, I think what you may run into as well would be  
21 people that see the problem and don't want to go through the process and never  
22 proceed with the project.

1 MR. TUTTLE: Well, you know, for instance if you were to put a gazebo along a  
2 hiking trail or running trail or, you know, something like that it technically would fit, it  
3 would have to go through the entire process and that's probably, I mean, we all know  
4 that's probably not what the process is invented for.

5 CHAIRMAN PALMER: [Inaudible] Alright, sounds good.

6 MR. TUTTLE: Thank you.

7 CHAIRMAN PALMER: Planning Commission Rules and Procedures?

8 MR. HEGLER: Yes, sir, did y'all get a copy of the Procedures? This was brought  
9 up I think a couple months back just to take a look at your Rules of Procedures, asked  
10 Staff to take a gander at some proposed changes. If you do not have this in front of you  
11 we can get it to you.

12 CHAIRMAN PALMER: We don't.

13 MR. TUTTLE: Yeah, I've got it.

14 MS. HEGLER: Mr. Price? He's holding them it looks like and he may at your will  
15 or pleasure go through these with you or they can be given to you to review and we can  
16 talk about it another time.

17 MR. TUTTLE: Or Geo has extras, one or the other.

18 MR. PRICE: If you want to we can take a look at this next month if you would like  
19 to, but what we did as a Staff was kind of went through your Rules of Procedure and  
20 some of them, some of the language in here was a little bit out of date. Some of the,  
21 well we'll just, well I guess some of your Rules, we found we kind of conflicted with what  
22 we currently have in our Land Development Code and so what we did is try to clean it  
23 up a bit. You'll see what was struck through which we are of course requesting be

1 deleted, and then you'll see some with some comments on the side that actually may  
2 need a little bit more discussion from the Planning Commission just from a clarity  
3 standpoint.

4 MS. MCDANIEL: Well, we had such a short meeting so far it would be fine with  
5 me if we went ahead and went through this.

6 MR. PRICE: Okay.

7 CHAIRMAN PALMER: Yeah.

8 MR. THEUS: Do we have other things left to discuss?

9 MR. PRICE: We're gonna start on page 1.

10 CHAIRMAN PALMER: We do, we have a couple of things. Just one. Yeah,  
11 alright Geo.

12 MR. PRICE: Okay. I think some of you have been on the Planning Commission  
13 for a while now. Kind of remember this particular, I don't know, part of the section 3E  
14 where you would have a Member of the Planning Commission attend a County Council  
15 meeting to, in case Council has some questions for you. Being that I don't think that's  
16 ever been done, once again do we really need to have that in here. Now, of course, you  
17 know, you can -

18 CHAIRMAN PALMER: I was there for a couple of them but never got asked a  
19 question so it's not really time worthy.

20 MR. PRICE: Right. On page 2, under Secretary I know we elect a Chairman and  
21 a Vice-Chair, but as far as Secretary goes -

22 MR. TUTTLE: Clearly I owe Mr. Theus an apology. [laughter]



1 MR. PRICE: I mean, we have over the years elected a Secretary for the Planning  
2 Commission, however, as a Staff we were kind of looking at what some of the duties of  
3 the Secretary were. That is actually being addressed by our Boards and Committees  
4 Coordinator, Suzie Haynes, and just as we do with the Board of Zoning Appeals where  
5 the actual Secretary for the Board of Zoning Appeals, I am Secretary, just based on the  
6 duties. So, you know, of course once again the way your language is spelled out she  
7 would –

8 MR. THEUS: Man, that's the shortest tenure in history. [laughter]

9 MR. TUTTLE: But you did a great job. [laughter]

10 MR. THEUS: Thank you, thank you.

11 MR. TUTTLE: You didn't mess up one time.

12 CHAIRMAN PALMER: But you were vested for your pay, so.

13 MR. THEUS: Good, good.

14 MR. PRICE: He's still the Secretary until you make changes.

15 CHAIRMAN PALMER: That's right. Amelia?

16 MS. LINDER: If you want to consider not appointing Mr. Theus as the Secretary,  
17 you may want to reconsider the motion to assign him the Secretary position. Cause you  
18 made a motion to approve Mr. Theus as the Secretary and if you no longer want him to  
19 serve you'll have to make a motion to reconsider then.

20 CHAIRMAN PALMER: Well, we just have these on our Agenda, though for, this  
21 is just discussion not for action so he can be elected Secretary and if we enact this then  
22 he's no longer Secretary.

1 MR. BROWN: Mr. Chairman, you also talking about a Secretary of the Board not  
2 Secretary to the Board. Staff is Secretary to the Board and Mr. Theus is Secretary of the  
3 Board, which means that technically he would decide what this Commission approves.  
4 And that's the, the clerical work is basically still being done by the Staff. I just ask you to  
5 consider that.

6 CHAIRMAN PALMER: Okay, yeah we'll talk – yeah, we'll bring that up cause  
7 this, this before us now is not for action so we'll take action on this at our next meeting  
8 and we'll bring all that stuff up. Absolutely. Okay.

9 MR. PRICE: Okay on page 3, the, under section E or formerly E, Review or  
10 recommend approval or denial with a request for changes to the County's official zoning  
11 map for County Council – oh, I'm sorry. I'm sorry, it should've been F.

12 MR. TUTTLE: Yeah, I was saying E? Probably our basic function, isn't it?  
13 [laughter]

14 MS. MCDANIEL: We're done.

15 MR. PRICE: Yeah, no more Planning Commission. Yeah, it actually should be F.

16 CHAIRMAN PALMER: So we should've still been doing that the whole time, huh?

17 MR. PRICE: These are just your Rules of Procedure.

18 MR. TUTTLE: Well, how would – Geo, how would that affect, I know of at least  
19 one, there could be others that have development agreements that still operate under  
20 the old rules.

21 MR. PRICE: Those will still come before you.

22 MR. TUTTLE: Even if you take this away as an official duty of the Commission?

23 MR. PRICE: Yes. Yes.

1 MS. MCDANIEL: Well, this isn't an official duty, this is just our operating –

2 MR. TUTTLE: Okay, well let me rephrase that. If it's not stated as part of our  
3 operating thing then can we do it?

4 MS. MCDANIEL: What we can and can't do is controlled by the Code, not by this.

5 MR. PRICE: [Inaudible]. Under section 3 I guess on page 3 –

6 CHAIRMAN PALMER: Hang on a second, Geo, just real quick. Is it not then  
7 better to have broader rules than more narrow rules? To allow ourselves more flexibility  
8 if this were to ever occur?

9 MR. PRICE: Are you referring mostly for the subdivision review right now?

10 CHAIRMAN PALMER: Well, the subdivision review or anything else for that  
11 matter. I mean, I know that Council has taken another look at the subdivision review, for  
12 example. So, you know, if that were to ever come, I mean, does it hurt us to leave  
13 something in there that we can do and are not doing?

14 MR. PRICE: I don't think it does.

15 MS. MCDANIEL: Well, I have to say I kind of agree with Mr. Chairman that under  
16 the functions, duties and powers, it is a bit redundant if those are controlled by the Code  
17 we might run into a problem with conflict if we start restating them again. It might, the  
18 easiest thing might just be to say that the functions, duties and powers as, you know,  
19 given by the Code.

20 CHAIRMAN PALMER: Right.

21 MR. PRICE: Okay.

1 CHAIRMAN PALMER: So that if the Council, if Council changes our function or  
2 duties or the state does or whoever, it flows along with this and you're not looking over  
3 your shoulder.

4 MR. TUTTLE: The only downside of that is if we found something, I guess in  
5 theory if we wanted to change something that we were doing, we couldn't do so without  
6 changing the Code, whereas now we can change our rules of operation amongst  
7 ourselves without having to go through the Code.

8 MR. PRICE: I don't know if this particular section is one to worry about. I think as  
9 we go further on I agree with you on this. I mean, even if you look in our Land  
10 Development Code the duties of the Planning Commission is, it's not very specific. If  
11 you reference state code regarding that, it's not very specific. So any changes you  
12 make to this section 2 I don't think would, under Article 2.

13 CHAIRMAN PALMER: Yeah, okay.

14 MR. PRICE: We can look at that and just make it, you just want to make it  
15 broader?

16 CHAIRMAN PALMER: Right. There's no reason to narrow it.

17 MR. THEUS: Have you guys ever looked at this before?

18 CHAIRMAN PALMER Yeah.

19 MR. THEUS: You have?

20 MR. PRICE: Page 3 again under section 3, Application Process, we just  
21 amended that language so rather than the Applicant coming in to demonstrate that  
22 they've had a pre-application meeting, we state in there, a pre-application conference  
23 with the appropriate Staff prior to submitting an application.

1 MS. MCDANIEL: If I may, I just see typo. In here you have, in addition to the  
2 specific application process as proscribed, proscribed means prohibited. So it probably  
3 should, I think you meant it to say prescribed, p-r-e instead of p-r-o. That little  
4 introductory line there?

5 MR. PRICE: Okay. For the Record that wasn't me.

6 MS. MCDANIEL: Okay, well somebody can make that change.

7 MR. PRICE: Okay. Under B, you know, once again all zoning maps  
8 amendments, we took out the supplication/application package and we took out metes  
9 and bounds legal description of what we required was, that was formerly a paragraph  
10 describing the parcel. We no longer require that, we just ask them to put a plat on there.  
11 So that takes care of all of the information that we'll need to ensure which parcel it is  
12 we're looking at.

13 CHAIRMAN PALMER: Do you think we need the application process in our  
14 Rules? I mean, our Rules don't dictate what your application process is, do they?

15 MR. PRICE: Well, actually the Code doesn't either. What we go by is what's on  
16 our checklist so that can actually change. I guess maybe we've, over the years, based  
17 our checklist from the Rules of Procedure.

18 MS. MCDANIEL: Don't you want to keep your flexibility? I agree, I don't think that  
19 the application process is – when I think of procedures I think of meeting procedures  
20 and decision-making procedures. And this is Staff procedure.

21 MR. PRICE: Well, do you want to remove section 3 to under the Application  
22 Process?

23 MS. MCDANIEL: I would be okay with that.

1 MR. TUTTLE: I think so.

2 CHAIRMAN PALMER: Yeah.

3 MR. PRICE: Alright, we'll take a look at that.

4 CHAIRMAN PALMER: And again, this is just kind of for discussion so just bring  
5 something back to us next month in our package.

6 MR. PRICE: You'll see what it looks like.

7 MR. TUTTLE: Yeah, the only thing that I see in the application process, and  
8 maybe it's covered in the Code, I don't know, is section 4, under this it looks like we  
9 have the ability to call a special meeting to hear something and so if we terminate the  
10 whole thing I don't know if we'd lose that ability or not.

11 MS. MCDANIEL: We, yeah. That's a good point.

12 MR. TUTTLE: You see section 4?

13 CHAIRMAN PALMER: Section 4, application deadlines?

14 MR. TUTTLE: Yeah, I mean, it gives us the ability to hear something whenever  
15 we want to, in theory if we take the whole section on the application processes out, you  
16 may lose that power.

17 CHAIRMAN PALMER: Yeah. To section 3?

18 MR. TUTTLE: So you're just talking about section 3, not the whole [inaudible]?

19 MS. MCDANIEL: Yeah. And I, and along that same vein, I think section 5 is  
20 interesting.

21 MR. PRICE: We actually had a discussion about that as a Staff, but unfortunately  
22 I didn't highlight that. But we wanted to bring that up for discussion.

23 MS. MCDANIEL: I think there's a whole lot of uncertainty about that.

1 CHAIRMAN PALMER: No, this – my understanding of this is only when you take  
2 on the *quasi* judicial role, which is not map amendments but is for things like this case  
3 where it comes back before us, and this is the first one we've seen in a long time. And it  
4 used to happen all the time when we had subdivision approval. We could talk to people  
5 before the meetings about zoning map amendments but not about the subdivisions. So  
6 those were the two different things and so I think we just perhaps need to clarify in here  
7 what those, what that, when that needs to occur and when it doesn't.

8 MR. PRICE: And that's what we talked about as a Staff, actually just go ahead  
9 and just change, revising this language because of the way it's sort of spelled out here  
10 to address specifically –

11 CHAIRMAN PALMER: Right.

12 MR. PRICE: - those matters that, when y'all become *quasi* judicial.

13 CHAIRMAN PALMER: Right, okay.

14 MS. MCDANIEL: I think that would be really helpful to the public.

15 CHAIRMAN PALMER: Yeah.

16 MR. PRICE: And Staff. Going down, we have the meetings, what time and place,  
17 no changes. The Agenda, here is that question, and actually we're gonna reserve that  
18 for Staff, but since we're actually having that discussion now, I kind of defer to Ms.  
19 Linder regarding the Agenda, about being able to change it. And I –

20 MS. MCDANIEL: I think that new decision does certainly impact the ability to  
21 change this. I don't think that we can add items to the Agenda. At the meeting.

22 CHAIRMAN PALMER: So you think the motion period is probably not –

1 MS. MCDANIEL: Maybe we can take things off of the Agenda, if there was ever a  
2 motion for that. But I don't think that you can add something to the Agenda.

3 MR. TUTTLE: You could defer I guess too.

4 MS. MCDANIEL: Yeah.

5 MR. PRICE: Yeah, but you can reorder the Agenda or you can maybe take some  
6 things off but not add.

7 CHAIRMAN PALMER: But we have the ability to modify the Agenda up to 24  
8 hours before the meeting, correct?

9 MS. MCDANIEL: Yes, because that would be enough for the public notice.

10 CHAIRMAN PALMER: Okay.

11 MS. MCDANIEL: To require a public notice period.

12 MR. PRICE: So what we'll do is we'll amend this language to reflect the ability to  
13 modify and amend and we'll talk about that. Page 5, this is one we kind of had as a, as  
14 a Staff discussed this because I think we were saying it differently. So we wanted to  
15 bring it before you to see what your opinion is. If you were to go back, I'm sorry, if you  
16 were to go back to page 4 under Article 3, section 3 on the quorum, you know, it states  
17 the majority of the Members of the Commission shall constitute a quorum. A quorum  
18 shall be present before any business requiring a vote other than rescheduling a meeting  
19 is conducted. So, you know, if you take that you need to have a quorum, you need to  
20 have five Members there. Then you go to page 5 under voting, it says all actions  
21 requiring a vote by the Commission shall require a majority vote, so no less than four  
22 votes of the quorum present to pass and shall be done in public view. Just, the question  
23 is, we know for an item to pass, you know, with approval or denial, you need four votes.



1 The question becomes, this was a situation, you have five Members present, you have  
2 a quorum, if one of the Members recuses themselves, do you still have the ability to  
3 vote on that item, or is it because you only have four Members present you no longer  
4 have that quorum and that item will automatically be deferred to the next meeting.

5 CHAIRMAN PALMER: No, you have a quorum, you just – you have a quorum  
6 that's at the meeting, it's just one person's not participating in the discussion for that one  
7 topic. They're still part of the meeting, but they're taking themselves out for that one  
8 part. I mean, that's the way we've historically handled it.

9 MR. PRICE: You probably want to clarify that.

10 MR. THEUS: Are these matters not prescribed by statute?

11 MS. MCDANIEL: I don't think this is.

12 CHAIRMAN PALMER: No, I think you can have whatever you want to to carry it,  
13 and just like, for example, the, under D, section 5D where for some reason we've gone  
14 under the notion that a tie vote is a no recommendation, that could very easily be a tie  
15 vote is a yes recommendation. Or it could be a tie vote goes with Staff recommendation.  
16 But for some reason over the years it's just historically been a no vote and I'm not sure  
17 why that is. I mean, I would probably prefer to go with if it's a tie here –

18 MR. THEUS: It was a tie vote.

19 CHAIRMAN PALMER: - you can do that too. It can –

20 MR. PRICE: Well, let's kind of go back.

21 CHAIRMAN PALMER: Go back to a no recommendation -

22 MR. PRICE: Let's go back to what we were talking about –

23 CHAIRMAN PALMER: - or something. But we have to recommend something.

1 MR. PRICE: So is it your understanding or your opinion that as long as, you  
2 know, you start the vote, you have five even though somebody may recuse them self.  
3 We've had some cases where people left.

4 CHAIRMAN PALMER: Right.

5 MR. PRICE: So you're left with four.

6 CHAIRMAN PALMER: Correct.

7 MR. PRICE: You can –

8 MR. BROWN: As long as you've got five Members and you've established a  
9 quorum at the beginning of the meeting, you have a quorum. The question is whether or  
10 not a person is able to follow the rules to vote on an item on the Agenda. Is that right?

11 CHAIRMAN PALMER: I think the question is can you lose your quorum?

12 MR. BROWN: No. How would you lose your quorum if you've established it at the  
13 beginning of the meeting?

14 CHAIRMAN PALMER: I, I would agree. I think –

15 MR. PRICE: Cause the language states a quorum must be present before any  
16 business requiring a vote. I think it's how you look at it. I mean, I look at it a little  
17 differently but these are your rules.

18 CHAIRMAN PALMER: I think when you've got a quorum, you've got it for the  
19 meeting.

20 MR. PRICE: You've got a quorum, someone leaves –

21 MR. THEUS: It's different then if people leave I presume. If you were the only  
22 guy left and we started with five and four left?

1 CHAIRMAN PALMER: You've still got to have four to vote, but if we started with  
2 five, some person left, there's four people still here, you can still conduct business.

3 MR. THEUS: Right.

4 MR. PRICE: Okay, so we –

5 CHAIRMAN PALMER: But if two leave, that's the end of the meeting.

6 MR. PRICE: Well, with that being said we were also looking at amending this  
7 language to include a provision where, let's say you had, let's say you have five and it  
8 was a 3/2 vote, you still need four to pass. Then we will state in there that it would  
9 automatically defer the case to the next meeting.

10 CHAIRMAN PALMER: I think you just, I think you have to have a majority of the  
11 people there. If you have four people there, it's got to be a 3/1. That's what our, that's  
12 my opinion of what our Rules needs to say. Other people may have another opinion.

13 MR. GILCHRIST: I would agree with that.

14 CHAIRMAN PALMER: And we can make the Rules say whatever we want them  
15 to say.

16 MR. PRICE: Okay. So that's how you want the Rules to read.

17 CHAIRMAN PALMER: That's what I think, I mean, that's just one person. But  
18 we'll have that discussion at our next meeting I guess.

19 MS. LINDER: On page 5 you would look at what's highlighted there and just  
20 delete 'but no less than four votes' and just do it by majority vote.

21 CHAIRMAN PALMER: That's one thing for us to look at at the next meeting.

22 MS. LINDER: That's what you would like to look at.

1 CHAIRMAN PALMER: Personally, but I'm just one. And I'd also like to look at  
2 that, what a tie vote means. There's no reason for it to default to a no. We'll bring it up  
3 as discussion.

4 MR. BROWN: Mr. Chairman, the other thing is we are a recommending Body,  
5 we're not deciding.

6 MR. PRICE: Right.

7 CHAIRMAN PALMER: Yeah, this, that came into play a lot when we had  
8 subdivision approval, which is different now. And the only thing that we actually approve  
9 or disapprove are the street names, which we could differ on, never happened but you  
10 could, and then when we take on the *quasi* judicial role with appeals from the DRT. So  
11 we may need to just address those two separately as opposed to zoning matters.

12 MR. PRICE: You would like to change that where a tie vote is what? Just a tie?

13 CHAIRMAN PALMER: I think under, when we're dealing with simple, with zoning  
14 map, when we're a recommending Body we can note it as a tie.

15 MR. PRICE: Okay.

16 CHAIRMAN PALMER: Where we have to make ruling on something, on street  
17 names and on DRT appeals, we need to decide what a tie vote means; yes or no.

18 MR. PRICE: Okay, and that's –

19 MR. THEUS: No, I think we're misreading this. I think, and I think I did the first  
20 time, no recommendation does not mean it's a recommendation of no, it's just we're not  
21 weighing in. That's the way I read it.

22 MR. PRICE: Okay. Right.

23 MR. THEUS: That is indicating that it was a tie.

1 CHAIRMAN PALMER: No. No, no, no, no. We can't not recommend. We –

2 MR. TUTTLE: There's certain situations where you can't, like for instance on this  
3 DRT –

4 MR. THEUS: I understand.

5 MR. TUTTLE: - appeal, you have to say it's either valid or not. There's no –

6 MR. THEUS: Right.

7 MR. TUTTLE: - no where to go with a tie.

8 CHAIRMAN PALMER: Yeah, even so, even if we – we can't – if something  
9 comes before us to make a recommendation to Council, we can't send it to Council and  
10 say, punt, we're not making a recommendation. We have to keep voting on something  
11 until we have a yes or a no vote on it. If the vote to approve fails, we then have a motion  
12 to deny. If that fails, we've got to get them a recommendation up or down. We can't say  
13 we don't recommend.

14 MR. THEUS: How can we pass on a recommendation when you have a tie vote?

15 CHAIRMAN PALMER: Well, it'll be deferred to the next meeting until we – that's  
16 why we have nine Members. Eventually, we're going to come to a solution on it. But we  
17 can't, I mean, that would be, it's not set up for us to just say, we don't want to deal with  
18 it, we're not gonna make a recommendation.

19 MR. THEUS: I hear you. You've got to have an odd number.

20 MR. TUTTLE: Yeah.

21 MR. PRICE: And we, I believe in the past we have forwarded to Council a tie  
22 vote. You know, I may be going back a while, but we have forwarded tie votes to  
23 Council.

1 MR. TUTTLE: But see, for instance in the DRT appeals there, it doesn't go to  
2 Council. It lives and dies with us so we have to come up with – if you start, you know, if  
3 you have six, let's don't look at the quorum and leaving, let's just say if you had six  
4 people and it's 3/3 you got, I mean.

5 MS. LINDER: [Inaudible] the actual vote is put on the Agenda, it'd be a 6/0 or a  
6 3/2 or a 4/4, that's put on the Agenda. Council knows that you had mixed feelings about  
7 approving a rezoning.

8 CHAIRMAN PALMER: Right. But there's, there is an approval, the Planning  
9 Commission votes for approval or denial and here's the vote.

10 MS. LINDER: [Inaudible] so Council knows that it wasn't a very easy decision to  
11 make.

12 CHAIRMAN PALMER: No, but there's a formal recommendation to Planning  
13 Commission, either you get the Planning Commission recommendation or you don't get  
14 the recommendation.

15 MS. LINDER: You don't want to have tie votes.

16 CHAIRMAN PALMER: I don't, I don't think you do, but what do you do when you  
17 do have one? So maybe we'll just have this discussion at our next meeting, everybody  
18 think about what to do with it.

19 MS. MCDANIEL: Well, you know, an analogous situation is where we don't act  
20 on something within the amount of time that we're supposed to and then it goes forward  
21 to Council as if we approved it. So that's almost the same situation as a tie.

22 CHAIRMAN PALMER: But there's not an automatic default for that, is there?

1 MS. MCDANIEL: Yeah, there is. If the Planning Commission does not submit its  
2 report within the prescribed time, County Council may proceed to act on the amendment  
3 without further awaiting the recommendation of the Planning Commission.

4 CHAIRMAN PALMER: Yeah, but that's County Council may proceed, so County  
5 Council has to vote to take it from us. That's the –

6 MS. MCDANIEL: I don't know that they do.

7 CHAIRMAN PALMER: Yeah, that's the procedure that we've always – yeah, they  
8 have to vote to take it from us. It can stay with us until they decide to take it back.

9 MS. MCDANIEL: Hmm, okay.

10 MR. PRICE: And in essence what it does is it gives you two meetings to make a  
11 decision.

12 CHAIRMAN PALMER: Right.

13 MS. MCDANIEL: Okay.

14 MR. THEUS: Has this been an issue in the past? Tie votes?

15 MR. PRICE: Not really.

16 CHAIRMAN PALMER: Not really.

17 MR. PRICE: Cause I think we have [inaudible] but I could, you know, I stand to  
18 be corrected.

19 MS. MCDANIEL: We need a tie breaker.

20 CHAIRMAN PALMER: Well, we'll just think about it and handle it at the next  
21 meeting.

22 MS. LINDER: The other option would be to make the Chairperson a non-voting  
23 Member and just vote in case of a tie.

1 CHAIRMAN PALMER: You like that one? [laughter]

2 MR. PRICE: Pat, we had talked about that, right?

3 CHAIRMAN PALMER: I don't know that that's ever come up before. [laughter]

4 We can do whatever y'all want to do. So we'll just have to address it. Alright?

5 MR. THEUS: [Inaudible] here, we can –

6 CHAIRMAN PALMER: Yeah, it's our Rules we can do –

7 MR. THEUS: - we could address a tie vote when we have a tie vote, if and when  
8 we have a tie vote. And it could be a whole nother Planning Commission before we  
9 have a tie vote and they may want to deal with it differently than we do.

10 MR. PRICE: Then they would probably need to amend the Rules of Procedure.

11 CHAIRMAN PALMER: Yeah, I think we should address it since we know it could  
12 be an issue and just put it out there. I mean, you might as well address it up or down.  
13 We may just leave it like it is. Make it a no, but I mean, that's the other –

14 MR. THEUS: I don't see, I don't read this as it's a no.

15 CHAIRMAN PALMER: It's not that it's a not to recommend, it's a no  
16 recommendation.

17 MR. THEUS: Right, not weighing in one way or another and it's a tie vote.

18 CHAIRMAN PALMER: No, no, it's recommending, it's always been assumed,  
19 and I know you probably have this too as a developer, that if you get, if you don't get a  
20 majority it's a no, if you get a tie it's a no. Just like with Council if you get a tie, you have  
21 to get a majority of the vote to get a yes. It's not that it's –

22 MR. THEUS: I hear what you're saying but that's not the way I read it.



1 CHAIRMAN PALMER: But, see that's a problem. We, well now I know we need  
2 to change it.

3 MR. THEUS: Yeah.

4 CHAIRMAN PALMER: Because it's an interpretation issue.

5 MR. THEUS: Right.

6 MS. MCDANIEL: So you're saying that you read this as saying a tie vote would  
7 be recommendation of disapproval.

8 CHAIRMAN PALMER: That's the way I read it.

9 MR. THEUS: That's the way he reads it. I read it as we could not come to a  
10 recommendation.

11 CHAIRMAN PALMER: We're not recommending.

12 MR. THEUS: It's just no recommendation.

13 MS. MCDANIEL: I think you're right. No recommendation is different than a  
14 recommendation of disapproval.

15 MS. HEGLER: Denial.

16 MS. MCDANIEL: Denial? Yeah, we definitely need to change it because –

17 MR. PRICE: We all disagree on this.

18 MR. THEUS: When I first read it I read it the way you said it.

19 MS. MCDANIEL: Uh-huh (affirmative), if it were –

20 MR. TUTTLE: Said a different way it becomes absent of any recommendation.

21 MS. HEGLER: Lack of recommendation.

22 MR. TUTTLE: Instead of using no and different connotations. It's just like we  
23 didn't take any action.

1 MS. MCDANIEL: Right. That's the way I read this. Otherwise, the no itself would  
2 be in quotes and not recommendation. So.

3 MS. HEGLER: And this is structured to differentiate between a recommendation  
4 and where you have final decision, so the very next line says in a situation where you  
5 do have final authority, it's a failed vote. So it doesn't read the same way.

6 MR. TUTTLE: So then it would just extend to a Commission meeting where we  
7 perhaps we had an odd number of people and then you could get a –

8 MS. HEGLER: Right. And I think clearly –

9 CHAIRMAN PALMER: I think what this is saying is if we have the final say in it, it  
10 is a no vote.

11 MS. MCDANIEL: Right. I think that, I agree with that.

12 CHAIRMAN PALMER: And I think you could imply from that that if you're going  
13 with a no vote on the final recommendation that it also means that in the previous  
14 statement under no recommendation.

15 MS. MCDANIEL: No, I don't agree because –

16 MR. THEUS: Let's clarify that.

17 CHAIRMAN PALMER: That's what we'll do.

18 MS. MCDANIEL: Let's just fix it.

19 CHAIRMAN PALMER: Yeah, we'll fix it.

20 MS. MCDANIEL: Let's just decide what we want it to say and make it say it.

21 CHAIRMAN PALMER: Alright.

22 MR. PRICE: Alright so, if we're looking at it, we're looking at it going toward a no  
23 recommendation is really just considered absent of a recommendation?

1 CHAIRMAN PALMER: I think y'all just put in what you think the Staff would like to  
2 see.

3 MR. PRICE: These are your Rules.

4 CHAIRMAN PALMER: Okay, well just highlight as an area we need to discuss  
5 next month.

6 MS. MCDANIEL: My opinion would be if there's a tie then it's a denial of the  
7 application, because to change something I think you need an affirmative vote.

8 MR. TUTTLE: You know, the only downside to that, if you're the public and you  
9 feel like you had a nine Member Commission that's set up and has it so you can't get a  
10 tie vote, and somebody for whatever reason can't make the meeting, why should that  
11 person who had to show up that month be in a position to get an automatic no in a tie  
12 when if it was the next month, it was the month after that they might've gotten an up or  
13 down vote, and then sometimes they're precluded from coming back for some extended  
14 period of time?

15 MS. MCDANIEL: Yeah, I see that but that could go the other way too. I mean, if  
16 the person who was going to vote no on it wasn't there and you got a –

17 MR. TUTTLE: Well, if you make, yeah, but my point is it's not fair to the public  
18 that we didn't fill the seats.

19 CHAIRMAN PALMER: Either way.

20 MS. MCDANIEL: Yeah. Either way.

21 CHAIRMAN PALMER: And it's burdensome to go, when you make an automatic  
22 no it's a two person swing, it's not, if it's a tie then it's a yes then the argument's on the  
23 other side of the table saying, well the public may have been protected had that person

1 been there and, you know, it's, I don't think we need to make it either way. I think you  
2 either need to, a, give the person a free ride for the month and automatically if the  
3 applicant decides to defer it, they can wait till the nine Member district's full or whatever,  
4 but then that hurts the project. I mean, in reality we should have nine people every  
5 month, every time. But that just doesn't seem to be happening recently. But we've got  
6 a, we'll have to figure that out.

7 MS. MCDANIEL: I agree with that. I don't think that we can, I don't think we can  
8 have ties. We have to figure out a way to avoid ties.

9 CHAIRMAN PALMER: Yeah, okay.

10 MR. PRICE: We'll work on some language and then decide from there.

11 CHAIRMAN PALMER: Alright.

12 MR. PRICE: Staff didn't see any recommendations, didn't recommend any  
13 changes to section 6, 7 or 8. Neither for section 9 or 10. Nor 11.

14 MS. MCDANIEL: Again, I don't think that section 11 needs to be in there because  
15 that's set by state statute.

16 MR. TUTTLE: You don't think it should be in there?

17 MS. MCDANIEL: The state statute is explicit about all of those things, I think.

18 MS. LINDER: Now as a reason to keep it in, it's right in front of you all the time  
19 then if you bring your Rules, so you don't have to – well, what were the rules again?  
20 And some Planning Commission Members might forget what it is. I agree with you with  
21 quoting the state statute. An argument for leaving it would be it's a handy way just to  
22 see what it is.

1 MS. MCDANIEL: Yeah, I mean, I see that. But what if the state statute changes  
2 and we don't change our procedures?

3 MS. LINDER: You'd have to go with the state statute.

4 MS. MCDANIEL: I mean, I would just be in favor of having as few potential  
5 conflicts as possible, but if it is helpful to people to have it, it doesn't hurt.

6 MR. PRICE: Okay. What about default, [inaudible] by default we would do  
7 whatever the statute says.

8 MS. MCDANIEL: Yes.

9 MR. PRICE: Alright, going to section 12, Attendance. I mean, once again that's  
10 more of a reminder because this is addressed in the Richland County Code of  
11 Ordinances. Once again, you know, does that need to be there, it's just a reminder?  
12 Section 13, it is recommended by Staff that B and C are removed because those are  
13 addressed in the Richland County Code of Ordinances, for withdrawals. And it kind of, it  
14 contradicts or conflicts with what is in the Code. Here it states that the applicant must  
15 notify the Zoning Administrator in writing seven (7) days after the Commission's actions  
16 on a matter will be scheduled for County Council action at its next meeting. But County  
17 Council addresses whether someone wants to, you know, so I'm making the schedule  
18 and we talk about, and someone may want to withdraw, it gives them a window to  
19 address their Staff's recommendation, you know, once it's recommended, once the  
20 Planning Commission's taken action, everything belongs to County Council then. As  
21 opposed to y'all establishing rules on when County Council's gonna get something.

1 CHAIRMAN PALMER: Yeah, I agree cause if it's stressed in our Code it doesn't  
2 need, we don't need to give any possible conflicts for any kind of why are your rules  
3 different than what the Code says.

4 MS. MCDANIEL: Cause as a lawyer that's what I'd be looking for.

5 MR. PRICE: Section 14, under Deferrals, under subsections A and B, no  
6 recommended changes, however under C, and this was more of a clarity issue because  
7 we've run into this where it's the previously stated two consecutive deferrals by the  
8 Commission or the Zoning Administrator or a combination thereof would constitute a  
9 withdrawal. What we did was we just added applicant because, you know, you get an  
10 applicant, they want to defer then they want to come back, so it just clears it up that any  
11 combination of deferrals, whether it be the applicant, the Zoning Administrator or the  
12 Commission will constitute a withdrawal.

13 MR. TUTTLE: So, I mean, I'm not trying to get all the weird hypotheticals, but  
14 what if we don't have a quorum two times in a row? Does that mean the applicant would  
15 have to start over?

16 MR. PRICE: No, I wouldn't consider it, I think you look at this for each individual  
17 case.

18 MR. TUTTLE: Well, that's not what it says, so.

19 MS. MCDANIEL: Well, if we didn't have a quorum would we be able to vote on a  
20 deferral in the first place?

21 MR. PRICE: The only thing, if you don't have a quorum the only thing you can  
22 vote on is rescheduling the meeting. That's the only action you can take. So I think

1 technically you can look at it as the meeting never took place if you don't have a  
2 quorum.

3 MS. MCDANIEL: That's right, which I guess would be a deferral.

4 MR. TUTTLE: I mean, it's never happened, I'm not trying to –

5 MR. PRICE: I mean, we look at the, I wouldn't look at it that way at all. You know,  
6 if y'all aren't, if you only have three Members here there's no meeting.

7 CHAIRMAN PALMER: Or if we didn't have a quorum one time, the first one  
8 would have to be heard the next time or be –

9 MR. TUTTLE: Well, but, well let's say somebody came in and they had a conflict  
10 with the neighbors and they were working on it so they deferred. And then the next  
11 meeting we don't have a quorum. So they gotta start all over?

12 MR. THEUS: It's just deferred to the next actual meeting.

13 MR. TUTTLE: Okay, so when the quorum's not here that's not a deferral, I guess  
14 that's the question I need answered.

15 CHAIRMAN PALMER: We just put it in, we just put in the Rules that a quorum  
16 does not dictate –

17 MR. PRICE: Well, these are your Rules, at any time, you know, I'll take the, the  
18 example you put forward, I think, you know, you can waive your own Rules at any time.  
19 And if you decided that the community was here and the applicant wanted to, the  
20 applicant would ask for a deferral and you realize this would be the second time, I think  
21 you could, you could waive this particular Rule and allow them to come back. I mean, if  
22 somebody came in and said, I would like to defer it because I want to meet with the  
23 community, okay that's one, you know, we could remind them, you understand –

1 CHAIRMAN PALMER: Why even have any of them at all? What does it matter?

2 MR. PRICE: Hum?

3 CHAIRMAN PALMER: What does it matter to have them –

4 MR. PRICE: What?

5 CHAIRMAN PALMER: - why does it matter how many times they defer or you  
6 defer or we defer?

7 MR. PRICE: Well, you know, once again I'm going by what was previously, what  
8 was in your Rules. And I think the reason behind that was to keep, you know, we've  
9 had, we don't have them as much any more but when we used to have a lot of cases  
10 some, you know, we'd go out there, we'd post the property, somebody'd ask for a  
11 deferral. And -

12 CHAIRMAN PALMER: But we have to vote on deferrals. They don't get an  
13 automatic deferral.

14 MR. PRICE: If it gets to you, yes.

15 CHAIRMAN PALMER: So we have the ability to, if they, if we see somebody  
16 trying to take advantage of the public and saying they come in here, oh there's 100  
17 people in here, I don't want to have the case today.

18 MR. PRICE: Right. I can grant a deferral as the Zoning Administrator if they  
19 come to me –

20 CHAIRMAN PALMER: Right.

21 MR. PRICE: - prior to. And there's some reasons here. I can grant a deferral.  
22 There are times when the person kind of waits till the last minute and then they come in  
23 here and ask for a deferral.



1 CHAIRMAN PALMER: Right, but they don't automatically get a deferral, either  
2 you got to give it to them or we got to vote on it.

3 MR. PRICE: Correct.

4 CHAIRMAN PALMER: So there's a mechanism in place to stop that anyhow.

5 MR. PRICE: Yes.

6 CHAIRMAN PALMER: So we should just take this out on it automatically being a  
7 withdrawal because we have a mechanism in place to stop the nonsense if we wanted  
8 to. You understand what I'm saying?

9 MR. PRICE: But what if the matter doesn't get to you?

10 CHAIRMAN PALMER: He can't defer it until either you allow a deferral or we  
11 vote on a deferral.

12 MR. PRICE: Right, if the applicant comes and asks for a, they ask me for a  
13 deferral, you know, 20 days before the meeting and I grant that, and they came back  
14 and did it the next month well in advance of posting, that's never gonna get to you.

15 CHAIRMAN PALMER: You can say yes or no. If you think they're playing games  
16 or you think they're just doing it because the public's outraged at it and they're trying to  
17 squash the public.

18 MR. TUTTLE: Yeah, I mean, there's some other legitimate reasons where  
19 something could get deferred by the applicant two months in a row; it could be a health  
20 issue. You know, I mean, so I mean, I just, I don't want us to punish somebody for a  
21 legitimate reason, but by the same token I don't want them to have the ability to defer  
22 for political demands.

1 MR. PRICE: I will tell you this, this really doesn't happen very often, and what it  
2 has, we have been able to use this I think for the better to get people, hate to say it,  
3 from playing games. But we tell them, look you've already been given one deferral. If  
4 you defer it again, if you're going to defer it again, it will constitute a withdrawal and  
5 what that does is, a, it allows them to say, okay instead of being deferred until next  
6 month, they'll give us a specific date when they want to be deferred to, and secondly  
7 they get themselves together before they come forward.

8 CHAIRMAN PALMER: Okay.

9 MR. TUTTLE: Alright.

10 CHAIRMAN PALMER: So you think it should stay in.

11 MR. PRICE: I think it should stay.

12 CHAIRMAN PALMER: Okay.

13 MR. PRICE: As I said, if any, you know, once again we don't enforce your Rules.

14 CHAIRMAN PALMER: Right.

15 MR. PRICE: So if someone demanded, if I told them, I said, I'm sorry your  
16 application's considered withdrawn according to the Rules of the Planning Commission,  
17 they could demand to come before you for you to enforce your own Rules.

18 CHAIRMAN PALMER: Okay.

19 MR. PRICE: Minutes, section 15, we took out, on audio tape, we don't do that  
20 anymore.

21 CHAIRMAN PALMER: Yeah.

22 MR. PRICE: Going down to, under Article 4 under section 1, we broke this into  
23 two sections. The Department or a Commission Member voting on the prevailing side of

1 a decision may request reconsideration of a Commission decision for which the  
2 Commission has final authority to act prior to the approval of the Minutes. So, you know,  
3 that allows you –

4 CHAIRMAN PALMER: What's the Department all about?

5 MS. LINDER: That's what I was gonna ask too, why is the Department in there,  
6 cause the Department does not vote?

7 MR. PRICE: We can – what it does is it allows us to ask for a reconsideration  
8 also. If we found –

9 MS. MCDANIEL: So you can request.

10 MS. LINDER: You need to reword it.

11 MR. PRICE: Yeah, we can request.

12 MS. LINDER: This needs to be reworded.

13 MR. PRICE: What, to what?

14 MR. TUTTLE: Right now you've eliminated the Department's ability to ask for that  
15 –

16 MR. PRICE: No.

17 MS. MCDANIEL: No.

18 MR. THEUS: Again, it's a wording issue. It's a –

19 MS. MCDANIEL: I think if you just switch the order of Commission Member  
20 voting on the prevailing side of the decision, or the Department.

21 MR. PRICE: Okay.

22 MS. MCDANIEL: Because the way it reads now you could say that voting on the  
23 prevailing side modifies Department.

1 MR. PRICE: I was looking at that, thank you.

2 MS. MCDANIEL: So just switch the order of those two.

3 MR. PRICE: Okay. And –

4 CHAIRMAN PALMER: Why would the Department need to make a motion or, I  
5 don't understand that, I mean, for reconsideration. I've never heard of that before.

6 MR. PRICE: Well, I mean, maybe the same reasons why an applicant may come  
7 in and ask for a reconsideration. There could be a case where –

8 [Inaudible discussion]

9 MR. PRICE: It could be one, you know, we [inaudible] get a subdivision review,  
10 for example, you don't get a lot of those but there some that would go forward that you  
11 may approve, recommend approval, or actually grant approval, and we may determine,  
12 you know, we found some more information that it shouldn't, should not have been  
13 approved, we need to bring that back for a reconsideration. I mean, request that.

14 [Inaudible discussion]

15 MS. LINDER: [Inaudible] we may need to look at this because I know on an  
16 appeal, if we have received information on the day of the Planning Commission  
17 meeting, and no one had recommended a reconsideration on the day of the Planning  
18 Commission, it's not seven days in advance. So we need to allow for those type of  
19 situations where we have new information come in.

20 MR. PRICE: Well, like I said this is broken into two parts; there's one for the  
21 Department and the Commission and the second part's actually for just the applicant.  
22 So that's where the seven days comes in.

1 MS. HEGLER: You're saying the Department's always had the ability to request  
2 the –

3 MR. PRICE: The Department, essentially the Department and the Planning  
4 Commission have prior to the Minutes, approval of the Minutes to –

5 MS. LINDER: Do we need to – if you want to do that Geo we need to rewrite that  
6 first paragraph –

7 MR. PRICE: Okay.

8 MS. LINDER: - the Department does not vote.

9 MR. PRICE: Okay. Yeah, we, yeah we're gonna switch that up.

10 MS. LINDER: Possibly three paragraphs there?

11 MR. PRICE: Yeah, we can work on that language.

12 MR. BROWN: And I think that, Mr. Chairman, I think the prevailing thought there  
13 in paragraph 1 is the Department doesn't vote no matter what order it's in.

14 CHAIRMAN PALMER: Right.

15 MR. BROWN: They may simply request.

16 MR. PRICE: Right, it's a request to the Planning Commission for a  
17 reconsideration on the action that you took, but you have final authority.

18 CHAIRMAN PALMER: I think the Department and the applicant need to be under  
19 the same Rules.

20 MR. PRICE: Well then we may need to do three, because under – we need to  
21 look at the second paragraph where the language is pretty much the same, it just says  
22 for the applicant –

23 CHAIRMAN PALMER: Right.

1 MR. PRICE: - such written request is received by the Zoning Administrator within  
2 seven (7) days of the Commission's actions.

3 CHAIRMAN PALMER: Yeah, that needs to be either the Zoning Administrator or  
4 the Planning Commission – the Rules need to be the same for the Department and for  
5 the applicant in my opinion.

6 MR. PRICE: Okay then if that's the case would you accept taking out seven (7)  
7 days of the Commission's actions to just prior to the approval of the Minutes?

8 CHAIRMAN PALMER: I would think so. I mean, any, I mean, we'll all take a look  
9 at it, but I think they need to be the same for both. Whatever you think's fair. And of  
10 course, somebody wanting to, you know, reconsider the Minutes, [inaudible] somebody  
11 think they'd have a better chance explaining their case beforehand than just coming to a  
12 meeting, but. Okay.

13 MR. PRICE: Okay. That's it on page 9 and on page 10 the Appeals of the  
14 Department Decisions, once again that's spelled out in section 26-58 of the Land  
15 Development Code for appeals.

16 CHAIRMAN PALMER: Okay.

17 MR. PRICE: You know, that's why the rest of this was taken out. That is that.

18 MR. MCDANIEL: Well, do we want to add – we've got a provision here for  
19 amendments, do we want to add a section 3 for, I mean, personally I don't think it's a  
20 good idea to waive your procedures, but if we wanted to have the ability to do that it  
21 might need to be, if you wanted to waive the procedures for a particular case.

22 MR. PRICE: You mean by the, by a Planning Commission Member to submit it in  
23 writing why they think it should be?

1 MS. MCDANIEL: No, we were talking about like if you get to two deferrals and it's  
2 withdrawn, if we wanted to waive that requirement, or any of these other requirements.

3 MS. LINDER: [Inaudible] in writing that you've got that ability to waive –

4 MS. MCDANIEL: And that it requires, you know.

5 CHAIRMAN PALMER: A majority vote and that a tie vote is a no.

6 MS. MCDANIEL: Yeah. Listen, I don't think it's a good idea to have a provision  
7 permitting waiver of the Rules, but if we were going to, philosophically decided that's an  
8 okay thing to do, I think it needs to be in writing in the Rules themselves.

9 MR. PRICE: On page 11 under section 2.

10 MS. MCDANIEL: It would be section 3 of Article 6. It would be a new section. A  
11 new section. There's nothing in here right now that permits waiver of the Rules.

12 CHAIRMAN PALMER: I think he's saying it's already in Article 6, section 2.

13 MS. HEGLER: You're saying that's what section 2 says, it's their right to waive,  
14 yeah.

15 MS. MCDANIEL: That's, that would amend the Rules going forward for everyone.

16 MS. HEGLER: I agree, I see.

17 MR. PRICE: Okay.

18 MS. MCDANIEL: Like a one time waiver. Listen, I'm not convinced that that's a  
19 good thing to even have in there, but since we talked about it and if we decide that we  
20 do want it, the ability to do that, it needs to be in the Rules.

21 MS. HEGLER: Well, we could [inaudible] that is explicitly stated anywhere and  
22 pull that language out.

23 MR. PRICE: Okay.

1 [Inaudible discussion]

2 CHAIRMAN PALMER: Alright. We've got OI?

3 MS. MCDANIEL: Mr. Price, thank you for your good work on that. That was very  
4 helpful.

5 MR. PRICE: I'm glad we only had one attorney here. [laughter] Thank you.

6 CHAIRMAN PALMER: We look forward to your changes next month as well.

7 MR. TUTTLE: Mr. Price, I was confused. I noticed that there was not a provision  
8 that the Chairman must wear a tie in the operating rules. I thought that was, a motion  
9 passed last year. [laughter]

10 MR. PRICE: You can put that down. [Inaudible] maybe come back with some  
11 recommendations next month, but what we will probably start doing a little bit more of is  
12 looking at each of the zoning designations. We'll probably start doing, I think it may be  
13 easier to do it district by district, is kind of going through and looking all of the permitted  
14 uses within each zoning designation just to, just to ensure or maybe to make sure that  
15 looking at the purpose for each zoning designation, that the uses allowed within there  
16 kind of mirror that, the purpose. One example, and we placed it in the [inaudible] but the  
17 question may come, within the OI District, which as stated by the purpose is to  
18 accommodate office, institutional and certain types of residential uses. It also allows,  
19 you know, other uses that serve the, serve the needs of the area. But there's a  
20 question, you know, we were looking at convenience stores with gas pumps, you know,  
21 which we kind of deem more as really purely a retail type use and when you look at  
22 potentially the size of those the question is, should those be allowed in the OI District or  
23 should those uses really be more for the, you know, your more intense commercial uses



1 such as maybe even Neighborhood Commercial or your General Commercial. So it's  
2 just certain uses like that, and I think it may be just either if we just do it district by  
3 district, you know, every month and we can look at those and then make those  
4 recommendations. So what I did was I highlighted the OI District, hopefully that makes it  
5 a little easier for you, and if you could just kind of look at the uses and if you have some  
6 questions about any of the uses, whether they should be there, maybe they should be  
7 allowed but more with special requirements, you know, I'll go back to convenience store  
8 with gas pumps, gas station, you know, should that have certain size restrictions if it's  
9 going to be in the OI District, or certain hours or certain other, you know, additional  
10 requirements.

11 CHAIRMAN PALMER: Well, I think the genesis of this, and correct me if I'm  
12 wrong, was that the GC used to be C-3, OI was C-2 and –

13 MR. PRICE: OI was C-1.

14 CHAIRMAN PALMER: OI was C-1, and then NC was C-2?

15 MR. PRICE: Yes, sir.

16 CHAIRMAN PALMER: Okay, so that's where, and all it was was just a name  
17 change and then we kept all the same uses.

18 MR. PRICE: Did not keep all the same, there were some changes to the uses  
19 that were previously allowed or even prohibited.

20 CHAIRMAN PALMER: Okay.

21 MR. PRICE: In some of the districts. You know, we, you know, you have, you  
22 know, we might have a case with someone who's looking to do something in an  
23 institutional type use and OI's perfect for it, but then when you start looking at all of the

1 other uses that may be allowed, maybe those uses wouldn't be appropriate. Just kind of  
2 clean up that zoning district a little bit more.

3 CHAIRMAN PALMER: Okay.

4 MR. PRICE: And it may actually be some uses that you can think of that our  
5 Code doesn't address right now that maybe we should add, so if you would just take a  
6 look at that and we can discuss it a little further in February and then maybe be  
7 prepared to take actions in March. This isn't something that's really pending at this time.

8 CHAIRMAN PALMER: Is this something you've had problems with, people  
9 wanting to know why they can't do this on their zoned property or is this –

10 MR. PRICE: Well, that, that question occurs every zoning designation.

11 CHAIRMAN PALMER: Yeah, but I mean, have you seen something, have you  
12 commonly, like I know that Crane Creek thing, I mean, it made sense to put that use in  
13 that parcel and you just couldn't go there just because of the wording in the zoning. I  
14 mean, is this something where you look at something, you have something come up all  
15 the time and people think it should be allowed in OI but it's not kind of thing?

16 MR. THEUS: So you're saying what instigated this request?

17 CHAIRMAN PALMER: Right. Is it –

18 MR. PRICE: No, this is something that we as a Staff were looking at and this is  
19 something that we have been planning to do for a while.

20 MR. THEUS: There's no specific recommendation of a change in uses within the  
21 OI District.

22 MR. PRICE: Right now no, sir. What we wanted to do was just bring this before  
23 you so you could kind of look at it.

1 MR. THEUS: Okay.

2 MR. PRICE: You know, a good example, and I hate to beat up on convenience  
3 stores with gas pumps, but you know, the question becomes, if you put, the property's  
4 zoned OI, you put a giant convenience store with gas pumps, now the next person  
5 comes in and starts saying, well I want to go, you know, General Commercial next to it,  
6 isn't that use already establishing a General Commercial, you know, feel within that  
7 area? So those are kind of things we were looking at, just trying to keep everything –

8 CHAIRMAN PALMER: I gotcha.

9 MR. PRICE: - as the zoning allowed.

10 CHAIRMAN PALMER: So, and you can limit it through all kinds of stuff; size of  
11 the building, number of pumps, square footages.

12 MR. PRICE: I mean, those are the things we can talk about.

13 CHAIRMAN PALMER: Right. Okay, is that all Mr. Price? And then we had some,  
14 Director's Report of Action?

15 MS. LINDER: That's in your package for review.

16 CHAIRMAN PALMER: Okay.

17 MS. LINDER: Just for information.

18 CHAIRMAN PALMER: Alright. Do we have a motion to adjourn?

19 MR. BROWN: So moved.

20 MR. GILCHRIST: Second, Mr. Chairman.

21 CHAIRMAN PALMER: Those in favor?

22

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

3 *[Meeting Adjourned at 2:15pm]*