

August 21, 2007

The Greenville Planning and Zoning Commission met on the above date at 6:30 p.m. in the Council Chambers of City Hall.

Mr. Len Tozer - \*  
Mr. Bob Ramey - \*                      Mr. Dave Gordon - \*  
Mr. Jim Moye - \*                        Mr. Tim Randall - \*  
Mr. Don Baker - \*                      Mr. James Wilson - \*  
Mr. Bill Lehman - \*                    Mr. Porter Stokes - \*  
Mr. Godfrey Bell, Sr. - X            Ms. Shelley Basnight - \*

The members present are denoted by an \* and the members absent are denoted by a x.

VOTING MEMBERS: Tozer, Moye, Gordon, Ramey, Baker, Wilson, Lehman, Stokes and Randall

PLANNING STAFF: Merrill Flood, Director of Community Development; Harry V. Hamilton, Jr., Chief Planner; Chantae Gooby, Planner; Andy Thomas, Planner; and Kathy Stanley, Secretary.

OTHERS PRESENT: Council members Ray Craft and Chip Little; Thom Moton, Assistant City Manager; Dave Holec, City Attorney; David Brown, City Engineer; Wayne Nottingham, Engineer.

Chairman Tozer welcomed Council member Ray Craft and thanked him for his continued service to the Commission.

MINUTES: Motion was made by Mr. Ramey, seconded by Mr. Moye, to accept the July 17, 2007 minutes as amended. Motion carried unanimously.

REQUEST BY ALMA PARAMORE HEIRS, SNODIE PARAMORE, JR., THOMAS MOYE, DARWIN PARAMORE, ET AL – CONTINUED

Chairman Tozer stated that the Commission has received a request to continue the rezoning request to October 16, 2007.

Motion was made by Mr. Ramey, seconded by Mr. Wilson, to continue the request. Motion carried unanimously.

REQUEST BY WARD HOLDING, LLC FOR A LAND USE AMENDMENT- APPROVED AND A REQUEST FOR REZONING – APPROVED

Chairman Tozer stated that the next items is a request for a Land Use Plan Amendment by Ward Holdings, LLC request to amend the Future Land Use Plan Map for the area described as being

located at the southeast corner of the intersection of Greenville Boulevard and 14<sup>th</sup> Street, 320± feet along Greenville Boulevard and 200± feet deep containing approximately 1.5 acres from an “Office/Institutional/Multi-family” category to a “Commercial” category.

Ms. Chantae Gooby advised that the Land Use Plan Amendment submitted by Ward Holdings, LLC is in conjunction a rezoning request, therefore, the Commission would need to vote on the two requests separately. Ms. Gooby stated that the Land Use Plan Amendment is to change the designation from Office/Institutional/Multi-family to Commercial. Ms. Gooby stated that the rezoning request is for Heavy Commercial. The property is located within the eastern section of the city at the intersection of Greenville Boulevard and 14<sup>th</sup> Street. The property contains three separate parcels with a single-family dwelling on each parcel. There is a recognized focus area at the intersection of Greenville Boulevard and 14<sup>th</sup> Street. This request could generate a net increase of 3,300 trips with the majority of the trips being distributed onto Greenville Boulevard. Ms. Gooby stated that in 1990 eight (8) property owners along Greenville Boulevard, between 14<sup>th</sup> Street and Adams Boulevard, requested to rezone their property from single-family/duplex to office. The owners requested that the Planning and Zoning Commission sponsor the request, which it did, however the Commission recommended denial of the request. Ms. Gooby stated that a valid protest petition was filed by 90% of the adjoining property owners against the request. City Council unanimously denied the request at their February 1990 public hearing. In 2006, the property was rezoned to R9S (single-family) as part of the Task Force on Preservation of Neighborhood and Housing recommendations. Ms. Gooby explained that due to the 1990 rezoning request it was recognized that the houses fronting Greenville Boulevard had long-term livability issues and therefore the Land Use Plan Amendment recommends Office/Institutional/Multi-family along Greenville Boulevard. The OIMF designation allows serves as a buffer to the interior homes and prevents linear commercial expansion along Greenville Boulevard. If the Land Use Plan is amended there would no longer be any buffer to the interior homes and it would open the door for further commercial expansion. Ms. Gooby stated that staff would recommend denial of the Land Use Plan Amendment and the Rezoning request.

Mr. Jim Ward, petitioner of both requests, stated that staff’s position on the requests is of no surprise because it is incumbent upon staff to make recommendations that are consistent with the existing Land Use Plan regardless whether they feel the request is reasonable. Mr. Ward stated that he has spoken with most of the adjoining property owners and there is no opposition to the request. Mr. Ward stated that by removing the homes at the intersection it would become safer because the number of driveway cuts would be reduced based on the design of the development. Mr. Ward stated that he hoped the Commission would agree that the request is practical and best serves the area and asked the Commission to forward this request and the subsequent rezoning request to City Council with the Commission’s approval.

No one spoke in opposition.

Mr. Holec reminded the Commission they are not to take any representation made as to what the development may be. Mr. Holec stated that the Commission may hear further from staff as to their recommendation of denial.

Ms. Gooby explained that the houses along Greenville Boulevard are designated as Office/Institutional/Multi-family in order to buffer the interior homes from what is at the opposite corner and across the street. Ms. Gooby stated that staff recognizes that the homes along Greenville Boulevard have long-term livability issues.

There was discussion in relation to the tax base if the property was rezoned.

Mr. Ward stated the request is practical for this location. Mr. Ward stated that the adjoining land owners are experiencing significant problems because of the quality of tenants occupying the homes. Mr. Ward stated that the property owners he spoke with are excited about the possibility of something new, fresh and something that will compliment the area.

Mr. Holec reminded the Commission that two votes are required. A motion for the Land Use Plan amendment and a motion for the Rezoning request.

Motion was made by Mr. Baker, seconded by Mr. Ramey, to approve the Land Use Plan Amendment. Those voting in favor: Baker, Ramey, Gordon, Randall, Lehman and Stokes. Those voting in opposition: Wilson and Moye. Motion carried.

Motion was made by Mr. Baker, seconded by Mr. Ramey, to recommend approval of the proposed amendment, to advise that it is consistent with the comprehensive plan and other applicable plans, and to adopt the staff report which addresses plan consistency and other matters. Those voting in favor: Baker, Ramey, Gordon, Randall, Lehman and Stokes. Those voting in opposition: Wilson and Moye. Motion carried.

#### REQUEST BY PARKER'S CHAPEL FREE WILL BAPTIST CHURCH – APPROVED

Chairman Tozer stated that the next item is a request by Parker's Chapel Free Will Baptist Church, to rezone 19.53± acres located at the southwest corner of the intersection of Pactolus Highway and Greenville Boulevard from RA20 (Residential-Agricultural) and CH (Heavy Commercial) to OR (Office-Residential [High Density Multi-Family]).

Ms. Gooby stated the request is to rezone approximately 20 acres from Residential-Agricultural and Heavy Commercial to Office-Multi-family. The property is located in the northeast quadrant of the city at the intersection of US Highway 264 and Pactolus Highway. The property is currently vacant and is impacted by the 100 and 500 year floodplains and elevation standards will apply. There is a regional focus area at the intersection of US Highway 264 and the by-pass. The request could generate an increase of 1,800 trips per day with the majority to the south. The Land Use Plan Map recommends Commercial at this intersection. The requested zoning, OR, is considered high density residential. Ms. Gooby stated under the current zoning staff would anticipate 35 to 45 single-family homes. Under the requested zoning, staff would anticipate approximately 230 multi-family units. In 2006, 73 acres to the south of the subject property were rezoned to OR. Ms. Gooby stated that the request is in general compliance.

Rev. Lorenza Stox, Pastor of Parker's Chapel FWB Church, stated the church purchased the land in plots. Rev. Stox stated that the request is compatible with surrounding zoning. Rev. Stox stated that eventually a new church, educational building and a ball field will be built.

No one spoke in opposition.

Motion was made by Mr. Ramey, seconded by Mr. Stokes, to recommend approval of the proposed amendment, to advise that it is consistent with the comprehensive plan and other applicable plans, and to adopt the staff report which addresses plan consistency and other matters. Motion carried unanimously.

#### REQUEST BY TUCKER FARMS, INC. – APPROVED

Chairman Tozer stated that the next request is by Tucker Farms, Inc., to rezone 7.1822 acres for the property located along the western right-of-way of County Home Road, 200± feet south of Piccadilly Drive and 160± feet east of Royal Drive from R6 (Residential [High Density Multi-family]) to O (Office) and R9S (Residential-Single-family [Medium Density Residential]).

Ms. Gooby stated this is a request to rezone seven acres from Multi-family to Office and Single-Family. The property is located in the southeast quadrant of the city. The property fronts along County Home Road and backs up to Windsor Subdivision. Ms. Gooby indicated the wetlands on the survey. There is a regional focus area located at Fire Tower Road and Arlington Boulevard. This request could result in a net decrease of trips. The Land Use Plan Map recommends Commercial at the intersection of Fire Tower Road and Arlington Boulevard transitioning into Office/Institutional/Multi-family and Medium Density Residential as you progress to the south. The current zoning of R6 is considered High Density Residential. Under the current zoning, staff would anticipate approximately 80 multi-family units. Under the proposed zoning, staff would anticipate office development along County Home Road with single-family lots abutting Windsor Subdivision. While the Land Use Plan Map recommends medium density residential, staff is of the opinion this request is in general compliance in that the proposed Office zoning is the most restrictive non-residential zoning and provides a transition between Windsor Subdivision and County Home Road.

Mr. Ken Malpass, Malpass and Associates, spoke on behalf of the applicant. Mr. Malpass stated he would answer any questions.

Ms. Pam Rapp, 2407 Royal Drive, stated she is not against the request but has concerns about the possibility of building on Tract 2 where there are wetlands. Ms. Rapp asked if there would be buffers between the development and the homes in Windsor on Tract one.

Mr. Malpass advised that the area located in the rear of Tract two could possibly be offered to adjacent land owners to add to their lots.

There was discussion in relationship to the type of buffer that would be required between office and residential development.

No one spoke in opposition.

Motion was made by Mr. Gordon, seconded by Mr. Lehman, to recommend approval of the proposed amendment, to advise that it is consistent with the comprehensive plan and other applicable plans, and to adopt the staff report which addresses plan consistency and other matters. Motion carried unanimously.

#### REQUEST BY DR. LEDYARD ROSS – APPROVED

Chairman Tozer stated that the next item is a request by Dr. Ledyard Ross to rezone 0.4021 acres located along the northern right-of-way of Arlington Boulevard, 320± feet east of the Seaboard Coastline Railroad and 815± west of Evans Street from OR (Office-Residential [High Density Multi-family]) to CG (General Commercial).

Ms. Gooby stated this request is to rezone ½ acre. The existing property is zoned Office and Multi-family. The requested zoning is Commercial. The property is located along Arlington Boulevard between J. H. Rose High School and Evans Street. There is an intermediate focus area located at the intersection of Evans Street and Arlington Boulevard. The Land Use Plan Map recommends Commercial at this intersection transitioning to Office/Institutional/Multi-family to the west. The current zoning is considered High Density Multi-family and allows Offices. The property is adjacent to commercial to the east. Ms. Gooby stated that staff would consider the request a minor deviation and recommend approval of the request.

Dr. Ledyard Ross, petitioner, advised he would answer any questions.

No one spoke in opposition.

Motion was made by Mr. Ramey, seconded by Mr. Stokes, to recommend approval of the proposed amendment, to advise that it is consistent with the comprehensive plan and other applicable plans, and to adopt the staff report which addresses plan consistency and other matters. Motion carried unanimously.

#### REQUEST BY ALLEN THOMAS – APPROVED

Chairman Tozer stated that the next item is a request by Allen Thomas to rezone 7.737 acres located at the corner of Arlington Boulevard and Dickinson Avenue from RA20 (Residential-Agricultural) and O (Office) to MO (Medical-Office).

Ms. Gooby stated this request is to rezone nearly eight acres to Medical-Office. The property is located in the southwest quadrant of the city. Ms. Gooby presented an approved preliminary plat for Arlington West Office Park, which includes a portion of the subject property. There are

various multi-family developments within the area. The property is located between two focus areas along Dickinson Avenue. This request could generate a net increase of 2,250 trips and would be distributed evenly. The Land Use Plan Map recommends Office/Institutional/Multi-family at the intersection of Arlington Boulevard and Dickinson Avenue. The property is located at the entrance of the Medical District on Arlington Boulevard headed north. Ms. Gooby stated that staff is of the opinion the request is in general compliance.

Mr. Mike Baldwin, Baldwin & Associates, spoke on behalf of the petitioner. Mr. Baldwin advised that the petitioner has the property under contract. This site is a portion of Arlington West Office Park.

No one spoke in opposition.

Motion was made by Mr. Stokes, seconded by Mr. Moye, to recommend approval of the proposed amendment, to advise that it is consistent with the comprehensive plan and other applicable plans, and to adopt the staff report which addresses plan consistency and other matters. Motion carried unanimously.

#### REQUEST BY SHERRYL TIPTON – APPROVED

Chairman Tozer stated that the next item is a request by Sherryl Tipton, to rezone 0.66 acres located at the northeast corner of the intersection of Plaza Drive and Carlton Street from CG (General Commercial) to O (Office).

Ms. Gooby stated this request is to rezone a little more than ½ acre from Commercial to Office. The property is located in the central part of the city between Brentwood Subdivision and Stein Mart Shopping Center. Currently, the property is occupied by the NC Academy of Dance. Carlton Street serves as an entrance to the Brentwood Subdivision. The Land Use Plan Map recommends Office/Institutional/Multi-family which serves as a transition between the Brentwood Subdivision and the commercial at the intersection of Evans Street and Red Banks Road. Ms. Gooby stated that the request is in compliance.

Ms. Sherryl Tipton stated she would answer any questions.

Motion was made by Mr. Ramey, seconded by Mr. Lehman, to recommend approval of the proposed amendment, to advise that it is consistent with the comprehensive plan and other applicable plans, and to adopt the staff report which addresses plan consistency and other matters. Motion carried unanimously.

#### REQUEST BY PORTER’S GROVE, LLC – CONTINUED (Verbatim Transcript)

Chairman Tozer: Item number nine a request by Porter’s Grove, LLC for a preliminary plat entitled “Porter’s Grove”.

Mr. Andy Thomas: This is the request for the Porter's Grove preliminary plat. This is located in the southeast portion of the city at the edge of the ETJ. The property is located north of Portertown Road at its intersection with Herman Garris Road. The property is zoned RA20, Residential-Agricultural. The anticipated use is single family and there are 33 single family lots. A portion of this property is affected by the 100 year floodplain. This is on a minor thoroughfare. This is a copy of the plat that is in your packet. Earlier tonight we placed some additional information at your seats. There is some information on Street Standards and Variances. With this development, external street interconnectivity is not possible due to the existing development of Forest Glen to the southeast, existing development to the west and topographical and ecological areas to the north. The terminal streets exceed the 1,000 foot terminal street length. The proposed Waterberry Lane, which is the main street coming in, is 850 feet long. That makes the length of Hardwood Circle 1,380 feet to its terminus. Sweetwater Court, which is the other street, is 1,780 feet to its terminus. Sweetwater Court could be tied into Portertown Road which would negate the need for a variance. It would present a loop street which can have a total length of 2,000 feet. The Planning and Zoning Commission may grant a variance to the maximum street length provision if the Commission determines that there are circumstances that warrant such relief. Section 9-5-181 details the conditions and findings under which a variance can be granted. Sidewalks and stormwater management are being provided. If sanitary sewer is not required, the city will not annex the property at this time and street maintenance will be the responsibility of the homeowners or DOT, if accepted by the state. Earlier the staff had requested some lot lines be moved but it has been determined the lot arrangement is necessary for septic tank approval if allowed. The Legislature has allowed municipalities to establish an extraterritorial jurisdiction in an area that is in close proximity to a city and is primarily urban in nature. These are regions in which a city is likely to expand. Rules are in place that guide development in a manner that is compatible to the city so that in the future when such an area is incorporated into the city it will be a seamless transition. These rules are also in place to protect the health of future homeowners and residents. The provision of public sewer is a better long term option than septic tank development. The State Plumbing Code specifically requires connection to public sewer if it is within reasonable distance. I will say that there is increased activity in this area. This area is experiencing growth just in December the Planning & Zoning Commission approved a preliminary plat for Arbor Hills South, to the north there's a large vacant tract which is about 100 acres. The city has been contacted by some developers who are interested in developing some properties that are just outside the ETJ. One is on Portertown Road and there's some more property over on Charles Boulevard. This is an area that is eyed for future growth. The City Subdivision Ordinance states that the extension of sewer is required in the ETJ. The extension of sewer is required. It is required unless the developer can demonstrate that it is unfeasible to extend sewer then the Planning and Zoning Commission must accept the documentation of any unfeasibility. While the ordinance does not specify exactly what unfeasibility is, the staff has taken it to mean economically unfeasible. Typically, that is the yard stick that has been used to determine feasibility. The Planning staff depends on the Greenville Utilities Commission for the determination of feasibility of sewer. The Greenville Utilities Commission has reviewed the request and determined that sewer is feasible. The Planning staff concurs with their assessment. At this time I will present Phil Dixon who will represent the

Greenville Utilities Commission and make a presentation on their behalf.

Mr. Phil Dixon: As many of you know, I'm Phil Dixon. I'm Commission Attorney for Greenville Utilities Commission and have been their attorney for quite some time. You're being handed a map as we speak that shows a little more clear all the projects that apparently are being developed in this area that desire sewer. You'll see where Porter's Grove is, which is the subject of your night's discussion but you'll also see other projects. The KMRT development, the Arbor Hills South development and then you'll also see a project in yellow, light yellow, that's another project that we have received inquiries about concerning the possibility of serving that also with sewer. This is the proposed Hardee Creek outfall extension. Before we begin I want to read something to you. This was contained in a letter that was sent to the developers here by Randy Emory our Director of Water Resources August 1<sup>st</sup>. He says "Greenville Utilities Commission is currently planning a sewer outfall extension which, once completed, would provide public sanitary sewer service to the proposed subdivision. Contingent upon governing body approval of the outfall project and at such time as the internal sanitary sewer system for Porter's Grove Subdivision has been completed by Porter's Grove, LLC, and the system is operational, GUO will make sanitary sewer service available." So we have gone on record and I'm stating publicly tonight that we're prepared to provide sewer to this particular project. Some very significant points I think that deserve your attention. First and foremost is this project is within the ETJ. The extraterritorial jurisdiction is to be a forecast, as you know, for developers to say this is property that is adjacent to the city limits, this property we anticipate annexing in the near future. It's property that we want to develop with the city standards and guidelines and the Greenville Utilities Commission standards and guidelines because it's going to be property that we're ultimately going to bring into the city. One of the things we're always trying to avoid the whole purpose of having the ETJ is so that you don't have to go back and retrofit and spend a great deal of money in the future and but that burden on rate payers and taxpayers as opposed to the developers who initially put forward the project. The fact that it's in the ETJ I think is very significant. In fact you have a city ordinance and the city ordinance says you shall connect to sanitary sewer with the city. It does make an exception and there are at times, have been times in past when it's just not feasible to provide sanitary sewer. In those cases we make an exception. The burden is on the developer and present to you evidence and documentation that substantiates the unfeasibility of serving this project with sanitary sewer and that's a two step process. Under the ordinance, if you read it very carefully it says they have to present documentation on unfeasibility and you have to accept that documentation as it being unfeasible after you've heard, the contrary view perhaps tonight. Here there is a section that you're probably not familiar with as readily since you most often don't work with the Utilities Commission but Section Two of Greenville Utilities Commission's Manual of Design and Construction of Water and Wastewater Systems and Retentions requires that the developers and engineers consult with the Greenville Utilities Commission when they're in the conceptual phase, I guess I would call a project, to determine the feasibility of providing water and sewer service. To my left, let me introduce Cliff Cahoon. I want to make sure I get his name correct and his title, Water Resources Construction Contracts Engineer. Here, this consultation that is required by our Manual did not take place, was not requested by the developer and it was not requested by the engineer. In fairness to the developer, I do want you to know that the developer in December, '06 did make contact with Cliff Cahoon

and he inquired as to the availability of sewer in this general area. This specific property was not mentioned. It was not stated that this particular property would be developed or they wished to develop this particular project. We advised them at that time in December '06 that we had no immediate plans to extend sewer into this area. As you know, sewer extensions are ordinarily and normally realized when there is significant number of projects of sufficient size to justify it. Sanitary sewer is expensive and it's a measured deliberate decisions that we have to make when making those decisions. In March, only three months later, we had contacts concerning the possibility of three or four developments in this area which all of a sudden made it very feasible, we felt, to extend sanitary sewer. One of the things we have to do as a Greenville Utilities Commission is we have to sort of anticipate the future. I want you to know that the top here, that in 1985 Rivers & Associates, the engineer for this developer, developed for us a plan for the Hardee Creek Outfall extension. This is not something that the engineer was advised of or aware of. I mean we had plans to extend sewer in this area as and when it is necessary. In May of this year, the property owners consulted an engineer with Rivers, contacted the city Planning staff to inquire as to whether sanitary sewer service would be required. The immediate answer and response, of course, it's in the ETJ and our city ordinances require but they referred the matter to Greenville Utilities Commission because we are the part who has the responsibility for water, sewer, gas and electricity by charter. When they forwarded it to the Greenville Utilities Commission, we requested some additional information but it was not forthcoming. So we asked for information but did not get that information. Before we could make any final determination as to our opinion concerning feasibility because there's certain data we need to try to make that decision this preliminary plat was formally submitted for review by the city. That's a little different from what we normally see. At the time of our review of the preliminary plat, we again requested additional information from the consultant/engineer concerning sanitary sewer service. We notified the developer to revise and resubmit their plat with an evaluation as to what it would take to provide sanitary sewer to that particular property. That evaluation was not forthcoming. Neither the developer nor their engineer provide the city or Greenville Utilities Commission with any documentation of unfeasibility prior to the submittal of their information to P&Z for the Agenda tonight. Again, a little irregular as far as we're concerned. The preliminary plat has been resubmitted showing on-site septic systems. The only information provided to us was a layout of the property based on on-site septic tank use. Prior to submittal deadline for the August 2007 P&Z Agenda the developers have not provided a property layout to show the number of lots, which could be generated if public sewer were provided. We would submit to you even more lots could be created if you had sanitary sewer or how the property would be developed with sanitary sewer. There are different ways that could be done. They also had not provided us a cost comparison of sanitary sewer per lot cost for this particular project or for other subdivisions which had been developed. Again, I want to reiterate this fact at such time as the internal sanitary sewer system for the Porter's Grove Subdivision has been completed and the system is operational we will make sanitary sewer available. We're prepared to state that on the record. Cliff Cahoon has had to create, on his own, a lot of the information on which we had to base our decision because we did not get that information from the developer or the consultant/engineer. He has looked at such things as the per cost lot of sanitary sewer. He's looked at the percentage cost of sewer at lot value and he's compared that to subdivisions and the subdivisions that have been developed by this developer. I would submit to you in this case the percentage cost of

sewer to lot value is lower for this particular subdivision than three others that were mentioned to you. The lot value is lower in several cases than other subdivisions that have been developed. He will also point out to you that in the submittal that has been made by the developer they have included a very significant cost that is not relevant. It's not related to this project, it's not something they would have to pay. Typically I think we all know it cost between \$3500 and \$4,000 to put in a septic system. We're estimating here something in the range of about \$6,000 to put in sanitary sewer. In my view sanitary sewer should be put in by the developer. That's the whole purpose for having a whole concept of an ETJ and having the city ordinance that requires it. If we do not do that and in the near future we annex this territory as we aspect I want you to understand the retrofit cost are astronomical and it falls on the property owner, and it falls on the rate payer to pay those cost, so we think this is a bad idea. At this time, I'd like to call on Cliff Cahoon if I could to give you some numbers that are significant and I think they are pretty compelling. Cliff.

Chairman Tozer: Could I ask a question please? A couple of questions. Greenville Utilities is not providing water to this site. Is that correct? It's Bell Arthur water, correct? All you're providing is sewer, correct

Mr. Dixon: Eastern Pines Water Corporation.

Mr. Ramey: Mr. Dixon, before you sit.

Mr. Dixon: Yes sir.

Chairman Tozer: One more question. I'm confused as to the December '06 meeting when it didn't look like there was sewer going down this road. I believe this plan was originally submitted in May and that's when the flags started flying up. I'm wondering how this thing got so far down the pipe (unclear).

Mr. Dixon: In December it was just a visit to Cliff Cahoon as I understand by both Johnny Corbett and Vic Corey. They simply said "is there sewer available in this area" and there was not sewer in this area and no any plans to put sewer in this area. In March, three months later, again, no specific property was mentioned it was just a discussion of the general area but to their credit they did make that inquiry at that time. In March, however, we were contacted by representatives of several people who wanted to develop property in this area and all of a sudden it looked as though there were three or four projects. One of the things we try to do is make it feasible for us to put in sewer. We'd like to have a 50/50 cost share participation. In other words, we want the project to generate about 50 percent of the cost. In one of these cases, one of these projects would have to have a pump station, something in the range of \$470 to \$500 thousand. Is that right? Of course, they come to us saying we want sewer rather than have to put in a pump station we'd be happy to contribute that in an effort to make this happen. So all of a sudden it becomes pretty feasible. In fact I think even with three projects we thought we were at about at 45 percent and so we're saying we've got the plans to do this. In fact as we speak tonight it's being discussed by the Greenville Utilities Commission. Now that's in March. So all of a sudden in

March, of course this depends on, you know, when you have projects that are beginning to develop. I think we had a very different situation arise in March. In May, several months later, is when we had this submittal to the City Planning staff. Of course they had to do what they always do they submit it to us for an evaluation as to whether sewer is feasible and that's when we asked for additional information. I would submit to you the issue here is not feasibility. The issue here is profitability because it is feasible to build sewer to this project. It is feasible for internal sewer to be used to develop this property and it's the right thing to do. I think Cliff can share information with you that shows you that.

Chairman Tozer: Well, you know it's interesting when we talk about the developer is going to pay for it. Ultimately it's John Q. public because the cost is passed down.

Mr. Dixon: Retrofit will pay.

Chairman Tozer: Ultimately, cost more, everything.

Mr. Dixon: The retrofit Mr. Chairman would be so much greater because you're tearing up streets. You're going back and facing a nightmare of trying to do that and the developer is not paying that the rate payer is paying that.

Chairman Tozer: That's understandable and I'm having a hard time understanding the time frame in '06 for not going that way. Then submit in May, they're down the pipes with their proposed engineering plan and then all of a sudden hey we're going to do the sewer because somebody else came up and talked about the lands.

Mr. Dixon: There again, they never came to us and discussed this particular property or project. They made a general inquiry. What I'm saying to you, we don't know where sewer is headed in future until somebody comes forward and shows us projects that make it feasible. I'm saying in March it all of a sudden becomes feasible because it looks as though a lot of projects are developing in that area. We had no further contact with anyone and certainly no contact concerning this particular project until May. When we did we wanted to make an evaluation. Now for us to make the determination, Greenville Utilities Commission is the group that makes the evaluation for the city because they want us to look at this and say is it feasible. I'm saying we asked for that information to help us make that decision. It was not forthcoming and we asked for it. What we've had to do is we've had to take the layout that was provided and come up with our own estimate of what it would cost to provide sanitary sewer and compare that to the cost of septic tanks. Then compare that to the fact that we all know that septic tanks are temporary solution to a problem. We know ultimately they'll going to have to be replaced so we know down the road. What I'm saying to you is the purpose for having the ETJ, the purpose for having the city ordinance, the purpose for having the Manual of Design for Greenville Utilities Commission is to encourage these dialogues and these discussions take place before these submittals. We believe the engineer knew ahead of time that we had a plan for development in this area and there should have been that discussion taking place in the early stage. When it didn't take place and there was a preliminary plat, there was contact made with the City Planning

staff. We said at that time, before the preliminary plat was submitted, let's talk about this, let's meet and discuss this further because this is a very specific project and that did not take place. Once the preliminary plat is submitted we still have to review it and we still send it back and say resubmit this, you need to do some other things so we can make our determination but that wasn't forthcoming. This has been a labored process for us to make our decision. I would say to you that it's very clear to us that sewer is feasible.

Chairman Tozer: Mr. Holec, it seems like this should be a public hearing at this point. I mean it's moved from staff to an explanation. No time frame limits. Am I right here?

Mr. Dixon: We make the determination on feasibility. I think that's probably different from the public hearing part. We make our submittal to you then open it to public hearing. Mr. Holec can explain that.

Mr. Holec: This is actually still part of the staff presentation. What has happened is Andy has laid the ground work and the key part is as to whether or not the determination of feasibility of the sanitary sewer and that's why Greenville Utilities has to make their report because it's important. Again, it's what the city relies on, Greenville Utilities Commission as far as their recommendation on that. You'll hear this and Andy will wrap up then you'll open up for public hearing. It is unusual.

Mr. Dixon: Again, I'll defer to Mr. Cahoon.

Chairman Tozer: You have unlimited time Mr. Cahoon. Use it wisely.

Mr. Holec: The only limit is Commission's patience.

Mr. Cliff Cahoon: Mr. Tozer, just to further respond to your question about the time frame I think I might be able to clear that up a little bit. As Mr. Dixon was saying in March we received a request from the property, earlier handout it would be the property closest to the bottom on the page in green, that's the March request we got an interest in sewer. Then the first of May was when we first learned that there was a proposed Porter's Grove development. That's when the three pieces of the puzzle came together in our eye. We've got a potential project here with three different developers wanting to develop simultaneously. We have the making for an outfall project here. So that was the significance of that. Staff did develop an internal sewer layout and a cost estimate as a result of meetings we had with the developer and comments that were made by the developer about absorbing the cost to put in internal sewer. The resulting cost, which is in your packet, from staff's layout and this is without contingences and engineer, actual facilities going in the ground was \$129,600. That compares to the consultants submitted cost for the same, just the materials going into the ground, no engineer, no contingences, \$167,400 roughly. That's about a difference of \$37,800.00. Staff's layout took advantage of the topography, this site has a lot of topography. Staff's layout resulted in a maximum depth of sewer installation of eight feet. The consultants estimates that they have depths of sewer that are in 16 to 18 foot range quite a difference. We haven't seen a layout of the consultants cost estimate. What layout

generated that, I can only assume, that the layout was based on a traditional layout of laying sewer down the centerline of the road which is the typical method. On this site one can take better advantage of the topography and serve it in a little better than typical way. By serving some of the lots in the back and running a few sewer lines along some lot lines, which is acceptable to us in this case, you can greatly reduce the depth of a sewer installation and thus the cost. The consultants estimate also includes a figure of \$76,458 which he coins as outfall improvements across the subject property. This is not a cost that a developer would incur. The only cost that a developer will incur in the outfall is the outfall acreage fees which amount of \$54,000 which are also included in his estimate. The \$76,458 is simply a cost that he will not incur. When you look at a cost per lot of the two scenarios staff's layout versus consultants layout estimate. Staff's cost per lot comes up to \$5,915. per lot. The consultant came up with \$10,267 per lot. If you take away the \$76,500 that I identified as not a cost the consultant's estimate cost per lot would change to about \$7,500 per lot as compared to staff's \$5,900 per lot. We looked at some comparative development, some existing comparative developments in the area and we picked three that in fact one or more of the subject developers have been involved in. Specifically Corey Ridge, Vicksburg and Davenport, Davencroft, excuse me. On these three developments the sewer cost per lot ranged from about \$4,700 per lot to about \$8,800 per lot. When you look at a percent sales price investment for the sewer that equates to a range of about 9 percent to about 12 percent of the lot sales price, was sewer cost for those three developments. It ranged from 9 to 12 percent. When you look at the Porter's Grove, if you were to look at a Porter's Grove sales price based on 33 lots that range from 9 to 12 percent investment per lot and you were to look at staff's layout and the cost per lot that staff came up with you would end up with a lot price range of about \$49,300 to \$65,700. That would represent that 9 to 12 percent investment. The developer has in fact indicated to us in a meeting that they plan to sale these lots for \$70,000. That equates to a 8 percent investment per lot for the sewer. Based on these figures staff's internal layout the resulting cost to put sewer internal to this property are not only feasible but they are in fact very much in line with the cost of other developments which the subject developers have been involved. I'll entertain any questions that you have.

Chairman Tozer: Do we have these numbers that you've been talking about? I'm trying to follow this on our papers and nothing is matching up here.

Mr. Cahoon: Yes you do.

Chairman Tozer: By staff you mean your staff, if that right?

Mr. Cahoon: Greenville Utilities. The first cost estimate that you come to in your packet.

Chairman Tozer: Preliminary Opinion of Construction Costs?

Mr. Cahoon: That's correct. If you'll look about mid-page you'll see Subtotal for Onsite Sanitary Sewer Improvements.

Member: What page?

Mr. Cahoon: It's the first cost estimate that you come to.

Chairman Tozer: This is your most recent I assume, August 7<sup>th</sup>.

Mr. Cahoon: That's correct. That's the figure I was using. \$129,600. I was trying to keep it simple and not involve contingencies, engineering, outfall acreage fees, main fee, I was look at just the cost for facilities. The material and installation costs. Comparing those two because that's the fairest comparison. The acreage fees are the same. Reimbursement for the services are the same a lot of this other stuff is the same. I was comparing that \$129,600, if you will look through your packet until you come to another cost estimate, it's actually on the back of a page.

Chairman Tozer: This is the Rivers?

Mr. Cahoon: That is the Rivers cost estimate. I was comparing that figure which is \$167,383. You see where Rivers went on to add this, on the following page, the \$76,458 estimate. That's the figure that doesn't belong. The developer will not incur that cost.

Chairman Tozer: And how is that?

Mr. Cahoon: Because the description they have given is that this is the cost for extending minimum diameter sewer across the property, along the path of the outfall and that Greenville Utilities would pick up the differential that it needs for the bigger line. That in fact is not true because the \$54,000 of acreage fees that they would pay, that is in the estimate, down closer to the bottom, that's what pays for the outfall. That \$54,000 plus the other two developments that are ready to go. Their acreage fees combined with that \$54,000 is what installs the outfall. There is no additional cost for this developer for the outfall.

Chairman Tozer: Okay, if I'm listening right there was a determination that the sewer was going to be 8 foot but then it could be 12 foot but then maybe we could come on the back of the lots instead of in the streets. Do we really know what we're going to do? Is there a real plan or are we kind of floating around?

Mr. Cahoon: Well that's one of our points that had the consultant come in and talked with us we probably would have arrived at that conclusion together and they would have an estimate that represents 16 and 18 foot deep sewer.

Chairman Tozer: My point is the 4 foot difference between 8 and 12 seems to me to be pretty dramatic.

Mr. Cahoon: Where does the 12 come from?

Chairman Tozer: I though you mentioned there that it could be 12 foot. Consultant.

Mr. Cahoon: 16 to 18 was their deepest depth. Staff's deepest depth was 8 feet. It's just a matter

of how you lay the sewer out and take advantage of the topography. For instance, if you've got a high road and you've got a lot that slopes away from the road and you're trying to serve it at the front of the lot you've got to have a very deep sewer for the house that sits down the slope to get to the sewer as opposed to putting the sewer at the back of that lot that has a lot of slope. The sewer simply runs down hill to a shallow collection system.

Chairman Tozer: Would that possibly make it more feasible for a septic tank then? If that's the case.

Mr. Cahoon: As a matter of fact we contacted the Health Department and talked to them about the septic tank. They indicated to us that there had been no approvals given yet for septic tanks on these lots. They in fact were concerned about the amount of slope some of these lots had and whether or not the septic tanks would function properly with so much slope. There might have to be some intervention and some sort of installation that was not typical to account for the slope.

Chairman Tozer: Thank you. Andy you going to wrap up?

Mr. Randall: I got one question. I haven't read all these letters word for word ect. But obviously ya'll had a meeting on Friday, July 13<sup>th</sup> and it was you all's understanding, this letter coming from you actually, understanding to plan and prepare cost estimate letter addressed to Rivers, that was on the 19<sup>th</sup>. On the 20<sup>th</sup> the letter from Rivers says here is our preliminary opinion of construction costs. Then we come back over to August 1 and it says as a follow up to our meeting we haven't received the cost. Am I missing something there?

Mr. Cahoon: Yes. We're talking about two different costs. The earlier letter is referring to a cost estimate for the outfall only that goes along the creek, the large line. The later is referring to some internal cost.

Mr. Randall: Okay.

Mr. Ramey: One other thing. You said the County was talking about the septic tanks. They didn't tell you whether this land would perk or not did they?

Mr. Cahoon: They did not. I don't know that they have determined that yet.

Chairman Tozer: Thank you.

Mr. Thomas: We do have some documentation from the Pitt County Health Department but it's a very generic letter that says the property will be evaluated upon submission of the plan and the lots will be determined if septic tanks are feasible, I mean, septic tanks will work. An in depth evaluation has not occurred to our knowledge. To wrap all this up, I guess it can best be summed up to read an excerpt from the City of Greenville's Subdivision Ordinance which is Section 9-5-127 which is entitled Public sanitary sewerage required; exceptions. "(a) Each lot intended for a use requiring sanitary sewerage shall be served by the Greenville Utilities Commission and

approved by the State of North Carolina except where unfeasibility is documented and such documentation is accepted by the planning and zoning commission.” Mr. Chairman now you’ll open up the public hearing. At the conclusion of the public hearing it would be appropriate for the Planning and Zoning Commission to have three separate votes on the project. The first vote will be on a request for a variance on exceeding the maximum length on a terminal street. The second vote will be on the issue of whether or not the Planning and Zoning Commission will accept the documentation on unfeasibility of sewer. Information will be presented by the developers engineer as well as the information you’ve already received from the Greenville Utilities Commission. You’ll have to decide if the developer and their representative have presented a compelling argument that the project is unfeasible. The third vote will be to approve or deny the preliminary plat as presented. An unfavorable finding on any of the first two votes should lead to a negative vote on the request.

Chairman Tozer: Any questions for Andy? Thank you Andy.

Mr. Lehman: It may go back to this gentleman over here. The time line on when this project can begin and be finished. Is there any thought to that?

Mr. Thomas: I’d say the City of Greenville and Greenville Utilities staff has committed to serve this project upon its completion. We’re waiting for the developer to put in the sewer so it can be served.

Mr. Cahoon: That’s ultimately the answer here. We’re prepared to serve them whenever they need sewer service. However, we have to do that.

Mr. Lehman: Thank you.

Chairman Tozer: Thank you. Any more questions? I open the public hearing. Anyone to speak in favor? Please state your name for the record and you have five minutes.

Mr. Durk Tyson: Good evening, my name is Durk Tyson with Rivers & Associates. I’m here tonight on behalf of Porter’s Grove, LLC and I’m going to have to talk fast. Let’s start with this time line that’s been laid out. In December, 2006 Mr. Vic Corey and Johnny Corbett met with Greenville Utilities to talk about sewer availability in the general southern portion of Greenville. Specifically, while not talking about this property in specific, it was asked if sewer, GUC had any current plans to extend the sanitary sewer down to the Portertown Road-Herman Garris Road area. Greenville Utilities responded no. On January, 2007 these developers got this piece of property under contract and began their due diligence period. During February they had Ashton Soil Works perform preliminary soil investigation for on-site septic tank suitability. Once they got a favorable report back on on-site sewer they then came to our office and asked us to prepare some preliminary layouts and cost estimates and schedules as to the development of this property. Since they had just met two months prior with Greenville Utilities to talk about sewer, we did not. After we did the layouts, showed them the schedule when lots could be available, they authorized us to proceed with boundary and topographic surveys and in April 16<sup>th</sup> they

closed on this property. You can go the Opus site for the county it reports a sales price of right at \$1 million for this tract of land. On May 10<sup>th</sup>, Cliff Cahoon contacted me asked me to attend a meeting at his office with another engineer who was representing two other projects that were interested in sanitary sewer. At that meeting, I told Cliff that we were currently working on a layout for that, that it was based on on-site, that based on the schedule that we had with the developers we wanted to continue on to submit our preliminary plat. However, I did agree to participate in preparing some cost estimates for the sewer. I submit to you that Rivers & Associates did submit this documentation to Greenville Utilities. Not only did we document the cost of the sewer to our property we projected the cost of the sewer to the other parcels as well. That was on May 10<sup>th</sup>, on May 17<sup>th</sup> we submitted our preliminary plat to the City of Greenville. On May 21<sup>st</sup> and there is a copy of this in your package, the Pitt County Environmental Health Department gave preliminary plat approval to our layout with our soils report for on-site septic tanks. Individual permits have not been issued. The soils report was approved and they did approve the lot layouts. On June 8<sup>th</sup>, this is when we actually submitted the cost estimates for the Hardee Creek Outfall to Greenville Utilities, total project cost was about \$1.3 million. On July 13<sup>th</sup> the developers in our office met with Cliff again, Cliff and Randy, to talk about this outfall. The developers expressed their displeasure with the thought of having to provide on-site sanitary sewer. Greenville Utilities asked us to go back, take our cost estimate for the entire sewer, and break out just the part to serve this property. On July 20<sup>th</sup>, one week later, we submitted that information to Greenville Utilities. The estimated cost to bring this outfall to our property is \$480,000. Outfall fees from our property will generate \$54,000 far less than the 50 percent participation that Greenville Utilities uses as their benchmark for a feasible project. On August 7<sup>th</sup> we resubmitted our preliminary plat back to the City to get on tonight's agenda with it we submitted our documentation for the unfeasibility of sanitary sewer. That is also included in your package.

Chairman Tozer: Can you please come to conclusion Mr. Tyson.

Mr. Tyson: Yes sir. As it has been stated, we are required to provide sanitary sewer unless it is documented to be unfeasible.

Mr. Holec: Mr. Chairman you do have the five minute rule but also for the Commission by consensus you can extend that time if you want too. Again, a little equal balance fairness if you want too. I don't know how much more you need.

Mr. Tyson: Just give me a few minutes and I'll wrap this up. Based on the estimate prepared by Rivers & Associates the cost to provide sanitary sewer internal to the project, excluding the outfall that Cliff said Greenville Utilities is going to pay for, we still estimate that cost at \$247,000. The estimate prepared by Greenville Utilities I suspect severely underestimates the depth of the sewer and is therefore low. That puts the cost of this sewer at about \$7,500 per lot. When you compare these lots to comparable sale prices for Oak Ridge, which is right across the street, same developer, that puts it, sewer alone is 15 percent of the cost of the lot. Based on the original schedule we had prepared for the developers for on-site sewer we were anticipating lot sales, lots would be available for sale, in December, 07. If you were to approve the preliminary

plat as submitted tonight we could still have those lots available by January, 08 on a one month delay. However, if we're required to install sewer internal to our entire project and wait for the outfall to be extended to it then our lots would not be available. We contend these lots will not be available for sale until February, 2009, that's a 14 month delay. With the sales price of this property the developers are facing about \$8,000 a month in carrying cost. Couple that with the \$247,000 it would cost to install the on-site sewer you're looking at an additional cost of \$10,900 per lot. Based on those costs and the delays the developer would be subjected to we contend that it unfeasible to serve this property with sanitary sewer. Than you.

Chairman Tozer: Any questions?

Mr. Randall: Yes, I have a question. Based on the Greenville Utilities potential layout of serving some of the lots out of the back and some straight into the main line running down the road, etc. do you agree with Mr. Cahoon's contention that you in fact had the sewer a lot deeper. As you said, he had it way too shallow.

Mr. Tyson: Our layout, our cost estimate is based on putting the sanitary sewer in the street which is traditional. Greenville Utilities has not shared their layout with us so I can't speak to whether or not his estimate is reasonable.

Mr. Randall: Thank you.

Chairman Tozer: Any more questions? Thank you Mr. Tyson. Anyone else to speak in favor? Please state your name for the record and you have approximately three minutes.

Mr. Johnny Corbett: My name is Johnny Corbett. I thank you for your time. I just wanted to add a couple of comments from a developer's standpoint or from your standpoint if you were in our position. We have purchased this property, interest, he calls it carrying cost, I call it interest. At the present time the interest is costing us \$8,000 a month to sit on this property. There are several things that were not discussed tonight about getting the sewer, getting the sewer outfall, we talked about all these things. Greenville Utilities, at this time, may talk of a map they presented in 1985. They don't have any type of survey. They have no permits from the Corps of Engineers, they have no wetlands permits and take note that everything they got to cross basically is wetlands. They don't have any permits. For them to put in an outfall line they've got to have an engineer to draw this up. They've got to bring it before the Commission. They have to put it out for bids to see who is the best price. They have a process to go through. I know that there is no way possible that they can get this thing in before a couple of years. I just fill comfortable with that. I worked with sewer enough to know. I know everybody can have a great expectation but when you're dealing with this .. also another issue, you've got to deal with the landowners between it and buy easements from these people. If you have one landowner that does not want to cooperate to bring this sewer line through sure you can take it but that's not something you do overnight. That's something that takes time. In the mean while it's costing us \$8,000 a month just to sit there. They talked about two additional sites that people had came in and applied for sewer. They didn't think to mention that when we did have our conversation with Mr. Cahoon

we had a contract on both of these parcels of land and that's the ones that we actually talked to him about and he said no, there was no sewer coming to them. How somebody went to him in March I don't know because I didn't release my option on these contracts until mid April. These two pieces of property I still had contracts on. I'm not saying somebody didn't talk to him but I had a contract on them. The reason we did not exercise our option on these contracts because they told us no sewer was available. Then he took out a map that went up to, what's the name of the subdivision where the sewer stops, Willow Run? He actually took a map down and he said from this point forward, talking Willow Run, down there is no plans for any sewer. That included the piece of property that we bought. There was no need in carrying it back. What I'm doing I'm asking this Board to think of this realistic you might have some other people that come up and say we might buy this or we might buy that. They're not paying any interest. We already bought our piece of property. We've got 33 lots. A comment was made when you get sewer you get more lots. With this being Portertown Road, the District Engineer for DOT said that if you get any more lots you got to put in a left turn lane. You can get a estimate anywhere on the left turn lane and they'll run \$150 to \$250,000 to put in a left turn lane, therefore, we can't afford to get more lots. To bring the sewer in from the bottom of the lots, he's looking at a map, he's talking about going through the woods and some of the bottom of these lots are actually in wetlands. They're in areas that are not designed, you guys have a copy from Gene Ashton in your file where every one of these lots have been approved for septic tanks by a certified North Carolina soil scientist. It's in your package. That's what we based on. We're just asking the Board to think about it from our standpoint. We bought this piece of property based upon the fact that we thought we were going to be able to do septic tanks. Somebody saying you can get \$70,000 a piece for these lots, that's great dreaming. When you look across the street and we developed Oak Hill Farms three phases and they brought from \$40 to 50,000 a piece. When you finish these projects you're still carrying interest. That's a major factor I wish you guys would consider tonight. I thank you for your time.

Chairman Tozer: Any questions? Thank you. Anyone else to speak in favor? Please state your name for the record and you have.

Mr. Vic Corey: Thank you Mr. Chairman and Commission. My name is Vic Corey, Johnny's partner. Phil, I always enjoy your presentations you're so smooth I can't do it like that. The difference between us and the others who've come on line after we meet with Cliff Cahoon in December is when he told us from Willow Run down there was no plans at all. I mean nothing at all. Probably his words for the next 7 or 8 years. What else did we need to know, what else did we need to ask at that time. The options that Johnny was talking about that we had on these other farms we were thinking about, one of them was right on 43. We were thinking about if we could bring the sewer up actually going down 43 like from Kittrell Townes or whatever it is, crossover to where Summers Walk is in that area that we would try to work it out that way. They said no you can't do that cause that's a watershed. So that kind of killed that idea. The difference is our preliminary plat is here I'm asking for your approval on it tonight. We can have our lots ready by the end of the year. February probably at the latest. If we are forced to go with the sewer we're looking at 2 or 3 additional years because it's not going to be ready in 15 to 18 months. That's just not going to happen. You're looking at \$8,000 a month. When you total that up there went

the profit on what may have been a profit in this venture when we started in April when we closed on it. I want you to consider that please. Thank you. Phil mentioned that we did comply with GUC in December because that's when we talked. The cost that we're look at in front of you. We've got staff, we've got Rivers & Associates, and now in front of you, you have Eagle Eye Construction. This is their bid to place the sewer in the property with the design layout that Rivers has given us so far if we have to go that route. If you add up the numbers you're look, I think, it's about \$230,000 above what GUC staff is saying it's going to cost us. Take that \$230,000 add \$96,000 a year carrying interest, carry that for two more years, You're talking about one-half million that's more than the profit was expected on the whole property in April. The clause that we were talking about awhile ago that if it's not feasible that's what I want you to look at tonight. It's not feasible for us to have to wait 2 and 3 years to be able to hook on to the sewer and go through this additional cost. Any questions?

Chairman Tozer: Any questions?

Mr. Ramey: I have one. How many meetings have you had with GUC since December?

Mr. Corey: Since December? Well without looking at my paper I would say between three and four. It's all documented on a sheet here somewhere Mr. Ramey.

Mr. Ramey: Three and four. You haven't met with them in the last 90 days?

Mr. Corey: Yes sir. Yes sir, we met with them in August. In December is when we started talking to them and there was no plans at all. That's why we went with this property. There was no plans for any sewer at all according to him probably for 7 or 8 years going in that direction from Willow Run. There was nothing on the table. That's why we let these other properties go that Johnny was talking about awhile ago. There was no sewer available. The properties did not perk so we did not want them. We didn't want them.

Chairman Tozer: Any more questions? Thank you Mr. Corey. Anyone else to speak in favor? Anyone to speak in opposition? Please state your name for the record.

Mr. Cahoon: I'm Cliff Cahoon.

Chairman Tozer: You have 5 minutes or whatever. I'm not going to say that to Mr. Dixon.

Mr. Cahoon: Let me respond to some of the comments that were made. To start with the statement that there was no sewer project being planned for that area is a true statement. We have a long range plan to put sewer there when somebody comes forward and has a plan that needs the sewer and has some money to help put it in. Rivers & Associates created that long range plan for us back in 1985. The land that they mentioned that they gave up because we sewer was not available to that the March letter that keeps being referred to that another developer sent in owned that property, it was March 5<sup>th</sup>. That developer was proposing a pump station and force main. In other words he wasn't even proposing to extend this Hardee Creek outfall that cost so

much. He knew that sewer was a long time away and nothing was being planned to extend to it. So he wrote and he's got his figures here, pump station, force main, surveying and engineering, total \$ 471,000. This is the typical way projects get started. Somebody puts in writing to us that they're interested in doing a specific project and they assign cost to that project and they ask us for participation and that's exactly what this letter did for this other property. He's asking for 50 percent cost participation. With that in hand March 5<sup>th</sup> and Mr. Tyson mentioned that Porter's Grove project was put under contract to purchase in January and moved ahead in March, I think. Well in January, the very first of January, Arbor Hills South did submit their preliminary plat and we already knew there was going to be \$79,560 of acreage fees coming from that project. The outfalls are already at that project. Had we known up front, early on, that the Porter's Grove developers wanted to develop this piece of property we would have been looking at the combination of acreage fees and trying to look at the feasibility for putting together a project. Certainly in March when this request came along for the third development and they're willing to put in three times their acreage fees we would have known we had a project then. The problem has stemmed from a lack of communication and a lack of formal requests on our part, by their part to us to look at their specific project. We were never asked to look at this specific project and never saw any specific numbers with it early on.

Mr. Randall: Can I ask a question about that specifically? In December when you all met he said, obviously someone was asking about this area. I guess it was Vic, one of them was saying, general from Willow Run down we've got no plans for no sewer, for nothing, in the foreseeable future. You didn't say that?

Mr. Cahoon: That's not true.

Mr. Randall: You didn't point out at the map like he was saying.

Mr. Cahoon: A project can be generated at any time. You never know who is going to walk through the door with a project big enough and willing to invest enough money to create a project.

Mr. Randall: Right.

Mr. Cahoon: You can't sit there and put a time line on when sewer is going to be there. It's developer driven.

Mr. Baker: But at that time no one had approached with a big project and asked you.

Mr. Cahoon: That is correct.

Mr. Baker: Is it possible you may have said that you did see anything in the foreseeable future.

Mr. Cahoon: There was nothing on the table at the time to create a project. The inquiry that was before me in December wasn't putting anything on the table either. They were asking about the general area.

Mr. Baker: Could you have assumed that he would have understood that it was safe to go ahead and figure out (unclear) sewer based on your statement then?

Mr. Cahoon: No sir. My take on the questioning, my personal take on the questioning, was that maybe he was searching for a project that he could search for property near.

Mr. Gordon: When did Arbor Hills come into play?

Mr. Cahoon: Arbor Hills.

Mr. Gordon: What was the time frame on that.

Mr. Cahoon: The very first of January, the preliminary plat was first submitted on that.

Mr. Gordon: At that time would it have been appropriate for you to go back to Mr. Corey and say Vic we got some interest what's going on with your property.

Mr. Cahoon: I didn't know about any specific property. He had asked me about a general area.

Mr. Gordon: You had a conversation with him in December?

Mr. Cahoon: That's correct.

Mr. Gordon: Okay. While it was not a specific piece of property you knew there was somebody interested in that particular area because he had asked you a question. You had lead him to believe that it was going to be some time before anything was going to be developed in that area as far as Greenville Utilities was concerned.

Mr. Cahoon: No sir I did not lead him to believe that.

Mr. Gordon: It seems to me that we have a difference of opinion as to what you said and what he heard. Is that correct?

Mr. Cahoon: That maybe true.

Mr. Wilson: Just a quick (unclear) to that. When somebody, I would think, a lot of this might have been avoided if somebody comes to you who were interested in developing this area some lights would have went gone on.

Chairman Tozer: Could you move to the mike please.

Mr. Wilson: Lights would have gone on in that, well are you interested in sewer or do you have a project in mind. I think that probably would have stemmed some of this lack of communication in the very beginning. Yea, are you interested in this area, we have some plans

about that. You could probably start assembling in your mind, that yea there's some interest in this area in developing. Some developments that may require sewer so I think it's sort of a two-way. I don't think they're trying to evade something or be disingenuous about something.

Mr. Cahoon: Until somebody asks about a specific piece of property there's nothing really that Greenville Utilities can respond to. When you get really talking money you have to look at the acreage involved. The acreage fees it's going generate, the distance the outfall has to be extended to the property and what that will cost and then you start determining the feasibility of a project.

Mr. Randall: How long do you.

Mr. Wilson: So would you not question maybe ask for a little more specificity about what area they were looking in, at? When they came to you, I mean, they gave you a general area I know that. Would you not ask well what specifically did you have in mind knowing that maybe there is a plan somewhere in the background.

Mr. Cahoon: I would think that if a developer is interested in getting sewer to his property that he would be asking us specific questions.

Mr. Randall: How long do you anticipate.....

Mr. Cahoon: And asking for that participation.

Mr. Holec: Let's focus again on what the issue is before you all is. Whether or not they have submitted information to you as far as whether sanitary sewer service is feasible for the project. What you're looking at, you're looking at this time frame, you're not looking at what happened back in December and what discussions failed to happen during that time frame. You're looking at the information they've given to you to show whether or not. They have the burden to establish that sanitary sewer service is unfeasible. That's the focus. Again, not what happened, as of back in December. It's what they have in front of you now at this time to look at whether or not it's appropriate to allow them to proceed with the project when sanitary sewer service is not part of the project. As stated by Mr. Thomas the way the city ordinance is the general rule is that sanitary sewer, all developments are to be served by sanitary sewer service. Not using that is an exception and the burden is on the developer to establish that it is unfeasible. Again, what you look at is, at this time, not what happened back in December. There is also not that the sanitary sewer service that they're able to come in and hook it on immediately there is a reasonable time. There is a build up time as far as getting .... what's necessary to have the service to their site because you have to take into accommodation also their development of the site too. Just because we're starting to focus a little too much on what happened back in December and those statements what's before you on this particular issue whether or not what they've submitted demonstrates that sanitary sewer service is unfeasible for this development.

Chairman Tozer: But let me ask you a question though. The fact is are we talking about money as being the feasibility or are we talking about who presented what facts at what time. I mean,

what's the feasibility issue? What are we talking here?

Mr. Holec: Well, as was explained, the code doesn't really give you a lot of direction. It says whether or not it's determined to be unfeasible. Plain and simply everything is feasible from a technological standpoint just about. You can get at some cost. So everything is feasible with this. What the practice has been is to review as to what is determined to be utilize the definition of economically unfeasible in conjunction with this. Again, not profitability. It's not a question of whether sanitary sewer service is going to develop more profit, is more economically feasible than using septic systems. It's really again because the preference is because of the standards in the code is that everything is to be serve by sanitary sewer service. This is an exception and it is only to be allowed when the developer comes in and demonstrates that it's unfeasible. Again, what you look at would be, cost is a factor because that's how it has been treated before, but again which is less expensive to them. The other is whether it's feasible and you just really do have to give a lot of substantial weight to what opinion you hear from GUC on this because they are the utility provider for the city and the ETJ.

Mr. Gordon: But there are circumstances surrounding this whole situation that affects the economic feasibility of what's taking place with this piece of property.

Mr. Holec: I think it's more toward, you've got to look at the cost associated with placing in the sanitary sewer not the holding cost of land, waiting to have the availability for the sale of the land and all. It's really towards if it's unfeasible for the sanitary sewer system.

Chairman Tozer: At the same time it's unfeasible if it's gotten so far down the pipe. Isn't it unfeasible at this time to change direction and turn left when we've been going this way, this deep, is what I'm talking about. That's not economics. That's not dollars and cents. It's just how far we got down the line and then all of a sudden the flags come up.

Mr. Holec: I think that there was, what you've heard, I think there was discussions all along as to this is what we, you need to speak to GUC as to whether or not sanitary sewer is going to be required. A lot of discussion on that. When they submitted the plan that's what the Planning staff said and sent them to that. Why you're at this stage they would have liked to have some additional discussion and again as Mr. Cahoon said maybe they'd reach a joint decision in connection with this. What's happened is they made the developer make a determination that they wanted to proceed with this threshold decision and have it decided whether or not to go forward. Again, opportunity for discussion and it came forward and there was really invitation for additional discussion but the decision has been made to put it on the table and have you vote on it. The code is whether or not they, the developer, again it's their burden to establish whether they have established that sanitary sewer service is unfeasible.

Chairman Tozer: It would be, it looks like to me, if I'm reading this right, it would be up to us, the Planning and Zoning Commission, to determine what's feasible and what's not.

Mr. Holec: You have the, the way the code is it says whether or not it's feasible. It's up to the developer, the applicant, to submit the documentation for it and then it's up to the Planning and

Zoning Commission to determine whether or not to accept that.

Mr. Cahoon: I would like to remind you again that Greenville Utilities has taken the time line for building the outfall out of the equation. Completely out of the equation. That was our comment that was made by a couple of the presenters. We are prepared to provide sewer service to this development when they are ready for it. If that means pump and haul or whatever means we're prepared to do that and we put that in writing. All they have to do is develop their internal system and as soon as a house is built and needs sewer we will provide sewer system.

Chairman Tozer: Mr. Cahoon, I would kind of have to challenge you on that one and this is what I would base it on. You're trying to guarantee something I don't know that you can really guarantee because I know how things run through the Utilities Commission. If I'm looking at these numbers they've just presented here to me what this is really going to cost and the numbers you put together we're on two different planets. So it looks like to me, I mean we're so far out and you're over here and we're over here.

Mr. Cahoon: That's the difference between 8 foot deep sewer and 18 foot deep sewer.

Chairman Tozer: I know specifically that Kelly White at Eagle Eye is one of the most economical installers of sewer systems around and he's a fine gentleman that does work. I mean, the numbers and then you're promising a sewer down this road through wetlands and engineers got to approve and have it by the time they need their lots. I've got a problem with that one.

Mr. Cahoon: Mr. Corey made the comment that Mr. White's estimate was based on Rivers' layout which Durk Tyson said was down the middle of road and that's the 18 foot deep sewer. There are other ways to lay this project out. There are much more economical ways to lay it out and that's what we've done. We've shown one way to do that. There may be even a better way given time to look at it.

Chairman Tozer: I think the numbers kind of throw it. If we're looking at the cost per lot how you compared it to the other subdivisions but if we look at these numbers your comparison doesn't fly. It doesn't make it compare anymore.

Mr. Cahoon: I would submit to you that the consultant has not been creative enough in his layout.

Mr. Randall: I think one thing that the Chairman may be mentioned is, for instance, the line item pricing is a lot more in reality than it is in the proposed estimates as an opinion I guess. That right there is going to obviously change it some, just right off the top. Be that as it may. I do have one other question. I'm going back to the meeting they had in December. How long do you anticipate that meeting lasted?

Mr. Cahoon: I didn't hear you.

Mr. Randall: How long do you think, how long did it last?

Mr. Cahoon: The meeting? On what date?

Mr. Randall: December. When they came and asked about the potential.

Mr. Cahoon: To the best of my recollection it might have been less than 30 minutes.

Chairman Tozer: Any more questions?

Mr. Lehman: Yea, I have a question. Suppose we do approve your variance and the septic systems are put into the lots and you go back in two years and annex and you put in Greenville Utilities sewer and water. What's the cost per home going to be to change that?

Mr. Cahoon: I don't have an answer to that. That would, you would have to design that and lay it out.

Mr. Lehman: That's part of the feasibility, based on economics.

Mr. Cahoon: (Looking at Mr. Dixon) Would you like to respond generally to that? Again about the rate payers having to bear that.

Mr. Dixon: One of things that I did initially here is I contacted the Institute of Government and spoke to David Lawrence and I said David we're having an issue here about how quickly we can make sewer available to this property. He said when somebody comes before the city and they ask for sewer it's not necessary or required or expected that you provide sewer like that (snapped fingers). It can't be expected that you can do that. It has to be within a reasonable time. Normally, what we would do is have the developer install the sewer and we'd call share participate and put in our 50 percent. You were talking about condemnation, we have quick take. When we file a complaint we have the easement, I mean it's just like that. We are prepared, at this point in time, to say I think our estimate was if the developer installed the internal sewer we could have the sewer in April. April of next year. Guess what, when they're building this subdivision they're not snapping their fingers and selling a lot and building a house. They've got to lay out their streets, they've got to pave them, they've got to build houses on and it's going to take them awhile to do that. What do you think 4 to 6 months? I'm telling you our time line says if they build the internal sewer we've got sewer there. We're committed to say we can do that. If we can't do that we have to back, pump and haul until we can get the sewer put in place. We already have the plans to do that. It is not a reasonable expectation for somebody to say today I filed a preliminary plat, tomorrow you got to have sanitary sewer available to me because they don't need sanitary sewer immediately to that property. In this particular case, taking their own figures, and cutting out the \$76,000 that should never have been included in the first place, you reduce their cost per lot to \$7,400. In their own subdivision in Vicksburg they paid \$8,840 per lot for sewer. You've got three things taking place here. We've got hundreds of employees at Greenville Utilities Commission. Are you really saying that every time somebody makes an

inquiry we need to make a note of that and four months later, five months later, we need to call them and say you spoke to me one day for 15 or 20 minutes about a matter that you didn't specify and I'm going to have to call you back and say hey things have changed a little bit now. We really can't be expected to do that and that's not required. The ETJ, it's in the ETJ, is required to have sewer. The city ordinance says it's required to have sewer. The Manual for Design for the Greenville Utilities Commission doesn't say we contact these people. It says it requires the developer and the engineer consultant with GUC. It seems to me when they come in and say okay here's a preliminary plat. When they brought that preliminary plat to the city, they said we bring it to you and we want you to, we want to inquire as to whether sewer is going to be required. This is in May. Guess what we say, yes it is, it's required by all our requirements unless you can show unfeasibility. We request documentation where they show us unfeasibility and they can't provide that. They don't provide that because it's not unfeasible. We create our own plan with what little information we have and we show it to be feasible. We show it percentage wise to be feasible, we show it cost per lot to be feasible and we're saying to you tonight it is feasible and we're committed to providing it. We'll provide it anyway that's necessary to provide it so that it doesn't hold up their project in anyway. I don't know what more we can say. I don't know how you can find it not, that it is unfeasible under those circumstances.

Mr. Lehman: Mr. Dixon I have a cost here of about \$7,600 to about \$8,800 cost per lot to install Greenville Utilities sewer in each home.

Mr. Dixon: That would be exactly the same figure that they used for Vicksburg Subdivision which is \$8,800.

Mr. Lehman: Now I need the cost of what the homeowners are going to have to pay when he has his conversion.

Mr. Dixon: Bill, what you're asking is, what does it cost after we have developed this subdivision for the rate payers to go back and tear up the street and install sewer. I would submit to you clearly (looking at Mr. Cahoon) double the cost.

Mr. Cahoon: It might not be double but it will be awful high because you'd be disturbing pavement, utilities are already there, you'd have to work around. The prices are always considerably higher to retrofit.

Mr. Dixon: Keep in mind to septic tanks are temporary. They are temporary only. We're going to have to replace those septic tanks one day which is why we have all these rules to say we should provide sanitary sewer.

Mr. Lehman: Okay. Thank you.

Chairman Tozer: Anyone else to speak in opposition? Anyone to speak in favor in rebuttal? You have three minutes.

Mr. Corbett: Thank you. I'm going to hurry up. One thing they keep talking about \$7,600, if you'll look on the back sheet of the Eagle Eye Construction this cost is not \$7,600 it's \$129,000. This is something that we do have to pay for that they're not showing you truthfully. The \$480,000 outfall line that they were providing for us brought it to the northwest corner of the property. This \$129,000 is to bring it from the northwest corner of the property to where the cul-de-sacs, if you could bring the map backup, to the closest point of the usable land. So we would definitely still have to put that in because they've not taken into consideration we do have to do it. In all fairness to us when we look at it, if we say if it's feasible to do it sure money is a part it because if we can't put in and bare to sell it, at least break even, we can't do it so that's what feasibility is all about. Secondly, there is no way possible, I respect Mr. Dixon, he's an attorney, he's smart, he's a lot smoother than I am up here but I don't think he's ever installed any sewer. I don't think he's ever applied for a wetlands permit. I don't think he's ever applied for a permit with the Corps of Engineers. He has no way to stand up here as smart as he is and tell us when we can get these permits when we do this everyday. I've been doing it for over 20 years. I know it's not possible to have this sewer in April because there's no way to get the permits in that amount of time. I know what I'm saying and I don't say that with disrespect. I'm saying it because we do it everyday. I'm dealing with projects now. Sometimes it takes 6 months to a year just to get them to respond to come across wetlands. The last thing I want to say is if we look at 33 lots and that's all we got feasibility is when you say 33 times \$50,000 is what lots are selling for out there and you look at what we paid for the property. You look at these sewer costs that is feasibility if we can't do it. They say septic tanks fail, sure there's been some septic tanks fail but there's new rules and guidelines for septic tank systems. That's why we have a soil scientists rather than just an environmental health inspector. If you'll look at your permits on each lot not only does it show a soil suitable for a septic tank but there is an auxiliary repair field for auxiliary septic tank. There's room for two septic tanks on every one of these lots. That's something you need to know. You don't have to annex this property, it's just something somebody wants to do. It's not feasible. I think we've proven it's not feasible. I really do. Thank you.

Chairman Tozer: Any questions? Anyone to speak in opposition in rebuttal?

Mr. Thomas: Mr. Chairman I've got a couple of points of clarification. One, we don't have, you do not have any information in your packets from the Ashton Soil Scientist and the reason you don't have any information in your packets is that has not been provided to staff. You do not have that tonight.

Mr. Bryan Fagundus: If I can clarify that statement. What you do have is approval from the Environmental Health Department who reviews the soil scientist report. That approval letter denotes the approval of his report based on this project.

Mr. Thomas: You do have that information in your packet. It's a generic letter from the Pitt County Health Department that says that at the time the lots are evaluated each lot will be lot will be evaluated on its merit. It does not give it approval. I have sat in a meeting with the Greenville City Manager and the Greenville Utilities Manager and they have stated in no uncertain terms when sewer is installed in this property they will be provided service. That is not an issue.

Whatever means it takes to serve that property they have committed themselves to serving that property. Durk Tyson e-mailed me early in April and was asking me if sewer was going to be required of this project. Each step along the way they've been directed to communicate more with Greenville Utilities. Apparently the communication is not taking place. They seem to be on different pages. Greenville Utilities has not seen Rivers utility layout, Rivers has not seen Greenville Utilities layout. Tonight at this meeting, without any review, some other information has been submitted, don't know the documentation, don't know if it was prepared by a professional engineer, haven't had time to verify the validity of that information. It's certain that the communication that was necessary did not take place. Again, according to our ordinance public sewer is required. It's required in the ETJ unless unfeasibility is documented and that documentation is accepted by the Planning and Zoning Commission.

Chairman Tozer: Thank you Andy.

Mr. Cahoon: As soon as Greenville Utilities learned that this property was going to be developed we contacted the consultant and asked them, Durk Tyson, to come over and sit down and talk with us. We made it clear at that point, this was before the submittal of the preliminary plat, we made it clear that we were interested in extending this outfall and we wanted to investigate the feasibility of doing so. We had another developer at the table at the same time and it was the developer whose group was willing to put three times their acreage fees into the project and that was certainly making it much more feasible. We made it known up front as soon as we knew they were going to develop the property what we wanted to see. The only reason the preliminary plat went forward was Mr. Tyson asked if we would keep it in process. I told him we would mark it revise and resubmit which is basically we are denying this. I told him up front that we will put a comment on there that sanitary sewer service is to be evaluated and he agreed. He said he just wanted to keep the plat in process so we did that. The next thing that came back was the preliminary plat that you're looking at now and we marked that revise and resubmit with the same note. We've never approved the preliminary plat. To the comment about the time frame it has been said that I commented that there wouldn't be anything out there in 7 or 8 years, that is simply not true. That is not true. I just wouldn't say that cause anything can happen at any time and I know that. Besides that's not even on the table now because we have committed to provide sewer service when it's needed. When that first house needs to go on line they will have sewer service whether the outfall is constructed or not. The time line for the outfall is really off the table now. Thank you.

Chairman Tozer: I'm sorry Mr. Dixon it's a limit one on the rebuttal.

Mr. Randall: I have a question for one of the consultants. Can I do that?

Chairman Tozer: Sure.

Mr. Randall: Mr. Tyson could I ask you a question on the meeting, you were contacted by Mr. Cahoon, obviously, as soon as he became aware, resubmit, sewer evaluation, you heard what he just said. How do you respond to that? He made you aware of all this and you said let's go on

with it anyway. Is that correct?

Mr. Tyson: With our resubmittal on August 7<sup>th</sup> we submitted what we felt like was sufficient documentation to show the unfeasibility of sanitary sewer. Since Greenville Utilities consistently says they never seen that information I can only assume that the city did not forward it to them along with the revised maps. You have a copy of our letter dated August 7<sup>th</sup> where we resubmitted the plat. With it you have copies of our estimates, copies of our time line, all of the information we were using to support our belief that it was unfeasible. That's all I can tell you.

Mr. Lehman: But you never personally or confirmed wise sent that letter to Greenville Utilities? You relied on the staff of the city to send that to Greenville Utilities, is that correct?

Mr. Tyson: On preliminary plats, yes sir. The correspondence goes through the City of Greenville, Andy Thomas and the Planning Department disseminates the information from there.

Chairman Tozer: Andy, you have further comment?

Mr. Thomas: I have forward all materials that were presented to me by Rivers and Associates. It's in your packet tonight, it's in Greenville Utilities packet. A map showing an interior sewer layout was not provided.

Mr. Tyson: Was never requested.

Mr. Thomas: Okay.

Chairman Tozer: Thank you Andy. I close the public hearing. Commission I'll remind us of Andy's guidance here. The first issue is going to be the issue of the variance of street lengths. We'll address that issue first obviously if that doesn't fly we're not going on to unfeasibility and we won't get the preliminary plat unless we get pass the first two. Any discussion on the street variance or do I have a motion?

Mr. Ramey: The lengths of these streets Mr. Chairman are entirely too long. As Andy said maybe they could go out and tie into the road out there so you'd have two ways in. I believe you said that didn't you Andy?

Mr. Gordon: Didn't you also say that unless it's not possible to do that tie in? Didn't you say that was a possibility to do that unless it wasn't feasible to tie it in?

Mr. Thomas: Unless the Board finds there's conditions that warrant ...

Mr. Gordon: Are there any conditions that would keep that street from being tied in?

Mr. Thomas: In the information that was pasted out to you before the hearing there's Article I. Variances it says "(a) the planning and zoning commission may vary the requirements of this chapter where because of the size of the tract to be subdivided, its topography, the condition or

nature of adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of this chapter could cause an unusual and unnecessary hardship on the subdivider.”

Mr. Ramey: Andy, what is the normal length we have been allowed in these streets?

Mr. Thomas: The length for an internal street is 1,000 feet.

Mr. Ramey: And this is one 1,780.

Mr. Thomas: The Board has considered submissions in the past and based on such things as the physical characteristics of the property and the topography. There have been some times when a variance has been granted. When the Board found that it warranted such consideration.

Mr. Lehman: And the loop was 2,000 is that right?

Mr. Thomas: A loop street is 2,000 that's because you have two points instead of one.

Chairman Tozer: Andy was this street length issue addressed in the original submittal in May?

Mr. Thomas: Yes.

Chairman Tozer: Thank you.

Mr. Ramey: Mr. Chairman I don't think this meets the criteria we've been going by for street lengths. I don't think it meets it at all.

Mr. Randall: I think we've granted variances in past but probably not quite this long.

Mr. Ramey: Not that length.

Mr. Randall: I'm sure we've done some 1,500 maybe some 1,200.

Mr. Ramey: We've done some 1,200 but we haven't done anything 1,700 feet.

Mr. Stokes: Is he counting from Portertown Road all the way to the point and then back down or is it three separate streets?

Mr. Thomas: That's now it's measured.

Mr. Gordon: How?

Mr. Randall: From Portertown Road all the way to the cul-de-sac.

Mr. Stokes: You're counting the two streets as one.

Mr. Randall: Right.

Mr. Thomas: You count from the intersecting streets so you would count from Portertown Road to its terminus. That is a terminal street so that's 1,780 feet and the other ones around 1,300 from its intersection with Portertown Road.

Mr. Randall: We can't see what you're pointing at.

Mr. Thomas: Okay, here you go (indicating on map), you count from Portertown Road because this is the street that's on the street network. From Portertown Road to its terminus is how that is measured.

Mr. Stokes: Even though it is considered three different streets? I mean by name.

Mr. Thomas: They have named them three different streets. In measuring the streets you measure from Portertown Road to the terminus.

Mr. Moye : How would you loop that street? Those streets?

Mr. Thomas: A loop could be brought out to Portertown Road.

Chairman Tozer: Any further discussion?

Mr. Gordon: He was saying (unclear) an explanation why that is.

Chairman Tozer: Would you please step to the microphone here.

Mr. Bryan Fagundus: My name is Bryan Fagundus. I'm with Rivers and Associates. The terminal cul-de-sac on Sweetwater Court, the longest of the cul-de-sacs, it could possibly go out to Portertown Road. If any of you all are familiar with that area you've got the Hardee Cemetery along that area that sits up on a fairly high hill up off Portertown Road. You've also got Herman Garris Road that intersects coming from the south. To align that connection you got the horizontal and vertical site distance constraints if you're sitting in a car ready to turn onto Portertown turning to look either direction. It's not desirable to have that driveway connection in that location, that's where that street is terminated in a cul-de-sac rather than extended through. It's a safety issue primarily.

Chairman Tozer: Andy if I'm not mistaken the reason they can't interconnectivity is because the already established projects didn't allow for it. Is that correct?

Mr. Thomas: Correct. There is a subdivision that is already developed to the south, Forest Glen. There's development to the north and then there are some intervening topographical and

ecological consideration.

Chairman Tozer: Do I get a motion?

Mr. Randall: Is this a straight motion? I'd like to make a motion that we approve the variance for the length of the street, terminus street, for this development.

Mr. Gordon: Second.

Chairman Tozer: I have a motion by Mr. Randall, seconded by Mr. Gordon. All in favor? Gordon, Randall, Baker, Wilson, and Stokes. All opposed: Ramey, Moye and Lehman. Motion carried. Five yes and three no's. Item number two. Unfeasibility.

Mr. Gordon: Is this a straight motion?

Mr. Ramey: Straight motion.

Mr. Gordon: So the motion would be to

Mr. Holec: Your motion is to either accept the documentation submitted by the applicant. That the sanitary sewer service is unfeasible or to not accept that documentation submitted by the applicant that the sanitary sewer service is unfeasible. In other words you don't have to determine that it's feasible. You either accept the documentation that it's unfeasible or not accept the documentation that it's not unfeasible

Mr. Gordon: I'd like to make a motion that we accept the documentation that it is unfeasible.

Mr. Baker: Second.

Chairman Tozer: I've got a motion by Mr. Gordon, seconded by Mr. Baker. All in favor?

Mr. Randall: Can I interrupt for a minute. We've had obviously a lot of discussion from their point do we need to discuss this any more as a Board? Explain our decisions or where we're about to go to help each other understand what this independent body's thinking is?

Chairman Tozer: Would you like to explain your position?

Mr. Randall: I wanted to hear a little more before I made up my mind. I think, obviously to views we've all heard. I think the owner and the developer should have been a little more diligent obviously in dealing with Greenville Utilities before they made the decision to move forward after obviously being warned, if you will, that Greenville Utilities had some bigger plans. I think that also it's an economic disaster, economic hit obviously on the owner because of that communication wasn't there. It appears to me there was plenty of it on the side of Greenville Utilities as well. I don't know that they had a meeting where they walked in and said is there

going to be sewer in this area in the future. No, and they walked out. Obviously there was some conservation about what was happening in that area and whatnot that the owner felt very comfortable in the fact that he was told that there was not going to be in that area. At the same time does that relieve them from saying okay it ain't going to be there, six months later it may be there. Everything changes. I don't know 100 percent that I've made up my mind cause two very compelling arguments and I wanted to hear as other independent people listening what their thought pattern would be.

Mr. Ramey: When you develop something we can't sit here and think about what's going to happen this year, next year, we've got to think about what's going to happen 10 or 15 years down the road. In this particular vote, what's going to happen 10 or 15 years down the road if we said we'd go along with them putting septic tanks in? We're going to have to go back in there and put sewer and that's additional costs to the citizens and taxpayers. The property owners have made their profit and gone. The people living there and the rest of the taxpayers have got to pick up this bill. That's what I think is wrong. You can't think of what's going to happen next year or 2008. You've got to think about what's going to happen in 2010, 2025, you've got to think in advance and plan in advance. That's what this Planning Department is all about in my judgment.

Chairman Tozer: Remember Bob when we're talking about the septic tank system that new Health Department requirements for the systems are far advanced from the old day septic tanks. They are required to have a repair field which would give them a whole other area to do another septic system to take it a longer way down the road. I think the design of our current septic tank systems are far superior to what you might be use to in the older days and they do provide for repair area which gives you a whole other area to establish another field.

Mr. Ramey: I'm very well aware of that Len. I'm very well aware that you have to pump them out occasionally even with the new ones. I'm very well aware of that. I'm not talking about something I don't know anything about. I've got one in Virginia that I have to pump out now for the people that rent it from me so I'm aware of it. It was reestablished four years ago when I put in a new system and it cost me just under \$10,000 to put it in.

Mr. Baker: If I look at the investment of the property, for a developer to invest the dollars that he did in this and then when you throw in the cost of the sewer system and you figure out what the lots are selling across the street and what he can get for these lots, it would look like to me it would be very unprofitable proposition period. I can't imagine a gentleman that's been in this business for 20 years would not totally, of course, the word assume, you know how that goes, that it was going to be a sewer system or whatever. That's what I'm saying I just think this sort of, the system changed, ideas changed, different developer come in and change, so now this sewer system is going out there but it's sort of too late now. It looks like to me it would be a very unprofitable situation if you went that way.

Mr. Ramey: Communications broke down somewhere along the line.

Mr. Lehman: Communications not only between the developers but his consultant and Greenville

Utilities.

Mr. Ramey: That is correct Bill.

Mr. Lehman: Are taxpayers responsible for the problems that incurs?

Mr. Randall: For the city and Greenville Utilities I guess yes. Or the rate payers are in that situation but obviously not for the developer. I think that, there again, I don't feel like he went into that meeting and got, he was told that there was going to be sewer in there and you would have to do an extension and you will have to tie onto it. Obviously not or he wouldn't have went, there again on his assumption. I think the rules changed on him midway through the game.

Mr. Stokes: But then again in Greenville Utilities defense the rules are already in place that if you do in the ETJ sewer is required. That should have been known. Unless there is a circumstance.

Mr. Randall: Unless he asked and they said no there's not going to be sewer there.

Mr. Lehman: Looks to me to that the question I asked earlier about the cost of going back and have the homeowner be charged for putting in the Greenville Utilities sewer, that's going to be from the information we have \$16,000 to the homeowner. That's a lot of money. As it stands right now if we put it in initially we're at \$7,600 to \$8,800 so right there is a big difference in money.

Mr. Ramey: Half of it. Exactly half of it.

Chairman Tozer: But at the same time the owner of the lot is going to utilize the repair zone long before he's going to call the utilities to put in a sewer line.

Mr. Lehman: Is the seller going to tell the buyer of the lot that he's going to have to put in utilities at some point, 2 months, 2 years, 20 years later at the cost of perhaps \$16,000?

Mr. Ramey: Of course he can't. He can't do that because he wants to sell.

Mr. Lehman: That's the point.

Mr. Ramey: If I was the owner selling I wouldn't tell anybody either. That's just common sense.

Mr. Lehman: I'd be (unclear) at him when I got there and found out though.

Mr. Randall: There again I guess we're charged with voting it up or down not with a potential compromise, changes or conditions. Is that pretty much correct?

Mr. Ramey: That's correct.

Mr. Holec: On this issue your vote is whether or not it is unfeasible. You accept their documentation as being unfeasible. I'm going to give you another option but I'm saying it's workable or not. Your other option is to continue this for another month and let them and talk and see if they can come up with something. Again, I'm sure that's feasible at all but that's another option.

Chairman Tozer: I believe we had a motion.

Mr. Gordon: I made a motion that we accept the documentation as it not being feasible.

Mr. Baker: Second.

Mr. Ramey: In favor of the people, I'd like to offer a substitute motion. That we ask these people to get together with Greenville Utilities and see if they can work out something more comparable and bring it back to us. I'd like to offer that as a substitute motion. I hate to vote against those people and I hate to vote against the people who are going to buy the property and have to replace it in 1, 2, 5, 10 years. I don't want to vote against them either. I would like to see if they couldn't get their heads together and work something out and come back next month and be more acceptable to everybody. I think that would be a better situation that we go right now.

Mr. Wilson: Second.

Chairman Tozer: Is this the Commissions favor?

Mr. Wilson: I would agree with that it's sort of the price of miscommunication.

Mr. Moye: Let me make a comment. I didn't say anything during this particular subject. This particular subject tonight has been one of the most difficult this Commission has heard and it's so difficult mainly because it's he said/she said and we honestly don't know what was said. We're trying to make a decision without hurting anybody's feelings but also to be fair to both parties and it's frustrating. I guess you can tell that from my comments.

Mr. Randall: The only compromise is if they go back and talk is obviously Greenville Utilities would have to theoretically come off some money in order to allow the developer, to feel comfortable with what he's moving forward with.

Mr. Baker: Contract, time frame are the problem.

Mr. Randall: That would be one of the issues that would come up.

Mr. Baker: Instead of sure we'll be there (unclear) guarantee it.

Chairman Tozer: We have a motion by Mr. Gordon, seconded by Mr. Baker but we had a crossover motion but with the Commissions favor we'll vote on Mr. Ramey what is

Mr. Ramey: Mr. James Wilson seconded.

Mr. Holec: Mr. Ramey's motion is, let me make sure I've got it right Mr. Ramey. Continue this matter until next month's P&Z meeting and request that the applicant and GUC get together and try to work something out.

Mr. Ramey: That's correct.

Chairman Tozer: And the Commission's agreed. We agree? What to vote on this or stay with our initial motion?

Several members talking.

Mr. Holec: Motion to continue.

Chairman Tozer: Motion by Mr. Ramey as explained by Mr. Holec, seconded by Mr. Wilson. All in favor? Ramey, Gordon, Moye, Baker, Wilson, Lehman and Stokes. Opposed: Mr. Randall. One opposed. Motion passes. On the table until next month.

Mr. Ramey: That kills the first motion.

Chairman Tozer: That's correct. It kills it, it has to go back.

#### REQUEST BY SHERRYL TIPTON – APPROVED

Chairman Tozer stated that the next item is a request by Sheryl Tipton to amend the O (Office) district table of uses to include "Dance Studio" as a permitted use.

Mr. Harry Hamilton stated this is a request to amend the Office district table of uses to include dance studio as a permitted use. Mr. Hamilton presented a map indicating the current zones that allow dance studios. The applicant is requesting that the Office zone include dance studios as a permitted use. Mr. Hamilton stated that staff is of the opinion the proposed use is compatible with the purpose of the Office district. Mr. Hamilton stated that staff has no objection to the amendment.

Ms. Sherryl Tipton stated she would answer any questions.

No one spoke in opposition.

Motion was made by Mr. Ramey, seconded by Mr. Lehman, to approve the amendment. Motion carried unanimously.

#### REQUEST BY THE COMMUNITY DEVELOPMENT DEPARTMENT – APPROVED

Chairman Tozer stated that the next item is a request by the Community Development Department to amend the zoning regulations to specify the procedure for consideration of a rezoning petition submitted in conjunction with a future land use map amendment request.

Mr. Hamilton stated the future land use map physically depicts the policy intent of the Horizons Plan and provides a visual illustration of the Urban Form Policies setout in the Plan. The zoning regulations and zoning map are the primary tools for carrying out the Plan. Both the Comprehensive Plan and the zoning regulations are official documents adopted by ordinance of City Council. Since adoption of the current Future Land Use Plan Map in 2004, there have been five (5) applications for amendment of the plan map. Four (4) of the applications have been submitted in conjunction with rezoning petitions in the last 3 months. The dual application trend has become typical operating procedure especially when there is a conflict between the Future Land Use Plan Map and the proposed zoning. The Comprehensive Plan and the Future Land Use Plan Map recommendations were developed through a public involvement process. The Land Use Plan update took two years and more importantly it was done in the absence of any heated controversy and the absence of any investment-backed expectations of a site specific zoning. The primary purpose of a land use plan is to define and decide community objectives and policy in advance of individual investment decisions, and to eliminate ad hoc zoning. Land use plan amendments should therefore be considered in a similar atmosphere as existed at the time of original adoption, absent the pressure and immediacy of an actual zoning decision. Separation of a land use plan amendment and rezoning affecting the same land will afford a more qualified review of both issues. The Planning & Zoning Commission should always evaluate zoning based on the most current adopted plan and not on a pending plan amendment. The proposed ordinance will establish a procedure to address this issue. The amendment will create a two step process which will separate the land use plan and the rezoning consideration. Mr. Hamilton explained that step 1 would be when the land use plan amendment is submitted to the Commission and then to City Council for final action the next month. Step 2 would be the rezoning petition process where the Planning & Zoning Commission would make a recommendation following City Council action to approve or deny the associate land use plan amendment per step 1. Mr. Hamilton stated that staff recommends adoption of the amendment.

Mr. Moye stated he agrees with the procedure.

No one spoke in opposition.

Motion was made by Mr. Stokes, seconded by Mr. Ramey, to approve the amendment. Motion carried unanimously.

#### REQUEST BY THE COMMUNITY DEVELOPMENT DEPARTMENT – APPROVED

Chairman Tozer stated that the last item is a request by the Community Development Department to amend the special use standards and criteria for the use entitled “hotel or motel” by deleting sections 9-4-85(j) and 9-4-86(j) in their entirety.

Mr. Hamilton stated that this is a request to amend the special use standards and criteria for the use entitled "hotel or motel". There are two motel types in Greenville, limited stay and extended stay and the amendment would apply to both. Currently, motel/hotels are permitted in a variety of commercial, office/institutional and industrial districts. Examples of locations where special use permits are required are some of the medical zoning areas, and office-residential areas. Mr. Hamilton stated that the MS, MO, OR and MCH are the only districts that have special criteria related to the increase standards that are being eliminated by the adoption of this ordinance. The amendment will eliminate the 50 foot building setback which is applicable to hotels that are subject to a special use permit. All other motels in other districts can be built in accordance with the comprehensive performance standards that apply to each zoning district and adjacent use condition. If adopted as proposed motels will be subject to the bufferyard and street setback requirements applicable to all other uses in the district. The Board of Adjustment can consider reasonable conditions including additional buffering and screening in a particular case. Mr. Hamilton stated that staff recommends adoption of the amendment.

No one spoke in opposition.

Motion was made by Mr. Gordon, seconded by Mr. Stokes, to approve the amendment. Motion carried unanimously.

Motion was made by Mr. Lehman, to adjourn the meeting at 9:30 PM.

Respectfully submitted,

Merrill Flood  
Secretary