

**HENDERSON COUNTY
PLANNING BOARD MINUTES
April 25, 2006**

The Henderson County Planning Board met on April 25, 2006 for a continuation of a quasi-judicial hearing for Carriage Park, Section 7 at 6:00 p.m. in the Board of Commissioners meeting room at 100 North King Street, Hendersonville, NC. Board members present were Tedd Pearce, Chairman; Tommy Laughter, Mark Williams, Mike Cooper, Renee Kumor and Gary Griffin. Others present included Justin Hembree, Assistant County Manager; Matt Card, Planner; Russell Burrell, County Attorney and Kathleen Scanlan, Secretary.

Chairman Pearce said, 'I want to thank everyone for coming and that this is a continuation of the quasi-judicial hearing from the Board meeting from a week ago, April 18, 2006, regarding Carriage Park, Section 7. For those of you who were not here, several individuals were named as parties to this meeting and concerned over Carriage Park, Section 7. There are two attorneys now present; we have Erin Dunnuck and Roy Michaux. We have Robert Welty, Bonnie Marsh, Virginia Burke, Harry Custer, Florence Werden, Jane Wishner, Mary Cavanaugh and Bob Grasso, who are parties to this as well as Mr. Hamlin of Carriage Park, LLC.' Someone from the audience said, "Did you mention the Homeowner's Association of Carriage Park?" Mr. Burrell said, "An organization by itself can't be a party to this hearing (mixed discussion going on). He said a non-person cannot be a party to this. The organization can be through its President, if it chooses to, however." Chairman Pearce said, "But I thought we could not name." Mr. Burrell interrupted and said, "The problem is that you have gone through and listed all the persons who have identified themselves as parties, that doesn't mean that someone can't call them as a witness, another party could call any person as a witness to this and they would need to be sworn in addition to whoever has already been sworn in as witnesses. You have not identified all of the witnesses, but you have identified the parties to this action." Chairman Pearce said, "Mike Boyle, had requested to be a party to this and if Mr. Boyle were to be called, if you were to be called as a witness by some other party who is previously signed up, all of the parties were sworn in, anyone who is called to be a witness will need to be sworn in before they will be able to testify in this matter."

Chairman Pearce said, "The first order of business is that we have one additional Board member, who was not present at the previous meeting, Gary Griffin, and I will need to ask all of the parties involved if they have any objection to him serving and being part of the decision-making tonight." Chairman Pearce asked, "All of the parties mentioned and they all said, "No." Chairman Pearce said, "He would like to let the record show that Virginia Burke and Jane Wishner are not here and will no longer be parties to this." Ms. Kumor said, "That Mr. Grasso is not here either and they all might be late." Chairman Pearce said, "If they come in, at that time, they will be reinstated and will be allowed to only continue from that point on and not go back." Chairman Pearce said, "I guess we don't need a motion on Gary, so we need a motion to go into the public hearing." Ms. Kumor said, "We are already in session." Chairman Pearce said, "Oh, I guess then we are ready to take evidence, Staff?"

Mr. Card said, "The memorandum, which Kathy is passing out now and we also have large copies of the maps regarding the Development Plan and will pass it around." Chairman Pearce said, "Probably, if you could, do you have two or three?" Mr. Card said, "I have three." Chairman Pearce said, "We have six people here; we'll split them among – one map for every two people."

Mr. Card said, "First off, I would like to enter in my Staff memorandum as evidence to this proceeding. Is everyone ready?" Chairman Pearce said, "As much as we can be." Mr. Card said, "Section 7 is a thirty-four lot townhouse unit development and is located off of Carriage

Commons Drive, which is located in Section 6, which was approved back in August of 1994. Section 7 is located on 9.3 acres of land; again the applicant is proposing 34 townhouse units. As you can see on the plan, the setbacks that are found in Special Use Permit 93-13 are labeled on the plan. The twenty-foot setback for townhouse developments from the centerline of the proposed road and also the twenty-five foot setback from development parcel boundaries, as you can see the outer boundary on Section 7 there on the plan. The applicant is proposing public water, public sewer, City of Hendersonville for both. As part of the notice requirements of Special Use Permit 93-13, the Planning Department was to notify any owners of the property located outside of Carriage Park, but was within 100 feet of the proposed section. Mr. Hamlin submitted notice to the Planning Department on March 31, 2006 that there were no such owners. That sheet, which is in Staff's memorandum. Staff sent out notices also on March 31, 2006 to Carriage Park Associates, LLC, Carriage Park Homeowner's Association and all other recipients on the Carriage Park mailing list. As you can see here with Section 7, they are proposing here a neighborhood drive with thirty-foot right-of-way, as you can now do with townhouse units and a standard cul-de-sac cross-section. Are there any questions regarding the Development Plan?" Chairman Pearce said, "Apparently not." Mr. Card said, "That's all as far as my presentation. I can get to my comments later on, if you wish." Chairman Pearce said, "That would be fine." Chairman Pearce said, "That any of the parties have a right to question anyone who testifies, so if any of the parties would like to ask a question of Mr. Card, if they would just raise their hand and we will do one at a time." Chairman Pearce said, "Yes ma'am, if you will come forward so we can hear your questions. Your name for the record?" "My name is Mary Cavanaugh. I live at 672 High Quarry Road and a resident for 18 months. Is this changed from the original, Matt, has there been a change from the original plan and if so, when was the change?" Mr. Card said, "As far as a Development Plan, this is the first time Section 7 has come through. There is a Research Master Plan, I believe the last time that was updated or amended, was back in 1999 and that was the last time that was done so there are no changes that I am aware of." Ms. Cavanaugh said, "So why did it change?" Mr. Card said "I'm not sure and this would be a better question for the applicant to answer." Chairman Pearce said, "Ok, who is speaking for the applicant tonight?" Mr. Michaux said, "I have a question Mr. Card. Mr. Card does the proposed development..." Chairman Pearce interrupted and said, "We are going to have to have you come up to the microphone, I'm sorry." Mr. Michaux said, "I'm sorry." Chairman Pearce said, "This is just the way our sound system works." Mr. Michaux said, "I actually have two questions. Is it true that the development of Carriage Park is controlled by the 1993 PUD documents with the amendments 1 – 5?" Mr. Card said. "That was correct." Mr. Michaux said, "Those are the documents that control what can be done in the community?" Mr. Card said, "It basically governs what can be done." Mr. Michaux said, "And does this plan for Section 7 conform to those PUD documents?" Mr. Card said, "Except for the items found in Staff's comments that are all that Staff has found to not conform to 93-13, so besides those items, I believe it does." Mr. Michaux said, "And you are going to review those items with the members of the Board later?" Mr. Card said, "I will." Mr. Michaux said, "Ok, that is fine, no other questions." Chairman Pearce asked, "Any other party want to ask Mr. Card a question? Ok, if not, the applicant will be making comments. Let the record show that Bob Grasso is here as one of the parties involved and Virginia Burke is also here, but Jane Wishner is still not here. Who is speaking for the applicant?" Mr. Michaux said, "We would like to call Dale Hamlin and I suppose the proper way to do this would be in a question and answer form, so he could testify." Chairman Pearce said, "I think you have the right to present evidence in any manner you wish to present it." Mr. Michaux said, "I have some maps here I hope y'all can see. Have you been sworn in?" Chairman Pearce said, "Every party has been sworn in." Mr. Michaux said, "Do I need to stand here?" Chairman Pearce said, "You need to stand close enough that the microphone will pick up – what's the distance, a few feet?" Mr. Michaux asked, "If you can hear me here?" Chairman Pearce said, "That was fine and you probably could stand back even a few feet." Mr. Michaux said, "I think it is a little awkward to have your back to

people that I want to hear this, because I think that there is some misunderstanding that we hope to clear up.”

Mr. Michaux said, “Mr. Hamlin, how long have you been involved in the development of Carriage Park?” Mr. Hamlin replied, “Since June of 1992.” Mr. Michaux said, “Are you familiar with the 1993 Special Use Permit that basically governs the development of this community?” Mr. Hamlin replied, “Yes I am.” Mr. Michaux said, “Has that Special Use Permit been followed as a guideline for the Carriage Park Development?” Mr. Hamlin replied, “Yes it has.” Mr. Michaux said, “Let me ask you to look at paragraph 18.” Mr. Michaux said, “We’ll try to speed this up. How many residential units are allowed in Carriage Park?” Mr. Hamlin replied, “695.” Mr. Michaux said, “And with the addition of these 34 townhomes, will that 695 limitation be exceeded?” Mr. Hamlin said, “No sir.” Mr. Michaux said, “Let me ask you please, and I’m reading for the members of the Board, some of who may not be completely familiar with Carriage Park documents, but this is from an Order granting Special Use Permit in case number SP 93-13, it was issued in October, 1993.” Mr. Hamlin said, “Are you familiar with this Order?” Mr. Hamlin replied, “Yes I am.” Mr. Michaux said, “Would you read please paragraph 18 of the Findings in that Order.” Mr. Hamlin said, “Paragraph 18 says the proposed residential uses for the planned unit development include townhomes, condominiums, single-family attached and detached lots and apartments which are allowed in an R-20 and R-30 district as part of a planned unit development.” Mr. Michaux said, “Are these townhomes permitted under that provision of the Order?” Mr. Hamlin replied, “Yes they are.” Mr. Michaux said, “Let me ask you to read paragraph 19.” Mr. Hamlin said, “The Research Master Plan illustrates that every proposed development parcel will have direct access to a common street.” Mr. Michaux said, “Will these 34 townhomes have access to a common street?” Mr. Hamlin said, “Yes they will.” (There was commotion in the crowd). Chairman Pearce said, “Everyone will have their opportunities, so let’s be respectful of everyone involved.” Mr. Michaux said, “Let me ask you please, in the conditions governing the use, if you would read to the members of the Board, Section 1B and C regarding roads.” Mr. Hamlin quoted, “A minor collector road. A road serving not more than five individual development parcels and having a minimum fifty-foot right-of-way, six foot shoulders, twenty-six feet of pavement width with a curb and gutter section or eighteen feet of pavement without curb and gutter. Such pavement, I-2 asphalt, being two inches in thickness on a eight inch ABC stone base. Residential Street. A road typically serving, by direct access, single-family detached units having a minimum 45-foot right-of-way, 3-foot shoulders, 18 feet width of pavement, I-2 asphalt, 1 ½ inches in thickness on a six-inch ABC stone base.” Mr. Michaux said, “Mr. Hamlin, Carriage Park Drive is what?” Mr. Hamlin said, “Carriage Park Way is a major collector road.” Mr. Michaux asked, “Carriage Park Way is a 45-foot right-of-way?” Mr. Hamlin said, “A sixty-foot right-of-way.” Mr. Michaux said, “Was there a time that a change in the configuration of Carriage Park Way was approved?” Mr. Hamlin stated, “Yes.” Mr. Michaux asked, “When was that done?” Mr. Hamlin said, “That was an amendment to the 93-13 PUD document and I believe it was done in 1994, A-1.” Mr. Michaux said let me show you a document of the vicinity. I guess we should label this as Exhibit 1.” Mr. Michaux said, “Mr. Hamlin please come around please and see if you can identify Exhibit 1.” Mr. Hamlin said, “Yes.” Mr. Michaux said, “What is Exhibit 1?” Mr. Hamlin said, “It is a section of Carriage Commons, Section 6.” Mr. Michaux said, “Ok, and does that map, what is the date on that map?” Mr. Hamlin said, “July 29, 1994.” Mr. Michaux asked, “Has that map been filed with the Planning Commission?” Mr. Hamlin said, “Yes.” Mr. Michaux said, “What does it show at the end of Carriage Commons Drive?” Mr. Hamlin said, “It shows a temporary turnaround with a notation “future extension to Section 7.” Mr. Michaux said, “To your knowledge, has it ever been represented to anybody that Carriage Commons Drive would stop as shown on that map?” Mr. Hamlin said, “No sir.” Mr. Michaux said, “Let me show you Exhibit 2.” Chairman Pearce said, “We need to label it as such please.” Mr. Michaux said, “Exhibit 2 is a map drawn for SP 93-13-A1, do you recognize that?” Mr. Hamlin said, “Yes I do.” Mr. Michaux said, “Now what does that show for Carriage Commons Drive when this was done in 1994?” Mr. Hamlin said, “It shows an arrow at the end of the current existing Carriage Commons Drive, pointing

beyond.” Mr. Michaux said, “And that arrow points into what is now Section 7?” Mr. Hamlin said, “That was correct.” Mr. Michaux said, “What does the arrow mean?” Mr. Hamlin said, “Typically the arrow means an extension of a road will go that direction.” Mr. Michaux said, “Let me show you Exhibit 3. He said, for the record it consists of three pages. Can you identify the first page?” Mr. Hamlin said, “The first page is Slide 2133 which is a recorded plat map showing five units in Carriage Commons.” Mr. Michaux said, “That is recorded in the Office of the Registrar of Deeds?” Mr. Hamlin said, “Yes sir.” Mr. Michaux said, “And what does it show at the end of Carriage Commons Drive?” Mr. Hamlin says, “A private residential street.” Mr. Michaux said, “Is there any cul-de-sac there?” Mr. Hamlin said, “No.” Mr. Michaux said, “And that shows the development of Phase 1 or Phase 2.” Mr. Hamlin said, “Phase 2.” Mr. Michaux said, “And what does Phase 2 consist of?” Mr. Hamlin said, “Five townhouse units, detached, one single.” Mr. Michaux said, “So there is one single family detached unit and four townhomes.” Mr. Hamlin said, “Yes, four townhomes but also this detached single family unit.” Mr. Michaux said, “What street do those face?” Mr. Hamlin said, “Carriage Commons Drive.” Mr. Michaux said, “And how wide is Carriage Commons Drive?” Mr. Hamlin said, “The drive is 45 feet.” Mr. Michaux said, “That is a neighborhood street?” Mr. Hamlin said, “Yes sir.” Mr. Michaux said, “Now look at page 2 of Exhibit 3 and explain to the Board what that is.” Mr. Hamlin said, “Exhibit 3 page 2 is another plat of additional units that has been recorded in the County for more units in Carriage Commons.” Mr. Michaux said, “Of those units partially face Carriage Commons Drive?” Mr. Hamlin said, “That some do and then there is a secondary “U” shaped street where occupants are.” Mr. Michaux said, “What is the name of that street?” Mr. Hamlin said, “That is High Quarry Road.” Mr. Michaux said, “And Carriage Commons Drive is the main access to part of those units?” Mr. Hamlin said, “That was correct.” Mr. Michaux said, “And what is shown on that recorded map at the end of Carriage Park Drive?” Mr. Hamlin said, “Carriage Park Drive or Carriage Commons Drive?” Mr. Michaux said, “I’m sorry, Carriage Commons Drive.” Mr. Hamlin said, “A stubbed-out and just below it, it says Carriage Park *future development*.” Mr. Michaux said, “And that is a recorded map?” Mr. Hamlin said, “Yes sir.” Mr. Michaux said, “And that is recorded in Slide 2461?” Mr. Hamlin said, “That is correct.” Mr. Michaux said, “And what is the date of the map?” Mr. Hamlin said, “It is dated July 8, 1997.” Mr. Michaux said, “And then, what is sheet 3 to that exhibit?” Mr. Hamlin said, “Sheet three is Phase 2, Section 6, a part of the plat.” Mr. Michaux said, “And is that of Carriage Commons?” Mr. Hamlin said, “Yes it is.” Mr. Michaux said, “And how do you access that part?” Mr. Hamlin said, “Through Carriage Commons Drive.” Mr. Michaux said, “Ok.” Mr. Michaux said, “It doesn’t open onto Carriage Park Way.” (Couldn’t make out answer from Mr. Hamlin – audio problem). Mr. Michaux said, “And most of that map shows units on High Quarry Road?” Mr. Hamlin said, “That is correct.” Mr. Michaux said, “And what is the date on that map?” Mr. Hamlin said, “The date of the recording is 11, September 11, 1997.” Mr. Michaux said, “And what is shown at the end of Carriage Commons Drive on that map?” Mr. Hamlin said, “It’s stubbed out and directly behind on the other side of where it is stubbed out it says Carriage Park, *future development*.” Mr. Michaux asked, “Mr. Hamlin, is Carriage Commons Drive built to State standards?” Mr. Hamlin replied, “Yes sir.” Mr. Michaux said, “And how many units actually face Carriage Commons Drive, have you counted them?” Mr. Hamlin said, “I have counted them and there are approximately 19.” Mr. Michaux said, “And how many of those are detached, single-family units?” Mr. Hamlin said, “I believe 5.” Mr. Michaux said, “So you have 5 detached single-family units and 14 townhomes.” Mr. Hamlin said, “That is correct.” Mr. Michaux said, “Was it your intention to build a road to State standards that would only service nineteen homes?” Mr. Hamlin said, “No.” Mr. Michaux said, “Upon the development, I’ll go back to the original exhibit, Mr. Hamlin, upon the development of the 34 townhomes, would there be any future plans to access other property off of Carriage Commons Drive?” Mr. Hamlin said, “That would terminate Carriage Commons Drive.” Mr. Michaux said, “That would complete Section 7?” Mr. Hamlin said, “That is correct.” Mr. Michaux said, “Is that the only way in and out of Section 7, as a practical manner?” Mr. Hamlin said, “Yes.” Mr. Michaux said, “Why?” Mr. Hamlin said, “Coming at it from any other direction would require a 45% grade which are

100% slopes. I mean, we would tear up just the right-of-way to build an 18-foot piece of pavement would take more than 100 feet of scaring of the mountainside and we couldn't there, and create a safe road. State road standards have to be met and we can't reach State standards coming into that section any other way." Mr. Michaux said, "Now Mr. Hamlin have neighborhood streets ever been extended in the other sections of Carriage Park?" Mr. Hamlin said, "Yes they have." Mr. Michaux said, "Do you have a map that illustrates that?" Mr. Hamlin said, "I do." Mr. Michaux said, "I will label this map as Exhibit 4." Mr. Michaux said, "Would you explain to the members of the Board what that map shows?" Mr. Hamlin said, "Yes. If you will pay attention to this red line here, in Phase 1, if you can see Phase 1. Phase 1 has a red line showing a street that was extended to create another section of a development parcel and so when we first built that area called *The Ponds* we had one section of it and then we added a second section much later and we are still using the same entry and exit streets. If you go to section, item number 2, item number 2 is brand new development parcel of four lots that we had to access, we had to come all the way through Governor's Point to get to it, so that was a brand new section that utilized existing neighborhood streets. Go to four. Four was another section within Governor's Point where we extended a street and we added several more lots. Go to five. Five was an entrance that when we started serviced *The Cottages of Carriage Walk*, then we added, I think, 36 lots in Carriage Summit and we accessed it across the same routing that Carriage Cottages, I mean, Carriage Walk had used. If you go to six, that is another cul-de-sac that we developed right off of Governor's Point. Go to seven, way up top to the right, that is a future development parcel that will be accessed off the parkway two development parcels will be accessed off the same neighborhood street and number eight, is an area where we have just added one, two, three, four lots on a minor collector road that will have driveways off of that and past that is forty-some units in Carriage Meadows. So we have seven or eight instances where we have gone over the same roads that were used for other development parcels." Mr. Michaux, "But do all of the dwelling units that are reflected in those extensions all front public streets?" Mr. Hamlin said, "Do they all front public streets, yes that front common ground, is it OS-1 or OS-2? It's OS-2." Mr. Michaux said, "They are all serviced by public streets." Mr. Hamlin said, "Yes sir." Mr. Michaux said he had no further questions. Chairman Pearce said, "I would question that. Actually they aren't public streets, they are private roads that are commonly owned." Mr. Hamlin said, "It's commonly owned open space designated as streets." Chairman Pearce said, "Does the Board have any questions of Mr. Hamlin at this point in time, and I think it would be regarding the testimony that has been given, is that correct, at this point? Would it be helpful to have these exhibits passed around up here to everyone? Any questions? Ok." Chairman Pearce said, "Erin Dunnuck, you represent some of the individuals here, so we'll give you the first opportunity."

Ms. Dunnuck said, "I just want to be clear, this was given to the Planning Department, correct?" Mr. Hamlin said, "That's correct." Ms. Dunnuck said, "And this was the exhibit that showed temporary turnaround future extension to Section 7, was this plat recorded?" Mr. Hamlin said, "No." Ms. Dunnuck said, "Ok." Mr. Hamlin said, "It's a preliminary plat which the Planning Board requires." Ms. Dunnuck said, "Ok, but it was not recorded." Mr. Hamlin said, "That's correct." Ms. Dunnuck said, "Now these are the recorded plats, correct?" Mr. Hamlin said, "Yes." Ms. Dunnuck said, "Is there mention of future extension to Section 7 in this recorded plat?" Chairman Pearce said, "Is that Exhibit 3?" Ms. Dunnuck said, "Yes, I'm sorry." Various Board members said that was not an exhibit because it doesn't have a number. Chairman Pearce said, "Where did that come from then?" Mr. Williams said, "That is page 2 of Exhibit 3." Ms. Dunnuck said, "Ok, so this referred plat doesn't have the area in question. So do any of these recorded plats have any mention of the extension to Carriage Commons to Section 7?" Mr. Hamlin said, "They don't say that, no." Ms. Dunnuck said, "Ok. These are the plats that were actually recorded?" Mr. Hamlin said, "Yes." Ms. Dunnuck said, "Next I would like to touch on one of our Research Master Plans. It is my understanding we have a number of these floating around, right? The revised and.." Mr. Hamlin said, "That is correct." Ms. Dunnuck said,

“So what year is this one?” Mr. Hamlin said, “’94, I think.” Ms. Dunnuck, “’94, so this is a fairly early Research Master Plan?” Mr. Hamlin said, “Uh huh.” Ms. Dunnuck, “You can easily see this arrow that is highlighted extending Carriage Commons Drive in Section 6 and 7, is there another arrow pointing in Section 7?” Mr. Hamlin said, “There is an arrow here suggesting a possible entry, but that was the entry that was so steep we couldn’t build a road.” Ms. Dunnuck said, “Ok.” Chairman Pearce said, “And since we can’t see that, what was that off of?” Mr. Hamlin said, “Off Carriage Park Way.” Ms. Dunnuck said, “So this particular Research Master Plan has two arrows pointing to Section 7, correct?” Mr. Hamlin said, “Um hum.” Russell Burrell said, “Is that marked Exhibit 2?” An answer of “yes” was given. Ms. Dunnuck said, “To your knowledge, do any of the other Research Master Plans indicate that Carriage Commons Drive would be extended from Section 6 to Section 7?” Mr. Hamlin said, “All of them, I mean, that is a working document that the Staff has to have that indicates that.” Ms. Dunnuck said, “But not a Research Master Plan?” Mr. Hamlin said, “I don’t know what that was called” Ms. Dunnuck said, “I think that was a project summary.” Mr. Hamlin said, “Submitted to Henderson County – Project Summary.” Ms. Dunnuck said, “Ok.” Ms. Dunnuck said, “I have a copy of other Research Master Plans and it does not include this particular one, but if you could look through that and see if those Research Master Plans indicate that Carriage Commons Drive would be extended to Section 7 and I have copies to all Board members.” Chairman Pearce said, “Should we label this Exhibit..” Ms. Dunnuck said, “I have it labeled as Opponent Exhibit 2, but I don’t know whether that will be confusing.” Chairman Pearce said, “I think that would be a good way of doing it. That will be fine.” Ms. Dunnuck said, “Do any of those Research Master Plans indicate that Carriage Commons Drive would be extended?” Mr. Hamlin said, “This particular master plan, do you need to see what we are looking at?” Chairman Pearce said, “We have copies and can share them.” Mr. Hamlin said, “A was dated in December ’93 prior to acquisition of two more pieces of land when we bought more land down below Section 7 and Section 25, we came back into Planning Board and asked for an amendment, which became A-1 and took the loop road out of an area we could not get into because it was too steep, the same area that was suggested we might access Section 7 from. So, this is Exhibit 2A that is superseded by amendment A-1. Exhibit 2B is an exhibit that shows stub-out of the road from Section 7. Now a stub-out of a road basically means that you can continue going forward with it.” Ms. Dunnuck said, “But where is the arrow on that particular drawing?” Mr. Hamlin said, “On this arrow here, it comes in from the Parkway and this was in 1997, but a stub-out of road without a cul-de-sac means you can go forward with it.” Ms. Dunnuck said, “Perhaps, but the Research Master Plan doesn’t indicate that, it doesn’t have an arrow.” Mr. Hamlin said, “The Research Master Plan is a working document and it has disclaimers on it.” Ms. Dunnuck said, “I agree completely.” Mr. Hamlin said, “We can change it as we wish. Exhibit 2C, an arrow showing a possible routing of an entrance road from the right-hand side of the Parkway which we have concluded won’t work. And then, the last one, 2D, also shows a stub-out from Section 6 into Section 7 and then there is a yellow line, but I don’t think it reflects anything. I don’t see an arrow.” Ms. Dunnuck said, “Ok. Would you agree that Carriage Park has made numerous representations through written and oral statements that every development parcel would be an individual community and have direct access to Carriage Park highway?” Mr. Hamlin said, “No never.” Ms. Dunnuck said, “Do you remember explicitly telling Bonnie Marsh that Carriage Commons Drive would not be extended from Section 6 to Section 7?” Mr. Hamlin said, “I do not.” Ms. Dunnuck said, “Ok, I have this document marked as Opponent Exhibit 3A. This is your copy. There are sections – these are marked 3A all the way through 3G and I would ask that you read the highlighted sections as 3A, 3B, 3C and 3D out loud.” Mr. Hamlin said, “I don’t know what this document is but, I don’t know what its title is, so I’ll just read you the paragraph that has been highlighted. We have endowed Carriage Park with individual private neighborhoods. No driveways directly join the broad and cluttered roads. There is no neighborhood through traffic. That is the first one, 3A. 3B, the heart of Carriage Park design plan is the Parkway Loop Road that encompasses the entire community. The Parkway Loop transports you to the deep forest floor and on to some high vistas high atop the mountain. The

genius behind the parkway plan is simple and two-fold. First, all residents live within a safe and secure and truly stunning mountain community. Second, the nature of the loop road with no residential driveways generate sought-after neighborhood peacefulness by eliminating through traffic. This is some kind of a fax sheet, Exhibit 3C. The Carriage Park road plan continues to be continuous loop road system circling around the entire development. It will provide ingress and egress for each private neighborhood. Exhibit 3D. Carriage Park plan incorporates such features as a parkway feeder road system for which no residential driveways connect. An alternate community of 26 separate and distinctive neighborhoods and restricted street traffic flow that contributes to a more peaceful ambience.” Ms. Dunnuck said, “That’s fine. Thank you. Would you agree that these Carriage Park marketing materials emphasize that each development parcel is an independent community?” Mr. Hamlin said, “No, they – these documents don’t say that.” Ms. Dunnuck said, “Ok, would you saying these marking materials are consistent with the Research Master Plan and the recorded plats for Section 6 that indicate that it is its own individual community?” Mr. Hamlin said, “No. Section 6 is a community but Section 6 connects to Section 7 like these other eight items I pointed out.” Ms. Dunnuck said, “Ok. I have the Development Plan for Section 7, this hasn’t changed since last Tuesday, right?” Mr. Hamlin said, “No.” Ms. Dunnuck said, “There is some kind of strange map with the densities and lots and number of units, but not really concerned with that. My main concern is the small notations. The 2.31 acres of open space that we provided from the contiguous undeveloped property in Section 8 and 9, did you file a revised master plan to show those changes in Section 8 and 9?” Mr. Hamlin said, “Can he ask that, he’s our planner?” Ms. Dunnuck said, “No..” Chairman Pearce said, “If you are unable to answer it, just say you aren’t able to answer it and she could answer that question of another witness.” Mr. Hamlin said, “The open space question which is an arithmetic that we do with the Planning Staff prior to the Order being approved.” Ms. Dunnuck said, “So you are not sure?” Mr. Hamlin replied, “I’m not sure.” Ms. Dunnuck said, “I would like to, I have some ordinances. This is not the Subdivision or the Zoning Ordinance in its entirety, it’s the sections that I determined were relevant for our hearing this evening. So it’s the relevant sections of the Subdivision and Zoning Ordinance and part of this Special Use Permit and Amendment 1.” Chairman Pearce said, “Would you demonstrate, I think it would probably be appropriate to demonstrate what you’re providing here is applicable to this Special Use Permitting.” Ms. Dunnuck said, “Yes sir. Ok, the reason why I brought sections of these ordinances and Special Use Permit is that it is my position this was approached in the wrong manner. That a revised Research Master Plan should have been filed and amended through this Special Use Permit should have been filed. So it’s my position that we shouldn’t be here until these changes which need to be made first and ask that you look to the Henderson County Subdivision Ordinance, 170-16d(1), should be highlighted.” Mr. Michaux asked, “Should this be entered as an Exhibit 4 or is this being entered as an exhibit?” Ms. Dunnuck said, “You know, I guess we can enter this as an, this will be Opponent Exhibit 8. I figured everyone had access to that. If you could please read 170-16d(1) out loud.” Mr. Hamlin said, “Let me ask you a technical question. I don’t think we are – we are Special Use Permit which comes under the PUD statutes and the major subdivision does not apply to Carriage Park.” Chairman Pearce said, “And that was what I was alluding to a moment ago. You’ll need to show that anything here in the Subdivision Ordinance has priority over the Special Use Permit, I believe.” Ms. Dunnuck said, “I would be willing to. I can just focus on the problems with the Special Use Permit if you prefer, but it is my understanding that it needs to comply with the procedure for review of major subdivisions. If you would rather me to focus on the problems and conflicts of the Special Use Permit, I would happy to do that.” Chairman Pearce said, “I am trying to go through the Special Use Permit to see which one takes precedence. Would it be appropriate for her to let her ask the questions, ok. The County Attorney is recommending that it would be just as appropriate to let her have him apply things and read, etc. as she wants to present her case and we can ascertain at a later time as a Board, what if any of this applies.” Ms. Dunnuck said, “The highlighted section..” Mr. Hamlin said, “So I’m reading something that I don’t think applies to Carriage Park, is that what you want me to do Mr. Chairman?” Chairman Pearce said, “You

are reading something that applicant is presenting as part of her case and she is asking you to read an excerpt from the Henderson County Subdivision Ordinance.” Mr. Hamlin said, “Ok, I’m reading it. If during the development of the project, the master plan is revised to affect any of the following: increase the number of building lots to be created or units to constructed; create a substantive change in the subdivision configuration, road layout, etc; substantially change the use of any portion of the tract; develop or build in areas that were identified as feature in the site analysis sketch and that were identified in the master plan as open spaces or protected areas, the applicant shall then submit a revised master plan for Planning Board review and approval in accordance with this section.” Ms. Dunnuck said, “Please read the next page.” Mr. Hamlin continued, “I’m reading the next page. Upon approval of the master plan and the development plan of the first section of a subdivision by the Planning Board, if successive sections are submitted for review and each substantially conforms with the master plan and where no new lots are created, and all technical requirements and development standards have been met, the Subdivision Administrator may approve the development plans for successive sections administratively.” Ms. Dunnuck said, “Is it your position that the proposed development plan for Section 7 complies with the master plan?” Mr. Hamlin said, “Oh yes it does.” Ms. Dunnuck said, “Alright, I’m going to go away from the controversial subdivision for a minute. We all agree that the Special Use Permit applies to him and according to my measurements the master research plan indicates that the buffer zone between Section 6 and Section 7 will vary between 112 feet and 150 feet. I have a ruler, if you would like to measure or do you agree with those measurements?” Mr. Hamlin said, “I am unfamiliar with that measurement. We have to make the setback requirements.” Ms. Dunnuck said, “In paragraph 13A of the Special Use Permit, was the buffer zone requirement according to 13A?” Mr. Hamlin said, “Buffer between development parcels shall be 25 feet.” Ms. Dunnuck said, “Ok. Isn’t it true of Carriage Common side that there would be no buffer between Section 6 and Section 7?” Mr. Hamlin said, “No.” Ms. Dunnuck said, “Ok, hum, please read Findings of Fact Number 19.” Mr. Hamlin said, “Findings of Fact?” Ms. Dunnuck said, “Yes.” Mr. Hamlin said, “The Research Master Plan illustrates that every proposed development parcel will have direct access to a common street.” Ms. Dunnuck said, “In your position, is it not stating that you need to have access to a major collector road?” Mr. Hamlin said, “No, it doesn’t say that.” Ms. Dunnuck said, “Ok. If you will turn to the next section, that is the first amendment to the Special Use Permit and we just hit on that lightly earlier, I think. My understanding of that amendment was that the Board approved your proposal to relocate the major collector road, is that correct?” Mr. Hamlin said, “That is correct.” Ms. Dunnuck said, “Please review and read the Findings of Fact Number 30.” Mr. Hamlin said, “Relocating the major collector as proposed on the revised master plan will provide direct access to a major collector road for every development parcel within the PUD as required by SP 93-13.” Ms. Dunnuck said, “So it appears that the Board of Commissioners determine that Special Use Permit require that every development parcel to access a major collector road, doesn’t it?” Mr. Hamlin said, “Direct access is what we are providing. Yes we have direct access from every single neighborhood.” Ms. Dunnuck said, “My understanding of your development stand for Section 7 is that development parcel number 7 would have to go through development parcel 6 for access.” Mr. Hamlin said, “Yes, just like it has happened in seven other instances.” Ms. Dunnuck said, “Have you ever revised the requirement in Special Use Permit to access a major collector road?” Mr. Hamlin said, “This says access. It says direct access, so we have direct access.” Ms. Dunnuck said, “Direct access to a what?” Mr. Hamlin said, “To a collector road.” Ms. Dunnuck said, “To a major collector road.” Mr. Hamlin said, “Access means a street to the collector road. It has been approved by this Board seven different times.” Ms. Dunnuck said, “Would you read that again, I feel we are misunderstanding each other.” Mr. Hamlin read, “Relocating the major collector road as proposed on the revised master plan will provide direct access to a major collector road for every development parcel. He said, every development parcel has a direct access to the loop road, the parkway. Direct access is a street – a street built to State standards.” Ms. Dunnuck said, “Ok. So it seems to me that you are putting a lot of weight on the fact that you have snuck through exceptions like

this before rather than having gone through the proper process of amending the Special Use Permit and the revised master plan for those changes.” Mr. Hamlin said, “I have not snuck anything through anybody.” Ms. Dunnuck said, “Have you ever revised the Master Research Plan or the Special Use Permit requirement with each development parcel have access from major collector road?” Mr. Hamlin said, “I’m not understanding your question because every development parcel has direct access to the collector road through a street, a street built to State standards.” Ms. Dunnuck said, “If you could turn to, I’m not sure if it is highlighted, in the Special Use Permit, can I have you read the definition of development parcel, please?” Mr. Hamlin said, “An area shown on the Research Master Plan which will be reviewed as an entire parcel and developed as a neighborhood with predominate architectural style and an individual community identity. Upon application for review, such parcel will have a measurable and definitive property boundary. Development parcels shall generally conform with those shown on the Research Master Plan.” Chairman Pearce said, “Now, for the record that is not SP93-13, Exhibit A, page 1, is that correct?” Ms. Dunnuck said, “Yes.” Ok, is it your position that extending Carriage Commons Drive from Section 6 to Section 7 substantially conforms with the Master Research Plan?” Mr. Hamlin said, “Yes.” Ms. Dunnuck said, “That is all I have.” Chairman Pearce said, “I will just go in order. Robert Welty, do you have any questions of the testimonies presented? Robert Welty said, “No.” Chairman Pearce asked Bonny Marsh, “Do you have any questions of Mr. Hamlin regarding the testimony just given?” Ms. Marsh said, “Just one.” Chairman Pearce said, “Will you come forward please, you’re question?” Ms. Marsh said, “In December of 1996 I met with you [Mr. Hamlin] and Joan Hensley, who was the sales person and Mary McCullin was in the same room. I asked you explicitly if that road would be open, and you said no. Chairman Pearce said, “That is not a question that is a statement.” Ms. Marsh said, “Well, ok. Did I not meet with you and Joan Hensley in the presence of Mary McCullin when I purchased my house in December 1996 and asked the question, was that road going to be opened?” Mr. Hamlin said, “Ms. Marsh, I don’t recall.” Ms. Marsh said, “I asked a lot of questions – why the garage doors were open and that sort of thing to.” Chairman Pearce said, “Virginia Burke, would you like to ask Mr. Hamlin any questions regarding the testimony? If you do, come forward please.” Ms. Burke said, “Mr. Hamlin, how can you say that your proposed Section 7 as shown on the current map has direct access to Carriage Park Way, when you know that it doesn’t. In order for residents, future residents of Section 7 to get to Carriage Park Way, they have to drive through Section 6, Carriage Commons. Now we have two sections called Carriage Walk. Carriage Walk 1, which was built first and Carriage Park 2, I mean Carriage Walk 2, I’m sorry. Each one of those sections although they have the same name, and I think they have the same number, I think one is 3 and one is 3A, each one of those sections have separate individual direct access to Carriage Park Way.” Chairman Pearce said, “You can ask Mr. Hamlin questions, but making statements, you will have an opportunity to do so. So your question to him is how he can say that that has direct access.” Mr. Hamlin said, “The question is does Section 7 have direct access?” Chairman Pearce said, “How can you say that Section 7 has direct access when has to go through Section 6?” Mr. Hamlin said, “Directly down Carriage Commons Drive to the Parkway. Direct access to the parkway. Ms. Burke said, “Through Section 6. No other section has that.” Chairman Pearce said, “Do you have any other specific questions at this point?” Ms. Burke said, “No, that is it.” Chairman Pearce said, “Ok, Harry Custer, do you have a question of Mr. Hamlin regarding his testimony?” Mr. Custer said, “No sir.” Chairman Pearce said, “Florence Werden?” Ms. Werden said, “No questions.” Chairman Pearce said, “Jane Wishner is still not here – Mary Cavanaugh?” Ms. Cavanaugh said, “No.” Chairman Pearce said, “I assume Mr. Grasso – does anyone on the Board have a question? I do have one question, Mr. Hamlin, hum, it says the buffer between development parcels shall be 25 feet that was 93-13, page 4, item 13A. Is there a 25-foot buffer between the two parcels? If you need to call a witness to answer that, I believe you can, is that correct?” Mr. Hamlin said, “There is. The process, the preliminary process with the Staff review is all in the setbacks, so what you are being presented with tonight has the proper setbacks.” Chairman Pearce said, “Ok. Mr. Michaux, did you have questions you wanted to address? Ok, fine. Is

that everybody. Mr. Hamlin, do you want to call any more witnesses at this point in time? Mr. Hamlin said, "I would like to call Bob Grasso." Chairman Pearce said, "Ok. Is the attorney going to do the questions or how are you going to handle this?" Mr. Michaux said, "Yes sir." You have been sworn haven't you Mr. Grasso?" Mr. Grasso said, "Yes sir." Mr. Michaux said, "What is your name?" Mr. Grasso said, "Bob Grasso." Mr. Michaux said, "And Mr. Grasso, what do you do?" Mr. Grasso said, "I'm the land planner for the project. I work for Carriage Park." Mr. Michaux asked, "How long have you been involved in land planning for Carriage Park?" Mr. Grasso said, "Gosh, I believe its five years, is it five? I think it's five years. I was not the original land planner on the project." Mr. Michaux said, "Have you made an analysis of the potential for the second entry way off Carriage Park Way to the Section 7?" Mr. Grasso said, "Yes I do that for every section that we develop. I look at the possible access and the vehicular circulation and so forth." Mr. Michaux said, "And what did you conclude about that access point?" Mr. Grasso said, "Can I show this slope map that I used?" Mr. Michaux said, "Let's make that Exhibit 5." Mr. Grasso said, "It's kinda ironic that I do colored slope maps because I'm color blind, but I can tell the difference in the colors because I go from light to dark with the slopes. Every single section that we develop, I do a slope map and that is based on the aerial topo that was flown, back when the project originally began. In this case you can see the surrounding – it not only has Section 7 , but it kinda spreads out into the surrounding sections. Section 7 is a ridge and the Carriage Commons Drive is stubbed-out so that you access going out to that ridge where we have at the end of the ridge, a cul-de-sac. I looked at access off of Carriage Park Way coming up, right up next to where the old quarry was and then climbing up to the ridge. We looked at the road grades itself, that's not a problem, because we have length to achieve substantial less than 18%, we could easily climb up 15% grade, come up from the Parkway (He showed this scenario on a map provided for the Board members) and tie it up to the top of the ridge. That is no problem, the problem is and this happens all of the time. You can tell the difference between a flat line land planner and a land planner who has been doing a lot of work in the mountains. And that is the cross slope. The cross slopes on that ridge range from, if you look at the colors from 35% over and up to at least 70%, which is steeper than a 2 to 1. I'll put this next exhibit up." Chairman Pearce said, "Is this going to be labeled Exhibit 6, for the applicant?" Mr. Michaux said, "Exhibit 6." Mr. Grasso said, "As you can see the color of the green, right through here where we had to traverse to get up to the ridge is the darker colored greens from 35 – it's about 71% at the steepest point of this slope. These three drawings represent three typical cross-sections of road and they are thirty-foot wide roadway which, what we have been using in Carriage Park has been 18-foot pavement and 2-foot valley gutters on either side and then it can range from 4 to 6-foot shoulders, I just went with the minimum of 4-foot shoulders behind the valley gutters and that represents thirty feet. The cut slope is at a one and a half to one, which meets DOT standards. A full slope is two to one, which meets DOT standards. In the first, the left hand drawing, it shows a thirty percent cross-section, which are slopes on that ridge are steeper than 30%. The amount of land that needs to be cleared to grade that road in would be 77 feet horizontally and 27 feet vertically, so you would have that kind of a swaff on the side of that slope, on the side of that ridge. Our slope is steeper than that. Then I show the 40% cross-slope and the 1 ½ to 1 cut slope and a 2 to 1 fill slope. We have a cut area of 103 feet in width, that would be horizontally and 41 feet vertically. If you go to 50%, which is pretty well of what is represented of that slope is along the side of the ridge. You can't have a full slope because when you have a 2 to 1 fill slope of the road and you already have a 2 to 1 – 50% is 2 to 1 existing slope, he will be chasing grade all the way down the valley floor, so it's going to cut condition for the road, which is ok, we do that. The horizontal area would be 120 feet and the vertical would be 60 feet. When I do my land planning often times I deal with developers who are from the flat lands and don't have a real good grasp of what the impacts are when you deal with mountain slopes and my cut-off is 40%, not 50%. When I look at – and when I say development, that's for building roads and then having lots of access off of those roads because its very expensive and very difficult and it's a lot of land disturbance. So when I looked at developing access to Section 7, and what I try to do and I think Matt has made

comments to me, I've been trying to make the sections with connections not dead ends. I don't like to have cul-de-sacs. I'd prefer having loop access like what we did in Section 15 and what we are proposing in future sections. So I looked at trying to loop a road through Carriage Commons and then down through the parkway – coming from here and wrapping down [Mr. Grasso was demonstrating this with the help of a map], so that we wouldn't have any dead ends, I couldn't do it, it was too steep. So what we have is what my recommendation to my client was to have the road terminate at the end of roads where the cul-de-sac and not a hammerhead that had been used by my predecessor but I used a cul-de-sac and that cul-de-sac meets basically two standards." Mr. Michaux said, "There is a practice by engineers is to have them show a street plat to be closed." Mr. Grasso said, "If you could expand on that, please." Mr. Michaux said, "If you could look at the three recorded maps that show the Carriage Common Drive – members of the Board, this is Exhibit 8A3, where you have a street that stubbed that shows future development, is there a system where engineers could show that that is where it is terminated?" Mr. Grasso said, "Typically when we want to terminate a street so it can not have access into either an adjoining property or an adjoining section, you stop the right-of-way connection before that section. In this plat, the right-of-way goes all the way up to the edge of Carriage Commons section which is indicating that it is going to continue on into another section. If you are going to stop it, you would have either had just a driveway serving Unit 623 and Unit 625 or you would have had some sort of a "T" turnaround at that section which is required by the Subdivision Ordinance and has been in place on all the sections in Carriage Park. As I said earlier, the use of a hammerhead turnaround or a "T" turnaround has been used in a number of sections and that plat does not indicate a hammerhead or a "T" turnaround device. That drawing there is indicating that the street is to continue on into a future parcel." Mr. Michaux said, "Let me ask you to look at Carriage Commons Drive itself, what is the width of Carriage Commons Drive?" Chairman Pearce said, "I believe we had earlier testimony.." Mr. Grasso said, "The right-of-way is 45 feet, it does not indicate on the plat, road section, that typically is in the submitted preliminary plat which we do have a copy, I believe, is that a copy of the preliminary plat? It was submitted by Luther Smith." Chairman Pearce said, "Is that the Development Plan? What's the labeling on that exhibit?" Mr. Grasso said, "I don't think it's labeled. This is a preliminary plat submittal for Section 6 and it shows a typical neighborhood road cross-section of 18 feet with 3-foot shoulders and 30-foot easement and a residential street of a 45-foot easement, 18 feet of pavement and 3-foot shoulders. This is a preliminary plat that was submitted for Section 6." Chairman Pearce asked, "What number are we labeling that one?" Mr. Michaux said, "Let me clarify one thing, this is Exhibit P2." Mr. Grasso said, "The project summary is a means of summarizing the data that's on the preliminary plat, but that's a very typical preliminary plat submittal." Mr. Michaux said, "It's dated 1994?" Mr. Grasso said, "Yes it is." Mr. Michaux said, "Mr. Grasso, is Carriage Commons Drive access a collector road?" Mr. Grasso said, "Yes." Mr. Michaux said, "Is Carriage Commons Drive itself a collector road?" Mr. Grasso said, "No." Mr. Michaux said, "But it does access a collector?" Mr. Grasso said, "Carriage Parkway, yes." Mr. Michaux said, "Are there other roads in the communities that are not collector roads?" Mr. Grasso said, "Yes." Mr. Michaux said, "I will address that in argument Mr. Chairman. I don't have any other questions." Chairman Pearce said, "Ok, stay there. Staff do you have any questions?" Mr. Card said, "No questions." Chairman Pearce asked, "Board?" Mike Cooper said, "May I ask just a quick question on your cut slope? What is the maximum cut slope State standards would allow on a road?" Mr. Grasso said, "Maximum cut slope that the State will allow? 1 ½ to 1" Mr. Cooper said, "And at what percent grade you chase that to the top of the mountain if you had a 65% swap cross slope, you chase that cut to the top of the mountain." Mr. Grasso said, "Yes." Mr. Cooper said, "66.6%." Mr. Grasso said, "You would not have a fill slope." Mr. Cooper said, "Right, and if you cut into the hill 30-feet, you would never come out of the ground until you top the ridge?" Mr. Grasso said, "That is correct." Mr. Cooper said, "That is my question." Chairman Pearce said, "Are you an engineer?" Mr. Grasso said, "No I'm not, I'm a landscape engineer." Chairman Pearce said, "So the answers you gave as an engineer are based upon your experience with

working with engineers in the course of your work, in planning, is that correct?" Mr. Grasso said, "No. Under the State statute we are allowed to design roads and storm drainage as a part of the subdivision plan." Chairman Pearce said, "So you are needed to be an engineer." Mr. Grasso said, "I can not design roads. If I'm designing a highway, I can't do that, civil engineers do that. We are allowed to design roads and storm drainage and erosion control as part of a development plan. Chairman Pearce said, "Erin, do you have any questions of Mr. Grasso?" Ms. Dunnuck said, "A couple. Ah, ok, you are not associated with Carriage Park when we had these earlier recorded plats, is that correct?" Mr. Grasso said, "That is correct." Ms. Dunnuck said, "I love to have you explain to me, what about this plat indicates that this road is going to keep going?" Mr. Grasso said, "It's the length of that stub. The graphic scale indicates that the plat is drawn at 100 scale." Ms. Dunnuck said, "Ok." Mr. Grasso said, "I'm going from the centerline of High Quarry Road. The centerline of that right-of-way to the end of that stub-out which is along the centerline of Carriage Commons Drive. It's line is 195 feet. DOT does not have a standard for a "T" turnaround, that's not a standard, it is an accepted Henderson County standard. That standard is 30 feet from the centerline so that an emergency vehicle can pull in back out and turn back around and that is 30 feet in each direction off of that centerline, so if that were serving as a "T" turnaround right there, it would be 30 feet in length and that is clearly longer than 30 feet." Ms. Dunnuck said, "Ok and that indicates the road is going to continue on?" Mr. Grasso said, "Yes." Ms. Dunnuck said, "Even though there is no court recorded information saying these are extensions or any other information on here just from your knowledge?" Mr. Grasso said, "I reviewed all of the Research Master Plans that Luther had prepared. I spent considerable time on the Carriage Park property to review what was done and so that my client would be keeping with what had been done. I looked at ways to improve layouts and when I look at a final plat that has been recorded that has a right-of-way that goes right up against a section line, that is very clear to me that is where the road is to be extended. If that road had been, or the right-of-way from that road had been indicated that it was five, ten, fifteen feet cut off from that section line, in other words if that line were right here, we have done this on other drawings where, not in this project. We have held the right-of-way two feet from the property line, that has prevented adjoining neighbors from being able to have access to that road, that is not indicated on that plat and that's why to me it indicates that it is a stub-out extension into Section 7." Ms. Dunnuck said, "Ok. As an engineer assessed the option of accessing Section 7 from the originally intended side?" Mr. Grasso said, "No, the engineer on the project, Paul Patterson, designs a lot on sewer." Ms. Dunnuck said, "Ok. Is it my understanding that it could be accessed managed out of this and economically feasible route?" Mr. Grasso said, "No, it can not be accessed. I've been doing this since 1982. I've been practicing in the mountains since 1984. This is something that goes against my best designed judgments to try to build a road on that slope. We have had projects in Buncombe County that have forced the County Commissioners to elect their ridged hill-side ordinances to prevent this kind of road construction from happening. It is not prudent to build a road of this road section which is a DOT standard on that kind of cross-slope." Chairman Pearce said, "I'll call your names if you want to ask questions of the witness. Robert Welty?" Mr. Welty said, "I have none." Chairman Pearce said, "Bonny Marsh?" Ms. Marsh said, "No." Chairman Pearce said, "Virginia Burke?" Ms. Burke said, "None." Chairman Pearce said, "Harry Custer?" Mr. Custer said, "None." Chairman Pearce said, "Florence Werden?" Ms. Werden said, "I just have one question." Chairman Pearce said, "Would you then please come forward." Ms. Werden said, "I have walked that street many times. At the end of Carriage Commons Drive, there is a sign, are you aware of the sign at the end of Carriage Commons Drive?" Mr. Grasso said, "I can't remember what it says." Ms. Werden said, "Well to begin with, it doesn't say beginning, but it says, *this is a walkway*. In other words, if you are out hiking, this is a hiking trail, I think that is the terminology it uses. *This is the beginning of a hiking trail*." Chairman Pearce said, "Is there a question in here?" Ms. Werden said, "He is not aware of the sign." Chairman Pearce said, "Mary Cavanaugh?" Ms. Cavanaugh said, "No." Chairman Pearce said, "I think that's it. Mr. Hamlin do you have any other witnesses you'd like to bring forth?" Mr. Hamlin said, "No sir."

Chairman Pearce said to the Board members, "Do we need a break? Is everyone ok?" Board members said, "Keep going." Chairman Pearce said, "Robert Welty, would you like to present some evidence?" Mr. Welty said, "Council will present evidence." Chairman Pearce said, "Erin, if you would like to present evidence on behalf of Mr. Welty."

Ms. Dunnuck said, "It is our position that the applicant did not follow the proper procedure. The applicant should have submitted a revised master research plan." Mr. Michaux said, "Mr. Chairman this is argument. I'd really prefer if we could get the facts in and then we can both argue as to what we think you ought to do and why." Chairman Pearce said to Ms. Dunnuck, "Is there any evidence you want to present?" Ms. Dunnuck said, "Yes. I would like to call as a witness, Mr. Welty. I'm sorry I'd like to call Ms. Marsh instead. Ms. Marsh can you give us some background, your name and education as well as former occupation." Ms. Marsh said, "I'm Bonny Marsh. I have a bachelor's degree from Perdue, a master's degree from Indiana University and a doctorate from Ball State University. I served as a first female high school principal in the State of North Carolina in a 4A high school, 1980 Grimsly Senior High School." Ms. Dunnuck said, "How long have you been a resident with Carriage Commons?" Ms. Marsh said, "Ten years this September." Ms. Dunnuck said, "Does Carriage Commons have its own mini association?" Ms. Marsh said, "Yes we do." Ms. Dunnuck said, "Do you serve any position in that association?" Ms. Marsh said, "I serve as a Chair of that position appointed by the Board." Ms. Dunnuck said, "What made you decide to purchase your particular house in Carriage Commons?" Ms. Marsh said, "Well, one of the reasons was it was a drip-line community. The house had a dining room. It was a beautiful home and if I was going to invest that kind of money I did not want to be in a golfing community, I do not golf. Carriage Park seemed to meet all the requirements." Ms. Dunnuck said, "You said earlier that you receive a direct representation from Mr. Hamlin as well as the sales agent." Ms. Marsh said, "Yes. The sales agent was Joan Hensley and I bought my house in December of 1996 and I asked extensive questions at that time. In driving through Carriage Commons, why were some of the garage doors opened – the garages were not insulated, I insulated mine. I wanted a foyer put in, Mr. Hamlin got an architect to approve the drawing, we put a foyer in and consequently a lot of other people have. I explicitly asked in the presence of Joan Hensley and Mary McClullen if that road would be open, knowing that there was going to be forty-four to forty-five in that vicinity units within Carriage Commons. Carriage Commons is one-tenth of a mile long. High Quarry is one-tenth of a mile long and that is a lot of units within that compact space. The answer was no. Ms. Dunnuck said, "What are your thoughts on this potential expansion of Carriage Commons Road?" Ms. Marsh said, "I think it is a detriment to Carriage Commons. I think it is a flagrant discrimination against those of us that in the Commons – opening that road up to seven, that Mr. Hamlin referred to that he has come off of neighborhood roads, you're not talking four to five units, you're talking forty-four added to the nineteen on Carriage Commons Drive, that is unprecedented coming off of one community and one entrance." Ms. Dunnuck said, "Can you describe to me the condition of the road?" Ms. Marsh said, "I have pictures." Ms. Dunnuck said, "How much parking do they typically have in their driveways, is it common to park on the street of Carriage Commons?" Ms. Marsh said, "They do, especially if they have company. When I called Mr. Hamlin regarding parking in courtyards and whatever, if you have a single-car garage, you have two parking spaces. One in the garage and one in the driveway. If you have a double-car garage, you have four. Two in the garage, two in the driveway, but if they do have company, they do park on the street." Ms. Dunnuck said, "Are there sidewalks?" Ms. Marsh said, "They do not." Ms. Dunnuck said, "So they can only walk in the road?" Ms. Marsh said, "They always walk in the road and there are no curbs on the road either." Ms. Dunnuck, "What would think the impact would be of construction vehicles and then after the development is finished, the traffic from the thirty-four to thirty-eight townhouses?" Ms. Marsh said, "A living nightmare." Mr. Michaux stated, "I object to that." Ms. Dunnuck said, "Here are some pictures to get a better prospective. These are labeled 4A through 8." Ms. Marsh said, "As you can see the first picture, it is the entrance to Carriage Commons. I think the pictures speak for itself on

the deplorable condition of the road. The second picture is the same picture but is just over to one side, you enter on the right and exit on the left. As you can see, the house is on your left, their driveway comes right on Carriage Commons Drive, as does every driveway all the way around Carriage Commons Drive. There are two courtyard units, one having three, the next one having five units that is a courtyard with one entrance onto Carriage Commons Drive. The same as in the third. You see the car, that's a standard-size car and then it goes up Carriage Commons Drive so as you can see the road – oh, if they are looking at that one, the black car is a turn right-angle onto High Quarry Road. That is the black car there that is High Quarry Road. Then the next one, you see the little road for Carriage before High Quarry, then you see the car up on Carriage Commons Drive, you can tell the road condition. Then there is a curve on Carriage Commons Drive and that car is sitting on that curve. The next one is the same curve. The next one shows two cars. This is showing a car backing out of a driveway to get turned around and its obvious they are going to have to go more than one time and there are the mailboxes over on the other side. Then we are coming to the end of, what we are calling the end of Carriage Commons Drive and you see the no outlet signs and then High Quarry Road would go as you are facing it to the right. This end of the road is exactly like the end of the road in Carriage Walk II. There is a car in it and that little sign is the walking sign that Ms. Werden referred to - the hiking sign. Ms. Dunnuck said, "It is my understanding that there was a petition started?" Ms. Marsh said, "Yes." Ms. Dunnuck said, "Could you tell me about that." Ms. Marsh said, "People that were objecting to this extension of this road have signed a petition that they are against it, only residents of Carriage Park have signed this petition, but it is not just the Commons especially when you have 208 signatures, we're up to 210." Mr. Michaux said, "I object to the entry of these." Chairman Pearce said, "There is no way to verify, so we have to take it as, ah, for what it is. We have no way to verify that. You indicated that you objected to it?" Mr. Michaux said, "I do. I understand we are not in formal rules of evidence, but this is not a popularity contest, we meet the Ordinance or we don't and I don't think that this is admissible." Ms. Dunnuck said, "In a quasi-judicial hearing, it is my understanding that in the past amendments they have waived the community of Carriage Park's approval or disapproval of the project, not that it hasn't had impact on the decision, but I would argue that it should be entered in that evidence." Mr. Burrell said, "I think if the Board acknowledges that what it shows and has appropriate value as of the things you must make findings on, then you would find it relevant. If you do not find it that it has value on the things that you must make findings on in the Special Use Permit, then you should not come out in issues in this context and you could certainly pick determination. I think I would advise you that if you allow it in, you must keep it in mind while it has some appropriate value that appropriate value might be very small or might be great, you can make that determination and you can make that decision at that point. If you don't allow that in and make that decision, then it has no appropriate value. You are not weighing how much, you are just weighing any versus none right now." Ms. Kumor said, "A representative of the Association has always signed to speak to the issue to make sure that, well whether or not they were making sure, they were there to state that the Homeowner's Association had no objection so in that case, we never said that they didn't have to be there or their testimony didn't count. It just seems to me that they came and that Mr. Hamlin and his group would value their input at the time, or they wouldn't have invited them there." Chairman Pearce said, "I understand the plaintiff's point and from a practical standpoint, we would have to go through SP 93-13 to see if any part of our decision-making would be affected by it, but I'm personally inclined to say that I think all of the members here understand the limitations of the information provided but as a sign of goodwill towards those who are here and those who are not here, I would move that we accept it." Gary Griffin said, "I'll second it." Chairman Pearce said, "Are there any other comments? All those in favor of accepting this signatures on the petition as presented, raise your hands." (Everyone raised their hands and therefore were none opposed). "There being none, it will be accepted." Ms. Dunnuck said, "For clarification purposes, are you opposed to the development of Section 7 or are you just opposed to the extension of Carriage Commons Drive from Section 6 to Section 7?" Ms. Marsh said, "I'm not opposed to it – the

development of Section 7 or any other development as we want Carriage Park developed, but not to come through Section 6 to get to Section 7.” Ms. Dunnuck said, “Thank you. Is this affidavit your sworn testimony?” Ms. Marsh said, “It is.” Ms. Dunnuck said to Ms. Marsh, “That’s all.” Chairman Pearce said, “First off, you need to stay here. Staff, do you have any questions? Board members, do you have any questions? It probably sounds like dumb question but, Bonny, you disagree with them coming through Section 6 and I think I understand why you object to that. Do you see any other way they can come through Section – are you familiar with any other method to access Section 7?” Ms. Marsh said, “I think Mr. Grasso said that there was the ability to access 7, but I’m sure it is going to be expensive. It’s so much cheaper. I mean he said that they could get up there.” Chairman Pearce said, “Also you mentioned some other person who accompanied you when you had your questions of Mr. Hamlin back in 19.., Mary McClullen.” Ms. Marsh said, “Mary McClullen. She lives in Cashiers.” Chairman Pearce said, “Ok and this is just a friend?” Ms. Marsh said, “Well, she is married to my mother’s brother.” Chairman Pearce said, “I didn’t know whether she lived in the subdivision or not.” Ms. Marsh said, “But I do want to mention that I have supported Carriage Commons and I have supported Carriage Park to the point where of having my sister move there.” Chairman Pearce said, “Ms. Burke, do you have any questions?” Ms. Burke said, “No.” Chairman Pearce said, “Mr. Custer?” Mr. Custer said, “No.” Chairman Pearce said, “Florence Werden?” Ms. Werden said, “No.” Chairman Pearce said, “Mary Cavanaugh?” Mary Cavanaugh said, “No.” Chairman Pearce said, “Bob Grasso?” Mr. Grasso said, “No.” Chairman Pearce said, “Mr. Michaux?” Mr. Michaux said, “I just have a couple of questions. On the photograph it shows the end of the street and it shows that there is a walking trail, there is a walking trail there isn’t there?” Ms. Marsh said, “Yes.” Mr. Michaux said, “Does it go down into the area where these townhomes will be built?” Ms. Marsh said, “It says to the Springs and this way to the clubhouse.” Mr. Michaux said, “And that is actually there, isn’t it?” Ms. Marsh said, “Yes.” Mr. Michaux said, “And as I understand your testimony, you understood that would be a permanent condition that would be there forever?” Ms. Marsh said, “Yes, and that it would be a dead end.” Mr. Michaux said, “And is it uh, do I understand the construction of the townhomes would destroy the existing walking trails that are there now?” Ms. Marsh said, “I can’t answer that. I can not answer that, I don’t know.” Chairman Pearce said, “Anymore questions?” Mr. Michaux said, “No more questions.” Chairman Pearce said, “Thank You. Erin, do you have any other witnesses to present?” Ms. Dunnuck said, “Yes, I do. If you will give us your name and background.” Mr. Welty said, “My name is Robert L. Welty. I am a retired attorney and I was in the corporate world almost my entire life. I was a corporate general consulate to several large corporations for over twenty years and was also a labor attorney for about four to five years. I am retired and have never practiced in this State. My admissions were Pennsylvania and Colorado.” Ms. Dunnuck asked, “How long have you been a resident of Carriage Park?” Mr. Welty said, “I moved into Carriage Park in November of 1996.” Ms. Dunnuck asked, “What made you decide to purchase property in Carriage Commons?” Mr. Welty said, “Well, when we searched, we made our search in Western North Carolina we just happened to get in there by accident and at that time the only thing that was available of the inventory in Carriage Park were places in the Commons. I found one lot that I liked, which I ended up buying and they built a home on it.” Ms. Dunnuck asked, “What was the aspect that attracted you to the Carriage Park community, was it the separate development parcels?” Mr. Welty said, “Well, that is one of things that really sold me, ah, I liked the idea of the so-called village or neighborhood concept. I was impressed and it was one of the major considerations that we – it made us buy.” Ms. Dunnuck asked, “Do you remember viewing marketing materials that indicated that development parcels would be individual communities that had direct access?” Mr. Welty said, “Not at the time. I don’t recall.” Ms. Dunnuck asked, “What was your understanding of how an applicant would access Section 7?” Mr. Welty said, “I really wasn’t aware at the time I bought, but all I can say is that it has always been my understanding and all the Research Master Plans over the years that the access would come on the, what I call the main parkway, not the back parkway and it was always my understanding that the only access,

that Carriage Commons Drive would be forever a stub. If I had known that they would have wanted to do what they propose today, I would never have purchased in Carriage Commons, there was too many other places to go.” Ms. Dunnuck said, “Just so I’m clear, it was your understanding that Section 7 adjoining Section 6 was going to be accessed from this part?” Mr. Welty said, “I’ve always been led to believe I have done a lot of work around Carriage Park throughout the years and everything I’ve ever said and seen indicated that the access would come from the main parkway. I have even gone down recently and I think if they wanted to access from the back parkway, they could. My main reason for that is, the way Carriage Park moves the dirt around, they could build a road certainly, if they wanted to. They have done things a lot harder than that in my view.” Ms. Dunnuck, “Did you recently go down to the Register of Deeds and look at some slides?” Mr. Welty said, “Yes, I looked at all of the slides in existence that the recorded deeds office that were applicable to this situation.” Ms. Dunnuck, “Did any of the recorded plats to Section 6 indicate that Carriage Commons Drive is going to be extended into Section 7?” Mr. Welty said, “The only thing I saw was this one here, which might be considered a drawing of a cul-de-sac that the final three plats. They had no such indication whatsoever and as far as the comment which says “*future development*” on any of these other plats, that appears on every plat on all four sides that Carriage Park puts out, so that is nothing new.” Ms. Dunnuck said, “I want to ask you about other sections that Mr. Hamlin had mentioned where a similar development had taken place.” Mr. Welty said, “He went through them so fast, he said that there was eight. The only ones I recall is Club Knoll.” Ms. Dunnuck asked, “Is that in this area?” Mr. Welty said, “Club Knoll – there is an access road to the clubhouse which is basically a main thoroughfare, I don’t know what kind of collector road you call it, but to the one side you have a small cul-de-sac, which has three homes in it. The four homes he mentioned, they put a road in on the other section, that only accesses four homes and they are very short in terms of distance between those homes and the road going down to the clubhouse, which is a major road. That is a significant difference in my view than having thirty-four homes going down one-tenth of a mile of a Carriage Commons Drive.” Ms. Dunnuck said, “He also mentioned Section 23 and 24?” Mr. Welty said, “Yes, it’s the other one which is Walk 1 and the other one, Carriage Summit. The common road sort of speak, it is, I didn’t measure, but it is 50 to 100 feet at best. You go in, there’s an island. To go to Carriage Summit you turn right, to go to the Walk, you turn left and the Walk is maybe 15 homes and Summit has considerably more, but the only common denominator road-wise is that little stub and that pales by comparison to what is now being proposed. Ms. Dunnuck said, “And the Ponds?” Mr. Welty said, “The Ponds has always built Phase 1 and Phase 2, there is only one access road into the ponds and that is all there ever could be and was always proposed that way. The difference here is we have always been led to believe that we would have our own access and you wouldn’t have what they are proposing here today.” Ms. Dunnuck said, “Ok. This is Opponent Exhibit 7.” Mr. Michaux said, “Do we have a record that he testified to?” Chairman Pearce said, “A record – we have recordings going on and there will be a written record of that.” Mr. Michaux said, “I just want to be sure, usually we don’t have affidavits of people who testified.” Mr. Welty said, “I would be here talking a lot longer if I ever read my affidavits.” Mr. Michaux said, “He objects to this.” (Audio problems as too many people were talking at the same time). Chairman Pearce said, “Ok, I believe that – it would seem appropriate that anything she wants to enter into evidence, she should have him do verbally, since he is here and that specifically relates to this, is that correct or?” Ms. Kumor said, “But that is the second affidavit that we have accepted.” Chairman Pearce said, “Did we accept someone else’s?” Everyone said, “Yes.” Chairman Pearce said, “There wasn’t an objection on that.” Gary Griffin said, “I think he objected to it but we didn’t pay him any attention.” Chairman Pearce said, “I must not have heard then.” Mr. Michaux said, “And I’m not trying to be difficult.” Mr. Burrell said, “Obviously, if this is something that warrants additional time, I don’t know how far this hearing is going to go tonight or how late you intend to go as a Board, that’s up to you and not me but it could well be that you either take a break or if this hearing is not heard – is not completed today, if that witnesses is made available again or an examination arises from it, that would pretty well solve

the issue of confrontation, which I think is the issue you can raise for why he shouldn't come in." Chairman Pearce said, "Until the meeting is over, we don't know." Mr. Burrell said, "I understand that and that is why there are multiple solutions, it just depends on where the thing leads you." Ms. Dunnuck said, "I could solve this problem by asking him more questions..." Chairman Pearce said, "It would probably be best and I don't know how comfortable you would feel with withdrawing the two affidavits." Ms. Dunnuck said, "I'm opposed to that as well because it is a quasi-judicial hearing, but I don't want this to last any longer." Chairman Pearce, "Be assured that we do not want it to either, but I think it's going to, so we will no longer refer to it and will go forward." Ms. Dunnuck said, "I'll just ask another question." Mr. Griffin said, "I got a question. If we are going to take those into evidence, as affidavits, shouldn't we have time to read them?" Chairman Pearce said, "If we take them into evidence, we will have to have time to read them and at least each one of us will have to make a copy of them. So we are going to have to decide that. Council has said that if we do have to come back, at the very least, we are going to have to have time to read this. If we continue this meeting to a later date, any affidavits, if we do accept this, those individuals will need to be available for cross-examination if we have any questions either by us or by any of the parties. Erin, did you want to ask anymore questions of your witness?" Ms. Dunnuck said, "I'm just ah, I guess if you could give me your prospective of the impact of extending Carriage Commons Drive?" Mr. Welty said, "One, I think, you have a road that is now eleven years old, it is in bad condition, it is narrow. I think everyone of us in this room could see what the condition of that road would be once they start construction. The plan is submitted to the Board says if the road construction would take at least six months. In North Carolina to me it is at least a year and the road is one-tenth of a mile long as Ms. Marsh earlier testified and the amount of traffic you would put on that road would absolutely be incredible, plus we have a very serious situation both the traveling to and from on the road and at the stop sign at the juncture of Carriage Park Way and Carriage Commons Drive." Ms. Dunnuck asked Mr. Welty to demonstrate that on a map. Mr. Welty said, "Where the two roads meet, if you look up the hill, you can't see traffic coming down. Carriage Park, early on when the Commons was developed, was able to cut that hill back and lessen the problem some, but it is still very significant and in order to get out of the Commons, you go down the hill; you have to inch out and hold your breath if you want to turn left. I can't imagine what will happen when all of the traffic coming out of there when there is different construction crowds and the thing is you have to remember, you have a 11-year old road and it's a narrow road and it just can't service that amount of traffic, in my view." Ms. Dunnuck said, "So your major concern would be safety?" Mr. Welty said, "Yes, that is one of my concerns." Ms. Dunnuck said, "No further questions." Chairman Pearce said, "First of all, Staff do you have any questions of Mr. Welty?" Mr. Card said, "No." Chairman Pearce said, "Mr. Michaux?" Mr. Michaux said, "With regard to the condition of the road, that is Carriage Park's problem, isn't it?" Mr. Welty said, "Yes it is." Mr. Michaux said, "It has not been turned over to the Association for maintenance?" Mr. Welty said, "No." Mr. Michaux said, "So if the road gets torn up, Carriage Park has to fix it." Mr. Welty said, "It's been torn up and they haven't done anything." Mr. Michaux said, "I guess torn up is a relative term, but the point is if it is torn up by construction traffic, Carriage Park has to repair it." Mr. Welty said, "It may be their obligation but their track record is not the best." Mr. Michaux said, "The Homeowner's Association has not accepted the roads for maintenance?" Mr. Welty said, "They would not accept them in that condition." Mr. Michaux said, "No further questions." Chairman Pearce said, "Thank You. Bonnie, any questions of this witness?" Ms. Marsh said, "No." Chairman Pearce asked Virginia Burke, Harry Custer, Florence Werden, and Mary Cavanaugh if they had any questions and they all replied "No." Chairman Pearce said, "I'm going to assume that Dale Hamlin and Bob Grasso's questions are handled by their attorney. Ok. Thank you very much – Ms. Burke?" Ms. Burke said, "I'm sorry, I do have one question. How many units are there in Carriage Commons now occupied?" Mr. Welty said, "It is my understanding that there are thirty-eight and they are in the process of building four more this summer." Ms. Burke said, "In Carriage Commons?" Mr. Welty said, "In Carriage Commons." Ms. Burke said, "So that would be forty-two." Mr. Welty

said, "That is forty-two plus there is still a vacant lot we don't know what is going to happen to that." Ms. Burke said, "But at least forty-two within the next year." Mr. Welty said, "Yes." Ms. Burke said, "And the proposal for Section 7, when I saw the application it said thirty-eight townhomes, but you're saying thirty-four?" Mr. Welty said, "It is now, the plan I saw, it was thirty-four townhomes." Ms. Burke said, "Forty-two plus forty-four..." Chairman Pearce said, "Thirty-four." Ms. Burke said, "Thirty-four would be seventy-six." Chairman Pearce said, "Anybody else? Yes sir, Mr. Welty would you please come back." Mr. Michaux said, "I assume you analyzed the units in Carriage Commons. There are nineteen units that face Carriage Commons Drive and use that as ingress and egress?" Mr. Welty said, "I am not (audio blurred)...you must remember that High Quarry Road also has remainder of units on it and you can go either way basically." Mr. Michaux said, "Right, I understand. Do you and most people on High Quarry Road take the most direct way out?" Mr. Welty said, "Usually but not all the time." Chairman Pearce said, "Virginia Burke would you like to present some evidence?" Ms. Dunnuck said, "I have something." Chairman Pearce said, "I'm sorry, I'm not practiced at this." Ms. Dunnuck said, "No, you're fine. I would like to call Mr. Mike Boyle." Chairman Pearce asked, "Has Mr. Boyle been sworn in?" Ms. Dunnuck said, "Not to my knowledge." Chairman Pearce said, "We need to make arrangements for that. Do you have a Bible handy? Oh, there is one right in the corner." Mr. Burrell said, "Raise your right hand and put your hand on the Bible. Do you swear to tell the truth the whole truth and nothing but the truth so help me God?" Mr. Boyle said, "I do." Ms. Dunnuck said, "Mr. Boyle, could you give me just a little bit of your background information – your former occupation, experience?"

Mr. Boyle. Mr. Boyle said, "I am appearing tonight on behalf of the Carriage Park Homeowner's Association and am a member of the Board and I have a long background and a checkered past and not relevant pretty much to what we are talking about. I have a degree in electrical engineering. I worked as an engineer for awhile at a chemical company then I went to law school. I practiced law for twenty-some years and am still member of the Bar and then after that worked for a big Fortune 500 company as a member of their corporate legal staff and then after nine years of that, I went into marketing as the head of the marketing department. If you got to start marketing, that is the place to start – always at the head. Then after six years of that, I went back into the legal department doing securities and acquisition work and then after that I left and started and founded and am still running a mutual fund, which is the ticker symbol, I might add, is BFUNX and is available at a minimum of \$ 500." Ms. Dunnuck said, "Besides all of these positions and qualifications, you are a resident of Carriage Park, correct?" Mr. Boyle said "Yes." Ms. Dunnuck said, "And you do hold a position with the Association?" Mr. Boyle said "Yes." Ms. Dunnuck said, "Ok. Could you explain to us this evening what the Board's position is regarding the development this Section." Mr. Boyle said, "Thank you very much. I have three little aspects of my answer to that question. One is just a brief note what the Carriage Park Homeowner's Association is, second what are position is and why and third, a suggestion that might help resolve this issue. So very briefly the Carriage Park Homeowner's Association right now has 266 homes another 3400 at various constructions stages and 100 plus lots that are sold. That would equate to 700-800 voters paying about a million to two hundred million dollars in property taxes to the County. We have a very good working relationship with Carriage Park Associates and its General Manager. Although it may not be apparent tonight, but in the past, we have been here in support, the Carriage Park Associates. Last week, Section 18 ran right through without any kind of a problem and there have been many other instances where we have supported Carriage Park Associates and there will be many more in the future, when we are going to support them. On this particular issue, the second part of the thing I'm talking about, the Board of our Association has unanimously voted to oppose it. It's very simple; we just don't think that we should get access from one neighborhood by going through another neighborhood for legal reasons, for equitable reasons and for safety reasons. The legal reasons I think we pretty much have been through. The maps that we have seen show a road from the loop road into Section 7. That was on there in

the 1997 public documents that I have reviewed and it was in the 2000 public documents. Any document that I have seen that's been filed publicly, I'm not talking about working documents that the public has not had access to; I'm talking about public documents. There was a road from the loop into Section 7, there was no other access shown. Now that is enough about that. From the equitable standpoint, this community has been in existence for 8 years and people have made irreversible decisions based on that road not being opened up. It is just not right to turn that thing around from the viewpoint of our Board. The last point of consideration that we have here, here in Western North Carolina when a promise is made we think it ought to be kept, it's that simple. Now regarding safety, maybe not as much emphasis as there should be on safety. For the past eight years usage patterns and habits have built up in this community. People walk in these streets, they have grandchildren playing in the streets, they have pets on leashes that run across the street to see a neighbor or something like that on these extendable leashes and these things happen all the time. Neighbors come and park their cars practically in the street, because there is no place else – there are no sidewalks in this area and you have to park where you can park and people live there and they know that and they work their way around it, they live with it. Safety is a huge issue. You start bringing in other traffic patterns where patterns have been developed over eight years; you're creating a major safety issue. The next thing I want to talk about here is the small challenge that exists now when you have to back out of your driveway and get into this little road. It's a tiny challenge now; it's going to be a huge challenge when there is a lot of traffic flowing through there that doesn't expect people pulling in and out of their driveways – that is a major safety issue. I was just thinking about the flatbed trucks that are going to be used to carry in the bulldozers and those scrappers that scrap the roads. The log trucks, they will be coming in there to haul out the logs as every damn tree in the whole place is cut down – there are a lot of log trucks because there are a lot of trees. Now all of those things, the road graders, the road rollers, all of those things have to go in there on those huge flatbed trucks, how are they going to get out? There is no place to turn around in there. Are they going to back out, oh my God, they can barely get in, how will they possibly going to back out? The other possibility is that they will unload on the loop road and then they will drive the bulldozer up the street and down the road and then will reverse the course when they come back, that is at the very least, that is a nightmare situation that is going to be created. At the very worst, it's safety hazard situation that has to be dealt with. The last thing I wanted to mention is emergency vehicles. Someday there is going to be a 911 call that is going to come from this new Section 7 – let's call it Carriage Crest or whatever the heck the name is, let's say it's Carriage Crest. 911 call those in and the guy calling has got to sit down and explain to them, "I'm in Carriage Crest, no it's not off the loop. You have to go through the Commons and then turn right." How long do you have to spend on the phone with the 911 operator to get them to find your place, when seconds are going to make a difference in response time? The most direct route right off the loop, right into Section 7 with that ambulance, with that fire truck, it's a safety issue. You can't have them roaming around Carriage Park trying to find somebody in the dark, in the ice, in the snow – this is a safety condition that has to be dealt with. We have a suggestion. We think this matter can be resolved a little bit easier if the Board would agree to come out and look at our property, a site visit, which we would be happy to coordinate. There is precedence for it, it's been done by this Board and the County Commissioners in the past visited our property in order to resolve issues. We tried to show pictures, we tried to show diagrams, they talked about slopes, you come out and look at this place the answer will be obvious. In closing, we ask the Board to look forward five years – the Planning Board looking forward five years – piece of cake, you guys can do this. We are going to have over 660 homes in Carriage Park. We are going to have 1300 voters. We are going to be paying over three million dollars in property taxes, but we are not going to have a developer. Carriage Park Associates are going to be long gone five years from now; we are going to be stuck there with the problems. We are going to be stuck there with the situations that have risen with the property damage, with the risk of emergency equipment arriving too late and so I ask you this. In these circumstances, if a developer wanted to come through your eight-year old

neighborhood and open up a new neighborhood behind it, would you let him do it? I think I know the answer. Thank you very much and that's a small answer to my question." Chairman Pearce asked, "Staff and Board whether they had any questions of this witness?" Both answered, "No." Chairman Pearce asked Mr. Roy Michaux. Mr. Michaux said, "Was there any formal resolution adopted by the Board?" Mr. Boyle said, "Yes." Mr. Michaux asked for a copy. Chairman Pearce said, "Could that be presented as evidence, what number will that be? It should probably come from your side then." Ms. Dunnuck said, "We'll call it 9." Chairman Pearce asked, "Any other questions sir?" Mr. Michaux said, "You said you reviewed the legal documents relating to the extension of those roads, but nothing on that recorded plat that indicate that those roads never be extended in the future development areas. Did you look at the recorded plat, up on the Board?" Chairman Pearce said, "If you are entering another item as an exhibit, we need to get that settled." (There were some audio problems that I could not make out what Mr. Michaux was saying to Mr. Boyle and to Ms. Dunnuck). Mr. Michaux said, "Did you see the recorded plats up on the board – the exhibits, Exhibit 3?" Mr. Boyle said, "I may have seen them and they may have been in this stack." Mr. Michaux said, "You said that there was nothing in the Register of Deeds office that indicated they had a right to extend those roads. I'm just asking did you look at that plat?" Ms. Dunnuck said, "That was Mr. Welty." Mr. Michaux said, "I beg your pardon, I'll withdraw the question." Chairman Pearce said, "Thank You. Any other questions?" Mr. Michaux said, "No." Chairman Pearce said, "Bonnie, questions?" Ms. Marsh said, "Mike, I'm sure the eight years you referred to is the fact that we have not had any construction of the Commons for eight years. The Commons has been in existence for eleven plus years." Mr. Boyle said, "Perhaps we could clarify it's been an established neighborhood for eight years without construction and has started eleven years ago." Chairman Pearce asked, "Virginia Burke?" Ms. Burke said, "No." Mr. Michaux asked, "How long have you lived in Carriage Park?" Mr. Boyle said, "A year and about a week." Mr. Michaux said, "And where do you live in Carriage Park?" Mr. Boyle said, "Across from the tennis court." Mr. Michaux said, "You are not in..." Chairman Pearce said, "What section is that?" Mr. Boyle said, "It is called The Forest, Section 14." Mr. Michaux said, "Ok, no further questions." Chairman Pearce also asked Harry Custer, Florence Werden and Mary Cavanaugh if they had any questions. All of them said, "No." Chairman Pearce said, "Thank You." Mr. Boyle said, "I applaud the Board for not taking a break at this hour and just working right through." Chairman Pearce said, "We are a little upset that no one brought us pizza, but you know. Ok, Erin do you have any other witnesses?" Chairman Pearce said, "I'm going to call a 10 minute break. We'll come back at 25 'til 9:00 p.m.

Chairman Pearce said, "You were done with all of your witnesses?" Ms. Dunnuck said, "Yes." Chairman Pearce said, "Mr. Welty was your witness and I assume you have no others and you have no others and no other statements." Chairman Pearce asked Harry Custer whether he has a statement to make. Mr. Custer said, "Yes I do." Chairman Pearce said, "Please come forward. Are you going to be calling any witnesses?" Mr. Custer said, "No Sir. Ladies and Gentlemen thank you for allowing me to speak. I will be brief. My name is Harry Custer, I live with my wife Maureen at 621 Carriage Commons Drive, that is two doors away from the dead end street that we have been hearing about with the proposed roadway is to be built. I have no technical or legal testimony to present to this Board in this matter. I am, however, a concerned resident who is opposed to the proposal and am here to appeal to your sense of fairness and ask that you deny the developer's request. A request, that I believe is designed to help the profits of the developer at the expense and complete disregard of all the residents of Carriage Commons. If approved, this road will have a negative impact on all of us, affecting the health, peace, quiet, safety and comfort of the residents as well as reducing the monetary value of our homes. I believe the chances of a serious accident will be greatly increased if we residents of Carriage Commons Drive and Quarry Road have to back out of our driveways onto this very narrow road while heavy earth-moving and construction vehicles as well as addition new section traffic drive by. We purchased our home in large part because as the Carriage Park

advertisements and brochures stated, it is designated as one of the 100 best planned communities in America. A main feature is that the roads are laid out in such a way that each of the individual small neighborhoods will have its own entrance and as a result, Carriage Commons homeowners have been on a circular road with one way in and out for the past ten years. This road enhances our security; it is safe and free of traffic noise and pollution. It is where we walk and visit with neighbors. Right now, there are two official Carriage Park signs at the end of my street. The first reads, no outlet and the second marks a wooded marking trail. I took the liberty of taking four photographs; may I share them with you?" Chairman Pearce said, "Yes you may." Mr. Custer said, "It is particularly interesting to me, as you can see I took this picture two doors away from where I live. It is interesting to me that this evening much has been made of the signs that I took these photographs of. The photograph at the end was marked "walking trail" is now a brand new sign marked "access to some other section or clubhouse." I bring that up just in case there is anyone in this room that got the impression, as I would if I didn't know any better, when I heard that before I thought to myself, well if I was seating in for the first time, I would think, why would this fellow complain about an additional section when the sign clearly says that this is going to be a future development. Well, again, that sign was put up recently; I can not give you the date that it was put up, but was put up recently. I would also like the members of this Board to know that in regards to notifications a number of my neighbors and I were taken by surprise of the last minute announcement of this plan in last week's scheduled meeting. We were not aware that we had to stop at the front gate on a daily basis to see whether there were any notices posted. Notices that could impact our lives. In fairness to the people, I believe these important messages should be sent through the U.S. Postal Service, as not everyone has access to the internet and flyers left on top of a mailbox are not a good way to rely on people being informed. It is my hope that you all seriously consider requiring the developer to revise his plan. Our homes are at stake here. Surely there must be another way to gain access to this new section. If you vote for denial of this plan, the residents of the Commons neighborhood won't be the only people to benefit. Every person in Carriage Park, whatever section they are in, as well as any newcomers in the future, will be able to feel more secure in knowing that the representations of the developer can be counted on. On the subject of trust, I was discussing this road issue with the realtor who sold us our house. She is a lady who I know to be of the highest integrity. She told me yesterday... Mr. Michaux interrupted, "I object to the here-say Mr. Chairman. Again, I'm not trying to be technical, but this is a quasi-judicial hearing and this is a violation." Chairman Pearce said, "Ok. So I think you would not be able to state that. You'll not be able to state what she told you unless she is here to testify and then she can do that." Mr. Custer said, "Again, I thank you for allowing me to speak." Chairman Pearce asked, "Staff any questions?" Mr. Card replied, "No." Chairman Pearce asked Board members, but they had no comment. He said, "I would make a statement on behalf of the Planning Department and the Planning Board's perspective; the outlines for how notification is made have been in place for many years. They were outlined by the Board of Commissioners back in 1993 and I believe there haven't been any subsequent changes in the methodology for notifications. The notification does call for the Homeowner's Association to be notified and Matt Card earlier indicated that he had gone through all of the notification processes. If the change is made, this Board can not make that change and I think from a practical standpoint, it would be probably better to come up with a notification process through your Homeowner's Association, otherwise it will have to go through the Board of Commissioners at a public hearing to have any changes made on that. That is for everybody to understand. Ok, Erin do you have any questions?" Ms. Dunnuck said, "No sir." Mr. Michaux said, "I just have one. Mr. Custer, have you ever had to tell any emergency service how to get to your house?" Mr. Custer said, "I hope I don't have to." Mr. Michaux said, "Would you have any trouble telling them how to get there?" Mr. Custer said, "Not at the present time." Mr. Michaux said, "No further questions." Chairman Pearce asked Bonnie Marsh, Virginia Burke, Florence Werden, and Mary Cavanaugh whether they had any questions of this witness and they all said "no." Chairman Pearce said, "Thank You. Virginia, would you like to make a

statement?" Ms. Burke said, "Not at this time." Chairman Pearce said, "This would be your time if you want to make a statement." Ms. Burke said, "Alright. Well you corrected me earlier which I appreciate. When I started saying that in Carriage Walk we have two sections – Carriage Walk One and Carriage Walk Two and each one of those two sections has its own direct access to Carriage Park Way. You do not have to go through Carriage Park One to get to Carriage Park Two, nor do you have to go through Carriage Park Two to get to Carriage Park One, in fact you can not do that, they are separate entities. In looking at the application for Section 7, which I obtained at the Planning Department, I noticed one page had written in, I don't know who wrote it in, instead of Carriage Crest, someone wrote in Carriage Commons Two, so I assume from that, that the developer was going to decide to call Section 7, Carriage Commons Two and therefore justify the extension of Carriage Commons Drive. Also, I don't know if this is the time for me to say it, Mr. Pearce, but Mr. Hamlin never answered my question which was, "How can you say that Section 7 has direct access to Carriage Park Way when it doesn't. You have to go through Section 6 on Carriage Commons Drive." Chairman Pearce said, "As I recall Virginia, he answered it, but I don't think he answered in a way you felt was –you did not agree with the way he answered it, but I do believe he answered the question." Ms. Burke said, "I didn't hear the answer, I don't think he answered it." Chairman Pearce said, "He said it does have direct access that was his answer, or something to that effect." Ms. Burke said, "Thank you." Chairman Pearce reminded Ms. Burke that she could not leave yet. He reviewed the list of witnesses and asked each one whether they had any questions of Ms. Burke. Everyone responded as "No." Ms. Burke said, "Mr. Pearce, may I show you that document, the application to Section 7 where someone wrote in Carriage Commons Two?" Chairman Pearce said, "If it hasn't been, unless we know who wrote it, Staff can you help us here?" Mr. Card said, "It is in your memo. It is in the descriptive narrative." Chairman Pearce asked, "Is that the part we covered or not covered?" The question was, what was going to be the name of it, now is that the part of the memo that you are talking about Matt?" (There was some mixed talking going on). Ms. Burke said, "That is worrisome that they wrote that in there." Chairman Pearce said, "Thank you." He then asked Florence Werden whether she wanted to make a statement. Ms. Werden said, "No." Chairman Pearce asked Mary Cavanaugh if she wanted to make a statement. Ms. Cavanaugh said, "No." Chairman Pearce said, "I think at this time Staff would need to present anymore – go over their comments, is that correct?"

Mr. Card said, "You will find that the comments in Staff's memo are fairly consistent with the other development plans I have gone through for Carriage Park. We have a private road statement, Comment Number 1; final plat requirements, Comment Number 2; your standard soil erosion, Comment Number 3; and water and sewer, Comment Number 4. Comment Number 5, evidence of infrastructure development is a condition in the Special Use Permit and that is, that is a common comment. Comment Number 6, it basically talks about the project name. It says that Carriage Crest has been used for Section 15 and the applicant should at the Planning Board hearing tonight correct that name. The Planning Board may decide to require their plans. Comment Number 7, the open space for Section 7 should be put on record prior to a concurrent with the recordation of the final plat for Section 7. Comment Number 8 discusses road standards. It also discusses that in the large plan sheet three, which we actually don't have a copy here, it's found here in the Development Plan, Sheet 3, which I can show, if you are willing to see that. Culverts are missing on there; I believe it was the culvert locations." Chairman Pearce said, "I believe we are fine on that. Most of these things are standard." Mr. Card said, "Comment Number 9 addresses Lot 17 and Lot 16 on the Development Plan, which is towards the end of the cul-de-sac there and it is unclear where the lot line is for Lot 17 and Lot 16. That should be shown on a revised plan. We also have other comments here. Your standard comments from the Fire Marshal's Office, of course it is not required, but it is just a suggestion. We went over this at the last Planning Board meeting and comments from Property Addressing; basically talking about the road name needs to be approved by Property Addressing before a final plat can be recorded. I would also like to add a couple of things. I noticed on the

Development Plan that the 25-foot separation between development parcels is a little off. As you can see right here, if you were to do this scale, which is a 160 scale, this area right here appears to be not meeting a 25-foot separation and I believe that's it. It appears that everything else is meeting that 25-foot, so that would be corrected on the final plans." Chairman Pearce said, "So that would be Comment 10 or 9A?" Mr. Card said, "9A." Chairman Pearce said, "9A, 25-foot separation, Ok." Mr. Card said, "In conversations with Ms. Dunnuck, she had pointed out that there are also two other things that are wrong. One of which is that the density is incorrect, which we did the calculations for and it is incorrect and that should be shown on a revised Development Plan." Chairman Pearce said, "So 9B would be density incorrect – calculation or?" Mr. Card said, "Yes, the actual units to acres was wrong." Mr. Cooper said, "On the big plan it is different than it is." Mr. Card said, "I believe it was understated, I'm not sure." Mr. Cooper said, "Matt, on the large-scale plan, shows 4.3 and the small scale plan shows a smaller amount." Mr. Card said, "It is different. It shows 1.5, I believe on the small." Mr. Cooper said, "If you hadn't noted that, go ahead, sorry." Mr. Card said, "And the last thing is that the project narrative is wrong also, it shows thirty-eight lots and that is what we just referred to with Ms. Burke's testimony. It should really be thirty-four lots because that is what is being proposed here tonight." Chairman Pearce said, "So, 9C will be project narrative is incorrect, it should be thirty-four lots, ok." Mr. Card said, "I think I've covered all of that and of course, Staff recommendation is basically – if there are any other comments that arise tonight that those be addressed as well." Mr. Cooper said, "Can we start asking him questions?" Chairman Pearce said, "Yes, we can start asking him questions." Mr. Cooper said, "The question that comes to my mind, what is the Special Use Permit require as far as number of units allowed on what is considered a thirty-foot right-of-way for a neighborhood drive, does that specifically address that?" Mr. Card said, "I grab my Special Use Permit here. Ah, if you do look up the road standards, which is page 1, *Conditions Governing Special Use Permit*, then you have your major, minor, residential and neighborhood drive. Minor collector does actually specify roads serving not more than five individual development parcels. A residential street/neighborhood drive really do not address that, they address what type of units that you can serve, but it really doesn't address the number of units that you can serve." Chairman Pearce said, "So you are saying that a minor collector road could serve five development parcels, is that what that says?" Mr. Card said, "A road serving not more than five development parcels." Chairman Pearce said, "Now do we have anywhere – what would be an example of a minor collector road in Carriage Park?" Mr. Card said, "A minor collector road, I believe one is proposed in Section 15 and that was to extend into two more development parcels behind Section 15, I don't have the plan here I forget what the road name is maybe Bob can help me out with that." Mr. Cooper asked, "What are the requirements for a minor collector road?" Mr. Card said, "Minor collector road, 26 feet of pavement with curb and gutter section or eighteen feet of pavement without curb and gutter. So it is fairly similar to a residential street. The right-of-way way requirement is fifty-foot." Mr. Cooper said, "So you don't think that a minor collector road would be required here then?" Mr. Card said, "It is really unclear the way that it is laid out here." Mr. Cooper said, "I know how a subdivision road standards, if it is over 25, it has to be a collector road standard, but does that apply to this or not?" Mr. Card said, "Unfortunately it really doesn't because it is based on a Special Use Permit." Mr. Cooper said, "That's why I ask when does the minor collector road requirement kick in, how does it trigger. That is where I have a hard time understanding." Chairman Pearce said, "I can not find anything in the Special Use Permit that actually..." Mr. Cooper said, "It says it may serve five sections but..." Chairman Pearce said, "It doesn't say how many units any one section can..." Mr. Cooper said, "I don't know what the purpose of a minor collector road is, if there is nothing triggering it that is what is confusing to me, ok?" Mr. Card said, "Yaw, right, I understand." Chairman Pearce said, "What portions, ok we have a Special Use Permit, now does that take precedence over or does the subdivision ordinance take precedence over the Special Use Permit?" Mr. Card said, "To my understanding the Special Use Permit takes precedence over other ordinances. There is a little blurb in here that talks about, you know, it also has to conform with other ordinances of the County but as far as the

subdivision ordinance is concerned, Carriage Park has been a non-standard subdivision, which if you remember in the subdivision ordinance is a very small section and that is basically where, what the subdivision ordinance would apply to. If you look at these plats right here, I bet they were signed off as a non-standard subdivision and not a major subdivision.” Mr. Cooper said, “What is your interpretation of the paragraph that is was being referred to about each section being served, versus going through another developed section?” Mr. Card said, “Direct access through Commons Street.” Mr. Cooper said, “I don’t know whether you give that consideration at all.” Mr. Card said, “I have given that consideration but the Special Use Permit doesn’t address that, it is not in the definitions and it is really unclear what direct access means and what a common street is, so it is hard to make an interpretation based on that.” Mr. Cooper said, “Ok, I just wanted to know if you had looked into that.” Chairman Pearce said, “Are there any buffering requirements in between development parcels?” Mr. Card said, “There is a 25-foot separation there and you do see it on that plan.” Chairman Pearce said, “Even though it’s an error in one spot, but that is the only buffering requirements that there is?” Mr. Card said, “Between development parcels.” Mr. Cooper said, “As far as road going from one to the other, it doesn’t have to have a buffer in the middle of the road, per say?” Mr. Card said, “Right, if you see how Carriage Park that roads do cross through different sections and the buffer are on the Development Plans that have been approved, so... it’s just a separation of units essentially.” Chairman Pearce said, “Ok, are there anymore questions? Erin, do you have anymore questions?” Ms. Dunnuck said, “Yes. First of all are you familiar with Carriage Commons Drive?” Mr. Card said, “Ah, yes.” Ms. Dunnuck said, “To your knowledge are there frequent shoulders?” Mr. Card said, “Yes, I believe so.” Ms. Dunnuck said, “The language of a minor collector road that has the language of serving individual development parcels so the residential street does not have that area?” Mr. Card said, “Right.” Ms. Dunnuck said, “Ok, and it just says serving by direct access, right?” Mr. Card said, “Serving by direct access, that’s right.” Ms. Dunnuck said, “Earlier I had Mr. Hamlin read Special Use Permit, Amendment Number 1 and that was Findings of Fact number 30. When you read that paragraph 30, in connection with Findings of Fact when the original Special Use Permit paragraph 19, is that, provide some clarity to what direct access does mean?” Mr. Card said, “Relocating the major collector road as proposed in the revised master plan would provide direct access to a major collector road for every development. Regarding paragraph 19, I’m still trying to figure out what this is trying to say.” Ms. Dunnuck said, “I’m not trying to be a smart-aleck, but what do you think indirect access would be?” Mr. Card said, “Indirect access? Well, first off you would think that would be access through other development parcels or through other roads, not having a direct connection from one specific road to another development parcel or specific road.” Mr. Michaux said, “The thing that is a little backwards about this is if you interpret that of what has been suggested, Carriage Commons Drive is a clear violation, because it is not a 50-foot right-of-way, isn’t that right?” Mr. Card said, “It is a residential street with a 45-foot right-of-way.” Chairman Pearce said, “Matt read the townhome one, there is a different requirement for townhomes.” Mr. Card said, “Right.” Mr. Cooper said, “My question is what triggered a minor collector road to require a 50-foot right-of-way if you were going to extend it into another section, does that make it have to be, that was my reason for asking and it can’t tell if it does right now, so I don’t know.” Chairman Pearce said, “Carriage Commons is not required to have a minor collector road, I would presume.” Mr. Card said, “Right. They are serving townhouse units so they are able to have a residential street or neighborhood drive.” Chairman Pearce asked, “And what is the width of they are governed by?” Mr. Card said, “It is 45-foot, so it is a residential street, it’s not a neighborhood drive but the definition has been changed now so, it was different back in 1994 when it was approved.” Mr. Michaux said, “Isn’t it true that if you look at paragraph 1 in the definitions conditions governing the Special Use Permit, all of those streets do not have curb and gutter are required to have an 18-foot pavement, isn’t that true?” Mr. Card said, “18-foot pavement without curb and gutter.” Mr. Michaux said, “Right, and that applies to every one of them?” Mr. Card said, “Right.” Mr. Michaux said, “And 18 feet of pavement are a fairly standard pavement width for city and residential streets?” Mr. Card said, “Right.” Mr. Michaux said, “I

don't have any other questions." Chairman Pearce said, "Bonnie, do you have any questions?" Ms. Marsh said, "Yes I do. I would like to show all of the pictures of Carriage Commons Drive and show me where the three foot shoulder is on each side." Mr. Card said, "I don't have the pictures." Ms. Marsh said, "The road is 18 feet wide. Those are driveways put up right against the road. I would like to know where the 3-foot shoulder is on each side." Mr. Card said, "Well, it's kind of hard to note from a picture, you really can't measure distance from a picture. It appears that there is shoulder, you can count this area right here on both sides as shoulder." Ms. Marsh said, "In the driveway?" Mr. Card said, "Well, not in the driveway, but you have to have a driveway.." Mr. Griffin said, "You would have to have a driveway joining the road somewhere, so that has to be part of your buffer, because your driveway joins, right?" Ms. Marsh said, "And into each one of these five courtyards there are shoulders that are built on each side to that entrance of that courtyard." Chairman Pearce said, "Now you are giving testimony, you can only ask questions please." Ms. Marsh said, "Ok. Are they three feet from the road, those pillars?" Chairman Pearce said, "I don't think he's in the position to answer that practically, because he would only be able to judge that, unless he's been to the site, he'd have to judge it from the picture." Mr. Card said, "It was approved by the Planning Department as was proposed in the cross-section. I can't tell from the pictures, it does appear that there are shoulders, I don't know what the width is on those shoulders." Ms. Marsh said, "We would like to have them flagged please." Chairman Pearce asked Ms. Burke whether she had any questions. Ms. Burke said, "Yes. Matt, have you visited the site in connection with this application of Section 6?" Mr. Card said, "I have not visited Section 6." Ms. Burke said, "Could you visit Section 6?" Mr. Card said, "I'd be happy to." Ms. Burke said, "Thank you." Chairman Pearce asked Mr. Custer, Mr. Boyle, Florence Werden, and Mary Cavanaugh whether they had any questions. They all responded as "No."

Chairman Pearce said, "We have two things. Number one we have rebuttal evidence and any comments. I think we need the developer or his representative to speak to items 1-11." Mr. Michaux said, "Items 1 – 11 of what?" Chairman Pearce said, "Of Staff's memo. I just wanted to know – most of them are common things and there are a couple of questions in there that were raised and if you don't mind, typically this is when we do it. Typically Mr. Hamlin or Bob has done this in the past and we would appreciate it if they would be available to answer a couple of questions." Mr. Michaux said, "I think that the person who is most qualified is Bob, who is the land planner. I understand that the observations are technical requirements of the ordinance that would certainly be imposed as a condition to any approval. We would certainly adhere to those. For example, the density is much less than what is stated in the memo. There are only thirty-four units in 9 point some-odd acres, so we would certainly correct that."

Chairman Pearce said, "Ok, so I would ask you, what is – the project name is listed as *Carriage Crest...* what is the project name, is it Section 7? It is previously labeled Carriage Crest, we both probably remember how that probably happened." Mr. Grasso said, "Yes, it is Carriage Commons Two." Chairman Pearce said, "Most of the other items are standard, do you take exception with any of the items that have been raised, items 1 – 9 including 9A, the 25 separation not met?" Mr. Grasso said, "We can fix that – any calculations." Chairman Pearce said, "And the project narrative shows an incorrect number of lots." Mr. Grasso said, "That's right. We reduced the number as we got into the grading of the project. The erosion and sedimentation control plan has been approved by DENR and that is part of the plan that has all storm drainage design and Matt, I will provide you with a copy of all of that." Chairman Pearce said, "I assume, does anyone have any questions of him regarding the comments from Staff? Alright, should we go into rebuttal, ok..." Mr. Michaux said, "I just have one quick clarification. Bob, the question has come up in the testimony about whether the access to Section 7 is economic or a real possibility, would you address that please?" Mr. Grasso said, "I never said it was an economic issue, it is a site issue, it is a slope issue and it is a safety issue as far as building a road so that it won't slide off the side of a mountain." Mr. Michaux said, "Should you build a road in that area with a grade, it would be to State standards?" Mr. Grasso said, "As I was saying, across the ridge there across the cross-slope of the ridge, no you can't do that, it's

too steep.” Mr. Michaux said, “I don’t have any other questions.” Mr. Cooper said, “Can I ask him a question?” Chairman Pearce said, “Everyone can ask him a question.” Mr. Cooper said, “Now earlier you said you could build a road that would meet the grades as far as percent grade, but the cross-slope would eat up the hillside?” Mr. Grasso said, “That is correct. From the standpoint of a vertical road design, which is longitudinal slope of a road, we could meet DOT standards as far as road grade, but as far as the cross-slope and the road cross section, which I showed you in Exhibit A6, that is what makes it that you can not build that road cross section on that cross-slope.” Chairman Pearce said, “You could if you took off part of the mountain, is that correct?” Mr. Grasso said, “Well, yes. If you want to grade all the way to the top of the ridge or to the valley floor, you could, yes, or build retaining walls but again to build retaining walls on something like that for instance if you were to build on the cut slope side of the cross-section you would have to either put in a poured concrete wall that would have a massive footing or you could attempt to put in a modular block wall which is common in use but when you exceed four feet of height of a retaining wall, then you have to put in geo-grid so you would be over-excavating into that slope and you would be destabilizing that slope above you that you are trying to build a retaining wall, it is just not feasible.” Mr. Cooper said, “Well, I’m not going to argue with you, but it can be done with soil nail walls.” Mr. Grasso agreed. Ms. Dunnuck said, “Since you are testifying as an expert on this matter, I just want to clarify that you are not an engineer, correct?” Mr. Grasso said, “I stated I was not a civil engineer.” Ms. Dunnuck said, “Thank you.” Ms. Marsh said, “You said you were a landscape architect with a four-year degree?” Mr. Grasso said, “I have a master’s degree from Cornell University.” Ms. Marsh said, “In landscape architect?” Mr. Grasso said, “Yes.” Ms. Marsh said, “I didn’t realize that landscape architects did roads.” Mr. Grasso said, “Oh yes. If you were to go to the website of the State Board and look at what we are allowed to do, there was several years ago there was a question raised by the civil engineering board as to what we could and could not do. It was by the state legislature and the attorney general that outlined precisely what we could do and when it began and I have been doing road design that is part of any subdivision that I’ve done since 1982.” Ms. Marsh said, “This must be an individual thing to North Carolina because it certainly isn’t prevalent out of Michigan State University for the State of Michigan.” Mr. Grasso said, “It absolutely is. Across the board, what has happened is the Board of Landscape Architects has a state-by-state registration and across the country they have been certifying the registration from what was a title act to a practice act and when it became a practice act, that is when it is outlined specifically what a landscape architect could and could not do and that is supported by the State Attorney General’s Office when that question came up. As far as the registration exam that we have to take, in that registration exam we have vertical and horizontal road line that we are tested on, so we are qualified to design storm drainage and erosion control.” Chairman Pearce asked Ms. Burke, Harry Custer, Florence Werden, or Mary Cavanaugh whether they had any questions of this witness. Ms. Cavanaugh said, “Yes.” Chairman Pearce said, “Please come forward.” Ms. Cavanaugh said, “I would like to know when Carriage Crest became Carriage Commons Two, because last Tuesday night everything that was mentioned about it was Carriage Crest.” Mr. Grasso said, “I made a mistake. Carriage Crest is Section 15, I just mislabeled it on the narrative.” Ms. Cavanaugh said, “It was wrong then, the name?” Mr. Grasso said, “We had corrected it.” Ms. Cavanaugh said, “Not while we were here Tuesday night.” Mr. Grasso said, “Matt, when did we pencil in on the narrative the name?” Mr. Card said, “Carriage Commons?” Mr. Grasso said, “Yes.” Mr. Card said, “Was before submittal of the application form.” Chairman Pearce said, “So you are saying approximately March 21, 2006.” Mr. Grasso said, “It was an error on my part.” Chairman Pearce said, “I will state that he did the same thing on Section 18, because he used his template – he copied a form over it and that is how the error was found. He got it on both of them. We nabbed him on Section 18 on the same thing.” Chairman Pearce said, “Ms. Burke?” Ms. Burke said, “I’m not sure that I heard your answer correctly and I just want to verify. When the Board member, I think Mr. Cooper said you could build a road on that slope by doing something, but I missed that terminology, it was technical but you knew what he said. What

was your answer, would you please repeat your answer to Mr. Cooper?" Mr. Grasso said, "Mr. Cooper asked me, "Could we build the road using retaining walls and I said yes." Ms. Burke said, "You mentioned a certain term." Mr. Grasso said, "By soil nailing. It's like a big long rod and it is a very specialized way of construction. There are places in Asheville where NCDOT has used that and then they covered it up with a wall, for instance out at the mall when they built that whole new ramp system, you see that big tall wall. What they did was that they drove those long rods into the earth at whatever that pattern is that the geo technical engineer determines and then you face it with either – sometimes that gannet and you just have a concrete face that looks like the inside of a swimming pool or DOT went to the more expensive route of pouring a facet across that saw mill and made it look like rock and that is what they have at the mall. That is what soil nailing is." Ms. Burke said, "Thank you. Would you be qualified as a landscape architect to do that?" Mr. Grasso said, "No, I don't design retaining walls and I don't design any kind of structures." Ms. Burke said, "Not soil nailing?" Mr. Grasso said, "No, that is a geo technical engineer that would do that." Chairman Pearce said, "I have a question for you. Using that wall, getting off of Exit 8, no 7, going to the mall, the one that you are describing, if a retaining wall were to be built to build those roads, are we talking about a wall of that size or half that size or what are you talking about?" Mr. Grasso said, "It would be between 50 to 60 feet tall." Mr. Williams said, "What would the length be?" Mr. Grasso said, "Guessing, about 300 feet long." Chairman Pearce said, "Ok. Thank you." Chairman Pearce asked Harry Custer, Florence Werden, and Mary Cavanaugh whether they had any questions and all replied "no." Chairman Pearce said, "Thank you. Do you have any other rebuttal witnesses you'd like to call?" Mr. Michaux said, "No. I would just like to introduce into evidence the exhibits that we submitted. I think they are Exhibits 1 through 6." Chairman Pearce asked, "Is there anymore testimony to present. If not, are we ready for closing statements?" Ms. Dunnuck mentioned that she would like copies of the slope legend and some other maps that Mr. Michaux entered into evidence and they mentioned that they would get those documents to her. Chairman Pearce asked, "Erin, would like to make any closing statements?"

Ms. Dunnuck said, "The Board has the authority to approve the application that meet the minimum requirements of the Special Use Permit conditions in the applicable ordinances. My interpretation of that includes the zoning ordinance and the subdivision ordinance. The memo has the relevant language of the ordinance or the Special Use Permit or amendment in italics and then the conflict directly below it. The memorandum outlines the numerous conflicts with the Special Use Permit as well as the ordinances. Connecting the two development parcels of Section 6 and Section 7 is contrary to the entire development scheme of the Carriage Park community. Its contrary to the development representations to Henderson County including through the recorded documents and the Research Master Plan as well as all of the Carriage Park residents. According to the Research Master Plan and the Special Use Permit both Section 6 and 7 would have direct access to a major collector road and Carriage Commons was to dead-end in Section 6. The proposed development plan for Section 7 conflicts with that. There seems to be some confusion over the direct access and I would propose that you view it in this manner. If you look at paragraph Number 19 of the Special Use Permit and earlier I didn't mean this as a smart-alecky statement but perhaps if we look at it in the opposite form, the opposite of direct access would be indirect access and as Matt [Card] stated earlier, indirect access would be exactly what is proposed right now, to have one section, Section 7 to have to go through Section 6 to get to that particular development parcel. In addition, I think when we looked to Special Use Permit Amendment 1, it is clear that the Board of Commissioners interpreted in their amendment, that the Special Use Permit requires that every development parcel have direct access to a major collector road. There is obviously significant opposition to this proposal among the residents in Carriage Commons as well as the rest of Carriage Park. The applicant has made numerous representations in written and oral statements that every development parcel including Carriage Commons would be an individual community and have direct access to Carriage Park Highway. Carriage Commons Drive as we have heard through

everyone's testimony is very narrow and can not handle the increased traffic from the heavy equipment vehicles associated with construction and the increased traffic related to the newly developed thirty-four townhouses. There are serious safety risks related to this significant traffic increase on such a narrow, old road. The proposal of continuing Carriage Commons Drive from Section 6 to Section 7 is detrimental to the public welfare within the planned unit development. Besides affecting the quality of life and the safety of the property owners in Carriage Commons, the extension of Carriage Commons Drive will also decrease their property values. I am certainly not satisfied that extending Carriage Commons Drive from Section 6 to Section 7 is the only solution to developing Section 7. These property owners are not opposed to Section 7 being developed, they just don't want it to go through their community. The applicant has made it clear that this is the most economically feasible solution but I would feel a lot more comfortable if we had certifications from licensed engineer that there was no other feasible way to enter Section 7. The proposed development plan for Section 7 conflicts with the zoning ordinance, the subdivision ordinance and the Special Use Permit and the Research Master Plan and should be denied."

Chairman Pearce asked Bonnie Marsh, Virginia Burke, Florence Werden, Harry Custer, and Mary Cavanaugh whether they had any closing statement. All stated they had no closing statement. Chairman Pearce then asked Mr. Michaux. Mr. Michaux said, "I do have a closing statement." Chairman Pearce asked that he present that to the Board.

Mr. Michaux said, "Let me just clarify – I'm assuming that the Special Use Permit and the five amendments are all part of the record, is that correct?" Chairman Pearce said, "Portions of them have been submitted to the record. This is standard information that all members of the Planning Board receive and either have with them or are familiar with them in the past from use." Mr. Michaux said, "It's been my experience that ordinances and Special Use Permits are all part of the record and you don't have to come back and introduce the ordinance again." Chairman Pearce said, "Any decision this Board makes, will be made in accordance with our understanding of any permits and ordinances, etc." Mr. Michaux said, "When I was first approached about this, which was very recent, I was told and actually I was approached last week after last week's meeting because Mr. Hamlin had no idea about the opposition or that there would be a lawyer here, no one ever advised him about that, so he was caught by surprise and that is, as I understand it, is why we resumed the proceedings tonight. When I was first approached about this, I thought we were going to be faced with the typical situation where a stubbed street had clearly be shown as a matter of record to either be a "T" intersection or a cul-de-sac that would clearly eliminate or at least communicate that you were eliminating the right to extend that into any additional properties. Quite to the contrary, the recorded plats and the plans that have been submitted to the Planning Commission that go back as far as 1994 all show that it was intended that this street could possibly be extended into a future development area. There is no question about that. Now you can start splitting hairs about what the Special Use Permit does or does not mean, but the fact of the matter is that the original development that we are talking about does not front a collector street. It fronts a 35-foot residential right-of-way that feeds into a collector street. It says that every development shall front a common street and that is exactly what is being done here. It is exactly what has been done over the last eight or ten years as the Special Use Permit has been interpreted by this Board and the Planning Staff. There is nothing different about this and it is my experience that if you meet the terms of the Ordinance, that you are entitled to have your subdivision approved. It's not a discretionary decision, it is a question of whether or not the proposed plan meets the terms of the ordinance. In the evidence that we have presented tonight is intended to show that it does. Now, people have always complained about traffic, you never have any development where you don't have a complaint about traffic. Nobody has produced any substantive evidence before this Board that this street is incapable of handling another thirty-four townhome units. It is a forty-five foot right-of-way with an 18-foot paved surface, which is probably what 90% of the

residential streets in North Carolina adhere to. Eighteen feet is a basic standard. Now, you can obviously back a car straight out of a driveway and cover up eighteen feet if you don't make any attempt whatsoever to make a turn so you can either go one way or the other out of the driveway, but 18-feet is not a narrow substandard development requirement. This street meets every test. It is a residential street – I thought Mr. Cooper's question was very good was *how many units is a residential street designed to accommodate* and I had the same question, and I don't know the answer, but I submit to you that it is a whole lot more than the 17 units that are on that street plus 24 more, excuse me, 34 more. So the question is, it's not an emotional decision that you are required to make and I realize that there has been a lot of emotion in here. The construction traffic obviously is not going down to the end of this street and then back out. I mean, anyone knows that when you are constructing a residential development, you are going to go in and develop a staging area to put the equipment so that you don't take it in and out and you certainly don't back it out, you go down to the staging area and turn around and drive out. That is a fairly simple logical deduction as to the comments in the very compassionate speech that this is a safety hazard because the people can't get to it. Mr. Custer lives two doors from the end of this street, two doors. There is no more safety hazard for him or for these thirty-four units than there is for him and there obviously isn't a safety hazard. You tell them how to get there, you drive to the end of the street, so you have been given lots of emotional arguments that really don't have much basis in fact and I hope that you will consider that and make the decision based on the facts. This SUP has been interpreted for ten years. Mr. Hamlin has indicated that the same principal has been followed at least eight times and it's just a question of how you interpret the ordinance and one of the ways that you make the decision is how have we interpreted this in the past and I suggest that nobody is trying to sneak anything past this Board. This has been very open and clear and they have been down here many times and there is nothing sneaky about this. This is a straight-forward subdivision that meets the requirements as indicated by your Planning Staff. I think that under the terms of the ordinance that you are obligated to approve it. I would be happy to answer any questions." Chairman Pearce said, "Thank you. Matt, would you like to make any comments before we close." Mr. Card said, "I have no comments." Chairman Pearce said, "Now that the evidence has been presented and the closing arguments it would be appropriate that the Board discuss this issue as presented today. Now the question, is the Board prepared to discuss this now?" Mr. Cooper said, "Do we have to do something with these affidavits?" Mr. Burrell said, "You have forty-five days to make a decision and you can make a decision on the affidavits later in the meeting." Chairman Pearce said, "I'm willing to stay if everyone is?" All Board members agreed. Chairman Pearce said, "I would like to see some of the evidence a little closer up. Matt [Card], can you help me. I would like to see the development plan first, I mean the master plan. It is possible the master plan in affect...public comment has ended folks. Ok, the revised master plan that would have been in affect when 93-13A was done was October 1993." Mr. Card said, "This was dated 10-12-94. This was a part of Amendment 1."

(Board members grouped and generally discussed among themselves Section 7 and the subject of the access road issue as they were reviewing the maps that had been entered as evidence, as well as the plans that Staff had available to review. More discussion occurred among Board members. The discussion became clearer as follows:

Mike Cooper said, "As required by SP-13..." Chairman Pearce said, "And that was as of October, 1993, so the plan that was in effect at that time, which is a copy of the one we have here." He said, "It is this one here and I believe the date on that is October something 1994." Mike Cooper said, "It was 10/12/94." Chairman Pearce said, "So that is probably the most current one. So the question of direct access to a common street is one major issue and the other issue is the definitions of the types of roads whether they are minor road, minor collector road is required, a residential street, a neighborhood drive, what do the arrows mean that are pointing out." Mike Cooper said, "SP 93-13A1, that keeps coming to my mind will provide direct

access to the major collector road for every development parcel, but was is a development parcel, to me that is every section.” Gary Griffin said, “That is what we have to decide, direct access road that is the biggest question.” Mike Cooper said, “It says to major collector road. Now I would think because you have definitions of minor collectors that can serve up to five sections, I believe it says, that you can access a major collector with a minor collector up to five sections. We can’t address what triggers that by numbers of houses because we can’t seem to put our hands around that but I think you can access this with a minor collector.” Chairman Pearce said, “I don’t think a major collector would be acceptable and still meet the requirements of the Special Use Permit, but if you have to have a minor collector which requires a 50-foot right-of-way and what I understand is that we only but a 45-foot existing through that section, that is the testimony we have. Russell, precedence?” Mr. Burrell said, “In a Special Use Permit you never dealt with the issue as to what constitutes direct access.” Gary Griffin said, “That is the big thing.” Chairman Pearce said, “That there were some incidences where other sections, something other than a major collector road were the access into a development parcel.” Mr. Burrell said, “First, was it contested at any time, were those issues ever”...Chairman Pearce said, “Most of us were not a party to it so we do not know any record of such that would be the first question. Some of them are much like, some of them did appear to be part of, actually one of them I disagree with, it looked like Carriage Ponds was probably not even one – Carriage Ponds, one and two, as best I can tell off of the Master Plan, it was just one development parcel, as best as I can read it anyway. There were some around Governor’s Point area, which was the original road and development and I can’t tell if Governor’s Point is a major or minor collector road, it might be a major. It’s either a 50 or 60 foot road, I would say from looking at it. It was a primary original development, clubhouse was up there and everything and I think that happened probably...” Ms. Kumor said, “Around mid-80’s early 1990’s. I think it happened later than the late 80’s.” Chairman Pearce said, “I think it happened in the early 90’s; it had to be in the early 90’s – around 1990 – 1995.” Ms. Kumor said, “That they had all of those different people buying it.” Chairman Pearce said, “He feels it happened around the time that Dale Hamlin’s group bought, as I don’t think it happened before then. So some of the things around that section, 3, 4, 5, 6 several lots.” Mr. Burrell said, “I don’t know that you are bound by that, but by the same token they may supply some weight to one side or the other through question. I don’t know whether you are absolutely bound one way or the other as it was not truly an issue that was brought before the Planning Board to decide before. If that is the kind of issue that would have been determined one way or the other in the past that may wave one way or the other in your decision now.” Mr. Griffin said, “If they were doing three or four up there now, it may never have gotten to the Planning Board. If it is three or four townhouses, probably not, but when you start talking thirty-four, that is quite a few.” Chairman Pearce said, “That the down-side to this in either direction, they either come through this Section 6 or they cut this big ugly scare and I don’t think either one is good.” Mr. Griffin said, “They don’t have to build there, if they can’t make it feasible.” Chairman Pearce said, “We need to make some Findings of Fact either that or we need to come back or make a decision in a reasonable length of time.” Mr. Burrell said, “That it needs to be a signed, written decision.” Chairman Pearce said, “That we definitely have arrows pointing to Section 7. We have one pointing towards Section 7 but not going into Section 7 from Section 6 and then we have one from the parkway going in-between to Section 7. It is easy to say that there was an intention to extend that road possibly for some other use, whether or not it was to go into Section 7 or not, I am not clairvoyant.” Mr. Williams said, “It does not abut Section 7, the other, which is shown, actually shows going into Section 7.” Chairman Pearce said, “It is confusing, we don’t have as much information as we would like to have and I’m sure that if everybody thought all of these things through, that this was the whole reason they set this thing up because the property was so large and it was set up for guess work, and if we can’t figure it out to everyone’s satisfaction, they have another way going – you know, the Board of Commissioners get to hear it again and they will be just as confused as we are.” Mr. Cooper said, “The biggest thing I have a hard time getting around is that it was amended, SP-93, it was amended and it basically says, to provide direct access to a major

collector road for every development parcel within a PUD as required by SP-93-13, and to me, the only way you get around that is either by a minor collector or a major collector, where the minor allows you to go through up to five sections.” Ms. Kumor said, “Your issue is that, the other factor is that it is not wide enough.” Mr. Cooper said, “You don’t have the means of making it a minor or a major through Section 6, it appears to me.” Mr. Williams said, “Without property owners consenting to it, why give them a right-of-way.” Mr. Cooper said, “To give them a bear right-of-way and having them bring it up to standards.” Chairman Pearce said, “Are you saying then if according to SP 93-13, if there was a 50-foot right-of-way that....” Mr. Cooper said, “They would have a right to do it, because it would meet the standards of a minor collector, which it says it could connect five sections, or it has to connect as it says, to a major collector road and the only way to do that is either through minor or major to me.” Mr. Cooper said, “This is how I interpret it.” Chairman Pearce said, “So the finding of fact would be that Section 6, to use to have a road going through Section 6 connecting to Section 7 that it would need to be a minor collector road.” Mr. Cooper said, “As a minimum, yes, because it connects to one or more sections.” Ms. Kumor said, “I think supporting that is relocating major collector road as proposing that the Master Plan will provide direct access to a major collector for every development. Mike is saying that unless the road has a wider right-of-way, it’s never going to be able to carry that to the major collector and can never become a major collector road through Carriage Commons or a minor because it doesn’t have the fifty feet right-of-way.” Chairman Pearce said, “I wouldn’t be totally surprised if the minor collector road was actually designed to cover the Governor’s Point.” Mr. Cooper said, “That would be my determination of the finding of the fact, if you want a possible motion, I’ll make one.” Chairman Pearce said, “So you’re finding of fact is that the road does not meet the definition that is required in SP-93-13 for a minor or major collector road for access to each development parcel and then the PUD. So you would move that would be our finding?” Ms. Kumor said, “I think that is the only finding that we need because other than that there has been no discussion about the internal design on except for our Staff comment.” Chairman Pearce said, “The subject to Staff comments, I think that there is nothing in there that seems to be out-of-line. Anything that was out-of-line was considered minor. We are at a motion then to direct Staff to, how do I say this, to prepare an Order consistent with that finding.” Renee Kumor said, “Second.” Chairman Pearce said, “We have a motion and a second, is there any discussion?” Tommy Laughter said, “I don’t want to regress by any means, I am looking at the SUP from the 11th day of October 1993 and Vollie Good was the Chairman of the Board of Commissioners and they made the following four conclusions: ‘Number One is not relevant but Number Two – Four are significant. It said that the planned unit development will not adversely affect the health and safety of the persons residing or working in the neighborhood of the proposed planned unit development. Number Three, the planned unit development will not be detrimental to the public welfare in the neighborhood including or adjoining properties. Number Four, the planned unit development will not be injurious or property or public improvements in the neighborhood including adjoining properties.’ On those three, I really think that Section 6 will be detrimentally damaged for the addition of Section 7 having to go through their neighborhood.” Chairman Pearce said, “I would probably take exception to the fact that we have enough out-right evidence to prove that the health and safety of the persons will be adversely affected. Common sense might indicate it, but since we have not been visually on the property and can not see the curves and the widths of everything and have actual measurements and things, I’m not sure that we have been given enough actual evidence that we could state that. That is would be detrimental to the public welfare in the neighborhood including adjoining properties, how do you define detrimental to the public welfare in the neighborhood? I think we need legal basis for doing it.” Ms. Kumor said, “We have determined that they are Findings of Fact but I think that what Tommy has brought forward is that when we are considering all of these things that these conclusions were just conclusions that should be used to frame our discussion and I think that might argue that this evening they frame them in that, that we didn’t use them as fact but it allowed us to listen to what everybody was saying and it was also a direction that the developer should be framing their development

with the idea of safety for the residence and not doing harm to any other part of the development when they proceed on with undeveloped area, but I don't. It should be a finding of fact." Chairman Pearce said, "I don't think it is a finding of fact because we have people's opinions and I'm saying that their opinions are wrong, I'm just saying I don't know we could actually use them as finding of fact." Ms. Kumor said, "What I think historically, what it reminds us all is that we all have been challenged by the subdivision for a number of years." Chairman Pearce said, "Were you on that Board then?" Ms. Kumor said, "I was there. I'm older than Dale, I think; I've been there as long as dirt. We are back to the original issues just making sure that there are a lot of people that get concerned about what happens, but we can argue that, when it is all said and done, they have not created a slum in our County, they have created quite a lovely subdivision. It takes some time in working with your neighbors and it takes Carriage Park and Mr. Hamlin and his Staff quite sometime to work with the neighbors both outside the subdivision and inside the subdivision, and by golly, they always seem to succeed, but every now and then we have to remind them that there are other people on the ground who need some consideration." Chairman Pearce said, "I'm not sure that we can actually prove from testimony that we don't have proof of injury, we don't have proof of...I'm not saying that they don't seem common sense." Mr. Williams said, "That is difficult to prove based on the information we have available." Chairman Pearce said, "I don't believe we have enough information to prove that we can find a fact on that." Mr. Laughter said, "What I was basing it on is that they had a pure vote, an amendment from the property owner's association. If I could considerably say that you have a large majority of the people who are dramatically affected and those are the people that are going to be sustained to possible injury." Chairman Pearce said, "I agree that we don't have...you know, we do not get to vote on what the public opinion is, we can only vote on the Findings of Fact... I'm assuming the motion has no objection. All those in favor sending the Order as stated for the Findings of Fact to deny the application based on the conclusions that were stated earlier. All those in favor? All those opposed, there being none, move that this quasi-judicial proceeding be ended." Ms. Kumor said "I second the motion."

Tedd, Pearce, Chairman

Kathleen Scanlan, Secretary