

MINUTES OF THE HENDERSON COUNTY
ZONING BOARD OF ADJUSTMENT

The Henderson County Zoning Board of Adjustment held its regularly scheduled October meeting on Wednesday, October 25, 2006, at 4:00 p.m. in the Henderson County Board of Public Education Auditorium, 414 4th Avenue West, Hendersonville, North Carolina. Those present were: Acting Chairman Jim Phelps, Tony Engel, Ann Pouch, Alternate Members Dale Caldwell and Janice Brown, Zoning Administrator Natalie Berry, Planning Director Anthony Starr, Planner Matt Card, and Associate County Attorney Sarah Zambon.

Acting Chairman Jim Phelps called the meeting to order at 4:10 PM. Chairman Phelps presented the minutes and orders from the meeting of September 27, 2006. There were no corrections or changes. Mrs. Pouch moved to approve the minutes and the orders as written, Mr. Engel seconded, and all members voted to approve the minutes as presented.

Chairman Phelps asked for a motion from a Board member to move Case CU-06-12 to the beginning of the agenda today. Mr. Engel made the motion and Mr. Caldwell seconded the motion. All voted in favor.

Case CU-06-12, Dennis and Cynthia Dorn

Chairman Phelps said he understood there is a request submitted to defer the case to the February meeting. Planning Director Anthony Starr said a letter has been received from Mr. Dennis Dorn, who is the applicant to continue the case until February, 2007. He said it was his understanding that the attorney for the neighbors in the area had also agreed to the continuance. So it is the Board's discretion to continue it to the February 2007 meeting. Chairman Phelps asked if there was any discussion regarding the request. Chairman Phelps asked for a motion to grant the request to defer the case until the February 2007 meeting. Mr. Caldwell made the motion and Mrs. Brown seconded the motion. All members voted in favor. Chairman Phelps said the case was deferred to the February 28, 2007 meeting.

Case A-06-11, Carriage Park Associates, LLC

Chairman Phelps called Case A-06-11, Carriage Park Associates, LLC, requesting an appeal of the order denying approval for the Section 7 development parcel in Carriage Park. Chairman Phelps asked for a motion to go into public hearing. Mrs. Pouch made the motion and Mr. Engels seconded. All members voted in favor. Chairman Phelps explained the quasi-judicial proceeding being used today. He said the Board will now identify the parties. The Board acknowledges the petitioner, Carriage Park Associates, LLC and the Planning Staff as parties to this proceeding. He asked if there are any other persons present who can demonstrate that they will be affected by the outcome of this proceeding and who wish to be a party to the proceeding. Please come forward to the podium, state your name and how you are affected. Chairman Phelps said that persons living in Carriage Commons, Section 6, automatically have standing. Virginia Burke, 114 Jenny Lind Drive, this will set a precedent for future construction and it was one of the features of Carriage Park that was promised by the developer that would never happen, that each section would have its own access to the Park Way. Erin Dunnuck, Attorney on behalf of concerned residents of Carriage Commons. She said she would be calling all the residents as witnesses, so she's not sure if they need to explain. Associate County Attorney Zambon said as long as Attorney Dunnuck is a party and they will be called as witnesses. She said the Board would have to swear in all the parties and witnesses. Chairman Phelps asked if the Board had any objection to these two people being sworn in as parties to the proceeding. Mr. Caldwell asked how this

lady is different from the other witnesses. Attorney Michaux objected to Ms. Burke. He said he didn't think she had any unique situation from anybody else in Carriage Park. She's not in Section 6, so for the record I'd like to voice an objection. He introduced himself as Roy Michaux, an attorney with Kennedy Covington in Charlotte, representing Carriage Park. Chairman Phelps asked the Board if they felt Ms. Burke had standing, not being adjacent. He said her point is it sets a precedent for the other units in Carriage Park. Mr. Engel said any change would have to come before the Board anyway so it really doesn't set a precedent as such. Ms. Brown agreed saying she seems to think it is going in front of her residence. Mr. Engel asked if she would be called as a witness. Attorney Dunnuck said that was not her plan. The Board denied Ms. Burke standing before this hearing. Chairman Phelps asked for each witness to give their name and address and then they would be sworn in as a group. James Sauer, 617 Carriage Commons Drive, 10 years in Section 6; Pat Roberts, representing Carriage Park Homeowners Association Board, 378 Bay Laurel Lane, 3 ½ years; Bonnie Marsh, 652 High Quarry Lane, Section 6, 10 years; Linda Kovac, 7 High Mountain Trail, own a home in Carriage Commons where sister-in-law lives at 655 High Quarry Road, Section 6; Robert Laurel Welty, 670 High quarry Road, 10 ½ years; Ken Putnam, lives in Buncombe County, traffic engineer; Steve Waggoner, surveyor for Carriage Park since 1993 and did all the surveying and maps of Section 6; Dale Hamlin, General Manager of Carriage Park Associates, LLC; Roy Michaux, said he will not testify but would like to speak, representing Carriage Park. Chairman Phelps swore all the previous persons in.

Chairman Phelps said the first order is to receive the evidence from the Staff overview. Matt Card, Planner with Henderson County, said he would like to go over some brief background information about Carriage Park and also about Staff's determination of Section 7 and also the Planning's interpretation and determination of Section 7. Carriage Park is a Planned Unit Development located on 392 acres of land off Highway 191. It's approved for 695 units. It was approved under Special Use Permit #SP-93-13, which I believe you've received a copy of earlier, granted on October 11, 1993, by the Henderson County Board of Commissioners. Special Use Permit #SP-93-13, I'll refer to it as SP-93-13 from now on, has been amended six times for various reasons, the last of which is why we're here tonight. It sends all appeals of amendments to the Board of Adjustment. Carriage Park basically consists of a total of 26 different development parcels. And each time they come for approval of that development parcel, they have to go to the Planning Board for that approval. And Staff will review the application and review the development plan for conformance with the Henderson County Subdivision Ordinance, the Water Supply Watershed Ordinance because the property is in a WS-IV Water Supply Watershed District, the Zoning Ordinance and then also SP-93-13. So each time it goes to the Planning Board we review it and make a recommendation to the Planning Board and then the Planning Board has the approval authority for those sections. Again there's 26 sections, 4 of which I believe have not been approved for development yet. And basically SP-93-13 serves as a document to govern Carriage Park and it's set up as you would a typical order. It's got findings of facts that they made in 1993, the Board of Commissioners, that is. And then it's got conclusions. And it's got conclusions which establishes road standards, setbacks and buffers, and things like that, which I'm sure you're familiar with now. Now I want to enter Staff's memo here into evidence and I also want to enter all 7 attachments into evidence. The only other evidence that I'm going to present tonight is one thing here. What I'm passing around here is a research master plan for Carriage Park. It was approved back in 1994 as a part of Amendment A-1. It's being presented to you right now because I couldn't find actually a smaller copy. And then the other more recent master plans are found in your packet. The first master plan that we have in the packet is dated 1997 and basically this was approved, I believe it was the third amendment to SP-93-13. SP-93-13 was amended again and, during the fourth amendment in 1999, was the next revised master plan that you have in your memo. And so those 2 are included in Staff's packet. Now Mr. Hamlin of Carriage Park Associates, LLC, submitted the application and development plan for Section 7 on March 20, 2006. Section 7 is located on 9.3 acres of land to be located as it was proposed off Carriage Commons Drive through Section 6. The applicant has proposed 34 attached townhouse units in Section 7. The proposed new section of road in Section 7 would be built to neighborhood drive standards and the definition of a neighborhood drive is found in your Staff's memo and also of course in SP-93-13. As far as Section 6, Section 6 was originally approved by the Planning Board on August 30, 1994, with a total of 44 units on 9.56 acres of land. Carriage Commons Drive,

which is the main road that they are proposing to serve Section 7 through, comes off Carriage Park Way through Carriage Commons Section 6 and then ends there. It was built to residential street standards, which is an 18 foot travel way width and it has a 45 foot right-of-way. So again that's residential street standards. And then the applicant has proposed public water and public sewer and is in the R-20 and, as I said before the WS-IV Water Supply Watershed District. During Staff's original review of Section 7 application, Staff found that the application did not meet all the conditions found in the Conditions Governing Special Use Permit SP-93-13, but recommended approval based on those conditions being met before final plat approval. Those conditions that Staff suggested to the Planning Board is found in your memorandum on page 3 and 4. So basically Staff felt that Section 7 did meet SP-93-13 and also the Zoning Ordinance but it would meet it if all these conditions right here on page 3 and 4 of your memo were met. And as you can see it is a pretty lengthy list. There are a number of different issues in here that come mainly from SP-93-13 and some of which are actually from the Henderson County Subdivision Ordinance as well. Staff entered into evidence at that meeting, and this was the April 25th meeting to hear Section 7, one more condition and that condition was basically saying that the density calculation in the project narrative were both incorrect and needed to be corrected. So according to findings of facts, and that's finding #8 and this is found in the Order Denying Approval of Section 7, the Planning Board found that as proposed, Section 7 is to be accessed through Section 6 of Carriage Park is in contravention to the certain other requirements of SP-93-13 as previously expressed by the Board of Commissioners of Henderson County. And that's what the Order said and that was the reason for denying Section 7. Basically there were different reasons that they denied Section 7. We discussed direct access, which as you can find in your findings of facts #19, there is a sentence in there that talks about direct access that each development parcel should have direct access to a common street in Carriage Park. That was discussed by the Planning Board during their review of Section 7. Also discussed was the road standards. The Planning Board felt that Section 6's Carriage Commons Drive did not meet the standards for serving two development parcels. As I said before, the road, Carriage Commons Drive, was built to residential street standards, 45 foot right-of-way, 18 foot travel way width. The Planning Board felt that it needed to be, at a minimum, a minor collector road which as you can see on page 5 of Staff's memo, is the definition of a minor collector road, is a road serving not more than 5 individual development parcels and having a minimum 50 foot right-of-way, 6 foot shoulders, 26 feet of pavement width with curb and gutter or, if you didn't have curb and gutter, you could have 18 feet of pavement without curb and gutter and then it goes on to talk about the road type. So basically the Planning Board felt that it needed to be at least a minor collector road or it could also be a major collector road. And again those definitions are found in SP-93-13. As I said before it was a residential street with a 45 foot right-of-way. So they denied Section 7 based on that interpretation. On page 5 of Staff's memorandum, I do say that there are other examples of sections being served by other sections. The Planning Board just recently approved Section 15 and also Section 16. Section 16 is being served by a road through Section 15 but that road is built to minor collector road standards. There is a few other examples. It appears that Carriage Summitt, Section 20, and Carriage Walk, Section 3, are both served by a common access road, Carriage Walk Lane. And this road was actually built to residential street standards with a 45 foot right-of-way and not minor collector road standards. And it also appears that there is Club Knoll section of Carriage Park is served through Governors Pointe by Governors Drive. And I believe Governors Drive is a minor collector road. So there are instances in Carriage Park where other sections are served through sections. Basically I think the reason that they had to serve Section 7 through Section 6 was based on topography. There's some steep topography and steep cross slopes existing on and around Section 7. I don't think they felt that they could get in to Section 7 any other way besides through Section 6. I went over the master plans that are found in Staff's memorandum here. I've also included Section 7 development plan – this is what was proposed. And as you can see, they did show where it will come in from Section 6 and they also do show Carriage Park Way. Attachment 5 is the narrative for Carriage Park Section 7. That was submitted with the application materials and basically describes Section 7. Attachment 6 is a development plan for Carriage Park Commons – this is Section 6. And I believe this was the development plan that was approved at the August meeting when they approved Section 6. And the last attachment is just a map I created basically showing the different sections or 2 of which that where

sections are served through other sections. Are there any questions regarding the memorandum or the attachments?

Chairman Phelps said this last map that you referred to is showing the access. Mr. Card said yes. Mrs. Pouch asked the attachment number. Mr. Card said Attachment 7. You can see there, Carriage Summitt's labeled and Carriage Walk and then there is a road which both those sections are served by, Carriage Walk Lane. Chairman Phelps said those are the ones in yellow on this map. Mr. Card said that is correct. And then above that to the north is Governors Pointe and Club Knoll as you can see. Governors Pointe, Governors Drive and then there's this road here which serves Club Knoll. Club Knoll comes off of Governors Pointe and Governors Drive. Chairman Phelps said so we really have a mixed bag here. Mr. Card said yes you do have a mixed bag. As you can see the Planning Board has approved sections through other sections before.

The audience said no, no, objection. Someone asked if this was new information. Mr. Card said this was the same as was passed out.

Mrs. Brown asked if any past approvals for sections have been with roads already meeting requirements, right? Mr. Card said it was made for the Section 15 and Section 16, that I was referring to earlier, the Planning Board made a condition that Section 15, which was the closest parcel to Carriage Park Way, have a minor collector road and that that minor collector road serve Section 16 as well as Section 15. I think it was originally proposed as a residential street and then they made the condition that it has to be a minor collector road. Mrs. Brown said thank you.

Chairman Phelps said the answer is yes you have done this before on the ones you've indicated here, Club Knoll, Governors Pointe, Carriage Summitt and Carriage Walk. Mr. Card said it appears from the records that I've found, yes. Chairman Phelps said one thing he noticed on Attachment 7 – the road that leads to Carriage Walk and Carriage Summitt actually comes in off a main road, Carriage park Way, and then kind of splits to each section. So technically it doesn't pass through a given neighborhood. Now let's move on to the other two – Governors Pointe and Club Knoll. And trying to determine the road here. Is that also the case where it actually doesn't go through one before entering the other one? It's really kind of off the road, is that correct? Mr. Card said to my understanding Governors Pointe is its own separate section from Club Knoll and is being served through Governors Pointe. Chairman Phelps said so technically it passes some houses before it reaches Club Knoll. Mr. Card said yes, you can see the aerial photograph. It appears that there are some units and maybe the applicant or some of the property owners can speak to that since they are probably more familiar with that section than I am. Chairman Phelps said we'll address that with them. Chairman Phelps asked for further questions. There were none. He thanked Mr. Card.

Someone from the audience asked something (couldn't hear). Chairman Phelps asked Ms. Dunnock if she had questions. She said yes sir. Chairman Phelps said would you please retake the podium. And would you please approach it so I can hear you on the microphone. This is being recorded, I'll remind everybody, and unless you speak in there, we don't get the recording and that means the minutes are not right. So I would appreciate you always being around a microphone.

Ms. Dunnock said she was not going to introduce my exhibit notebooks just yet, but I will go ahead and do that. They have copies of the, you know, 18 by 11 size copies of the research master plans for y'all to look at. I have the 93, the 94, the 97, 99 and 2000 research master plans and blown up versions as well. Chairman Phelps asked if this was going to be relative to your question for the Staff. Ms. Dunnock said yes, sir, I believe it will be quite relevant, so he can explain his previous statements.

Mr. Starr said Mr. Chairman, while we're getting ready, I think Staff's position, one of the key issues to the basis of the appeal, is whether or not the original Special Use Permit or any of its subsequent amendments requires a minor collector road in this case through Section 6. Based on our research, that was the determination of the Staff report was that it in fact did not say that explicitly anywhere or

imply it in our opinion and Staff's opinion. So that was the basis for Staff's recommendation. The Planning Board felt contrary to that so that will be a key point for you to keep in mind as you move through this hearing. That's really a large key question that must be answered in this appeal. Chairman Phelps said we had a disagreement here between the two? Mr. Starr said that is what the, I believe, the appeal is here or the contention between the parties is whether or not that road is suitable for traffic through it and whether it is suitable or not depends on whether it meets the standards of the Special Use Permit and its amendments.

Mrs. Pouch said so it would have any relevance to the other developments or we're just deciding about that one. Mr. Starr said you're deciding in this one case, I believe, but you know, everything sets a precedent. You can consider precedent otherwise before this case and legal Staff can advise on that, but I think what you're considering here in large part is whether that road is adequate access or the appropriate access for this Section 7, based on whether the Special Use Permit or any of its amendments to it require it to be a certain standard or not.

Ms. Dunnuck said my first question would be, is it your understanding that each individual development parcel is approved on a case by case basis? Mr. Card said yes, that is correct. Ms. Dunnuck said so, I'm not sure of the relevance you're placing on these other sections you're claiming have the situation. Mr. Card said I'm not really placing any relevance on it, I was just merely stating the facts for Carriage Park. Ms. Dunnuck said okay. Are you aware that none of the recorded plats for Section 6, we refer to Section 6, Section 6 is Carriage Commons, so sometimes we change back and forth between those two names. But are you aware that none of the recorded plats for Section 6 indicated that Carriage Commons Drive would be extended from Section 6 to Section 7? Mr. Michaux said that's not what the plats show. Ms. Dunnuck said the recorded plats. He said the recorded plats. Chairman Phelps said to speak into a microphone if you would please. Mr. Michaux said he objects to the question – the plats will speak for themselves, it's a very misleading question. The plats clearly show that Carriage Common Drive is not a cul-de-sac, it is not a T intersection and that it opens into a piece of property that is for future development. Don't know how that, I mean that's a very misleading question. We'll be glad to produce the plats, in fact we will.

Ms. Dunnuck said would you agree that as the development of Carriage Park evolves and moves forward in time the research master plans are updated to reflect the changes in the development? Mr. Card said they are updated during the process. They are updated during the amendments to the Special Use Permit generally. So each time an amendment comes the master plan is also revised to reflect that amendment.

Ms. Dunnuck said okay, so the latest version of the research master plan would reflect the development more accurately than the 1994 research master plan. Mr. Card said I would say it's the most up to date and most recent master plan so therefore yes. Ms. Dunnuck said okay, do you know if there's any other research master plan besides the large 1994 research master plan that you passed around previously that indicates that Carriage Commons Drive would be extended from Section 6 to Section 7? Mr. Card said the original master plan from 1994 for amendment A-1 did appear to show an extension. Ms. Dunnuck said and that was the only one, correct. Mr. Card said and that was the only one that I was aware of. The rest are as you see the most recent master plan. Ms. Dunnuck said so the 1994 research master plan has been updated by the 97, the 99 and the 2000 research master plan. Mr. Card said that is correct. Ms. Dunnuck said and none of those research master plans indicate that Carriage Common Drive will be extended into Section 7. Mr. Card said no, there's no language on the plan, there's just the dead end street or stub road. Ms. Dunnuck said and in the 1994 research master plan the only one that shows it might go through Section 6, aren't there 2 arrows indicating entrance into Section 7? Mr. Card said yes there are 2 arrows. Ms. Dunnuck said so there's an arrow where the other research master plan show as well as. Mr. Card said that is correct.

Ms. Dunnuck said are you familiar with the Special Use Permit for Carriage Park and its amendments? Mr. Card said I try to be, yes, I try to. Ms. Dunnuck said okay, it's my understanding that the 1994

research master plan was revised through amendment #1. I think you stated that earlier. You'd agree with that? Mr. Card said yes, I agree with that. Ms. Dunnuck said do you remember what the developer was requesting in amendment #1? Mr. Card said I believe they were adding property. I'm not extremely familiar. Ms. Dunnuck said they were trying to relocate the major collector road and reconfigure the development parcels of 7, 8 and 9. Do you recall that the Board of Commissioners approved the relocation of the Carriage Park Way because, it's in paragraph 30 of amendment #1, relocating the major collector road would provide direct access to a major collector road for every development parcel within the PUD as required by the Special Use Permit. Mr. Card said yes I would agree that was a finding of fact that the Board of Commissioners made for amendment A-1. So they were in agreement with that also. Ms. Dunnuck said okay, so it appears that the Planning Board based their decision on that finding of fact, that each development parcel is required to have direct access to a major collector road. Mr. Card said they did say minor collector road, but it appears that that may have been part of the consideration, yes. Ms. Dunnuck said okay, has the developer ever filed an amendment to the Special Use Permit to eliminate the requirement that every development parcel have direct access to a major collector road? Mr. Card said I'm sorry could you repeat that please? Ms. Dunnuck said has the developer ever filed an amendment to the Special Use Permit to eliminate this requirement that every development parcel have direct access to a major collector road? Mr. Card said no, not that I'm aware of. Ms. Dunnuck said does the development plan of development parcel #7 provide direct access to a major collector road as required under the Special Use Permit? Mr. Card said provide major, I'm sorry, could you repeat that please? Ms. Dunnuck said does it provide direct access to a major collector road as required? Mr. Card said that's a kind of a matter of interpretation, I guess, because there's no definition of a direct access. Ms. Dunnuck said I would agree that there was ambiguity in perhaps the Special Use Permit, but how can that, can you explain how that wasn't clarified in amendment #1 paragraph 30? Mr. Card said well it appears that Section 7 does have to go through another section, Section 6. Ms. Dunnuck said which would be indirect access. Mr. Card said to, yes, you could argue that point, yes, to get to Carriage Park Way, which is a major collector way.

Ms. Dunnuck said if y'all could turn to Exhibit 9 in your notebook. It's the development plan for Section 7. Attorney Burrell said for purposes of the record could you refer to them by the name of your client and opposing Council Exhibit #9 so that Carriage Park attorney exhibit #9 won't be confused with yours. Ms. Dunnuck said that's a good idea, a very good idea. Okay opponent Exhibit #9. According to this development plan the developer will be taking 6.31 acres of open space, it's a small notation on the side, from Sections 8 and 9. Is that correct? There's a small notation on the right where it says that the developer's taking 6.31 acres from Sections 8 and 9 to satisfy the common area requirement. Mr. Card said acres of open space, yes. Ms. Dunnuck said did the developer submit an amendment to the Special Use Permit and the revised research master plan to reconfigure Sections 6 and 8 and 9? Mr. Card said no they did not. Ms. Dunnuck said are you aware that the research master plans indicate that the buffer zone between Sections 6 and Section 7 will vary between 112.5 feet and 150 feet? Mr. Card said the buffer zone between 6 and 7? Ms. Dunnuck said yes as indicated in all the latest versions of the research master plan. Mr. Card said I'm not familiar with that. I do see the 25 foot development parcel buffer. Ms. Dunnuck, did the developer file an amendment to the Special Use Permit or request a revision of the master research plan to reconfigure Sections 6, 8 and 9? Mr. Card said no, they did not. Ms. Dunnuck said I have to apologize, I didn't completely hear a lot of your earlier statements or you're showing or indicating that in other sections there were similar scenarios with multiple development parcels being served by the same road. Did you mention the ponds? Mr. Card said no, the one that I'm most familiar with is Section 15, I dealt with the approval. The other ones I pointed out are were Carriage Summitt, Carriage Walk, and then Governors Pointe and Club Knoll. Ms. Dunnuck said if the board could refer to opponent's exhibit 6E please. That's the 2000 research master plan. Opponent's exhibit 6E. It appears from the master research plan that the road does not go through one of the parcels to reach the other parcel. Rather it splits in between 15 and 17 to access 16. Is that correct? Mr. Card said for Carriage Summitt, Carriage Walk? Ms. Dunnuck said yes. Mr. Card said yes it appears, I may have misspoken I guess, as far as that's concerned. My point was that both sections are served by one road. Ms. Dunnuck said but the road isn't traveling through one section to get to the other section. Mr. Card said not like Section 15 and 16, no. Ms. Dunnuck said

where was the other example that you are familiar with? Mr. Card said the other one I believe was Governors Pointe and Club Knoll.

Ms. Dunnuck said do you know how many homes are in Club Knoll? Mr. Card said I believe there was 5 or 6, I'm not sure. Ms. Dunnuck said there's 4 homes. And what was the other section that you were familiar with? Mr. Card said just Section 15, 16, that's the other one besides Club Knoll and Governors Pointe. Ms. Dunnuck said okay. No further questions. Thank you.

Mr. Michaux said he'd like to take the opportunity to walk through all this with you all very quickly. Matt, you referred to Special Use Permit 93-13. Is there a copy of that behind tab 1 in the Carriage Park notebook? Mr. Card said it appears so, yes. Mr. Michaux said okay. And under the back part of that in Exhibit A are conditions, if you flip to the back of Exhibit 1, you see those. Mr. Card said the conditions governing special use permits. Mr. Michaux said right, they start with page 1. Mr. Card said yes. Mr. Michaux said and the residential street is defined as a direct access single family detached unit. Is that right? Mr. Card said yes, that is correct. Mr. Michaux said with a minimum of 45 foot right-of-way, 18 feet of pavement. Mr. Card said that is correct. Mr. Michaux said now is Carriage Commons a single family detached community or do you know? Mr. Card said I believe it was approved as attached and detached units. Mr. Michaux said they're mostly duplexes on Carriage Commons Drive, aren't they? Mr. Card said yes I believe so. Mr. Michaux said would that require a neighborhood drive or 30 foot access street. Mr. Card said they were approved with a residential street at that time. Mr. Michaux said right and a residential street is a 45 foot right-of-way, is that correct? Mr. Card said that is correct. Mr. Michaux said let me ask you please to look at Exhibit 2 and I'll ask you if you recognize that as the research master plan that was initially provided with the Special Use Permit? Mr. Card said in 1993? Mr. Michaux said right. Mr. Card said I'm not familiar with this particular research master plan. Mr. Michaux said okay, so you can't say for sure whether it is or not. Mr. Card said I can not say for sure. Mr. Michaux said let me ask you to look at Exhibit 3. Exhibit 3 is Special Use Permit amendment A-1. Are you familiar with that? Mr. Card said to some extent, not extremely familiar with A-1. Mr. Michaux said okay, I'll review the purpose of this, but let me ask you please to look at page 3, paragraph 16. Are you familiar with the fact that the applicant initiated a request to amend the research master plan to allow for the partial relocation of an unbuilt section of the major collector road? Are you familiar with that? Mr. Card said I'm familiar with that's what amendment 1 was about. Mr. Michaux said and that was when they moved Carriage Park Way because of the terrain, I believe, and the acquisition of additional property. Is that right? Mr. Card said that is my understanding of it, yes. Mr. Michaux said let me ask you to look at paragraph 16 on page 3. It also contains a request to reconfigure development parcel 7, doesn't it? Mr. Card said yes it appears so. Mr. Michaux said and if you look at page 7 in the ruling by the Board of Commissioners, they denied the reconfiguration of development parcel 7, 8, and 9, didn't they? Mr. Card said it appears in letter B there, that's what it says. Mr. Michaux said okay now let me ask you please to look at exhibit 4 which is a research master plan revised SP-93-13A1. Do you see that? Mr. Card said yes, sir. Mr. Michaux said and that's the master plan that went with Exhibit 3, isn't it? Mr. Card said I believe so. Mr. Michaux said 93 -13-A1? Mr. Card said yes. Mr. Michaux said and what does it show with regard to Carriage Park Carriage Commons Drive and Section 7? Mr. Card said there's an arrow coming in from Carriage Commons Drive pointing toward Section 7. Mr. Michaux said okay and there's also an arrow that comes off of Carriage Park Way on the other side of Section 8, isn't there? Mr. Card said yes. Mr. Michaux said and the 2 arrows do not connect, do they. Mr. Card said they do not. Mr. Michaux said okay now let's ask you please to look at Exhibit 5. Have you read, Exhibit 5 is SP-93-13-A4. Is that right? Mr. Card said yes, that's correct. Mr. Michaux said and I believe that you alluded to this earlier – the 1999 change. Mr. Card said that's correct – the 1999 revised research master plan. Mr. Michaux said okay and is this the one you're referring to? Mr. Card said that it was, yes. Mr. Michaux said all right and in Exhibit 5 it's actually pursuant to a hearing in May of 2000 and on the bottom of page 2 and the top of page 3 it says that the applicant requested that the Board allow the applicant to amend its application to include the following additional part of its proposed amendment. And then little 5, realign development parcels 7, 9 and 26 to include the additional land available to the PUD through the proposed amendment. Such proposed realignment is as shown on the attached research master plan revised

October 25, 1999. Is that what it says? Mr. Card said that is what it says, yes. Mr. Michaux said and that is the document that you referred to earlier, I believe, isn't it? Mr. Card said that is correct. Mr. Michaux said and Exhibit 6 is a research master plan dated October 25, 1999, isn't it? Mr. Card said yes, sir. Mr. Michaux said and what does it show with respect to Carriage Commons Drive and its relationship to Section 7? Mr. Card said there is a dead end or stub street there. Mr. Michaux said that goes into Section 7. Mr. Card said it appears to stop at the border of Section 6. Mr. Michaux said okay and if you look at Exhibit 5 again page 4 under the ruling of the County Commission it says the applicant's request to amend its application for amendment to include a realignment of development 7, 9, and 26 is hereby allowed, doesn't it? Mr. Card said yes. Mr. Michaux said and is that the document that you were referring to earlier on which you based part of your findings in connection with this matter? Mr. Card said yes, I believe so. Mr. Michaux said okay, let me ask you please to look at Exhibit 8. Do you recognize Exhibit 8? Mr. Card said yes, I do. Mr. Michaux said is that a document that was filed with the Planning Staff? Mr. Card said I believe it was. Mr. Michaux said and that's Section 6 Carriage Commons? Mr. Card said yes. Mr. Michaux said what does it show with regard to Carriage Commons Drive? Mr. Card said it says there is a temporary turnaround and future extension to Section 7. Mr. Michaux said and what is the width of the right-of-way? Doesn't it say residential street? Mr. Card said I do see a 45 foot right-of-way and I do see a residential street, yes. Mr. Michaux said okay and this is dated July of 94, isn't it? Mr. Card said that's correct. Mr. Michaux said do you know if this map was in any way approved or was it just a map that was filed with the Planning Staff? Mr. Card said it is my understanding that this was the approved Section 6 development plan in August of 94. Mr. Michaux said okay I don't have any further questions, Mr. Chairman, thank you.

???Mr. Chairman, I assume we would be allowed to go forward. Chairman Phelps said just a moment. Is there any other testimony from Mr. Starr, Mr. Card? Anything Staff needs to add at this point? We've had the question period, so now we're ready for your evidence and presentation.

Ms. Dunnuck said what are you basing your statement on, your last statement that you said that plat had been approved and it wasn't just a preliminary plat? Mr. Card said the Section 6 development plan? Ms. Dunnuck said yes, sir. Mr. Card said from what I had found looking back in the records it looked like that was the Section 6 development plan that went to the Planning Board in August of 94. Ms. Dunnuck said okay and it has that notation on the right that says temporary turnaround future extension to Section 7? Mr. Card said yes. Ms. Dunnuck said we almost hit on this earlier and we didn't quite get there but do you know if any of, there were 5 plats recorded for Carriage Commons. Is that correct? Mr. Card said I don't know, probably, I don't know. Ms. Dunnuck said do you know if this plat that has that language that says future extension to Section 7, do you know if that plat was recorded? Mr. Card said this is just a development plan, it was not recorded. Ms. Dunnuck said okay and if y'all could turn to opponent's Exhibit 2, you can just flip through those 5 exhibits. Those are 5 recorded plats for Carriage Commons Section 6 and if you can look through those 5 plats and let me know if any of those have the language that says future extension to Section 7 or if they all just show a dead end. If you could also notice the date on those plats and let me know if it's after the date on this project summary that is proponent Exhibit 8.

Chairman Phelps said your Exhibit 2d? Ms. Dunnuck said all of the plats, I think it's 2a though e. Chairman Phelps said I'm referring to it for a question. Ms. Dunnuck said oh yes, sir. Chairman Phelps said it does indicate dotted lines as if that road is going to be extended although there's no wording. Ms. Dunnuck said right, that's my question, if there's any wording. Chairman Phelps said but no wording, but we do have dotted lines. Ms. Dunnuck said but no language indicating that there was a future extension. Chairman Phelps said I saw none in any of it. Mr. Card said it appears that the dates are after the 1994 approval date and there is no language that we found that says that it is going to connect to Section 7 but it does appear that there is a dash line there and it may connect to Section 7. Ms. Dunnuck said but there's no language indicating such. Mr. Card said I did not see any language. Ms. Dunnuck said thank you.

Mr. Michaux said I'm sure this is the obvious but it does say future development doesn't it? Below the adjoining property? Mr. Card said for the end of Section 7 development parcel I believe it did. Mr. Michaux said on the recorded plats for it shows Carriage Park future development? Mr. Card said I believe so, I don't have them in front of me. Mr. Michaux said would you normally require a cul-de-sac or T intersection if the street is something other than a stub into the adjoining property? Mr. Card said typically the Subdivision Ordinance, if the road is over 300 feet in length, a turnaround of some sort is required. Mr. Michaux said and the State standards also require that, don't they, or do you know? Mr. Card said I believe the State standards, the DOT standards, would also require that, yes. Mr. Michaux said okay, and that's not on these plats, is it? Mr. Card said that is not on the plats. Mr. Michaux said okay, thank you, no further questions.

Chairman Phelps said, if there are no further questions of Staff, then we can proceed to petitioner's evidence and I would like to say that we would like to have you present all of your evidence and we will hold questions of the presenter until the end and at that time we will have ample time to cross-examine and ask questions.

Mr. Michaux said let me ask you, you have been sworn, if you will step forward. Let's see, should I have the witness sit here so he'll have a microphone? Chairman Phelps said that would be great. And please sir, identify your name for the recording purposes. The witness said Steven Waggoner. Mr. Michaux said Mr. Waggoner, where do you reside? Mr. Waggoner said Henderson County. Mr. Michaux said and what do you do? Mr. Waggoner said professional land surveyor. Mr. Michaux said and by whom are you employed? Mr. Waggoner said self employed. Mr. Michaux said and do you do survey work for Carriage Park? Mr. Waggoner said yes, sir. Mr. Michaux said how long have you been involved in the Carriage Park project or community? Mr. Waggoner said since 1993. Mr. Michaux said let me ask you please to turn, in the notebook in front of you, to Exhibit 7. And for the record, Mr. Chairman, Exhibit 7 are 4 recorded plats of Carriage Commons. I think they're duplicates of what you just saw in the opponent's notebook. Mr. Waggoner, did you prepare these plats? Mr. Waggoner said yes, sir. Mr. Michaux said now what was the basis for your preparation of the plats showing Carriage Commons Drive as a 45 foot right-of-way with a stub at the property that is now Section 7? Mr. Waggoner said we used the preliminary plat, I think it's Exhibit 8, which was approved by the Planning Board and from there we developed our more defined survey plat for final recording for conveyance of all these houses and the dedication of the right-of-ways. Mr. Michaux said did you have any understanding as to whether Carriage Commons Drive would be extended into Section 7? Mr. Waggoner said it was always intended to go on out onto the ridge for more housing which is called Section 7. Mr. Michaux said what is the terrain on Section 7? Mr. Waggoner said a narrow ridge with a steep slopes on each side. The best way there is as it was always planned on cutting through Section 6. Mr. Michaux said in your opinion does the proposed development of Section 7 utilize all of the usable property in Section 7? Mr. Waggoner said well it's using all the developable portions and the steeper slopes and the bigger woods will be common area, open space. Mr. Michaux said and does under the Section 7 plan, did you help with the survey on Section 7? Mr. Waggoner said no, sir, we surveyed Carriage Park Way and the Corn acquisition boundary and all of Section 6, that part was part of the Corn property at one time. Mr. Michaux said but you did not survey for the proposed layout of Section 7? Mr. Waggoner said no surveying's been done. It's all been planned, you know, mapping wise. Mr. Michaux said and would there be any access from Section 7 other than Carriage Commons Drive? Mr. Waggoner said I wouldn't know for sure. Mr. Michaux said okay, I'll ask that of a different witness. Thank you. I don't have any further questions. Do you have anything that you would like to ask Mr. Waggoner?

Ms. Dunnuck said Carriage Park Exhibit 2. It was your previous statement that it was always, was it that it was always intended for Carriage Commons Drive to extend from Section 6 to Section 7? Mr. Waggoner said that's correct. Ms. Dunnuck said did you prepare these plats that were recorded with the Henderson County Courthouse? Mr. Waggoner said sure did. Ms. Dunnuck said why is there no notation that there will be a future extension to Section 7 on those recorded plats? Mr. Waggoner said it was not required and by designating future development that puts it on public record. And it's up to

the buyer to, you know, figure it out, I guess. Ms. Dunnuck said do you think that the developer could have saved himself some problems if he'd clearly indicated that if that was always his intention? Mr. Waggoner said I don't know of any surveyor that puts that on their plat. It's all at the time that this is done it's between the developer and the Planning Board.

When a person comes in here and buys a piece of property, he has his title searched, he does all he can on his own to protect himself. Ms. Dunnuck said so it's not typical for your developer clients to reserve their future development rights in the recorded documents? Mr. Waggoner said this does, this takes care of it right here. Mr. Dunnuck said in your opinion. Mr. Waggoner said as far as future access, we would be putting that on Carriage Park Way all along the whole route. Future access to Section 17. That's not done. Ms. Dunnuck said but it was done in that project summary. It was clear in that early project summary the 1994 the proponents Exhibit 8, I believe. Mr. Waggoner said that's true, yeah. Ms. Dunnuck said why was that not included in the later plats? Mr. Waggoner said that was to indicate to the Planning Board what the intention was to get their approval. Ms. Dunnuck said no further questions.

Mr. Starr said I have one further question. Mr. Waggoner, we on the Planning Staff review lots of plats but you, as a surveyor when you prepare these plats, is it more common to just show the right-of-way connection to future phases within subdivisions or is it more common to put actual notations in your experience? Mr. Waggoner said we're talking about a difference between '94 and now. There's been a lot of changes in the way the Planners are doing what they do, but the basic rule is if you have a dead end road going to another parcel that right-of-way goes right up to, it's not that wide, it's infinitesimal wide, so you have access to that other parcel with that right-of-way extended right to that line. And then when you put the future development notation there, that puts everybody on public record that something else is going to happen there. Now there's also no need to run that right-of-way past that last fellas house, and there's also a 6 inch waterline extending out to there for Section 7.

Chairman Phelps asked if any Board member has any questions of Mr. Waggoner. No one did. He thanked Mr. Waggoner.

Mr. Michaux said he would like to call Mr. Ken Putnam. Mr. Putnam if you'll come around, you've already been sworn, if you'll take the table up there and that notebook that's right in front of you. Would you state your full name please? Mr. Putnam said Kenneth James Putnam. Mr. Michaux said and Mr. Putnam, where do you live? Mr. Putnam said I live in Buncombe County. Mr. Michaux said and what do you do? Mr. Putnam said I am a traffic engineer with Mattern and Craig Inc. Mr. Michaux said and where is Mattern and Craig located? Mr. Putnam said our office is on 12 Broad Street in Asheville, North Carolina. Mr. Michaux said and would you tell the members of this Board your background with regard to traffic engineering? Mr. Putnam said yes, sir. I spent 30 years with the North Carolina Department of Transportation and the last 20 years of that was directly involved as the Division Traffic Engineer in Division 13, which is headquartered in Asheville as well as the division Operations Engineer. Mr. Michaux said and how long have you been with Mattern and Craig? Mr. Putnam said 3 ½ years. Mr. Michaux said and do you hold any licenses from the State of North Carolina? Mr. Putnam said yes, sir, I'm a registered Civil Engineer. Mr. Michaux said and do you specialize in any area of engineering? Mr. Putnam said I specialize in transportation and traffic engineering. Mr. Michaux said and have you testified before Boards such as this Board of Adjustment and other Boards in trials? Mr. Putnam said yes, sir, I have. Mr. Michaux said Mr. Chairman, I'd like to submit Mr. Putnam as an expert in Traffic Engineering. Chairman Phelps said any objection? If not we accept. Mr. Michaux said Mr. Putnam have you been contacted by Carriage Park in connection with this matter? Mr. Putnam said yes, sir, we were contacted about the middle part of September. Mr. Michaux said and what were you asked to do? Mr. Putnam said we were asked basically to take a look at Carriage Commons Drive and render an opinion as to whether or not, from a traffic engineering standpoint, would it be able to handle additional traffic from any future development. Mr. Michaux said and specifically the development proposed for Section 7? Mr. Putnam said yes, sir, that's correct. Mr. Michaux said what did you do after you were contacted? Did you go to the site, meet with Mr. Hamlin? Mr. Putnam said

yes, sir, we met with Mr. Hamlin at the site. We also did independent tour of all the roads and so forth on the site to get a feel for the development as a whole. We also went to the road in particular and walked it and made some measurements on it just to get a sense of what was out there. Mr. Michaux said and when was your investigative work actually performed? Mr. Putnam said towards the end of September, I believe it was September 28. Mr. Michaux said did you do a report of your findings and conclusions? Mr. Putnam said yes, sir, we did and wrote a technical memorandum. Mr. Michaux said and let me ask you please to turn to Exhibit 8 in the notebook. May I approach, Mr. Chairman? Chairman Phelps said for the record we have a copy of the original report. Mr. Michaux said and the original. Mr. Michaux said Mr. Putnam, would you explain to the members of the Board what sort of, well first of all, what did you find in the way of the improvements on the ground? Mr. Putnam said well as already's been stated and as we verified with field measurements, the road in question has a pavement width of 18 feet. And it's also been testified that there's a 45 foot right-of-way on this particular road. Mr. Michaux said and are there 3 foot shoulders on each side? Mr. Putnam said yes, sir. Mr. Michaux said and approximately how long is Carriage Commons Drive? Mr. Putnam said about 1700 feet. Mr. Michaux said and how many residential units are on that 1700 feet? Mr. Putnam said 19. Mr. Michaux said 19 residential units? Mr. Putnam said yes, sir. Mr. Michaux said does it or is it your understanding or did you investigate as to whether or not the road was built to NCDOT standards? Mr. Putnam said we were told that it was but I couldn't verify that just by looking at the road. Mr. Michaux said do you know if the Special Use Permit requires roads to be built to State standards? Mr. Putnam said it's my understanding that the roads are to be built to those standards, yes sir. Mr. Michaux said does the State standard have any requirement as to what is to be put at the end of a street if it's to terminate or whether it's to continue? Mr. Putnam said well typically there should be a turnaround area in the way of a cul-de-sac or something that looks like a T so that someone could maneuver their vehicle and turn around without getting on someone else's property. Mr. Michaux said and is what you found at the end of Carriage Commons Drive consistent with what's on the recorded maps? Mr. Putnam said yes sir, it's just a stubbed out dead end road. Mr. Michaux said what did you do, what sort of analysis did you make in trying to determine whether this road could be used for the intended purpose? Mr. Putnam said well again, our charge was to analyze the road to see if it could handle an additional traffic load. One of the ways that we do that, there is a methodology known as trip generation methodology that is based years and years of research that gives you an idea of what type of traffic would be generated by specific project that's coming on board. Obviously when we're talking about a new project or proposed project, the traffic volumes aren't there and they have to be based, a reasonable conclusion has to be based on what might be generated by that project at full build out conditions. Taking the full 34 units that are proposed for Section 7, this methodology is showing us that, in a typical weekday it would probably generate about 257 trips a day. Mr. Michaux said and it that in the table at the bottom of page 2? Mr. Putnam said yes sir it is under Table 1. And then we wanted to also make sure we were doing an apples to apples comparison, so we used the same methodology to try to get a gauge of what traffic volumes may be out there right now under the present homes and we determined that that methodology that it's probably generating around 157 trips a day under current conditions. So when you add the two numbers together, we're talking about of traffic volume of a little over 400 vehicles a day. Mr. Michaux said and in your opinion is this road able to accommodate 400 trips a day, 414 trips a day? Mr. Putnam said yes sir this is well below normal capacity for a 2-lane road. In fact the Park Way, which I think is designated as a major collector of the loop road, sections of that road also has an 18 foot width and obviously it's carrying more traffic because all the little sections will feed into it and then carry the traffic around. So I think it's reasonable to conclude that this additional traffic would not overburden the road from a traffic standpoint. Mr. Michaux said and let me ask you to look at page 3 of your report. Did you do any sort of analysis as to how Carriage Commons Drive with the proposed Section 7 would compare to other neighborhoods within Carriage Commons? Mr. Putnam said yes sir, we did. We just looked at some of the other sections and some of the other roads that basically have the 18 feet of width of cross section, and applying the same methodology, so again it would be a true apples to apples comparison. We found that these roads are either carrying or would carry in the future the level of 400 vehicles a day or higher. And as I've already stated out the Carriage Park Way, which at full build out is going to be carrying a large load of vehicles. It could reach in excess of 5000 cars a day. Mr. Michaux said do traffic

engineers generally consider multi family or duplex residents to generate more or less traffic than single family residents? Mr. Putnam said the methodology is determined there for all the residential uses. Typically the higher traffic generators are from single family detached homes. And other uses, apartments, condominiums, town homes, they would carry a somewhat lesser rate. One of the things that we have to remember here is it's not necessarily that on a single family home that its rate is 10 trips a day. That doesn't mean that the homeowners themselves would do 10 trips a day, but it also encompasses the service vehicles, the mailman, UPS drivers, garbage pickup, all of those things that would serve that residential neighborhood. Mr. Michaux said now I notice that if you look at the table, Table 2 on page 2, you got Carriage Commons Drive with the full build out at 53 units that would carry approximately 414 trips a day? Mr. Putnam said yes sir. Mr. Michaux said and Woodsong Drive has 36 dwelling units and it carries 407 trips a day? Mr. Putnam said yes sir. Mr. Michaux said and is Woodsong Drive an example of a single family residential neighborhood? Mr. Putnam said yes sir, it is. Mr. Michaux and then Carriage Crest Drive has 66 units and it carries 747 trips a day? Mr. Putnam said yes sir. Mr. Michaux and is that an 18 foot paved roadway? Mr. Putnam said yes sir. Mr. Michaux said what about Millbrae Loop – 66 dwellings, 747 trips a day? Mr. Putnam said yes sir. Mr. Michaux said and is it an 18 foot roadway? Mr. Putnam said yes sir. Mr. Michaux said do you have any opinion as to whether there would be any problem with safety vehicles getting in and out of Carriage Park Drive with the proposed development? Mr. Putnam said no again because, since the major collector road has sections of 18 feet in width, it would stand to reason that if an emergency vehicle could negotiate that road, it should be able to negotiate Carriage Commons Drive as well. Mr. Michaux said is 18 feet of pavement a fairly common width in North Carolina, in particular in the Buncombe County, Henderson County area? Mr. Putnam said yes sir it is. When you look at the rural mileage of paved roads which is outside of the city limits of a given county, in Henderson County, it turns out that 64% of those roads are 18 feet in width or less, in Henderson County alone. And that percentage, more or less, holds true all the way across the state. It's a very common width for a 2 lane road. Mr. Michaux said Mr. Chairman, I'd like to make this set of drawings that we've already got this in the record, but I'd like to make this Carriage Park Exhibit 10. And these are the drawings for the subdivision for which approval has been requested – Section 7. That's the same thing that's in the last exhibit in your book. It's just the additional drawings that go with it. And I think that's already in your package. If I'm not mistaken. Mr. Putnam would Carriage Commons Drive be used to access any other property other than the units that are proposed for Section 7? Mr. Putnam said no sir, it would appear that it would just be an extension which would end in a cul-de-sac. Mr. Michaux said I don't have any further questions, Mr. Chairman, thank you.

Chairman Phelps said questions of this witness? Ms. Dunnuck said it's my understanding that you did visit the site, you're familiar with the site? Mr. Putnam said yes ma'am. Ms. Dunnuck said and did you notice any sidewalks on Carriage Commons Drive? Mr. Putnam said no I did not. Ms. Dunnuck said I have a question about your report. On the page 2 in the chart it lists the existing residential townhouses in Section 6 as 19? Mr. Putnam said yes. Ms. Dunnuck said do you realize that there's 38 residences in Carriage Commons? Mr. Putnam said yes but the 19 we were addressing were direct access onto Carriage Commons, not the loop road that went around it. Ms. Dunnuck said are you aware that everyone on that loop road has to access Carriage Commons Drive as well? Mr. Putnam said yes they would, at least the beginning end of it or the closer end to Carriage Park they would, yes that's correct. Ms. Dunnuck said so why would they not be factored in the number of residences that would be accessing Carriage Commons Drive? Mr. Putnam said well if you even assumed that half of them would go towards the front, then they would be on a very short portion of it and we were looking at the entire 1700 feet of length when we were trying to make our comparison. Ms. Dunnuck said so you completely disregarded the houses that use Carriage Commons Drive that are on High Quarry road? Mr. Putnam said yes ma'am we did. Ms. Dunnuck said even though every residence that's on High quarry Road would have to access Carriage Commons Drive? Mr. Putnam said but even if we factored those in, it would double this number and it would still be well below the capacity of that road. Ms. Dunnuck said on page 4 of your report it appears that your conclusion was that you were not concerned, and I don't want to put words in your mouth, but it seemed like the built out Section 7 wouldn't be problematic but there could be potential problems with the construction period. Is that

correct. Mr. Putnam said any time that you have construction activity going on there is the possibility that there could be some issues because for one thing some of the vehicles that would be going through there are much larger and so forth so that is a true statement. There could be some problems in that timeframe, the construction timeframe. Ms. Dunnuck said do you think there could be potential health and safety issues? Mr. Putnam said I don't, I couldn't answer to the word health but from the standpoint of safety, there could be potential problems if certain steps aren't taken. Ms. Dunnuck said are you aware that it's common for people visiting or landscapers or health care provider, it's common for people visiting the area to actually park on Carriage Commons Drive? Mr. Putnam said I'm not aware of it on Carriage Commons Drive but I would agree with that statement in virtually any residential setting. Ms. Dunnuck said do you foresee problems with construction, heavy construction vehicles trying to pass by parked vehicles on the side of Carriage Commons Drive? Mr. Putnam said they should not be. Most vehicles have essentially the same width. Ms. Dunnuck said even heavy construction materials, as in logging trucks? Mr. Putnam said yes ma'am. The width of a vehicle is governed by state laws and that's essentially the same for everyone. Ms. Dunnuck said no further questions.

Mr. Michaux said on page 4 of your report. Mr. Putnam said yes sir. Mr. Michaux said and I meant to review this earlier but you have listed about 9 items that you would suggest to consider for safety purposes for construction traffic. Mr. Putnam said yes sir and that's just to enhance the safety aspects. Mr. Michaux said and if those conditions were imposed, do you have any opinion as to whether this would be a safer environment? Mr. Putnam said yes it would, anything that we could do to improve that by following these suggestions can only help. Mr. Michaux said okay. I don't have any other questions, Mr. Chairman, thank you.

Someone in the audience said what are the suggestions? Someone else said what are they? Chairman Phelps said are there questions of this witness. You mentioned suggestions. Are they specified somewhere? Mr. Michaux said they're on page 4 of his traffic report that you have as Exhibit 9. I'd be happy to read them. Chairman Phelps said does the Board want them read? Mr. Michaux said you have them and they're all pretty basic. Chairman Phelps said thank you, we'll read them, thank you. Mr. Michaux said we would like to reserve calling Mr. Hamlin as a rebuttal witness. And that's the case for Carriage Park.

Chairman Phelps said at this time are there any other parties that wish to ask the witnesses any questions. Someone asked if the general audience is allowed to ask questions. Chairman Phelps said only the sworn witnesses. Attorney Zambon said only the parties. Chairman Phelps said the parties, I stand corrected. If not, we will hear the evidence from other parties that need to be presented.

Bonnie Marsh introduced herself and said she lives on High Quarry Road. Ms. Dunnuck said Ms. Marsh can you give me an explanation of your education and background. Ms. Marsh said I have a Bachelors degree from Perdue University. I have a Masters degree from Indiana University. I have a doctorate from Ball ? State. I have been a public school administrator. My last position was high school principal of Greensboro High School in Greensboro, North Carolina. Ms. Dunnuck said how long have you been a resident of Carriage Commons? Ms. Marsh said a little over 10 years. Ms. Dunnuck said does Carriage Commons have an association? Ms. Marsh said yes they do. Ms. Dunnuck said do you have a position in the association? Ms. Marsh said I'm the chairperson, co-chair. Ms. Dunnuck said what made you decide to purchase in Carriage Commons? Ms. Marsh said well, the advertising. I was able to build my home in Carriage Commons. I mean it appeared to have everything that I wanted. And every individual, community, open to the loop road, etc. Ms. Dunnuck said did you ever ask any Carriage Park representatives if Carriage Commons Drive was a dead end? Ms. Marsh said absolutely. I questioned the salesperson from Carriage Park, Joan Hensley, and I questioned Mr. Hamlin directly regarding why was this street a dead end. Would it open into anything else, it would certainly have affected the purchase of my house. Ms. Dunnuck said so you explicitly asked whether Carriage Commons Drive was going to be extended into another area? Ms. Marsh said I explicitly asked that question. Ms. Dunnuck said and they said no. Ms. Marsh said that's right. And it's just like

the dead end in the Cottages on High Point Lane – dead end, smack, no turnaround, no cul-de-sac. Ms. Dunnuck said so there are other examples in the community of these type of dead ends? Ms. Marsh said yes. Ms. Dunnuck said do you remember receiving any marketing materials that indicated that the development parcels would be individual communities that had direct access to the main development road? Ms. Marsh said yes and I've seen them since then. Ms. Dunnuck said if the Board could please review opponent Exhibit 1, the marketing materials. Ms. Marsh said as you can see in 1a, they created a Park Way feeder road system with no individual driveways off of this road. They created 24 individual neighborhoods, each with restricted automobile traffic flow and each with a very special architectural identity. Ms. Dunnuck said can you tell me about the residents in Carriage Commons? Is there a mean age or if you had to estimate? Ms. Marsh said we're all there young, but I would say there are 14 single women living in the Commons. Ms. Dunnuck said I would say 70 would be maybe if you were to guess the mean age. Ms. Marsh said I'd have to guess that because I have no idea. Ms. Dunnuck said what are your thoughts on the potential expansion of Carriage Commons Drive from Section 6 to Section 7? Ms. Marsh said it is an absolute nightmare. I can't imagine this happening. Carriage Commons has been there for 11+ years and especially those 19 units that are there on the back road. And to add 34 more, to be coming through an established neighborhood that has been with all the construction, with all the noise, it's just a nightmare. Ms. Dunnuck said do people frequently when people have visitors or health care providers or landscapers, do those visitors typically park on the road or in driveways. Ms. Marsh said if they can get in your driveway, fine. If they can't, they park on the road. They have to. Ms. Dunnuck said is it common to see cars parked along Carriage Commons Drive? Ms. Marsh said yes. Ms. Dunnuck said do you have concerns about the safety of these cars being parked along Carriage Commons Drive with the heavy construction near? Ms. Marsh said absolutely. Ms. Dunnuck said is it common for people to walk through Carriage Commons Drive? Ms. Marsh said yes they walk on the road. They walk their dogs. They walk period. And many people walk in the Commons that don't live there cause it's one of the most beautiful areas in Carriage Park. Ms. Dunnuck said if the Board could please turn to Exhibit 3, we have pictures to give the Board a better perspective on Section 6. I dragged this plat up here so as Ms. Marsh is looking through the pictures she can point where it is along Carriage Commons Drive so you get a better perspective. Ms. Marsh said the first picture you see is the entrance to Carriage Commons Drive. You can see the curbing goes back just a short ways. Then you have your 18 foot road in the back. This is a sharp right angle coming off the loop road into Carriage Commons. On the second one, you can see a car, a normal car, in that driveway. And I think it's obvious they would have to take the island out, maybe that's one of the safety things that was recommended by the traffic specialist. As you go straight on Carriage Commons Drive, there is this bend in the road which is 3c and you can see a regular car turning. The mailboxes are right out at the road. And then you're just going around the curve on 3d. This is a car backing out of a driveway. You can see you can't just back out and go, you have to back out, back out, back out, back out. It's an 18 foot road. We have on Carriage Commons Drive by federal law access to a home for a handicapped person. You can see the pictures here with an additional drive to park a car and then the drive going into the house. There is a car parked right in front of that house where you can see the ramp going into the house. On the next photo, 3h, you can begin to see the condition of this road. It has been patched, repatched and patched again. And again this is the corner of Carriage Commons Drive on 3i and High Quarry Road. And you can see the close proximity of the house. 3j is just looking down towards the end of the road. The road going to the right is High Quarry Road. And you can see it says no outlet posted by Carriage Park Development Corporation. And you can see a car parked at the end. This is the very end of the road and it is exactly the same as the end of High Point Lane, including the 2 boulders. And then it says, there is a sign, on the next page, showing that it's a hiking trail to the Clubhouse and over to the Springs. Okay. Ms. Dunnuck said Ms. Marsh would you say that people in Carriage Commons as well as the Carriage Park development as a whole are opposed to the extension of Carriage Commons Drive from Section 6 to Section 7? Ms. Marsh said unanimously. Ms. Dunnuck said was there an attempt.

(Clapping from the audience) Mr. Michaux said ...requires us to object. I just don't like. Chairman Phelps said I understand, it draws conclusions. We can substantiate that with other witnesses if necessary, but please say that's your personal opinion. Ms. Marsh said no sir. We had a meeting and

everyone voted. Chairman Phelps said everyone being? Ms. Marsh said in the Commons. Chairman Phelps said you had 100% attendance? Ms. Marsh said yes, we did, not 100% attendance but what they didn't do, they signed in and gave their opinion if they were not there. And I have the list of those people.

Ms. Dunnuck said did you circulate a petition regarding opposition to the extension of Carriage Commons Drive from Section 6 to Section 7? Ms. Marsh said in a 3 day period we received 210 signatures from all of Carriage Park. In less than 3 days. Chairman Phelps said just a moment please. Mr. Michaux said I object, this is not a public vote. I don't think petitions are admissible at all in a quasi-judicial proceeding. Ms. Dunnuck said you say that petitioners aren't. Mr. Michaux said I don't think they have any probative value (couldn't hear). Chairman Phelps said please come to a microphone if we're going to extend this conversation sir. Attorney Zambon said Mr. Chairman that's an issue for the Board to decide, whether or not that information would be cogent or relevant, however, and this Board is not bound by North Carolina evidence rules per se. But in other instances you're not allowed to give testimony regarding what somebody else said, like you mentioned before, that would be considered hearsay. So it's really up to the Board in this instance to determine the weight of that evidence and how appropriate it is in this setting. Chairman Phelps said I think we should limit it to documents that you submitted that we can review at this point, otherwise. Ms. Dunnuck said I have a copy of the petition available and I understand Mr. Michaux's opposition to it but also in light of none of us wanting to be here all night and having me drag every person forward to voice their opposition to the extension of Carriage Commons Drive from Section 6 to Section 7, I would advocate that it is relevant. Chairman Phelps said can you present it to us in an exhibit and then we can have it on the record that we received it and then we don't need to pursue the conversation. Ms. Dunnuck said okay. Chairman Phelps said and I should state for the record and I didn't do it, being that I'm Acting Chairman tonight, our regular Chairman couldn't be here, so if I seem hesitant, I'm trying to get through here the best way fair to everybody as I possibly can. So please bear with me under these circumstances. Mr. Michaux said the problem with the petition is it can be signed by a number of people, none of them are even aggrieved parties or have any standing whatsoever to appear before this Board. And I mean it's just far more prejudicial than it has any probative evidence of value. But of course, I agree, that's your decision, I've made my objection and I'll shut up. Chairman Phelps said sir, your point's well taken. What we will do as a Board is to go back to who has standing and I think the same rules and conditions will apply, just as persons who signed it as the persons who would have standing. If that would satisfy everybody. Ms. Dunnuck said if Mr. Michaux's violently opposed, I'd be willing to enter into a stipulation with him that all of the residents in Carriage Commons Drive and a great number of residents in Carriage Park are opposed to this development parcel 7. I'd be willing to enter into that stipulation and then this could be a non issue. Ms. Marsh said there's no signature on the petition of anyone that does not live in Carriage Park. Chairman Phelps said thank you for that clarification, that's what we wanted on the record. Ms. Marsh said there's no one that has signed that doesn't live within Carriage Park. Ms. Dunnuck said now notice that this is the original, is a copy sufficient? Chairman Phelps said a copy is sufficient. Attorney Zambon said and you're entering that into evidence? Ms. Dunnuck said yes, that would be opponent exhibit #10, 11. Opponent exhibit 11. Chairman Phelps said I'm writing that at the top for the record. Ms. Dunnuck said thank you.

Ms. Dunnuck said Ms. Marsh for clarification purposes, are you opposed to the development of Section 7 or are you just opposed to the proposed extension of Carriage Commons Drive from Section 6 to Section 7? Ms. Marsh said I don't think anyone's opposed to the development of Section 7, but definitely I am opposed to the extension of Carriage Commons Drive. Ms. Dunnuck said from Section 6 to Section 7? Ms. Marsh said absolutely. Ms. Dunnuck said thank you.

Chairman Phelps said do you have any recommendation as to how they would enter. Ms. Marsh said you know there are several ways they have shown they can enter. This is a violation of everything that they have promised us. Everything to date to have that come through this one little one tenth mile road with all that construction, to build 7. Personally if they put a helicopter pad in and flew them in it would be okay with me. Chairman Phelps said thank you.

Mr. Michaux said I'll be very brief, thank you. Ms. Marsh let me ask you please to look at your photographs that you alluded to earlier. Ms. Marsh said yes sir. Mr. Michaux said I believe it's Exhibit 3 in the opponents notebook. The first photograph, 3a, shows a street that turns to the right. Ms. Marsh said that's High Quarry Road. Mr. Michaux said is that your street? Ms. Marsh said yes. Mr. Michaux said so you would enter into Carriage Commons and take the first right to go to your house, normally. Ms. Marsh said I would in my car, yes. Mr. Michaux said and how far down on Carriage Commons Drive do you live? Ms. Marsh said I live in the second courtyard to the right. Mr. Michaux said I was going to ask you what lot number you have. Ms. Marsh said I'm 652 right here. See there's 668; I guess I'm not on the map. Mr. Michaux said excuse me, I couldn't, would you point that to me please? Ms. Marsh said approximately right here. The back of my house looks on the loop road. Mr. Michaux said okay, the loop road being Carriage Park Way. Ms. Marsh said yes, Carriage Park Way that goes all the way around. Mr. Michaux said when did you actually buy your house? Ms. Marsh said I purchased my house in December of 1996. Mr. Michaux said and when did you have this conversation you testified about with Mr. Hamlin? Ms. Marsh said in December of 1996 and Joan Hensley and Mary McClellan. Mr. Michaux said December of '96 or '95? Ms. Marsh said '96. Mr. Michaux said and when did you buy your house? Ms. Marsh said '96. Mr. Michaux said I'm sorry okay. Do you remember now exactly what you asked him 10 years ago? Ms. Marsh said pretty much yes. Mr. Michaux said what was that? Ms. Marsh said we were standing at the corner of High Quarry and Carriage Commons Drive. And I asked him what is that road? Does it going to anyplace? Mr. Michaux said did you ask him if it would be a through street? Ms. Marsh said I just asked him if it was going anyplace. Why was it a dead end? And he said it was going no place. Cause I certainly would not have bought a house and put the amount of money that I put in my house, if I'd known we were going to have that kind of traffic. Mr. Michaux said with regard to the maintenance of the streets, it is true that these are private streets. Ms. Marsh said Carriage Commons is still owned by the developer. Mr. Michaux said and the developer maintains the street, doesn't he? Ms. Marsh said well, I don't think I'd ask that question if I were you. Mr. Michaux said well let me ask you this. I'll put it this way. The photographs that are in Exhibit 3 show the street. These are fairly recent photographs, aren't they? Ms. Marsh said yes they are. Mr. Michaux said and whatever maintenance is there is done by the developer, isn't it? Ms. Marsh said whatever maintenance should be done by the developer. Mr. Michaux said right but it's not the responsibility of your association. Ms. Marsh said no. Mr. Michaux said no further questions, Mr. Chairman, thank you.

Ms. Brown said did you say that you were under the impression that it would be necessary or may be necessary to remove the landscaped island there? Ms. Marsh said I have no idea. But I can tell you one thing. You see the car that's in it. I don't think a drywall truck could get in there. Ms. Brown said I was just wondering if you had heard anything. Ms. Marsh said no ma'am. So we have not seen the points that the gentlemen on the road thing said were safety – what would be safety issues. We've seen none of that. Ms. Brown said thank you. Ms. Marsh said we had a moving van come in. Poor dear went all over, up the side, when you look at the picture of the corner of High Quarry and Carriage Commons, literally got stuck. Could not back out, could not get around. Since then we have asked that they bring a smaller truck and unload in a different area and come in and bring, because it's just impossible for a standard moving van to get in. Tight quarters. Chairman Phelps said any further questions of this witness. Thank you very much.

Robert Lohr Welty came forward and introduced himself. I reside at 670 High Quarry Road in the Commons. Ms. Dunnuck said Mr. Welty can you please state your education and background for the record. Mr. Welty said I'm a graduate of Allegany College, Remedial ?? Pennsylvania. I'm a graduate of the University of Pittsburgh School of Law. I practiced 2 years of general practice in Greensburg, Pennsylvania with my brother. Then I went to Detroit and spent 5 ½ years with the National Navy Relations Board as a trial and general labor attorney. I then went into the beer business for 20 years. I started as an attorney and finished as the vice president, secretary and general counsel for the largest brewer in the United States. We sold that company and I went to work for a company on the American Exchange and worked for them for a number of years and I served as secretary and general counsel in

Charlestown, Pennsylvania and Denver, Colorado. Ms. Dunnuck said how long have you been a resident of Carriage Commons? Mr. Welty said since November of 1996. Ms. Dunnuck said what made you decide to purchase a residence in Carriage Commons? Mr. Welty said at the time we started looking, there were, we kind of stumbled into Carriage Park after looking around other areas. They had a very low inventory at the time, but I found a lot that I liked and they had a nice house plan. So that's what led me to purchase there. Ms. Dunnuck said do you remember seeing marketing materials the same or similar to the marketing materials in opponent exhibit #1? Mr. Welty said I received a lot of marketing materials at the time I purchased the house and a lot of it since has contained basically the same type language. One that you're going to have a nice individual neighborhood with its own characteristics. Quiet, low traffic, that you would have access, direct access, to the Carriage Park Way. And this is emphasized all over the years since I've been in Carriage Park. Ms. Dunnuck said do you recognize opponent exhibit 1f and 1g? Mr. Welty said which one? Ms. Dunnuck said opponent exhibit 1f and 1g. Mr. Welty said yes. This is a copy of, I pulled this off the internet and Carriage Park website and it's dated on September 19 and I've done it since. It's under the caption Real Estate. It says the private Park Way provides easy access to all of the villages, keeps villa interiors free from traffic and provides ribbon of breathtaking views. Ms. Dunnuck so it appears that the Carriage Park developer is still promoting this idea of the individual communities connected by the Carriage Park Way, correct? Mr. Welty said yes, it's on the website. Ms. Dunnuck said what was your understanding of how the applicant would access Section 7 for development before you learned of this proposed plan for Section 7? Mr. Welty said it has always been my understanding, because I fl?? with the research master plans, particularly the ones in '97, '99 plans all show access from the Carriage Park Way on the other side of the hill between Sections 9 and 8. There's a definitive road drawn between those 2 sections into Section 7. Ms. Dunnuck said how did you find out about the proposed extension of Carriage Commons Drive? Mr. Welty said I had heard rumors to that effect. Ms. Dunnuck said what did you do when you heard these rumors? Mr. Welty said I was so concerned on March 21 of this year, I wrote a 2 page letter to Mr. Hamlin. In there I told him of my concerns, I wanted to verify if this was true or not and, if so, I set forth in detail in 2 page letter the reasons why I thought it was a bad idea. And in it I said there's a principle that's been involved for 10 years that I've been here that we all have our own individual neighborhoods with individual access to the Park Way without interference of this nature. Ms. Dunnuck said is opponent exhibit 7 the letter that you sent to Mr. Hamlin? Mr. Welty said yes. Ms. Dunnuck said did you get a response from Mr. Hamlin? Mr. Welty said yes. I may also add that I found that I had a typo in here Spellcheck didn't pick up for me. I used the term principal instead of principle. So I found the error, corrected the copy and sent a second copy to Mr. Hamlin on March 30. I received a reply on Thursday afternoon, April 11 before Good Friday. Ms. Dunnuck said is this the reply you received (tape reversed – not on tape). Mr. Welty said yes. Ms. Dunnuck said what was his response? Mr. Welty said he said we do intend to access Section 17, he meant Section 7, from Carriage Commons Drive. Then he said there was a public hearing the following Tuesday on this matter before the Planning Commission. Ms. Dunnuck said what did you do then? Mr. Welty said well I heard there was a hearing notice. I went down, the hearing notice is posted at the gatehouse, where cars go through both ways and it's impossible to stop and read the notice. So what I ended up doing was getting in my car, going down and parking on 191 where there was a sign posted and reading the sign, which was a notice of the Planning Commission meeting. Ms. Dunnuck said what are your thoughts on the potential expansion of Carriage Commons Drive from Section 6 to Section 7? Mr. Welty said it would be a total absolute disaster for a number of reasons. We've heard a number of them so far, we've talked about the width of the road, the condition of the road, the parking, I'm sure it would, it's a big, big safety problem. You have fire trucks trying to go in and out. With the construction traffic for upwards of 2 years and that's probably par for the course, can you imagine the logging trucks coming up and down and the cement trucks and the construction traffic? And there's no way to police these things. And the road is so narrow, I just shudder to think of what would happen. And there are myriad number of reasons why. I'm concerned and everyone in the Commons is concerned that this would be allowed. And the thing that makes us all mad is, in all the years that I was there I've never heard them say anything other than there was never any indication to use Carriage Commons Drive as access to Section 7. There are other ways they can get into it such as the one that's on the master plan that I referred to, for the board's sake 1993 master plan. If you will look at it, it shows the route,

the original route of the Park Way, was supposed to go another route between Sections 8, 9, and 7, between 8 and 9 go up the hill, and go between Sections 6 and 7 and end up near the Quarry. And if, I've heard words to the effect here that this is too steep, that I can't believe that for the simple reason that if Carriage Park professes that it can build a road, such a road then, why can't it build it now? Ms. Dunnuck said is it your opinion that the extension of Carriage Commons Drive from Section 6 to Section 7 would affect the public health and safety of persons residing in the Carriage Commons? Mr. Welty said absolutely. Ms. Dunnuck said do you think it could have an adverse effect on property values? Mr. Welty said oh absolutely, I think it would be devastating. You know, you've got a little better and older neighborhood, they're very nice homes, they're all well maintained and if you had all that construction traffic and all the additional traffic going up and down that street, I can't imagine anyone wanting to sell their house for what they could sell today without that threat over their heads. Ms. Dunnuck said do you feel as though you are misrepresented by the marketing materials that indicated that? Mr. Welty said well I think we've been intentionally misled over the years if we hear the indication that they intended to do this all along. Why didn't they tell us up front? If they had told us up front, there would be no controversy and we wouldn't be here today. People would select as the surveyors so aptly indicates, it's a buyer beware situation. That if you're not aware of the facts, and this is intentionally withheld from you, which apparently it may have been, if this was their intent all along. That makes me and other people a little bit upset. Ms. Dunnuck said you've been to the Henderson County Register of Deeds and reviewed the 5 recorded plats for Carriage Commons, correct? Mr. Welty said yes. Ms. Dunnuck said and those are again opponents Exhibit #2. Do any of these recorded plats indicate that Carriage Commons Drive will be extended to Section 7? Mr. Welty said no. Ms. Dunnuck said I don't have the proponent's exhibit in front of me, but the project summary, which exhibit number is that? The proponents Exhibit #8 – what would you consider this project summary to be? Mr. Welty said strictly a preliminary plan. If you look at the face of it, it doesn't contain, it doesn't show the identity, shows spots for houses but not the configuration of the houses, all the lots has a different numbering system than that which is now in place. And you can tell that it is strictly a preliminary drawing and there's none of the language on there, the legends and so forth that you would have to put on a recorded instrument. And this is, going through all the slides of Carriage Park at the Courthouse, this does not appear as of record. Ms. Dunnuck said okay. You're familiar with the master research plans for Carriage Park, correct? Mr. Welty said yes. Ms. Dunnuck said do you have any comment on, do any of the master research plans, besides the 1994 master research plan, indicate that Section 7 would be accessed through Section 6? Mr. Welty said no. Ms. Dunnuck said are the master research plans consistent with your understanding of Section 6 and Section 7 would be two separate development parcels, each with there own direct access to a major collector road? Mr. Welty said yes. Ms. Dunnuck said are you familiar with the buffer zones between the Section 6 and 7 on the master research plan? Mr. Welty said yes, I think I am, yes. Ms. Dunnuck said have you measured what the average length of the buffer zone is? Mr. Welty said if you take a configuration of Section 7 as is shown on the '97, '99, and 2000 plats, it'd be about 110+ feet between the two sections, cause you theoretically between what's between with the boundary of 6 and the configuration as shown on the master research plan, that's what the distance would be. And the only time the master plan had anything different on it, was the 1994 plan which was introduced today and on that the section, the upper or northern section of Section 7 is bubbled out to where it's close to Governors Pointe, and it's close to Section 6. That's in amendment #1, where they allowed the developer to alter the course, the original course, of the back road from what is shown on '93 to what is later shown where the present condition. But in that same amendment #1, as was testified to here today, the Board disallowed the reconfiguration of 7 at the top so that's why all of the later master plans do not reflect the boundary? because the Board turned it down. So I find it hard to believe that that line was approved to a certain degree that when the Board came out with its decision in November of that year, they turned that part of it down, being the reconfiguration of 7, 8 and 9. Mrs. Pouch asked if that was the Planning Board? Mr. Welty said yes, no County Commissioners, amendment A1. Ms. Dunnuck said so according to the master research plans for '97 and '99, the buffer zone between Section 6 and Section 7 was approximately 112 feet. If Carriage Commons Drive is extended from Section 6 to Section 7, would there be, would this type of buffer zone exist? Mr. Welty said no. Ms. Dunnuck said are you aware that there's a requirement under the Special Use Permit that there be at least a 25 foot buffer? Mr. Welty

said yes that's in one of the promises that there be a 25, a minimum of 25, foot buffer. Ms. Dunnuck said earlier the Planner had indicated that there were some sections, development parcels, in Carriage Park that not exactly set precedent, but showed examples of one section being accessed through another section. Can you explain, can you think of any, based on your familiarity with the research master plans and with the Carriage Park development, can you think of other examples that this? Mr. Welty said well previous hearing Mr. Hamlin testified that there were 8 particular examples within Carriage Park of where one section was accessed through another. I think he was completely wrong for a lot of reasons. I'd like to go over each one but the one Matt alludes to, Section 16, is being, which is newly approved, is being accessed through 15. That is not correct. If you look at the maps, the road goes between Section 15 and Section 17, it does not go through 15. It's very clearly shown on the maps and he referenced Club Knoll. Club Knoll is. Ms. Dunnuck said so should the Board turn to research master plan 1999? Mr. Welty said I'm referring to Sections 15 and 16 originally approved. And Matt testified that the road, which is a minor collector road, went through 15 to get to 16. That is not correct.

Ms. Dunnuck said please refer to opponent Exhibit c, d for the 1999 research master plan. Chairman Phelps said under what section? Ms. Dunnuck said Exhibit c and then it's d. Oh Mr. Welty was showing the... Chairman Phelps said under which tab? Ms. Dunnuck said oh it's under c. Mrs. Pouch said which tab? Ms. Dunnuck said oh, pardon me, I'm not understanding. Chairman Phelps said I have a number here. Ms. Dunnuck said it's d as the 1999 research master plan. Mr. Engel said which number. Chairman Phelps said you have tabs which are numbers. Mrs. Pouch said 1 through 8 we have. Chairman Phelps said they are in numerical order, under which number do I want. Mr. Engel said 6d is what you're talking about? Ms. Dunnuck said it's not a number. It's 6d. That's the 1999 research master plan. Mr. Welty said do you want me to continue? Ms. Dunnuck said yes please. Oh maybe you're looking in Mr. Michaux's book, if it's confusing. We're the opponents, they're the proponents. We're opposing. Chairman Phelps said it should be color coordinated. Ms. Dunnuck said it is a ridiculously big notebook. Look in that one. There's a lot of overlap in those.

Mr. Welty said what I was trying to say is that Mr. Card testified, as I recall, was to the effect that Section 16, which is in the upper right hand corner, was being accessed by a road through 15. That is not correct because there, it's a divided, the road, a minor collector, is marked as a minor collector road, it divides Section 15 and 17 and goes directly into 16. You mentioned Club Knoll also. Ms. Dunnuck said yes sir. Mr. Welty said Club Knoll is Section 13, it's in the middle of your chart. Club Knoll was approved under the permit, this particular permit '93 permit. It is a, it is accessed off Carriage Square Drive which is a minor collector road which, with curbs, there are only 4 units in Club Knoll. And Carriage Square Drive, you proceed about 50 - 75 feet up to Governors Drive, which is a major collector road. And so that road, Club Knoll, is accessed on the division between two different sections. Ms. Dunnuck said all of those roads are larger than... Mr. Welty said well the major collector road is a 60 foot. Ms. Dunnuck said right. Mr. Welty said the minor collector road is 50. And in the Commons we have residential which is a 45. Opposite Club Knoll is Carriage Square Court, which is a very similar section. It was developed under the old permit 87-2 and it is accessed in the same manner via a minor collector road from a major collector road. And again that road does not access any section. It goes between sections. And that applies to every example that I've Mr. Hamlin gave at the last meeting and one cited by Matt. The other one he mentioned, as I recall, is Carriage Walk and the Summitt. If you look at that, that's... Ms. Dunnuck said where's that located? Mr. Welty said it's in the upper left section. You know the page. The Park Way proceeds around and you see the Cottages of Carriage Summitt. There is a road and the Cottages of Carriage Walk off of Carriage Park Way, there is a divider. You proceed about 50 - 75 feet and the road goes to the right to the Summitt and the road goes to the left to Carriage Walk. Again between sections, not within the 2 sections. Ms. Dunnuck said okay. So are there any examples of an access road going through one section to another in... Mr. Welty said not that I'm aware of. They go between, not through. Ms. Dunnuck said and for clarification purposes, Mr. Welty, 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? Mr. Welty said I am not opposed to the opening and development of Section 7. I am violently or adamantly opposed to the idea of letting

them access Carriage Commons Drive through the Commons. I think if they were permitted to do, this is a serious breach of trust and faith on the part of the people running Carriage Park. And if they really intended to do this all along, then they engaged in subterfuge and in doing so they're asking us, innocent people, to suffer for their own mistakes when they could have cured it 11 years ago. And again, I think they have the wherewithal and the knowledge to build a road any other way than through the Commons. And what this boils down to, it's money. It costs them less to do it this way than to do it the right way. Ms. Dunnuck said no more questions.

Chairman Phelps said are there questions of this witness?

Mr. Michaux said Mr. Welty when did you purchase your home in Carriage Park? Mr. Welty said November 20, 1996. Mr. Michaux said and when did you go down and look at these research plans and the recorded plats for Carriage Park? Mr. Welty said I went after I found out about the Planning Commission meeting. Mr. Michaux said so you looked at all of these documents after you bought your house? Mr. Welty said well. Mr. Michaux said step back, I'm just asking the question, is that right or wrong? Mr. Welty said sure. Mr. Michaux said it's right that you looked at them after you bought your house. Mr. Welty said 10 years after. Mr. Michaux said how many houses in Carriage Commons were built after you bought your house? Mr. Welty said probably upwards of half of them. Mr. Michaux said so that would have been 25 or 26 houses? Mr. Welty said no. Mr. Michaux said you said upwards of half? Mr. Welty said well, there are 38 existing homes now and 5 potential for approval. Five, they're going to put in 5 more. Mr. Michaux said I'm sorry, I thought there were 54 in Carriage Commons. There're 38? Mr. Welty said 38 plus 5 potentials. Mr. Michaux said and were all of, so upwards of half of the 38 were built after you bought your house. Mr. Welty said roughly. Mr. Michaux said weren't all of those houses built while the median was in the street out front? Mr. Welty said do you mean the island in front? Mr. Michaux said the island, yes. Mr. Welty said yes that was there. Mr. Michaux said I mean it was there before they built any houses, wasn't it? Mr. Welty said I don't know. When I was first there, it was under development. Mr. Michaux said have you heard any plans to remove the median? Mr. Welty said no, other than it may be destroyed by trucks if they didn't do their job properly. Mr. Michaux said but it wasn't destroyed by the trucks when they built upwards of half of the 30 some houses that are there now? Mr. Welty said there have been troubles but it's still there. Mr. Michaux said and the roads were there at the time this construction traffic was there when they built the houses after you bought your house? Mr. Welty said not as heavy as you would have coming down the road if this was approved. Cause you've got to figure the logging trucks coming down. Have you seen the logging trucks? Mr. Michaux said and the streets would be maintained by Carriage Park, wouldn't it? Mr. Welty said theoretically it's their obligation, if they fulfill it. Mr. Michaux said so if they damage them, they've got to fix them, don't they? Mr. Welty said you can try, let's put it that way. Mr. Michaux said I don't want to rehash, if you look at the, Mr. Welty did you do real estate law when you practiced law? Mr. Welty said I did a lot of real estate acquisitions, in terms of on a corporate basis and when I was in Philadelphia I probably bought a couple hundred homes surrounding the brewery so I'm a little bit familiar with real estate. Mr. Michaux said did you do any real estate development? Mr. Welty said no. Mr. Michaux said are you familiar with the term sketch plan approval? Mr. Welty said I can guess what it is. Mr. Michaux said that's a sketch plan isn't it, that's submitted for subdivision approval? Mr. Welty said that's what I said, I called it a preliminary plan. I think we're talking the same. Mr. Michaux said and that would be a plan on which they could base their subdivision approval, isn't it, the preliminary plat approval? Mr. Welty said if that's the procedure. Mr. Michaux said do you know whether it is or not? Mr. Welty said I have no idea. Mr. Michaux said you testified that there was nothing on the recorded plats, and I'll refer you to the second map up there, just for brevity. You would agree, wouldn't you, that Carriage Common Drive is a stubbed street that goes all the way to the property line of Section 7? Mr. Welty said yes, the drawing shows that. Mr. Michaux said and it also says future development. Mr. Welty said that's correct, on that particular drawing, yes. Mr. Michaux said and on all the recorded plats, it's shown the same way, isn't it? Mr. Welty said well there's one, the last one shows the open space there for Section 6, but the others don't. Mr. Michaux said but they all show a street that is stubbed at the property line. Mr. Welty said that's correct. Mr. Michaux said and then future development on the other side of that. Mr. Welty said but that's on every map in

Carriage Park. Mr. Michaux said during the course of the construction of upwards of half the houses after you bought your house, were there any serious construction accidents that you knew of? Mr. Welty said what do you mean by accidents? Mr. Michaux said vehicular wrecks or anything like that. Mr. Welty said some trucks got stuck, I mean, you're reaching back almost 11 years. To recall those incidences, if there were, I don't know of any where we had major serious, where someone was seriously hurt or whatever. Mr. Michaux said I don't have any further questions, thank you.

Chairman Phelps said are there any other questions of this witness? If not, I'm going to exercise a chairman's prerogative here and declare a 10 minute recess. I think I better inform my wife that she'll be dining alone tonight. So we'll be back in 10 minutes.

Chairman Phelps said we are now officially reconvened and we may continue. I would request that we be as concise as possible and please limit it to new evidence and eliminate as much redundancy as we can. I think we've pretty well got a clear picture and we'd like to hear new evidence as much as possible.

Ms. Dunnuck said please introduce yourself for the record. Ms. Roberts said my name is Patricia Roberts and I live at 378 Bay Laurel Lane in Carriage Meadow section of Carriage Park. Ms. Dunnuck said do you have a position in Carriage Park? Ms. Roberts said yes I do. I'm first vice president on the Carriage Park Homeowners Association Board of Directors and I'm here representing the Carriage Park Homeowners Board of Directors this evening. Ms. Dunnuck said so you're not really here in your individual capacity but rather in your capacity representing the homeowners association? Ms. Roberts said yes. Ms. Dunnuck said does the homeowners association have an official position on the proposed extension of Carriage Commons Drive from Section 6 to Section 7? Ms. Roberts said yes we do. Ms. Dunnuck said is opponent Exhibit #10 the official position of the homeowners association? Ms. Roberts said I don't have an exhibit number. All I have is my copy. Yes, that's the same as my copy. Ms. Dunnuck said can you explain the homeowners position? Ms. Roberts said yes I can. And I will follow this book, perhaps not verbatim, if I may. We meet regularly and we met to discuss the impact of this potential issue on the community. The homeowners association is responsible, as you know, for so many things like collecting maintenance fees, etc., etc. but our major role is to represent the member and to worry about things like the safety and security and to help maintain and enhance shareholder value, in this case it's the residents the homeowners. And our position was that we should not approve Section 7 going through Section 6. We're not opposed to Section 7 being developed, in fact we hope it will be developed but not through Section 6. So our basis, we have 4. One of them is that all of us believed when we bought into our properties that we are a development that's made up of separate villages or sections, which are self-contained and don't connect through other villages or sections except through the major Park Way. When people describe the Park Way, it is always said as in the literature, not to reiterate that, cause you've seen that before, but quote unquote, it's planned to be a continuous loop system circling around the entire development providing ingress and egress for each private neighborhood. So that was our first concern and reason. The second one was that the Carriage Park research master plan, and I know there are several and I'm sorry I can't quote you the exact date and number and what not, but one the Board based its opinion on, is that, we saw one that depicted the entryway to Section 7 as coming from the main northern portion of Carriage Park Way in the open space between Section 9, which is called Carriage Springs, and Section 8, which is unnamed. And it was not through a developed village as now proposed. The third reason is that the road that would be affected, Carriage Commons Drive, we don't believe it is built for the type of equipment or usage it would receive. We're concerned about width, entry way, all those things and we're concerned about it from a different reason than an engineer would be concerned about it or that a, you know, any of the other experts that you could bring in here, who wouldn't have to, with all due respect, live there. I would like to cite an example from my personal experience with that neighborhood, if I can. I promise it will be very brief. We have a cat-sitting club and we exchange cat-sitting services and Ellen Jepson lives in that last house near that stub with the 2 boulders and it's her cat that I sometimes sit. And when you go on that road and you park your vehicle in her driveway, they're all at an angle and, as you know, you've seen the plans, there are no, whatchacallits, no room really. You come up, you're

backing out, you do your little old 3-point turn, and it takes a while. But I see nothing behind me when I'm coming out of her driveway and there's nothing behind her when she comes out of her driveway. However if you go through 6 to get to 7 there'll be traffic up that road, down that road. There'll be traffic coming once it's built and there'll be traffic behind her. I know there'll be stop signs, but I was in a near fatal accident where there were stop signs. So I'm not a great fan of stop signs as being overall safety mechanisms. So that's a personal observation about it, but safety is one of the issues that did prompt us to take the position that we took against that plan. And the final one is one that was raised which had to do with conditions that the residents of the Commons would have to put up with. We all moved into Carriage Park, in fact Dale can tell you when he showed me the lot that I bought, there wasn't even a road that led up to there and we all lived with construction when roads were built and houses put up. It's not the easiest thing in the world to live with for 18 to 24 months in your neighborhood. I've replaced portions of my own driveway 3 times in 3 ½ years because of construction trucks that leave the cul-de-sac that back up over my concrete on a regular basis. So we're a little concerned about that and also because people in that neighborhood believed that they were promised a self-contained unit. And I know we've talked a lot about technicalities here in, but you don't usually look at plat maps and all of that sort of technical stuff when you buy into a dream and when you buy into a development. I didn't and perhaps I should have, but I did believe what I was told. I was promised that there would actually be a road going up to my lot and there was one. And you know the Board has a good reputation, excuse me, we may not have a good reputation, I can't swear to that, but I swear that we do have a good relationship with Dale and his staff and we do want him to be successful. If he's successful, we're all successful. We just don't want to see this particular thing happen this way. Ms. Dunnuck said no further questions.

Chairman Phelps said questions of this witness? Mr. Michaux said no questions. Chairman Phelps said thank you.

Chairman Phelps said please state your name and address for the record. Mr. Sauer said my name is James Sauer. I live at 617 Carriage Commons Drive. Of course it's in Carriage Commons. Ms. Dunnuck said can you give us a brief description of your background? Mr. Sauer said I attended Miami University in Ohio and graduated in the School of business and I was an accounting major. Subsequent to that I became a CPA and the first 6 years of my career I worked for one of the big 8, I guess now big 5, CPA firms that's now called Deloitte and Touche. From that point I went into retailing in the accounting and finance area. I started out as an internal auditor. I was there some 26 years almost and I became the senior vice president of finance for the last 10 years of my career. And insofar as what I've done in Carriage Park, I was on the Carriage Commons local committee, such as Bonnie's on now. I was on that as President for 4 or 5 years. And then, I believe it was in '99 and 2000, anyway, it was 2 years I was president of the Board of Directors of the homeowners association. And I was the first one after the developer turned it over to the homeowners association. Ms. Dunnuck said why did you choose to purchase a home in Carriage Commons? Mr. Sauer said well first of all, we liked what we saw as we entered into Carriage Commons. But the house we bought, it had what we wanted. It's a one floor plan. It has 2 bedrooms, 2 baths, a 2 car garage, it's all on one level. And my wife always likes a laundry room on the same level. And it has a view, not as good of a view as a lot of others, but we talked to some of the people who already lived there as we were shopping around, and they liked it there and it seemed like a very peaceful neighborhood at that time. Ms. Dunnuck said can you describe the present condition of the homes and landscaping in Carriage Commons? Mr. Sauer said they're in excellent shape. Everybody is proud of the maintenance of their homes. The landscaping, we have all kinds of flowers, shrubs, trees, rock gardens, and rock walls and it's very well maintained. Ms. Dunnuck said is Carriage Commons a relatively quiet neighborhood? Mr. Sauer said it's a very quiet neighborhood. Many of our residents are a little older. We have somebody said 10 or 12 widows, a lot of them go to bed early, like at 8 o'clock. But overall it's very quiet. We don't have any loud noise, we don't have much traffic. People like to walk there and we have handicapped people that are walking. We have a large number of people who are walking their dogs, as Bonnie said, even from other neighborhoods. And it's just a nice quiet place to live. Ms. Dunnuck said when you purchased your home, were you aware that the developer was planning to extend Carriage Commons Drive from

Section 6 to Section 7? Mr. Sauer said I was not. Ms. Dunnuck said was it always your understanding that each village in Carriage Park was a separate entity with direct access off the Carriage Park Way? Mr. Sauer said yes. Ms. Dunnuck said are you concerned about the heavy equipment vehicles such as backhoes and scrapers and logging trucks using Carriage Commons Drive? Mr. Sauer said I'm very concerned. My first experience with problems of getting in there was when my moving truck came there on January 31, 1997, and the truck couldn't get in to Carriage Commons because of the narrow roads and the divider out by the road. And we had to, I didn't know much about Hendersonville, I had to find a shuttle truck and they had to unload everything and come in that way. But I've seen other people move in and when the moving truck is there, you can't get around it. And to get to my house, I have to go way around High Quarry road and come in the back way. That's the only way you can get through because there's no access because of the narrow roads. Ms. Dunnuck said do you think if Carriage Commons Drive was extended it would affect the property values in Carriage Commons? Mr. Sauer said very severely. It scares the living daylights out of me. I know (I cleaned it up), but anyway it does bother me very, very much that we would lose a lot of money if we had all this extra traffic and problems and chaos. Ms. Dunnuck said it's my understanding that many residents in Carriage Park that don't live in Carriage Commons are concerned about this extension. Why do you think that is? Mr. Michaux said objection. Ms. Dunnuck said okay, no further questions.

Chairman Phelps said are there questions of this witness? Mr. Michaux said no questions. Chairman Phelps said does the Board have any? Thank you sir.

Chairman Phelps said state your name and address please. Ms. Kovac said Linda Kovac. I live at 7 High Mountain Trail. Mr. Michaux said is that in Carriage Commons? Ms. Kovac no I live in the Highlands section. I own a home in Carriage Commons though. Ms. Dunnuck said could you give just a brief description of your background, where are you from. Ms. Kovac said I was born and raised in Hendersonville. Ms. Dunnuck said and you presently live in Carriage Park. Ms. Kovac said yes. Ms. Dunnuck said which section was it? Ms. Kovac said I live in Carriage Highlands. Ms. Dunnuck said and it's my understanding that you and your husband own a home in Carriage Commons? Ms. Kovac said yes. Ms. Dunnuck said how long ago did you purchase the home. Ms. Kovac said April of 2006. Ms. Dunnuck said who did you purchase the home for. Ms. Kovac said my sister-in-law. Ms. Dunnuck said and her name? Ms. Kovac said her name is Joanne Kovac. Ms. Dunnuck said why did you purchase a home in Carriage Commons for Joanne? Ms. Kovac said because my mother-in-law died. My mother-in-law, who lived in Ohio, died, and Joanne had always lived with her mother. Joanne is autistic and she has paranoia and she had no where to go after my mother-in law died. So we brought her down here with us and bought a home that would be near our home and we wanted something that would be safe and secure and quiet. Ms. Dunnuck said so that's the issues that you based your purchase of the home for your sister-in-law in Carriage Commons? Ms. Kovac said yes. Ms. Dunnuck said has Joanne enjoyed living there? Ms. Kovac said yes she was frightened at first, but when we first brought her here, she lived in our home with us, and then we gradually moved her in to the home that we had purchased for her and then we stayed with her in her home for a while until she was making the adjustment. And then we would gradually leave her there more and more on her own. And the neighbors have been really wonderful to her. Ms. Dunnuck said so she has enjoyed living there? Ms. Kovac said yes. Ms. Dunnuck said does she walk around the neighborhood at all? Ms. Kovac said she walks around the neighborhood a lot. Ms. Dunnuck said so daily? Ms. Kovac said oh every day, sometimes 2 or 3 times a day. Ms. Dunnuck said so it was recently when you purchased the home and when you purchased the home, were you aware that the developer was planning to extend Carriage Commons Drive? Ms. Kovac said oh not at all. Because there was a sign at the end thing. It was a hiking trail and my husband and I hike a lot and we had hiked through there quite a few times. We wouldn't have bought a home that was going to have construction going through it because Joanne doesn't deal very well with a lot of confusion or noises. We had to, and the house that she has is completely surrounded by other homes so that always somebody is looking toward her house. And we pointed that out to her that your neighbors can all see your house and that gave her a feeling of security, yet it's very quiet. Ms. Dunnuck said if you could turn to Exhibit 3, the pictures. Ms. Kovac said this is the back of Joanne's house. This one is. Ms. Dunnuck said if you can turn to Exhibit 3i and

3j in the large opponent book. Is that a picture of your sister-in-law's home? Ms. Kovac said yes it is. Ms. Dunnuck said if I can pull this plat, if you could show them where it's located on the, in relation to, approximately. Ms. Kovac said it's on this corner, the corner of Carriage Commons and High Quarry Lane. Ms. Dunnuck said how far is Joanne's home from the edge. The pavement is 18 feet and the right-of-way is 45 feet. How far is Joanne's home from the right-of-way. Ms. Kovac said a little less than 15 feet. And I might add that that's the back of her home and that's where her bedroom, her kitchen and her family room are located. And that's the section of the house that she's in all the time. Ms. Dunnuck said do you think the proposed extension of Carriage Commons Drive would affect your sister-in-law's home? Ms. Kovac said well I'm sure that it would because it would become very, very noisy and people would have to drive up on the, what is now a grassy area, in order to get past it. Ms. Dunnuck said have you experienced any of the home construction in Carriage Park during your time living in Carriage Highlands? Ms. Kovac said yes. Ms. Dunnuck said what were the effects? Ms. Kovac said well our mailbox was run over twice, many of our plants were destroyed, the telephone cable was cut, trucks drove through our yard even though we have large rocks. Our sprinkler system was damaged and the terrain at our home, because of the rocks and so forth, it's harder to get into our yard than it is to Joanne's because it's just grass behind Joanne's house. So it, I expect, would be much worse at Joanne's house than it is at our home in the Highlands. Ms. Dunnuck so you would expect the effects to be even worse at Carriage Commons than they were at Highlands? Ms. Kovac said it would be horrible. Ms. Dunnuck said how do you think this construction activity would affect your sister-in-law's condition? Ms. Kovac said well I think that the chaos created by the trucks going through to build the streets and to do all the grading, install the utilities, the chaos would destroy Joanne. Her condition is very fragile. She's made a lot of progress and the people in Carriage Commons have been really sweet to her and they've helped her but if they have all this traffic going through right at her windows, it would destroy her. Ms. Dunnuck said do you think that your sister would still feel comfortable living in the community and walking around the community? Ms. Kovac said no she wouldn't. She wouldn't leave the house if that happened because at first we had to go through a sort of little training session to have her comfortable just having when the gardeners would come to do the mowing and so forth, Joanne was very frightened. We would be there with her when they were there at first so that she could see that nothing would happen. And I mean she's made just such wonderful progress more than anybody ever thought that she could. And I would just plead with this Board not to let something happen that could destroy her. She's doing so well. Ms. Dunnuck said no further questions.

Chairman Phelps said are there questions of this witness? Thank you very much. Any rebuttal evidence

Mr. Hamlin came forward. Chairman Phelps said to please state your name. Mr. Hamlin said my name is Dale Hamlin. Chairman Phelps said and you are the? Mr. Hamlin said I'm the General Manager of Carriage Park Associates, LLC. Mr. Michaux said how long have you been involved with? Can you all hear me? How long have you been involved with Carriage Park? Mr. Hamlin said 14 years. Mr. Michaux said starting when? Mr. Hamlin said July '92. Mr. Michaux said and have you been directly involved in all of the Special Use Permits that we've talked about that, we're not going to review them again, but the Special Use Permits that are the exhibits in the notebook that we reviewed with Mr. Card? Mr. Hamlin said yes sir all of the '93 series of Special Use Permits I've been involved with, every one of them. Mr. Michaux said why was Carriage Park Way, why was the configuration of Carriage Park Way changed after the initial permit was granted? Mr. Hamlin said what happened is the initial routing of Carriage Park Way came in underneath the current clubhouse. And after doing engineering studies and topographical work we concluded that it was a very dangerous way to build a road. The fills, what I mean by fills, the amount of dirt that we would have to place on the side of that mountain would have destroyed most of the vegetation that you see going up the hill today. And further it would have created an unstable surface in torrential hurricane style rainstorms, hundred year storms. And we then thought that's a dangerous way to have to build a loop road and we were committed to building a loop road. I didn't want to have to do that and have the high level of maintenance and the high level of worry of a very steep roadside. So I sought the additional property and I was able to acquire 2 more

pieces of property and when I did that I was able to then reroute the Park Way into a far safer configuration. And that's the Park Way that exists today. Mr. Michaux said let me ask you to look at Exhibit 9 in the notebook that is in front of you. This is the Carriage Park notebook. Mr. Hamlin said yes sir. Mr. Michaux said this is the October 25, 1999 research master plan. Mr. Hamlin said Exhibit 9? Mr. Michaux said yes, no you're in the wrong notebook. It's Exhibit 6, I'm looking at it upside down – that's the problem. It's Exhibit 6. You see that? Mr. Hamlin said yes sir. Mr. Michaux said what was your understanding of what the Board of County Commissioners had approved in SP #93-13-A4, which is Exhibit 5? Mr. Hamlin said yes, A4, Exhibit 5, was the County Commissioners belated approval of Section 7 and 9. They, when we went for the Park Way extension, or the rerouting of the Park Way, the Board of Commissioners turned down the approval of Section 7. So in A4 the Board of Commissioners approved the new routing of the Park Way, well the new routing of the Park Way had already been approved, but they approved Section 7 as it now exists in our petition for approval. It was approved by the Commissioners, they said it in their findings of fact, that it was approved. And does the research master plan show access into Section 7 from Carriage Commons Drive? Mr. Hamlin said yeah, technically it shows the stub out at the end of Carriage Commons Drive right on the property line with the notations on all the plats and the preliminary plat that the County Board of Planning Board approved. It shows future development at that stubbed out lot. Mr. Michaux said it also shows access into Section 7 off Carriage Park Way, doesn't it? Mr. Hamlin said yes it does. Mr. Michaux said now it's been said that you wanted to save a few bucks and you weren't willing to do this the right way. What's wrong with the access of Carriage Park Way? Mr. Hamlin said the access off Carriage Park Way speaks directly to the comments that the Board of Commissioners made to me in their commentary on A1. And they said it's a dangerous way to build a road. The fills would be so steep, you'd have so much destruction of land, you'd have a hard time ever getting anything to grow safely up there, and they suggested that that was a bad way to go. And it showed in here going the same way, so I chose not to want to go that way. I don't want to build an unsafe road. Mr. Michaux said and did you look for any alternatives? Mr. Hamlin said yes I did. Mr. Michaux said to the one that's shown on this? Mr. Hamlin said yes I did. Mr. Michaux said what did you conclude about that? Mr. Hamlin said I concluded that I might perhaps be able to go a different direction. But it would require blasting and hydraulic cracking of rock right where all these houses sit in Carriage Commons. I'm deathly afraid of doing anything that would shake someone's home. That would be the only other routing that would work. Mr. Michaux said and that's a risk you don't want to take. Mr. Hamlin said I don't want to take that risk. Mr. Michaux said we also have talked about direct access. What do you consider to be direct access? Mr. Hamlin said my consideration of direct access is a straight shot, no lefts, no rights. Just you get on an access road and you go to a T intersection which is the road you want to access. Straight shot. Mr. Michaux said have you ever made any attempt to conceal the fact that Carriage Commons Drive might be used to access Section 7? Mr. Hamlin said no sir. Mr. Michaux said do you have any recollection of a conversation with Ms. Marsh about, I believe that would have been like 8 years ago? Mr. Hamlin said I do not. Mr. Michaux said did you go back and check your file on the sale to her? Mr. Hamlin said I did. I reviewed her file to see if there was a letter, a comment, a note, a piece of paper or anything at all that would have indicated a conversation. And I have nothing. Mr. Michaux said would there have been any reason for you to tell somebody that Carriage Commons Drive was a dead end that would never go anywhere? Mr. Hamlin said no, not when I'm putting on record plats that show it going forward. Mr. Michaux said what types of buildings are proposed for Section 7? Mr. Hamlin said we are proposing custom high-end duplexes. Mr. Michaux said and Carriage Commons is primarily duplexes with a few freestanding single family? Mr. Hamlin said yes, that is correct. Mr. Michaux said how many units are in Carriage Commons? Mr. Hamlin said 43 proposed, 38 completed, 5 more to go. Mr. Michaux said 43 total and this would be an addition 34 units? Mr. Hamlin said yes sir. Mr. Michaux said when you built the unit, the homes in Carriage Commons, was the median, the landscaped median, there at the commencement of construction? Mr. Hamlin said yes. Mr. Michaux said and was it there at the end of construction? Mr. Hamlin said yes. Mr. Michaux said and do you plan for it to remain there, now and in the future. Mr. Hamlin said yes. Mr. Michaux said we've also talked about residential streets being extended into other development areas? Mr. Hamlin said yes. Mr. Michaux said has that happened in Carriage Park as Mr. Card indicated? Mr. Hamlin said yes. Mr. Michaux said looking at Exhibit 6, now I won't look at it upside down, but looking at Exhibit 6, can you

tell us where a residential street has been extended into another development area? Mr. Hamlin said yes, at the Ponds down at the entrance. Mr. Michaux said and that's to the right at the lake? Mr. Hamlin said that's correct. Mr. Michaux said any other instances? Mr. Hamlin said yes, actually at Governors Pointe we added 3 little cul-de-sacs after Governors Pointe was already in place. So what we did was we actually went in there and actually made one its own development, which is the one next to the clubhouse. But then we added 3 other little cul-de-sacs extending the outreach of Governors Pointe. Mr. Michaux said and were all of those changes approved? Mr. Hamlin said oh yes. Mr. Michaux said I mean you have to seek approval for every change, don't you? Mr. Hamlin said oh yes, absolutely, yes. And the other one is up here at the Summitt. Mr. Michaux said at the Summitt. Mr. Hamlin said yes. Mr. Michaux said and those are all residential streets. Mr. Hamlin said yes. Mr. Michaux said and are there other areas where 18 foot paved roads have been extended? Mr. Hamlin said in, yes, in 18 feet of pavement goes into Carriage Meadows, which has goes through another section. 18 feet of pavement... Mr. Michaux said now that's not a residential street? Mr. Hamlin said no. Mr. Michaux said now I'm not trying to mislead the Board. That's not a residential street. Mr. Hamlin said that's a minor collector road, but it's still 18 feet of pavement. Same will be true in Section 15 and Section 16. Section 15 will have a, it actually will be a divided parkway for a short period of time, then it becomes 18 feet of pavement servicing 66 properties way down in 16 that will come right through 15. So 15 and 16 cohabitate. They go together and they are 18 feet of pavement. Mr. Michaux said as a developer would you expect to be able to sell residences in Section 7 if they constituted some sort of traffic hazard? Mr. Hamlin said no. Mr. Michaux said I don't have any further questions. Mr. Chairman, thank you.

Chairman Phelps said questions of this witness? Ms. Dunnuck said proponent Exhibit 8, just so we're clear. You said that that was on record that there was a future extension. You understand that that was never recorded, correct? Mr. Michaux said I don't believe you ever said it was on record. Mr. Hamlin said no. Ms. Dunnuck said he said it was on record that there was going to be a future extension. Mr. Hamlin said the way in which plats are recorded technically, when you run a street to the lot line and it's stubbed out, and you have to build roads to state standards, and you do not do a turn-around and then you put on the other side of that on the recorded plat, future development, that is the technical signal that you are going forward with that street. It's done in all subdivisions. Ms. Dunnuck said okay, then why was there clarification on the earlier 1994 project summary that had very clear future extension to Section 7 on the unrecorded plat. Why did you, if having the dotted line in the stub is standard and clear to everyone why go through the trouble on the earlier unrecorded plat? Mr. Hamlin said it would not be an unrecorded plat. Are you talking about an unrecorded master plan? Ms. Dunnuck said no sir. I'm talking about proponent Exhibit #8. Mr. Hamlin said oh okay, let me find it. Ms. Dunnuck said the project summary. Mr. Hamlin said excuse me, let me find it. Okay. Ms. Dunnuck said I'm just looking for clarification why on that project summary it was a very clear future extension to Section 7? Mr. Hamlin said um-hum. Ms. Dunnuck said why go through the trouble of having that very clear language on the unrecorded plat and then on the recorded plat, public record, just have the dotted line and no... Mr. Hamlin said that's a good question, thank you, I can answer that. What this exhibit is, your number 8, or our number 8, anyway this one, this is what you have to give to the Planning Board to go and have a hearing. This is called a preliminary plat. It's not ever for recording because you go to the public hearing, you have the comments from the Planning Board, you present your case and then often they'll make you make changes. So once this is approved by the Planning board, the way you see it, and the way they understood it at that time, we then record many plats with the technical information done the way the surveyors have to do it, which shows the dotted line and the stub out of the street and the 6 inch water line and the future development. Ms. Dunnuck said but it wasn't in your opinion necessary to have the clarification on the recorded plats. Mr. Hamlin said well, no you don't have to do that. The recorded plat is very technical. Ms. Dunnuck said because you don't want to, wouldn't it have been easier to have that language on there. Then you wouldn't be accused of making misrepresentations? Mr. Hamlin said no it's not my call. It's the way the surveyors have to create plats during that period of our life doing plats at the County. There's lots of rules on what they have to say. Ms. Dunnuck said and if it was always your intention to extend Carriage Commons Drive from Section 6 to Section 7, why does only one of the research master plans indicate

that that was a possibility? Mr. Hamlin said they all had a stub out there. Ms. Dunnuck said but no arrows. There was an arrow on the 1994 research master plan which made it very clear. A stub compared to an arrow, there's a Mr. Hamlin said well I understand the arrow maybe makes it, maybe as a clarification issue, but technically in the trade you don't need that. Ms. Dunnuck said oh, okay. If you can please, is the big notebook up there? Mr. Hamlin said yours? Ms. Dunnuck said yes sir. Mr. Hamlin said yes. Ms. Dunnuck said if you can refer to Exhibit 5b, there's language in there from amendment #1, Special Use Permit? Mr. Hamlin said okay, I have 5b. Ms. Dunnuck said if you could please read paragraph 30? Mr. Hamlin said relocating the major collector road as proposed in 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 how could there be any confusion over the fact that that amendment requires that every development parcel have direct access to a major collector road? Mr. Hamlin said well it does have direct access. Section 7 is a straight shot to the collector road. Ms. Dunnuck said it says every development parcel and isn't that another development parcel going through? Mr. Hamlin said well, you may say that it is a development parcel going through, but it's a direct access. Ms. Dunnuck said if there was a curve, would it not be direct? Mr. Hamlin said if you had to take a left or a right and go down some other avenue, yes, it would not be direct. Ms. Dunnuck said would you agree that the representation in the Carriage Park marketing materials have emphasized over the years that each development parcel is an individual community and through traffic would not be a problem? Mr. Hamlin said through traffic, I'm not familiar with what you're reading. Ms. Dunnuck said I was trying to avoid making you read, but if you can turn to Exhibit 1. Mr. Hamlin said on yours? Ms. Dunnuck said yes. If you can read the highlighted sections of the first couple of pages, that would be great. Mr. Hamlin said a master one. They created a parkway feeder road system with no individual driveways off this road. They created 24 individual neighborhoods, each with restricted automobile traffic flow and each with a very special architectural identity. The Carriage Parkway is planned to be a continuous loop road system circling around the entire development. It will provide ingress and egress for each private neighborhood. This is a private planned community not a subdivision. And that means you don't get subdivision traffic. Or noise. Instead, what you do get is a community of small villages designed for living. This is a place where people actually walk and stop to chat with their neighbors. Mr. Michaux said what is your question about this? Ms. Dunnuck said well I asked him a general question. Is it a fair statement that throughout the years all the marketing materials from Carriage Park have promoted that idea of individual communities with direct access to the major collector roads? Mr. Hamlin said well the topographic constraints, which I just pointed out earlier, requiring a massive fill and a scarring of an entire hillside and creating a potentially unstable road system, has to be ameliorated when you're dealing with steep ground like this. And from time to time, we've already pointed out, we have gone through other neighborhoods. Ms. Dunnuck said are you answering the question I asked? Mr. Hamlin said yes. Ms. Dunnuck said you mentioned the Ponds as another example of a community that was feeding off of. Isn't it true that that is just 2 phases of one community? Mr. Hamlin said well it's the same architectural guidelines for those 2 neighborhoods but I didn't have the second piece of that approved when I built the ponds, phase 1 or the Ponds. And I had to just then, it took me 10 years to buy an easement from somebody. Finally bought the easement and then I went to the Planning Board and I said I want to add on to this section. Ms. Dunnuck said were the residents in phase 1 aware of phase 2? Mr. Hamlin said I don't remember. Ms. Dunnuck said are any of the examples that you were pointing to in which one development parcel has been accessed through another development parcel, was there an example where there was an existing 10 year old, well established, original development parcel that all of a sudden had everything uprooted with no knowledge that the adjacent property was going to be accessed through their neighborhood? Mr. Hamlin said no, I mean this is not a 10 year old, I don't have any other, other examples that would precisely mirror what you're asking me, no. Ms. Dunnuck said okay. No further questions.

Chairman Phelps said are there further questions of this witness. Chairman Phelps said I have one or two, Mr. Hamlin. What percentage of the houses of the total to be sold out there have been sold, have been completed and sold. Mr. Hamlin said have been completed, close to 50%. Chairman Phelps said so half sold and, I guess curious, it seems this has caused a great deal of distress among at least a

good portion of the 50% that's been sold, is this a concern going forward trying to sell the remaining 50%? Mr. Hamlin said that all these people are concerned? Oh yes. I hate the idea that they think they were blindsided and didn't know this. I mean, I've been very open about all of the recorded documents and all of the stuff that's on record at the Planning Board. And never did I expect this level of unhappiness and I hate it because I don't want that for the families. I don't want it for the future of Carriage Park. I need to get into that land somehow and I can't do it in a dangerous way. I don't want to take a chance. Chairman Phelps said have you had meetings to try to mitigate their concerns? Mr. Hamlin said I know I, actually when they got counsel, I, you know I'm kind of prevented from having a neighborhood chat. I would love to sit down and work something out with them, but when there's lawyers involved, I'm supposed to steer clear and deal with that issue through the legal process. Chairman Phelps said any other questions? Thank you sir.

Chairman Phelps said does that conclude your rebuttal evidence sir? Mr. Michaux said yes. Do you have any closing remarks at this time? Mr. Michaux said no I guess I'll wait and close, if that's all right. Chairman Phelps said that's fine.

Ms. Dunnuck said connecting the 2 development parcels of Section 6 and Section 7 is contrary to the entire development scheme of Carriage Park. Contrary to the developers representations to Henderson County as well as the residents in Carriage Park. The applicant did not follow the proper procedure to institute the significant change to the approved development parcel. The applicant should have submitted a revised master research plan and an amendment to the Special Use Permit. Not submitting a revised master plan and amendment to the Special Use Permit conflicts with the requirements of the Special Use Permit, the Zoning Ordinance, and the Subdivision Ordinance. According to the latest master research plan and every other master research plan except for the 1994 plan, which indicated 2 entrances, both Section 6 and Section 7 would have direct access to a major collector road. And the master research plans indicated that the buffer zones between the 2 sections would be between 112 and 150 feet. There is obviously significant opposition to this proposal among the residents in Carriage Commons as well as Carriage Park. The applicant has made numerous representations, written and oral, that every development parcel, including Carriage Commons, would be an individual community and have direct access to the Carriage Park Way. Residents in Carriage Park like the idea of no through traffic in an individual community and they purchased their residence based on that idea. We've heard tonight that Carriage Commons Drive is very narrow and cannot handle the increased traffic related to the construction vehicles as well as the later increased traffic related to the 34 additional town homes. There are serious safety risks involved. The proposal of extending Carriage Commons Drive is detrimental to the public welfare and the quality of life and the safety of the property owners in Carriage Commons Drive. And there are serious concerns that would adversely affect their property values. Based on the proposed development plan for Section 7's conflicts with the Special Use Permit, the Zoning Ordinance and the Subdivision Ordinance, I would ask that the Board deny the applicant's appeal for approval of development Section 7. Thank you.

Mr. Michaux said first of all I would like to thank you all for your time. I know that none of you're paid. I've been before lots of Boards of Adjustment and I've found them to be very conscientious and very attentive, and I for one am very appreciative of your commitment to be here tonight. This is the age old argument that you always have in property rights, the rights of the developer versus the convenience of somebody who already owns a home in the neighborhood. It's a prime example, we run into it all the time. I think, first of all, that the documentation, and you can't ignore the 1999 plan, that was approved by the board of County Commissioners when they approved the realignment of Section 7. And they specifically referred to that plan that shows 2 access points into Section 7. You've heard testimony that 1 of those access points is absolutely unworkable due to the terrain and there is no testimony to the contrary. The only reasonable means of access in to Section 7 is Carriage Commons Drive. Just as you couldn't access the additional property added to the Ponds. There has been no testimony whatsoever from anybody to say that Carriage Commons Drive, an 18 foot paved road, cannot accommodate the traffic from the additional 34 units that will be built. None. Now there are lots of fears, lots of fears. It's an emotional problem and people believe very strongly that they're in real

danger. But there were no accidents when they built the remaining 25 units after Mr. Welty bought his unit. And we're only talking about 9 more units than what was added after he bought. So it's an emotional issue. There's no testimony that anything was torn up with construction traffic, that there were any accidents, that people were afraid. It was expected. And now what you have is a group of people who, rightfully so, are very comfortable in their surroundings and they don't want any change. And there's no basis for that other than the fact that they don't want it. And all of the documentation that I have seen indicates that this road was subject to being opened for additional development. The recorded plats, the later research plans, the sketch plan that was approved by the Planning Commission, and I agree it is a direct access. I mean you don't have to weave around through other neighborhoods and do all that to get there. It's a process of development over a number of years and you all have had to deal with issues from time to time that are very similar to this one. But I think the evidence and the documentation clearly supports the position that your Staff took initially. And I ask you to approve the permit. Thank you.

Chairman Phelps said are there any other closing remarks. Staff have any closing remarks. Mr. Card said no. I'll ask for Board discussion. Now the evidence has been presented, the closing remarks have been concluded, it would be appropriate now for the Commissioners to discuss the issues presented today. We can either meet and vote today, directing Staff to bring back findings of fact and conclusions consistent with the decision to a future meeting of the Board for our review or we can continue our discussion and decision to a later date. I remind the Board however that the Board must issue a written within 45 days of the conclusion of the hearing. I will entertain a motion to go out of public hearing. Mrs. Pouch seconded. Mr. Engel said moved and seconded. Chairman Phelps said moved and seconded. All in favor? All voted in favor. Chairman Phelps said we are now adjourned.

Associate County Attorney Zambon said if I could say something before you start. I would strongly suggest to the Zoning Board that when you're talking about the facts of this case, you do it fairly generally, and if you want to decide any sub determination, such as what kind of road is required or what direct access means, that would be fair. But in terms of more specific fact finding, I would advise you to allow Staff to do and then bring an order to you and that your main task for tonight would be to determine whether you're going to reverse the Planning Board's decision and allow the development or you're going to uphold the Planning Board's decision. And then Staff can write the order up for you and bring it to the next meeting for you to approve or vote on.

Chairman Phelps said thank you, that's good. Okay. Comments? You heard Sarah, we can discuss aspects or we can go straight to yea or nay, uphold or reverse. How are you feeling? Further discussion? Would you like to go over various issues or we can go strictly either uphold or reject? Mrs. Pouch said we can uphold the Planning Board's decision or reject it. Chairman Phelps said right.

Associate County Attorney Zambon said right and you can also talk about some issues. I was just advising the Board that you might not want to get into the particular details of this case and allow Staff to handle that in the order. Chairman Phelps said as far as the roads? Associate County Attorney Zambon well no, just if you want to talk about it in pretty broad general terms. You can talk about what direct access is and stuff like that, but instead of getting into real minutia and real specifics or fact finding. Chairman Phelps said to be sure to speak into the mike or our secretary's going to have a time trying to transcribe. One observation I think, we are in the mountains and the mountain heritage of landowners and the principle of what they do with their property is probably more of an issue in the mountains than in the coastal plain. Mrs. Pouch said I think so. Chairman Phelps said I'm just trying to consider all angles and see where you, if there's any questions or any aspects that we haven't heard that you would like to hear further evidence or further comments on. Do you feel comfortable with where we are at this point in making a decision?

Mr. Caldwell said in the broad general context I don't see too much further, really. I personally don't see anything further that needs to be aired at any length.

Mr. Engel said well we've all been out to the site too and we have looked at it as well. So between that and what's been presented to us, we can come up with a conclusion on it. Mr. Caldwell said that's my feeling also. Mrs. Pouch said well the Staff did approve this before the Planning Board rejected it? Mr. Card said Staff made a recommendation to the Planning Board. Chairman Phelps said remind me what that recommendation was. Mr. Card said the recommendation was for approval based on the conditions that were found in the memorandum. Staff basically made a recommendation the Planning Board and it was for approval based on the conditions that were in Staff's memorandum to you tonight.

Mrs. Pouch said where are the Board's findings of facts? Chairman Phelps said Natalie we are looking for the Board's findings of facts in the package.

Chairman Phelps said as I understand from the Staff again, Mr. Card, the Planning Board disagreed with your recommendation? Mr. Card said that is correct.

Mrs. Brown said the topography has not changed any, so what concerns me is that if it is so dangerous to build that road right now, why was that not noted 10 years ago or 14 ago? I mean it's still the same. And the thing that concerns me also is not the traffic from the additional houses, but the logging trucks, etc. because when you are building those remaining homes in Section 6 were there a lot of logging trucks going in and out? I'm not really asking for an answer, I'm just saying what I'm thinking. So those are 2 things that are kind of bothering me at this moment. And tell me if I'm wrong.

Associate County Attorney Zambon said she just wants to remind the Board that they are in closed hearing right now. Mrs. Brown said I wasn't asking them just questioning myself. Associate County Attorney Zambon said I know. Chairman Phelps said talking among ourselves and thinking out loud, trying to come to the best decision that we possibly can.

Chairman Phelps said I can understand the concern over direct access, my unprofessional opinion. When you say direct it means if I've got a neighborhood it has a straight shot access to it. Obviously, having been there at the site, it's obvious it has to go through existing site, definition of straight, have to make a right turn, other issues. I think it just boils down to do you allow and uphold the rejection or do you go with the Planning Board and turn it down and allow the road.

Mr. Engel said I did notice some of the driveways coming off of that access area were very steep and very close to the road. So it could cause difficulty as far as cars backing out if there's any additional traffic. I wouldn't want to negotiate it myself. Chairman Phelps said I did notice in one of the pictures, when you do back out you're up against somebody's mailbox. Mr. Caldwell said it just doesn't seem to me that direct access into 7 through 6 is in any manner in keeping with the harmony or the intent of which this particular Carriage Park seems to have been established on. It just doesn't keep in the concept, and I think that's the thing I hear from everybody I've listened to, in a broad, general term. And it certainly is not a safe access, it wouldn't appear to me. Chairman Phelps said well I think it worsens from a safety standpoint and there are no sidewalks. And it's advertised as a walking community, yet they have no sidewalks. Mr. Caldwell said I think 18 foot could be a red herring there. Chairman Phelps said so that forces you into the street or you're walking in somebody's yard. So from a safety and security issue, with traffic increased a certain period of time could be a concern. Mrs. Pouch it's true but we don't to prevent someone from making a profit or using his property either. Chairman Phelps said that's right they have the right to develop it and maximize the full potential and profit. But on the other hand someone's lack of proper planning should not be the cause of crisis for someone else. It does raise the question that this has been going on for 12 years, if I'm planning and even if I'm adding additions to, am I constantly upgrading my plan, updating it, keeping it current, and is it in keeping with the original concept. Mr. Caldwell said spirit and concept in what you're trying to do. Chairman Phelps said I guess I'm struggling with all the issues here to be completely fair.

Mrs. Brown said and it's not as if there is no other way into there. There is, more expensive way and having family members that do that type of work, I wouldn't want my nephew on that steep grade, but

that's totally beside the point. The point is this is a neighborhood that's going to have all these big trucks, these logging trucks and stuff going right down. And maybe it is 18 feet wide, but it looked kind of scary to me in certain places. I just think it would be a totally different question to me if there were absolutely no other way to develop this parcel of land. Chairman Phelps said from what I heard it would require a lot of fill and blasting, is the environmental issue that I really didn't hear addressed, that might cause a problem, you know, from going that way, versus the environmental issues from going this way. So obviously we've got a difference of opinion between the Staff recommendation and the Planning Board. And we're the appeal process, so here we are.

Mrs. Pouch said make a decision. Chairman Phelps said I'll entertain a motion. Associate County Attorney Zambon said the appropriate way to make a motion on this matter would just say I move that either, these are your 2 options really. I move that we uphold the ruling of the Planning Board and deny the appeal or I move that we reverse the Planning Board's decision and allow the development is the way you would phrase both of those.

Mrs. Pouch said I move that we uphold the decision of the Planning Board. Mr. Caldwell said I would second that. Chairman Phelps said we have a motion that's been made and seconded to uphold the decision of the Planning Board. Is there discussion on the motion? Are you then ready to vote? Call the question.

Chairman Phelps called for a vote by show of hands.

Mr. Engel	Yes
Mrs. Brown	Yes
Mr. Caldwell	Yes
Mrs. Pouch	Yes
Mr. Phelps	No

Chairman Phelps said we have a decision of 4 to 1 to uphold the decision of the Planning Board. So at this point we will close our closed session.

COMMITTEE AND STAFF REPORTS: None

OLD BUSINESS: None

NEW BUSINESS:

Ms. Berry said the Board needs to address the next meeting dates. There was no problem with the November meeting being on November 29, the week after Thanksgiving. The December meeting is December 27, 2 days after Christmas. The Board decided to move the December meeting to the first week in January on Wednesday, January 3, 2007.

There being no further business, Mr. Caldwell made a motion to adjourn and Chairman Phelps seconded and the meeting was adjourned the meeting at 8:00 PM. The next meeting is Wednesday, November 29, 2006, at 4 PM.

James Phelps, Acting Chairman

Joyce Karpowski, Secretary