

DORCHESTER COUNTY
Board of Zoning Appeals
MINUTES
January 27, 2015
6:00 PM

Pursuant to the Freedom of Information Act, The Summerville Scene and The Eagle Record were notified and a notice was posted on the bulletin board in each building prior to the meeting.

PRESENT: Mr. Herman Dwight– Chairman
Mr. Don Couto
Mr. Brian Johnson
Mr. Sammie Reeves
Mr. Mike Murphree
Mr. Westbury - Absent

PLANNING STAFF:
Mr. Alec Brebner
Mrs. Jennifer Cook

I. INVOCATION:

The invocation was given by Mr. Johnson.

II. MINUTES:

A. August 26, 2014

Mr. Brebner requested to postpone discussion for the February 24, 2015 meeting.

B. September 23, 2014

Chairman Dwight asked if anyone had taken a look at the September minutes. There was a motion to approve by Mr. Johnson and Chairman Dwight asked for a vote. The vote was unanimous to approve the September minutes.

III. NEW BUSINESS:

A. Nomination and election of Chairman

B. Nomination and election of Vice Chairman

Mr. Reeves motioned to leave the positions the same, Mr. Dwight as Chairman and Mr. Couto as Vice Chairman. Mr. Murphree seconded the motion and the vote was unanimous for Mr. Dwight as Chairman and Mr. Couto as Vice Chairman.

C. Adoption of Schedule, Feb. 2015-Jan. 2016

Dates: Chairman Dwight stated that the meetings in November and December worked out well last year with the holidays and asked that they remain the third Thursday this year. Mr. Murphree motioned for the dates to be approved and Mr. Johnson seconded. The vote was unanimous for the dates of the meetings.

Location:

Vice Chairman Couto stated he could not make the meetings in St. George due to the lateness. Mr. Reeves stated that most of the appeals are up in the St George area. Mr. Murphree suggested that an open date scheduled be a floater if the location needed to be changed to St. George. Mr. Johnson mentioned locking in the August date and still have a floater. Mr. Brebner explained with posting and printing timelines at any given future meeting the board can change the date or location of upcoming meetings. Mr. Murphree motioned for February, April, and August meetings to be in St George with any future date as a possible floater. Mr. Johnson seconded the motion and it was unanimous for the scheduled locations of the meetings.

IV. **Report of the Chairman**

Mr. Dwight apologized for missing the last meeting and thanked the board for a great job they are doing.

V. **REPORT OF ZONING ADMINISTRATOR**

- A. Continuing Education immediately following adjournment. Mr. Brebner needed everyone to stay late for the continuing education.
- B. Updates on previous cases. Mr. Brebner let the board know that the Mudplex appeals still continues.

VI. **ADJOURN**

Mr. Johnson motioned for the meeting to be adjourned and Mr. Murphree seconded. Mr. Dwight adjourned the meeting at 6:30 pm.

DORCHESTER COUNTY
Board of Zoning Appeals
MINUTES
March 24, 2015
6:00 PM

Pursuant to the Freedom of Information Act, The Summerville Scene and The Eagle Record were notified and a notice was posted on the bulletin board in each building prior to the meeting.

PRESENT: Mr. Herman Dwight– Chairman
Mr. Don Couto
Mr. Brian Johnson
Mr. Mike Murphree
Mr. Westbury

Absent: Mr. Reeves
Mr. Coutant

PLANNING STAFF:
Mr. Alec Brebner
Mrs. Jennifer Cook

I. INVOCATION:

The invocation was given by Mr. Westbury.

II. MINUTES:

A. Minutes from January 27, 2015

A motion was made by Mr. Murphree to approve the minutes and Mr. Johnson seconded the motion. The vote was unanimous and the minutes from January 27, 2015 were approved.

III. APPEAL DECISION OF ZONING ADMINISTRATOR

Applicant and Property Owner: Mr. Terry Carroll

Location: 141 Little Toot Lane

Dorchester, SC 29437
TMS# 050-00-00-140

Mr. Brebner presented the staff report. Mr. Carroll obtained building permits in 2003. These were to set up mobile homes on the property. The houses were moved on the

property, the county gave them addresses but Mr. Carroll never set the homes up. The appeal in this case is one house per parcel in the AC (Absence of Controls) zoning district. Mr. Brebner stated the staff welcomed the challenge to more than 1 dwelling per parcel. Mr. Brebner went over codes in the staff report. In 2003 the County was operating under the old ordinance and in 2004 a new zoning ordinance came about. Then in 2008 the county added a reference to article VII. Mr. Brebner explained section 7.2.4 was overlooked in the ordinance and does apply to the Absence of Controls zoning district. Mr. Brebner stated he would argue that. Mr. Brebner then went over article X and quoted 10.4.4(k) One mobile home per lot, which is not referenced in Absence of Controls district. Mr. Brebner stated it makes it hard for the staff to review and this is the consequences of this one house per parcel. Mr. Brebner asked the Board to assist in making the decision and to discuss.

Mr. Dwight called Mr. Carroll up to the podium and he stated he was there to explain his story. Mr. Carroll stated at the time he bought the property he thought he could have up to 5 mobile homes, this was in 2003. He was told he would have to obtain addresses for the three mobile homes he was setting up. Mr. Carroll stated that Ms. Barbara Dease came out to his property to see the set up and to give him addresses. So the mobile homes have been there but not set up. Mr. Carroll stated he thought everything was fine and he was cruising along, trying to pay off his land. Then when he came in to apply for a permit and was told he would have to subdivide is property. He then stated his financial institution would not allow him to do that. He then state this is why he is appealing to the board . Mr. Carroll has obtained a demo permit for the mobile home at 147 Little Toot Lane and has sold the others. He wants to put a double wide in the location of the three showing. Then in the future build a house. Mr. Carroll stated the bottom line is he feels he should be "grandfathered in". Mr. Carroll referenced the timeframe between the time (2003) he brought the property to when the ordinance changed in 2008. He reference the huge gap between the dates.

Mr. Dwight asked Mr. Carroll if he remembered coming in front of the board in 2003. Mr. Carroll stated he had never been in front of the board and answered no. He asked how many permits he had obtained Mr. Carroll responded 3 in 2003. Mr. Dwight asked how many mobile homes were on the property. Mr. Carroll responded 5 but only 3 had electric and 2 were not tied down. Mr. Carroll asked if he could Present paperwork from 2003 and all other documentation.. perk permits, addresses, tax notices that had been going to those trailers that he was paying.

Mr. Couto asked about where the road was on the property. Mr. Couto explained about having a working road with rocks so emergency vehicles could get to the homes and what was there now wasn't a road. Mr. Carroll explained the road had been there since 2003. Mr. Murphree asked if it was a private or public road. Mr. Couto then explained about road creating.

Mr. Westbury asked how could they "grandfather" something in the county if it wasn't there. Also if they "grandfathered" it in with this situation others in the county will want to be. Mr. Brebner spoke about another situation they were involved with right now with a parcel with three mobile homes on it. Two of the homes are "grandfathered" in, the neighbors are not happy about it. Mr. Brebner showed the board a picture of the parcel. He pointed out one would be sewer and two will have septic tanks.

Chairman Dwight told the board to keep in mind when making a motion what Mr. Brebner has presented, user group 5, and the permit expired.

Mr. Carroll said it never crossed his mind that the permit expired. Mr. Carroll said setting up the homes never entered his mind. He thought since the lots were in place all was Ok. Mr. Murphree asked about family subdivision. Mr. Carroll said his mortgage company will not let him subdivide. Mr. Carroll also stated that back in 2003 five mobile homes were ok on the property.

Mr. Couto stated that Mr. Carroll has three mobile homes with no septic tanks being removed. Mr. Couto reminded them about no work or inspections signed off and the expired permits.

Mr. Murphree stated that they cannot fix something 12 years ago, that they need to work with what they have now unless they wanted to go back to 2003.

Mr. Couto made a motion to deny the variance request due to expired permits. The work not completed or inspected. There is not a proper road to the property as well as article XXV would be effected. Mr. Westbury then seconded the motion. The vote was unanimous to deny the variance request.

V. REPORT OF THE CHAIRMAN

Chairman Dwight thanked the members who attended the SCAPA workshop. He also mentioned the new calendar for 2015 was placed in front of them.

VI. REPORT OF ZONING ADMINISTRATOR

Mr. Brebner also thanked those who attended the conference and let the others know he would find time for their continued education.

VII. PUBLIC COMMENT

Fred Warner introduced himself. He stated that they are opposing the Dollar General. Mr. Warner stated he wanted to invite the board to their home to see how it will in fact effect their lives. Mr. Warner then introduced the rest of the audience to the board. Chairman Dwight thanked him and then asked there was anyone else?

Mr. Tim Murray from Murray sign company stepped to the podium to expressing issues with the special exception. Mr. Murray told the board he had been on this months agenda but the deal had fell through along with several others due to this special exception issue. He wanted to know if it had been before the board today what would the board had voted? He feels the ordinance is scaring off his buyers. Chairman Dwight stated that every case is different and they would have to hear all of it, both sides. If case would have to be heard on its own merit.

Mr. Dwight then informed the board that there will be a special called meeting for April 7th at 6 pm in Summerville.

VIII. ADJOURNMENT

The motion to adjourn was made by Mr. Murphree and then seconded by Mr. Westbury. Chairman Dwight adjourned the meeting.

DORCHESTER COUNTY
Board of Zoning Appeals
MINUTES
April 7, 2015
6:00 PM

Pursuant to the Freedom of Information Act, The Summerville Scene, The Eagle Record and Post and Courier were notified and a notice was posted on the bulletin board in each building prior to the meeting.

PRESENT: Mr. Herman Dwight– Chairman
Mr. Don Couto
Mr. Brian Johnson
Mr. Mike Murphree
Mr. Westbury
Mr. Reeves

Absent: Mr. Coutant

PLANNING STAFF:
Mr. Alec Brebner
Mr. Tim Macholl
Mrs. Jennifer Cook

I. INVOCATION:

The invocation was given by Mr. Johnson.

II. APPEAL DECISION OF ZONING ADMINISTRATOR

A. Special Exception requesting authorization of a commercial use in an Absence of Controls District (AC).

Applicant: JR Lex II, LL
Property Owner: Willard Lee
Location: 1052 Hwy 78
Ridgeville, SC 29472
TMS #087-00-00-024

The Dorchester County Zoning and Land Development Standards, Ordinance #04- 13, Under Article IX, Section 9.1, Subsection 9.1.3.2, lists Use Group 8: Primary Retail as a Special Exception Use.

Mr. Brebner presented the staff report to the board. Mr. Brebner pointed out to the board that the property across the street is zoned Industrial and the location is approximately one mile from Interstate 26. The staff recommends, since relative to the comprehensive plan, approval of the proposed Special Exception request for a commercial use in the Absence of Controls (AC) district.

Chairman Dwight asked when the County Council had turned over the zoning and Mr. Brebner said 2010. Chairman Dwight then asked if the applicant was there.

Mr. Robbie Wilkins introduced himself as the developer. He spoke about working with the community to appease all involved. Mr. Wilkins offered to turn the store in a different direction if need be. He also stated the buffer would have 30 plus trees and privacy fence. He told the board he was willing to do anything that was required to make the project work.

Chairman Dwight then asked if there was anyone else there to speak for or against the project. Mr. Fred Warner, Ms. Michelle Herndon and Ms. Sara Warner came to the podium to speak. Ms. Warner introduced herself as Mr. Warner's attorney, she is also the daughter of Mr. Warner. Ms. Warner explained that the Dollar General will only be 119 feet from her parent's house. That is from corner of the house to store. Ms. Warner then brought to the board's attention that the signage did not represent the property properly. She also continued on about nothing was sent out properly for notification. Mr. Warner said he received two plats when he came into the office and asked for them. Ms. Warner then continued on about parking, stating that it did not comply with Dorchester County ordinance. Instead of 30, it should have 46 spaces. Ms. Warner continued on about the loading dock when in use would be blocking the drive of a residence and emergency vehicles could not get to the home if needed. Ms. Warner then stated the loading dock itself is too small according to the ordinance.

Mr. Warner stated there was no traffic study conducted. Also he was concerned about construction and the drainage situation while constructing. Mr. Warner also stated there was no water out there, and if there was a fire, what would happen? Ms. Warner stated that their quality of life would be affected. The construction of the store within 90 days is an issue. Will they be working all hours of the night? Mr. Warner also asked about truck parking overnight; the air brakes and engine noise would be a problem. Ms. Herndon also spoke about having a two-story house and the building will be 17' tall with a fence that will only be 6' tall. Ms. Warner stated that Mr. Brebner noted there would be nothing about the roof line and the HVAC units will be. Then Ms. Warner gave Chairman Dwight a petition with over 200 signatures. Chairman Dwight asked if they were signatures of people in the neighborhood. She stated there is no neighborhood. He then asked if they were from the area. She stated Dorchester County mostly.

Mr. Couto asked Mr. Brebner about clarification on the water ordinance that the Warners stated the store would tie into their well and use the existing septic tanks.

Mr. Brebner read Ordinance 04-13 Section 21.11 #2 letter E. The ordinance that the Warners supplied to the board.

Ms. Janet Herndon read a written letter to the board and gave them each a copy. Her concern was the litter issues and noise levels, her in-laws worked shift work.

Ms. Theresa Herndon Breaker also read a written letter which she gave to the board and spoke about her 86-year-old mother who lives next to the property. She spoke of her mother's safety.

Byron Herndon, brother of Michelle spoke about concern for his mother and safety for the children that ride their bikes and play on their property.

Reverend Smith came to the podium and spoke in favor of the Dollar General building in Ridgeville. He spoke about people in his congregation who were unemployed and this would create job opportunities. He stated it would be a good thing for the community and he is remaining hopeful that everything can be worked out.

Mr. Pratt, the real estate agent, stated the property was on the market for 4 ½ years and he had reached out to numerous businesses to purchase the property. He also stated he had mailed out flyers to the community because he felt it was a good thing. He also said that the Mayor of Ridgeville had wanted it in Ridgeville but he thought the mayor was pleased with the outcome. Mr. Pratt said he didn't want to speak for the Mayor.

Ms. Warner then asked if she could show the board some pictures they had taken. Mr. Brebner installed the drive and posted the pictures. She showed the overnight truck parked and a picture of a used hypodermic needle in the parking lot. It seemed like the rest she showed were like the ones they had mailed out.

While Mr. Brebner was loading the pictures Chairman Dwight addressed the situation and zoning in the past. Nobody would come out to the meetings so their hands were tied. He stated there are some things we can do in God we trust and some things we can't do.

Mr. Mark Rouse approached the podium to address the Chairman's remark. He said he was there to support the Herndons. Then said he thought that was why they were there because of zoning and they cared about the community. They cared about the noise, light, water, safety and pollution. They cared about the quality of life and the negative impact on his friends and the community.

Mr. Westbury asked the zoning across the street, and Mr. Brebner stated Industrial; it's the industrial park. Mr. Murphree asked if it was part of the comprehensive plan.

Mr. Brebner asked Chairman Dwight if he could give clarification of the process the Dollar General will have to complete. Chairman Dwight gave Mr. Brebner the floor.

Mr. Brebner stated this is only one step the first step of the process. Once this is done there will be a Technical Review Committee (TRC) meeting and other departments will be notified. Stormwater will have to be approved; the developer will have a pond on the property. Mr. Brebner addressed the litter situation and said if a complaint is submitted to the office, code enforcement will address it. Law enforcement is seven miles down the road. The Dollar General will have the same setbacks as a commercial zoned property, 50 feet. Mr. Brebner could not speak on construction of the building and when they could work; however, this is a standard procedure for the Board of Zoning Appeals to say if this is an appropriate use for this location.

Mr. Warner took the podium again and asked about parking and why they can't wait until the infrastructure is built in about a 1 ½ years. A Mr. Carl Schultz asked if it was in a TOD area shouldn't there be a 20 foot buffer between properties? Mr. Brebner explained the buffer and landscaping.

Mr. Wilkins stepped back up to the podium to address several topics and answer some questions. DHEC will require them to drill a well for public water. The Dollar General on a normal day will only use less than 100 gallons a day. If DHEC does not approve the existing septic tanks then we will drill into the sewer system. If the landscaping does not meet their needs the developer will work with them on this. They can flip the store around if they wanted. The Dollar General will work out anything with the Planning Staff and neighborhood.

Mr. Couto asked about the fence with trees were they in front or behind the fence? They can put them either way. Mr. Wilkins said there would only be two deliveries in a week depending on volume.

Mr. Brebner explained to the board that they can limit things for the Dollar General or the neighborhood. For example the hours of operation, delivery times, and trash pick up times and truck parking. Mr. Wilkins spoke up and said that the HVAC has blocks around them that muffles noise and hides them from sight.

Chairman Dwight closed the Public comments and spoke that the board should entertain a motion for discussion. He also reminded them that they can change areas, design standards, buffer design, hours for pickups and hours of operation.

Chairman Dwight told the board to entertain a motion and be mindful of staff, neighbors, and criteria.

A motion was made by Mr. Murphree to follow with the Special Exception for commercial use at the staff's recommendation. Mr. Couto seconded the motion. The discussion was started for additional parts to the motion to be agreed upon.

The first was overnight parking. Mr. Murphree motioned for NO overnight parking and Mr. Couto seconded the motion. The vote was unanimous for the amendment with one abstention (Reeves).

Debris and trash, deliveries: Mr. Murphree moved for that activity to be done during business hours and deliveries done during the time of 8 am to 8 pm. Mr. Murphree made a motion for the above amendment and Mr. Johnson seconded it. The vote was unanimous for amendment with one abstention (Reeves).

Next, Mr. Murphree suggested increasing the buffer vegetation. He suggested it be increased to 140% more plants, trees etc. Mr. Brebner sought clarification of location: side or within the TOD. Mr. Murphree said both and clarified 140% of total required, a 40% increase. Mr. Murphree made the motion for the amendment and Mr. Couto seconded it. The vote was unanimous for the amendment with one abstention (Reeves).

The next topic for discussion was construction hours. Mr. Johnson suggested limiting the hours of construction to 8 am to 5 pm, Monday-Friday. Mr. Westbury ask what if someone had to do something strictly on a Saturday? Mr. Johnson amended his motion to reflect construction hours would be 7 am to 7 pm Monday-Friday. Mr. Couto seconded the motion. The vote was unanimous for the amendment with one abstention (Reeves).

The last motion Mr. Murphree made was to have the Dollar General folk participate in the commercial design standards if available. The motion was seconded by Mr. Couto and the vote was unanimous for the amendment with one abstention (Reeves).

Chairman Dwight then asked for a vote on the main motion with all amendments. The vote was unanimous to grant the special exception with all amendments.

III . **REPORT OF ZONING ADMINISTRATOR**

Mr. Brebner introduced Mr. Tim Macholl to the Board. Mr. Macholl will be handling the special exceptions and commercial issues.

IV. **PUBLIC COMMENT**

Mr. Warner came up to the podium and stated the issues with the driveway being blocked and emergency vehicle not getting by. He also suggested vegetation at volume.

V. **ADJOURNMENT**

Mr. Johnson motioned to adjourn the meeting and Mr. Murphree seconded the motion. Chairman Dwight adjourned the meeting at approximately 8:10.

DORCHESTER COUNTY
Board of Zoning Appeals
MINUTES
April 28, 2015
6:00 PM

Pursuant to the Freedom of Information Act, The Summerville Scene and The Eagle Record were notified and a notice was posted on the bulletin board in each building prior to the meeting.

Present: Mr. Herman Dwight– Chairman
Mr. Johnson
Mr. Westbury
Mr. Reeves

Absent: Mr. Murphree
Mr. Coutant

Planning Staff: Mr. Alec Brebner
Mr. Tim Macholl
Mrs. Jennifer Cook

I. INVOCATION:

The invocation was given by Mr. Westbury.

II. MINUTES:

A. Minutes from August 26, 2014

A motion was made by Mr. Westbury to approve the August 26, 2014 minutes and Mr. Johnson seconded the motion. The vote was unanimous to approve the minutes.

B. Minutes from March 24, 2015

A Motion was made to postpone discussion of the March 24, 2015 by Mr. Johnson and Mr. Reeves seconded the motion. The vote was unanimous to postpone the discussion of the March 24, 2015 minutes.

C. Minutes from April 7, 2015

A motion was made by Mr. Johnson to approve the minutes and Mr. Reeves seconded the motion. The vote was unanimous and the minutes from April 7, 2015 were approved.

III. VARIANCE REQUESTS, SPECIAL EXCEPTION APPLICATIONS

Special Exception requesting a Commercial Use (Mud Bog Venue) in an Absence of Controls (AC) District.

Applicant: Stanley Gruber
Property Owner: Mildred D. Gruber
Location: Old Bell Road/Bluebird Trail
St. George, SC 29477
TMS# 080-00-00-035

Mr. Brebner presented the staff report to the Board. Mr. Brebner explained the property consist of 80 acres and showed that the activity would or has taken place at the northern end of the parcel. Mr. Brebner explained the applicant supplied answers to the 30 questions for the Special Exception. Mr. Brebner also explained the staff has gone through the 30 questions. Mr. Brebner pointed out that Mr. Gruber has already had his first Mud Bog. Mr. Brebner explained that this could be a good situation for the decision of the Board. There have been no complaints from surrounding neighbors to our knowledge. Then keeping with the comprehensive plan it is located adjacent to Polk Swamp. Mr. Brebner explained that he contacted the Army Corp of Engineers who went out to the property and met with Mr. Gruber. The staff had also contacted emergency response and they gave no response to the situation. The access road is a direct entrance to his parcel and no private property has to be crossed. Mr. Brebner also told the Board that Mr. Gruber has stated no lights will be erected and hours of operation will be 10 am to 6 pm. He will have no more than 8 to 12 events per year, with 5 events already scheduled for this year. Mr. Brebner stated it would be fenced and locked when not in use. Mr. Brebner also stated that parking would not be an issue and the county will wave the county parking requirement of paving.

Mr. Brebner concluded that the staff recommends approval based on what the applicant has proposed, no lights and hours of operation. This including the county waiver for the parking requirements.

Chairman Dwight instructed Mr. Gruber to step to the podium. Mr. Gruber said he was starting this business to supplement income from his farm. Mr. Gruber stated he felt like it was a great opportunity and created the atmosphere. Mr. Gruber said he purchased insurance and had already invested a lot of money to get this business to work. Mr. Gruber told the board that he had hired two off duty police officers for security and high school students to help with parking. He had portable toilets for rider convenience. Also available were bulldozers and tractors available to pull anyone out who would get stuck.. Mr. Gruber stated this was no competition

and was strictly for pleasure.

Mr. Johnson then asked Mr. Gruber if he had installed the felt fencing as suggested by the Army Corp of Engineers. He replied yes but has already taken it down because he didn't need it anymore.

Chairman Dwight then asked if anyone was in the audience for or against the mud bog? Mrs. Denise Roberts, at 298 Old Bell Road, located across the street from Mr. Gruber's property. Mrs. Roberts stated she had no issues what so ever with the venue. She also stated she was a little jealous that she did not have a four wheeler to enjoy it.

Mr. Strieber stepped to the podium and stated the noise was not bad but people kept going back and forth at the back of his field. He wanted to know what was going on there. Mrs. Strieber stepped to the podium and said she had no issues at all.

Mr. Gruber came back up and explained where the people were riding was Westvaco property he leased and they were running the access road. No one was on Mr. Strieber's property.

Mr. Brebner then read public comments taken via a phone call. The resident at 216 Bluebird Trail wanted to let the board know they did not think it should be allowed because of the noise and property values.

A motion was made by Mr. Westbury to close all public discussion and seconded by Mr. Reeves. Public discussion was then closed.

Chairman Dwight opened the floor for discussion, there was no discussion.

Mr. Westbury made the motion to approve the exception on the staff's recommendation. Mr. Reeves seconded the motion and the special exception requesting commercial use in an Absence of Controls District was approved unanimously.

IV. REPORT OF ZONING ADMINISTRATOR

Mr. Brebner reminded the Board Members of the continuing education being offered May 21, 2015 in County Council Chambers in Summerville. The webinar would be from 9 am to 12:30 pm and would cover all hours required for the year 2015.

V.. ADJOURNMENT

The motion to adjourn was made by Mr. Johnson and then seconded by Mr. Westbury. Chairman Dwight adjourned the meeting at 6:40 pm.

DORCHESTER COUNTY
Board of Zoning Appeals
MINUTES
June 23, 2015
6:00 PM

Pursuant to the Freedom of Information Act, The Summerville Scene and The Eagle Record were notified and a notice was posted on the bulletin board in each building prior to the meeting.

Present: Mr. Herman Dwight– Chairman
Mr. Couto
Mr. Westbury
Mr. Coutant
Mr. Murphree

Absent: Mr. Reeves
Mr. Johnson

Planning Staff: Mr. Alec Brebner
Mr. Tim Macholl
Mrs. Jennifer Cook

I. INVOCATION:

The invocation was given by Mr. Murphree

II. MINUTES:

A. Minutes from March 24, 2015

A motion was made by Mr. Murphree to approve the March 24, 2015 minutes and Mr. Westbury seconded the motion. The vote was unanimous to approve the minutes.

B. Minutes from April 28, 2015

A Motion was made by Mr. Westbury to approve the April 28, 2015 minutes and Mr. Murphree seconded the motion. The vote was unanimous to approve the minutes.

III. VARIANCE REQUESTS, SPECIAL EXCEPTION APPLICATIONS

A. Special Exception requesting a Commercial Use (Testing of Amphibious Military Vehicles) in an Absence of Controls (AC) District.

Applicant: Science Application International Corporation
Property Owner: D&A, LLC
Address: East Main Street
Ridgeville, SC 29472
TMS# 075-00-00-166

Mr. Brebner presented the staff report to the board. Mr. Brebner explained they would test approximately 62 vehicles, there would be a 30 foot tall observation tower and an office would be located on the property. Mr. Brebner explained the buffer shown by the applicant is no less than 150 feet and the ordinance only calls for a 100 foot buffer.

Mr. Brebner concluded that the staff recommends approval of the special exception to test Amphibious Military Vehicles.

Mr. Humphery stepped to the podium and introduced himself as the attorney for SAIC. He stated the location was good for testing and didn't feel it would affect the neighborhood- or parcels adjacent to the location. Mr. McPavitt from SAIC explained that the engines needed to be tested for 40 hours and 400 miles. They would be able to use the existing roadways. Hours of operation would be 7am to 7pm Monday through Friday. He stated they would be testing approximately 10 between November 15, 2015 to April 16, 2016. Mr. Westbury asked if it was a continuous 40 hour test and Mr. McPavitt explained it was not and all testing would be done in the sand pit, nothing around or in the borders.

Mr. Ed Carter stepped to the podium and stated he had two requests. His property is adjacent to the property. First request, no trees be removed from the buffer area and second, no testing at night. Mr. Carter stated the company had answered those questions already.

A motion was made by Mr. Murphree to approve with the two conditions, working hours 7 am to 7 pm and no trees being removed from buffer. The motion was seconded by Mr. Couto, the vote was unanimous with the conditions of working hours and no tree removal from the buffer.

- B.** Special Exception requesting a Commercial Use (Office and Storage for a water systems company) in an Absence of Controls (AC) District. ***PUBLIC HEARING ONLY***

**Applicant and
Property Owner:** Richard L. Miler

Location: Lacey Lane
Ravenel, SC
TMS# 194-00-00-029

Mr. Brebner presented the request to the board and explained while researching for The staff report it was realized that the property_it was in the Ashley River Historic Overlay District. So the request for the Special Exception was prohibited outright.

Mr. Dwight called for the public hearing and Mr. Rud Smith attorney for the Lacey family had no problem with something being there but there was no communication or meeting to discuss it. But with ordinance, it is not allowed.

Mrs. Wunsche spoke about being next door and asked if an additional building would have to be built, what about storm water? Her residence was next door, but she stated it is academic anyway because it is not allowed.

Mr. Miler commented that he wasn't able to speak with the family but was not trying to be deceiving. He stated he is not like that at all. He stated he hoped everyone could work something out in the future if they are able to get the ordinance changed.

VIII. **REPORT OF ZONING ADMINISTRATOR :**

Mr. Brebner gave the board information about signage and what the Supreme Court ruled. Mr. Brebner explained that the reasons were given in the opinion. Mr. - Brebner invited the -members to a webinar on July 1 in the Planning and Zoning conference room. It would begin at 4 pm. The time would be counted as continuing education hours.

IV. **ADJOURNMENT**

Mr. Westbury motioned to adjourn and Mr. Murphree seconded, the meeting was at 6:40 pm unanimously.

DORCHESTER COUNTY
Board of Zoning Appeals
Minutes
August 25, 2015
6:00 PM

I. DETERMINE QUORUM

Present: Mr. Dwight – Chairman
Mr. Westbury
Mr. Johnson
Mr. Murphree
Mr. Reeves
Mr. Coutant

Absent: Mr. Couto

Planning Staff: Mr. Brebner
Mr. Macholl
Mrs. Cook

II. INVOCATION –

The invocation was given by Mr. Johnson.

III. MINUTES

A. Minutes from June 23, 2015

A motion was made by Mr. Murphree and seconded by Mr. Reeves, the minutes were approved unanimously.

IV. VARIANCE REQUESTS, SPECIAL EXCEPTION APPLICATIONS

A. Special Exception requesting a Commercial Use (Recreational Business, Ecotourism with campsites) in an Absence of Controls (AC) District.

Applicant: Keith Campbell

Property Owner: Landco Developers, Inc.

Location: 153 Gator Walk
Ridgeville, SC 29472
TMS#131-00-00-130/133/135

Mr. Brebner presented the staff report for the primitive campground. Mr. Brebner showed where it could be entered from Minnow Road and had frontage on Gator Walk and Shoofly Road. Mr. Brebner stated there was a mining operation which was approved by the state

to operate according to Dorchester County. Mr. Brebner stated the staff has some concerns about noise and propose quiet hours from 11 pm to 7 am. The staff was also concerned about the need for sanitation and public water.

Mr. Brebner concluded that staff recommends a conditional approval with the above concerns and exceptions being addressed. The audience voiced they could not hear Mr. Brebner so the microphones and volume were adjusted to please the audience. Mr. Brebner then went back over the staff's report and recommendation.

Mr. Dwight asked if the applicant was present and to step up to the podium. Mr. Keith Campbell presented a brief explanation for an eco friendly campsite and leaving the area in its natural state.

Mr. Westbury asked Mr. Brebner if this was above the Edisto Westvaco overlay, and Mr. Brebner replied "Yes".

Mr. Dwight then asked if the public would take their turns and please limit their say to 3 minutes. Mr. Danny Dantzler from 263 Gator Walk about 100 yards from the property in question. Mr. Dantzler provided pictures on the road size off of Gator Walk saying he was concerned about emergency vehicles getting down to their property let alone additional traffic on the road. Mr. Dantzler voiced concern about the business since everything around it was residential. He also spoke about the wetlands that cover part of the property and the effects.

Ms. Adrienne Agee took the podium she lives at 267 Gator Walk. Ms. Agee expressed her concerns about the sewer system since in the past a port-a-let had been there and now it is over on its side. She question where the fecal matter may have went. She wanted to know who would be taking care of the property on a daily basis? As of now people floating down the river end up on their property and some have even stolen from them. The public uses their yard to turn around since it is a dead-end.

Ms. Nina Johnson from 265 Gate walk stepped to the podium. Ms. Johnson said that Mr. Stephens cut a road through her property without their permission. At this point she asked Mr. Stephens and he denied doing this. She also spoke about Mr. Stephens already having campers on the property.

Mr. Lawrence Robb from 259 Gator Walk asked for a postponement because he had been out of the states and wanted to be better prepared. Mr. Robb also stated that when the business started customers were using his yard as a turn around. Mr. Robb wants to know how traffic will be managed and would also like to know how the waste will be managed.

Ms. Sandy Melcher owner of adjacent property on Gator Walk, Ms. Melcher spoke of having to call Dorchester County Sheriff's office on numerous occasions. She explained having to deal with people drinking and getting physical when told they are trespassing. She also explained that it takes away from the family time on the river now, she wanted to know how this situation would be prevented.

Mr. Mark Rivers owner of adjacent property on Gator Walk lives in North Carolina but came in for the meeting. Mr. Rivers stated he was not totally against it but the fear of not knowing everything is a concern. Mr. Rivers stated to move forward he would like to know how it is proposed and how it will work. He also asked how to get hard copies of the staff report.

Mr. Steve Patterson who lives at the end of Gator Walk stated there are no outlines and nothing highlighted on the property. Mr. Patterson feels that they should have more time to research, he also asked about the density of the campsites and location of trails.

Ms. Jennifer Biering from 269 Gator Walk wanted to express that the state park stays trashed all the time which is located right down the way. She stressed that their quality of life would change and also stressed that they were a small community and looked out for each other.

Mr. Dwight at this time took a count of people in attendance who were against it, which totaled twelve.

Mr. Keith Campbell stepped up to the podium representing the campground. Mr. Campbell explained that campers would not be using Gator Walk to enter the campgrounds, they would use Minnow Run. He stressed the intent was not a KOA campsite, they intend to only have 10 to 15 sites. He stated that regardless people on the river would still have issues with unwanted guests coming in off the water.

Mr. Barry Stephens the owner of the property stated Banks Construction dug ponds for mining that was approved by DHEC. This is when a civil culture road was developed. Mr. Stephens spoke of the campground having walking trails that would not interfere with other residents. Mr. Stephens also commented on the noise and stated everyone there has driven motorcycles in and out of the swamp area so being concerned about the wetlands is not in question. Mr. Stephens then stated he agreed with the trash issue but it has no place here.

Mr. Murphree asked Mr. Brebner to roll back to the 50' right of way. Mr. Murphree stated it is assumed beyond access from Minnow Run and Mr. Stephens property would be considered trespassing by the other property owners. Mr. Murphree stated they needed clarification on the 50 foot egress, also with the road maintenance and width problems. The road issue would have to address with County Council.

A motion was made to close the public hearing by Mr. Murphree and seconded by Mr. Johnson. The vote was 5-0 and Mr. Reeves abstained.

A motion was made by Mr. Murphree to defer the Special Exception until September's meeting pending that 1) plat can be submitted by the applicant 2) show how water/sewer will be provided for the campers. Mr. Johnson seconded the motion and the vote was unanimous to defer.

B. Variance request for a setback reduction from 10' to 7.3 feet. This is proposed to allow for new construction in a Transitional Residential-Manufactured Housing (TRM) District – *Public Hearing only! (The request has been resolved administratively.)*

Applicant: Schumacher Homes of South Carolina

Property Owner: Emily Jenkins

Location: 420 Miles Jamison Rd
Summerville, SC 29485
TMS# 145-07-10-006

C. Variance Request for a setback reduction from 25' to 16.3 feet. This is proposed to allow for new construction in a Single Family Residential (R-1) District.

Applicant and Property Owner: Bridlewood Development, LLC

Location: 2225 Pimlico Drive
Ridgeville, SC 29472
TMS# 119-12-05-007

Mr. Brebner presented the staff report for the requested variance. The staff under law has to recommend denying the variance request based on three items. The first item would be a self created hardship the property owner and developer. The second item would be the developer also owns the property next to the lot so changes could be made. Third the builder has a house they build that could fit this lot that was being built in a development in West Virginia.

Chairman Dwight asked if the property owner was present and Mr. Timmons stepped to the podium. Mr. Timmons explained that out of 156 lots this is the only lot they have made a mistake with development. He also stated they how Bridlewood Farms have given acreage to Dorchester County for parks and other accommodations.

Mr. Murphree asked a question about the lines and easements shown on the plat. Mr. Murphree also stated that one lot out of 156 should not be a deal breaker. Mr. Murhpree stated he spoke from experience from being a developer. Mr. Murphree said it could work, there is a lot written in zoning that looks good on paper but in the real world it just would not work.

Mr. Murphree motioned to close the public hearing then stated he needed to recues himself do to the conflict of interest. Mr. Westbury motioned to close the public hearing and Mr. Johnson seconded. The vote was unanimous to close the hearing. Mr. Murphree never removed himself from the board when he stated he recused himself.

A motion was then made to grant the variance request by Mr. Westbury and seconded by Mr. Johnson. The vote was 5 for the request and 1 sustained. The request was granted by the Board.

V. REPORT OF ZONING ADMINISTRATOR

A. Report on County Council and Planning Commission investigation of Ashley River Historic Overlay District limitations on commercial land use.

Mr. Brebner presented to the Board the situation with the Planning Commission in respect to the Ashley River Historic Overlay District. Mr. Brebner thought that the Board would be interested since it would affect the Absence of Controls District and Commercial businesses. He stated that arguments are the same. Mr. Brebner then invited the Board Members to join the study at the next Planning Commission Meeting.

Mr. Murphree stated that it all goes back to landowners having the right to develop or grow what they want where the good folks are concerned.

VI. ADJOURN

Mr. Westbury motioned to adjourn the meeting and Mr. Johnson seconded the motion. The vote was unanimous and the meeting was adjourned.

DORCHESTER COUNTY
Board of Zoning Appeals
500 N. Main Street
Summerville, SC 29483
County Council Chambers

Minutes
September 22, 2015
6:00 PM

I. DETERMINE QUORUM

Present: Chairman Dwight
Mr. Murphree
Mr. Coutant
Mr. Westbury (via phone)

Planning Staff: Mr. Alec Brebner
Ms. Jennifer Cook

II. INVOCATION;

The invocation was given by Mr. Murphree.

III. MINUTES

A. Minutes from August 25, 2015

Mr. Murphree made a motion to approve the minutes. The motion was seconded by Mr. Coutant and it was unanimous to approve the minutes.

IV. OLD BUSINESS

A. Special Exception requesting a Commercial Use (Recreational Business, Ecotourism with campsites) in an Absence of Controls (AC) District.

Applicant: Keith Campbell

Property Owner: Landco Developers, Inc.

Location: 153 Gator Walk
Ridgeville, SC 29472
TMS#131-00-00-130/133/135

Mr. Brebner presented the request again and explained that the applicant just called the Planning office this afternoon and did not submit anything new for the file.

Mr. Murpree then said that since the applicant did not provide the additional information that the Zoning Board requested and was not there to address questions it left them with no choice but to deny the request for the Special Exception.

Mr. Murphree then made a motion to deny the request since no additional information was provided as requested. Mr. Coutant seconded the motion and it was unanimous to deny the request.

V. REPORT OF ZONING ADMINISTRATOR

A. Update on Ashley River Historic Overlay District.

Mr. Brebner reported the update that the Planning Commission was still working on the area. The Planning office was trying to urge Cottage businesses in the District but they seem not in favor to eliminate areas three or four.

B. Upcoming opportunities for continuing education.

Mr. Brebner reminded the Board about SCAPA October 16 – 18 on the Yorktown. They were welcome to register and join in the conference.

VI. ADJOURNMENT

Mr. Murphree motioned to adjourn the meeting and Mr. Coutant seconded the motion. The meeting adjourned at 6:15 pm.

DORCHESTER COUNTY
Board of Zoning Appeals
500 N. Main Street
Summerville, SC
County Council Chambers

Minutes
October 27, 2015
6:00 PM

I. DETERMINE QUORUM

Present: Chairman Dwight
Mr. Murphree
Mr. Reeves
Mr. Johnson
Mr. Westbury

Staff: Mr. Brebner
Mr. Macholl
Mrs. Cook

II. INVOCATION:

Mr. Johnson gave the invocation.

III. MINUTES

A. Minutes from September 22, 2015 –

Mr. Murphree motioned to approve the minutes and Mr. Johnson seconded the motion.
The vote was unanimous to approve.

IV. VARIANCE REQUESTS, SPECIAL EXCEPTION APPLICATIONS

A. Special Exception requesting a Commercial Use (Business, General Services –
Auto Airbrushing.) in an Absence of Controls (AC) District.

Applicant: Dirk Braun

Property Owner: Dirk M. & Georgiann Braun
Location: 137 Campbell Road
Ridgeville, SC 29472
TMS# 133-00-00-176

Mr. Brebner present the staff report for the Special Exception for the home based business. The staff recommends approving the request with the condition that all building codes and inspections for the 30' x 40' metal building meets Dorchester County code requirements.

Mr. Braun the applicant stepped to the podium and gave a quick summary of his intentions for the business. Mr. Braun explained he would be painting parts of vehicles that owners want to put a personal stamp on. Mr. Braun explained he may have one or two customers a month. He also explained that air brushing uses less spray than a can of spray paint. Mr. Braun said all advertising would be word of mouth only.

Mr. Murphree asked the applicant if all OSHA and DHEC requirements would be met. Also would the building meet the wind zone requirements and electrical GFI plugs that may be required.

The applicant explained that all codes and requirements will be met by the building department and with OSHA/DHEC.

Ms. Josey Patterson stepped to the podium with concern about her property value. Ms. Patterson lives across the street. She asked if for some reason Mr. Braun sold his home would this exception carry over to someone else who would like to have a business at the location. Mr. Brebner explained that anyone who would be interested in having a business would have to go through the same process of applying and going in front of the Board of Appeals.

Mr. Murphree made a motion to approve the special exception with the conditions that the building department has inspected and deemed the building meets all codes. Mr. Reeves seconded the conditional motion and the vote was unanimous to approve the Special Exception with conditions met.

B. A variance request to allow the placement of an accessory dwelling unit in front of the principal building in a Suburban Residential District (SR).

**Applicant and
Owner:**

Vanessa Dos Santos

Location:

183 Orangeburg Road
Summerville, SC 29483
TMS# 152-07-01-014

Mr. Brebner presented the staff report for the variance request. Mr. Brebner explained that without a variance request, the owner would have to move the house to the rear of the property. It would also create a financial hardship to move it. Mr. Brebner explained that there are really no options and suggested getting the code changed. Mr. Brebner suggested that with the Board's decision on this request it could set the precedent for the next situation.

The staff recommends approval of the variance request for 183 Orangeburg Road.

The applicant Ms. Vanessa Dos Santos stepped to the podium and explained the financial hardship it would be to move it to the rear of the property. There would be a cost to demo the home. Ms. Santos explained that they had spoken to the neighbors and nobody objected to them having it in the front of their property.

Mr. Alex Singleton the applicant's brother spoke of the situation being unique- building a bigger home behind this dwelling. Mr. Singleton said they had access to water and sewer. It would not be an eyesore for the county. It would look like the subdivision down the street. Mr. Singleton explained that if they would have to challenge the rule it would be months before there would be a ruling

Mr. Johnson asked the applicant if they could add on to the structure. The applicant explained there was no central air and there were rodents.

Mr. Dwight asked was there a family with a couple of homes behind their original house. Mr. Singleton explained that is was the Williams and they had 3 additional homes behind the original dwelling.

Mr. Westbury asked if this were allowed would the old house be able to be used for something else in the future. Mr. Brebner explained not without being subdivided.

Mr. Murphree motioned to grant the variance request and Mr. Johnson seconded the motion. The vote was unanimous to grant the variance.

V. **NEW BUSINESS**

Mr. Murphree made a motion that they should make a change to allow accessory dwellings in the front of parcels to reconsider the original ordinance. Mr. Johnson seconded the motion. Mr. Westbury asked if this was passed would the setbacks and sides still be the same. Mr. Murphree explained for one acre lots or bigger. The only zoning that would be affected would be AC or SR smaller would not be included.

Mr. Murphree amended his motion to add the AC and SR districts. Mr. Johnson seconded the motion and the vote was unanimous.

VI. **REPORT OF ZONING ADMINISTRATOR**

Mr. Brebner briefed the Board Members on the Ashley River Historic Overlay District. The Planning Commission has sent back to County Council to leave the District as it is, not to eliminate districts three and four.

VII. **ADJOURN**

Mr. Johnson made a motion to adjourn the meeting and Mr. Reeves seconded the

motion. The vote was unanimous and the meeting adjourned at 6:45pm.

DORCHESTER COUNTY
Board of Zoning Appeals
500 N. Main Street
Summerville, SC 29483
County Council Chambers

Minutes
December 15, ~~2016~~ 2015
6:00 PM

I. DETERMINE QUORUM

Present: Chairman Dwight
Mr. Westbury
Mr. Reeves
Mr. Murphree

Absent: Mr. Johnson
Mr. Couto
Mr. Coutant

Staff

Present: Mr. Brebner
Mr. Macholl
Ms. Sharpe
Ms. Cook

II. INVOCATION

Mr. Murphree gave the invocation.

III. MINUTES

A. October 27, 2015 minutes

Mr. Murphree made a motion to approve the minutes and Mr. Reeves seconded the motion. The vote was unanimous to approve.

IV. VARIANCE REQUESTS, SPECIAL EXCEPTION APPLICATIONS

A. Special Exception requesting a Commercial Use (Business, General Services, Car Wash) in an Absence of Controls (AC) District.

Applicant and

Property Owner: C.S. Carter
Location: 1086 Highway 78
Ridgeville, SC 29472
TMS# 087-00-00-059

Mr. Brebner presented the staff report with a recommendation of approval to the board.

Mr. Carter the applicant and property owner was present for any questions.

Mr. Murphree made a motion to approve the Special Exception and Mr. Westbury seconded the motion. The vote was unanimous to approve the Special Exception.

B. Special Exception requesting a Commercial Use (Business, Recreation – Fitness Center) in an Absence of Controls (AC) District.

Applicant: Crystal Hartzog
Property Owner: Donald m. & Elizabeth Hutto Baucom
Property Location: 852 Highway 15 N.
St. George, SC 29477

Mr. Brebner presented the staff report to the Board. Mr. Brebner explained that the work to the fitness center had already been done with no permits however that will be corrected building services. Mr. Brebner stated the staff's recommendation was to approve the Special Exception for the fitness center.

Ms. Hartzog the applicant was present and explained the services and equipment the center will have to offer.

Mr. George Bailey stepped to the podium as a property owner near the fitness center. Mr. Bailey has no objections to the center and its location. He also stated that the owners the BID group was responsible for bring Comact to St. George and suspects more businesses in the future.

Mr. Murphree made a motion to approve the Special Exception and Mr. Reeves seconded the motion. The vote was unanimous to approve the Special Exception of the fitness center.

C. Special Exception requesting a Commercial Use (Business, General Services) in an Absence of Controls (AC) District.

Applicant: Locklair Consulting, Inc.
Property Owner: Patricia A Timmons as Trustee of Gorden H. Timmons Exempt Family Trust.
Location: 1696 Old Givhans Road
Ridgeville, SC 29472
TMS# 133-00-00-062

Mr. Brebner presented the staff report to the Board with a proposal of a conditional approval for at least a minimum buffer. This would screen the view and help with lights.

Mr. Brebner also stated that all conditions as the buffer, sanitation, and drainage will be reviewed by staff before approval during the plans submittal and permit stages if approved.

Mr. Locklair the applicant was present for questions and stepped to the podium.

Mr. Murphree recused himself for this agenda item because he and Mr. Locklair are involved with a separate project together. He said he will be still part of the quorum.

Mr. Locklair explained that the location of the property was one lot from the intersection and worked with the County's comprehensive plan. The property will have a complete buffer like the transitional overlay district requires and the existing driveway would be used.

Mr. Westbury asked if a turn lane would apply for this location. Mr. Locklair responded that storage facilities are low volume traffic generators and a traffic study is not required. Mr. Locklair also stated that was why the TOD existed to have land if right-of-ways are needed.

Chairman Dwight asked if there was anyone in the audience who wanted to speak on this matter.

Mr. Randy Sweat, accompanied by his sister Ms. Terri Bunton, Spoke for their parents who live next door to the location. They are concerned about the view their parents will have when they go out their door. Mr. Sweat also voiced concern for the noise level and quality of life

Mr. Brebner stated that there will be a 25 foot buffer and opaque fence which is a County requirement.

Ms. Bunton stepped to the podium and pointed out just how far the next commercial business was located. She felt this property was not close to the intersection at all.

Mr. Robert Tuttle voiced his concerns of possibly losing development and did not want commercial businesses in the neighborhood. He felt it would not be compatible for the neighborhood area.

Ms. Teresa Tuttle, lives directly across the street from the location stated it would be an eye sore and wanted to re-interate commercial in the area is not a good fit for the neighborhood. The community is small and close knit, the business is just not needed.

Mr. Bobby Tuttle lives in the red roof home. Mr. Tuttle told the board he has lived there over 50 years and the house next door to him was his parents home. He pointed out that around three sides are single-family homes. Mr. Tuttle pointed out that the corner was where Mr. Strobel got his start but now commercial is not a good fit for the area. Mr. Tuttle also said the buffers would be great but it still does not belong in their neighborhood.

Chairman Dwight then opened up for discussion and asked is there not another place for this business. Mr. Locklair responded that this is the only property for development. Mr. Reeves asked if there was not a piece of property on Highway 61. Mr. Locklair explained that volume is very low along with the traffic. They expect most people go to their storage units about once a quarter. Mr. Locklair also explained that there would be a 34' buffer in the front and 25' side buffers.

Mr. Westbury spoke about being put in a situation of telling people what they can and can not do with their land. Chairman Dwight agreed with Mr. Westbury explained that zoning would fix this so please go to your County Councilmen.

Mr. Reeves made a motion for a conditional approval that would show all buffers in place. Mr. Westbury seconded the conditional approval and the vote was 2 (Westbury and Reeves) for and 1 (Chairman Dwight)opposed. The conditional approval was granted.

D. Variance request to reduce the rear yard setback from 25' to 14.5', in a Single-Family Residential (R-1) District.

Applicant/Property

Owner: Paul Strickland
1089 Blockade Runner Parkway
Summerville, SC 29485
TMS# 151-11-01-056

Mr. Brebner presented the staff report and also explained that Mr. Strickland did not pull the permits to construct. So the staff's recommendation is to deny the application for the variance request because it does not meet state code.

Mr. Strickland the land owner stepped to the podium. Mr. Strickland explained that he wanted to have a place to sit and cook outside. Mr. Strickland thought it would be OK no issues with the creation of the deck.

Mr. Murphree asked what it was made of and stated that it was an impervious surface. Mr. Murphree stated the burden is left on the property owners. He also spoke that he understands the predicament. Mr. Murphree asked does the zoning board have any requirements for these subdivisions, they should have rules and regulations. Mr. Brebner explained 10 to 12 years ago the Planning Commission approved the property for development.

Mr. Murphree explained how the Army Corp of Engineers changes everyday first it was 10' now it is a 25' buffer. Mr. Murphree then went on to express his feelings about variances and setbacks.

Mr. Westbury asked could they live with their decision. Mr. Westbury made a motion to deny the variance request and there was no second to his motion. The motion died.

Mr. Murphree made a motion of a conditional approval that the property owner understands that he has encroached on the setbacks and if utilities needed to get to anything within the setbacks he would have to take it down. Mr. Reeves seconded the conditional motion of approval.

The vote was 2 for (Mr. Murphree/Mr. Reeves) and 2 against (Mr. Westbury/Mr. Dwight).

Mr. Murphree then made a motion to table the request until discussed with the County Engineers. Mr. Westbury seconded the motion and the vote was unanimous to table the request.

V. APPEAL DECISION OF ZONING ADMINISTRATOR

Appeal decision of Zoning Administrator regarding applicability of 12.4.3(a)(2), restriction on development activities within five years of timbering harvest.

Applicant: Russell D. Hilton, Esquire
Owner: Chad and Farrah Crosby
Location: Ashley River Road (Hwy 61)
Summerville, SC 29483
TMS# 170-00-00-025

See Attached

VI. OLD BUSINESS

VII. NEW BUSINESS

Adoption of Schedule, Jan. 2016-2017

A motion was made by Mr. Murphree and seconded by Mr. Reeves. The vote was unanimous to approve next year's schedule.

VII. REPORT OF CHAIRMAN

VIII. REPORT OF ZONING ADMINISTRATOR

IX. PUBLIC COMMENT

Mr. George Bailey stepped to the podium and told everyone Merry Christmas and asked the Board if they would consider a special meeting on January 12, 2016 for the Special Exception request for the ice machine on Highway 61.

Mr. Westbury made a motion to have a special meeting on January 12, 2016 to hear the Special Exception for the ice machine on Highway 61. The motion was seconded and the vote was unanimous to have the meeting.

Mr. Fred Warner stepped to the podium to give an update of the Dollar General. Mr. Warner explained there was an issue with the store hours but were being handled by Mr. Brebner and Mr Macholl. He spoke of some noise and said they have had two accidents so far at the entrance.

X. ADJOURN

Mr. Murphree motioned to ajourn and Mr. Westbury seconded the motion.

Alec Brebner: The next item for your consideration is an appeal of the zoning administrator's decision. The applicant is Russell Hilton, Esq. the property owner he represents is Chad and Farah Crosby. Location is Ashley River Road TMS# 170-00-00-025. This particular property came to the county's attention because a building permit application was submitted on October 2nd of this year. The properties application question and material showing the property location and identification of the property in the site plan submitted to the county. Staff went out into the field and confirmed that the clearing of the property had already commenced with grating in advance to any permits. Staff continued its investigation to determine the history of the property and have provided you a staff report and I will bring up the information at hand to show the condition of the property. We have for you an aerial photograph taken on February 9th of this year which you can see from this area of photographs the clearing of the property had already committed some 9 or 10 months before the application for a building permit has been received. The staff then has prepared for you a code review for your consideration in this case and we will note first that this activity of building construction was out of conformance. Conformance Building 17.3 and 17.5 of county ordinance the requirements for permits basically say clearing, grating or land disturbance requires a permit. It further says that any redevelopment or redevelopment of impervious surface or change of land use would require a permit. So in laymen terms if you are turning dirt you need a permit. This is a specific requirement across Charleston, city of Charleston, town of Mt. Pleasant etc...as you have heard land development activity or land clearing, the removal of trees has already taken place, state code in the meantime provides us a right to timber property. The right to timber property means you can remove any and all trees it is not conflict of course with any land development approvals because you are not developing land. If you are timbering property the right to timber means you have lower thresh hold with respect to wetland protection, storm water management, respect to access to the property meaning a drive way to the nearest road way and these are all allowed under state code. The local government has prohibited to regulating these activities when dealing with activities. The one conviot for timbering allowance for property is that there can be imposed a stay of development on the piece of property for a period of time following timber removal and this is particularly to protect the local government from the negative impacts of these various requirements of storm water, loose of wetlands and lose of protected trees. That protection exists and the staff cited that protection. The county notified the applicant that did the removal on the property that the timbering had occurred and therefore land disturbance permit cannot be accepted at this time with no development for 5 years. I will go back to the location of property again this property is immediately adjacent to Ashley River Road is in multiple overlay districts just like to the location that Ashley River Road is a National Scenic Byway, as we know the property with the clearing activity. Properties taken access to Ashley River Road some of the requirements allowed in this particular location include setbacks of 50 feet which includes a driveway coming from Ashley River Road would be no more than 20 feet in the buffer to be at least 13% of the depth of the property. The impact of clearing that we have seen on the property, there is an increase of storm water outfall ½ of Ashley River Road. It appears to be a loss of wetlands in the conversion of these wetlands and upon checking the property. The staff has been contacted by the adjacent property and they have legal representation. The same expression opposition through this activity at this point with this property the applicant has provided to you and us and distributed to you in agreement in contrast the status opinion inside of the storm water plan. It may or may not be required as indicated. The applicant says it should not be required and therefore we should not consider this timbering activity. The fact of the matter is it doesn't matter if it's storm water management plans required or not it doesn't matter of what limitations required or not if it is in fact a combined activity and because the staff and the applicant has not challenged the fact that timber has been removed from this property, the staff composite there is no successful challenge to the ordinance but simply an order of storm water management plan does not somehow circumvent the county's requirements for protection of natural resources and again this is not

just about trees this is about increase of storm water outfall which is in contrast with state, local and federal requirements. This is about loss of wetlands if an individual were to appear on a piece of property with extensive wetlands and fill that wetland it would not be a successful offense. For now you have to prove that there is wetlands on it I will note the applicant in question Mr. Chad Crosby owns and operates Low Country Tree Service and has capability of removing trees from the property himself and note that there is an expectation of any contractor doing business in the county has a thorough understanding of the rules and regulations that apply to that does it. Doesn't matter if he's a plumber doesn't matter if he's a builder, a civil engineer people are expected to be familiar with the requirements that they need to follow and to that extent the county provides that anyone who violates county ordinance and the conduct of their business can have their business license pulled. To that end Mr. Crosby has had numerous meetings with the county staff, the county administrator, the county attorney, assistant county administrator, Senior Planner and an administrative assistant for many hours at a time sitting down and explaining county requirements to the applicant. While this applicant had these hour long meetings numerous times throughout activity had occurred and no notification of development or stay of development was required. The staff would ask that you uphold the staff's ruling that the property has been timbered and again that has not been challenged. There for a stay of development applies.

Chairman Dwight: Ok with all that being said thank you. The applicant could you please come to the podium, please sir? Identify yourself.

Russell Hilton: Thank you Mr. Chairman I'm Russell Hilton and members of the board I didn't have the benefit of the packet and yesterday I was able to talk to Mr. Frampton on the phone and with Mr. Brebner it was kind of a conference call It was my understanding talking to them yesterday that the only issue to be before the board was whether there's going to be a five-year moratorium on the build and that he had violated section 12.4.4 the tree removal requirements that says except the party is specifically exempt. Can not otherwise destroy a protected tree without first obtaining a tree removal permit from the zoning the Zoning Administrator I first asked for some clarification but if we are addressing all the issues that's fine but if we are limited to what is on the agenda and with the county attorney indicated to me, I ask that we stick to those issues I just asked for some clarification on that before we proceed.

Chairman Dwight: Ok I can't answer that, Mr. Brebner can you answer these questions? Are we addressing the five year timber harvesting or are we addressing all the issues.

Mr. Brebner: The County to the applicant saying that timbering has occurred and a five year stay of development ensues and that is being appealed to you'

Mr. Hilton: OK. that October 29th letter 2015 that was sent out to Mr. Crosby and I assume it's in the board packet and I want to be specific what we are appealing is the five-year moratorium 12.4.4(A)(2) – that's what Mr. Brebner is talking about I'm sorry A.3 listed on their letter. It's talking about timbers and harvester and Foresters when you will fully violate the tree ordinance the county can impose a five year moratorium on building but there's a tree ordinance in place to protect grand trees and protected trees and see if so for trees of a certain size and when somebody says you know what we're just going to timber this property because it's exempt and oh by the way next week we're going to start construction on subdivision that's what the county saying Mr Crosby did although that's not that's not a subdivision is a single family residential

house that he's trying to build for him and his family. About this piece of property is about 3 acres he went in cleared less than an acre. It was measured a couple of days ago and applied for building permit. They went through a contractor, contractor said that is what you need to do. We have talked to multiple contractors and they said that is how things are done. So what is in front of the board is the tree ordinance 12.4.2 I think Mr. Brebner has supplied that to you. Let me pull that out. But it covers in 12.4.2 trees protected by ordinance it covers specific trees.

I think the county would agree it doesn't cover 6 inch scrub tree in your yard and I think the county would agree you don't need a permit to do that not one or two five or ten it doesn't matter there's no number it is the size of the tree that counts and there is no allegation that there no proof asserted there's no allegation that he cut down any tree that was protected by the ordinance. We have asked for that for hours and hours and try to get them to come around to that point that I actually came out to the property and Ms. Sharpe and Mr. Potts another code officials came out and it was no violation there was no tree more than 12 inches on hardwood or 24 inches on pines that were cut and so this ordinance doesn't even coming to play that's what we're dealing with here and the county keeps saying on your can't build for 5 years because he timbered this property he forested this property that's just not the case that's not contemplated by the ordinance that required to get a permit to cut down a tree that 6 inches or 8 inches 10 inches 11 inches are going to pine trees 23 inches has to be 24 inches to need a permit. if you building packet may require a permit the same apartment permissible properties that one out protected by the ordinance you don't need a permit to go don't need it the tree removal permit to remove trees from your property that are not protected by the ordinance to begin with that's the crux of the argument that's it are some mention of and I find it interesting that Mr. Brebner mention that there was no land disturbance permit or no zoning permit because all of those things when you talk about foresting a piece of property that all is required on one hand they say he forested this property and you know he needed all these permits contradict you need a tree permit to cut all these trees because you're building a piece of property you do have to have some other permits.

I just want to look in my notes because this is the case between us some contention between the county and Mr. Crosby and his amazing able to make much progress I'm literally pointing out phrases in the tree ordinance and has been a moving target from day one. Mr. Crosby said he was going to detest you know they came back and gave him three criminal citation one of which includes a tree violation it's absolutely unfair to say we put this ordinance in place and Mr. Crosby and Mr. Crosby a tree guy and I know that the ordinances and goes out to his property and cut some trees that aren't protected by the ordinance and then the county comes out and says you know what we're not going to let you build on this property not for one year not for two years but for five years for whatever reason and I just think that's absurd and that's the taking of his property that some sort of compensation can apply for a building permit as this contract instructed him to do the county came out and for whatever reason they decided to tell him now you're not going to build on this property and with no good explanation there's been some negotiation and the county has made some offers and so forth and want him to pay some money and fines some whatever else and it's just not required that we would ask that this five-year moratorium be removed if he needed of some other permits such as a land permit and such other that's not before this board he's been written a criminal citation for that I'm going to go to court on that he thought what I needed he did what he thought he needed to do in moved forward he applied for a building permit he did everything he thought he needed to do listening to this

contractor knowing the tree ordinance and move forward. another thing even if even this board finds he cut trees of the size protected by the tree ordinance and code sets of 5 year moratorium to build and to find that it's a willful violation instead Builders property get rid of these trees and forces property and turn around and build on it knowing that all this stuff took place that's in the ordinance Mr. Brebner I can pull it out and show you but what they're trying to do is punish Mr. Crosby from doing what was right. Board I've been here all evening this and this board as listened to people and they tried to do what's right there's only one right answer in this case and that is to look at the tree ordinance know that it says trees protected by this order is defined and categorized as follows no other trees are protected those trees significant trees required trees and grand trees 12.4.2. We ask that you deny the county's request to impose this five-year moratorium and we appreciate the time of the board

Chairman Dwight : Board do you have any questions for him while he is at the podium?

Mr. Westbury: I'm thoroughly confused.

Mr. Murphree: As an inventory been done on the size of trees that has been dropped or fallin,

Mr. Hilton: yes the county went out there on November 6th, Ms. Sharpe went out there another county official I don't have his name I think he was with code enforcement actually measured the trees there are no trees that were cut on that property that's protected by the ordinance.

Mr. Brebner: No Sir the answer is No, as you can see by this pile of trees and it's not possible to inventory them.

Mr Hilton- I don't see any tree that measures 12 inches in diameter or 24 inch diameter for a pine tree and again if there was violations they would have a ruler up against the tree in a close up showing the size

Mr. Murphree: Does the county have an inventory of how many have fallen?

Mr. Brebner No Sir we don't it's required to be provided by the applicant in the event of land development has the applicant noted this property has been forested no inventories required for foresting.

Mr. Hilton: I would just respond to the tree ordinance does not require an inventory or permit for trees that are not addressed in the ordinance. You take a look at the county's own letter they have cited 12.4.4 except for parties specifically exempt it shall be unlawful to sell and properly prune or otherwise destroy and protected tree and there is absolutely no indication that any protected trees have been cut.

Mr. Murphree: for discussion does anybody have an inventory of the trees I understand that no inventory is required for taking out trees that fall below the size requirement but the argument seems to be before this body is the quantity and quality of the trees grand tree, hardwood tree, pine tree, and the caliber size you're asking us to either support or reject the administrator without the opportunity to inventory the trees. Your asking there was an accident and since

nobody is there any more and nobody took any pictures and never told me how much damage was done to any of the cars on to rule on the accident and I'm pulling it out of my you know what. That's an idea that I'm trying to be fair to by both parties one has serious ordinances they have to maintain and do you have a person or client that has property rights and I greatly appreciate both sides of the equation what you're asking me, I see pictures of cut stumps and ends of logs some look below 24 inches I see a pile of hardwood some look to be less than 10. If it's a Gum is that a protected tree.

Mr. Hilton: It would not be protected, no to answer your question they went there they physically visited the site and they took pictures and Mr Murphy do you believe for one moment those are protected tree but they wouldn't have a picture with their ruler showing that they were in violation in the biggest pictures are here and the evidence is here and in fact the site is still in condition it was in the pile is still there because Mr Crosby didn't want to change a thing I'll stop what I'm doing and leaving things alone that's been there since they went out on November 6th and they took their pictures he's been on hold from his build because the county trying to enforce an ordinance it doesn't apply

Mr. Murphree: may come back down to the question of did intentionally or unintentionally have a pile of trees that have a violation of the ordinance but again how do I know I haven't been to the side I haven't measured trees.

Mr. Hilton: the county has

Mr. Murphree: and did they provide you an inventory list of what they discovered?

Mr. Hilton: they did not

Mr. Brebner: the question is at hand with a 12 inch trees were removed or not 12 inches of the protective size of trees on this property 12 inch hardwood the question is whether not the property was timbered the applicant acknowledges the property was timbered therefore the five-year development stay is in effect. The applicant's argument and writing to the board is that it shouldn't apply to the stormwater management plan may or may not be required that's a mute point

Mr. Murphree: so the applicant said or implied he was timbering the property

Mr. Brebner: yes the applicant just said that to the board.

Mr. Hilton: that's not what we're saying we're saying we cut some trees on the property to build a house timbering a piece of property. It is a completely different thing clearing out a spot big enough to build a house the county they know we didn't timber the property that's why they wrote him the criminal citation for no zoning permits No land disturbance permits timbering is exempt all we are saying is we cut some trees on the Property Mr. Crosby cut some trees on the property to build a house nobody is claiming that he timbered property certainly not from our side I think the counties trying to claim that but again that is in direct conflict with him writing

him a violation or citation for a land disturbance permit one doesn't jive with the other and they really need to decide which one they're going forward with

Mr. Brebner: Mr.. Hilton offer that the citation should be written and then that way Mr Crosby would settle that's why the citations were issued

?Repeat that again

Mr. Brebner: Mr.. Hilton suggested to the county that the citations be written and that would be part of a settlement that there would be payment of fines instead of the five-year stay and that didn't come to pass

Mr. Hilton: That doesn't even make sense that's not accurate mean ever I'm not sure why I would suggest that my client be charged criminally and for us to go in and pay some fine that doesn't even make sense.

Mr. Dwight: and we do not have an inventory sheet of the trees?

Mr. Hilton: No Sir that was never required and so we never submitted one I will tell you that the surrounding property, that property I'm no tree surveyor you can look at them surrounding trees and know the size of the trees that were cut. That property was truly timbered within the last twenty years or so.

Mr. Brebner: Mr. Chairman the staff would be happy to pull up aerial photos showing the property was not timbered in the last 20 years we can also see pictures of the posting where you can clearly see hardwood trees bigger than 12 inches in the back ground.

Chairman Dwight: You do have that?

Mr. Brebner: aerial photography, yes sir

Chairman Dwight: alright pull that up sir

Mr. Brebner: I'll see if I have it on this computer

Mr. Brebner: yes sir there is

Mr. Murphree: Is there a pond or wetland on this site now?

Mr. Hilton:there's a ditch going to the property that the state maintains in fact after the recent flood state actually came in there with a backhoe and dug that ditch out again and I actually have a letter submitted to that effect

Mr. Murphree: does is bisect your property is it on the interstate

Mr. Hilton; it's a ditch the state maintains it

Mr. Murphree: So it's a ditch alongside the highway the state maintains it.

Mr. Brebner: No Sir

Mr. Hilton: I don't want to misrepresent I don't know if it's an easement or anything like that or some legal things but there's been a drainage ditch on that property

Mr. murphree; I understand that because I live and downtown Summerville where they have sewer line ditch and everything through my backyard and no easement was ever given to my father and my father gave me the property and I still have all the trappings but no easement

Mr. Hilton: Right, it is probably a similar situation here.

Mr. Murphree: everyone is wink wink, pat pat. Thank you very much I will be out of your way in a minute.

Mr. Brebner: on your screen are images from 2013 No clearing on the property at that time, that's goes back to 2006 no clear on the property at that time I will need to get Google Earth to show the 1994 images but I have been reviewed them trees stood on the property in 1994

Mr. Hilton; My point with saying the property had been timbered last 20 years or 25 years, so be it, my point is that the trees that have grown back property are not huge pine trees not some virgin timber that has never been cut. We are talking about pine trees proximally that big around 6 or Oak trees that big around and there were some larger tree is Mr Crosby left because they were protected ordinance and he didn't want to cut them.

Mr. Reeves: When do you have to have a permit to cut a pine tree, what size?

Mr. Brebner: 24 and up

Mr. Reeves: Who put that 19 to 21 inches in diameter, did ya'll put that down?

Mr. Brebner: That was at the point of the cut, you see some trees that are in that size zone yes sir.

Chairman Dwight: beside those are down

Mr. Reeves: so if it wasn't twenty four he didn't need a permit then

Mr. Brebner: the issue at hand is not whether he need a permit it's not the issue at hand. It is the property was cleared there's 2 things either you seek land development permits or you timber the property. The property was timbered.

Mr. Hilton: No that's not the issue the October 29th letter says that he improperly felled, pruned or improperly or otherwise destroyed a tree without obtaining a tree permit and because of that and because he called timbered this property there's a five-year violation and I'm just reading

from the Ms. Sharpe's letter that came from the zoning office it's my understanding that's what we're here for and again this seems to be a moving target

Chairman Dwight: Also October 2nd you submitted building and plans and on October the 9th you came in according to this paperwork

Mr. Hilton: Mr. Chairman we do not have those exact dates but we do not contest those dates but a building permit was submitted.

Chairman Dwight: what have in front of us my brothers is an appeal the decision of Mr. Brebner which regardless development activities within five years in the timber harvest we need to keep in mind here what really has expired between those dates from OCT the 2nd thru the 9th and also that letter I think it's the 29th and basically what is in front of us we do not have an inventory sheet in front of us we have lots of dates and conversations and all of this that applies with what is in lines according to Mr. Brebner has presented me and this board. Now we need to either with what has already happened we do not know how many trees were cut we don't have sizes we don't have nothing. Based on the information that I have in front of us make a decision based on or table this until we can further clarification from the county attorney which I think is plain enough here on the trees and the permits. I'm confused with what the trade off was the attorney rebuttal that I'm not sure what the agreement was based on the evidence that he introduced to this board I can see some things but I cannot at this point just pick it out what is it some of it appears that there was no permits to cut the trees there is an ordinance here for that and I think that sections under 12.44 don't quote me on that, it's in the twelves I know that but I'm not sure where and you said Ms Sharpe came out there?

Mr. Hilton: yes sir I wasn't present my client tells me Ms. Sharpe, Mr. Potts and another official from the county came out to measure. I don't have the benefit of the pictures that you all have I requested those but they weren't provided someone I read showing 18 or 21 inches or whatever that would be that November 6th date where they came out and measured

Chairman Dwight: I was referring to the trees where there was just a bunch of debris but if that's the only picture that we have in the other pictures of the trees I will entertain the motion to do one of the two things I said earlier my brothers. Mr. Brebner let me ask you something he's requesting relieve the five-year timber harvest that's the county saying correct

Mr. Brebner: The county ordinance says 5 year stay of development because, they are on Ashley River Road, under urban zoning classification as the applicant represented to you there have been efforts to reach settlement

Chairman Dwight: there have been offers, what the settlement offer?

Mr. Brebner: I'm not at liberty to say because it was never formally offered and writing

Mr. Hilton: I'm at liberty to say and it was ridiculous they offered him to pay \$600 and a bunch of fines and they would remove the ordinance that came out after they came out there measured and realized it was no violation and they wanted him to sign some release from the county. He

wasn't prepared to do that he stood by what he thought was right I haven't violated anything why should I pay a bunch of money in fines that I don't owe when I hadn't violated the ordinance I think he is right on that a lot of people I say go ahead and pay the money and be done with it but that wasn't the case the ordinance is clear protected trees and there is no evidence that there were protected trees being cut on the property. The County wants to take this property from him essentially for 5 years and you can't build on it mister chairman because we can't find any trees

Chairman Dwight: don't get me wrong I understand what you're saying the thing here I don't know how many trees are cut off the lot you don't have an inventory we don't know how many size we don't know none of that course he might know that we don't know that so come on now I didn't fall off the watermelon truck come on now

Mr. Hilton: I got you quantity doesn't matter quantity is not contemplated in the ordinance you say the amount of the trees doesn't matter it doesn't sound affected by the ordinance what matters is the size the only thing that matters I do know the sizes because Ms. Sharpe went out there

Chairman Dwight: okay so if you know the sizes tell us the sizes. If you know the sizes tell if the size nobody knows the sizes I'm talking about what has been cut.

Mr. Hilton: We do know the size is less than 24 inches pine tree and less than 12 inches in a hardwood tree.

Mr. Brebner: We don't know that

Chairman Dwight: We don't know that that's talk. We don't, we don't know that, look attorney bring me, show me how many trees have been cut, the sizes of the trees and we can talk. Right now we don't know I don't know maybe he cut trees that more than \$600 a tree and can pay this off I don't know that that may be the case too

Mr. Hilton: I will submit to you this Mr. Chairman, I don't submit this in argument and I submit this and saying that that county is taken away a right of his to develop his property, building his house and they're doing that and what you're suggesting is that we come in and prove that there was no trees that make

Chairman Dwight: you come in your first of all, number one they violated the county ordinance correct? You agree?

Mr. Hilton: No sir he did not violate the ordinance

Chairman Dwight: Ok... Ok...you cut the trees you don't know how many trees we don't know this and you come in here asking myself and the board to do something that we honestly don't know Mr. Westbury don't know I don't know Mr. Reeves

Mr. Reeves: Mr. Chairman it plainly states in here if I'm reading this correctly Mr. Brian Byrd building inspector mark the minimum lot and building setbacks in addition he measured trees that were on the tree pile the largest was around 19 to 21 inches.

Chairman Dwight: Where did you get that from?

Mr. Murphree: In 2A

Chairman Dwight: Oh that wait, wait....

Mr. Reeves: If I'm reading it correctly.

Mr. Murphree: Yes sir staff measured with Mr. Crosby

Chairman Dwight: I didn't see that...I have these pages all tangled up

Chairman Dwight: Did you see that

Mr. Hilton: I did not, I asked them to supply the packet and they never would, may I take a look?alright he's not in violation of the ordinance I think that's what that says

Chairman Dwight: I don't know that

Mr. Brebner: Mr. Chairman the point is this image was shot February 9th of 2015 natural resources were deleted from the property the reason that the state law exists and the reason the county adopted it but ordinance is to protect the county from claims such as this where as individuals and landowners delete natural resources and then dare the local government to prove it. The requirements of all levels of land development for all types of use requirements standard federal state local require the due diligence of the land owner and field investigation by the landowner to be submitted with information to the county so the idea that the county has to prove what was deleted by the land owner is in conflict with the law

Chairman Dwight: I understand how is done it doesn't say the size it just says 21 we don't know if it was larger than that I don't know that are not

Mr. Hilton; Mr. Chairman with all due respect it says the county went out and measured the trees and they were at least 21 inches

Chairman Dwight: Ok but you are still in violation 1 2 3 violations

Mr. Hilton: No Sir we are only here for the tree ordinance we will deal with the other three in criminal court.

Chairman Dwight: but anyway do I have a motion no... tabling.... it's getting late... table it

Mr. Reeves: Tree removal permit what is classified as a tree how big 24 inches

Mr. Brebner: A tree that is protected by ordinance is specifically a 12 inch hardwood or a 24-inch pine or thicker are specifically protected by ordinance any tree can be logged and any tree can be logged of any size without any kind of repercussions

Mr. Reeves: I was just wondering it says 19 to 21 and I heard the statement of 24 inch / pine tree yet I have a anything smaller than that could be brushed

Mr. Brebner: You don't need a permit to log your land

Mr. Hilton: And you don't need a permit to cut a 21 inch tree even if it's not log

Mr. Reeves: Then what are we doing here?

Mr. Brebner: the contention of the county that the land was logged and therefore a stay development exist in this ordinance exist to protect the county from claim such as this when natural resources are deleted then you have to prove that natural resources were deleted if that was brought out to as a logical conclusion the county would have to go into a tree survey of the entire county the Corp would have to go how to do a wetland delineation of entire County every year state of historic preservation office so I have to go out and figure out where all the archaeological remains are. It turns the law and redevelopment processes on their head and that's why the protection exist in the state code that the county can impose a state of development after logging of land

Mr. Hilton: Mr. Brebner would be exactly right if Mr. Crosby logged the property but that is not what he did

Mr. Reeves: How big was this lot how big is this

Mr. Hilton: less than an acre

Mr. Brebner: No Sir, it is about 3 acres of land total that you're looking at

Mr. Hilton: The lot is I was looking at the clear area

Mr. Reeves: Can't see where Mr. Crosby would be logging it because it would cost him to log it to get somebody to come in there to log it.

Mr. Brebner: He is logger sir he operates that business to log land

Mr. Reeves: I don't know I'm really let's do something

Mr. Murphree: You are taking the county to court in regards to the land disturbance and sediment control actions and the tree removal falls in the purview of this body

Mr. Hilton: That is correct the five year moratorium on the build this body will have to decide if it was a willful violation to impose that 5 year restriction

Mr. Murphree: And he distributed one acre out of three

Mr. Hilton: Less than one acre

Mr. Murphree: he has potable water for that site

Mr. Hilton: As in a well

Mr. Murphree: My apologies I should use a proper does he have access to public water

Mr. Hilton: I don't think there is any public water or sewer on Hwy 61

Chairman Dwight: It is septic tank where this is at and well water

Mr. Murphree: For you to properly develop the lot to have a buildable lot you will have to set up a one acre barrier and 100 150 foot barrier from well head and septic tank to build on this lot has this a lot then perked?

Mr. Hilton: He has done perk test and have to do an engineer septic was my understanding and the well and separation.

Mr. Murphree: When do you plan on being heard by court or judge in regards to violations 1 through 3 look at page two the Appendix

Mr. Hilton: In regards to storm water management there's an exception in there to single family residential that's a no brainer regardless of the violation number one the County said he logged the place but then they're saying he needed the land disturbance permit they don't jive. No developer that we have talked to has given any indication or any knowledge of land disturbance permits to go in and clear lots to build places. In fact I went to the county office yesterday to get a land disturbance application. They acted like they didn't know what I was talking about and give me a building permit application which he submitted.

Mr. Brebner: there is no site fencing on the property no silk fencing on the property so the storm water violation as clear as day the second thing is requirement for tree survey so you either timber the land or you provided a tree survey in the permit as yourself on the county code clearly states requires you to get a permit clearly before you turn in the dirt it could be a lot clearing permit a land disturbing permit.

Mr. Murphree: So if he got the building permit first and provided you a tree survey of the one acre of the three acres he was going to disturb and we wouldn't be here this evening talking about this

Mr. Brebner: I'm sorry come again

Mr. Murphree: If he presented himself first with a application for building permit, a tree survey on the one acre lot of the 3 acre lot, we would not be here this evening talking about these violations

Mr. Brebner: That's correct

Chairman Dwight: That's correct

Mr. Murphree: And when did you plan on being able to I guess the terminology would be is violation involving the disturbance permit and erosion

Mr. Hilton: Court is scheduled for I think the end of February I think the 28th of February.

Mr. Brebner: The court summons provides a court date of January 27.

Mr. Hilton: I will tell you we probably will not go forward on that date, that wouldn't be a jury trial date anyway so that is not going to be the ultimate date.

Mr. Murphree: So our decision is going to be contingent on you presenting this to the magistrate?

Mr. Brebner: No sir

Chairman Dwight: No this is based on and what the Zoning Administrator five-year Development placed on harvesting the property

Mr. Murphree: So the question again I hate to beat the horse that we are basically going back to the terminology that you timber the property or did you not down trees for a house

Mr. Hilton: My head timbering the property if you call somebody and they give you a price for the timber and you haul it out to sell it and you get paid for it. Leaving it in a pile is not timbering.

Mr. Brebner: That's a burn pile is common in forestry

Chairman Dwight: All of this would not have occurred if he had gone in there and get the building permit to begin with and tell him about the trees. We wouldn't be here in my opinion the building administrator's ruling for the 5 years all these rules and what we are talking about right now would have fell into place we would not be here you agree with that now right.

Mr. Hilton; With all due respect, You are applying an ordinance where it doesn't apply and trying to protect trees that are not protected by the ordinance

Chairman Dwight: No no ..no

Mr. Murphree: Mr. Chairman as we have been back and forth and I greatly appreciate the display by both sides I would as a body of lay people(not lawyers or administrative staff) seek legal counsel to helping to determine what is before us as a landowner, builder and developer myself. I can understand the landowner and his actions bringing it before the county and also the county because they cannot inventory everything under the sun. from trees to wetlands the whole nine yards gentleman I don't want to belabor the point that he has an opportunity an opportunity to be in front of a magistrate sometime in February and we have the opportunity to

be in front and have an executive session with our attorney and pepper him with questions and what I would recommend to this board that we have an executive session at our January meeting with our county attorney to help us formulate a response and that we will take into consideration what staff has presented to us and what the defendant Mr. Crosby has presented to us and make sure that we provide them a confident thought-out decision. I do not like the table things I'd like to give them an opportunity to know where we stand and we were going to but then again we are getting in the nuances of definition is and my motion is the table for an executive session in January with our county attorney to discuss the staff is recommending and what the defendant is recommending that we have the opportunity to pepper Council and seek counsel from that position

Chairman Dwight: I have a motion do I have a second

Mr. Westbury: I will second it

Chairman Dwight: all in favor of the motion say aye, the ayes have it.