

MINUTES OF SPECIAL PLANNING COMMISSION MEETING

THURSDAY, APRIL 19, 2007

CHAIRMAN THREADGILL: Will you call the roll please?

MS. TERESA MINEAR: Dana Hotho; Louis Kleinman – here; Wanda Thorp – here; James Clopton; Lori Ames; David Campbell – here; Gary Threadgill – here.

CHAIRMAN THREADGILL: At this time, I would like to make a quick statement here for the information of the public. This is not a final draft. This is where we are going to take in the public's input and consider all your data that you come up with and then we'll have another session, probably with the Planning Commission or somebody else afterwards. This is all to get your input here. At this time, I would kind of like to turn it over to Lance Hudnell and let him give you a quick briefing on what's going on, so Lance, would you like to take off with it?

MR. LANCE HUDNELL: Okay. With everyone's indulgence, I was going to sit here so I could look both ways as opposed to coming to the podium and either having my back to the Commission or my back to you all. So if that's alright... Basically what we've done, we've been working on this now since ...our goal was to have it done before we had a new Planning Director on board. Obviously, we didn't make that, but we were trying. The Planning Commission has been working for almost a year now I guess on various revisions to the Subdivision Code and the Planning Commission has had several work sessions on that late last year, or mid-year last year, late last year. The current code was adopted in December of 1999. It was the first major rewrite of the Subdivision Code since it was first adopted in '65 or about that time frame. There had been some amendments but I don't believe there had been any major rewrites until 1999, which came about as a result of our Comprehensive Plan process. As ya'll are well aware, a new Comprehensive Plan was developed in '97 and an outgrowth of that was a new Zoning Code and a new Subdivision Code. Since then, of course we've learned a lot of things that are right, wrong, or indifferent within the Code that needs tweaking. So this current edition or the current proposed that we're working on now is not a rewrite, but it is a reorganization and there are a couple of areas that have some substantial changes. Those are the ones that I wanted to address for the most part.

One of our goals -- and I don't know after looking back at it and reading through it again today, I don't know how successful we were with that -- was to try to make it a little more user friendly, if you will, or a little more readable. Again, having read through it again today, I'm not sure we accomplished that, but that was a goal anyway. The major impacts ...for instance, we've moved the definitions to the end instead of at the beginning. In our current Code, you have to get through all the definitions before you get to the meat of things. We did several little things like that -- tried to put some of the sections that had got disjointed from each other closer together -- those types of things within the Code. The major area of impact is in Article II,

which is the large scale developments. That is basically a section that is fairly much of a rewrite from the current Code. So that is a section that is substantially different than the existing Code. It was clarified. We tried to clarify and give a little more definition to what a large scale development is. In the current Code it says basically two (2) or more structures in the planning area or in the City or in the planning area. What if they are two (2) little bitty structures? Under the current Code we could have one great big structure and it wouldn't apply but you can have two (2) little bitty ones that would. So this gives some definition with regards to size and some thresholds as to where the Article II would kick in and where it wouldn't. That's the primary difference that's occurred there.

Other areas of particular note would be the setbacks. In the current Code, there is a setback requirement in the extraterritorial area for the front yard but there wasn't any definition for the side or rear yard. So a lot of times engineers would come to us and ask, "well what am I supposed to do with regard to the side yards and rear yards?" so we addressed that. If zoning doesn't otherwise apply, then here are the minimum guidelines for setbacks in the extraterritorial area.

The other area of course ...other areas involved – the map itself. I believe, I stand to be corrected, I don't believe the map has been changed, the five-mile limit map. As ya'll are well aware, state law allows cities to have exclusive jurisdiction with what's called the planning area or the territorial area, which is five (5) miles beyond the existing city limits. That was established in 1965 or '66, about the time frame when the first Subdivision Code was adopted. I don't believe it's been changed, at least not substantially, since that time. So the current map is some forty (40) years old. Of course, our City limits haven't changed that much in that time limit either. The current map basically goes out then and incorporates a little more area around the City, basically a section more all the way around and on one side, as you can well see on your map, two (2) sections area. You'll notice ...Rick, I don't know if you can just kind of zoom in on any one area. I'm just looking for the purple line. Just go ahead and catch both lines there as well. There you go. Perfect. The line to the right of the map here ...this purple line that you see on your map, that is the five-mile limit as calculated by our GIS system. That's where the limit could go out to. This other line is the limit, the five-mile limit from Mountain Pine. Of course, state law requires that we coordinate with an adjacent city, a second-class or greater city, if our areas overlap. The map that some of you may have probably doesn't have as much of the orange on it as this map does. That was because the state law basically says that between – back up just a little, Rick. There you go. Hold it. – that between ...when there is a ...when the areas overlap between two (2) cities, that you, by agreement, can draw a line anywhere between the two (2). So the orange indicates areas where we will need concurrence from Mountain Pine if we were going to include that in the map. Our City Attorney has had preliminary discussions with Mountain Pine, but nothing has been finalized there. As a result of this process, that will certainly have to happen. Since that time, I got to looking at their five-mile line and technically by state law, obviously we don't have a city limit line with Mountain Pine up here to the North; but if they ever did choose to exercise their five-mile limit, then we would have overlaps between these two (2) lines here. So we went ahead, after discussions with our City Attorney, went ahead and included that in the orange just for extra safety's sake. We for

sure have to get their concurrence with regards to this area, but to be on the conservative side, we probably also ought to get their concurrence on anywhere where the purple and green line overlap. That's the basic reason for the change in the map that you see.

We had a miscalculation. I don't know how that happened, particularly since the machine was supposed to have done it. Mr. Messersmith pointed that out to us, which I appreciate, on the square miles. We were way, way off there. I don't know if it was just a decimal point or what it was. I showed that to Mary and she said "whoa, that doesn't even make sense" so she went back and recalculated that so she went back and recalculated that. You are over there now, thank you. The proposed addition is 32.8 square miles, plus the proposed addition by agreement which is 14.9 square miles, for ...and the existing area is 174 square miles. That's basically the new map.

Mr. Chairman, I have done that very quickly. I'll be glad to explain any details that anybody has or go over any other areas of concern that the Commission has. I might point out that the Commission started off with what we called a decision matrix. Staff brought to them all of the things that we had run into over the last ...since '99, in dealing with folks – things that have come up that weren't clear. We made a list of those to go over with the Commission. Each individual Commissioner has also had various items that they brought. We made a list of those and the Commission has set down and went over those together and come to compromises and suggestions. We actually prepared a decision matrix that they began considering back on October 5th. We worked through each of these issues. Some things they threw out. Some things they added to. We have worked through that process over the last several months with the Commission to get to this point and we've had it reviewed by the City Attorney so that now we are ready to present it to get additional comments. We have also asked the engineers, as they come through, to give us their comments and suggestions. We've went along as well.

One other area of clarification I think within the Code. The previous Subdivision Code, in several areas, didn't make it real clear what applied to the extraterritorial area and what applied to the City only – because we do get into that from time to time as to what applies only within City subdivisions and what applies within what, for sake of argument, I'll call the ET area (the extraterritorial area). We've tried to make it clearer in this version as to what applies in which. Sometimes it got kind of mixed together in the paragraphs before and you couldn't really decipher whether this did or didn't apply in the planning area. We've tried to make that real clear. I noticed in reading today that there are a couple of spots that I missed, but we tried to make real clear what does apply in the ET area and what doesn't apply. With that, I'll defer back to you, sir, or to Kathy for additional comments.

CHAIRMAN THREADGILL: Before I turn it over to the public and start asking their questions, this is just a discussion. We're not making any decisions or changes or anything tonight. We are just going to discuss what you think needs to be changed and try to work up something off that. Is there anything you'd like to add, Kathy?

PLANNING DIRECTOR KATHY SELLMAN: No. I think that's the most important thing.

This is just an opportunity tonight to hear the public's reaction to these proposed changes. We'll take those back and then put together a final draft which will then have formal public hearings and a recommendation to the Board of Directors.

MR. HUDNELL: Mr. Chairman, I did fail to mention on page 17 and the next several pages there following is a new item to the Code. The elements within it are not new, but the layout of the material is new and that's the Subdivision Submissions Requirement Checklist. Again, this was an attempt to make it easier for the developers and for the engineers to know exactly what they're supposed to have on the plats. I think most all if not all of this information was required in the current Code. It was just in different places and you had to kind of decipher whether it did or didn't go on the actual site plan or the actual plat. We created this checklist to make it clear what went on which plat. That was another major addition. The text is not an addition but the format is a different format.

CHAIRMAN THREADGILL: At this time, I'll open it up to the public. Is there anyone that has any comments they'd like to ...? Please give us your name and address for the record.

MR. JEFF MESSERSMITH, 100 Hamilton Oaks: And my serial number? <laughter>

CHAIRMAN THREADGILL: Jeff, if you would, any comments you have pertaining to it, give us the line number and such so we can all keep up with you, please, sir.

MR. MESSERSMITH: What I did, I took the existing the Subdivision Code and took it line by line and then compared it with the new one or this draft proposal. To start with, I'd like to note on Line 86 on Page 4 of 62 that the 48 square miles that was addressed to on the map looked to me to be about a 34% increase in the zoning area and the ET area in the County. It was stated on the map that there was 174 miles in the blue area, but I think that included the 33 approximate square miles that's within the City itself.

MALE SPEAKER: Probably does.

MR. MESSERSMITH: When I started counting squares, it looked that way.

MR. HUDNELL: We weren't paying attention to how many square miles we were or weren't adding. We were just getting it closer to the five-mile limit.

MR. MESSERSMITH: Right. The next item was on Line Item 163 on Page 6. I noted the addition of the large scale development on that and I'll discuss that further when I get to Article II. In Item B, Line Item 168, I noticed that plumbing or applicable permits had been added. Then in Line Item 170, it mentioned large scale development again. Seventy-one (71) and 72 also mentioned that the corporate limits of the City of Hot Springs and also the ET area was included. See Line Item 173, it mentioned the plumbing and the applicable permits again. This also brought up that within the City limits of Hot Springs that no permits would be issued until the Planning Director or the representative had reviewed that; and I was wondering is that current

procedure? I think it is.

MAIL SPEAKER in the background: Yes.

MR. MESSERSMITH: Okay. The Line Item D on 177 was kind of a peculiar and I thought an extreme measure to list that no deed or other instrument of transfer shall be filed with the County Clerk for recording a metes and bounds description that any deed or instrument of transfer must be a lot or a parcel platted or filed or accompanied with a plat approved by the Planning Commission. I think that's probably been the case within the City limits in the past, but I didn't know ...to me that was kind of an extreme measure to push out into the County. I was really concerned what the County residents would have to say about that.

MR. HUDNELL: Can I address that one real quick?

DIRECTOR SELLMAN: Yes.

MR. HUDNELL: I actually, when I read through, they made a question mark out there myself, but the reason for that ...what we've had going ...what I discovered when I was downstairs, and Kathy may want to address this since she's been here, we discovered that we had – how many were there, Rick? – 60? <MR. RICK STAUDER: Yeah – unrecorded.> Sixty (60) – you'll love this – 60 recorded unrecorded subdivisions. Now by state law, that can't happen. Not by our ordinance, but by state law. The Circuit Clerk is not supposed to accept any metes and bounds descriptions for a subdivision, but over the years, we have and that's fine. But we have some 60 recorded unrecorded subdivisions. So what that means is that on a person's deed, it has a metes and bounds description and then a lot of times in parentheses it will say "also known as Lot 2 of Subdivisions Such and Such". But once you've done that, you've messed up the subdivision from then on for all future owners. What this was meant to do and it may have got too much, what this is meant to do is prevent any more recorded unrecorded subdivisions.

MR. MESSERSMITH: Alright. Well, I was thinking in regards to someone who lives in the County that had ten (10) acres and they wanted to chop off a few acres for their kid to build a house on or something like that. What effect, to me, they would have ...and the way I read it, they would have to subdivide everything.

MR. HUDNELL: I'll let Kathy speak to some of that if that's the case.

DIRECTOR SELLMAN: Currently if you're creating pieces of ground from a great big undivided piece that each are no smaller than ten (10) acres, you can do that. We may want to make that exception here as well. Otherwise, this is only intended to make us consistent with the statute.

MR. MESSERSMITH: Okay.

MR. HUDNELL: And we understand, by the way, why developers wouldn't do that, especially

for tax purposes. You don't want to be taxed for a subdivision if you're not going to develop it; but the way around that is to do it in phases and just record the phases that you are going to do.

MR. MESSERSMITH: Alright. Okay. The next thing I has was on Page 8, Line Item 202 – brought up to large scale project again. Also on 206, 207, 208 it mentions a new wording for the subdivision large scale development project located in a portion of the planning area not subject to zoning, which to me means in the ET area, shall conform to the applicable standards as set forth in Article IV. That was some new verbiage that was put in at that point.

MR. HUDNELL: Would you like me to address those as we go along?

MR. MESSERSMITH: Go ahead.

MR. HUDNELL: I mean I hate to keep interrupting. Don't let me mess with your ...<unintelligible>

MR. MESSERSMITH: Go ahead. I'd like to hear some comments.

MR. HUDNELL: What's in there was ...Article II is currently in the current Code, but it wasn't mentioned over in the first article applies to the whole Code. But it wasn't ...we kept having people question, "well, it doesn't say anything about large scale developments." Well, they're included because they're included in Article II. We're just trying to make it crystal clear to everybody that this Code applies to large scale developments and to subdivisions. That's currently the case with regard to Article II. It applies in the ET area, but we're just making it crystal clear here that it does. Now with regards to the zoning thing, there is the opportunity for the Board, for the City to zone up to one mile outside of the City limits. Our Board and of course there's a group -- you may be participating, I haven't been to any of their meetings -- but there's a group participating on zoning stuff now with the County and whether our Board may want to consider zoning out to one mile. I put the language in that would allow for that if it occurs. If it doesn't occur, this language will work either way is what I'm trying to say.

MR. MESSERSMITH: Well, now that you mention that on the County, if the County does a Planning Commission, what effect will it have on this draft document the way it's written.

MR. HUDNELL: It doesn't, according to our City Attorney -- okay, and I probably should have had him here to answer this -- but there are several court cases on that actually. The City, by state law, has exclusive jurisdiction within its five-mile area. That's been up through the Supreme Court on a couple of different occasions and the Court has always ruled that the City has exclusive jurisdiction in the five-mile area.

MR. MESSERSMITH: Regardless of what the County has?

MR. HUDNELL: Regardless of what the County does. That's not just for us. That's statewide. Now that doesn't preclude the County from having a Joint Planning Commission and that Joint

Planning Commission doing both in our five-mile area and outside. Cities can do that too, but that has to be by the agreement of the City. I think that may be the case like in the Bentonville area. They have a joint ...

MR. MESSERSMITH: When I read through this and I realized that most of the changes that I see really have to do with the ET area. I wondered if it would push a County Planning Commission into development sooner rather than later; but I didn't know the relationship to state law on how that would work.

MR. HUDNELL: Most of those references are to make it clear that the Code does in fact apply to the ET areas. That's where we kept having a lot of questions is, the way our attorney interpreted was, "yes, it does apply" but people would say "well, it doesn't say it does." So now it says it does.

MR. MESSERSMITH: Okay.

MR. HUDNELL: And I don't mean that in a negative way, it was always a question; but it was always interpreted to mean "yes, it does apply." But this way, there's no question. <unintelligible> I'm sure we didn't catch all of them, but that was the intent.

MR. MESSERSMITH: On Line Item 250 of the large scale development site plans, it was inserted in that also. And on Page 10 under Article II, I'm a little bit confused, Lance. You said that large scale development was in the old Code or the existing Subdivision Code, but is it listed as a ...it's listed as a type of subdivision, is it not?

MR. HUDNELL: No, sir, not exactly. I've got the ...hang on, let me flip over there. It currently is ...let me be sure. No, I can't.

DIRECTOR SELLMAN: Actually it is.

MR. MESSERSMITH: Could you tell me where that is, Kathy?

DIRECTOR SELLMAN: It is § 16-4-12 is the first section under Article II. It is multiple building or multiple use subdivision site approval and review process.

MR. HUDNELL: The terminology is different with the ...I think it's called a large scale development in the definitions too.

MR. MESSERSMITH: Okay, when I read it, every one of the items listed basically, like Item A -- on any sized lot any development containing a building or buildings with a combined square footage of 15,000 square feet or more ...I didn't see that. Is that not something new?

MR. HUDNELL: That is new because the current one says multiple buildings -- two (2) or more buildings. That's what I was explaining earlier. A good example was where the neighborhood

was up in arms but was the development out on – and I don't mean to call names – was the development out on the East side of town where they were originally putting in two (2) buildings. They were two (2) fairly large warehouse type buildings. Those, because of the way ...under our old Code, that came to the Planning Commission for approval because it was two (2) buildings on a lot. Well, what the gentlemen did, and I wouldn't blame him. I would do the same thing. He, when he realized that he had neighborhood opposition, he just went back and put them all under one roof <MR. MESSERSMITH: Connected them together ...> ...and then it didn't apply. So the concept here is to get those things that will have an impact on the community. That's why we, in working with others around the state to see what they had done, they have thresholds that kick this in. So instead of having two (2) 10,000 square foot buildings, put them together and have one 20,000 square foot building, we wouldn't review it but we would review the two (2) 10s. Another thing, if it's less than 15, then we're not going to review it. If it's more than 15, we are.

MR. MESSERSMITH: Does Item A distinguish between commercial and residential?

MR. HUDNELL: No.

MR. MESSERSMITH: Okay. On Item B, that's totally new, is it not – the commercial on two (2) acres or more?

MR. HUDNELL: Yes, again trying to create those thresholds.

MR. MESSERSMITH: I didn't really understand Item C. Is that to put some control on like condos or large scale ...

MR. HUDNELL: Actually it's to go the other way. Currently if we have a duplex in the County, you could technically say that if somebody is building a duplex in the County under the way the current one is written, you could technically say it should be reviewed by the Planning Commission because it's two (2) buildings on one site. The Planning Commission said "we don't want to be reviewing duplexes." That's not enough impact. So this is saying anything greater than a four-plex will be reviewed – a condo, a complex, whatever it might be – but it has to be a four-plex or greater. Anything a four-plex or less will not be reviewed by the Planning Commission.

MR. MESSERSMITH: Now is this on a platted lot or on a tract of land?

MR. HUDNELL: Either one.

MR. MESSERSMITH: Either way?

MR. HUDNELL: That was meant, again, these are all threshold things because the way the current Code's written, it's two (2) or more buildings so it doesn't have anything to do with size. We are always in this quandary about, "we have two (2) little buildings, do they have to review

those?” Well, yes, technically they do. So this was meant to create some thresholds to ...That’s why we changed the title to large scale development from multiple buildings. The other title I think is multi-building site plan, isn’t it?

DIRECTOR SELLMAN: It’s multiple building or multiple use subdivision site approval and review.

MR. HUDNELL: So, it was meant to make this distinction between little projects and big projects.

MR. MESSERSMITH: Why was Item D included? I read that and concluded that would be a gas station.

MR. HUDNELL: That was actually, I think, from another city. We borrowed that. It had to do with just a hazardous material type operation.

MR. MESSERSMITH: Item E, the addition of 10,000 square feet or more to a building or adding on where you have 10,000’ or more, there’s no provision for that now is there?

MR. HUDNELL: No, again that’s back to the threshold thing. If we’re using the 15,000, but what if you build a 14,000 and then come again a month later and want to add 10,000 to it. It just makes it clear. No, the 10,000 addition is going to trigger in the review. You could build a 9,000 one, but then when you added the 10,000 to it, it would trigger the review. That was one we talked about that we need a little work on too...

DIRECTOR SELLMAN: Yes, right.

MR. HUDNELL: ...to make it a little clearer.

MR. MESSERSMITH: Well, this leads me to a question. You don’t have any zoning in the ET area, correct? At this time?

MR. HUDNELL: Correct.

MR. MESSERSMITH: Are you, by distinguishing the commercial and residential, are you in essence doing any zoning in that regard? Could that be construed as zoning in any way?

DIRECTOR SELLMAN: I don’t think so because we’re not looking at the detail that zoning would include. This current Subdivision Ordinance does distinguish between types of subdivision – residential, commercial, and industrial. So this does not reflect a change from the current state.

MR. HUDNELL: Well, the thing we’re concerned about here is impact. A condo project with 20 units has an impact. A four-plex doesn’t have an impact. But then there’s always a question

of “well, is a condo a multi-building site?” When I was Interim Director, that was the first thing I got hit with and sat down with the City Attorney and said is a condo project a multi-building site? He read the Code four (4) or five (5) times and said “yeah, absolutely.” It screams condo, although it didn’t say “condo.” So we are making it clear that this is residential and commercial.

MR. MESSERSMITH: Item F – that’s all new, isn’t it, for the ET area?

MR. HUDNELL: Yes, that again is a clarification because our City Attorney feels like we could if we wanted to regulate mobile home parks under Article II, but again, it doesn’t clearly say that. We’ve basically ignored it. We do get – a lot of this is citizen driven – we do get inquiries from County residents about why we don’t regulate, why we don’t at least review the site plan for mobile home parks as opposed to mobile home subdivisions. So this makes it clear that yes, mobile home parks are a part of ... We’ve ignored it knowing that we were coming, that we were going to clarify it in this new edition.

MR. MESSERSMITH: G concerned me a little bit. Line Item 304. It basically ...in that the Planning Director basically has the control to make anybody in any development, if you don’t meet any of the criteria above, to be subject to the planning regulations.

MR. HUDNELL: Yeah and <unintelligible> could use some help if ya’ll have any suggestions. Basically, what we’re trying to get at there is when we got gray ones that we don’t know, it says “okay, Planning Directors can’t make up your mind whether it fits in A through F, then let the Planning Commission decide if it fits in A through F.”

MR. MESSERSMITH: Well, I would disagree that that one’s necessary because I think in this draft you’ve got everything covered. I don’t see anything you could possibly have missed.

MR. HUDNELL: Well we kind of want to keep the first sentence at least, I think you would agree.

CHAIRMAN THREADGILL: I don’t know. In my opinion, every time we leave that phrase out for the gray area, somebody nails us with one. They come up with some off-the-wall plan they want and then we’re stuck with staff making the decision that could go either way. It usually ends up causing a big controversy. <MR. MESSERSMITH: Right.> So by doing it that way, staff, instead of getting it dropped on them, they have the ability to say “okay, let’s send it to the Planning Commission. Let’s have a hearing and see what happens.” I don’t have a problem with that because there’s always a way out for staff. If they don’t think that the decision’s iffy or not quite right, they have a way to pass it on to the Planning Commission and keep the public open. They might just say “no, I don’t want to approve it.”

MR. HUDNELL: And G is meant to say these are the things we’re not going to review. It’s not one that ...I’m trying to think of an example and I can’t off the top of my head. There’s one live example that we were thinking of when we wrote that but I can’t think what it is now.

CHAIRMAN THREADGILL: We've had a couple of them.

MR. HUDNELL: After whatever reason, it appeared to fit it; but you could kind of make the argument both ways. So in that case, rather than having a staff member make that wisdom of Solomon type judgment, it would be the seven (7) appointed folks, the seven (7) citizens doing it as opposed to a paid staff member doing it.

MR. MESSERSMITH: Okay, the next one I had was Line Item 348 on Page 12 – the City's Landscape Ordinance. Does that mean that applies in the ET area also?

MR. HUDNELL: Yes. That was a debate among the Commission because we had landscape elements in the current Code, but it wasn't clear how to count them, how to decide whether it is or isn't an adequate landscaping plan. Particularly, the current Code requires ...the Landscape Code particularly for the large scale developments, it talks about landscaping and landscaping has to be required but it leaves it kind of hanging out there. This said, let's go by our current Landscape Code and that's something that's certainly up to debate for the Commission.

MR. MESSERSMITH: Well, the Landscape Code mainly has to do with commercial development, does it not?

MR. STAUDER: Or multi-family residential or for duplexes.

MR. HUDNELL: Which is what the large scale developments are.

MR. MESSERSMITH: Right.

MR. HUDNELL: The hope there was, understanding that may be a more higher standard, but at least it's a standard that's written that everybody knows what is. Currently, the standard is whatever the Planning Commission wants. I don't think the Planning Commission or staff feel comfortable with that.

MR. MESSERSMITH: No. Well, I think you need to have good definitions so people know what's required and what's not. I noticed on Page 13, Line Item 396-399, the setbacks were addressed here in the ET area. I did see later in here, and we'll get to it in a moment for the 12' setbacks for the rear and sides ...

MR. HUDNELL: That's why I was mentioning earlier we had one previously for the front but not for the sides and back.

MR. MESSERSMITH: That leads me to a question. I've watched some developments – one in particular on Amity Road, the guy who did the warehouses, the three (3) warehouses – what or how did you come up with the setback for the side in that particular instance when there was none?

MR. HUDNELL: A good example because that comes under Article II, which gives the Planning Commission authority to approve multi-building site plans. By having that authority, they have some authority with regard to how the building is set on that site. But without any clear definition as to what the setbacks are, it ends up being a negotiation between the developer and the Planning Commission. The Planning Commission feels uncomfortable with that. They certainly didn't want a 40' long, 12', 15' high building setting on the property line, which is what he wanted to do. But they also had no clear definition as to what to do, so it was a negotiation back and forth between the two (2). This makes it clear what those setbacks will be. Currently in large scale development, it's negotiation – it's whatever you can talk the Planning Commission into approving.

MR. MESSERSMITH: Right, well, that makes it tough for the developer.

MR. HUDNELL: Exactly. In fact we've come up with that two (2) or three (3) times. We think it makes it tough both ways, because we come up with that two (2) or three (3) times. There was one condo project that was getting like 3' from a property line. None of the neighbors wanted that.

MR. MESSERSMITH: What concerned me about that fellow on Amity Road was basically that was commercial right there. If it was City and in the commercial, it could have been a zero setback.

MR. HUDNELL: Only if it was C-1, which C-1 is downtown.

MR. MESSERSMITH: Is that the case? What is the C-4 setback?

MR. STAUDER: Five foot (5') side yard, unless it abuts a residential zone, then it's 25'.

MR. HUDNELL: And a bunch of his abutted a residential zone behind him there.

MR. STAUDER: Well, I mean it's not zoned, but I guess someone could argue it was residential use.

MR. HUDNELL: Hypothetically if that was in the City, ...

MR. MESSERSMITH: If that was C-4, it would have been a 5'?

MR. HUDNELL: For the front building and 25' for the back building.

MR. STAUDER: Yeah, that's right.

MR. MESSERSMITH: And what setback did he wind up having to do on the side?

CHAIRMAN THREADGILL: Ten (10').

MR. HUDNELL: Ten (10') on one side and zero on one side and five (5') on one side I think.

MR. STAUDER: That's right.

MR. HUDNELL: Each building was treated differently. The reason is he had one building that was over by a street, so they compromised on that and said zero on that one because it's facing a street. <unintelligible>

CHAIRMAN THREADGILL: It was 5' on the backside, which he owns the property behind it. It was zero lot line clearance on the street side or the alley. The side that abutted Eddie's Drywall was 10', due to the fact that the buildings would almost be overlapping and if a fire occurred, it would be a hazard to the Volunteer Fire Department. So we allowed him variances on all but the one and we wanted to stay with 10' on it for safety purposes.

MR. MESSERSMITH: Okay.

MR. HUDNELL: But this makes it clear what they are from here on out.

MR. MESSERSMITH: In that particular instance, it was my understanding from watching the meetings, that if he hadn't applied for a water meter, he would have never been subject to anything.

CHAIRMAN THREADGILL: He would have been subject to it, he just wouldn't have been caught.

MALE SPEAKER: Exactly.

MR. MESSERSMITH: Well how does a guy in the County like that supposed to know that.

COMMISSIONER CAMPBELL: Good question. Good question.

DIRECTOR SELLMAN: How was he supposed to know what?

MR. MESSERSMITH: How was he supposed to know that the City could tell him the setbacks if he's in the County? It shocked me. I had no idea that you had any regulation over that, watching the meetings.

DIRECTOR SELLMAN: That's a good question.

MR. HUDNELL: We totally agree. That's the same thing as I've got a whole three (3) shelves of state law over there, I certainly don't know which one of them I broke on the way home tonight.

MR. MESSERSMITH: I don't know. If you do this and do these new regulations in the County, I don't know how you're going to educate the people in the County. I don't know what their reaction is going to be for the City coming out into the County and telling them what to do.

CHAIRMAN THREADGILL: Well, it falls under state regulation under the ETJ. That five-mile territorial, that's state, that's not the City imposing that.

MR. MESSERSMITH: Well I understand that, but to me, it's almost like you have people in the County who really have no representation with the Planning Commission or with anybody in the City. I mean there's a lack of communication there. I don't know how you address that.

DIRECTOR SELLMAN: I think right now there's a lot more communication between the City and the County than there has been in possibly quite awhile about land use issues. I would hope to see increased coordination of what's going on and a lot better information dispersed from both the City and the County about what requirements do exist.

MR. HUDNELL: We're trying to do that. One way we're ...you're absolutely right how that's the big challenge is how do we get everybody educated? But one way we're trying now is a lot of these require water extensions or sewer extensions or whatever, so we're trying to get a better coordination between our own department when somebody walks in over there and they're saying "I need to do a water extension here," that our folks over there are raising the flag saying, "Wait a minute. This needs to go through Planning." Before they ever get started, you know. So that's the issue ...where it's unfair is where somebody already got started and then they find out ...

MR. MESSERSMITH: Well that was my concern with the guy on Amity Road cause to the best of my recollection, he already had that slab in on that building on the right.

MR. HUDNELL: No. No, he did not. He went ahead and poured them ... well.

DIRECTOR SELLMAN: That's really another issue. <Several people are talking at once.>

COMMISSIONER THORP: Let's talk about that later.

MR. HUDNELL: I'll be glad to discuss it privately with you.

CHAIRMAN THREADGILL: One thing ...

MR. MESSERSMITH: Seeing it on the TV, I just didn't really understand what all was going on there. It looked to me like he kind of got hung out to dry on that one building.

MR. HUDNELL: That was actually an example of where our process was working because he did come in for water extensions and at that time, the water system did say "hey, you need to go to Planning." He came to Planning ...

MR. MESSERSMITH: That was prior to him pouring that one building?

MR. STAUDER: Yes.

MR. MESSERSMITH: Was it? Okay. I didn't gather that from the meeting.

CHAIRMAN THREADGILL: One other thing to help a lot of this, the County Judge has set up a commission, a study group to look into City/County Planning or County Planning and he's really been investing a lot of time and effort in. He's got a group set up of 17 some odd people that's doing study groups and ...

MR. MESSERSMITH: I've read about that.

CHAIRMAN THREADGILL: There's a lot going on to try to help the public be aware of what's going on in the County. Maybe if this goes through, it will help the people out a lot more than what we've got right now. David?

COMMISSIONER CAMPBELL: Jeff, can I interrupt you?

MR. MESSERSMITH: Sure. Absolutely.

COMMISSIONER CAMPBELL: I've been around here for about eight (8) years now and this thing is kind of like a newborn baby. When I first started, we didn't look at Article II things out in the County. That only happened a year and a half ago. Those things are beginning to get out to the developers. You know about it now. They know about it out there, so it's coming around. But I think one of the downfalls of us is that publicly we haven't presented this. Even in the newspapers, say "hey, here's some of things that are out there that are happening now that the Planning Commission is seen." I hope that your comments that came out just now, brings that to a head and we do get more of a public notice out there of what is happening in the planning world.

MR. MESSERSMITH: Well, okay, David, that leads me to a question then. What made the change in the last year and a half?

COMMISSIONER CAMPBELL: I give it to Lance.

MR. HUDNELL: My fault. During my tenure as Acting/Interim Planning Director or whatever, when I went down there, there were a number of condo projects on the desk. So I started asking, "what are we doing with these?" "Well, we've not been doing much other than signing off on them." So I started to put my name on one, went back to read the Code to see what authority I had to put my name on it, and found I had none. So I went to my City Attorney and said "do I have authority to sign off on these condo projects?" He read the Code with me and said "absolutely not." They must be reviewed by the Planning Commission. So rather than sign my

name to something I had no authority to do, we started reviewing.

MR. MESSERSMITH: Okay, the next thing I had was on Page ...

MR. HUDNELL: Not that I wanted to, mind you, I just ...

MR. MESSERSMITH: Well, okay, let's take that then Lance. If that being the case, you really didn't want to do it ...

MR. HUDNELL: No, I just meant that I didn't want to stick my neck out there was what I was trying to say.

MR. MESSERSMITH: Okay, but I distinctly remember a City Board Meeting where the Board of Directors came about that close to not even enforcing anything in the ET area.

MR. HUDNELL: Yeah, I understand. That's their prerogative.

MR. MESSERSMITH: Okay. Alright, the next thing I have is on Page 16, 479-481. It speaks there that no construction work shall proceed, including clearing and grading, before a preliminary plat approval is made. That conflicts with § 16-4-76 which allows clearing, see Page 47 of the 62 Item A.

MR. HUDNELL: Give me the first number again, Jeff.

MR. MESSERSMITH: It conflicts with § 16-4-76.

MR. HUDNELL: No. Where was the first one? I'm sorry.

MR. MESSERSMITH: The first one is on Page 16, Line Items 479-481.

CHAIRMAN THREADGILL: I thought the excavation was allowed.

MR. HUDNELL: My understanding is we've got a ...

MR. MESSERSMITH: I think it is under the current. I think, but this was just a conflict that I noticed.

MR. HUDNELL: A conflict between § 16-4-76?

MR. MESSERSMITH: Uhh, huh.

MR. HUDNELL: Okay. Duly noted.

DIRECTOR SELLMAN: I'm not sure that there is a conflict.

MR. MESSERSMITH: Well, I'll turn to that page and see why I thought there was.

COMMISSIONER THORP: Page 47. Is that where we are?

MR. MESSERSMITH: It says no streets, drainage, or utility construction work exclusive of clearing shall begin.

COMMISSIONER THORP: What number are you on?

MR. MESSERSMITH: That would be Line Item 1405 or 1406.

COMMISSIONER THORP: Okay. Okay. Got you.

MR. MESSERSMITH: Is that not a conflict? Any consensus.

MR. HUDNELL: I think it is, so we need to...

COMMISSIONER THORP: What?

COMMISSIONER KLEINMAN: Definitely a conflict.

DIRECTOR SELLMAN: Yeah.

COMMISSIONER THORP: A conflict.

CHAIRMAN THREADGILL: I know in the past, we've allowed the excavation to start. To the best of my knowledge, the excavation could always start prior to ...

MR. MESSERSMITH: That was my understanding too.

CHAIRMAN THREADGILL: If not, we have a problem on Hamilton Drive because they've butchered that whole area over there and no permits have been issued for that development.

MR. HUDNELL: Especially when we went through, and that's a good catch <unintelligible> that we didn't catch the conflict over here. I think when the Commission, when your work session went through this, this was something that Bentonville and a couple of other cities had put this provision in and so we discussed whether ya'll wanted to put it in or not.

MR. MESSERSMITH: Well I think they have it in there because of their tree ordinance probably.

MR. HUDNELL: Might have.

MR. MESSERSMITH: Which we've discussed in prior years. I won't bring that one up. <laughter> I won't bring that one up.

MR. HUDNELL: I understand.

COMMISSIONER CAMPBELL: Hey, Jeff?

MR. HUDNELL: Jean Wallace is not here so we're all alright.

MR. MESSERSMITH: Okay. <laughter>

MR. HUDNELL: She keeps us straight on that.

MR. MESSERSMITH: Let's see, we'll go to Page 36, Line Item 957, 958 ...

MR. HUDNELL: Before you skip on through, is the chart of any benefit?

MR. MESSERSMITH: I felt like that probably is a benefit. I did have a couple, now that you mention it, I did have a couple of questions in there. Line Item 522 on Page 21 – I looked up in § 16-4-44, Item B, it says that the City will notify utility companies.

MR. HUDNELL: Well there was another provision because this is something that I discovered too. There is a provision in the current one – I have a marked up version – where it requires that.

MR. STAUDER: Yeah, it's in the development plan section.

MR. HUDNELL: It's down in the text. It's not up in the ... That's why we put it in this chart. See if I can find it for you real quick.

MR. MESSERSMITH: Well, Rick, I should have brought my other book.

MR. STAUDER: Are you talking about in the existing Subdivision Ordinance?

MR. HUDNELL: Yes.

MR. STAUDER: § 16-4-24, paragraph 18. Written approval by utility provider of any proposed utilities, including gas, electric, telephone, and television cable facilities. That's part of the development plan requirement in the current Subdivision Ordinance.

MR. MESSERSMITH: Well, but I don't have the page number for § 16-4-44. Well, here it is. I just found it. On Line Items 625 through about 628, it says upon receipt of a complete application the Planning Department shall cause to be distributed copies of the development plan and preliminary plat to other City departments, utility companies, and County and State agencies as appropriate.

MR. HUDNELL: Two (2) different things really.

MR. MESSERSMITH: Is it?

MR. HUDNELL: The one is where we're giving them a copy of the development plans that you submit. The other is on the backend of the process where we're getting a certification from them that you've completed them in accordance with their, that you've done the work in accordance with their ...they're signing off on it in other words. One's giving them the information. The other one is getting the sign off from them.

MR. MESSERSMITH: Okay. In talking about ...

MR. HUDNELL: One of them has to do with ...The reason it's a check in the development plan is because that's to be certain that they have capacity.

MR. MESSERSMITH: Right. On page ...

MR. HUDNELL: It rarely comes up but it could.

MR. MESSERSMITH: Right. On Page 23 of the checklist on Line Item 534, 535 -- has a complete drainage and storm drainage and construction plans been a requirement of the development plan in the existing Code?

MR. HUDNELL: Probably not because it was pre-storm water stuff.

MR. STAUDER: No, there's quite a bit of it in there.

MR. HUDNELL: Some of it, but ...

MR. STAUDER: Storm drainage <unintelligible> as required by City drainage specifications showing drainage data for all water courses entering and leaving the subdivision ...

MR. MESSERSMITH: To me, the existing kind of read like it was preliminary in some stage and I didn't know when, in this proposed draft ...well, I guess it says that it's during the development plan, but I was concerned that a person would have to do all that engineering before you even had a preliminary plat approval.

DIRECTOR SELLMAN: That is a requirement at this time.

MR. MESSERSMITH: That you have to spend all that money before ... Is that not something that needs to be addressed?

DIRECTOR SELLMAN: The thinking on requiring it is to be certain that it is possible to

provide those services and utilities. Sometimes the cost of putting those in is something that a developer, particularly someone who is not frequently doing a development, they may not consider what the actual cost of doing those improvements is going to be.

MR. MESSERSMITH: Yeah, but to me, it just seems like an awful waste of money – a risk of a lot of money – to have all that done and you have no idea if you're going to get a preliminary plat or a final plat approval. I mean that's a large outlay.

DIRECTOR SELLMAN: It is a large outlay. That's a fact.

MR. MESSERSMITH: And I disagree with that. I don't think it should be that way. I'm not sure at what point it ought to come in. I would think somewhere after the preliminary plat and before the final would make more sense.

DIRECTOR SELLMAN: One additional reason – and I'm not arguing one way or another – is to provide adjacent developments of some type of notice of what is likely to be occurring around them so that they can plan accordingly. So there are points on either side of that one.

MR. MESSERSMITH: Okay, let me get back to where I was.

MR. HUDNELL: We did this, the parentheses there I think that is an addition, these specifications may be included as part of the development plan or as a separate specification document. That's usually because a lot of the engineers, because of the storm water ordinances and the federal regulations, prepare a separate type report; so we didn't want them to have to redo that in the development plan. They can simply just attach it.

MR. MESSERSMITH: For the ADEQ?

MR. HUDNELL: Right.

MR. MESSERSMITH: Okay.

MR. HUDNELL: You'll see that a couple of times. It's the same thing on 32 because the Utilities Department has their own specification book and the engineers all work within and all develop their own little packet that they bring that Utilities wants to see. So we're not asking somebody to recreate that packet in a different form. They can just attach it.

MR. MESSERSMITH: Okay. The next thing I had on Page 36, Line Item 957, 958 – the <unintelligible> a cul-de-sac. I looked up in the current and it was 800' and now it says by the Fire Prevention Code. I was wondering if I was an engineer trying to lay out a subdivision, it makes more sense to me to ...I don't know how an engineer could do that. He'd have to go see the Fire Chief to get his ideas before you ever draw ...?

MR. HUDNELL: I don't know an engineer that didn't know the Fire Prevention Code. I mean

that's something that ought to be on every one of their shelves.

MALE SPEAKER: It's a state law.

MR. MESSERSMITH: What does that consist of then?

MR. HUDNELL: The State Fire Prevention Code. Volume I is the Fire Prevention Code. Volume II is the Southern Standard Building Code whatever. That's state law, so ... When they design projects and put their seal on it, they're sealing that they've done that.

MR. MESSERSMITH: Right, but to me, if you ...when you had the 800', that was somewhat logical.

MR. HUDNELL: Oh, well the reason we didn't put – I thought you were <unintelligible> – that 800' came out of the Fire Prevention Code.

MR. MESSERSMITH: It did?

MR. HUDNELL: Yes. But what happened is I think it changed recently to something else and I was trying to look here real quick to see what it was and so when a new version of the Fire Code comes out, it's to keep us from having to remember to go back and fix the Subdivision Code.

MR. MESSERSMITH: Okay.

MR. HUDNELL: Because it works in concert with each other but they can ...

MR. MESSERSMITH: I didn't know that's where the 800' came from.

MR. HUDNELL: Yes, sir. It wasn't arbitrary. It was from the ... I guess we could argue about whether the – and I don't mean argue – but I'm not an engineer so I don't know how the Fire Prevention Code got established but whatever method they used to establish it is what ...

MR. MESSERSMITH: Okay, on Page 39, Line Item 1098, 1099 – I did notice that those are regulations for the County which you addressed earlier to some degree. I did notice that the zero lot line for residential lots was changed from 35' to 65' in width. I was wondering what was the reasoning behind that?

MR. HUDNELL: There's some other stuff with zero lot lines that I need to point out to you too. Where was that at? I'm sorry.

MR. MESSERSMITH: On Line Item 1098.

MR. HUDNELL: I think the 35' came about, I mean the 65' because of some looks at other codes. <MR. MESSERSMITH: Well, I know ...> That was one that was discussed here, I

can't remember. That was one ya'll discussed at the Planning Commission level. Ya'll debated back and forth in work session and ended up with that.

CHAIRMAN THREADGILL: I'm brain dead. I can't remember.

MR. HUDNELL: I believe that was looking at some other codes, and we've been having a problem with the zero lot lines, so the ...

MR. MESSERSMITH: To me that seems like an excessive amount for a zero lot line.

CHAIRMAN THREADGILL: That occurred through Dana – something with her engineering background or something. I'm not quite sure what.

MR. HUDNELL: Make a note to have the Commission revisit that one.

CHAIRMAN THREADGILL: We can look into that one for sure.

MR. HUDNELL: But while you're there if you don't mind – because I did mean to point that out – over on Line 1128 on the next page, that's all, that is all basically new because there was some discussion of that I think in the definitions section of the old Code, that was basically saying you have to do this. It was you put the building together here, but then you have to double it on the other side or arrange them, so we tried to ...that's the way it was in the definition but it wasn't that way over in the text of the Code, so the Commission was always wrestling with when they got zero lot line ones, there were some that were pure zero lot line and that was never their intention, but there's been some that's been approved that way so we're trying to make it clear what we mean by zero lot lines and how that has to occur. So it's basically for the privilege of sticking them up close on one side, you make them not stick up close on the other side so that they're ...

MR. MESSERSMITH: And what is the logic behind that?

DIRECTOR SELLMAN: The logic behind that is to increase the usability of the space between structures. For example, if there is a 7 ½' side yard setback on both sides of a home, if someone's going to put a fence up on their property line, they have a fairly well unusable piece of about 7 ½' on each side. The thinking is if it is a zero lot line, then the house can be constructed on the property line on one side but creating a yard on the other side that is 15' which could be usable for something.

MR. HUDNELL: Aesthetics is the what <unintelligible>.

MR. MESSERSMITH: Well, when I think back to that, several years ago I toured some subdivisions in Memphis. They're like zero lot lines all the way around. It was like the growing thing. It sold out just in a blink of an eye. Why would we preclude something like that here?

MR. HUDNELL: Does that get into townhouses? Do they look different?

MR. STAUDER: That's a possibility.

MR. MESSERSMITH: These were individual homes, but they were just a few feet apart.

DIRECTOR SELLMAN: Do you have some kind of a drawing that would illustrate that? Maybe you could drop it by.

MR. MESSERSMITH: I don't.

DIRECTOR SELLMAN: Could you sketch some up?

MR. MESSERSMITH: I could probably come up with something.

DIRECTOR SELLMAN: Sure. I'd like to see it.

MR. MESSERSMITH: I did notice too on that Page 39, you added townhouse developments into that for the County areas. I don't think that was in there before.

MR. HUDNELL: Right, that was again one that kept being confusing as to whether it did or didn't apply, so we're going to make it clear that it did.

MR. STAUDER: It was in the text, but it wasn't in the table.

MR. MESSERSMITH: Okay. Alright, on Page 40, Line Item 1152, I see we have the 12' setbacks for the side and rear coming up again in that. Is that for residential?

MR. HUDNELL: Yes, sir.

MR. MESSERSMITH: That's something I can't understand. What is the logic behind keeping it the same for residential and commercial?

MR. HUDNELL: It was a minimum.

MR. MESSERSMITH: To me, I mean, like we were discussing in C-4, all your C Zones. Do any of them in the City have a 12' setback on sides?

MR. STAUDER: No, sir.

MR. HUDNELL: What are they? Just 10'?

MR. STAUDER: On the commercial zones?

DIRECTOR SELLMAN: On C-4?

MR. STAUDER: Well I know it's 5' on C-4 unless you abut a residential. I think C-3 is a 5' as well. C-1 of course is zero. CTR is not less than adjacent residential.

DIRECTOR SELLMAN: Right.

MR. MESSERSMITH: I don't understand why the commercial would be any different in the County.

MR. HUDNELL: That's something I can revisit. They debated that a bunch and said let's just make it a standard, but I think that's something that the Commission's probably willing to revisit.

MR. MESSERSMITH: Well, I think that's ...

MR. HUDNELL: Anybody have any suggestions for <unintelligible>?

MR. MESSERSMITH: That's a large arbitrary number to me to go from like what a C-4 would be at 5' to go to 12'.

MR. HUDNELL: I think we're open to ...

MR. MESSERSMITH: With the price of commercial land and so forth, I think that should be addressed.

MR. HUDNELL: Any suggestions developers have with that I think the Commission would be glad to consider.

MALE SPEAKER: Commissioner Campbell has something.

MR. MESSERSMITH: What you got, David?

COMMISSIONER CAMPBELL: I think one of the reasons that came about was in some of these condos that were going in out on the lake that were ending up like you said 3' or 5' from the line, it was more of a concern about peoples' safety in there. There wasn't enough room even for the Fire Department to get between the buildings the way they were going to be built. We tried to increase that size on one of them and failed to get the size increased and it ended up like 5' from the line. But you could have had another one right beside it and you're looking at a three-story building with people asleep on the third floor or two (2) floors or whatever and the Fire Department wouldn't have access to the building even.

MR. HUDNELL: I think we're open to suggestions there, though.

MR. MESSERSMITH: Speaking of the ...speaking for the Fire Department, I don't really understand, in looking at some of the things that's been done recently, how the City Fire Chief goes into the County telling the standards. What's the relationship between the City Fire Chief and the County Fire Department?

DIRECTOR SELLMAN: The County Fire Departments attend our Development Review Committee meetings and they provide comments when they wish to do so. The City Fire Department does not provide comments on the County projects.

MR. MESSERSMITH: They do not?

DIRECTOR SELLMAN: They may be asked for advice, on a typical, but they do not provide anything other than comment on what is in the Fire Prevention Code.

MR. HUDNELL: Right. There you go.

DIRECTOR SELLMAN: They are authorized through the State Fire Marshal's Office to provide that service when there is not another agency stepping up to do that. We do have fire districts now from the unincorporated areas of the County that do regularly attend the Development Review Committee meetings.

MR. HUDNELL: Our Fire Department is concerned about two (2) things. If the Volunteer Fire Departments want to do that, they'd be most excited to let them do that. That's placement of fire hydrants, sprinklers in buildings over a certain height, and access to the property. That's the only thing they're concerned with. They have authority to do the whole Fire Code as an agent of the State Fire Marshal. They have no desire to do the whole Code. They only have a desire to do those things that are most critical to life safety. If the Volunteer Fire Department Chief or anybody else that they want to appoint wanted to enforce those same regulations, our Fire Chief would be ecstatically happy with that.

MR. MESSERSMITH: Well, that's what I wondered ...

MR. HUDNELL: But if nobody's going to do it, he is.

CHAIRMAN THREADGILL: Right now they don't want to sign off on it and take full responsibility for any problems that occur. That's the whole deal.

MR. MESSERSMITH: The volunteers?

CHAIRMAN THREADGILL: Right. The Volunteer Fire Chief.

MR. MESSERSMITH: Well, I wondered about that.

MR. HUDNELL: But there are guys... I mean our Fire Department's not doing near the review

that they would do if a project was inside the City because they're only concerned with those, basically those three (3) issues I just mentioned.

DIRECTOR SELLMAN: Right.

MR. HUDNELL: But I wanted to say that <unintelligible>. <MR. MESSERSMITH: I was curious about that.> ...they verified that with the State Fire Marshal. They have a letter from him that says that you are hereby my designated agent.

MR. MESSERSMITH: Well how about, speaking of condos and how about fire walls? Is there any reviews? Does the City Fire ...

MR. HUDNELL: I've <unintelligible> in DRC, but I don't know if they've been addressing fire walls or not.

MR. STAUDER: It gets back into the classic argument I guess is what I'm thinking about. We don't really have the authority to do building inspections in the County. We can review the project at the DRC. A lot of times our building official will make comments to that effect, but he doesn't actually have the authority to go out there while it's being constructed and make sure that it's being done that way. So the way we've addressed it in the past is to place a condition on the approval that the structures are to be constructed to State Fire Code minimum standards and if it's not done that way, then it basically clears the Planning Commission. It puts it on the developer is the way I understand that intent.

MR. HUDNELL: So it's basically putting the developer on notice that even though you're in the County, you still have to build to the State Fire Codes.

COMMISSIONER CAMPBELL: Which is a requirement whether we say it or not, right?

MR. HUDNELL: Yes. That's what I'm saying. That's basically just clearing the Commission, putting everybody on notice that if we have a fire out there and then somebody in that residence comes back and says "well, the Planning Commission reviewed that. Why didn't you make them?" well all we're going to do is whip out our letter and say "here's where we told them to do it." Whether they did it or not is up to them.

MR. MESSERSMITH: You mentioned about the manufactured home parks being new. I did notice that on Pages 48 and 49.

MR. HUDNELL: Yes, our ...again, I know ya'll are tired of me saying this, in reviewing this with Brian, he feels like we have authority under the current Subdivision Code to regulate mobile home parks. We have not by practice done that. We are kind of driving a stake in the ground here to say "okay, from this point on, we'll make it clear and do that."

MR. MESSERSMITH: To summarize, after I reviewed all of it, it appears to me that basically

these regulations are drafted just to allow more Planning Commission control into the County. To me, one thing that needs to be kept in mind and I don't know if it has been, and some of the projects I've seen on TV and have been made aware of by builders and developers are the lifeblood of the community and if you overburden them with new regulations and new expenses to all building projects in the County as well as in the City, with developers being faced with materials and labor costs at all time highs, a lot of that due to the price of oil, I don't want to see unnecessary burdens put on developers. I felt like the fee increases that were passed for the planning fees for different plats and so forth, to me that was excessive. I know it was mentioned trying to recover the cost, but the cost is relative and in looking at it, what does that developer bring to the community in terms of building new homes and having people come? It's a tremendous economic impact there. I really ...I don't understand ...It bothers me to some effect, in some sense, that you've gone from not doing much of anything in the County to right now going full bore in the County and I don't know if that's ...To me, in a common sense way of thinking, I don't know if that's necessarily right, because the people in the County really don't have any representation in terms of the City Board or the Planning Commission or anything.

CHAIRMAN THREADGILL: We're working on that as well.

MR. HUDNELL: On behalf of the Commission, I might just help you understand. I got to do a Civics class at the Community College last night, which is always fun, and one of the things that I always point out to them is there's nothing in state law or anywhere else that says we have to have a city. You don't have to have cities. The only reason we have cities is because people move close together and your dog starts eating my chickens and I'm not going to have that so we start having regulations. That's basically what's happening, at least in my opinion – ya'll know I've been here a long time – but what's happening is, the County ...we're starting to catch it from the backend now, which is a new phenomena. I'll defer to Rick to some extent to. I think in the last five (5) years really, the County's becoming so populous now, the Commission's getting nailed on a lot of stuff on the backend now from the citizens. We had a house that flooded when I first went downstairs. We had the neighborhood all over us because "why didn't you stop it. You have the authority to make sure they did that right. Why didn't you?" So they're starting to catch it from the backend because we're getting so much subdivisions in the County, so much population in the County, that they're starting to catch us in the backend as to why aren't you regulating. We're kind of in that ...

MR. MESSERSMITH: Well, I understand you're in a balancing act, but what I don't want to see, and I've heard it from a lot of builders over the years, they have purposely gone to the County to build because of all the regulations in the City.

MR. HUDNELL: Sure.

MR. MESSERSMITH: We have basically, my company has always basically been in the City. I'm really concerned what effect it's going to have on development in general. I don't want to see the County not be able to develop because of unnecessary regulations. That's a concern that I have.

MR. HUDNELL: I think this group is pretty sensitive to that. I have a nephew that actually kind of serves as a subcontractor in Colorado and it takes him two (2) years to permit a house. <MR. MESSERSMITH: Oh, I know.> We don't ever want to go there. <MR. MESSERSMITH: No.> That's before he can ever start construction.

MR. MESSERSMITH: Right. Right, and I understand that. To me, since I've been here so long and even dealt with the old Subdivision Code before the existing was put in, I never had any problems with that one. I kind of have a perspective going a way back and I don't want to see us get like the people in Colorado. People won't move here if we get incurred with those kind of expenses being developers, it's going to stop development. I just want to make that clear. I think you really need to have some involvement. I appreciate you saying that this is a draft and you're going to look at it further from the people that really are affected. That's pretty much all I had. There was some other minor line items in there, and I'd be glad, Lance, to give you a copy of what I went through. I didn't feel like wasting the time. Other people want to speak to this.

CHAIRMAN THREADGILL: It's not a waste of time, sir. We're here to try to straighten this out.

MR. MESSERSMITH: Well, other people, these other things are like duplications that I think I saw and things like that I can give to Lance and you guys can go over that.

MR. HUDNELL: One of the things that we'd welcome from everybody is suggestions on, like I say, I think we failed – I feel like I failed, I say “we”, me – failed on making it more user friendly. We were trying to make it so it was a more readable code than the current one, because the current one, I noticed in working downstairs and with Rick, we've had to flip back and forth all the time between ...

MR. MESSERSMITH: Well that's where the chart you put in there, I think that really

MR. HUDNELL: We're trying to get things so maybe, as we work particularly with the engineers, so that they understood a little bit more ...that it flows a little better. I don't know that we accomplished that <unintelligible>.

MR. MESSERSMITH: Right. Well, that's a complaint I've heard from engineers is that there's different interpretations that can be made and a lot of times, they're left in the dark. So they're input would be very valuable I would think.

MR. HUDNELL: That's why we've been trying to kind of nail down some of these things so we're not making so many judgment calls.

MR. MESSERSMITH: Well, I've spoke enough, so...

CHAIRMAN THREADGILL: Thank you, Mr. Messersmith. Is there anyone else in the

audience that has anything to add to? Please come forward and give us your name and address.

MR. GLEN SMITHERMAN, 100 Saxony: There's no way in the world I could have gone through what Jeff went through. He apparently did a lot more research on this than what I did. Most of you know, my problems that we're having is on lot splits and stuff. A short time ago, I didn't even know you had a Subdivision Code. I didn't even know I was a subdivision. That's what we would like to have addressed is something that would make it easy for people just to transfer property to someone else by a sale. I understand some of the hesitations ya'll have on providing access for land-locked areas, but the state statute provides for anybody that's land-locked to gain access and utility easements through state statutes. There is no way you can land-lock a person with a piece of property and not allow them easements and stuff. Of course that's one of our contentions. I know what ya'lls are -- the situations ya'll have run into before. Then again too, the situation with the Olive Garden and the turn lanes that you've worked with before; but like I say, until just a short time ago, we didn't even know we were a subdivision, didn't know we were developers. We're certainly not builders and I'm not going to get into that situation. This thing is not quite user friendly. Lance, it put me to sleep two (2) nights in a row.

MR. HUDNELL: You need to see <unintelligible> on the sale now to your developers.

MR. SMITHERMAN: But there's a ton of people out here that have more than two (2) acres of property inside the County and the City, that as Jeff had alluded to, he may want to give his son a lot to build a house on. Well, the way we have this thing, this is a subdivision because you split off a lot. It is a division of a parcel of property. Am I right on the way you're talking on this?

MR. HUDNELL: Yes.

MR. SMITHERMAN: And if he's got a daughter and he wants to give her a lot, then they have to come before ya'll. Is that ...? <MALE SPEAKER: Mmm, huh.> Which there should be some way around this to simplify this I guess is what I'm after.

CHAIRMAN THREADGILL: If I'm not mistaken, Lance, correct me, on a parcel of property like that, staff has the authority to do a single lot split. Then, is it not correct that they can petition the Planning Commission for a separate lot split as well?

DIRECTOR SELLMAN: No. Not correct.

CHAIRMAN THREADGILL: We've not done that?

DIRECTOR SELLMAN: Once there is ...I don't know if you've done it or not, that may be a different question. What the Code says is once for a lot split and after that, it is not a lot split. It requires the land division.

MR. HUDNELL: What we have done in this Code though, and this may be what you're thinking of, what we have added in this Code, and Jeff, I can of defer to you because you almost

know more about it than I do at this point, but we've added this incident subdivisions and minor subdivisions. It was sort of in the old Code, but it wasn't real clear. We've made that clearer, which makes it easier in the sense that those don't have to go to the Planning Commission if they meet the criteria. So if you get into a two (2) or three (3) lot split that becomes a subdivision but it still meets that criteria, it doesn't have to go to the Commission.

MR. SMITHERMAN: I wasn't quite sure what section it's on.

MR. STAUDER: It's on Page 30, Line Item 746. It also allows for, and I think in your situation, Mr. Smitherman, this would help immensely, the adjustment of lot lines as long as you don't increase the number of lots. If you took a 20 acre parcel for example and divided it into four (4) five-acre tracts and you had someone who wanted to buy eight (8) acres, that lot line adjustment could very likely be approved at the staff level. You wouldn't have to go to the Commission.

MR. SMITHERMAN: We ran across this, I think I addressed this with Lance at the time we were working with this thing, if we took 40 acres and divided them into four (4) different tracts, then the Planning Department could, anything under the ten (10) acres, the Planning Department could authorize by itself, the Planning Director, without coming before the Board. But what happens when you go 12 acres or 15 acres? When you got a tract of property for sale, you really don't know who's going to come and buy what.

MR. HUDNELL: I think if you'll take a look at this § 16-4-48 in the new one, kind of read through it...

MR. SMITHERMAN: It's even split in two (2) lots.

MR. HUDNELL: This is the consideration of minor subdivisions and incidentals in the new Code, not in the old Code; but this is trying to address some of that.

MR. SMITHERMAN: But a minor subdivision is for residential.

MR. HUDNELL: That's what this is. This is either one.

DIRECTOR SELLMAN: Yeah. The minor in the proposal is for any type of subdivision.

MR. HUDNELL: We created this whole new rule for minor subdivisions to try to make it easier to do what you're talking about.

MR. SMITHERMAN: Right. Yeah. I appreciate that.

MR. HUDNELL: Line 746. Page 30. Then it goes on to 31 and 32.

CHAIRMAN THREADGILL: I knew it had been done somewhere. Something has anyway.

MR. SMITHERMAN: Subdivision Minor is a subdivision of four (4) lots or less intended for residential use with no required street dedications.

MR. HUDNELL: That's one of them but ...

MR. SMITHERMAN: Definitions. 1973. That's where I got the minor subdivisions were for residential.

DIRECTOR SELLMAN: That looks like we still have an inconsistency between what we're proposing and the text of the Code and what the definition is. I'm glad you caught that.

MR. HUDNELL: Another good catch. Thanks.

MR. SMITHERMAN: That clears so apparently a tract of land, we can fall under this and work with the Planning Department.

MR. HUDNELL: Yeah, I think the one on 1973, thanks for catching that, I think that's the old definition and I just didn't fix it.

MR. STAUDER: There was also a definition that was added for incidental submittals and it's found at Line 1766, which reads "lot splits, minor subdivisions, lot recombinations, replats, or one-lot subdivisions that do not require submittal to the Planning Commission but which may be approved by the Director of Planning..."

MR. HUDNELL: And that's a new definition.

MR. STAUDER: That was added. Right.

MR. SMITHERMAN: Let me see if I can clarify this, if I've got 20 acres out here and I've already split off two (2), as we are already all aware, if I sell another one, I still have to have that approved by who?

MR. HUDNELL: It depends on the circumstances. If it meets the requirements of § 16-4-48, it can be approved by the Planning Director.

MR. SMITHERMAN: Okay. I still have to apply for the permit to do the deal and the surveys and all that.

DIRECTOR SELLMAN: So long as there is street frontage, which we're probably talking about a case where there is.

MR. SMITHERMAN: Right. I think we've had this discussion about land-locked areas, which we had no intention of doing. I know you can't anybody else ...what anybody else is going to do, but that's not our intentions to do anything like that. And of course the other situation that

you and I have discussed is the other land-locked area that we'll get at that later. I don't know whether you've ever talked to Brian on that situation.

DIRECTOR SELLMAN: I have. We could probably talk tomorrow about that if you'd like.

MR. SMITHERMAN: But that was a different situation all together. I guess that the other part that I had is and Jeff had brought up representation in the County. You know the Board of Directors does have the authority to appoint at least one-third ($\frac{1}{3}$) of this Commission's members ...

CHAIRMAN THREADGILL: Alright if I might, I sit on the commission that the County Judge has appointed to establish several things: (1) a City/County Planning, (2) a County Planning, (3) none of the above, or (4) either A and B. That's what we're doing right now is sitting with the public, which we've got a public get together coming up here I think it's some time in the middle of next month. Notice will be put out. Trying to work to establish a City/County Joint Planning to where two-thirds ($\frac{2}{3}$) or two (2) people would be setting on this Commission who would also live in the County and give representation for the County people. They would still work on the City's and the County's ETJ and then if they so deemed fit to go with the County as well, I mean that's up to the public up here, but that is being worked on. The representation is out there.

MR. HUDNELL: I'd encourage you just to visit with the Board about that because as far as staff is concerned, that's a political decision and I don't think we have a dog in that fight one way or the other. <Several people begin talking at once.>

MR. SMITHERMAN: But the Board of Directors can authorize ...

MR. HUDNELL: You're absolutely right, state law provides for it. ...

MR. SMITHERMAN: Right, up to a third ($\frac{1}{3}$) of the members...

MR. HUDNELL: If ya'll can convince our Board to do that, and I think they're, I know they're open to discuss it because there's been a couple of them already mention it.

MR. SMITHERMAN: I guess that's why, there's not a whole lot of regulations from the state that require ya'll to do anything. Most of them give you authority to do what you're doing. I mean there's very few things that the state actually tells the cities and the planning commissions and even lot splits, they don't tell you that you can control that. They say, you know, even, you have the authority to do it. I think that's where we need to be sure we're keeping a good balance between what we're doing and that we're not over-regulating, but we're also taking care of the safety, health, and welfare of the citizens on that stuff. That's what I wish ya'll would consider whenever you're doing this is the fewer the regulations as possible.

CHAIRMAN THREADGILL: Well a lot of your concerns have been addressed right here in this section to try to help with a situation like you have.

MR. SMITHERMAN: Right, and we have no ...I am a developer. That's kind of like saying retreat and retrograde operations. They're both moving to the rear, but you know I'm not a developer but I am a developer. I'm not a subdivision but I am a subdivision. All I am is I have some property I'd like to peddle one of these days to somebody and at the least expense that I can do it and the least trouble I have. I appreciate you working with this. I know this is a monumental task trying to rewrite codes and ordinances. I've been involved with handbooks and policy books and it's just something all the time that you want to change. You never can finish out the final version. I appreciate your time.

CHAIRMAN THREADGILL: Thank you, Mr. Smitherman. Anyone else in the audience? Please come forward and give us your name and address, sir.

ROBERT MAULT (?), 186 Randall Road: In the spirit of what I think you said, on 1098, Page 39 of 62, reference zero lot lines, my personal experience with that is where you're concerned with one side of a home site or home accommodating a usable space, like you mentioned 15' on one side and perhaps 0' on the other. I think the more germane thing is the size of the house as opposed to the size of the lot. What I mean by that is as opposed to saying 65' wide lot -- I've built many of these types of homes over the years -- is if you're going to say a 15' side setback or an 18' side setback or whatever it may be, is more important than a 65' lot. You might have a 40' house with a 15' side setback which would be a 55' lot. Or you may have a 35' house with a 15' setback which would be a 50' lot. So I think more germane-ic is how much space are you getting on the side as opposed to the 65' that you have suggested in here. I don't think that is a motivation for building zero lot lines when the width of the lot for zero lot line is greater than it is for a single family detached. I would like the Board to consider that consideration, regardless of the size of the house you put back the setback on that side. That accomplishes I believe what Kathy Sellman's objectives, or what I heard the objective to be.

The other comment I have is just in caution. I build in multiple states and multiple areas. I can appreciate and give you a word of caution. Sometimes these rules are easier to put on the books and the consequences thereof may not be thought through just because it's impossible to think them through to forecast what consequences there may be in the future. An illustration of that might be in the State of Florida right now, the state legislature passed yesterday amendments to eliminate ad valorem taxes on your home totally. You would not have any taxes on your residence. Commercial property you would, but not on your homesteaded property if you lived there -- a dramatic change brought about by the cost of housing escalating so high in Florida. Taxes going up consequentially that people can't afford it and consequentially their immigration has slowed down precipitously and their building industry is less than half of what it was two (2) years ago. So builders are going broke and the state is saying "what can we do to keep attracting more people?" Even if there is no state income tax and right now it would be the first state to have not only no state income tax, it would not have tax on your home -- very appealing to a number of people transferring from other geographies where they're encountering high real estate taxes. However, that has to be offset by something. Where do the funds come from? So now they're looking at raising the sales tax, so that the unknowing tourists will be stuck with that

additional tax. But that's brought about by panic in Leeds County, Fort Meyers, Naples, Florida. There are eleven (11) schools being built because of the influx of families and children and because of non-affordable housing. I've built over 4,000 homes in that county because of non-affordable housing. They cannot staff the schools, the police departments, the fire departments because the minimal house price today is about \$325,000. Some of this is brought about by virtue of increased regulations. Nobody votes against nicer landscaping, nicer homes, bigger lots, more setbacks until the people can't pay for it. Then when they can't pay for it, then you have these drastic <unintelligible> situations like you can't find school teachers and where are they supposed to live; so you have to raise their income so they can live there and you have to raise the taxes so you can pay the salaries of the teachers, and then the people can't pay the taxes. A single family home of \$200,000 now is taxed about \$6,000 a year. Thank you.

CHAIRMAN THREADGILL: Thank you, sir.

<END OF TAPE>

CHAIRMAN THREADGILL: Give us your name and address, sir.

HOVIS GOTTRY (?), 142 Summit Ridge Place: I have property out in the County and I've lived out in the County and developed out there in the past. One thing that concerns me here is the property you cut off a piece out of those ten (10) acres or 20 acres without getting somebody's approval of it. In the past, it's always been able to do it. That's why the County is growing so fast. If we keep doing these regulations, it's going to do the same thing he's talking about. People are going to quit building, quit cutting it up. It just makes a burden upon the builder and the developer. People out in the County want to be able to do what they want to do with their property – cut it up. Three (3) acres is <unintelligible>. It's not a subdivision. This is making it where five (5) or ten (10) acres is a subdivision when you start cutting it up. I think that's infringing on the County too much and will have an effect just as it's been talked about. Too many regulations just cost too much money and it's passed on to the individual.

CHAIRMAN THREADGILL: Alright, sir, thank you. Is there anyone else? Please come forward and give us your name and address for the record, sir.

MALE SPEAKER: I just had a couple of comments, Gary, on the ...

CHAIRMAN THREADGILL: Give us your name and address.

LARRY JOHNSON, 103 Sherry Ann Lane: On the storm water drainage engineering prior to preliminary plat is going to cost an awful lot of money as a couple of guys have mentioned. Then it would require the purchaser to put such a due diligence on that property prior to buying it, because now he's out there trying to buy a piece of property that he doesn't know if he can use until he does his drainage work and because he doesn't know if the Planning and Zoning would approve it. It's just another major, major investment and it's kind of like on the storm water prevention and the engineering for every city in the state, including the state, the standard roll of

silt fencing is good enough -- and it's \$17 a roll -- but in Hot Springs, we have to buy wire-backed, which is \$60 a roll. We're the only city in the entire state that requires it and I think that's ridiculous, but we do it.

MR. HUDNELL: <unintelligible> ...excuse me, what was that?

MR. JOHNSON: Pardon?

MR. HUDNELL: What was the steel backed you said?

MR. JOHNSON: \$60 on the fence back, silt fence.

MR. HUDNELL: <unintelligible>

MR. JOHNSON: The what?

MR. HUDNELL: What was <unintelligible> two (2) standards? I was just going to write a note on that.

MR. JOHNSON: There's standard silt fencing that everybody in the state uses, including ADEQ requirement is the standard, wood staked silt fencing; but in Hot Springs, you require steel backed fencing, wire meshed back fencing which is \$60 a roll. It doesn't make sense. Thank you.

CHAIRMAN THREADGILL: Thank you, sir.

MR. HUDNELL: I was just going to check in there a little bit while I was there. To answer your question based on some of the ...we've had a couple of comments -- and I understand what they're saying and we've talked about it in the past a little bit with regard to when we can require stuff and how that impact extends to the developer --but some of the seminars and stuff ya'll have been to -- and this is a question from me to ya'll, and Kathy -- does the Planning Commission, if somebody meets all the requirements of the Code, does the Planning Commission have the authority to deny a preliminary plat?

MR. STAUDER: No.

DIRECTOR SELLMAN: No.

CHAIRMAN THREADGILL: No.

MR. HUDNELL: I didn't ...I thought that's what we've heard from Brian and others in the past. I just wanted to make sure everybody understood that.

CHAIRMAN THREADGILL: If they meet everything in that packet, it's a done deal.

MR. HUDNELL: I thought there had been some court cases on that. I didn't know if ya'll were aware of that or not. The Commission doesn't really have authority to say "we just don't like it because it's going to have purple houses in it, so it's denied."

DIRECTOR SELLMAN: But there does have to be sufficient documentation of those standards being met.

MR. HUDNELL: Right. I mean if the engineers prepare the proper things and the standards are met, then the Commission can't turn it down just because they happen to not like the way the houses are ...the angles of the houses or something.

DIRECTOR SELLMAN: No, it's not a discretionary decision.

CHAIRMAN THREADGILL: That's why we've more or less been requesting that the storm water and the ADEQ and all that is presented to us and if you do it all as your packet says, it's pretty much a done deal. That's kind of why we've been requesting all the information up front. We could probably -- I know staff wouldn't like to hear this -- but we could hold a separate hearing, which we have at times, you could bring in just like a sketch plan and we could say "yeah, the sketch plan looks good or no it doesn't." Then your next step would be to bring in the whole site plan. If you get a fairly reasonable go ahead on just your sketch plan, you could do that before you bring ...Now ... What?

DIRECTOR SELLMAN: I'm just curious what your expertise would be to evaluate those sketch plans without the development plan.

CHAIRMAN THREADGILL: No, I'm just saying on the sketch plan, in the past -- Dave, correct me if I'm wrong -- the developer has said "well, now, before I spend all this money, do you think this concept is even feasible?" so you look at it. If they're going to build 200 houses on a four (4) acre plat, you say "no". If everything looks in reason and looks with the basic outline of the Code, we've told them "yeah, you can go ahead and draw it up and we'll look at your final deal if you meet all the requirements."

DIRECTOR SELLMAN: So are you creating a new standard when you look at that sketch plan?

MR. HUDNELL: Basically what he's talking about is the pre-application conference on Line 456.

CHAIRMAN THREADGILL: Thank you.

DIRECTOR SELLMAN: The application conference would be to review the requirements.

CHAIRMAN THREADGILL: That's basically what we're doing. That's what the first sketch plan is in line with ...

COMMISSIONER CAMPBELL: To give you a case of what Gary's talking about, the commercial development that's going on across the street from Wal-Mart on Central Avenue where the Wild Wings is, the initial developer that came in just asked to come in and show us a concept of what he was wanting to do out there and just get our feeling "is this something that you feel like will work in that area?" It looked like ...that area ...I don't know if it was even C-4 back in there on part of it or something. He was just wanting an idea – "do ya'll like this or not?"

DIRECTOR SELLMAN: And he asked you about your feelings about it?

COMMISSIONER CAMPBELL: Yeah.

CHAIRMAN THREADGILL: Yeah.

DIRECTOR SELLMAN: And those were what the findings were?

COMMISSIONER CAMPBELL: And I was real uncomfortable with that meeting. I mean it meant nothing. The meeting meant nothing because there was nothing binding on what we said and it was really just a waste of time because it meant nothing.

MR. HUDNELL: The current Code provides for a sketch plan procedure.

CHAIRMAN THREADGILL: Yeah. It's just a way that they can kind of get an idea if it's even ...

DIRECTOR SELLMAN: But it means nothing.

CHAIRMAN THREADGILL: No. Well, it does to them because they know they have kind of a half-way reasonable shot if they can meet all the Codes.

DIRECTOR SELLMAN: Man, I wouldn't spend my money on that.

MALE SPEAKER: Why do it if you're not going to pass it? I mean, they're just coming in to get an idea.

MR. HUDNELL: That's why we changed it to the ...made it clear more in the new one about the pre-application conference.

CHAIRMAN THREADGILL: To get everything gathered up.

MALE SPEAKER: If you say "no, this isn't going to work", then why spend the money?

MR. HUDNELL: Right. But I just wanted ya'll to be aware that ...I mean I'm pretty sure

that's what it was that ...the Commission doesn't have discretion just to turn something down because for whatever reason, they don't like it. It has to be based on a finding that something, some requirement was not met.

MALE SPEAKER: Let me ask you a question about that.

CHAIRMAN THREADGILL: Give us your name and address again.

JEFF MESSERSMITH:

MR. HUDNELL: We're doing that for the tape, in case ya'll were wondering.

MR. MESSERSMITH: 100 Hamilton Oaks. A question in regard to that is if you meet the criteria of the Code and your neighbors in the area rally against you, things do get turned down even though you do meet all the requirements. I've seen that happen ...

MR. HUDNELL: I think you've seen the Commission struggle with that a number of times; but I think, at least in my tenure and dealing with it here lately, it gets a little more dicier when it gets before the Board of Directors on appeal. But as far as the Commission's concerned, ya'll held pretty strong to if you meet the requirements, you get approved.

DIRECTOR SELLMAN: It's also true that the applicant has the obligation to demonstrate that compliance and where there is a question, then I think the Commission may not approve. It can go either way.

MR. HUDNELL: The neighbors would have to show that there's something about that that is not meeting the Code.

MR. MESSERSMITH: Well I've seen many times over the years that the neighbors just didn't want to see that wooded area turn into something.

MR. HUDNELL: Sure. That gets more into the ...usually when I've seen that it's been rezoning as opposed to subdivision issues.

MR. MESSERSMITH: Right, but it's creeping

DIRECTOR SELLMAN: <unintelligible> ...are discretionary.

MR. MESSERSMITH: It's creeping now though into the County. Like the apartments behind the Mall. That was the first one that came up that I saw that the neighbors were rallying against that and it got approved, but ...

COMMISSIONER CAMPBELL: Not by the Commission.

MR. MESSERSMITH: But did they meet all the requirements? I mean, Lance just made the statement that they met ...if you meet all those requirements, you get approved.

MALE SPEAKER FROM THE AUDIENCE: It's automatic.

COMMISSIONER CAMPBELL: No.

MR. MESSERSMITH: So it's not automatic.

COMMISSIONER CAMPBELL: That uh...

MR. MESSERSMITH: And to me, that's where it really ...

COMMISSIONER CAMPBELL: No, no, no. That was a zoning matter.

MR. MESSERSMITH: But that's in the County.

COMMISSIONER CAMPBELL: The Commission did approve the site plan for that project. The Commission approved the site plan, but it was a matter of the zoning that the Commission voted against or the Comprehensive Plan change.

DIRECTOR SELLMAN: Both.

COMMISSIONER CAMPELL: Both of them.

MR. MESSERSMITH: Well, with it being in the County, how was there zoning an issue?

MR. STAUDER: Pending annexation.

MR. HUDNELL: It was a Comprehensive Plan amendment. But then they were also petitioning to annex in so zoning was being considered as part of the annexation.

MR. MESSERSMITH: Okay.

CHAIRMAN THREADGILL: And to come in first, we had to change the Comprehensive Plan to allow for that <unintelligible>. The Planning Commission voted against it because the neighborhood did not want that type of development in that ...I mean you've seen the street – skinny little street that can't hold it, you know ...Then when it went forward and the Comprehensive Plan was revised by the Board of Directors, then they came in for rezoning and the Planning Commission sent in a request to deny. The Board of Directors overrode it on that as well; but the site plan that the developer submitted was approved.

MR. MESSERSMITH: Was it?

MR. HUDNELL: Remember there were two (2) parcels there. They didn't submit a site plan for the second, the bigger parcel. They only submitted a site plan for the smaller parcel and that was approved.

MR. MESSERSMITH: Okay. Well, it ...and that's another area of concern. To me, the developers <unintelligible> in the County, we need to have the discretion to come up with a new idea for a subdivision to sell it to the public and for the Planning Commission, if they're going to be out there in the County, they need to be receptive to the developer's ideas even though they might be a new concept like Bob was talking about with his experiences in Florida. I would like to see that to be kept in mind.

CHAIRMAN THREADGILL: That's open all the time. Any ...I'm speaking for myself. I don't know how the rest of the Commission, but any time a new concept design comes in, we've been pretty open to change. Just like townhouses, we didn't have a listing for townhouses. Now we do. Every day society changes and goes in a different direction. <MR. MESSERSMITH: Right. Right.> We're not against making changes. That's what we're doing here now – trying to make changes to help individuals get the lots broke down into smaller sections and development taken in the County.

MR. MESSERSMITH: Well, his idea ...Right. His idea in regards to the setbacks depending on the size of the house makes a whole lot of sense to me. That really is a very common sense approach.

MR. HUDNELL: I remember one along that line was that subdivision on Columbia Hills Road that B&F, Ms. <unintelligible>, you may be aware of. B&F brought in one that I call the California Style Subdivision, but it was pretty radically different with some things. Ya'll worked through that. It's a little bit different concept than what we're normally used to in Arkansas, but it was <unintelligible>. And the Autumn ...the thing on Malvern Road ...

MR. STAUDER: Autumn Ridge.

MR. HUDNELL: Autumn Ridge. That was a new concept. We worked through that. Of course, it was inside the City so it had to do with zoning and we worked through that with regard to a PD.

MR. MESSERSMITH: Right. Right. Okay.

CHAIRMAN THREADGILL: Thank you, Jeff.

COMMISSIONER CAMPBELL: You made a comment there earlier about all of the things, in particular the drainage and stuff that's required on a site plan. You and I talked, probably about two (2) years ago now I think, over there on your project that we were trying to simplify it. <MR. MESSERSMITH: Right.> And get some of those things out of it and I still have those same thoughts myself but I kind of wonder, as Mr. Johnson just said, about having to have all of

this drainage up front. To me, now that ADEQ says that you will have it -- and you know as well as I do in the past, some of it got done and some of it didn't -- but now that it says it has to be there, I would think you would want to know that. I would think that you would want to know that up front before you got into buying that property as to what you were going to have to do as far as your drainage goes.

MR. MESSERSMITH: In speaking of that ADEQ, I was told by an engineer here in town that when the City came up with their rules and regulations for storm water runoff, that they far exceeded the federal guidelines, such as Larry was talking about on the silt fence. To me, the way it was ...and the way he explained it to me, it was drawn up like a lot of engineering documents are made with no consideration of cost. It was just their ideas. He said it tremendously exceeds the federal guidelines.

MR. HUDNELL: I'll ask about that. We hired an outside consultant to develop the ordinance for a number of cities in Arkansas. So if we exceeded, a whole bunch of others do too.

MR. MESSERSMITH: Well, but that leads back to the same thing I'm telling you. We don't need any more regulations than we have to have.

MR. HUDNELL: We were trying not to necessarily do that is what I'm getting at.

MR. MESSERSMITH: Well, that's something that I think you might want to look at. Thank you.

CHAIRMAN THREADGILL: Thank you.

MALE SPEAKER: ADEQ says you can <unintelligible> ...

CHAIRMAN THREADGILL: Please come up to the podium so that we can get it on ...Give us your name again please, sir.

LARRY JOHNSON, 103 Sherry Ann Lane: With the ADEQ, you can draw your own plans in your office without spending an engineering fee and having them have to stamp the plans and take a lot of time and surveys and all of that and turn it in to the ADEQ and it will be approved. But that's not required until you go to work. You can buy your property and do a preliminary plat in the past and go on with your work as far as clearing and all of that while you're getting your engineering work done and getting your storm water drainage done. So the ADEQ does not require what you were talking about.

COMMISSIONER CAMPBELL: And too, just to kind of talk to that is as I said, I'm still out as to whether I want to see that on there because I'm not sure that the seven (7) of us it really means a whole lot to us. Now ...

MR. JOHNSON: Most things that are approved don't mean anything, but when you're paying

the bill for them though it means a lot.

COMMISSIONER CAMPBELL: Yeah. So and as I told Mr. Messersmith two (2) years ago, I would like to see it pared down myself on the front end. That there was a lot of stuff that was being required that I just didn't see that needed to be there. I'm hoping ...

MR. JOHNSON: If you just step across the fence and put your feet in a developer's shoes and take all of these upfront increased fees, engineering costs to develop this and that and something else, it'll make you run and want to hide instead of go out front and go to work. That's the problem a lot of times with Planning Commissions, Zoning Commissions, people that work for the City, they never went into debt for millions of dollars and had to pay that interest and get that work done and needed it to be done timely. We've sat and waited on inspections and nobody thinks anything about it. That's okay that they're a half a day late or a day late or it's the next day. We have 48 hours to get there. It's just untold amounts of money. Until you've got in there and done it, you could never understand how costly it is. Time is money and everything that ya'll require us to do takes time and takes money. They don't give it to us. We have to go buy it. Thank you.

CHAIRMAN THREADGILL: Thank you. Anyone else? Please come forward and give us your name and address.

BOB MESSERSMITH, 838 Bellaire Drive, Hot Springs: I've enjoyed the discussion and the heart that these people have shown here tonight. I'm really impressed. I guarantee you that there are a heck of a lot more out there that feel the same way as they do. I know of a group of 18 and they're not here tonight or represented, but they're active and they're opposing this situation. There's got to be some changes. As discussed and I think it was brought up in '99, the Board changed some policies as far as regulations ...

MR. HUDNELL: No, I just said the current Subdivision Code, which this is ...

MR. BOB MESSERSMITH: Okay, I'll go back to when I and some of the others were in there. This is not an issue. I'm telling you that all this can change with a Board. They can wipe out the whole thing. If it gets to that, that's what will happen. We don't want to go through that again. But we will if we have to. Boards as witness as in today's Boards really don't have a knowledge of what we are going through and a lot of other subjects as you see on TV if you watch it. It's hard to watch it without your blood pressure jumping up. I do appreciate, once again, what these people have shown by coming and I thank you for your time.

CHAIRMAN THREADGILL: Thank you, Bob. Anyone else? Alright at this time, I will close the public portion and I want to thank every one of you for being here and your comments are in notes. I can see quite a few changes are going to be made from just the discussion tonight. I want to thank you again. Does anyone on the Commission have any comments? Staff?

DIRECTOR SELLMAN: No. I think it's great that people have read this and have taken the

time to come and let us know what you are thinking. It's important. That's why we've done this.

CHAIRMAN THREADGILL: And we need all the help we can get. We really do appreciate it. Thank you. I guess we'll go ahead and close the meeting and just do this privately. We'll just go ahead and close this portion.

DIRECTOR SELLMAN: Is the meeting adjourned?

CHAIRMAN THREADGILL: The meeting is adjourned. Thank you.