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RICHMOND, VIRGINIA

Volume II (Printed In Three Volumes)

IN THE

Supreme Court of Virginia

AT RICHMOND

RECORD No. 761116

BENNETT T. MATTHEWS,

Appellant,

v.

COUNTY OF GREENE
AND
BOARD OF SUPERVISORS OF GREENE COUNTY,

Appellees.

GENERAL APPENDIX TO APPELLANT'S BRIEF

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SUBDIVISION ORDINANCE

Greene County, Virginia

PLAINTIFF'S EXHIBIT
#1
12/3/75 JE

Enacted by the Greene County Board of Supervisors
on the second day of August, 1969
at Stanardsville, Virginia

Amended on the twenty-fourth day of August, 1973

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SUBDIVISION ORDINANCE
OF
GREENE COUNTY, VIRGINIA

DEFINITION

An ordinance to regulate the subdivision of property into lots, streets, alleys, and other public areas, to provide for the making and recording of plats of such subdivisions and the certification of same and provide for approval of plats.

Whereas, Article 7 of the Virginia Planning Act found in the Code of Virginia 1950, as amended, Section 15.1-465 et seq., the governing body of Greene County, Virginia, is authorized to adopt regulations to provide:

(a) For size, scale and other plat details;

(b) For the orderly development of the general area;

(c) For the coordination of streets within the subdivision with other existing or planned streets within the general area as to location, widths, grades, and drainage;

(d) For adequate provisions for drainage and flood control and other public purposes, and for light and air;

(e) For the extent to which and the manner in which streets shall be graded, graveled or otherwise improved and water and storm and sanitary sewers and other utilities or other facilities installed;

(f) For the acceptance of dedication for public use of any right of way located within any subdivision which has constructed therein, or proposed to be constructed therein, any street, curb, gutter, sidewalk, drainage or sewerage system or other improvements, financed or to be financed in whole or in part by private funds only if the owner or developer (1) certifies to the governing body that the construction costs have been paid to the persons constructing such facilities, or (2) furnishes to the governing body a certified check in the amount of the estimated costs of construction or a bond, with surety satisfactory to the governing body, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned;

(g) For monuments of specific types to be installed establishing street and property lines;

(h) That unless a plat be filed for recordation within a reason-

able time after the final approval thereof such approval shall be withdrawn and the plat marked void and returned to the approving official; and

(i) For the administration and enforcement of such ordinance, not consistent with provisions contained in this act.

Therefore be it ordained by the governing body of Greene County, Virginia, that the following regulations are hereby adopted for the subdivision of land within the jurisdiction of Greene County, Virginia, and from and after the effective date of ths ordinance, every owner or proprietor of any tract of land to which these regulations apply who subdivides such tract as provided in these regulations shall cause a plat of such subdivision developed and prepared in accordance with these regulations, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the court wherein deeds conveying such land are required by law to be recorded.

SECTION 1—PURPOSE AND TITLE

1-1. PURPOSE

The purpose of this ordinance is to establish certain subdivision standards and procedures for Greene County, Virginia, and such of its environs as come under the jurisdiction of the governing body as provided for by the 1950 Code of Virginia, as amended.

These are part of a long-range plan to guide and facilitate the orderly beneficial growth of the community, and to promote the public health, safety, convenience, comfort, prosperity and general welfare. More specifically, the purposes of these standards and procedures are to provide a guide for the change that occurs when lands and acreage become urban in character as a result of development for residential, business, or industrial purposes; to provide assurance that the purchasers of lots are buying a commodity that is suitable for development and use; and to make possible the provision of public services in a safe, adequate and efficient manner. Subdivided land sooner or later becomes a public responsibility in that roads and streets must be maintained and numerous public services customary to urban areas must be provided. This ordinance assists the community in meeting these responsibilities.

1-2. TITLE

This ordinance is known and may be cited as the "Subdivision Ordinance of Greene County, Virginia."

SECTION 2—ADMINISTRATION

2-1. ADMINISTRATOR

The agent appointed by the governing body is hereby delegated to administer this ordinance. In so doing, the agent shall be considered the agent of the governing body, and approval or disapproval by the agent shall constitute approval or disapproval as though it were given by the governing body. The agent shall also consult with the commission on matters contained herein.

In the event a plan for subdivision is disapproved by the agent, the subdivider may appeal to the governing body who may then override the recommendation of the agent and approve said plat.

2-2. DUTIES

The agent shall perform its duties as regards subdivisions and subdividing in accordance with this ordinance and the Land Subdivision and Development Act.

2-3. TO CONSULT

In the performance of its duties the agent may call for opinions or decisions, either verbal or written, from other departments in considering details of any submitted plat. This authority by the agent shall have particular reference to the resident highway engineer and the health officer.

2-4. ADDITIONAL AUTHORITY

In addition to the regulations herein contained for the platting of subdivisions, the agent may, from time to time, establish any reasonable additional administrative procedures deemed necessary for the proper administration of this ordinance.

SECTION 3
PROCEDURE FOR MAKING AND RECORDING PLATS

3-1. PLATTING REQUIRED

Any owner or developer of any tract of land situated within Greene County who subdivides the same shall cause a plat of such subdivision, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the appropriate court. No such plat of subdivision shall be recorded unless and until it shall have been submitted, approved, and certified by the agent in accordance with the regulations set forth in this ordinance. No lot shall be sold in any such subdivision before the plat shall have been recorded.

3-2. DRAW AND CERTIFY

Every such plat shall be prepared by a surveyor or engineer, duly licensed by the State of Virginia, who shall endorse upon each plat a certificate signed by him setting forth the source of the title of the land subdivided, and the place of

record of the last instrument in the chain of title. When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon such plat, within an inset block, or by means of a dotted boundary line upon the plat.

3-3. OWNER'S STATEMENT

Every such plat, or the deed of dedication to which plat is attached, shall contain in addition to the surveyor's or engineer's certificate a statement to the effect that "the above and foregoing subdivision of (here insert correct description of the land subdivided) as appears in this plat is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees, if any," which shall be signed by the owners, proprietors, and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgments of deeds and when thus executed and approved as herein specified shall be filed and recorded in the office of the clerk of the appropriate court, and indexed under the names of land owners signing such statement and under the name of the subdivision.

3-4. NO ONE EXEMPT

No person shall subdivide any tract of land that is located within Greene County as defined in Article 7 of the Virginia Planning Act except in conformity with the provisions of this ordinance.

3-5. PRIVATE CONTRACTS

This ordinance bears no relation to any private easement, covenant, agreement or restriction, nor is the responsibility of enforcing such private easement, covenant, agreement or restriction implied herein to any public official. When this ordinance calls for more restrictive standards than are required by private contract the provisions of this ordinance shall control.

3-6. NECESSARY CHANGES

No change, erasure or revision shall be made on any preliminary or final plat, nor on accompanying data sheets after approval of the agent has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the agent.

3-7. FEES

There shall be a charge for the examination and approval or disapproval of every plat reviewed by the agent. At the time of filing the preliminary plat, the subdivider shall deposit with the agent checks payable to the treasurer in the amount of twenty-five dollars ($25.00) per plat and one dollar ($1.00) for each lot if the subdivision contains five (5) or more lots; if the subdivision contains less than five (5) lots, the charge shall be ten dollars ($10.00) per plat and one dollar ($1.00) for each lot.

SECTION 4—GENERAL REGULATIONS

4-1. MUTUAL RESPONSIBILITY

There is a mutual responsibility between the subdivider and the County of Greene to divide the land so as to improve the general use pattern of the land being subdivided.

4-2. LAND MUST BE SUITABLE

The agent shall not approve the subdivision of land if from adequate investigations conducted by all public agencies concerned, it has been determined that in the best interest of the public the site is not suitable for platting and development purposes of the kind proposed.

4-3. FLOODING

Land subject to flooding and land deemed to be topographically unsuitable shall not be platted for residential occupancy, nor for such other uses as may increase danger of health, life or property, or aggravate erosion or flood hazard. Such land within the subdivision shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional inundation or shall not produce conditions contrary to public welfare.

4-4. IMPROVEMENTS

All required improvements shall be installed by the subdivider at his cost. The subdivider's bond shall not be released until construction has been inspected and approved by the appropriate engineer. All improvements shall be in accordance with the following requirements.

4-4-1. STREETS

All streets in the proposed subdivision shall be designed and constructed in accordance with the following minimum requirements by the subdivider at no cost to the locality.

4-4-1-1. ALIGNMENT AND LAYOUT

The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Where, in the opinion of the agent, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary line of such property. Half streets along the boundary of land proposed for subdivision may not be permitted. Wherever possible, streets should intersect at right angles. In all hillside areas streets running with contours shall be required to intersect at angles of not less than sixty (60) degrees, unless approved by the agent upon recommendation of the highway engineer.

4-4-1-2. SERVICE DRIVES

Whenever a proposed subdivision contains or is adjacent to a limited access highway or expressway, provisions shall be made for a service drive or marginal street approximately parallel to such right of way at a distance suitable for an appropriate use of the land between such highway and the proposed subdivision. Such distances shall be determined with due consideration of the minimum distance required for ingress and egress to the main thoroughfare. The right of way of any major highway or street projected across any railroad limited access highway or expressway shall be of adequate width to provide for the cuts or fills required for any future separation of grades.

4-4-1-3. APPROACH ANGLE

Major streets shall approach major or minor streets at an angle of not less than eighty (80) degrees, unless the agent, upon recommendation of the highway engineer, shall approve a lesser angle of approach for reasons of contour, terrain or matching existing patterns.

4-4-1-4. MINIMUM WIDTHS

The minimum width of proposed streets, measured from lot line to lot line, shall be as shown on the major street plan, or if not shown on such plan shall be:

Major streets—not less than eighty (80) feet;

Minor streets—not less than fifty (50) feet;

Local service drives or other minor streets which cannot be extended in the future—not less than fifty (50) feet; and

Alleys, if permitted—not less than twenty (20) feet nor more than twenty-eight (28) feet.

4-4-1-5. CONSTRUCTION REQUIREMENTS

The roadway shall be graded to thirty (30) feet including side ditches and covered with a base of crushed stone or small gravel a minimum of 22 feet.

The grades of streets submitted on subdivision plats shall be approved by the agent. Wherever feasible, street grades shall not exceed ten (10) per cent.

If the subdivider elects to have the streets taken over by the Virginia Department of Highways and advertises that said streets meet such requirements, then he must have the approval of a highway engineer.

4-4-1-6. CUL-DE-SACS

Generally, minor terminal streets (cul-de-sacs), designed to have one end permanently closed, shall be no longer than seven hundred (700) feet to the beginning of the turnaround. Each cul-de-sac must be terminated by a turnaround of not less than one hundred (100) feet in diameter.

4-4-1-7. ALLEYS

Alleys should be avoided wherever possible. Dead-end alleys, if unavoidable, shall be provided with adequate turnaround facilities as determined by the agent.

4-4-1-8. PRIVATE STREETS AND RESERVE STRIPS

There shall be no private streets platted in any subdivision. Every subdivided property shall be served from a publicly dedicated street. There shall be no reserve strips controlling access to streets.

4-4-1-9. NAMES

Proposed streets which are obviously in alignment with other already existing and named streets, shall bear the names of the existing streets. In no case shall the names of proposed streets duplicate existing street names irrespective of the use of the suffix street, avenue, boulevard, drive, way, place, lane, or court. Street names shall be indicated on the preliminary and final plats, and shall be approved by the agent. Names of existing streets shall not be changed except by approval of the governing body.

4-4-1-10. IDENTIFICATION SIGNS

Street identification signs of a design approved by the agent shall be installed at all intersections.

4-4-2. MONUMENTS

As required by this ordinance all monuments must be installed by the subdivider and shall meet the minimum specifications. Upon completion of subdivision streets, sewers, and other improvements, the subdivider shall make certain that all monuments required by the agent are clearly visible for inspection and use. Such monuments shall be inspected and approved by the agent before any improvements are accepted by the governing body.

4-4-2-1. LOCATION—CONCRETE

Concrete monuments four (4) inches in diameter or square, three (3) feet long, with a flat top, shall be set at all street corners, at all points where the streetline intersects the exterior boundaries of the subdivision, and at right angle points. The top of the monument shall have an appropriate mark to identify properly the location and shall be set flush with the finished grade.

4-4-2-2. LOCATION—IRON PIPE

All other lot corners shall be marked with iron pipe not less than three-fourths (¾) inch in diameter and twenty-four (24) inches long and driven so as to be flush with the the finished grade. When rock is encountered, a hole shall be drilled four (4) inches deep in the rock, into which shall

be cemented a steel rod one-half (½) inch in diameter, the top of which shall be flush with the finished grade line.

4-4-3. WATER FACILITIES

Where public water is available the service shall be extended to all lots within a subdivision, including fire hydrants installed by the subdivider in accordance with the design standards and specifications for water, construction, and improvements in Greene County, and meeting the approval of the agent. Every subdivision containing twenty-five (25) or more lots to which public water cannot or will not be provided shall be supplied by the subdivider with a complete central water supply and distribution system to serve each and every lot containing less than twenty thousand (20,000) square feet per lot.

4-4-4. SEWERAGE FACILITIES

Where public sewerage facilities are available the service shall be extended to all lots within a subdivision and septic tanks will not be permitted. Every subdivision shall be provided by the subdivider with a satisfactory and sanitary means of sewage collection and disposal in accordance with the design standards and specifications for sewerage construction and improvements in Greene County and meeting the approval of the agent, provided the average prevailing lot size is less than twenty thousand (20,000) square feet. In case of a subdivision in which the size of lots are twenty thousand (20,000) square feet or more in area, an individual sewage disposal system for each lot may be provided by the subdivider, subject to approval by the health official.

4-4-5. PRIVATE WATER AND/OR SEWER

Nothing in this regulation shall prevent the installation of privately owned water and/or sewerage facilities in areas where public water and/or sewerage facilities are not available, provided, however, that such installation must meet all the requirements of the State Water Control Board, the State Health Department, and any other State or local regulation having authority over such installation.

4-4-6. LOT SIZE

The minimum lot size in any area shall be in accordance with the following, except that where the public water and/or public sewer systems are not available such minimum lot sizes may be increased by the agent in accordance with the recommendations of the health officer which shall be submitted to the agent in writing, either by notations on the plat or by letter. The health officer may be guided by appropriate tests in determining the area required for the sanitary and safe disposal of septic tank effluent.

4-4-6-1. LOT SIZE (PUBLIC WATER AND SEWER)

Residential lots served by both public water and public

sewer systems shall be ten thousand (10,000) square feet or more in area.

4-4-6-2. LOT SIZE (PUBLIC WATER OR SEWER)

Residential lots served by only one of public water or public sewer systems shall be fifteen thousand (15,000) square feet or more in area.

4-4-6-3. LOT SIZE (NEITHER PUBLIC WATER NOR SEWER)

Residential lots served by neither public water nor public sewer systems shall be twenty thousand (20,000) square feet or more in area.

4-4-7. EXCEPTIONS

Greater lot areas may be required where individual septic tanks or individual wells are used if the health official determines that there are factors of drainage, soil condition or other conditions to cause potential health problems. The agent shall require that data from percolation tests be submitted as a basis for passing upon subdivisions dependent upon septic tanks as a means of sewage disposal.

4-4-8. STORM DRAINAGE FACILITIES

The subdivider shall provide all necessary information needed to determine what improvements are necessary to properly develop the subject property, including contour intervals, drainage plans and flood control devices. The subdivider shall also provide plans for all such improvements together with a properly qualified certified engineer's or surveyor's statement that such improvements, when properly installed, will be adequate for proper development.

4-4-9. FIRE PROTECTION

The installation of adequate fire hydrants in a subdivision at locations approved by the agent may be required, provided necessary public water is available. The agent shall consult with the proper authority before approving such location.

4-4-10. EASEMENTS

The agent may require that easements for drainage through adjoining property be provided by the subdivider. Easements of not less than ten (10) feet in width shall be provided for water, sewer, power lines, and other utilities in the subdivision when required by the agent.

4-4-11. BOND

Before any subdivision plat will be finally approved by the agent the subdivider shall, in lieu of construction, furnish

bond in an amount calculated by the agent to secure the required improvements in a workmanlike manner, and in accordance with specifications and construction schedules established or approved by the appropriate engineer, which bond shall be payable to and held by the governing body.

4-4-12. PLANS AND SPECIFICATIONS

Two(2) blue or black line prints of the plans and specifications for all required physical improvements to be installed, shall be prepared by an engineer and shall be submitted to the agent for approval or disapproval within forty-five (45) days. If approved one (1) copy bearing certification of such approval shall be returned to the subdivider. If disapproved, all papers shall be returned to the State Health Department; and any other state or local regu- subdivider with the reason for disapproval in writing. In the event no action is taken in forty-five (45) days such subdivision shall be deemed approved.

4-5. LOTS

In addition to the area and width requirements already specified, lots shall be arranged in order that the following considerations are satisfied.

4-5-1. SHAPE

The lot arrangement, design, and shape shall be such that lots will provide satisfactory and desirable sites for buildings, and be properly related to topography and conform to requirements of this ordinance. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area which would be unusable for normal purposes.

4-5-2. LOCATION

Each lot shall abut on a street dedicated by the subdivision plat, or on an existing publicly dedicated street, or on a street which has become public by right of use. If the existing streets are not fifty (50) feet in width, the subdivider shall make provisions in the deeds to the lots for all buildings to be so constructed as to permit the widening by dedication of such roads or streets to a width of fifty (50) feet.

4-5-3. CORNER LOTS

Corner lots shall have extra width sufficient for maintenance of any required building lines on both streets as determined by the agent.

4-5-4. SIDE LINES

Side lines of lots shall be approximately at right angles, or radial to the street line.

4-5-5. REMNANTS

All remnants of lots below minimum size left over after subdividing of a tract must be added to adjacent lots, or otherwise disposed of rather than allowed to remain as unusable parcels.

4-5-6. SEPARATE OWNERSHIP

Where the land covered by a subdivision includes two or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be transferred by deed to single ownership, simultaneously with the recording of the final plat. Said deed is to be deposited with the Clerk of the Court, and held with the final plat until the subdivider is ready to record the same, and they both shall then be recorded together.

4-5-7. BUSINESS OR INDUSTRIAL

Lots intended for business or industrial use shall be designed specifically for each purpose with adequate space set aside for off-street parking and delivery facilities.

4-5-8. SET BACK LINES

No building shall be constructed on a lot any closer than twenty-five (25) feet from the street right of way line.

4-6. BLOCKS

Where created by the subdivision of land, all new blocks shall be of modern design and shall comply with the following general requirements:

4-6-1. LENGTH

Generally, the maximum length of blocks shall be twelve hundred (1,200) feet, and the minimum length of blocks upon which lots have frontage shall be five hundred (500) feet.

4-6-2. WIDTH

Blocks shall be wide enough to allow two tiers of lots of minimum depth, except where fronting on major streets unless prevented by topographical conditions or size of the property, **in which case the agent may approve a single tier of lots of minimum depth.**

4-6-3. ORIENTATION

Where a proposed subdivision will adjoin a major road, the agent may require that the greater dimension of the block shall front or back upon such major thoroughfare to avoid unnecessary ingress or egress.

SECTION 5—APPROVAL OF PLATS

5-1. APPROVAL REQUIRED BEFORE SALE

Whenever any subdivision of land is proposed, and before any permit for the erection of a structure shall be granted, the subdivider or his agent shall apply in writing to the agent for the approval of the subdivision plat and submit three (3) copies of the preliminary plat including the lot, street and utilities layout. No lot shall be sold until a final plat for the subdivision shall have been approved and recorded in the following manner:

5-2. PRELIMINARY SKETCH

The subdivider may, if he so chooses, submit to the agent a preliminary sketch of the proposed subdivision prior to his preparing engineered preliminary and final plats. The purpose of such preliminary sketch is to permit the agent to advise the subdivider whether his plans in general are in accordance with the requirements of this ordinance. The commission, upon submission of any preliminary sketch, shall study it, and advise the subdivider where it appears that changes would be necessary. The agent may mark the preliminary sketch indicating necessary changes and any such marked sketch shall be returned to the commission with the preliminary plat. The preliminary sketch shall be as follows:

5-2-1.

It shall be drawn on white paper, or on a print of a topographic map of the property. It shall be drawn to a scale of one hundred (100) feet to the inch. It shall show the name, location and dimensions of all streets entering the property, adjacent to the property, or terminating at the boundary of the property to be subdivided. It shall show the location of all proposed streets, lots, parks, playground and other proposed uses of the land to be subdivided and shall include the approximate dimensions.

5-2-2. PART OF TRACT

Whenever part of a tract is proposed for platting and it is intended to subdivide additional parts in the future, a sketch plan for the entire tract shall be submitted with the preliminary plat. This sketch is merely for information purposes and is not binding on the subdivider or the governing body.

5-3. PRELIMINARY PLAT

The subdivider shall present to the commission three (3) prints of a preliminary layout at a scale of one hundred (100) feet to the inch as a preliminary plat. The preliminary plat shall include the following information:

5-3-1.

Name of subdivision, owner, subdivider, surveyor or engineer, date of drawing, number of sheets, north point and scale. If true north is used, method of determination must be shown.

5-3-2.

Location of proposed subdivision by an inset map at a scale of not less than two (2) inches equal one (1) mile showing adjoining roads, their names and numbers, towns, subdivisions and other landmarks.

5-3-3.

The boundary survey or existing survey of record provided such survey shows a closure with an accuracy of not less than one in twenty-five hundred; total acreage, acreage of subdivided area, number and approximate area and frontage of all building sites, existing buildings within the boundaries of the tract, names of owners and their property lines within the boundaries of the tract, and adjoining such boundaries.

5-3-4.

All existing, platted and proposed streets, their names, numbers, and widths; existing utility or other easements, public areas and parking spaces; culverts, drains and water courses, their names and other pertinent data.

5-3-5.

The complete drainage layout, including all pipe sizes, types, drainage easements and means of transporting the drainage to a well defined open stream which is considered natural drainage.

5-3-6.

A cross section showing the proposed street construction, depth and type of base, type of surface, etc.

5-3-7.

A profile or contour map showing the proposed grades for the streets and drainage facilities including elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the center line of streets together with proposed grade lines connecting therewith.

5-3-8.

A location map tying the subdivision into our present road system, either by aerial photographs or topographic maps of the U. S. Department of Interior.

5-3-9.

Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply.

5-3-10.

All parcels of land to be dedicated for public use and the conditions of such dedication.

5-4. **PROCEDURE**

The agent or his appointed representative shall discuss the preliminary plat with the subdivider in order to determine whether or not his preliminary plat generally conforms to the requirements of the subdivision ordinance. The subdivider shall then be advised in writing within forty-five (45) days, which may be by formal letter or by legible markings on his copy of the preliminary plat, concerning any additional data that may be required, the character and extent of public improvements that will have to be made, and an estimate of the cost of construction or improvements and the amount of the performance bond which will be required as a prerequisite to approval of the final subdivision plat. In determining the cost of required improvements and the amount of the performance bond, the agent may consult with a duly licensed engineer who shall prepare this data for the agent, or preferably may require a bona fide estimate of the cost of improvements to be furnished by the subdivider.

5-5. **NO GUARANTEE**

Approval by the agent of the preliminary plat does not constitute a guarantee of approval of the final plat.

5-6. **SIX MONTHS' LIMIT**

The subdivider shall have not more than six (6) months after receiving official notification concerning the preliminary plat to file with the agent a final subdivision plat in accordance with this ordinance. Failure so to do shall make preliminary approval null and void. The agent, may, on written request by the subdivider, grant an extension of this time limit.

5-7. **FINAL PLAT**

The subdivision plats submitted for final approval by the governing body and subsequent recording shall be clearly, and legibly drawn in ink upon tracing cloth at a scale of one hundred (100) feet to the inch on sheets having a size of 24" x 20". In addition to the requirements of the preliminary plat the final plat shall include the following:

5-7-1.

A blank oblong space 3" x 5" shall be reserved for the use of the approving authority.

5-7-2.

Certificates signed by the surveyor or engineer setting forth

the source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title.

5-7-3.

A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgements of deeds.

5-7-4.

When the subdivision consists of land acquired from more than one source of title the outlines of the various tracts shall be indicated by dash-lines, and indentification of the respective tracts shall be placed on the plat.

5-7-5.

The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines and center lines of streets, boundaries of all proposed or existing easements, parks, school sites or other public areas, the number and area of all building sites, all existing public and private streets, their names, numbers and widths, existing utilities, and those to be provided such as sanitary sewers, storm drains, water mains, manholes and underground conduits including their size and type, water courses and their names, names of owners and their property lines, both within the boundary of the subdivision and adjoining said boundaries.

5-7-6.

Distances and bearings must balance and close with an accuracy of not less than one in five thousand (5,000).

5-7-7.

The data of all curves along the street frontage shall be shown in detail at the curve or in a curve data table containing the following: Delta, radius, arc, tangent, chord and chord bearings.

5-8. CONDITIONS

The plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this ordinance, and has made satisfactory arrangements for performance bond, cash or cash bond to cover the cost of necessary improvements, in lieu of construction, to the satisfaction of the agent. Approval of final plat shall be written on the face of the plat by the agent. The subdivider shall record plat within sixty (60) days after final approval; otherwise agent shall mark plat "void" and notify the clerk of the court.

SECTION 6—ADVERTISING STANDARDS

6-1.

A subdivider when advertising a subdivided tract of land for sale shall be specific as to the following items:

6-1-1.

Whether officially approved water and sewage facilities are available or not.

6-1-2.

The amount of officially approved water available to each lot purchaser in terms of gallons per day.

6-1-3.

Whether streets will meet requirements of Virginia Department of Highways.

SECTION 7—EFFECTUAL CLAUSES

7-1. EXCEPTIONS

Where the subdivider can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, and where, because of topographical or other conditions peculiar to the site, in the opinion of the agent a departure may be made without destroying the intent of such provisions, the agent may authorize an exception. Any exception thus authorized is to be stated in writing in the report of the agent with the reasoning, on which the departure was justified, set forth. No such variance may be granted by this ordinance which is opposed in writing by the county or highway engineer or health official.

7-2. PENALTIES

Any person violating the foregoing provisions of this section shall be subject to a fine of not more than one hundred dollars ($100.00) for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.

7-3. VALIDITY

Should any article, section, subsection or provision of this subdivision ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of this subdivision ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

7-4. REPEAL

All ordinances or portions of ordinances in conflict with this ordinance are hereby repealed to the extent of this conflict.

7-5. AMENDMENTS

This ordinance may be amended in whole or in part by the governing body provided that any such amendment shall either originate with or be submitted to the commission for recommendation; and further provided that no such amendment shall be adopted without a public hearing having been held by the governing body. Notice of the time and place of the hearing shall have been given at least once a week for two weeks, and the last notice at least five (5) days but not more than ten (10) days prior to the hearing.

7-6.

This ordinance was duly considered, following a required public hearing on the 7th day of June, 1969, and was adopted by the Board of Supervisors of Greene County at its regular meeting on the 7th day of June, 1969, to be effective on the 2nd day of August, 1969.

SECTION 8—DEFINITIONS

WORDS AND TERMS

For the purpose of this ordinance, certain words and terms used herein shall be interpreted or defined as follows: Words used in the present tense include the future, words in the singular number include the plural, and the plural the singular, unless the natural construction of the word indicates otherwise; the word "lot" includes the word "parcel;" the word "shall" is mandatory and not directory; the word "approve" shall be considered to be followed by the words "or disapproved;" any reference to this ordinance includes all ordinances amending or supplementing the same; all distances and areas refer to measurement in a horizontal plane.

8-1. AGENT: The representative of the governing body who has been appointed to serve as the agent of the board in approving the subdivision plats.

8-2. ALLEY: A permanent service way providing a secondary means of access to abutting properties.

8-3. BUILDING LINE: The distance which a building is from the front lot line or front boundary line.

8-4. COMMISSION: The planning commission of Greene County, Virginia.

8-5. CUL-DE-SAC: A street with only one outlet and having an appropriate turn-around for a safe and convenient reverse traffic movement.

8-6. DEVELOPER: An owner of property being subdivided, whether or not represented by an agent.

8-7. EASEMENT: A grant by a property owner of the use of land for a specific purpose or purposes.

8-8. ENGINEER: An engineer licensed by the Commonwealth of Virginia.

8-9. GOVERNING BODY: The Board of Supervisors of Greene County, Virginia.

8-10. HEALTH OFFICER (OR OFFICIAL): The health director or sanitarian of Greene County, Virginia.

8-11. HIGHWAY ENGINEER: The resident engineer employed by the Virginia Department of Highways.

8-12. JURISDICTION: The area or territory subject to the legislative control of the governing body.

8-13. LOT: A numbered and recorded portion of a subdivision intended for transfer of ownership or for building development for a single building and its accessory building.

8-14. LOT, CORNER: A lot abutting upon two (2) or more streets at their intersection; the shortest side fronting upon a street shall be considered the front of the lot, and the longest side fronting upon a street shall be considered the side of the lot.

8-15. LOT, DEPTH OF: The mean horizontal distance between the front and rear lot lines.

8-16. LOT, DOUBLE FRONTAGE: An interior lot having frontage on two (2) streets.

8-17. LOT, INTERIOR: A lot other than a corner lot.

8-18. LOT OF RECORD: A lot which has been recorded in the office of the clerk of the appropriate court.

8-19. LOT, WIDTH OF: The mean horizontal distance between the side lot lines.

8-20. PLAT: Includes the terms: Map, plan, plot, replat, or replot; a map or plan of a tract or parcel of land which is to be, or which has been subdivided. When used as a verb, "plat" is synonymous with "subdivide."

8-21. PROPERTY: Any tract, lot, parcel or several of the same collected together for the purpose of subdividing.

8-22. STREET: The principal means of access to abutting propties.

8-23. STREET OR ALLEY, PUBLIC USE OF: The unrestricted use of a specified area or right of way for ingress and egress to two or more abutting properties.

8-24. STREET, MAJOR: A heavily traveled thoroughfare or highway that carries a large volume of through traffic, or anticipated traffic exceeding five hundred (500) vehicles per day.

8-25. STREET, OTHER: A street which is used primarily as a means of public access to the abutting properties with anticipated traffic of less than five hundred (500) vehicles per day.

8-26. STREET, SERVICE DRIVE: A public right of way generally parallel and contiguous to a major highway, primarily designed to promote safety by eliminating promiscuous ingress and egress to the right of way by providing safe and orderly points of access to the highway.

8-27. STREET WIDTH: The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks and planting strips.

8-28. SUBDIVIDE: To divide any tract, parcel or lot of land into six or more parts, any of which contain an area of less than three (3) acres, for the purpose, whether immediate or future, of transfer of ownership.

8-28-1. The term "to subdivide" shall not include a bona fide division or partition of agricultural land for agricultural purposes or for the building site for members of the family owning any such agricultural lands, or a transfer between adjoining landowners to adjust boundary lines.

8-28-2. The agent may, however, permit the separation of one parcel from a tract of land without complying with all requirements of this ordinance if it is (1) not in conflict with the general meaning and purpose of the ordinance, (2) no new streets are required to serve the parcel, (3) at least one acre in area, and (4) not less than one hundred fifty (150) foot frontage.

8-28-3. The word "subdivide" and any derivative thereof shall have reference to the term "subdivider" as defined in Section 8-29.

8-29. SUBDIVIDER: An individual, corporation or registered partnership owning any tract, lot or parcel of land to be subdivided or a group of two or more persons owning any tract, lot or parcel of land to be subdivided, who have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, in representing, or executing the legal requirements of the subdivision.

APPENDIX A

CERTIFICATES REQUIRED

Owner's Consent and Dedication

Know all men by these presents, that the subdivision of land as shown on this plat, containing ..... acres, more or less, and designated as ..... subdivision, situated in the ..... District in the County of Greene, Virginia, is with the free consent and in accordance with the desires of the undersigned owners thereof; that all streets shown on said plat are hereby dedicated to the public use, and that all lots within the subdivision are subject to certain restrictions, reservations, stipulations, and covenants as contained in a writing executed by the undersigned, under date of ....., 19....., and recorded in the Clerk's Office of Greene County, Virginia, in Deed Book ....., Page ..... The said ..... acres of land hereby subdivided having been conveyed to ..... by ..... by deed dated ....., 19....., and recorded in the Clerk's Office of Greene County, Virginia, in Deed Book ....., Page .....

Given under our hands this ..... day of ....., 19.....

.....(SEAL)
.....(SEAL)
.....(SEAL)
.....(SEAL)

Surveyor's Certificate

I hereby certify that to the best of my knowledge and belief, all of the requirements of the Board of Supervisors of Greene County, Virginia, and ordinances of the County of Greene, Virginia, have been complied with.

Given under my hand this ..... day of ....., 19.....

.....
State Certified Engineer (or Land Surveyor)

Certificate of Approval*

This subdivision known as ..... Subdivision is approved by the undersigned in accordance with existing subdivision regulations and may be committed to record.

..... (signed).....
(Date) Health Officer

..... (signed).....
(Date) Agent or Representative of Governing Body

*The foregoing plat is not aproved until all signatures have been obtained.

AMENDMENTS
TO THE
SUBDIVISION ORDINANCE OF GREENE COUNTY, VIRGINIA

As enacted by the Greene County Board of Supervisors on the second day of August, 1969 at Stanardsville, Virginia and further amended by said board on the twenty-fourth day of February, 1973 to read as follows:

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4-4-1-5. CONSTRUCTION REQUIREMENTS

All streets must be built in accordance with current regulations of the Virginia Department of Highways, and no subdivision plat may be recorded which does not show on its face the official approval of a highway engineer with such Department.

4-4-6-1. LOT SIZE (PUBLIC WATER AND SEWER)

Residential lots served by both public water and public sewer systems shall be ten thousand (10,000) square feet or more in area, and no less than eighty (80) feet in width at the building setback line.

4-4-6-2. LOT SIZE (PUBLIC WATER OR SEWER)

Residential lots served by only one of public water or sewer systems shall be twenty thousand (20,000) square feet in area and no less than ninety (90) feet in width at the building setback line.

4-4-6-3. LOT SIZE (NEITHER PUBLIC WATER NOR SEWER)

Residential lots served by neither public water nor public sewer systems shall be thirty thousand (30,000) square feet or more in area and no less than one hundred (100) feet in width at the building setback line.

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4-5-8. SETBACK LINES

No building shall be constructed on a lot any closer than twenty-five (25) feet from the street right of way line, and within ten (10) feet of a side property line.

4-5-9. LOTS ON CUL-DE-SAC

Lots at the end of a cul-de-sac shall be seventy (70) feet wide on the building setback line measured along an arc.

INTERIM ZONING ORDINANCE

OF

GREENE COUNTY, VIRGINIA

WHEREAS, The County Planning Commission of the County of Greene is engaged in the preparation of a long-range general plan to guide and facilitate orderly and beneficial growth in this county, and is engaged in the preparation of a comprehensive zoning ordinance to serve as a primary means for achieveing such orderly and beneficial community; and,

WHEREAS, an interim ordinance is necessary in order to protect this county during the preparation of said general county plan and comprehensive zoning ordinance from any building construction and new uses of land that may do irreparable harm to the character of existing neighborhoods and which may defeat the purposes of the long range general plan and comprehensive ordinance.

NOW THEREFORE, be it ordained by the Board of Supervisors of Greene County, Virginia, pursuant to Sections 15.1-486 to 15.1-498 of the Code of Virginia (1950 as amended), for the purpose of promoting health, safety, order and prosperity, the conservation of natural and historic resources, and the general welfare requiring it, that the following be adopted as the Interim Zoning Ordinance of Greene County, Virginia. Its effective date of adoption shall be the 2nd day of March 1974, and it shall remain in force and effect until the adoption of a comprehensive zoning ordinance, but not for longer than one (1) year.

Article 1 - Districts

1.1 For the purposes of this ordinance, the unincorporated areas of Greene County, Virginia shall be treated as one (1) District as follows:

Rural - Residential (R-R)

1.2 Zoning Map: The location and boundary of the aforementioned District is hereby established as shown on the map entitled "Zoning Map of Greene County, Virginia" dated March 2nd, 1974, bearing the legend "approved and adopted by the Board of Supervisors of Greene County on March 2, 1974," and signed by the Chairman of the Board of Supervisors, and the same may be amended subsequent to the adoption thereof. This map shall be as much a part of this ordinance as if the same were fully described herein.

Article 2 - Rural - Residential District (R-R)

1 Dwelling Unit per 2 Acres

2.1 The following uses only shall be permitted:

2.1-1 Accessory uses and structures

.1-2 Agriculture

.1-3 Churches

.1-4 Conservation and preservation areas

.1-5 Forestry

.1-6 Public Facilities

.1-7 Public utilities: Poles, lines, transformers, pipes, meters and related or similar facilities; water and sewerage distribution lines.

.1-8 Single family dwellings

2.2 The following uses shall be permitted only by special use permit:

2.2-1 Mobile homes except in previously established and approved mobile home parks.

.2-2 Travel trailers

.2-3 All other uses

2.3 Area regulations: The minimum lot area shall be two (2) acres.

2.4 Set-back regulations: All structures shall be located thirty- five (35) feet or more from any street right of way. This shall be known as the setback line.

2.5 Frontage regulations: The minimum lot width at the building setback line and at all points between the setback line and the public road shall be one hundred fifty (150) feet.

2.6 Yard regulations:

.6-1 Front - the minimum front yard for each main structure shall be as required in Sections 2.4 and 2.5.

.6-2 Side - the minimum side yard for each main structure shall be fifteen (15) feet.

.6-3 Rear - the minimum rear yard for each main structure shall be twenty-five (25) feet.

2.7 Height regulations: The maximum building height shall be thirty-five (35) feet.

Article 3 - Non-Conforming Uses

3.1 Continuation: If at the time of enactment of this ordinance, any legal activity which is being pursued, or any lot or structure legally utilized in a manner or for a purpose which does not conform to this ordinance, such manner or use or purpose may be continued as herein provided.

3.2 Non-Conforming lots:

3.2-1 Any lot of record in the Clerk's Office of the Circuit Court of Greene County among the land records thereof at the time of this ordinance which is less in area or width than the minimum required by this ordinance may be used only when the requirements of the ordinance regarding set backs, side and rear yards are met.

3.2-2 Any sub-division lot approved and recorded in the Clerk's Office of the Circuit Court of Greene County prior to the adoption of the Interim Zoning Ordinance, shall be required to comply with the Sub-Division Ordinance only.

3.3 Expansion and enlargement:

3.3-1 A non-conforming structure to be extended or enlarged more than fifty per cent (50%) of floor area existing at the time of enactment of this ordinance shall conform to the provisions of this ordinance as set forth in Section 3.2-1.

.3-2 A non-conforming use or activity to be extended or enlarged more than fifty per cent (50%) in area shall conform to the provisions of this ordinance as set forth in Section 3.2-1

Article 4 - General Regulations

4.1 Compliance:

4.1-1 No land or structure shall be used except in compliance with this ordinance, and no structure shall be started, altered, reconstructed, or enlarged except as in such manner that the resulting structure shall be in compliance with this ordinance.

4.1-2 No parcel of land shall hereafter be reduced or divided so as to provide less than the minimum lot size required in the district in which such land is situated.

4.2 Zoning permits: -

4.2-1 No land or structure shall be changed in use and no building or structure shall be started, altered, reconstructed or enlarged until after a zoning permit has been obtained from the Zoning Administrator.

.2-2 The procedure governing the application for and granting of zoning permits as required by this ordinance shall be as follows:

The applicant who shall be a record owner, or contract owner with written approval of owner, of land involved (if a contract owner, copy of said contract shall be filed with and made a part of application), shall make application for the zoning permit to the Zoning Administrator on the form provided for the purpose, giving all information required by such form, including such other information which the Zoning Administrator may deem necessary. If the proposed building or use is in conformity with the provisions of this ordinance a zoning permit shall be issued to the applicant by the Zoning Administrator.

4.3 Special use permits: Some uses require a special use permit, reviewed by the Planning Commission and authorized by the Board of Zoning Appeals, in addition to a zoning permit and a certificate of occupancy.

4.4 Certificates of occupancy:

4.4-1 Land may be used or occupied and buildings structurally altered or erected may be used or changed in use only after a certificate of occupancy has been issued by the Zoning Administrator. Such a permit shall state that the building or the proposed use, or the use of the land, complies with the provisions of the ordinance. A similar certificate shall be issued for the purpose of changing or extending a non-conforming use.

.4-2 Written application for a certificate of occupancy shall be made at the same time as the application for the zoning permit. Such certificate shall be issued within ten (10) days after the erection or structural alteration of such building or part has conformed with the provision of this ordinance.

4.5 Conflicting ordinances, statutes and regulations: Whenever any section or provision of this ordinance or of any regulation adopted under the

authority of this ordinance requires a larger lot area or a greater width or size of yards, or a lower height of building than are required in any Virginia statute or other Greene County ordinance or regulation, the provision of this ordinance or of the regulation adopted under the authority of this ordinance shall govern. Whenever any section or provision of any Virginia statute or other Greene County ordinance or regulation requires a larger lot area or a greater width or size of yards or a lower height of building or imposes other higher standards than are required by any section or provision of this ordinance or of any regulation adopted under the authority of this ordinance, the provisions of such Virginia statute or other Greene County ordinance shall govern.

4.6 Severability: Should any section or provision of this ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so held to be unconstitutional or invalid.

Article 5

Powers and Duties of the Board of Zoning Appeals

5.1 Board of Zoning Appeals:

5.1-1 A Board consisting of five (5) members shall be appointed by the Greene County Circuit Court. The Board shall serve without pay other than for traveling expenses, and members shall be removable for cause upon written charges and after public hearing. Appointments for vacancies occuring otherwise than by expiration of term shall in all cases be for the unexpired term.

.1-2 The term of office shall be for five (5) years, except that of the first five (5) members appointed, one (1) shall serve for five (5) years, one (1) for four (4) years, one (1) for three (3) years, one

(1) for two (2) years, and one (1) for one (1) year. One (1) of the five (5) appointed members shall be an active member of the Planning Commission.

.1-3 Members may be removed for cause by the appointing authority upon written charges and after a public hearing.

.1-4 Any member of the Board shall be disqualified to act upon a matter before the Board with respect to property in which the member has an interest.

.1-5 The Board shall choose annually its own chairman and vice-chairman, who shall act in the absence of the chairman, and shall choose annually a secretary who need not be a member of the board.

5.2 Provision for appeal:

5.2-1 The Board of Zoning Appeals shall have the following powers and duties:

a. To hear and decide appeals from an order, requirement, decision or determination made by an administrative officer in administration or enforcement of this article or of any ordinance adopted pursuant thereto:

b. To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done, as follows: When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or

of the use or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.

.2-2 No such variance shall be authorized by the Board unless it finds:

a. That the strict application of the ordinance would produce undue hardship.

b. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.

c. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

.2-3 No such variance shall be authorized except after notice and hearing as required by Section 15.1-431.

.2-4 No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

.2-5 In authorizing a variance the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

.2-6 An appeal to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the county or municipality affected by any decision of the Zoning Administrator. Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. During the pendency of an appeal pursuant to the provisions of this Section no improvements or structural alterations of any sort may be erected or performed upon the property which is subject to the appeal.

5.3 Special use permits:

5.3-1 After review by the Planning Commission the Board of Zoning Appeals shall hear and decide applications for special use permits. The Board, in its decision to grant, to grant conditionally or to deny shall consider the following:

a. The use shall not tend to change the character and established pattern of development of the area of community in which it wishes to locate.

b. The use shall be in harmony with the uses permitted by right under a zoning permit in the zoning district and shall not affect adversely the use of neighboring property.

c. The location and height of buildings shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.

d. Hardship caused by passage of this ordinance. Any subdividor as defined in the subdivision ordinance of Greene County who, in good faith, and prior to the passage of this ordinance, has secured

preliminary approval for a subdivision under the provisions of the aforesaid subdivision ordinance, and who has complied at the time of application for a special use permit, and continues to comply in the future with all relevant time limits prescribed by the Greene County Subdivision Ordinance, shall be entitled, if the passage of this ordinance has worked a financial hardship on him, to a rebuttable presumption in favor of the granting of such a special use permit for the said subdivision as preliminarily approved under the provisions of the subdivision ordinance. Evidence necessary to rebut this presumption shall be based upon the standards set forth in § 5.2-1 b. and § 5.2-2 (a, b, c).

.3-2 The Board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including but not limited to parking and open space requirements, and including a limitation of the time for which a permit may be valid, and may require a guarantee or bond to insure that the conditions are being and will continue to be complied with.

.3-3 No special use permit shall be authorized except after notice and hearings as required by Section 15.1-431 of the Virginia Code.

.3-4 Applications for special use permits may be made by any property owner or record owner. Such application for the special use permit shall be made to the Zoning Administrator on the form provided for that purpose, including such other information as the Zoning Administrator may deem necessary for consideration of the application.

.3-5 The application shall be accompanied by three copies of drawings showing the following information:

a. The size, shape, and dimensions of the parcel of land for which the use is proposed.

b. The nature of the proposed use of the land or building.

c. The location of such building or use with respect to the right of way of any street or highway adjoining said parcel of land.

.3-6 The application and accompanying maps, plans or other information shall be transmitted promptly to the Secretary of the Board who shall place the matter on the docket. The Zoning Administrator shall also transmit a copy of the application to the Planning Commission which shall review the application and send a recommendation to the Board or appear as a party at the hearing.

.3-7 Upon the granting of a special use permit, one copy of the dimensioned drawing, upon which has been indicated the modifications, if any, required by the Board and certified by the Zoning Administrator, shall be returned to the applicant, who may thereafter conduct only the specific use for which the permit has been granted and only in such manner and in such location and for such a time as the certified drawing shall specify.

5.4 Proceedings: The Board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and decide the same within sixty days. In exercising its powers the Board may reverse or affirm, wholly or partly, or may modify, the order, requirement, decision or determination appealed from. The concurring vote of three members shall be necessary to reverse any order, requirement, decision, or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance from the ordinance. The Board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the Board and shall be public records. The Chairman of the Board, or in his absence the acting Chairman, may administer oaths

and compel the attendance of witnesses.

5.5 Fees: Applications for special use permits and appeals requiring advertised public hearings shall be accompanied by a certified check for twenty dollars ($20.00) payable to the County Treasurer for deposit in the general fund.

5.6 Where a building permit has been issued and the construction of the building for which such permit was issued is subsequently sought to be prevented, restrained, corrected or abated as a violation of the zoning ordinance, by suit filed within fifteen (15) days after the start of construction by a person who had no actual notice of the issuance of the permit, the court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the administrative officer to the Board of Zoning Appeals.

Article 6 - Violation and Penalty

6.1 Violation: All departments, officials, and public employees of the jurisdiction which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this ordinance. Any permit, if issued in conflict with the provisions of this ordinance, shall be null and void.

6.2 Penalty:

6.2-1 Any person, firm or corporation, whether as principal, agent employee or otherwise, violating, causing, or permitting violation of any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction, thereof, may be confined in jail not more than thirty days or shall be fined not less than fifty not more than two hundred dollars, or, in the discretion of the jury or the court trying the case without a jury punished by both such fine and imprisonment. Such person, firm or corporation shall be deemed to be guilty of a separate offense for each and every day during which any portion of any

of this ordinance is committed, continued, or permitted by such person, firm or corporation and shall be punishable as herein provided.

.2-2 The County Administrator, Zoning Administrator, or other proper officer of the County of Greene may institute any appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, repair or conversion of any building or structure, or the unlawful use of land, to restrain, correct or abate such violation, to prevent any illegal act, conduct, business or use in or about such premises; in the event that any such action or other named agents shall prevail in any such action, the court may assess against the defendent the costs expended by the plaintiff together with a reasonable attorney's fee.

Article 7 - Amendments

7.1 The regulations, restrictions and boundaries established in this ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed by the governing body pursuant to Section 15.1-493 of the Code of Virginia as follows:

7.1-1 Amendments may be initiated by resolution of the governing body by motion of the planning commission or by application of any property owner or contract owner filed with the Zoning Administrator and accompanied by a fee of twenty dollars ($20.00) payable to the County Treasurer for deposit in the general fund.

.1-2 The Planning Commission shall hold at least one public hearing on such proposed amendment after notice as required by Section 15.1-431 of the Code of Virginia, and may make appropriate changes in the proposed amendment as a result of such hearing. Upon completion of its work, the Commission shall present the proposed amendment with its recommendations and appropriate explanatory materials.

.1-3 Before approving and adopting any amendment, the governing body shall hold at least one public hearing thereon, pursuant to public notice as required by Section 15.1-431 of the Code of Virginia, after which the governing body may make appropriate changes or corrections in the proposed amendment; provided, that no additional land may be zoned to a different classification than was contained in the public notice without an additional public hearing after notice required by Section 15.1-431 of the Code of Virginia. An affirmative vote of at least a majority of the members of the governing body shall be required to amend the Zoning Ordinance.

7.2 In the event that the governing body shall deny the petition of any property owner or other petitioner to amend this ordinance, substantially the same petition shall not be reconsidered for a period of six (6) months from the denial by the governing body.

Article 8 - Definitions

8.1 Accessory use or structure: A subordinate use or structure customarily incidental to and located upon the same lot occupied by the main use or building.

8.2 Agriculture: The tilling of the soil, the raising of crops, horticulture, forestry, and gardening, including the keeping of animals and fowl.

8.3 Board, the: When used herein the "Board" shall refer to the Board of Zoning Appeals unless the context clearly indicates otherwise.

8.4 Building: Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or chattels.

8.5 Building, Accessory: A subordinate building, customarily incidental to and located upon the same lot occupied by the main building. No such accessory building shall be used for housekeeping purposes.

8.6 Building, Height of: The height shall be measured from the average elevation of the ground surface along the front of the building.

8.7 Building, Main: The principal building or one of the principal buildings on a lot, or the building or one of the principal buildings housing the principal use on the lot.

8.8 Dwelling, Single-Family: A structure arranged or designed to be occupied by one (1) family, the structure having rooms arranged or designed as a single housekeeping unit with cooking, living, sanitary and sleeping facilities.

8.9 Family: One or more persons occupying a premises and living in a single dwelling unit, as distinguished from an unrelated group occupying a boarding house, lodging house, tourist home, hotel, or fraternity house.

8.10 Frontage: The minimum width of a lot measured from one side line to the other along a straight line on which no point shall be farther away from the street upon which the lot fronts than the building setback line as defined and required herein.

8.11 Lot: A parcel of land occupied or to be occupied by a main structure or a group of main structures and accessory structures, together with such yards, open spaces, lot width and lot areas as are required by this ordinance, either shown on the plat of record or considered as a unit of property and described by metes and bounds.

8.12 Mobile Home: A one-family dwelling unit of vehicular, portable design built on a chassis and designed to be moved from one site to another and to be used with or without a permanent foundation.

8.13 Nonconforming Lot: An otherwise legally platted lot that does not conform to the minimum area or frontage requirements of the ordinance for the district in which it is located.

8.14 Nonconforming Activity: The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this ordinance for the district in which it is located.

8.15 Nonconforming Structure: An otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this ordinance, or is designed or intended for a use that does not conform to the use regulations of this ordinance for the district in which it is located.

8.16 Public Facilities: Shall be considered for the purpose of this ordinance to be any public works supplied generally by a governmental organization. Such public works shall include, but not be limited to: public roads, schools, water supply and sewer facilities, and police and fire protection facilities.

8.17 Structure: Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

8.18 Travel Trailer: A vehicular, portable structure built on a chassis and designed to be used for temporary occupancy for travel, recreational or vacation use.

8.19 Yard: An open space on a lot other than a court, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

8.19-1 Front. An open space on the same lot as a building between the front line of the building (exclusive of steps) and the front lot or street line, and extending across the full width of the lot.

8.19-2 Rear. An open, unoccupied space on the same lot as a building between the rear line of the building (exclusive of steps) and the rear line of the lot, and extending the full width of the lot.

8.19-3 Side. An open, unoccupied space on the same lot as a building between the side line of the building (exclusive of steps) and the side line of the lot, and extending from the front yard line to the rear yard line.

8.20 Zoning Administrator, the: The official charged with the enforcement of the zoning ordinance. He may be any appointed or elected official who is by formal resolution designated to the position by the governing body. He may serve with or without compensation as determined by the governing body.

Cluster Alternative: Development based on unit density which allows unit credit based on gross acreage but which permits development including lots and streets on a given percentage of the overall gross site

Common Open Space: An open tract, or parcel of land owned in undivided interest not devoted to residential structures or uses but directly related, and adjunct to a cluster development or ~~development of~~ attached dwelling units or multiple unit structure, as provided in +

Condominium: Ownership of single units in a multiple unit structure or complex having common elements.

Cul-de-sac: A street with only one outlet having an appropriate turn around area for safe and convenient reverse of traffic movement.

(Existing Subdivision Data)

APPENDIX I: SUBDIVISIONS NR

NR.

ame and ocation	GREEN-MEADOWS ROUTE 607	GREENE MOUNTAIN LAKE ROUTE 623	GREENE VALLEY ROUTE 667	GREENE VALLEY (SECTION 7) ROUTE 667	GREENE-MARLE ROUTE 670	GREENTOWN VILLAGE* OFF ROUTE 52	HOLMES RUN ROUTE 677	HORD SUBD. ROUTE 652	J+B ESTATES* ROUTE 670
ype	RESI-DENTIAL	MIXED	SEASONAL	SEASONAL	RESI-DENTIAL	RESI-DENTIAL	RESI-DENTIAL	RESI-DENTIAL	RESI-DENTIAL
umber of ections	1	17	11	1		1	1	2	2
otal number f Acres	91.8	158	500.7	181.9	197	111.3	15±	13±	
otal number f Lots PLATTED	13 PLATTED 102 PROPOSED	235	130	67	440	196 + 168 APTS.	29	59	
umber of nsold Lots	12	48	13 (incl. sec. 7)	—	440		29	11	
umber of uilt-on Lots	8	28	53 (incl. sec. 7)	—	0		0	13	
vg. Range f Lot Size	.5-1.2	.4-2.6	2-10	1-3	.25	.4-.5	.25		
urveyor	HUFFMAN	SNOW AND MACKIE	WHITMORE, NICELY, NICELY	WHITMORE, NICELY, NICELY	MACKIE	ROSS & FRANCE,	SNOW	SNOW	
eveloper	ROBERT MONROE	NAT. GREENE CORP.	B.K. HAYNES	B.K. HAYNES	GREENE-MARLE DEVEL. CORP	BENNETT MATHEWS	DAVID HAKE	H.H. HORD	
ate Recorded	5/16/73	6/26/70 THRU 1/9/73 VARIOUS DATES	5/14/69 THRU 5/21/73 VARIOUS DATES	SEE ←		2/26/74 PRELIM. APPROVAL	4/18/73	9/11/71	
lat Book/	3/103	3/15, 3/21-3/ 3/74, 3/91	2/20-3/105 VARIOUS			3/101-102	3/33		

APPENDIX I: SUBDIVISIONS

Name and Location	BLUE RIDGE ESTATES ROUTE 642	CHILD'S SUBD. ROUTE 230	COUNTRY CLUB ESTATES ROUTE 230	COUNTRY CLUB OVERLOOK ROUTE 619	DOGWOOD VALLEY ROUTE 642 & 643	ENDERLY ACRES ROUTE 29	FLATTOP MOUNTAIN OFF OF 632	GREENE ACRES ROUTE 637	GREENE LEA ROUTE 6[illegible]
Type	RESIDENTIAL	RESIDENTIAL	RESIDENTIAL	RESIDENTIAL	SEASONAL	RESIDENTIAL	SEASONAL	MIXED	RESIDENTIAL
Number of Sections	1	1	1	2	33	1		11	1
Total number of Acres	91.1	19.4	25±	34.2	1084	33±	515	454.9	5 (PLATTED) 68.8 (PROPOSED)
Total number of Lots PLATTED	13	27	16.	21	335	61	127	347	8 PLATTED 96 PROPOSED
Number of Unsold Lots	1	?	16	?	11	8	127	229	.15
Number of Built-on Lots (INCLUDES MOBILE HOMES)	2	15	1	1	40	6	0	26	1
Avg. Range of Lot Size	2.6-10	.4-.9	.9-2	1-1.6	1-7	.5+	3-7.5	.75-3	.5-.75
Surveyor	ROUDA-BUSH	AYLOR	SNOW	SNOW	ROUDA-BUSH. WHITMORE NICELY	SNOW	NICELY	BARTEN-STEIN	FOSTER
Developer	NAT. GREENE CORP.	P.P. BICKERS	A. EDDINS	R.P. EDDINS	B.K. HAYNES CORP.	W.W. TALBOTH	B.K. HAYNES CORP.	MARTIN PRICE	J.H. WILLIAMS
Date Recorded	8/1/69	9/3/54 (DATE DRAWN)	2/27/73	2/27/74	10/30/68 THRU 3/4/73	11/1/72	2/23/73	4/4/70	11/19/73
Plat Book/	2/53	NO ENTRY	3/92	3/113	1/218 THRU 3/105 VARIOUS PAGES	3/76-77	3/83-85	3/2-12	3/111

APPENDIX I: SUBDIVISIONS

me and cation	LAKE SAPONI OFF ROUTE 29	LAWSON HILLS OFF ROUTE 623	LITTLE EDGE SUBD. ROUTE 33	LOCUST LANE OFF ROUTE 33	MONTICELLO HOME-BUILDERS RT. 618 & 610	MOUNTAIN VIEW ROUTE 608	MOUNTAIN VIEW LAKE & MTN. VIEW FARM RT. 624, 633	POWELL SUBDIVISION ROUTE 743 & 629	QUINQUE FOREST ROUTE 608
pe	RESI-DENTIAL	MIXED	RESI-DENTIAL	RESI-DENTIAL	RESI-DENTIAL	RESI-DENTIAL	MIXED	RESI-DENTIAL	RESI-DENTIAL
mber of ctions	2	1	1	4	2	1	5	1	3
tal number Acres	28	20	5±	26.6	12.8	10	324	8.3	16
tal number Lots PLATTED	44	16	13	55	14	19	57	11	19
mber of sold Lots	18	14	13	19	7				15
mber of ilt-on Lots	13	0	13±	32	5	8	0	4±	13
g. Range Lot Size	.5-.8	1	.5-.32	.5	.9	.5	1-8	.75-1	.5-1.7
rveyor	ROUDA-BUSH	GLOECK-NER	DEJAR-NETTE	SNOW	SNOW	SNOW	ROUDA-BUSH	SNOW	SNOW
veloper	SAPONI CORP.	R.MURPHY OPSHALL & C.SNOW	DEJAR-NETTE	STERLING GIBSON	MONTI-CELLO HOME BUILDERS	WM. SHEFFLETT	B.K. HAYNES CORP.	SE & AE POWELL	B.N. FRANK
te Recorded	5/25/70	2/24/74	2/12/68	5/15/69 3/22/71 8/28/72	9/6/73 11/7/73	5/15/73	7/2/69 7/16/69 7/29/69 9/23/69	3/11/74	5/10/73 10/19/73 10/29/73
	3/14-20	3/91	11/195	2/25,26 2/32, 3/50 1/76	2/117 3/111	5/104	2/47, 49-52, 2/60	3/114	3/104, 109, 110

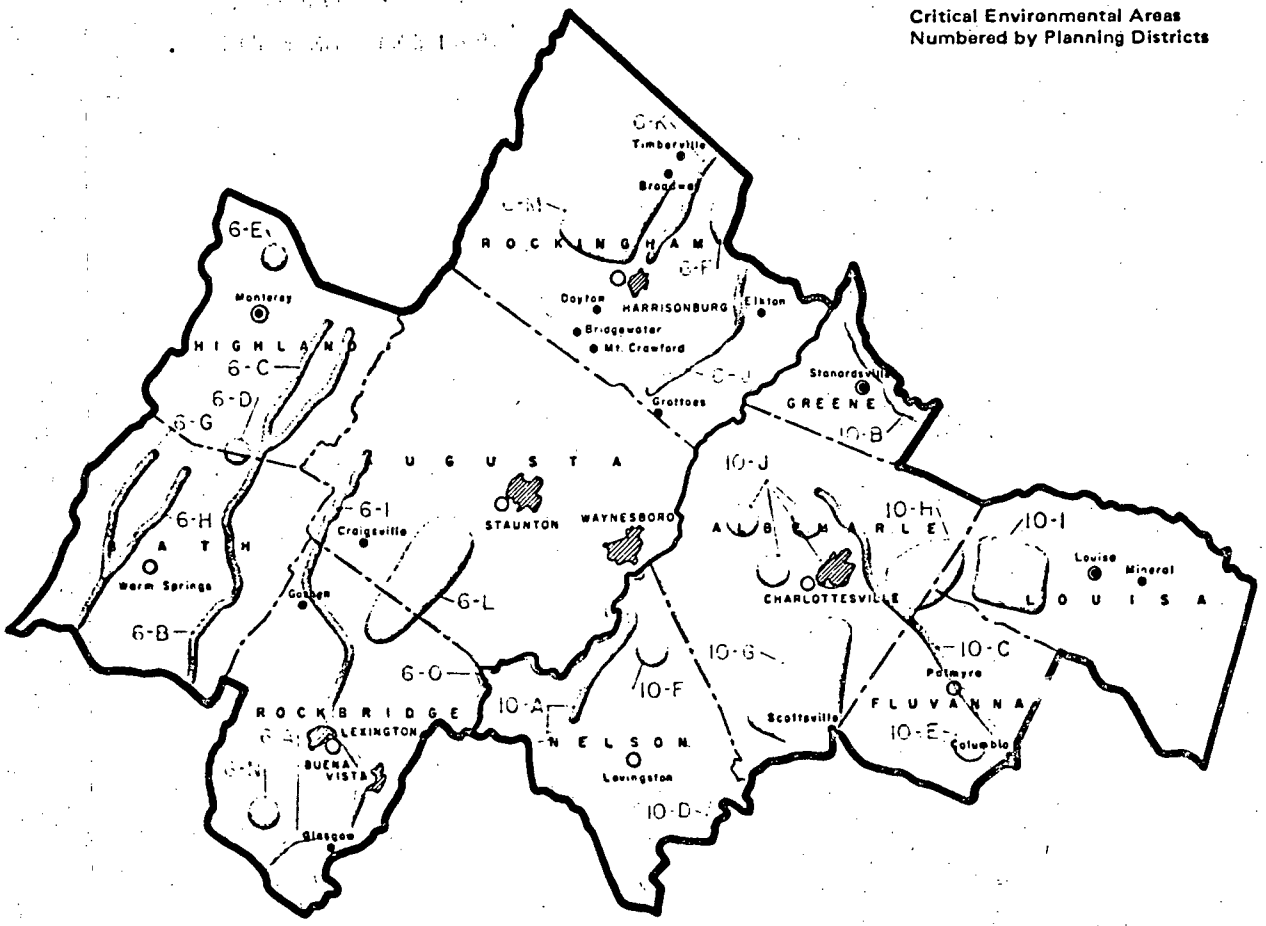
APPENDIX I: SUBDIVISIONS

ame and ocation	RIVERDALE ROUTE 653 & 603	SPOTSWOOD ESTATES ROUTE 33	SWIFT RUN ESTATES ROUTE 743	SWIFT RUN HAVEN ROUTE 634	TWIN LAKES ROUTE 633	WARMAR ROUTE 607	WESTWOOD ROUTE 607	WILDWOOD VALLEY OFF ROUTE 623	WOODRIDGE ROUTE 33
ype	SEASON-AL	RESI-DENTIAL	RESI-DENTIAL	SEASON-AL	MIXED	RESI-DENTIAL	RESI-DENTIAL	MIXED	RESI-DENTIAL
umber of ections	4	4	1	1	20	1	1	17	1
otal number Acres	387	34	63±	644	551	15.2	8	287	30±
otal number Lots	116	55	21	30	623	128	15	145	39
umber of sold Lots	1	36	10	21	556	4	12	83	39
umber of ilt-on Lots	11	16±	0	2	7	8	3±	1	3
g. Range Lot Size	3-4	.5	3	1.1-2.7	.7-1.7	1-1.4	.5	.9-3.8	.5-.9
rveyor	MATACIA	ROUDA-BUSH	DUNN	SNOW	BARTEN-STEIN	SNOW	SNOW	MACKIE	SNOW
veloper	B.K. HAYNES CORP.	NAT. GREENE CORP. & J.H. WILLIAMS	RIVANNA RIVER ESTATES	DOROTHY COMP-TON	FIRST AMERICA LAND CORP.	WARREN BROWN	STERLING GIBSON	GLENCO CORP.	GEO. HANEY
te Recorded	7/17/70	NO DATES		6/30/69	6/19/72, 9/8/72	8/4/71, 12/29/71	3/22/71	9/28/72, 10/9/72, 11/1/72 2/24/72 2/23-24/72	1/10/73
ot Book/	3/16-19	1/206,212 2/1,46	3/42-43	2/43	3/45-48, 55-70	3/31,36	3/26	3/39,50-52, 72-78,87-90	3/82

(Critical Environmental Areas)

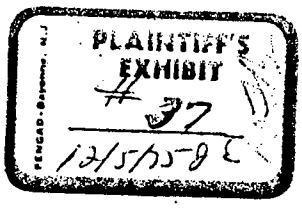
CENTRAL VIRGINIA REGION

Critical Environmental Areas
Numbered by Planning Districts



Planning District 10 Thomas Jefferson

Site No.	Site	Description
10-A	Appalachian National Scenic Trail	Buffer needed in privately owned portions to prevent encroachment and provide connecting links. Criteria 3, 4
10-B	Rapidan River Area	A largely undisturbed natural area of pastoral character. Criteria 1, 2, 3, 4, 5
10-C	Rivanna River Area	A natural area in a pastoral setting, with 19th Century canal locks, aqueducts, and mill ruins. Accessible to both Charlottesville and Richmond. Criteria 1, 2, 3, 4, 5
10-D	James River Area	Natural area of great value. Excellent watershed area of immense recreational and open space potential. Portions still remain undisturbed by development. Criteria 1, 2, 3, 4, 5
10-E	Point of Fork	A significant Civil War arsenal adjacent to the Rivanna River, important archeological site. Criteria 1, 3
10-F	Rockfish River Area near Martin's Store	Scenic road, river, and valley. Pastoral, largely undisturbed countryside with recreational potential. Criteria 1, 3
10-G	North Garden-Esmont - Keene Area	Area of late 18th and early 19th Century [illegible]tions such as Estouteville, Enniscorthy, Edgemont, P[illegible] Dealing and Redlands. Criteria 1, 3
10-H	Keswick-Cismont-Cobham Area	Along scenic stretches of Virginia Routes 231 and 22 are located Castle Hill, Cloverfields, and Grace Church. Criteria 1, 3
10-I	Green Springs	18th and 19th Century rural community containing five registered Virginia landmarks. Route 15 in area is scenic highway. Criteria 1, 3
10-J	Charlottesville Critical Areas	Critical areas in region include Meadow Creek and Moore's Creek flood plains, and environs of City's three water supply reservoirs. Court Square is critical 18th and 19th Century historic area. Criteria 1, 2, 3, 4, 5



RAPIDAN SERVICE AUTHORITY

OPERATING POLICY

Revised and adopted May 21, 1975

Effective July 1, 1975

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3.00 DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used herein shall be as follows:

3.01 "Administrator"shall mean the Authority's duly appointed agent.

3.02 "County" shall mean the counties of Greene, Madison and Orange, Virginia.

3.03 "Board" shall mean the Board of Members, the governing body of the Rapidan Service Authority.

3.04 "Authority" shall mean the Rapidan Service Authority.

3.05 "Engineers" shall mean the consulting engineers retained by the Rapidan Service Authority.

3.06 "Franchise Territory" shall mean the territory included within the boundaries prescribed for the Rapidan Service Authority.

3.07 "Premises" shall mean any building, group of buildings or land upon which buildings are to be constructed which is or may be served by the facilities of the Authority.

3.08 "Facilities of the Authority" shall mean any and all component and pertinent parts of the entire systems of the utilities under jurisdiction of the Authority, such as water pipe lines and their appurtenances, sewage pumping stations and treatment plants, including these items and others now constructed, installed, operated or maintained by the Authority, or any which may be approved and accepted in the future as additions or extensions of the systems.

3.09 "Person" shall mean any individual, firm, corporation, association, society or group.

3.10 "Owner or Developer" shall mean any person, firm, corporation or association having an interest, whether legal or equitable, sole or partial, in any premise which is, or may in the future be responsible for design and construction of facilities to be under the jurisdiction of the Administrator and to become a part of the public utilities system of the Authority.

3.11 "Sewage Works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

3.12 "Sanitary Sewage" shall mean that water carried waste which derives principally from dwellings, business buildings, institutions, industrial establishments and the like, exclusive of any storm and surface waters.

3.13 "Sewer" shall mean a pipe or conduit for carrying sewage.

3.14 "Public Sewer" shall mean a sewer in which all owners or abutting properties have equal rights, and is controlled by the Authority.

3.15 "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.

3.16 "Industrial Wastes" shall mean the liquid wastes from industrial processes as distinct from sanitary sewage.

3.17 "Connection" shall mean any connection for the use of service to the Authority's system, whether it be a direct connection (without meter), a metered connection, or an indirect connection (passing through a metered connection but not metered seperately).

3.18 "Unit" or "Dwelling Unit" shall mean a seperately maintained quarters within which or for which there is service available. A "Family Unit" is a unit so designed to accomodate one family.

3.19 "Applicant for Service" is a person who files with the Authority a completed application form, for service to any unit or units, accompanied by any requisite deposit.

3.20 "Availability Charge" is that fee payable for the purpose of having the Authority's utility service available to the specific unit and is intended to defray, in part, the capital cost of major supply, treatment, transmission mains and storage facilities. The availability charge runs with the land. The availability charge does not include connection costs.

3.21 "Applicant for Availability" is any owner or developer who files with the Authority a completed application form, for availability to any unit or units, accompanied by any requisite availability fees.

3.22 "Connection Costs" are those costs incurred in making any physical connection to the Authority's utility system and include the meter, meter installation and labor. The connection costs shall be borne entirely by the Applicant, and shall include an inspection fee, determined by the Administrator and/or the Board, to cover the Authority's supervision and inspection of the connection.

3.23 "Off-site" shall mean any main or appertenance which is not adjacent to the owner's or developers property.

3.24 "Shall" is mandatory; "May" is permissive.

4.00 POLICY

4.01 The developer of any new subdivision intended for residential or commercial use or any combination thereof, or the developer of any industrial site, shall construct all sanitary sewers and water distribution lines within his subdivision or development at his own expense. Immediately upon completion and acceptance of such construction works, the sanitary sewer and water facilities with necessary easement shall become the property of the Authority.

4.02 Where a public water main or sanitary sewer is not available up to a new subdivision or development, the developer shall construct at his expense necessary off-site water mains and appertenances and construct and connect his sanitary sewers to one or more suitable private sanitary sewage pumping stations which shall discharge into a public sanitary sewer. Sufficient easements shall be provided. Immediately upon completion and acceptance of such construction works, the sewer works system and the water works system shall become the property of the Authority.

4.03 Where construction of an offsite trunk or lateral sewer or water line is deemed to be either necessary, feasible or advisable to connect the applicable systems of the subdivision or development to the suitable facilities of the Authority, the financial responsibility, location and details of such construction shall be determined in conference by the developer and Administrator. Any and all agreements so established shall be in writing and acknowledged by both the developer and the Administrator. Each such proposed item of offsite construction shall be a seperate matter for discussion and agreement.

4.04 The Administrator shall, in conjunction with the Engineers, review and approve, or revise if necessary to conform with standards acceptable to the Administrator, as hereinafter specified, prepared plans for all projects for developing, extending and/or constructing water mains and sanitary sewer lines, and all pertinent connections, structures, and accessories proposed thereto within the Authority, or those lying outside the Authority which will connect to the facilities of the Authority, prior to any construction of such projects.

4.05 Materials, workmanship, and procedures used in work shall be in accordance with the standards and specifications established or approved by the Board.

4.06 During progress of the work, the Administrator and the duly authorized Engineers, inspectors or others who are directly concerned with the work shall have access to the locations of construction for the purpose of establishing to their satisfaction that the projects are being constructed to the Authority's requirements and in accordance with approved plans and specifications.

4.07 After completion of the facilities, and on written request of the developer or owner responsible for the construction, the Administrator shall make a final comprehensive inspection of the completed projects and shall be satisfied as to conformance to plans and specifications before accepting the facilities to become a part of the public utilities system of the Authority.

4.08 Any developer or owner who porposes to submit application to the Administrator for review and approval of plans and specifications for construction of facilities classifies hereinafter in 4.10.2 or 4.10.3 shall be required to procure from the Administrator, and shall acknowledge in writing, the receipt of same prior to submitting his application, one (1) set of this publication of Authority Rules and Requirements, together with one (1) copy of drawings showing detailed construction standards approved by the Board for use in the franchise territory. The Administrator shall be obliged to furnish one (1) set of publication and drawings at no cost, on a bona-fide request.

4.09 Additional sets of the publication and drawings may be supplied by the Administrator to any recipient of the one free set, at a cost of $5.00 per set.

4.10 APPLICATION FOR SERVICES

The Administrator shall accept, review and render decision on applications for water and sanitary sewer service to the premises described in the application from any person, group of persons, firm, corporation or association, who are owners of or legally represent the owners of land or who are tenants of land within the franchised territory.

The Administrator has the right to approve, revise, request additional data, design or information on, or to disapprove any such application or plans pertinent thereto, which in the opinion of the Administrator is to the best interest of the Authority.

4.10.1 Applications for availability for water or sewer service for esisting or proposed new individual or multiple dwelling or commercial establishment to which the Authority service facility is immediately adjacent and available, shall be made in duplicate on a form prescribed and furnished by the Administrator for the purpose of such application and each form shall be accompanied, if required, by measurements, maps, drawings and such other data that will clearly establish and indicate the physical location within or with respect to location of the premises for which the application is submitted and location on the premises of the service or services applied for.

4.10.2 (a) Where construction of water and/or sanitary sewer facilities is proposed by a developer or owner of any new residential subdivision or commercial area or any combinations thereof, and/or any facilities which are considered off-site and which will require the design and construction by the developer or owner of a new trunk, lateral or principal lines and any necessary appertenances thereto in order to reach and connect onto applicable existing facilities of the Authority and which such new construction in its entirety shall ultimately be accepted into the jurisdiction of the Authority as part of the public utilities system of the Authority, application for review of the design and plans for all such proposed construction shall be made in writing to the Administrator.

(b) Such application stipulated in (a) above shall be accompanied by: (1) Four prints of the recorded plat of the subdivision or applicable section thereof which shall bear the approval of the governing body. (2) Two sets of detailed plans showing accurate plan and profile design drawings, the proposed lines and the location, design and indication of all their appurtenances and accessories. It is preferrable that such plans show on the same sheet, the plan and profile design of the contiguous sections of new street or easement and proposed water and/or sewer facilities. The design and detail plans stipulated immediately above and all subsequent revisions thereof, shall be prepared and properly signed by a Civil Engineer reginstered in the Commonwealth of Virginia. (3) If any facilities other than pipe lines and their appurtenances are proposed by the applicant or required by the Administrator for the complete and satisfactory operation of the proposed utilities, such as water storage or pumping equipment, sewage treatment plants, sewage pumping stations, or other like equipment, the application shall be accompanied by two sets of detailed plans and specifications on design, equipment, materials and construction of such facilities.

4.10.3 (a) Application for proposed water and sewer facilities to serve any type of inductrial establishment within the franchise territory shall be made in writing to the Administrator. Complete information regarding plant location, type of industry, approximate volume of utility reuirements, types of industrial wastes to be discharged, proposed facilities for pretreatment of industrial wastes, number of employees, and other data pertinent to the industry, shall be accompanied by the applicati

(b) The applicant for water and sanitary sewer services to serve industrial establishments shall conform to the requirements for application for same as is outlined in 4.10.1 or 4.10.2, as may be governed by the location of the proposed industrial site.

4.11 DISPOSITION OF APPLICATIONS

4.11.1 On receiving application as prescribed hereinbefore in 4.10.1, the Administrator will approve with or without revision, or disapprove the application and return one of the submitted forms to the applicant so marked to indicate the action taken by the administrator. Construction of any such approved service facilities shall conform strictly with the returned application form and notations indicated thereon by the Adminstrator.

4.11.2 On receiving application as prescribed hereinbefore in 4.10, the Administrator will review all data, design, plans and/or specifications and indicate thereon any revisions, additions, changes or deletions, as is considered necessary in order that the proposed construction shall conform to the standards and the best interest of the Authority. One (1) marked set of the submitted plans and/or specifications to the Administrator.shall be returned to the applicant.

After receiving the returned set of plans and/or specifications, the applicant shall prepare revised plans and/or specifications to conform with such revisions indicated by the Administrator and submit two (2) sets of the revised plans and/ or specifications to the Administrator.

On receipt of the revised plans and/or specifications, the Administrator shall check them for conformity with the initially marked revisions. If satisfactory, one of the revised sets of plans and/or specifications shall be returned to the applicant with written approval for construction.

Construction of any public utility facility under the jurisdiction of the Authority, and all its appurtenances and accessories, shall be in strict conformance with the final approved set of plans and/or specifications stipulated in the paragraph immediately above.

4.11.3 In the event that an applicant desires to deviate from the plans and/or specifications which have been approved by the Administrator for construction, or make changes or revisions therein, the applicant shall make such request to the Administrator in writing and state the reasons for his request.

Revised plans, specifications and other substantiating data, shall accompany the request in such manner, form and quantity as was required for the original application.

The procedure for all parties concerned for processing any such request for deviation from, or changes and revisions in initially approved plans and/or specifications for construction shall be the same as stipulated for the original application for the project.

4.12 AS-BUILT PLANS

After completion of construction of the public utility facilities from approved plans on any project hereinbefore classified in 4.10.2 or 4.10.3, the developer or owner responsible for the construction shall prepare as-built plans, based on accurate field obtained information, to show actual conditions of the finished construction.

The as-built plans shall be revisions in and permenantly indicated changes on the original tracings or master sheets from which were made the plans and/or specifications approved by the Administrator for construction. Two sets of prints of the as-built plans shall be submitted to the Administrator for his review and any additional notations, one set of which shall be returned to the owner with written approval by the Administrator. The owner shall then provide the Administrator with one set of mylar transparancies of the as-built plans and all other pertenant drawings submitted or requested, together with two sets of prints of the revised as-built drawings.

As-built plans shall show, but may not be limited to, the following:

4.12.1 WATER LINE CONSTRUCTION

(a) Scale accuracy location in plan of the line and all installed fittings such as elbows, tees, crosses and reducers, and all cradle encasement, or special construction.

(b) Exact measurement to show positive location of all house services, valve boxes, blind or blank-flanged fittings and plugged terminals of lines.

The measurements taken for these positive locations shall be taken from at least two reasonable adjacent and available, fixed and permanent objects such as fire hydrants, centers of sanitary or storm sewer manhole casting covers, corners or lines extended of buildings, power poles, etc.

In lieu of recording the positive locations indicated above, on the plans, the Administrator may accept such locations shown by neat, legible and seperate no-scale sketches with all measurements thereon, when all such sketches or diagrams ar recorded in a progressive sequence and clearly identified in a hard cover, permanently bound field type note book.

4.12.2 SEWER LINE CONSTRCTION

(a) Scale accuracy location of manhole invert and top casting elevations and numerical notation of the exact elevations of same as determined by field survey after construction. Elevations shall be in datum of the Authority.

(b) Scale accuracy indication of lengths and grades of lines between manholes and numerical notation of the exact lengths and grades, as determined after construction.

(c) Scale accuracy location of concrete cradle, encasement or special construction.

(d) Location of house services by measurement from the manhole immediately downgrade.

4.12.3 Sanitary Sewage Treatment Plants and Pumping Stations, Water Pumping Stations, all other Comparable Construction and Building Structures.

(a) As-built plans and specifications shall accurately indicate all approved deviation from or changes in location or type of equipment installed and material used.

(b) Accurate listings of the name of the manufacturer of all operating equipment installed, together with model or style numbers, ratings capacities and other pertinent information shall be provided as part of the as-built plans on the project.

(c) At least three (3) complete sets of operation and maintenance manuals of all operating equipment, and all Certificates of Inspections, Approvals, Warranties, and Guarantees of equipment, materials and installations thereof, required by the project specifications which were approved by the Administrator shall be provided as a part of the as-built plans on the project.

3 FINAL INSPECTIONS

At the completion of construction of any project of public utility facitities or any project hereinbefore classified in 4.10.2 or 4.10.3, the developer or owner responsible for the construction shall notify the Administrator, in writing, that the work has been completed. Together with the notification of completion, there shall be submitted to the Administrator all as-built plans, specifications and such other data and addenda relative thereto which is required hereinbefore in 4.12.

On receipt of the notification and as-built requirements, the Administrator shall make a final comprehensive inspection of the constructed facilities, examining in detail for conformance of the work with approved plans and specifications, alignment of sewer lines, infiltration leakage, workmanship, operation of equipment, and other factors to the satisfaction of the Administrator and best interest of the Authority.

It shall be required that a responsible respresentative of the developer or owner accompany the Administrator on the final inspection. The developer or owner shall furnish whatever labor is necessary for conducting the final inspection.

Deficiencies which are found to exist during the inspection shall be pointed out to the developer or owner's representative. Subsequent to the inspection, the developer or owner shall be furnished, in writing, a summary of the deficienco found and corrections of which are required.

4.14 ACCEPTANCE OF NEW CONSTRUCTION

4.14.1 The Administrator shall accept new constructed water and sanitary sewer service facilities, classified hereinbefore in 4.10.2 or 4.10.3 on satisfaction of the following:

(a) That all requirements of the foregoing 4.12 and 4.13 have been fulfilled in the opinion of the Administrator.

(b) That all matters relative to specific contracts between the developer or owner and the Administrator are in order.

(c) That payment has been made by the developer or owner for all fees relative to application and inspections.

(d) That a Civil Engineer registered in the Commonwealth of Virginia certifies that the work has been completed in accordance with the approved plans and specifications.

(e) That the owner shall provide the Authority with a deed of conveyance satisfactory to the Administrator and provide a set of as-built plans that are recordable by the respective Clerk of the Court, and bear the cost of same.

(f) That the owner or engineers of the project shall provide an affidavit of the cost of the facilities being conveyed.

(g) That the owner has satisfied all conditions of any relative permits by the Virginia Department of Highways and provides a letter from the Department acknowledging the same.

(h) That the owner provides a satisfactory letter of warranty.

(i) That explicit understanding exists between developer or owner and the Administrator that the developer or owner shall be responsible for and obligated to correct any deficiencies in construction for a period of one year from the date of final inspection of the facilities by the Authority. This condition shall be stipulated in the written form of acceptance issued by the Administrator.

4.14.2 Acceptance of the new constructed facilities, when approved by theAdmistrator, shall be made in writing to the developer or owner responsible for the construction.

The issuance of the written form of acceptance of any such facilities shall constitute an unrevocable agreement between the developer or Owner responsible for construction and the Administrator that the Board, acting for the Authority and any of its officers, agents, servants or employees shall be saved harmless by the developer or owner from liability and responsibility of any nature and kind for costs of, or payments on, labor, equipment, or material used in construction of the accepted facilities or on account of any patented or unpatented invention, process, article or appliance manufacture for or used in construction of, or for the intended operation of the accepted facilities.

5.00 WATER DIVISION

5.01 METER CHARGES

5.01.1 Deposit: All customers shall be required to file with the Authority an application for service and submit a $10.00 deposit with each new account or transfer. Any account in the name of a tenant shall require a $10.00 meter deposit. Deposit, without interest, will be refunded to the customer of an account in good standing with no delinquencies, or applied to the last billing, at the time the customer goes off the system.

5.01.2 Turn-On Charge: Where a connection has been disconnected or turned off for non-payment, termination of service, or at the customer's request, a $5.00 turn-on charge will be applied. All outstanding bills must be paid in full before water service is reinstated.

5.02 WATER SERVICE CHARGES

5.02.1 A water bill shall be rendered on each water connection monthly, or for longer periods at the discretion of the Administrator, not to exceed every three months.

5.02.2 Where multiple units (such as trailer parks, appartments, or offices) are master metered and not metered seperately, the owner will receive the bill. Each unit for which water is considered available, whether or not it is occupied or connected, may be billed at no less than the minimum bill per unit. The Administrator may determine the number of units by the application for availability form on file with the Authority.

5.02.3 Any customer who wishes to discontinue service, either temporarily or permanently, must do so in writing on a form provided by the Administrator.

5.02.3 The minimum monthly charge for large non-residential customers shall be determined by the Administrator and/or the Board.

5.02.4 Minimum Monthly Charges

5.02.4a Stanardsville System:

Residential (domestic) users on the Town's record as of the date of takeover (April 27, 1973):
$5.00 min. per unit; allows 0-3000 gallons per unit @ $1.67 per 1000 gallons.
Non-residential:
$7.00 min. per unit; allows 0-3000 gallons per unit @ $2.33 per 1000 gallons.

5.02.4b All other areas:

Residential:
$5.50 min. per unit; allows 0-3000 gallons per unit @ $1.83 per 1000 gallons.

Non-residential:
$7.00 min. per unit; allows 0-3000 gallons per unit @ $2.33 per 1000 gallons.

5.02.5 Schedule Of Consumption Charges

Gallons metered above total allowable minimum	Cost per 1,000 gallons
Next - 7,000 gallons	$1.20
Next - 40,000 gallons	$1.00
All additional gallons	$0.80

5.02.6 Minimum charges and consumption charges for large non-residential customers will be negotiated with the Administrator and/or the Board.

5.02.7 No allowance for leakage through faulty plumbing on the customer's side of the meter shall be made.

5.02.8 Payment period and penalty; Bills are due and payable 9 calender days after the date of the bill. At the expiration of this time a penalty of ten percent (10%) of the current consumption charges may be incurred. Accounts unpaid after 30 days from the date of the bill are subject to disconnection. Accounts unpaid after 60 days from the date of bill shall be disconnected. Failure to receive bill does not waive responsibility.

5.02.9 In all cases where there are delinquent charges due the Authority, the Owner of record of the property shall be held liable for the payment of these outstanding accounts.

5.02.10 Pro Rata Bills: Customers requesting discontinuance or establishing new accounts forsservice shall be billed on the number of months or part thereof in the billing period when service was provided.

03 WATER AVAILABILITY CHARGES

03.1 The purpose of the availability charge is to defray, in part, the capital cost of major supply, treatment, transmission and storage facilities, etc., and does not cover any connection costs. All fees&charges shall be payable prior to any service being rendered.

03.2 A new or renewal application for water availability shall be made on a form provided by the Administrator and filed with the Authority. The application shall specify the type and number of units served or to be served. There will be no charge for renewal applications.

03.3 The availability fee for any new application shall be based on the schedule of fees in effect at the time the meter is accepted for service, and is dependent on the continuance of that service for one year. A penalty equal to (a) the difference of the then current fee and the fee paid or (b) the total of the minimum bills not charged in that service year, shall be paid before service is reconnected.

03.4 The availability fee for any additional units not paid for at the time a new fee change is effective shall be considered as additional units under the new schedule of fees.

03.5 Subsequent to the approval of the initial or renewal application for availability, no service shall be provided for any additional unit or units or spaces before application is made by the owner and approved by the Authority and the availability fee or fees are paid therefore.

03.6 Where the below schedule of availability charges is not applicable to an application for water service, the proposed service shall be investigated by the Administrator and/or the Board. The Administrator and/or the Board, upon completion of its investigation, shall establish a fair and equitable charge to be assessed to the applicant.

03.7 Schedule of Water Availability Charges

03.7a Residential

1. Single Family or Single Trailer		$400.00
2. Multi-family (under one roof):		
	First unit	$400.00
	Additional units	$200.00 each
3. Multi-trailer:	First unit	$400.00
	Additional units	$100.00 each

5.03.7b Non-residential

The availability charge for any non-residential establishment not covered by this schedule shall be negotiated with the Administrator and/or the Board.

The minimum charge for any non-residential establishment shall be $550.00

The minimum charge for non-residential establishments requiring oversized meters (in excess of one inch) shall be: $550.00 + $300.00 x (meter size minus one inch)

1. Motels and motor courts (master metered): $100.00 per unit.

2. Eating establishments:
   Seating capacity 1-10 inclusive: $750.00
   Seating capacity above 10: $750.00 + $20.00 per seat.

3. Schools: $15.00 per pupil and employee

4. Hospitals and institutions: $20.00 per bed

5. Service stations: $550.00
   This allows one hose each for up to three different products. Each additional hose at $200.00

6. Car washes: $550.00 plus $200.00 for each wash bay in excess of three bays.

.04 Installation and Care of Meters

.04.1 Water meters for new customer services shall be installed on the premises is a location which will assure against freezing or damage. They shall be installed as near as possible to the point of entry of the water service pipe. Customers shall be responsible for cost of repairs from meter to premises.

.04.2 Water meters installed on the premises shall be used with an outside reading device installed in a location agreeable to the Authority and the property owner.

.04.3 Water meters installed on the premises shall not be covered or so obstructed as to prevent ready access for maintenance, repairs, or reading.

.04.4 After proper installation of water meters, all meters shall be sealed by the Authority, which seal or seals shall not be broken except by permission of the Authority.

.04.5 No water meter shall be moved or relocated except by the supervision of the Authority.

.04.6 Meters which cannot be installed on the premises will be installed at or near the property line.

.04.7 The Authority shall not be held liable for water damage caused by burst water meters or connections.

.04.8 In case of water damage causing leakage, the customer may shut off the water at the valve at the end of the service line.

.04.9 It is forbidden for anyone other than Authority employees or plumbers with permission to turn on water service at the water meter or property line connection.

.05 Authority to Make Connections to Water Mains

It is forbidden for anyone to make connection with the water mains of the Authority water system except under the supervision of the Administrator or his duly authorized agent.

7.00 GENERAL

7.01 Right of Entry of Administrator and Agents

The Administrator or his duly authorized agent shall have the authority to enter at reasonable times any lot or house wherein Authority water is used to determine if there is any waste of water or malfunctioning systems and to inspect the plumbing.

7.02 Authority of Administrator to Regulate Use of Water During Emergency.

Whenever the public water supply diminishes to the extent that in the judgement of the Administrator, the public health, safety and welfare are in danger, or he may declare the existence of a water emergency. When ever such emergency is declared, the public shall be notified by the publication of an emergency proclamation once a day for two successive days in a newspaper of general circulation throughout the area served, or by the distribution of printed circulars in the area served. Such proclamation shall contain all the rules and regulations governing the use of water throughout the length of such period.

7.03 Molesting, Injuring Fire Hydrants, Fire Plugs, etc.

It is forbidden for any person to deface or injure any stopcock valve, fire plug or public hydrant, pipes, or anything connected with the Authority waterworks, or throw or deposit any building material, rubbish matter or other matter on the stop box of a service pipe, valve box, fire plug, meter, or cover up either with dirt or other material, or to remove or injure any cap or screw of a stop box, valve, fire plug, meter, hydrant or open any of them, or in any way molest them without authority from the Administrator, except that in case of fire or when cleaning the fire hose, firemen are authorized to use the fire plugs and in cleaning or sprinkling streets, or for other Authority purposes, the fire plugs, valves, etc. may be used by employees of the Authority under the direction of the Administrator.

7.04 Water for Air-Conditioning

It is forbidden for any one to install in one building an air conditioner, any refrigerating device, or any device of any kind which uses Authority water for cooling purposes or to replace any such device or equipment unless such equipment is used in conjunction with a re-circulating mechanism which is designed to reuse not less than 90% of the water water used for cooling, except that in any one building one air conditioner, one refrigerating mechanism or one there such devise using Authority water and having a capacity of three tons or less may be installed without such recirculating mechanism.

PLAINTIFF'S EXHIBIT
RECEIVED - REPORTER

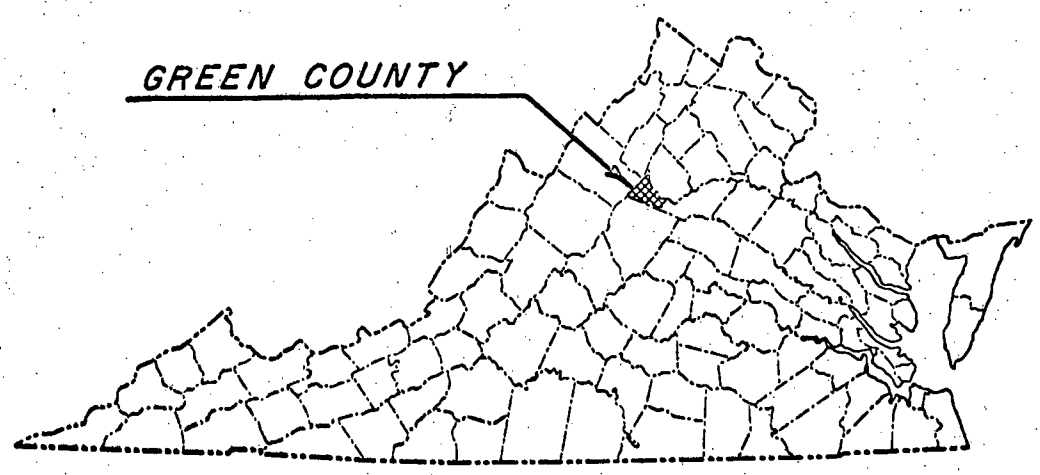
PROJECTIONS AND ECONOMIC BASE ANALYSIS

Greene County

DIVISION OF STATE PLANNING AND COMMUNITY AFFAIRS
1010 James Madison Building / Richmond, Virginia 23219 / May 1972 / 72-3

GREENE COUNTY

PROJECTIONS AND ECONOMIC BASE ANALYSIS



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This study is one of a series for all economic regions of Virginia. The purpose of the series is to provide a foundation of current and consistent projections useful to public and private organizations which require informed judgments about the future. A general statement of methodology and source materials may be obtained on request from the Division of State Planning and Community Affairs.

Mr. Richard D. Brown, Economist, Division of State Planning and Community Affairs, was primarily responsible for this study. The cooperation of local citizens, private firms, and state, local, and federal government agencies is gratefully acknowledged.

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GREENE COUNTY

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INTRODUCTION

This is an economic analysis of Greene County. The study concentrates on historical, current, and projected employment and its relationship to population and income. Total employment is divided into its major industry sub-components which are then separately projected to 1980. On the basis of these employment estimates, population is also projected.

The focal point of the study is Table 1 which provides an overall view of the local economy and gives insights into the interrelationships between employment, population, and income. The area's employment is divided into two categories--basic and supporting. The basic employment sector consists of industries which sell most of their goods and services outside of the area. For example, it is assumed that most manufactured and agricultural products are exported beyond area boundaries, and therefore employment utilized in such production is dependent on national and regional demands. The supporting employment sector consists of industries which market the bulk of their goods and services in the local area. Local government, retail and wholesale trade, contract construction, and finance, insurance, and real estate services are generally supporting except when the area serves as a regional trading center. In such cases, a portion of employment in the supporting industries is assigned to the basic sector. Primary attention in the study is on basic employment in that it is normally expected to be the primary source and cause of area economic growth.

Specific factors used and analyzed in making employment and population projections in the study include the present and historical general economic conditions of the area; industrial development considerations; work force commuting patterns; agricultural trends; retail and wholesale trade developments; present and planned highway, air, and rail facilities; recreational, commercial, and residential development; land use and settlement patterns; population density considerations; natural increase rates; and migration rates.

TABLE 1.--ECONOMIC BASE ANALYSIS WITH PROJECTIONS - GREENE COUNTY

	Values				Percent of Virginia				Average Annual Rate of Change		
	March 1950	March 1960	March 1971	March 1980	March 1950	March 1960	March 1971	March 1980	1950-60	1960-71	1971-80
Population[a/]	4,745	4,715	5,260	5,900	0.1	0.1	0.1	0.1	-0.1	+1.0	+1.3
Labor force, by place of work	1,124	945	814	935	0.1	0.1	...[b/]	...[b/]	-1.7	-1.3	+1.5
Unemployment	79	63	66	70	0.1	0.1	0.1	0.1	-2.2	+0.4	+0.6
Employment, by place of work	1,045	882	748	865	0.1	0.1	...[b/]	...[b/]	-1.7	-1.4	+1.6
Basic employment	717	418	182	185	0.1	0.1	...[b/]	...[b/]	-5.5	-7.8	+0.1
Manufacturing[c/]	49	68	3	50	...[b/]	...[b/]	...[b/]	...[b/]	+3.3	...[d/]	...[d/]
Agriculture	668	350	179	135	0.4	0.3	0.2	0.2	-6.6	-6.4	-3.1
Supporting employment	328	464	566	680	0.1	0.1	0.1-	0.1	+3.5	+1.8	+2.0
Percent of total employment basic	68.6	47.4	24.3	21.4	131.2	101.1	56.0	50.4	...	...	...
Labor force as a percent of population	23.7	20.0	15.5	15.8	60.0	51.9	36.7	40.3	...	...	...
Annual data:											
Per capita income	$ 448	$ 860[e/]	$ 1,532[f/]		36.5	48.6	45.6	...	+7.5	+5.9	...
Total income (000)	$2,100	$4,000	$ 8,100[f/]		0.1	0.1[b/]	0.1	...	+7.4	+7.3	...
Retail sales (000)[g/]	$ 904	$1,085	$ 4,634		...[b/]	...[b/]	0.1	...	+1.8	...[d/]	...

a/ The 1950 and 1960 population figures are as of April 1, from the U. S. Census of Population. The 1971 figure is a July 1 estimate as reported by the Bureau of Population and Economic Research at the University of Virginia.

b/ Less than 0.1 percent.

c/ Includes employment in the lumber, furniture, and apparel industries.

d/ Less than -10.0 percent or greater than +10.0 percent.

e/ Represents a 1959 estimate by the Bureau of Population and Economic Research at the University of Virginia.

f/ Represents a 1969 estimate by the Bureau of Population and Economic Research at the University of Virginia.

g/ Because retail sales data were not available for 1950, 1960 and 1971, corresponding data from the 1948, 1958, and 1967 Census of Business were used.

Sources: U. S. Department of Commerce, Bureau of the Census, Census of Business 1948, 1958, and 1967; U. S. Department of Commerce, Bureau of the Census, Census of Population 1950 and 1960; University of Virginia, Bureau of Population and Economic Research, "Estimates of the Population of Virginia Counties and Cities: July 1, 1971 (Provisional)," (November, 1971); University of Virginia, Bureau of Population and Economic Research, "Income in Virginia: Estimates for Standard Metropolitan Statistical Areas, Counties, and Planning Districts, 1959 and 1965 to 1969," (March, 1972); David C. Hodge, "Income Estimates: Virginia Standard Metropolitan Statistical Areas and Other Economic Areas, selected years 1929 to 1968," Bureau of Population and Economic Research, University of Virginia; Virginia State Chamber of Commerce, Industrial Directory of Virginia, 1971-72, (1971); Commonwealth of Virginia, Division of Industrial Development and Virginia Employment Commission.

PROJECTIONS AND ECONOMIC BASE ANALYSIS

General - The population of Greene County declined in the 1950's, but grew by approximately 1 percent a year during the 1960's with all but one of the county's magisterial districts registering population gains (see Table 2 and the accompanying map). Primarily responsible for the renewed growth was a change in the level of migration which more than offset a drop in the county's natural increase rate (i.e. births minus deaths). As shown in Table 4, Parts A and B, the county experienced a net out-migration of 23 people for the period 1960 to 1971 as compared with net out-migration of 595 persons during the 1950's. Contributing greatly to this decline in out-migration was the increased availability of jobs in surrounding areas such as Orange, Albemarle, and Charlottesville. As a result of growing employment opportunities in these areas, it is felt that Greene County became a more atttractive place in which to live and commute to work.

Employment in Greene County totaled 748 in March, 1971. Approximately 76 percent of these workers were employed in supporting industries while 24 percent worked in basic industries. In terms of basic employment, the most important industry historically has been, and still is, agriculture. Agricultural jobs accounted for over 98 percent of all basic employment and a little less than 24 percent of total employment in March, 1971. Other basic industries in the county are lumber and furniture, making up the manufacturing sector. In March, 1971, manufacturing employment represented less than 1 percent of total employment.

An analysis of 1960 commuting patterns (the latest year for which commuting data are available) shows that approximately 50 percent of the county's resident workers or 740 people were employed outside of the county. The majority of these out-commuters traveled to jobs in the Albemarle-Charlottesville area, while the

remainder went to Orange, Madison, Rockingham, and Fluvanna Counties. Although out-commuting was substantial in relation to the total employment, it was offset somewhat by approximately 92 in-commuters mainly from Albemarle, Orange, and Madison Counties. As a result, net out-commuting totaled 648 in 1960. Since that time, it is expected that out-commuting to nearby employment centers has increased considerably.

Manufacturing - As of March, 1971, total manufacturing employment in Greene County amounted to 3 persons who were employed in the lumber and furniture industries. Although there is no indication that this number will increase in the immediate future, it does appear likely that a small plant, say in the apparel, furniture, or textile industries, might locate in the county by 1980. Two ways in particular this might happen are: (1) the county could experience a spillover of manufacturing activity from the rapidly growing Albemarle-Charlottesville area, and (2) the county could lure a small firm in a labor intensive industry due to the attractiveness of an available supply of labor in the area. Based on the possibility of both of these prospects, manufacturing employment is expected to increase in the future and has been projected to approach the 50 worker level by 1980.

Agriculture - Farm employment in Greene County totaled 179 persons in March, 1971. This number rises seasonally by about 70 workers during the fall harvest months each year. The major source of farm income in the county is poultry and poultry products. Livestock and livestock products are also important income producers.

As shown in Table 6, Greene County has a slightly larger percentage of its farms classified as lower income commercial farms that is true for the state as a whole. Based on this lower income comparison, on the recent trends for state and national farm employment, and on the projections for alternative employment opportunities in nearby localities, agricultural employment in Greene County is

expected to decline in the future. For the 1970's, farm employment is projected to decline by 3.1 percent annually, reaching a level of 135 by 1980.

Supporting Employment - Employers in the supporting employment sector include contract construction; transportation; public utilities; local wholesale and retail trade; finance, insurance, and real estate companies; local government; and services--all of which are considered locally oriented industries. Approximately 566 persons were employed in supporting jobs in March, 1971.

In the past, supporting activity in Greene County has grown independent of developments in the basic sector. For example, during the 1950's supporting employment grew by 3.5 percent a year as compared to a 5.5 percent annual decline in basic employment. A similar pattern occurred in the 1960's when the supporting sector grew by 1.8 percent annually, and basic employment declined by 7.8 percent a year. While part of this growth represents a shift of those persons displaced from agriculture into the service sector rather than real growth in supporting industries, a good deal of the expansion is a result of increasing service demands within the county. As is normally the case where considerable out-commuting exists, a substantial part of the county's labor force is not accounted for since employment figures are based on place of work as opposed to place of residence. Yet, out-commuters live in the county and make demands on local facilities and services. These demands have a stimulating effect on the supporting sector causing growth which is not matched by corresponding gains in the basic sector. In essence, the situation is similar to the "bedroom" communities of larger metropolitan areas where growth in supporting employment reflects areawide economic trends that cannot be analyzed by looking at the county alone. Thus, due to the great amount of out-commuting and the anticipated increases in out-commuting, supporting employment is expected to increase in Greene County as the employment opportunities in surrounding areas

continue to expand. For the 1970's, supporting employment is projected to grow by 2.0 percent annually, reaching 680 workers by 1980.

Population - Based on a higher rate of growth in the county's manufacturing industries and on continued growth in the availability of jobs within easy commuting distance of the county, the population of Greene County is projected to grow by 1.3 percent a year during the rest of the 1970's and reach a level of 5,900 by 1980. This projection assumes a 0.2 average annual rate of in-migration and a 1.1 percent average annual natural increase rate.

Income - According to estimates made by the Bureau of Population and Economic Research at the University of Virginia, 1969 per capita income of Greene County was $1,532. This figure represents only 46 percent of the statewide average and is down slightly from like measures for 1959. As a result, the trend indicates that income in the county has grown at a slower pace since 1959 than is true for the state as a whole.

Retail Trade - The retail sales volume for Greene County was $4,634,000 in 1967. While sales volume grew by 20 percent from 1948 to 1958 and by more than fourfold from 1958 to 1967, per capita sales, as shown in Table 7, represented only 65 percent of the state average. The small percentage of sales in the area as compared to the corresponding measures for the state indicates that some of the purchasing power in the county is spent in other localities. It also reflects the fact that a regional trade center like Charlottesville exists close by.

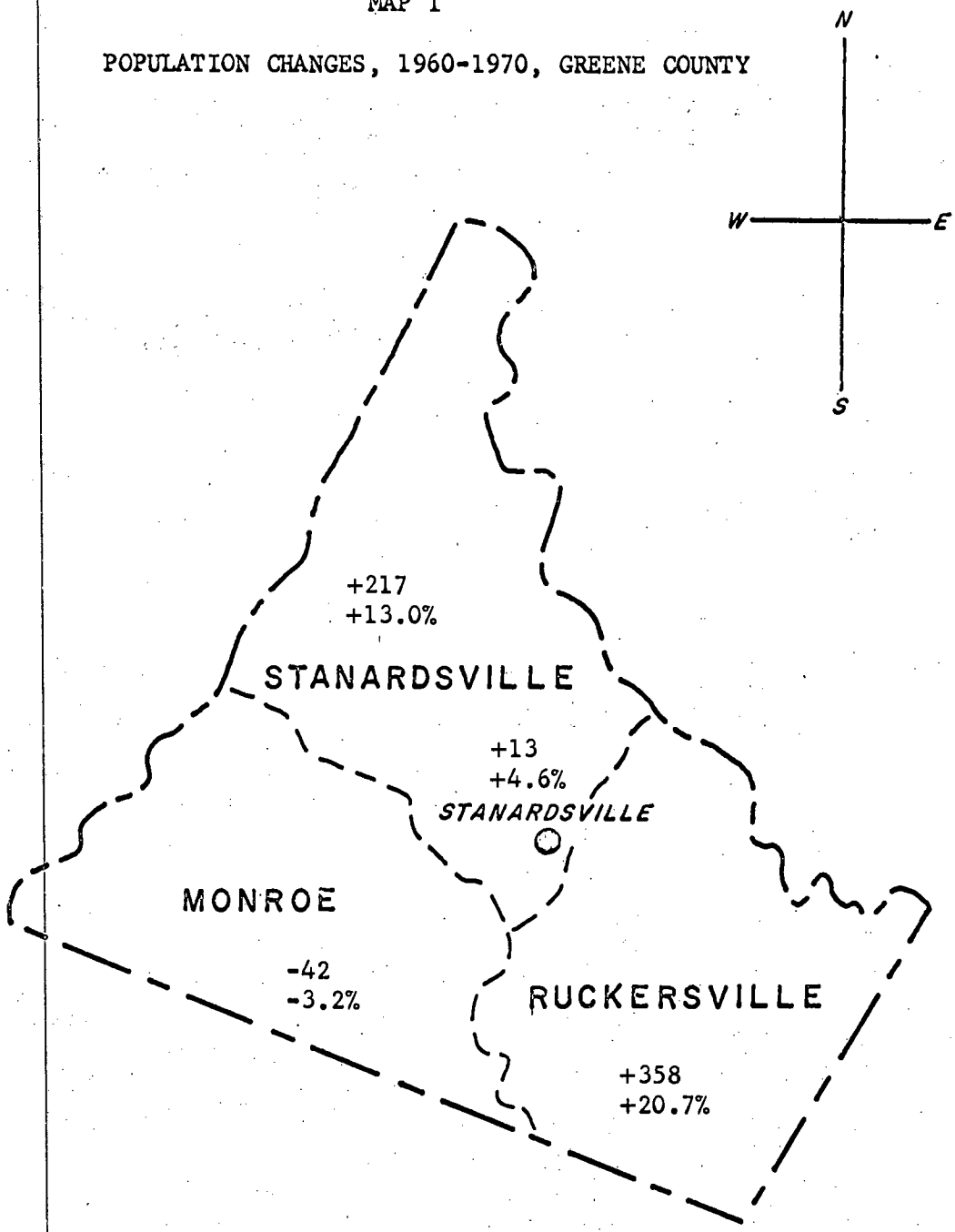
TABLE 2.--POPULATION OF GREENE COUNTY, 1950-1971

	(April) 1950	(April) 1960	(April) 1970	(July) 1971
Greene County	4,745	4,715	5,248	5,260
Minor Civil Divisions				
Monroe District	1,605	1,312	1,270	...
Ruckersville District	1,566	1,731	2,089	...
Stanardsville District	1,574	1,672	1,889	...
Stanardsville Town	182	283	296	...

Sources: U. S. Department of Commerce, Bureau of the Census, Census of Population, 1950, 1960, and 1970; "Estimates of the Population of Virginia Counties and Cities: July 1, 1971 (Provisional)," University of Virginia, Bureau of Population and Economic Research (November, 1971).

MAP I

POPULATION CHANGES, 1960-1970, GREENE COUNTY



Note: The figures on the map above represent the net numerical and percentage changes in population from 1960 to 1970 for the county's towns and magisterial districts.

TABLE 3.--COUNTY AND MAGISTERIAL DISTRICT POPULATION DENSITIES (PERSONS PER SQUARE MILE), 1970

Area	Population (1970 Census)	Land Area in Square Miles	Density
Greene County	5,248	153.0	34.3
Magisterial Districts			
Monroe District	1,270	48.2	26.3
Ruckersville District	2,089	47.3	44.2
Stanardsville District	1,889	57.5	32.8

Sources: U. S. Department of Commerce, Bureau of the Census, Areas of Virginia: 1960, Area Measurement Reports, GE-20, No. 48, January, 1967; U. S. Department of Commerce, Bureau of the Census, 1970 Census of Population.

TABLE 4.--POPULATION CHANGE FACTORS, GREENE COUNTY AND VIRGINIA
PART A: 1950-1960

	Virginia	Greene County
Population		
April 1, 1960	3,954,429	4,715
April 1, 1950	3,318,680	4,745
Net change	635,749	-30
Rate	19.2%	-0.6%
Components of change		
Births	945,502	1,106
Deaths	311,955	541
Natural increase[a/]	633,547	565
Rate	19.1%	11.9%
Net Migration	2,202	-595
Rate	0.1%	-12.5%
Net civilian migration	n.a.	-559
Rate	n.a.	-11.8%

n.a. = not available

a/ Births minus deaths

Source: U. S. Department of Commerce, Bureau of the Census, Components of Population Change, 1950 to 1960, for Counties, Standard Metropolitan Statistical Areas, State Economic Areas, and Economic Subregions (Series P-23, No. 7, November 1962).

TABLE 4.--POPULATION CHANGE FACTORS, GREENE COUNTY AND VIRGINIA
PART B: 1960-1971

	Virginia	Greene County
Population		
July 1, 1971	4,714,227	5,260
April 1, 1960	3,954,429	4,715
Net change	759,798	545
Rate	19.2%	11.6%
Components of change[a/]		
Births	1,011,642	1,232
Deaths	417,280	664
Natural increase[b/]	594,362	568
Rate	15.0%	12.0%
Estimated net migration (including military)	165,436	-23
Rate	4.2%	-0.5%

a/ The 1960 figures for births and deaths were obtained by subtracting the cumulative totals through March, as appearing in the Vital Statistics Monthly Report for March 1960, from the annual figures published in the Statistical Annual Report for 1960; the 1971 birth and death figures were taken from the Vital Statistics Monthly Report for June, 1971.

b/ Births minus deaths

Sources: U. S. Department of Commerce, Bureau of the Census, Census of Population 1960; Virginia State Department of Health, Statistical Annual Report of the Virginia Department of Health, 1960 through 1970; Virginia State Department of Health, Vital Statistics Monthly Report for March 1960 and June 1971; University of Virginia, Bureau of Population and Economic Research, "Estimates of the Population of Virginia Counties and Cities: July 1, 1971 (Provisional)," (November, 1971).

TABLE 5.--PLACES OF WORK FOR GREENE COUNTY RESIDENTS, 1960

Item	Greene County Number	Greene County Percent of Total
Total resident workers reporting a place of work[a/]	1,485	100.0
Places of work reported:		
Greene County	745	50.2
Out-commuters	740	49.8
Albemarle County	267	18.0
Charlottesville City	210	14.1
Orange County	150	10.1
Madison County	75	5.1
Rockingham County	17	1.1
Fluvanna County	4	0.3
Elsewhere	17	1.1

IN-COMMUTERS TO GREENE COUNTY, 1960

Residence	Number
Albemarle County	28
Orange County	22
Madison County	20
Charlottesville City	13
Harrisonburg City	5
Culpeper County	4
Total	92

Total out-commuters = 740
Total in-commuters = 92
Net out-commuters = 648

a/ Resident workers not reporting a place of work totaled 34.

Source: U. S. Department of Commerce, Bureau of the Census, 1960 Census of Population (unpublished tabulations based on a 25 percent sample).

TABLE 6.--FARMS BY ECONOMIC CLASS (VALUE OF FARM PRODUCTS SOLD) FOR GREENE COUNTY AND VIRGINIA, 1969

Type and Class of Farm	Greene County		State of Virginia	
	Number	Percent of All Farms	Number	Percent of All Farms
All Farms	227	100.0	64,572	100.0
Commercial farms	123	54.2	38,434	59.5
Class I	10	4.4	2,816	4.4
Class II	9	4.0	3,525	5.4
Class III	6	2.6	5,313	8.2
Class IV	22	9.7	8,760	13.6
Class V	35	15.4	10,677	16.5
Class VI	41	18.1	7,343	11.4
Other farms	104	45.8	26,138	40.5
Part-time a/	65	28.6	16,935	26.2
Part-retirement b/	39	17.2	9,149	14.2
Abnormal c/	...	...	54	0.1

Note: Class sizes are as follows: I - Sales of $40,000 or more; II - Sales of $20,000 to $39,999; III - Sales of $10,000 to $19,999; IV - Sales of $5,000 to $9,999; V - Sales of $2,500 to $4,999; and VI - Sales of $50 to $2,499.

a/ Farms with sales of $50 to $2,499 in which the operator was under 65 years of age and worked off the farm more than 100 days or had non-farm income greater than the value of farm products sold.

b/ Farms with sales of $50 to $2,499 in which the operator was 65 years of age or over.

c/ Institutional farms and Indian reservations.

Source: U. S. Department of Commerce, Bureau of the Census, 1969 U. S. Census of Agriculture.

TABLE 7.--RETAIL SALES COMPARISON, GREENE COUNTY AND VIRGINIA, 1967

	Greene County	Virginia	Greene County as a percent of Virginia
Population (July, 1967)	5,200	4,508,000	0.11
Retail sales volume (000)	$4,634 a/	$6,150,202	0.08
Per capita retail sales	$ 891	$ 1,364	65.32

Get the Sales for the Court

a/ Sales volume in 1970 was $5,177,000 according to estimates prepared by Sales Management magazine.

Sources: U. S. Department of Commerce, Bureau of the Census, 1967 Census of Business; University of Virginia, Bureau of Population and Economic Research, "Selected Population Characteristics of Virginia, 1970", (August, 1971).

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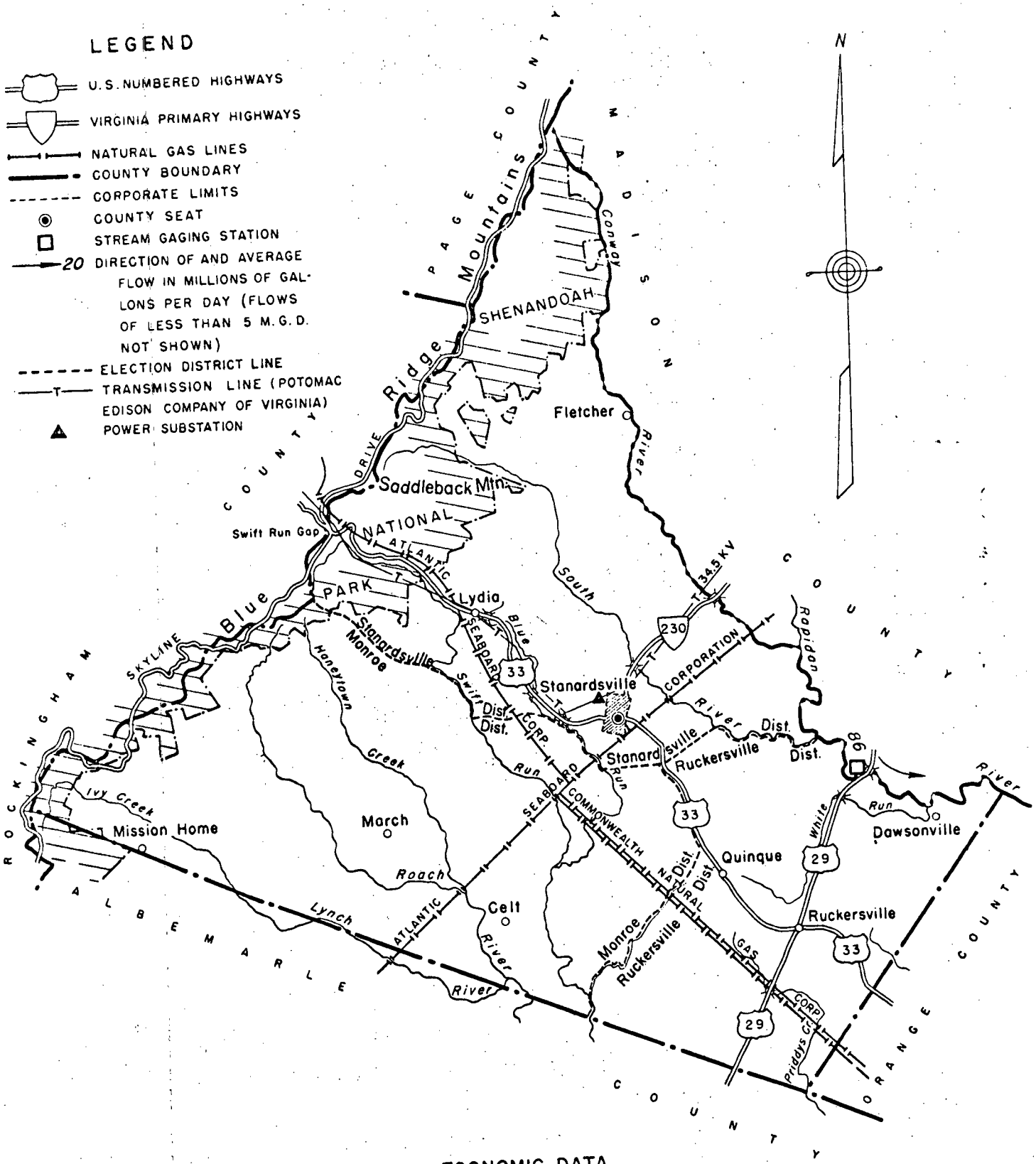

ECONOMIC DATA

GREENE COUNTY

VIRGINIA

SCALE OF MILES

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1972

OFFICE OF THE GOVERNOR

DIVISION OF STATE PLANNING AND COMMUNITY AFFAIRS

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Revised - May, 1972

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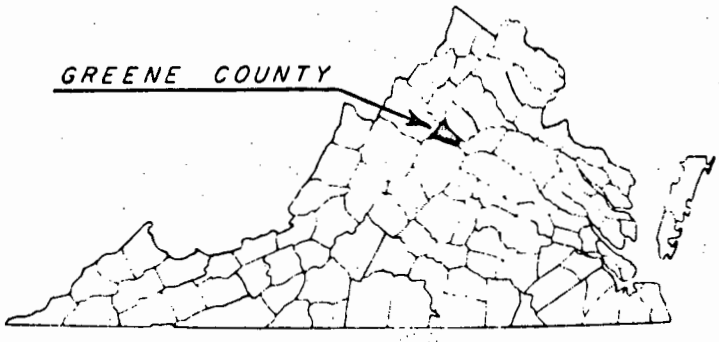
SECTION I - INTRODUCTION



Greene County, formed from Orange County in 1838, was named for General Nathanael Greene of Revolutionary War fame. Standardsville has always been the county seat. The present courthouse was built in 1838 on land donated by Robert Stanards, and is listed with the Virginia and National Historical societies. The 1970 population of Greene County was 5,248. The July 1, 1971 county population estimate as prepared by the Bureau of Population and Economic Research of the University of Virginia was 5,260. The Division of State Planning and Community Affairs projects that the population of Greene County will increase at the average annual rate of 1.2 percent and reach 5,900 by 1980.

In 1716 Governor Alexander Spotswood and his "Knights of the Golden Horseshoe" traveled through Greene on their history-making expedition to the summit of the Blue Ridge Mountains, reaching Swift Run Gap a short distance from Standardsville. This gap was used by General "Stonewall" Jackson during the War Between the States to shift troops from the Shenandoah Valley to the Piedmont battle areas. Now U.S. Route 33 crosses the Blue Ridge Mountains through this gap.

Greene County (area 153 sq. mi. - 97,920 acres) lies in the upper Piedmont Plateau with the Blue Ridge Mountains as its western border. The mountainous section, where elevations are from 3,000 to 3,600 feet above sea level, is largely forested, and much of this area is included in the Shenandoah National Park. Farms are found in the central and eastern part where the land is more rolling and elevations are usually from 600 to 1,000 feet. Temperatures are approximately 34° in January and 75° in July. Precipitation is about 43 inches a year. Mineral resources which have been utilized in the county include copper minerals, gneiss, phyllite, and gravel.

Although Greene County is almost entirely rural only about one-fourth of its employed work on farms. Almost one-half of all farms in 1969 were run on a part-time basis either by those who were chiefly employed in other lines of work or by retired persons. However, products from Greene's farms brought nearly one and one half-million dollars in 1969, and the majority of this income was from livestock, poultry, and their products.

Lying as it does on the eastern slope of the Blue Ridge Mountains, Greene County has much natural beauty which attracts the nature lover. Today, Swift Run Gap is one of the principal entrances to the famous Skyline Drive which follows closely the summits of the mountains in Shenandoah National Park on the county's western edge. Here also winds the Appalachian Trail, and other trails lead from it to such places as the falls of the South River. Picnic areas, camping sites, trailside shelters, and protected overlooks are provided. The county high school at Standardsville is named in honor of William Monroe, an emigrant from Great Britain who was buried in Greene County in 1769 and willed a fund to be used for free education of the children of the county. In Charlottesville, Greene County people find a center for trading and business, hospital service, entertainment, and sports events.

SECTION II - POPULATION

Table 1.--Selected Population Statistics

	1950	1960	1970	1971[a]
Greene County	4,745	4,715	5,248[b]	5,260
Town of Standardsville	182	283	296	n.a.

	Greene County		Virginia	
	1960	1970	1960	1970
Median age	25.4	n.a.	27.1	n.a.
Age distribution:				
Percent of total population				
0 to 4	11.5	9.3	11.6	8.4
5 to 17	27.1	27.7	25.4	25.8
18 to 20	5.0	4.5	4.7	5.8
21 to 44	28.1	31.6	32.9	32.5
45 to 64	18.0	16.7	18.2	19.6
65 and over	10.3	10.1	7.1	7.9
Race distribution:				
Percent of total population				
White	87.6	89.2	79.2	80.8
Negro	12.4	10.7	20.6	18.6
Other race	0.0	0.1	0.2	0.6
Percent of family heads which are male	n.a.	90.2	n.a.	88.7
Percent of family heads which are female	n.a.	9.8	n.a.	11.3
Percent of total population of 14 year olds and over in the labor force	49.2	59.4[c]	55.7	60.1[c]
Median school years completed by persons 25 years and over	7.3	8.4	9.9	11.7

n.a. - not available

Note: Details may not add to totals due to rounding.

a/ These figures are estimates as of July 1, 1971.

b/ The 1970 population by magisterial district totaled 1,270 in Monroe District, 2,089 in Ruckersville District, and 1,889 in Standardsville District.

c/ The figures for 1970 are for persons 16 years of age and older.

Sources: U.S. Bureau of the Census, Census of Population, 1960, Vol. I, Characteristics of the Population, Part 48, Virginia, (Washington: Government Printing Office, 1963); U.S. Bureau of the Census, 1970 Census of Population, PC(V2)-48, General Population Characteristics, Virginia, (Washington: Government Printing Office, February, 1971); University of Virginia, Bureau of Population and Economic Research, Estimates of the Population of Virginia Counties and Cities: July 1, 1971 (Provisional), (Charlottesville: University of Virginia, November, 1971); U.S. Bureau of the Census, 1970 Census of Population: General Social and Economic Characteristics, PC(1)-C48, Virginia, (Washington: Government Printing Office, February, 1972).

SECTION III - HOUSING

Table 2.--Selected Housing Statistics for Greene County, 1970

Item	Greene County	Virginia	Percent of State
All housing units.....	1,625	1,491,663	0.1
Year around housing units.....	1,624	1,483,026	0.1
Vacant-seasonal and migratory....	1	8,637	0.0
Persons per unit occupied.....	3.6	3.2	112.5
Ownership.....	3.5	3.3	106.1
Rental.....	3.8	3.0	126.7
Units in structure:			
One unit.....	1,396	1,110,016	0.1
Two units or more.....	84	326,496	0.0
Mobile home or trailer.....	144	46,514	0.3

Source: U. S. Bureau of the Census, 1970 Census of Housing, HC(V1)-48, General Housing Characteristics, Virginia, (Washington: Government Printing Office, February, 1971).

Table 3.--Tenure, Race, Value, and Contract Rent in Greene County, 1970

tem	Number of Housing Units		Percent Distribution of Housing Units	
	Greene County	Virginia	Greene County	Virginia
enure and Race:				
Owner Occupied.....	1,076	861,867	100.0	100.0
White.....	977	746,619	90.8	86.6
Negro.....	99	113,126	9.2	13.1
Other race.....	0	2,122	...	0.2
Renter Occupied.....	368	528,360	100.0	100.0
White.....	327	417,603	88.8	79.0
Negro.....	40	106,941	10.9	20.2
Other race.....	1	3,816	0.3	0.7
alue: Specified Owner Occupied				
Less than $5,000	97	49,590	19.0	7.1
$5,000 to $9,999	110	103,276	21.5	14.8
$10,000 to $14,999	106	136,571	20.7	19.6
$15,000 to $19,999	82	129,246	16.0	18.5
$20,000 to $24,999	55	90,874	10.8	13.0
$25,000 to $34,999	41	99,608	8.0	14.3
$35,000 to $49,999	16	62,585	3.1	9.0
$50,000 or more	4	25,454	0.8	3.6
Total	511	697,204	100.0	100.0
ontract Rent: Specified Renter Occupied				
Less than $40	42	50,923	19.2	10.5
$40 to $59	42	65,425	19.2	13.4
$60 to $79	34	70,971	15.5	14.6
$80 to $99	19	56,543	8.7	11.6
$100 to $119	10	48,437	4.6	10.0
$120 to $149	4	73,074	1.8	15.0
$150 to $199	2	59,828	0.9	12.3
$200 or more	...	22,239	...	4.6
No cash rent	66	38,857	30.1	8.0
Total	219	486,297	100.0	100.0

Note: Details may not add to totals due to rounding.

Source: U. S. Bureau of the Census, 1970 Census of Housing, HC(V1)-48, General ousing Characteristics, Virginia, (Washington: Government Printing Office, February,).

SECTION IV - INCOME

Table 4.--Income Measures

	Greene County	Virginia
Total Personal Income:		
1959 ($000).....	$4,000	$ 6,994,000
1969 ($000).....	8,100	$15,446,000
Per Capita Income:		
1959.....	$ 860	$ 1,770
Ratio to State Average.....	.48	1.00
1969.....	$1,532	$ 3,348
Ratio to State Average.....	.46	1.00
1969 Family Income:		
Median.....	$6,712	$ 9,049
Ratio to State Average	.74	1.00

Distribution of Families by 1969 Income

	County	Percent of County Total	State	Percent of State Total
$0 - $999	41	3.1	32,818	2.8
$ 1,000 - $3,999	289	22.0	156,278	13.4
$ 4,000 - $7,999	459	35.0	306,573	26.4
$ 8,000 - $11,999	375	28.6	294,467	25.3
$12,000 - $14,999	73	5.6	141,850	12.2
$15,000 - $24,999	67	5.1	177,035	15.2
$25,000 - $49,999	9	0.7	46,119	4.0
$50,000 or more	...	...	7,116	0.6
Total	1,313	100.0	1,162,256	100.0

Note: Details may not add to totals due to rounding.

Sources: U.S. Bureau of the Census, Census of Population: 1970, PC(1)-C4-8, General Social and Economic Characteristics, Final Report, Virginia, (Washington: Government Printing Office, 1972); University of Virginia, Bureau of Population and Economic Research, Income in Virginia: Estimates for Standard Metropolitan Statistical Areas, Counties and Planning Districts, 1959 and 1965 to 1969, (Charlottesville; University of Virginia, March, 1972), Tables S-2 and S-3.

Table 5.--Adjusted Gross Taxable Income for Greene County, 1970[a/]

Item	Greene County
Source of income:	
Gross wages	$ 9,071,469
Dividends[b/]	562,144
Business gain or loss	242,583
Capital gain[c/]	431,122
Net farm	-82,634
Adjusted gross taxable income	$10,224,683
Income per tax return	$ 5,198
Income per tax return as a percent of the state average of $7,200	72.2

Note: Details may not add to totals due to rounding.

a/ Adjusted gross taxable income refers to adjusted gross income for state tax purposes as defined by the Virginia state tax law. There is a distinction between adjusted gross taxable income and total personal income. Not included in adjusted gross taxable income but in total personal income are military income of non-Virginia residents, income in kind, unreported income under $1,000, transfer payments, other labor income (which is workmen's compensation and military reservist's pay minus personal contributions for social insurance and private pensions). Adjusted gross taxable income includes capital gains, but total personal income does not.

b/ Includes dividends, interest, rents and royalties, annuities or pensions, and the income from partnerships, estates and trusts.

c/ Capital gain is the net gain (or loss) incurred from the sale or exchange of real estate, stocks, bonds and other personalty.

Source: Commonwealth of Virginia, Department of Taxation, Income of Resident and Nonresident Individuals and Fiduciaries for the Taxable Year 1970, (unpublished tables).

SECTION V - LABOR RESOURCES

WORK FORCE

Table 6.--Work Force Data for Greene County[a/]

Item	March 1960	March 1971	Percent Change 1960-71
Population	4,715	5,260	11.6
Civilian work force	945	814	-13.9
Percent of population	20.0	15.5	...
Unemployment	63	66	4.8
Percent of work force	6.7	8.1	...
Employment	882	748	-15.2
Nonagricultural employment	532	569	7.0
Manufacturing	68	3	-95.6
Nonmanufacturing	256	426	66.4
Contract construction	15	28	86.7
Trans. & public utilities	*	*	...
Wholesale and retail trade	*	67	...
Finance, insurance & real estate	*	*	...
Service	*	*	...
Government	129	183	41.9
All other nonmanufacturing[b/]	112	148	32.1
All other nonagricultural[c/]	208	140	-32.7
Agricultural	350	179	-48.8

* Figures withheld to avoid disclosure of individual operations.

a/ Employment data are based on place of work rather than place of residence.

b/ Includes employment in nonmanufacturing industries noted by an asterisk.

c/ Includes self-employed, unpaid family workers, and domestic workers in private households.

Sources: Virginia Employment Commission, Division of Research, Statistics, and Information.

Table 7.--Occupation of Greene County Workers

Occupation	County	Percent of County Total	State	Percent of State Total
Professional	155	7.6	274,778	16.0
Managerial	64	3.1	146,148	8.5
Sales	94	4.6	111,564	6.5
Clerical	197	9.6	307,107	18.0
Craftsmen	414	20.2	244,240	14.2
Operatives	579	28.2	224,758	13.1
Transportation Operators	62	3.0	69,586	4.1
Non-farm Laborers	161	7.8	82,661	4.8
Farmers	53	2.6	25,362	1.5
Farm Laborers	79	3.8	20,805	1.2
Service Workers	162	7.9	169,049	9.9
Private Household Workers	30	1.5	38,192	2.2
Total	2,050	100.0	1,714,250	100.0

Note: Details may not add to total due to rounding.

Sources: U.S. Bureau of the Census, 1970 Census of Population: General Social and Economic Characteristics, PC(1)-C48, Virginia, (Government printing Office, Washington, D.C., February, 1972.

WAGES

Table 8.--Average Number of Establishments, Average Employment, Total Wages, and Average Wage Per Employee for the 12 Month Period Ending October 1, 1971[a/]

Item	Construction	Manufacturing	Trade	Services	Total [c/]
Greene County					
Average no. of establishments	5	...	5	**	12
Average employment	26	...	42	**	91
Total wages	$106,730	$ ...	$108,412	$ **	$297,987
Average wage per employee	$ 4,105	$ ...	$ 2,581	$ **	$ 3,274
Percent of county to state average wage	52.7	...	46.3	**	49.7
State average wage per employee	$ 7,795	$ 6,906	$ 5,570	$ 5,693	$ 6,585

** Figures are not published for less than three establishments.

a/ Coverage includes nonagricultural employers having four or more workers for 20 weeks within a calendar year. It excludes government, railroad, self-employed, domestic service, unpaid family workers, and some nonprofit organization.

b/ There is no manufacturing in Greene County.

c/ Total includes other employment sectors in addition to those shown.

Source: Virginia Employment Commission, Covered Employment and Wages, (selected quarters).

WORK-RESIDENCE INFORMATION

Table 9.--Work Residence Information for Greene County, April, 1960

	Number	Percent of Total
Total resident workers reporting a place of work[a/]	1,485	100.0
Places of work reported:		
Greene County	745	50.2
Out-Commuters from Greene County		
Madison County	75	5.0
Orange County	150	10.1
Albemarle County	267	18.0
Rockingham County	17	1.1
Charlottesville City	210	14.1
Fluvanna	4	0.3
Elsewhere	17	1.1
Total	740	49.8

In-Commuters to Greene County

Residence	Number
Albemarle County	28
Culpeper County	4
Madison County	20
Orange County	22
Charlottesville City	13
Harrisonburg City	5
Total	92

Total out-Commuters = 740
Total in-Commuters = 92
Net out-Commuters = 648

Note: Details may not add to totals due to rounding.

a/ Resident workers not reporting a place of work totaled 34.

Source: U.S. Bureau of the Census, Census of Population: 1960, (unpublished tabulations based on a 25 percent sample).

SECTION VI - MAJOR EMPLOYMENT SECTORS

MANUFACTURING

Table 10--Measures of Manufacturing in 1967

Item	Greene County	Virginia	Percent of State
Number of establishments:			
Total	1	4,938	0.0
With 20 or more employees	...	1,620	...
All employees:			
Total number (000)	*	339.8	...
Payroll (million dollars)	*	$1,905.1	...
Production workers:			
Total number (000)	*	268.2	...
Man-hours (millions)	*	535.0	...
Wages (million dollars)	*	$1,296.1	...
Average wage/hour	*	$2.42	...
Value added by manufacture (million dollars)	*	$4,067.7	...
Capital expenditures, new (million dollars)	*	$347.0	...

* Withheld to avoid disclosure of individual operations.

Source: U. S. Bureau of the Census, 1967 Census of Manufactures, Virginia, MC67(3)-47, (Washington: U. S. Government Printing Office, 1970), Table 4.

Manufacturing Establishments - There is no manufacturing in Greene County at the present time.

RETAIL TRADE

Table 11.--Measures of Retail Trade in 1967

Item	Greene County	Virginia	Percent of State
No. of establishments	45 Where	32,315	0.1
Sales:			
Total sales ($000)	4,634	$6,150,202	0.1
Per capita sales a/	883	$ 1,323	66.7
Total payroll ($000)	308	$ 709,339	0.0

Item	1967 Total Sales ($000) Greene County
Lumber, building materials, and hardware	*
General merchandise	616
Food	1,047
Automotive	*
Gasoline stations	1,618
Apparel	*
Home furnishings & equipment	...
Drugs and sundries	...
All other	1,353
Total	4,634

* Withheld to avoid disclosure of individual operations and included in "all other."

a/ The population figure used in determining per capita sales is the 1970 Census of Population figure.

Sources: U. S. Bureau of the Census, 1967 Census of Business, Retail Trade, Virginia, BC67-RA48, (Washington: U. S. Government Printing Office, 1969), Table 3; U. S. Bureau of the Census, 1970 Census of Population, PC(V1)-48, Final Population Counts, Virginia, (Washington: Government Printing Office, December, 1970).

Table 12.--Taxable Sales for the Twelve Months Ending December 31, 1971[a/]

Item	Greene County	Virginia
Average number of registered dealers:		
12 months ending December 31, 1971.....	89	76,184
Percent of state average.....	0.1	100.0
Total taxable sales:		
12 months ending December 31, 1971.....	$2,616,063	$7,933,749,775
Percent of state total.....	0.0	100.0
Per capita sales[b/]:		
12 months ending December 31, 1971.....	$ 498	$ 1,707
Percent of state average.....	29.2	100.0

a/ Taxable sales and retail sales differ. Included in taxable sales but not in retail sales are equipment rentals; repairs; sales made by hotels, motels, and tourist camps; and a use tax on items which are purchased outside the state but brought into the state for final use. Included in retail sales but not in taxable sales are gasoline; automobiles; ABC store sales; sales to any branch of government or to certain state-franchised public utilities; certain sales to interstate airlines and shiplines; and sales by daily or periodic publications.

b/ The population figure used in determining per capita sales is the 1970 Census of Population figure.

Sources: Virginia Department of Taxation, Taxable Sales, Quarterly Report, (Richmond: Commonwealth of Virginia), selected quarters; U. S. Bureau of the Census, 1970 Census of Population , PC(V1)-48, Final Population Counts, Virginia, (Washington: Government Printing Office, December, 1970).

WHOLESALE TRADE

Table 13.--Measures of Wholesale Trade in 1967

Item	Greene County	Virginia	Percent of State
No. of establishments	...	4,577	...
Total sales ($000)	$...	$6,162,254	...
Total payroll ($000)	$...	$ 339,005	...

Source: U. S. Bureau of the Census, 1967 Census of Business, Wholesale Trade, Virginia, BC67-WA48, (Washington: U. S. Government Printing Office, 1969), Table 4.

SELECTED SERVICES

Table 14.--Measures of Selected Services in 1967[a/]

Item	Greene County	Virginia	Percent of State
No. of establishments	7	19,986	0.0
Receipts:			
Total receipts($000)	$171	$835,314	0.0
Per capita receipts[b/]	$ 32	$ 180	17.8
Total payroll ($000)	$ 23	$273,615	0.0

a/ Selected services cover hotels, motels, camps, trailer parks, personal services, miscellaneous business services, automobile repair and services, and garages. Also included are miscellaneous repair services, motion pictures, and amusement and recreation services. Nonprofit membership recreational services are excluded.

b/ The population figure used in determining per capita receipts is the 1970 Census of Population figure.

Sources: U. S. Bureau of the Census, 1967 Census of Business, Selected Services, Virginia, BC67-SA48, (Washington: Government Printing Office, 1967), Table 3; U. S. Bureau of the Census, 1970 Census of Population, PC(V1)-48, Final Population Counts, Virginia, (Washington: Government Printing Office, December, 1970).

AGRICULTURE

Table 15.--Selected Measures of Agriculture in Greene County

Item	1964	1969
Number of farms	437	227
Commercial[a]	176	123
Part time	161	65
Part retirement	100	39
Abnormal	...	...
Percent of land area in farms	58.8	34.8
Average size of farms	131.8 acres	149.9 acres
Market value of all farm products sold	$1,916,650	$1,452,038
Land in farms	57,590 acres	34,048 acres
Cropland	12,721 acres	13,409 acres
Woodland on farms[b]	22,983 acres	11,471 acres
Irrigated land	54 acres	... acres
Other land on farms	21,832 acres	9,168 acres

Commercial farms by sales categories, 1969[c]	Number of commercial farms		Percent distribution of commercial farms	
	County	Virginia	County	Virginia
Class 1	10	2,816	8.1	7.3
Class 2	9	3,525	7.3	9.2
Class 3	6	5,313	4.9	13.8
Class 4	22	8,760	17.9	22.8
Class 5	35	10,677	28.4	27.8
Class 6	41	7,343	33.3	19.1
Total	123	38,434	100.0	100.0

Principal sources of county farm income in 1969 were:

$1,378,743 from livestock, poultry, and their products.
63,388 from crops including nursery products and hay.
9,907 from forest products.

Note: Details may not add to totals due to rounding.

a/ Commercial farms are all farms with sales of $2,500 or more and those farms with sales of $50 to $2,499 in which the farm operator is under 65 years of age and works no more than 100 days a year off the farm.

b/ Includes woodland pasture.

c/ Sales by classes are: Class 1 - $40,000 and over; Class 2 - $20,000 to $39,999; Class 3 - $10,000 to $19,999; Class 4 - $5,000 to $9,999; Class 5 - $2,500 to $4,999; Class 6 - $50 to $2,499

Source: U.S. Bureau of the Census, 1969 Census of Agriculture, Virginia, Volume 1, (Washington: U.S. Government Printing Office, 1972), Tables 1 and 4.

SECTION VII - GOVERNMENT

TYPE

Greene County is divided politically into three election districts and from each of these the qualified voters elect a representative, or supervisor, to serve for a period of four years on the county board of supervisors. These districts were formed in order to comply with the one man-one vote principle. The supervisors have no election district functions, but they are individually responsible to their electorate. Collectively they form the Greene County Board of Supervisors, which has charge of the policies governing the financial affairs of the county. They meet once a month, or more often if necessary, at the courthouse located in Standardsville, the county seat. Other county officials are chosen by the electorate of the entire county including the town of Standardsville, which is politically a part of the county and district in which it is located. The magisterial district lines in the county are being retained for legal and historical purposes.

The incorporated town of Standardsville is governed by a mayor and three member town council elected by the voters of the town only. Since an incorporated town is part of the county, the ordinances and regulations of the county are effective in it, and since the citizens of the town are subject to two governments--both county and town--they may vote for officials of both governing bodies. However, county residents do not vote for, or come under the government of, the town officials.

PLANNING ACTIVITIES

Greene County has an active planning commission. The commission has recommended projects, such as water system improvements, to county supervisors for consideration.

PUBLIC SAFETY

Police protection - Public safety is provided by the county sheriff and his deputies as well as by several assigned troopers of the Virginia State Police Force. Equipped with radio cars and a network communication with the State Police facilities, these men provide for the safety of the area.

Fire protection - Volunteer fire companies are organized at Ruckersville and Standardsville. Members of these companies are trained in first aid and rescue work as well as in fire-fighting.

Rescue squads - The Greene County Rescue Squad, Inc., a volunteer organization, provides rescue and emergency services to the county.

SECTION VIII - LOCAL FINANCES

FISCAL STATEMENT FOR COUNTY OF GREENE

Table 16.--Consolidated Statement of Fund Accounts for the Year Ended June 30, 1971

Description	Amount	Percent of Total Credits
Adjusted Balance July 1, 1970	$ -769	...
Credits		
Revenue:[a]		
From local sources	362,806	30.7
From the commonwealth	590,871	50.0
From the federal government	80,179	6.8
Total revenue	1,033,856	87.6
Nonrevenue[b,c]	146,565	12.4
Total credits	$1,180,421	100.0
Total credits and balance	$1,179,652	

Description	Amount	Percent of Total Debits
Debits		
Government operating expenses	$ 256,673	21.4
School operating expenses	699,337	58.4
Capital outlays	210,526	17.6
Interest and other debt costs	14,890	1.2
Redemption of debt[c]	16,410	1.4
Total debits	$1,197,836	100.0
Balance, June 30, 1971	$ -18,184	

Note: Details may not add to totals due to rounding.

a/ The annual or periodic collection of taxes and appropriations from the state and federal governments and sums from other sources which increase the cash of a fund but do not increase a liability or a reserve of the fund.

b/ Nonrevenue includes the additions to cash other than those from revenue sources such as receipts from the sale of assets or bonds and the recovery of expenditures. Proceeds of temporary loans made for operating purposes are not included.

c/ In contrast to state fiscal statements where borrowing and debt redemption are not treated as revenues and expenditures, borrowing is here treated as a current credit (nonrevenue), and the redemption of debt as a current expenditure.

Source: County of Greene, Virginia, Report on Audit for the Fiscal Year Ended June 30, 1971, (Commonwealth of Virginia: Auditor of Public Accounts, April, 1972).

ASSESSED VALUE AND NET DEBT

Table 17.--Total Assessed Value and Net Debt in Greene County

1970 Total Assessed Value[a]	1970 Net Debt[b]	Percent of Net Debt to Total Assessed Value
$6,709,843	$476,950	7.1

a/ Total assessed value of all locally taxable property for the tax year 1969.

b/ Net debt as of June 30, 1969.

Sources: Department of Taxation, Report of the Department of Taxation to the Governor of Virginia for the Fiscal Year Ending June 30, 1971, (Richmond: November, 1971); Auditor of Public Accounts, Report of the Auditor of Public Accounts of the Commonwealth of Virginia on the Comparative Cost of Local Government for the Fiscal Year Ended June 30, 1970, (Richmond: 1971), Exhibit C.

TOTAL TAX LEVIES

Table 18.--Total Assessed Value and Total Levies Collected from All Locally Taxable Property in Greene County, 1969

Type of Tax	Assessed Value, 1970	Local Levies 1970[a]
Real estate	$3,977,667	$178,995
Tangible personal property	854,893	47,019
Public service corporations[b]	1,513,155	68,092
Machinery and tools	...	...
Merchants' capital	364,128	3,641
Total	$6,709,843	$297,747

a/ Town levies imposed by incorporated towns for town purposes are not included.

b/ Public service corporations are taxed on real estate and tangible personal property.

Source: Department of Taxation, Report of the Department of Taxation to the Governor of Virginia for the Fiscal Year Ending June 30, 1971, (Richmond: November, 1971).

REAL ESTATE

Table 19.--Real Estate Assessment Ratios and Property Tax Rates

Area	1971 Nominal Tax Rate Per $100	1971 Assessment Ratio	Effective True Tax Rate Per $100
Greene County	$4.50	.20	$.90

Sources: County Commissioner of the Revenue; Town Treasurer.

MACHINERY AND TOOLS

Machinery and tools are not separately classified in Greene County; they are taxed as other tangible personal property.

TANGIBLE PERSONAL PROPERTY

Table 20.--Tangible Personal Property Tax[a/]

Area	1971 Nominal Tax Rate Per $100	1971 Assessment Ratio[b/]	Effective True Tax Rate Per $100
Greene County	$5.50	.20	$1.10

a/ Tangible personal property includes motor vehicles, boats and motors, trailers, livestock, farm machinery and tools, business furniture and fixtures, and household effects. Tangible personal property of manufacturing establishments such as office furniture and fixtures, trucks, and company cars are not taxed locally. A manufacturer is taxed on these items at the state rate of 30¢ per $100 book value.

b/ Assessed as ratio to fair market value.

Sources: County Commissioner of the Revenue; Town Treasurer.

MERCHANTS' CAPITAL TAX

Table 21.--Merchants' Capital Tax a/

Area	1971 Nominal Tax Rate Per $100	1971 Assessment Ratio b/	Effective True Tax Rate Per $100
Greene County	$1.00	1.00	$1.00

a/ Merchants' capital is defined as inventory of stock on hand, the excess of bills and accounts receivable over bills and accounts payable, and all other taxable personal property not offered for sale as merchandise. (This tax applies mainly to retailers and wholesalers. A manufacturer is taxed on these items at the state rate of 30¢ per $100 of book value).

b/ Assessed as ratio to inventory.

Sources: County Commissioner of the Revenue; Town Treasurer.

OTHER TAXES

A fee of $10 is charged for county license tags for all automobiles and trucks; also, professional occupational licenses are levied in the county.

SECTION IX - TRANSPORTATION

HIGHWAY

North-south Route 29 and east-west Route 33 intersect at Ruckersville in eastern Greene County. Both of these highways are part of the state arterial network. Four-lane Route 29 gives access to Washington, D.C. to the north and to Charlottesville, Lynchburg, and Danville to the south. The four-laning of Route 33 from Ruckersville west to Interstate 81 in Harrisonburg is planned for completion in 1975.

Trucking - Seven motor carrier firms provide trucking service to the towns of Greene County. Two of these offer both interstate and intrastate service, and five have interstate authorization only.

Bus - The Trailways bus line from Washington, D.C. to Charlottesville and Lynchburg passes through Ruckersville, providing the area with daily passenger schedules in each direction.

RAILROADS

The main line of the Southern Railway from Washington, D.C. to the South passes through the adjoining counties of Orange and Albemarle. The Chesapeake and Ohio, an east-west rail line, connects with the Southern at Orange and passes through Albemarle

County. Terminals at Orange and Charlottesville facilitate shipping by freight or express from Greene County. Passenger service is also available in Charlottesville.

LICENSED PUBLIC AIRPORTS

The nearest airport offering commercial airline service is the Charlottesville-Albemarle Airport less than ten miles south of the county line. This field is served by Piedmont, Cardinal, and Shenandoah Airlines, has one hard surfaced runway 6,000 feet in length, and offers lighting and fuel. It is attended during the day and charter service, flight instruction, surface transportation, and repairs are available. Food and lodging are nearby. Several flights a day to other Virginia cities and Washington, D.C. are scheduled from this airport and nation-wide connections are made for passenger, air freight and air express services. Also in Charlottesville is the Monticello Airport with a 3,300 foot runway. Here flight instruction, charter service, and fuel are available during the daytime.

SECTION X - UTILITIES

WATERWORKS SYSTEMS

Blue Ridge School: This system is owned by Blue Ridge School, a preparatory school for boys. The source of supply is three drilled wells. Disinfection of the water from two wells is accomplished by gas chlorination. Water from the third well is pumped directly into the system. Storage in the system is provided by a 40,000-gallon covered concrete reservoir. Average water hardness is 1.8 grains per gallon. Average daily usage is 0.0211 mgd.

Greene Mountain Lake: This system is owned by the Nathaniel Greene Development Corporation. This housing project is under development with two connections to the water system at present. The source of water supply is a drilled well with a safe yield of 0.032 mgd. Pneumatic storage capacity of 120 gallons is provided. Water hardness is 3.5 grains per gallon. Average daily usage is 0.007 mgd.

Lake Saponi: This system is owned by W. E. and J. F. Bishop. This project is under development with eight connections to the water system at present. The source of supply is a drilled well with a safe yield of 0.072 mgd. Pneumatic storage capacity of 240 gallons is provided. Treatment consists of iron and manganese removal filters. Water hardness is 8.5 grains per gallon. Average daily usage is 0.029 mgd.

Rapidan Service Authority: This system is owned by the Rapidan Service Authority and is presently under construction. When completed, this facility will replace the present Standardsville water system. Raw water is obtained from the Rapidan River. The water treatment process consists of presedimentation, coagulation, flocculation, sedimentation, filtration, and chlorination. The treatment plant has a design capacity of 0.216 mgd. Total storage in the distribution system is 100,000 gallons.

Town of Standardsville: This system is owned by the town of Standardsville. The source consists of three drilled wells and a number of springs. Storage in the distribution system is provided by a 110,000-gallon covered concrete reservoir. Average daily consumption is approximately 0.042 mgd. Average water hardness is 2.3 grains per gallon.

SEWERAGE SYSTEMS

Blue Ridge School: This system is owned by Blue Ridge School. The plant is designed to serve 267 persons. Treatment consists of an Imhoff tank and a sprinkling filter.

Town of Standardsville: This system is owned by the town of Standardsville. The plant is designed to serve a population of 625 persons. Treatment consists of an Imhoff tank, sprinkling filter, and final sedimentation.

WATER AND SEWERAGE RATES

Standardsville

Water rates per month:

First 3,000 gallons	$3.00 minimum charge
Next 8,000 gallons	.50 per 1,000
All additional	.40 per 1,000

Sewerage charge is $3.00 per month

ELECTRICITY

Several power companies provide various services to Greene County residents. Nearly half of the county is supplied electric power by the Potomac Edison Company of Virginia. The Northern Piedmont Electric Cooperative, which has an office in Culpeper, also provides electricity to about half of Greene County, including the town of Standardsville. Other power companies serving small portions of the county are the Virginia Electric and Power Company and the Central Virginia Electric Cooperative.

NATURAL GAS

Large transmission pipelines of the Columbia Gas Transmission Company and the Commonwealth Natural Gas Corporation crisscross Greene County and meet at a compressor station located in the county. The town of Standardsville is served by Columbia Gas of Virginia, Inc., a subsidiary of the Columbia Gas System of Charleston, West Virginia.

SECTION XI - EDUCATION

PUBLIC SCHOOLS

Table 22.--Selected Public School Information

Item	Greene County	Virginia
Number of children in 1970, Ages 7-19	1,371	1,192,883
Enrollment, 1970-71[a/]	1,324	1,133,385
Gross average daily attendance, 1970-71[b/]	1,193	1,006,230
Cost of operation per pupil in gross average daily attendance, 1970-71[c/]	$ 551	$ 724
Pupil-teacher ratio, 1970-71[d/]	23.6	22.1
Average annual teacher salary, 1970-71[e/]	$6,797	$ 8,582
High school enrollment, 1970-71[f/]	423	408,963
High school graduates, 1970-71	55	57,455
High school dropouts, 1970-71[g/]	8	17,522
Percent of high school graduates going to college, 1971	24.0	53.0
Percent of high school graduates continuing education in other than college, 1971	6.0	9.0

a/ Total number of pupils admitted to the school system; state figure adjusted to exclude double counting for transfers from one school system to another.

b/ Average daily attendance (ADA) of all schools in the county, plus ADA of pupils for whom the area pays tuition, minus ADA of pupils for whom tuition is received.

c/ Debt service and capital outlay excluded. The state figure is a weighted mean.

d/ Average number of day school pupils per classroom teaching position.

e/ Classroom teaching position (excludes supervisors, principals and head teachers).

f/ State figure adjusted to exclude double counting for transfers from one school system to another.

g/ Pupils who drop out during the school term; summer dropouts are not included.

Sources: State Board of Education, Superintendent of Public Instruction, Annual Report, 1970-1971, (Richmond: State Board of Education, December, 1971); State Department of Education, Division of Educational Research and Statistics, Virginia High School Dropouts, 1970-1971, (Richmond: State Department of Education, September, 1971); State Department of Education, Facing Up: Statistical Data on Virginia's Public Schools, No. 6, (Richmond: State Department of Education, January, 1972); U. S. Bureau of the Census, 1970 Census of Population, PC(V2)-48, General Population Characteristics, Virginia, (Washington: Government Printing Office, February, 1971).

PRIVATE SCHOOLS

Blue Ridge School provides education for boys in grades nine through twelve. Corolla Academy is a private junior high school for boys.

HIGHER EDUCATION

Germanna Community College, located between Culpeper and Fredericksburg on Route 3 in Orange County, serves the area which includes Stafford, Spotsylvania, Greene, Orange, Louisa, Culpeper, and Madison counties and the city of Fredericksburg. This college offers facilities for two-year instruction programs in occupational and technical fields, the liberal arts and sciences, general education, adult education, college and preparatory programs, and special training programs and services. Enrollment in the fall of 1970 was 383.

In nearby Charlottesville is the University of Virginia which offers a wide range of courses at the collegiate and post graduate levels. Among its schools are those of law, business administration, commerce, engineering, liberal arts and sciences, architecture, medicine, nursing, and education. Also located in Charlottesville is The Institute of Textile Technology, a specialized graduate institution offering courses leading to a master's degree only. Other nearby degree-granting institutions are less than 40 miles from Standardsville in Rockingham County. At Harrisonburg are Madison College and Eastern Mennonite College, and at Bridgewater is Bridgewater College.

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SECTION XII - RECREATION

Greene County is a rural area of fine farms, estates, and small communities. Livestock, horse shows, and hunts are popular local events. Since Charlottesville and the University of Virginia are only a few miles from Greene County, residents may easily take advantage of opportunities to enjoy the sports events, plays, concerts, lectures, and forums which are open to the public there. Monticello, Ashlawn, and many other historic homes are also within a short distance from Greene County.

Shenandoah National Park extends along the western edge of Greene County, and the Skyline Drive runs through this park along the tops of the Blue Ridge Mountains. Here, too, the Appalachian Trail follows the mountain ridges. There are numerous opportunities for camping, picnicking, and hiking. Shorter trails lead through the wild mountain forests to lookouts and to the falls of the South River. West of the Blue Ridge Mountains lies the Shenandoah Valley with its famous limestone caverns and regions of scenic beauty.

Hunting and fishing may be enjoyed throughout the county. In the northern part there are large areas in the watersheds of the Conway and South Rivers which are under cooperative wildlife management. This area is adjacent to the Shenandoah National Park and hunting is good in season. Deer and small game are plentiful and some bear are found. Fishermen will find rock and smallmouth bass and bream in the Rapidan and Conway Rivers, and in the waters of South River, Swift Run, Ivy Creek, and other mountain streams brook and rainbow trout abound.

Greene County now has a country club, Greene Hills Club, on a 217 acre site located two and one-half miles from Standardsville. This new club has an eighteen-hole golf course, tennis courts, a swimming pool, picnic facilities, and lakes stocked for fishing. A new public camping facility, Cool Springs Camping Ground, opened in the spring of 1972. This facility is located just outside of Standardsville and has a swimming pool.

SECTION XIII - OTHER COMMUNITY FACILITIES

FINANCIAL

Table 23.--Bank Deposits for Banks Within Greene County, April 18, 1972

Bank	Location	Total Deposits
Virginia National Bank	Standardsville	$1,047,888,333 a/

a/ Includes deposits of branches not physically located in the county.

Sources: R. L. Polk and Co., Polk's World Bank Directory, (Nashville, Tennessee, R. L. Polk and Company, March, 1970); State Corporation Commission; Federal Reserve Bank, Fifth District, Richmond.

Table 24.--Federal Deposit Insurance Corporation Listings for Total Accounts and Deposits, June 30, 1970 a/

	Greene County
Total number of accounts.....	3,345
Deposits:	
Total ($000).....	$5,006
Per capita b/.....	$ 954

a/ Only deposits and accounts of banks and branches physically located in the county are shown.

b/ Population figure used in determining per capita deposits is the 1970 Census of Population figure.

Source: Federal Deposit Insurance Corporation, Summary of Accounts and Deposits in All Commercial Banks, Richmond Region, June 30, 1970, (Washington: Federal Deposit Insurance Corporation, 1971); U. S. Bureau of the Census, 1970 Census of Population, PC(V1)-48, Final Population Counts, Virginia, (Washington: Government Printing Office, December, 1970).

RELIGIOUS

Several Protestant denominations are represented among the more than 20 churches of the county. There are churches of other denominations, including the Roman Catholic and Jewish faiths, in nearby Charlottesville. Many of the county churches maintain Sunday Schools, youth programs, and other activities.

MEDICAL

Greene County is within the area served by the two large hospitals of Charlottesville--University of Virginia Hospital with 560 beds and 66 bassinets and the Martha Jefferson Hospital and Sanitarium with 124 beds and 20 bassinets. Also conveniently near is the Orange-Gordonsville Community Hospital in Gordonsville (Orange County). This institution has a capacity of 30 beds. The county public health department is located in Standardsville and has a staff composed of a nurse, a sanitarian, and an area health director. Clinics and other public health services are programmed. There is a general practitioner located in the town of Standardsville.

LIBRARY

The Greene County Library is operated on a part-time basis.

SECTION XIV - NATURAL RESOURCES

MINERALS

The western part of Greene County is in the Blue Ridge province and the remainder is in the Piedmont province. The county is underlain by igneous and metamorphic rocks. No rock or mineral production was reported in Greene County during 1970.

In the past, copper minerals have been prospected along the Blue Ridge, and some mining has been done on a spur of Hightop Mountain north of Pirkey and at a site near Fletcher. Phyllite has been quarried north of Lydia and near Eppards Mill for use as flagstone. Gneiss has been quarried near Burtonville for local purposes. Sand and gravel occur along the flood plain of the South River in the vicinity of McMullen and along other streams in the county, and some gravel has been crushed for use in road construction.

Unakite, an ornamental variety of granite used for lapidary purposes, occurs in western Greene County and is found in gravels in some streams in that area. Very thin layers of hematite and ocher occur in the vicinity of Quinque and magnetite is present in the alluvium along several streams in the county, but the existence of potentially commercial deposits of these materials has not been established.

Source: The Virginia Division of Mineral Resources.

GROUND WATER

The western half of Greene County is in the Blue Ridge Province and the eastern half is in the Piedmont Province. Both portions are underlain by igneous and metamorphic rocks. In most areas the water table is 5 to 50 feet below the ground surface and occurs in the zone of soil and weathered material that is 5 to 100 feet thick. Water from this zone supplies most of the dug wells and springs, and also recharges the fractures and other openings in bedrock which yield water to drilled wells.

Available records indicate that up to 40 gallons per minute have been obtained from wells 90 to 300 feet deep. A 425-foot well two miles southwest of Standardsville has yielded 35 gallons per minute. One of the town wells at Standardsville reported to be more than 1,000 feet deep has yielded 30 gallons per minute and two other town wells, 160 and 165 feet deep, have yielded 20 and 40 gallons per minute, respectively. Three wells that have been recently constructed for the Green Mountain Lake Subdivision has respective yields of 4, 6 and 20 gallons per minute. The depths of these wells ranged from 225 to 305 feet. Yields from 25 to 50 gallons per minute can probably be obtained from wells less than 300 feet deep that are carefully located to penetrate zones of broken bedrock or permeable rocks in areas of adequate recharge. There is not sufficient data available at this time to make a reliable estimate of ground water potential per unit of land area.

Large-diameter wells in the zone of soil and weathered rock are typically 28 to 45 feet in depth and have a recharge rate of less than 5 gallons per minute. With their large storage capacity these wells are sufficient for domestic use where the water table lies above bedrock. Springs are numerous but generally flow less than 5 gallons per minute. Several springs in the mountains near Lydia provide water for the municipal supply at Standardsville which is supplemented by wells during low flows.

Ground water in most areas is low in total dissolved solids but in some instances it may be moderately hard, acidic and contain iron. The acid condition may cause corrosion of metal in the water system which usually results in an increase in the iron content. In general, water from the weathered zone is less mineralized than that obtained from fractures and other openings in the bedrock, but is also subject to pollution from nearby surface sources.

Source: Revised by the Virginia Division of Water Resources. (More detailed information may be obtained upon request.)

|= DMR 10/23/67 rpt

SURFACE WATER

Greene County lies on the eastern slope of the Blue Ridge and is drained by the Rapidan River and headwaters of the North Fork of the Rivanna River. The Rapidan River forms the northern boundary of the county. A stream gaging station is maintained on the Rapidan at Highway 29 crossing north of Ruckersville. Several miscellaneous measurements of flow have been made of the North Fork Rivanna River downstream from the county line in Albemarle County.

The surface waters of this county are soft and of good quality. Records of temperature and water quality data are available for the water of the Rapidan. Flow duration and high-and low-flow sequence data are available for the gaging station near Ruckersville.

Stream Gaging Station	Average Stream Flow Million Gallons Per Day
Rapidan River near Ruckersville	86

Source: Department of Conservation and Economic Development, Division of Water Resources.

FORESTS

According to the 1966 Forest Survey, Greene County contains approximately 49,423 acres of commercial forest land and 14,577 acres of productive reserve forest land included in the Shenandoah National Park.

The ownership of commercial forest land in Greene County is 100 percent in private holdings.

A reduction in the number of sawmills operating in and drawing sawtimber from Greene County has reduced the annual cut. A check on the last 10 year's pulpwood production indicates that since the high year of 1961 the pulpwood cut has generally been on a decline. Approximately 3,200 cords were produced in 1967. Currently all species and size classes are growing faster than they are being cut. Softwood sawtimber volume is low in this county amounting to only 2.4 million board feet.

Quality sawtimber markets are available in permanent sawmills located in adjacent counties. There is a need for a market for low quality hardwoods.

Major forest practice needs are improvement of hardwood stands, through removal of low grade species and culls, protection of hardwood stands from grazing of livestock, and reforestation of idle farm land and heavily cutover forest land.

FORESTS (Cont.)

Table 25.--Selected Forestry Information for Greene County

Forest Types	1966 Acres
Red cedar	3,354
Oak-hickory	38,091
Virginia pine	7,978
Total	49,423

Stand Size Classes	1966 Acres
Sawtimber	21,323
Pole size timber	14,685
Seedlings and saplings	13,415
Total	49,423

Inventory, 1970

Species Groups	Sawtimber[a/] (million board feet)	Growing Stock[b/] (thousand cords)
Softwoods	2.4	74
Soft hardwoods	62.2	296
Hard hardwoods	74.7	378
Total	139.3	748

Estimated Average Annual Net Growth and Cut, 1966-1970

Species Groups	Sawtimber (million board feet)		Growing Stock (thousand cords)	
	Growth	Cut	Growth	Cut
Softwoods	0.1	0.1	3	1
Soft hardwoods	2.8	0.5	12	1
Hard hardwoods	2.8	0.5	12	1
Total	5.7	1.1	27	3

a/ Softwoods 9" DBH and over; hardwoods 11" DBH and over. DBH refers to diameter at breast height. The stem diameter is measured in inches and covers the outside bark measured at 4½ feet above the ground.

b/ Growing stock, all merchantable trees 5" DBH and over (including sawtimber).

Source: Virginia Division of Forestry.

Thomas Jefferson Planning District Commission
701 East High Street
Charlottesville, Virginia 22903
Telephone 804/ 977-2870

DEFENDANT'S EXHIBIT
C
12/4/78
PENGAD-Bayonne, N.J.

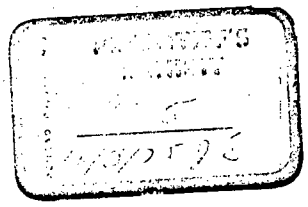
CALENDAR OF EVENTS LEADING TO ADOPTION
OF GREENE COUNTY COMPREHENSIVE PLAN

September 3, 1973:	Preparation for surveys began.
September 17, 1973:	Preparatory work completed. Field survey and existing conditions analysis begun.
January 14, 1974:	Field survey, analysis, preliminary projections and needs statement completed. Preliminary Goals and Objectives statement begun.
February 1, 1974:	Preliminary Goals and Objectives statement completed.
February 6, 1974:	Special Goals/Objectives work session with Planning Commission.
February 20, 1974:	Ad-Hoc Citizens Goals Committee established.
February 27, 1974:	Ad-Hoc Citizens Goals Committee - first work session.
March 21, 1974:	Ad-Hoc Citizens Goals Committee - second work session.
May 2, 1974:	Ad-Hoc Citizens Goals Committee - third and final work session.
May 15, 1974:	Presentation of Goals statement to County Planning Commission.
June 5, 1974:	Goals/Objectives work session with County Planning Commission.
June 28, 1974:	Preliminary draft of Comprehensive Plan completed.

July 25, 1974:	County Planning Commission's first work session on proposed Comprehensive Plan.
August 7, 1974:	County Planning Commission's second work session on proposed Comprehensive Plan. Staff directed to revise and condense Plan for possible publication and distribution to all County boxholders.
August 21, 1974:	Revised Plan amended and approved for publication pending Board of Supervisors authorization.
September 3, 1974:	Board of Supervisors authorizes publication of proposed Comprehensive Plan.
October 1, 1974:	Comprehensive Plan published by Valley Banner printers and mailed to all Greene County boxholders.
October 12, 1974:	Planning Commission holds public hearing on Plan and certifies the Plan to the Board of Supervisors with recommendation that it be adopted.
November 16, 1974:	Board of Supervisors holds public hearing on Plan.

ZONING ORDINANCE

GREENE COUNTY
VIRGINIA



ADOPTED

February 22, 1975

EFFECTIVE DATE

March 1, 1975

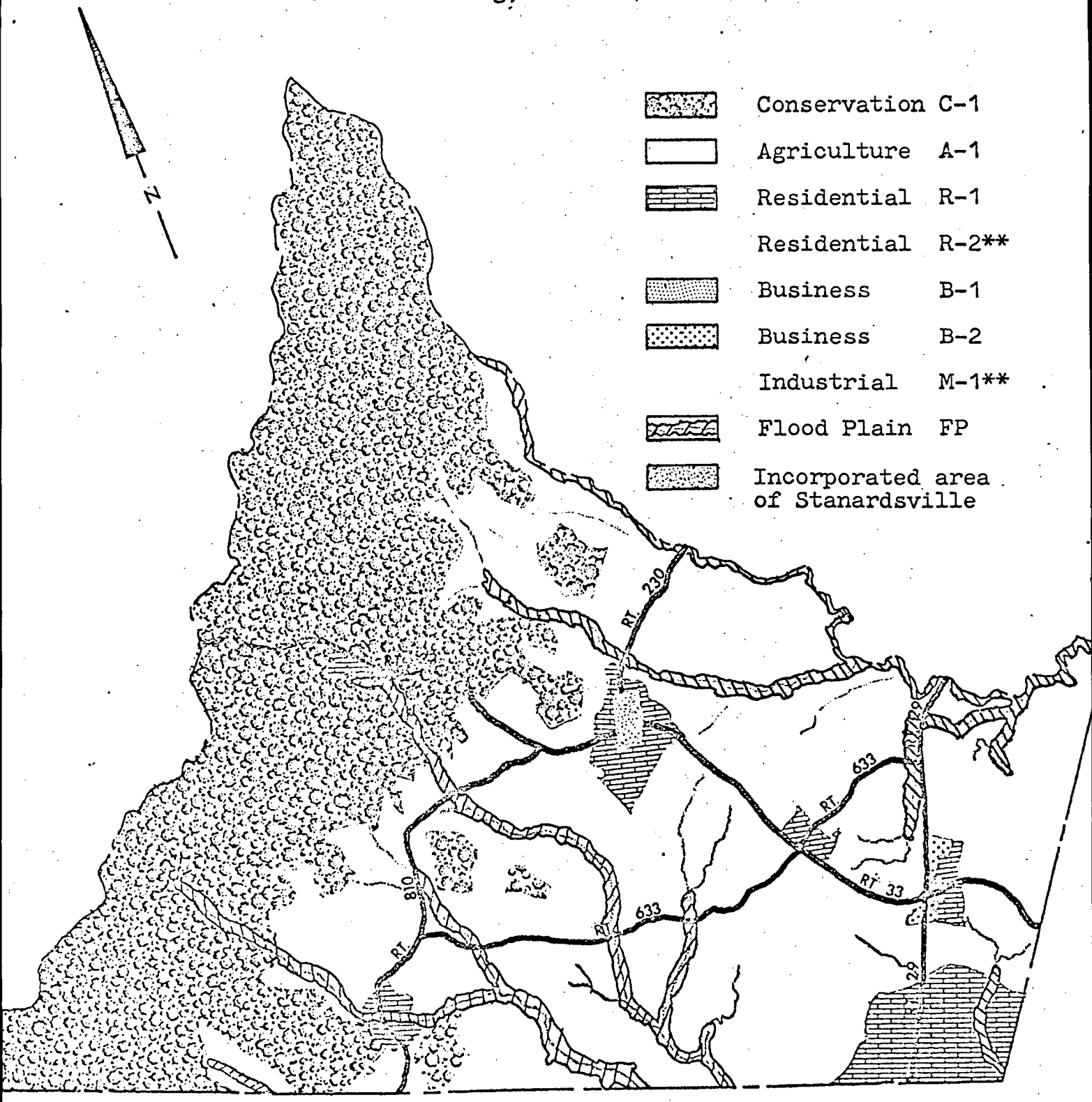
Prepared by the Staff of the
THOMAS JEFFERSON PLANNING DISTRICT COMMISSION
701 East High Street, Charlottesville, Virginia, 22901

The preparation of this ordinance was financed in part through a comprehensive planning grant from the Department of Housing and Urban Development under provisions of Section 701 of the Housing Act of 1954, as amended.

PROPOSED GENERALIZED ZONING MAP*

GREENE COUNTY, VIRGINIA

Public Hearing, Feb. 22, 1975



* Detailed map is on file in the Clerk's Office of the Circuit Court of Greene County.

** These Districts are not being proposed for application to property

GREENE COUNTY ZONING ORDINANCE

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ZONING ORDINANCE
GREENE COUNTY, VIRGINIA

ARTICLE 1
Authority, Intent, and Enactment

-1 Whereas, by act of the General Assembly of Virginia as provided in Chapter 28, Article 8, Sections 15.1-486 through 15.1-498, Code of Virginia and amendments thereto, the governing body of any county may by ordinance, divide the territory under its jurisdiction into districts of such number, shape and area as it may deem best suited to carry out the purpose of this article, and in each district it may regulate, restrict, permit, prohibit, and determine the following:

(a) The use of land, buildings, structures and other premises for agricultural, commercial, industrial, residential, flood plain and other specific uses;

(b) The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing, or removal of structures;

(c) The areas and dimensions of land, water, and air space to be occupied by buildings, structures and uses, and of courts, yards, and other open spaces to be left unoccupied by uses and structures, including variations in the sizes of lots based on whether a public or community water supply or sewer system is available and used;

(d) The excavation or mining of soil or other natural resources.

1-2 And, whereas, this ordinance, insofar as is practicable, is intended to be in accord with and to implement the Comprehensive Plan of Greene County adopted pursuant to the provisions of Title 15.1, Chapter II, Article IV, Code of Virginia, 1950, As Amended, and has the purpose and intent set forth in Title 15.1, Chapter II, Article VIII.

1-3 Now, therefore, be it ordained, by the governing body of Greene County, Virginia, for the purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of Section 15.1-489, that the following be adopted as the Zoning Ordinance of Greene County, Virginia, together with the accompanying map. This ordinance has been designed (1) to provide for adequate light, air, convenience of access, and safety from fire, flood and other dangers; (2) to reduce or prevent congestion in the public streets; (3) to facilitate the creation of a convenient, attractive and harmonious community; (4) to expedite the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports, and other public requirements; (5) to protect against destruction of or encroachment upon historic areas; (6) to protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing

or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, panic or other dangers; and (7) to encourage economic development activities that provide desirable employment and enlarge the tax base.

ARTICLE 2

Zoning Districts

2-1 For the purpose of this ordinance, the unincorporated area of Greene County, Virginia is hereby divided into the following Districts:

Conservation, C-1
Agricultural, A-1
Residential (Single Family Dwelling Units), R-1
Residential (Multiple Family Dwelling Units), R-2
Business (General), B-1
Business (Highway), B-2
Industrial, M-1
Flood Plain (General), FP

2-2 The locations and boundaries of Districts shall be shown on a map entitled "Zoning Map of the County of Greene, Virginia" except that the boundaries of Residential R-2 District and Industrial M-1 District shall be fixed by amendment of the official Zoning Map at such times in the future as such Districts are applied to properties in Greene County. A certified copy of this map is on file in the office of the Zoning Administrator of Greene County, and said map is signed by the Chairman of the Board of Supervisors and certified by the Clerk of the Board of Supervisors. This map plus all notations, dimensions, and designations shown thereon shall be as much a part of this ordinance as if the same were all fully described herein.

ARTICLE 3

CONSERVATION DISTRICT, C-1

Statement of Intent

This District covers those portions of Greene County predominantly characterized by rugged terrain and poorly drained soils. This District is established for the specific purpose of protecting human life and conserving natural resources. To this end, uses permitted will include only those which are compatible with conserving water and timber, reducing soil erosion and earth slides, protecting watersheds, and reducing hazards from flood and fire.

3-1 USE REGULATIONS

In Conservation District C-1, structures to be erected or land to be used shall be for the following uses; each main structure shall meet the minimum lot area, setback, yard and frontage requirements of this ordinance.

3-1-1 <u>Uses Permitted by Right</u>

.1 Single family detached dwellings.

.2 Conservation and preservation areas.

.3 Agriculture.

.4 Schools, churches, parks and playgrounds (public), and public buildings.

.5 Church adjunctive cemeteries and family graveyards.

.6 Lodges, hunting clubs and boating clubs.

.7 Fish hatcheries.

.8 Public utilities: poles, lines, transformers, pipes, meters and related and similar facilities, water and sewer distribution lines.

.9 Home occupations as defined.

.10 Accessory uses and structures as defined.

-2 Uses Permitted by Special Use Permit

.1 Campgrounds and summer camps.

.2 Recreation areas - private.

.3 Sawmills and planing mills.

.4 Water and sewage treatment or distribution facilities where same are required by state and/or federal regulations to protect the public health.

.5 General stores, as defined.

.6 Antique, antique craft and gift shops.

.7 Sanitary land fills.

.8 Animal show grounds.

.9 Wayside stands (temporary).

.10 Tourist homes.

.11 Natural resource extraction and processing.

.12 Mobile homes, in conformance with Section 13-5 of this ordinance.

2 AREA REGULATIONS

The minimum lot area for permitted uses shall be five (5) acres (217,800 square feet) or more.

3 SETBACK REGULATIONS

3-1 Structures except signs shall be located fifty (50) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or one hundred (100) feet or more from the center line

of any street right-of-way less than fifty (50) feet in width. This shall be known as the setback line.

3-3-2 No accessory building shall be located within the setback line.

3-4 FRONTAGE REGULATIONS

The minimum frontage for permitted uses shall be three hundred (300) feet.

3-5 YARD REGULATIONS

3-5-1 Side - The minimum side yard for each main structure shall be thirty (30) feet.

3-5-2 Rear - Each main structure shall have a rear yard of one hundred (100) feet or more.

3-5-3 Accessory structures shall be located ten (10) feet or more from the side and rear lot lines.

3-6 HEIGHT REGULATIONS

Buildings may be erected up to forty (40) feet in height except that:

3-6-1 A public or semi-public building such as a school, church or library may be erected to a height of sixty (60) feet from grade.

3-6-2 Church spires, belfries, cupolas, monuments, water towers, silos, chimneys, flues, flagpoles, television antennae and radio aerials are exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.

3-6-3 No accessory building which is within fifty (50) feet of any property line shall be more than one (1) story high; all accessory structures shall be less than the main building in height, except as herein provided.

7 SPECIAL PROVISIONS FOR CORNER LOTS

Of the two sides of a corner lot, the front shall be deemed to be the shortest of the two sides fronting on streets. The side yard on the side facing a side street shall be forty (40) feet.

8 SIGN REGULATIONS

Signs shall conform to Article 11 of this ordinance.

9 OFF-STREET PARKING

Off-street parking shall be provided as required in Article 13 of this ordinance.

ARTICLE 4

AGRICULTURAL DISTRICT, A-1

Statement of Intent

This District is designed primarily to protect farming in Greene County, while accommodating kindred rural occupations and limited residential use. This District consists of those areas lying outside of designated growth clusters; those areas presently being used for agricultural purposes; those areas having the most favorable soil capabilities for agricultural purposes; and natural resource areas. While certain desirable rural areas may be expected to develop in a preplanned, orderly residential pattern, it is the intent, however, to discourage the random scattering of residential, commercial, or industrial uses in this District.

-1 USE REGULATIONS

In Agricultural District A-1 structures to be erected or land to be used shall be for the following uses; each main structure

shall meet the minimum lot area, setback, frontage and yard requirements of this ordinance.

4-1-1 Uses Permitted by Right

Same as Conservation C-1 plus:

.1 Dairying.

.2 Plant nurseries, wholesale.

.3 Wayside stands selling commodities raised on premises.

.4 Kennels.

.5 Veterinary clinics and hospitals.

.6 Volunteer fire house and rescue squads.

4-1-2 Uses Permitted by Special Use Permit

Same as Conservation C-1 plus:

.1 Hospitals, clinics, sanatoriums, nursing homes and rehabilitation centers.

.2 Dinner theaters.

.3 Airports or helioports.

.4 Customary storage of dynamite as accessory use to agriculture activity.

.5 Seasonal shooting ranges.

.6 Private schools.

.7 Commercial warehouses for bulk agricultural products.

.8 Country clubs, community centers; swimming, tennis, fishing, and gun clubs and similar uses.

.9 Craft or cottage industries.

.10 Carnivals, fairs - temporary-non-profit only.

.11 Mobile homes, in conformance with Section 13-5 of this ordina

4-2 AREA REGULATIONS

The minimum lot area for permitted uses shall be two (2) acres (87,120 square feet).

3 SETBACK REGULATIONS

3-1 Structures except signs shall be located fifty (50) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or one hundred (100) feet or more from the center line of any street right-of-way less than fifty (50) feet in width. This shall be known as the setback line.

3-2 No accessory building shall be located within the setback line.

4 FRONTAGE REGULATIONS

The minimum frontage for permitted uses shall be two hundred fifty (250) feet.

5 YARD REGULATIONS

5-1 Side - The minimum side yard for each main structure shall be thirty (30) feet.

5-2 Rear - Each main structure shall have a rear yard of one hundred (100) feet or more.

5-3 Accessory structures shall be located ten (10) or more feet from side and rear lot lines.

6 HEIGHT REGULATIONS

Buildings may be erected up to forty (40) feet in height except that:

6-1 A public or semi-public building such as a school, church or library may be erected to a height of sixty (60) feet from grade.

6-2 Church spires, belfries, cupolas, water towers, silos, chimneys, flues, flagpoles, television antennae and radio aerials are exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.

6-3 No accessory building which is within fifty (50) feet of any property line shall be more than one (1) story high; all accessory

structures shall be less than the main building in height, except as herein provided.

4-7 SPECIAL PROVISIONS FOR CORNER LOTS

Of the two sides of a corner lot, the front shall be deemed to be the shortest of the two sides fronting on streets. The side yard on the side facing a side street shall be forty (40) feet.

4-8 SIGN REGULATIONS

Signs shall conform to Article 11 of this ordinance.

4-9 OFF-STREET PARKING

Off-street parking shall be provided as required in Article 13 of this ordinance.

ARTICLE 5

RESIDENTIAL DISTRICT, R-1

Statement of Intent

This District is composed of certain quiet, low-moderate density residential areas, plus certain open areas where similar residential development appears likely to occur. The location of this District shall be limited to those growth clusters as designated in the Greene County Comprehensive Plan. The regulations contained herein are designed to stabilize and protect the desired characteristics of the District.

5-1 USE REGULATIONS

In Residential District R-1, structures to be erected or land to be used shall be for the following uses; each main

structure shall meet the minimum lot area, setback and frontage requirements of this ordinance.

1-1 Uses Permitted by Right

.1 Agriculture as defined, excluding livestock.

.2 Single family dwellings.

.3 Churches, etc.

.4 Parks and playgrounds.

.5 Schools, public and private.

.6 Libraries.

.7 Cemeteries.

.8 Home occupations as defined.

.9 Public utilities: Poles, lines, transformers, pipes, meters and related or similar facilities; water and sewerage distribution lines.

.10 Accessory uses or structures as defined.

-1-2 Uses Permitted by Special Use Permit

.1 Mobile home parks in conformance with Section 13-4 of this ordinance.

.2 Keeping of livestock or poultry.

.3 Wayside stands, temporary.

.4 General stores.

.5 Home professional offices.

.6 Mobile homes in conformance with Section 13-5 of this ordinance.

.7 Construction yards, temporary.

.8 Public utilities: public water and sewer transmission lines, treatment facilities, and pumping stations; electrical power transmission lines and substations; oil and gas transmission pipelines and pumping stations; micro-wave and radio-wave transmission and relay towers and substations; unmanned telephone exchange centers.

5-2 AREA REGULATIONS

5-2-1 The minimum lot area for permitted uses not utilizing central or public water or central or public sewerage systems shall be thirty thousand (30,000) square feet or more.

5-2-2 The minimum lot area for permitted uses utilizing either central or public water or central or public sewerage systems shall be twenty thousand (20,000) square feet or more.

5-2-3 For permitted uses utilizing both central or public water and central or public sewerage systems the minimum lot area shall be ten thousand (10,000) square feet or more.

5-2-4 In case of soil conditions or other physical factors which may impair the health and safety of the neighborhood, the Planning Commission, upon recommendation of the Health Department, may increase the area requirements for lots served by individual wells or septic systems.

5-3 SETBACK REGULATIONS

5-3-1 Structures except signs shall be thirty-five (35) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or sixty (60) feet or more from the center line of any street right-of-way less than fifty (50) feet in width. This shall be known as the setback line.

5-3-2 No accessory building shall be located within the setback line.

5-4 FRONTAGE REGULATIONS

5-4-1 The minimum frontage for permitted uses not utilizing central or public water or central or public sewerage systems shall be one hundred fifty (150) feet.

5-4-2 The minimum frontage for permitted uses utilizing either central or public water or central or public sewerage systems shall be one hundred (100) feet.

4-3 For permitted uses utilizing both central or public water and central or public sewerage systems the minimum frontage shall be eighty (80) feet.

5 YARD REGULATIONS

5-1 Side - The minimum side yard for each main structure shall be fifteen (15) feet.

5-2 Rear - Each main structure shall have a rear yard of thirty-five (35) feet or more.

5-3 Accessory buildings shall be located in the rear yard only; accessory structures shall be located ten (10) or more feet from the side and rear lot lines.

6 HEIGHT REGULATIONS

Buildings except signs may be erected up to thirty-five (35) feet in height, except that:

6-1 A public or semi-public building such as a school, church, library, or general hospital may be erected to a height of sixty (60) feet from grade provided that required front, side, and rear yards shall be increased one (1) foot for each foot in height over thirty-five (35) feet.

6-2 Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials are exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.

6-3 No accessory building which is within fifteen (15) feet of any property lot line shall be more than one (1) story high; accessory structures shall be less than the main building in height, except as herein provided.

5-7 SPECIAL PROVISIONS FOR CORNER LOTS

Of the two sides of a corner lot, the front shall be deemed to be the shortest of the two sides fronting on streets. The side yard on a side facing a side street shall be thirty (30) feet.

5-8 SIGN REGULATIONS

Signs shall conform to Article 11 of this ordinance.

5-9 OFF-STREET PARKING

Off-street parking shall be provided as required in Article 13 of this ordinance.

ARTICLE 6

RESIDENTIAL DISTRICT, R-2

Statement of Intent

This District is established to provide for the orderly development of residential communities. The District shall be located within growth clusters, as designated in the Greene County Comprehensive Plan, where central water and central sewage disposal is available or will be provided, where commercial and public facilities are easily accessible or will be available within a definite period of time, and where there is direct access to a major transportation route or traffic collector. Regulations are designed to accommodate residential land uses for permanent and transient occupancy at a density of four (4) to eight (8) dwelling units per acre. Dwelling unit types include single family detached units, and single family attached and garden apartment units. Requirements for pedestrian and vehicular circulation, for parking and storage of vehicles, for open space, and for the recreation of its residents are included in the provisions for the District.

1 USE REGULATIONS

In Residential District R-2, structures to be erected or land to be used shall be for the following uses; each main structure shall meet the minimum lot area, setback, frontage and yard requirements of this ordinance.

1-1 Uses Permitted by Right

.1 Single family detached dwelling units - conventional subdivision.

.2 Churches.

.3 Parks and playgrounds.

.4 Accessory uses or structures as defined.

.5 Public utilities: Poles, lines, transformers, pipes, meters and related and similar facilities; water and sewer distribution lines.

1-2 Uses Permitted by Special Use Permit

.1 Single family detached dwellings - cluster alternative.

.2 Patio houses.

.3 Residential developments.

.4 Townhouses.

.5 Multiple family dwellings.

.6 Condominium housing, in conformance with Section 55-79.41 of the Code of Virginia.

.7 Boarding and rooming houses.

.8 Clubs and lodges.

.9 Educational institutions, public and private.

.10 Home professional offices.

.11 Hospitals and clinics.

.12 Mobile home parks, in conformance with Section 13-4 of this ordinance.

.13 Mobile homes, in conformance with Section 13-5 of this ordinance.

.14 Nursing or convalescent homes.

.15 Professional or business offices if immediately adjacent to a business district.

.16 Public offices and other public buildings and public facilities owned or operated by agencies of the national, state or local governments, if immediately adjacent to a business district.

.17 Public utilities: public water and sewer transmission lines, treatment facilities, and pumping stations; electrical power transmission lines and substations; oil and gas transmission pipelines and pumping stations; micro-wave and radio-wave transmission and relay towers and substations; unmanned telephone exchange centers.

6-2 AREA REGULATIONS

6-2-1 The minimum gross site area for single family detached dwellings - cluster alternative, for single family attached dwellings, or for multiple family dwellings shall be one (1) acre (43,560 square feet)

6-2-2 Minimum Lot Size

.1 The minimum lot size for lots containing or intending to contain a single family detached permitted use shall be 10,000 square feet.

.2 The minimum lot size for lots containing or intending to contain a single family detached cluster alternative permitted use shall be 8,000 square feet. The maximum density for single family detached dwelling units shall be four (4) units per acre.

.3 For all other permitted uses a minimum lot size is not required but minimum frontage, yard, density, and all other requirements must be met.

.4 The maximum density for single family attached dwelling units shall be six (6) dwelling units per acre.

.5 The maximum density for multiple family dwelling units shall be eight (8) units per acre.

.6 In case of soil conditions or other physical factors which may impair the health and safety of the neighborhood, the Planning Commission, upon recommendation of the Health Department, may increase the area requirements for lots served by wells and septic systems.

6-3 SETBACK REGULATIONS

6-3-1 Structures except signs shall be twenty-five (25) feet or more from

any street right-of-way which is fifty (50) feet or greater in width, or forty (40) feet or more from the center line of any street right-of-way less than fifty (50) feet in width. This shall be known as the setback line.

-2 The Planning Commission shall determine the proper building setback line to be shown on the final subdivision plat where proper travel-way and public access easements are shown.

-3 No accessory building shall be located within the setback line.

FRONTAGE REGULATIONS

-1 For lots containing or intending to contain a single family detached permitted use the minimum lot width shall be eighty (80) feet.

-2 For lots containing or intending to contain a patio house, the minimum lot width shall be fifty (50) feet.

-3 For lots containing or intending to contain a duplex or townhouse permitted use the minimum lot width shall be twenty (20) feet for interior lots and forty (40) feet for end lots.

-4 Patio and townhouse units shall have no more than three (3) units in an unbroken facade line; an offset must be no less than two and one-half (2½) feet.

-5 For permitted uses on all other lots, the minimum lot width shall be eighty (80) feet, and for any additional permitted use there shall be at least ten (10) feet of additional lot width.

YARD REGULATIONS

-1 <u>Side</u>

.1 The minimum side yard for each single family detached dwelling unit shall be ten (10) feet.

.2 The minimum side yard for each group of patio or townhouses or of each multi-family structure shall be twenty (20) feet.

.3 The minimum enclosed side yard of a patio house shall be twenty (20) feet.

6-5-2 Rear

.1 The minimum rear yard for each single family detached dwelling unit shall be thirty-five (35) feet.

.2 The minimum rear yard for each townhouse shall be thirty-five (35) feet. Both sides of the rear yard shall be screened wit a privacy wall or fence extending from the dwelling unit for a distance of ten (10) feet.

6-5-3 The minimum distance between main buildings and building groups shall be forty (40) feet.

6-5-4 The minimum side and rear yards adjoining or adjacent to the Residential R-1 District for any structure shall be thirty (30) feet.

6-5-5 Accessory structures and parking areas shall be located ten (10) or more feet from the side and rear property lines adjoining or adjacen to the Residential R-1, Agricultural, or Conservation Districts.

6-6 OPEN SPACE REQUIREMENTS

6-6-1 The site for single family detached dwelling units, cluster alternative, shall provide twenty percent (20%) of its gross site area as common open space. This area shall not include any parking area, or road coverage.

6-6-2 The site for single family attached dwelling units shall provide forty percent (40%) of its gross site area as common open space. This area shall not include any building, parking area or road cover

6-6-3 The site for multiple family units shall provide forty percent (40%) of its gross site area as common open space. This area shall not include any building, parking area or road coverage.

6-6-4 All single family attached developments and multiple family developments shall set aside four percent (4%) of its gross site area for the active recreational use of its residents. This area may be part of the site's required open space but shall be physically suitable to accommodate activities for all age groups within the development, and appropriately located for use of all its residents.

7 HEIGHT REGULATIONS

Buildings may be erected up to forty (40) feet in height except that:

7-1 A public or semi-public building such as a school or church may be erected to a height of sixty (60) feet from grade provided that required front, side, and rear yards shall be increased one (1) foot for each foot in height over forty (40) feet.

7-2 Church spires, belfries, cupolas, water towers, chimneys, flues, flagpoles, television antennae, and radio aerials are exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.

7-3 No accessory building which is within twenty (20) feet of any lot line shall be more than one (1) story high; accessory structures shall be less than the main building in height, except as herein provided.

-8 SPECIAL PROVISIONS FOR CORNER LOTS

Of the two sides of a corner lot, the front shall be deemed to be the shortest of the two sides fronting on streets.

-8-1 The side yard on the side facing a side street shall be twenty (20) feet or more for both main and accessory buildings.

-9 SPECIAL PROVISIONS REGARDING ACCESS TO RESIDENTIAL LOTS

-9-1 Each residential lot shall have frontage on a dedicated public street, or a fifty (50) foot public access easement over common area to such a street, as determined by the Planning Commission.

-9-2 In cases where lots do not have frontage on dedicated public streets, the fifty (50) foot public access easement shall be improved with a twenty-four (24) foot minimum width of travel way; said road to have concrete curbs or an equivalent approved by the Planning Commission on both sides and a four (4) foot concrete sidewalk or an equivalent approved on at least one side, or both sides as determined by the Planning Commission.

6-10 SPECIAL PROVISIONS FOR CLUSTER ALTERNATIVES, DUPLEXES, PATIO HOUSES, AND TOWNHOUSES FOR INDIVIDUAL SALE

6-10-1 The provisions of the subdivision ordinance shall also apply to all single family cluster alternatives, duplexes, patio houses, and townhouses developed for individual sale.

6-11 GENERAL REGULATIONS

6-11-1 All permitted uses in an R-2 District shall be served by central water and sewage facilities.

6-11-2 Screening, including an evergreen hedge, a uniformly painted fence, masonry wall or a combination thereof, of permitted uses may be required by the Administrator.

6-11-3 All residential developments in an R-2 District shall design and construct adequate recreation facilities and improvements for the use of its residents. Adequate shall be based on the number of resident expected in the completed development and a regionally accepted published standard.

6-12 SIGN REGULATIONS

Signs shall conform to Article 11 of this ordinance.

6-13 OFF-STREET PARKING

Off-street parking shall be provided as required in Article 13 of this ordinance.

ARTICLE 7

BUSINESS (GENERAL), B-1

Statement of Intent

Generally, this District covers those portions of Greene County intended for the conduct of limited businesses to include office uses and limited retail uses to which the public requires direct and frequent access, but which is not characterized either by constant hea

trucking or by any nuisance factors other than occasioned by incidental light and noise of congregation of people and passenger vehicles.

USE REGULATIONS

In Business District B-1 structures to be erected or land to be used shall be for the following uses.

-1 Uses Permitted by Right

.1 Retail goods and service stores.

.2 Bakeries.

.3 Dry cleaners.

.4 Laundries.

.5 Wearing apparel stores.

.6 Drug stores.

.7 Barber and beauty shops.

.8 Home appliance services.

.9 Indoor theaters, assembly halls.

.10 Office buildings.

.11 Churches.

.12 Libraries.

.13 Hospitals, general.

.14 Funeral homes.

.15 Clubs and lodges.

.16 Hardware stores.

.17 Public utilities: Poles, lines, transformers, pipes, meters and related or similar facilities; water and sewerage distribution lines.

.18 General stores, gift and antique shops.

.19 Agricultural supply stores.

.20 Restaurants and taverns.

.21 Banks.

.22 Accessory buildings.

.23 Furniture stores, cabinet makers and repair.

.24 Public buildings.

7-1-2 Uses Permitted by Special Use Permit

.1 Automobile service stations.

.2 Automobile repair garages.

.3 Automobile sales, service, and rental.

.4 Car washes.

.5 Hotels and motels.

.6 Bus terminals.

.7 Machinery sales and service.

.8 Building material yards.

.9 Warehousing and wholesale commercial uses, non-objectionable because of noise, lights, dust or odors.

.10 An apartment or dwelling located in the main business structure as a secondary use and lived in by an owner or caretaker.

.11 Veterinary clinics (small animal), kennels.

.12 Frozen food lockers.

.13 Ice storage and supply.

.14 Nursery schools.

.15 Clubs and lodges.

.16 Mobile homes, in conformance with Section 13-5 of this ordinance.

.17 Public utilities: public water and sewer transmission lines treatment facilities, and pumping stations; electrical power transmission lines and substations; oil and gas transmission pipelines and pumping stations; micro-wave and radio-wave transmission and relay towers and substations; unmanned telephone exchange centers.

7-2 AREA REGULATIONS

None, except for permitted uses utilizing individual sewage disposal system. The required area for any such use shall be approved by the Health Department. Where the sewage treatment demand exceeds forty

thousand (40,000) gallons per day or where more than four hundred (400) persons are to be served, such use shall be served by a central sewer facility, as approved by the Health Department and State Water Control Board. Where water supplies are to serve twenty-five (25) or more persons or more than fifteen (15) connections such use shall be served by a central water facility.

3 SETBACK REGULATIONS

Structures except signs shall be located forty-five (45) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or seventy (70) feet or more from the center line of any street right-of-way less than fifty (50) feet in width. This shall be known as the setback line.

4 YARD REGULATIONS

4-1 The minimum side and rear yards adjoining or adjacent to a residential, agricultural or conservation district shall be fifty (50) feet.

4-2 Accessory uses including parking areas shall be located twenty (20) or more feet from side and rear lot lines adjoining or adjacent to a residential district.

5 HEIGHT REGULATIONS

Buildings may be erected up to thirty-five (35) feet in height from grade, except that:

5-1 The height limit for buildings may be increased up to forty-five (45) feet and up to three (3) stories provided there are two (2) side yards for each permitted use, each of which is ten (10) feet or more plus one (1) foot or more of side yard for each additional foot of building height over thirty-five (35) feet.

5-2 A public or semi-public building such as a school, church, library, or general hospital may be erected to a height of sixty (60) feet from grade provided that required front, side,

and rear yards shall be increased one (1) foot for each foot in height over thirty-five (35) feet.

7-5-3 Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae, and radio aerials are exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.

7-5-4 No accessory building which is within twenty (20) feet of any lot line shall be more than one (1) story high; accessory structures sha be less than the main building in height, except as herein provided.

7-6 SPECIAL PROVISIONS FOR CORNER LOTS

Of the two sides of a corner lot, the front shall be deemed to be the shortest of the two sides fronting on streets. The side yard on a side facing a side street shall be thirty-five (35) feet.

7-7 GENERAL REGULATIONS

Screening, including an evergreen hedge, a uniformly painted solid fence, a masonry wall, or a combination thereof, of permitted uses may be required by the Administrator.

7-8 SIGN REGULATIONS

Signs shall conform to Article 11 of this ordinance.

7-9 OFF-STREET PARKING

Off-street parking shall be provided as required in Article 13 of this ordinance.

ARTICLE 8

BUSINESS (HIGHWAY), B-2

Statement of Intent

The intent of this District is to reduce traffic congestion, traffic hazards and commercial stripping along the major

arterials in Greene County by concentrating in certain areas those retail activities which service primarily the transient motoring public and those retail/wholesale activities which service a regional market and/or tend to attract heavy, nuisance traffic. Prohibited are those retail uses which would attract primarily recurring local patronage.

1 USE REGULATIONS

In Business District B-2 structures to be erected or land to be used shall be for one or more of the following uses.

1-1 Uses Permitted by Right

.1 Automobile sales, service and rental stations.

.2 Automobile repair garages.

.3 Automobile service stations.

.4 Truck stops.

.5 Restaurants.

.6 Hotels and motels.

.7 Bus terminals.

.8 Souvenir shops and tourist information centers.

.9 Public utilities: Poles, lines, transformers, pipes, meters and related or similar facilities; water and sewerage distribution lines.

1-2 Uses Permitted by Special Use Permit

.1 Mobile home or travel trailer sales and service.

.2 Car washes.

.3 Printing shops and plants.

.4 Dairies, commercial.

.5 Machinery sales and service.

.6 Bottling plants.

.7 Building material yards.

.8 Drive-in theaters.

.9 Warehousing and wholesale commercial uses, non-objectionable because of noise, lights, dust or odors.

.10 Lumber and building supply (with storage under cover).

.11 Plumbing and electrical supply (with storage under cover).

.12 Accessory buildings.

.13 Other retail and light wholesale uses of a similar nature not specifically enumerated in this article of the ordinance.

.14 Mobile homes, in conformance with Section 13-5 of this ordinance.

.15 Assembly of products to be displayed and sold on the premises.

.16 Public utilities: public water and sewer transmission lines, treatment facilities, and pumping stations; electrical power transmission lines and substations; oil and gas transmission pipelines and pumping stations; micro-wave and radio-wave transmission and relay towers and substations; unmanned telephone exchange centers.

8-2 AREA REGULATIONS

None except for permitted uses utilizing individual sewage disposal system. The required area for any such use shall be approved by the Health Department. Where the sewage treatment demand exceeds forty thousand (40,000) gallons per day or where more than four hundred (400) persons are to be served, such use shall be served by a central sewer facility, as approved by the Health Department and State Water Control Board. Where water supplies are to serve twenty-five (25) or more persons or more than fifteen (15) connections such use shall be served by a central water facility.

8-3 SETBACK REGULATIONS

Structures except signs shall be located forty-five (45) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or seventy (70) feet or more from the center line of any street right-of-way less than fifty (50) feet in width. This shall be known as the setback line.

4 YARD REGULATIONS

4-1 The minimum side and rear yards adjoining or adjacent to a residential, agricultural or conservation district shall be fifty (50) feet.

4-2 Accessory uses, including parking areas, shall be located twenty (20) or more feet from side and rear lot lines adjoining or adjacent to a residential, agricultural or conservation district.

5 HEIGHT REGULATIONS

Buildings may be erected up to thirty-five (35) feet in height from grade, except that:

5-1 The height limit for buildings may be increased up to forty-five (45) feet and up to three (3) stories provided there are two (2) side yards for each permitted use, each of which is ten (10) feet or more plus one (1) foot or more of side yard for each additional foot of building height over thirty-five (35) feet.

5-2 Cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae, and radio aerials are exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.

5-3 No accessory structure which is within ten (10) feet of any lot line shall be more than one (1) story high; accessory structures shall be less than the main structure in height, except as herein provided.

6 SPECIAL PROVISIONS FOR CORNER LOTS

Of the two sides of a corner lot, the front shall be deemed to be the shortest of the two sides fronting on streets. The side yard on a side facing a side street shall be thirty-five (35) feet.

8-7 GENERAL REGULATIONS

Screening, including an evergreen hedge, a uniformly painted solid fence, a masonry wall, or a combination thereof, of permitted uses may be required by the Administrator.

8-8 SIGN REGULATIONS

Signs shall conform to Article 11 of this ordinance.

8-9 OFF-STREET PARKING

Off-street parking shall be provided as required in Article 13 of this ordinance.

ARTICLE 9

INDUSTRIAL DISTRICT, M-1

Statement of Intent

The purpose of this District is to permit industrial uses near a labor supply, for which satisfactory evidence is presented that such uses either by right or Special Use Permit will not adversely affect any contiguous district by reason of odor, glare, smoke, dust vibration, noise, sight, or contamination of water, air, and land. Such establishments will not result in any unusual danger of fire, explosion, drowning or hazard to life and limb.

9-1 USE REGULATIONS

In Industrial District M-1 structures to be erected or land to be used shall be for the following uses.

9-1-1 <u>Uses Permitted by Right</u>

.1 Fabrication assembly plants for small equipment.

.2 Heavy equipment sales and service.

.3 Commercial greenhouses.

.4 Contractors equipment storage yards and offices.

.5 Manufacture, compounding, processing of apparel, agricultural produce, bakery goods, candy, drugs, perfumes, pharmaceutical toiletries, food products, musical instruments, toys, pottery baskets, figurines or other similar ceramic products.

.6 Restaurants serving employees of an on-site facility.

.7 Office buildings.

.8 Wholesale establishments.

.9 Warehousing.

.10 Bottling works.

.11 Laboratories (pharmaceutical or medical).

.12 Monument works.

.13 Research and development facilities.

.14 Trade schools.

.15 Accessory buildings.

.16 Agriculture and forestry.

.17 Public utilities subject to Section 15.1-456 of the Code of Virginia.

1-2 Uses Permitted by Special Use Permit

.1 Any use requiring laboratory analysis and testing of animals, vegetables or minerals.

.2 Abattoirs.

.3 Fertilizer manufacture.

.4 Manufacture or finishing of modular units made from wood, or other materials and designed for use as components in building construction of all types.

.5 Petroleum storage.

.6 Natural resource extraction and processing.

.7 Moving and storage facilities.

.8 Truck terminals.

.9 Coal and wood yards.

.10 Welding and blacksmith shops.

.11 Permanent saw mills and planing mills.

.12 Septic tank sales and service.

.13 Wood preserving operations.

.14 Concrete batching plants.

.15 Asphalt plants.

.16 Meat, poultry and fish processing.

.17 Sand and gravel operations.

.18 Crushed stone operations and quarrying.

.19 Manufacture of brick and cinder block.

.20 Service stations.

.21 Helioports.

.22 Automobile junkyards.

.23 Mobile homes, in conformance with Section 13-5 of this ordinance.

.24 Any use in this District not specifically enumerated is prohibited, and may be instituted only by application to amend the zoning ordinance as specified by the Code of Virginia, Title 15.1, as amended.

9-2 AREA REGULATIONS

No minimum lot size is required except that all yard regulations must be complied with and, except that, for permitted uses not served by a public sewer system, the required minimum area for such use shall be approved by the Health Department. Where the sewage treatment demand exceeds forty thousand (40,000) gallons per day or where more than four hundred (400) persons are to be served, such use shall be served by a central sewer facility, as approved by the Health Department and State Water Control Board. Where water supplies are to serve twenty-five (25) or more persons or more than fifteen (15) connections such use shall be served by a central water facility.

9-3 SETBACK REGULATIONS

All structures except signs shall be located fifty (50) or more feet from any street right-of-way.

9-4 YARD REGULATIONS

9-4-1 The minimum side and rear yards adjoining or adjacent to a residential, agricultural or conservation district for any structures other than signs shall be eighty (80) feet or more.

4-2 Accessory uses, including parking areas, shall be located twenty (20) or more feet from side and rear lot lines adjoining or adjacent to a residential, agricultural or conservation district.

-5 HEIGHT REGULATIONS

-5-1 Buildings may be erected up to a height of sixty (60) feet. Chimneys, flues, cooling towers, flagpoles, radio or communication towers or their accessory facilities not normally occupied by workmen are excluded from this limitation. Parapet walls are permitted up to four (4) feet above the limited height of the building on which the walls rest.

-5-2 No accessory building which is within twenty (20) feet of any party lot line shall be more than one (1) story high; accessory structures shall be less than the main structure in height, except as herein provided.

-6 COVERAGE REGULATIONS

Buildings or groups of buildings with their accessory buildings, outside storage areas, loading areas, parking lots, driveways, and access roads may cover up to eighty percent (80%) of the area of the lot.

-7 SPECIAL PROVISIONS FOR CORNER LOTS

Of the two sides of a corner lot, the front shall be deemed to be the shortest of the two sides fronting on streets. The minimum side yard on the side facing a side street shall be thirty-five (35) feet or more for both main and accessory buildings.

9-8 PERFORMANCE STANDARDS

Permitted uses shall conform to standards adopted by the Virginia Department of Health, the Virginia Water Control Board and the Virginia Air Pollution Control Board.

9-9 GENERAL REGULATIONS

9-9-1 Permitted uses shall be conducted wholly within a completely enclosed building or within an area enclosed by such fencing or screening as the Planning Commission shall recommend in order to effect the purposes of this ordinance.

9-9-2 Landscaping may be required within any established or required front setback area or side setback area on a corner lot.

9-9-3 Screening, including an evergreen hedge, a uniformly painted solid fence, a masonry wall, or a combination thereof, of permitted uses may be required by the Administrator, except that the operations or use of automobile junkyards shall be screened completely on any side open to view from a public road by such screening as recommended by the Planning Commission.

9-10 SIGN REGULATIONS

Signs shall conform to Article 11 of this ordinance.

9-11 OFF-STREET PARKING

Off-street parking shall be required in conformance with Article 13 of this ordinance.

ARTICLE 10

GENERAL FLOODPLAIN DISTRICT, FP

Statement of Intent

This District is established for the purpose of protecting human life and health, minimizing public and private property damage, minimizing soil erosion and water pollution, and increasing public awareness of potential flood hazard by controlling floodplain uses such as fill, dumping, storage of materials, structures, buildings, and any other works which acting alone or in combination with other existing or future uses will cause damaging flood heights and velocities by obstructing flows and reducing valley storage. The General Floodplain District is intended to overlay other zoning districts and the provisions of this Section are supplemental to the provisions of the various districts underlying the General Floodplain District. The General Floodplain District as may be established shall be divided into two areas: (1) the floodfringe which is characterized during floods by shallow, slow-moving water which represents a low hazard potential; and (2) the floodway which includes the stream channel and adjacent overbanks required to carry off the fast-moving flood waters which represent a high hazard potential. The provisions of this Section shall apply to any land within the County of Greene, which is located within a floodplain area.

10-1 USE REGULATIONS

In General Floodplain District FP structures to be erected or land to be used shall be for the following uses.

10-1-1 Uses Permitted by Right

The following uses having a low potential for flood-damage and obstructing flood flows shall be permitted in the General Floodplain District to the extent that they are not prohibited by any underlying zoning district, or any other ordinance, and provided they do not require structures, fill, or storage of materials or equipment.

.1 Agricultural uses.

.2 Public and private recreational uses such as golf courses, tennis courts, parks, playgrounds, fish hatcheries, swimming areas, athletic fields, picnic grounds, campgrounds, game preserves, horseshow grounds, boat launching ramps.

.3 Industrial-commercial uses such as loading areas, parking areas, airport landing strips.

.4 Flood warning aids and water measurement devices.

.5 Other more or less open space uses as may be determined properly by the Planning Commission of Greene County.

10-1-2 Uses Permitted by Special Permit in Floodfringe

All uses permitted in the underlying zoning districts are permitted provided that no use shall adversely affect the capacity of the channels or floodways of any tributary to the main stream, drainage ditch, or any other drainage facility or system. In addition, the following provisions shall apply.

.1 Dwellings, including mobile homes, provided the lowest floor, including basement, designed for human habitation is above the level of the 100 year flood. Dwellings may be elevated by means of fill, piles, etc.

.2 Other buildings and structures provided they are elevated or flood proofed to the level of the 100 year flood.

.3 Storage of material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.

.4 Fill within the General Floodplain District may be permitted only as required by this ordinance and the amount thereof not greater than is necessary to achieve the purposes of this ordinance, as demonstrated by a plan submitted by the owner showing the nature of the fill and the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials. Such fill or other materials shall be of a non-polluting nature and be protected against erosion by riprap, vegetation cover, or bulkheading.

.5 Extraction of sand, gravel and other materials.

.6 Railroads, streets, bridges, utility transmission lines, pipe lines.

0-1-3 <u>Special Provisions Applying to Floodway</u>

.1 Uses permitted by right in the General Floodplain District are permitted in any floodway.

.2 Structures or buildings (temporary or permanent), fill deposit, or other obstructions are prohibited in any floodway, except that dams constructed for the purpose of impounding any watercourse in Greene County must meet State and Federal regulations.

10-2 METHODS USED TO DELINEATE FLOODPLAINS

10-2-1 The information used to delineate this District may be based on United States Geological Survey flood-prone area maps and topographic interpolation based on high-water marks where known. Other methods which may be used to delineate this District include analysis and location of alluvial soils, floodplain delineation studies prepared by the U.S. Army, Corps of Engineers, Soil Conservation Service, U.S. Department of Housing and Urban Development, or other qualified engineers. Such delineations shall by amendment of this ordinance be incorporated as part of the Official Zoning Map of Greene County.

10-2-2 Floodplain delineations based on hydrologic studies prepared by qualified engineers shall take precedence over delineations based on other sources of data on streams for which engineered studies are or may become available.

10-2-3 On those streams where the information on flood hazards does not distinguish between floodway and floodfringe, the Administrator may request that technical evidence be submitted from the person desiring to develop within the floodplain or request the U.S. Corps of Engineers for information relative to the area to be developed with reference to floodfringe and floodway limits. The floodway shall be determined by engineering methods by qualified persons.

0-2-4 Where an owner of property in the County shows by an independent professional engineering study that the 100 year floodplain differs from the official floodplain delineation based on experienced floods or soils analysis, the delineation by the independent engineering study shall govern. The area within the 100 year floodplain boundaries determined by that study shall be incorporated in the Official Zoning Map and the provisions of this Article shall apply.

10-3 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes. Greater floods may occur on rare occasions or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of Greene County or any officer, agency or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

10-4 SPECIAL PROVISIONS GOVERNING THE ISSUANCE OF SPECIAL USE PERMITS

In addition to the general provisions of Article 14 the following provisions shall govern the issuance of Special Use Permits involving the use of fill, construction, or storage of materials in the General Floodplain District.

10-4-1 The Board of Zoning Appeals shall require the applicant to furnish such of the following information as is deemed necessary by the Board for determining the suitability of the particular site for the proposed use:

.1 Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the channel, floodway, and the flood-protection elevation.

.2 A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high-water information.

.3 Plans (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream, soil types, and other pertinent information.

.4 A profile showing the slope of the bottom of the channel or flow line of the stream.

.5 Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply, and sanitary facilities.

10-4-2 The Board of Zoning Appeals shall base their decisions on all relevant factors specified in other sections of this ordinance and:

.1 The danger to life and property due to increased flood heights or velocities caused by encroachments.

.2 The danger that materials may be swept on to other lands or downstream to the injury of others.

.3 The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and insanitary conditions.

.4 The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

.5 The importance of the services provided by the proposed facility to the community.

.6 The requirements of the facility for a waterfront location.

.7 The availability of alternative locations not subject to flooding for the proposed use.

.8 The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

.9 The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area.

.10 The safety of access to the property in times of flood of ordinary and emergency vehicles.

.11 The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

10-4-3 Upon consideration of the factors listed above and the purposes of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of Special Permits or variances as it deems necessary to further the purposes of this ordinance. Among such conditions, without limitation because of specific enumeration, may be included:

.1 Modification of waste disposal and water-supply facilities.

.2 Limitations on periods of use and operation.

.3 Imposition of operational controls, sureties, and deed restrictions.

.4 Requirements for construction of channel modifications, dikes, levees, and other protective measures.

.5 Flood-proofing measures such as the following shall be designed consistent with the flood-protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces, and

other factors associated with the regulatory flood. The following flood-proofing measures may be required without limitation because of specific enumeration:

.5a Anchorage to resist flotation and lateral movement.

.5b Installation of watertight doors, bulkheads, and shutters, or similar methods of construction.

.5c Reinforcement of walls to resist water pressures.

.5d Use of paints, membranes, or mortars to reduce seepage of water through walls.

.5e Addition of mass or weight to structures to resist flotation.

.5f Installation of pumps to lower water levels in structures.

.5g Construction of water supply and waste-treatment systems so as to prevent the entrance of flood waters.

.5h Installation of pumping facilities or comparable practices for subsurface drainage systems for buildings to relieve external foundation wall and basement flood pressures.

.5i Construction to resist rupture or collapse caused by water pressure or floating debris.

.5j Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent back-up of sewage and storm waters into the buildings or structures. Gravity draining of basements may be eliminated by mechanical devices.

.5k Location of all electrical equipment, circuits, and installed electrical appliances in a manner which will assure they are not subject to flooding and to provide protection from inundation by the regulatory flood.

.5l Location of any structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids, or other toxic materials which could be hazardous to public health, safety, and welfare in

a manner which will assure that the facilities are situated at elevations above the height associated with the regulatory protection elevation or are adequately flood-proofed to prevent flotation of storage containers, or damage to storage containers which could result in the escape of toxic materials into flood waters.

ARTICLE 11

SIGN REGULATIONS

Statement of Intent

The following sign regulations are established to assure compatibility of signs with surrounding land usage, to enhance the economy of Greene County, to protect the public investment in streets and highways, to promote the safety and recreational value of public travel, to preserve natural beauty and to protect tax revenues by promoting the reasonable, orderly and effective display of outdoor advertising.

11-1 ADVERTISING OUTDOORS REGULATED

No person except a public officer or employee in performance of a public duty, shall paste, post, paint, print, nail, tack, erect, place, maintain, or fasten any sign, pennant, outdoor advertising sign, billboard, or notice of any kind, or cause the same to be done, facing or visible from any public street or public open space, except as provided herein.

11-2 PERMITTED SIGNS

Only signs as listed and described in this subsection or otherwise provided for in the subsections of this Section shall be permitted, and these shall be subject to such regulations as are specifically set forth in each case and to all other regulations in this ordinance. No other signs shall be permitted. The permitted signs in Greene County are:

-2-1 Business Signs which direct attention to product(s), commodity(ies) and/or service(s) available on the lot, premises, or farm upon which it is situated.

-2-2 Home Occupation Signs upon property displaying the name and/or address of the occupant of the premises and the nature of the home occupation.

-2-3 Identification Signs, including bulletin boards which identify or otherwise describe the name ownership or location of a use(s) or the lot(s) or parcel(s) of land upon which it is situated.

-2-4 Directional Signs (one end of which is pointed, on which an arrow is painted, or which otherwise indicates the direction to which attention is called) not illuminated, giving the name only of a person(s), farm, business or other establishment.

-2-5 Temporary Event Signs, not illuminated, describing a seasonal, brief, or particular event or activity to be or being conducted upon the lot or premises upon which it is located, including the designation for sale or rental of all or part of the lot or premises. Such sign may be erected not more than one (1) month before the event or activity described, and shall be removed within one (1) week of its conclusion, and in no event shall such sign be displayed for a period longer than six (6) months in any one calendar year.

-3 PROHIBITED SIGNS

No sign shall be erected, maintained or operated:

-3-1 Except for authorized traffic signs, no sign shall be erected at the intersection of any streets in such a manner as to create

a traffic hazard by obstructing vision between heights of two and one-half (2½) and eight (8) feet; or at any location where it may interfere with, obstruct the view of, or be confused with any authorized traffic sign.

11-3-2 Which imitates or resembles any official traffic sign, signal or device or uses the words "Stop" or "Danger" prominently displayed or presents or implies the need or requirement of changing speed or direction or the existence of danger on any highway.

11-3-3 Which is not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled ways of a street or highway and which is of such intensity or brilliance as to cause glare or to impair the vision of the driver of any vehicle.

11-3-4 Which flashes, rotates, visually moves, or is physically agitated, except that time and temperature signs shall be permitted.

11-3-5 Which advertises any activities which are illegal under State or Federal law or regulations in effect at the location of such sign or at the location of such activities.

11-3-6 Which is obsolete or inconsistent with State law or the provisions of this ordinance.

11-3-7 Which is fastened, placed, painted, pasted or attached in any way to, in or upon any tree, fence, public utility pole, rock, curbstone, sidewalk, lampost, hydrant, bridge, highway marker or another sign except such as may be (1) required by law, (2) so placed by a duly authorized governmental agency, (3) so placed not as an advertisement, but as a warning against hunting, fishing or trespassing, or (4) not visible from any highway.

11-3-8 That obstructs or substantially interferes with any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress, or egress from any building.

11-3-9 Which violates any provisions of the laws of the Commonwealth of Virginia relating to outdoor advertising.

11-4 EXCLUDED SIGNS

The following shall not be deemed to be included within the definition of "sign":

11-4-1 Signs of a duly-constituted governmental body, including traffic or similar regulatory devices, legal devices, or warnings at railroad crossings.

11-4-2 Signs warning the public of the existence of a clear and present physical danger, posted at the location of the danger, but not containing any advertising material in addition thereto, of whatever size as may be necessary.

11-4-3 Memorial tablets or signs.

11-4-4 Signs required to be maintained by law or governmental order, rule or regulation, with a total surface area not exceeding ten (10) square feet on any lot or parcel.

11-4-5 Signs which are within a ballpark or other similar private recreational use and which cannot be seen from a public street or adjacent properties.

11-4-6 Flags or emblems of a civic, philanthropic, educational or religious organization.

11-4-7 Signs displayed for the direction or convenience of the public, including signs which identify restrooms, location of public telephones, freight entrances, no trespassing and posted signs, or the like.

11-4-8 Signs directing traffic on private property but bearing no advertising matter, with a total surface area not exceeding eight (8) square feet per sign on any lot or parcel and provided that no parts of such signs other than columns and supports shall be located between three and one-half ($3\frac{1}{2}$) and seven (7) feet above grade.

11-4-9 Signs placed by a public utility showing the location of underground facilities.

11-4-10 Hunting, fishing or trespassing signs erected on the appurtenant property solely as a warning or notice, and which do not exceed an area of 1.5 square feet and are not illuminated.

11-4-11 Historical markers erected by duly authorized public authorities.

11-5 AREA REGULATIONS FOR SIGNS BY DISTRICTS

11-5-1 <u>Agricultural A-1, Conservation C-1 and Flood Plain FP</u>

.1 Business Signs - maximum size of total surface area thirty-two (32) square feet. Maximum of one (1) free standing, and/or three (3) projecting signs on any one lot or premises.

.2 Home Occupation Signs - eight (8) square feet limit per sign.

.3 Identification Signs - forty (40) square feet limit and not more than two (2) on any lot or premises.

.4 Directional Signs - four (4) square feet limit and not more than four (4) such signs have on them the same name.

.5 Temporary Event Signs - four (4) square feet limit and not more than one (1) on any lot or premises.

11-5-2 <u>Residential R-1 and R-2</u>

.1 Home Occupation Signs - eight (8) square feet limit.

.2 Identification Signs - forty (40) square feet limit and not more than one (1) on any lot or premises.

.3 Directional Signs - four (4) square feet limit and not more than four (4) such signs have on them the same name.

.4 Temporary Event Signs - four (4) square feet limit and not more than one (1) on any lot or premises.

11-5-3 Business B-1 and B-2

.1 Business Signs - one hundred (100) square feet limit and no more than two (2) free standing signs on any one lot or premises and no more than three (3) projecting signs.

.2 Home Occupation Signs - eight (8) square feet limit.

.3 Temporary Event Signs - eight (8) square feet limit and not more than two (2) on any lot or premises.

11-5-4 Industrial M-1

.1 Business Signs - one hundred fifty (150) square feet limit and no more than two (2) free standing signs on any one lot or premises and no more than three (3) projecting signs.

.2 Identification Signs - eighty (80) square feet limit and not more than two (2) on any lot or premises.

.3 Directional Signs - eight (8) square feet limit and not more than four (4) such signs have on them the same name.

.4 Temporary Event Signs - ten (10) square feet limit and not more than one (1) on any lot or premises.

11-6 GENERAL REGULATIONS FOR SIGNS

11-6-1 Compliance

All signs shall comply with the provisions of this ordinance and it shall be unlawful for any person to erect or maintain a sign which does not comply.

11-6-2 Setback Requirements

Signs with a total surface area of four (4) square feet or less per sign may be erected up to the property line. Signs with a total surface area more than four (4) square feet but equal to or less than ten (10) square feet per sign shall be located at

least fifteen (15) feet from any street right-of-way. All signs exceeding ten (10) square feet in total surface area shall be set back no less than twenty-five (25) feet from any street right-of-way.

11-6-3 Traffic Hazards

No sign shall be located or illuminated in such a manner as, in the opinion of the Zoning Administrator, to cause a traffic hazard. Where a Permit is required, the Permit shall not be issued until the location and illumination, if any, of the sign are approved by the Zoning Administrator, who may consult with the Resident Highway Office, Virginia Department of Highways to assist him in determining whether a traffic hazard exists.

11-6-4 Temporary Signs

Erectors of temporary signs requiring a Sign Permit must post a bond or furnish a deposit to the Zoning Administrator to guarantee the removal of the sign at the termination of its use. The minimum deposit shall be determined by the Administrator using a standard formula not to exceed the cost of having the sign removed in case of forfeiture.

11-6-5 Sign Permits

No sign in excess of four (4) square feet in area shall be erected without first obtaining a Sign Permit from the Zoning Administrator. No such Permit shall be issued unless a fee of $2.00 is paid therefor, and unless the proposed sign conforms with the requirements of this ordinance.

Every application for a Sign Permit shall be accompanied by a set of plans showing: The area of the sign, the size, structure,

character and design proposed; the method of illumination, if any, and the exact location proposed for the sign.

11-6-6 Removal of Signs

Whenever a sign becomes structurally unsafe or endangers the safety of a structure or premises or the public, or is erected or maintained in violation of this ordinance, the Zoning Administrator shall order such sign to be made safe or comply with this ordinance, as the case may be, or be removed. Such order shall be sent by registered mail and shall be complied with within twelve (12) days from the date of mailing said order by the persons owning or responsible for the sign. Failure to comply shall constitute grounds for the Zoning Administrator to have the sign removed, and the cost thereof shall be added to any fine imposed for violation under this ordinance.

11-6-7 Nonconforming Signs and Discontinuance

Any sign lawfully in existence at the time of the effective date of this ordinance may be maintained although it does not conform with the provisions of this ordinance. If any nonconforming sign is destroyed or damaged in any manner, to the extent that the cost of restoration to its condition before the occurrence shall exceed fifty percent (50%) of the cost of reconstructing such sign, it shall be restored only if such use complies with the requirements of this ordinance.

ARTICLE 12

NONCONFORMING USES

12-1 CONTINUATION

12-1-1 If at the time of enactment of this ordinance, any legal activity is being pursued, or any lot or structure legally utilized in a manner or for a purpose which does not conform to the provisions of this ordinance, such manner of use or purpose may be continued as herein provided.

12-1-2 If any change in title of possession, or renewal of a lease of any such lot or structure occurs, the use existing may be continued.

12-1-3 If any nonconforming use (structure or activity) is discontinued for a period exceeding two (2) years, after the enactment of this ordinance, it shall be deemed abandoned and any subsequent use shall conform to the requirements of the ordinance.

12-1-4 Whenever a nonconforming structure, lot or activity, has been changed to a more limited nonconforming use, such existing use may only be changed to an even more limited use.

12-1-5 Temporary seasonal nonconforming uses that have been in continued operation for a period of two (2) years or more prior to the effective date of this ordinance are exempt from the requirements of Section 12-1, except as herein provided.

12-1-6 Automobile graveyards and junkyards in existence at the time of the adoption of this ordinance are to be considered as nonconforming uses. They shall be allowed up to twenty-four (24) months after adoption of this ordinance in which to screen completely,

on any side open to view from a public road, the operation or use by a fence or evergreen hedge, not less than seven (7) feet high, as approved by the Administrator.

12-1-7 Mobile home parks in existence at the time of the adoption of this ordinance are to be considered as nonconforming uses.

12-2 PERMITS

12-2-1 All owners or operators of nonconforming uses shall apply to the Zoning Administrator for a Zoning Permit and a Certificate of Occupancy within ninety (90) days after the adoption of this ordinance. Zoning Permits and Certificates of Occupancy will be issued within one hundred eighty (180) days after the adoption of this ordinance.

12-2-2 The construction or use of a nonconforming building for which a Building Permit was issued legally prior to the adoption of this ordinance may proceed, provided such building is completed within one (1) year, or such use of land established within thirty (30) days after the effective date of this ordinance.

12-3 REPAIRS AND MAINTENANCE

On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs or on repair of replacement of non-bearing walls, fixtures, wiring or plumbing. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part

thereof declared unsafe by any official charged with protecting the public safety upon order of such official.

12-4 CHANGES IN DISTRICT BOUNDARIES

Whenever the boundaries of a district are changed, any uses of land or buildings which become nonconforming as a result of such change, shall become subject to the provisions of this Section.

12-5 ALTERATION, EXPANSION OR ENLARGEMENT

12-5-1 A nonconforming use or structure to be altered, expanded, enlarged or extended shall conform with the provisions of this ordinance.

12-5-2 A nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity at the time of enactment of this ordinance.

12-6 NONCONFORMING UNIMPROVED LOTS

Any unimproved lot of record at the time of the adoption of this ordinance which is less in area or width than the minimum required by this ordinance may be used, provided that the requirements of this ordinance regarding setbacks and side and rear yards are met.

12-7 RESTORATION OR REPLACEMENT

12-7-1 If a nonconforming activity is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed fifty percent (50%) of the cost of reconstructing the entire activity or structure,

it shall be restored or replaced only if such use complies with this ordinance.

12-7-2 If a nonconforming structure is destroyed or damaged in any manner to the extent that the cost of restoration or replacement to its condition before the occurrence shall exceed fifty percent (50%) of the cost of reconstructing the entire structure, it shall be restored or replaced only if it complies with the requirements of this ordinance.

12-7-3 When a conforming structure devoted to a nonconforming activity is damaged less than fifty percent (50%) of the cost of reconstructing the entire structure, or where a nonconforming structure is damaged less than fifty percent (50%) of the cost of reconstructing the entire structure, either may be repaired or restored provided any such repair or restoration is started within twelve (12) months and completed within twenty-four (24) months from the date of partial destruction.

12-7-4 The cost of land or any factors other than the cost of the structure are excluded in the determination of cost of restoration for any structure or activity devoted to a nonconforming use.

12-7-5 If a nonconforming structure be a single family dwelling or individual mobile home, it may be restored or replaced regardless of the percentage of destruction, provided that the requirements of this ordinance regarding setbacks and side and rear yards are met.

ARTICLE 13

GENERAL PROVISIONS

13-1 ZONING PERMIT

13-1-1 No land or structure shall be changed in use and no building or structure shall be started, altered, reconstructed or enlarged until after a Zoning Permit has been obtained from the Zoning Administrator. No Permit shall be issued by the Administrator for any building or structure that requires or will contain water and/or sewage facilities until the Administrator receives approval in writing from the Health Department. Such approval of request shall be initiated by the applicant for the Zoning Permit, and shall be at his expense.

13-1-2 Before any required permanent public utility hookup to a structure is made operational, a utility representative responsible for authorizing the start up of such service must be shown a valid Building Permit or a Certificate of Occupancy for the structure. Failure to complete this step constitutes a violation of this ordinance.

13-1-3 Each application for a Zoning Permit shall be accompanied by three (3) copies of a scale drawing. The drawing shall show the size and shape of the parcel of land on which the proposed building is to be constructed, the nature of the proposed use of the building or land, and the location of such building or use with respect to the property lines of said parcel of land and to the right-of-way of any street or highway adjoining said parcel of land. Any other information which the Administrator

may deem necessary for consideration of the application may be required. If the proposed building or use is in conformity with the provisions of this ordinance and all other county and state regulations, a Permit shall be issued to the applicant by the Administrator. One (1) copy of the drawing shall be returned to the applicant with the Permit.

13-1-4 The Planning Commission may request a review of the Zoning Permit approved by the Administrator in order to determine if the contemplated use is in accordance with the District in which the proposed construction lies.

13-2 SPECIAL USE PERMITS

Some uses require a Special Use Permit, reviewed by the Planning Commission and authorized by the Board of Zoning Appeals (reference Article 14) in addition to a Zoning Permit and a Certificate of Occupancy.

13-2-1 Any use, building, or activity legally in existence on the effective date of this ordinance or for which a Building Permit was issued prior to the effective date of this ordinance, shall not require a Special Use Permit, so long as such existing use, building or activity is not expanded or enlarged beyond the boundaries or scope of the existing use on the effective date of this ordinance, and provided that Section 12-1-6 and Section 12-1-7 are complied with. In all cases the intent of the County Zoning Ordinance and Comprehensive Plan will be adhered to.

13-3 CERTIFICATE OF OCCUPANCY

Land or buildings may be used or occupied only after a Certificate of Occupancy has been issued by the Administrator. Such a

Certificate shall state that the building, or the proposed activity, or the use of the land, complies with the provisions of this ordinance. A similar Certificate shall be issued for the purpose of maintaining, renewing, changing, or extending a nonconforming use. A Certificate of Occupancy either for the whole or a part of the building shall be applied for simultaneously with the application for a Zoning Permit. The Permit shall be issued within ten (10) days after the erection or structural alteration of such building or part has conformed with the provisions of this ordinance.

13-4 MOBILE HOME PARKS BY SPECIAL USE PERMIT

Mobile home parks shall be allowed in the R-1 and R-2 Districts only. The location of such parks shall require, in addition to the Zoning Permit and Certificate of Occupancy, a Special Use Permit issued by the Board of Zoning Appeals. Operators of such parks shall comply with the following provisions:

13-4-1 Any person, firm or corporation desiring to establish in an existing mobile home park a number of mobile home lots greater than the number existing at the time of the passage of this section shall first obtain a Zoning Permit as required by this ordinance.

13-4-2 Each application for a Zoning Permit to operate, maintain, or construct a mobile home park shall be accompanied by two (2) copies of a plat drawn to scale showing limits and square footage of mobile home park, location and size of driveways, parking areas, drying areas, playgrounds, service buildings, mobile home lots or locations, the nature and location of screening, and required setback from all public roads.

13-4-3 Area. A minimum of 4,000 square feet shall be provided for each single-wide mobile home lot. A minimum of 5,200 square feet shall be provided for each double-wide mobile home lot. Each lot shall have a frontage on a street, lane, or highway. A mobile home park shall be eight (8) acres or more in area and have lots, facilities and services for twenty-five (25) or more mobile homes. Density shall not be in excess of eight (8) units per gross acre of total site.

13-4-4 Width. Each mobile home lot shall have a minimum width of forty (40) feet for single-wide mobile homes and fifty (50) feet for double-wide mobile homes.

13-4-5 Distances. Mobile home lots shall be arranged so as to provide a distance of twenty-five (25) feet or more between individual units, but in no case closer than five (5) feet to the individual lot line of the mobile home space.

13-4-6 Setback. No mobile homes shall be located closer to the mobile home park boundary than twenty-five (25) feet. All mobile homes shall be set back from any public street for a distance of fifty (50) feet on grade from the right-of-way line.

13-4-7 Markers for mobile home lots. Every mobile home lot shall be clearly defined by markers posted and maintained in a conspicuous place on each lot corresponding to the number of each lot as shown on the site plan submitted.

13-4-8 Streets. All streets, walkways, parking bays and the like are to conform with the Subdivision Ordinance of Greene County.

13-4-9 Parking spaces. Parking spaces shall be provided at the rate of two (2) spaces per mobile home lot. Each parking space shall be at least ten (10) feet wide by twenty-two (22) feet deep and shall be surfaced with a durable hard material suitable for all weather use.

13-4-10 Water supply. An adequate supply of water approved by the Health Department shall be furnished from a public or private water system with supply faucets located at each mobile home lot.

13-4-11 Sewage disposal. In each mobile home park all domestic waste, or domestic waste water from a faucet, toilet, tub, shower, sink, slop-sink, drain, washing machine, garbage disposal unit or laundry shall empty into a sewer system constructed in accordance with the Health Department.

13-4-12 Plumbing. All mobile homes must be equipped with indoor kitchen and bathroom facilities.

13-4-13 Garbage/trash disposal. Tightly covered leak-proof garbage containers with an adequate garbage collection service shall be provided by the owner or operator of such park for each trailer lot therein.

13-4-14 Lighting/electricity. All entrances, exits, and driveways shall be lighted at night and not less than one (1) 100 watt electric light shall be provided for each 200 linear feet of internal driveway. Each mobile home lot shall be provided with electrical outlets as recommended by the supplying electric power company.

13-4-15 Playgrounds. Each mobile home park shall provide park and/or playground space, specifically and exclusively for that purpose, at a rate of two hundred (200) square feet per mobile home lot and a minimum of two thousand five hundred (2,500) square feet per park.

13-4-16 Patio. A one hundred (100) square foot patio shall be installed for each mobile home. Said patio shall be constructed of asphalt or concrete and shall be no less than three (3) inches thick.

13-4-17 Additions. No structure shall be affixed to any mobile home in a mobile home park. The prohibition herein against any addition to a mobile home shall not apply to a canopy or awning designed for use with a mobile home, nor to any expansion unit or accessory structure specifically manufactured for mobile homes.

13-5 MOBILE HOMES BY SPECIAL USE PERMITS

No mobile home shall be occupied for dwelling purposes unless the same is located in a mobile home park, except that the following may be permitted with a Special Use Permit:

.1 Office and living quarters of supervisory or other personnel on the construction site for the duration of such work, in all Districts;

.2 Temporary occupancy of a mobile home in the Conservation and Agricultural Districts for up to three (3) years, by the owner on his property, while constructing a dwelling, subject to approval by the Health Department, with one extension permitted subject to approval by the Administrator;

.3 Mobile homes in Conservation and Agricultural Districts for the tenancy of hardship cases on lots owned and occupied by members of the immediate family;

.4 Temporary occupancy of a mobile home in the Residential R-1 District by the owner on his property for up to twelve (12) months or until a Certificate of Occupancy is issued, whichever shall be less, while a dwelling is being reconstructed or replaced.

.5 Residence for a bonafide farm worker on the farm where he is employed, provided the location of such mobile home will not adversely affect neighboring properties.

.6 Any mobile home used as a principal residence prior to condemnation proceedings which was forced to relocate by such proceedings.

13-5-1 Bond. The Administrator may require the posting of a bond to assure that any temporary mobile home will be removed and the site left in good order at the expiration of the Permit.

13-5-2 Unlawful. It shall be unlawful for any person, firm or corporation to permit any mobile home which is to be used as a dwelling or living quarters to be parked upon any land under his or its partial or complete control unless said mobile home is in accordance with this ordinance and the Industrialized Building Code of Virginia, 1973 as amended.

13-5-3 Registration. Any mobile home in use on the effective date of this ordinance shall be registered with the Zoning Administrator by its owner within sixty (60) days therefrom and any mobile home not so registered within said time shall be presumed to be in violation.

13-6 USES NOT PROVIDED FOR

If in any district established under this ordinance, a use is not specifically permitted and an application is made by a property owner to the Administrator for such use, the Administrator shall refer the application to the Planning Commission in conformance with Article 15, which shall make its recommendations to the governing body within sixty (60) days. If the recommendation of the Planning Commission is approved by the governing body, the ordinance shall be amended to list the use as a permitted use in the district.

13-7 WIDENING OF HIGHWAYS AND STREETS

Whenever there shall be plans in existence, approved by either the State Department of Highways or by the governing body for the widening of any street or highway, the Planning Commission may require additional front yard setbacks for any new construction or for any structures altered or remodeled adjacent to the future planned right-of-way, in order to preserve and protect the right-of-way for such proposed street or highway widening.

13-8 MINIMUM OFF-STREET PARKING

There shall be provided, at the time of erection of any building or at the time any main building is enlarged, minimum off-street parking space with adequate provision for entrance and exit by standard sized automobiles, as follows:

13-8-1 Parking space as required in the following shall be on the same lot with the main building, except that in the case of buildings other than single family or duplex dwellings, spaces may be located as far away as three hundred (300) feet.

13-8-2 All parking spaces and access driveways shall be covered with an all weather surface, and shall be graded and drained for the proper disposal of surface water.

13-8-3 In all residential districts there shall be provided either in a private garage or on the lot, space for the parking of two (2) automobiles for each dwelling unit in a new building, or for each dwelling unit added in the case of the enlargement of an existing building.

13-8-4 Motels, hotels, and tourist homes shall provide one automobile parking space for each residence unit or guest room plus one space for each two employees or permanent residents, plus such additional spaces as are required herein for affiliated uses such as restaurants and the like.

13-8-5 For churches, high school, college and university auditoriums, and for theaters, general auditoriums, stadiums and other similar places of assembly, there shall be provided at least one (1) off-street parking space for every five (5) fixed seats provided in said building. For assembly halls without fixed seats, there shall be provided at least one (1) off-street parking space for each one hundred (100) square feet of usable floor area. Schools shall be provided with one (1) parking space for each teacher, employee or administrator in addition to the requirements of the auditorium.

13-8-6 For hospitals, there shall be provided at least one (1) parking space for each one (1) bed, including infants' cribs and children's beds.

13-8-7 For office buildings, offices of professionals (including medical and dental clinics) and personal services establishments, there shall be provided at least one (1) parking space for each two hundred (200) square feet of floor area.

13-8-8 For fraternal lodges, hunting clubs, golf courses, and country clubs, at least twenty-five (25) parking spaces shall be provided. Additional parking may be required by the Administrator.

13-8-9 For retail stores selling direct to the public, there shall be provided one (1) parking space for each two hundred (200) square feet of retail floor space in the building.

13-8-10 For post offices, one (1) parking space for each fifty (50) box holders but not less than ten (10) parking spaces shall be provided.

13-8-11 Restaurants shall provide one (1) parking space per table or booth plus six (6) for employees.

13-8-12 For industrial and wholesale establishments there shall be provided at least one (1) parking space for each two (2) employees based on the maximum number of individuals employed within an eight-hour shift, plus space to accommodate all trucks and other vehicles used in connection therewith.

13-8-13 Any other commercial or industrial building not listed above hereafter erected, converted, or structurally altered shall provide one (1) parking space for each one hundred (100) square feet of business floor space in the building.

13-8-14 Every parcel of land hereafter used as a public parking area shall be surfaced with gravel, stone, asphalt or concrete. It shall have appropriate guards where needed as determined by the Administrator. Any lights used to illuminate said parking areas shall be so arranged as to reflect the light away from adjoining premises in a residential district.

13-8-15 Parking requirement shall at no time be considered sufficient for any other use of the premises, and additional spaces shall be provided to meet requirements when there is any change to a different industrial use or to a commercial use.

13-9 RECREATION VEHICLE PARKS AND CAMPGROUNDS BY SPECIAL USE PERMIT

Recreation vehicle parks and campgrounds shall be allowed in the Conservation and Agriculture Districts by Special Use Permit issued by the Board of Zoning Appeals. The operators of such parks shall comply with the following:

13-9-1 Area. The following area requirements shall pertain for recreational vehicle parks and campgrounds:

.1 Parks with only campsites or with a combination of campsites and recreational vehicle sites, shall contain at least ten (10) acres in area.

.2 Parks with only recreational vehicle sites shall contain at least four (4) acres in area.

13-9-2 Accessory Uses. Convenience establishments of a commercial nature, including small stores, coin-operated laundry and dry cleaning establishments, may be permitted subject to the following restrictions: Such establishments and any parking area primarily related to their operation, shall not occupy more than five percent (5%) of the area of the park, shall be subordinate to the residential use and character of the park, shall be located, designed and intended to serve only the needs of persons residing in the park and shall present no visible evidence of their commercial character from any portion of any residential district outside the park.

13-9-3 Screening. Where any property line of a recreational vehicle park and campground abuts a residential district or land occupied by a residential use permitted by the zoning ordinance, there shall be provided and maintained along said property line a continuous visual buffer with a minimum height of seven (7) feet. This buffer shall be a compact evergreen hedge

or other type of screening, or shall be combined wooden fence and shrubbery screen with the latter facing the residential district or permitted residential use.

13-9-4 Space Size. Each recreational vehicle site or campsite shall be at least 1600 square feet in area with no dimension less than twenty-five (25) feet.

13-9-5 Density. Recreational vehicle parks and campgrounds shall not exceed a maximum of twenty (20) lots per gross acre.

13-9-6 Distance Between Recreational Vehicles. No part of any recreational vehicle, tent or addition thereto, shall be placed within seven and one-half (7½) feet of any recreational vehicle site or campsite line.

13-9-7 Water and Sewer. Each recreational vehicle park and campground shall provide an adequate and safe water supply and method of sewage and trash collection, treatment and disposal as approved by the Health Department.

13-9-8 Service Buildings. Each recreational vehicle park and campground shall provide service buildings to house such toilet, bathing or other sanitation and/or laundry facilities as are hereinafter more particularly described.

.1 Permanent Structures: All service buildings shall be permanent structures complying with all applicable County codes and regulations.

.2 Distance from Lots: Service buildings housing sanitation facilities shall be located no closer than thirty (30) feet to any recreational vehicle site or campsite nor farther away than four hundred (400) feet.

.3 Maintenance: All service buildings and the grounds of the park shall be maintained in a clean, sightly condition and kept free of any condition that will menace the health or safety of any occupant or the public, or otherwise constitute a nuisance or fire hazard.

13-9-9 Sanitation Facilities. Each recreational vehicle park and campground shall be provided with toilets, baths or showers, and other sanitation facilities in accordance with the requirements of the Health Department.

13-9-10 Occupancy. No individual unit shall be continuously occupied in any recreational vehicle park and campground for a period of more than sixty (60) days within one year.

13-9-11 Registration of Campers. The operator of a recreational vehicle park and campground shall keep a record of all persons registering at the park or campground. This record shall show:

.1 Name and permanent address of the person responsible for the camping unit registered.

.2 Number in the party.

.3 Year and make of car.

.4 License number and state of car's registration.

.5 Date of arrival and departure.

These records shall be open to the law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained therein. The record shall not be destroyed for a period of three (3) years following the date of departure of the registrant from the park or campground.

13-10 OPEN SPACE

13-10-1 Open Space Lands Deeded to County

Open space areas required in a given development shall be deeded to Greene County for any bona fide public purpose when such

lands are established to be suitable in size, location and character. Bona fide public purposes include:

.1 Public building sites, parking areas shown or referred to in the Comprehensive Plan.

.2 Public parks and recreation areas shown or referred to in the Comprehensive Plan.

.3 Road rights-of-way shown or referred to in the Comprehensive Plan.

.4 Conservation, utility and/or drainage easements.

Such open space lands shall not be denuded, disturbed, defaced or destroyed in any manner without the prior approval of the Planning Commission.

13-10-2 Open Space Lands in Corporate Ownership

.1 Open space lands not needed, not desired, and not dedicated to the County may be approved by the Planning Commission for transfer or conveyance of title to a non-profit corporate ownership duly established under the laws of Virginia, provided that the owner-developer presents a plan with proper agreements and covenants running with the land, acceptable to the County for the development and maintenance of the lands.

.2 Such covenants shall provide that the assessments, charges, and costs for the maintenance of the open space lands shall constitute a pro rata lien upon the individual lots or parcels of the development second only to taxes and any bona fide trust or lien on each lot or parcel.

.3 The members of such non-profit corporate ownership shall be the owners of all lots within the development, and the said land is to be held and used for the benefit of all the residents of the development.

.4 Such open space lands shall not be denuded, disturbed, defaced or destroyed in any manner, but with approval may be used for recreational purposes such as tennis courts, swimming pools, walkways, riding paths, athletic courts, and other similar uses.

3-10-3 General Location Binding

All open space lands approved on a final plat or development plan are binding as to general location and uses proposed.

13-10-4 Indication on Final Plat

All final plats and development plans shall indicate in the title block, by section as recorded, the open space areas by type of use, the acreage, and the percentage of the total project included on each plat.

13-10-5 Streets, Lots, Parking Bays Not Included

Streets, service drives, parking bays, and lots occupied by dwellings, where provided as required, shall be computed as a part of the lot coverage, and shall not be credited as open space.

13-11 DEVELOPMENT IMPACT

As stated in the Greene County Comprehensive Plan, it is the intent of the governing body, the Planning Commission, their agents and ordinances to encourage the development of Greene County in an organized and orderly manner.

While not opposed to growth or development per se, Greene County does recognize the conflict that has arisen between the demands of new development activity for additional public services and facilities and the County's ability, financially and otherwise, to provide same. Therefore, to further the resolution of this conflict, all developers seeking a Special Use Permit or rezoning must expect to help determine the impact of their development upon Greene County and then must expect to assist in offsetting same under the laws of Virginia in effect at the time of application.

13-11-1 All developers are required to finance and assist in the preparation of an impact study of his development upon the County. The

impact study will supplement any information submitted with any preliminary plats and must consider the following:

.1 The proposed increase in County population that will result from the development by age, sex and occupation including the period of time over which such growth is expected to occur.

.2 The expected needs of the development for public and private services (government, fire, water, sewer, police, schools, rescue squad, etc.) including the additional land, persons, buildings, roads and equipment required.

3-11-2 The governing body will have an independent impact study made also for comparison purposes.

3-11-3 After mutual examination of each other's studies, the developer and the governing body shall call in a mutually agreeable third party to mediate any points not resolved by the two primary parties.

3-11-4 The results of the impact studies shall be weighed as one of the considerations in the Planning Commission's recommendations as required by this ordinance.

ARTICLE 14

PROVISIONS FOR APPEAL

4-1 BOARD OF ZONING APPEALS

4-1-1 A Board consisting of five (5) members shall be appointed by the Circuit Court of Greene County. Members of the Board may receive such compensation as may be authorized by the governing body. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

14-1-2 The term of office shall be for five (5) years, except that of the first five (5) members appointed, one (1) shall serve for five (5) years, one (1) for four (4) years, one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year. One of the five appointed members shall be an active member of the Planning Commission.

14-1-3 Any member of the Board shall be disqualified to act upon a matter before the Board with respect to property in which the member has a legal interest.

14-1-4 The Board shall choose annually its own chairman and vice chairman who shall act in the absence of the chairman, and shall choose annually a secretary who need not be a member of the Board.

14-1-5 Within the limits of funds appropriated by the governing body, the Board may employ or contract for legal, professional, technical and clerical services.

14-2 POWERS OF THE BOARD OF ZONING APPEALS

Board of Zoning Appeals shall have the following powers and duties:

14-2-1 To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this ordinance or of any ordinance adopted pursuant thereto.

14-2-2 Variance.

14-2-2.1 To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done, as follows:

When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance. No such variance shall be authorized by the Board unless it finds:

a. That the strict application of the ordinance would produce undue hardship.

b. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.

c. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

No such variance shall be authorized except after notice and hearing as required by Section 15.1-431 of the Code of Virginia 1950, as amended. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

In authorizing a variance the Board may impose such conditions regarding the location, character, setback, screening, lighting, access, and other features of the proposed structure for use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

14-2-3 Special Use Permits.

14-2-3.1 Applications for Special Use Permits may be made by any property owner or record owner. Such application for the Special Use Permit shall be made to the Zoning Administrator on the form provided for that purpose, including such other information as the Zoning Administrator may deem necessary for consideration of the application. The application shall be accompanied by three (3) copies of drawings showing the following information:

a. The size, shape, and dimensions of the parcel of land for which the use is proposed.

b. The nature of the proposed use of the land or building, including common open space areas.

c. The location of such building or use with respect to the right-of-way of any street or highway adjoining said parcel of land.

The application and accompanying maps, plans or other information shall be transmitted promptly to the Secretary of the Board who shall place the matter on the docket. The Zoning Administrator shall also transmit a copy of the application to the Planning Commission which shall review the application and send a recommendation to the Board or appear as a party at the hearing.

14-2-3.2 After review by the Planning Commission, the Board of Zoning Appeals shall hear and decide applications for Special Use Permits.

The Board, in its decision to grant, to grant conditionally or to deny shall consider the following guidelines and standards.

.a The use shall not tend to change the character and established pattern of development of the area or community in which it wishes to locate.

.b The use shall be in harmony with the uses permitted by right under a Zoning Permit in the zoning district and shall not affect adversely the use of neighboring property.

.c The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.

.d Due consideration shall be given to the suitability of the property for the use applied for with respect to trends of growth or change; the effect of the proposed use upon the community; requirements for transportation, schools, parks, playgrounds, recreational areas; conservation of natural resources, preservation of floodplains, and encouraging the most appropriate use of the land.

.e Hardship caused by passage of this ordinance. Any subdivider as defined in the Subdivision Ordinance of Greene County who, in good faith, and prior to the passage of this ordinance, has secured preliminary approval for a subdivision under the provisions of the aforesaid Subdivision Ordinance, and who has complied at the time of application for a Special Use Permit, and continues to comply in the future with all relevant time limits prescribed by the Greene County Subdivision Ordinance, shall be entitled, if the passage of this ordinance has worked a financial hardship on him, to a rebuttable presumption in favor of the granting of such a Special Use Permit for the said subdivision as preliminarily approved under the provisions of the Subdivision Ordinance. Evidence necessary to rebut this presumption shall be based upon the standards set forth in Section 14-2-2.

14-2-3.3 The Board in granting a Special Use Permit may impose such conditions as it may deem necessary in the public interest, including but not limited to the following:

.a Conditions may be imposed to abate or restrict noise, smoke, dust or other elements that may affect surrounding properties.

.b Establish setback, side, front, and rear yard requirements necessary for orderly expansion and to prevent traffic congestion.

.c Provide for adequate parking and ingress and egress to public streets and roads.

.d Provide adjoining property with a buffer or shield from view of the proposed use if deemed necessary.

.e Establish a time limit at expiration of which the permit shall be no longer valid, or shall require renewal.

4-2-3.4 Upon the granting of a Special Use Permit, one (1) copy of the dimensioned drawing, upon which has been indicated the modifications, if any, required by the Board and certified by the Zoning Administrator, shall be returned to the applicant, who may thereafter conduct only the specific use for which the Permit has been granted and only in such manner and in such location and for such a time as the certified drawing shall specify.

14-2-3.5 No Special Use Permit shall be authorized except after notice and hearings as required by Section 15.1-431 of the Code of Virginia.

14-3 RULES AND REGULATIONS

14-3-1 The Board of Zoning Appeals shall adopt such rules and regulations as it may consider necessary.

14-3-2 The meeting of the Board shall be held at the call of its chairman or at such times as a quorum of the Board may determine.

14-3-3 The chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.

14-3-4 The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep records of its examination and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

14-3-5 All meetings of the Board shall be open to the public.

14-3-6 A quorum shall be at least three (3) members.

14-3-7 A favorable vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision or deter-

mination of any administrative official or to decide in favor of the applicant on any matter upon which the Board is required to pass.

4-4 APPEAL TO THE BOARD OF ZONING APPEALS

An appeal to the Board may be taken by any person aggrieved or by any office, department, board or bureau of the County or municipality affected by any decision of the Zoning Administrator. Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the appeal was taken. During the pendency of an appeal pursuant to the provisions of this Section, no improvements or structural alterations of any sort may be erected or performed upon the property which is subject to appeal.

14-5 APPEAL PROCEDURE

14-5-1 Appeals shall be mailed to the Board of Zoning Appeals c/o the Zoning Administrator, and a copy of the appeal mailed to the secretary of the Planning Commission. A third copy should be mailed to the individual official, department or agency concerned, if any.

14-5-2 Fees. Applications for Special Use Permits and appeals requiring an advertised public hearing shall be accompanied by a certified check for twenty-five dollars ($25.00) payable to the Greene County Treasurer for deposit in the general fund.

14-6 PUBLIC HEARING

The Board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as required

in Section 15.1-431 of the State Code, as amended, and give due notice to the parties in interest and decide the same within sixty (60) days. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify, the order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance from the ordinance. The Board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the Board and shall be public records. The chairman of the Board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

14-7 APPEALS FROM DECISION OF BOARD OF ZONING APPEALS

14-7-1 Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer or any officer, department, board, or bureau of Greene County, may present to the Circuit Court of Greene County a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the Board.

14-7-2 Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the Board of Zoning Appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay

proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and on due cause shown, grant a restraining order.

14-7-3 The Board of Zoning Appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

14-7-4 If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

14-7-5 Costs shall not be allowed against the Board, unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from.

14-8 SUBSEQUENT RESTRAINT

Where a Zoning Permit has been issued and the construction of the building for which such Permit was issued is subsequently sought to be prevented, restrained, corrected or abated as a violation of the Zoning Ordinance, by suit filed within fifteen

(15) days after the start of construction by a person who had no actual notice of the issuance of the Permit, the court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the administrative officer to the Board of Zoning Appeals.

ARTICLE 15

AMENDMENTS AND REZONING

5-1 The regulations, restrictions, zones and boundaries established in this ordinance may from time to time be amended, supplemented, changed, modified or repealed by the governing body pursuant to Section 15.1-493 of the Code of Virginia, as follows:

5-1-1 By the filing with the Administrator of a petition by owners or contract owners of land proposed to be rezoned, which petition shall be accompanied by a fee of twenty-five dollars ($25.00) to defray the cost of advertising and administration.

5-1-2 By the adoption by the governing body of a resolution of intention to amend, which resolution upon adoption shall be referred to the Planning Commission.

5-1-3 By the adoption by the Planning Commission of a resolution of intention to propose an amendment.

5-2 The Planning Commission shall hold at least one public hearing on such proposed amendment after notice as required by Section 15.1-431 of the Code of Virginia, and may make appropriate changes in the proposed amendment as a result of such hearing. Upon the completion of its work, the Planning Commission shall present the proposed

amendment to the governing body together with its recommendations and appropriate explanatory materials.

15-3 Before approving and adopting any amendment, the governing body shall hold at least one public hearing thereon, pursuant to public notice as required by Section 15.1-431 of the Code, after which the governing body may make appropriate changes or corrections in the proposed amendment; provided, however, that no additional land may be zoned to a different classification than was contained in the public notice without an additional public hearing after notice required by Section 15.1-431 of the Code. An affirmative vote of at least a majority of the members of the governing body shall be required to amend the Zoning Ordinance.

15-4 In the event that the governing body shall deny the petition of any property owner or other petitioner to amend this ordinance, substantially the same petition shall not be reconsidered for a period of six (6) months from the date of the original denial by the governing body.

ARTICLE 16

ADMINISTRATION, INTERPRETATION AND ENFORCEMENT

16-1 The ordinance shall be enforced by the Administrator who shall be appointed by the governing body. The Administrator shall serve at the pleasure of that body. Compensation for such shall be fixed by resolution of the governing body.

16-2 Nothing contained herein shall require any change in the plans or construction of any building or structure for which a permit was granted prior to the effective date of this ordinance. However, such construction must commence within thirty (30) days after this ordinance becomes effective. If construction is discontinued for a period of six (6) months or more, further construction shall be in conformity with the provisions of this ordinance for the district in which the operation is located.

16-3 INTERPRETATION

Unless district boundary lines are fixed by dimensions or otherwise clearly shown or described, and where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

16-3-1 Where district boundaries are indicated as approximately following or being at right angles to the center lines of streets, highways, alleys, or railroad main tracks, such center lines or lines at right angles to such center lines shall be construed to be such boundaries, as the case may be.

16-3-2 Where a district boundary is indicated to follow a river, creek or branch or other body of water, said boundary shall be construed to follow the center line at low water or at the limit of the jurisdiction, and in the event of change in the shoreline, such boundary shall be construed as moving with the actual shoreline.

16-3-3 If no distance, angle, curvature, description or other means is given to determine a boundary line accurately and the foregoing

provisions do not apply, the same shall be determined by the use of the scale shown on said zoning map. In the case of subsequent dispute, the matter shall be referred to the Board of Zoning Appeals which shall determine the boundary.

16-4 VIOLATION AND PENALTY

16-4-1 All departments, officials, and public employees of this jurisdiction which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this ordinance. They shall issue permits for uses, buildings or purposes only when they are in harmony with the provisions of this ordinance. Any such permit, if issued in conflict with the provisions of this ordinance, shall be null and void.

16-4-2 Any person, firm or corporation, whether as principal, agent employee or otherwise, violating, causing, or permitting violation of any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction, thereof, may be confined in jail not more than thirty (30) days or shall be fined not less than fifty (50) nor more than two hundred (200) dollars, or, in the discretion of the jury or the court trying the case without a jury punished by both such fine and imprisonment. Such person, firm or corporation shall be deemed to be guilty of a separate offense for each and every day during which any portion of any of this ordinance is committed, continued, or permitted by such person, firm or corporation and shall be punishable as herein provided.

16-4-3 The County Administrator, Zoning Administrator, or other proper officer of the County of Greene may institute any appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, repair or conversion of any building or structure, or the unlawful use of land, to restrain, correct or abate such violation, to prevent any illegal act, conduct, business or use in or about such premises; in the event that any such action or other named agents shall prevail in any such action, the court may assess against the defendent the costs expended by the plaintiff together with a reasonable attorney's fee.

16-5 SEVERABILITY

Should any section or provision of this ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so held to be unconstitutional or invalid.

16-6 CONFLICTING ORDINANCES, STATUTES AND REGULATIONS

Whenever any section or provision of this ordinance or of any regulation adopted under the authority of this ordinance requires a larger lot area or a greater width or size of yards, or a lower height of building than are required in any Virginia statute or other Greene County ordinance or regulation, the provision of this ordinance or of the regulation adopted under the authority of this ordinance shall govern. Whenever any section or provision

of any Virginia statute or other Greene County ordinance or regulation requires a larger lot area or a greater width or size of yards or a lower height of building or imposes other higher standards than are required by any section or provision of this ordinance or of any regulation adopted under the authority of this ordinance, the provisions of such Virginia statute or other Greene County ordinance shall govern.

16-7 EFFECTIVE DATE

This Zoning Ordinance of Greene County, Virginia shall be effective on and after March 1, 1975.

16-8 CERTIFIED COPY

A certified copy of the foregoing Zoning Ordinance of Greene County, Virginia shall be filed in the office of the Zoning Administrator of Greene County and in the office of the Clerk of the Circuit Court of Greene County, Virginia.

ARTICLE 17

DEFINITIONS

For the purpose of this ordinance, certain words and terms are defined as follows: Words used in the present tense include the future. Words in the singular include the plural, and the plural includes the singular.

17-1 ABATTOIR: A commercial slaughter house.

17-2 ACCESSORY USE OR STRUCTURE: A subordinate use or structure customarily incidental to and located upon the same lot occupied by the main use or building; garages or other accessory structures, such as carports, porches and stoops attached to the main building, shall be considered part of the main building.

17-3 ACREAGE: A parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded subdivision plat.

17-4 ADMINISTRATOR, THE: The official charged with the enforcement of the zoning ordinance. He may be any appointed or elected official who is by formal resolution designated to the position by the governing body. He may serve with or without compensation as determined by the governing body.

17-5 AGRICULTURE: The tilling of the soil, the raising of crops, horticulture, forestry, and gardening, including the keeping of animals and fowl.

17-6 ALTERATION: Any increase in the total floor area, or change in use of an existing structure.

17-7 APARTMENT HOUSE: A building used or intended to be used as the residence of three (3) or more families living independently of each other.

17-8 AUTOMOBILE GRAVEYARD: Any lot or place which is exposed to the weather upon which more than five (5) motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located, or found.

17-9 BASEMENT: The lowest story of a building having part but not less than one-half of its height below grade.

17-10 BOARDING HOUSE: A building where, for compensation, lodging and meals are provided for at least five (5) and up to fourteen (14) persons.

17-11 BUILDING: A combination of any materials, whether portable or fixed, having a roof to form a structure for the use or occupancy by persons, or property. The word "building" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning.

17-12 BUILDING, ACCESSORY: A subordinate structure customarily incidental to and located upon the same lot occupied by the main structure.

17-13 BUILDING, HEIGHT OF: The height shall be measured from the average elevation of the ground surface along the front of the building to the highest point of the roof thereof.

17-14 BUILDING, MAIN: The principal building or one of the principal buildings on a lot, or the building or one of the principal buildings housing the principal use on the lot.

17-15 CAMPGROUNDS: A parcel of land developed to accommodate paying guests for stays of short duration in tents or in recreational vehicles owned by the guests. Campgrounds must comply with sanitation regulations imposed by the State Health Department.

17-16 CELLAR: A story having more than one-half of its height below grade and which is not designed for occupancy for dwelling purposes.

17-17 CEMETERY: A privately or church owned and/or operated place for burial of the dead where lots are sold and perpetual care of the graves is furnished.

17-18 CHANNEL: A natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water which is flowing within the limits of the defined channel.

17-19 CLUSTER ALTERNATIVE DEVELOPMENT: Development premised on unit density which allows unit credit based on the number of gross acres of the site to be developed but permits development including lots and streets on a given percentage of the overall gross site.

17-20 COMMISSION, THE: The Planning Commission of Greene County, Virginia.

17-21 COMMON OPEN SPACE: An open tract or parcel of land owned in undivided interest, not devoted to residential uses or structures but directly related and adjunct to a residential development, as herein provided.

17-22 CONDOMINIUM: Ownership of single units in a multiple unit structure or complex having common elements. Ownership includes fee simple title to a residence and undivided ownership, in common with other purchasers, of the common element in the structure and including the land and its appearance. The meaning of all terms shall be controlled by Section 55-79.41 of the Code of Virginia.

17-23 CONSERVATION AND PRESERVATION AREAS: Public or private areas established for the primary purpose of protecting or maintaining natural resources including native plants, native wildlife or natural scenic features.

17-24 CONSTRUCTION FACILITIES, TEMPORARY: A temporary special permit may be granted with conditions as being compatible with the use and nature of the adjacent properties for temporary construction facilities for a period coinciding with such construction work, provided that safe and convenient access is available, proper bonds for clean-up are provided, and adjacent properties are adequately protected.

17-25 CRAFT OR COTTAGE INDUSTRY: The production and/or sale of crafts carried on by the occupant of a dwelling as a secondary use in connection with which there is no display and no one is employed other than members of the family residing on the premises.

17-26 CUL-DE-SAC: A street with only one outlet having an appropriate turn around area for safe and convenient reverse of traffic movement.

17-27 DAIRY: A commercial establishment for the production, processing and/or sale of dairy products.

17-28 DEVELOPER: An individual, corporation, proprietor, trust, trustee, joint venture, partnership, or other entity having legal title to any tract or parcel of land to be developed, whether or not they have given their power of attorney to one of their group or to another individual or entity to act on their behalf in planning, negotiation or in representing or executing the requirements of the ordinances of Greene County.

17-29 DISTRICT: A division of territory within Greene County for the purposes of regulation of its use under the provisions of this ordinance as provided for in Section 15.1-486 of the Code of Virginia.

17-30 DUPLEX: A two family residential structure; the dwelling units may be arranged one above the other or be attached.

17-31 DWELLING: Any structure which is designed for use for residential purposes, except hotels, boarding houses, lodging houses, tourist cabins, motels, trailers, and travel trailers.

7-32 DWELLING, MULTIPLE FAMILY: Any building or portion thereof used as a multiple dwelling for the purpose of providing three (3) or more separate dwelling units with shared means of egress and other essential facilities.

7-33 DWELLING, SINGLE FAMILY ATTACHED: One of two or more dwelling units which are joined together by a common party wall, and/or connecting permanent structures such as breezeways, carports, garages or screening fences or walls, whether or not such a dwelling unit is located on adjoining individual lots or as a group on a single parcel of land. Each unit shall have its own outside entrance.

7-34 DWELLING, SINGLE FAMILY DETACHED: A structure arranged or designed to contain one (1) dwelling unit.

17-35 DWELLING UNIT: A single unit providing complete, independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

17-36 EASEMENT: A grant by a property owner of the use of his land by another party for a specific purpose.

17-37 EASEMENT, PUBLIC ACCESS: An easement, or series or easements, which grant and guarantee the right of access for emergency and public service vehicles to any given area or right-or-way.

17-38 FAMILY: One or more persons occupying a premises and living in a single dwelling unit, as distinguished from an unrelated group occupying a boarding house, lodging house, tourist home or hotel or motel.

17-39 FLOOD: A temporary rise in stream flow or stage that results in water overtopping its banks and inundating areas adjacent to the channel.

17-40 FLOOD FRINGE: The portion of the floodplain beyond the limits of the floodway. Flood waters in this area are usually shallow and slow-moving.

17-41 FLOODPLAIN: The area adjacent to any body of water which is inundated by the discharge of the 100 year flood, which has an average frequency of occurrence of once every 100 years or a one percent (1%) probability of occurring in any year. The 100 year flood is sometimes referred to as the Intermediate Regional Flood.

17-42 FLOODWAY: The portion of the floodplain that must be reserved in order to discharge the 100 year flood without cumulatively increasing the water-surface elevation more than one (1) foot at any point.

17-43 FLOODPLAIN DELINEATION STUDIES: Reports prepared by qualified engineers describing the floodplain using topographic plans with ground elevations, locations of surveyed cross sections, flood profiles and discharges of the 100 year flood.

17-44 FLOOD PROFILE: A graph showing the relationship of water-surface elevation of the 100 year flood event to location along a stream.

17-45 FLOOD PROOFING: Any combination of structural and nonstructural additions, changes, or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures, and contents of buildings.

17-46 FRONTAGE: The width of a lot from side line to side line measured along the front lot line abutting the street or access right-of-way, along the setback line as defined, and along every line parallel to and between the front lot line and the setback line.

17-47 GARAGE, PRIVATE: Accessory building designed or used for the storage of private automobiles owned and used by the occupants of the building to which it is accessory.

17-48 GARAGE, PUBLIC: A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling, or storing motor vehicles.

17-49 GARDEN APARTMENTS: A structure, not to exceed three and one-half (3½) stories containing three (3) or more dwelling units.

17-50 GENERAL STORE: A single store, the ground floor area of which is six thousand (6,000) square feet or less and which offers for sale general merchandise. Gasoline may also be offered for sale but only as a secondary activity of a general store.

17-51 GOLF COURSE: Any golf course, publicly or privately owned, on which the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges as defined herein.

17-52 GOLF DRIVING RANGE: A limited area on which golf players do not walk, but onto which they drive golf balls from a central driving tee.

17-53 GOVERNING BODY: The Board of Supervisors of Greene County, Virginia.

17-54 GROSS ACRE: 43,560 square feet.

17-55 HARDSHIP CASE: Any adult who is physically unable to work, or any other person or family whose financial circumstances are the equivalent of such adult.

17-56 HEALTH DEPARTMENT: The legally designated representative of the Virginia State Department of Health, such as, but not limited to, the County Health Director or County Sanitarian.

17-57 HOME OCCUPATION: An occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display, and no one is employed other than members of the family residing on the premises.

17-58 HOME PROFESSIONAL OFFICE: A medical, dental, legal, engineering or architectural office conducted within a dwelling by an occupant of the dwelling and employing not more than one (1) person not residing on the premises.

17-59 HOSPITAL, GENERAL: An institution rendering medical, surgical, obstetrical, or convalescent care, including nursing homes, homes for the aged and sanatoriums, but in all cases excluding institutions primarily for mental or feeble-minded patients, epileptics, alcoholics or drug addicts. (Certain nursing homes and homes for the aged may be "home occupation" if they comply with the definitions herein.)

17-60 HOTEL: A building designed or occupied as the more or less temporary abiding place for fourteen (14) or more individuals who are, for compensation, lodged, with or without meals, and in which provision is not generally made for cooking in individual rooms or suites.

17-61 JUNK YARD: The use of any area of land lying within one hundred (100) feet of a State Highway or the use of more than one thousand (1,000) square feet of land area in any location for the storage, keeping, or abandonment of junk including scrap metals or other scrap materials. The term "junk yard" shall include the term "automobile graveyard" as defined in Chapter 304, Acts of 1938, Code of Virginia.

17-62 KENNEL: A place prepared to house, board, breed, handle, or otherwise keep or care for dogs for sale or in return for compensation.

17-63 LOT: A parcel of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open spaces, lot width and lot areas as are required by this ordinance, either shown on the plat of record or considered as a unit of property and described by metes and bounds.

17-64 LOT, CORNER: A lot abutting on two or more streets at their intersection. Of the two sides of a corner lot, the front shall be deemed to be the shortest of the two sides fronting on streets.

17-65 LOT, DEPTH OF: The average horizontal distance between the front and rear lot lines.

17-66 LOT, DOUBLE FRONTAGE: An interior lot having frontage on two (2) streets.

17-67 LOT, INTERIOR: Any lot other than a corner lot.

17-68 LOT, WIDTH OF: The average horizontal distance between side lot lines.

17-69 LOT OF RECORD: A lot, a plat or description of which has been recorded in the clerk's office of the Circuit Court.

17-70 MANUFACTURE AND/OR MANUFACTURING: The processing and/or converting of raw, unfinished materials, or products, or either of them, into articles or substances of different character,

17-71 MOBILE HOME: A one family dwelling unit of vehicular, portable design built on a chassis and designed to be moved from one site to another and to be used with or without a permanent foundation.

17-72 MOBILE HOME PARK: Lots and parcels of land designed for the temporary or permanent parking and occupancy of two or more travel trailers or recreational vehicles or mobile homes used for human habitation.

17-73 NONCONFORMING ACTIVITY: The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this ordinance for the district in which it is located.

17-74 NONCONFORMING LOT: An otherwise legally platted lot that does not conform to the minimum area or width requirements of this ordinance for the district in which it is located.

17-75 NONCONFORMING STRUCTURE: An otherwise legal building or structure that does not conform with the lot area, yard, height, lot, coverage, or other area regulations of this ordinance, or is designed or intended for a use that does not conform to the use regulations of this ordinance for the district in which it is located.

17-76 OFF-STREET PARKING AREA: Space provided for vehicular parking outside the dedicated street right-of-way.

17-77 PATIO HOUSE: A single family attached dwelling, usually L-shaped, with the common walls of the adjacent dwellings forming a patio, under single or multiple ownership, separated from one another by continuous vertical walls without openings from basement floor to roof, and having diversified architectural facades or treatment of materials on both front and rear of the building group, with not more than three (3) of any six (6) abutting patio houses having the same architectural facades and treatment of materials, and with not more than three (3) abutting patio houses having the same front and rear setbacks; minimum setback offset shall be not less than two and one-half ($2\frac{1}{2}$) feet.

17-78 PERFORMANCE BOND: A bond of surety, and/or cash deposit approved by the governing body equal to the full cost of improvements required by these regulations and providing for completion of said improvements within a definite term.

17-79 PLANNING COMMISSION: The Planning Commission of Greene County.

17-80 PUBLIC BUILDING: Shall be considered for the purpose of this ordinance to be any building owned or leased by a governmental organization such as a county, city, town, state, or federal government.

17-81 PUBLIC FACILITY: Shall be considered for the purpose of this ordinance to be any public works supplied generally by a governmental organization. Such public works shall include, but not be limited to: public roads, schools, water supply

17-82 PUBLIC WATER AND SEWER SYSTEMS: A central water or sewer system serving or designed to serve three (3) or more dwelling units or independent structures, owned and operated by a municipality or county, or owned and operated by a private individual or corporation.

17-83 QUARRYING OR MINING: The industry of extracting stone from an open excavation which shall be deemed to include both the extraction and processing of crushed stone for aggregate and related uses and the extraction of stone in blocks for building, monumental and related uses, but shall not be deemed to include sand and gravel operations.

17-84 RECREATIONAL VEHICLE: A vehicular, portable structure built on a chassis, designed for use as a temporary dwelling for travel, recreation, or vacation; a travel trailer.

17-85 REQUIRED OPEN SPACE: Any space required in any front, side, or rear yard.

17-86 RESTAURANT: Any building in which for compensation, food or beverages are dispensed for consumption.

17-87 RETAIL STORES AND SHOPS: Buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood, and lumber yards).

17-88 SAWMILL, PERMANENT: A permanent sawmill located on public or private property for the processing of timber.

17-89 SAWMILL, TEMPORARY: A portable sawmill located on private property for the processing of timber cut only from that property or the property immediately contiguous and adjacent thereto or incidental processing of timber transported from other property.

17-90 SCREENING: For the purposes of this ordinance, screening shall be defined as any device or natural growth, or a combination thereof, which shall serve as a barrier to vision and noise between adjoining properties or between a property and the street, wherever required by this ordinance. When used for screening purposes, "natural growth", unless otherwise specified, shall be taken to mean evergreen trees and bushes.

17-91 SETBACK LINE: An imaginary line parallel to the front lot line at a distance specified for each District measured from the street or front lot line, beyond which a structure shall be permitted.

17-92 SIGN: Any display of any letters, words, numerals, figures, devices, emblems, pictures, or any parts or combinations thereof, by any means whereby the same are made visible for

the purpose of making anything known, whether such display be made on, attached to, or as part of a structure, surface, or any other thing, including, but not limited to, the ground, any rock, tree, or other natural object, which display is visible beyond the boundaries of the parcel of land on which the same is located.

17-93 SIGN STRUCTURE: Includes the supports, uprights, bracing and/or framework of any structure, be it single-faced, double-faced, v-type, or otherwise exhibiting a sign.

17-94 SITE PLAN: Detailed drawings indicating all construction and land improvements, including landscape treatments, and related information as required by this ordinance.

17-95 STORY: That portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it. If there be no floor above it, the space between the floor and the ceiling next above it.

17-96 STORY, HALF: A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three (3) feet above the floor level, and in which space not more than two-thirds (2/3) of the floor area is finished for use.

17-97 STREET (ROAD): A public thoroughfare.

17-98 STREET LINE: The dividing line between a street or road right-of-way and the contiguous property.

17-99 STREET, MAJOR COLLECTOR: Designed to serve as the major links between communities and villages where there are no arterials or state primaries. Major collectors should be designed similar to primary roads on right-of-way widths of eighty (80) feet or more.

17-100 STRUCTURE: Anything constructed or erected, excluding fences, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

17-101 TOURIST COURT, AUTO COURT, MOTEL, CABIN OR MOTOR LODGE: One or more buildings containing individual sleeping rooms, designed for or used temporarily by tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.

7-102 TOURIST HOME: A dwelling where only lodging is provided for compensation for up to fourteen (14) persons (in contradiction to hotels and boarding houses) and open to transients.

7-103. TOWNHOUSE: One of a series of from three (3) to six (6) attached dwelling units under single or multiple ownership, separated from one another by continuous vertical walls without openings from basement floor to roof, and having diversified architectural facades or treatment of materials on both front and rear of the building group, with not more than three (3) of any six (6) abutting townhouses having the same architectural facades and treatment of materials, and with not more than three (3) abutting townhouses having the same front and rear setbacks; minimum setback offset shall be not less than two and one-half (2½) feet.

17-104 USE: Any continuous or continual occupation of, or activity, taking place upon a parcel of land including, but not limited to, the location of tents, portable huts, trailers, and the storage of cars, machinery or material, as well as of buildings or other structures.

17-105 VARIANCE: A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or adjoining zoning districts.

17-106 WAYSIDE STAND, ROADSIDE STAND, WAYSIDE MARKET: Any structure or land used for the sale of agricultural produce.

17-107 YARD: An open space on a lot other than a court unoccupied and unobstructed from the ground upward by structures except as otherwise provided herein.

17-107-1 FRONT: An open space on the same lot as a building or structure between the front lot or street line and the setback line as defined, and extending across the full width of the lot.

17-107-2. REAR: An open, unoccupied space on the same lot as a building between the rear line of the building (excluding steps) and the rear line of the lot and extending the full width of the lot.

17-107-3 SIDE: An open, unoccupied space on the same lot as a building between the side line of the building (excluding steps) and the side line of the lot, and extending from the front yard line to the rear yard line.

AMENDMENTS TO THE ZONING ORDINANCE AND ZONING MAP ADOPTED BY THE GREENE COUNTY BOARD OF SUPERVISORS ON OCTOBER 30, 1975.

Amendment to Zoning Map

The boundary line between C-1 and A-1 zones shall be as shown on the official map of March 2, 1975, or the first occurrence of 25% slope, whichever is less restrictive.

ARTICLE 3

CONSERVATION DISTRICT, C-1

Statement of Intent

3-1 USE REGULATIONS

3-1-1 USES PERMITTED BY RIGHT

(.6 thru .10 shown for renumbering purposes)

.4 Churches, public schools, parks, playgrounds, and other public buildings.

.5 State licensed private schools on one hundred (100) acres or more.

.6 Church adjunctive cemeteries and family graveyards.

.7 Lodges, hunting clubs and boating clubs.

.8 Fish hatcheries.

.9 Public utilities: poles, lines, transformers, pipes, meters and related and similar facilities, water and sewer distribution lines.

.10 Home occupations as defined.

.11 Home business as defined.

3-1-2 USES PERMITTED BY SPECIAL USE PERMIT

.1 Private schools, campgrounds and summer camps.

.4 Public utilities: public water and sewer transmission lines, treatment facilities, and pumping stations; electrical power transmission lines and substations; oil and gas transmission pipelines and pumping stations; micro-wave and radio-wave transmission and relay towers and substations; unmanned telephone exchange centers.

.6 Antique, craft and gift shops.

.13 Two family dwelling units.

3-2 AREA REGULATIONS

3-2-1 The minimum lot area for permitted uses shall be five acres (217,800 square feet), except as specified under Section 3-2-2.

3-2-2 For uses specified in Section 3-1-2.4 provided that such uses are not equipped for human habitation or offices, there shall be no minimum lot size, provided only that the regulations concerning setback, yard and height of buildings are met.

3-4 FRONTAGE REGULATIONS

3-4-1 The minimum required frontage for permitted uses shall be three hundred (300) feet.

3-4-2 For uses specified in Section 3-1-2.4 provided that such uses are not equipped for human habitation or offices, there shall be no minimum required frontage, provided only that the regulations concerning setback, yard and height of buildings are met.

3-7 SPECIAL PROVISIONS FOR CORNER LOTS

Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets. The side yard on the side facing a side street shall be forty (40) feet.

ARTICLE 4

AGRICULTURAL DISTRICT, A-1

4-1-2 USES PERMITTED BY SPECIAL USE PERMIT

Same as Conservation C-1 plus:

(.6 thru .10 shown for renumbering purposes)

.6 Commercial warehouses for bulk agricultural products.

.7 Country clubs, community centers, swimming, tennis, fishing, and gun cluns and similar uses.

.8 Craft or cottage industries.

.9 Carnivals, fairs - temporary-non-profit only.

.10 Mobile homes, in conformance with Section 13-5 of this ordinance.

.11 Commercial cemeteries, including Memorial Parks.

.12 Home professional offices.

.13 Cabinet makers, furniture repairs, and upholstery.

4-2 AREA REGULATIONS

4-2-1 The minimum lot area for permitted uses shall be two (2) acres (87,120 square feet) except as specified under Section 4-2-2.

4-2-2 For uses specified in Section 3-1-2.4 provided that such uses are not equipped for human habitation or offices, there shall be no minimum lot size, provided only that the regulations concerning setback, yard and height of buildings are met.

4-3 SETBACK REGULATIONS

4-3-1 Structures except signs shall be located fifty (50) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or seventy-five (75) feet or more from the center line of any street right-of-way less than fifty (50) feet in width. This shall be known as the setback line.

4-4 FRONTAGE REGULATIONS

4-4-1 The minimum required frontage for permitted uses shall be two hundred ten (210) feet.

4-4-2 For uses specified in Section 3-1-2.4 provided that such uses are not equipped for human habitation or offices, there shall be no minimum required frontage, provided only that the regulations concerning setback, yard and height of buildings are met.

4-5 YARD REGULATIONS

4-5-2 Rear - each main structure shall have a rear yard of fifty (50) feet or more.

4-7 SPECIAL PROVISIONS FOR CORNER LOTS

Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets. The side yard on the side facing a side street shall be forty (40) feet.

ARTICLE 5

RESIDENTIAL DISTRICT, R-1

5-1 USE REGULATIONS

5-1-1 Use Permitted by Right

(.4 thru .7 shown for renumbering purposes)

.3 Churches, public schools, parks, playgrounds, and other public buildings.

.4 Cemeteries.

.5 Home occupations as defined.

.6 Public Utilities: Poles, lines, transformers, pipes, meters and related or similar facilities; water and sewerage distribution lines.

5-1-2 USES PERMITTED BY SPECIAL USE PERMIT

.9 Private schools.

.10 Volunteer fire house and rescue squads.

.11 Home business as defined.

5-2 AREA REGULATIONS

5-2-5 For uses specified in Section 5-1-2.8 provided that such uses are not equipped for human habitation or offices, there shall be no minimum lot size, provided only that the regulations concerning setback, yard and height of buildings are met.

5-4 FRONTAGE REGULATIONS

5-4-4 Subject to Section 17-51, the lot line abutting the turn-around area of a cul-de-sac shall be a minimum of seventy (70) feet.

5-7 SPECIAL PROVISIONS FOR CORNER LOTS

Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets. The side yard on a side facing a side street shall be thirty (30) feet.

ARTICLE 6

RESIDENTIAL DISTRICT, R-2

6-1 USE REGULATIONS

6-1-1 Uses Permitted by Right

(.4 and .6 shown for renumbering purposes)

.2 Two family dwelling units.

.3 Churches, public schools, parks, playgrounds, and other public buildings.

.4 Accessory uses or structures as defined.

.5 Horticulture as defined.

.6 Public utilities: Poles, lines, transformers, pipes, meters and related and similar facilities; water and sewer distribution lines.

6-8 SPECIAL PROVISIONS FOR CORNER LOTS

Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

ARTICLE 7

BUSINESS (GENERAL), B-1

7-1 USE REGULATIONS

7-1-1 Uses Permitted by Right

(.12 thru .22 shown for renumbering purposes)

.11 Churches, public schools, parks, playgrounds, and other public buildings.

.12 Hospitals, general.

.13 Funeral homes.

.14 Clubs and lodges.

.15 Hardware stores.

.16 Public utilities: Poles, lines, transformers, pipes, meters and related or similar facilities; water and sewerage distribution lines.

.17 General stores, gift and antique shops.

.18 Agriculture supply stores.

.19 Restaurants and taverns.

.20 Banks.

.21 Accessory buildings.

.22 Furniture stores, cabinet makers and repair.

.23 Horticulture as defined.

7-1-2 Uses Permitted by Special Use Permit

.15 Mobile homes, in conformance with Section 13-5 of this ordinance.

.16 Public utilities: public water and sewer transmission lines, treatment facilities, and pumping stations; electrical power transmission lines and substations; oil and gas transmission pipelines and pumping stations; micro-wave and radio-wave transmission and relay towers and substations; unmanned telephone exchange centers.

7-6 SPECIAL PROVISIONS FOR CORNER LOTS

Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets. The side yard on a side facing a side street shall be thirty-five (35) feet.

ARTICLE 8

BUSINESS (HIGHWAY), B-2

8-1 USE REGULATIONS

8-1-1 Uses Permitted by Right

.10 Horticulture as defined.

8-6 SPECIAL PROVISIONS FOR CORNER LOTS

Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets. The side yard on a side street shall be thirty-five (35) feet.

ARTICLE 9

INDUSTRIAL DISTRICT, M-1

9-7 SPECIAL PROVISIONS FOR CORNER LOTS

Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets. The minimum side yard on the side facing a side street shall be thirty-five (35) feet or more for both main and accessory buildings.

ARTICLE 11

SIGN REGULATIONS

11-5-3 Business B-1 and B-2

.4 Identification Signs - forty (40) square feet limit and not more than two (2) on any lot or premises.

ARTICLE 12

NONCONFORMING USES

12-1-2 If any change in title or possession, or renewal of a lease of any such lot or structure occurs, the use existing may be continued.

12-2 PERMITS

12-2-1 All owners or operators of nonconforming uses shall apply to the Zoning Administrator for a Certificate of Occupancy within one (1) year after the adoption of this ordinance. Certificates of Occupancy will be issued within one and a half (1½) years after the adoption of this ordinance.

12-2-1.1 Any owner or operator of any nonconforming use who shall fail to comply with §12-2-1 when so required to do, shall, in any proceeding in which it is material to inquire whether or not such nonconforming use, as defined in §12-1-1, existed on the effective date of this ordinance, have the burden of proving by clear and convincing evidence that it did in fact so exist as of the date of the ordinance. Any owner or operator of a nonconforming use who shall comply with the provisions of §12-2-1 or whose predecessors in title shall have complied with the provisions of §12-2-1 shall in any proceeding in which it is material to inquire whether or not such nonconforming use as defined in §12-2-1 existed on the effective date of this ordinance be entitled, subject to the provisions of §16-4-1, to a conclusive presumption that such nonconforming use did in fact so exist on the effective date of this ordinance.

12-5 ALTERATION, EXPANSION OR ENLARGEMENT

12-5-1 A nonconforming use or structure to be altered, expanded, enlarged or extended shall conform with the provisions of this ordinance as to the new part but need not bring the old part into such conformity.

12-5-2 A nonconforming use or structure may be extended or enlarged up to fifty (50) percent of the area occupied by such use or structure at the time this ordinance became effective.

(12-5-3 shown for renumbering purposes)

12-5-3 A nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity at the time of the enactment of this ordinance.

12-6 NONCONFORMING UNIMPROVED LOTS

Any unimproved lot of record at the time of the adoption of this ordinance which is less in area or width than the minimum required by this ordinance may be used provided the following requirements regarding setbacks, side and rear yards are met.

12-6-1 SETBACK REGULATIONS. Structures except signs shall be thirty-five (35) feet or more from any street right-of-way unless the Administrator shall, upon inspection of the neighborhood, determine that structures have been built on 40% of the existing lots on the same side of the street, within 1,000 feet on either side of said lot, in which instance, no building shall project beyond the average front yard so established, but this regulation shall not be interpreted to require a front yard of more than sixty (60) feet but shall require a front yard no less than twenty-five (25) feet.

12-6-2 SIDE YARD. The minimum side yard for each main structure shall be fifteen (15) feet.

12-6-3 REAR YARD. Each main structure shall have a rear yard of thirty-five (35) feet or more.

12-7 RESTORATION OR REPLACEMENT

12-7-1 If a nonconforming structure or activity is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed seventy-five percent (75%) of the cost of reconstructing the entire activity or structure, it shall be restored or replaced only if such use complies with this ordinance.

12-7-2 When a conforming structure devoted to a nonconforming activity is damaged less than seventy-five percent (75%) of the cost of reconstructing the entire structure, or where a nonconforming structure is damaged less than seventy-five percent (75%) of the cost of reconstructing the entire structure, either may be repaired or restored provided any such repair or restoration is started within twelve (12) months and completed withing twenty-four (24) months from the date of partial destruction.

(12-7-3 shown for renumbering purposes)

12-7-3 The cost of land or any factors other than the cost of the structure are excluded in the determination of cost of restoration for any structure or activity devoted to a nonconforming use.

12-7-4 Any structure or activity existing prior to March 2, 1974, may be restored or replaced regardless of the percentage of destruction provided that setbacks and yard regulations are met.

ARTICLE 13

GENERAL PROVISIONS

13-1 ZONING PERMIT

13-1-3 Each application for a Zoning Permit shall be accompanied by three (3) copies of a scale drawing. The drawing shall show

the size and shape of the parcel of land on which the proposed building is to be constructed, the nature of the proposed use of the building or land, and the location of such building or use with respect to the property lines of said parcel of land and to the right-of-way of any street or highway adjoining said parcel of land. Any other information which the Administrator may deem necessary for consideration of the application may be required. If the proposed building or use in in conformity with the provisions of this ordinance and all other county and state regulations, a Permit shall be issued to the applicant by the Administrator. A Zoning Permit shall be issued for an alteration, expansion, enlargement, extension, restoration or replacement of a nonconforming use in conformity with the provisions of Article 12. One (1) copy of the drawing shall be returned to the applicant with the Permit.

13-3 CERTIFICATE OF OCCUPANCY

Land or buildings may be used or occupied only after a Certificate of Occupancy has been issued by the Administrator. Such a Certificate shall state that the building, or the proposed activity, or the use of the land, complies with the provisions of this ordinance. A Certificate of Occupancy shall also be issued for maintaining, altering, expanding, enlarging, extending, restoring or replacing a nonconforming use as set forth in Article 12 of this ordinance, and the certificate shall state the nature of the nonconformity. A Certificate of Occupancy either for the whole or a part of the building shall be applied for simultaneously with the application for a Zoning Permit. The permit shall be issued within ten (10) days after the erection or structural alteration of such building or part has conformed with the provisions of this ordinance.

13-5 MOBILE HOMES OUTSIDE OF MOBILE HOME PARKS

No mobile home shall be occupied for dwelling purposes unless the same be located in a mobile home park, or the said mobile home be legally affixed to the freehold by the owner of both the said freehold and the mobile home in a manner conforming to all restrictions applying to single family dwellings on a lot in either C-1 or A-1 Zone, which lot is in no respect a nonconforming lot under the requirements for a lot for single family dwellings in such zone, which requirements may not be waived or varied in any manner to permit the affixing of a mobile home, except that:

13-5-1 The following may be permitted with a Special Use Permit in accordance with §14-2-3 of this ordinance.

.1 Mobile homes in the Conservation, Agriculture, and Residential R-1 District for the tenancy of hardship cases or those (but not more than one immediate family) providing care for such hardship cases provided that (i) such arrangement is not primarily for profit; (ii) each such mobile home comply with all other restrictions of this ordinance applicable to a principal residence, and (iii) any special use permit issued under this section may be limited in duration to the length of time that the hardship exists;

.2 Residence for a bonafide farm worker on the farm where he is employed;

.3 Any mobile home used as a principal residence prior to condemnation proceedings which was forced to relocate by such proceedings.

13-5-2 The following may be authorized by the County Administrator subject to guidelines established by the Greene County Planning Commission.

.1 Temporary occupancy of a mobile home in the Residential R-1 District by the owner on his property for up to twelve (12) months or until a Certificate of Occupancy is issued, whichever shall be less, while a dwelling is being reconstructed or replaced;

.2 Mobile homes used as office and living quarters of supervisory or other personnel on the construction site for the duration of such work, in all Districts;

.3 Temporary occupancy of a mobile home in the Conservation and Agriculture Districts for up to three (3) years by the owner on his property, while constructing a dwelling, subject to approval by the Health Department, with one extension permitted subject to approval by the Administrator.

13-5-3 Bond. (no change - shown for renumbering purposes)

13-5-4 Unlawful. (no change - shown for renumbering purposes)

13-5-5 Registration. (no change - shown for renumbering purposes)

ARTICLE 14

PROVISIONS FOR APPEAL

14-2-3 Special Use Permits.

14-2-3.3 The Board in granting Special Use Permits may impose such conditions as it may deem necessary in the public interest, including but not limited to the following:

f. To impose such additional restrictions, conditions, and requirements as may be necessary in the judgement of the Board of Zoning Appeals to provide for adequate light, air, convenience of access and safety from fire, flood, and other dangers, including but not limited to the requirement of installation of fire hydrants on water transmission lines provided that the Board of Zoning Appeals may not require that fire hydrants be located closer together than:

(1) Two thousand (2,000) feet in R-1, R-2, B-1, and B-2 Zones;

(2) Four thousand (4,000) feet in A-1 Zone;

(3) Six thousand (6,000) feet in C-1 Zone;

and such requirements shall, when terrain requires, be increased up to five hundred (500) feet to reach a blow-off valve.

ARTICLE 16

ADMINISTRATION, INTERPRETATION AND ENFORCEMENT

16-4 VIOLATION AND PENALTY

16-4-2 Any person, firm or corporation, whether as principal, agent, employee or otherwise, willfully and knowingly, after notice by the Zoning Administrator or his Agent, violating, causing,

or permitting violation of any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction, thereof, may be confined in jail not more than thirty (30) days or shall be fined not less than fifty (50) nor more than two hundred (200) dollars, or, in the discretion of the jury or the court trying the case without a jury punished by both such fine and imprisonment. Such person, firm or corporation shall be deemed to be guilty of a separate offense for each and every day during which any violation of any portion of this ordinance is committed, continued, or permitted by such person, firm or corporation and shall be punishable as herein provided. The provisions of this subsection shall not apply to any failure to comply with the provisions of §12-2-1.

ARTICLE 17

DEFINITIONS

17-2 ACCESS: A way or means of approach or admission.

17-16 CAMPS (See CAMPGROUNDS)

17-37 DWELLING, TWO FAMILY: A building arranged or designed to be occupied by two families, the structure having only two (2) dwelling units.

17-42 FARMING: The science of agriculture applied as a business.

17-43 FENCE: A non-loadbearing structure designed to impede the passage of persons, animals or wind, to obstruct vision or to support plants, customarily built of wood, metal or masonry, a wall.

17-51 FRONTAGE: The width of a lot from side line to side line measured along the front lot line abutting the street or access right-of-way, along the setback line as defined, and along every line parallel to and between the front lot line and the setback line. "Required frontage" shall be measured as described hereby except that in case of lots fronting on the turn-around area of a cul-de-sac where the front lot line is shorter than the width of the lot at the setback line, then the width of the setback line may be used as the measure of "required frontage".

17-62 HOME BUSINESS: Any occupation, including without limiting the total generality of the foregoing any profession, business, trade, craft, industry, or service conducted in or from a dwelling or accessory structure for profit or compensation, provided that:

(a) not more than five (5) persons not residing on the premises shall be regularly employed or engaged in such occupation;

(b) there shall be no evidence of the conduct of such occupation visible off the premises except the one sign permitted by Article 11 of this Ordinance;

(c) any need for parking generated by the conduct of such occupation shall be met off the street and other than in a required front yard;

(d) in such occupation no equipment or process shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses on any neighboring property or street; and

(e) in the case of electrical interference, no equipment or process shall be used which causes visible or audible interference in any radio or television receiver, computer or other electric or electronic appliance off the premises or causes fluctuation in line voltage off premises;

(f) further, nothing in this definition, or Ordinance, shall restrict the number of persons engaged, cooperatively or as partners or employees, in any area of Greene County where Agriculture is permitted hereunder, in any basic rural occasional work including, without limitation by enumeration, haymaking or other harvesting of any kind whatever, woodcutting, cooperative or domestic butchering, canning, freezing, curing, preserving, storing or engaged in the maintenance of wayside stands, where permitted hereunder, primarily for the sale of local produce or products, nor restrict the incidental dust, fumes or smoke of cultivating, warming, scalding, rendering, cooking or any other basic agricultural process whatever.

17-63 HOME OCCUPATION: An occupation for profit, performed or carried on in a dwelling, by an occupant, thereof, as a use secondary to that of a principal residence, in connection with which there is no display and employing, in addition to members of the occupant family not more than one (1) person not residing on the premises.

17-65 HORTICULTURE: The cultivation of plants for use or ornament usually within an enclosure or within limits smaller than agriculture, gardening, and lawn maintenance.

17-70 LODGE: A collection of lodging houses.

17-71 LODGING HOUSE: A building designed or occupied as the temporary abode for thirteen (13) or fewer individuals who are, for compensation, lodged with or without meals and in which provision is not generally made for cooking in individual rooms or suites.

17-82 MOTEL: Any group of dwelling units, combined or separated, used for the lodging, for compensation, of transient guests, each of which units is provided with its own toilet, washroom, offstreet parking and access.

17-92 PUBLIC WATER AND SEWER DISTRIBUTION LINES: Any line or pipe designed to provide water or sewerage service to private dwellings, businesses or the like which is installed upon land owned in fee simple by the person or corporation installing the same.

17-94 PUBLIC WATER OR SEWER TRANSMISSION LINES: Any line or pipe of any description installed for the purpose of providing public water or sewer to private dwelling houses, businesses or the like which is installed upon land not owned in fee simple by the person or corporation installing the same.

17-96 RECREATION AREA: Any establishment operated privately, for members and guests only, or commercially, for the general public, in which facilitis are provided for outdoor recreation including without limitation, camping, lodging, picnicking, boating, fishing, swimming, horseback riding, outdoor games and sports. A recreation area does not include miniature golf grounds, golf driving ranges or mechanical amusement devices and rides.

17-101 SANITARY LANDFILL: A place for the disposing of public refuse on land without creating nuisance or hazards to public health or safety by confining, compressing, and covering the refuse with earth.

17-114 STRUCTURE: Anything constructed or erected, excluding fences, paper tubes, and mailboxes, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

17-120 WAYSIDE STAND: Any structure or land used for the sale of agricultural produce, or horticultural produce or the products of handicraft or home occupations as defined.

(Transcript of Trial on 3-8,9-76)

1 I N D E X

2 Witnesses	Direct	Cross	Red.	Rec.
3 Thomas Lawson	5			
4 Sherman W. Garth	6	9	11	12
5 Robert E. Abbott, Jr.	14			
6 Julius Morris	24	49	63	
7 Richard M. Yearwood	72	115		

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March 8, 1976

COURT convened at 11:00 A.M.

COURT: Now gentlemen, I understand that counsel have gotten your exhibits organized to your satisfaction with the list of those exhibits having already been admitted, now having been reduced to writing. A list of 37 exhibits having been admitted for the plaintiff or already in the file, a list of defendant's exhibits A through D. . .

MR. PARKER: If the Court please, one matter concerning the exhibits, a preliminary matter. . .

COURT: All right, what's the problem?

MR. PARKER: This morning when going through the exhibits, this thick plan, I remember referring to, this plan of Greenetown Village - was the final plan and it does not seem to have a number on it - the preliminary plan is number 36 - that's correct, had a number on it and this should be admitted or one like it should be admitted, probably it should be admitted in our case. It seems to me it could be admitted without any objection by Mr. Slaughter as the final plat. In so saying - well first let me see if Mr. Slaughter has any objection to its being admitted. . .

MR. SLAUGHTER: As I understand it, your exhibit 2, was a preliminary plat submitted on February 26. . .

MR. PARKER: Just a moment. . .

1 COURT: Well what is 36?

2 MR. PARKER: Well I believe I have straightened

3 out that problem Your Honor, I have just straightened it out.

4 Number 36 is the preliminary plat and number 2 already admitted

5 is the final plat of Mr. Matthews so we did have this in. Now

6 what this is. . .

7 COURT: By what number is it in?

8 MR. PARKER: Number 2. . .

9 COURT: All right, is it on there?

10 MR. PARKER: This isn't it, this is a copy. . .

11 COURT: Well where is exhibit number 2?

12 MR. SLAUGHTER: Right here Your Honor. . .

13 COURT: Is that properly marked?

14 MR. PARKER: Yes sir. I wish I hadn't said anything

15 about this exhibit.

16 COURT: Exhibit 2 is the one you propose to have

17 admitted and it's already in?

18 MR. PARKER: Yes sir. For the sake of the record

19 while I am here, let me make note of what I think this is.

20 This is another copy of exhibit 2 that belongs in the Supreme

21 Court I believe with the record in another case. . .

22 COURT: Is it marked in that case?

23 MR. PARKER: It's marked in that case.

24 COURT: Well it doesn't - it's not involved in this

25 case and that's another matter altogether. We are certainly

1 not going to keep up with somebody else's exhibits but if it's
2 involved in this case,we ought to consider it right now so we
3 can get it in in proper order.
4 MR. PARKER: I had thought that it was but I see
5 that it has been done properly.
6 COURT: All right, sir, we have got all of our
7 exhibits properly marked and we may have to take up some
8 others, of course, before the case is closed. Are you all
9 otherwise ready to proceed?
10 MR. PARKER: One other preliminary matter Your Honor
11 . . .
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13 * * *
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25 MR. PARKER: One final matter, immediately or within

1 a matter of days after the last hearing in this case Mr. Vivier
2 came to me and said he had made a technical error in a portion
3 of his testimony. Now this is not my part of the case but
4 when it again becomes my part of the trial I will put Mr. Vivier
5 on to correct that. He came to me in that connection. I simply
6 wanted to enlighten the Court at this stage of the game, to tell
7 the Court that I know about the fact that there was an error
8 in there and to put everybody on notice of that fact. We will
9 correct that in due course in rebuttal testimony.
10 COURT: Are you aware in what area the error is suppose
11 to be involved in?
12 MR. SLAUGHTER: Your Honor, this is the first time
13 that I. . .
14 COURT: Well I don't know of anything that will be
15 accomplished in mentioning it unless opposing counsel know what
16 it is Mr. Parker.
17 MR. PARKER: I will be happy to make that information
18 available. . .
19 COURT: All right, you may do that informally.
20 MR. PARKER: . . .but it's not that important Your
21 Honor.
22 COURT: All right, let's go ahead with the evidence.
23 MR. SLAUGHTER: Mr. Dickey actually cross examined
24 Mr. Vivier and I had rather he be present when Mr. Parker and
25 Mr. Vivier tell us what the technical problem is.

1 MR. PARKER: From my point of view that would be in
2 rebuttal, but I will be happyto tell you outside the proceedings
3 Mr. Slaughter so you will know by way of discovery.
4 COURT: All right, Mr. Slaughter, you may call your
5 first witness.
6 MR. SLAUGHTER: Mr. Lawson please.
7
8 THOMAS LAWSON, having been duly sworn, was called
9 on behalf of the defendant and testified as follows:
10
11 DIRECT EXAMINATION
12 By: Mr. Slaughter
13 Q Mr. Lawson, you were the last witness - you have
14 already been sworn in this proceeding, have you not?
15 A Yes.
16 Q You were the last witness who testified before the
17 recess on December 5, 1975, and towards the end of cross ex-
18 amination, Mr. Parker questioned you with regard to Plaintiff's
19 Exhibit 3-A, which testimony shows was the plat appended to the
20 interim zoning ordinance, did Mr. Parker at that time ask you
21 in substance whether your Planning Commission of Greene County
22 had anything to do with this plat?
23 A Yes sir, he did.
24 Q And what was your answer?
25 A I said no sir, but in a physical - not in the actual

1 drawing.

2 Q Well what do you mean by in the physical but not

3 in the actual drawing sir?

4 A Well it is a copy or the map - or a copy of the

5 map that was recommended to the Board of Supervisors for adoption

6 along with the interim zoning ordinance but we actually didn't

7 have any part of the drawing or design of this map.

8 Q Can you say whether or not you saw that map before

9 that ordinance was submitted to the Board of Supervisors?

10 A Yes sir.

11 Q I have no further questions.

12 COURT: All right, Mr. Parker.

13 MR. PARKER: I don't have any questions.

14 COURT: All right, Mr. Lawson, thank you sir. What

15 exhibit number were you just referring to Mr. Slaughter?

16 MR. SLAUGHTER: I'm sorry, Your Honor, that was 3-A.

17 COURT: And that's Plaintiff's Exhibit 3-A?

18 MR. SLAUGHTER: Plaintiffs Exhibit 3-A. Mr. Garth

19 please.

20

21 SHERMAN W. GARTH, having been duly sworn, was called

22 on behalf of the defendant and testified as follows:

23

24 DIRECT EXAMINATION

25 By: Mr. Slaughter

1 Q Would you state your name and address please sir?

2 A Sherman W. Garth, Stanardsville, Virginia.

3 Q What is your occupation Mr. Garth?

4 A Commissioner of Revenue of Greene County.

5 Q How long have you been in that position?

6 A This is the 9th year as Commissioner and I was

7 a deputy for 20 prior to that.

8 Q 20 years prior to that?

9 A Yes sir.

10 Q Mr. Garth, could you describe that portion of your

11 duties as Commissioner of Revenue which relate to land valuations?

12 A Well I have to appraise - when we have a reassessment

13 I have to go by that or unless it is subdivided or a portion of

14 it cut off. I do not have the authority to change the value of

15 it unless it is divided. And if it's a building unit, I have to

16 appraise - assess it at 10 percent of what it's appraised at.

17 Q I think you maybe have in a slight sense put the

18 cart before the horse. You, of course, have testified that you

19 cannot change any reappraisals?

20 A No sir.

21 Q But when there is subdivision between the re-

22 appraisals, can you tell us who makes the reappraisal?

23 A I do.

24 Q Can you tell us whether or not you have access to

25 the figures involved in sales of property in Greene County?

1 A Yes sir.

2 Q Can you give us a rough estimate of the number of
3 transactions that go through your office every year in which an
4 appraisal is required?

5 A Let's see, do you mean whatis already on plat and
6 being sold or one that goes on the plat that have to put a value
7 on?

8 Q One that goes on the plat that you have to put a
9 value on and then I think ones that actually hae been sold?

10 A That's going to vary a lot. Last year we didn't
11 have too many but about three years ago we had a lot. I'd say
12 about 300 or 400 a year.

13 Q I see. . .

14 A On an average.

15 Q I realize you haven't counted it up. Now Mr. Garth,
16 are you familiar with the property that is the subject of this
17 action, this property immediately to the east of Locust Lane
18 subdivision, approximately a half mile northwest of Ruckersville?

19 A I know where it is located, yes sir.

20 Q Now based on your experience in your capacity as
21 Commissioner of Revenue, could you - do you have an opinion as
22 to the value that land would have in 5 acre lots?

23 A Well based on sales of 5 acres, I would say $12,000
24 or $15,000 per lot.

25 Q Per 5 acre lot?

A Yes sir.

Q No further questions.

CROSS EXAMINATION

By: Mr. Parker

Q Mr. Garth, you indicated a minute ago in your testimony that there is a difference in the rate at which land is selling now and before, is that correct?

A Well it is increasing all the time.

Q Has it slowed down with the present economic condition - slowed up with it?

A I believe we have just about as many transfers as we usually do Mr. Parker.

Q Now tell me about subdivision sales, have they been as high as they were, say two years or three years ago? --lots in subdivisions, undeveloped lots in subdivisions?

A I don't believe we have as many sales right now.

Q Now do you have an opinion Mr. Garth as to how long it would take to sell 22 five acre lots that are together in one subdivision?

A It would depend on the developer, how he pushed it I would think Mr. Parker, some of them.

Q And on the price?

A The price, right.

Q Suppose they were $12,000 and $15,000 prices all

1 together in one place?

2 A It would be hard to say. Of course we have one

3 that has just been put on plat last year and I think they have

4 sold 14 lots and they are lots of about 2 acres - that's Farm

5 Colony.

6 Q I'm talking about 5 acre lots - that's 2 acre lots?

7 A We don't have any subdivisions that have 5 acres

8 on an average.

9 Q Well you don't have them pending then as to how

10 long it would take to sell one with 5 acres?

11 A No sir, I think it would be up to the developer

12 how he would push it in order to sell it.

13 Q So although a particular lot in Mr. Matthews' sub-

14 division would sell for $12,000 to $15,000, if it were 5 acres

15 in your opinion, to sell - you don't have any idea how long -

16 you don't have an opinion as to how long it would take to sell

17 20 or 22 of them?

18 A Not five acre lots, no sir.

19 Q Thank you sir.

20 COURT: Mr. Garth, what is the market generally from

21 the standpoint of geographic area, what's the buying market

22 of Greene County lots?

23 A You mean for 5 acre. . .

24 COURT: Or any size lot, where are the purchasers

25 generally from?

A Well Enderly Acres down there, most of those now are about $4500. They won't average quite three quarters of an acre. You are familiar with that.

COURT: What general area are they purchasing from. . .

A On Route 29, right over next to the Greene and Albemarle line.

COURT: Well where are the people from that buy these lots?

A Most of those people are from Charlottesville and a few more.

COURT: All right, now you mentioned about lots being sold in Greene County, what is the large bulk of purchasers - what source do they come from? Are they local people or out of County people?

A Out of County people.

COURT: Now would it make any difference as to whether they were one size or the other, as to where the lot owners would come from?

A I wouldn't think so Your Honor.

COURT: All right, any other questions of counsel?

REDIRECT EXAMINATION

By: Mr. Slaughter

Q Mr. Garth, you mentioned Farm Colony in lots of approximately two acres or a little less, what are the prices

of those lots on an average?

A About $14,000 to $22,000.

Q And could you say whether or not Farm Colony also has a certain amount of land held in reserve?

A They do.

Q Do you know off hand approximately how much?

A I believe it's about 180 acres. I would have to check the records to be sure of that figure, I'm not positive.

Q I asked you Mr. Garth and I apologize - I didn't make a note, but what did you say the prices were?

A $14,000 to $22,000.

Q I have no further questions.

RECROSS EXAMINATION

By: Mr. Parker

Q Mr. Garth, where is Farm Colony?

A It's up in the Monroe District - do you know where Parker's Mountain is?

Q I know where it is but I don't know if the record will show it. Is there a highway number that goes out to Parrott's place - do you remember the highway number?

A No sir, I don't know the number.

Q Excuse me just a moment Your Honor. I have plaintiff's exhibit number 24, Mr. Garth, would you please put your initials at the approximate location of Farm Colony?

1 A Here is Geer....right over here. Do you want me
2 to put my initials?
3 Q Yes sir.
4 A All right. (Witness put initials on plaintiff's
5 exhibit 24, approximate location of Farm Colony)
6 Q Now Mr. Garth, Farm Colony is quite an unusual
7 operation isn't it?
8 A The only one we have in the County.
9 Q Like that?
10 A Yes sir.
11 Q In the nature of this operation - what it is
12 doing is selling land that people can build on with the right
13 to a pro-rata share in the operation of a farm, isn't it?
14 A That's my understanding.
15 Q And that's the novelty of it?
16 A Yes sir.
17 Q And, of course, that pro-rata share in an operating
18 farm's income or what not is part of the price of the lot out
19 there isn't it?
20 A I don't know.
21 Q It might be?
22 A It might be.
23 Q That's all.
24 SLAUGHTER: No further questions.
25 COURT: All right, Mr. Garth, you may stand aside.

1 MR. SLAUGHTER: May Mr. Garth be excused to go to
2 his office?
3 COURT: Yes, I'm sure he will be available if some-
4 body needs him. You may be excused and we will call you back
5 when we need you. Thank you sir.
6 MR. SLAUGHTER: Robert E. Abbott, Jr. please.
7
8 ROBERT E. ABBOTT, JR., having been duly sworn, was
9 called on behalf of the defendant and testified as follows:
10
11 DIRECT EXAMINATION
12 By: Mr. Slaughter
13 Q Would you state your full name and address please?
14 A Robert E. Abbott, Jr., 316 Camellia Drive, Char-
15 lottesville, Virginia.
16 Q What is your profession Mr. Abbott?
17 A I'm Director of the Thomas Jefferson Planning
18 Commission.
19 Q How long have you been in that position?
20 A I've been in that position three years, two
21 months.
22 Q And could you tell us Mr. Abbott whether or not
23 you or someone else in your office was the first person in the
24 Thomas Jefferson Planning Commission to make contact with
25 officials of Greene County?

A I was the first person from that office.

Q Could you tell us in essence when that contact was?

A That contact was in March of 1973. I was requested by a member of the Planning District Commissioner who represents Greene County to come out to a meeting of the Greene County Planning Commission to evaluate a proposed town house ordinance which they were going to combine with the subdivision. That was when I first had contact.

Q Could you tell us in summary what the contacts were over the course of that spring up until the early summer?

A I said my first contact with the Commission was in early March of 1973 and after looking at the proposal for a town house ordinance I suggested to the Planning Commission that night in March of '73 that I thought it would be wiser for them to go into a complete comprehensive planning process where they would go through the preparations and plans for zoning ordinances like that. Reading the minutes of the Planning Commission I believe they recommended to the Board of Supervisors in April of '73 that this be done. And in reading the minutes of the Board of Supervisors, the Board of Supervisors requested at their May meeting, that the Thomas Jefferson Planning Commission assist the local planning commission to go into this planning process. The P.D.C. at their June meeting authorized the work and then we were prepared to start in August of '73.

1 Q You mentioned the P.D.C., what is. .

2 A I'm sorry, the P.D.C. is the Thomas Jefferson

3 Planning District Commission, it's just an abbreviation.

4 Q Now Mr. Evans has testified at length in this

5 case, what was Mr. Evans' first contact with Greene County

6 officially?

7 A Mr. Evans went with me at the March, 1973 meeting,

8 when I attended the Planning Commission meeting.

9 Q And thereafter, could you describe what his contact

10 with Greene County - whether it was more or less say constant

11 than yours?

12 A After the supervisors at their May meeting requested

13 the Thomas Jefferson Planning Commission to provide staff

14 assistance to Greene County, and after the Thomas Jefferson

15 Planning Commission approved said request at the June meeting,

16 was put into our next work program. Mr. Evans and I developed

17 a work program to start on the development of the comprehensive

18 plan. Mr. Evans prepared a work program, I evaluated it and there

19 were some changes. We then attended a meeting of the Greene

20 County Planning Commission in August where we presented the

21 work program, the steps that would need going through. Mr.

22 Evans was there and I was there. Also a short slide show was

23 presented to show some of the maps, some of the procedures that

24 we would be going through. Then after that Mr. Evans started

25 work on the comprehensive plan.

Q And he was basically responsible as he has testified for the comprehensive plan?

A Yes sir.

Q Now sometime during the spring of 1973, was interim zoning ordinance brought up and discussed?

A My first contact as I say was in March of 1973. I do not remember if an interim zoning ordinance was discussed at that time, at that particular meeting. Shortly afterwards, after that meeting I met with Mr. David Dickey, the Commonwalth's Attorney for Greene County, at his office, and we discussed some of the pros and cons of various land use control devices, moritorium, freeze on building permits and interim zoning ordinances but no decision wasmade at that time. I understand that the Board of Supervisors, I believe in June, I can't guarantee this, requested Mr. Dickey to do an interim zoning ordinance which he did. The Board - I believe the Planning Commission...

MR. PARKER: Your Honor, I object to what he understands - on that basis. . .

MR. SLAUGHTER: Your Honor, I'm willing for that to be stricken. . .

COURT: All right, it's understood that Mr. Abbott's references to those matters which would be completely hearsay will be stricken but insofar as it was discussed generally with regard to the interim ordinance it seems to me that that's a matter of policy and I'm not sure that it would be necessarily objectionable

1 as hearsay, if it was subject to a continued discussion. The
2 question is whether you are relating to an isolated incident
3 or whether you are talking about something that came up from
4 time to time in general discussion. Can you enlighten us further
5 on that Mr. Abbott?
6 Q I was going ahead and ask this question to clarify
7 it, if the Court please. . .
8 COURT: All right.
9 Q Following the - that portion of your testimony
10 relating to a preparation of an ordinance by Mr. Dickey, was
11 an ordinance or at least a draft of an ordinance prepared
12 within your organization?
13 A Yes, it was. The Planning Commission in the July
14 meeting requested that my organization prepare an interim
15 zoning ordinance and we did this in the first few weeks of
16 July and presented it back to the Planning Commission.
17 Q Now could you tell us when the zoning ordinance
18 was finally presented for advertisement - finally presented to
19 the Planning Commission, then approved by the Planning Commission
20 and the Board of Supervisors for advertisement?
21 MR. PARKER: I wonder if Mr. Slaughter could ask one
22 question at the time. . .
23 COURT: I don't know that he is going into but one
24 question. He hasn't finished it yet. Go ahead Mr. Slaughter,
25 repeat the question.

1 Q I think I was finishing as Mr. Parker started
2 talking but perhaps I can make it brief, when was the interim
3 zoning ordinance approved by the Board of Supervisors for
4 advertisement for public hearing?
5 A I believe in February of '74.
6 Q Now could you say whether or not the ordinance
7 was drawn, at least as advertised, drawn in your office under
8 your supervision?
9 A Yes, it was.
10 Q Could you tell us whether or not those in your
11 office were familiar with Section 15.1-490 of the Code of
12 Virginia?
13 A Yes, they were.
14 Q And were provisions of that ordinance considered
15 in the drawing of this interim zoning ordinance?
16 A Yes, they were.
17 Q Would you indulge me just a moment Your Honor, now
18 that I have other counsel?
19 COURT: All right.
20 Q In order to be certain that the record is clear,
21 was reasonable consideration given to these items?
22 MR. PARKER: Excuse me, Your Honor, I think that's a
23 question of law for the Court and I move to strike the last
24 question.
25 COURT: What's the basis of the objection now?

1 MR. PARKER: I think it's a question of law for the
2 Court. The. . .
3 COURT: Whether consideration. . .
4 MR. PARKER: . . .was consideration given to it
5 and the question of whether reasonable consideration was given
6 to it is the ultimate conclusion of law.
7 COURT: By whom?
8 MR. PARKER: By people who were planning it as agents
9 of the County.
10 COURT: The objection is overruled if it is this
11 agency. Now if it's another I think your objection is well
12 taken, as to whether the supervisors considered he certainly
13 can't answer it. But he can certainly answer it as to his
14 agency if he is involved in making the recommendation. Which
15 way do you want your objection to apply?
16 MR. PARKER: My understanding of the question, he
17 asked as to whether people in his office considered Section. . .
18 COURT: That's already been done. We are on another
19 point now aren't we?
20 MR. PARKER: . . .15.1-490 - that was the last question
21 and answer Your Honor - whether the people in his office considered
22 Section 15.1-490 in drawing up this ordinance. Now it seems
23 to me whether that Section was complied with or not, is a matter
24 for the Court to decide and not a matter for Mr. Abbott to testify
25 on. He may testify what they did do.

1 COURT: Are you willing to concede then that the factual
2 issue is not before the Court as to whether they considered it
3 but only the legal point because it's a question of whether it's
4 law or fact. You've got a whole list of items in your bill of
5 complaint which relate to that, as to whether they are in fact
6 law or fact.
7 MR. PARKER: I'm saying Your Honor that his conclusion
8 as to whether they considered it or not is not admissible. What
9 they did in that office with respect to considering it is
10 admissible.
11 COURT: All right, Mr. Slaughter, I think the point
12 may be then - you are asking for a conclusion rather than a
13 statement of fact. See if you can't be more specific about what
14 you are talking about and what they did insofar as considering
15 the application of the ordinance.
16 MR. SLAUGHTER: If the Court please I asked if they
17 had considered it and they said yes and it certainly seems
18 to me a question of fact as to whether they did or did not
19 take into consideration various items of 15.1-490. Now the
20 question in which Mr. Parker objected was whether they gave
21 reasonable consideration, which of course is the language of
22 the statute and I was simply being. . .
23 COURT: Let's see the statute. You all are obviously
24 talking about something that you are more familiar with than
25 I am right at the present time.

1 MR. PARKER: What I said Your Honor, and I think the
2 record will bear me out is that I objected to that question and
3 moved to strike the last question, and answer so I think my
4 objection applied to both.
5 COURT: Well does that Section refer to recommending
6 agency or adopting agency?
7 MR. SLAUGHTER: It simply says it must be drawn taking
8 into reasonable consideration.
9 COURT: Well let's see. . .
10 MR. SLAUGHTER: Ordinances of districts shall be drawn
11 with reasonable consideration. . .
12 COURT: Section 15.1-490. I must say that I am by
13 no means able to memorize this Code, particularly the section
14 with reference to planning and zoning. Gentlemen, it seems to
15 me that it's a question of what consideration, not whether it's
16 reasonable. That is a conclusion of law. It's up to the Court
17 to decide that but the witness may answer as to what consideration
18 was given. I think your question calls for a conclusion insofar
19 as whether it was reasonable or not Mr. Slaughter.
20 MR. SLAUGHTER: Well then if I understand from the
21 Court, my previous question is - was consideration given and
22 if I understand the Court, the Court would overrule Mr. Parker
23 on his motion to strike that question and answer but sustaining
24 his objection on the question of whether or not reasonable
25 consideration was given. ..

1 COURT: Yes sir, I think that's a point that has'
2 to be considered as a matter of law. Now the fact would be
3 what consideration was given.
4 MR. PARKER: Yes sir, and it seems to me that his
5 answer that consideration was given, which was his answer to
6 the previous question, is only preliminary as to what consid-
7 eration was given.
8 COURT: Well he may follow through but your objection
9 to the last question is sustained insofar as it calls for an
10 opinion from this witness and whether it was reasonable.
11 MR. PARKER: And I respectfully except to the Court's
12 not striking the previous question and answer because I believe
13 that that answer was conclusive.
14 COURT: Yes sir.
15 MR. SLAUGHTER: Could you indulge me just a moment?
16 COURT: Yes sir.
17 MR. SLAUGHTER: No further questions Your Honor.
18 COURT: All right, Mr. Parker, you may cross examine.
19 MR. PARKER: May I have just a moment?
20 COURT: Yes sir.
21 MR. PARKER: No questions Your Honor.
22 COURT: All right, you may stand aside Mr. Abbott.
23 MR. SLAUGHTER: Mr. Julius Morris please.
24
25

JULIUS MORRIS, having been duly sworn, testified as follows:

DIRECT EXAMINATION

By: Mr. Slaughter

Q Would you state your full name and address please sir?

A Julius Morris, Quinque, Virginia.

Q What is your occupation Mr. Morris?

A County Administrator.

Q When did you become County Administrator?

A November 1, 1973.

Q For the record, could you tell us the County for which you are County Administrator?

A Greene County.

Q Do you have any other positions Mr. Morris?

A Yes, I do.

Q What are your other positions?

A I'm also the subdivision agent, building official, and zoning administrator.

Q When you were brought to Greene County, or when you were hired by the County of Greene in November of 1973, what were your positions at that time?

A I was appointed County Administrator and subdivision agent.

1 Q And at what time did you assume your subsequent title
2 or other titles?
3 A In December I was appointed building inspector
4 and in March of 1974, appointed a zoning administrator.
5 Q Could you tell us in essence what your position
6 entailed from November 1, 1973, when you came with the County
7 to March 1, 1974, when the interim zoning ordinance was passed?
8 A Okay, it has been County Administrator, subdivision
9 agent and building inspector.
10 Q Now can you tell us essentially what with regard
11 to let's say subdivision of Greene County entailed - your job
12 entailed?
13 A I reviewed all the plats that were submitted for
14 compliance of the subdivision ordinance.
15 Q As such could you say whether or not you knew the
16 number of subdivisions for which applications were being made
17 and the number of lots that the subdivision contained?
18 A Yes, I would.
19 Q Have you gone through your records and totaled
20 the number of subdivisions which application was made between
21 the 1st of November, 1973 when you were hired by the County
22 of Greene and March 1, 1974?
23 A Yes, I have.
24 Q Could you tell us how many lots - first how many
25 subdivisions there were?

1 A There were 7 subdivisions being proposed.

2 Q Now when you say being proposed, would you describe

3 for the Court, what being proposed meant at that time?

4 A They had submitted the preliminary plat.

5 Q And when they submitted the preliminary plat could

6 you then tell the Court for the record what process was required

7 in order for the subdivision to be finally approved?

8 A After I checked the preliminary plat, then if it

9 was approved they would submit the final plat, which had to be

10 submitted within six months after the final plat had been approved.

11 Q Now how many lots were included in these seven

12 subdivisions that were being proposed during these first four

13 months when you were on the job?

14 A 772.

15 Q And how many units were contained in the proposal

16 for the 772 lots?

17 A 940 units.

18 COURT: What is that now?

19 A 940 units.

20 COURT: What is the word "unit" related to?

21 A On one subdivision it was apartment units. ..

22 COURT: I see, so some of them were multiple units

23 on single lots?

24 A Yes.

25 COURT: All right - 900 and how many?

1 A 940.

2 Q Mr. Morris, at or shortly after the time that
3 you became employed by the County of Greene, were you aware
4 that a planning process was going on under Mr. Evans of the
5 Thomas Jefferson Planning Commission?

6 A Yes, I was.

7 Q How did you become aware of that? Do you recall?

8 A Well after I was appointed as the County Administrator
9 and the subdivision agent, I attended the Planning Commission
10 meetings.

11 Q Do you recall approximately how many Planning
12 Commission meetings there were between November of 1973 and
13 March of 1974?

14 A I believe it was about three meetings.

15 Q Could you say whether or not you were aware that
16 interim zoning ordinance was presented to the Planning Commission
17 and then recommended to the Board of Supervisors?

18 A Yes.

19 Q And were you involved - could you say to what
20 extent you were involved in the process of the approval of
21 a subdivision - of the interim zoning ordinance, excuse me,
22 by the Board of Supervisors in submitting it for advertisement?

23 A Yes, I believe it was on January 16th when the
24 Planning Commission recommended to the Board of Supervisors
25 that they consider adopting an interim zoning ordinance. And

on February 5, at their regular meeting date they approved to advertise for a joint public hearing, to consider the adoption of the interim zoning ordinance.

COURT: Now this is what year?

A 1974.

COURT: February 5, 1974?

A Right.

Q And for what date was the public hearing advertised preliminary to the adoption of the interim zoning ordinance?

A March 2, 1974.

Q Now Mr. Morris can you tell us when you first had any contact with Bennett Matthews or any employee of his in the proposed Greene Town Subdivision?

A February 4, 1974, a Mr. Harris submitted his preliminary plat.

Q And who was Mr. Harris?

A He was the surveyor for Mr. Matthews.

Q Would you tell us what happened after he presented his preliminary plat?

A When he submitted his preliminary plat on February 4, I noted that he had, I believe it was 48 townhouse units included. I advised him due to the side yard requirements in a subdivision ordinance that he would have to eliminate the town house units.

Q Did you discuss with him then the possibility

1 of the zoning ordinance?

2 A I did tell him that the zoning ordinance had been

3 recommended by the Planning Commission.

4 Q And at that time the Board of Supervisors had not

5 acted, is that correct?

6 A That's correct.

7 Q When was your next contact with any employee

8 of Mr. Matthews?

9 A February 26, 1974, when he submitted his revised

10 copy of the preliminary plat.

11 Q And what action was taken at that time?

12 A He eliminated the town house units and on that day

13 he received preliminary approval of that plat.

14 COURT: Let me ask right here, Mr. Morris, was the

15 filing of the preliminary plat pursuant to the subdivision

16 ordinance then existing?

17 A Yes.

18 COURT: What relevance would any buildings or any use

19 have to the filing of the subdivision plat at that time? Why

20 would it have been appropriate to put anything other than the

21 lot lines on the plat insofar as what was required to conform

22 with the subdivision ordinance?

23 A In reference to the town house units?

24 COURT: Or anything - why would you have to know what

25 the lot is going to be used for?

A Well it was side yard requirements in the subdivision ordinance.

Q Did the subdivision ordinance pertain to uses, such as town houses?

A No, it did not pertain to uses but it was no way he could meet the side yard requirements since a town house unit is a separate unit altogether.

COURT: Well did the subdivision ordinance then relate to single family uses of lots or did it even contemplate multiple family units on a lot?

A It didn't even contemplate multiple family units.

COURT: Well maybe I can get that information some other way but I fail to see what significance is - the showing of any building on a mere subdivision plat would have when it is not related to zoning. Can you all enlighten me on that - can counsel stipulate anything on that?

MR. DICKEY: Your Honor, I believe we can stipulate that insofar as the apartments are concerned, it had nothing to do with the subdivision ordinance but town houses are designed to be sold as separate units, on separate lots and the first plat shown, showing the number of lots, I believe 12 feet or 16 feet wide - I don't remember the width frankly - to accommodate the town houses be sold separately with common lines, common walls between and thus separate lots had to be shown in the subdivision plat for the purpose of owing conveyance, individually.

1 COURT: Well how would that affect the subdivision
2 - would it be because the lots are smaller than that allowed
3 under the subdivision ordinance?
4 MR. DICKEY: Well quite a bit - also the minimum
5 width of a subdivision lot at that time was 80 feet, these were
6 16 feet wide. . .
7 COURT: All right, that's what I'm. . .
8 MR. DICKEY: . . or 12 feet, I don't know which.
9 COURT: . . what difference does it make what it is
10 used for if it doesn't comply with the ordinance - that's what
11 I'm getting at. If he was looking for a lot of a certain size,
12 what difference did it make other than to justify why it was
13 smaller? --that's what I'm asking?
14 MR. DICKEY: Essentially Mr. Morris, I think Your
15 Honor turned it down because of the subdivision ordinance -
16 they were too small, a quick way to express it, would be to
17 say that they were town house. . .
18 COURT: Well that's what I'm getting at. The fact
19 that the lots were smaller than that specified is the basis upon
20 which you advised him to resubmit it?
21 A Right. ..
22 COURT: All right, in what way was it too small? This
23 is something you all are apparently assuming that I know but
24 in what way was the first plat unacceptable specifically?
25 A Of course, like Mr. Dickey stated. . . .

1 MR. PARKER: Well Your Honor, I did not stipulate what
2 Mr. Dickey had to say. I think he said. . .
3 COURT: All right. . .
4 MR. PARKER:...to get it from the subdivision ordinance
5 and he may well be that he is correct but. . .
6 COURT: All right, see what you can do as far as
7 explaining unrelated to what Mr. Dickey has said now Mr. Morris?
8 A With central water and sewer, you are allowed to
9 have 80 foot frontage lots and so. . .
10 COURT: Is that the smallest frontage lot permissible
11 then?
12 A Yes.
13 COURT: And what lot size was submitted to you?
14 A I'd say no more than 20 feet.
15 MR. SLAUGHTER: We have that original proposal here
16 I believe.
17 COURT: All right, let's take a look at it.
18 MR. PARKER: The preliminary proposal is number 36.
19 COURT: All right, number 36.
20 MR. SLAUGHTER: Could he look at this Your Honor?
21 COURT: Yes sir. I take it that what Mr. Morris has
22 said about eliminating town houses means he adjusted the lot
23 sizes to comply, rather than eliminating town houses per se?
24 Now that word town house, what is wrong with that?
25 MR. PARKER: No sir, what he did was in fact as

exhibit 2 compared to exhibit 36 would show. . .

MR. DICKEY: Eliminating town house lots.

MR. PARKER. He did in fact eliminate the word town houses in that particular use based on what Mr. Morris told him. So I imagine he told him just exactly like he originally told it to the Court here today.

A Looks like they are running around 18 feet - 18 feet wide.

COURT: And what was the requirement then for the minimum lot size under the highest density - would have been 80 feet?

A 80 feet, yes sir.

COURT: All right, that answers the question. It's not the town house per se but lot size. . .

A Yes sir. . .

COURT: The common expression I take it that incorporates all that is saying that town house lots. . .

MR. SLAUGHTER: That's correct, sir.

COURT: All right. Thank you Mr. Morris, go ahead.

Q Mr. Morris, just repeating a question or two to be certain that everything is in, as I understand it, the plat with the "town house lots" removed, that was presented on February 26th was approved, is that correct?

A Yes sir.

Q And could you say whether - well first who came on

that day?

A It was Mr. Harris.

Q Can you see whether or not you discussed with him the status of the proposed interim zoning ordinance?

A Yes, I did. I advised him that the Board of Supervisors had approved to advertise for a public joint hearing to consider the adoption of interim zoning ordinance, that possibly it could affect his development.

Q Do you recall what his comment was? --whether there was any statement made by him?

A I do not. I don't recall.

Q Do you recall talking to anyone else, Mr. Matthews or any other employee of Mr. Matthews, before the date on which the interim zoning ordinance was adopted which was March 2, 1974?

A I don't recall talking to anyone before, before March 2nd.

Q Now at the hearing do you recall seeing anyone in anyway connected with Mr. Matthews' organization or any employee of Mr. Matthews?

A Yes I did.

Q Who was that?

A Mr. Robert Parrott.

MR. PARKER: Now Your Honor, this - Mr. Matthews has indicated on a number of occasions in his testimony that Mr.

1 Harriswas his agent to handle this matter and brought this plat
2 up here. But if the County proposes to - we are only going to
3 get into hearsay here unless the County can show that this man
4 was Mr. Matthews' agent.
5 COURT: All right, the question has been raised. . .
6 MR. SLAUGHTER: He has testified that Mr. Parrott
7 was his employee. . .
8 MR. PARKER: Mr. Harris is - is Mr. Harris the one
9 you are going to get into?
10 MR. SLAUGHTER: No, Mr. Parrott.
11 MR. PARKER: Mr. parrott is the one I'm objecting to.
12 COURT: I understand, we are talking about Mr. Parrott
13 now and you are objecting to the reference to the conversation
14 with Mr. Parrott on the grounds that it would be hearsay. ..
15 MR.PARKER: Yes sir.
16 MR.SLAUGHTER: May it please the Court, there was no
17 reference to a conversation at that time with Mr. Parrott. I
18 simply asked if he observed Mr. Parrott at the hearing.
19 COURT: Oh, I see.
20 MR. PARKER: But it is not relevant Your Honor, unless
21 they show that some agency - was some agency situation.
22 COURT: Well your objection is on hearsay, now what's
23 the hearsay of his appearance at the. . .
24 MR. PARKER: Very often Your Honor, hearsay objection
25 is coupled with relevancy objection. . .

1 COURT: Well you didn't make that one, now the objection
2 is overruled as to hearsay, he hasn't talked about what Mr.
3 Parrott said.
4 MR. PARKER: Well then I object as to relevancy.
5 COURT: Objection is overruled, go ahead.
6 MR. PARKER: Note our exceptions.
7 COURT: Yes sir.
8 Q Mr. Morris, what was the next contact you had with
9 Mr. Matthews or anyone involved with Mr. Matthews concerning
10 the Greene Town subdivision?
11 A I believe it was April or May that Mr. Harris and
12 Mr. Matthews came to the office and on that day we discussed the
13 hardship clause that was included at the public hearing when the
14 ordinance was adopted.
15 Q And what in essence was the hardship clause?
16 A Since he had received preliminary approval and
17 - he could apply to the Board of Zoning Appeals for a special
18 exception on lot sizes.
19 Q If he could show a hardship?
20 A Yes.
21 Q Now where did that meeting take place, do you
22 recall?
23 A At my office across the street, adjoins the law
24 building.
25 Q When did you move your office over there?

1 A In March of '74.

2 Q And how long did you stay over there do you recall?

3 A I believe until June of '74.

4 Q But tothe best of your recollection, the meeting

5 was there?

6 A Yes.

7 Q Had you met Mr. Matthews before?

8 A I don't recall meeting him before, no.

9 Q Can you tell us approximately how long the meeting

10 took place?

11 A I'd say probably about fifteen minutes.

12 Q Do you recall whether or not they made an appointment

13 with you ahead of time?

14 A No, I do not.

15 Q Do you recall approximately what time of day it

16 was?

17 A I believe it was about ten o'clock in the morning,

18 something like that.

19 Q Could you give the Court anymore details of how

20 the conversation ran?

21 A I can only recall discussing with Mr. Matthews

22 and Mr. Harris the need of their applying to the Board of

23 Zoning Appeals, you know if they felt they had in fact a hardship

24 before I could give final approval to his plat.

25 Q Well what was the next contact you had with Mr.

1 Matthews or anyone in his organization?

2 A In July or August I called his office to remind

3 him of the deadline of getting his final plat submitted. On

4 August 26th I was not in the office when the final plat and

5 petition was submitted.

6 Q Do you recall talking to Mr. Matthews or anyone

7 else other than the phone call you made to remind them of the

8 deadline of the final plat?

9 A I say about a week after I called, I met Mr.

10 Parrott, Mr. Robert Parrott on the street and also reminded

11 him of it - of the deadline.

12 MR. PARKER: If the Court please, unless it is

13 established that Mr. Parrott is Mr. Matthews' agent to receive

14 that information, that is not being first established - that

15 answer and question.

16 COURT: And what basis would you have of showing that

17 that would be notice in anyway to Mr. Matthews, Mr. Slaughter

18 or what would this witness know about Mr. Parrott's relationship?

19 MR. SLAUGHTER: Could you indulge me just a moment

20 sir?

21 COURT: Yes sir.

22 MR. SLAUGHTER: It's a matter ultimately for the

23 Court to determine but on page 393 of the transcript of the

24 previous hearing, Mr. Matthews testified that Mr. Parrott a

25 resident of Greene County had been in his employ for approximately

1 two years and as a sales manager of the Culpeper Office. So
2 it would certainly seem to me based on that, that Mr. Morris
3 could testify as to what his contact with Mr. Parrott was.
4 Now the Court may ultimately have to make the decision as to
5 whether or not discussion with Mr. Parrott was notice or any
6 part of notice to Mr. Matthews. . .
7 COURT: All right, Mr. Parker.
8 MR. PARKER: The mere fact that he is a sales manager
9 in anothe office, Your Honor, does not show that his duties
10 had anything to do with this. . .
11 COURT: All right, it is noted that that point may
12 have to be resolved later but for the purpose of the objection
13 right now, the Court will overrule it and take it under advise-
14 ment as to whether it is notice under agency. The fact is that
15 he ha tesified that he told Mr. Parrott and what the legal
16 effect that may be will have to be dealt with later.
17 MR. PARKER: All right, sir.
18 COURT: All right, go ahead.
19 Q Were you in your office when the final plat
20 was submitted?
21 A No, I was not.
22 Q When you returned to the office and found this,
23 what action did you take?
24 A In reviewing his petition I noted that he failed
25 to list all the names and addresses of the adjoining landowners

1 around his development. I then called his office to remind him
2 that we needed this before we advertise it and two days later
3 he did bring me the names and addresses of the adjoining
4 property owners.
5 Q Can you say whether or not the plat was
6 approved under the subdivision ordinance?
7 A No, it was not.
8 Q What action was taken under the zoning ordinance?
9 A His petition was then processed and a hearing date
10 was set for October 25, 1974. . .
11 COURT: Why was it not approved under the subdivision
12 ordinance? What was the objection?
13 A Because the zoning ordinance had superseded the
14 subdivision ordinance.
15 COURT: All right, was because of new requirements
16 under the zoning?
17 A Right.
18 COURT: All right, go ahead Mr. Slaughter.
19 Q Was there something objectionable about the plat
20 under the subdivision ordinance?
21 A No, it was not.
22 COURT: In order to nail it down more specifically,
23 in what way had the subdivision ordinance been superseded, with
24 regard to lot size or in other ways?
25 A Yes, lot size.

COURT: And what change was that?

A In his case from 80,000 to 2 acres.

COURT: Where previously he could have had a lot approved under the subdivision ordinance at 80,000 square feet, under the interim zoning ordinance it would be a minimum of 2 acres?

A Yes sir.

COURT: All right.

Q Now Mr. Morris you have testified that you became Zoning Administrator as of March 1, 1974, is that correct?

A Yes. . .

Q March 2, excuse me?

A Yes.

Q And that was the day on which the interim zoning ordinance was passed?

A I say March 2nd, it was the regular meeting after the public hearing.

Q But you were the first and so far only zoning administrator the County has had?

A Yes sir.

Q Now during the year - well first for the record, although the record is clear certainly from these multitude of exhibits, a permanent zoning ordinance was passed approximately a year after the interim zoning ordinance, is that correct?

1 A Yes sir.

2 Q The interim zoning ordinance went out or ceased to
3 be the law when the permanent ordinance was passed, is that
4 correct?

5 A Yes sir.

6 Q During that year in which the interim zoning
7 ordinance was in effect, could you tell us whether or not there
8 were any applications to the Board of Zoning Appeals for commercial
9 establishements?

10 A Yes, there were.

11 Q Could you tell us what your action had been before
12 the appeal to the Board of Zoning Appeals in that connection,
13 in connection with those establishments?

14 A Other than they would make application in my
15 office.

16 Q And what action would you take?

17 A I would then process the application and forward
18 it to the Board of Zoning Appeals.

19 Q Well could you say whether you approved the
20 application or did you deny it?

21 A That's correct, I would have to deny the application,
22 or permit.

23 Q Now could you tell the Court what action was taken
24 with regard to, if you can recall, the commercial applications?
25 What they were and what action was taken by the Board of Zoning

1 Appeals?

2 A I believe it was about three or four different
3 applications. One was for a Mobile Home Sales and Service on
4 Route 29, north of Route 607 on the southbound lane - that was
5 considered and denied by the Board of Zoning Appeals. The
6 other one was for an auto dealership near Ruckersville on Route
7 29, which would have been south of Ruckersville on the northbound
8 lane. That was considered and approved. There was one from
9 a power company for a power station that was considered and
10 approved. There was one down on Route 33. . .

11 Q Where was the power station do you recall?

12 A I believe it was off Route 743. The other request
13 was on Route 33, east of Ruckersville from Leon Taylor for
14 a warehouse that was turned down.

15 Q If I am correct, there were three applications
16 approved and two denied?

17 A Right.

18 Q Now were other subdivisions turned down by you
19 in connection with your - in your capacity as zoning administrator
20 in which there were constant appeals to the Board of Zoning
21 Appeals during that year?

22 A Yes, there were.

23 Q Could you tell the Court what they were and
24 essentially where they were located and what the action of the
25 Board of Zoning Appeals was?

A Okay, we had one for Greenemarle, Incorporated back in the southeast cluster that was considered and approved.

Q When you refer to the southeast cluster, could you tell us to what you are referring as to the southeast cluster?

A That was one of the primary clusters that was adopted in the comprehensive plan later.

Q Could you say whether or not the essential outline of the comprehensive plan was known to the Board of Zoning Appeals when it took that action?

A I would say so, yes.

Q All right, what action was taken on Greenemarle?

A It was approved with conditions.

Q And what was the approximate average lot sizes of Greenemarle?

A I'd say about 20,000 square feet.

Q What other subdivisions were submitted to the Board of Zoning Appeals?

A All right, we had one for Country Club Overlook on Route 619, I believe it was a 40. . .

COURT: I take it when you say Greenemarle was approved, it was approved for a special use permit?

A Yes.

COURT: It was an exception to the Zoning Ordinance?

A Special exception on lot size.

1 COURT: Special exception on lot size?

2 A Yes.

3 COURT: Any other reason that it had been turned

4 down other than lot size?

5 A No sir.

6 COURT: All right.

7 A The one on Country Club Overlook was considered

8 and approved. I believe the average lot size in there was

9 something like 1.9.

10 Q Could you say whether or not that was in a cluster?

11 A That was outside of a cluster.

12 Q All right, what other subdivisions do you recall?

13 A Greenlea subdivision on Route 607 was considered

14 and approved.

15 Q Is that in a cluster?

16 A Yes sir.

17 Q What was the average lot size there?

18 A I'd say about 20,000 square feet or a little better.

19 Q What other subdivisions were approved?

20 A Okay, Farm Colony on Route 674 was considered and

21 approved. That was about 48 lots, residential lots on a 300

22 acre tract of land.

23 COURT: What size were those lots that were approved?

24 A I'd say they probably would average about an acre

25 and a half.

1 COURT: Again it was because they were under the 2
2 acre minimum, they had to be considered specially?
3 A Yes sir.
4 COURT: All right.
5 Q Could you say whether or not there was a substantial
6 amount of the 300 acres basically dedicated to conservation
7 purposes as a working farm?
8 A Right, it was approximately - I believe it was 200
9 acres left for farm use. In this case each lot had an undivided
10 interest in the total tract, main tract.
11 Q Are there any other properties or subdivisions
12 submitted to the Board of Zoning Appeals?
13 A Yes, there was one - Lake Saponi on Route 29, south
14 of Ruckersville, also in the southeast cluster. That was con-
15 sidered and denied due to the fact that he wanted to build
16 roads that wouldn't meet State specifications.
17 Q Do you recall any other - can you say whether
18 or not Quinque Forest was. . .
19 A Yes, Quinque Forest was another one that was con-
20 sidered and approved.
21 Q Was that in a cluster?
22 A Yes sir.
23 Q How many lots were there?
24 A I am going to have to refer back to my notes -
25 50 lots.

Q And approximately what size?

A 20,000.

Q Was that the entire subdivision or a section of it?

A That would have been a section of it. Let's see there was one more. Richard L. Nunnley, Glendale off of Route 623 for 96 lots that was considered and denied, which was outside the cluster.

COURT: 96 lots?

A Yes sir.

Q Would you indulge us just a moment sir?

COURT: Yes sir. What size were the Glendale lots?

A 20,000 square foot lots.

COURT: Can you be more specific as to where Glendale is located in the County itself? Generally speaking?

A Directly across from the Greene County Elementary School on Route 33.

COURT: And that would be what, a mile east of Stanardsville?

A About a mile and a half I think.

COURT: All right, was that denied only because of the lot size?

A Yes, and also the fact that it was outside of the proposed cluster.

COURT: The fact that some of them were approved with

small lot sizes in cluster or those approaching almost the minimum but those which were outside of the cluster were generally disapproved I take it?

A Yes sir.

Q Mr. Morris, were there. . .

A There was one more I believe, that was for Sterling Gibson on request for exception - special exception on lot size on existing dwellings, that was considered and approved.

MR. PARKER: That's Locust Lane, isn't it?

COURT: Was that in the Locust Lane subdivision of Mr. Gibson's?

A Yes sir, the first portion off the roadway and then three or four more lots down where he lives, west of Ruckersville.

Q Could you say whether or not there were existing houses in an existing subdivision over there?

A Yes.

Q Mr. Morris, did the approval of the application of Sterling Gibson produce any new lots on which houses could be built?

A No, it did not.

Q Why is that?

A Because the houses were already existing on the tract of land - it was rental property.

Q No further questions Your Honor.

1 COURT: Allright, Mr. Parker.

2

3 CROSS EXAMINATION

4 By: Mr. Parker

5 Q Mr. Morris, of - were any of the subdivisions
6 that were approved out of a cluster - that were not in a
7 cluster? --or proposed cluster? Were any of the subdivisions
8 that were approved not in the proposed cluster? Did any of
9 those have a subdivision next to them? Let me rephrase the
10 question Your Honor. Were any of the subdivisions that were
11 denied and were out of the proposed cluster, as to those,
12 did any of those have an existing subdivision next to it?

13 A There were some of both.

14 Q Well which were denied other than the one we
15 are talking about here today? Which ones were denied that
16 were not in a cluster and did have an existing subdivision
17 next to them?

18 A I believe Glendale would have been one.

19 Q Glendale would have abutted on what?

20 A Wildwood Valley I think, a portion of that - Wildwood
21 Valley subdivision.

22 Q Would it have abutted on a portion of Wildwood
23 Valley that was - how much of Wildwood Valley is actually built,
24 what percentage?

25 A I really don't know.

1 Q Well it's mighty small, isn't it Mr. Morris?
2 A I would have to refer to my records, I don't know.
3 Q Well please do.
4 A As to the lots as recorded.
5 Q How many recorded and how many built on, as of that
6 time? As near as you can produce that information?
7 A I have notes here from November 1, 1972 to
8 March of '73, roughly about 60 some lots.
9 Q Where?
10 A In Wildwood Valley subdivision.
11 Q That were filed during that time?
12 A Yes.
13 Q Were there any filed before that time?
14 A I really don't know. I don't have my records
15 here. ..
16 Q We probably already have testimony in the record
17 from another day Your Honor, as to how many lots there are
18 and I believe Mr. Evans told us. . .
19 MR. DICKEY: Your Honor, I believe it's in the
20 exhibits..
21 COURT: Yes, I am sure it has been referred to.
22 Q Well how many of those were built on?
23 A I wouldn't know until I referred back to my
24 records.
25 Q Well do you have records with you upon which you

1 have that information? Can you get that information for me
2 or let me have it later in the day?
3 A Yes. . .
4 COURT: As to how many were built on - as to what
5 date Mr. Parker?
6 MR. PARKER: As of the date that Glendale. . .
7 COURT: Glendale. ..
8 MR. PARKER: . . was applied for and disapproved,
9 that period of time, when Glendale was in issue.
10 A Right, I could get this from Mr. Garth, from his
11 office.
12 Q All right. Let me ask you the same question now
13 with respect to the time that Mr. Matthews applied for his
14 subdivision, how many lots were there recorded in Locust Lane
15 and how many of those had been built on?
16 A I believe it was about 40 lots down there.
17 Q How many?
18 A 40 lots.
19 Q About 40 and how many of them had been built on
20 at that time? --including the rental dwellings which you all
21 later approved as separate dwellings to sell?
22 A I'd say about 50 percent.
23 Q Now what sort of subdivision was Glendale to be?
24 Do I have the right name?
25 A Glendale, right.

1 Q What sort of subdivision was Glendale to be?

2 A Do you mean permanent type homes. . .

3 Q Permanent type homes or recreational development

4 or mixed or what? We have used those three classifications

5 before. . .

6 A Permanent type homes.

7 Q Now what type of subdivision is Wildwood Valley?

8 A Some of both.

9 Q Mixed?

10 A Yes.

11 Q Now what in Wildwood - where did - where would

12 Glendale abutted Wildwood Valley? On what would have been its

13 relative position to Wildwood Valley, northeast, southwest...

14 A Would have been I'd say southwest. Well no,

15 I guess you would have to say southeast.

16 Q Down the stream from the lake and . . .

17 A It would have been south of the development.

18 Q All right, sir. Now you said that the zoning

19 ordinance with respect to Mr. Matthews changed things from

20 80,000 to I believe the way you put, two acres?

21 A Yes sir.

22 Q Actually for 10,000 - two acres roughly - from

23 10,000 feet to 2 acres wasn't it? Weren't you thinking about

24 that 80 foot front line requirement - because 80,000 square feet

25 would be about 2 acres?

A Yes, if I said that, it would be incorrect. ..

Q Would be 10,000?

A Would be 10,000.

Q I think your tongue slipped, and I was just going to give you an opportunity to correct that. In addition to lot size requirements, depth - the lot size in this subdivision - well there was a setback requirement in fact, line requirement in your. . .

A Yes sir.

Q It's in paragraph 4, 5 and 8, both in the amended portion and in the portion before the February, 1973, amendments? That is it shows on page 21 and 11?

A Right.

Q Now your duties as subdivision agent included certainly the evaluation of whether the plats that were given to you met the requirements of this ordinance, that's what you testified to before wasn't it?

A Yes sir.

Q And because Mr. Matthews showed on his plat buildings, town houses on his preliminary plat, town houses which did not meet the requirements of 4, 5 and 8 - that preliminary plat could not have met the terms of this ordinance?

A That's correct.

Q And you would have considered - and you did consider it your duty to deny it on that account, did you not?

1 A Yes sir.

2 COURT: Are we talking about the width of the lots

3 Mr. Parker?

4 MR. PARKER: The set back requirements.

5 COURT: Set back, all right. Now which. . .

6 MR. PARKER: 4, 5 and 8 - no buildings shall be con-

7 structed on any lot any closer than 25 feet from the street

8 right of way line and within 10 feet of the side property line.

9 A Well 10 feet is what I was. . .

10 Q And the 10 foot part of it was what he couldn't

11 make with obviously a building that had - build the wall right

12 on the property line. . .

13 A Right, of course. . .

14 Q Might have been some other requirements in there

15 too but he didn't meet this one?

16 A Right.

17 COURT: Now are you talking about the subdivision

18 approval or the building permit for approval?

19 Q The subdivision ordinance of Greene County - I'm

20 referring to Plaintiff's Exhibit number 1 Your Honor.

21 COURT: Well you could have that violation on a lot

22 which complied. Now the question is when do you make that

23 determination, when a building is applied for or when the lot

24 approval is applied for?

25 Q May I inquire?

1 COURT: Yes sir.

2 Q Mr. Morris, the only time you saw these things
3 was prior to the recordation of the plat, is that correct? Once
4 the. . .

5 A Yes. .

6 Q . . .plat was signed by you, the plat was recorded,
7 that as far as you were concerned, this was a subdivision
8 ordinance and that was all that you could do, wasn't it?

9 A At that point. Of course, when the building was
10 actually placed on there, I would have to make sure that it met
11 . . .

12 Q Met the requirements?

13 A Right.

14 Q So you were interested also - what procedure would
15 you follow if the building did not meet the requirements at that
16 time? --as to - absent the building code which we didn't have
17 at that time?

18 A Do you mean after. . .

19 Q As far as the subdivision ordinance itself was
20 concerned, what procedure would you follow if a person - if
21 after the plat was recorded the person put a building on there
22 which ran right out to the property line?

23 A We would have to issue a stop work order.

24 Q A stop work order wouldn't be entered up under the
25 subdivision ordinance. . .

1 A No.

2 Q It would be entered up under the building code,

3 right?

4 A Right, yes sir.

5 Q So if you were going to determine from the stand-

6 point of the subdivision ordinance whether or not a building

7 on that lot would violate the subdivision ordinance, you would

8 have to determine it prior to the recordation of the plat, isn't

9 that correct?

10 A Right.

11 COURT: I still fail to see what the relevancy of the

12 building is on getting a subdivision plat approved?

13 Q I don't know what the relevance should have been

14 Your Honor but they had it in the ordinance.

15 COURT: Let's see the ordinance. Isn't it a building

16 permit requirement in that ordinance?

17 MR. PARKER: No sir.

18 COURT: What did a man do Mr. Morris if he had

19 a lot which met every requirement of the subdivision ordinance

20 but it was an unimproved lot and later he wanted to build on

21 it, what did he do prior to building, anything? Did he have to

22 get a building permit before he started the building?

23 A Yes sir.

24 COURT: Who did he apply to for that?

25 A At my office.

1 COURT: And in applying for a building permit, what
2 requirements were looked at as far as set backs? Where would
3 you find those?
4 A It would have been in the subdivision ordinance.
5 Q It may be helpful to point out - may I inquire of the
6 witness?
7 COURT: Yes sir, go ahead.
8 Q Mr. Morris, that subdivision ordinance was in effect
9 about three or four years before we ever had a building code
10 in effect in this county, wasn't it?
11 A Right.
12 COURT: I didn't hear you Mr. Parker.
13 Q I'm asking him, Your Honor, - the subdivision
14 ordinance was in effect about three years before the - we ever
15 had a building code applicable in this County? --before the State
16 passed the state wide building code - this was the only building
17 code we had in the County, right?
18 A That's correct.
19 Q Only building code we have ever had in the County?
20 A Yes sir.
21 COURT: Now when did the building code go into effect
22 as to apply to Greene County?
23 A December of '73.
24 Q So - and paragraphs 4, 5 and 8, either in the form
25 that I read there, in the amended form or in the form which was

1 there before, has always been that ordinance hasn't it?
2 A Yes, it was amended in February of '73.
3 Q February of '73 but even prior to that, it had
4 paragraphs 4, 5 and 8 in it which had set back lines?
5 A Right.
6 Q Just as it shows?
7 A No it has changed. Before it didn't have a side
8 yard requirement.
9 Q I understand but both were a set back requirement,
10 not a side yard requirement but a set back requirement. . .
11 A Right. . .
12 Q . . .was in the ordinance even before the change?
13 A It. . .
14 Q Just as that booklet shows?
15 A Yes.
16 Q All right. Prior to the enactment of the building
17 code, there would have been no way to enforce the set back
18 requirements in that ordinance unless the plat that came in
19 showed on it where the building was going to go?
20 A This is one of the requirements of the building
21 code.
22 Q I understand, but prior to - you didn't answer
23 my question. . .
24 A All right.
25 Q Prior to the enactment of the building code, there

would have been no way to enforce paragraphs 4, 5 and 8 unless the plat that you got showed any proposed building? --you or the subdivision agent prior to you?

A I would have to rely on each site affected.

Q Or see the building or proposed building drawn on the plat?

A That's right.

Q Thank you.

COURT: Any other questions Mr. Parker?

Q Yes sir. Mr. Morris, have you examined the various documents that we have introduced into evidence in this case sufficiently well to tell us or do you know whether or not - how far it is from the cluster line around the Ruckersville area to Mr. - to Locust Lane subdivision?

A From Locust Lane to the cluster. . .

Q Yes, to the cluster line and also I was going to ask you from Locust Lane - from the cluster line to the proposed subdivision of Mr. Matthews?

MR. DICKEY: Your Honor, could he define what he means by cluster line? There are three or four different lines referred to in this case as cluster lines. . .

COURT: Let's be more specific Mr. Parker. . .

Q I'm talking about around the village of Ruckersville that's in the comprehensive plan?

A I would say about a half mile.

1 Q But you are just giving me an estimate?
2 A Right.
3 Q You don't know exactly how far it is?
4 A No, I don't.
5 Q You never sought to measure it off or scale it
6 off in feet?
7 A No, I have not. In my advertisement I give the
8 approximate distance, location.
9 Q Excuse me just a moment, Your Honor.
10 COURT: All right.
11 Q In answering a few questions Mr. Slaughter asked
12 you to begin with, he gave you a range of dates and asked
13 you how many - you said that there were 7 proposed subdivisions
14 during that period of time, is that right?
15 A Yes sir.
16 Q What was that period of time?
17 A November 1, 1973 to March 1, 1974.
18 Q So that would include Matthews?
19 A Yes sir.
20 Q So of the 940 units, 727 of them were Matthews'
21 units?
22 A No, it was 348 units in his.
23 Q Well there were - I think you said there were
24 772 lots in 7 subdivisions, including 940 units?
25 A That's correct.

1 Q Now 548 of those, how many of those were - lots or
2 units were Matthews?
3 A Of the 772. . .
4 Q Of the 772 lots, how many lots were Matthews?
5 A 180 single family lot. ..
6 Q All right. . .
7 A Andthe balance of the units would have been
8 apartment units.
9 Q All right. Now of those 7 subdivisions did you
10 say how many proposed subdivisions were allowed?
11 A How many were approved out of the 7?
12 Q Yes.
13 A It would have been 6 approved.
14 Q And Matthews was the 7th?
15 A Right.
16 Q That's all.
17 A During that period of time. There were others later
18 but that was all during that period of time.
19 COURT: Mr. Morris, with regard to the town house lot,
20 was that the first time you had ever had exposure or request for
21 a town house approval?
22 A Yes sir.
23 COURT: What did it mean? What was the concept of
24 it as you dealt with it as - with this subdivider? --smaller
25 lot or a different type dwelling or different use, what was the

1 problem?

2 A Well I had worked with town houses before in other

3 areas. . .

4 COURT: I see, but not in Greene County?

5 A No sir.

6 COURT: Now I noticed that the subdivision ordinance

7 says if public water and public sewerage are to be provided,

8 that residential lots may be as small as 10,000 square feet,

9 now was that requirement met in the proposed original plat,

10 that is 10,000 square feet as to proposed town house lots?

11 A I don't believe - it was not met.

12 COURT: It was not. Do you recall specifically whether

13 or not it was discussed?

14 A I recall discussing it with Mr. Harris - of course

15 the minimum lot size of 10,000 feet and the minimum width of 80

16 feet, the frontage requirement.

17 COURT: All right, any other questions from counsel.

18 PARKER: Yes sir. The pertinent point in your mind

19 at that time was this, if I am correct, that there was no way

20 under the Greene County subdivision ordinance that any town

21 house could ever get approval under the Greene County subdivision

22 ordinance, no matter how big the lot was, no matter what shape

23 it was because if the wall of the town house was as they are,

24 on the property line, the common wall, it could not meet the

25 side yard requirements?

A That is correct.

Q Thank you sir.

COURT: All right, any other questions?

MR. SLAUGHTER: Would you indulge us a second?

COURT: Yes sir.

REDIRECT EXAMINATION

By: Mr. Slaughter

Q Mr. Morris, you of course, have testified as to a number of subdivisions other than Mr. Matthews that were turned down during the period / that the interim zoning ordinance was in effect, is that correct?

A That's correct.

Q Were some of the 7 subdivisions for which application was made during the four month, from November 1 to March 1, approved before the zoning ordinance went in or was it all approved after the zoning ordinance went in? I believe you answered Mr. Parker that 6 of the 7, for which application was made from November 7, 1973 to March 1, 1974 were approved.

A Okay, two of those were. . .

MR. PARKER: The question is which one submitted their final plat before the zoning ordinance went in, isn't it?

Q Right. ..

A Yes, okay, three were submitted before.

Q So that was never any reason for those to be submitted

1 to the Board of Zoning Appeals, is that correct?

2 A That's true.

3 Q All right, that left four - and did the remaining

4 four go before the Board of Zoning Appeals, including Mr.

5 Matthews?

6 A That is correct.

7 Q What were the other three, other than Mr. Matthews?

8 A Greenemarle, Incorporated, on Route 670.

9 Q Can you say whether or not that was in a cluster?

10 A Yes, that was in a cluster. Greenelea on Route 607

11 in the same cluster, County Club Overlook was outside the cluster.

12 Q Could you say what size those lots were approximately?

13 A An average size I would say of about 1.9 acres.

14 Q Now the other subdivisions that were turned down,

15 after - by the Board of Zoning Appeals, were subdivisions for which

16 application or preliminary plats were filed after the zoning

17 ordinance went into effect, is that correct?

18 A That is correct.

19 Q No further questions Your Honor.

20 COURT: Any further questions Mr. Parker?

21 MR. PARKER: I do not have any further cross examination.

22 COURT: You may stand aside Mr. Morris. We may consider

23 a lunch recess or another short witness, depending on how you all want

24 to run your time, gentlemen.

25 MR. SLAUGHTER: We only have two other witnesses

1 that we know of right now Your Honor, and from our standpoint
2 they can easily be gotten this afternoon.
3 COURT: Well we started late but even so it is getting
4 on close to a reasonable time to take a lunch break. Suppose
5 we do that then, we will recess for forty-five minutes, until
6 2:25 then.
7
8 (Lunch break at this time)
9
10 COURT: All right, gentlemen, if you all are ready
11 we will have the next witness at this time.
12 MR. SLAUGHTER: May it please the Court a couple of
13 miscellaneous matters. We offered Defendant's Exhibit A for
14 identification which is a summary of the articles which appear
15 in the Greene County Record. There is no question about their
16 having appeared in the Greene County Record, and there was an
17 objection to them, I don't remember the objection but I want
18 to make sure that they were put in as Defendant's Exhibit A.
19 COURT: You have it marked as admitted already in
20 my notes but is there any question about it.
21 REPORTER: There is a note on the exhibit Judge Berry
22 which says for identification only.
23 COURT: That's what it was - it has not been admitted
24 then. Let's take a look at it and see what reference has been
25 made on it. Now is there any objection to Exhibit A. . .

1 MR. PARKER: I think Your Honor I have conceded to the
2 authenticity of what they purport and I concede it again as far
3 as that is concerned. I am not certain I understand the relevance
4 of this particular document. There is a public comment on the
5 ordinance. I think it was my position before that it wasn't
6 relevant but counsel have stipulated the authenticity of these
7 things. . .
8 COURT: What is the purpose for which it is being
9 offered?
10 MR. SLAUGHTER: The purpose if the Court please is to
11 show the public - the extent to which the planning process and
12 adoption of the interim zoning ordinance was in the public domain
13 and it was known generally in the community.
14 MR. PARKER: I can't think Your Honor what relevance
15 that would have to any issue of the pleadings.
16 MR. SLAUGHTER: Well Mr. Matthews takes the position that
17 he didn't realize that there was an interim zoning ordinance
18 until a point approximately three weeks, I gather before the
19 final plat was submitted, when he said he came through here
20 and he recalls having talked to Mr. Morris and thinks it was
21 at that time that he knew of the interim zoning ordinance. Mr.
22 Morris, of course, testified that he mentioned the zoning
23 ordinance to Mr. Harris in February, twice and he mentioned it
24 to Mr. Parrott twice.
25 MR. PARKER: Well Mr. Matthews will testify, if you

1 can elicit such information from him - I don't think it is so -
2 he - that he subscribes to the Greene County Record but he is
3 not a resident of this County and has no reason to assume that
4 he would necessarily know of it, even if it was in the paper.
5 It just simply is not connected up.
6 COURT: The question is though what is the issue that
7 would be met by this evidence? I'm looking at the pleadings now.
8 I realize that this was an issue possibly in the other case -
9 this is one of the things we have to be careful about and not
10 assume for this case that we have evidence which is not actually
11 offered and on the other hand we may be dealing with issues
12 which were presented in the other case and not present in this
13 case. Now the issue of hardship is not in this case is it?
14 MR.PARKER: No sir, hardship is not in this case,
15 but it seems to me the issue - we have been through this before
16 and I don't want to get into it at this point, but it seems to
17 me that the issue of vested right is in this case. And Mr.
18 Slaughter's point is that it would have some bearing on that -
19 I don't really think it does. I don't even think his question
20 to Mr. Matthews on that point has any bearing on that issue
21 in this case. It's the question of what knowledge he is charged
22 with because it is or is not the law - not a question of what
23 knowledge he actually had unless the other side is claiming
24 bad faith and I have not found that in the proceedings, in any
25 stage of the game. So - nor am I claiming bad faith on - nor are

1 we claiming bad faith on the part of the County.

2 COURT: Well will you concede then that the ordinance

3 and the preliminary planning were given wide spread public

4 distribution insofar as the people in Greene County are con-

5 cerned? Now it would not be a matter that would be considered

6 as having been developed without. . .

7 MR. PARKER: I am not certain Your Honor that it would

8 be appropriate for me to concede that because I'm not sure that

9 that's relevant to anything in this case.

10 COURT: I am not sure that it is either but your

11 bill of complaint doesn't specify any of those. It in a sense

12 deals with the ordinance on its face except for the reasonable

13 consideration of the facts as set forth in 15.1-490 which I don't

14 think has anything to do with publicity.

15 MR. SLAUGHTER: No sir, it doesn't.

16 COURT: I am going to deny the exhibit at this time

17 and depending on what might develop as an issue as the case

18 unfolds, it may be appropriate to offer it but I will deny it

19 and note Mr. Slaughter's exceptions and it certainly will be

20 considered as an offer of proof for that purpose.

21 MR. SLAUGHTER: All right, sir. . .

22 COURT: Exhibit A then is denied and Mr. Slaughter's

23 exceptions to the Court's ruling is noted. And it may be re-

24 considered before the case is completed.

25 MR. SLAUGHTER: Further Mr. Parker having taken the

1 position that he is charged as a matter of law with the knowledge
2 of the ordinance. As the Court said, that may well be. . .
3 COURT: It may not - it's more for the argument of
4 irrelevancy than I am denying it and it seems to me that the
5 fact that Mr. Matthews may or may not have seen it, is immaterial.
6 He is bound by whatever goes on in Greene County, whether he is
7 here or not. If he is dealing with Greene County matters it seems
8 to me he operates as if he - well he is on notice of everything
9 that normally would be notice to the public in Greene County,
10 I'll put it that way.
11 MR. PARKER: It seems to me Your Honor, he, like every-
12 body else has knowledge of any law which is validly enacted, just by
13 virtue of the fact that it is validly enacted. I think that's
14 our principle of law. It's simply a policy determination.
15 Of course, I felt that. . .
16 COURT: Well if he is a landowner he is bound by
17 every notice and every publicity given to the proposed actions
18 insofar as that would be appropriate. . .
19 MR. PARKER: The official legal publications, if that
20 were what Mr. Slaughter was referring to, I would. . .
21 COURT: And the development of the comprehensive
22 plan, I would take it. . .
23 MR. PARKER: And the official notices with respect
24 to that, yes sir, to the extent that he was a member of the
25 landowners who would be the subject of that notice, that's right.

1 COURT: All right, there may be other issues which
2 would be appropriate to consider, but insofar as the bill of
3 complaint would reveal any particular issues, I see no place
4 where the lack of notice would be material or even the question
5 of publication.
6 MR. SLAUGHTER: Well having said that it very possibly
7 wouldn't be relevant given Mr. Parker's statement but I do
8 still preserve my objections.
9 COURT: Yes sir, it may be appropriate because the
10 case is by no means over. All right. . .
11 MR. SLAUGHTER: Also - I would like to have also
12 considered if the Court please, introducing - and discussing
13 with Mr. Parker, introducing the minutes of the various
14 bodies of the planning commission, the Board of Zoning Appeals,
15 and the Board of Supervisors, without frankly being able to see
16 myself how they are relevant because Mr. Parker and I have
17 talked back and forth about it and it is my understanding that
18 there is no question about the ordinance having been validly
19 adopted from a technical standpoint - that this case really
20 deals with whether or not the ordinance is proper and not whether
21 it was technically validly adopted. And in the absence of any
22 issue of that sort, I really don't see the relevance of the
23 minutes and therefore am not going to proffer them.
24 COURT: Was that question dealt with in a pre-trial
25 conference? I know it was. . .

1 MR. PARKER: It seems to me we did discuss it once
2 before . . .
3 MR. SLAUGHTER: We did discuss it. . .
4 MR. PARKER: And it was in the mandamus - we contended
5 in the mandamus proceeding that the ordinance was not validly
6 adopted in the sense that it might not have had proper publi-
7 cation - might not have been a proper enactment or somebody
8 might not have signed his signature on a dotted line, some
9 procedural matter. We have not put that in contention in the
10 pleadings in this case. The nature of the contention would be
11 such I think it could be raised at any time, at least in this
12 Court. I told Mr. Slaughter that when he made this point earlier
13 in the day that he was beginning to worry me under the assumption
14 with respect to how it was enacted.
15 COURT: Well you ought to concede it or it ought to
16 have been listed - you haven't made any issue of it.
17 MR. PARKER: I have not made an issue of it. . .
18 COURT: All right, it is understood that it is not
19 in issue and I'm not sure that you could make it an issue without
20 giving the other side a chance to meet it.
21 MR. SLAUGHTER: I make that statement in excess of
22 caution - I didn't want to let that go by if there was any
23 question about it and with that - I think certainly Mr. Parker
24 has a right to put minutes in as well as I do, I frankly don't see
25 how I could argue their relevance. Mr. Parker says he has some

1 question about it and I frankly don't see the relevance either.
2 We won't proffer them then. . .
3 COURT: All right, did you have them marked for
4 identification in any way?
5 MR. SLAUGHTER: No sir. . .
6 COURT: Just merely refer to them generally then.
7 MR. SLAUGHTER: Mr. Yearwood.
8
9 RICHARD M. YEARWOOD, having been duly sworn, testified
10 as follows:
11
12 DIRECT EXAMINATION
13 By: Mr. Slaughter
14 Q Would you state your name and address please?
15 A Richard M. Yearwood, 1204 Gladewood Drive, N.W.
16 Blacksburg, Virginia.
17 Q What is your profession Mr. Yearwood?
18 A I'm a professor/planner at Virginia Tech and
19 a Planning Consultant.
20 Q Would you tell us please sir what your educational
21 background has been?
22 A Yes sir.
23 Q First generally and then more specifically in
24 connection with planning?
25 A Yes. I have a Bachelor's degree in Political

1 Science from the University of Tennessee in 1958; Master's Degree
2 in Government in 1959, Doctorate in Public Law and Public Ad-
3 ministration from the University of Florida in 1966.
4 Q Could you tell us what positions you have held
5 since your graduation from college?
6 A Yes. I left University of Florida, taught one
7 year at Millikin University which is a small school in Illinois,
8 came back and was on the faculty at University of Tennessee for
9 about a year and a half, left the faculty, went to work for
10 the Tennessee State Planning Commission as Senior Planner, involved
11 with planning in two or three fairly small areas in East
12 Tennessee. As I said I stayed there six months, went to
13 the Western North Carolina Regional Planning Commission as
14 Research Director, was responsible for the production of massive
15 population economic study of western North Carolina during that
16 time. After I was there six months I made Executive Director
17 of that agency which served the 17 western most counties in
18 North Carolina, provided local planning assistance to 17
19 counties, 45 municipalities, ranging in size from the city of
20 Ashville which was 65,000 to 75,000 people at that time to
21 communities like Banner Elk, North Carolina which had about
22 500 people; responsible for the supervision of a wide range
23 of planning activities over the next three years and in July
24 of 1967 I assumed my present position at Tech.
25 Q In connection with your planning experience in

1 North Carolina, were you dealing with rural and mountainous
2 areas to a fair extent?
3 A Yes, almost exclusively given the nature of that
4 part of the state. We provided staff assistance in a number of
5 ways to the City of Ashville and for Buncombe County, for
6 Hendersonville which at that time probably had 5,000 or 6,000
7 people but for the most part the counties in the western part of
8 North Carolina are very similar to the counties in southwestern
9 Virginia in terms of size, the nature of the counties, the
10 population, the kinds of characteristics we saw there and of course
11 the same thing is true for east Tennessee, certain portions of
12 Kentucky - that mountainous pocket is very similar.
13 Q Mr. Yearwood, could you tell us whether or not
14 you have done any writing? --that has been published?
15 A Yes, I have. I have several articles in professional
16 journals for the most part on subdivision regulations. Some of
17 these have appeared in Law Reviews. I have drafted a number of
18 subdivision ordinances. I have drafted revisions and amendments
19 to subdivision ordinances, to zoning ordinances, have one book
20 which is subdivision regulation, legal and policy considerations
21 published in 1971 I believe by Pregor Publishers. Those would
22 be the major scholarly publications. A good deal of my work has
23 been practical, pragmatic work involved with local governments
24 and with the provision of zoning ordinances, subdivision re-
25 gulations, suggested amendments to those and a fairly wide range

1 of plans also, ranging from annexation studies, to merger studies
2 to law enforcement plans, to central business district plans,
3 to housing studies, parking studies, overall work programs
4 and on and on.
5 Q Have you actually occupied any governmental
6 positions other than in your professional capacity as a planner?
7 A I was about to say no but I guess I had better
8 not. I have been since the County Zoning Ordinance was adopted
9 in Montgomery County, Chairman of the Board of Zoning Appeals
10 in that County - that was in 1969 I believe. This past summer
11 I was appointed to the Town of Blacksburg Planning Commission
12 and I'm currently Chairman of the Zoning Committee which I
13 might say provides a fair amount of work.
14 Q Are you a member of any professional organizations
15 that relate to planning Mr. Yearwood?
16 A I have been a member of a number, American Society
17 of Planning Officials, American Institute of Planners; was at
18 the time I dropped out of that particular organization - was for
19 basically reasons of philosophical conflict between their
20 position and mine - had just been appointed prior to that time
21 as a member of the Board of Examiners for membership to the
22 American Institute of Planners which is the primary professional
23 organization.
24 Q Without going any further, I think I am going to
25 follow something you did in the case - last case Mr. Parker and simply

1 ask if we can submit his list of qualifications so we can shorten this
2 down - any objection to that?
3 MR. PARKER: I'm sure we can stipulate that. ..
4 COURT: All right, it's acknowledged that his list of
5 qualifications may be submitted and his qualifications as an
6 expert I take it are stipulated and admitted in this case.
7 MR. PARKER: Yes sir.
8 Q Mr. Yearwood, you have been present during this
9 entire trial is that correct?
10 A Yes sir.
11 Q Have you heard all the testimony and observed all
12 the exhibits that have been introduced?
13 A Yes sir, I believe I have.
14 Q Do you recall when contact was first made to you
15 concerning testifying in connection with the previous case
16 involving Mr. Matthews and Greene County?
17 A Very shortly prior to the date of the case. It seems
18 to me that's going back two times, not this previous December
19 but the prior January I believe. I believe one day of the pro-
20 ceedings had been held and a continuance was granted. I believe
21 I was contacted in the interim - I believe that's the case.
22 Q Now, you I believe testified against him previously
23 then as well?
24 A Yes sir, I did.
25 Q From the point of view of the Greene County and

1 its interim zoning ordinance when did you first begin your
2 study of the County and the planning process?
3 A Well I first came into the County, after having
4 been contacted I believe in January - would that have been '74?
5 Q '75 - I believe we have stipulated the first hearing
6 was in January of '75. . .
7 A Okay, '75. . .
8 Q . . .January 2 of 1975.
9 A All right. I had been contacted by telephone by
10 Mr. Robert Abbott who testified previously today in connection
11 with purposes of discussion of the nature of the planning process
12 in Greene County and the discussions also were held in a fairly
13 general way concerning the possibility of interim zoning, from
14 my point of view as a planner, as a reasonable, feasible kind of
15 device to use in a situation such as he described to me in which
16 there appeared to be considerable development pressure here.
17 Q Now as you got into Greene County, what did you find
18 about the County. . .
19 A Well on my very first visit here, particularly for
20 that purpose - of course, I had previously been in through Greene
21 County on several prior occasions but on that first visit, I was
22 taken on an extensive tour by Mr. Abbott and Mr. Evans so that
23 I might get a fair feel for what the County was like. I took
24 a number of documents back with me for my study and review. And
25 as a result of the field trip and analysis of those documents, I

1 concluded that Greene County had been basically. . .

2 MR. PARKER: Your Honor, excuse me I don't recall the
3 question perhaps and it may be my fault but I think the answer
4 is being volunteered. . .

5 COURT: He is going past the content of the question.
6 I think the point is well made - you may want to inquire into
7 that or some other area. Go ahead sir.

8 Q All right, sir, I had asked him what he found about
9 Greene County historically? What had been the situation in
10 Greene County up until the planning process started and I thought
11 he. . .

12 COURT: All right, if that is what you want him to
13 respond to, you may do so, yes sir. Go ahead Mr. Yearwood.

14 A I found Greene County to be and characterized it
15 as a County that is small in area. It's small in population
16 and it has been traditionally an agricultural County. Stanards-
17 ville has been the County Seat and the central place in this
18 County. It has been basically as I say fairly stable in terms
19 of its growth, farms, small homes. As best as I could find out
20 the industrial component had been limited historically to
21 some not extensive, extractive industries. At the time I made
22 my investigation and it would appear the same is true today there
23 was limited amount of commercial activity in the County to the
24 extent that no really discernable pattern could be found of
25 commercial concentrations, in any significant way. Also histori-

1 cally, I preceived that this was due to the nature of the County,
2 the fact that the population was scattered pretty well over
3 it, had a number of fairly small communities and crossroads
4 kinds of places like Lydia, Dyke, Ruckersville and then, of
5 course, Stanardsville being the larger place. But to look at
6 Greene County, I would say it's primarily agriculture, has been
7 and has I believe no railroad through it, has no airport, has
8 no navigable streams, transportation throughout the County has
9 historically not been that easy, access has been a problem and
10 I think this, better than anything explains the reason for the
11 scattered commercial activity throughout the County. These
12 would be stores, general merchandized stores and these kinds of
13 uses primarily. Today it would appear to me, having looked
14 around again this morning. . .
15 MR. PARKER: Again that is going beyond the question. . .
16 A Excuse me. . .
17 COURT: Just historical summary is what the question
18 was directed at. You may proceed Mr. Slaughter.
19 Q I think that really answers the question very well.
20 Mr. Yearwood, is there a difference between the topography
21 within the County. . .
22 A Yes sir, there is.
23 Q What is the difference?
24 A There is considerable variation. I believe Mr.
25 Evans testified to that and unfortunately I don't recall his

1 specific figures as well now as I might have back in December
2 but there is as he testified a considerable variation in elevation
3 throughout the County, fairly rugged terrain, some very level
4 farm land - so that there is considerable variation in that
5 respect.
6 Q Now what has happened recently in Greene County,
7 by recent: I mean say over the past four or five years, that has
8 created any change in the historical picture that you have
9 described?
10 A Perhaps two things. ..
11 MR. PARKER: Your Honor, I am not certain the witness
12 is competent to answer the question as to what has happened.
13 I think he can certainly state what he is basing his opinion
14 on, what he understands the balance of the evidence that he has
15 heard. ..
16 COURT: Objection overruled, he has got as much experience
17 as anybody else that has testified, except the local people.
18 I don't know where you are going to get it from any other source,
19 other than the people who study it Mr. Parker.
20 MR. PARKER: Well the witness is not qualified on this. . .
21 COURT: Well neither has there been anybody else in
22 this case, if you are going to base it on that.
23 MR. PARKER; Well if the Court please, note my
24 objections.
25 COURT: Yes sir, your exceptions are noted. Go ahead

1 Mr. Slaughter.

2 A Yes, I was about to say that one overall phenomenal
3 has occurred with a particular impact in one area. From about
4 1970 and 1971 until about 1974, when the subdivision summary
5 was prepared in the spring of '74 - I unfortunately don't have -
6 excuse me just a moment - Plaintiff's Exhibit number 26 that I'm
7 referring to - this does not have all the tabulations that one
8 might make but in any case let me state first generally. There
9 was a considerable degree of development in this time from
10 about 1970 until the spring of '74 when this data was put to-
11 gether. And I tabulated this and found the following to be
12 the case, based on plaintiff's exhibit number 26. There had
13 been platted over this time frame 3,428 total lots. In the
14 spring of '74, again according to this tabulation there were
15 3,095 total undeveloped lots. That means, of course, that there
16 were 333 lots developed in this - in these subdivisions.

17 COURT: You mean by developed or undeveloped, occupied
18 and. . .

19 A Built upon, yes sir. So 3,428 lots total over about
20 a four year time frame would indicate a very high level of land
21 conversion for a County such as Greene County, given the nature
22 of the County as I understood it at that time.

23 Q Now could you say what you mean by land conversion?

24 A Yes, subdivision of land is basically the conversion
25 of raw land into building lots. I think that's generally under-

stood notion there.

Q Was it possible to make any tabulation as to the number of acres that had gone into residential building lots?

A The figure - I did not tabulate that. The information that is given here - I believe I recall the figure being in the vicinity of 5,000 acres.

Q Now based on the or perhaps just reciting, following the development toward subdividing that you have described, was there any increase that you were able to observe in commercial development - any substantial increase comparable to the increase in residential lots?

A I found no such increase.

Q And did you find any pressure for development - industrial development?

A I found none. According to the testimony which Mr. Evans gave back in December, there was a number which was less than 100 of commercial establishments in the County, many of course which are in Stanardsville. No, there appear to be no recent significant pressure for additional commercial - allocation of land for that purpose.

Q Well what did you learn then Mr. Yearwood about the planning process which had gone on during the year - yes, approximately a year before you were first called into this case?

MR. PARKER: Your Honor, I think this is asking for hearsay. If he knows - I think he has to base his answers on

1 what other people have testified to. . .

2 COURT: I take it though that it's a foundation for an

3 opinion which he may be seeking but I think theobjection is

4 well made Mr. Slaughter insofar as what appears to be the

5 intent. Now if you are laying a foundation you can just as

6 easily recite it to him or have him state what he has heard

7 either one. But only for that purpose, to lay a foundation. . .

8 MR. SLAUGHTER: Well the purpose is to lay the

9 foundation, of course, for his opinion. . .

10 COURT: All right. . .

11 MR. SLAUGHTER: Of course that opinion should be given

12 based on his knowledge of the County and I'm asking him to

13 recite his knowledge of the County. . .

14 MR. PARKER: What he understands to be the case. . .

15 COURT: Yes sir, he may do that. The objection is

16 overruled to that extent, not for the authenticity or truth

17 of what he has heard but what his opinion is based upon that.

18 All right, go ahead Mr. Yearwood.

19 A Well as I stated earlier, Mr. Abbott contacted me

20 by telephone and generally informed me about what the Thomas

21 Jefferson Planning Commission - not what - how they were in-

22 volved with Greene County; that they had been requested to come

23 in; that they were very anxious to provide all the local planning

24 assistance that they could and discussed the procedures, the

25 process subsequently with him and a few, at least telephone calls,

that when I came up to be present in the first litigation, to appear in that, discussed it extensively with him and with Mr. Evans. And as I understand it the process has been one that I could certainly be very happy with. It has been a very strong input by the citizens in the County and that certainly is something that we like to emphasize as professional planners and as people who hope to instruct in the appropriate way, students who will be working ultimately as professional planers. It always bothers me considerably to have the communities goals stated for them by planners. I like to have the citizens to be involved. It is the citizens plans and should be their plan.

MR. PARKER: Can the gentleman enlighten us Your Honor as to whose testimony he is relying on in this connection.

COURT: All right, as to where you learned that the citizens input had been of the magnitude that you described, the source of that information?

A Mr. Evans, Mr. Abbott - I also talked with Mr. Gilbert - I may have talked with others and this is the basis of my understanding about the way in which the process had evolved.

MR. PARKER: I think Your Honor he is limited to basing his opinion on the evidence that we have heard in Court from these gentlemen as opposed to any other discussions that he had with them.

1 COURT: Well has Mr. Gilbert testified in this case?
2 I know he did in the other one. . .
3 MR. PARKER: I believe not. . .
4 COURT: That may be part of the problem. . .
5 MR. PARKER: I don't remember whether Mr. Gilbert
6 testified on the first day or not, buthe testified in the
7 other proceeding. I remember he has testified in some pro-
8 ceeding. ..
9 COURT: Do you all recall gentlemen. . .
10 MR. DICKEY: Mr. Lawson testified. . .
11 MR. PARKER: Mr. Lawson testified - I'm just trying to
12 get the gentleman to limit his basis on what he has heard in
13 Court, not as to what. . .
14 COURT: He may base it upon what he has learned upon
15 his own inquiry. I take it that Mr. Gilbert who he referred to
16 was then a member of the Board of Supervisors?
17 A Yes sir.
18 MR. PARKER: If he is going to do that Your Honor, he
19 must state what he has been told. And the question then arises
20 as to whether that is before this court.
21 MR. SLAUGHTER: May it please the Court.. .
22 COURT: It's a question of what his opinion is based
23 upon it. The matter of the accuracy of that information is
24 not necessarily in issue at this point, not for this witness'
25 testimony.

1 MR. SLAUGHTER: As I understand it, he could not, of
2 course independent of the investigation come in and give an
3 opinion. ..
4 COURT: But I think that Mr. Parker is entitled to know
5 from whence he got this information and what the position of the
6 person was. I think for the purposes of the record I have
7 clarified Mr. Gilbert but since he possibly has not testified
8 in this case, his position is noted. Now I think the other person
9 that he has referred to has been noted in this hearing. ..
10 MR. PARKER: Yes sir, if he is basing what he says now
11 on what Mr. Evans and Mr. Abbott testified to in this case, I
12 have no. . .
13 COURT: No, not necessarily what was testified to. He
14 talked to them Mr. Parker. Maybe it has come out in this case
15 and maybe it hasn't but they were the people involved in the
16 planning.
17 MR. PARKER: That may be Your Honor, but it seems to
18 me then that it would be encumbent upon him to state what it was
19 that they said that he is basing his opinion on. This is the
20 way as I understand it that opinions are put in court. You have
21 a hypothesis of facts and opinions which are constructed based on that
22 hypothesis. The witness it seems to me has to state his foundation
23 so that he will be competent to give his opinion, not competent
24 in the sense that he is an expert witness but competent in the
25 sense of competency of evidence.

1 COURT: All right, he has disclosed what the source was
2 but the nature of the information has not been divulged at this
3 time Mr. Slaughter. I think. . .
4 MR. SLAUGHTER: Well, of course, it is - he does nothave
5 to state everything that has been said in testimony, I certainly
6 hope. . .
7 COURT: The substance of what he learned, whether in this
8 case or prior to this time on inquiry - that's the whole point.
9 MR. SLAUGHTER: Yes sir, right. Could you then pursue
10 the Court's direction Mr. Yearwood to delineate what in substance
11 you learned from within the case and without to the extent that
12 you are able?
13 COURT: You mentioned that it had been widely involved
14 with citizen input, how do you know?
15 A From comments made by, particularly from Mr. Evans
16 and by Mr. Lawson, comments that they made - well maybe they
17 didn't make them in this case. . .
18 COURT: You were present at the other case too, weren't
19 you?
20 A Yes sir. Anyway the gist of what they said to me
21 was focused around the number of meetings that they had, the
22 extent to which they looked into the issues in Greene County,
23 the facts, what they perceived to be the problems and the close
24 involvement, the integral relationship between the citizens
25 and the professional planners of the 10th Planning District

1 Commission.

2 COURT: All right, Mr. Slaughter, go ahead.

3 Q Based on your studies Mr. Yearwood, did you come to
4 learn that a document known as interim zoning ordinance was in
5 effect in Greene County at the time you first became aware
6 of Greene County's problems?

7 A Yes.

8 Q Have you studied that document?

9 A Yes sir, I have.

10 Q Now could you give us in your opinion as a professional
11 planner - first tell us if you have an opinion as to the use of
12 interim zoning ordinances in the planning process generally?

13 A I do have such an opinion.

14 Q What is that opinion?

15 A I think the use of an interim zoning ordinance can
16 be a very useful device. I think it depends as most things do
17 on circumstances involved. I would not say to this Court or
18 any other party or person that as a general proposition, without
19 exception, that interim zoning is a good and reasonable and
20 valid device. I would not - depending on the circumstances
21 I certainly think it could be, yes.

22 Q Now applied to Greene County, in the interim zoning
23 ordinance here, do you have an opinion as to whether or not this
24 was an appropriate technique and valid part of the planning
25 process?

A I do have.

MR. PARKER: Your Honor, I am not certain I understand the relevancy of this question. I object on the grounds that it is not relevant. It seems to me that the ordinance is either valid or not valid but to say that it is good or not good, to get Mr. Yearwoods' opinion as to whether-as to whether Greene County's interim ordinance is appropriate or inappropriate is not a matter before this court.

COURT: Well what was wrong with the interim ordinance then insofar as the issues in this case because it is arbitrary?

MR.PARKER: Mr. Yearwood may, if he can, rebutt that portions of it which were arbitrary or otherwise, but to simply say that it is good. . .

COURT: Well it seems to me that it's a question as to whether it is valid as a planning aid or the use of planning. . .

MR. PARKER: It may be - I do not wish to waive the point but it may be that the question would be appropriate from the standpoint of the planning opinion. . .

COURT: Yes sir. . .

MR. PARKER: And. . .

COURT: . . .and I take that to be the direction the question goes and to that extent, we will limit it to it, rather than to the question as to whether it is good as to the law but the question of whether it is good planning - whether interim zoning is a valid device under good planning.

1 MR. PARKER: Well he indicated that interim zoning -
2 I had no objection to the fact that interim zoning could be
3 a valid planning device but when he begins to break it down
4 to Greene County particularly, and that seemed to be where he. ..
5 COURT: He may give an opinion about that too. I
6 think it has been touched on in other evidence as to whether
7 it was appropriate in view of the circumstances. The objection
8 is overruled in view of the direction that this interim ordin-
9 ance seems to have already taken, as to whether it was arbitrary
10 or whether it was necessary. Your objection is noted Mr.
11 Parker.
12 MR. PARKER: Thank you sir,
13 COURT: All right, Mr. Yearwood, if you are confused
14 by all this you may have the question repeated.
15 A Yes sir, I may need it.
16 COURT: All right, Mr. Slaughter.
17 Q Thank you sir. Mr. Yearwood as I understand it,
18 you told us that you have an opinion as to whether the interim
19 zoning ordinance enforced in Greene County for the year 1974
20 and 1975 was appropriate - the appropriate planning technique
21 and I believe you had answered that you had an opinion and
22 now I was going to ask you what that opinion is?
23 A In my judgment, this particular ordinance for Greene
24 County from a planning prospective is a reasonable approach. I
25 base that on these feelings. First of all the nature of the

County. I cannot believe that any ordinance which does not reflect the characteristic of the community for which it purports to regulate can be valid. I think how it relates to the community, how well it reflects existing conditions is obviously a key element here and I find Greene County to be not a diverse County. I find it to be singularly homogeneous and primarily for that reason I think that the - in my judgment, the interim zoning ordinance as written and adopted for Greene County, is reasonable, appropriate, valid, whatever is - the appropriate word is.

Q What in your opinion is the overriding consideration why the adoption of interim zoning ordinance in Greene County was appropriate in March of 1974?

A I guess I just thought I had responded to about the same question. Perhaps I'm not following you.

Q Perhaps I can move this along then. . .

COURT: Well let me ask it this way then. Why not just wait until you get a full fledged ordinance Mr. Yearwood? Why use a. . .

A Oh, I see. . .

COURT: . . .this type of ordinance at that time?

A I think the response to that that most anybody would make is that if you simply wait until you work through the planning process, because of the amount of time that is usually involved in developing a comprehensive plan, the level of development, the conversion of land may have reached such pro-

portions that the plan would really then be as finally developed unrelated or unsuitable for the County. I think it could become in a sense irrelevant to the County and I think that that is the reason that interim zoning ordinance in this instance made sense to me.

Q Now interim zoning ordinance contained one zone in which persons had a right to build and a right to subdivide property on two acre lots and single family residences, could you tell us whether in your opinion that aspect of the ordinance - well how that relates to the ordinance itself?

A Well my evaluation is that the two acre minimum requirement was not exclusionary, not discriminatory, not unreasonable inasmuch as we have heard testimony from several quarters that there was certainly a plenty of subdivision lots already platted and many much smaller lots. In fact my figures show, again based on this exhibit that I referred to earlier that there were 2,056 lots, under 2 acres in size, already platted in Greene County at the time of the adoption of the interim zoning ordinance - that's 2,056 lots under 2 acres in size. In fact I think there were some other ones which I did not include because in some of the data breakdown, it simply gave a range of lot sizes and I was not able to determine how many fell into what range. But 2,056 I believe clearly under the 2 acre number.

Q Would that in your opinion take care of any potential

need for small lot housing for the year that the interim zoning ordinance was in effect?

A I felt certain that it would, yes indeed.

Q Mr. Yearwood, effectively and I ask you this in a slightly different way - effectively the zoning ordinance - the one zone ordinance. . .

MR. PARKER: Objection, he is leading the witness.

Q I'm simply reciting in context. . .

MR. PARKER: The problem with - the reason I interrupted Mr. Slaughter is, Your Honor, as the Court knows, a leading question once out - the damage is done, that's why I interrupted him.

COURT: Mr. Slaughter, I think you can rephrase the question and come to it without leading. The question is leading and may be appropriate to do so. . .

Q Yes sir, I will simply ask the question again. . .

COURT: As Mr. Parker said, you may commit the error before the objection can be made, if he doesn't make it now. Can you get to your point without using a leading question?

Q Yes sir. . .

COURT: Or is it something you feel you have to pursue this way?

Q No sir. Mr. Yearwood, you've described this ordinance and described - perhaps the Court will consider this statement - as a one zone ordinance, what I really want

1 to ask if the Court please is Mr. Yearwood's opinion as to a one
2 zone ordinance as applied to Greene County on an interim basis?
3 MR. PARKER: Well I don't think you have asked what
4 you want in his opinion.
5 COURT: Taking Greene County as it was then. . .
6 MR.PARKER: That's certainly not leading but I don't
7 think Mr. Slaughter has completed his question.
8 COURT: Well he has done it now, the question has been
9 rephrased and I will permit it. The objection is overruled
10 if you intend to make it for this question Mr. Parker. In other
11 words what is the validity from a planning standpoint of a one
12 zone interim ordinance? Why not make it multiple zoning?
13 A Well I would take this position that the interim
14 zoning ordinance for Greene County which was adopted and was
15 in effect for a period of months, is reasonable and valid given
16 the nature of Greene County, given the levels of development
17 pressure, given the need under the statute. ..
18 MR. PARKER: Your Honor, I don't think he is responding
19 to the Court's question. I think it is beyond the question.
20 COURT: The objection is overruled. He is responding
21 to it, as to why one zone rather than multiple zones.
22 MR. PARKER: That's a very specific question and he
23 has answered. . .
24 COURT: He may answer it any way he wishes Mr. Parker
25 if it is responsive. Now so far he is responsive to the question.

1 Go ahead Mr. Yearwood.

2 A Under 15.1-490 which is - has been mentioned a number
3 of times, there is an obligation to give reasonable consideration
4 to the preservation of property and property values in the
5 jurisdiction. I think that's an important factor. Now I would
6 take the position that this is reasonable because of the nature
7 of the County. I think a one zone interim ordinance for Greene
8 County is reasonable because I think Greene County as I said
9 a minute ago does not have the diversity that demands a number
10 of zones. I simply don't believe that the County demands a number
11 of zoning districts. Now I would say - I don't know if it is
12 appropriate - I am sure you will correct me if I am wrong. . .

13 COURT: You are stillresponding to the question, go
14 ahead, we will cut you off if it develops that you are not.

15 A All right, sir, I thought you would. I would take
16 the position now that for Greene County the interim zoning
17 ordinance would be perfectly suitable in my view as a permanent
18 zoning ordinance, not just as an interim zoning ordinance but
19 as a permanent zoning ordinance, given the level of develop-
20 ment and the nature of the County. If I might I would like
21 to get the current zoning map. . .

22 COURT: All right, you may refer to any of the items
23 in evidence and if you will refer to them by number Mr. Slaughter,
24 which one he is referring to.

25 A Plaintiff's Exhibit number 27. . .

1 COURT: I expect it would be better to put it in the
2 back. Opposing counsel have to have an opportunity to see
3 what you are referring to. That will be all right right there,
4 I can see it.
5 A We have already demonstrated that the entire
6 County under the interim zoning ordinance was in one zone
7 and that the only use as a matter of right was for residential
8 use, anything than other than the two acre minimum lot require-
9 ment - anything else by a special permit provision, which
10 of course was put in to attempt to gain flexibility. I want to
11 come back to that matter of flexibility in just a minute because
12 that's what modern zoning is about. And the whole thrust of
13 zoning since 1926, when the validity of the constitutionality
14 of zoning generally was established by the U.S. Supreme Court
15 there has been a thrust towards flexibility and away from
16 rigidity and the whole concept of Euclidean zoning which
17 separated allegedly incapability uses quite rigidity from each
18 other. Now I might go back for a moment beyond that and say
19 that of course what we call comprehensive zoning now had as its
20 predecessor a single purpose zoning. And there have been a number
21 of cases on that which I wouldn't begin to mention but those
22 were cases in which manicipalities primarily regulated the
23 location of particular uses such as brickyards, dairies, laundries
24 and a whole stream of cases - that's all past history and clearly
25 established. Prior to the single purpose zoning ordinances

which led into the comprehensive zoning ordinance, is of course a whole concept of nuisance law. And it's from that that zoning really springs and if anybody understands anything today generally about the purposes of zoning, it is just what I alluded to a minute ago in 15.1-490 and that is the concept of preservation of property and property values. It all flows from nuisance law, single purpose zoning, comprehensive zoning. Now I come to another point, currently any planner who is - who considers himself adequate or adept as a land use planner will tell you that planners simply cannot anticipate with any certain or any regularity where land uses will want to be and need to be established. And for that reason we have seen developed over the last 20 years such things as performance standards, site planning anew, buffering and closed zones. . .

MR. PARKER: Excuse me, Your Honor, I find this very interesting but I find it almost a matter of argument. The thing that concerns me about it is, it seems to me to be going beyond the Court's question. If it's a matter of. . .

COURT: It may be but I think it is going pretty far afield - but it is still leading to the question of one zone - one interim zoning ordinance is valid as far as planning is concerned.

MR. PARKER: If that is - if he is planning to say - state the grounds for his opinion there, then it would be within the scope. . .

1 COURT: Yes sir, I think - assuming that that's the
2 background he wishes to cite and back up his opinion as to the
3 validity of the one zoning which he has already said he felt
4 was true or that was not only valid for the interim zoning
5 ordinance but he has gone further and said that it would be
6 valid even now, after having had time to plan more. Obviously
7 if it is valid now after having had sufficient time, that would
8 be an argument to support the validity of it as an interim
9 ordinance. Of course if this is relating specifically to
10 Greene County, rather than zoning generally Mr. Yearwood, to
11 that extent I think you might have gotten into a background
12 of zoning.
13 A Yes sir, I will see if I can't do that. The major
14 points that I wanted to make and the reason I make these remarks
15 is again to come back to flexibility and difficulty which we
16 have with modern zoning, large scale development, shopping
17 centers, large scale residential development and so on, the
18 difficulty in predicting where that will go, where developers
19 want it to go and so on. Flexibility has been the key. Now
20 of course the courts have had a great deal of trouble with that.
21 Now I think such devices as floating zoning, site plan review,
22 use on review, where the Board of Zoning Appeals and the local
23 governing body looks at particular developments in terms of
24 that development internally and externally - now these things
25 are accepted but back to this. When I look at this, and I would

also mention that there are two floating zones in the permanent ordinance, one for multiple family and one for industrial which do not show on the zoning map and, of course, that's the nature of a floating zone. They are contained in the text of the ordinance but they are not shown on the map until there is an amendment of the map and those zones are pulled down from their floating position so to speak and attached to the map. So we do have two floating zones. I would also submit that my basic feeling is this, this zoning map in my mind with one minor exception is no different from the zoning map that went along with the interim zoning ordinance and showed the whole county in one zone and in effect made the whole county a floating zone. Now let's look at these different uses and put them together. Conservation in the old ordinance, the interim ordinance, the ordinance in question, conservation, agriculture, flood plain indorporated in the National Park were treated how? They were handled basically, of course, under - they were all included in the one zone. Now where was the business zone? We have two here but business zones were not shown. On this current map this - there is a small one here at Dyke. There is a commercial zone, actually two but - two, general business and highway business, shown here along Route 29 in the area of Ruckersville. And in looking at that and in looking at the existing land use map and comparing that, this is basically, although not exclusively, a reflection of existing commercial uses along

there. To the southern portion of this, about the last inch or so here shown on the map, that is - that represents a change to the extent that is for expansion of business in response to considerable demand along there. But - and this is a commercial area here also - if you look at this in my view - of course the residential single family was included in the interim ordinance - in the whole single zone concept so in my mind the only thing that shows on this map that didn't show in the interim zoning ordinance is the specific location of some businesses. Now these others are shown but there is basically no difference - the flood plain, the national Park and the conservation and the agriculture, any difference - how you distinguish between them in terms of the uses that can be made. Certainly you can make some in terms of conservation. However, because of the action of the Board of Supervisors, even prior to the adoption of the interim zoning ordinance, you still couldn't go in the area up here, unless you had I believe at least 5 acres. So in conclusion my comment is that this really is not substantially different from the single zone that the county had under the interim zoning ordinance. And I think that this map accurately reflects Greene County as it is. I think the interim zoning ordinance map also accurately reflects Greene County as it was and I think as it is. This map to me, if anything, may have a little less flexibility than the zoning map that accompanied the interim zoning.

COURT: I take it if you had a preference you just as

1 soon have the interim ordinance?

2 A Yes sir, I would, if it were up to me because
3 my response to that is I don't think that does anything for it.
4 It's a little more specific but in terms of permitting uses,
5 I don't think it does. I'm not sure - I don't know what it
6 accomplishes. It looks more like a traditional zoning ordinance
7 in that you have more zones. However, I come back to what the
8 nature of the County is. I mean your zoning ordinance, the
9 text and the map, if it is going to be of any value whatsoever,
10 have got to reflect what the county is and what the people of
11 the county want it to be. . .

12 COURT: All right, go ahead sir.

13 Q Now Mr. Yearwood, you have heard testimony, of course,
14 as to the Greene County subdivision to which has been proposed
15 by Bennett Matthews, have you had a chance to observe and listen
16 to theexplanation of thatproposed subdivision?

17 A Yes sir, I have.

18 Q Now could you tell us whether in your opinion, the
19 two acre zoning of the interim zoning subdivision was an
20 appropriate zoning as applied to that subdivision?

21 A Yes sir, I certainly think so.

22 Q And could you give us the reasons for your opinion?

23 A Yes sir, I wonder if I might have the aerial photo-
24 graph which was introduced, exhibit 25. A number of facts and
25 Your Honor, I am apologic about this - I know it is necessary

1 but. . .

2 COURT: Yes sir, I can see it. . .

3 A We have been through this but again I want to respond
4 to it. The number of factors involved here that make me think
5 that the two acre zoning to the Matthews is appropriate is one
6 thing permanent ordinance, so called permanent ordinance, zoned
7 the same way but aside from that, looking at this much has been
8 said by the plaintiff and those speaking for him and this Court,
9 about the nature of the surrounding uses and comments to the
10 effect that it's not appropriate, arbitrary, to have this kind
11 of requirement, 2 acre requirement next to this subdivision that
12 we are talking about - the Gibson subdivision Locust Lane. I
13 respond generally to the location in this whole tract of Mr.
14 Matthews in this way. First of all it's a pretty good distance.
15 We clocked it by odometer actually in December - unfortunately
16 that's one of the pieces of data I don't recall the distance, but
17 it is some distance from 29 and 33 intersection. There is an
18 existing subdivision next to it, Locust Lane but if you look at
19 the preponderance of land around Mr. Matthews' property you will
20 see, of course, that it is not in residential use but that it is
21 open land. And I call your attention to this area here, all in
22 here and in this direction. And if this were to have been
23 approved, one of the things it seems to me that it would do is
24 to put the high density use - even if the Board of Zoning
25 Appeals, or whoever, determined that the permit should have been

1 granted, this would have been and there should have been this
2 inclusion put - that is to say there should have been an in-
3 clusion of the Ruckersville area cluster, whatever, it would
4 have put the high density and commercial uses and ultimately
5 some 900 people not anywhere near the center of this secondary
6 cluster. Certainly not to the east of it as recommended in
7 the plan but out here certainly on the periphery of the cluster
8 which of course if very antithesis of a cluster concept, If
9 you are going to cluster you don't want the high density out
10 on the fringes I wouldn't think. It would not seem reasonable
11 to me. Now let me take the other side for a moment. If the
12 situation were reversed, and if this area were significantly
13 built up in here and Mr. Matthews indeed owned some property
14 adjacent to the Locust Lane subdivision, which he wanted to
15 develop, assuming that there is high development within this
16 area, then I would say yes it would be reasonable because it
17 would be fairly arbitrary to draw the line and exclude some
18 111 acres right next to adensely built up area. However, that
19 is not the situation here. The situation is just the opposite
20 of that. We are talking about coming out on the periphery,
21 taking an area surrounded by open use, an area not designated
22 in the plan to be in the cluster and talking about developing
23 it into high density and I cannot believe that that is appro-
24 priate, simply cannot. There is one other thought that occurs
25 to me, if this were to be developed, what it would effectively

do over the next very few years is to shift the population center, indeed the whole center in the county, away from the county seat, Stanardsville, which has been the traditional central place in the county and shift it right here to this 111 acres.

Q Can you give us the basis of that statement or your consideration in making that statement Mr. Yearwood?

A The last statement I just made?

Q Yes.

A Well you are talking about the development of 111 acres, some proposed commercial along the front, over 900 people to be placed over I believe a ten year time frame, but Stanardsville currently has somewhere between 200 and 300 people. As I say it's the traditional center place for the county and what this would really do is to shift the central place from the county seat down to this area which is remote - well not remote, distant from any existing community or center of population.

Q Now it was stated in earlier testimony on behalf of the plaintiff that as you can see, Mr. Payne regards the proposed Greene County subdivision as being generally within what he concedes to be an enlarged Ruckersville cluster . . .

MR. PARKER: Now Your Honor, I don't think Mr. Payne ever said anything about it being within a cluster. I think

he. . .

COURT: That's a matter of recollection. Now you may frame the question as if he had said it and ask what his opinion would be but I'm not taking as fact what counsel say the evidence has been up to now.

MR. PARKER: I may be able to assist Mr. Slaughter. I believe what Mr. Payne said was within the area of influence of Ruckersville - of the . . .

COURT: I'm not sure what he styled it either but the word "cluster" is one which has been used technically I suppose in the ordinance and it may be an improper reference if it has not been located as a cluster on any of the maps. Has Ruckersville in fact been designated as a cluster of any kind?

MR. PARKER: Cluster is not used in the interim ordinance, it's used in the comprehensive plan. We have discussed cluster but Mr. Payne didn't make the statement that is being referred to.

MR. SLAUGHTER: I point out if the Court please and I am perfectly willing to use what - what was it area of influence for cluster? What I really am doing is trying to describe the area designated by a black dotted line on plaintiff's exhibit 25 which was basically an aerial map which was introduced into evidence through Mr. Payne. At the top that line is designated Ruckersville Land Use and Service Area, 1.09 miles plus or minus 700 acres, plus or minus, which runs around Ruckersville

1 not very far south and east of 29 and a considerable distance
2 north and west of 29 to encompass both proposed Greenetown
3 village and Locust Lane subdivisions. So whatever it is called
4 I am certain Mr. Payne testified that he regarded that as
5 some form of infra area. Based on Mr. Payne's testimony,
6 however, you recall it Mr. Yearwood, could you tell us whether
7 you regard this as an appropriate area of influence, cluster,
8 community or what have you?
9 A Yes, I can respond to that. I know, of course, I
10 do not agree with Mr. Payne as he indicated and where the boundaries
11 and cluster - or the influence area ought to be, is a matter
12 of opinion. I agree with that. In my opinion, this is - does
13 not make a reasonable cluster. Now how do you determine what
14 the area's influence is. And I looked into this at some
15 length and read everything from Central Place Theory by the
16 eminent J. H. Von Tunan written in 1938 to the recent literature on influence
17 which tells us - that tells me, the best I have been able to
18 determine that probably the best way to see what area has
19 what influence is to see the what the newspapers circulation
20 is. Now I don't know that that is the best way but some
21 authority indicates it is. If that is true, then the Ruckersville
22 area apparently would not have a lot of influence because I don't
23 believe there is a paper published down there. I don't know
24 that there is any hard and fast criteria to determine this.
25 All that I would say is that it appears in looking at this

1 and realizing that the comprehensive plan called for a cluster
2 which is why I use that term, to be primarily east of Route
3 29 and this location, the boundary has simply been extended here
4 to incorporate the property that belonged to Mr. Matthews.
5 Why not extend it in some other fashion? We have extended
6 it substantially in this direction here, why not by the same
7 token extend it in this direction where I now hold my hand,
8 south - I'm not sure again whether it's north - southwest of
9 33. What's the rationale for not extending it further to the
10 southwest? I can find no really hard and fast data which was
11 presented here or any place else which convinced me that this
12 makes anymore sense than any other arrangement. Now I know
13 some of the things that have been stated here in terms of
14 the existence of what we have in our weird moments have called
15 interest struction, urban interest struction, yes there is a
16 highway here, yes there is a water line all along here, yes there
17 is a school here, yes there is a fire station here. However,
18 those are not the only considerations that are involved in terms
19 of the appropriateness of a location of a particular development.
20 And I submit that what has happened in the past unfortunately and
21 what the plaintiff here is calling for again and that is nothing
22 more than development all along the highways where there is a
23 water line because those are the two things, at least in the past,
24 that tended to promote and to guide development. That's where
25 it has occurred, along the highways and where the water lines

are. And I submit that that is not the way the planning currently goes and those are not the only criteria that we look for. Those are not the best criteria to determine what land where ought to be developed.

Q How would the Greene - location of the Greenetown Village influence the traffic patterns there in Ruckersville in your opinion sir?

A Well I believe earlier testimony and - either in December or a previous case indicated that with the residential development only of Greenetown, that there would be an additional 2,000 trips per day generated at this intersection. If commercial uses also were provided along the front, I believe the figure that was quoted was 3,000 to 4,000. There would be a considerable increase. I preceive that as a problem if the development were to be permitted there.

Q Could you indulge me just a moment sir?

COURT: Yes sir.

Q Mr. Yearwood, have you studied the Town of Stanardsville from the point of view of sites of various types in enterprises?

A Yes sir, I have looked around this morning again.

Q Does the Town of Stanardsville have any zoning?

A I don't believe that it does.

Q Could you say whether or not in your opinion that there are commercial sites available within this Town of Stanardsville?

1 A Yes sir, my examination this morning indicated that
2 there are some 16 or 17 commercial uses. There appeared to
3 be other sites, other structures that would be appropriate for
4 commercial uses.
5 Q You have also testified Mr. Yearwood as to the
6 number of lots under 2 acres - I believe 2000 presently existing
7 in Greene County, could you tell the Court whether or not any
8 of these lots qualifies for Farmer's Home financing?
9 A Yes sir, we checked with - well we spoke with Mr.
10 Dunn - I can't recall the name of the man who is in charge of the
11 office of Farmer's Home Administration. We checked with him
12 and he indicated that it was their practice to go to whatever
13 the County ordinance called for and in this case they found
14 that 2 acres is an acceptable maximum for Farmer's Home
15 Administration funding. Of course what this really means
16 and perhaps I should speak to that - what this means is that
17 . . .
18 MR. PARKER: I think the witness should not volunteer
19 . . .
20 Q Well I will. . .
21 COURT: He's testifying as an expert and, of course,
22 he may use it to substantiate an opinion. I'm not sure whether
23 it is going back to his opinion or going back to indicate a
24 previous opinion or leading to another area. It may be in
25 response to a question already asked but keep that in mind

1 Mr. Slaughter, not to allow the testimony to deviate from the
2 area that you are inquiring into.
3 Q Yes sir. . .
4 COURT: Because I am not sure either. All of this
5 is generally in the field of planning and expertise which
6 is an opinion as Mr. Yearwood and I'm sure Mr. Payne have
7 both indicated, is largely opinion. And when a man is giving
8 an opinion I suppose he should be allowed to explain it within
9 reasonable limits. So keep that in mind.
10 Q Yes sir. I think I can ask a question which I
11 believe will be my last, at least on direct, could you tell us
12 what the purpose of the Farmer's Home Administration financing
13 is?
14 A Yes sir, they make loans for a variety of purposes
15 but basically the purpose is to provide low cost to moderate
16 cost housing. And, of course, in order to be able to do this
17 they have got to be able to obtain land at not too great a cost
18 and I don't know for a fact in Greene County, but I do know from
19 my other examinations in other counties in Virginia, that it
20 does vary somewhat - that Farmer's Home Administration generally
21 will not finance homes where the cost of the lot exceeds
22 $4500 per lot or $5,000 per lot. It seems to be fairly typical.
23 Now this is important because it has been contended thatlaying
24 on a 2 acre lot minimum is going to work a hardship - I don't
25 recall exactly how the pleading was worded - was in effect going

to work a hardship on a large segment of the population in Greene County. And I think the data on the large number of lots over 2,000 under 2 acres and presumably therefore, suitable for Farmer's Home Administration funding, I think pretty well lays that to rest. It seems to me that the availability of 2,000 lots from low to moderate cost housing, given a population currently in Greene County of something in excess of 6,000 is more than adequate for the foreseeable future.

Q I have no further questions Your Honor.

COURT: Mr. Yearwood, let me ask this with regard to commercial zone and I will allow Mr. Parker cross examination following this, from the standpoint of planning and the selection of a commercial area for future or allowing for future commercial development, given the situation of Greene County, where and by what criteria would you establish such a commercial area?

A I would probably be inclined to establish one only with the possible provision of two because of the nature of Greene County and the scatteration of population, I would want to see it here in this community, in Stanardsville. Because as I said previously I think this is the central place for the county traditionally and I think it still is. This is where as far as I can tell from my travels around and about, most of the goods and services are available in the community. The only possible exception to that would be the southwest quadrant,

1 down here, the area referred to as the Corner Store area. I
2 suspect that all that is really needed down there is down there
3 now basically with the Corner Store because given what we call
4 Riley's Law of Retail Trade is highly unlikely that the provision
5 of an additional commercial facility even in that area where
6 there appears to be considerable growth, would attract enough
7 business from those people who live in that quadrant because
8 they are simply going to Charlottesville or into the Charlottes-
9 ville area to do their shopping because of the greater magnitude
10 and greater choice of shopping. So my .....my response to that
11 it might be best located here in Stanardsville. You already
12 have the established base here.
13 COURT: Now with regard to the Locust Lane subdivision,
14 given the fact that there is a fairly well developed subdivision
15 in that area, why not add further residential development
16 adjacent to it?
17 A You cannot be guided - let me phrase it more ex-
18 plicitly. ..
19 COURT: As a planning matter. . .
20 A Yes. . .
21 COURT: Why not add more territory right there?
22 A Because that may well be that that shouldn't have
23 been there in the first place from a planning standpoint.
24 COURT: What would you say about Locust Lane then from
25 a planning standpoint?

1 A I would say it never should have been there and
2 I particularly say that if you go out and look at it because you
3 don't have suitably improved roads. When we were here in
4 December they were in fact out there putting down some tar
5 and gravel. It's not the most suitably improved subdivision
6 that I have ever seen, it does not have the best street alignment
7 that I have ever seen. There are some problems with it in-
8 ternally and externally I don't think it belongs there either.
9 And I would say that it was an error for it to be there. It
10 unfortunately for me falls into kind of a category of non-forming
11 use, sort of unfortunate that it turned out to be there. In the
12 absence of any land use control devices, that's the kind of thing
13 that happens quite often though and we come back with the fruit
14 of that and problems with non-conforming uses and expansions
15 of those and what effect does that have on the adjoining property.
16 I think planners everywhere would agree that you simply cannot
17 let future land use decisions be controlled by some phenomenon
18 that occurred in the past, particularly where there is no control
19 device.
20 COURT: I take it then that your position as a planner
21 would be that a given situation already in existence if it did
22 not already meet with good planning, you would do everything
23 to curtail any further development of that if possible?
24 A Yes sir, that's a fair statement I think. Certainly
25 you would not want to continue that kind of development and

1 magnify it, compound the air so to speak.

2 COURT: Well given the fact that the quadrant that Mr.
3 Payne referred to as being worthy of development lies inside
4 the angle of the main water line, what significance should you
5 attach to that as an area of development?

6 A I think the existence of a highway and I think the
7 existence of the water line are factors that must be considered.
8 I think there are other factors also that must be considered.
9 I think the development of the comprehensive plan speaks to that
10 point and says that they were considered and the responsible
11 local citizens determined that that was not the area which they
12 thought best suited for development.

13 COURT: Well would you say it could have been selected
14 or would that have been against the better judgment of planning?

15 A You are speaking now just to that one quadrant?

16 COURT: Yes sir, I think that would be the northeast
17 quadrant. . .

18 MR. SLAUGHTER: Northwest quadrant. . .

19 COURT: Northwest quadrant,yes sir.

20 A I. . .

21 COURT: If it had been selected or set up as cluster,
22 what would you find wrong with it?

23 A Well ceteris paribus - all things being equal,
24 if the County Supervisors had elected to make this a cluster,
25 excluding development in the other quadrants, I would not have

a great deal of trouble with it. Some of the observations that I have made would still hold, it would constitute a shift in the central place, a good deal of traffic if properly developed here would be generated. Now about ingress and egress, how that would be handled - probably could be handled but it would represent a change of some magnitude and the points of ingress and egress would have a considerable effect on traffic moving to other parts of the County. This would be one of my primary concerns because given the population spread throughout the County, in a sense, since there seems to be no compelling reason to do so, to foster a high level of development here in essence sets up a kind of a barrier for persons to come through in order to move about the County.

COURT: All right, Mr. Parker, you may cross examine.

CROSS EXAMINATION

By: Mr. Parker

Q Mr. Yearwood, as I understood your testimony you said that the ordinance that the County has now might well have been instead of that ordinance, the same ordinance they had as an interim ordinance, is that correct? From a planning point of view. . .

A Yes sir, I did say that.

Q Now Your Honor, I don't wish to waive my objection to these questions I'm. . .

1 COURT: Oh, yes, it is understood that your cross
2 examination is being conducted without waiving any of the
3 objections being made to the direct testimony.
4 Q Thank you sir. You discussed in your direct
5 testimony in that connection, your feeling that modern day
6 planning should include a great deal of flexibility, is that
7 correct?
8 A Yes sir, I certainly do believe that.
9 Q In the interim zoning ordinance in question, which
10 you have read carefully I'm sure. . .
11 A Yes.
12 Q What features in that ordinance allowed for flexi-
13 bility?
14 A Two things, the fact that it is a single zone
15 and secondly, the fact that other uses can be permitted on
16 a review or by a special permit provision.
17 Q If that ordinance had not had - had been single
18 zone but had not had the other uses by a special use permit
19 would that ordinance have had sufficient flexibility in the
20 one zone concept so that you could say of it, that we might
21 just as well have that ordinance today?
22 A Let me ask this, you are speaking of this interim
23 zoning ordinance for Greene County as you have described it
24 without the special permit provision. . .
25 Q Yes. . .

1 A I don't think I could support that as having enough
2 flexibility.
3 Q So then I take it that what is committed in fact
4 to the special use route, the things that can be done in the
5 special use route become all important, don't they?
6 A I beg your pardon. . .
7 Q Become all important. The things that are done
8 through the special use route become all important because that's
9 how you get your flexibility?
10 A No sir, I wouldn't subscribe to that entirely. I
11 think it is a matter of allocation between the uses permitted
12 as a variety and those on review or by special use. . .
13 Q Well very little in that ordinance was permitted
14 as a right which is why you. . .
15 A No sir, I wouldn't agree with that entirely.
16 Q But you did say that the ordinance would have been
17 insufficiently flexible to meet appropriate planning standards
18 if it hadn't been for the special permits. . .
19 A Yes sir.
20 Q So that it is necessary, is it not, that the
21 special permit feature be applied to enough things, apply to
22 enough types of uses such that the flexibility that is needed
23 in the ordinance be granted, is that correct?
24 A I can't respond to that exactly. I don't want
25 to reiterate what I've said. Perhaps I can explain it this

way. That's important but on the otherhand, the enumeration of permitted uses is also important and there has got to be a balance, depending on how many permitted uses you have, yes. Bascially I think the jurisdiction has got to. . .

Q I'm talking about. . .

A . . .provide somehow for any use and all uses within that jurisdiction, that's pretty well settled, yes.

Q I'm talking about this particular ordinance, this particular ordinance that you said you have read carefully. . .

A Yes.

Q In order for that ordinance to have a need of flexibility to operate the County on, if it were a permanent ordinance certainly, it would have to have that special use provision in it?

A Yes sir, I agree with that.

Q Because that's our flexibility is maintained in that ordinance by permitting various and. . .

COURT: You are repeating now. He has already undertaken to answer that and he has disagreed with you Mr. Parker. . .

A Yes sir. . .

COURT: . . .I'm not sure what his. . .

Q He has just agreed with me. . .

COURT: All right, go ahead sir.

Q Now Mr. Yearwood, the standards I take it by which those special uses are granted or not granted become a very

important thing?

A Am I obliged to answer yes or no?

COURT: Yes, answer yes or no.

A Yes.

Q Now in your experience as a planner, and on these boards that you were talking about, would it be sufficient from a planning point of view if somebody gave such a board as that the following standard and said now you plan well or you do what is in the best interest of the County. . .

A Try to do the right thing, no sir, that would not be adequate. And particularly for the Board of Zoning Appeals which I indicated I was chairman because the State Code specifically states the grounds on which variances may be granted for example, quite fair and quite specific. So such general - a general statement such as you indicated would not at all be satisfactory.

Q And anything that had the effect of such a general statement would not be satisfactory?

A The same comment worded otherwise, yes I certainly agree with that.

Q Your understanding of the Code that you suggested is the Board of Zoning Appeals is suppose to exercise judicial authority. . .

A Quasi judicial authority, yes sir.

Q . . .to decide controversies essentially?

1 A Yes sir.

2 Q To decide controversies essentially?

3 A Yes sir, to decide limited controversies, that is
4 a limited branch of them, clearly specified in the Code, limits
5 it to three areas, yes.

6 Q And yet it is your opinion that an ordinance which
7 would only have the necessary flexibility through constant
8 referral to a body which must decide those three areas of limited
9 controversey would be sufficient from a planning point of
10 view?

11 A I'm sorry, I missed you somewhere. Would you
12 repeat that for me?

13 Q So it is your opinion then that an ordinance could
14 only supply the necessary flexibility through reference to a
15 Board which could only operate in those three areas, would be
16 a sufficient ordinance from a planning point of view, satisfactory
17 . . .

18 A My answer is yes, I think if I follow your question.

19 COURT: You are talking with reference to Greene County
20 I take it Mr. Parker?

21 Q Yes sir. . .

22 COURT: I take it his answers are directed towards
23 the situation as Greene County. . .

24 A In that light, yes, emphatically yes.

25 Q It is not your opinion as a planner Mr. Yearwood

is it that most uses in the interest of flexibility should be committed to ---- Mr. Yearwood, have you seen ordinances of the nature of Greene County's interim ordinance in effect any place as permanent ordinances in your experience?

A I have not personally held such in my hand. I have been acquainted with the existence of similar kind of ordinances, yes.

Q Do you know of any in this State?

A Not that I recollect at the moment, no sir.

Q Then this type of interim ordinance is in for Virginia a novel thing from the point of view of planning?

A In a way it might be. We have interim ordinances from time to time, some of which have - in fact Northern Virginia infamous for this. Many of these have other - certain other unfortunate, undesirable factors associated with them such as moritoriums, limits on building permits that can be issued annually, sewer, tape on moratoriums of this kind. An interim ordinance is not in my mind that.....

Q No, but this type of - my question was I believe and I believe you answered yes, this particular variety of interim zoning ordinance is a novel in Virginia?

A To my knowledge, yes.

COURT: Let me ask you this Mr. Yearwood, how consistent is it with what has gone on in the past for a county such as Greene to be getting into zoning at the stage that it got into?

1 A Well I think it is fairly consistent with practice,
2 on the one hand. On the other hand I think it's - I think it
3 is fairly innovative. I have said a number of times to the
4 staff of the Planning District Commission, Thomas Jefferson
5 Planning District Commission, that I have been extremely
6 pleased just from a general standpoint as a professional
7 planner that the progress in Greene County has been such that
8 the Planning Commission and the Board of Supervisors would
9 be receptive to this kind of response to what they preceive
10 apparently to be an impending crises. I have been very pleased
11 about that. I think it is a very progressive move. And it's
12 difficult in some ways and it's opposed in others because in
13 other instances you see interim ordinances thrown up which are
14 nothing more than a stop gap measurement with stringent limitation
15 against any growth and, of course, that is not the case here.
16 In my judgment I think this is not an ordinance that precludes
17 growth or even in fact discourages it. I think it's an ordinance
18 which attempts to channel growth.
19 COURT: You are talking about the interim ordinance?
20 A The interim ordinance, yes sir.
21 COURT: All right, go ahead Mr. Parker.
22 Q Then the interim ordinance following up on the
23 Court's question, the interim ordinance as you examined it, you
24 would not consider it to result in any stringent limitations
25 upon the County?

1 A No sir.

2 Q On the other hand that same interim ordinance without
3 the flexibility provision, without the special use provision
4 certainly would have been a stringent exercise of authority on
5 the County?

6 A Yes sir.

7 Q So if the Board of Zoning Appeals saw fit simply to
8 deny the effective use of the flexibility provision of the
9 special use permit provision, then that ordinance would be
10 severely restrictive?

11 A It would be a highly suspect, yes sir.

12 Q Would you say that the ordinance of Greene County
13 had - might have been subject to abuse in that respect?

14 A Are you talking about conceptionally?

15 Q Yes sir.

16 A Oh, yes sir, I have seen enough to know that most
17 anything is subject to abuse. I agree, yes.

18 COURT: You mean insofar as the Board of Zoning Appeals
19 may have administered it?

20 A Yes sir.

21 Q And if that in fact had occurred, then it's your
22 opinion that the ordinance would have been --- I won't repeat
23 Your Honor, I think I am repeating.

24 COURT: Let me ask this question Mr. Parker, I don't
25 mean to throw you off - Mr. Yearwood, I gather that while you

1 undertake to give flexibility to somebody such as the Board of
2 Zoning Appeals, it always invites the possibility or even the
3 probability of arbitrariness because of flexibility? Is that
4 an informed risk?
5 A Yes sir, any person or agency who has the authority
6 to make decisions obviously has - there obviously is inherent
7 in that grant the possibility of arbitrary and capricious decision
8 making, wrongful decisions, yes sir.
9 COURT: How much do you try to guard against that in
10 planning generally? Do you encourage that opportunity on the
11 part of the judgment making body or would you try to limit it?
12 A I believe that it's kind of an even handed approach
13 in my estimation. For example a building inspector, zoning
14 agent, subdivision agent, these are ministerial functions. The
15 persons who exercise these responsibilities have no discretion
16 whatever under the statute and under the ordinance. The Code
17 of Virginia does however, provide some and it says that, some
18 discretion because of the quasi judicial body to Boards of
19 Zoning Appeals. On the other hand the Code comes right back
20 and lays down certain standards for example in the granting of
21 variances which the Boards of Zoning Appeals are to follow.
22 Now I know for a fact in a limited number of cases, agent or
23 not, because I was overruled in my Board one time, out voted
24 actually but the rules are there, the standards are there.
25 Of course there is a continuing conflict in the law and perhaps

1 I ought not to speak to that but it's the request for flexibility
2 on the one hand and the judicial search and to the planner, a
3 search for some standards by which to mitigate this flexibility
4 and the possibility of arbitrary decision making.
5 COURT: That's what I was getting at. You can't avoid
6 one without endangering yourself on the other. . .
7 A No sir, no you cannot provide both and I - it's a
8 matter of balance I think.
9 COURT: All right, Mr. Parker, go ahead sir.
10 Q But the goal is to provide both, it's just difficult?
11 A Yes sir. We agree on that.
12 Q Now you said it's your opinion as to the adequacy of
13 this ordinance from a planning standpoint with respect to Greene
14 County was based on your further opinion that this county was
15 singularly homogeneous, is that correct?
16 A Yes sir.
17 Q And the fact that the County was singularly homogen-
18 eous was based on, certainly primarily on the evidence you have
19 heard in this court as to the type of County it is, . .
20 A No sir, I would not agree with that. I would offer
21 a judgment about the nature of the County without being over it
22 to some degree anymore than I would buy a tract of land without
23 being on it. Primarily my judgment about the nature of the County
24 is based on my travels in and through it.
25 Q All right, then sir, could you, based upon the data

1 that you have heard in this Court and from Mr. Evans as to this
2 County - he testified for a day. . .
3 A Yes sir, at some length. . .
4 Q Would you on that basis, on the basis of that data,
5 form your opinion that the County was singularly homogeneous?
6 A Could I?
7 Q Yes sir.
8 A Yes sir.
9 Q So that would be sufficient in your view to form
10 that opinion?
11 A Yes sir.
12 Q Well if your opinion was singular - that the County
13 singular homogeneous, based as you said it could have been upon
14 Mr. Evan's description of the County, were in error, then you
15 concede that your opinion as to the validity of this ordinance
16 - this type of ordinance for Greene County, even as a permanent
17 arrangement would be wrong or would be difficult?
18 A Yes, if I could be shown sufficient data to change
19 my opinion then I would have to change - change my opinion about
20 the nature of the County, then I think it would follow that my
21 opinion about the sufficiency of the interim zoning ordinance
22 could also change.
23 COURT: What is the controlling criteria when you
24 say the County is or isn't homogeneous?
25 A I'm not sure about the controlling - well the con-

1 trolling thing. . .

2 COURT: Well some of the principles. . .

3 A . . .land use, the land use that exist in the County.

4 And I keep coming back to the fact that there is only one use

5 in the County that's termed an industrial use and that's cabin,

6 shop. . .

7 COURT: All right, that's what I was getting at, when you

8 use that term, you are talking about land use as opposed to some

9 other category. . .

10 A Yes sir. . . .

11 COURT: . . .as far as the diversity of population and

12 the activities that they are engaged in?

13 A I'm talking primarily about the land use, yes sir.

14 COURT: All right, go ahead Mr. Parker.

15 Q Now Mr. Yearwood, you compared in your testimony

16 I believe Lydia, Dyke and Ruckersville, is that correct?

17 A I don't know that I compared them. I pointed them

18 out and just mentioned them in looking at the zoning map, yes

19 sir.

20 Q You said and had talked about Stanardsville as being

21 the center of the County, commercial concentration and said

22 that other commercial concentration, centers of activity in the

23 County were like Lydia, Dyke and Ruckersville, isn't that what

24 you said?

25 A I don't know. I just don't recall that. I don't

1 know that I said they were commercial centers. I think there is
2 commercial shown at Lydia but I indicated I believe that these
3 were secondary clusters. I don't - perhaps I said that, I
4 simply don't recall.
5 Q Would you have been in error if you had compared
6 Ruckersville with Lydia and Dyke as being concomitant?
7 A Yes, if I indicated any large scale similarities,
8 I think I would have been, yes.
9 Q Dyke might be like Lydia but Ruckersville. . .
10 A But somewhat unlike Ruckersville in terms of,
11 particularly - well, yes.
12 Q Now you said historically transportation, access
13 had been a problem into the County, is that correct?
14 A Into and for movement within the County, yes.
15 Q Is that as much of a problem now as it has been
16 historically?
17 A No sir, I think not and likely to be less of a
18 problem as 33 is widened. I came across from Rockingham County
19 last week and noticed that they have three lanes down the mountain
20 and so improvements are underway but historically that has been
21 the case, not unlike other counties similar in character.
22 Q Access to Greene County right now is not deplorable
23 is it?
24 A No.
25 Q It's not poor?

1 A Excuse me - the first of my remarks was access
2 within the County primarily and speaking in terms of a central
3 place, rather than access to and through the County. But yes,
4 I agree with your last question that access to it is not de-
5 plorable, no.
6 Q Well there is almost as good an access to Ruckers-
7 ville as there is to Stanardsville, not quite as short but almost
8 as good an access - might be better from some places?
9 A Yes, it would be. I was going to say it depends
10 on what direction you are coming from, would be better and
11 a shorter time.
12 Q And once you get on one of these big highways,
13 there is not as much involved to get there?
14 A Yes.
15 Q Now you testified, talking about highways still,
16 you thought it would be undesirable to raise the useage on
17 Route 33 by 2,000 or 4,000 trips a day, is that correct?
18 A No sir, I didn't say exactly that. I was speaking
19 in terms of that specific location and indicated that I thought
20 that would certainly increase the burden and stated that I felt
21 that might be overcome but was a factor to be considered.
22 Q Well are you telling me that 2,000 to 4,000 trips
23 would overload that highway?
24 A No. But there again. . .
25 Q Now are you actually in a position to tell us anything

about the overloading of highways? Is that your area of expertise?

A No my area of expertise is land use law, that's my primary area. I'm not a transportation planner and would not attempt to be.

Q Well now supposing the same subdivision, Mr. Matthews subdivision was picked up somehow and moved to Stanardsville, the immediate environs of Stanardsville, wouldn't that create the same load on the highway right there as it would down to Ruckersville except you wouldn't have Route 29 nearby to serve it as well as Route 33?

A I think I would have to elaborate on that - I will have to explain my answer if I am to answer it. It would put the same load on a particular piece of highway. I think the location is all important here. I like your proposal. I would like to see Mr. Matthews' development near or in Stanardsville. . .

Q From a highway point of view it would be no different?

A Oh, yes I think it would be because I think it takes the generation of traffic away from that intersection further into the County, puts it more into a central place you see. . .

Q That has an effect on the County?

A Well it has an effect on the transportation artery too.

Q And it would remove it for instance from immediate

1 access to Route 29. . .

2 A Certainly would. . .

3 COURT: Mr. Yearwood, I take it that your suggestion

4 would be that the concentration of traffic be nearer the

5 intersection as a preference in planning?

6 A Mine?

7 COURT: Yes sir.

8 A No, sir, I would not. . .

9 COURT: All right. . .

10 A My preference as far as the generation of traffic

11 relates to where subdivisions ought to be located. And primarily

12 they ought to be located really, in my view, a short distance,

13 should be clustered and located a short distance, a few hundred

14 feet perhaps - a couple of hundred feet away from a major traffic

15 artery with provision for easy ingress and egress to provide a

16 smooth flow. I do not like to see subdivisions with the

17 generation of traffic that they provide at an intersection.

18 COURT: All right, go ahead Mr. Parker.

19 Q You prefer to see the subdivision picked up and

20 moved away for instance from Albemarle County and whatever source

21 of economic help that might be to Greene County?

22 A Let me put it this way, as far as - I don't think

23 I have any preference in what I prefer to see, from the planning

24 point of view I think that if Mr. Matthews piece of land were

25 located in and around or near Stanardsville, I would, all other

1 things being equal would respond to it in a very affirmative
2 way. Aside from a minor comment or two about the subdivision
3 internally, the proposed subdivision I don't have any problems
4 specifically with that. It's not a matter of the internal
5 aspect, it seems to me it's the externalities that would be
6 imposed by this development and this location. That's the key
7 in my mind.
8 Q What do you mean by internal and external?
9 A I'm talking about the things that are generic
10 to that particular piece of property physically and that the
11 plan which has been proposed for the street design within for
12 example, the topo, thelay of the land, whether there is some
13 swampy, low lying areas which I believe has been testified to
14 before. I think it's a matter of location primarily.
15 Q Now you testified that you thought an interim
16 ordinance or an ordinance of this type were appropriate to
17 Greene County, might have been appropriate anyway as a permanent
18 ordinance, but as interim ordinance it was particular appropri-
19 ate because there was pressum to develop lots and I think you
20 testified there has been 3,428 total lots - the figure you gave?
21 A Yes.
22 Q At that time?
23 A Yes, I wanted to speak to the first part of what
24 you said. I don't want to be understood as agreeing to that.
25 I think what I really said about the thing was not only the

1 number of lots but also the two other factors, the character
2 of the County and the statutory requirements that preserve
3 property and property values. So it's three things in my mind.
4 Q And you take into account existing use, that's
5 understandable. . .
6 A Yes.
7 Q Now of those 3,428 lots, 3,095 were lots that
8 had not been - that were still subject to being built on, are
9 those the figures that you gave us?
10 A Yes sir. . .
11 Q Because we had 333 lots that had been built on?
12 A Yes sir.
13 Q And that was the pressure that you were referring
14 to, those 333. . .
15 A No. . .
16 Q Well there were two pressures, there was pressure
17 for subdivision and there was pressure for building residences
18 or building something on the lots?
19 A No sir, I think it was - you can interpret, under-
20 stand that phenomeon as simply being the - at the initiative
21 of a number of individuals - raw land was converted to sub-
22 division lots and not necessarily to developable lots.
23 Q Yes, they had - there had been 5,000 acres placed
24 in 3,428 lots, that's what you testified to?
25 A Yes sir.

1 Q And you conceive that a pressure - a high level
2 of land conversion to building lots - those were your exact
3 words that I have written down?
4 A Yes sir. I did not consider that the development
5 of 333 were particularly significant. I felt the conversion of
6 the large acreage was significant. . .
7 Q All right. Now of those 3,428 total lots - I withdraw
8 that for just a moment - since those 333 were not particularly
9 significant, it wouldn't make any difference whether that was
10 for residences, recreational homes or anything else?
11 A Oh, I think it would make a difference in many
12 ways, yes.
13 Q Would it make any difference from the standpoint
14 of your opinion is what I am talking about?
15 A My opinion concerning whether that was an indication
16 of the pressure?
17 Q The pressure that Greene County needed an interim
18 ordinance?
19 A Yes.
20 Q I'm sorry, I don't understand what your yes means
21 and it's probably as much my fault with my question as with
22 your answer. . .
23 A I understood you to say does the distinction between
24 part-time, seasonal, recreational, full time or whatever the
25 categories are, does that make a difference in my opinion - that's

1 why I was responding yes, the nature of these homes would make
2 a difference. . .
3 Q Would make a difference but even so the total of
4 333 are not considered to be terribly - a terrible lot of
5 pressure?
6 A I did not consider that as alarming as the other
7 figure, yes, you are quite right.
8 Q Now of the 3,428 total lots that - land that was
9 converted into building lots for some type of building, how
10 much of it would be suitable for - how much of it in subdivisions
11 was primarily designed for residences, first home residences?
12 A I don't believe that the table provides that in-
13 formation - perhaps it does. I stand corrected because there
14 is an indication of residential or mixed, however, I did not
15 tabulate and seasonal - they were not tabulated on that basis
16 so I am sorry I cannot respond of my knowledge to the question.
17 Q So your opinion would have been rendered independently
18 of how many of these lots were used for that purpose - used for
19 first home residences?
20 A My opinion would have been rendered with the under-
21 standing on my part because I have seen a few part-time seasonal
22 resorts - developments which turn into anything but that. They
23 do turn in fact into full time - first home developments.
24 Q But you are aware of the fact that certainly those
25 up in the mountains - the mountain area that they weren't going

1 to do that because of what the county had done with the requirements
2 for the road in the subdivision, amendment to the subdivision
3 ordinance. . .
4 A Yes.
5 Q You alluded to that I believe when you testified
6 before?
7 A Yes sir.
8 MR. DICKEY: Did Mr. Parker say whether his question
9 was based on the assumption that the subdivision ordinance
10 would prohibit subdivision - prohibit building in current
11 subdivisions in mountains?
12 COURT: I'm not sure. ..
13 MR. DICKEY: I didn't understand the question....
14 COURT: Mr. Parker would you clarify that point. Was
15 your question directed toward any prohibition, or assuming any
16 prohibition against building in the mountains?
17 Q Not, no prohibition, no sir, just the terms. ..
18 MR. DICKEY: In existing subdivisions?
19 COURT: Well you may take that point up on further
20 direct examination if you wish to pursue it.
21 Q Mr. Evans testified - do you recall Mr. Evans testi-
22 fying that an agricultural use next to the Locust Lane subdivision
23 would not be desirable from a point of view of that subdivision?
24 A I don't specifically recall it, he may well have
25 testified to that effect.

1 Q Would that effect your opinion as to the use of the
2 land that Mr. Matthews has abutting that subdivision?
3 A I think that would depend on the nature - you say
4 agricultural use?
5 Q Yes.
6 A I am sure that would not substantially change
7 my opinion, if there were to be intensive agricultural - that is
8 livestock facilities such as hog parlors, cattle feeding lots
9 or whatnot in close - very close proximity to that subdivision,
10 then of course it would be a problem but the range of agricultural
11 uses that would be permitted, I should think would not be
12 offensive. Many people who want to move out to the country
13 find it actually very attractive and pleasant to gaze across
14 the field and see the cattle grazing.
15 Q Well those uses you referred to were permitted
16 in the interim ordinance weren't they?
17 A Yes, I amquite aware of that.
18 COURT: What uses are you referring to, the feeding
19 operations?
20 Q Yes. ..
21 A Intensive uses Your Honor.
22 Q Intensive uses for agricultural purposes were
23 permitted? Under the interim ordinance they could have put
24 such a thing right next to Locust Lane?
25 A Subject to their removal by action - at nuisance.

1 Q Which was about as difficult to approach historically
2 and even now isn't it?
3 A No, it's not my judgment, I have seen too many
4 removed, chicken operations, pig farms - no, I don't agree
5 with you. The Health Departments around the State and around
6 the County are quite effective at alleviating. . .
7 Q Where they violate health regulations - you would have
8 to assume that they were violating health regulations to get to
9 that wouldn't you? --the Health Department would. ..
10 A I have seen in my own experience in connection
11 with a chicken farm that adjoins the property of my parents in
12 Tennessee, the Health Department ordered the removal of that
13 chicken operation not on any stated grounds related to health.
14 Now I don't know how they did it, but I know they did it.
15 Q All right, in Tennessee?
16 A Yes.
17 Q Now....
18 A Excuse me, let me respond to that in connection
19 with Virginia. There was an instance on Poor Mountain, Roanoke
20 County, Virginia, in which a hog operation was terminated by
21 the Health Department because of urbanization which surrounded
22 the man's farm. So it's not. . .
23 Q But that's exactly the point isn't it, that it's
24 really not a compatible use from the standpoint of planning?
25 A I believe it's Justice Holmes that has said that

1 everything has its place including pigs but they don't belong
2 in a parlor. . .
3 Q You agree with that?
4 A Yes, I would have to agree with that.
5 Q Not Justice Holmes I mean, you agree with my
6 statement. . .
7 A I'm sorry, I didn't understand that to be beyond
8 parlors.
9 Q All right, I won't pursue it further. In fact the
10 residential cluster appeared on the east side of Ruckersville
11 when the County did the planning?
12 A East side of 29 basically, yes sir.
13 Q And you testified in response to the Court's
14 question I take it, it might just as well have - would have been
15 supportable had it shown up on the west side?
16 A I didn't state it in unlimitd terms as you just
17 did. ..
18 Q No, I said it would have been supportable had it
19 turned up on the west side?
20 A No, I said it would have been supportable in the
21 northwest quadrants.
22 Q In the northwest quadrants, which is the - in the
23 quadrant of Mr. Matthews' proposed development?
24 A Yes.
25 Q Now that proposed development is - you have taken

1 into acoount in your opinion that that proposed development
2 is bounded on one side by a major highway, by water, bounded
3 on the other side by presently existing subdivisions, runs
4 back a good distance from the road. . .
5 A Yes....
6 Q ...with 55 lots in it I believe - I made a note of
7 it - 32 built on, something like that...
8 A Yes...
9 Q That on the other side of that - of Mr. Matthews
10 there is some 1800 feet of vacant land until you get to
11 the Gibson subdivision - not Locust Lane but the Gibson sub-
12 division....
13 A Yes sir, I did consider those factors, yes.
14 Q And the Gibson subdivision backs right up to the
15 Ruckersville environment there and is within the cluster?
16 A Yes.
17 COURT: Mr. Yearwood, realizing that planning is
18 largely a matter of judgment calls, I take it that it's not
19 an exact science or would you disagree with that?
20 A No sir, I would not disagree with that....it is
21 a matter of judgments.
22 COURT: Now assuming that the facts are as stated and
23 you have seen Locust Lane subdivision have you?
24 A Yes sir.
25 COURT: Insofar as the subject property of Mr. Matthews

would the presence of Locust Lane subdivision even if it were fully developed, be a positive or negative inducement, which would it be toward allowing the type of use sought by Mr. Matthews - insofar as planning is concerned?

A Would it be a positive or negative influence as far as permitting or denying developments. . .

COURT: Yes, insofar as setting up a plan?

A From my point of view I think it would be a negative factor. I said earlier that I thought it was - it's misplaced, poorly placed and I simply do not feel from a point of view of good planning practice that this County ought to permit or indeed any similarly situated ought to permit a 55, if that is the current number, a 55 lot subdivision to determine the development of all the vast and it is a vast amount of open area around it. I simply feel like if I. . .

COURT: Well good planning, would you say that conclusion is debatable among planners or would you say this would be generally considered. . .

A I would say that Mr. Payne is the only planner that I know who would debate me on that.

COURT: That's what I am getting at. Would this be something that is subject of debate, or is it so firmly fixed that you would state it as a general rule in planning, that an undesirable development constitutes a negative inducement?

A I would say that with all due respect to Mr. Payne

and I would say that the U.S. Supreme Court in 1917 said exactly the same thing on the same point that you cannot let existing development inappropriately placed determine the development of the area surrounding it.

Q I'm trying to figure out....

COURT: Are you saying that because of the Supreme Court decision or because of present day thinking and planning?

A I'm saying that planners who are with it are aware of that decision, that line of decision and that it is an integral part of the planner's prospective. And I think the planners generally subscribe to that view point.

COURT: Well let me ask you this, insofar as the planning profession is concerned, are the lines of cases determinative of the planning criteria or do you determine what is good planning separate and apart from what the Court says?

A We do both I would say. We attempt to determine what, from all available data and the latest techniques and knowledge we try to determine what is best planning practice. However, I certainly make a strong point of this with our graduate students that you must be mindful of what the State enabling legislature permits and you must be mindful of what the Court decision will permit in a particular area, realizing, of course that those decisions are subject to change and we see obviously that the whole concept of police power in terms of land use

1 controls are involved fairly significantly over the past 50 years.
2 But I think the two are intertwined/closely, at least in my own
3 mind that I have trouble determining - I think that both are
4 important. We try to determine what we think would be the best
5 policy and best approach but are forever mindful of court
6 decisions which would support what we think is the best planning
7 practice on the one hand and court decisions which may provide
8 some limitations on what we can do in the terms of, let's say
9 providing flexibility and so forth. That's a good example
10 because initially the courts are very negative in their re-
11 action to such devices as floating zones. And the first case
12 on floating zones came along in about 1954, those were the -
13 the first few proved very clearly uniformally stricken and then
14 I think - well not I think - clearly over time the courts
15 respond to an express need and perhaps have gotten a clear
16 understanding of the desire for flexibility and so on.
17 COURT: I take it that the planning profession then
18 picks up and adjusts to change in court decisions?
19 A Yes sir.
20 COURT: And interweaves that into the planning
21 process. . .
22 A Yes sir, that's an integral thread in the planning
23 fabric if I might put it that way. I preach the position that
24 it's foolhardy to draft an ordinance that is subject to legal
25 attack on several points. It seems to me not to be wise to do

1 that.

2 COURT: All right, Mr. Parker, you might have other

3 cross examination.

4 Q The question of planning is one thing and the

5 question of zoning is another and they do inter-relate, isn't

6 that it?

7 A Yes, they certainly do relate very closely.

8 Q Planning is what you would like to do and zoning

9 is how you do it within the limits of what you can do?

10 A I think I agree with that. I would simply state

11 in this fashion that zoning in a tool of plan implementation,

12 a device for planning implementation, yes. It attempts to

13 bring about the desired state expressed in the plans.

14 Q And some things which are good planning - some things

15 which to even you may testify which would be good planning, not

16 necessarily for that reason, permissible zoning?

17 A I will answer that by saying this today based on -

18 well today I do not think, short of the obvious attempts to

19 control growth, the obviously disallowable attempts, such as

20 flat out moritorium and so on, that there is any zoning device,

21 any provision of zoning that is not judicially acceptable with

22 the exception - with noting the current condition of confusion

23 I should say, in connection with the whole question of exclusion-

24 ary zoning and the other side of that coin, inclusionary

25 zoning. What I am referring to is the recent U.S. Supreme

1 Court denial of certiorari in connection with the Petaluma
2 case in California which upheld circuit courts, sustaining the
3 Petaluma ordinance which slapped a 500 building permit per
4 year max on developers of Petaluma. I think that throws a
5 real monkey wrench into the whole question of exclusionary
6 zoning. But the devices that we use in zoning, I don't
7 think are really subject to attack. I think the courts
8 now are generally at the point where they find no judicial
9 problem.
10 Q All I am trying to do is to tell you - is to suggest
11 what is good planning may not necessarily, is not necessarily
12 for that reason doable by zoning?
13 A Oh, I certainly agree with that. Zoning is only
14 one device for plan implementation.
15 Q And some things which would be good planning and
16 could only be implemented by zoning still can't be implemented
17 by zoning because of the law - you recognize....
18 A My position on that would be, based on what I know
19 about the court's decisions across the country, I would have to
20 say no with the exception of the whole area of exclusionary
21 zoning. I think all the other devices that are used, plan unit
22 development, floating zones, performance standards - all of these
23 things are universally accepted.
24 Q That's not quite my - but I will plass it by.
25 A Well I think.....

1 COURT: Just respond to the question, don't volunteer
2 Mr. Yearwood.
3 Q Cluster boundaries - when you have clusters in
4 planning, are they general or specific in nature?
5 A I would say as a general proposition that they
6 are in fact general. They can be specific if they are shown
7 on a map in a specific fashion but I think the concept is a
8 fairly general concept, yes.
9 Q They are, after all for planning purposes and not
10 for zoning purposes?
11 A I don't know why they can't be for zoning purposes.
12 Presumably if you have a plan, you have a zoning ordinance
13 which moves to implement that plan. So if you have a cluster
14 in your plan I don't know why you wouldn't have a cluster shown
15 in your zoning ordinance if you are doing the job.
16 Q So you might run your zoning line right along your
17 cluster line and you might not?
18 A That's right.
19 Q And the fact that your cluster line is there is
20 only an indication of the general area within which you might
21 run your zoning line?
22 A That's right. That's the nature of the plan, it is
23 a general document, yes.
24 Q In fact there might not be a zoning line there at
25 all - might not?

1 A That's right.

2 Q You recognize in talking about the Ruckersville
3 area that there is there a church, school, Mr. Hord's
4 subdivision so called across the road, a youth center, water,
5 a fire station and a rescue - not a rescue center but a fire
6 station and yet you say that the cluster as shown on the
7 proposed plan, on the comprehensive plan, is entitled to be
8 sufficiently specific to exclude such development as Mr.
9 Matthews' development?

10 A Yes sir, that is what I am saying.

11 Q So cluster to you would mean the clustering of
12 fairly high density of development within a fairly narrowly
13 defined area?

14 A I believe that's what I said previously.

15 Q Yes sir. How do you justify narrowly defined
16 relative to a broadly defined general plan of objectives as
17 stated in the comprehensive plan?

18 A I'm sorry, could you give me that again now.

19 Q How do you justify the words "narrowly defined"
20 for a cluster relative to the broad outline of the compre-
21 hensive plan?

22 A Well I respond this way. The plan by nature is
23 very general and the plan of course has no legal effect on
24 anybody. Plans are not binding. It's only an operational
25 guide for the future. Now my concept on the otherhand of a

1 cluster is if it has any meaning at all, you can't just be
2 completely open ended about it and say well we will extend it
3 here, there and yonder, it's got to be fairly narrow and it's
4 got to be fairly limited and it's got to be put in a particular
5 area.
6 Q A cluster in a plan might be one thing but a cluster
7 in a zoning ordinance could be something else?
8 A Yes sir, certainly would. . .
9 Q A cluster in a zoning ordiance would meet your
10 definition that you are talking about but a cluster in a plan
11 are for planning purposes only, just sort of general?
12 A I believe I agree with that.
13 COURT: How familiar are you with the comprehensive
14 plan Mr. Yearwood in Greene County?
15 A Well sir, at the first case I was pretty familiar.
16 I don't think I am quite as familiar with it now. I have been
17 through it a number of times.
18 Q The interim zoning ordinance of Greene County
19 doesn't contain the word "cluster" does it?
20 A I don't believe it does.
21 Q In fact do you know whether or not the present
22 zoning ordinance contains the word "cluster"?
23 A I don't know for a fact.
24 COURT: Is the concept of the cluster shown on the
25 zoning map?

A Yes sir, it most certainly is and indeed on the land use map as well, future land use.

Q But the term cluster is not in the present ordinance?

A I'm not sure. I don't know for a fact that it is or is not.

Q You testified that you had rather take a community like Mr. Matthews planned community and put it some place other than near an intersection of two major roads, is that correct?

A I testified that I preferred to see it in Stanardsville if subject choice were available rather than the proposed location in close proximity to that intersection, yes.

Q Are you saying that an area where two major highways intersect is an unreasonable place to expect gross development?

A I am saying that that is an area where we tradionally have had growth and I testified in the first trial that I felt that kind of concept as far as planning practice was at least 50 years old, horse and buggy style. We no longer promote that kind of development. We don't think it makes any sense, doesn't do anything but generate traffic which is going to clogg up the arteries and prevent the whole purpose of traffic arteries which is to move traffic.

Q What do you think of the planning maximum that you assign zoning to like uses?

A To like?

Q To like uses - to like zoning, to like uses?

A Seems reasonable, generally yes.

Q But when you have an existing use such as in the Ruckersville area, as far as that is concerned as far as is in the Stanardsville area, you ought to take that into account?

A Yes sir, I testified that reasonable consideration should be given to it but it's a matter of judgment. As I stated a moment ago you can take this aerial photograph...

Q That's all right, sir...

COURT: Let him give - if you wish to explain your answer you may do so, though let's not repeat it. Are you about to repeat what has already been said?

A Yes sir, I think so.

COURT: All right, if it is going to be repetitious.

Q Is it your feeling from a planning point of view the locality has the right, taking existing use, already established, to stop it up around its boundaries?

A Well I have some problem with the phrasing of that. It appears that you are asking me if it is appropriate for Greene County and...

Q No, I didn't ask you at all about Greene County..

A As I read your question, you are suggesting a hypothetical situation very much like the one at hand. Now my answer to that is yes I do feel it is appropriate if the development - I am repeating but the question gets to the same matter,

I do not think the tail can wag the dog, I don't think 55 lots can determine how 5500 acres or whatever it is, is going to be developed. I don't think that is reasonable or good planning practice.

Q I'm not talking about any particular thing now, I would ask you for your answer to a planning concept.

A Well would you repeat that for me please.

Q May I ask the reporter to read that back for me please sir?

COURT: No sir, we are not going to play the tape back Mr. Parker. This is not taken in shorthand, otherwise I would permit it but I'm not going to back up the tape.

Q All right, sir. Is it your opinion that where you have an established use, that it can - that it is within the province of planning, if the locale wishes to do so, to stop up the established use of its boundaries?

A No question about it in my mind, that's what the whole concept of performing use is about.

COURT: You are assuming that it is a non conforming use?

Q If it is a non conforming use/you make it a non conforming use don't you - if you are the locality?

A The adoption of the zoning ordinance and the amendment of the zoning ordinance which provides changes in permitted land uses, lot areas and so on and so forth, actually creates a non

1 conforming use. Lacking this situation that you are describing
2 to the non conforming use, wherein fact seems to me the best
3 most logical example where in fact you do tell the owner of the
4 non conforming lots or structure, or combination of those, no
5 you cannot expand your facilities. That's clearly established
6 and that is good planning practice.
7 Q I'm talking about not just one use, of course, not
8 one man's store but a number of the uses, they tend to establish
9 the character of the area do they not? --purposes of planning?
10 A Generally, yes, they do, depending on....
11 Q Wouldn't the character of an area - your testimony
12 is I take it that even though the character of an area is
13 established as commercial or residential or whatever that may
14 be, if it is within the province of zoning, to stop us that use
15 as its boundaries?
16 A No sir, I am not saying that when the character
17 of an area is firmly established that that could or should be
18 done. What I am saying is that with this factual situation
19 that 55 lot subdivision ....
20 Q That is not - Your Honor, the witness is not being
21 responsive...
22 COURT: Just answer the question Mr. Yearwood. Now you
23 have got him off on a different question too Mr. Parker...
24 A My answer is no. My answer to the question the
25 way you put it is no.

1 Q I will rephrase the question so I will understand
2 your answer. I'm sorry to have to repeat Your Honor, if I
3 am repeating.
4 COURT: Go ahead sir, so you can get it satisfactory
5 to the questions you want answered.
6 Q When the character of the use is established in
7 a given area, is it a permissible thing to do by zoning to
8 stop, because of planning strategy - is it a permissible thing
9 to do when the character of a use is established in an area
10 to use zoning to stop up that use, at the boundaries of the use?
11 A If and when as you said the use is established,
12 the character of the area, I would say no that is not appro-
13 priate.
14 Q What is the character of the Ruckersville area?
15 A Just as I have already described it, basically
16 open with a scattering of services, some in each one of the
17 four quadrants. In my mind Mr. Matthews has a very narrow
18 road frontage....
19 COURT: Now don't go over the specifics now, just
20 generally.
21 A Open - the area in Ruckersville is a very small
22 community concentration and basically open.
23 COURT: Do you consider the subject property to be in
24 the Ruckersville area of influence?
25 A No sir, I do not.

1 Q On page 16 of the Comprehensive Plan of Greene County,
2 Mr. Yearwood, you might be able to see it better on this existing
3 land use photograph...
4 A I would say let's use what is in evidence, that's
5 the best evidence.
6 Q This land use map here...
7 COURT: What's the exhibit number Mr. Parker.
8 Q Exhibit number 4, page 16, doesn't it appear there
9 just from the number of dots on the map that there is a
10 Ruckersville community established, that has a definite
11 character other than the one you have stated?
12 A It appears that there is a community, yes.
13 Q That has a definite character other than the one
14 you stated?
15 A It does not appear so to me.
16 Q All right, sir. You cannot in proper planning,
17 Mr. Yearwood, ignore the existing character of an area, the
18 density of development, the trend of growth or change, can you?
19 A You are correct.
20 Q You stated I believe that one of your objections
21 to the Matthews subdivision would be that it would act as sort
22 of a buffer or a barrier I believe you stated toward access and
23 development into the center of the County, is that correct?
24 A Yes sir, I did.
25 Q Isn't that also true of the major cluster located at

1 the Corner Store on Route 29?

2 A Yes, it is.

3 Q Are you of the opinion that Mr. Matthews - putting
4 Mr. Matthews subdivision where it proposes to go would be poor
5 planning?

6 A Yes, that is my opinion.

7 Q And putting the cluster at the Corner Store is also
8 poor planning?

9 A The cluster at the Corner Store already exist which
10 I think is a consideration that is necessary....

11 Q Did the cluster at the Corner Store exist in any
12 real sense prior to this interim ordinance anymore than the
13 cluster at Ruckersville that we have been talking about out
14 from Mr. Matthews' development, past that through Locust Lane?

15 A In my mind it did. Let me be more specific. The
16 level of development there is greater than the Ruckersville
17 area in my judgment.

18 Q How so?

19 A Numbers of people, developed properties, traffic
20 generated, that kind of thing.

21 Q And if that were not in fact the case that would effect
22 your opinion in this case wouldn't it?

23 A If those factors....

24 COURT: With regard to what Mr. Parker, desirability
25 of the Corner Store Cluster?

1 Q Whether Mr. Matthews subdivision was in the same
2 type area or different type area than the Corner Store area?
3 A I think I got lost there, I'm sorry. Are you asking
4 me and I think youdid, would it be poor planning to have it
5 in the Corner Store area?
6 Q You say it's poor planning in the Corner Store area
7 too but it's justified there because it was a greater established
8 use, is that what you are saying?
9 A I don't think I would want to say that no. Again
10 you are talking about...
11 Q Well it's just poor planning outright then to have
12 it in the Corner Store area?
13 A I don't know that I could say poor planning. To
14 me I would be unhappy with additional development there, yes
15 I would be.
16 COURT: You are speaking now of the Corner Store I take
17 it?
18 A Yes sir.
19 Q Just as you are unhappy with where Mr. Matthews is
20 proposing?
21 A Yes sir.
22 Q And for some of the same reasons?
23 A Yes sir, primarily location.
24 COURT: Equally unhappy, more unhappy or less unhappy?
25 A Well it's-because it is further away and off in a

1 part of Greene County, I would be less unhappy with it in the
2 Corner Store than I would be up here - yes. Well one very fund-
3 amental reason and...
4 COURT: Now listen to Mr. Parker's cross examination,
5 don't go any further than he ask for, go ahead Mr. Parker.
6 Q The only justification in your mind for the Corner
7 Store property as being there - the Corner Store cluster as
8 opposed to the Ruckersville area is because as you have said
9 in your previous testimony in the other case is that it was
10 simply there?
11 A Two factors, it's there and it is basically a
12 spill over phenomenon from Albemarle County as I understand
13 it and it's impact on Greene County to that extent is con-
14 siderable less than similiar magnitude of development would
15 be elsewhere in the County. I think those two are the main
16 concerns.
17 Q How far is one from the other?
18 A Mr. Matthews property from the Corner Store?
19 Q Yes.
20 A I would have to guess, it's a matter of a few
21 miles. I don't know that I could make a reasonable...
22 Q Something like three?
23 A I think a greater distance than that.
24 Q Weren't there a number of subdivisions at both
25 places prior to the passage of the interim ordinance?

A Corner Store and the Ruckersville...

Q Yes.

A Yes sir.

Q And that was a factor in your saying that the cluster is better off at the Corner Store for instance than it would be at Ruckersville - the fact that those subdisivions did exist - that were there?

A Yes sir, that's a factor.

Q And you would too have to take into account that factor in determining whether a cluster area could exist around Ruckersville wouldn't you?

A Yes sir.

Q Now you admitted in your earlier testimony that the topography of the County was widely diversified?

A Yes sir.

Q But you have no qualms from the standpoint of planning practice of putting Devil's Ditch in the same zone with the community of Ruckersville?

A No sir, I have no problems.

Q Does that meet the planning maximum of similiar land, similiarly situated should have similar treatment?

A Well you are talking about at least one very extreme example. I am satisfied with it, that's the only answer I can make to you. I am satisfied.

Q You are satisfied that it does meet that maximum?

1 A I am. I wouldn't say it did if I didn't.

2 Q You are satisfied that it is a similiar use, similar
3 land similiarly situated? Similiar treatment for similiar land,
4 similiarly situated your answer is yes?

5 A Yes, my answer is yes.

6 Q Is the purpose of the planning that you have seen
7 going on as exemplified in the present ordinance and particularly
8 the interim ordinance of Greene County, is that purpose to
9 maintain the present nature of the County that you described
10 historically?

11 A No sir, I don't know that it is.

12 Q Didn't you state earlier in your testimony that
13 you would like to see the center of Stanardsville - the center
14 of the County remain in Stanardsville because that historically
15 has been the case?

16 A That was my statement as to my preference, yes.
17 I don't believe I said that that was what the ordinance purported
18 to do though.

19 Q Well the ordinance in being restrictive in the
20 Ruckersville area and more open in the Stanardsville area as
21 to what could be done - didn't you state in your earlier
22 testimony that one of the things that this ordinance was designed
23 to do was to push the development inwardly into the County,
24 keeping it from being along the corridor of Route 29?

25 A I believe that was the purpose I understood for the

1 ordinance, a purpose.

2 COURT: Are you talking about the interim or the

3 permanent ordinance now Mr. Parker? I take it that the ordinance

4 itself incorporates the zoning map and obviously the interim

5 ordinance did not have a zoning map...

6 PARKER: It did, yes sir...

7 COURT: Insofar as a general - not the map which

8 now takes into account clusters and commercial development?

9 PARKER: No sir, it didn't have that map.

10 COURT: Now which one are you referring to?

11 PARKER: I guess I was talking about - the more I

12 think about it, the comprehensive plan - the interim ordinance.

13 COURT: All right, let's be more specific as to what

14 you - he may be responding to one thing and you may be asking

15 another. And I don't know that anybody could determine later

16 which...

17 Q Would the effect of the comprehensive plan - from

18 a planning point of view, would the effect of the comprehensive

19 plan put in practice as much as possible by decisions of the

20 Board of Zoning Appeals in the case of the interim ordinance -

21 would that have as an effect throwing in your judgment - throwing

22 the center of the County towards the Stanardsville area?

23 A I believe it would. At the very least it's clear

24 that it would force it into the cluster, yes. And, of course,

25 Stanardsville isthe primary cluster so I think the answer to that

is clear, yes.

Q Would that have the effect of tending to cause less influx into the County from people outside of the County?

A The...

Q In your opinion?

A ...promotion of growth within these clusters, primarily within Stanardsville?

Q No, you remember we were talking about throwing the center of things...

A Yes..

Q ...to Stanardsville as opposed to the Ruckersville area...

A Yes...

Q Would that have the effect of making - of there being less influx into the County of people from outside the County?

A It's a matter of judgment, I would say that it probably would, yes, sir, because of the greater distance it would have to be traveled if employment is outside the County in a particular direction, yes.

Q And so in that sense, the less influx of people from outside the County, the effect of the interim zoning ordinance and the comprehensive plan being used as a guide by the - the proposed comprehensive plan being used as a guide by the Board of Zoning Appeals, would be to maintain the

1 historical sense of Greene County toward its center and tend to
2 exclude outsiders from coming into the County and upsetting their
3 apple cart?
4 A I could agree with the first half of that but given
5 the existence of a large number of lots which was touched on
6 numerous times, I don't think the second part of your statement
7 would follow. I could not agree to that. There is plenty of -
8 ample opportunity for the influx of persons from outside to
9 take advantage of those existing platted lots.
10 Q Would most of that be for first homes or second
11 homes or you don't know?
12 A It's a matter of demand. I could not say with
13 any certainty.
14 Q Well it would be clear enough to you that Mr.
15 Matthews proposed subdivision was designed for first home,
16 residence homes - primary residence homes for people?
17 A Yes.
18 Q And that a number of the other subdivisions
19 in the County were not primarily designed for that?
20 A Yes sir, not primarily designed, that's correct.
21 COURT: Is it a valid and desirable concept of planning
22 to encourage development within clusters as opposed to areas
23 outside of clusters?
24 A Yes, sir, it clearly is.
25 Q But you do have to temper that Mr. Yearwood in order

1 to take account of existing land use?

2 DICKEY: I didn't understand that question.

3 Q But you do have to temper that Mr. Yearwood in order

4 to take account of existing land use?

5 A The Court asked me if it was good planning practice

6 preferable over a scattered development, as I understood the

7 question and I said yes, and I don't know that I would have to

8 conclude that you have to temper it with consideration of

9 existing use, no. The general proposition is that clusters

10 is better for a variety of reasons. It is saving on land,

11 much preferable over sprawling, cost of providing this urban

12 interest structure for that development is much reduced. It's

13 a much more desirable proposition than the continuation of the

14 sprawling pattern which....

15 COURT: Is that generally recognized today by planners?

16 A Yes sir, I think without question it is. Most of

17 the developments that I am seeing now in my travels around the

18 State and the region is planned unit development which basically

19 is a clustering type of proposition. It's taking a tract of

20 land which might otherwise be divided up with traditional

21 gridiron single family detached homes, utilizing the density

22 transfer concept, clustering a mixture of housing types in

23 a limited area, providing the interest structure of reduced

24 costs and yet maintaining open space and common ownership

25 are dedicated to the public for recreation, open space, active

1 leisure kinds of activities. That's the most of the development
2 that I have seen because it is a better proposition for the
3 developers among other things.
4 COURT: Would it be fair to say then that the only
5 area of real difference would be where the clusters should be
6 located?
7 A Yes sir, I believe that that's - I touched on that
8 several times here and I keep coming back to that. It is in
9 my mind primarily a matter of location of the cluster and the
10 impact that it would have in this location.
11 COURT: Is that generally true of all areas or
12 specifically limited to rural areas?
13 A Is what, I'm sorry...
14 COURT: This desire to concentrate growth in clusters?
15 A No sir, I think that today is the prevailing
16 thought everywhere regardless of the nature of the area, rural,
17 suburban - you are going out in the rural areas, 25 miles removed
18 even into acknowledged resort areas and seeing townhouses and
19 apartment developments, not seeing the sprawled single family
20 homes scattered over thousands of acres. And at first blush
21 it seems a little perculiar to be so far away from an urban
22 area and see for example a townhouse development. It's a little
23 startling but there are good reasons for that.
24 COURT: Any other cross examination Mr. Parker?
25 Q Yes sir, just a little, I'm nearly through. Aren't

all those interest structures that you just suggested or most of them available in the Ruckersville area?

A They are available in however, that area is defined yes. Somewhere, many of them are there, yes.

Q That's all the cross Your Honor.

COURT: Any further direct?

DICKEY: Just a moment Your Honor....

SLAUGHTER: We have no further direct Your Honor.

COURT: All right, Mr. Yearwood, you may stand aside.

SLAUGHTER: If the Court will indulge us just a moment before we continue...

COURT: All right, we can take five minutes and then you can consider who your next witness will be. We will try to run until 5 o'clock or thereabouts.

(Brief recess)

COURT: All right, Mr. Slaughter, call yournext witness.

SLAUGHTER: Your Honor, the defense rest.

COURT: All right, Mr. Parker, the defendant rest.

PARKER: Now Your Honor, I should like to note for the record what is already in evidence you see and avoid Mr. Morris' having to come back. Exhibit 26 shows that at the time that Wildwood Valley - I have it here - shows that at the time that Wildwood Valley - at the time that the interim ordinance was

1 enacted, I take it that that's when this exhibit 26 was formed -
2 that's correct, that would have been when Mr. Evans was doing
3 his studies - the number of built on lots in Wildwood Valley
4 was 1. The Court will remember that I asked Mr. Morris to get
5 that information but it is already here and no point in having
6 him...
7 COURT: One lot was built upon?
8 PARKER: One lot. And there was in that subdivision
9 17 sections comprising 287 acres of 145 lots, 83 of which at
10 that time were unsold.
11 COURT: 145 lots, 83 unsold. Now is there any objection
12 to that being stipulated without having to call Mr. Morris?
13 SLAUGHTER: Yes Your Honr...
14 PARKER: It's already a part of the evidence. I'm
15 simply making a point of it in order to avoid getting Mr.
16 Morris back here.
17 COURT: Yes sir.
18 PARKER: Now Your Honor I had - maybe we can stipulate
19 to it and close the evidence this afternoon - Mr. Vivier has
20 asked me for the opportunity as I indicated previously to correct
21 a portion of his testimony. Let me inquire of counsel and see
22 whether we can stipulate...
23 COURT: See whether you can stipulate it, yes.
24 DICKEY: I am familiar with it Your Honor, and we
25 have no objection. Mr Vivier has made the statement that the pressure

1 of the water is 700...

2 PARKER: Can I just read this into the record. ..

3 COURT: All right, go ahead Mr. Parker by stipulation.

4 PARKER: He has written this in his hand and we can

5 save him from having to come back....

6 COURT: All right, sir.

7 PARKER: "I have testified that from a purely operational

8 viewpoint there are areas along Route 33 where service would

9 be marginal because contour elevations of 700 would have a pressure

10 of 23 PSI (meaning pounds per square inch) based on a tank

11 elevation of contour 800." That being expressed in chief gentlemen

12 if there is no objection. "I said that this is marginal pressure

13 - contour elevations of 700 occur at base of water tank in Qunique

14 cluster. I wish to correct the 23 PSI to be 43 PSI...

15 COURT: Occurring at 700 elevation?

16 PARKER: Yes sir. "The testimony of pressure relative

17 to the property in question does not need correction."

18 COURT: All right, is that stipulated then. . .

19 DICKEY: No objection...

20 COURT: ...that Mr. Vivier corrects his testimony

21 to 43...

22 DICKEY: May I inquire of counsel about a further

23 matter?

24 COURT: Yes sir.

25 PARKER: Your Honor, I believe we have succeeded in

1 stipulating something else that Mr. Vivier would say if called,
2 in our behalf. I'm looking for - on page 180 of the transcript
3 of the proceedings on December 3, 4 and 5 in this case this
4 language occurs "The time limit within the 1983 approximately
5 and that sum of money I am guessing now - I don't remember the
6 figures offhand. I think it is approximately $70,000. Question -
7 $70,000? Answer - Well $80,000 and the equivalent of - at
8 current charges it's about $200 connections. Question - Are you
9 certain of your answer sir? Answer - No, I am not sir. Of
10 course he would be estimating....
11 COURT: Whose testimony is that?
12 PARKER: Mr. Vivier's. Answer - I am not certain of
13 the money. I can...Question - Could you get the information
14 for me? Answer - All right. Mr. Vivier got the information -
15 he says in his handwriting - also Mr. Dickey asked how much
16 our liability to reimburse contractors was - I stated about
17 $75,000. Audit figures show $85,248 for line south of Ruckers-
18 ville.
19 COURT: $85,248.
20 PARKER: For the line south of Ruckersville. That is
21 stipulated Your Honor.
22 COURT: That would be the cost of reimbursement for
23 actual construction of the existing water line south of Ruckers-
24 ville.
25 DICKEY: Your Honor, that would be the potential liability

1 for reimbursement of existing contracts with different developers
2 who installed lines.
3 COURT: Based on construction costs to those developers?
4 DICKEY: There is also in the record the current
5 operating costs to the Rapidan Service Authority, who states
6 that they no longer make such reimbursements.
7 COURT: Now give me that again. You all stipulate this
8 last portion that you all just mentioned?
9 PARKER: It must be in the record according to Mr.
10 Dickey. You mean they make no reimbursements or they don't
11 make any new such arrangements...
12 DICKEY: They make no new such contracts....
13 COURT: But this is based on existing contracts?
14 DICKEY: Right...
15 PARKER: Yes sir.
16 COURT: All right, this liability - Mr. Vivier's
17 testimony then would be adjusted upwards from $75,000 to
18 $85,248.
19 PARKER: Yes sir.
20 COURT: All right, anything else?
21 PARKER: Just a moment - we have no rebuttal, we rest.
22 COURT: Now I take it that you all will be ready tomorrow
23 morning then to get into the closing argument. Both sides rest
24 and the evidence is complete, exhibits are all in. Now is
25 there any further proffer of Exhibit A Mr. Slaughter which

1 was denied?

2 SLAUGHTER: Yes sir, I would proffer it although I don't

3 know that the situation has changed...

4 COURT: I don't believe that it has. I don't think

5 anything has come to light to change my ruling but certainly

6 it is noted that you again proffer it and it is again denied.

7 It has been marked for identification and your exceptions

8 are again noted. Anything else in regard to any of your

9 exhibits Mr. Parker?

10 PARKER: I think not, sir, I hope I won't find any-

11 thing in the morning. Your Honor, we have a matter and I wonder

12 if we might try to take up, and that's the matter of the

13 amendment and I do have an order in that connection with my

14 Bill of Complaint...

15 COURT: All right, we will take that up in the morning

16 and do that the first thing before we get into final argument.

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1 March 9, 1976

2 COURT convened at 10:00 A.M.

3 COURT: Mr. Parker, the order adding the amendment
4 to your Bill of Complaint allowing the insertion of the Board
5 of Supervisors having no power to enact to the interim ordinance
6 has been entered by the Court.

7 SLAUGHTER: And there is another order having to do
8 with the Court's earlier ruling of law....

9 COURT: All right, let's see what we have. I don't
10 certainly recall the particular hearing in detail, is there
11 any objection between counsel as to the reference to paragraphs
12 of Mr. Parker's proposed order as having been stricken.

13 SLAUGHTER: They were the paragraphs that we dealt
14 with if the Court please and perhaps Mr. Parker - or I can
15 get out the transcript of exactly what the Court said in the
16 end.

17 COURT: Is there any objection to the form of Mr.
18 Parker's which gives reference to that whereas your proposed
19 order gives no reference to the ruling with regard to striking
20 out those does it?

21 SLAUGHTER: No sir, as I recall and it's been some
22 time ago - maybe Mr. Parker can find the transcript of what
23 the Court said...

24 PARKER: Page 23, 24, 25 of the transcript Your Honor.
25 I don't have the original here so this is a copy of it.

1 COURT: All right, let's see.

2 SLAUGHTER: Certainly the Court rules that the ordinance
3 is not constitutionally invalid and those points - those paragraphs
4 which Mr. Parker cites are the paragraphs - I think what the
5 Court in fact said is that, it's just a question of how the Court
6 wants to draw its order or enter the order I should say.

7 COURT: Striking out paragraphs 9A, A1, 9B and F, 9I,
8 9J, 9K, 9P and 9Q are on the assumption that involved only
9 matters of law and not disputed items of fact.

10 PARKER: I don't think-the Court determined that those
11 only involved matters of law Your Honor.

12 COURT: I don't know that I did. Now my notes indicate
13 or the transcript indicates that inoofar as it contains items
14 of fact, no ruling was made. There is a difference of opinion
15 as to what that means or what they stand for. I am not sure
16 the transcript discloses that they were struck out.

17 PARKER: I don't think there was any difference - we
18 had agreed Your Honor in the briefs, in both briefs that they
19 only raised issues of law...

20 COURT: What - all right, if that is the concession...
21 I want to know what counsel will state categorically without
22 equivocation, if it's only matters of law and not items of
23 fact.

24 PARKER: This is my understanding of what the Court
25 held in that hearing. Now if I am wrong, then the Court will

1 correct me...

2 COURT: That's not answering the question Mr. Parker

3 and that's the problem before. We are jumping about. My question

4 is will counsel stipulate that those items pertain only to

5 matters of law and not disputed items of fact because if they

6 do then I am not going to enter it up in that form.

7 PARKER: If the Court please, the Court held - I am

8 trying to answer the question as best I can and I will state

9 what I - the Court held - the Court may want to read the

10 Bill of Complaint - I can get it...

11 COURT: No, I am asking the question now Mr. Parker

12 as to whether they refer to items of law or fact.

13 PARKER: In my opinion they refer to items of law.

14 COURT: Now, do you concede that they refer only to

15 items of law because they are your pleadings, that's the question

16 I have. Page 25 Mr. Parker - "It is my understanding Your Honor

17 that the Court has found against Mr. Matthews on each one of

18 these points that is raised, on the law? COURT: Yes sir.

19 There may be certain items which will be reserved for further

20 consideration based on evidence being presented." Now that

21 as I recall it was on the assumption that there may be factual

22 issues raised in those recitations.

23 PARKER: Your Honor, I must state for the sake of the

24 record at this time there is no other - I must state it in the

25 way I understand it. I understand that 9A is - sets up the

1 question as to whether the ordinance was enacted after the
2 comprehensive plan was required by §15.1-446. My understanding
3 of the Court's ruling is that there is no comprehensive plan
4 required as a antecedant of a zoning ordinance. That seems to
5 me is a matter of law. That takes care of A and while B also set
6 up some matters of fact, it will also take care of B in the event
7 that was the Court's ruling because B says it was not enacted
8 after any of the investigation required by §15.1-447. And, of
9 course, if no comprehensive plan is required then no investi-
10 gations - if the Court held that no investigations were required.
11 And the Court as a matter of fact on that basis refused to require
12 the defendants in this case to answer our interrogatories, two
13 of them. That takes care of 9A and 9B. With respect to the next
14 one which is 9A-1 - is what the Court does in finding that the
15 County had the authority and it clearly does so in the transcript.
16 COURT: Mr. Slaughter, would you hand me the Court file.
17 Let me look at the pleadings as he is going along.
18 SLAUGHTER: Yes sir.
19 PARKER: 9A-1 is just what the Court - raising the issue
20 is clearly shown in the transcript. The question whether under
21 the enabling statute the County had the authority to pass this
22 kind of an ordinance. And the Court said it did on the face of
23 it - that it did and whether it had the authority under the
24 enabling statute or not is purely a matter it seems to me of
25 law. 9-B - I have covered 9B. 9F says, it is arbitrary and

1 capricious because it is not based upon the comprehensive plan.
2 The Court ruled that it did not have to be based upon the
3 comprehensive plan. I take it that that is in the transcript,
4 the Court's comments on that. 9-I, it is arbitrary and capricious
5 in that the standards by which the Board of Zoning Appeals may
6 grant the privilege of commercial use are conclusory and indefinite.
7 I take it that that is a matter of law and the Court has stated
8 that the standards that are in the ordinance are satisfactory
9 so far as the ordinance goes. That relates to the face of the
10 ordinance so far as I can see. 9-J - it improperly confers upon
11 such Board the power to legislate. As I understand it, the
12 Court's ruling says the ordinance is valid on its face, that it
13 does not confer uponthe Board the power to legislate. 9-K - it
14 improperly confers upon the Board what amounts to original
15 jurisdiction of application for commercial use even though the
16 jurisdiction of such Board could be appellete only in nature.
17 I take it that what the Court was telling us and I think it is
18 a matter of law is that under circumstances such as this, for
19 a special permit of this nature, the Board's jurisdiction might
20 be idle under the statute. 9-P - it unlawfully regulates sub-
21 division of land and the guise regulating its use. I believe
22 that to be a question of law on the construction of how the
23 act should be construed by everybody that operates under it.
24 9-Q - under all the circumstances the ordinance is an unreasonable
25 exercise of the police power. That is a matter it seems to

me - the Court held that it was not unconstitutional on its face. It seems to me that this is a matter raised in that fashion. It seems to me that those things were necessarily the rulings of the Court, the Court said it is valid on its face.

COURT: Now what about this 9B? My notes show that it was a combination of law and fact.

PARKER: It is sir, but if the Court ruled as it did on 9A, it was my thinking and perhaps the Court will strike that out - but if the Court rules from the order - if the Court rules that 9 - it seems to me that if the Court rules that the County did not have to enact - it seems to me, sir, that the Court ruled that the investigations were not required by 15.1-447 - were not required by the zoning ordinances - it was on the basis of that that the Court determined it would not grant my interrogatories, that the County did not have to answer them, those investigations the Court said did not have to be made. I asked the question precisely about what investigations were to be made and the Court ruled that it did not have to make any, and therefore - Mr. Slaughter mentioned it in the transcript, pass page 23 there. The Court said you don't have to make any investigations and therefore you don't have to answer any interrogatories about it. So although 9B was a combination Your Honor of law and fact, if the Court had ruled against me on the law, there was no way I could get the facts in, that's the effect of 9B. There were no investigations required, the fact that they may

1 have been perfunctory wouldn't make any difference.

2 COURT: All right, now Mr. Slaughter do you have any

3 comment about the entry of the order as proposed by Mr. Parker

4 with regard to the striking out of those items that he has

5 listed.

6 SLAUGHTER: May it please the Court, I - let me see

7 if I can state to the Court my understanding and I hope we don't

8 become like we are equivocating. We tendered our proposed order

9 to Mr. Parker back in November reciting and I think you have the

10 draft there, reciting exactly what we thought the Court had done.

11 And I think the transcript bears us out. The Court had said in

12 effect this ordinance is valid on its face, none of these items

13 enumerated in these paragraphs are such as to render the ordinance

14 invalid. Now the Court ruled - I don't have the page that the

15 Court was ruling from - that the ordinance was not invalid on

16 its face - that it was valid on its face. And then you asked

17 if Mr. Parker wanted to make any comments and we all agree on

18 the paragraphs at issue--the ones we were discussing and he

19 cited these paragraphs except 9A-1 but that I take it we

20 considered as having been included, and said that he felt the

21 court had erred in its ruling on the basis of those paragraphs.

22 Then the court said he was not going to throw out the ordinance

23 as a matter of law dispite the allegations in those paragraphs.

24 But you said there might be some factual issue that would come

25 up as to them. So effectively as I would understand it, the

1 court ruled that the ordinance was valid or more accurately
2 not invalid, based on any of those reports and Mr. Parker
3 reserved his objections based on those reports or excepted.
4 And then the matter was left for hearing. Now I don't think
5 there's any evidence introduced. I think the court could find
6 as a matter of fact as well as a matter of law that the interim
7 ordinance is not invalid on its face. The only objection that
8 I would raise mildly is that this was not tendered to us until
9 today and the hearing was in December....
10 PARKER: May it please the Court, in that connection
11 I point out that this order - I waited until I could get the
12 transcript of the proceedings so I could see what in fact had
13 precisely been said inthe hearing. I think the court's ruling
14 necessarily chops out these items. If the court goes on in
15 the transcript it will find further where it specifically
16 overruled our interrogatories based upon Mr. Slaughter's position
17 that no investigation was required. And our interrogatories were
18 directed precisely to what investigations were done and they
19 refused to answer them..the court overruled our - the Court, said
20 it would not require them to answer them - said it was not relevant
21 to the case.
22 COURT: That's all well and good Mr. Parker but why
23 didn't you say so in the order. That's in dealing with the
24 interrogatories and not a direct attack on the sufficiency
25 of your pleadings. It may have the same effect but it wasn't

1 taken up on that basis. That's the question I have with the
2 form of the order.
3 PARKER: That's the court's grounds Your Honor for
4 overruling the interrogatories as shown later in the transcript.
5 COURT: Where are you referring to, let's see if we
6 can find it. If we can get that pieced together. I don't want
7 the order to be at variance with the rulings that were made
8 while it was going on, because the order would take precedence
9 over the transcript once it is entered.
10 DICKEY: Your Honor, I think the situation is this.
11 The form we have presented says it is not invalid on its face
12 meaning with all the factual presumptions granted in favor
13 of the County, every single fact, that it is not as a matter of
14 law invalid. And in the form Mr. Parker presented says that
15 these issues are struck out for all purposes and as the court
16 correctly noted, stated itwas conceivable that facts could come
17 to change as to some of these paragraphs. Now as to whether
18 or not we had a comprehensive plan, it refers to the effects
19 of that, Mr. Parker I think would be correct. But as to some
20 of these others it's quite conceivable that facts could come in
21 which might make a ruling for Mr. Parker's client....
22 PARKER: As long as Mr. Dickey will specify what others
23 he thinks that is Your Honor. I think that would be helpful.
24 COURT: Well now let me ask you all this. Is there
25 any factual inquiry which would have been cut off by the court's

1 ruling that has been denied to the plaintiff that he otherwise
2 would have pursued?
3 DICKEY: I believe that's addressed to Mr. Parker.
4 PARKER: I'm trying to answer the court's last
5 question.
6 COURT: I think we have covered about everything that
7 could be covered here. If there has been anything...
8 PARKER: The court - this is 28 and 29 -"Slaughter:
9 The reasons we stated that under the rules,which I did not
10 bring with me, under the rules which require that a response
11 be made to matters that are relevant:....then it goes on to
12 say "relevant, not only as evidence which would be admissible but matters
13 which would lead to admissible, to the discovery of admissible
14 evidence. Neither theory, Section 446 and 447 would have any
15 bearing." I take it what Mr. Slaughter meant or probably said
16 was on matter of hearing, Section 446 and 447, would have any
17 bearing. "Do you have that Code Section handy? I believe it's
18 Title 15, if you would get it for me, I would like to look at
19 it? PARKER: Your Honor, would you note carefully the phraseology
20 of the question?" Well that is not going to be relevant at this
21 point. "COURT: I see - well all right. DICKEY: Here is
22 446, it has been subsequently amended but I think that would
23 be relevant. COURT: Let me ask this question of counsel for the
24 County, do you take the position that the interim zoning ordinance
25 does not require as a pre-requisite - or that any zoning ordinance

1 does not require/a pre-requisite preparation of the comprehensive
2 plan. SLAUGHTER: That's correct Your Honor, neither an interim
3 or permanent zoning. COURT: That's your position thatit does
4 not require the comprehensive plan? PARKER: I think that's
5 what you ruled this morning. COURT: Now the question here is
6 whether it should be done for another reason or merely follow
7 up on your previous position. PARKER: Yes, all right. COURT:
8 Why should the investigation called for in 447 be carried out
9 then if you don't have to have the comprehensive plan Mr. Parker?"
10 Then I state why I believe it to be the case which did not
11 relate to paragraph 9, related primarily to paragraph 10.
12 COURT: All right, 9A and 9B and 9F, all relate
13 to the investigation required of the comprehensive plan
14 and the necessity for a comprehensive plan.
15 PARKER: Yes sir.
16 COURT: 9I relates to the facial provisions of the
17 ordinance apparently and not for anything underlying...
18 PARKER: Yes sir.
19 COURT: J, power to legislate, that certainly is
20 not an evidentiary matter. That's on the face of the ordinance.
21 K - original jurisdiction of all applications for commercial
22 use - all right, that would be incorporated under the law. P -
23 unlawfully regulates subdivision of land in the guise of re-
24 gulating its use.
25 DICKEY: May it please the court, I think that's a

1 matter about which - possible that there could be evidence.

2 PARKER: If there is any question about it, I'm satis-

3 fied to have that struck out of the ordinance...

4 COURT: Now Q seems to me to raise some questions

5 in my mind. Does that phrase "under all the circumstances"

6 relate to what the court should hear as evidence?

7 PARKER: That's all right, Your Honor, if you can -

8 the Court has said that the ordinance on its face is not un-

9 constitutionally invalid in the other part of the order, then

10 I would be satisfied if P and Q were taken out of the order.

11 COURT: All right, fine, we will do that and I think

12 that will clarify it at least to my satisfaction. If counsel

13 have any other objections, I will be glad to hear further but

14 I am going to strike those two items then and I propose to enter

15 up Mr. Parker's order with those deletions, that is 9P and 9Q

16 so that I would sustain the motion to strike out those and note

17 Mr. Parker's objections.

18 PARKER: Now Your Honor, I have another matter which

19 I just ascertained. The transcript of the proceedings on

20 December 3rd show that the court entered an order that day

21 recounting the proceedings of the 20th of October. And the

22 Clerk advises me - I did not find it in the file this morning

23 and the Clerk advises me that the order is not in her office.

24 So under those circumstances it seems to me that the order should

25 be re-entered - should be re-entered under the other date. Now

I - now Mr. Slaughter has a copy of his order as he submitted it and the Court entered it with some changes.

COURT: Where was it entered, right here in this courtroom?

PARKER: Yes sir, and it shows on the transcript that it was entered right here in this courtroom.

COURT: What date?

PARKER: December 3, right at the beginning of the proceedings on December 3rd but it does not appear to be in the files. I gathered Mrs. Bickers checked her law order book or chancery order book...

MRS. BICKERS: I checked chancery Mr. Parker, I didn't check law....

PARKER: I thought maybe it had gotten on the wrong side.

COURT: This is on the law side, motion for - no, this is filed as a bill of complainant.

PARKER: Yes sir, filed under chancery, sir.

COURT: Here is one out of order, it's stuck in here.

PARKER: Did you find one sir?

COURT: Yes sir, December 3, is that the one you are referring to?

PARKER: Yes sir.

COURT: That's in the file. All right, are you ready for final argument?

1 PARKER: Yes sir.

2 COURT: All right, Mr. Parker.

3 PARKER: This has been a long case and I appreciate the
4 Court's attention to it at every phase. Some of the things that
5 were previously struck out from the bill of complaint - - the
6 fact that they were struck out from the bill of complaint will
7 shorten the argument this morning; the fact also that all of the
8 evidence is before the Court in this case and has up to this time
9 been recorded both in form of exhibits and in form of transcripts
10 will shorten my argument considerably. The only facts which
11 are not down in writing that the court has heard, are the ones
12 that were heard in the last - that were heard yesterday. I take
13 it our memory will be best as to those so my argument will not
14 I think be long.

15 The evidence of the plaintiff Bennett Matthews is that
16 he acquired by purchase all the stock of Daniel Farms, Incorporated
17 in March of 1973 and that that stock was dissolved down to him -
18 that is the corporation Daniel Farms, Incorporated was dissolved
19 and he got a piece of land, through that transaction, in conjunction
20 with the dissolution he received from the corporation a piece of
21 land in Greene County, which was 109.5 acres more or less in the
22 vicinity of Ruckersville. He expended sums of money which are
23 fully set forth in the record. He had to pay with his stock and
24 with the assumption of monies due by the corporation for the land.
25 And the value of the land at the time that he was deeded it, was

1 a figure which is in the record - it was a considerable figure
2 and that particular piece - that value he had to pay. In
3 addition to that he undertook to develop this particular piece
4 of property and began to pay for and obligate himself to pay
5 for expenses for that purpose. The value of those things,
6 thousands of dollars is in the record. At the time that Mr.
7 Matthews took his property by deed, whatever time is in the
8 record - I don't wish to say at the present - the intended
9 dissolution it says in these pleadings took place in January
10 of 1974. Whether that is the precise date approved or not, my
11 recollection fails me but the precise date is in the pleadings.
12 In any event the time he took the land from the corporation
13 there was no land regulation in Greene County but a sub-division
14 ordinance, health regulations, where they were applicable - but
15 the County undertook shortly to enact an interim zoning ordinance.
16 He had filed his plat prior to that time. He put a great deal
17 of money into the plat. In view of the provisions of the sub-
18 division ordinance he was obliged to put even more money into
19 the plat at a later time because he had to finish that plat
20 within six months and the record is replete with the fact that
21 Mr. Morris was quite clear about the fact that he was reminding
22 him on the point. I'm not certain that Mr. Matthews was able
23 to state how many times he was reminded but it is perfectly
24 clear from Mr. Morris' testimony that he undertook to remind
25 him that that would have to be in within six months. So Mr.

1 Matthews spent even more money putting that plat into final
2 form for submission under the subdivision ordinance. Under
3 those circumstances it is our position that Mr. Matthews gained
4 a vested right in the subdivision of this land in accordance
5 with his plat - in accordance with the plat that he filed. At
6 the time he filed it, the Court will recall - when he initially
7 filed it - I am talking about February 26th date, there was no
8 zoning ordinance in Greene County. The zoning ordinance came
9 right after that in March of 1974. Mr. Matthews then brought
10 the certiorari proceedings and Mr. Matthews brought the mandamus
11 proceedings which raised - a mandamus proceeding which raised
12 the issues which the court has considered largely in this case.
13 The court refused to consider them in the mandamus case but
14 brought the certiorari proceeding to review the question as to
15 whether under the ordinance as was enacted he was entitled
16 to a special use permit. He brings this proceeding to determine
17 whether the ordinance itself is valid. If he had a vested right
18 he has always had it and the ordinance was never valid as against
19 him or his land in this instance. It might be valid with respect
20 to other land that he might acquire some place else. With respect
21 the ordinance, itself, Mr. Matthews' position on the matter of
22 law - a lot of it has already been decided by the court - I will
23 try not to repeat in that connection. Whether or not as a matter
24 of - one of the things which is still in this case is whether
25 this ordinance was enacted after reasonable consideration of the

1 facts as set forth in 15.1-490 of the Code. Now the court
2 effectively said in its ruling of the 17th of November - I am
3 not certain the Court said it then but in any event the point
4 is the Court will have to reach that issue now in any event.
5 I think Mr. Evans' testimony on the point was the closest to
6 showing what happened. This county enacted an ordinance of
7 the - of this ordinance without having investigated anything.
8 We brought in the things that they have now, except they had
9 a land use survey in progress but the ordinance did not reflect
10 that. The ordinance did not reflect that--that land use survey
11 because it was compiled as enacted with the exception of the
12 amendments which were added at the instance of Mr. Dickey on
13 the day that the ordinance was in fact enacted by the Board of
14 Supervisors and after it had been advertised in different form.
15 That ordinance was enacted just as it had been compiled prior to
16 any of these studies, even the land use study being completed
17 and the data from it being put into this work. That data is
18 mamouth. We took a good period of time just putting exhibits
19 in as evidence in this case. They are sitting over here inside
20 the chancelrail and there are some 30 exhibits. All of these
21 things are properly to be considered according to Mr. Evans'
22 testimony. All of these things are pertinent. All of these
23 things are mandated it seems to me by 15.1-490 and none of
24 them were considered - and the only place where there might
25 be some doubt is with respect to the existing land survey. And

1 that it seems to me from the testimony too, Mr. Evans made it
2 kind of clear, admitted to the court that that didn't have much
3 input into this ordinance. This ordinance was considered as
4 a stop gap measure and it seems to me it will have to stand or
5 fall on that basis, not withstanding what Mr. Yearwood said.
6 It will have to stand or fall on the basis of whether such
7 a stop gap measure can be enacted. That was our first question.
8 The Court has said it can be. And whether under all the cir-
9 cumstances in this case, these particular items of evidence
10 which were here later couldn't have been used under the standards
11 in our Code to enact this ordinance to begin with. If - and that's
12 an if. If the county had started sooner in getting this information
13 together. And the county undertook initially in this case - and
14 it shows the weakness in their case - undertook initially in this
15 case it looked like to me in December 3, 4 and 5 they were going
16 to rely on something like an emergency to enact this ordinance,
17 not that the ordinance was enacted in an emergency form - that
18 they were going to rely on something like an emergency. The
19 testimony appeared to indicate that people were trying to testify
20 and it seems to me it was largely dissipated upon cross examin-
21 ation that people were trying to rely on some sort of population
22 or land development boom in Greene County, which was so insidious
23 as to cause an emergency and to entitle this ordinance to be
24 enacted with no more consideration of these factors than the
25 County gave to it. Well that just wasn't the case. If it was

1 an emergency at all, it was an emergency of realization. And
2 we contend it was no emergency. But if there was any emergency,
3 it was - people were kind of slow thinking about it. That
4 is not an emergency within the meaning of the law. The appro-
5 priate thing for the county to have done would have been to have
6 made these studies and to have enacted this ordinance, this
7 interim ordinance, to have made the studies that they did make
8 for the permanent ordinance when they enacted the interim
9 ordinance and they didn't do it. Now exhibit 3A, the map
10 that the County put in evidence - it didn't come with the
11 ordinance for some reason when we first asked for the ordinance
12 but when we asked for - the fact that it had been made a part
13 of the ordinance we got it. Here it is, nothing on it except
14 - an indication that the Town of Stanardsville is not zoned
15 and that's a zoning map of Greene County that came in with
16 the interim ordinance and it is essentially blank. If it's
17 a highway map, the highways are removed, a map of the rivers -
18 with some of the highways - it's a highway map essential. This
19 is an indication of how much study went into the last interim
20 ordinance. With no more study than that Your Honor, there is
21 no way this ordinance could have been anything but arbitrary and
22 capricious, no way. Our section 15.1-490 - it doesn't matter
23 that these people who might have - who were all for making this
24 ordinance up, might have been mindful of the fact that there
25 was a 15.1-490 and what it said, they have to follow it. And

1 under the circumstances, the ordinance does not reflect that they
2 followed it and under the proofs of this case, it's clear that
3 they did not follow it. They wanted a result. They wanted to
4 stop or seriously impede - I don't want to use the word that
5 has innumerable connotations to either side in that connection, they
6 wanted to bring - to very much slow up or halt development in
7 Greene County while they were doing what was necessary to get
8 a valid ordinance. Now they just didn't succeed Judge. Mr.
9 Evans' testimony it seems to me makes it quite clear that they
10 didn't succeed. There was no emergency. The ordinance did not
11 get the input that it should have had and no matter what the
12 ordinance ultimately reflected, it did not get that input. And
13 when that is the nature of the enacting process, it was not
14 enacted within the enabling authority. Zoning, Your Honor,
15 is some of the most oppressive regulations that we have that
16 can be placed upon people through zoning. And probably legitimately
17 so. But if it is to be done that way, it must be strictly con-
18 strued and that is the body which proceeds to enact such an
19 ordinance must proceed precisely in accordance with that which
20 it is empowered to do by the State of Virginia. We will have
21 years from now if we don't follow these procedures, we will
22 have private property in this state, in this Commonwealth in
23 name only. It will be called private property - it will be
24 like a lot of other things we have today, it will be given a nice
25 usufructism but it won't really mean it. This ordinance

1 simply did not reflect reasonable consideration of the factors
2 in 15.1-490 because it's obvious that the investigations were
3 not done. We have stated that the ordinance was arbitrary
4 and capricious in zoning the entire county in one district.
5 In zoning the entire county - the statute requires Your Honor
6 that there be zones. There can and I suppose conceivably -
7 although we don't concede it, there could conceivably be one
8 zone in an appropriate case. The county has sought to bring
9 this case within that one zone theory. I don't know how they
10 knew that one zone would work if they don't conduct the study
11 necessary to comply with 15.1-490, and what studies they have
12 done, they don't apply. But prior to the enactment of this
13 ordinance - but we got only one zone in Greene County. Now that
14 map is telling in that connection - I brought evidence before
15 this court that Devil's Ditch, the character of Devil's Ditch -
16 I wouldn't have had to tell the court what the character of
17 Devil's Ditch is but it seems to me for the purposes of the law
18 I had to tell the court what it was like and I did so. And
19 it seems to me that I did so reasonably dramatically. Devil's
20 Ditch and Ruckersville are in the same district. No effort
21 was made in other words at that time to place anything in zones
22 within the County based on like use, no effort at all. None in
23 the ordinance at all. And that in itself was fatal - the Court
24 has said that that in itself is, I take it, not enough to be
25 fatal, probably said it at the time because they did not have

1 in the record a sufficient description of something like Devil's
2 Ditch or even a sufficient description of Ruckersville. Well
3 they are in there now. I think we have placed on paper, it
4 was my intention to do so, a picture of this county. There is
5 no reason - no more reason to put this county in - there is
6 no satisfactory reason considering the mandate for this statute
7 for putting this county in one zone. And if there is any clearer
8 way to see it, all the court has to do is look at the multiple
9 zones which are shown on the map of the present zoning ordinance.
10 And Mr. Yearwood says it is his opinion from the standpoint of
11 planning - this doesn't relate necessarily to the law - from
12 the standpoint of planning Greene County could go in one zone.
13 Well from the standpoint of somebody's idea of planning maybe
14 so but that is not the law. The zone feature must be used and
15 consideration must be given to it, in order to have a valid
16 zoning ordinance. You must zone like uses into like places
17 and there is no question about the fact that Ruckersville on
18 the one hand, no matter how small the use may appear on that
19 map, is not one use and Devil's Ditch, about as far removed from that use
20 as you can get. With respect to Mr. Yearwood's testimony I
21 must respectfully - he said to the Court that it - that it was
22 satisfactory with him from a planning point of view if - from
23 the standpoint of the planning axiom, the like uses are treated
24 in like manner. For Devil's Ditch to be in the same zone as
25 Ruckersville - now that just can't be Your Honor. And I suggest

1 that that covers Mr. Yearwood's testimony considerably. If he
2 is going that far afield in planning - from the accepted planning
3 practice - if the accepted planning practice goes that far
4 afield, that is a good question as to the balance of his testi-
5 mony. Not only is there a good question as to the balance of
6 his testimony but in any event, it does - even if it weren't
7 for the planning, it simply can't be done that way under in
8 a - under a zoning law. Not only enabling statutes of this case
9 - of this state and - now what this ordinance then did in order
10 to try to relieve from that pressure was from - the pressures
11 as we call them by putting something like Devil's Ditch and
12 all the western part of the county which is like it into - or
13 very nearly like it, into the same area with something like
14 Ruckersville. What the county did to relieve that was to put
15 a special use permit provision in the ordinance. The Court
16 has ruled that the standards, already ruled over our objections,
17 that the standards for those special use permits were satisfactory
18 on the face of it. But Your Honor the combination of the one
19 zone plus those standards, plus the restrictiveness of the
20 ordinance itself, those factors had the effect of shunning
21 everything - virtually every piece of development in Greene
22 County except the most minor into that special use permit section.
23 It is our contention, Your Honor, that those - that a special
24 use permit situation was never intended so to be used. If it
25 can be used that way, then the County was entitled to say this,

1 to enumerate the same standards that are in that ordinance and
2 to say the county is in one zone, now ladies and gentlemen
3 of the county if you wish to commit your land to any use other
4 than its present use, you shall get a permit, and to enumerate
5 the same standards that are in that ordinance now.
6 COURT: That's about what it is coming to isn't it?
7 PARKER: That's what it is coming to. Now if they can
8 say it - that's what we can say in Virginia, then it seems to
9 me some court ought to say it just as clearly as I said it. If
10 this ordinance is valid, then what I just said would be valid.
11 But there's a problem with that. Under all the circumstances
12 in this case, that doesn't make the Board of Zoning Appeals
13 a judicial, an administering body exercising judicial authority,
14 that would make the Board of Zoning Appeals an administering body
15 exercising legislative authority. Well they have a standard
16 surely. In that sense it's a little bit different but the standards
17 are so broad and the matters coming to them are so broad that there
18 is no way - it's essentially a matter of legislating for the public
19 will, for the public good. That is not proper. And Mr. Matthews
20 is here to tell you that it's not proper. How this ordinance
21 went into a county with these factors, these numerous factors
22 which have been brought in here, I don't know. It's clear that
23 the input wasn't made into the ordinance. Indeed the only saving
24 grace of this ordinance, even by Mr. Yearwood's testimony, is
25 that it had the special use permit provision feature. And so the

1 ordinance has got to stand or fall on that, considering one zone -
2 this one zone concept. Every commercial use, every commercial
3 use was subjected to a special use permit. Every use except
4 residential and agricultural was subjected to a use permit. Some
5 residential use was subjected to a use permit. It was a year
6 in which the Board of Zoning Appeals of Greene County effectively
7 ruled when it came to how you should use your land. If that can
8 be done under zoning, then this case will make authority for
9 taking away ancient rights of citizens. If in this case the
10 County can do what it sought to do, then there will be - this
11 case will stand as authority for the fact that no man's land is
12 anymore his own if the county wishes to take it and not compen-
13 sate him for it, unless he has already thought to do what he
14 wants to do on it. Now as to Mr. Matthews' particular property,
15 there has been a lot of testimony back and forth, I won't recount
16 it, as to where the County wants subdivisions to go and where
17 Mr. Matthews thought his was entitled to go, expert opinion on
18 both sides, no question about it. If the court will examine the
19 basis for that expert opinion, the court will see it seems to me
20 that this subdivision of Mr. Matthews belonged where it was put,
21 that there was water available, that he had every right to think
22 that it belonged there. It was water available there. It was
23 a highway, transportation available there, other utilities - he
24 was going to put in such other utilities as were necessary, water -
25 I beg your pardon, sewer, central sewer system. There has been a

1 lot said about the pros and cons of that, and I shall not get
2 into it in detail. It's all in the evidence, but we do say
3 that Mr. Matthews property was classified at variance with the
4 surrounding uses. If this County is going to treat like uses and
5 like manner, what about the subdivision that was right there
6 next to his. That was something else that he had a right to
7 take into account. It was right there. The character and
8 use of that land had already become established, even though it
9 hadn't been used for it yet, in the middle, between Ruckersville
10 center and the Locust Lane subdivision. A comprehensive plan
11 is a planning document. It wasn't even enacted for Mr. Matthews'
12 benefit at the time he came into this county and sought to do what
13 he did do. And yet the County took the position in another
14 proceeding that what was best for the county was what was shown
15 on that plan and Mr. Matthews couldn't have what he wanted out
16 there. And they still take that position in this proceeding
17 - they say what is best for the county is what is shown on that
18 plan even though the plan was not enacted until later. And
19 say Mr. Matthews wasn't doing what we considered to be best
20 for the county. The question is, of course, on that point,
21 there were on two sides of Mr. Matthews - there was a highway
22 on one side, a subdivision on the other, vacant land which
23 was not proposed ever to be developed on the back side and the village
24 of Ruckersville on the other side with a little bit of vacant
25 land, including what Mr. Matthews sought to develop in between.

1 And they say that on that basis, with all these things available
2 that that's why he is not entitled to develop at that point,
3 that they say their zoning is appropriate. The ordinance, of
4 course, is in evidence and the preample of that ordinance is
5 clear to the court. It looked forward to the permanent ordinance.
6 It not only looked forward to the permanent ordinance, it's
7 clear intention is / enunciated by people from the county here was to
8 protect the county from their point of view/or to do something, to
9 hold the county in position for the subsequently coming ordinance.
10 That permanent ordinance is a fruit of this interim ordinance
11 as against Mr. Matthews. If he had not been held up, he would
12 have been in business. There are then a number of points that
13 I have brought today - some of them have already been ruled upon
14 by the court. I won't again repeat and I don't mean to leave
15 any out or waive any by enunciating three but I shall summarize
16 my enunciation with three. First, Mr. Matthews had a vested
17 right because of his expenditures in acquiring this property
18 and his subsequent - acquiring this property with an intention
19 to develop it, acquiring this property with - and exhibiting
20 that intention in the fashion that he did after that and because
21 of the expenses that he had to go to in order to develop this
22 property. He had that vested right to this use, to the uses that
23 he filed. He is therefore, today he has that vested right and
24 we say to the court that no ordinance, whatsoever, prohibits
25 him as to that land, even if the ordinance is valid as to the

1 county as a whole, no ordinance prohibits Mr. Matthews under
2 the circumstances from doing what he undertook to do with this
3 property. We say to the court that his preliminary plat filed,
4 his final plat turned down were momuments to his intention
5 in this matter. With respect to the particular land involved,
6 Mr. Matthews land, even if he does not have a vested right,
7 this ordinance cannot be applied. It cannot be applied because
8 it classifies surrounding - it classifies his land at variance
9 with surrounding uses. Finally, Your Honor, we say that the
10 entire interim ordinance was always invalid for the reasons
11 that I have gone into and I will not resummarize. The ordinance
12 is invalid as to the entire county, was always invalid, certainly
13 invalid as to Mr. Matthews, yes, but also invalid as to all the
14 county, including Mr. Matthews land. No such ordinance as this
15 should be allowed to stand. If it is allowed to stand it must
16 be because of its peculiar nature as an interim matter. If it
17 can be allowed to stand on an interim nature, in this state,
18 it must stand on the footing - Mr. Yearwood practically said
19 as much, though I don't think he said it had to stand on that
20 footing - what he said was it would stand on that footing he
21 thought in his opinion. It must stand as a legal matter, not
22 as a planning matter on the footing of a permanent ordinance.
23 It can't do that. If it can do that, then we have come to a
24 sad day with respect to a man and his land. I thank you sir.
25 COURT: All right, Mr. Slaughter.

1 SLAUGHTER: May it please the Court, of course Mr.
2 Parker has reserved time for rebuttal but it certainly would be
3 my intention not to be longer than he. Mr. Dickey would like to
4 take the last part of our argument and of course, I shall - would
5 allow time for him if I thought I was going anywhere near the
6 time the court has allocated.
7 May it please the court, Mr. Parker first addressed
8 the question of whether or not the provisions of 15.1-490
9 were properly taken into account in the enactment of this
10 ordinance. Let me just say briefly in background, as the
11 court has heard so many times and at such length that I even
12 hesitate to mention it, that Greene County was in the process
13 of attempting to formulate a master plan and a permanent zoning
14 ordinance in accordance with a proper planning technique, and,
15 of course, in accordance with 15.1-490 as it now exist...it was
16 amended during the year in which this ordinance was passed...con-
17 cerned about the subdivision, the number of lots, the number of
18 units - I think 940 units altogether - that had been filed with
19 Mr. Morris, even in the beginning when he came in November of
20 '73 up until March of 1974. The thought of interim zoning
21 ordinance, which had first been discussed, as the evidence shows
22 the previous summer, was revised and ultimately an interim
23 zoning ordinance was passed. It was passed as Mr. Parker has
24 conceded with all of the technicalities required of an ordinance
25 and of a zoning ordinance. It was properly advertised, there

1 were proper public hearings and the ordinance was passed as such.
2 Now the ordinance is on its face an interim zoning ordinance.
3 The county made no effort to conceal it. Right at the bottom
4 of the 1st page is noted that it shall remain in force and
5 effect until the adoption of the comprehensive zoning ordinance
6 but not for longer than one year. I think in terms of whether
7 or not Section 15.1-490 was considered and whether the pro-
8 visions of it were considered, we have only to look at that
9 first page which says - if I may take the liberty of reading
10 it - I thinkit puts the whole case in context. "Whereas the
11 County Planning Commission of the County of Greene is engaged in
12 the preparation of a long range general plan to guide and facilitate
13 orderly and beneficial growth in this county, and that it is
14 engaged in the preparation of a comprehensive zoning ordinance
15 to serve as a primary means for achieving such orderly and
16 beneficial community. And whereas an interim ordinance is
17 necessary in order to protect this county during the preparation
18 of said general county plan and comprehensive zoning ordinance,
19 from any building construction and new uses of land that may
20 do irreparable harm to the character of existing neighborhoods
21 and which may defeat the purposes of the long range general
22 plan and comprehensive ordinance. Now therefore be it ordained
23 by the Board of Supervisors of Greene County, Virginia, pursuant
24 to Section 15.1-486 and 15.1-498 of the Code of Virginia as
25 amended, for the purposes of promoting health, safety, order and

1 prosperity, to conservation of natural and historic resources, and the
2 general welfare requiring it, that the following be adopted
3 as the interim zoning ordinance of Greene County, Virginia."
4 Effective date of adoption shall be the 2nd day of March, 1974,
5 and it shall remain in force and effect until the adoption of
6 the comprehensive zoning ordinance but not for longer than one
7 year. Section 15.1-490 if the Court please, provides that
8 an ordinance shall be drawn, taking into consideration the
9 items listed therein. As the evidence shows and it was un-
10 contradicted, Mr. Evans and Mrs. Harbaugh and others of the
11 Thomas Jefferson Planning District Commission prepared an
12 ordinance, following one that was prepared by Mr. Dickey. It
13 was submitted to the board and no action was taken in the
14 summer of 1973. The evidence is also uncontradicted that it
15 was rewritten with the cooperative efforts by Mr. Evans, Mrs.
16 Harbaugh and Mr. Dickey, the following January, at which
17 time it was submitted in February to the Board of Supervisors,
18 was advertised, a hearing was held and it was passed on March 2,
19 1974. The Thomas Jefferson Planning District Commission as
20 the Court knows is under the direction of Mr. Robert Abbott
21 and he was asked by me if the provisions of Section 15.1-490
22 was taken into consideration, were considered in drawing that
23 ordinance and he answered that they were. Mr. Parker objected
24 to my next question which was, was reasonable consideration
25 given and the Court ruled that that was a matter of law. But

1 the court sustained the question and the answer that consideration
2 had been given. And thus the ordinance shows on its face that
3 consideration was given. The only testimony in the record on the
4 point is that consideration was given. And we submit, if the
5 Court please, that after three and a half days of testimony -
6 excuse me, Your Honor, four full days of testimony that it shows
7 that great consideration was given to all the items enumerated
8 therein. Mr. Parker has not gone into the specific items and
9 I won't take the court's time to do so also but without question
10 all of these exhibits to which Mr. Evans testified - most of them
11 I would have to say - some he said he wasn't that familiar with -
12 but most of these exhibits, most of these studies were a part
13 and parcel of Mr. Evans study - of Mr. Evans knowledge when this
14 ordinance was redrawn by his testimony in January of that year.
15 As the court will note, the statute says drawn, not enacted.
16 Now Mr. Evans as Mr. Parker has pointed out has gone - and
17 pointed out graphically I will certainly concede - has gone
18 through this county such as probably no other single individual
19 in memory certainly to my knowledge - of course there are many
20 people here who know a great deal more about Greene County than
21 I - in any event Mr. Parker picked Mr. Evans as the man to go
22 through and tell the court and put in the record every house
23 trailer, every service station, every crossroads in Greene County.
24 I submit that if Mr. Evans in January of 1974 didn't know Greene
25 County, as a professional planner, than no one did. He had been

1 going up and down the roads here for five months, detailing
2 everything he could find, with all of his planning background
3 in mind, with the expressed purpose of developing a Master
4 Plan for Greene County, which he ultimately did and on which
5 the zoning ordinance was based. It was with all of this
6 knowledge that Mr. Evans proposed and the Board of Supervisors
7 finally adopted an interim zoning ordinance that provided that
8 only those uses - that only agricultural uses basically and
9 residential uses of no fewer than two acres could be granted
10 of right for that period of one year. Mr. Evans has testified
11 and Mr. Yearwood has testified that in their view essentially
12 this is a very homogeneous county. It was basically a county -
13 agriculture and residential, rural residential use. Certainly
14 there was some commercial development in the county. The
15 testimony has been that that is not extensive, perhaps not
16 as extensive as many residents of the county would like and
17 that there is no industry in the county whatsoever. The county,
18 of course, is small in area. It's small in population. While
19 there may be counties in Virginia with more homogeneous use
20 and certainly there are more counties with more homogeneous
21 topography, it would be difficult to find many that had such
22 a uniformity of use. With that in mind Mr. Evans, the Planning
23 Commission and the Board of Supervisors, felt as they recited
24 the prayer under the ordinance, that this ordinance would be
25 the best ordinance for Greene County for that period. Now

1 Mr. Yearwood, of course, has testified that he believes it is
2 an extremely good ordinance for the county. It could conceivably
3 be one that is better than the permanent ordinance because
4 of the maximum flexibility. Anyone who wants to use land, of
5 course, in the way that they now use it can do so. Certainly
6 the ordinance did not take away any present uses, those uses
7 or non-conforming uses without anyquestion. Anyone whowanted
8 to create a subdivision with residences of not less than two
9 acres could do so. Anyone who wanted to pursue agriculture
10 purposes could do so. It was only for uses for that year
11 that would change the character of the county that the county
12 ordinance provided that the Board of Zoning Appeals should grant
13 special use permits. Effectively for commercial use a floating
14 zone was granted because as we have shown in our testimony and
15 we have shown through Mr. Morris and to an extent Mr. Yearwood
16 commercial uses were granted during that period. Perhaps
17 unfortunately for the county there is no evidence that there was
18 any application for an industrial use during that year. A number
19 of subdivisions were permitted. As the court remembers from the
20 last trial there were subdivisions granted either approaching
21 two acres or in areas where there were large - I think Farm
22 Colony had a large reserve area and the lots were slightly under
23 two acres or in the clusters that were being developed as part
24 of the Master Plan. This was not a moratorium if the court
25 please. It was not a shutting down of development. It was an

1 effort by the people to put in a zoning ordinance as closely
2 related to proper zoning as it possibly could until a Master
3 Plan could be finished permitting the continuation of develop-
4 ment but simply trying to channel it in the best possible way.
5 Now as to Mr. Matthews property if the Court please, there has
6 been conflicting testimony by the same people I might add in
7 this case as there had been in the previous case. It all
8 depends on how one looks at Ruckersville. The court could
9 certainly agree as I don't think anyone could disagree that
10 the much used aerial photograph, plaintiff's exhibit 25, shows
11 the intersection of Ruckersville but if you extended Ruckersville
12 this far in the other direction as has been extended by Mr.
13 Payne to the northwest or more or less due north, it would
14 have gone well off this chart in every direction. Without
15 question Mr. Payne has taken Ruckersville and simply extended
16 a considerable distance to include Locust Lane and the proposed
17 subdivision that Mr. Matthews has put in. Now the court can see,
18 even from where you are sitting, and, of course, the court
19 had and will have an opportunity to examine this exhibit, that
20 the greater part of the land surrounding Mr. Matthews' proposed
21 subdivision is agricultural, it's open land. There is one
22 subdivision next to it that Mr. Yearwood has said he felt was
23 a rural subdivision, not really properly located but located,
24 of course, long before the county had their planning, that it is
25 almost by definition a subdivision of non-conforming use. But

1 certainly the county could say completely rationally that a more
2 open use for that land was the best use. It is not connected
3 by commercial, by residential, by industrial use with Ruckers-
4 ville. It opens on to Route 33, now two lanes. Maybe in some
5 future date four lanes but that has never been, certainly not
6 any beginning of construction so far. The evidence is that the
7 schools are conjested; that they are becoming more and more
8 over crowded. And so if the court please the county had every
9 rational reason in saying that Mr. Matthews subdivision, proposed
10 Greenetown Village should not be located there and certainly
11 there is no conflict between that decision and the surrounding
12 area. I believe if the court please I have addressed myself
13 to Mr. Parker's primary points. I must infer that these are
14 the points on which he relies. In his summary he mentioned
15 Mr. Matthews' vested right, as I believe the transcript will
16 reflect from an earlier hearing. I frankly don't think the
17 court need consider that seriously. Mr. Matthews never testified
18 that there was even the first shovel of ground turned there
19 toward any construction and I know of no case in which there
20 has been no construction, that the court has ever held that there
21 was a vested right. There is certainly no evidence that there
22 was any deprivation of Mr. Matthews property, that he had anything
23 taken away. It's true that in certain northern Virginia areas
24 where there has been rezoning, which has effectively reduced
25 the value of property, the court has apparently taken that into

1 account. But here Mr. Matthews' initial investment if my memory
2 serves me correctly was approximately $14,000. He testified
3 that he and his partner, Daniel Farms, a corporation with just
4 two of them stockholders, paid if I recall correctly, depending
5 on how you consider the thousand dollars, either $47,500 or
6 $48,500 for the property. Even if you took his evidence that
7 his bookkeeping transaction, when he took the farm over from
8 his partner is $67,000, none the less, the Commissioner of
9 Revenue of this county testified that a five acre lot there
10 would bring $15,000 today. Regardless of what use Mr. Matthews
11 puts this property to, he is a man many times richer than he
12 was when he bought that property. But Mr. Matthews wants to put
13 in in Greene County a subdivision that would change the character
14 of the county, a subdivision that would bring almost a thousand
15 people into this county ultimately, high density, with all of
16 the problems that high density involves, including the require-
17 ments of adding school facilities, transportation facilities
18 and police protection that a rural county does not need and
19 Greene County simply cannot afford. I have addressed Mr.
20 Parker's points as I mentioned before. There were certain
21 additional items that he has not argued and on which we submit
22 there has been absolutely no evidence. For example he has
23 alleged discrimination and yet we have evidence that there are
24 over 2,000 lots presently in Greene County under two acres,
25 many of them qualifying for Farmer's Home Administration loans

1 for low income families. There is allegation that there is no
2 provision for future development and yet at that time there were
3 over three thousand - in fact over five thousand lots if my
4 memory serves me correctly in the county - I'm sorry, Your Honor,
5 three thousand lots that were undeveloped. Certainly an adequate
6 provision for one year for the future. We have also, of course,
7 been able to see that the Board of Zoning Appeals could take
8 care of future developments and that the ordinance, itself, was
9 self limiting which in my judgment was its most commendable
10 feature. Would that many ordinances were adopted as interim
11 zoning ordinances that were self limiting in order to give a
12 county time to plan and to adopt a permanent ordinance rather
13 than jumping in and adopting hurridly an ordinance that could
14 then not be gotten off the books because one of the great problems
15 in our country at this time is that there is no way of getting
16 much ill conceived legislature off the books and yet the Greene
17 County Board of Supervisors had the intelligence to pass an
18 ordinance that would end in a year. If they wanted a zoning
19 ordinance they had to pass one in a year and that, of course, is
20 in fact what they did. Finally there is an allegation 9P, that
21 the ordinance unlawfully regulates the subdivision of land under
22 the guise of regulating its use and the court, of course, passed
23 on that earlier as a matter of law and Mr. Parker has not introduced
24 evidence as to the contrary. The same is true as to the allegation
25 that the ordinance is an unreasonable exercise of the police

1 power. And thus, if the Court please I shall summarize before
2 turning this over to Mr. Dickey only by saying that people of
3 Greene County through their elected representatives, through
4 two boards of supervisors have sought to preserve the character
5 of Greene County and challenge its growth in the most rational
6 way possible. The county has expended considerable sums of
7 money in order to preserve the integrity of its planning process.
8 I submit that given the problems inherent in starting the
9 planning process and the county did not even have tax maps
10 with the rough terrain as part of it, that the planning process
11 has been carried out in the most professional way possible with
12 the maximum amount of interest and effort on behalf of the
13 citizens. It happens that Mr. Matthews did not comply with the
14 ordinance, which, of course, is unfortunate for him and I am
15 sure that there are many in the county who would have preferred
16 that he had complied. The whole issue and the expense involved
17 in it might not - might not be here. But none the less the county
18 through its elected representatives, trying to preserve the
19 integrity of the planning process, having taken the position
20 that it has after due consideration has at least, of course in
21 my judgment done all the things it could possibly be asked of
22 it and we ask that the Court rule that the interim zoning ordin-
23 ance was valid both as to the county as a whole and as applied
24 to Mr. Matthews and that Mr. Matthews had no vested right to
25 his subdivision. Thank you.

1 COURT: Thank you. Mr. Dickey.

2 DICKEY: May it please the court, my position is sort
3 of here at the end and I would like to take a few of the statements of things
4 that Mr. Parker - that Mr. Slaughter might not have touched
5 quite as much as I'd like to. Basically, Your Honor, the standards
6 that this court has to decide on are well known to the court.
7 The issue is, is this ordinance fairly debatable. That's the
8 first - most of the questions that Mr. Parker has raised, is it
9 fairly debatable and does it bear a reasonable relationship
10 to the health and welfare of Greene County. Now Mr. Parker
11 has stated at great length that the provisions of Section 15.1-490
12 were not complied with because not enough studies were made and
13 yet Mr. Payne in his testimony when asked what studies should
14 be made available, what should be used made a list of items
15 and this is at page 123 of the transcript which says basically
16 that most of those have been covered by Mr. Evans. Most of those
17 were matters that Mr. Evans had in fact considered and had before
18 him according to his testimony when Mr. Parker called him as his
19 witness when he drew up this interim ordinance and planned it
20 out. The County did have an emergency as Mr. Slaughter has said,
21 it had over 700 lots, over 900 units planned in one four month
22 period. This is over a third or approaches a third of the number
23 of lots that were already in existence because at the final
24 moment that we passed, many of those had come in, we were up to
25 3,000 lots and at least 500 of those the evidence was came in

1 of these 700. Therefore, there was an emergency. The emergency
2 was one that Mr. Yearwood rightly refers to as one of land con-
3 version because land that goes out of agricultural and into
4 subdivision lots, even if never a house is built on them is
5 forever out of because no farmer can ever afford to put that
6 farm back together. It can't be done. And the number one
7 historical industry of Greene County was going, the thing which
8 made Greene County what it is. And what it is as Mr. Yearwood
9 says, is a uniform county. Mr. Parker is seeking I think to
10 ridicule this point of Devil's Ditch. Devil's Ditch as the
11 Court knows and of course I don't have to say anything about
12 Greene County, I know it is in evidence, through Mr. Evans'
13 testimony so as the evidence shows is a small piece of land
14 stuck into an angle of the National Park there which is not
15 served by roads and which could not be developed for that reason.
16 There is no state road in there. We have in evidence the Greene
17 County subdivision ordinance effective as of this date which says
18 you have to put in state maintained roads if you want to divide
19 below five acres. So Devil's Ditch and the other areas of Greene
20 County which indeed might be like it were protected because no
21 developer is going to be able to put in state maintained roads,
22 at least to the cost that Mr. Matthews testified to earlier in
23 this trial, up those ragged mountains and up those cliffs, not
24 even to Devil's Ditch. So Mr. Yearwood says it is a uniform
25 county. Mr. Parker says not. But the question is compared to

1 what? On the one hand we have got Prince William County. Now
2 there is a county with a uniformity problem. At one end you've
3 got Dulles Airport - I'm sorry, Fauquier County - at one end you've
4 got Dulles Airport, a tremendous development and at the other
5 end of the county, you've got farms. Prince William County,
6 a tremendous lack of uniformity or closer to home Albemarle
7 County but you've got the strip of Route 29 in the mushrooming
8 development north of Charlottesville, South of Charlottesville
9 off of Route 20 farms again. The Esmont area cannot be compared
10 to the area around Route 29 north. Now what did the evidence
11 show that Ruckersville was? Ruckersville has, according to the
12 evidence we have here today, two truck stops, one far north
13 and one far south of Ruckersville, one gas station at the corner,
14 one restaurant, another corner where there was a gas station
15 long ago where there is nothing now, another corner where there
16 is an abandoned firehouse. Can this be compared with the large
17 commercial area of which we speak? Now the evidence further
18 suggested that adequate provision was made for every commercial
19 use because Stanardsville, on the map which Mr. Parker was so
20 critical of, was not zoned. Stanardsville as Mr. Yearwood
21 pointed out was open to any sort of commercial development, yet
22 none came in during that one year period. And the argument Your
23 Honor is that it was well planned because it did work - it did
24 work. There were no demands such as Stanardsville had filled
25 up in one month - one year period with a thousand businesses.

1 There were three I believe the testimony was, three commercial use
2 applications during that one year ordinance. So there was
3 adequate room, adequate development. And what about Mr. Matthews
4 land specifically? Mr. Payne, the expert for Bennett T. Matthews
5 said this zoning map is nice, this is good. Indeed it does in
6 response to Mr. Parker's questions reflect proper planning.
7 And there in that white space in the two acre zone is the land
8 that the ordinance - that Mr. Payne says is a fine ordinance,
9 lots to Mr. Matthews subdivision also. He is no better off now
10 than he was before. His land is still the same. Indeed much
11 of the county is still the same. The flood plain zone on that
12 map - those floor plains are there whether you call it a zone
13 or not. The conservation zone cuts in at 25 percent slope line
14 beyond which under the subdivision ordinance, development
15 isn't possible below 5 acres in any event as a practical
16 matter. So all we are left with is the residential clusters
17 and the business clusters which reflect largely where business
18 already is. But this is the ordinance which Mr. Matthews says
19 is fine. I mean that's what Mr. Payne says is fine. He goes
20 further. He says - mentions the R2 and the M1, floating zone
21 districts. He finds nothing wrong with that. He says this
22 certainly does reflect good proper planning. So where is the
23 line to be drawn. Mr. Payne tell us that two floating districts
24 are fine. Mr. Yearwood agrees with it and says as a matter of
25 fact more is even better. We can go with the one zone ordinance

1 because we do have a uniform county. Mr. Yearwood frankly
2 admits that if we hadn't had the cluster east of Ruckersville,
3 we might have had one to the west, northwest. From that Mr.
4 Parker makes that that's the only place you can have a cluster.
5 The standard once again Your Honor is fairly debatable. Now it
6 may seem that I've talked primarily about this second zoning
7 ordinance but largely because that's come into evidence - because
8 the one developed into the other, as part of a continuing planning
9 process in this county which enabled the citizens themselves to
10 establish a comprehensive plan which they hope will be allowed to
11 determine the future of their county as they see it. These
12 meetings that Mr. Evans testified to, bringing 50 or more citizens
13 in and everyone who was interested - this is the process that was
14 protected. There is not one place in the Code of Virginia where
15 it says that you cannot draft a zoning ordinance with an expira-
16 tion date and that's the issue we are here with today. Simply
17 that - a perfectly valid zoning ordinance. The only thing that
18 makes it different is an expiration date and that's the gist
19 of the plaintiff's position.
20 COURT: Gentlemen, suppose we take our lunch break.
21 I want to take some time to review this at the conclusion and
22 rather than interrupt after that or prolong the lunch hour so
23 far in the evening, let's take our lunch break for forty-five
24 minutes at this time.
25 (Lunch recess)

1 COURT: All right, Mr. Parker, if you are ready you may
2 proceed with your argument.
3 PARKER: Thank you sir. If the fairly debatable standard
4 applies in this case Your Honor, the fairly debatable standard
5 applies only with respect to the question of whether Mr. Matthews'
6 particular land is zoned at variance with other lands. It certainly
7 doesn't apply on the question of vested right. It certainly
8 doesn't apply as we understand that standard, the question of
9 whether the ordinance is valid in toto or not. Mr. Dickey says
10 at one stage in his argument that Mr. Yearwood says that more is
11 even better of this kind of ordinance. Mr. Slaughter says at
12 one stage of his argument that what they wanted was flexibility.
13 Your Honor, the maximum flexibility is maintained in a dictatorship
14 and there are a lot of ways of having that. Most places where
15 you have one it's couched in some terms to make it look good.
16 Really what it means is power absolutely exercised. That's what
17 the Board of Zoning Appeals became under this ordinance. The
18 exercise of powerabsolutely with standards like this considering
19 what it was doing, considering the one zone concept, all put
20 together in one point. The county says that all of these studies
21 were a part of Mr. Evans' knowledge when the ordinance was
22 drafted. I don't think that was the evidence. My recollection -
23 the court will have to look to the evidence in that connection -
24 is what was a part of Mr. Evans' knowledge at that point was
25 primarily the existing land use. In any event Mr. Evans didn't

1 impart that knowledge to the county for the ordinance that they
2 did in fact adopt. He imparted that knowledge to the county
3 in connection with the comprehensive plan which was adopted
4 the next October. I don't mean that he imparted it then but
5 it was imparted sometime between the time this interim ordinance
6 was enacted and the time the comprehensive plan was drawn up.
7 But this case does in the Ruckersville area come down to the
8 question of whether - on the question of how Mr. Matthews'
9 particular land is to be zoned, whether it is zoned at variance
10 with surrounding items or not. It does come down to the pro-
11 position - I asked Mr. Yearwood from a planning standpoint,
12 again not a zoning standpoint, can you just stop the thing up.
13 Can you find a particular use and find the precise boundaries
14 where the use is being presently used and just stop it up
15 and never allow it out? Now we can't do that because such a
16 thing as doing that would entitle a person over the objection
17 of even the Board of Supervisors to a partial rezoning. And
18 then the fairly debatable standard of such a proceeding I think
19 would be the applicable one in that proceeding, on that point.
20 But you just can't stop it up. When the area of influence of
21 a particular character of use has spread beyond the precise
22 use, you can't stop it right where the precise use stops. And
23 that's one error it seems to me the county has made in its
24 argument to this point. The Commissioner of Revenue did testify
25 that he would put a value of - from $12,000 to $15,000 on 15

1 acre lots generally - I beg your pardon, 5 acre lots. But he then
2 - the only thing he was - but when asked how long it would take
3 for such a project to market, he said he didn't know. But he
4 thought not - then he said - but he knew that 14 lots in an
5 entirely unlike subdivision had sold recently for over $14,000
6 as best I can recollect his testimony. I would respectfully
7 suggest to you sir, that that doesn't - I don't know that it
8 would make any difference any way but if - the mere fact that
9 Mr. Matthews can sell this property, even if he could sell it,
10 for 22 or 20 times $15,000, I don't know that it would make
11 any difference with respect to the vested right. If he invested
12 it, he invested it back then and nothing that he or this court
13 can do can change that. But if it does make any difference
14 it doesn't seem to me that the court could find anything on what
15 the Commissioner of Revenue had to say about the value of that.
16 It seems like to me that the value of that was pretty well -
17 that the testimony as to the value of that was pretty well
18 negated on cross examination. Mr. Slaughter said that the most
19 commendable feature about the interim zoning ordinance was the
20 fact that it had an expiration date. And I agree that that was
21 the most commendable feature of that ordinance. But I don't think
22 that we are entitled - that if flexibility comes to the point of
23 view where it is unconstitutional because there is no real
24 standard for it - I don't think we are yet to the place where
25 we will tolerate it in this country even for a year. There was

1 some question about this emergency land conversion coming up.
2 That I respectfully suggest to the court is not an emergency.
3 There was some conversion of land, that's all. There had been
4 conversion of land in Greene County for years into sub-
5 divisions. It was just no such emergency as would not have
6 withstood a year because the county or the seven applying
7 subdividers - the County let six of them in anyway - I think
8 that's the evidence. If I am in error, the record will correct
9 me. They must not have thought there was that much emergency,
10 why pick on Mr. Matthews as a place to find the emergency. I
11 know it's tempting for those of us who like me were raised in
12 a rural area to want to see things remain rural and so far as
13 we are concerned good but it so happens Your Honor that a rural
14 county cannot by the force of zoning remain rural. That's not
15 the purpose of the zoning law to maintain a rural community, to
16 keep people out. This county's nexus with the world happens
17 to come to the Ruckersville area and it is wholly inappropriate
18 to say that regardless of Ruckersville, we are going to force
19 everything to happen in Stanardsville and so maybe it won't
20 happen - maybe it won't happen. Your Honor, demand is what
21 causes businesses to locate, what causes commercial establishments
22 to grow up. The demand is at Ruckersville - the demand wasn't
23 in Stanardsville and that's how come we didn't get any businesses
24 to come in here during that interim. They had prohibited businesses
25 elsewhere over the whole county. There are very few people who

1 are against the many, many avenues of approach that the county
2 has taken to limit development as shown in this case - would
3 stand up to it as Mr. Matthews has done in this case, very
4 few people would have done that. And one would not expect a
5 lot of businesses to come in and locate around - or even to
6 locate - commercial establishments even to locate in Ruckersville
7 in the face of this kind of ordinance - the ordinance is pre-
8 sumed to be valid, no question about it. And most people rely
9 on that presumption. Mr. Dickey mentioned that we had not
10 produced evidence to show that there was no provision for
11 future development in the ordinance - no provision for future
12 development. Primarily the thing is that there is no provision
13 for future development is this ordinance unless the court thinks
14 that its self limiting future would have done that. Devil's
15 Ditch could have been subdivided if anybody had wanted to, if they
16 own the land - if they had subdivided it in greater than 5 acres.
17 Mr. Dickey conceded as much in his argument, could have been
18 subdivided. Mr. Evans conceded that his knowledge essentially
19 didn't become a part of that interim ordinance and the county
20 cannot rely on Mr. Evans' - anything that Mr. Evans may have
21 known. My recollection is that he said something like he
22 thought the input into that particular ordinance was mighty
23 slight. It was a holding - a holding maneuver and it worked
24 so far against Mr. Matthews but it shouldn't have worked. Thank
25 you sir.

1 COURT: Do you have the order which was entered this
2 morning Mrs. Bickers with regard...
3 MRS. BICKERS: No sir, they are putting it on...
4 COURT: Do you all have a copy of it? I struck the
5 last two items, that is the one Mr. Parker prepared with regard
6 to the Court's sustaining a motion to strike the pleadings. I
7 think we can use a copy just as well. I would like to have that
8 to use as a guide when I deal with the motion in the amended
9 bill of complaint.
10 MR. SLAUGHTER: I have a copy.
11 COURT: Some of these may have been disposed of in
12 part and some of them may have been preserved in other allegations
13 which indirectly raise the same points and I don't want to leave
14 out any particular item. It probably would be better to deal
15 with this case in general terms and then try to deal with specific
16 items in the bill of complaint. One of the significant points
17 raised by the plaintiff is the existence alleged by him of a
18 vested right in the proposed development as far as it had been
19 carried out at the time of the adoption of the interim zoning
20 ordinance and that was dealt with, if not directly, at least
21 indirectly in another case but I'm still going to deal with it
22 again in this case because it may be adherent insofar as the
23 applicability of this ordinance is concerned. Mr. Parker is
24 attacking not only the ordinance itself, but also the application
25 of the ordinance to the petitioner's property. And, of course,

1 if the plaintiff has a vested right, whether the ordinance is
2 valid or not would not be material if it's determined that he
3 in fact should have that right declared because even if it's
4 valid it would not be applicable. And in that connection as I
5 understand the facts the plaintiff had prepared and filed with
6 the County Administrator a preliminary plat which signified his
7 intention to develop the subject property. And he had a six
8 month period in which to complete the final plat. Between the
9 time of the filing with the County Administrator of the pre-
10 liminary plat and the preparation of the final plat, the develop-
11 ment of the comprehensive plan apparently, or at least the
12 preliminary part of it had been instituted, and the proposed
13 zoning had apparently reached a stage where it would have been
14 violating the underlying purposes of zoning, to have allowed the
15 final plat to have been approved, unless there was a vested
16 right. And, of course, the interim zoning ordinance had been
17 adopted to accomplish certain purposes which have been alleged
18 to be invalid on the one hand and have been alleged to be
19 reasonable on the other. It seems to me that the mere pre-
20 paration and filing of a preliminary plat is not sufficient to
21 change the character of the existing use. No lots had been
22 developed or offered for sale and only proposed development
23 was involved. I think the filing of the preliminary plat with
24 the County Administrator is substantially different from the
25 recording of a final plat. Andto that extent it seems to me

1 that the law is - that could arise out of this no vested right
2 by virtue of the filing of the preliminary plat. And, of course,
3 that is the ruling that the Court makes with regard to that
4 point.
5 Now the next major point it seems to me has to do
6 with the very nature of the interim zoning ordinance, itself -
7 that's what is under attack. The petitioner or plaintiff
8 alleges that because of the single classificationof property
9 in the County, the ordinance was at variance with the existing
10 uses, and because of that and other factors involved with its
11 adoption, the ordinance was invalid. A large part of the
12 evidence is devoted apparently to the emphases upon the varying
13 topography of the county and to a certain extent to the varying
14 activities I suppose. The experts, at least one of them in
15 commenting upon this question of the homogeneous nature of
16 the County or the lack of an homogeneous nature indicated
17 that that word is applicable to use rather than topography or
18 other geographic features. I'm not sure that that has any
19 particular legal significance but it certainly seems to have
20 significance in planning. The ordinance has been justified
21 by the County as being reflective of the homogeneous nature
22 of the County. That is that it was primarily rural-agricultural.
23 Now Mr. Parker's evidence has indicated that it lies from an
24 elevation of a matter of a few hundred feet or less to elevations
25 upwards of several thousand feet and that Ruckersville in

1 particular represents an entirely different area and is signi-
2 ficant in its existing uses as largely different from other
3 areas of the county. And the failure to take that into account
4 has been alleged as one of the principal objections to the
5 ordinance. Now insofar as the subject property is concerned,
6 its use prior to the adoption of the ordinance, except insofar
7 as it might have been changed by the filing of the preliminary
8 plat as I recall the evidence was agricultural, something in
9 excess of 100 acres of farm land which had been purchased as
10 an unimproved tract upon which Mr. Matthews had expended sub-
11 stantial sums of money in preparation for changing it into a
12 subdivision. And the principal activity which would indicate
13 a contrary use of that particular area was that of Locust Lane
14 subdivision. And I think the evidence is in conflict among
15 the experts as to whether Locust Lane subdivision in effect
16 control the surrounding area or whether it in fact is somewhat
17 insignificant in compared to the surrounding area, that is the
18 immediate area. That seems to be a significant point in the
19 evidence, the fact that Locust Lane has been developed and
20 largely completed some 55 or 60 lots. Mr. Yearwood indicated
21 that it was the type of development that in good planning should
22 be discouraged, that it should not be allowed to become the
23 tail that wagged the dog of planning. Mr. Payne, on the other
24 hand indicated that having been in existence it should have
25 been taken into account and given added significance in the

1 development of the ordinance, at least recognized as an existing
2 use which would have changed the character of the plaintiff's
3 property making it proper that it be classified in some zone
4 other than agricultural, at least to residential zone. It seems
5 to me that that point is debatable. One planner would call it
6 one and another planner would call it another. And if planners
7 differ on it, I can't see how the court should substitute its
8 judgment. In fact it seems to me that the diverse opinion
9 exhibited by the two planners makes it more inappropriate that
10 the Court substitute its judgment. If the experts disagree why
11 should the Court get into it? And for the Court to substitute
12 its judgment for that of the people who classified the property
13 seems to me would be exercising authority that the Court doesn't
14 have. And to that extent I find no basis upon which the Court
15 could say that classifying the property either way would have been
16 wrong. I believe Mr. Yearwood admitted that it could have been -
17 that it could be either way and I think Mr. Payne asserted that
18 it should have been. But the fact is that Locust Lane was the
19 principal factor which added the emphases of the residential
20 nature of the plaintiff's property if there was such. And Mr.
21 Yearwood characterized it as a negative influence and Mr. Payne
22 apparently, while not answering that question directly would have
23 characterized it as a positive influence for making the subject
24 property residential.
25 Now insofar as the plaintiff's property is concerned,

1 I find no basis upon which the Court could find that the interim
2 ordinance was arbitrary or capricious or unreasonable. The
3 fact is it seems to me that people who would do this planning
4 could have probably justified it either way. The fact that it
5 was not done does not seem to be arbitrary at all but a difference
6 in judgment. How insofar as the interim ordinance, itself, is
7 concerned, as being invalid on its face because it's dealing
8 with one single classification in view of the circumstances at
9 the time of its adoption, it seems to me that this factual
10 finding should be made a part of the Court's decision. At the
11 time of the adoption and prior to the adoption of the interim
12 ordinance there was a peripheration of subdivisions in Greene
13 County, those subdivisions being largely undeveloped but
14 existing at the time of the adoption of the interim zoning
15 ordinance. At that time Greene County was essentially a rural
16 and agricultural residential County which was being saturated
17 with subdivisions in all areas of the County, and which if left
18 uncontrolled, according to the planners, would render obsolete
19 any zoning ordinance which could be prepared and adopted within
20 a reasonable time. The adoption of the interim zoning ordinance,
21 which had one year's duration, according to the interpretation
22 of the planners and the application of it by those charged with
23 its administration was not intended to and in fact did not halt
24 development but merely controlled it during the interim, and
25 which reflected existing conditions. Under those circumstances

1 it does not seem to me that the interim ordinance was an un-
2 reasonable or arbitrary or capricious exercise of police power
3 but a valid device in the furtherance of a comprehensive plan
4 and permanent zoning. In that respect it seems to me that
5 residential lots with single family residences were compatible
6 with the argiculture uses in the County and I believe the evidence
7 disclosed that a town house was an unknown quantity in Greene
8 County until this plat was filed. And while it was not covered
9 in the ordinance, there was no deliberate attempt to prohibit
10 such but it just had not been anyone's experience in this area
11 apparently. I think the Court has to take note of the fact that
12 just because something is overlooked does not mean there is a
13 deliberate intent to exclude it. Now with regard to the
14 differences in topography, that is certainly amply proven
15 by the evidence and one which Mr. Evans went into great detail
16 over. And I think the facts support the proposition that Greene
17 County is largely homogeneous and that it's rural and agricultural
18 and that the other activities are somewhat minimal compared to the
19 overall character of the county. And that single classification
20 of property within the limits the interim ordinance contained
21 did not seem to me to be out of keeping with existing uses,
22 particularly when the ordinance carried with it the provision
23 that through the Board of Zoning Appeals individual situations
24 could be explored and dealt with. And insofar as the admin-
25 instration of the ordinances it was proven by the evidence that

1 subdivisions did in fact continue to be approved. And while it
2 is not necessarily germane to the determination of the validity
3 of the ordinance on its face, it certainly has application to the
4 administration of it. And that is that the guiding principal it
5 seems to the Court from the evidence was a desire to contain major
6 developments within these areas that the planners have called
7 clusters or another term planned unit developments. Now that seems
8 to be the trend here. Whether it's good or bad the planners seem
9 to have developed it and if that is a legitimate planning device I
10 see no reason why it would be any less legitimate in a rural com-
11 munity than anywhere else, in any other area. And insofar as the
12 application of that interim ordinance was concerned, that concept
13 was dealt with and applied apparently without any particular desire
14 to defeat the plaintiff in his proposed subdivision. Whether or not
15 a cluster should have been included at Ruckersville was a matter of
16 judgment it seems to me. Whether that cluster should have been large
17 enough to haveincluded the plaintiff's property was a matter of
18 judgment. Now with regard to the claim that certain segments
19 of population have been excluded from the buying class, it seems
20 to me that that has not been borne out by the evidence, although
21 the inference has been made that because Ruckersville has been
22 excluded from one of the clusters, that certain persons coming
23 into the county must make further journey into the interior
24 and would be prevented from settling in an area which would
25 be readily accessible. The fact is the evidence shows that
there were large numbers of unsold lots in the county at the time.

1 of the adoption of the ordinance. Those lots ranged from very
2 small ones up to fairly large acreages, some of which were
3 recreational in nature, some of which were mixed and some of
4 which were apparently residential. In any event the Court
5 finds that insofar as the ordinance was concerned, and the
6 application of it - the interim ordinance that is - there was
7 channeling and control of growth but in no classification or
8 proposed use was there any prohibition or exclusion. I think the
9 evidence disclosed that in the Ruckersville vicinity there were
10 businesses which were approved, some of which were disapproved,
11 the applications during the term of the interim zoning ordinance.
12 And apparently they were dealt with on an individual basis. Now
13 Mr. Parker's principal objection to the interim zoning ordinance
14 is that it left too much to discretion and flexibility and that
15 this flexibility was a guise for unbridled power in the Board of
16 Zoning Appeals. It certainly left a large area of power in the
17 Zoning Appeals because except for the classification which was
18 approved, every other use would have to go through a process of
19 approval of the Board of Zoning Appeals. And as Mr. Yearwood
20 pointed out, except for that feature, there would have been
21 a lack of proper planning in this ordinance and that there is
22 a balance which is always desirable but which is difficult to
23 achieve of having enough flexibility without putting too much
24 discretionary power in the Board. And at the same time by
25 limiting too much the flexibility and discretion in the Board of

1 Zoning Appeals, it would have a tendency to prohibit the very
2 thing which is desirable apparently in planning and that is
3 flexibility.
4 Now with regard to this point that is always difficult
5 and usually asserted in zoning cases as to whether there has
6 been a taking of the plaintiff's property. And I suppose to
7 a certain extent that is always a problem in zoning. But whether
8 we like it or not the very nature of zoning is such that the
9 use of property is subject to the police power of the State.
10 And unless the control amounts to such damage or diminution
11 in value as to amount to a taking, that argument won't hold.
12 And in this case there is no evidence whatsoever that there is
13 any taking of Mr. Matthews' property or that its value has
14 been diminished from that which existed at the time of the
15 adoption of the zoning ordinance. It certainly has diminished
16 the potential value of what he had in mind in the plan he was
17 developing insofar as the density of development on that parti-
18 cular tract. But I find no basis whatsoever of setting aside
19 this ordinance as being an unreasonable classification or such
20 control of the plaintiff's property as to amount to a taking
21 of it. It seems to me that if floating zones are an acceptable
22 planning device then a single use classification with a safety
23 valve of a Board of Zoning Appeals with special use permits
24 achieves the same purpose. I can't see how one could be valid
25 without the other being valid. At least Mr. Yearwood testified

1 that he thought even in the permanent ordinance that a single
2 classification would have been satisfactory, in view of the
3 circumstances and the existing uses in Greene County, allowing
4 individual changes to take place under individual scrutiny,
5 rather than undertaking broad classifications or singling out
6 particular areas to be controlled by what might be an undesirable
7 existing use which could not be terminated but which should not
8 be the basis of controlling the pattern of future development.
9 I think that is the principle involved here with regard to Mr.
10 Matthews property. And that is while Locust Lane is there and
11 it can't be ignored and it has to be allowed to continue, it
12 should not be the basis upon which future development in that
13 area is controlled. And I certainly would think that the argument
14 could be validly made and has been made by Mr. Payne that the
15 northwest quadrant of 29 and 33 could have constituted a cluster.
16 But the fact that it didn't does not seem to me to give rise
17 to the proposition that the ordinance is invalid in its inception
18 or the application of it.
19 Now with regard to the issue of whether or not the
20 appropriate investigations as required by the statute were made
21 and whether they were conducted as required before the adoption
22 of an ordinance, there is no question but what they were made,
23 whether they were part of an input in the adoption of the ordinance
24 seems to me to deal with the question of whether or not Mr. Evans
25 was acting for the Board of Supervisors. It seems to me that

1 it is amply established that this whole study and the preparation
2 of the ordinance was at the instance of the Planning Commission
3 and the Board of Supervisors. The Planning Commission and the
4 Thomas Jefferson Planning District really being agents of the
5 Board of Supervisors in the development in preparation of this
6 ordinance. And, of course, the Supreme Court has said fairly
7 recently that the Boards of Supervisors, themselves, are not
8 entirely unaware of what goes on in the county. They may take
9 advantage of their own knowledge in dealing with these things.
10 And the fact that Mr. Evans made a detailed study; that he parti-
11 cipated in the preparation of the ordinance, Mr. Abbott in his
12 department and further consultation with other members of the
13 Thomas Jefferson Planning Office seems to me that while the
14 comprehensive plan had not been developed, the preliminary
15 work that would have gone into the comprehensive plan was
16 applied equally in the development of the interim ordinance. I
17 find no basis upon which the interim ordinance should be over
18 turned as being prepared or adopted without the necessary back-
19 ground study and information. I don't see how Mr. Evans
20 could have possibly developed anymore detail than he did. And
21 the evidence is that in any ordinary situation at best, a final
22 comprehensive plan and zoning ordinance would take from a year
23 to a year and a half. The interim ordinance extended for one
24 year. It was obvious that the comprehensive plan was well
25 underway. The underlying information was fairly well developed

1 and that the one year period was a reasonable period of time
2 to allow for the final ordinance. Now if the interim ordinance
3 per se is an invalid device, then here is an instance in which
4 it's clearly before the court of appeals, the Supreme Court of
5 Virginia. Now unless someone is prepared to say that they
6 should not be used in any event, I don't know of a situation
7 with which it could be anymore justified than the one presented
8 by the facts in this case and that was that the County was being
9 overrun with development and it was not any apparent attempt
10 here to stop Mr. Matthews but to stop the uncontrolled development
11 of the county and to channel it in such way that the final
12 comprehensive plan and zoning ordinance would be useable and
13 not rendered obsolete before it could be developed. There is
14 certainly no question but what the interim ordinance did not
15 specifically provide for commercial or other activities other than
16 rural residences and agriculture uses. And I don't know that
17 there is anything in the evidence that indicates that as the
18 circumstances then existed that there was any discrimination
19 against any segment of the population. The effect of it might
20 have been indirect to a certain extent involved with certain
21 segments of the population but I find no indication that there
22 was any preconceived design to do so or that in the application
23 of it that there was any attempt - lots smaller than 2 acres
24 were approved, lots smaller than an acre were approved where
25 they met the other requirements. In other words variances or

special use permits were granted during the period in which this interim ordinance was being administered. Mr. Parker, I think I have covered most everything you have raised. If there is something that has been raised in your motion or your bill of complaint which has not been specifically dealt with, I will be glad to consider it.

PARKER: If you will give me just a moment...

COURT: All right, sir.

PARKER: I think the court has probably not specifically addressed itself to the first sentence of 9H. It may be that you have covered it Your Honor but...

COURT: 9H I think was amended to state that it didn't allow for any new commercial development in Greene County as a matter of right...

PARKER: Yes sir...

COURT: Well I have indicated that certainly that's proven on the face of the ordinance that it did not allow it as a matter of right but the court finds that that is not arbitrary or capricious in that it was allowed as one of the uses under a special use permit, both in the administration of the ordinance and in the general powers of the Board of Zoning Appeals. So that it does not seem to me to constitute any valid objection to the ordinance. Now as was indicated a business which wanted to locate had to get the approval of the Board of Zoning Appeals through avenues opened to it under the ordinance.

1 PARKER: In like manner Your Honor, under 9L
2 and I believe the Court may have commented on it.
3 COURT: Yes sir, I did.
4 PARKER: And it's the same thing I take it as to what
5 the Court just said with respect to commercial use.
6 COURT: Yes sir.
7 PARKER: I think the Court has ruled on all of
8 them...
9 COURT: Yes sir, I'm sure you wish to note your
10 exceptions to each and every one of the court's rulings here.
11 They have already been indicated to the ones which were con-
12 trary to your position up to this point.
13 PARKER: Yes sir, thank you very much, I certainly do
14 wish to note our exceptions.
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* * *

(Final) O R D E R (This Case)

This cause came on to be heard on the 3rd, 4th and 5th days of December, 1975, and on the 8th and 9th days of March, 1976, upon the pleadings formerly filed and read herein.

The Court having already entered an Order on March 9, 1976, finding for the defendants as a matter of law as to the allegations contained in paragraphs 9A, 9A-1, B, ~~H~~ F, I, J, and K of the complaint, no testimony with regard to such allegations was received and the Court makes no further findings of law or fact concerning them.

Based upon the pleadings, interrogatories and answers thereto, oral arguments and briefs filed by all parties, stipulations, the evidence heard and the exhibits introduced as aforesaid, the Court makes the following findings of fact:

1. As to the allegations contained in paragraph 9C of the bill of complaint, the Court finds that the interim zoning ordinance was enacted after reasonable consideration of the facts as set forth in §15.1-490 of the Code of Virginia (1950), as amended up to the date of the enactment of such interim ordinance.

2. With regard to the allegations contained in paragraph 9D, the Court finds that the interim zoning ordinance as enacted reflected reasonable consideration of the factors set forth in §15.1-490 of the Code of Virginia (1950), as amended,

up to the time of the enactment of such interim zoning ordinance

3. As to the allegations contained in Paragraph 9E, the Court finds that the interim zoning ordinance of Greene County was not arbitrary and capricious in zoning the entirety of Greene County in one district and finds that there was substantial credible evidence upon which the Court may, and does, find that while there are substantial variations in topography in Greene County, it is substantially a homogeneous county in land use.

4. As to the allegations contained in paragraph 9G, the Court finds that the interim zoning ordinance is not arbitrary and capricious because it does not account for any of the factors mentioned in §15.1-490 of the Code of Virginia, but finds rather as a fact that the ordinance does account for the factors mentioned in such section as it had been amended up to the time of the enactment of the interim zoning ordinance.

5. As to the allegations contained in Paragraph 9H, the Court finds that the interim zoning ordinance is not arbitrary and capricious in that it does not allow for any commercial development in Greene County as a matter of right. The Court finds as a fact that, even during the year the interim zoning ordinance was in effect in Greene County, commercial development was permitted of right in the town of Stanardsville which is located approximately in the center of Greene County and doth further find as a fact that

the Board of Zoning Appeals considered and permitted appropriate commercial development during the time in which the interim zoning ordinance was in effect. The Court further finds that the Board of Zoning Appeals did not exercise arbitrary and inappropriate powers but rather was created with proper guidelines and exercised such authority as it had within those guidelines appropriately.

6. As to the allegations contained in Paragraph 9 L, the Court finds that the establishment of single family dwellings and minimum two acre lot sizes as the only permissible residential uses of land, except by appeal to the Board of Zoning Appeals, was not arbitrary and the Court further finds as noted above that the Board of Zoning Appeals did not exercise arbitrary and inappropriate powers.

7. As to the allegations contained in Paragraph 9M, the Court finds that the interim zoning ordinance did not arbitrarily discriminate against large segments of the population by effectively requiring that all residences be of single family types and on lots of at least two acres in size. The Court further finds that there were many vacant lots of varying sizes located throughout the county before the interim zoning ordinance was passed and further finds that the Board of Zoning Appeals granted special use permits to subdividers during the time the interim

zoning ordinance was in effect for lots of varying sizes and in varying locations.

8. As to the allegations contained in Paragraph 9N, the Court finds that the interim zoning ordinance was not arbitrary and capricious by classifying property at variance with surrounding uses, but finds that the single zone for Greene County was substantially in accordance with uses in Greene County and further finds that the zoning of the land at issue for two-acre single family residential use was substantially in accordance with surrounding uses.

9. As to the allegations contained in Paragraph 9O, the Court finds that the interim zoning ordinance contained adequate provisions for future development in that it permitted as a matter of right further development of the county for single residential use on lots of two acres or more; permitted other developments within proper guidelines through a procedure enabling applicants to obtain special use permits through appeal to a Board of Zoning Appeals, and provided on its face that the ordinance would not be in effect after one year.

10. As to the allegations contained in Paragraph 9P, the Court finds that the interim zoning ordinance was a zoning ordinance, properly covered such areas as zoning ordinances are permitted to cover under the law, and was not a subdivision ordinance masking as a zoning ordinance, Greene County already having had in force for some years a subdivision ordinance.

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11. As to the allegations contained in Paragraph 9Q, the Court finds that the ordinance is not an unreasonable exercise of the police power under all the circumstances but finds rather that the ordinance both as enacted and as applied, was a reasonable exercise of the police power.

12. As to the allegations contained in paragraph 10A, the Court finds that plaintiff did not have a vested right to subdivide and develop his land in a manner consistant with the regulations existing prior to the enactment of such ordinance. Rather the Court finds as a fact that plaintiff had filed only his preliminary plat before the enactment of the zoning ordinance and that only such preliminary plat had been approved; that the final plat was not filed until almost six months after the passage of the interim zoning ordinance; and that no construction of any kind had started on such land; ~~and the evidence shows without conflict that plaintiff's property even under the uses to which it can now be put as of right, is worth far more than its cost to him.~~

13. As to the allegations of Paragraph 10B, the Court finds that the interim zoning ordinance did not arbitrarily classify plaintiff's land at variance with surrounding uses and further finds that it did not capriciously discriminate against him in favor of such uses, but finds rather that the ordinance classified the land in accordance with the greater part of the land surrounding it, and further

finds that there was no discrimination against him in favor of other uses.

14. As to the allegations contained in Paragraph 10C, the Court finds that there is no evidence that the interim zoning ordinance deprived plaintiff of his property without due process of law and without proper compensation in violation of §11 of Article 1 of the Code of Virginia.

D.F.B.

Accordingly, for the reasons stated herein and in the opinion of 3-9-76, the Court doth ADJUDGE, ORDER and DECREE, that the interim zoning ordinance of Greene County was, both as enacted and as applied, valid in all respects, that such ordinance was valid as to plaintiff's property, that plaintiff's motion for an injunction be, and it hereby is, denied, that plaintiff recover nothing of defendants, and that defendants be, and they hereby are, awarded their reasonable taxable costs in this behalf expended. The opinion of 3-9-76 is incorporated herein by reference as if rendered contemporaneously herewith.

D.F.B.

Counsel for plaintiff objects and excepts to the foregoing order on grounds set out in the transcript of the proceeding.

ENTER: David F. Berry
Judge

DATE: April 26, 1976

We ask for this:

David C. Dickey

McGUIRE, WOODS & BATTLE

By Edward R. Slaughter, Jr.
Edward R. Slaughter, Jr.
Counsel for defendants

SEEN: and objected to;

C. Waverly Parker
Counsel for plaintiff

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VIRGINIA: IN THE CIRCUIT COURT OF GREENE COUNTY

BENNETT T. MATTHEWS

v. In Chancery - Case No. 557

COUNTY OF GREENE

and

THE BOARD OF SUPERVISORS OF GREENE COUNTY

NOTICE OF APPEAL

Pursuant to Rule 5:6 of the Supreme Court of Virginia comes now the plaintiff, Bennett T. Matthews, by his counsel, C. Waverly Parker, and hereby gives notice of an appeal from the final order entered in the above-styled case by the Circuit Court of Greene County on 26 April 1976. A transcript and a statement of certain facts, testimony or other incidents of the case is to be hereafter filed.

ASSIGNMENTS OF ERROR

Also pursuant to Rule 5:6 of the Supreme Court of Virginia further comes the said plaintiff, Bennett T. Matthews, by his counsel aforesaid, and assigns hereby the following errors of the trial court in such case: That in its final order of 26 April 1976 such court did err in entering judgment for defendants after or as a result of its having----

I. In its longer order of 9 March 1976, entered nunc pro tunc as of 17 November 1975:

A. Erroneously ruled that the interim zoning ordinance in issue was a zoning ordinance not upon its face constitutionally invalid;

B. Erroneously ruled that the interim zoning ordinance in issue was a zoning ordinance not upon its face in excess of the

authority of the County of Greene under the applicable enabling statute;

C. Erroneously struck out from plaintiff's bill of complaint subparagraph 9-A-1 thereof, thus ruling as a matter of law that under such enabling act or otherwise the Board of Supervisors of Greene County had power to enact such interim zoning ordinance;

D. Erroneously struck out from plaintiff's bill of complaint subparagraph 9-A thereof, upon the supposed ground that as a matter of law such interim zoning ordinance need not have been enacted with or after the comprehensive plan required by section 15.1-446 of the Code of Virginia;

E. Erroneously struck out from plaintiff's bill of complaint subparagraph 9-B thereof, upon the supposed ground that as a matter of law no investigations under section 15.1-447 of the Code of Virginia were required prior to the enactment of such interim zoning ordinance;

F. Erroneously struck out from plaintiff's bill of complaint subparagraph 9-F thereof, wherein plaintiff had alleged that such interim zoning ordinance was arbitrary and capricious because it was not based upon a comprehensive plan, upon the supposed ground that as a matter of law such ordinance was not arbitrary and capricious for that reason;

G. Erroneously struck out from plaintiff's bill of complaint subparagraph 9-I thereof, upon the supposed ground that as a matter of law the standards by which under such ordinance the board of zoning appeals thereby created might grant the privilege of commercial use were not so conclusory or indefinate as to be arbitrary and capricious;

H. Erroneously struck out from plaintiff's bill of complaint subparagraph 9-J thereof, upon the supposed ground that as a matter of law such interim zoning ordinance did not, through the guise of such standards or the breadth of matters for which special use permits or exceptions could be granted or for any other reason,

improperly confer upon such board of zoning appeals the power to legislate by re-zoning or otherwise; and

I. Erroneously struck out from plaintiff's bill of complaint subparagraph 9-K thereof, upon the supposed ground that as a matter of law such interim zoning ordinance did not confer upon such board of zoing appeals what amounted to original jurisdiction of all applications for commercial use or that, if it did, such board could, under the enabling statutes in effect at the time such interim zoning ordinance was enacted, exercise jurisdiction other than appellate.

II. During the trial proceedings on 4 and 5 December 1975:

A. Erroneously interrupted the examination by plaintiff of one of his witnesses, then over objection of plaintiff making the said witness, George Evans, the Court's witness for the purpose of the Court's questions and yet over objection asking leading questions of such witness and receiving the answers thereto into evidence, as shown in the transcript of such proceedings at pages 207 through 216; and

B. Erroneously sustained defendants' objection and thus refused to receive into evidence any answer to a question asked by plaintiff of the witness Thomas Lawson, such question beginning with the words "Do you remember . . ." on page 493 of the transcript of such trial proceedings, when in fact such question was relevant and material to certain of the issues in this case.

III. During the trial proceedings on 8 March 1976:

A. Erroneously overruled in part plaintiff's objection to conclusory testimony on the part of the witness Robert E. Abbott, Jr., and erroneously received such testimony into evidence, as shown in the transcript of such proceedings at pages 19 through 23; and

B. Erroneously overruled plaintiff's objection to the competence of certain questions and to the lack of foundation for certain questions asked of the witness Richard M. Yearwood by defendants, as shown at pages 80 through 88 of the transcript of such

proceedings, and erroneously received into evidence the answers to such questions.

IV. In such final order:

A. Erroneously found that such interim zoning ordinance was enacted after reasonable consideration of the factors set forth in section 15.1-490 of the Code of Virginia;

B. Erroneously found that such interim zoning ordinance as enacted did reflect reasonable consideration of the factors set forth in section 15.1-490 of the Code of Virginia;

C. Erroneously found that Greene County is substantially a homogenous county in land use;

D. Erroneously found that single-zone classification of Greene County could be appropriate and did not result in arbitrarily and capriciously classifying property at variance with surrounding uses;

E. Erroneously failed to find that such interim zoning ordinance was arbitrary and capricious in not accounting for the variety of divergent existing land and land uses in Greene County;

F. Erroneously found that such interim zoning ordinance was not arbitrary and capricious in zoning the entirety of Greene County into one zoning district;

G. Erroneously ruled that such interim zoning ordinance was not arbitrary and capricious in failing to allow for any commercial development in the County as a matter of right;

H. Erroneously found that the board of zoning appeals created under such ordinance did not exercise arbitrary and inappropriate powers but rather was created with proper guidelines;

I. Erroneously found that the establishment in such ordinance of single-family dwellings and minimum 2-acre lot size as the only permissible residential uses of any land in the County territorily subject to its zoning jurisdiction, unless such use were a non-conforming existing use or such land were in an existing subdivision, or unless by resort to such board of zoning appeals,

was not arbitrary and capricious;

J. Erroneously found that such interimzoning ordinance contained adequate provision for future development; and

K. Erroneously found that such ordinance was not, under all the circumstances, an unreasonable exercise of the police power.

V. In such final order:

A. Erroneously found that under all the circumstances as found by the Court or mandated by the evidence, including substantial expenditures, plaintiff did not have a vested right to complete the development for which he had at a time when no zoning ordinance existed in Greene County filed his preliminary plat then approved in accordance with the subdivision ordinance of such County.

VI. In such final order:

A. Erroneously found that such interim zoning ordinance did not arbitrarily classify plaintiff's land at variance with surrounding uses nor discriminate against him in favor of such uses; and

B. Erroneously found that such interim zoning ordinance did not deprive plaintiff of his property without due process of law or without compensation, in violation of the Constitution of Virginia.

VII. In its longer order of 9 March 1976, entered nunc pro tunc as of 17 November 1975:

A. Erroneously denied plaintiff's motion (of 12 November 1975) to compel the defendants to answer plaintiff's interrogatories filed 22 October 1975, upon the supposed ground that such interrogatories were irrelevant for purposes of discovery , when in fact by their nature such interrogatories sought to elicit information most pertinent to issues in this case, such information being peculiarly within the knowledge, province and possession of the defendants.

VIII. In its order of 3 December 1975, entered nunc pro tunc

as of 20 October 1975:

A. Erroneously ruled that plaintiff's motion filed 15 October 1975 was not well taken as to points 4 and 5 thereof, wherein plaintiff alleged:

1. That defendants' answer to interrogatory # 3 (c) of plaintiff's interrogatories filed 22 September 1975 was incomplete with respect to both of Richard M. Yearwood and Robert E. Abbott, Jr.; and

2. That, contrary to defendants' objections to interrogatories #s 9, 10 and 11 of such interrogatories, the said interrogatories #s 9, 10 and 11 did not seek to elicit information not properly obtainable by an interrogatory.

IX. In its order of 26 June 1975:

A. Erroneously ruled that defendants' plea, as in such order amended, was otherwise free of defect in form.

WHENCE the foregoing Notice of Appeal and Assignments of Error:

BENNETT T. MATTHEWS

By: _____
Counsel

C. Waverly Parker, p.q.
Attorney at Law
Stanardsville, Virginia 22973

Filed
May 26, 1976
Lelia S. Baker, Clerk
Marie Gilmer, Clerk

VIRGINIA: IN THE CIRCUIT COURT OF GREENE COUNTY

BENNETT T. MATTHEWS Plaintiff

v.

COUNTY OF GREENE
and
THE BOARD OF SUPERVISORS OF GREENE COUNTY

ASSIGNMENT OF CROSS ERROR

Come now the defendants in the foregoing matter pursuant to Rule 5:6 of the Supreme Court of Virginia and for its assignment of cross error says as follows:

The Court erred in sustaining, by its decree of June 26, 1975, plaintiff's motion to strike defendants' plea in bar on the grounds stated in the plea in bar itself and in defendants' briefs and oral arguments.

Respectfully submitted,

COUNTY OF GREENE
AND
THE BOARD OF SUPERVISORS OF
GREENE COUNTY

Filed:
June 8, 1976
Nelia D. Pickard, Clerk 3:15 P.M.