



City of Clemson
PLANNING & CODES ADMINISTRATION

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BOARD OF ARCHITECTURAL REVIEW
February 4, 2014 – 6:00 P.M.
CITY COUNCIL CHAMBER

Members Present: Russ Hebert, Jane Brown, Wayne Leftwich, Gina McLellan, and Curtis Arnold

Members Absent: Davis Moorhead

Staff Present: Todd Steadman, Zoning and Codes Administrator and Beth Connor, Recording Secretary

1. **Call to order:** Chairman Russ Hebert called the meeting to order at 6:00 p.m. Mr. Hebert welcomed Gina McLellan.
2. **Adoption of Minutes:** Jane Brown moved the minutes for the January 7th meeting be accepted. Curtis Arnold seconded the motion. Minutes adopted. Beth Connor received a phone call prior to the meeting from Davis Moorhead pointing out that his name had been misspelled. Those corrections have been made.

3. Action Items

a. Election of Officers

Jane Brown nominated Russ Hebert for the Chairman position. Wayne Leftwich seconded the nomination. No other Board members were nominated for the Chairman position. Unanimous vote in favor of Russ Hebert as Chairman. Mr. Hebert accepted the position.

Curtis Arnold nominated Jane Brown for the Vice Chairman position. Gina McLellan seconded the nomination. No other Board members were nominated for the Vice Chairman position. Unanimous vote in favor of Jane Brown as Vice Chairman. Ms. Brown accepted the position.

b. Building and Site Review:

1) 2013-AR-10: Applicant Mike McNulty is requesting final review of architectural plans and Drawings for the proposed Smoothie King at 1060 Tiger Boulevard.

Staff Report: Todd Steadman reminded the Board that Mike McNulty presented this project last month. Mr. Steadman said that the applicant would like to enclose the space between the two existing structures (formerly Big Dave's BBQ) and create one larger space. Mr. Steadman pointed out that this building fits within the designated setbacks.

Mr. Steadman reminded the Board that the primary concern when the applicant first presented was meeting the parking requirements. Mr. Steadman told the Board that the Zoning Ordinance states that limited service restaurants and snack and beverage bars require 1 parking space per 100 square feet of building. As this building is 1049 square feet the parking requirement is 11 spaces.

Mr. Steadman pointed out that per Section 19-802 the Zoning and Codes Administrator may reduce the number of required parking spaces for a non-residential use by 10% for uses within 1000 feet of a designated CAT route. Mr. Steadman has applied this option and reduced the

required parking spaces to 10. The applicant has redesigned the site layout to accommodate parking for 10 vehicles.

Mr. Steadman stated that everything with this site meets code.

Applicant: Jim McKibben informed the Board that the site has been completely redone to accommodate the required 10 parking spaces.

Mr. McKibben also said that there will be a defined pedestrian connector to Keowee Trail.

Mr. McKibben pointed out that there would be signage on the north edge where the one parking space was added.

According to Mr. McKibben the 2 existing pole mounted lights will remain and should provide adequate lighting.

Mr. McKibben, using an elevation plan indicated where the building signage would be located. Mr. McKibben said that there would not be a sign on the gable. There will be 2 signs on the same front. Mr. McKibben said that the signs would be channel aluminum and back lit.

Mr. McKibben, as requested at the last meeting, brought samples of the materials that would be used on the building. Mr. McKibben showed a sample of the cultured stone to be used and the red metal trim plus the building will have black awnings.

Jane Brown asked if there would be stairs on the walkway to Keowee Trail. Mr. McKibben responded that there would be a couple.

Russ Hebert asked if the colors that were being used were the franchise colors talked about last time and reminded Mr. McKibben that he had said he wanted to use the older colors that the franchise had. Mr. McKibben stated that these colors were the current franchise colors.

Mr. McKibben told the Board that the outside seating had been reduced to meet the parking spaces requirement.

Gina McLellan pointed out that there was a men's restroom and asked where the women's restroom was. Mr. McKibben said that, based on occupancy, there was only one needed and that he would be sure the signage was changed.

Mr. Hebert asked if they were losing the fire pit and Mr. McKibben said that it would be paved over.

Mike McNulty, co-owner of Smoothie Kings stated that he was not aware of the problem with having 2 different signs on the building and he explained the importance of having 2 signs because it indicates the drive-thru portion, which is where 80% of their business comes from but also there is a retail portion that sells vitamins, drinks, etc.

Mr. Steadman informed Mr. McNulty that this may be a code variance issue and that he would be glad to speak with him about this later.

Mr. McNulty also informed the Board that there would not be stairs to Keowee Trail.

Jane Brown moved that the Board approve the proposed Smoothie King as presented. Wayne Leftwich seconded the motion. Motion unanimously approved.

2) 2013-AR-12: Applicant Tom Winkopp is requesting final review of architectural plans and drawings for the proposed Dukes Centre located at 386 College Avenue.

Staff Report: Mr. Steadman said that he would like to present his staff report in 2 parts. One part addressing process and overarching issues and then get into the more traditional review. Mr. Steadman said that he was going to read a lot of the report so as to be accurate and also so it will be part of the record.

Jane Brown recused herself as she has a working relationship with the Applicant.

INSERT TEXT FROM TODD'S REMARKS

With the permission of the BAR I would like to offer the staff report in two parts. The first will deal with process. The second will deal with the specifics of this particular review.

I want to start by saying that this meeting is not about the Dukes Family. It's not about the citizens. It's not about the BAR or Planning Commission and it certainly is not about the staff. It's about Clemson. It's about all of us.

We all love Clemson. We're all part of Clemson. In fact we are Clemson. We are all in this together.

The divisiveness I sense saddens me. This should not be viewed as any sort of us versus them situation. Whether the us is staff and the them is the BAR or us is the BAR and them are the citizens or developers. At the end of the day this is about the process. And I know that at the end of this process someone will most likely not be happy with the outcome. But, I hope all of us will feel that the process was transparent, fair, and inclusive.

And I want to thank all of the citizens who have exercised their rights and spoken out about this project. I thank the Dukes family for listening to the concerns expressed and making concessions as they exercised their rights as property owners. I want to thank the men and women on the Planning Commission for fulfilling their duties and I especially thank the men and women on the BAR who have agreed to sit in very hot seats tonight as they continue their volunteer duty to the City as they do each and every month. And I also want to say that I am personally grateful and proud of how the staff I work with have conducted themselves. From the Mayor all the way down to me I have witnessed nothing but impartiality, professionalism, and a devotion of resources to this matter. And we were not acting in a vacuum. Every issue brought forth - whether by a citizen, the developer, or amongst ourselves was researched and vetted in order to ensure that we provided the BAR with accurate and circumspect counsel. And that is why I am here⁴. To support this board.

I thought it would be beneficial to the BAR and all present to review how the process of the BAR standards are established.

1. In 1994 SC passed an enabling act which outlined how municipalities would govern themselves - including establishment and operation of boards and commission such as the Architectural Review Board.
2. By 1998 the City chose to establish a Board of Architectural Review
3. **Per SECTION 6-29-880 of the S.C. Enabling Act**, *“The board of architectural review has those powers involving the structures and neighborhoods as may be determined by the zoning ordinance.*
4. The Planning Commission develops proposed zoning ordinances/codes including those for the BAR.
5. Proposed ordinances are then submitted to City Council for review and clarification.
6. The public then reviews and comments on the proposed codes via at least one publicized public session.
7. Then, the elected City Council utilize additional public hearings (if deemed necessary or appropriate) and holds 2 readings of the proposed code to debate the issues, makes any revisions, and then votes the codes in or out.
8. If voted in, the codes become law.
9. Once a code becomes law, the role of the staff is to enforce the code. We do not set the code. We do not have a vote on the code. And we do not violate the code. This is important to point out as the Planning and Codes Department has received a fair number of requests to deny this project. To vote against it. To not let it happen. No one on staff - from me up to and including the Mayor - has that power or authority. That power lies in one place; with you - the citizens. You have input on what our codes are and you elect the Council which has the final say. It is an inclusive and democratic process but, once a code is in place, staff has one job; enforce it. We don't make the rules nor can staff change the rules once they have been established.
10. So, that is how our codes - including BAR standards - are created.

THE TIMELINE ON THE DUKES CENTRE PROJECT:

1. The Dukes family hired an agent to submit a rezoning request to consolidate the zoning of several parcels of land into one zoning designation. At the time of submission, the various lots were zoned C, CP-1, & RM-3. The request to re-zone the CP-1 and a portion of the RM-3 to C was brought to the Planning Commission for its consideration and recommendation on October 14, 2013. The agenda for this meeting was published in the Messenger, on the City website, e-mails were sent to every citizen who signed up for our alerts, and was physically posted at City Hall. The majority of the site was already zoned C. A significant portion of the RM-3 parcel was not included in the request and remains residentially zoned. The high density/mixed use aspect of this project was found to support several objectives of the Comprehensive Plan and this finding formed a large part of the Commission’s debate. The request was approved unanimously.
2. Once the Planning Commission approved the request, a public hearing was set. Signs were posted on the property, letters were sent out to all property owners within 200 feet of the property in question, an ad was placed in the Messenger, notice was placed in the legal section of the Messenger, it was posted on our website and e-mails were sent out, and notices were physically posted at City Hall. The public hearing was held before City Council on November 4, 2013. During this meeting property value, traffic, scale, height,

noise, light, how this project supports or conflicts with the Comprehensive Plan, and other issues were discussed.

3. The matter then went to City Council for a first reading on November 18, 2013. City Council meetings have a public input session. One person spoke in opposition to this project. Council reviewed the project in the context of the Comprehensive Plan and determined that it supported the plan. The vote to approve the first reading was unanimous.
4. It then went to City Council for a second and final reading on December 2, 2013. After a public input session where about a dozen people spoke (Council extended the session to allow all interested persons to speak), the decision to allow the rezoning was approved by Council with a vote of 4 -2 (one member recused himself). At this point, City Council no longer had a say in the matter. They had already rezoned the land.
5. Once rezoning has been approved by City Council, any project within the specified zoning district is governed by two things; City ordinances (including all applicable Federal, State, and local building codes) and, if a project is in an architectural overlay district, the Board of Architectural Review. As this project is in Overlay District 2 it was brought before the BAR for conceptual review on January 7, 2014. No action was required or taken, but the members did offer some minor points for refinement.
6. The applicant has submitted for final approval at the February 4, 2014 meeting.

So, that is an overview of how we got to today. How the code is established and the process this particular project went through - which is no different than any other.

Now, since BAR meetings do not have a public input session, I would like to address some concerns that have been brought up about the Dukes Centre. I am doing this at the request of some of the BAR members and against the advice of some others because I want to do what I can to ensure that the public feels that this process is fair and transparent. Plus, I think there are a few issues that need to be clarified.

This first issue I want to discuss is the matter of citizens meeting with BAR members. As some of you may be aware the initial advice to the BAR was to NOT meet with citizens or groups one-on-one. This has been the consistent position on the part of the City. It is what I was told when I served on the BAR and the Planning Commission and it is the practice recommended by our consultants and legal counsel versed in these matters. The reason for that is that the BAR is a quasi-judicial body who is making a ruling. They are a jury of sorts. An appeal to a decision made by this Board is not sent to Council or staff to resolve. It goes to court. The position of the BAR being quasi-judicial has been upheld by the S.C. Attorney General first on May 13, 2002 in Bennetsville and again on April 9, 2004 in Dillon. So it is clear that this board is quasi-judicial. S.C. State Law Section 1-23-360 denies ex-parte communication – that one-on-one outside conversation - for members of a quasi-judicial agency. This is not something staff was trying to block. There is a solid foundation for the City's position of not meeting. Never mind that I heard from several of the Board members that they would not be comfortable with such a meeting - be it a visit from a citizen group or developer.

As some of you may be aware, I sent out an e-mail telling Board members that the original position of "not meeting" had been "over-ruled" and that it would be OK for them to meet. Then 30-minutes later had to send yet another e-mail which upheld the original position. Not my finest hour. I assume full responsibility for that confusion but was operating under what I believed to

be accurate information and I was responding to a definite sense of urgency on the part of a citizen group. It was a mistake on my part and I corrected it. I apologize for the confusion on that but there is no confusion that the original position for this board being advised to not have private meetings is good counsel.

As to why we do not have a public input session at BAR meetings; It is not required to do so. It is not in our by-laws to do so. And we never have done so. Public input is part of developing the standards – not the application of the standards. We felt it would be inappropriate to deviate from normal protocol. In addition, there has been four opportunities for public input on this project, so the public has not been denied a voice.

Now, I'd like to address some specific points raised by the public and BAR on this matter. A lot of this came from the 10 page document delivered to the BAR members by citizens opposed to this project. Some come from individual e-mails. Some from the flier that was developed and the web petition. And some that come from staff.

The first relates to what I just mentioned about public input. There was concern expressed about the public not having seen images of this project during the rezoning hearings. That is intentional. Neither the Planning Commission or Council had seen any drawings when they made their decision. The Planning Commission and City Council receive a request for rezoning they are to evaluate their decision based on the zoning. Not on a particular use. As an example, I could come before the Planning Commission and request a rezoning and show a really quaint cottage type structure for a restaurant I want to build but the zoning I'm in is residential disallows the use. The building looks like it would totally fit into the neighborhood and not be a detriment in any way. It gets approved. I walk out of the meeting and get hit by a CAT bus. My estate inherits the property. They decide to build a 65' building. It is allowed to happen. That is why when the Planning and Commission and Council review a rezoning request they should and do always look at all the legally allowable possibilities of what could happen on that site. Because, once a property is zoned a certain way it is protected by law to be used in all the ways it is legally allowed. In my years serving the City as a volunteer I have witnessed numerous examples of an applicant requesting a rezoning with a very specific project in mind only to never have that original project come to fruition whether due to economic downturn, economic boom, a change of ownership or simply a personal decision to do something else.

In that same letter concern was expressed regarding wishing the BAR had seen the drawing being presented tonight when they first met on this matter. They did. What is being submitted tonight is almost identical to what was presented in January with the few revisions the BAR requested.

There was a reference to the flier that was sent around showing the building in context and the value that 3D image would have had in the decision making process. Looked at objectively, the image I have seen does not accurately depict the project in its context. But, as I just mentioned, a specific building should not factor in to the rezoning request.

The letter goes on to say that it was only once citizens saw that 3D image being circulated did they become engaged. I don't know how to respond to that. I do know that the matter of building size was part of the discussion at the Planning Commission meeting, public input sessions, and the Council meetings.

There was a common and frequent reference to staff making a concerted effort to tell the BAR that height and scale are tantamount when it is not. Two responses to that; First, staff fully agrees that height and scale are not the same thing. Second, in several communiques it was implied that staff was trying to sway the BAR. This is an unfortunate and inaccurate representation of fact. When the dust settles on this I encourage those who hold this belief to ask BAR members if they ever felt this way and if so to please bring it to Sharon Richardson's attention as this is NOT the way we do business. The staff is not for or against this project. The only thing the staff is for is a fair and legal process.

In the various letters and e-mails staff received there have been frequent references to the Comprehensive Plan and how this project does not support the plan. There have also been references to how the project does support the Comp Plan. It is important to point out that the Comp Plan is neither the code or the BAR standards. The comp plan is not legally enforceable. I have heard it described as a road map. It is a set of guiding principles and specific objectives. Personally, I think it is our - Clemson's - most important document, but, until such time as an element of the Comp Plan is implemented, it remains an idea. There has been talk in the Comp Plan of establishing historical neighborhoods and a tree ordinance. These things have not happened. Until they do, they are not standards by which the BAR can review a project.

Now lest one say then "what's the point in having a comp plan". My response would be the value in having a plan - especially one developed with hearty citizen input - is to then work within the process to implement the plan. The value of a comp plan starts with citizen input and ends with citizen driven implementation. And every year there are new measures taken which improve the City which are taken directly from the Comp Plan.

Elsewhere in these letters it has been positioned that if the BAR approved a project when mistaking or misrepresenting the standard then they would have made an error of law for which they would be responsible. Staff agrees. Conversely, should the BAR wittingly take an action outside the purview of their domain, it would be equally unlawful.

The issue of traffic has been brought up. This is not within the purview of the BAR. This is primarily a zoning matter. When a project is submitted and a building permit is requested, matters of traffic, police issues, fire issues, storm water, trash, are all reviewed by the appropriate City staff, DHEC, and DOT and any issues are resolved at that level. I am not saying there are or are not traffic issues. I am saying that determining a specific use which, in turn, could affect traffic, does not fall under the purview of the BAR - other than how traffic flows on site.

Light pollution has been questioned. The BAR does not have purview over this. The lighting of any project is governed by City ordinance.

The same with noise. Not in the BAR purview. Handled in the zoning ordinance.

Property value and economic development are not in the purview of the BAR. Those are zoning and market matters.

The issue of neighborhood character has been brought up and is a part of the BAR purview. But only within the guidelines of the standards. The establishment of AR districts is the biggest tool

in neighborhood character. Establishing districts follows the same process I outlined earlier regarding how codes are established. Then the standards within a district give shape to how that district is "governed". Those standards are developed through the same process. In this way, standards address neighborhood character.

The issue of trees and buffers has been brought up. Concern has been expressed about the net loss of trees for the City, damage to trees during construction, the adequacy of the proposed screening between the proposed project and the abutting residential area. A very thoughtful and comprehensive review of these concerns was submitted as part of the 10-pager. And for the record, I was misquoted in the paper today. What I said is there was a small grove of large beech trees – not a grove of small peach trees. Anyway, trees and buffers are something that the BAR takes very seriously and is something that does fall within the purview of the BAR. They have to approve the removal of any trees 8" in diameter or larger and they can and have requested a tree survey. The way the issue of landscaping and buffers is typically handled is the BAR offers suggestions or conditions for approval and the matter is then handled at staff level. The BAR has the right - and has exercised it before - to request final approval of the landscape plan to ensure that the final results meet their approval. Regardless, staff enforces the existing guidelines for all required buffers and the protection of trees which are being counted as "credit."

In one letter it was stated that the BAR is mandated by law to enforce scale. Staff agrees. And staff generally agrees with the definition of scale submitted in the 10-page document. The BAR is mandated to enforce scale – but only per the established standards.

And the BAR is charged with applying only the standards of a given district. In this case, District 2.

To staff knowledge, all of the sections of code cited in the e-mails and fliers being disseminated by citizens opposed to this project, pertain to the overarching principles of creating a district and establishing standards.

- 19 -505 – Establishing a district
- 19-506 – General goals and objectives
- 19-507 – General standards
- 19-508 – Guidelines on how to interpret standards

None of the items cited from the code sections mentioned are the standards by which the BAR is to measure this project.

Let's talk about scale as it applies to the standards outlined in District 2.

Scale is mentioned throughout the BAR code. Ultimately scale is determined by the maximum allowable height and minimum setbacks. That creates a potential “mass.” There are other factors that determine scale but, if you think about it, the setback and height create an imaginary "box" that has the dominant influence on scale. Height is determined by city code, not the BAR standards. As a result, the issue regarding the BAR's role in determining scale has been brought into question. “If the BAR is charged with considering scale and yet height is not in their purview then how does that make sense?” Over the years the BAR has created standards regarding setbacks, massing, articulation, advancing colors, and opaqueness, all of which impact

scale. Dozens of projects have had their scale modified through the application of these standards.

The only specific AR District 2 standard relating to scale is found in Section 19-515 – (e) – (2) which states that, “*Buildings shall be compatible with the scale of adjacent structures and the pattern of the surrounding area.*”

A review of the surrounding area shows that within two blocks of the proposed project, Campus View is under construction and has almost the exact same footprint and height as the Dukes Centre. Within a few hundred feet of the proposed project are two completed projects (Clemson Towers and Clemson Place) both of which are almost 60-feet tall. The church complex directly across the street has a larger footprint than the Dukes Centre and is almost 50-feet tall. The City parking deck approximately a block-and-a-half away. Collectively this would support the line of reasoning that the Dukes Centre is compatible with the pattern of the surrounding area.

However, when you look at the adjacent buildings (Carolina Real Estate, Campus Copy, Baptist Church) only one of three (the church) would likely be deemed a compatibly scaled adjacent structure. It should also be noted that Carolina Real Estate is in a different zoning district (CP-1) and that building is consistent with the height allowance of that district. But, I think most people would agree that the Dukes Centre is not in scale with 67% of the adjacent buildings.

While scale is an important part of what the BAR considers, and even though an adjacent structure may be deemed incompatible in scale, Section 19-502 of the City ordinances states; “*Where architectural overlay standards conflict with zoning regulations.....the conflicting architectural review standards shall not apply.*” Heights is established by the zoning code. The proposed building meets code. So there regardless of whether and adjacent building has a compatible scale, there is no debate whether a 65-foot tall building on this site is allowed by law. This code, in regard to height, has been in place for over 40 years. This has been on the books since 1972.

It has been suggested that there is no conflict of standards. So, we sought an opinion. After speaking with legal counsel - four actually – the City attorney and three who specialize in zoning law- a planning and codes consultant, staff, and administration, the unanimous viewpoint is that the BAR cannot legally deny what is allowed by code. Mixed-use structures having a height of 65’ and meeting the zoning regulations for the intended use are allowed in the C district. Even if scale is to be considered - and it is to be considered - the regulations governing a C district are not part of the AR standards nor are they under the review purview of the BAR. Therefore, this project cannot be denied because it is 65’ tall but other aspects of scale can and should be considered.

One last thing, you may have heard comments regarding how what the City/BAR is doing is not in keeping with other towns and cities. This may well be true. Different municipalities may have their BAR set up differently. The notes and comments here relate only to the Clemson BAR which is governed by State and City laws and codes.

I am certain I have left something out. I am certain there is an issue or concern which was overlooked here. But the key issues - traffic, noise, light, property values, downtown vitality,

trees, landscaping, buffers, neighborhood character and scale have all been addressed. At this time I'll stop and take questions before we get to the actual review.

Mr. Hebert pointed out that the Planning Director, legal counsel, and Zoning Administrator were all present and that if any member of the board needed to clarify anything or had any questions that now would be a good time to ask. No one had any questions or requested any clarity.

Wayne Leftwich thanked the staff for a lot of work and detail. Mr. Leftwich also thanked the Citizens for caring and keeping the Board and Staff on their toes. Mr. Leftwich expressed how important the Comprehensive Plan is and reminded everyone that at this time Staff is in the process of rewriting the Comp Plan and encouraged everyone to participate in this process. Mr. Leftwich also thanked the developer for trying to make a big investment in downtown Clemson while trying to respond to public demands.

Mr. Steadman reminded the Board that this project was presented for conceptual review last month and is now being presented for final review. The project is a mixed use/high density building located at 386 College Avenue. Mr. Steadman stated that the project does support the Comprehensive Plan via Housing Objective 3.4, Economic Development Objective 6.2 and Natural Resources Objective 6.3.

Mr. Steadman stated that as when this project was presented for conceptual review, this project is in compliance with all applicable codes including building height, setbacks, articulation, curb cuts, fire safety, police, trash, public works, storm water and loading spaces. The only code issue is the number of parking spaces. The project has 19 parking spaces over the allowable limit for this size project. Steadman pointed out that the resubmitted plan shows the 41 required bicycle parking spaces.

Mr. Steadman pointed out that all of the buffer yard requirements have been met. He went on to say that the site plan submitted fails to show some of the landscaping around Finley Street and the north side of the property around the retaining wall. This was due to a "CAD layer" being inadvertently cut off when printing. Mr. Steadman stated that the applicant has provided a revised plan which shows these plantings.

Mr. Steadman stated that fences over 50' in length have to have a change in plane. Mr. Steadman pointed out that the site plan does not clearly indicate this, but this can be approved at staff level.

Mr. Steadman informed the Board that they must approve any tree removal of 8" diameter or more. Mr. Steadman said that the project will receive credit for existing trees and that the Board can approve the project conditionally and have staff work with the developer to address any landscape concerns and make BAR approval of those plans a requirement for a CO.

Mr. Steadman reminded the Board that at the last meeting the only specific requests for more information or action was the issue regarding two of the bedroom windows being close to the sidewalk, light fixtures, bicycle parking, and the number of parking spaces. Mr. Steadman said that the applicant will be addressing these issues.

Steadman that if not one had any questions that now would be a good time for the applicant to present. Mr. Hebert asked if anyone had any questions. No one did so the applicant was invited to speak.

Applicant: Steve Peckham, owner of Signature Architecture distributed a site plan indicating the location of landscaping.

Mr. Peckham stated that the developer has increased the buffer yards and will leave the buffer undisturbed between the property and the residences.

Mr. Peckham said that the fence will be between the project and the adjacent neighborhood and is 48' long with a brick post at either end.

Mr. Peckham pointed out that the required number of bike racks will be located both inside and outside parking deck.

Mr. Peckham said that the bedroom windows on the west elevation is 10 ½" from the walkway to window and that one of the windows in question is to a commercial space not a bedroom.

Mr. Peckham compared this project with Campus View, currently under construction. Mr. Peckham said that the Dukes Centre will have less frontage on the street and has a smaller footprint. Dukes Centre is 22 x 300 feet and Campus View is 275 x 330 feet.

Mr. Peckham, using site plans, pointed out that the building has 4 fronts and described the surrounding buildings. He said he was trying to give a more accurate contextual feel to the Dukes Center. Mr. Peckham said that in terms of massing the Dukes Centre is almost balancing what other buildings have already done in the downtown area.

Mr. Peckham said that the original design did not have a retaining wall, but with the storm water lines may need to have one. Mr. Peckham assured the Board that it would not be one tall wall but a series of four foot walls of segmented block in earth tones with plantings with plantings.

Mr. Peckham pointed out that the building could be 120' wider, but the developer chose to pull the building in and away from the property lines even though there is a zero setback on the sides and front. They chose to pull in the building in to have more space for plantings.

In regards to the lighting, Mr. Peckham said that there would be ground mounted lights to soften the building which would be at the building not away from it. The lights in the parking area will be on 18' poles with shoe box type cut out lights.

Mr. Hebert expressed concern with the ground lights in that they could be damaged by pedestrians, etc. Mr. Peckham explained how the lights would be set and where so as to avoid these situations. Mr. Peckham pointed out that they did explore other types of lighting and found that other lights did not compliment the building.

Mr. Peckham showed the street lights they would be using which match the street lights the City has put in. Mr. Hebert verified that any of the lighting would fit under the light pollution standards of the City and Mr. Peckham acknowledged they would.

Mr. Leftwich still expressed concern about the bedroom windows that are on College Avenue. Mr. Leftwich is concerned with having that area as residential, suggesting that possibly it could be office space. Mr. Peckham said that the design is to give a pedestrian feel and that the sidewalk is 13' away from the building and the window was about eight and a half feet above street level.

Mr. Leftwich asked about the dumpster enclosure. Mr. Peckham said that it would be constructed of similar material on building. Mr. Peckham also pointed out that the retaining wall will be of the similar material as well. Mr. Hebert asked for clarity on where the retaining wall will be in relation to the parking lot and how many wall there would be. Mr. Peckham said there would be two walls about four feet high and 27 feet long and that would create three tiers which would not be level but sloped and it will all be planted.

Mr. Leftwich brought up the issue of the window height again and said he would prefer that window to not be residential unit but a commercial use such as a leasing office or community space. He said that part of the purpose of AR District 2 was to extend a pedestrian feel along College Avenue. He went on to say that he was excited about his project in one sense because he feels that this project will get people walking up the streets and sidewalks. He reiterated that he thought it would be better to not have a residential bedroom floor eight and a half feet off the sidewalk.

Curtis Arnold asked if the developer planned to leave the buffer zone against the residential area as natural or if they had plans to improve the area to provide more buffering. Mr. Peckham pointed out that had introduced a bufferyard outside of the conservation area. That would be 10' between the residential neighborhood and the driveway.

Mr. Arnold asked for clarity on the buffer and Mr. Peckham pointed out that it was 45 feet wide and full of trees and had a significant slope. Mr. Arnold asked about the makeup of tree and Mr. Peckham said he was uncertain but they were a mix of large and small trees and would be included in the tree survey.

Mr. Steadman pointed out that with a tree survey they could determine what was actually on site. He said that there were some large trees in the buffer yard and that most of the trees were deciduous. He said there was very little vegetation at the human level and there was an opportunity to include an additional evergreen buffer.

Mr. Hebert asked if this buffer zone would be part of the survey and Mr. Peckham said it would be.

Gina McLellan expressed the desire to shield the building from the homes, as the tallest part of the building is on the residential neighborhood side. Ms. McLellan pointed out that at 3:00 there is limited natural light now and this building would reduce it even more. Ms. McLellan asked that these issues needed to be addressed and considered. Mr. Peckham acknowledged.

Ms. McLellan said she understood stormwater was not in the BAR purview but asked Mr. Peckham to talk about the storm water. Mr. Peckham reported that storm water will be collected underground, under the parking lot, instead of on the surface. He said all of the stormwater will have to be engineered to meet all the requirements. Mr. Peckham said that the pipe will continue to come out in a bamboo stand. The City water will be redirected and a new

pipe to handle only the runoff from this project will be added. The run off from this site will be the same as it is now.

Mr. Leftwich asked about a Conservation Easement and if there was one created would staff request proof of Easement. The staff responded that they would have to have proof.

Mr. Leftwich asked if there would be public art on the plazas and reminded the Board that a representative from the Arts Council spoke at the January meeting asking the Board to remember that this is available. Mr. Peckham said that it was something they would consider.

Ms. McLellan asked about the size of the plazas. Mr. Peckham said that the plazas on each end of the building is approximately 23' back and 32' wide.

Ms. McLellan asked about the amount of green space, stating that people may want to gather there. Mr. Peckham said that the plaza in front have plantings area and there are small areas with planters. He said on one side the slope is pretty steep so people wouldn't be gathering there. On the other side Mr. Peckham said that the pool and cabana area has green space behind it for residents. This space was created by not maximizing the allowable buildable area and instead coming about 60' off the property line. Ms. McLellan asked and Mr. Peckham clarified that some of the beds would be flush with the ground and some would have a raised edge.

Ms. McLellan asked about the dimensions of planting areas for trees. Mr. Peckham said that the tree islands are approximately 9' x 20'. In the front there seven beds that are 14 x 7' and one that is 45' x 7' deep. Some of them will be level to plaza and some to the sidewalk.

Mr. Leftwich asked about the fencing material. Mr. Peckham said it would be wooden with brick columns and plantings.

Mr. Hebert asked for confirmation of the length of fence. Mr. Peckham said it was a 48' run of fence with a 2' brick column at each end for a total of 52'.

Ms. McLellan asked why use a wood fence when it appears the developer has invested quality materials into the building itself. Mr. Peckham said that with the plantings you will hardly be able to see fence. He went on to say that he felt a wooden fence would be more fitting to the character of the residential neighborhood the fence will face.

Mr. Hebert asked what material the pool fence will be made of. Mr. Peckham said it would be wrought iron.

Mr. Hebert asked about the cabana roof and Mr. Peckham said the material will be to fit in complex.

Mr. Hebert asked Mr. Steadman to explain the difference in C buffer and A buffer. Mr. Steadman did not have the specific plant requirements for each buffer type readily available. [Note: that information was provided to Mr. Hebert about 5 minutes later after a staff member retrieved it.]

Mr. Peckham said he had listed the required number of trees and shrubs for each buffer yard on the plan. Mr. Steadman explained that the bufferyards were created to serve different purposes and provide different levels of screening depending on the adjacent use. He pointed out that the

plan presented meets or exceeds the required buffers. He went on to say that requiring additional evergreen plantings where the project abuts residential areas could be part of a conditional approval. He said that this type of approval is typically done at staff level as part of normal process.

Ms. McLellan pointed out that comparing this project to Campus View is not a good comparison because Campus View is behind a row of buildings. She went on to say that this is a very large building and that she was not referring to height though the height is similar to the Baptist church and Campus View.

Mr. Peckham pointed out that the setback requirements of the C district require the building to be almost on the property line.

Ms. McLellan asked if the height of the building was determined by the location of the front entrance. Mr. Peckham said that was correct. Ms. McLellan asked if the most recessed of the entries was the one being considered the main entrance. Mr. Peckham said it was. Ms. McLellan asked what was inside that door and Mr. Peckham said that the whole main level was commercial space. Ms. McLellan asked if it was one space or sub-divided commercial space. Mr. Peckham said that was not determined yet. Ms. McLellan asked how one determines what is the main entrance if you don't know what it is going into. Mr. Peckham said we just had to pick one. Ms. McLellan stated that they had picked the entrance at the shortest end of the building to be the main entrance. Mr. Peckham said it was closest to downtown and made the most sense from that standpoint.

Mr. Hebert asked Mr. Steadman to clarify that the building code defines how that measurement is done. Mr. Steadman said that the height meets code just as the code defines how far off or close to the property line a building can be. He went on to say that in the C district if the building is set back more than 3' that space has to be used as a courtyard. That is determined by the code. Not the BAR standards. The code determines the side setbacks. All of this is determined by code, not the BAR standards. Mr. Steadman went on to say that this building could have been built all the way to the edges of the property but the developer had chosen to increase the buffers and setbacks.

Ms. McLellan then asked Mr. Steadman if it was okay to address the issue of neighborhood concerns. Mr. Steadman said it was. Ms. McLellan asked the applicant how he had dealt with the people most affected by the size of this building.

Tom Winkopp, 1250 Shackelburg Road, Anderson and a business address of 391 College Avenue, informed the Board that he has met with several of the neighbors to talk about buffers. [Mr. Winkopp was interrupted by a member of the audience]. Mr. Winkopp continued saying he is willing to meet with neighbors whether they will meet him or not. He said he would meet with them to discuss a different fence or different buffer and he had already offered to do that.

Mr. Winkopp said he knew this was a contentious issue but that there was another side of the story. There is a property owner who has owned this property for decades and paid taxes on it. They came to Mr. Winkopp about two years ago as other town people have come to him about their property and the highest best use.

Mr. Winkopp said he felt that students walking to campus and people shopping in Clemson would be good for Clemson. He said he has made his living here for 26 years, was a Clemson

grad, and loved Clemson. Mr. Winkopp said he loved the city and felt that if this project would hurt the City he wouldn't do it and if he felt it would hurt the neighborhood he wouldn't do it. He said he felt that this building would strengthen downtown much like his last building with the parking deck did.

Mr. Winkopp said he understood some people didn't want this building. He said he understood it and respected it he just didn't agree with it. He believes the building will do good things for downtown and that strong downtowns make stronger neighborhoods, especially neighborhoods adjacent to downtown.

Mr. Winkopp spoke of the Conservation Easement and tripling the buffers and agreed he would do all that. And he will meet with the neighbors. He said he would make sure the buffers exceed what he needed to put there and make sure it is what the neighbors want. He went on to say he would welcome art in the plaza.

Mr. Winkopp offered to answer any questions.

Mr. Leftwich pointed out that the City was lucky to have a local developer stand before the BAR and say he was willing to work with some of the things that may be asked of him by the BAR.

Mr. Leftwich said that when reviewing the AR district 2 standards one of the first things he saw under the purpose was the intent is to develop design criteria to promote and extend the existing diversity, character and pedestrian orientation of downtown through upper College Avenue district, while encouraging individuality and flexibility in the design of new developments, redevelopments, and adaptive reuse of existing buildings and associated activities. Mr. Leftwich said that this project seemed to meet that criteria.

Mr. Leftwich said there was also an issue of scale. He pointed out that while some of the commercial buildings immediately adjacent to the proposed building may not be the same scale there are several buildings downtown that do including some that were recently approved. He said he did not have a problem with the College Avenue scale of the building.

Mr. Leftwich said he did have concerns about the scale as it relates to the residential area. He reiterated that the City was lucky to have a developer agree to put a buffer yard into a conservation easement and add additional buffers. He said those are the actions that allowed him to accept how this project impacts the residential area.

Mr. Leftwich pointed out that a lot of the buffer land had deciduous trees and suggested more evergreens and plantings at a lower level.

Ms. McLellan suggested using the upper level of the parking deck to create a rooftop garden to help with the additional parking spaces.

Mr. Hebert asked where the 19 spaces would be taken from. Mr. Steadman said that most of them would likely be at ground level as the 19 spaces may be used for scooter parking and more bicycle parking. He said it would be up to the applicant but that is what staff would encourage.

Mr. Steadman said there is not a maximum number of bicycle parking and the project meets the required bike parking. Mr. Hebert confirmed that the other alternative on the parking coverage would be a variance request.

Mr. Leftwich said that he would like to see a more detailed landscape plan in relation to the Riggs Drive view. Mr. Hebert and Ms. McLellan agreed. Mr. Hebert said he acknowledged that it was not possible to eliminate the view of the building but would like to see an effort to screen the building from the residential neighborhood as best as possible.

Mr. Hebert would also like to see an elevation drawing of the retaining wall.

Mr. Hebert pointed out that he was born and raised in Clemson and has nostalgic memories of downtown Clemson. He said he was aware that there was public concern about this project and that he takes it very seriously. He pointed out that there has been a lot of pressure put on the BAR regarding this project which he didn't think was fair.

Mr. Hebert said that whether it is this building or not, when City Council approved the zoning a 65 foot tall building with these setbacks can be built on this property. Since then the BAR has been pressured to address the issue of scale and size. Mr. Hebert said that he has been on the BAR for 10 years and that he felt that given the purview of the BAR the best they could do within the existing standards was to make the building look as good as possible. Mr. Hebert reminded the BAR that the Chipotle building is a good example. He said that when that building was first presented it had fins on it and was ugly. He pointed that the BAR probably did not have the authority to tell the developer "no" but the BAR made suggestions and convinced them to come up with a more appropriate style of architecture.

Mr. Hebert once again pointed out that a building with these setbacks and a 65 foot height was allowed by code. He went on to say that scale, as it relates to the BAR standards, is a relative, almost subjective term. He said he felt the BAR was trying to make the building the best it could be and address the view from the residential neighborhood. Mr. Hebert pointed out that he was not for or against the building. As a member of the BAR he was bound by the codes and ordinances.

Mr. Hebert stated that the way to control a project like this or any others downtown is to change the ordinances. To get involved with the Comprehensive Plan. That is where citizen input is most effective. He pointed out that in 20 years there be 65 foot buildings all the way to subway but that the code allowing this type of building has been in place for 40 years. Mr. Hebert stated that there was a perception that the BAR were the final arbitrators deciding whether this project was a go or not and that is not what the BAR does. The Bar does its best to look at every detail of the building and make it the best looking building we can – along with help from the developer and hopefully input from the citizens.

Ms. McLellan expressed concern about whether or not the vegetative buffers will help with the noise from traffic on road. She said she felt that in order to truly buffer the sound of traffic at all hours of the day and night the buffer plantings would need to be deeper and thicker. She pointed out that there is printed material available that addresses these concerns, one in particular is a USDA research report. She encouraged the developer to looking at that research.

Ms. McLellan went on to say that she has 35 years of professional experience in the development of both built and natural environments. She said that in that work scale was an

overriding factor as it applies to a sense of place and the impact it has on the development of a community.

Ms. McLellan pointed out that there was period in Clemson where there wasn't a lot of growth followed by periods of growth. She said she feels that Clemson is at a crossroads, especially where College Avenue is concerned. The old downtown has come to a point where new things [construction] is going to be taking over and that Mr. Winkopp was in a position to do the right thing and set some standards, ideals, and goals for what is going to happen all the way down to 123.

Ms. McLellan stated that her concern with the way this particular building was designed was its scale. She said that the height was a given as it is allowed. She said the overall size of the building represented and imposing quantity of construction on the site. She expressed concern about a lack of green space but acknowledged that sometimes that was a result of downtown development. She said she felt we needed to do a better job. She expressed concern about the amount of impervious surface we were creating and pointed out that it was detrimental in many ways. She said we were learning lessons the hard way at times.

Mr. Hebert again encouraged the public to become part of the process by volunteering to be part of one of the committees that are working on the rewrite of the Comprehensive Plan and that Rob Seel had resigned from the BAR which created an opening for a professional position on the Board. He pointed out that it would be one way to be part of the process.

Mr. Hebert pointed out that several items had been discussed regarding what the BAR would like to see. He then called for a motion.

[A long period of discussion followed after Mr. Arnold tried to make a motion for the postponement of action until the April meeting, but Staff and Board members found it was not specific enough. At one point City Attorney Kay Barrett offered input. The full transcript of this lengthy portion of the minutes is available.]

Mr. Arnold made a motion to postpone the final Architectural Review of plans and drawings for the proposed Dukes Centre located at 386 College Ave until the April BAR Meeting, April 1st, 2014. The postponement is to allow additional time for the BAR members to review and understand the complexities of the design effects of the commercial zoning district and the application of the Architectural Overlay Districts on this project prior to the BAR final review and that would be a staff report. The second part of the motion would be for the applicant to present a buffering report for the area adjacent to the proposed neighborhood, plantings and mitigation. And the 3rd portion of that would be a report from the applicant to address the architectural review matters that dealt with the neighborhood meeting that he is proposing and that we would ask that someone from Planning be in attendance and provide this report to Architectural Review Board in April as part of the considerations.

Wayne Leftwich seconded the motion.

There was further discussion regarding the motion.

Mr. Steadman said he was unclear regarding what role staff had or what type of report the Board was requesting to help them understand the role of the BAR. He said he was willing but was not clear what the BAR wanted from staff.

Mr. Hebert asked about meeting with Council on how Architectural standards relate. In particular Mr. Hebert wanted to be certain that the C district codes overruled conflicting AR district standards. Mr. Steadman responded that while the BAR had expressed other reasons for postponing a decision and he would be glad to research and answer any questions that had not already been addressed in his report, fact that height and setback were not part of the BAR purview had been answered and the answer will not be different in 60 days. He went on to say that this was not his opinion or what he wanted or didn't want. It is the law. Mr. Steadman said it would be helpful if the BAR could be more direct regarding what they wanted from staff. He said he knew they were seeking clarity but did not know what more beyond his report they might need.

Ms. Barrett asked if it would be better to have a meeting with staff rather than a report. The Board responded that it would be. Mr. Steadman pointed out that such a meeting would need to be a public meeting. Ms. Barrett suggested that the meeting could be in March then finish up at the April meeting. Mr. Steadman went on to say that "once we clear a motion we can figure out..." and Mr. Hebert said, "...the timeline on that."

Mr. Leftwich said he thought a meeting would be helpful because this everyone cared about Clemson and this was a tough issue. He said he felt the clearer the BAR was on their role the better they could make the project. He said that whether it was this building or another he wanted to make sure it was the best it could be.

Mr. Hebert asked if there was further discussion. Being none he called for a vote. The motion carried unanimously.

Mr. Hebert reminded staff that according to Robert's Rules this agenda item would come under the heading of "Unfinished Business."

- 4. Staff Reports:** Mr. Steadman reminded the Board that there is an opening on the BAR and that the deadline for application is the end of February.

Mr. Steadman again encourage everyone to become part of the process of the rewrite of the Comprehensive Plan.

- 5. Adjourn – 8:35 p.m.**

Respectfully submitted,

Beth Connor
Recording Secretary

Note: Proceedings of this meeting have been recorded on audio tape.