

EXHIBIT B

TO

**GREENVILLE COUNTY PLANNING COMMISSION'S
NOTICE OF APPEAL**

(April 25, 2023 Order)

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Marcelo Torricos, as Trustee of the John W.
Beeson Irrevocable Trust II FBO James H.
Beeson dated August 5, 2021,

Appellant,

vs.

The Greenville County Planning Commission,

Respondent.

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

CASE NO.: 2022-CP-23-04704

**ORDER DENYING RESPONDENT'S
MOTION TO ALTER OR AMEND THE
JUDGMENT**

RECEIVED

Apr 27 2023

SC Court of Appeals

The Respondent, The Greenville County Planning Commission, filed a Motion to Alter or Amend, dated April 10, 2023, asking this Court to reconsider its Order dated March 31, 2023 vacating and remanding the Respondent's July 27, 2022 denial of the Langford Hills Preliminary Subdivision application.

STANDARD OF REVIEW

Motions for reconsideration will not be granted absent "highly unusual circumstances." U.S. ex rel. Becker v. Washington Savannah River Co., 305 F.3d 284, 290 (4th Cir. 2002) (stating that simple disagreements with the court's ruling will not support Rule 59(e) relief).¹ Courts have recognized three circumstances in which a court should grant a Rule 59(e) motion: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993). Importantly, a motion for reconsideration is not a vehicle to re-litigate previously raised issues or "to raise argument or present evidence that could have been presented prior to the entry of judgment." Dash v. Mayweather, C/A No. 3:10-1036-

¹ Rule 59 is substantially the same as the Federal Rule. *See Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 21, 602 S.E. 2d 772, 779 (2004) ("Rule 59(e) in the South Carolina and federal rules of civil procedure is practically identical.").

JFA, 2010 U.S. Dist. LEXIS 95277, *2 (D.S.C. Sept. 13, 2010) (quoting Exxon Shipping Co. v. Baker, 554 U.S. 471, n.5 (2008)). In other words, “[a] party cannot use Rule 59(e) to present to the court an issue the party could have raised prior to judgment but did not.” Stevens & Wilkinson of S.C., Inc. v. City of Columbia, 409 S.C. 563, 567, 762 S.E.2d 693, 695 (2014); Patterson v. Reid, 318 S.C. 183, 185, 456 S.E.2d 436, 437 (Ct. App. 1995). Nor does “[a] party’s mere disagreement with the court’s ruling . . . warrant a Rule 59(e) motion.” In re Pella Corp. Architect & Designer Series Windows Mktg., Sales Practices & Prods. Liab. Litig., 269 F.Supp. 3d 685, 691 (D.S.C. 2017); *see also* Lyons v. Fid. Nat’l Title Ins. Co., 415 S.C. 115, 135, 781 S.E.2d 126, 137 (Ct. App. 2015).

After consideration of the issues raised in Respondent’s Motion and review of the attachments to the Motion, the Court hereby DENIES Respondent’s Motion to alter or amend this Court’s March 31, 2023 Order.

AND IT IS SO ORDERED.

ELECTRONIC SIGNATURE PAGE TO FOLLOW



Greenville Common Pleas

Case Caption: Marcelo Torricos Trustee , plaintiff, et al VS Planning Commission
Greenville County
Case Number: 2022CP2304704
Type: Order/Other

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

Certificate of Electronic Notification

Recipients

Marcelo Torricos - Notification transmitted on 04-25-2023 11:40:24 AM.

Boyd Nicholson - Notification transmitted on 04-25-2023 11:38:47 AM.

Bentley Price - Notification transmitted on 04-25-2023 11:47:17 AM.

Luke Burke - Notification transmitted on 04-25-2023 11:43:29 AM.