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**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas

J. Mark Hayes, II, Circuit Court Judge

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Consolidate Case Nos. 2023-CP-42-01221, 2023-CP-42-01226, 2023-CP-42-01367, 2023-CP-42-01545  
Appellate Case No. 2024-001828

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South Carolina Native Plant Society, Appellant,

vs.

Spartanburg County Planning Commission and Blue Sky Associates, LLC d/b/a T. Tree Farms  
RV Park, Respondents,

and

The Enclave at Fairview Farm Homeowners' Associations, Inc., Golden Hills of Fairview Homeowners' Association, Inc., Greenspace of Fairview, LLC, North Pacolet Association, Inc., Debra A. Whitaker, Charles D. Whitaker, Roxanne M. Hellman-Wojan, Richard G. Wojan, Judie R. Klapholz, Trustee of The Judie R. Klapholz Trust, and Slater Properties, Inc., d/b/a/ Caroland Farms, Appellants

vs.

Spartanburg County, SC, Spartanburg County Planning Commission, and Blue Sky Associates, LLC d/b/a T. Tree Farms RV Park, Respondents,

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**JOINT RESPONSE OF APPELLANTS TO  
MOTION TO DISMISS APPEALS**

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On October 28, 2024, the South Carolina Native Plant Society, Enclave at Fairview Farm Homeowners' Associations, Inc., Golden Hills of Fairview Homeowners' Association, Inc., Greenspace of Fairview, LLC, North Pacolet Association, Inc., Debra A. Whitaker, Charles D.

Whitaker, Roxanne M. Hellman-Wojan, Richard G. Wojan, Judie R. Klapholz, Trustee of The Judie R. Klapholz Trust, and Slater Properties, Inc., d/b/a/ Caroland Farms (collectively, “Appellants”) appealed the orders of the Honorable J. Mark Hayes, II dated April 22, 2024 and September 26, 2024.<sup>1</sup> On November 20, 2024, Respondent Blue Sky Associates, LLC, d/b/a T. Tree Farms RV Park filed a motion to dismiss the appeal as premature. Appellee Spartanburg County Planning Commission has not joined in the motion. For the reasons set forth below, Blue Sky’s motion is without merit and should be denied.

Blue Sky contends that Judge Hayes’ September 26, 2024 Order is not appealable because it is not a final order. That is incorrect. Judge Hayes’ Order makes clear that it is the “Statement of Judgement by the Court” and there is no formal order to follow. The court’s Order is reproduced below.

**IT IS ORDERED AND ADJUDGED:**  See attached order (formal order to follow)  Statement of Judgment by the Court:

These consolidated appeals came before this court on Sptbg County’s, Sptbg County Planning Commission’s, and Blue Sky’s Motion for Reconsideration of an Order electronically issued on April 22, 2024. After receiving briefing and arguments from all parties, the motion is granted to the extent that the court needs to clarify the term “vacate”. The term vacates means that the matter is remanded to the commission. This court declined the invitation to give further direction to the commission.

Exhibit 3 at 1.

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<sup>1</sup> Judge Hayes’ April 22, 2024 Order granted in part Appellants’ challenge to the Spartanburg County Planning Commission’s conditional approval of Blue Sky Associates’ T. Tree Farms RV Park and vacated the approval. *See* Opinion and Order, *S.C. Native Plant Society v T. Tree Farms RV Park*, Case No. 2023-CP-42-01367 (filed Apr. 22, 2024) (Exhibit 1). Subsequently, Blue Sky filed a Rule 59(e) motion for reconsideration of the court’s April 22, 2024 Order. *See* Motion to Alter or Amend, *S.C. Native Plant Society v T. Tree Farms RV Park*, Case No. 2023-CP-42-01367 (filed May 1, 2024) (Exhibit 2). Blue Sky argued, among other things, that remand rather than vacatur was the appropriate remedy. *Id.* at 2. On September 26, 2024, following a hearing, Judge Hayes issued an Order granting in part Blue Sky’s Rule 59(e) motion for reconsideration and determining that remand, rather than vacatur, was the appropriate remedy. Order, *S.C. Native Plant Society v T. Tree Farms RV Park*, Case No. 2023-CP-42-01367 (filed Sept. 26, 2024) (Exhibit 3).

Blue Sky argues, based on an administrative section of the court’s Form 4 Order titled “Order Information,” that Judge Hayes’ September 26, 2024 Order is not final. Mot. to Dismiss at 2. Blue Sky points to a marked box indicating the Order “does not end the case” and a sentence noting there is a formal order to follow and to “[s]ee page 2 for additional information.” *Id.* But this administrative section is not consistent with the actual Order of the court, included above, which indicates there is not a formal order to follow. The court’s Order was of course a final order because it remanded the case to the Commission and there was nothing left for the court to do. The court’s actual Order, rather than the administrative section of the Form 4, controls here.

Further highlighting that the administrative section upon which Blue Sky relies was incorrectly filled out, that section states “[s]ee page 2 for additional information,” yet page 2 is blank. *See* Exhibit 3. Indeed, under “Disposition Type,” Judge Hayes made clear that the Form 4 Order reflected a “Decision By The Court” and did not check the box indicating additional information would be included on the second page. *See* Exhibit 3 at 1.

Blue Sky cites *Cheap-O’s Truck Stop, Inc. v. Cloyd* to support its argument, but this case supports Appellants’ position. In *Cheap-O’s* the court explained that “[a]s a matter of practice and convenience, a Form 4 order is used on a plethora of occasions as a **FINAL ORDER**.” 350 S.C. 596, 604 (2002). Such is the case here. The court went on to explain that if the Form 4 is not a final order, “the circuit court will specifically and with certitude signify” that a more formal order or action will follow. *Id.* at 605. Here, contrary to Blue Sky’s claim, Judge Hayes’ Form 4 order does not indicate with certitude (i.e. absolute certainty) that a formal order is to follow. Rather, the relevant section of Judge Hayes’ Form 4 Order—that is, the Order itself—establishes

that a formal order ***will not*** follow. Thus, Judge Hayes’ September 28, 2024 Form 4 Order is final and appealable.

Moreover, even if Blue Sky were correct that a formal order is to follow Judge Hayes’ Form 4 Order, this would not bar Appellants’ appeal. Rule 203 of the South Carolina Appellate Court Rules governs appeals. Rule 203 states that “when a form or other short order or judgment indicates that a more full and complete order or judgment is to follow, a party ***need not*** appeal until receipt of . . . the more complete order or judgment.” S.C.A.C.R. Rule 203 (emphasis added). Rule 203 does not say a party *shall not* or *must not* appeal until receipt of the more complete order, only that a party *need not* appeal until that time. Thus, Rule 203 makes clear that even where a more formal order is to follow, it is within the appellant’s discretion whether to appeal the Form 4 Order or await the formal order. *Cf. Richland Cty. v. S.C. Dep’t of Rev.*, 422 S.C. 292, 309 (2018) (“Under the rules of statutory interpretation, use of words such as ‘*shall*’ or ‘*must*’ indicates the legislature’s intent to enact a mandatory requirement.”) (quoting *Collins v. Doe*, 352 S.C. 462, 470 (2002)).

For these reasons, Appellants’ appeal is timely and the Court should deny Blue Sky’s motion to dismiss.

Respectfully submitted,

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Whitaker, Roxanne M. Hellman-Wojan, Richard G.  
Wojan, Judie R. Klapholz, Trustee of The Judie R.  
Klapholz Trust, and Slater Properties, Inc., d/b/a  
Caroland Farms*

December 2, 2024

# EXHIBIT 1

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SPARTANBURG )  
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South Carolina Native Plant Society, )  
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Appellant, )  
 )  
vs. )  
 )  
The Spartanburg County Planning )  
Commission and Blue Sky Associates, )  
LLC d/b/a T. Tree Farms RV Park, )  
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Respondents. )  
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IN THE COURT OF COMMON PLEAS  
FOR THE SEVENTH CIRCUIT

Case No. 2023-CP-42-01221

**Opinion and Order**

STATE OF SOUTH CAROLINA )  
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COUNTY OF SPARTANBURG )  
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South Carolina Native Plant Society, )  
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Appellant, )  
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vs. )  
 )  
The Spartanburg County Planning )  
Commission and Blue Sky Associates, )  
LLC d/b/a T. Tree Farms RV Park, )  
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Respondents. )  
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IN THE COURT OF COMMON PLEAS  
FOR THE SEVENTH CIRCUIT

Case No. 2023-CP-42-01367

**Opinion and Order**

STATE OF SOUTH CAROLINA )  
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COUNTY OF SPARTANBURG )  
 )  
The Enclave at Fairview Farm )  
Homeowners' Association, Inc., *et al.*, )  
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Appellants, )  
 )  
vs. )  
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Spartanburg County, SC, *et al.*, )  
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Respondents. )  
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IN THE COURT OF COMMON PLEAS  
FOR THE SEVENTH CIRCUIT  
  
Case No. 2023-CP-42-01226

**Opinion and Order**

STATE OF SOUTH CAROLINA )  
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COUNTY OF SPARTANBURG )  
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The Enclave at Fairview Farm )  
Homeowners' Association, Inc., *et al.*, )  
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Appellants, )  
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vs. )  
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Spartanburg County, SC, *et al.*, )  
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Respondents. )  
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IN THE COURT OF COMMON PLEAS  
FOR THE SEVENTH CIRCUIT  
  
Case No. 2023-CP-42-01545

**Opinion and Order**

The consolidated appeals before the Court seek reversal and vacatur of the Spartanburg County Planning Commission's conditional approval of the T. Tree Farms RV Park in Campobello, South Carolina. The parties to the appeal are Appellants South Carolina Native Plant Society (the "Society" or "Native Plant Society"), the Enclave at Fairview Farm Homeowners' Association, Inc., Golden Hills of Fairview Homeowner's Association, Inc.,



Greenspace of Fairview, LLC, North Pacolet Association, Inc., Debra A. Whitaker, Chales D. Whitaker, Roxanne M. Hellman-Wojan, Richard G. Wojan, Judie R. Klapholz Trust, and Slater Properties, Inc. (collectively, "HOAs and landowners"), as well as Respondents Spartanburg County Planning Commission (the "Commission") and Blue Sky Associates, LLC ("Blue Sky"). For the following reasons, the Court grants the appeals in part and denies the appeals in part.

### FACTUAL BACKGROUND

In February 2023, Blue Sky applied to the Commission for approval of its site plan for the T. Tree Farms RV Park (the "RV park"). Blue Sky, Application at 2 (Feb. 7, 2023) (App. A to Native Plant Society Opening Br. ("App. A") at 5) (amended application). This application replaced an earlier one submitted in 2021 which was abandoned because Blue Sky was unable to obtain public water as required in the 2021 application. Blue Sky, Major Land Development Application (Jan. 29, 2021) (App. A at 1) (original application). Particularly relevant to the appeals before the Court, Blue Sky's 2023 site plan for the RV Park provided that the RV Park would be serviced by a well rather than a public water service provider and did not include any comfort station. Application at 2 (Feb. 7, 2023) (App. A at 5) (amended application); *see also* Blue Sky, Major Land Development Application (Jan. 29, 2021) (App. A at 1) (original application). Blue Sky's earlier 2021 application had provided for water from a public water system, but Blue Sky was unable to obtain public water service for the RV park site.

The Commission considered Blue Sky's application at its March 7, 2023, meeting. Commission Agenda at 3 (Mar. 7, 2023) (App. A at 186). The Commission voted 6-2 to approve Blue Sky's site plan, with standard conditions that Blue Sky obtain approvals from Spartanburg County Public Works for engineering, stormwater, and encroachment, and from DHEC for well construction. *Id.* at 30 (App. A at 178).



On March 31, 2023, Appellants asked the Commission to reconsider its decision. Southern Environmental Law Center, Reconsideration of Conditional Approval for the Site Plan of T. Tree Farm RV Park of Blue Sky, LLC (Mar. 31, 2023) (App. A at 187–93); Concerned Citizens, Cover Letter to Request for Reconsideration of Conditional Approval (Mar. 28, 2023) (App. A at 229). At its next meeting on April 4, 2023, the Commission decided not to reconsider its conditional approval of the RV park site plan. *See* Commission Meeting Minutes (Apr. 4, 2023) (App. A at 212–20).

Appellant Native Plant Society and Appellants HOAs and landowners each timely filed two appeals challenging the Commission’s conditional approval of the RV park site plan and the Commission’s decision not to reconsider that conditional approval. These four appeals were subsequently consolidated and are now before the Court.

### LEGAL BACKGROUND

The ordinance governing the Commission’s review of Blue Sky’s site plan is the Spartanburg County Unified Land Management Ordinance (the “Ordinance”), which includes a preamble setting forth the purposes of the Ordinance and a section dedicated to “Camps and Recreational Vehicle Parks.” *See* Ordinance Preamble, Ordinance § 3.13. The Preamble establishes that one goal of the Ordinance is to protect “ecologically sensitive areas.” App. A at 35. With respect to RV parks, Section 3.13 of Ordinance requires, among other things, that all RV parks “preserve natural features and landscape”; that RV parks be “serviced by public water”; that RV parks be serviced by “sewer or other systems approved by DHEC”; and that no RV park site “be located less than 150 feet from drinking water supply or 300 feet from a comfort station.” Ordinance § 3.13 (2), (4), and (8) (App. A at 49). The Ordinance further details certain procedural measures. The Ordinance also sets forth requirements for granting a variance from



any of the requirements of the Ordinance. *See* Ordinance §§ 1.02–04, 5.01–02 (App. A at 36-37, 43-44). In addition to the Ordinance, the South Carolina Local Government Comprehensive Planning Enabling Act, S.C. Code § 6-29-310, *et seq.*, sets forth certain elements for local comprehensive planning.

### **JURISDICTION AND STANDARD OF REVIEW**

This Court has jurisdiction pursuant to the South Carolina Local Government Comprehensive Planning Enabling Act. S.C. Code Ann. § 6-29-1150(D)(1).

Decisions of a county planning commission are reviewed in the Circuit Court. S.C. Code § 6-29-1150; *Town of Hollywood v. Floyd*, 403 S.C. 466 (2013); *Kurschner v. City of Camden*, 376 S.C. 165 (2008), *Rest Row Assocs. v. Horry County*, 335 S.C. 209 (1999); *Welch v. Epstein*, 342 S.C. 279 (Ct. App. 2000). A decision of a county planning commission will be overturned on appeal when “it is based on errors of law,” where the commission “acts arbitrarily or unreasonably,” where the commission “has abused its discretion,” or when “there is no evidence to support” the Commission’s decision. *Grays Hill Baptist Church v. Beaufort County*, 431 S.C. 630, 637 (2020); *Kurschner*, 376 S.C. at 173–174.

### **ANALYSIS**

Appellant South Carolina Native Plant Society and Appellants HOAs and landowners each argue that the Commission’s conditional approval of the RV Park violated the Ordinance Preamble and Section 3.13 of the Ordinance. Specifically, they argue that the Commission wrongly approved a site plan that failed to protect ecologically sensitive areas and to preserve the natural features and landscapes of the site; that was not serviced by public water; that was not serviced by a sewer system approved by DHEC; and that lacked any comfort station. Appellants



further argue that the Commission's decision not to reconsider its conditional approval and its failure to provide any explanation for parts of its decisions were arbitrary and capricious.

Appellants HOAs and landowners also argue that the Commission's March 2023 meeting and approval violated certain procedural requirements, that the Commission based its conditional approval on the wrong site plan, that the Ordinance fails to fulfill the South Carolina Local Government Comprehensive Planning Enabling Act, and that the roads proposed to be used to access the RV Park were not dedicated by the relevant landowners.

The appeals are granted as to the issues involving public water and comfort stations and denied as to all other issues.

**I. Whether the Commission violated the Ordinance Preamble and Section 3.13**

The Court finds that the Commission's conditional approval of the RV Park violated Section 3.13(8) of the Ordinance requiring public water and Section 3.13(4) requiring comfort stations but that the Commission's decision did not violate the Ordinance Preamble, Section 3.13(2) requiring the preservation of "natural features and landscape," or the part of Section 3.13(8) requiring "sewer or other systems approved by DHEC."

**Public Water.** The Ordinance provides that "[e]ach park site shall be serviced by public water," Ordinance § 3.13 (8). The Ordinance provides that "[t]he word 'shall' is always mandatory." Ordinance Article 6 (App. A at 92). Blue Sky's 2021 application was based on the RV park being serviced by a public water system, but when Blue Sky was unable to obtain public water, it submitted the 2023 application with the RV park being serviced by a well. The Commission approved the 2023 application with the RV park being serviced by a well.

In this respect, the Commission committed an error of law, acted arbitrarily and capriciously, and made a decision with no evidence to support it. The Ordinance by its plain



language mandates that RV parks be serviced by public water. But the approved 2023 RV Park site plan fails to provide for public water and instead relies upon a well.

Blue Sky and the Commission argue that the definition of “public water” as used in the Spartanburg County Ordinance should be governed by the definition of “Public Water System” contained in a regulation of the state Department of Health and Environmental Control (“DHEC”), S.C. Code Ann. Regs. 61-58 (B) (150). Respondents’ Br. at 7. The DHEC regulation defines a Public Water System as “any public or privately owned waterworks system which provides drinking water, whether bottled or piped, for human consumption, including the source of supply whether the source of supply is of surface or subsurface origin.”

However, the requirements for RV parks in the County’s Ordinance does not reference or mention the DHEC regulation or its definition of “Public Water Systems,” and the Ordinance uses a different term, “public water.” “In interpreting a statute, words must be given their plain and ordinary meaning. . . .” *Rowe v. Hyatt*, 321 S.C. 366, 369 (1996).

Moreover, the County Ordinance and the DHEC regulation serve different purposes. The Ordinance sets out mandatory standards to prescribe how RV parks are built, whereas the DHEC state regulation is written broadly to encompass all conceivable drinking water sources to ensure water quality. See S.C. Code Ann. Regs 61-58 (A) (“The Department finds the standards and procedures prescribed are necessary to maintain reasonable standards of purity of the drinking water of the State consistent with the public health, safety, and welfare of its citizens”). By requiring public water, the Ordinance ensures an adequate reliable supply for an RV park. In addition, the DHEC regulation includes bottled water within its definition of Public Water Systems, and there is no indication that the County’s Ordinance would contemplate an RV park serviced through bottled water.



The Commission’s application form shows that, unlike the state DHEC water quality regulation, the county Ordinance regulates the source of water for various developments. The form asks the applicant to designate “water or well.” When “water” is designated, the applicant must identify the provider. Blue Sky, Application at 2 (Feb. 7, 2023) (App. A at 5). The County is thus concerned about the source—water or well. Section 3.13 specifies that for RV parks, public water must be the water source.

Further, the Ordinance imposes the “public water” requirement in other places for multi-unit developments like an RV park. The Ordinance requires “public water” for the operation of manufactured home parks, mandating that “[a]ll proposed Manufactured Home Parks shall be served by public water. . . .” Ordinance § 3.04-4 (2) (App. F to Native Plant Society Reply Br. (“App. F”) at 10). The Ordinance similarly requires “public water” for patio and zero lot line homes. Ordinance § 3.01 (5) (App. F at 7). If the Ordinance were read to substitute the state DHEC regulation definition of “Public Water Systems” for the ordinary meaning of “public water,” throughout the County Ordinance protective requirements for “public water” would be eliminated and various types of multi-unit developments could now be serviced by bottled water or private wells when the Ordinance mandates “public water”—with corresponding risk to public health and safety and loosening of development standards.

By approving an RV park not serviced by public water, the Commission violated the Ordinance and the ordinary and natural plain meaning of its “public water” requirement.

**Comfort Stations.** As with public water, the Ordinance contains an unqualified mandate that RV parks provide for comfort stations. The Ordinance provides that no RV park site “shall be located less than 150 feet from drinking water supply or 300 feet from a comfort station,”



Ordinance § 3.13 (4). App. A at 49. The approved 2023 site plan for the RV park does not include a comfort station.

Respondents Blue Sky and the Commission argue that because each RV site will have individual hookups for water and sewage, this requirement is excused. Respondents' Br. at 8–9. The Court disagrees. There is nothing in the Ordinance that allows RV Parks to ignore the mandatory comfort station requirement because RVs often have sewer and water hookups. Indeed, it is always the case that RVs may have these hookups, yet the Ordinance requires RV parks to have one or more comfort stations regardless. Moreover, all parties agree that the Commission did not issue a variance to excuse compliance with any of the Ordinance's provisions. *See* Respondents' Br. at 10; Appellants HOAs and landowners' Opening Br. at 7–8; Appellant Native Plant Society's Opening Br. at 24–25. Blue Sky, Application at 2 (Feb. 7, 2023) (App. A at 5); Commission Meeting Minutes at 18–19 (Mar. 7, 2023) (App. A at 166–67). The plain language of the Ordinance governs.

When it conditionally approved an RV park site plan with no comfort station, the Commission violated the plain language of the Ordinance, committed an error of law, acted arbitrarily and capriciously, and made a decision with no evidence to support it.

**Sewer or other system approved by DHEC.** In Section 3.13(8), the Ordinance requires that RV park sites shall be serviced by “sewer or other systems approved by DHEC.” App. A at 49. The RV park site is not serviced by sewer, and the application for the RV park provided for a septic system instead. Appellants contend that the Commission approved a plan for the RV park that included a septic system that had been rejected and not approved by DHEC. Appellant Native Plant Society's Opening Br. at 4–6; Appellants HOAs and landowners' Opening Br. at 4. Specifically, Appellants point to the fact that the DHEC Board, which is the highest authority of



DHEC, overturned the DHEC staff's decision granting a permit for the RV park's septic system. The DHEC Board concluded that the septic system did not meet the minimum requirements of South Carolina law and had less than half the treatment capacity required by state regulation. App. A at 123-125; *see also* S.C. Code Reg. 61.56-501.

Appellants acknowledge that the DHEC Board's decision was subsequently overturned by the Administrative Law Court, but they contend that the Administrative Law Court's decision, which has been appealed, does not render the RV park's septic system "approved by DHEC." Appellants point out that the Administrative Law Court's decision, App. A at 127-147, was based on a procedural error in that the Administrative Law Court found that the request for Board review was filed too late, rather than a determination that the proposed septic system met the substantive requirements of South Carolina law. Appellant Native Plant Society's Opening Br. at 6. Appellants argue that the proposed RV park septic system is still not "approved by DHEC" since the Administrative Law Court's decision did not question or overrule the substance of the DHEC's Board's decision.

The Court concludes that the Commission's decision satisfies the Ordinance's requirement that the RV park be serviced by sewer or other system approved by DHEC. It is reasonable to assume that the Commission was well aware of the substantive issues being argued to DHEC. Thus, under an appellate review analysis, the Court cannot find a sufficient basis for reversing, even if it disagrees with the Commission, on the sole bases that the DHEC decision was or is being challenged, even if the challenge is classified as only technical rather than substantive. The Court notes that DHEC permit for this septic system is the base minimum for the RV Park. The arguments and information offered by Appellants are not being determined irrelevant and immaterial by this Court. The Commission may consider that information upon its



consideration of the RV park in the future. Simply because a site may have received approval from DHEC does not conclude the analysis that the Commission may conduct when it conditionally approves a development site.

**Ecologically Sensitive Areas and Natural Features.** The Preamble to the Ordinance sets out a goal to protect “ecologically sensitive areas,” and Section 3.13(2) of the Ordinance provides that RV park sites “shall be developed in a manner that preserves natural features and landscape.” App. A at 35, 49.

Appellants argue that the RV park site plan violates these provisions of the Ordinance because it fails to preserve or acknowledge the presence of a plant protected as threatened by the federal Endangered Species Act, *Hexastylis naniflora* (Dwarf-flower Heartleaf), and its habitat on the RV park site. Appellant Native Plant Society’s Opening Br. at 3; Appellants HOAs and landowners’ Opening Br. at 4. Appellants explain that this plant is one of the nation’s rarest plants, is also designated a Highest Priority Species by the South Carolina Department of Natural Resources, and is found in South Carolina only in limited areas within three counties, including on the RV park site. *Id.* See also App. A at 48-83; Apps. B-E to Native Plant Society Opening Br.; S.C. Dep’t of Nat. Res., South Carolina’s State Wildlife Action Plan (SWAP) at 2–9 (Oct. 14, 2014)

The Court concludes that the standard of review does not support the conclusion that the Commission acted unlawfully or abused its discretion in granting conditional approval on this basis. Notwithstanding, this Court acknowledges the broad goals of protecting ecologically sensitive areas as discussed by Appellants. As with Appellants’ substantive arguments related to the proposed septic system, the Court notes that the information presented by Appellants



regarding rare plants and habitat on the RV park site may prove to be material to the Commission when determining future specific site plans.

Accordingly, Appellants' appeal is granted as to the issues of public water and comfort stations and denied as to the issues of septic system approved by DHEC and preservation of natural features, landscapes, and ecologically sensitive areas.

**II. Whether the Commission's decision not to reconsider its conditional approval and failure to provide reasons for decision were arbitrary and capricious**

Appellants contend that because the Commission is charged with carrying out the Ordinance and complying with its terms and was informed by Appellants of multiple violations of the Ordinance, its decision not to reconsider the conditional approval was arbitrary and capricious and an abuse of discretion. Appellants also contend that the Commission acted unlawfully and arbitrarily and capriciously and abused its discretion when it failed to address the request for reconsideration and provided no explanation for its decision not to reconsider and when it failed to address some of the provisions of the Ordinance and provide the bases for its decision as to those provisions when it conditionally approved the RV park site plan. Appellant Native Plant Society's Opening Br. at 22–24. The Court concludes that the record does not support the conclusion that the Commission acted unlawfully, arbitrarily, or capriciously or abused its discretion in these respects. Accordingly, Appellants' appeal is denied on these grounds.

**III. Whether the Commission's March 2023 meeting and conditional approval violated the Ordinance's procedural requirements**

The Court finds that the Commission's March 2023 meeting and conditional approval complied with procedural requirements. Appellants HOA and landowners first argue that the Commission's March 2023 meeting violated the Ordinance because it "locked out many members of the public" from a meeting that was required to be open to the public. Appellants



HOA and landowners' Opening Br. at 5. Appellants HOA and landowners further argue that the Commission did not allow members of the public to speak for a mandated 30 minutes and the Commission failed to provide notice of a public hearing. *Id.* Respondents argue that there was sufficient due process provided at the March 2023 meeting, noting that the Commission afforded a representative for the HOAs an opportunity to speak and allowed the public to submit written comments. Respondents' Br. at 12. The Court concludes that the record does not support the conclusion that open meetings requirements or due process rights were violated or abused by the Commission. Accordingly, Appellants HOAs and landowners' appeal is denied on this basis.

**IV. Whether the Ordinance fulfills the requirements of the South Carolina Local Government Comprehensive Planning Enabling Act**

The South Carolina Local Government Comprehensive Planning Enabling Act, S.C. Code § 6-29-310, *et seq.*, sets forth certain elements that must be considered in local comprehensive plans, such as “fire protection” and “transportation.” *Id.* § 2-29-510. Appellants HOA and landowners contend that the Ordinance fails to fulfill these requirements of the Enabling Act and that the Enabling Act has independent force. Appellants HOA and landowners Opening Br. at 8–9 and Reply Br. At 10-11. Regardless of whether the Ordinance properly reflects these elements, the Court need not consider this argument because it has reversed the Commission's decision on other grounds. The Respondents' assertion that the Appellants HOA and landowners challenged the validity of the Ordinance based upon the Enabling Act goes beyond these Appellants' argument; and it is likewise not necessary for the Court to consider this assertion otherwise. Appellants HOA and landowners Reply Br. at 10-11.



**V. Whether the roads used to access the RV Park were dedicated by the relevant landowners**

Appellants HOA and landowners contend that the roads that would be used for the RV Park are private, not public, roads and that the individuals who own the roads have not dedicated the roads to use by RVs. Appellants HOA and landowners Opening Br. at 11–12. The decision of the Commission did not involve a taking or dedication of the roads and that issue is not before the Court. The appeal concerning them is without merit.

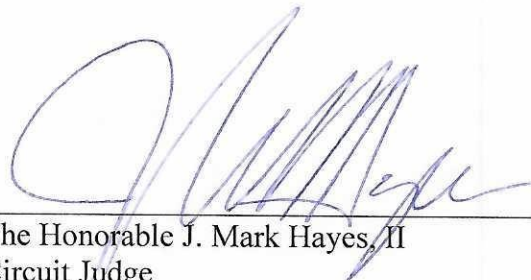
**VI. Whether the Commission considered the wrong site plan**

This matter was not raised to the Commission before it made its decision. Therefore, it falls under this Court’s decision concerning the Commission’s refusal to reconsider, and therefore the record does not support the conclusion that the Commission acted unlawfully, arbitrarily, or capriciously or abused its discretion in these respects. Accordingly, Appellants’ appeal is denied on this ground.

**CONCLUSION**

For these reasons, the Court grants Appellants’ appeal in part and reverses and vacates the Commission’s conditional approval of the T. Tree Farms RV Park site plan dated March 7, 2023.

IT IS SO ORDERED.



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The Honorable J. Mark Hayes, II  
Circuit Judge

April 22 2024

# EXHIBIT 2

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF SPARTANBURG	)	C/A NO.: 2023-CP-42-01221
	)	C/A NO.: 2023-CP-42-01367
South Carolina Native Plant Society,	)	
	)	
Appellant,	)	
	)	<b>MOTION TO ALTER OR AMEND</b>
vs.	)	
	)	
The Spartanburg County Planning	)	
Commission and Blue Sky Associates, LLC	)	
d/b/a T. Tree Farms RV Park,	)	
	)	
Respondents.	)	
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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF SPARTANBURG	)	C/A NO.: 2023-CP-42-01226
	)	C/A NO.: 2023-CP-42-01545
The Enclave at Fairview Farm	)	
Homeowners' Association, Inc., Golden	)	
Hills of Fairview Homeowner's Association,	)	
Inc., Greenspace of Fairview, LLC, North	)	
Pacolet Association, Inc., Debra A. Whitaker,	)	
Charles D. Whitaker, Roxanne M. Hellman-	)	
Wojan, Richard G. Wojan, Judie R. Klapholz,	)	
Trustee of the Judie R. Klapholz Trust, and	)	
Slater Properties, Inc., d/b/a Caroland Farms,	)	
	)	
Appellants,	)	
	)	
vs.	)	
	)	
Spartanburg County, SC, Spartanburg County	)	
Planning Commission, and Blue Sky	)	
Associates, LLC d/b/a T. Tree Farms RV Park,	)	
	)	
Respondents.	)	
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TO: THE HONORABLE J. MARK HAYES, II AND ALL COUNSEL OF RECORD:

YOU WILL PLEASE TAKE NOTICE THAT Respondents, Spartanburg County, SC, Spartanburg County Planning Commission, and Blue Sky Associates LLC, by and through their undersigned counsel, will appear before the Honorable J. Mark Hayes, II, at the Spartanburg County Courthouse on the tenth day following service hereof, or at such other place and time as may be designated by the Court, and then and there request the Court alter or amend its April 22, 2024, Opinion and Order in the within matter. This motion is made pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure and upon the following considerations:

- a. In executing Appellants' proposed order, the remedy of vacatur was improper and requires clarification as the Court denied Appellants' appeal in part and granted it in part. Respondents will demonstrate that the appropriate remedy would be a remand back to Spartanburg County Planning Commission for consideration of any amended application that might be filed.
- b. In executing Appellants' proposed order, the Court granted relief on Appellants' allegation that the Planning Commission erred in its interpretation of section 3.13 of the Spartanburg County ULMO with regard to the "public water" issue. However, the Court's Form 4 order only references the following:

Thus, the assertion that each of the RVs site may be unique because it is anticipated each will have individual hook ups for water and sewage so that the comfort station requirement is excused is not before this Court as a consideration. Also not before this Court are the concerns of RVs without bathroom, broken bathrooms, visitors to the park who do not have RVs or whether none compliance is for the overall safety and wellbeing of the park's user and its surrounding community.

(Court's March 8, 2024 Form 4 at 3)

These alleged problems only relate to the "comfort station" issue in section 3.13 of the ULMO, and do not support any finding of error on the question of the water source, or

the Commission's construction of the phrase "public water" in its ordinance. Respondents maintain that Appellants have taken advantage of an ambiguity in the Court's Form 4 Order which only states:

After reviewing all the written and oral arguments, the commission's conditional approval of the RV park development, the appeals are not granted except as to the issues involving the water and comfort stations/sewage system.

Section 3.13 of the ULMO governs this Court's decision to reverse the Commission on this issue. 3.13 is mandatory since the terms "shall comply" is used when setting forth the site and design standards. The mandated standard includes that "No site shall be located less than 150 feet from drinking water supply or 300 feet from a comfort station" and "Each park site shall be serviced by public water and sewer or other systems approved by DHEC."

(Court's March 8, 2024 Form 4 at 3)

These paragraphs mention "water," "comfort stations" and "sewage system" but the issue or issues with which the Court found fault require clarification. When the two passages are read together in context, the only clear ground upon which the Court granted Appellants relief was the "comfort station" issue.

Finally, in communications between the Court and counsel on the content of the Order and Opinion, the Court explicitly invited the parties to resolve these ambiguities in the appropriate post-trial motions which the Court would promptly hear. Respondents are simply following the direction of the Court in this regard.

*Signatures Appear on Following Page*

May 1, 2024

s/ Alexander Shissias

Alexander G. Shissias, SC Bar #11610

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Attorney for Respondent Spartanburg County

Planning Commission

# EXHIBIT 3

South Carolina Native Plant Society

Blue Sky Associates, LLC

The Enclave at Fairview Farm Homeowner's Association, Inc., et al

Spartanburg County Zoning Commission, et al

PLAINTIFF(S)

DEFENDANT(S)

<b>Submitted by:</b>	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or
	<input type="checkbox"/> Self-Represented Litigant

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.  See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order (formal order to follow)  Statement of Judgment by the Court:

These consolidated appeals came before this court on Sptbg County's, Sptbg County Planning Commission's, and Blue Sky's Motion for Reconsideration of an Order electronically issued on April 22, 2024. After receiving briefing and arguments from all parties, the motion is granted to the extent that the court needs to clarify the term "vacate". The term vacates means that the matter is remanded to the commission. This court declined the invitation to give further direction to the commission.

**ORDER INFORMATION**

This order  ends  does not end the case.

Additional Information for the Clerk : See page 2 for additional information. Formal Order to follow.

<b>INFORMATION FOR THE JUDGMENT INDEX</b>		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A		\$
		\$

		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.  
**Note: Title abstractors and researchers should refer to the official court order for judgment details.**

	2132	
<b>Circuit Court Judge</b>	<b>Judge Code</b>	<b>Date</b>

**For Clerk of Court Office Use Only**

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney’s box on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ to attorneys of record or to parties (when appearing pro se) as follows:

\_\_\_\_\_  
 \_\_\_\_\_

**ATTORNEY(S) FOR THE PLAINTIFF(S)**

\_\_\_\_\_  
 \_\_\_\_\_

**ATTORNEY(S) FOR THE DEFENDANT(S)**

\_\_\_\_\_  
**CLERK OF COURT**

**Court Reporter:**

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**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**



Spartanburg Common Pleas

**Case Caption:** South Carolina Native Plant Society VS Spartanburg County Planning Commission , defendant, et al  
**Case Number:** 2023CP4201367  
**Type:** Order/Form 4

IT IS SO ORDERED

s/ J. Mark Hayes, II #2132

**RECEIVED**

**Dec 02 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas

J. Mark Hayes, II, Circuit Court Judge

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Consolidate Case Nos. 2023-CP-42-01221, 2023-CP-42-01226, 2023-CP-42-01367, 2023-CP-42-01545  
Appellate Case No. 2024-001828

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South Carolina Native Plant Society, Appellant,

vs.

Spartanburg County Planning Commission and Blue Sky Associates, LLC d/b/a T. Tree Farms  
RV Park, Respondents,

and

The Enclave at Fairview Farm Homeowners' Associations, Inc., Golden Hills of Fairview Homeowners' Association, Inc., Greenspace of Fairview, LLC, North Pacolet Association, Inc., Debra A. Whitaker, Charles D. Whitaker, Roxanne M. Hellman-Wojan, Richard G. Wojan, Judie R. Klapholz, Trustee of The Judie R. Klapholz Trust, and Slater Properties, Inc., d/b/a/ Caroland Farms, Appellants

vs.

Spartanburg County, SC, Spartanburg County Planning Commission, and Blue Sky Associates, LLC d/b/a T. Tree Farms RV Park, Respondents,

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**CERTIFICATE OF SERVICE**

I, Emily Wyche, certify that on December 2, 2024, I served the foregoing Joint Response of Appellants to Motion to Dismiss Appeals upon all counsel of record, via electronic means, to counsels' email addresses on file with the South Carolina Attorney Information System.

/s Emily Wyche  
Emily Wyche, Bar No. 105551  
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