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**Dec 09 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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**JOINT SURREPLY OF APPELLANTS TO  
MOTION TO DISMISS APPEALS**

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On October 28, 2024, the Appellants appealed the orders of the Honorable J. Mark  
Hayes, II dated April 22, 2024 and September 26, 2024. 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 did not join in the motion. Blue Sky filed a reply in support of its motion to dismiss on December 5, 2024.

In its reply, Blue Sky contends that it raised two bases for dismissal in its motion to dismiss and that Appellants responded to only one. Reply Brief at 2. Blue Sky claims that its motion to dismiss set out two separate arguments, one that Judge Hayes' Order of September 26, 2024, is not an appealable order because it does not fall within the categories listed in S.C. Code § 14-3-330, and a second supposedly separate argument that Appellants' appeal was premature because the Form 4 Order is not final based on an administrative section of the Form 4. Blue Sky claims that Appellants did not reply to the initial point regarding S.C. Code § 14-3-330. Because Blue Sky raises this new argument for the first time in its reply brief, Appellants submit this surreply.

Blue Sky's short motion made a single argument for dismissal. The motion merely set out the standard for an appealable order under SCACR Rule 201 and S.C. Code § 14-3-330, including that it be a final judgment, and then applied that standard to Judge Hayes' September 2024 Form 4 Order. *See* Motion to Dismiss at 2 (stating standard under Rule 201 and Section 14-3-330 in first paragraph and then applying the rule in the following paragraph beginning with "In this case..."). In its sole analytical paragraph on page 2, the motion to dismiss quotes a portion of the administrative Form 4 Order Information and concludes based on that portion of the Form 4: "His order cannot be final." That is the sole basis on which Blue Sky sought dismissal of the appeals, and Appellants responded fully to this argument by explaining that the September 2024 Order is a final judgment.

For these reasons, the appeals are proper and timely and Blue Sky's motion to dismiss should be denied.

Respectfully submitted,

s/ Frank S. Holleman III

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Klapholz Trust, and Slater Properties, Inc., d/b/a  
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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 9, 2024, I served the foregoing Joint Surreply 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  
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